

**AVON BOARD OF ZONING APPEALS**  
**MEETING AGENDA**

**MEETING DATE:** October 19, 2017

**TIME:** 7:00 PM

**PLACE:** AVON TOWN HALL COUNCIL CHAMBERS

1. Call to order/Pledge of Allegiance
2. Roll Call/ Determination of Quorum
3. Approval of Minutes: July 20 and September 21, 2017 meetings
4. Request for Continuances or Agenda Modifications: None
5. Public Comments: (Public may comment on items NOT on the Agenda)
6. Old Business: None

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**7. New Business / Public Hearings:**

**DOCKET # SE 17-04– Avon Retail Building – 10896 E US Highway 36 -  
Special Exception**

A request for approval of a special exception to allow drive through services within Tier 1 of the US Highway 36 Overlay District. The property is approximately 1.21 acres located at 10896 US 36. The property is zoned C-2 (general commercial) and lies within Tier 1 of the US 36 Overlay.

**PETITIONER:** Alrig USA

**Other Business:**

Signatures

**Adjournment:**

**Next Meeting: November 16, 2017**

**Due to a conflict with the November town council meeting, the BZA meeting will be held in the town court room**

Anyone who requires an auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service, or activity of *Town of Avon*, should contact the *Town Administrative Offices* as soon as possible but no later than

**SE 17-04 Avon Retail Building – 10896 E US Highway 36**  
Planning & Building Department Staff Report  
October 19, 2017  
Board of Zoning Appeals, Public Hearing  
Jodi Dickey

- A. Petition Number: SE 17-04 Avon Retail Building
- B. Applicant: Alrig USA
- C. Location: The subject property is located at 10896 E US Highway 36, just west of Raceway Road.
- D. Parcel Size: The entire parcel is 1.21 acres
- E. Land Use and Zoning: The parcel is zoned C-2, lies within Tier 1 of the US Highway 36 Overlay District, and contains an existing retail building (Old Bob's).
- Properties surrounding the site to the east and west are also zoned C-2 and contain commercial uses (Speedway gas station and a multi-tenant building). To the south, property is zoned SC and contains various retail uses (Meijer and a multi-tenant building).
- To the north, property is zoned RB (Hendricks County) and contains single family residential uses (Shiloh Creek Estates).
- F. Action Requested: Grant a Special Exception to allow the construction of a restaurant with drive through service. Drive through service facilities are not permitted within Tier 1 of the US Highway 36 Overlay District, except by Special Exception.
- Special Exceptions are those uses that, due to unique characteristics and/or the potential adverse impacts to the immediate area or town as a whole, require a greater amount of scrutiny. That is the reason for this request.
- G. History: This is the first such request for this parcel.
- H. Staff Comments: The subject property is a single parcel of approximately 1.21 acres.
- The appellant proposes to redevelop the property, demolishing the existing building and constructing a new multi-tenant structure. One tenant is proposed to be a

restaurant having drive-through service.

Access to the site is currently via a single drive on US 36 and an access easement granted from the eastern adjacent property. The drive and easement were platted through Hendricks County in 1979. No changes to the access have been made since that date. The appellant proposes to continue use of the existing access. A second drive onto the access easement is also shown on the plans.

The proposed plans show traffic entering the site from the east. Drive through traffic will travel along the north side of the new building and then to the west side to pay for and receive orders.

The US 36 Overlay District prohibits all drive-through components being located between the building and US 36. The proposed plans show compliance with this standard.

I. Statutory Findings for a Special Exception:

The Board of Zoning Appeals shall approve, conditionally approve or deny Special Exceptions. A Special Exception may be approved under IC 36-7-4-918.2 only upon a determination in writing that:

***Note: the first 6 criteria must be met; the last 3 are additional items the Board may consider***

**Criterion 1: The requested Special Exception is, in fact, listed as a Special Exception for the specific zoning district involved**

Drive-through facilities are listed as Special Exceptions in Tier 1 of the US Highway 36 Overlay District in the zoning ordinance. Staff believes this criterion has been met.

**Criterion 2: Will the operation of the use be detrimental to or endanger the public's health, safety, or general welfare:**

The proposed use will not be detrimental to the public's health, safety or general welfare. The site has been used for commercial purposes since originally developed without detrimental results.

Staff believes this criterion has been met.

**Criterion 3: Will the continued operation be injurious to the use and enjoyment of other properties in the immediate vicinity or substantially diminish or impair property values within the specific zoning district?**

The continued operation of the site will not be injurious to

the use and enjoyment of other properties in the immediate vicinity or substantially diminish or impair property values within the specific zoning district.

Staff believes this criterion has been met.

**Criterion 4: Will the use be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewer, and schools?**

The proposed use is currently adequately served with essential public services. There is an existing access on US 36 which will continue to serve the site. Police and fire services will continue unchanged. There will be no school impact. Other services are private.

Staff believes this criterion has been met.

**Criterion 5: Will the use create excessive additional requirements at public expense for public facilities and services, or be detrimental to the economic welfare of the community or result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance?**

The proposed use of the site will not require excessive additional services nor will it negatively impact any natural, scenic, or historic feature.

Staff believes this criterion has been met.

**Criterion 6: Have there been previous appeals to the BZA for this property within the last year?**

There have been no previous appeals to the BZA within the last year for this site.

Staff believes this criterion has been met.

***In addition to the above criteria, the Board may consider the following:***

**Criterion 7: Does the proposed Special Exception meet the requirements and standards of this ordinance and its relationship and compatibility to adjacent properties and neighborhoods?**

Although the appellant has submitted a conceptual site plan as part of this request, there has been no technical review. Staff has done a brief evaluation of the site and noted a few comments regarding parking, future thoroughfare needs, and drainage. The site meets bulk and setback standards and other elements will be thoroughly reviewed as part of the development plan approval process. The proposed commercial use is compatible with adjacent properties and neighborhoods.

Staff believes this criterion is met, with the above caveats.

**Criterion 8: Does the proposed Special Exception make adequate provision for public services, provide adequate control over vehicular traffic, provide for and protect designated common open space and further the amenities of light and air, recreation and visual enjoyment?**

The proposed Special Exception makes all necessary and adequate provision for public services and control over vehicular traffic. The other considerations are not applicable to this proposal. The Public Works Director has reviewed the submitted site plan and has given some comments regarding site access, future thoroughfare connections, and current drainage conditions. Any required site upgrades will be made part of the plan commission approval. Staff believes this criterion has been met.

**Criterion 9: Is the proposed Special Exception in accordance with the general objectives of the Comprehensive Plan?**

The Future Land Use Map shows this area as part of an Area Retail development cluster. The proposed Special Exception is in accordance with the general objectives of the Comprehensive Plan.

Staff considers this criterion to be met.

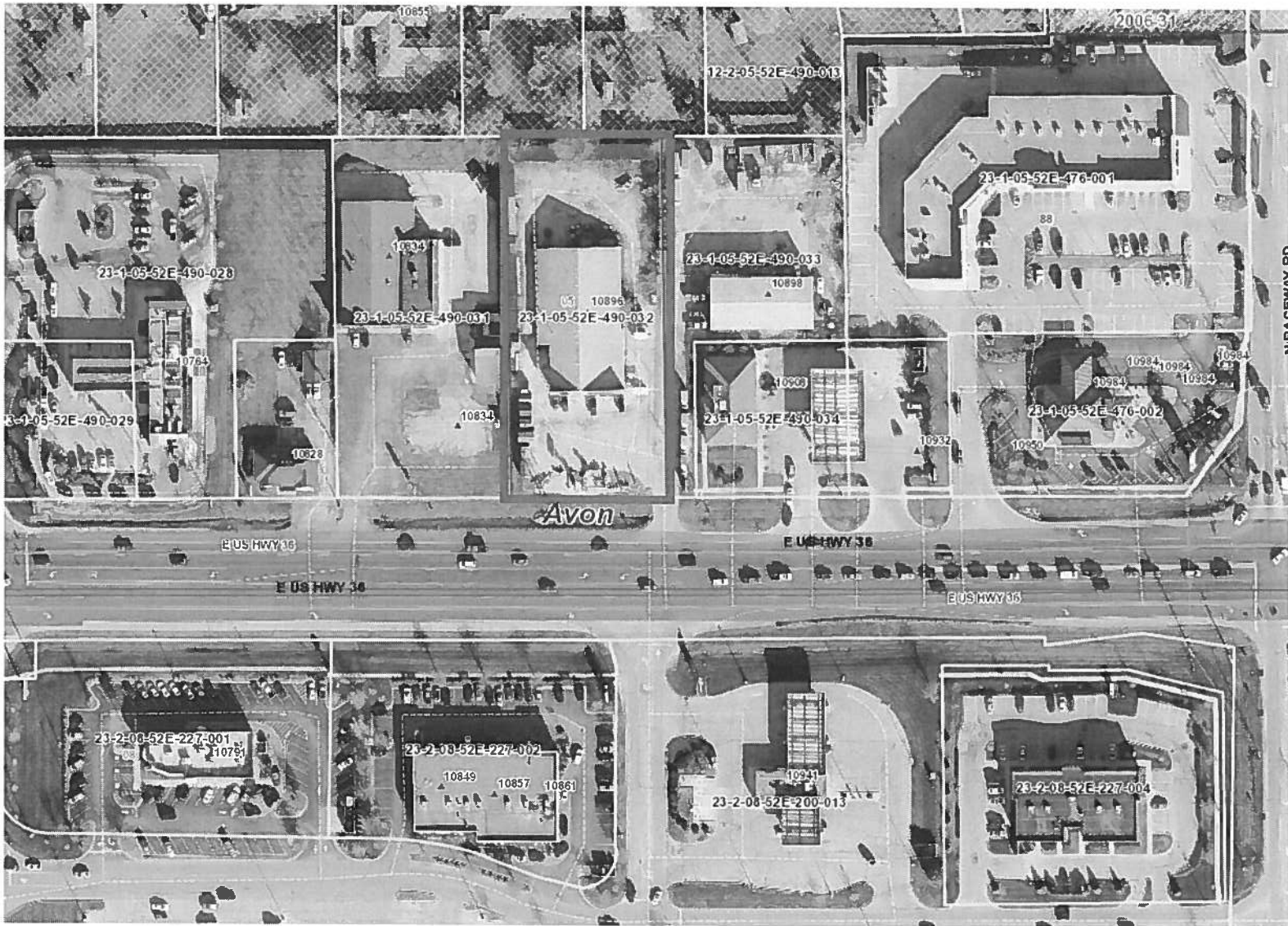
**CONDITIONS**

Per IC 36-7-4-918.5, the Board may impose reasonable conditions as a part of the Board's approval.

J. Recommendation:

Staff recommends approval of SE 17-04.

# SE17-04 Avon Retail Building – 10896 E. US Highway 36 Location Map



## Sample BZA Motion

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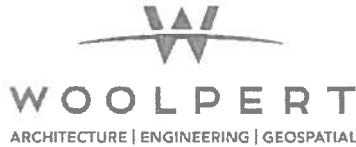
AVON BOARD OF ZONING APPEALS

Approval of a Special Exception

**Case Number: SE 17-04, Avon Retail Building – 10896 E. US Highway 36**

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I move that we **approve** SE 17-04, a Special Exception to allow construction of a drive through facility within the front yard of property in the US Highway 36 Overlay District as **having** satisfied the requirements for Special Exceptions and subject to the approved Findings of Fact.



# Request for Special Exception

## Town of Avon - Board of Zoning Appeals

September 18, 2017

**Project: Proposed Avon Retail Building – 10896 E US Highway 36**

Alrig USA is proposing to develop a 6,900 square-foot multi-tenant retail building to be located at 10896 E US Highway 36, Avon, Indiana. The site is zoned C-2 General Commercial and is located within the US 36 Overlay Zone, which requires a Special Exception per Chapter 27 – Permitted Use Table in the Town of Avon Zoning Ordinance. On behalf of Alrig USA, we respectfully request a Special Exception from the Town of Avon Board of Zoning Appeals to allow a Drive-Through use for the proposed development.

Provided is a site plan and building elevations, which show the proposed drive-through on the west elevation of the building. Full stacking is provided toward the rear of the building and the facilities meet the zoning ordinance requirements for a drive-through. Vehicles will enter the drive-through by taking the main entrance drive to the site to the rear parking area, and will exit through the front parking drive aisle back to the main entrance drive.

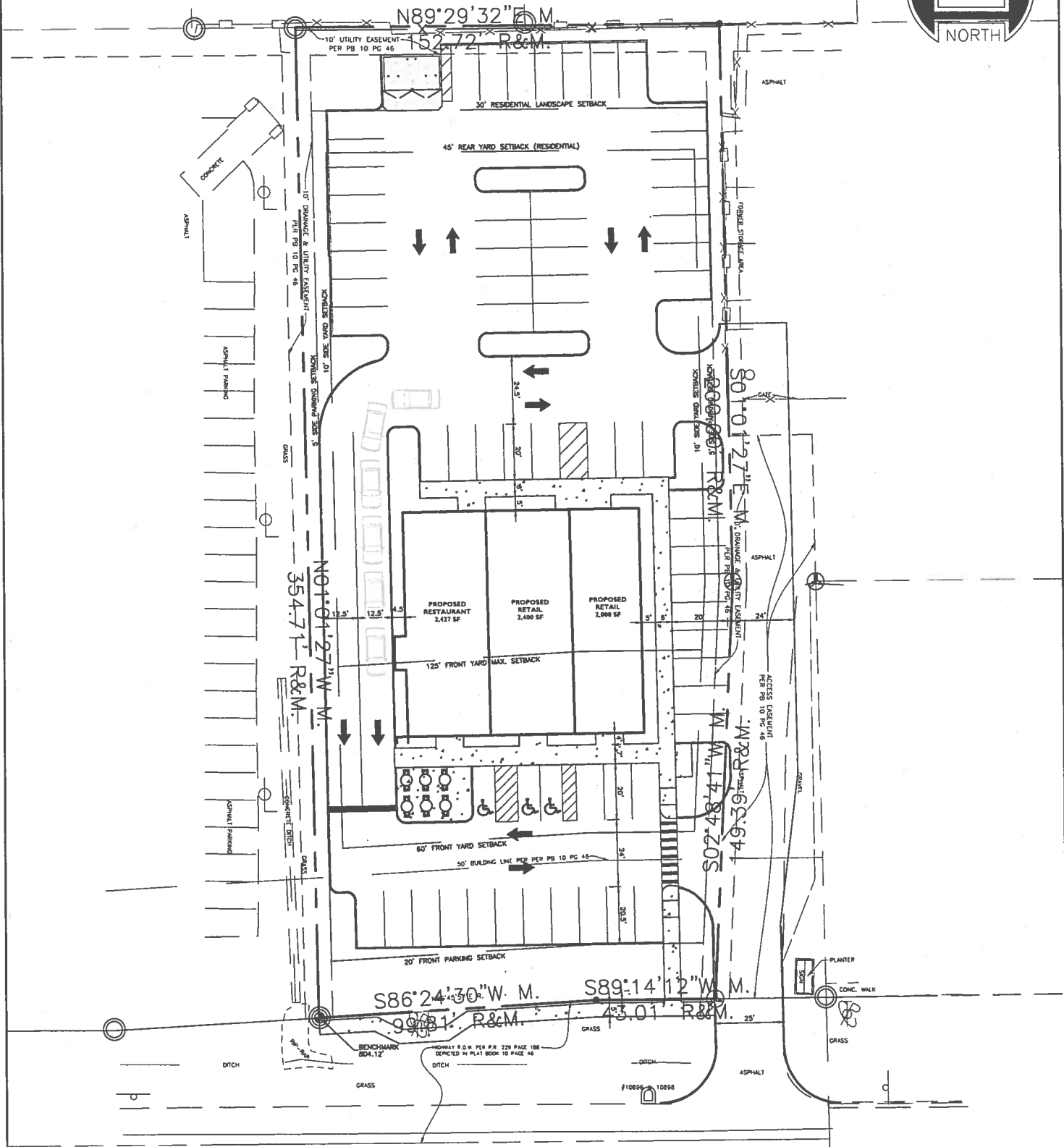
The drive-through has been provided in manner to maintain public safety by not locating parking adjacent to the drive-through lane, bypass lane, or the stacking area. Vehicles using the drive-through will have adequate visibility of other cars in the parking areas and pedestrians crossing the drive-aisle. There are no foreseen impacts to adjacent properties, public facilities and services, or common spaces. In addition, the proposed use is in accordance with the future land use plan, which designates this area as Retail use.

We look forward to presenting this request and project at the upcoming BZA meeting and answering any questions the Board or the public may have.

Respectfully,

Jon Sheidler, PE  
Woolpert, Inc.





ROCKVILLE ROAD (U.S. 36)  
VARIABLE WIDTH PUBLIC R.O.W.



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**MULTI-TENANT RETAIL**  
**AVON, IN**  
  
**SITE PLAN**

PROJECT NO.  
77850  
DATE 9/18/17  
DR. JRS  
SHT. # 1

