PETITION NUMBER:	0810-VS-14
SUBJECT SITE ADDRESS:	304 W. Main Street
APPELLANT:	Thornberry Real Estate
REQUESTS:	The Appellant is requesting a Variance of Standard from the following Westfield-Washington Zoning Ordinance sections: 1. **WC 16.04.070, 4** (to reduce the minimum lot size in the US 31 Overlay District from 5 acres to 0.39 acre) 2. **WC 16.04.070, 5c** (to reduce the front yard setback in the US 31 Overlay District from 60 feet to 20 feet) 3. **WC 16.04.070, 5d** (to reduce the side yard setback in the US 31 Overlay District from 45 feet to 10 feet on the east and 18 feet, 8 inches on the west) 4. **WC 16.04.070, 5f** (to reduce the minimum aggregate of side yard in the US 31 Overlay District from 90 feet to 28 feet, 8 inches) 5. **WC 16.04.070, 5g** (to reduce the minimum lot width in the US 31 Overlay District from half the depth of the lot (229.5 feet) to 73.66 feet) 6. **WC 16.04.070, 5h** (to reduce the minimum aggregate gross floor area in the US 31 Overlay District from 15,000 square feet to 4,050 square feet) 7. **WC 16.04.070, 8** (to vary the following US 31 Overlay building materials requirements for all facades): o To reduce number of building materials from 3 to 1; o To not require brick or stone as a building material; and, o To reduce the number of external corners from 8 to 4. 8. **WC 16.04.120, 2f** (to reduce the parking aisle width from 24 feet to 12 feet) 9. **WC 16.06.060, B & C** (to reduce the west buffer yard requirements from a 15' yard with 8 evergreen trees and 39 evergreen shrubs to a 5' yard with 0 evergreen trees and 39 evergreen shrubs) 10. **WC 16.06.070, A 1 & 2** (to reduce the following interior parking lot island requirements): o To reduce the planting requirements from 1 tree and 4 shrubs per island to 0 trees and 0 shrubs per island; o To reduce the island width from 7 feet to 0

	feet); and, o To reduce the island curb height from 6 inches to 0 inches). 11. **WC 16.06.070, B2** (to reduce the west perimeter parking lot plantings from 1 tree/30 feet and 1 shrub/3 feet of parking lot length to 0 trees and 0 shrubs).
CURRENT ZONING:	SF-3
CURRENT LAND USE:	Single-Family Residential
APPROXIMATE ACREAGE:	0.33 acre
RELATED CASES:	0810-VU-06 (Variance of Use to allow office uses in SF-3; *Pending*)
EXHIBITS:	1. Staff Report, 01/13/09
	2. Aerial Location Map, 10/14/08
	3. Property Card, 10/05/08
	4. TAC Comments, 09/23/08
	5. Appellant's Application and Plans, 09/16/08
	6. WFD Letter, 01/06/09
STAFF REVIEWER:	Kevin Todd/Jeremy Miller

PROCEDURAL

If the accompanying variance of use case (0810-VU-06) is not approved, then there is no need to hear this case.

This request contains multiple items. The Board may choose to vote on each separate standard individually, in smaller groups, or collectively in one group.

This item requires a public hearing.

PETITION HISTORY

The petition was continued at the October 14, 2008 Board of Zoning Appeals meeting for 90 days to allow the petitioner time to respond to items related to the Downtown Master Plan efforts. The petitioner asked for a second 90 day continuance to respond to items in the staff report and related to the Downtown Master Plan. The April 14, 2009 BZA meeting represents the first hearing of this petition before the Board. The Westfield Technical Advisory Committee reviewed this petition at the September 23, 2008 TAC meeting (see Exhibit 4 for comments).

PROPERTY HISTORY

There are no variances, special exceptions, subdivision plats, development plan, site plan, or rezoning cases for the subject property. There are no pending enforcement cases for the subject property.

ANALYSIS

This request is to vary multiple development standards found in the U.S. 31 Overlay District and the Landscaping Standards, which would allow the site to be developed in accordance with the submitted site plan. The U.S. 31 Overlay District does not accommodate development or redevelopment of lots that are smaller than five (5) acres in size. As a result, the redevelopment of smaller parcels within the U.S. 31 Overlay often leads to multiple variance requests.

Request items 1, 3, 4, 5 and 6 are necessary variances to redevelop the site in any manner. Items 2, 7, 8, 9, 10 and 11 are specific to the submitted site plan.

The subject property is accessed by State Road 32 and is located in Downtown Westfield. The property is located adjacent to the Westfield-Washington School Administration Building to the west, an office to the east, and abuts a mixture of residential and businesses across SR 32 to the south. The property is currently improved with a paved driveway, a single-family residential structure, and a detached accessory structure. The submitted plans indicate that the existing structures will be demolished. The submitted plans propose a two-story office building, an attached garage, and a surface parking lot.

The Land Use Concept Map in Westfield-Washington Township Comprehensive Plan identifies the subject property to be within Downtown Westfield (p .23). The Comprehensive Plan identifies a need to revitalize Westfield's downtown. The Comprehensive Plan does not specifically address this area of Downtown for redevelopment possibilities, but it does identify office uses as appropriate in Downtown (p. 75). The proposed use would generally comply with the Comprehensive Plan.

The City has commissioned a public-private group, the Grand Junction Task Group, to prepare a master plan for Downtown Westfield. Grand Junction is currently in the process of drafting a plan. It is anticipated that a new Downtown Master Plan will be adopted in the coming months.

Public notice for the April 14th BZA meeting has not been met. The appellant did not have the public notice posted on the property 10 days prior to the public hearing.

The Westfield Thoroughfare Plan classifies SR 32 as a Primary Arterial, which calls for 150 feet of right-of-way. The current right-of-way adjacent to the subject property is approximately 60 feet in width. It is unknown at this time how any potential future expansion or widening of SR 32 would occur.

TECHNICAL ADVISORY COMMITTEE

Staff has started sending variances of use, special exceptions, and other complex BZA cases to the Technical Advisory Committee for review and feedback, at the Director's discretion. The input from the various agencies on matters before the BZA will assist in staff's analysis and review of a project.

Comments from the September 23, 2008 TAC meeting are as follows:

- INDOT informed the applicant that this parcel could be impacted by the US 31 improvement project; however, because the plans for US 31 have not been finalized, the INDOT representative could not definitively speak to the amount of right-of-way that may be acquired from the subject property. It was noted that due to the subject property's proximity to the Westfield-Washington School Administration Building, right-of-way dedication could be minimal. INDOT did not express concern with the possible addition of traffic to SR 32 as a result of this project;
- Westfield Public Works Department provided a comment letter and did not express any concerns;
- Westfield Fire Department stated that the structure may be required to be sprinkled and did not express any additional concerns;
- Hamilton County Surveyor's Office provided a comment letter and informed the applicant that storm water management and detention may have to be provided for on-site improvements;
- Citizens Gas of Westfield informed the applicant that they serve the site and will work with them on issues regarding disconnecting the existing line for demolition and new connections for the new structure;
- Duke Energy discussed possible routing options for providing power to the site;
- Westfield Community Development requested a survey of the property to help delineate any potential right-of-way and potential easement issues.

After further review, the Westfield Fire Department offered the following comments in their January 6, 2009 letter (Exhibit 6):

- Concern with length of access drive without adequate turn-around area for fire apparatus.
- Concern with width of access drive of 12 feet 10 inches, where 20 feet are required.
- Concern with locating parking spaces in front of the garage. In the case of a vehicle fire within the garage, access could be restricted or hindered.

If this variance and the associated variances of use request (0810-VU-06) are approved, then this project will be subject to the Development Plan Review process. Any technical issues associated with the development of this property will be addressed at that time.

CRITERIA FOR VARIANCE OF STANDARDS REQUEST

A Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under IC 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community:

Finding: It is unlikely that approving the requested variances 1-7 and 9-11 would be injurious to the public health, safety, morals, and general welfare of the community. The requests are seeking relief from the U.S. 31 Overlay and Landscaping Standards, which primarily address site design, site layout, and aesthetic concerns. The submitted site plan meets all development standards from the underlying zoning SF-3 District.

The Westfield Fire Department issued a letter expressing concern for life safety and the ability to access and serve the site in the event of an emergency. Approving requested variance 8 places a risk on the public health, safety, morals, and general welfare of the community.

2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:

Finding: It is unlikely that the use and value of the adjacent property would be affected in an adverse manner. The site would develop under the current SF-3 development standards, which is consistent with much of the surrounding area.

3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property:

Finding: Because of the size and configuration of the site, it would be undevelopable if required to comply with Items 1, 3, 4, 5 and 6. The existing lot configuration renders it impossible to meet these five (5) requirements. The terms of the zoning ordinance, as related to these five (5) standards create a practical difficulty in the use of the subject property.

Items 2, 7, 8, 9, 10 and 11 are specifically tied to the submitted site plan. These six (6) standards could be met under a different plan and site layout. If the site were to be used and developed differently, these six (6) standards could be met. The terms of the zoning ordinance, as related to these six (6) standards do not create a practical difficulty in the use of the subject property.

ADDITIONAL COMMENTS
None.

RECOMMENDATIONS

Items 1, 3, 4, 5, and 6 of this request, can only be approved if the items listed below are also approved based on the findings of this report.

Items 2, 7, 9, 10 and 11 based on finding 3 within this report are recommended for denial.

Item 8 based on findings of fact 1 and 3 within this report are recommended for denial.

Staffs recommendation to the BZA is to deny this appellants requests.

****

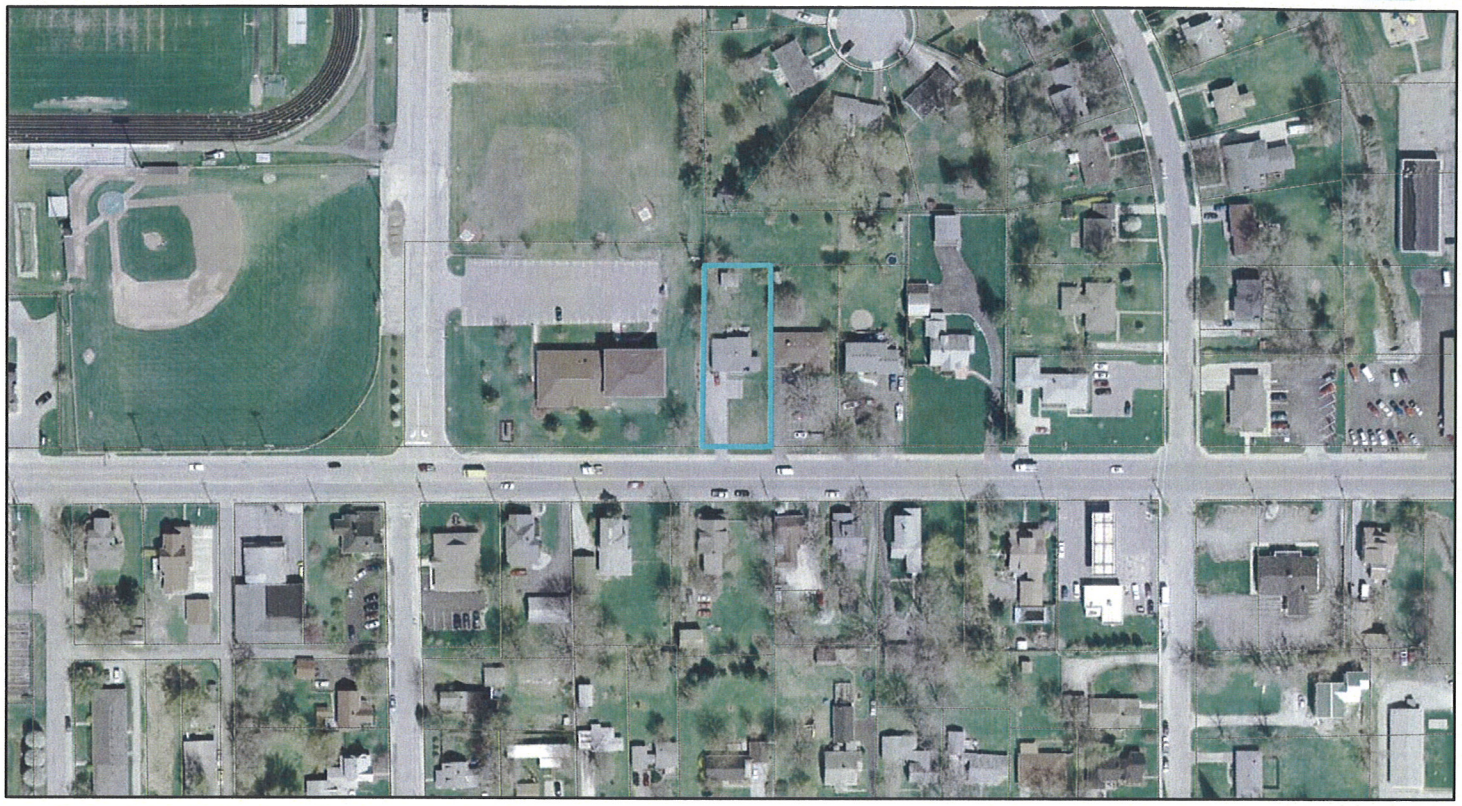
KMT/JCM

0810-VS-14
09-05-36-04-04-026.000
304 West Main Street
Exhibit 2

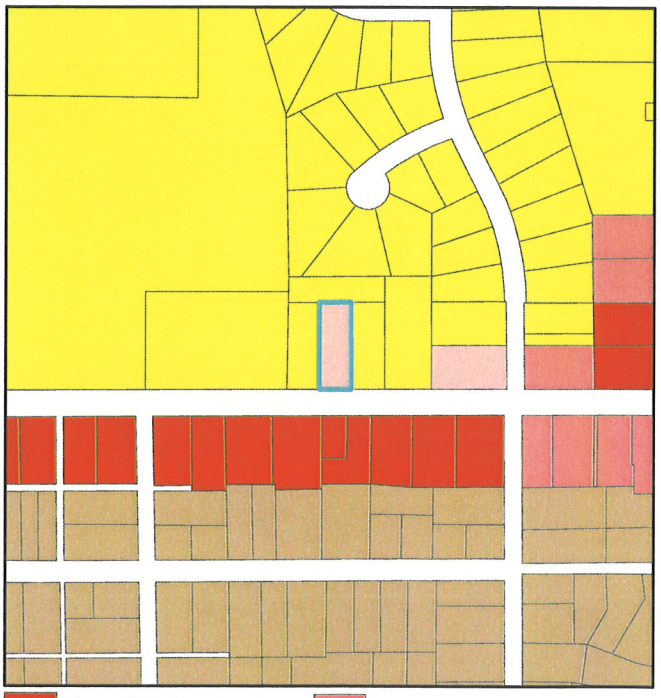
N
W E
S
Not To Scale

Aerial Location Map

Site

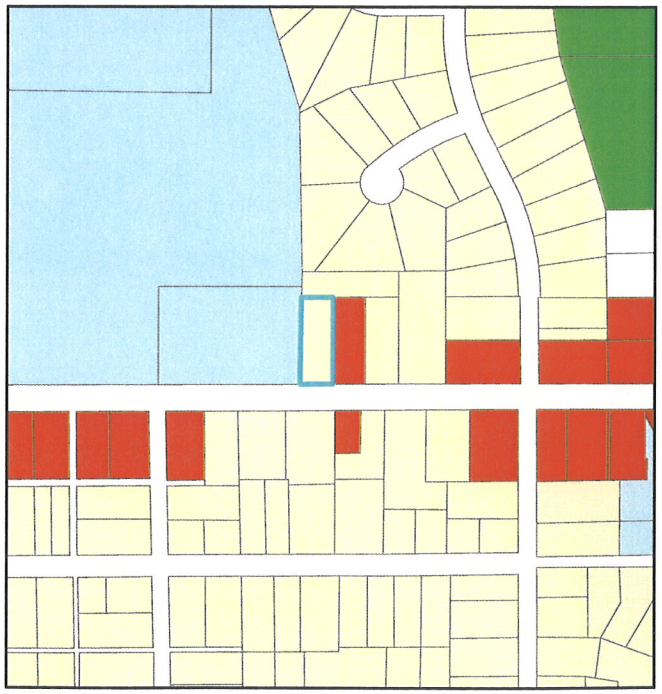


Zoning Map



General Business
Multi Family 1
Local Business
Local Business Historic
Single Family 3

Existing Land Use Map



Commercial
Institutional
Recreational
Residential
Vacant

L:\West_GIS\Planning\Petitions\BZA\0810-VS-14.mxd (October 7, 2008)

EXHIBIT 3

co.HAMILTON.in.us

Official government site of Hamilton County, Indiana

Online Services

Property Card Report

1. report type: Reset
2. property search: new search
3. view reports: general parcel info. | spring tax statement | tax payments | property card | fall tax statement

Disclaimer:
This program allows you to view and print certain public records. **Each report reflects information as of a specific date**; so the information provided by different reports may not match. All information has been derived from public records that are constantly undergoing change and is not warranted for content or accuracy. It may not reflect the current information pertaining to the property of interest.

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Any, and all information contained on this web site report is the result of assessment data extracted on the most recent taxable year - **March 1, 2007**.
Improvement characteristics may differ from those used to determine the total assessed value listed.

Summary Information - Parcel Number: 09-05-36-04-04-026.000

Property Data	
Parcel Location	304 Main St W,Westfield
Taxing Unit	Westfield
Legal Description	73.6 X 195.0 AUD 11/2
Section/Township/Range	S36 T19 R03
Subdivision Name	NULL
Lot and Block	Lot Block
Acres	0
Effective Frontage	74
Effective Depth	195
Property Class	One Family Dwelling Platted
Exterior Features and Out Buildings	
1 Attached Garage,	
1 Roof Extension Canopy, 2 Wood Deck,	

Property Owner as of April 30, 2007	
Thornberry Real Estate Inc	
Most Recent Valuation as of March 1, 2007	
Assessed Value: Land	23400
Assessed Value: Improvements	65100
Total Assessed Value:	88500

Building 1, Card ID R01

Physical Characteristics	
Story Height	1.0
Attic	none
Basement	none
Crawl	none
Year Built	1956
Floor Construction	
1.0 (first)	Sub and joists
Floor Finish	
1.0 (first)	Carpet, Carpet
Exterior Cover	
1.0 (first)	Wood siding
Interior Finish	
1.0 (first)	Drywall

Accomodations		
Finished Rooms	7	
Bedrooms	3	
Heating and Air Conditioning		
Primary Heat	YES	
Air Conditioning	NO	
Plumbing		
Full Baths	1	
Partial Baths	0	
Fireplace		
Fireplace Stacks	YES	
Basement Rec Room		
Rec Room Type		
Rec Room Square Footage	0	
Area/Square Footage (based on exterior eave to eave area)		
Building Level	**Base Area**	**Approx. Finished Area**
1.0 (first)	928	928
Garage		
Garage Type	Framed	
Garage Square Footage	496	

This application is developed and maintained by the Information System Services Department. If you have any questions or comments, please contact the Webmaster.
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Exhibit 4

WESTFIELD PUBLIC WORKS

BOARD OF PUBLIC WORKS
J. ANDREW COOK, MAYOR
JOHN B. HART, BOARD MEMBER
MARK HEIRBRANDT, BOARD MEMBER

CHIEF ADMINISTRATIVE OFFICER
BRUCE A. HAUK

DIRECTOR OF PUBLIC WORKS
KURT J. WANNINGER

September 19, 2008

Thornberry Real Estate
Attn: Mr. Dale Thornberry
16772 S.R. 38 E
Noblesville, IN 46060

RE: Thornberry Real Estate 304 Main Street W. Rezone Review

Dear Mr. Thornberry:

The Westfield Public Works Department has reviewed the proposed rezone plans for the above project and offers the following comments:

1. Please recognize that all infrastructures shall be installed in accordance with the Town of Westfield's Utility and Infrastructure Construction Standards, which can be found on our website at www.westfield.in.gov under Development/Construction.

2. 110% performance bonds for all public infrastructures will be required before any construction commences. All easements shall be recorded before approval of construction plans.

3. The estimated water and sanitary availability/connection fees will be calculated according to the Project Information Sheet. This does not include fire or irrigation fees.

4. It is the developer's responsibility to notify IDEM if there are any wetlands on the project site.

5. Please show all telephone poles, pedestal/utility boxes and trees or other obstructions that are located in the right of way. Right of way width will match the current thoroughfare plan which is 75' ½ right of way for a primary arterial 1 street and should be dedicated to the City.

These review comments, submitted plans, and TAC meeting do not constitute approval for construction by the Westfield Public Works Department.

I thank you in advance for your cooperation and efforts to move this development along successfully. If you should have any questions or concerns regarding my comments or the above information, please call me at the below listed number.

Sincerely,

Donna Luley
Plan Review Coordinator
Development/Construction
dluley@westfield.in.gov

SURVEYOR'S OFFICE

Hamilton County

Kenton C. Ward, CFM
Surveyor of Hamilton County
Phone (317) 776-8495
Fax (317) 776-9628

Suite 188
One Hamilton County Square
Noblesville, Indiana 46060-2230

September 22, 2008

Thornberry Real Estate
ATTN: Dale Thornberry
16772 S.R. 38 East
Noblesville, IN. 46060
VIA E-MAIL: dale@thornberryconsulting.com

RE: Thornberry Real Estate – 304 Main Street

Dear Mr. Thornberry:

We have reviewed the BZA variance request submitted to the Hamilton County Surveyor's Office on September 15, 2008, for this project and have the following comments:

1. The proposed project falls in the incorporated area and MS4 jurisdiction of the City of Westfield.

2. The proposed project DOES fall in a Westfield Wellhead Protection Zone.

3. The proposed project falls in the J.M Thompson Arm of the Anna Kendall Regulated Drain Watershed.

4. Hamilton County Surveyor's Office has no objections to the use variance with the condition that storm water detention and location of an acceptable storm water outlet are addressed before any new construction beings on this site. The site does not have a current adequate outlet for the proposed post-developed runoff, as the site sheet flows to the South-East to S.R. 32 Right-of-way, which has inadequate storm sewer drainage, and to the North-east across other landowners on the way to the J. M. Thompson Arm of the Anna Kendall Drain.

5. Hamilton County Surveyor's Office, by not objecting to this variance, is not either in support or against this variance request and it does not absolve the petitioner from complying with any and all requirements of the Hamilton County Stormwater Management Technical Standards Manual and/or county ordinances, if variance approval is granted.

6. Please note that further comments may be necessary at a later date.

Should you have any questions, I can be reached at 317-776-8495.

Sincerely,

Greg Hoyes, AC, CFM
Plan Reviewer

CC: Donna Luley – Westfield Public Works
Al Salzman – City of Westfield
Kevin Todd – City of Westfield
Sandy Landrum - INDOT
Dave Lucas – HCHD

EXHIBIT 5

TOWN OF WESTFIELD, INDIANA

Petition Number: 0810-US-14
Date of Filing: 09/16/08

Application for VARIANCE OF DEVELOPMENT STANDARD
Westfield – Washington Township
Board of Zoning Appeals (BZA)

This application must be completed and filed with the Community Services Department of the Town of Westfield, Indiana in accordance with the meeting schedule.

1. Appellant's Name: Dale Thornberry / Thornberry Real Estate
   Address: 28164 SW Sunnyfield Tr. Palmetto FL 34990
   Telephone Number:
   E-Mail Address:

2. Landowner's Name: Thornberry Real Estate
   Address: 16772 SR 38 E, Noblesville IN 46060
   Telephone Number:

3. *Representative:
   *Address:
   *Telephone Number:
   *Email Address:

   *If the applicant is not presenting a petition, please provide contact information for the party representing the applicant.

4. Common description of property (address, location, etc.)
   304 Main St W Westfield, IN 46074

5. Legal description of property (list below or attach)
   See attached

6. Complete description of the nature of the development standard variance applied for:
   Office building for software & real estate & construction company offices
   See attached

7. **ALL SITE PLANS SHALL BE LEGIBLE AND DRAWN TO SCALE.** Site plans must accompany this application and must depict at a minimum:

   a. Lot(s) shape and dimensions;
   b. Location and dimensions of existing and proposed structures;
   c. Location and dimensions of existing and proposed points of ingress and egress; and
   d. All topographic and natural features and/or other unusual characteristics associated with the property.

8. The Applicant must address the following criteria and establish at the public hearing that each of the following is true in order to obtain a favorable determination from the BZA.

   No variance of development standard shall be granted unless the BZA finds all of the following to be true:

   a. That the approval of such variance of development standard will not be injurious to the public health, safety, morals, and general welfare of the community:

   No, it will not be injurious.

   b. That the use and value of the area adjacent to the property included in the variance of development standard will not be affected in a substantially adverse manner:

   The use of and value of the area will not be adversly affected

   c. That the strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property:

   Yes, strict application would result in difficulties

The Appellant hereby certifies that the information contained in and accompanying this application is true and correct.

_____
Applicant

SUBSCRIBED AND SWORN TO ME THIS 15 DAY OF Sept, 2008.

_____
Notary Public

My commission expires: _____

KARA THORNBERRY
MY COMMISSION #1070211
EXPIRES: FEBRUARY 07, 2009
Bonded by Advantage Notary of Florida

6) Complete description of the nature of the development standard variance applied for:

1. US 31 Overlay, Minimum Lot Size - 5 Acres (WC 16.04.070, 4)
2. US 31 Overlay, Minimum Front Yard - 60 feet (WC 16.04.070, 5c)
3. US 31 Overlay, Minimum Side Yard - 45 feet (WC 16.04.070, 5d)
4. US 31 Overlay, Minimum Aggregate of Side Yard - 90 feet (WC 16.04.070, 5f)
5. US 31 Overlay, Minimum Lot Width - Half the depth of the lot (WC 16.04.070, 5g)
6. US 31 Overlay, Minimum Aggregate Gross Floor Area - 15,000 square feet (WC 16.04.070, 5h)
7. US 31 Overlay, Building Materials/8 External Corners - 3 materials, 1 must be brick or stone; 8 external corners (WC 16.04.070, 8, Bullet 3)
8. Parking, Aisle Width - 24 feet (WC 16.04.120, 2f)

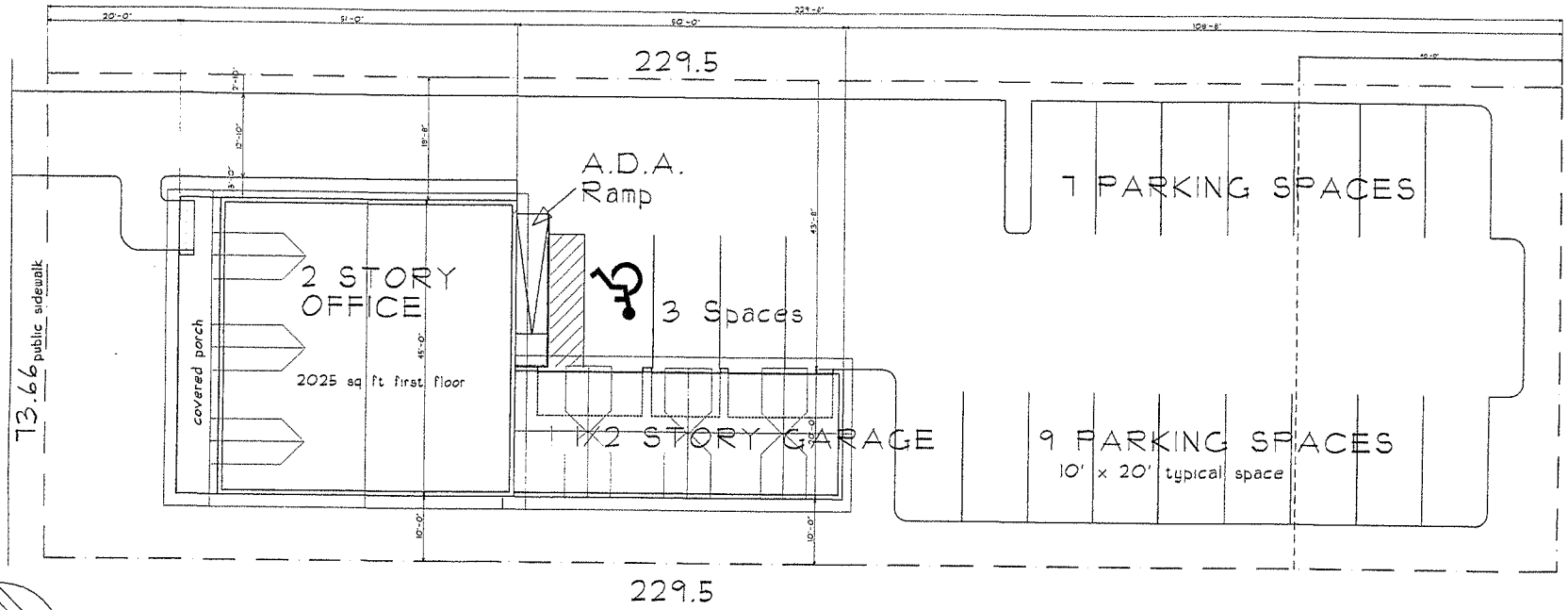
<u>Landscaping</u>

1. West Buffer Requirements: 15' yard; 8 evergreen trees; 39 evergreen shrubs (can NOT count towards On-Site requirements) (WC 16.06.060 B & C)
2. Interior Parking Lot Island: 5% of parking area (each island is required to be at least 7' wide with 6" curb; planted with 1 tree and 4 shrubs) (can NOT count towards On-Site requirements) (WC 16.06.070, A 1 & 2)
3. Perimeter Parking Lot Plantings (East side of rear parking lot): 5' planting strip; 3 trees; 27 shrubs (this count may change depending on the final design of the parking lot) (can count towards On-Site requirements) (WC 16.06.070, B2)

Legal Description:

A part of the Southeast Quarter of Section 36, Township 19 North, Range 3 East, located in Hamilton County, Indiana, described as follows:

Begin at a point 1009.34 feet West of the southeast corner of the Southeast Quarter of Section 36, Township 19 North, Range 3 East, run thence West along the south line of this Quarter 73.66 feet to a point. Thence North parallel to the east line of this tract 229.5 feet to an iron stake; thence East parallel to south line of this quarter 73.66 feet to an iron stake, thence South 229.5 feet to the place of beginning.



SITE PLAN 1/8"=1'-0"

total parking 24 Spaces
5 covered
19 outside

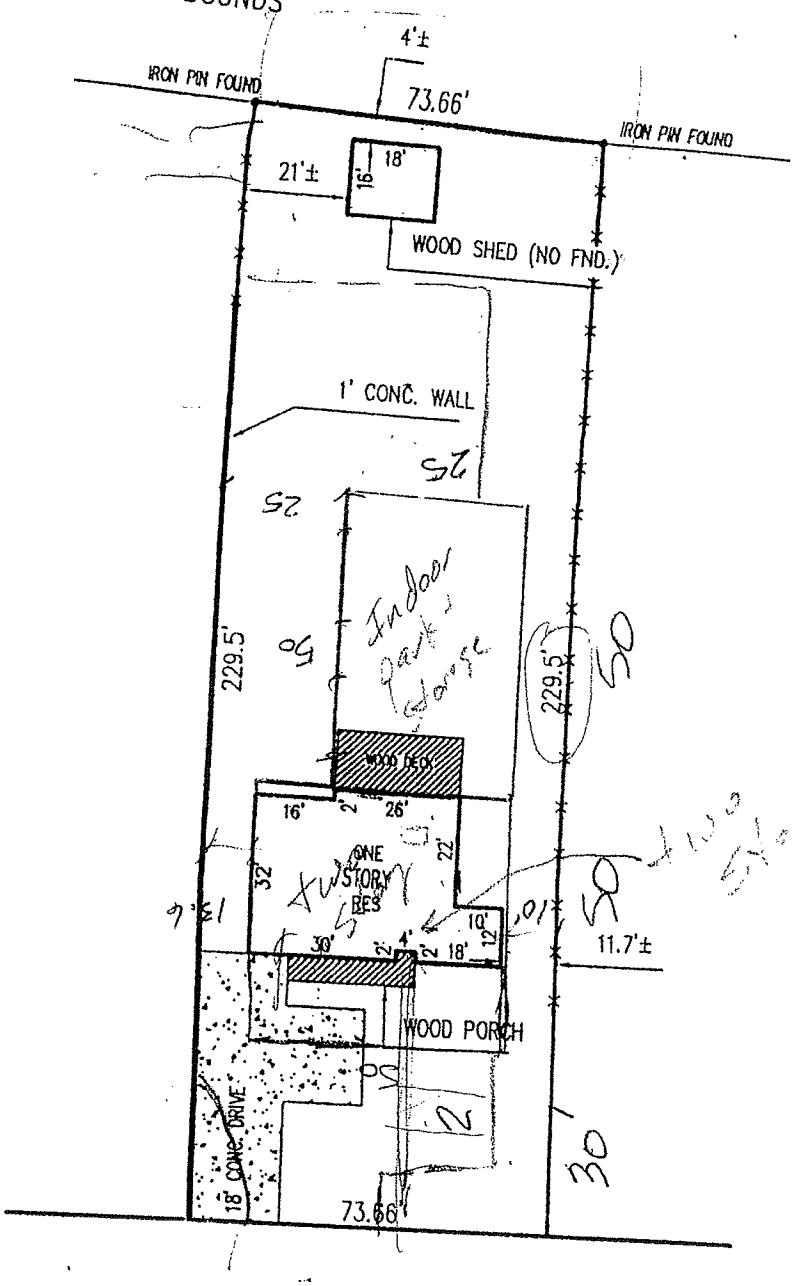
B	Braden & Braden AIA, PA Architects - Planners 417 Coconut Avenue Tel : (772) 287-8258 Fax : (772) 287-8283 Stuart, FL 34996 #AAC000032	office for Thornberry Westfield Indiana	Date Drawn : 8-12-08 Revisions : 8-19-08	Drawn By: D.R.B. Checked By:	Sheet OF	Comm # 08-109

Location Survey

SURVEYOR LOCATION REPORT

PROPERTY ADDRESS: 304 WEST MAIN STREET
WESTFIELD, IN 46074

LAND DESCRIPTION: METES AND BOUNDS



MAIN STREET 50' 1/2

DRAWN BY: SAB
RLS NO: 12324
SCALE: 1"=40'
DATE: 04-16-2002

RLS Surveyors

4321 East 82nd Street, Suite C
Ph. 317•842•7330 FAX 317•842•7334
Indianapolis, IN 46250
Internet N723@IEL.NET

Exhibit 6

Westfield Fire Department

Fire Prevention Division

Garry Harling Fire Marshal

Re: Thornberry Project - State Road 32

After review of the Thornberry Project located on State Road 32, the Westfield Fire Department has some concerns with this project.

1) 503.2.5 Dead Ends - Dead end apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus.

> - As this project is submitted, the parking lot from State Road 32 is in excess of 229 feet. The end of the parking lot is an area that has 16 parking spaces. There is no room within this area for any fire department apparatus to turn around and it exceeds the 150 feet set forth by the Indiana Fire Prevention Code.

2) 503.2.1 Dimensions - Fire apparatus access roads shall have an unobstructed width of not less than 20 feet except for approved security gates in accordance with Section 503.6 and an unobstructed vertical clearance of not less than 13 feet 6 inches.

> - As this project is submitted, the access road from State Road 32 to the parking lot in the rear of the structure is designed at 12 feet 10 inches. This does not meet the required width set forth by the Indiana Fire Prevention Code.

3) 503.1.1 - Buildings and facilities - Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility or any portion of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility.

Exception: The code official is authorized to increase the dimension of 150 feet (45 720 mm) where:
1. The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.
2. Fire apparatus access roads cannot be installed due to location on property, topography, waterways, non-negotiable grades or other similar conditions,

and an approved alternative means of fire protection is provided.
3. There are not more than two Group R-3 or Group U occupancies.

- The proposed building has the building that the East side of the structure exceeding the 150 feet for fire suppression. There is no access to this side of the structure and plans do not show that the building will be protected by an automatic sprinkler system. This does exceed the rule and is not permitted by the Indiana Fire Prevention Code.

Additionally, the proposed project calls for parking to be placed in front of the parking garage which will block access to the building or any vehicle parked in the garage. In the event of a car fire within the garage will be hindered by the parking in front of the garage.

If you have any questions, please feel free to contact me at 317-804-3307.

Respectfully submitted,

Garry Harling Division Chief / Fire Marshal
Westfield Fire Department