

**COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE
MADE IN CONNECTION WITH A VARIANCE GRANT UNDER
THE CITY OF WESTFIELD, INDIANA UNIFIED DEVELOPMENT ORDINANCE**

In accordance with I.C. 36-7-4-1015, the owner of the real estate located in the City of Westfield, Hamilton County, Indiana, which is described below, makes the following COMMITMENTS concerning the use and development of that parcel of real estate:

LEGAL DESCRIPTION: (See attached description.)

See EXHIBIT "A" ATTACHED HERETO
(the "Subject Property")

STATEMENT OF COMMITMENTS:

1. The Petitioner shall provide supplemental landscaping and mounding along the perimeters of the Subject Property as shown on the site plan attached hereto as Exhibit "C". Additionally, if the existing fencing along the north or south adjoiners property lines is removed (for any reason) and not replaced, Petitioner shall install an opaque fence six (6) to eight (8) feet in height along the Subject Property's property lines as a replacement for such removed fence. Chain link fencing with slats shall not be permitted. Such landscaping, fencing and mounding shall be maintained in good condition, ordinary wear and tear excepted. A certificate of compliance for the landscaping or fencing, as the case may be, shall be obtained following a passed inspection of the installed landscaping or fencing.
2. The Petitioner's landscaping company shall be operated in substantial compliance with the Plan of Operation attached hereto as Exhibit "B".
3. The subject property will be developed in substantial accordance with the site plan attached hereto as Exhibit "C".
4. Any new site improvement or structure on shall follow the development and design rules in the City of Westfield Unified Development Ordinance ("UDO") applicable to Industrial Uses/Districts.
5. The external street frontage landscaping requirements required under the UDO shall apply along the Ditch Road frontage of the Subject Property, and shall be installed within three (3) months of the approval of the variance, or as soon as weather permits if the scheduled deadline would be in November through March. A certificate of compliance shall be obtained following a passed inspection of the installed landscaping.
6. Petitioner/Owner shall dedicate so much right of way along the subject property's Ditch Road frontage so as to provide for a Thirty-Five foot (35') half right of way, measured from the centerline. Such dedication shall be made within three (3) months of approval of the variance.
7. Petitioner/Owner shall install, at its expense, an eight foot (8') wide asphalt pedestrian pathway at the back of the dedicated right of way, within three (3) months following approval of the variance, or as soon as weather permits, if the scheduled installation deadline would be in November through March.
8. Hours of operation, including use of company equipment, delivery vehicles and trash pickup, shall be limited to 7:00 a.m. to 7:00 p.m. Monday through Friday and 8:00 a.m. to 5:00 p.m. Saturday; provided, however, the office may remain open until 10:00 p.m., Monday through Thursday, and further provided, the business may operate on a limited basis outside of such hours during snow/ice events for the purpose of moving snow removal equipment from the Subject Property to clients locations.
9. All mulch shall be turned regularly to mitigate spoilage, and there shall not be in excess of a two (2) week supply on site at any given time.
10. All bulk outside storage of mulch, soil, rock and paver material shall be kept in bins which are covered when not in use.

11. All repairs to equipment (except an emergency) shall take place in the shop building shown on the Site Plan.

These COMMITMENTS shall run with the land, be binding on the Owner of the above-described real estate, subsequent owners of the above-described real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the City of Westfield made at a public hearing after proper notice has been given.

COMMITMENTS contained in this instrument shall be effective upon the approval of Petition #1506-VU-06 pursuant to the City of Westfield Unified Development Ordinance, and shall continue in effect until modified or terminated by the City of Westfield Board of Zoning Appeals.

These COMMITMENTS may be enforced by

- 1. The City of Westfield Board of Zoning Appeals; and

The undersigned hereby authorizes the City of Westfield to record these Commitments in the Office of the Recorder of Hamilton County, Indiana, upon final approval of petition # 1506-VU-06.

IN WITNESS WHEREOF, owner has executed this instrument this _____ day of _____, 2015

Printed: _____
Jeffrey Kelich

Printed _____
Renee Kelich

(Acknowledgment)

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Jeffrey Kelich, Owner(s) of the real estate described above, who acknowledged the execution of the foregoing instrument for and on behalf of said trust.

Witness my hand and Notarial Seal this _____ day of _____, 2015

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me, a Notary Public in and for said County and State, personally appeared Renee Kelich, Owner(s) of the real estate described above, who acknowledged the execution of the foregoing instrument for and on behalf of said trust.

Witness my hand and Notarial Seal this _____ day of _____, 2015

Signature _____

Printed _____

County of Residence _____

My Commission expires: _____

This instrument was prepared by Joseph D. Calderon, Bose McKinney & Evans LLP, 111 Monument Circle, Suite 2700 Indianapolis, Indiana, 46204

I affirm, under penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Joseph D. Calderon, Esq.

EXHIBIT A

7417 WARRA DEED BOOK 312 796

THIS INDENTURE WITNESSETH, That Stanley E. Banks & Patricia B. Banks, his wife and Joseph E. Pettijohn & Beverly I. Pettijohn, his wife of Hamilton County, in the State of Indiana, CONVEY AND WARRANT to Pettijohn & Banks, Inc.

of Hamilton County, in the State of Indiana, for the sum of One Dollars (\$ 1.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Hamilton County, in the State of Indiana:

Tract 2F: A part of the Northwest quarter of the Southwest quarter of Section 15, Township 18 North, Range 3 East in Washington Township, Hamilton County, Indiana, more particularly described as follows: Beginning at a point on the West line of the Southwest quarter of Section 15, Township 18 North, Range 3 East, said point being S 00 degrees 10 minutes 33 seconds E 608.04 feet from the Northwest corner thereof; thence N 88 degrees 43 minutes 27 seconds E 655.04 feet, thence S 00 degrees 09 minutes 40 seconds E 241.61 feet, thence S 00 degrees 13 minutes 33 seconds E 24.45 feet, thence S 88 degrees 43 minutes 27 seconds W 655.00 feet to a point on the West line of said quarter, thence N 00 degrees 10 minutes 33 seconds W on and along said West line 266.06 feet to the place of beginning and containing 4.000 acres, subject to all legal easements and rights of way of record.

This document referred to in Document No. 2008043766 8/2/08

This document referred to in Document No. 200132157 Taken Instrument Recorded June 12 1979 5-188 MARY L. CLARK, RECORDER, HAMILTON COUNTY, IND.

RECEIVED APR 17 2 43 PM '79 MARY L. CLARK RECORDER HAMILTON CO., IND.

This document referred to in Document No. 200102025813 58.01

DULY ENTERED FOR TAXATION 12 day June 1979 Barbara J. Jennings Auditor Hamilton County

IN WITNESS WHEREOF, Grantor has executed this deed this 6 day of JUNE, 1979.

Signature Stanley E. Banks (SEAL) Patricia B. Banks Printed Stanley E. Banks Patricia B. Banks STATE OF INDIANA COUNTY OF JSS: Signature Joseph E. Pettijohn (SEAL) Beverly I. Pettijohn Printed Joseph E. Pettijohn Beverly I. Pettijohn

Before me, a Notary Public in and for said County and State, personally appeared Stanley E. Banks, Patricia B. Banks, Joseph E. Pettijohn & Beverly I. Pettijohn who acknowledged the execution of the foregoing Warranty Deed, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and the Notarial Seal this 6 day of JUNE, 1979. My commission expires Signature Donald R. Peyton Printed Donald R. Peyton Notary Public

This instrument was prepared by Donald R. Peyton, attorney at law.

EXHIBIT B

PLAN OF OPERATION

Petitioner: Jeff Kelich
Property Address: 14939 Ditch Road
Case No.: 1506-VU-06

Petitioner, Jeff Kelich (“Petitioner”), is the owner of a business known as Carmel TurfCare, a full service landscaping business. Petitioner recently purchased a four (4) acre tract of improved real property commonly known as 14939 Ditch Road (the “Subject Property”).

Petitioner’s business is seasonal, and geocentric, focusing on customers in the north suburbs of Indianapolis, including Westfield. The Subject Property is zoned for residential use (SF-2), but has been improved with commercial/industrial buildings and has been and may be used by a concrete company under a variance granted in 1979. Petitioner proposes to occupy the existing buildings, and add temporary greenhouse structures as shown on the site plan attached hereto as Exhibit “A”.

Petitioner is proposing this Plan of Operation to the Board of Zoning Appeals (“BZA”) as a proposed condition to the approval of the requested variance, as a reflection of Petitioner’s sincerity and confidence in using the Subject Property in a manner that is compatible with the existing zoning and land use development pattern in the area.

Use of Subject Property

Petitioner will only use the Subject Property for a landscaping contractor business, with proposed incidental seasonal retail sales in the area shown on the Site Plan. If retail sales were to take place, it would be limited to Saturdays between the hours of 9 a.m. to 4 p.m. There will be inventory maintained on site, including mulch, soil, rock and paver material. Additionally, on occasion, there might be PVC pipe stored on site pending installation at a customer’s property. These materials will be stored on locations shown on the Site Plan and the mulch and soil will be in covered bins. Plants for ultimate installation at customer’s properties will also be stored in the greenhouse building. All of the foregoing items will be stored in those locations shown on the Site Plan. All other materials, such as seed/fertilizers, will be stored inside.

Hours of Operation

The Subject Property will have two distinct patterns of operation, except the office building will be staffed year round with approximately 5 employees performing administrative, and outside sales functions. During “season”, which is typically March through October, Petitioner proposes that his employees would arrive at the Subject Property in the morning, park

their personal vehicles, load and take the necessary equipment from the Subject Property to the job site, and return the equipment in the evening, or if circumstances warrant, take the equipment to their respective residences. Employees would typically arrive at the Subject Property by 7 a.m. and return by 7 p.m., Monday through Friday, and 8 a.m. to 5 p.m. on Saturday.

During the “off” season there would be little to no activity. On occasion, employees may work on the equipment inside the shop building on the Subject Property, and employees would come to the Subject Property during certain snow events for the purpose of picking up snow removal equipment.

Traffic Patterns, Lighting, Signs

Other than employee trips described above, there is little other traffic that will be generated by the proposed use of the Subject Property. Commercial traffic is expected to include a weekly visit by a trash truck to empty the dumpsters, a fuel truck to fill on site tanks, no more than twice per month, and delivery of product. Plant material is delivered on a monthly inventory cycle, while mulch and soil are managed and delivered on a 7 to 10 day inventory cycle.

No additional freestanding outdoor lighting other than what currently exists is proposed. The office building and shop building on the Subject Property may have wall pack or attached spotlights for security. A small sign at the entrance to the Subject Property is proposed.

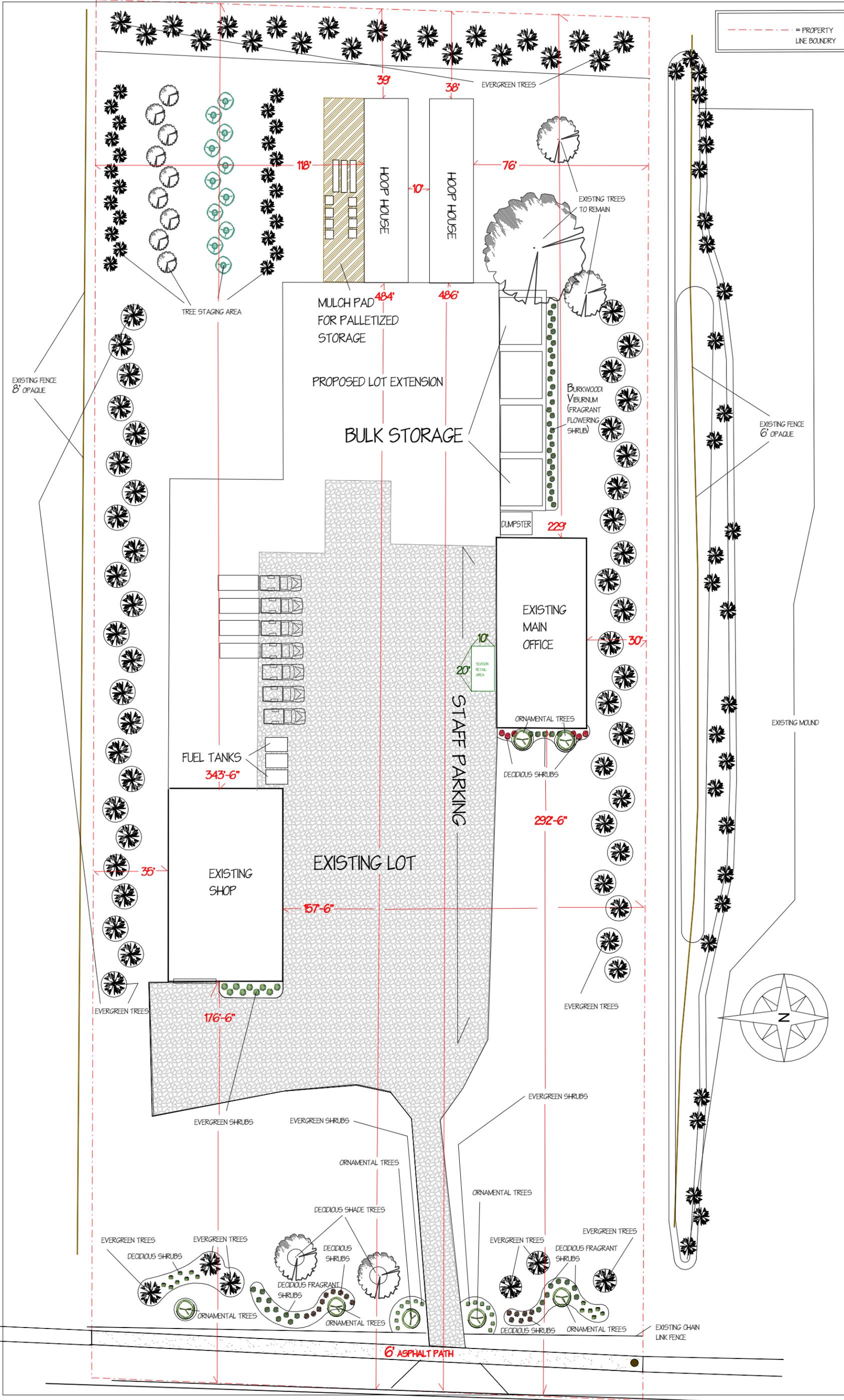
The Petitioner proposes to maintain a gravel drive/parking area, consistent with current conditions.

Employee Growth

Currently, Petitioner has 19 employees, and anticipates approximately 26 employees to visit the Subject Property on a daily basis during season.

Commitments

In addition to the foregoing Plan of Operation, the Petitioner is providing certain statutorily authorized commitments, which will provide additional certainty and protections.



Revision #: MASTER PLAN

Date: 8/6/2015

Scale: 1" = 40'

Landscape Plan: FORMER PETTIJOHN CONCRETE COMPANY

Landscape Design by:

23478 US 31N SUITE B CARMEL, IN 46034

CARMEL TURF CARE

EXHIBIT C

