

Year

2008

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Creekside Shoppes

Town of Fishers
Planned Development
Ordinance

Ordinance No. 080408

1.01 Creekside Shoppes, Declaration, Purpose and Intent, and Permitted Uses

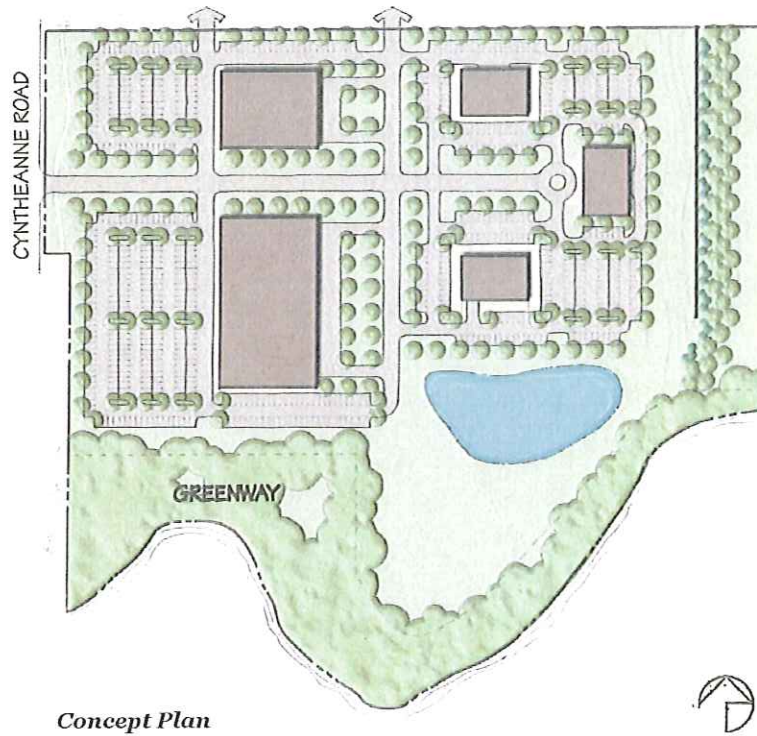
Declaration	Purpose and Intent	Permitted Uses
<p>Ordinance No. 080408 Adopted: November 5, 2008 That the text of the Unified Development Ordinance of the Town of Fishers, Indiana, Ordinance No. 090605A, and the OFFICIAL ZONING MAP, TOWN OF FISHERS, INDIANA, dated October 16, 2006, which accompanies and is a part of the Zoning Code of the Town of Fishers, Indiana, as amended (the "UDO"), are hereby amended as follows:</p> <p>That the zoning classification of the real estate legally described in Section 1.09 of this Ordinance (the "Real Estate"), is hereby designated as a Commercial Planned Unit Development District (PUD-C), and that said PUD-C zoning district shall hereafter be known as the "Creekside Shoppes".</p>	<p>The purpose of this PUD is to encourage improved design in the development of land by promoting the following objectives:</p> <ul style="list-style-type: none"> • Provide for the development of professional and office type businesses, commercial and frequently used businesses associated with the shopping, service and family needs of adjacent or local residential areas; • Greater flexibility in applying the ordinances to the development of the Real Estate; • Innovative approach to meet the demands of the commercial and business markets; • The recognition of the interdependency of the above markets; • Efficient use of land resulting in more cost effective networks of utilities, streets and other facilities; and • Coordination of architectural styles, building forms and relationships, graphics and other private improvements. 	<p>Permitted Uses:</p> <ul style="list-style-type: none"> • All uses described in <i>Article 02.023 C1 Commercial District</i> • All uses described in <i>Article 02.025 C2 Neighborhood Business District</i> • All Restaurant and Retail uses defined and enumerated in <i>Article 11 Definitions</i> <p>Excluded Uses:</p> <ul style="list-style-type: none"> • Restaurant, Fast Food • Retail, High Intensity • Retail, Special Handling • Retail, Very High Intensity • mortuaries • self-service laundry facilities; provided, however, that dry cleaning facilities providing pick-up services only, are permitted • automotive, engine and machinery repair or sales facilities • automotive part sales • fuel sales • pawn shop • check cashing establishments (e.g., A-1 Cash Advance, Advance America, Check Into Cash, Check n' Go) • temporary/seasonal retail sale stores (e.g., Halloween costumes, fireworks)

1.02 Applicability

- A. The standards of the UDO applicable to the **C2** *Neighborhood Business District* shall apply to the development of the Real Estate, except as modified, revised, or expressly made inapplicable by this PUD District Ordinance (this "Ordinance"). "Article" cross-references of this Ordinance shall hereafter refer to the *Article* section as specified and referenced in the UDO. Terms capitalized in this Ordinance (other than specific identifiers such as the "Developer" and the "Real Estate") refer to defined terms in the UDO. Pursuant to *Article 04.002(F): Amendments to the Unified Development Ordinance*, an amendment to the UDO shall apply to this Ordinance unless this Ordinance has specified an alternative development or design standard. If a provision of this Ordinance is in conflict with or is inconsistent with a provision of the UDO, then the provision of this Ordinance shall apply.

1.03 Concept Plan

- A. The Concept Plan is hereby incorporated. Per *Article 09.017(A)(2)(a): Planned Unit Development District; General; Purpose & Intent*, the Concept Plan provides the Plan Commission and Town Council with a general vision for the development of the Real Estate.



Concept Plan

1.04 Development Standards

- A. **Cross References:** The regulations of *Article 02: Zoning Districts & Regulations* and *Article 05: Development Standards* shall apply except as modified by this Ordinance:
- B. **General Regulations:** *Article 02.026: C2 Neighborhood Business District Development Standards* shall apply except as modified below:
- (1) Maximum Gross Floor Area
 - (a) The total gross floor area of all buildings shall not exceed (i) a maximum of forty-thousand (40,000) square feet of office buildings in the eastern one-third of the Real Estate plus (ii) six-thousand (6,000) square feet multiplied by the Real Estate's number of acres remaining after the Greenway is dedicated to the Town per Section 1.05(Q)(3) of this Ordinance.
 - (b) One single user to be located within the western half of the Real Estate shall be permitted to occupy up to seventy-five thousand (75,000) square feet of gross floor area, but no other single user shall be permitted to occupy more than forty-thousand (40,000) square feet of gross floor area.

Creekside Shoppes

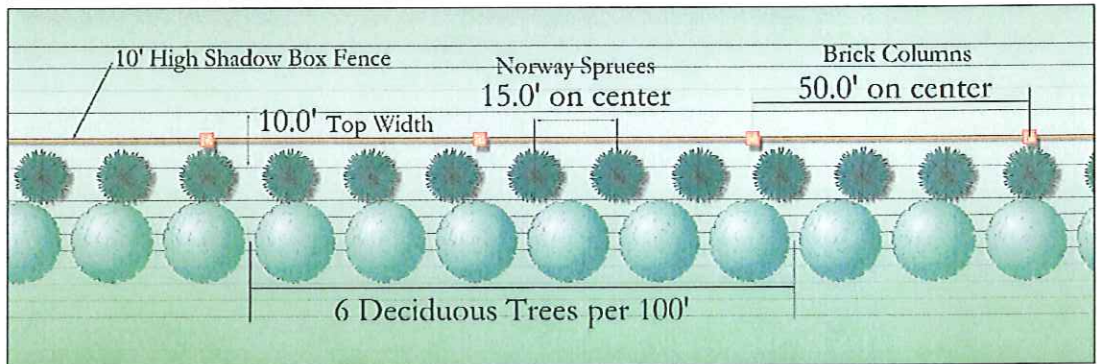
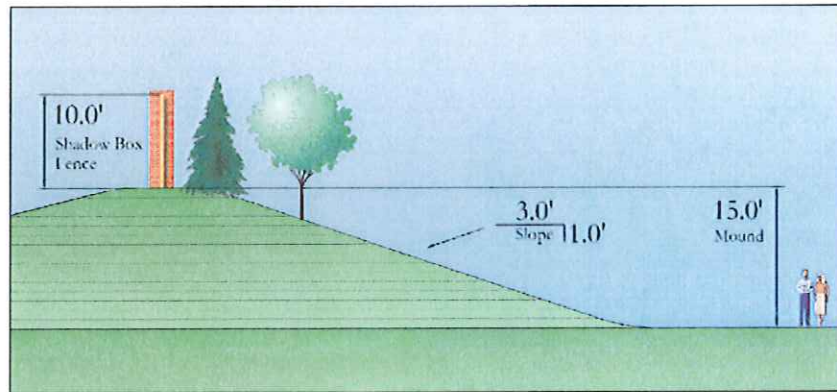
- (c) No freestanding, single user, outbuilding shall exceed 10,000 square feet.
- (2) Maximum Structure Height:
 - Primary Structure: 35'; however, no two-story commercial structure shall be permitted within eight hundred feet (800') of the north property line of the Britton Falls/Del Webb subdivision (the "800' Line"), further described as Area 2, Section A, Phase 1 of the Britton Falls subdivision recorded in the Office of the Recorder of Hamilton County, Indiana as Instrument No. 200600065676.
- C. Accessory Structure Standards (AS): shall apply.
- D. Architectural Design Standards (AD): shall apply except as further restricted below:
 - (1) *Article 05.014 AD-03(A)(2): Architectural Design; Commercial; Facade; Exterior Materials* shall be further restricted to state that EIFS shall not be a primary exterior material, rather, EIFS shall only be used as a secondary exterior material as illustrated by the Illustrative Architectural Exhibits.
- E. Density & Intensity Standards (DI): shall apply.
- F. Entrance & Driveway Standards (ED): shall apply.
- G. Environmental Standards (EN): shall apply.
- H. Fence & Wall Standards (FW): shall apply.
- I. Floodplain Standards (FP): shall apply.
- J. Floor Area Standards (FA): shall apply.
- K. Height Standards (HT): shall apply.
- L. Home Occupation Standards (HO): shall apply.
- M. Landscaping Standards (LA): shall apply except as modified below:

Illustrative Architectural Exhibits



- (1) *Article 05.038 LA-01(A): Landscaping Standards; Placement* shall be modified to only require perimeter or buffer yard landscaping to be located in landscape easements or designated common areas exclusive of utility or drainage easements and that any landscape easement greater than or equal to thirty feet (30') in width may overlap to a maximum of ten feet (10') with any other type of easement.
- (2) *Article 05.044 LA-07: Landscaping Standards; Buffer Yards* shall not apply along the Real Estate's east property line, rather, the following buffer yard standards shall apply:
 - (a) Minimum Buffer Width.
 - (i) If the development immediately adjacent to such buffer is retail development: 175'
 - (ii) If the development immediately adjacent to such buffer is office and/or C1 District: 150'
 - (b) Mound. A mound with a minimum height of fifteen feet (15') and ten-foot (10') in width on top shall be installed along the entire length of the Real Estate's east property line. The mound shall have a maximum slope of three-to-one (3:1). If the east property line landscape buffer for the commercial development immediately to the north of the Real Estate (the "Britton Falls Area 5-B East Buffer") has been installed at the time of the Real Estate's development, then the developer shall in good faith attempt to connect this mound to the Britton Falls Area 5-B East Buffer mound in order to create a single continuous mound. However, if the Real Estate is developed prior to the installation of the Britton Falls Area 5-B East Buffer,

East Property Line Buffer Exhibits



then the developer shall grant the necessary rights and easements to accommodate the connection of the Britton Falls Area 5-B East Buffer mound by the Britton Falls Area 5-B East developer. It is acknowledged that a single continuous mound is subject to engineering and development issues and that a single continuous mound shall not be required if it is determined to not be appropriate due to drainage and utility needs as will be identified at the time of the detailed development plan.

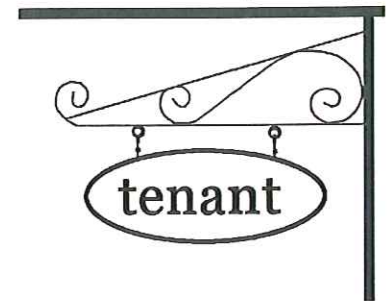
- (c) Fence. A ten-foot (10') tall shadow box fence with brick columns every fifty feet (50') shall be installed on top of the mound the length of the mound. If the Britton Falls Area 5-B East Buffer has been installed at the time of the Real Estate's development, then the Real Estate's buffer fence shall be substantially similar in design and character. However, if the Real Estate is developed prior to the installation of the Britton Falls Area 5-B East Buffer, then the Real Estate's buffer fence shall be substantially similar in design and character as the Buffer Fence Exhibit, hereby incorporated.
- (d) Plantings. The following plantings shall be required on top of the mound and east of the fence:
 - (i) One (1) norway spruce shall be planted every fifteen feet (15') on center and shall be a minimum eight feet (8') tall at planting;
 - (ii) Six (6) maple trees shall be planted per one-hundred feet (100') and shall be a minimum caliper of two inches (2") at planting;
 - (iii) The east side of the mound shall be covered with natural and wild grasses which shall not be mowed or trimmed.



Buffer Fence Exhibit

- (e) Plantings. The top and west side of the mound, west of the fence, may be covered with grass and other naturally occurring ground cover, all of which may be cut and trimmed on a regular basis.
- (f) In this buffer, buildings and pavement are prohibited; however, drainage facilities and landscaping are permitted. Mounding may be located within in this buffer so long as the top of the slope of the mound is at least thirty-feet (30') from the western top of bank of the legal drain. This thirty-foot (30') setback area shall remain open and available to be utilized for maintenance access to the legal drain from the west.
- (2) *Article 05.044 LA-07: Landscaping Standards; Buffer Yards* shall not apply along the Real Estate's south property line, rather, the provisions of Section 1.05(Q) of this Ordinance shall apply.
- (3) *Article 05.038 LA-01(I): Landscaping Standards; General; Irrigation Systems* shall be further restricted to require that all common areas and main entrance ways adjacent to Cyntheanne Road shall include irrigation systems.
- N. Lighting Standards (LT): shall apply in addition to the following:
 - (1) Street lighting shall be installed with reflectors or other such devices or controls so that light is reflected downward to mitigate light spillover.
 - (2) Any lighting south of the 800' Line shall be fully shielded.
- O. Loading Standards (LD): shall apply.
- P. Lot Standards (LO): shall apply.
- Q. Outdoor Storage Standards (OS): shall apply in addition to the following:
 - (1) No outdoor sales areas are permitted unless surrounded by a permanent structure consistent with material of the building.
 - (2) Permanent outdoor display areas are permitted provided that they are surrounded by a combination of a two and one half foot (2.5') tall masonry wall or wrought iron fence or combination of the two.
- R. Parking Standards (PK): shall apply except as modified below:
 - (1) *Article 05.063 PK-01(L): Parking Standards; General; Number of Parking Spaces Required* shall further provide that in determining the amount of required parking spaces, the Director of Development and/or the Plan Commission shall take into account any activities or uses which do not occur simultaneously, and shall permit the number of parking spaces to be reduced accordingly, so that there is not excessive parking.
 - (2) *Article 05.066 PK-04(F): Parking Standards; Commercial; Parking Lot Connectivity* shall further provide that the phasing of the installation of curbs within parking lots shall be as specified in any subsequent Detailed or Final Development Plan in order to accommodate situations where an installed curb would later have to be removed in order to complete the parking lot.
- S. Pedestrian Accessibility Standards (PA): shall apply.
- T. Performance Standards (PF): shall apply.
- U. Property Identification Standards (PI): shall apply.
- V. Public Improvement Standards (PV): shall apply.
- W. Setback Standards (SB): shall apply.
- X. Sewer & Water Standards (SW): shall apply.
- Y. Sexually Oriented Business Standards (SX): shall apply.
- Z. Sign Standards (SG): shall apply except as modified below:
 - (1) All wall and ground signs shall be (i) reverse channel lighting; or (ii) externally lit with gooseneck light fixtures.
 - (2) All wall signs shall be a maximum one (1) square foot of wall sign for each lineal foot of the front elevation of a particular tenant and no single sign may exceed three hundred (300) square feet.
 - (3) Wall signs reasonably visible from the homes of the residences of Barrington Estates shall be prohibited.
 - (4) Pedestrian Blade Signs shall be permitted as follows:
 - (a) Definition. Blade signs shall be defined as a small, pedestrian-oriented, two-sided sign that projects perpendicularly to a vertical building wall.

Pedestrian Blade Sign Example



- (b) Design. Blade signs shall be of the same orientation, design and color for the development to create a sense of uniformity for the sidewalk-scape along each building's facade. Such sign may be suspended from an arm or bracket, or may be directly mounted to a building wall or the underside of a canopy or awning.
- (c) Number. If a tenant's public entrance is located under a canopy or awning, then one (1) blade sign shall be permitted for each ground floor tenant and each second floor tenant accessible from a ground floor public entrance
- (d) Size. An individual blade sign shall not exceed two (2) square feet in size with a maximum horizontal length of four (4) feet and a maximum vertical height of six (6) inches.
- (e) Height. The sign shall be mounted such that the bottom edge of the sign is not less than seven (7) feet and four (4) inches from the finished grade directly beneath it.
- (f) Lighting. Blade signs shall not be permitted to be lit.
- AA. Structure Quantity Standards (SQ): shall apply.
- BB. Telecommunication Facility Standards (TC): shall apply.
- CC. Temporary Use/Structure Standards (TU): shall apply.
- DD. Use-specific Standards (US): shall apply except as modified below:
 - (1) *Article 05.112 US-08(B): Use-specific Standards; Neighborhood Business; Drive-up Windows* shall not apply.
- EE. Vision Clearance Standards (VC): shall apply.

1.05 Design Standards

- A. Cross References: The regulations of *Article 07: Design Standards* applicable to a *Planned Unit Development (PUD)* shall apply except as modified by this Ordinance:
- B. Access Road Standards (AC): shall apply.
- C. Alley Standards (AL): shall apply.
- D. Anti-monotony Standards (AM): shall apply.
- E. Common Area Standards (CA): shall apply.
- F. Covenant Standards (CE): shall apply.
- G. Dedication of Public Improvement Standards (DD): shall apply.
- H. Density & Intensity Standards (DE): shall apply.
- I. Development Name Standards (DN): shall apply.
- J. Easement Standards (EA): shall apply.
- K. Erosion Control Standards (EC): shall apply.
- L. Floodplain Standards (FL): shall apply.
- M. Lot Establishment Standards (LT): shall apply.
- N. Mixed Use Development Standards (MU): shall apply.
- O. Monument & Marker Standards (MM): shall apply.
- P. On-street Parking Standards (OG): shall apply.
- Q. Open Space Standards (OP): shall apply except as modified below:
 - (1) *Article 07.026 OP-02(B): Open Space Standards; Commercial and Industrial; Minimum Open Space* shall be clarified to require a minimum fifteen percent (15%) per Section 1.04(B) of this Ordinance¹.
 - (2) *Article 07.026 OP-02(C): Open Space Standards; Commercial and Industrial; Site Features that Qualify as Open Space* shall permit that all landscape easements shall qualify as open space.
 - (3) Thorpe Creek Greenway.
 - (a) Greenway Dedication. The Developer shall dedicate to the Town, at the time of final development plan approval, the land adjacent to Thorpe Creek within the delineated floodplain as determined

¹This standard replaces all other minimum open space standards set forth in the UDO including, but not limited to: *Article 04.002(A)(1)(b): Planned Unit Development Districts: Development Requirements; Limitations; Minimum Project Open Space*.

upon final engineering, as approximately shown on the Concept Plan, to be used by the Town for a Thorpe Creek trail and access point (the "Greenway"). The exact location of the Greenway shall be determined by the Developer at the time of development plan approval, in coordination with the Town. Upon dedication of the Greenway, the Developer may reserve any and all easements necessary to accommodate the development of the Real Estate. If the Town desires to develop the Greenway prior to its dedication, then the Developer shall work in good faith with the Town to accommodate the Town's plans. If, prior to development plan approval, the Town requests the Developer to install the trail within the Greenway, then, unless the Town and the Developer otherwise agree, the Developer shall construct the trail during the development of the Real Estate.

- (b) **Greenway Parking.** Six (6) parking spaces in the southwestern portion of the Real Estate shall be set aside and designated as available for parking to access the Greenway and shall be installed when the Real Estate is developed (the "Greenway Parking Spaces"). The Greenway Parking Spaces shall be so identified with signage, subject to the Parks Department Director's approval. The Developer shall provide a sign easement near the Greenway to identify the existence of the Thorpe Creek Greenway and its accessibility.

- R. Pedestrian Network Standards (PN): shall apply.
- S. Perimeter Landscaping Standards: shall apply.
- T. Prerequisite Standards (PQ): shall apply.
- U. Storm Water Standards (SM): shall apply.
- V. Street & Right-of-way Standards (SR): shall apply.
- W. Street Lighting Standards (SL): shall apply.
- X. Street Name Standards (SN): shall apply.
- Y. Street Sign Standards (SS): shall apply.
- Z. Surety Standards (SY): shall apply.
- AA. Utility Standards (UT): shall apply.

1.06 Miscellaneous Standards

- A. Service Hours:
- (1) Trash removal, compaction, service vehicles, deliveries, parking lot sweepers, etc. shall not be permitted between the hours of 9:00 p.m. and 7:00 a.m. with the exception of snow removal.
 - (2) No business shall continuously conduct business, without stopping, for any interval of twenty-four (24) consecutive hours. The intention of this restriction is to prohibit a business from staying open twenty-four (24) hours a day.

1.07 Procedures

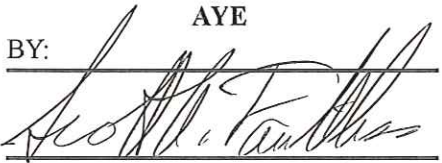


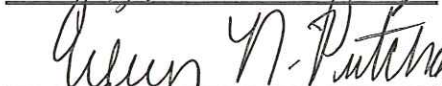


- A. The procedures set forth in *Article 09: Processes, Permits & Fees; Planned Unit Development* shall apply.
- B. Creekside Shoppes shall be assigned to the Town's general PUD Committee (the "Committee") for review pursuant to *Article 09.020 Planned Unit Development; Final Development Plan*.
- C. The Committee shall have discretion and flexibility to consider and approve modifications pertaining to architecture, signage, parking and landscaping design standards established or referenced by this Ordinance if the Committee determines such modifications are consistent with the intent of this Ordinance and consistent with the quality and character represented in this Ordinance.

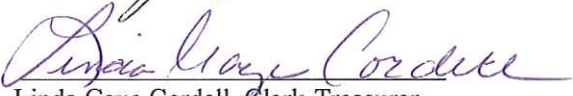
1.08 Adoption

This ordinance shall be in full force and effect from and after its passage by the Town Council and after the occurrence of all other actions required by law. All provisions or parts thereof in conflict herewith are hereby repealed.

Upon motion duly made and seconded, this Ordinance was fully passed by the members of the Town Council this fifth day of November, Two Thousand and Eight.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

BY:	AYE	NAY
	Scott A. Faultless, President	_____
	Daniel E. Henke, Vice President	_____
	Stuart F. Easley, Member	_____
	Eileen N. Pritchard, Member	_____
	Charles P. White, Member	_____
_____	David George, Member	_____
	Arthur J. Levine, Member	_____

ATTEST: 
Linda Gaye Cordell, Clerk-Treasurer,
The Town of Fishers, Indiana

Approved by: Douglas D. Church, Esq., Church, Church, Hittle and Antrim, Town Attorney

Prepared by: Steven D. Hardin, Esq., Attorney at Law, Baker & Daniels LLP
Jesse M. Pohlman, Land Use Consultant, Baker & Daniels, LLP
600 East 96th Street, Suite 600, Indianapolis, Indiana 46240

1.09 Legal Description (the "Real Estate"):

A part of the Northwest Quarter, Section 29, Township 18 North, Range 6 East, located in Fall Creek Township, Hamilton County, Indiana, being described as follows:

Commencing at a railroad spike at the Southwest corner of the Northwest Quarter of Section 29, Township 18 North, Range 6 East; thence North 00°09'25" East (assumed bearing) 681.75 feet on and along the west line of said Northwest Quarter to the POINT OF BEGINNING of this description; thence North 00°09'25" East 1054.88 feet on and along said West line to a mag nail; thence North 89°48'51" East 1320.50 feet parallel with the South line of said Northwest Quarter to a 5/8" iron rod with yellow cap stamped S0083; thence South 00°09'25" West 692.33 feet; thence South 90°00'00" West 42.76 feet; thence South 72°51'53" West 115.15 feet, thence South 47°53'33" West 74.71 feet; thence South 23°56'15" West 91.72 feet; thence South 39°58'20" West 301.10 feet; thence South 60°38'29" West 263.72 feet; thence North 89°00'38" West 24.51 feet; thence North 55°36'49" West 130.74 feet; thence North 48°35'40" West 82.78 feet; thence North 23°25'08" West 194.37 feet; thence North 53°53'00" West 46.30 feet; thence North 88°33'27" West 104.91 feet; thence South 32°39'04" West 68.52 feet; thence South 49°06'40" West 175.04 feet; thence South 86°38'18" West 69.56 feet to the POINT OF BEGINNING, containing 29.847 acres more or less.