

ORDINANCE NO. 012208A

**AN ORDINANCE TO AMEND THE
UNIFIED DEVELOPMENT ORDINANCE OF THE
TOWN OF FISHERS, HAMILTON COUNTY, INDIANA - 2006**

This is an ordinance to amend Ordinance No. 112085, as amended (per Ordinance No. 122892A and Ordinance No. 072094B), the Crosspoint Planned Unit Development Ordinance (the "Crosspoint PUD"), previously enacted by the Town of Fishers pursuant to its authority under the laws of the State of Indiana, IC 36-7-4 *et seq.*, as amended.

WHEREAS, the Crosspoint PUD provides for development standards to be approved by the Town and included in recorded covenants and restrictions;

WHEREAS, the Declaration of Covenants, Easements and Restrictions (the "Declaration"), recorded as Instrument No. 8815257 in the Office of the Recorder of Hamilton County, Indiana, and amended by Instrument No. 9327538 in the Office of the Recorder of Hamilton County, Indiana sets forth development standards and regulates land uses in the Crosspoint PUD;

WHEREAS, the Plan Commission of the Town of Fishers has conducted a public hearing on Docket No. 1-TA-08 as required by law in regard to the application filed by Edgeworth-Laskey Properties, LLC (the "Developer") to amend the Crosspoint PUD;

WHEREAS, the Plan Commission at its February 12, 2008 meeting sent a unanimous favorable recommendation to the Town of Fishers Town Council by a vote of ten (10) in favor and zero (0) opposed; and,

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fishers, Hamilton County, Indiana, meeting in regular session, that the Crosspoint PUD and the Declaration sections described below, as applicable to the Real Estate, shall hereby be amended as follows:

SECTION 1. The subject real estate (the "Real Estate"), approximately 25.63 acres +/-, commonly known as the Crosspoint Corporate Center located between Crosspoint Boulevard and Interstate 69, south of 106th Street, and is more particularly described in Exhibit "A".

SECTION 2. Article III, Section 2(A)(1): Development Standards; Building Setback Lines; Buildings shall be amended to require a minimum seventy-foot (70') building setback from Crosspoint Boulevard and to require a minimum forty-foot (40') building setback from Interstate 69.

SECTION 3. Article III, Section 6(C)(5): Development Standards; Parking; Minimum Requirements; Office Use shall be amended to require a minimum of one (1) parking space per three hundred (300) square feet of gross floor area. The minimum parking requirements may be satisfied by shared parking where at least eighty percent (80%) of the cumulative total of parking

spaces required for each building is provided.

SECTION 4. Architectural Standards: The following shall be the architectural standards applicable to the development of the Real Estate:

- (A) Compatibility: Each building may be unique; however, all buildings within the development shall be compatible in design, theme, materials, and architecture.
- (B) Exterior Materials: All siding shall be brick, split-face concrete masonry unit (CMU), stone, stucco, decorative precast panels, integrally colored block, EIFS, wood, architectural metal panels, or glass. Use of enamel metal siding is permitted but may not be the primary architectural veneer of the building.
- (C) Wall Planes: For every fifty (50) feet of building façade as measured horizontally, there shall be a minimum of one (1) change in wall plane. The projection or recess shall be a minimum depth of two (2) feet and a minimum width of four percent (4%) of the façade. The projection or recess can be realized with setbacks of the building façade, or with architectural elements that include but are not limited to arcades, columns, ribs, piers, and pilasters.
- (D) Four-sided Architecture: The architectural style, materials, color and design on the front elevation shall be applied to all elevations of the structure.
- (E) Colors:
 - (1) Façade: Façade colors shall be low reflectance, subtle, neutral hues or colors. The use of high-fluorescent colors shall be prohibited.
 - (2) Building Trim and Accent Areas: Building trim and accent areas may feature brighter colors, including primary colors, and neon tubing shall be an acceptable feature for building trim or accent areas.
- (F) Entries: Each building greater than 15,000 square feet shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:
 - (1) Canopies or porticos;
 - (2) Overhangs;
 - (3) Arcades;
 - (4) Raised corniced parapets over the door;
 - (5) Peaked roof forms;
 - (6) Arches;
 - (7) Outdoor patios;
 - (8) Architectural details such as tile work and moldings that are integrated into the building structure and design;
 - (9) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting;
 - (10) Columns;
 - (11) Awnings;
 - (12) Enframed window walls.
- (G) Roof:
 - (1) *Parapet*: Parapets shall not exceed fifteen (15) feet as measured from the top of the roof deck and shall conceal flat roofs and shall be in proportion to the supporting walls.
 - (2) *Minimum Eave/Overhang Width*: Pitched roofs shall have eaves and overhangs equal to or greater than twelve (12) inches in depth. Depth shall be determined prior to the

installation of masonry.

(3) *Cupola*: Cupolas shall not exceed fifteen (15) feet past the base roofline.

(4) *Pitched Roofs*:

(a) Minimum Pitch: 5 (vertical units): 12 (horizontal units).

(b) Planes: Pitched roofs shall be comprised of three (3) or more roof slope planes.

(c) Materials: Pitched roofs shall be covered with high quality roofing materials such as natural clay tiles, slate, concrete tiles (with natural texture and color), high quality standing seam metal roofing, wood shakes or shingles (with adequate fire protection), three-dimensional asphalt/fiberglass shingles. Metal roofs shall have a low-gloss finish to reduce glare.

(5) *Variation in Roofline*: For buildings with elevations in excess of one hundred (100) feet in width, a variation in roofline such as, but not limited to, a rooftop screening element, shall be employed for architectural interest and to reduce the apparent scale of the buildings.

(H) Mechanical and Utility Equipment Screening: All mechanical equipment (which shall not include ground placed electrical transformers/generators or fire connections), trash compactors, pallets, and the like shall be screened from view. Screening can be achieved through the use of landscaping, fence or walls for ground placed equipment, and parapet walls or other roof designs for roof-mounted structures. Screening enclosures shall be architecturally compatible with the primary structure.

(I) Dumpster and Storage Area Screening: Dumpsters and storage areas shall be enclosed with a solid enclosure that complements the architecture of the primary structure, is a minimum of six (6) feet in height, and contains a solid gate. Shrub plant material may be provided where possible to further enhance the wall enclosure. Dumpster enclosures attached to the primary structure shall be designed as an architecturally integrated part of the primary structure.

SECTION 5. Landscaping Standards: The following shall be the landscaping standards applicable to the development of the Real Estate:

(A) Landscaping Standards; General.

(1) *Intent*: (a) Treat landscape material the same as other development requirements (e.g., parking lots) by requiring regular maintenance and ongoing compliance with the regulations; and (b) Encourage the use of appropriate species and to disallow invasive plant species.

(2) *Placement*: With the exception of Street Trees, landscape material shall not be planted or placed in rights-of-way or easements without permission from the Town or the easement holder unless otherwise required. A tree canopy may project over a right-of-way or easement.

(3) *Maintenance*: Trees, vegetation, irrigation systems, fences, walls and other landscape material are essential elements of a project. The landowner and their successors in interest are responsible for the regular maintenance of all landscaping elements such that they are kept in good condition. Specifically:

(a) All plant material shall be maintained alive, healthy, and free from disease and pests.

(b) All landscaped areas shall be free of weeds, litter, graffiti, and similar signs of deferred maintenance.

- (c) All landscape structures such as fences and walls shall be repaired or replaced periodically to maintain a structurally sound condition.
 - (d) The maintenance and routine care of plant material located within the rights-of-way shall be the responsibility of the adjacent property owners. Maintenance and care shall include but not be limited to pruning, watering, fertilizing, and mulching, or any item that would constitute a safety hazard to pedestrian or vehicular traffic.
- (4) *Landscape Plan*: Landscape Plans shall include the following features:
- (a) Property lines;
 - (b) North arrow;
 - (c) Scale;
 - (d) Existing and proposed structures;
 - (e) Existing and proposed pavement;
 - (f) Rights-of-way;
 - (g) Easements;
 - (h) Topography (may require two-foot (2') contour lines);
 - (i) Mounds shown by one-foot (1') contour lines;
 - (j) Utilities;
 - (k) Fences and walls;
 - (l) Existing wooded areas; and
 - (m) Proposed plant material with:
 - (n) Identification of botanical and common name;
 - (o) Caliper/size;
 - (p) Quantity; and
 - (q) Planting details.
- (5) *Recommended Species*: Plant material shall be selected from the Town of Fishers Approved List of Recommended Species. Proposals for additions and substitutions to the list may be submitted to the Town's Development Department for approval as the list is intended to be a guide and is not inclusive of all appropriate selections available.
- (6) *Invasive and Poor Characteristic Species*: Invasive & Poor Characteristic Species of the Town of Fishers Approved List of Recommended Species shall be avoided and shall not be counted toward landscaping requirements for projects requesting an Improvement Location Permit. Some species identified in the Invasive & Poor Characteristic Species may be suitable for naturalizing in natural areas on a limited basis.
- (7) *Vision Clearance*: Landscape material exceeding three (3) feet in height shall be located outside of the vision clearance triangle.
- (8) *Minimum Size at Installation*: Minimum sizes shall apply to all required plant materials, unless otherwise specified by this Ordinance:
- (a) Deciduous Tree: One and one-half-inch (1½") caliper measured using standard nursery practices.
 - (b) Evergreen Tree: Six (6) feet tall.
 - (c) Shrub: Two-gallon container size or eighteen (18) inches tall from the adjacent ground level.
- (9) *Landscape Plan Installation Extension*:

- (a) Time Limit: Upon request, the Director of Development may grant an extension of up to one hundred eighty (180) days for the complete installation of landscaping materials due to seasonal or weather conditions which preclude the quality installation of plant materials.
- (b) Performance Guarantee: As a condition of the extension, the Director of Development may require a performance bond, letter of credit, or other satisfactory assurance from the person requesting the extension.
- (10) *Irrigation Systems*: The installation of irrigation systems is strongly encouraged to ensure establishment and long term survivability of plant material.
- (11) *Live Plantings*: All plant material shall be living species. Dead, diseased or artificial plants shall not be recognized by the Town as contributing to required landscaping.
- (12) *Alterations to Landscape Plan*: The Director of Development may allow required plant material to be moved to alternate locations both on- and off-site, but only if there are site features or constraints that prevent installation or it is determined that there is no appreciable improvement to the site by installing the landscape materials. Any lessening of the requirements shall be noticed to adjacent property owners prior to construction or installation, and may be appealed to the Plan Commission by an interested party within thirty (30) days of the public notice.
- (13) *Plant Protection Zone*: When wooded areas, tree rows or specimen trees are designated to be conserved or have been included in the commitments, the petitioner shall take the following measures:
 - (a) Prior to the commencement of grading or construction, install highly visible (orange) construction fencing, or other approved identification method, at least three (3) feet outside the drip line of the trees.
 - (b) Avoid injuring roots when installing anchoring posts for fencing.
 - (c) Post signs clearly identifying the plant protection zone.

(B) Landscaping Standards; Street Trees.

- (1) *Intent*: The intent of this Landscaping Standards section is to:
 - (a) Maintain community character and enhance aesthetics along public streets;
 - (b) Provide a barrier between pedestrians on sidewalks and vehicles on the streets;
 - (c) Provide pedestrians shelter and relief from rain, sun and wind; and
 - (d) Better define the edge of streets for vehicular safety and flow.
- (2) *Interstate 69*. There shall be installed a minimum of one (1) canopy deciduous or evergreen tree per sixty (60) feet of property that is contiguous to the Interstate. Street Trees shall be planted within fifteen (15) feet of the property line that abuts the right-of-way and may be clustered.
- (3) *Crosspoint Boulevard*. There shall be installed a minimum of one (1) canopy tree per fifty (50) feet. Street Trees shall be planted within twenty-five (25) feet of the property line that abuts Crosspoint Boulevard and may be clustered.
- (4) *Minimum Distance from Sidewalk and Curb*: Trees shall be planted at least two and one-half feet (2'-6") from a sidewalk or curb edge.
- (5) *Vision Clearance*: Trees shall be planted outside the vision clearance triangle. Within seventy-five (75) feet of an intersection, trees may be planted back of sidewalk in order to maintain site distances for traffic control signs. Low-branching species shall not be allowed within seventy-five (75) feet of an intersection. Trees shall be located

a minimum of ten (10) feet from a driveway cut or street light, and a minimum of three (3) feet from a fire hydrant.

(C) Landscaping Standards; Lot and Foundation Plantings.

- (1) *Lot Plantings*: The following lot planting requirements shall apply:
 - (a) Lots over 15,000 square feet but less than 30,000 square feet shall be required to plant one (1) canopy tree.
 - (b) Lots over 30,000 square feet but less than 45,000 square feet shall be required to plant two (2) trees, one (1) of which shall be a canopy tree.
 - (c) Lots over 45,000 square feet shall be required to plant three (3) trees plus one (1) more per every 15,000 square feet over 45,000 square feet. At least one-third (1/3) of all trees planted shall be canopy trees.
- (2) *Foundation Plantings*: The following foundation planting requirements shall apply to primary structures:
 - (a) The foundation plantings shall be located within twenty (20) feet of the foundation wall.
 - (b) At least one (1) shrub or ornamental tree shall be planted for every twelve (12) lineal feet of building circumference exclusive of window, door, and loading dock openings.
- (3) *Trash enclosures and ground-mounted mechanical equipment* (which shall not include ground placed electrical transformers/generators or fire connections) shall be completely screened with a fence or wall constructed of similar materials as the primary structure, and be supplemented with landscaping.

(D) Landscaping Standards; Parking Lot Plantings.

- (1) *Intent*: Require a reasonable amount of plant materials around parking lots such to reduce glare, reduce heat buildup, enhance visual quality of developments, screen and mitigate potential conflict between land uses, reduce noise pollution, reduce erosion, minimize storm water runoff, and improve air quality.
- (2) *Perimeter Parking Lot Landscaping*:
 - (a) Parking lots shall be screened from streets and adjacent uses using a combination of plant materials, decorative fences, decorative walls, and/or earthen mounds.
 - (b) Shrubs shall be planted at a maximum ratio of one (1) shrub per four (4) lineal feet around the perimeter and be maintained at a height of at least thirty-six (36) inches tall at maturity in order to minimize headlights projecting onto adjacent properties. Minimum size at planting shall be twenty-four (24) inches in height. A minimum of fifty percent (50%) of the shrubs shall be evergreen. A wall or mound may be installed in lieu of shrubs. Walls or mounds, if used, shall be a minimum of thirty-six (36) inches.
 - (c) One (1) deciduous tree per thirty-five (35) feet of parking lot perimeter shall be planted within ten (10) feet of the permanent parking lot edge.
 - (d) The screen may be broken into segments to allow for pedestrian movement.
 - (e) Drive aisles located along property lines shall be required to have half of the above landscaping requirement.
- (3) *Interior Parking Lot Landscaping*: Parking lots with twenty (20) or more parking spaces are required to have the following:
 - (a) One (1) landscape island or peninsula shall be provided per twenty (20) spaces and the islands shall be distributed equally throughout the parking lot. Each of

the islands or peninsulas shall contain at least one (1) tree per one hundred eighty (180) square feet.

- (b) Each island or peninsula shall be at least one hundred eighty (180) square feet in size.
- (c) One-third (1/3) of trees planted in islands or peninsulas shall be canopy trees.
- (d) Each landscape island or peninsula shall be designed such that any tree when planted is not within three and one-half (3'- 6") feet of a curbed or paved edge.
- (e) Each landscape island or peninsula shall be bordered by a four-inch (4") or higher curb above the surface of the parking lot.
- (f) Parking lot landscape areas shall not be filled with gravel or impervious surface. They shall be free of litter and be maintained with plant materials and mulch.

SECTION 6. Sidewalk. Subject to obtaining all approvals necessary, Developer shall install a six-foot (6') wide sidewalk within the existing access easement in between the existing Crosspoint Boulevard curb edge and the western boundary of the Real Estate. The sidewalk installation may be done in phases as each building is constructed. The Town acknowledges that its acceptance of the public dedication of Crosspoint Boulevard will assist in Developer's ability to install this sidewalk.

SECTION 7. The PUD Committee shall have discretion and flexibility to consider and approve modifications pertaining to architecture 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.

SECTION 8. All other provisions of the Crosspoint PUD and Declaration shall remain in effect with the adoption of this Ordinance. All provisions and representations of the Crosspoint PUD and Declaration that conflict with the provisions of this Ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this Ordinance.

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SECTION 9. 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 3rd day of March, 2008.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

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

ATTEST: Linda Gaye Cordell
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,
600 East 96th Street, Suite 600, Indianapolis, Indiana 46240

EXHIBIT A
LEGAL DESCRIPTION
CROSSPOINT CORPORATE CENTER

Part of the north half of Section 12, Township 17 North, Range 4 East of the Second Principal Meridian in Delaware Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at a brass plug marking the southwest corner of Section 12, Township 17 North, Range 4 East of the Second Principal Meridian; thence, on an assumed bearing of North 00°07'30" West 175.36 feet along the west line of the Southwest Quarter of said Section 12; thence, perpendicular to the last-described course North 89°52'30" East 16.50 feet to the intersection of the eastern right of way line of Hague Road and the northern limited access right of way line of East 96th Street; thence, along said northern limited access right of way line South 78°00'12" East 331.20 feet to the western limited access right of way line of Interstate Route 69; thence, along said western right of way line for the next four (4) courses: (1) North 34°38'31" East 473.09 feet; (2) North 58°43'24" East 661.60 feet to the point of curvature of a curve concave northwesterly having a central angle of 14°00'01" and a radius of 1,372.39 feet; (3) in a northeasterly direction along said curve an arc distance of 335.34 feet (said arc being subtended by a long chord bearing North 38°35'41" East 334.51 feet) to a non-tangent line; and (4) North 30°51'10" East 134.52 feet to the most southerly corner of land described in a deed to Mundy Realty, Inc., recorded as Instrument No. 9129000 in the office of the Recorder of Hamilton County, Indiana; thence, on the southerly and westerly lines of said land the following two (2) courses: (1) North 58°08'42" West 415.98 feet to the eastern boundary of the southeastern right of way line of Crosspoint Boulevard per the Final Development Plan-Phase 1 for Crosspoint, Hamilton County, Indiana by Clyde E. Williams & Associates, Inc., dated January 19, 1988; and (2) on said right of way line North 31°51'18" East 769.69 feet to the point of curvature of a curve concave northwesterly having a central angle of 05°10'45" and a radius of 5,764.578 feet (5,764.64 feet-deed); thence, continuing on said westerly line and the northerly prolongation thereof in a northeasterly direction on said curve an arc distance of 521.08 feet (said arc being subtended by a chord which bears North 29°15'55" East 520.90 feet); thence, on said right of way line North 26°40'33" East 442.24 feet to the southwesterly line of a 50-foot Legal Drain Easement per said Final Development Plan, being the POINT OF BEGINNING of the herein described real estate; thence, continuing on said right of way line North 26°40'33" East 107.07 feet to the point of curvature of a curve concave southeasterly having a central angle of 2°28'48" and a radius of 5,694.53 feet; thence, in a northeasterly direction on said curve an arc distance of 246.48 feet (said arc being subtended by a chord which bears North 27°54'57" East 246.47 feet); thence, North 29°09'21" East 914.18 feet to the point of curvature of a curve concave southeasterly having a central angle of 7°59'21" and a radius of 1,397.35 feet; thence, in a northeasterly direction on said curve an arc distance of 194.84 feet (said arc being subtended by a chord which bears North 33°09'01" East 194.68 feet); thence, North 37°08'41" East 364.66 feet to the point of curvature of a curve concave northeasterly having a central angle of 37°33'19" and a radius of 607.96

feet; thence, in a northeasterly direction and northerly on said curve an arc distance of 398.49 feet (said arc being subtended by a chord which bears North 18°22'01" East 391.40 feet); thence, North 00°24'38" West 92.13 feet; thence, North 89°35'22" East 5.00 feet; thence, North 00°24'38" West 27.88 feet to the southwest corner of land described in a deed to CMG Worldwide, Inc., recorded as Instrument No .95-58137 in the Office of the Recorder of Hamilton County, Indiana; thence, on the south line of said land the following two (2) courses: (1) North 89°35'22" East 345.35 feet; and (2) South 60°41'45" East 236.20 feet to the westerly right of way line of Interstate 69; thence, on said right of way line the following three (3) courses: (1) South 29°18'15" West 2,230.60 feet; (2) South 36°35'09" West 181.46 feet, and (3) South 29°18'16" West 78.22 feet to the southwesterly corner of the aforesaid Legal Drain Easement; thence, North 60°13'05" West 433.30 feet to the POINT OF BEGINNING, containing 25.672 acres, more or less, according to survey dated July 21, 1998, last revised September 23, 1998, prepared by Bryan F. Catlin, Indiana Registered Land Surveyor No. 910012.