

ORDINANCE NO. 051517A
AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE
OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA

This is an ordinance to amend the Official Zoning Map incorporated into the Unified Development Ordinance (“UDO”) for the City of Fishers (the “City”), previously enacted by the City pursuant to its authority under the laws of the State of Indiana IC 36-7-4 et seq., as amended.

WHEREAS, the City’s Plan Commission has conducted a public hearing on Docket No. PRR-1703-22 as required by law in regard to the proposal to amend the City’s Official Zoning Map to designate the real estate identified on Exhibit A, attached hereto and incorporated herein (the “Real Estate”), as within the Planned Unit Development – Commercial (PUDC) zoning district; and

WHEREAS, the Plan Commission at its June 19, 2017, meeting sent a favorable recommendation to the Fishers City Council; and

WHEREAS, to support its long-term vision for the City, the Council desires to adopt certain amendments to the Official Zoning Map.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA, AS FOLLOWS:

Section 1. Declaration. The City’s Official Zoning Map is hereby amended to designate the Real Estate as within the Planned Unit Development – Commercial (PUDC) zoning district.

Section 2. Purpose and Intent. The purpose and intent of this text amendment is to support the City’s long-term vision for the City as expressed in the Estate Residential District.

Section 3. Approval. This amendment shall become effective upon its adoption and publication in accordance with Indiana law. Development of the Real Estate shall be governed entirely by the provisions of the Planned Unit Development - Commercial zoning district and those provisions of the UDO referenced in the Delaware Commons PUD zoning district and/or incorporated therein. All provisions of the UDO that conflict with the provisions of this Ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this Ordinance.

ORDINANCE NO. 051517A

ALL OF WHICH IS SO ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA this 19th day of June, 2017.

**COMMON COUNCIL OF THE CITY OF FISHERS, 051517A
HAMILTON COUNTY, INDIANA**

<u>YAY</u>		<u>NAY</u>	<u>ABSTAIN</u>
<u>David C. George</u>	David C. George, President		
<u>Todd P. Zimmerman</u>	Todd P. Zimmerman, Vice-President		
<u>C. Pete Peterson</u>	C. Pete Peterson, Member		
<u>Eric Moeller</u>	Eric Moeller, Member		
<u>Selina M. Stoller</u>	Selina M. Stoller, Member		
<u>Richard W. Block</u>	Richard W. Block, Member		
<u>Cecilia C. Coble</u>	Cecilia C. Coble, Member		
<u>John W. Weingardt</u>	John W. Weingardt, Member		
<u>Brad DeReamer</u>	Brad DeReamer Member		

I hereby certify that the foregoing Ordinance was delivered to City of Fishers Mayor Scott Fadness on the 19th day of June 2017, at 9 p m.

ATTEST: Jennifer L. Kehl
Jennifer L. Kehl, City Clerk



Scott A. Fadness
Scott A. Fadness, Mayor

MAYOR'S APPROVAL

6/19/17
DATE

MAYOR'S VETO

Scott A. Fadness, Mayor

DATE

This document was prepared by Christopher P. Greisl, City Attorney, 1 Municipal Drive, Fishers, IN 46038

In accordance with Indiana Code, 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: /s/ Chris Greisl, Esq.





City Council
Department of Planning & Zoning Staff Report
June 19, 2017 Meeting

Petition Number: PRR-1702-21 (Delaware Commons PUD)

Petitioner: Sunbeam Development Corporation

Subject Site Address: Generally located on the northeast corner of 116th Street and Cumberland Road.

Action Request: Hold 2nd Reading for a Rezone from Employment Node (EN) to Planned Unit Development Commercial (PUD-C) – Delaware Commons PUD.

Current Zoning: Employment Node (EN)

Current Land Use: Vacant

Project Manager: Tony Bagato, Director

Exhibits: 1) Ordinance No. 051517A
2) Petitioner’s Packet

PROJECT OVERVIEW:

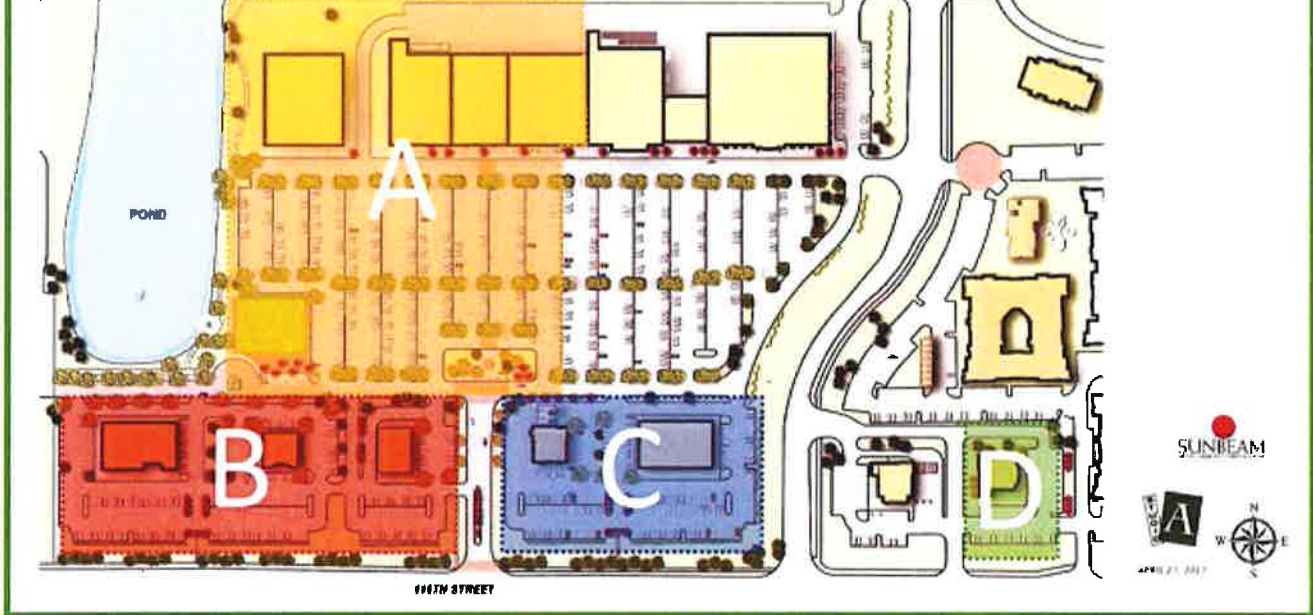
Sunbeam Development Corporation is requesting a rezone of land zoned Employment Node (EN) to Planned Unit Development-Commercial (PUD-C). The new zoning district will be known as “Delaware Commons PUD,” and is generally located on the northwest corner of 116th Street and Cumberland Road with an additional parcel located east of Cumberland Road known as area “D” Use Exhibit provided below:

DELAWARE COMMONS

USE EXHIBIT

FISHERS, INDIANA

PUD



Delaware Commons PUD is an expansion of the existing Delaware Commons Shopping Center, which currently includes LA Fitness, The Fresh Market and 6,400 square feet of adjacent (fully leased) shops. The site is highly impacted and restricted by existing utility easements, including a 100-foot easement that runs parallel to 116th Street for a pipeline.

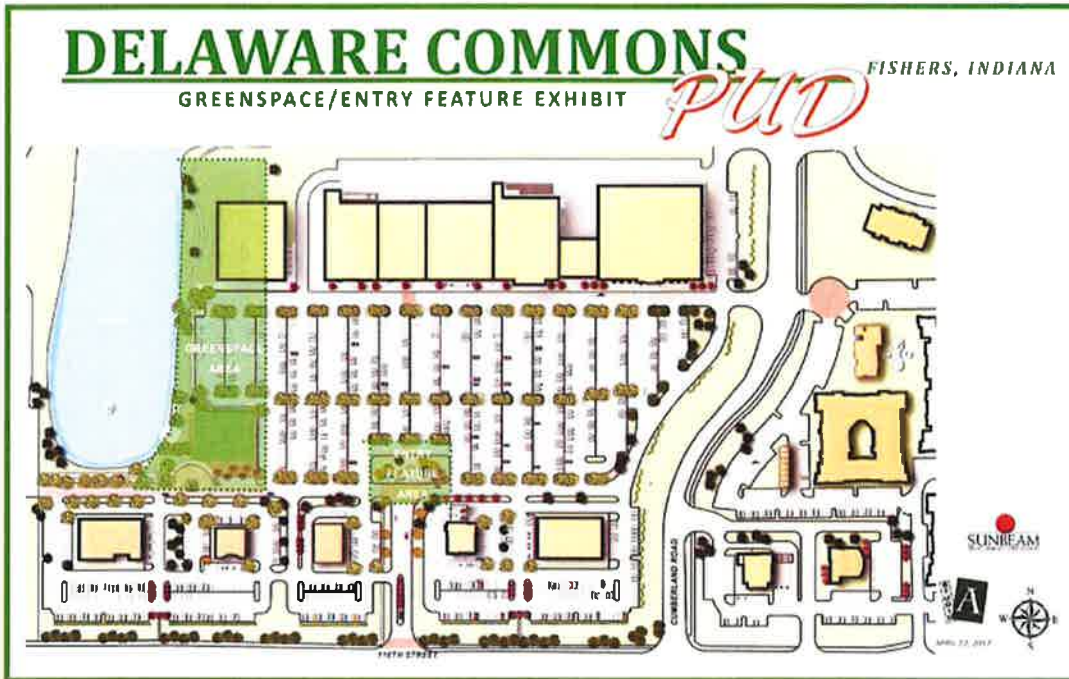
Sunbeam Development Corporation has worked with Staff to develop a workable Concept that focuses on the existing site constraints and the goals of the Fishers 2040 Comprehensive Plan. The underlying zoning district for the proposed PUD will be similar to the C3-Commercial Zoning District found within the City's Unified Development Ordinance, with certain prohibited uses defined in the PUD.

The subject property was rezoned from PUD-C to Employment Node (EN) in October 2016. The EN District provides standards for office business park developments and corporate headquarters with ancillary commercial uses allowed. Per the EN District, larger retail uses could be approved as a separate PUD. The new PUD is a natural progression of the existing retail center that has already been developed.

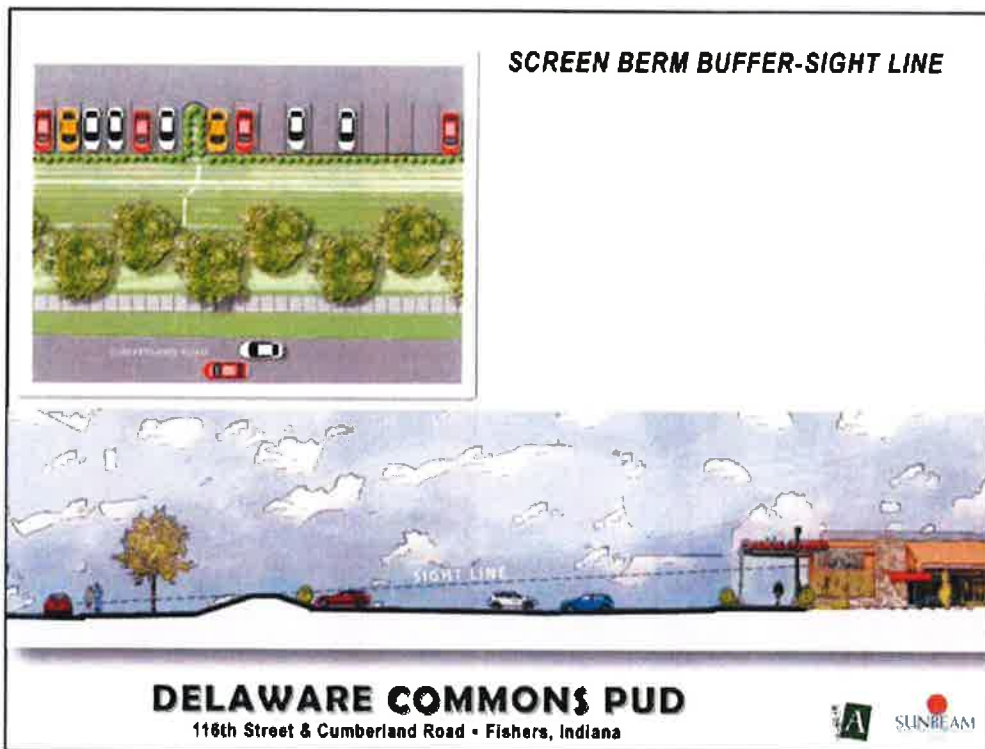
PROJECT REVIEW:

The purpose and intent of the PUD is to encourage improved design in the future development of the Delaware Commons shopping center. Sunbeam Development Corporation has committed to provide a Concept Plan with a variety of amenities that will create a better sense of place than a typical retail shopping center would have. Creating vibrant development within the City of Fishers is one of the goals of the Fishers 2040 Plan.

The Concept plan focuses on the new land use layouts with connectivity, and public amenities that will include some of the following: Promenade along the pond, walking paths, open green space, water features in the pond, and public art, and/or gathering and sitting space. The Greenspace/Entry Feature Exhibit is provided below:



Along 116th Street, the project site is restricted by utilities easements and a 100-foot easement for the Marathon pipeline. These easements are north of the City's right-of-way and prohibit any buildings and trees within for 100 feet. The proposed location of the buildings is as close to the easement as they can be. Due to this hardship, staff has worked with the applicant to design a street tree layout with a landscaping berm along 116th Street to soften the impact of the parking lot. The following exhibits illustrates the design concept for the perimeter landscaping and berm:



PROPOSED LAND USES

All uses described in the C3-Commerical District of the UDO shall be allowed in the PUD, as well as the following uses:

- Theater
- Coffee House
- movie theater
- food truck
- indoor entertainment
- Up to two (2) Drive-thru Uses: One (1) for a bank and one (1) for a coffee user

The following uses described in the C3-Commerical District are prohibited:

- | | |
|---|--|
| <ul style="list-style-type: none"> • automobile sales/service • car wash • fuel sales • fuel/energy station • fuel/service station • mortuary • tattoo parlor • piercing studio • massage parlor | <ul style="list-style-type: none"> • alternative financial services (specifically not including retail services such as Fidelity, Jackson Hewitt, Charles Schwab, and similar concepts) • Day care, adult • sexually-oriented business • tobacco shop, cigar lounge, hookah, head, or other smoke shop • Package goods store (alcohol) (specifically not including a restaurant, specialty retail shop (e.g., Total Wine, The Wine Guy, Taseful Times), tavern, bar, or brewery that sells beer, wine, and/or other alcohol for take-home use) • second hand or government surplus store |
|---|--|

Architecture Design Standards

Within the PUD Document, attached, Sunbeam Development Corporation has provided a photo of the existing façade and materials for Fresh Market and the other shops currently constructed, and the design of the future Bank of America Building that will be built in area "C". These exhibits illustrate the anticipated character of and benchmark for the architecture and design of all new buildings constructed on the Real Estate. The final building designs may vary from the Illustrative Architectural Exhibit; however, buildings shall be substantially similar in quality and character to the buildings shown in the Illustrative Architectural Exhibit.

STATE STATUTE

For all rezoning projects, Indiana Law Code Section 36-7-4-603 states that reasonable regard shall be paid to:

1. The Comprehensive Plan
2. Current conditions and the character of current structures and uses
3. The most desirable use for which the land is adapted
4. The conservation of property values throughout the jurisdiction
5. Responsible growth and development

PUBLIC COMMENTS:

No comments have been received from the public at this time.

COUNCIL COMMENTS / 1st Reading:

On May 15, 2017, the proposed PUD was introduced to the City Council for 1st reading. After the presentation, Councilmember Block requested additional architectural renderings illustrating the design of the future development. Staff has requested this information and informed the applicant that these exhibits should be provided to the City Council during the second reading.

Councilmember DeReamer requested that staff and the applicant research the stacking requirements for drive-thru restaurants, specifically as it relates to Starbucks. He made the comment that our current standards may not be sufficient due to stacking issues at another Starbucks within the City. Staff has researched other communities around Fishers and we have determined that our requirement of seven (7) stacking spaces is in the middle of other surrounding Cities. The City of Carmel requires 10, which is the highest number of all the cities staff researched. This concern has been discussed with the applicant, and they are willing to modify the PUD to require more based on the Planning Commission comments.

Councilmember Stoller stated that she would like to see the drive-thru uses staggered so they buildings would not be located directly adjacent to one another. As identified on the Concept Plan, the drive-thru uses are shown in areas B, C, and D. These buildings are separated by roadways and landscaping.

PLAN COMMISSION COMMENTS:

On June 7, 2017, the Planning Commission held the public hearing and reviewed the rezone request. After presenting the item, the Planning Commission unanimously recommended approval of the rezone.

STAFF COMMENTS & RECOMMENDATION:

Staff is supportive of the proposed land uses and the requested development standard changes outlined above. The application has worked with staff on all the issues and concerns brought up during 1st reading. Staff recommends that the City Council Hold 2nd Reading.

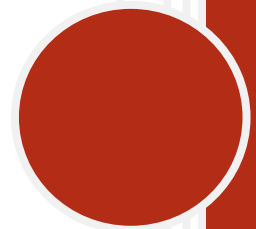
Delaware Commons Planned Unit Development



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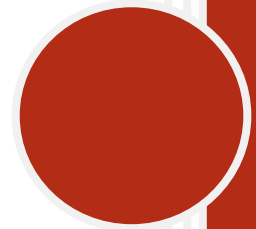


PROJECT OVERVIEW

Delaware Commons PUD is an expansion of the existing Delaware Commons Shopping Center, which currently includes LA Fitness, The Fresh Market and 6,400 s.f. of adjacent (fully leased) shops. The build out of the property within the PUD will occur as qualified Tenants/Buyers surface.

The site is highly impacted and restricted by existing utility easements. We have worked closely with the City's Planning Staff to develop a workable Concept. In keeping with the goals of the City's Comp Plan, our focus will be on architectural aesthetics, connectivity, vibrancy and sustainability for the Center as it grows. We have committed to an array of site amenities that will help to create a sense of place within the development for our customers.

A national bank branch office and an internationally known coffee establishment and several free-standing, full service restaurants are current prospects for Delaware Commons and lease negotiations are in progress.



TAB 1



DELAWARE COMMONS

LOCATION MAP EXHIBIT

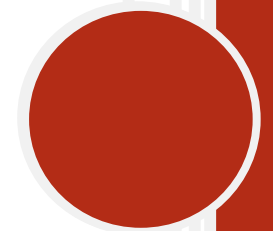
FISHERS, INDIANA

PUD



APRIL 27, 2017

TAB 2

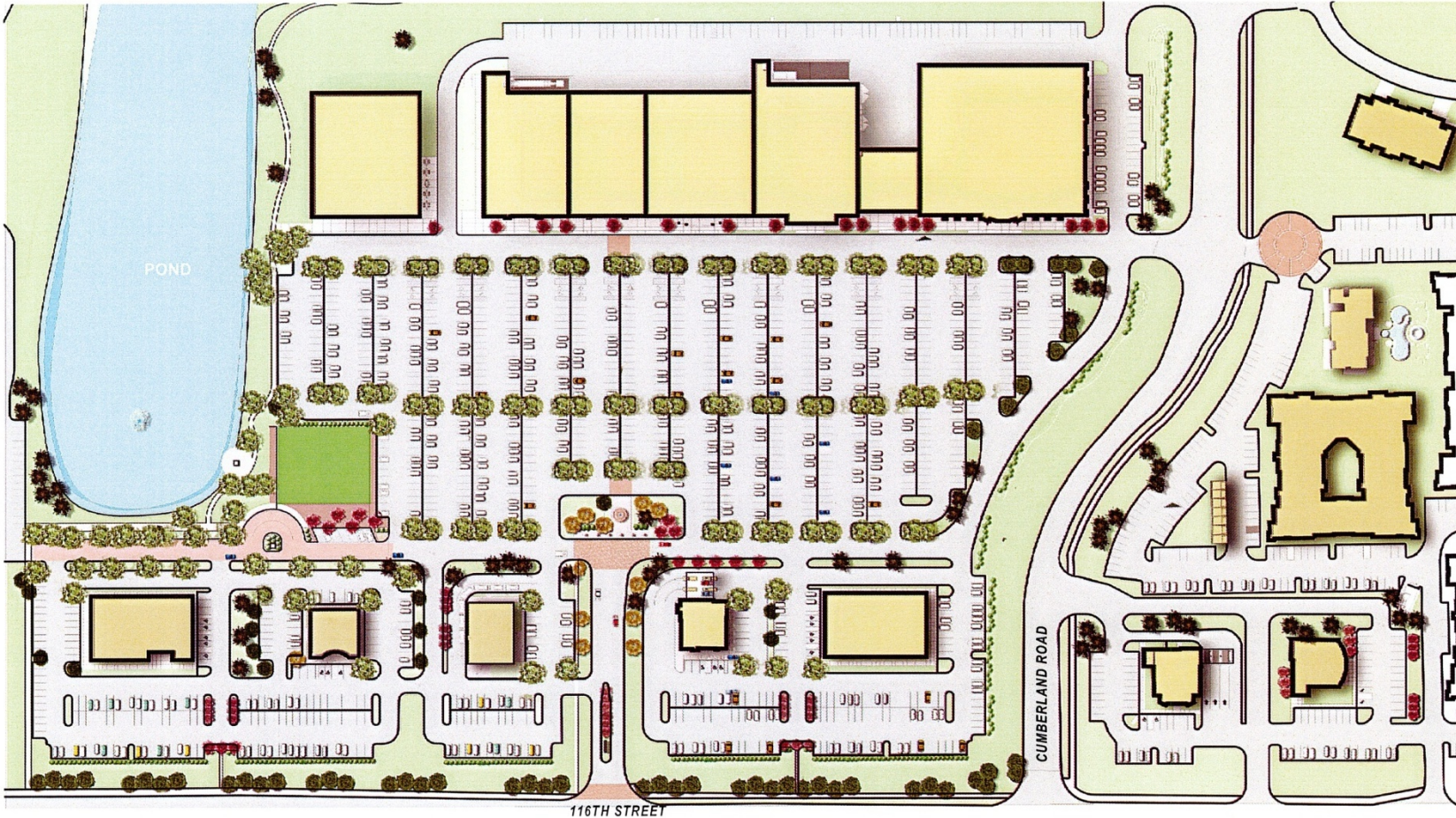


DELAWARE COMMONS

FISHERS, INDIANA

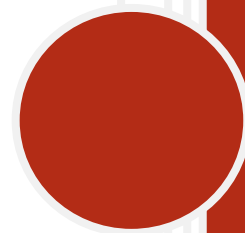
OVERALL EXHIBIT

PUD



APRIL 27, 2017

TAB 3



Declaration
Ordinance No.
(this Ordinance")

Adopted: _____

1.1 Declaration, Purpose and Intent, and Permitted Uses

The Unified Development Ordinance (the "UDO") of the City of Fishers, Indiana, Ordinance No. 090605A, as amended, and the Official Zoning Map of the City of Fishers, Indiana, dated April, 2016, as amended, which accompanies and is a part of the Zoning Code of the City of Fishers, Indiana, are hereby amended as follows:

The zoning classification of the real estate legally described in Section 1.10 of this Ordinance (the "Real Estate"), is hereby designated as a **Planned Unit Development - Commercial District (PUD-C)**, and that said PUD-C zoning district shall hereafter be known as "**Delaware Commons PUD.**"

Development of the Real Estate shall be governed entirely by the provisions of this Ordinance and those provisions of the UDO specifically referenced in this Ordinance. All provisions of the UDO 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. All previous PUD Ordinances, and amendments thereto, applicable to the Real Estate are hereby repealed.

Purpose and Intent

The purpose of this PUD is to encourage improved design in the development of land by promoting greater flexibility in applying the UDO to the development of the Real Estate.

Permitted Uses

All uses described in the *Commercial District, and*

- theater
- coffee House
- movie theater
- food truck
- indoor entertainment



The following uses described in the C3 Commercial District are prohibited:

- automobile sales and service
- car wash
- fuel sales
- fuel/energy station
- fuel/service station
- mortuary
- tattoo parlor
- piercing studio
- massage parlor (catering to prurient interests)
- alternative financial services (specifically not including retail services such as Fidelity, Jackson Hewitt, Charles Schwab, and similar concepts)
- day care, adult
- sexually-oriented business
- tobacco shop, hookah, head, or other smoke shop
- package goods store (alcohol) (specifically not including a restaurant, specialty retail shop (e.g., Total Wine, The Wine Guy, Tasteful Times), tavern, bar, or brewery that sells, beer, wine, and/or other alcohol for, take-home use)
- second hand or government surplus store

*Two (2) drive up windows, exterior menu boards, and speakers shall be permitted as noted in Exhibit "C". The length of stacking lanes for each site shall exceed the minimum requirements of the UDO. Additional drive up windows would need to be approved by the BZA as a variance to this PUD..

1.2 Applicability

- A. The standards of the UDO applicable to the C3 *Commercial District* shall apply to the development of the Real Estate, except as modified, revised, or expressly made inapplicable by this Ordinance. "Article" cross-references of this Ordinance shall hereafter refer to the *Article* section as specified and referenced in the UDO. Capitalized terms that are not otherwise defined herein shall have the meaning ascribed to them in the UDO. Pursuant to *Article 4.02(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, and *Article 1.10: Basic Provisions: Transition Rules* also shall apply to amendments.

1.3 Concept Plan

- A. The Concept Plans, attached hereto as **Exhibit A**, are hereby incorporated. A portion of Delaware Commons Shopping Center (LA Fitness, Fresh Market and 6,400 sf of shops) has been developed prior to the creation of the Delaware Commons PUD. Leases with these existing tenants place development restrictions on some of the property included in the PUD. The Real Estate's Development Plan shall be substantially consistent with the Concept Plans and shall be reviewed and approved based upon compliance with the development and design standards set forth herein. Article 9.18(M)(1) shall not apply. If the Director determines that a Development Plan is not substantially consistent with the Concept Plans (the "Director's Determination"), then the Director shall notify the applicant within fifteen (15) days of receipt of the submitted Development Plan of: (1) the Director's Determination; and (2) whether the Development Plan is (a) approved; or (b) not approved (the "Director's Decision"). The Director's Decision shall be based upon the Development Plan's compatibility and consistency with the intended quality and character of Delaware Commons PUD. If the Director's Decision does not approve the Development Plan, then the applicant may submit the Development Plan to the City Council for review and approval. The City Council's decision shall be made at a public meeting, but no additional public hearing shall be required.

1.4 Development Standards

- A. Cross References: The regulations of *Article 05: Development Standards* shall apply, except as modified by this Ordinance.
- B. General Regulations: *Article 2.28: C3 Commercial District Development Standards*

shall apply, except as modified below:

- (1) Minimum Lot Frontage shall not apply.
- (2) Minimum Front Setback shall be twenty (20) feet.
- (3) Minimum Side Setback shall be ten (10) feet.
- (4) Minimum Aggregate Side Setback shall be twenty (20) feet.
- (5) Minimum Rear Setback shall be ten (10) feet.
- (6) Minimum Building Separation shall be twenty (20) feet.
- (7) Minimum Internal Setback shall be ten (10) feet from the edge of pavement of any access drive or street.
- (8) Maximum Impervious Surface Coverage shall be eighty (80) percent.
- (9) Maximum Structure Height shall be sixty-five (65) feet.

C. Accessory Structure Standards (AS): shall apply, except as modified below:

- (1) Article 5.09 AS-06: Accessory Structures; Commercial; (B)(3)(b): *General Requirements; Setbacks* shall apply, except as modified below:
 - (i) Patios, railing and raised planters may encroach upon the front, side, and rear setbacks.
- (2) Article 5.09 AS-06: Accessory Structures; Commercial; (B)(3)(c): *General Requirements; Buffer Yards* shall not apply.
- (3) Article 5.09 AS-06: Accessory Structures; Commercial; (B)(3)(d): *General Requirements; Easements* shall apply, except as modified below:
 - (i) In no case shall any accessory structure encroach upon any easement, unless permitted by the easement grantee or not prohibited by the easement.
- (4) Article 5.09 AS-06: Accessory Structures; Commercial; (C): *Enclosed Building Requirement*; shall not apply.
- (5) Article 5.10 AS-07: Accessory Structures; Outdoor Dining; (A)(1): Enclosure shall



apply. In addition, a raised planter at least eighteen (18) inches tall shall also be permitted.

- (6) Article 5.10 AS-07: Accessory Structures; Outdoor Dining; (A)(2): *Enclosure*; shall apply. In addition, an aluminum fence at least thirty-six inches tall shall also be permitted.
- (7) Article 5.10 AS-07: Accessory Structures; Outdoor Dining; (B): *Canopy*; shall not apply.

D. Architectural Design Standards (AD): shall apply, except as modified below:

- (1) The Illustrative Architectural Exhibit, attached hereto as **Exhibit B**, is hereby incorporated to illustrate conceptually the elements and anticipated character of and to establish a benchmark for the architecture and design of all new buildings constructed on the Real Estate. The final building designs may vary from the Illustrative Architectural Exhibit; however, buildings shall be substantially similar in quality and character to the buildings shown in the Illustrative Architectural Exhibit.
- (2) Article 5.15 AD-03: Architectural Design; Commercial; (A)(2): *Facade; Exterior Materials*; shall apply. In addition, the following materials shall be permitted: composite wood materials, steel, aluminum, metal, precast concrete, stone, and porcelain/ceramic tile.
- (3) Article 5.15 AD-03: Architectural Design; Commercial; (A)(3): *Facade; Exterior Adjacent to Residential*; shall apply. In addition, the following materials shall be permitted: composite wood materials, EFIS, steel, aluminum, metal, precast concrete, stone, and porcelain/ceramic tile.
- (4) Article 5.15 AD-3: Architectural Design; Commercial; (A)(5): Four-sided Architecture; shall apply, except as



modified below: All multi-tenant or single-tenant buildings over 15,000 square feet.

- (5) Article 5.15 AD-03: Architectural Design; Commercial; (A)(7)(b): *Facade; Colors; Building Trim and Accent Areas* shall apply. In addition, LED lighting or tubing shall be an acceptable feature for building trim or accent areas.
- (6) Article 5.15 AD-03: Architectural Design; Commercial; (D)(6): Flat Roofs ; Shall not apply
- (7) Article 5.15 AD-03: Architectural Design; Commercial; (E): *Mechanical and Utility Equipment Screening*; shall apply, except as modified below:
 - (i) All mechanicals shall be located and screened to minimize visibility from the Real Estate's property line and adjacent Rights-of-Way at the grade of the site.

E. Density & Intensity Standards (DI): shall apply.

F. Entrance & Driveway Standards (ED): shall apply, except as modified below:

- (1) Article 5.24 ED-01: Entrances and Driveways; General; (D)(1): *Proximity*; shall apply, except as modified below:
 - (i) No entrance or driveway shall be permitted to be installed within two hundred and fifty (250) feet of any intersecting street if along an arterial or collector road (measured from mid-point to mid- point).
- (2) Article 5.24 ED-01: Entrances and Driveways; General;(E)(1)and (2): *Maximum Pavement Width*;shall not apply.

G. Environmental Standards (EN): shall apply.

H. Fence & Wall Standards (FW): shall apply, except as modified below:

- (1) Article 5.33 FW-04: Fence and Wall; Commercial; (D): *Trash Receptacle Screening*; shall apply, except as modified below:
 - (i) A solid fence or masonry wall is required to be placed around all



common trash receptacles with a minimum height equal to height of the receptacle, plus at least one (1) foot. Trash receptacles shall be gated.

- 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:
 - (1) Article 5.40 LA-02: Landscaping Standards; Street Trees; (H): *Escrow*; shall apply. In addition, an itemized estimate prepared by a landscape contractor shall also be accepted by the City.
 - (2) Article 5.42 LA-04: Landscaping Standards; Commercial, Multi-Family, Industrial Lot and Foundation Plantings; (B): *Foundation Plantings*; shall apply, except as modified below:
 - (i) The foundation plantings shall be located within thirty (30) feet of the foundation wall.
 - (ii) t least two (2) shrubs, ornamental grasses, and/or ornamental trees shall be planted for every twelve (12) lineal feet of building circumference exclusive of loading dock openings. Plantings may be clustered and planted in a location approved by the Director.
 - (3) Article 5.43 LA-05: Landscaping Standards; Nonresidential Uses; Lot and Foundation Plantings; (B)(1); Foundation Planting; shall apply, except as modified below:
 - (i) The foundation plantings shall be located within thirty (30) feet of the foundation wall.
 - (4) Article 5.44 LA-06: Landscape Standards; Parking lot Plantings; (A)(4) Surface Parking Lot Perimeter Landscaping; shall

- not apply
- (5) Article 5.44 LA-06: Landscaping Standards; Parking Lot Plantings; (B)(2): *Interior Parking Lot Landscaping*; shall apply, except as modified below:
 - (i) Each island or peninsula shall be at least one hundred sixty-two (162) square feet in size.
 - (6) Article 5.44 LA-06: Landscape Standards; Parking Lot Plantings; (B)(3): *Interior Parking Lot Landscaping*; shall apply, except as modified below:
 - (i) Each island or peninsula shall contain at least one (1) tree per one hundred eighty (162) square feet if not encumbered by easement restriction.
 - (7) Article 5.44 LA-06: Landscaping Standards; Parking Lot Plantings; (B)(7): *Interior Parking Lot Landscaping*; shall apply, except as modified below:
 - (i) Parking lot landscape areas shall be free of litter and be maintained with plant materials and mulch or stone.
 - (8) Article 5.45 LA-07: Landscaping Standards; Buffer Yards; shall not apply.
- N. Lighting Standards (LT): shall apply, except as modified below:
- (1) Article 5.49 LT-03: Lighting Standards; Multi-Family, Commercial, and Industrial; (A): *Maximum Luminaire Elevation*; shall apply, except as modified below:
 - (i) Parking lot lights shall not exceed thirty (30) feet in height.
- O. Loading Standards (LD): shall apply.
- P. Lot Standards (LO): shall apply.
- Q. Outdoor Storage Standards (OS): shall apply.
- R. Parking Standards (PK): shall apply, except as modified below:
- (1) Article 5.64 PK-01: Parking Standards; General;(E)(1): *Parking Space Dimensions; Minimum Area*; shall apply, except as modified below:

- (i) Each parking space shall be a minimum of one hundred sixty-two (162) square feet in area, unless the space abuts into a sidewalk or landscape area in which case shall have a minimum of one hundred forty-four (144) square feet in area.
- (2) Article 5.67 PK-04: Parking Standards; Commercial; (A): *Parking Lot Encroachment into Setbacks, Landscape Easements, or Buffer Yards*; shall apply, except as modified below:
 - (i) If a landscape easement of buffer yard is not present, a parking lot shall not be installed within two (10) feet of a side or rear lot line or within twenty (20) feet of a front lot line, except when the parking lot is used as a shared parking lot as outlined below in §(G): *Shared Parking*.
- (3) Article 5.68 PK-05: Parking Standards; Number of Commercial Parking Spaces; (A): *Off-street Parking Requirement*; shall not apply. Instead, the following shall apply
 - (i) Minimum Parking: Four (4) spaces per one thousand (1,000) square feet of the total Gross Floor Area constructed on the Real Estate shall be provided.
- S. Pedestrian Accessibility Standards (PA): shall apply.
- T. Performance Standards (PF): shall apply.
- U. Permanent Outdoor Display Area Standards (PD): shall apply.
- V. Property Identification Standards (PI): shall apply.
- W. Public Art Standards (PT): shall apply.
- X. Public Improvement Standards (PV): shall apply.
- Y. Setback Standards (SB): shall apply, except as modified below:
 - (1) Article 5.82 SB-01: Setback Standards;



General; (K)(8): *Exceptions* shall apply. In addition, foundations and footings may project into any required yard not more than two (2) feet.

(2) Article 5.82 SB-01: Setback Standards; General; (L): *Easements* shall apply, except as modified below:

(i) No structure, except fences, shall encroach upon any easement, unless specifically allowed in said easement.

(3) Article 5.84 SB-03: Setback Standards; Commercial; (A): shall apply, except as modified below:

(i) No part of any structure or building, excluding footings, eaves or a cornice overhang not exceeding four (4) feet, or a canopy over an entrance not exceeding fifteen (15) feet, shall be built within the required yard areas.

(4) Article 5.84 SB-03: Setback Standards; Commercial; (B): shall not apply.

Z. Sewer & Water Standards (SW): shall apply.

AA. Sexually Oriented Business Standards (SX): shall apply.

BB. Sign Standards (SG): shall apply; however, a comprehensive sign package may be submitted for review and approval to the PUD Committee that may vary from the sign code as long as it is in keeping with the quality and character of the proposed development.

CC. Structure Quantity Standards (SQ): shall not apply. Instead, more than one (1) primary structure shall be permitted on a lot or parcel on the Real Estate.

DD. Telecommunication Facilities Standards (TC): shall apply.

EE. Temporary Use/Structure Standards (TU): shall apply.

FF. Use-specific Standards (US): shall apply.

GG. Vision Clearance Standards (VC): shall apply.

1.5 Design Standards

A. Cross References: The regulations of *Article 7*:

Design Standards applicable to a *Planned Unit Development (PUD)* shall apply except as modified by this Ordinance:

B. Access Road Standards (AC): shall apply, except as modified below:

- (1) Article 7.05 AC-02: Access Road Standards; Commercial; (B): *Maximum Ingress/Egress* shall not apply.
- (2) Article 7.05 AC-02: Access Road Standards; Commercial; (C): *Separation of Ingress/Egress per Public Street* shall not apply. Instead, the following shall apply:
 - (i) All ingress/egress points shall be a minimum of one hundred fifty (150) feet away from any intersection, any ingress/egress on the same side of the street, or any off-site ingress/egress on the opposite side of the street. Separation is not required for ingress/egress points that are aligned with each other across the street. Separation is not required for right-in/right-out ingress/egress points with respect to an off-site ingress/egress on the opposite side of the street.
- (3) Article 7.05 AC-02: Access Road Standards; Commercial; (F): *Right-Of-Way or Easement*: Shall apply, except as modified below:
 - (i) Access road shall be paved to a minimum of thirty (30) feet of right-of-way or permanent public access easement.
- (4) Article 7.05 AC-02: Access Road Standards; Commercial; (G): *Pavement Width* shall apply, except as modified below:
 - (i) Parking shall be permitted on access roads within the Real Estate.
- (5) Article 7.05 AC-02: Access Road Standards; Commercial; (H): *Sidewalks* shall not 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 and 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, except as modified below:
 - (1) Article 7.19 LE-02: Lot Establishment Standards; Commercial and Industrial; (B)(1): *Commercial Lot Standards; Interior Street Frontage* shall not 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) The Lakeside Amenity Area Concept Exhibit, attached hereto as Exhibit D, is hereby incorporated to illustrate conceptually the elements and anticipated character of and to establish a benchmark for the design of a Lakeside Amenity Area. The final design may vary from the Lakeside Amenity Area Concept Exhibit; however, elements similar to those shown on this plan shall be incorporated in the design, and the amenities shall be placed within the Amenity Area shaded in Green on Page 1 of Exhibit D. Key elements in the Lakeside Amenity Area shall be a Park Feature (1/3 acre minimum size), an 8' wide promenade/walking path around the edge of the lake, and other project site amenities like those shown on Exhibit D. (2) Article 7.26 OP-02: Open Space Standards; Commercial and Industrial; (C)(1): *Site Features that Qualify as Open Space*;



Perimeter Landscaping shall apply, except as modified below:

- (i) Perimeter Landscaping that is at least twenty (20) feet wide and thirty (30) feet long shall count one hundred percent (100%) toward the Open Space requirement.
- (3) Article 7.26 OP-02: Open Space Standards; Commercial and Industrial; (C)(2)(c): *Site Features that Qualify as Open Space; Development Amenity Options* shall apply. In addition, any park or greenspace with a shelter, gazebo, activity area, or public building(s) shall qualify as a Development Amenity Option.
- (4) Article 7.26 OP-02: Open Space Standards; Commercial and Industrial; (C)(3): *Site Features that Qualify as Open Space; Man-made Water Features* shall apply, except as modified below:
 - (i) Any man-made water feature (including retention/detention facilities) shall count one hundred percent (100%) toward the minimum Open Space requirement.
- R. Pedestrian Network Standards (PN): shall apply.
- S. Perimeter Landscaping Standards (PL): shall apply, except as modified below:
 - (1) Article 7.33 PL-02: Perimeter Landscaping Standards; Commercial and Industrial Development; (A): *Applicability* shall apply, except as modified below:
 - (i) Perimeter Landscaping standards shall apply to any portion of a commercial or industrial development that abuts an expressway, interstate highway, primary arterial, secondary arterial, or collector. Perimeter Landscaping shall be in aggregate with other landscape requirements, not in addition to.
 - (ii) Perimeter Landscaping shall not be

required in any existing easement that restricts landscaping.

- 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, except as modified below:
 - (1) Article 7.41 SL-04: Street Lighting Standards; Commercial and Industrial Development; (B)(1): *Street Lights at Intersections* shall apply, except as modified below:
 - (i) The petitioner shall propose a lighting design that provides at least the minimum amount of light necessary for vehicular and pedestrian safety at all intersections within the development. Fixtures installed in these areas shall not exceed thirty (30) feet in overall height.
- 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.

1.6 Food Trucks

- A. Food trucks shall be permitted, and shall have all manners of restaurants uses.

1.7 Procedures

- A. The procedures set forth in *Article 9: Processes, Permits & Fees; Planned Unit Development* shall apply. Development plans shall be reviewed and approved based upon compliance with the development and design standards set forth herein.
- B. The Real Estate shall be assigned to the City's general PUD Committee (the "Committee") for review pursuant to *Article 9.20 Planned Unit Development; Final Development Plan*.
- C. The Committee shall have discretion and



flexibility to consider and approve modifications pertaining to any development and 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.

1.8 PUD Expiration

If, after five (5) years from the date of approval of this Ordinance, construction in the form of grading, infrastructure installation, or other land alteration has not commenced, then the provisions set forth by this Ordinance shall be rescinded as applied to the Real Estate, and the EN Employment Node District shall govern the Real Estate.



1.9 Adoption

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

APPROVED by the Common Council of the City of Fishers this _____ of _____, 2017.

THE COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA

AYE

NAY

_____	David C. George, President	_____
_____	Todd P. Zimmerman, Vice-President	_____
_____	C. Pete Peterson, Member	_____
_____	Eric Moeller, Member	_____
_____	Selina M. Stoller, Member	_____
_____	Richard W. Block, Member	_____
_____	Cecilia C. Coble, Member	_____
_____	John W. Weingardt, Member	_____
_____	Brad DeReamer, Member	_____

Approved by: Chris Greisl, City of Fishers, City Attorney
Prepared by: Ken Kern
Sunbeam Development Corp.,
11800 Exit Five Parkway, Suite 110



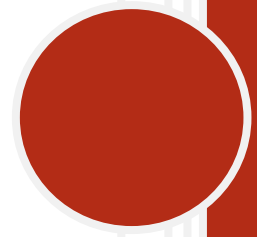
Fishers, Indiana 46037. (317) 842-1166.

a. Real Estate

INSERT LEGAL DESCRIPTION

And

All adjacent publicly owned land and public rights-of-way.



TAB 4

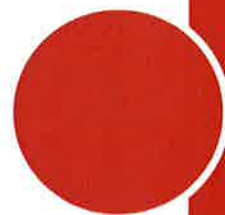
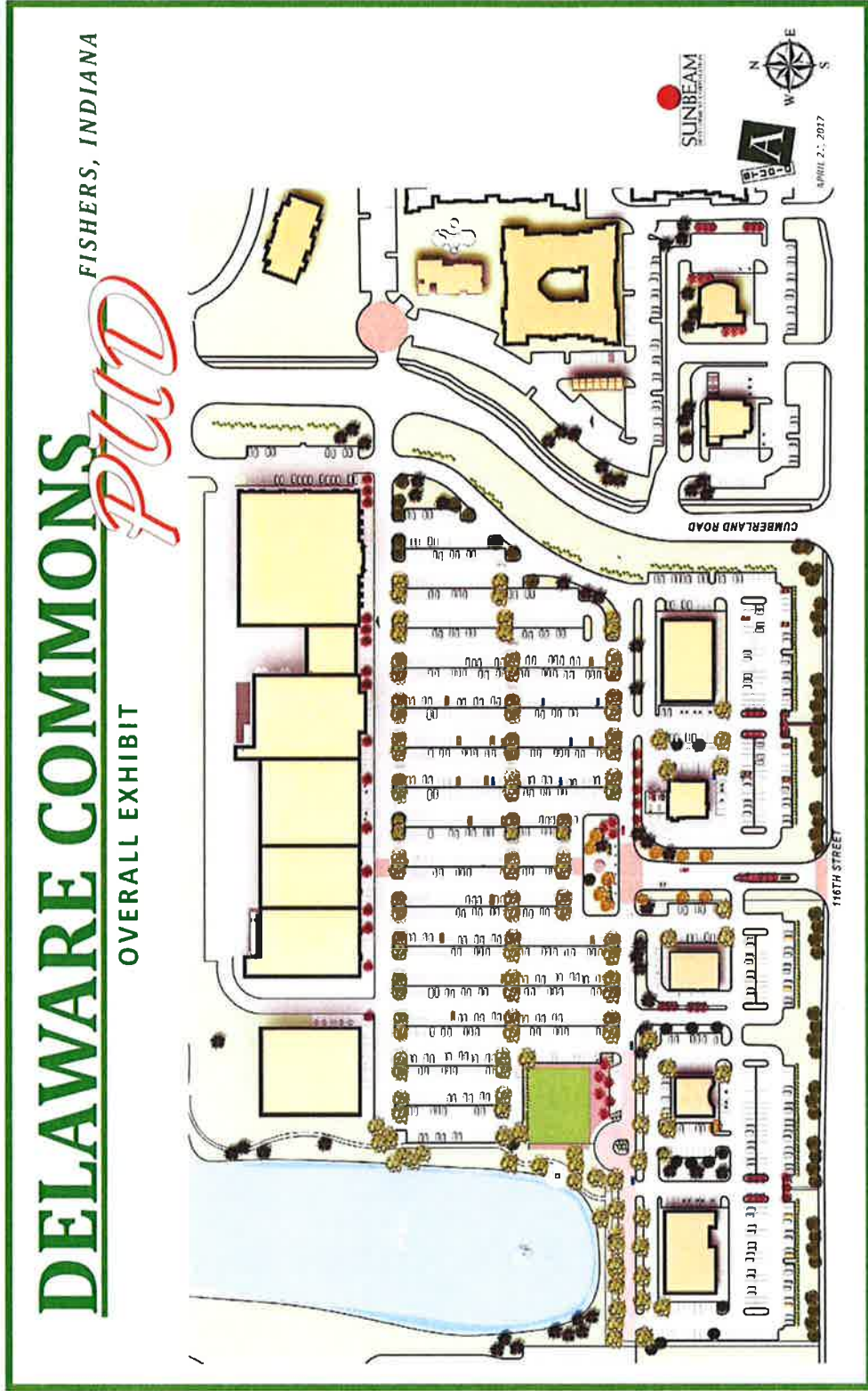


Exhibit A
Delaware Commons PUD
Concept Plan



TAB 5

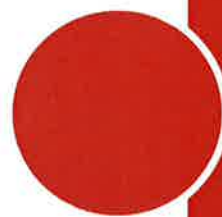
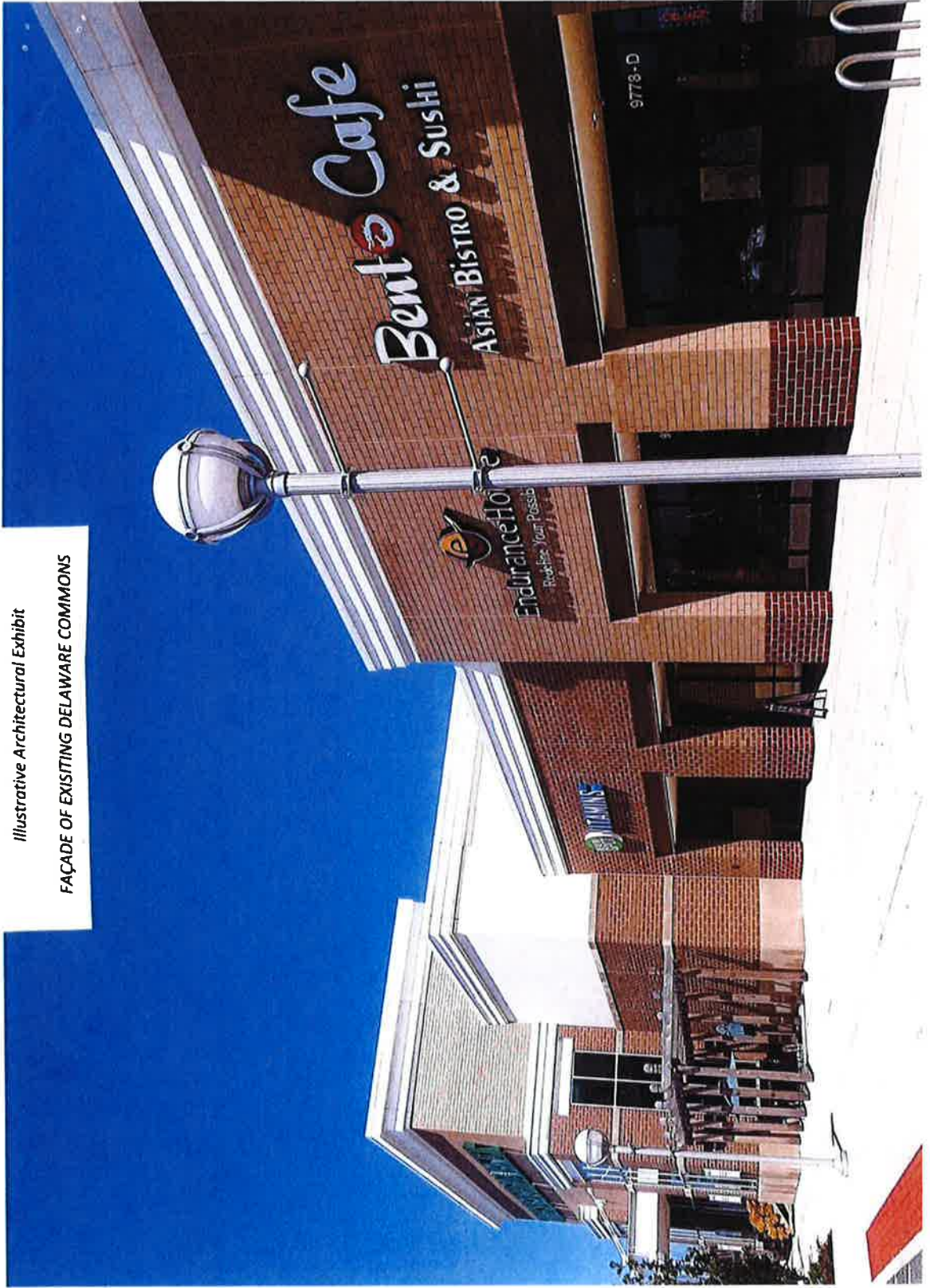


EXHIBIT B
Delaware Commons PUD
Illustrative Architectural Examples
Page 1 of 4



Illustrative Architectural Exhibit
FAÇADE OF EXISTING DELAWARE COMMONS

Illustrative Architectural Examples
Page 2 of 4



Illustrative Architectural Examples
Page 3 of 4



Illustrative Architectural Examples
Page 4 of 4



TAB 6



EXHIBIT C
Delaware Commons PUD
Development Sections
Page 1 of 2

The term “Section” shall mean the area within the PUD shown on the illustration on Page 2 of this Exhibit.

A - YELLOW SECTION – INLINE UNITS

The size and position of buildings within the Section may vary. The architectural style of the buildings should relate well to the existing in-line store units. Must include a Green Space of not less than 1/3 acre, a promenade along the East and South sides of the Pond, and a floating fountain in the Pond. The Green Space, promenade and fountain must be added to the project when buildings in excess of 60,000 SF are added to the Section.

This Section shall also include an Entry Feature Area of approximately 40' x 80' containing Public Art or Fountain and landscaping. The Entry Feature Area needs to be added to the project when any new building is added to this Section.

B - RED SECTION – WEST OUTLOTS

If any buildings are added in this Section, then all 116th Street frontage earthwork and landscaping must be completed for the Section.

One drive-thru shall be allowed in this Section for a branch bank or a coffee shop, or for some other use approved by the Mayor or Mayor's Designee. Any additional drive-thru in this Section must be approved as variance to this PUD by the BZA.

C - BLUE SECTION – CENTRAL OUTLOTS

If any buildings are added in this Section, then all 116th Street frontage earthwork and landscaping must be completed for the Section.

One drive-thru shall be allowed in this Section for a branch bank or a coffee shop, or for some other use approved by the Mayor or Mayor's Designee. Any additional drive-thru in this Section must be approved as variance to this PUD by the BZA.

D - GREEN SECTION – EAST OUTLOT

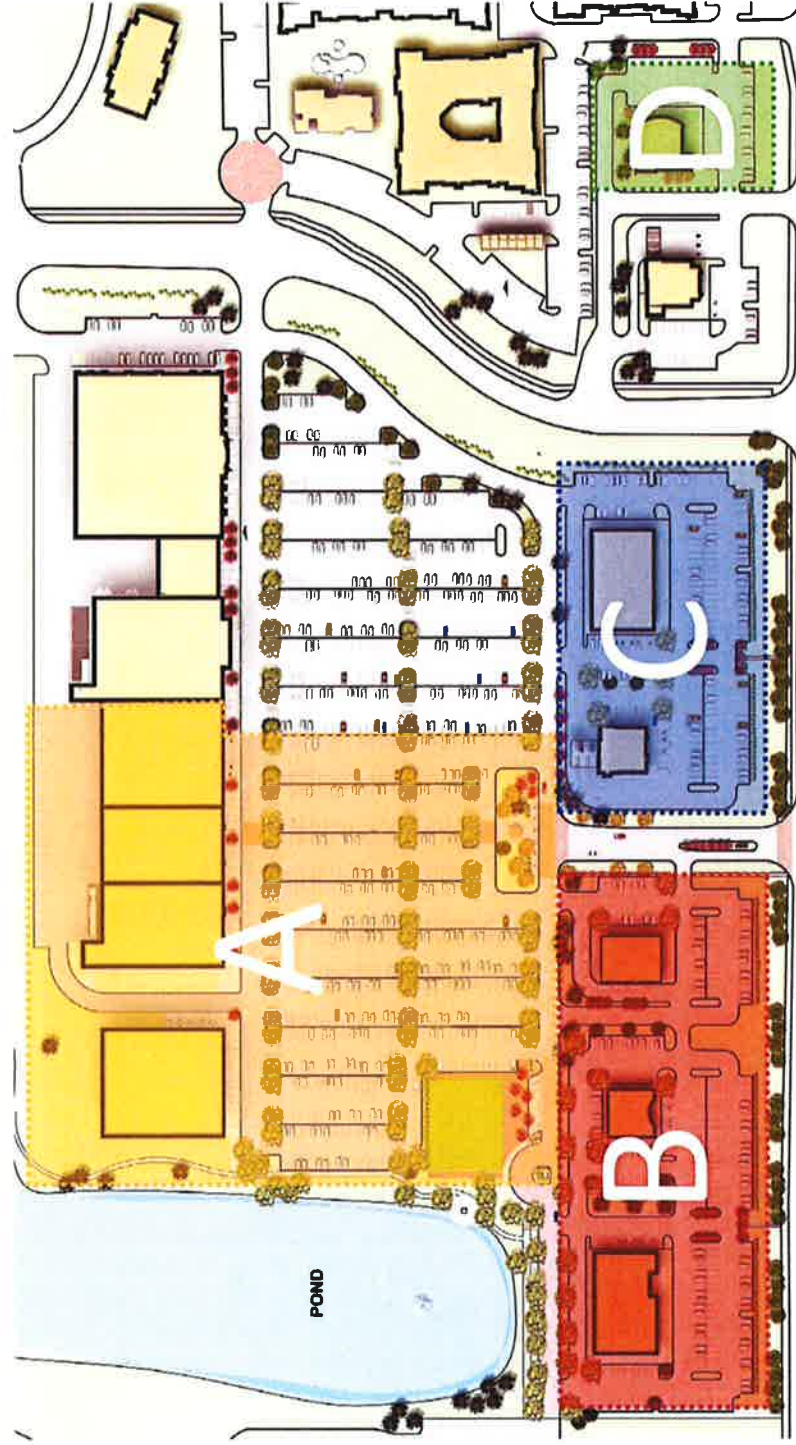
See Sections exhibit on next page



DELAWARE COMMONS *PLD*

FISHERS, INDIANA

USE EXHIBIT

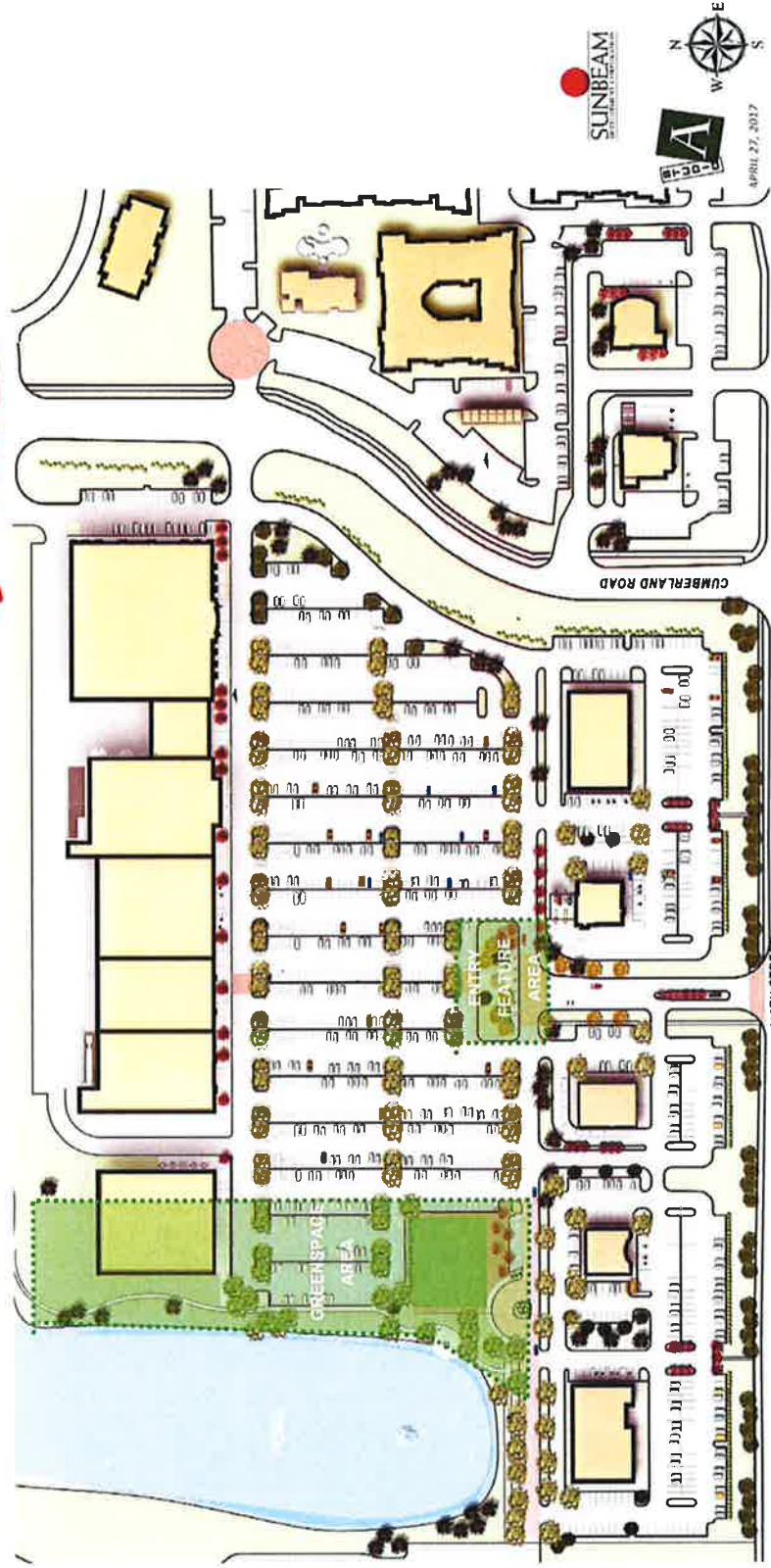


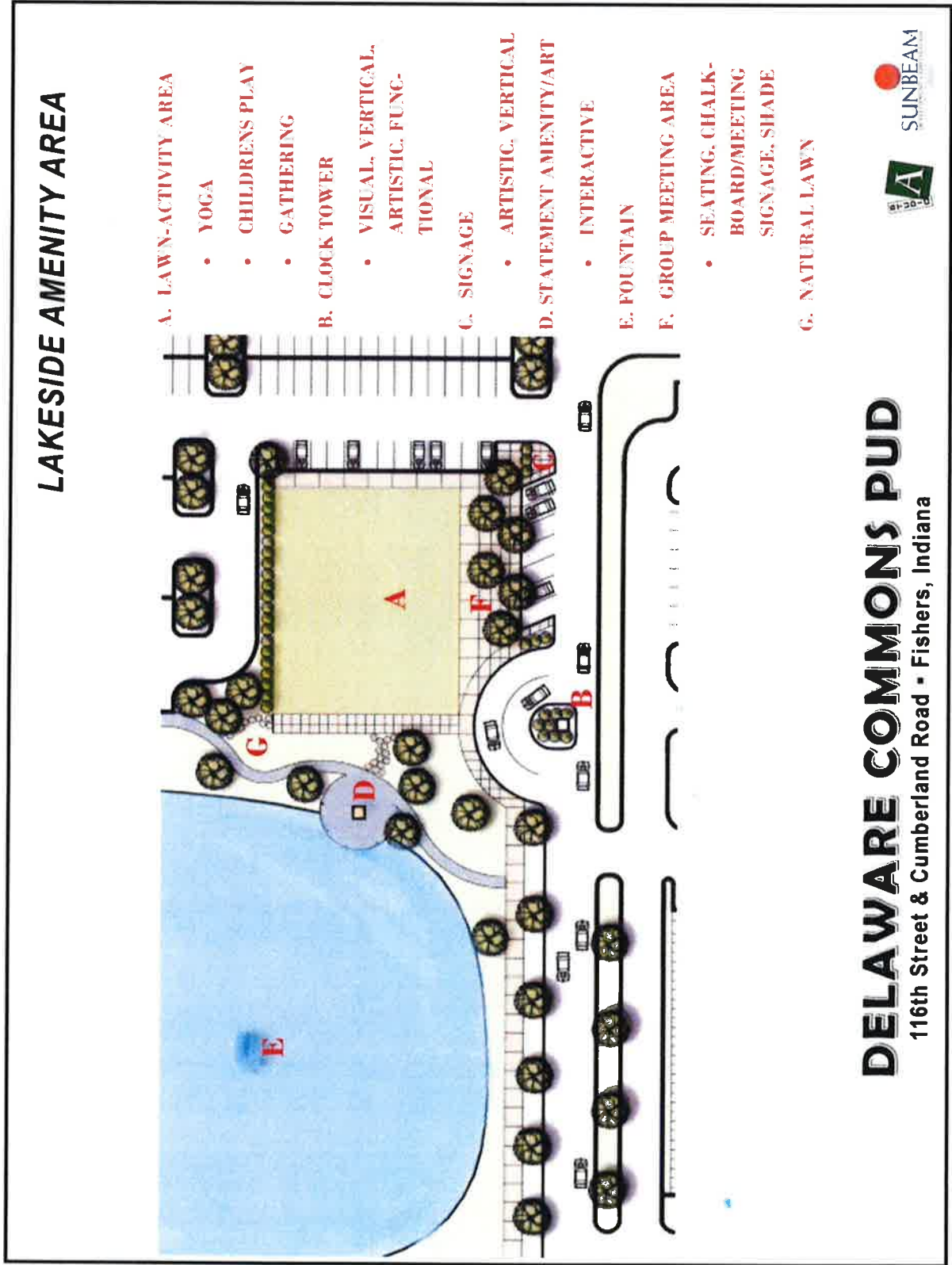
TAB 7



EXHIBIT D
Delaware Commons PUD
Lakeside Amenity Area Concept
Page 1 of 4

DELAWARE COMMONS
PUD
FISHERS, INDIANA
GREENSPACE/ENTRY FEATURE EXHIBIT





DELAWARE COMMONS PUD

116th Street & Cumberland Road - Fishers, Indiana



Lakeside Amenity Area Concept
Page 3 of 4

- LAKESIDE AMENITIES**
- A. LAWN-ACTIVITY AREA
 - B. CLOCK TOWER/
VERTICAL AMENITY
 - C. SIGNAGE
 - D. STATEMENT AMENITY/
ART
 - E. FOUNTAIN
 - F. GROUP MEETING AREA
 - G. NATURAL LAWN



Lakeside Amenity Area Concept
Page 4 of 4



TAB 8

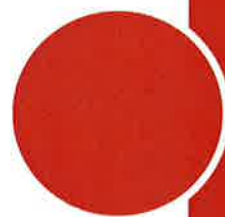
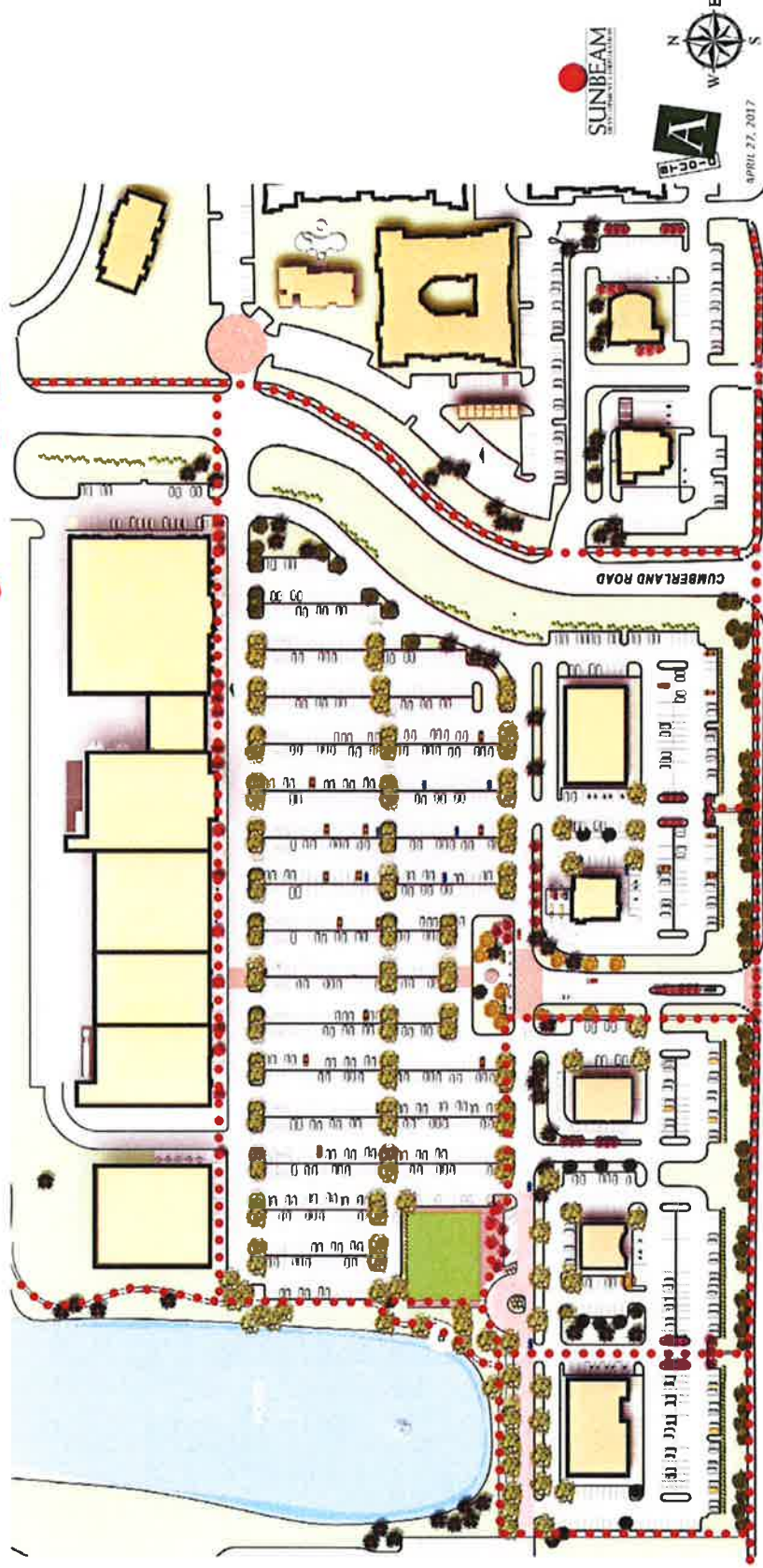


EXHIBIT E
Delaware Commons PUD
Connectivity

DELAWARE COMMONS
PUD
CONNECTIVITY EXHIBIT

FISHERS, INDIANA



TAB 9

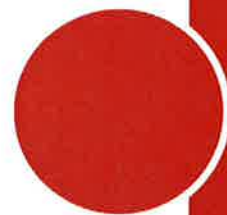
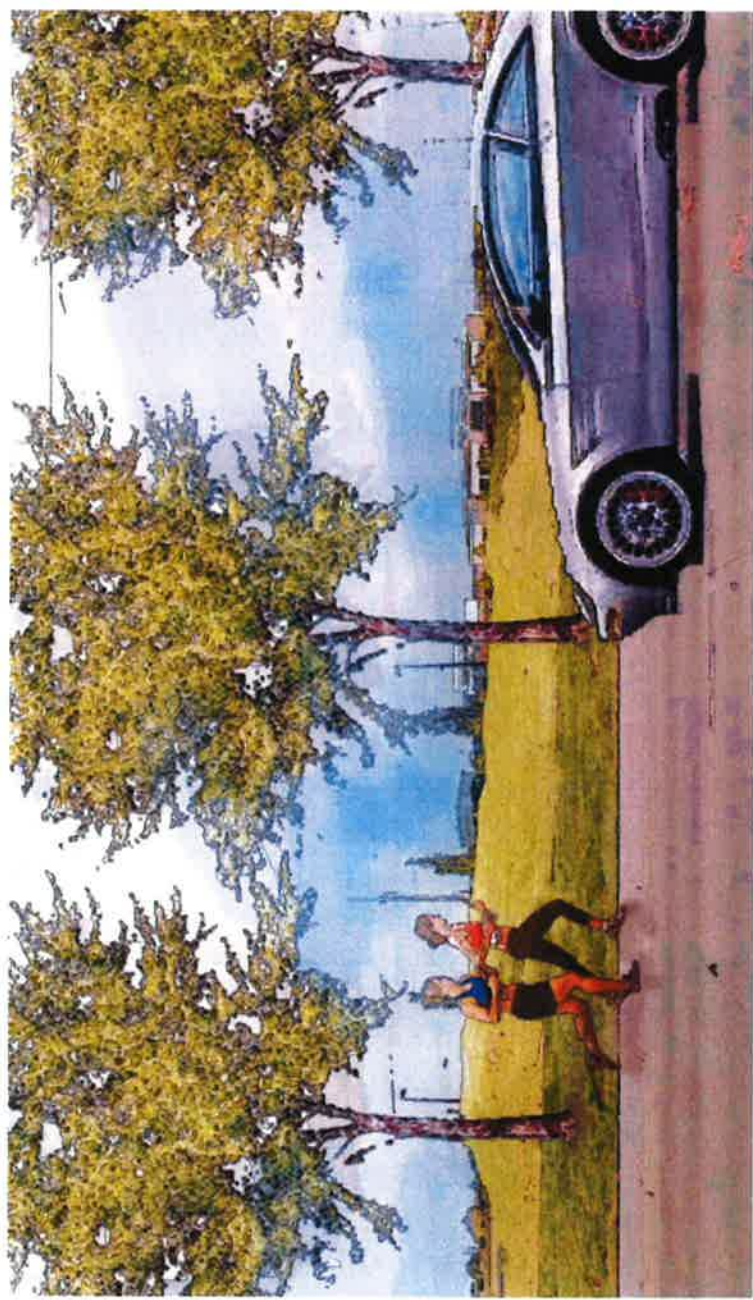


EXHIBIT F
Delaware Commons PUD
116th Street Corridor
Page 1 of 2

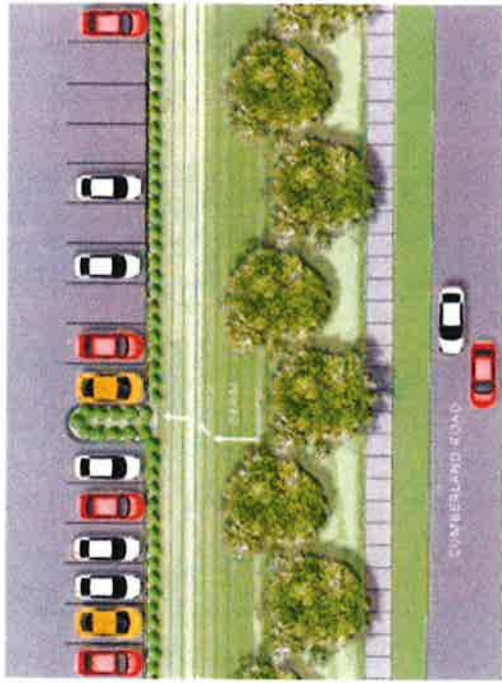
SCREEN BERM BUFFER



DELAWARE COMMONS PUD
116th Street & Cumberland Road - Fishers, Indiana



SCREEN BERM BUFFER-SIGHT LINE



DELAWARE COMMONS PUD

116th Street & Cumberland Road • Fishers, Indiana



Delaware Commons Planned Unit Development



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- **Tab 7
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Promenade Samples**
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116th Corridor**



PROJECT OVERVIEW

Delaware Commons PUD is an expansion of the existing Delaware Commons Shopping Center, which currently includes LA Fitness, The Fresh Market and 6,400 s.f. of adjacent (fully leased) shops. The build out of the property within the PUD will occur as qualified Tenants/Buyers surface.

The site is highly impacted and restricted by existing utility easements. We have worked closely with the City's Planning Staff to develop a workable Concept. In keeping with the goals of the City's Comp Plan, our focus will be on architectural aesthetics, connectivity, vibrancy and sustainability for the Center as it grows. We have committed to an array of site amenities that will help to create a sense of place within the development for our customers.

A national bank branch office and an internationally known coffee establishment and several free-standing, full service restaurants are current prospects for Delaware Commons and lease negotiations are in progress.



TAB 1



DELAWARE COMMONS

FISHERS, INDIANA

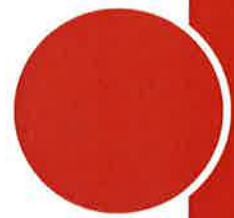
PUD

LOCATION MAP EXHIBIT



APRIL 27, 2017

TAB 2

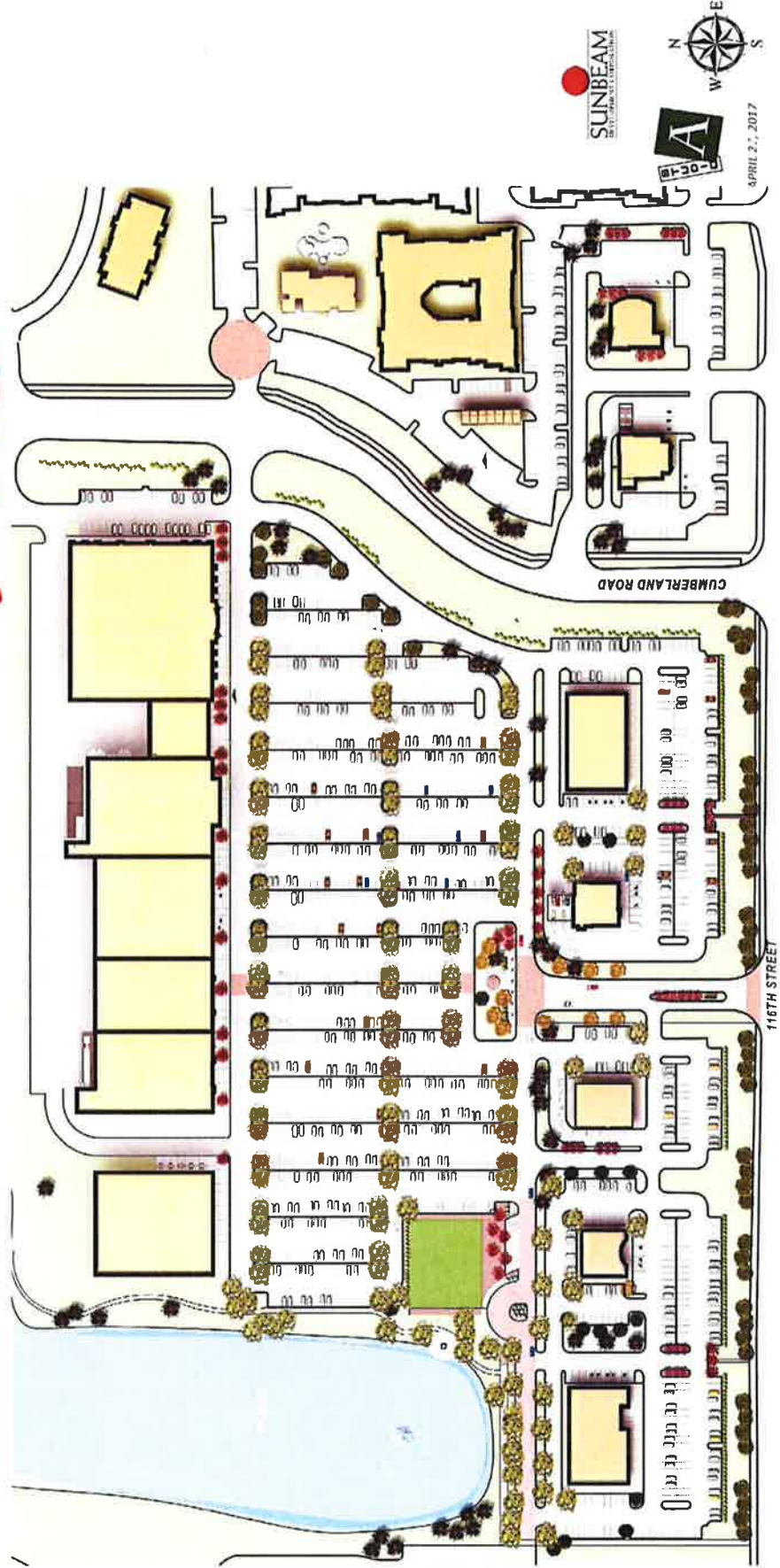


DELAWARE COMMONS

FISHERS, INDIANA

PHD

OVERALL EXHIBIT



TAB 3



**Declaration
Ordinance No.**
(this Ordinance")

Adopted: _____

1.1 Declaration, Purpose and Intent, and Permitted Uses

The Unified Development Ordinance (the "UDO") of the City of Fishers, Indiana, Ordinance No. 090605A, as amended, and the Official Zoning Map of the City of Fishers, Indiana, dated April, 2016, as amended, which accompanies and is a part of the Zoning Code of the City of Fishers, Indiana, are hereby amended as follows:

The zoning classification of the real estate legally described in Section 1.10 of this Ordinance (the "Real Estate"), is hereby designated as a **Planned Unit Development - Commercial District (PUD-C)**, and that said PUD-C zoning district shall hereafter be known as "**Delaware Commons PUD.**"

Development of the Real Estate shall be governed entirely by the provisions of this Ordinance and those provisions of the UDO specifically referenced in this Ordinance. All provisions of the UDO 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. All previous PUD Ordinances, and amendments thereto, applicable to the Real Estate are hereby repealed.

Purpose and Intent

The purpose of this PUD is to encourage improved design in the development of land by promoting greater flexibility in applying the UDO to the development of the Real Estate.

Permitted Uses

All uses described in the *Commercial District, and*

- theater
- coffee House
- movie theater
- food truck
- indoor entertainment



The following uses described in the C3 Commercial District are prohibited:

- automobile sales and service
- car wash
- fuel sales
- fuel/energy station
- fuel/service station
- mortuary
- tattoo parlor
- piercing studio
- massage parlor (catering to prurient interests)
- alternative financial services (specifically not including retail services such as Fidelity, Jackson Hewitt, Charles Schwab, and similar concepts)
- day care, adult
- sexually-oriented business
- tobacco shop, hookah, head, or other smoke shop
- package goods store (alcohol) (specifically not including a restaurant, specialty retail shop (e.g., Total Wine, The Wine Guy, Tasteful Times), tavern, bar, or brewery that sells, beer, wine, and/or other alcohol for, take-home use)
- second hand or government surplus store

*Two (2) drive up windows, exterior menu boards, and speakers shall be permitted as noted in Exhibit "C". The length of stacking lanes for each site shall exceed the minimum requirements of the UDO. Additional drive up windows would need to be approved by the BZA as a variance to this PUD..

1.2 Applicability

- A. The standards of the UDO applicable to the C3 *Commercial District* shall apply to the development of the Real Estate, except as modified, revised, or expressly made inapplicable by this Ordinance. "Article" cross-references of this Ordinance shall hereafter refer to the *Article* section as specified and referenced in the UDO. Capitalized terms that are not otherwise defined herein shall have the meaning ascribed to them in the UDO. Pursuant to *Article 4.02(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, and *Article 1.10: Basic Provisions: Transition Rules* also shall apply to amendments.

1.3 Concept Plan

- A. The Concept Plans, attached hereto as **Exhibit A**, are hereby incorporated. A portion of Delaware Commons Shopping Center (LA Fitness, Fresh Market and 6,400 sf of shops) has been developed prior to the creation of the Delaware Commons PUD. Leases with these existing tenants place development restrictions on some of the property included in the PUD. The Real Estate's Development Plan shall be substantially consistent with the Concept Plans and shall be reviewed and approved based upon compliance with the development and design standards set forth herein. Article 9.18(M)(1) shall not apply. If the Director determines that a Development Plan is not substantially consistent with the Concept Plans (the "Director's Determination"), then the Director shall notify the applicant within fifteen (15) days of receipt of the submitted Development Plan of: (1) the Director's Determination; and (2) whether the Development Plan is (a) approved; or (b) not approved (the "Director's Decision"). The Director's Decision shall be based upon the Development Plan's compatibility and consistency with the intended quality and character of Delaware Commons PUD. If the Director's Decision does not approve the Development Plan, then the applicant may submit the Development Plan to the City Council for review and approval. The City Council's decision shall be made at a public meeting, but no additional public hearing shall be required.

1.4 Development Standards

- A. Cross References: The regulations of *Article 05: Development Standards* shall apply, except as modified by this Ordinance.
- B. General Regulations: *Article 2.28: C3 Commercial District Development Standards* shall apply, except as modified below:
- (1) Minimum Lot Frontage shall not apply.
 - (2) Minimum Front Setback shall be twenty (20) feet.
 - (3) Minimum Side Setback shall be ten (10) feet.
 - (4) Minimum Aggregate Side Setback shall be twenty (20) feet.
 - (5) Minimum Rear Setback shall be ten (10) feet.
 - (6) Minimum Building Separation shall be twenty (20) feet.
 - (7) Minimum Internal Setback shall be ten (10) feet from the edge of pavement of any access drive or street.
 - (8) Maximum Impervious Surface Coverage shall be

eighty (80) percent.

(9) Maximum Structure Height shall be sixty-five (65) feet.

C. Accessory Structure Standards (AS): shall apply, except as modified below:

(1) Article 5.09 AS-06: Accessory Structures; Commercial; (B)(3)(b): *General Requirements; Setbacks* shall apply, except as modified below:

(i) Patios, railing and raised planters may encroach upon the front, side, and rear setbacks.

(2) Article 5.09 AS-06: Accessory Structures; Commercial; (B)(3)(c): *General Requirements; Buffer Yards* shall not apply.

(3) Article 5.09 AS-06: Accessory Structures; Commercial; (B)(3)(d): *General Requirements; Easements* shall apply, except as modified below:

(i) In no case shall any accessory structure encroach upon any easement, unless permitted by the easement grantee or not prohibited by the easement.

(4) Article 5.09 AS-06: Accessory Structures; Commercial; (C): *Enclosed Building Requirement*; shall not apply.

(5) Article 5.10 AS-07: Accessory Structures; Outdoor Dining; (A)(1): *Enclosure* shall apply. In addition, a raised planter at least eighteen (18) inches tall shall also be permitted.

(6) Article 5.10 AS-07: Accessory Structures; Outdoor Dining; (A)(2): *Enclosure*; shall apply. In addition, an aluminum fence at least thirty-six inches tall shall also be permitted.

(7) Article 5.10 AS-07: Accessory Structures; Outdoor Dining; (B): *Canopy*; shall not apply.

D. Architectural Design Standards (AD): shall apply, except as modified below:

(1) The Illustrative Architectural Exhibit, attached hereto as **Exhibit B**, is hereby incorporated to illustrate conceptually the elements and anticipated character of and to establish a benchmark for the architecture and design of all new buildings constructed on the Real Estate. The final building designs may vary from the Illustrative Architectural Exhibit; however,



buildings shall be substantially similar in quality and character to the buildings shown in the Illustrative Architectural Exhibit.

- (2) Article 5.15 AD-03: Architectural Design; Commercial; (A)(2): *Facade; Exterior Materials*; shall apply. In addition, the following materials shall be permitted: composite wood materials, steel, aluminum, metal, precast concrete, stone, and porcelain/ceramic tile. Architectural features such as faux windows, cornices, canopies or other design elements shall be used in the building design to add to the character of the building frontage façade.
 - (3) Article 5.15 AD-03: Architectural Design; Commercial; (A)(3): *Facade; Exterior Adjacent to Residential*; shall apply. In addition, the following materials shall be permitted: composite wood materials, EFIS, steel, aluminum, metal, precast concrete, stone, and porcelain/ceramic tile.
 - (4) Article 5.15 AD-3: Architectural Design; Commercial; (A)(5): *Four-sided Architecture*; shall apply, except as modified below: All multi-tenant or single-tenant buildings over 15,000 square feet.
 - (5) Article 5.15 AD-03: Architectural Design; Commercial; (A)(7)(b): *Facade; Colors; Building Trim and Accent Areas* shall apply. In addition, LED lighting or tubing shall be an acceptable feature for building trim or accent areas.
 - (6) Article 5.15 AD-03: Architectural Design; Commercial; (D)(6): *Flat Roofs* ; Shall not apply
 - (7) Article 5.15 AD-03: Architectural Design; Commercial; (E): *Mechanical and Utility Equipment Screening*; shall apply, except as modified below:
 - (i) All mechanicals shall be located and screened to minimize visibility from the Real Estate's property line and adjacent Rights-of-Way at the grade of the site.
- E. Density & Intensity Standards (DI): shall apply.
- F. Entrance & Driveway Standards (ED): shall apply, except as modified below:
- (1) Article 5.24 ED-01: Entrances and Driveways;



General; (D)(1): *Proximity*; shall apply, except as modified below:

(i) No entrance or driveway shall be permitted to be installed within two hundred and fifty (250) feet of any intersecting street if along an arterial or collector road (measured from mid-point to mid- point).

(2) Article 5.24 ED-01: Entrances and Driveways; General;(E)(1)and (2): *Maximum Pavement Width*; shall not apply.

G. Environmental Standards (EN): shall apply.

H. Fence & Wall Standards (FW): shall apply, except as modified below:

(1) Article 5.33 FW-04: Fence and Wall; Commercial; (D): *Trash Receptacle Screening*; shall apply, except as modified below:

(i) A solid fence or masonry wall is required to be placed around all common trash receptacles with a minimum height equal to height of the receptacle, plus at least one (1) foot. Trash receptacles shall be gated.

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.

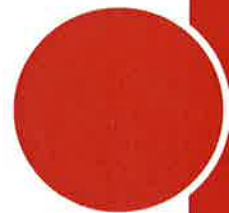
M. Landscaping Standards (LA): shall apply, except as modified below:

(1) Article 5.40 LA-02: Landscaping Standards; Street Trees; (H): *Escrow*; shall apply. In addition, an itemized estimate prepared by a landscape contractor shall also be accepted by the City.

(2) Article 5.42 LA-04: Landscaping Standards; Commercial, Multi-Family, Industrial Lot and Foundation Plantings; (B): *Foundation Plantings*; shall apply, except as modified below:

(i) The foundation plantings shall be located within thirty (30) feet of the foundation wall.

(ii) t least two (2) shrubs, ornamental grasses, and/or ornamental trees shall be planted for every twelve (12) lineal feet of building circumference exclusive of loading dock openings. Plantings may be clustered and



planted in a location approved by the Director.

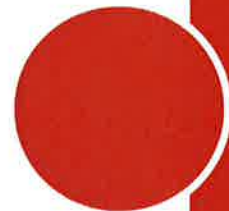
- (3) Article 5.43 LA-05: Landscaping Standards; Nonresidential Uses; Lot and Foundation Plantings; (B)(1); Foundation Planting; shall apply, except as modified below:
 - (i) The foundation plantings shall be located within thirty (30) feet of the foundation wall.
 - (4) Article 5.44 LA-06: Landscape Standards; Parking lot Plantings; (A)(4) Surface Parking Lot Perimeter Landscaping; shall not apply
 - (5) Article 5.44 LA-06: Landscaping Standards; Parking Lot Plantings; (B)(2): *Interior Parking Lot Landscaping*; shall apply, except as modified below:
 - (i) Each island or peninsula shall be at least one hundred sixty-two (162) square feet in size.
 - (6) Article 5.44 LA-06: Landscape Standards; Parking Lot Plantings; (B)(3): Interior Parking Lot Landscaping; shall apply, except as modified below:
 - (i) Each island or peninsula shall contain at least one (1) tree per one hundred eighty (162) square feet if not encumbered by easement restriction.
 - (7) Article 5.44 LA-06: Landscaping Standards; Parking Lot Plantings; (B)(7): *Interior Parking Lot Landscaping*; shall apply, except as modified below:
 - (i) Parking lot landscape areas shall be free of litter and be maintained with plant materials and mulch or stone.
 - (8) Article 5.45 LA-07: Landscaping Standards; Buffer Yards; shall not apply.
- N. Lighting Standards (LT): shall apply, except as modified below:
- (1) Article 5.49 LT-03: Lighting Standards; Multi-Family, Commercial, and Industrial; (A): *Maximum Luminaire Elevation*; shall apply, except as modified below:
 - (i) Parking lot lights shall not exceed thirty (30) feet in height.
- O. Loading Standards (LD): shall apply.
- P. Lot Standards (LO): shall apply.

- Q. Outdoor Storage Standards (OS): shall apply.
- R. Parking Standards (PK): shall apply, except as modified below:
- (1) Article 5.64 PK-01: Parking Standards; General;(E)(1): *Parking Space Dimensions; Minimum Area*; shall apply, except as modified below:
 - (i) Each parking space shall be a minimum of one hundred sixty-two (162) square feet in area, unless the space abuts into a sidewalk or landscape area in which case shall have a minimum of one hundred forty-four (144) square feet in area.
 - (2) Article 5.67 PK-04: Parking Standards; Commercial; (A): *Parking Lot Encroachment into Setbacks, Landscape Easements, or Buffer Yards*; shall apply, except as modified below:
 - (i) If a landscape easement of buffer yard is not present, a parking lot shall not be installed within two (10) feet of a side or rear lot line or within twenty (20) feet of a front lot line, except when the parking lot is used as a shared parking lot as outlined below in §(G): *Shared Parking*.
 - (3) Article 5.68 PK-05: Parking Standards; Number of Commercial Parking Spaces; (A): *Off-street Parking Requirement*; shall not apply. Instead, the following shall apply
 - (i) Minimum Parking: Four (4) spaces per one thousand (1,000) square feet of the total Gross Floor Area constructed on the Real Estate shall be provided.
- S. Pedestrian Accessibility Standards (PA): shall apply.
- T. Pedestrian Network Standard (PN): In addition to the standards in the UDO, this additional standard shall apply:
- (i) Streetscape: The design of each development site within the PUD shall address how the buildings interact with the parking lots and roadways. Streetscapes shall, where appropriate, contain urban design elements, such as plazas, seating areas, street trees, potted plants or trees and public art.
- U. Performance Standards (PF): shall apply.
- V. Permanent Outdoor Display Area Standards (PD): shall apply.
- W. Property Identification Standards (PI): shall apply.

- X. Public Art Standards (PT): shall apply.
- Y. Public Improvement Standards (PV): shall apply.
- Z. Setback Standards (SB): shall apply, except as modified below:
 - (1) Article 5.82 SB-01: Setback Standards; General; (K)(8): *Exceptions* shall apply. In addition, foundations and footings may project into any required yard not more than two (2) feet.
 - (2) Article 5.82 SB-01: Setback Standards; General; (L): *Easements* shall apply, except as modified below:
 - (i) No structure, except fences, shall encroach upon any easement, unless specifically allowed in said easement.
 - (3) Article 5.84 SB-03: Setback Standards; Commercial; (A): shall apply, except as modified below:
 - (i) No part of any structure or building, excluding footings, eaves or a cornice overhang not exceeding four (4) feet, or a canopy over an entrance not exceeding fifteen (15) feet, shall be built within the required yard areas.
 - (4) Article 5.84 SB-03: Setback Standards; Commercial; (B): shall not apply.
- AA.. Sewer & Water Standards (SW): shall apply.
- BB. Sexually Oriented Business Standards (SX): shall apply.
- CC. Sign Standards (SG): shall apply; however, a comprehensive sign package may be submitted for review and approval to the PUD Committee that may vary from the sign code as long as it is in keeping with the quality and character of the proposed development.
- DD. Structure Quantity Standards (SQ): shall not apply. Instead, more than one (1) primary structure shall be permitted on a lot or parcel on the Real Estate.
- EE. Telecommunication Facilities Standards (TC): shall apply.
- FF. Temporary Use/Structure Standards (TU): shall apply.
- GG. Use-specific Standards (US): shall apply.
- HH. Vision Clearance Standards (VC): shall apply.

1.5 Design Standards

- A. Cross References: The regulations of *Article 7: Design Standards* applicable to a *Planned Unit Development (PUD)* shall apply except as modified by this



- Ordinance:
- B. Access Road Standards (AC): shall apply, except as modified below:
- (1) Article 7.05 AC-02: Access Road Standards; Commercial; (B): *Maximum Ingress/Egress* shall not apply.
 - (2) Article 7.05 AC-02: Access Road Standards; Commercial; (C): *Separation of Ingress/Egress per Public Street* shall not apply. Instead, the following shall apply:
 - (i) All ingress/egress points shall be a minimum of one hundred fifty (150) feet away from any intersection, any ingress/egress on the same side of the street, or any off-site ingress/egress on the opposite side of the street. Separation is not required for ingress/egress points that are aligned with each other across the street. Separation is not required for right-in/right-out ingress/egress points with respect to an off-site ingress/egress on the opposite side of the street.
 - (3) Article 7.05 AC-02: Access Road Standards; Commercial; (F): *Right-Of-Way or Easement*: Shall apply, except as modified below:
 - (i) Access road shall be paved to a minimum of thirty (30) feet of right-of-way or permanent public access easement.
 - (4) Article 7.05 AC-02: Access Road Standards; Commercial; (G): *Pavement Width* shall apply, except as modified below:
 - (i) Parking shall be permitted on access roads within the Real Estate.
 - (5) Article 7.05 AC-02: Access Road Standards; Commercial; (H): *Sidewalks* shall not 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 and 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, except as modified below:
- (1) Article 7.19 LE-02: Lot Establishment Standards; Commercial and Industrial; (B)(1): *Commercial Lot Standards; Interior Street Frontage* shall not 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) The Lakeside Amenity Area Concept Exhibit, attached hereto as Exhibit D, is hereby incorporated to illustrate conceptually the elements and anticipated character of and to establish a benchmark for the design of a Lakeside Amenity Area. The final design may vary from the Lakeside Amenity Area Concept Exhibit; however, elements similar to those shown on this plan shall be incorporated in the design, and the amenities shall be placed within the Amenity Area shaded in Green on Page 1 of Exhibit D. Key elements in the Lakeside Amenity Area shall be a Park Feature (1/3 acre minimum size), an 8' wide promenade/walking path around the edge of the lake, and other project site amenities like those shown on Exhibit D. (2)
- Article 7.26 OP-02: Open Space Standards; Commercial and Industrial; (C)(1): *Site Features that Qualify as Open Space; Perimeter Landscaping* shall apply, except as modified below:
- (i) Perimeter Landscaping that is at least twenty (20) feet wide and thirty (30) feet long shall count one hundred percent (100%) toward the Open Space requirement.
- (3) Article 7.26 OP-02: Open Space Standards; Commercial and Industrial; (C)(2)(c): *Site Features that Qualify as Open Space; Development Amenity Options* shall apply. In addition, any park or greenspace with a shelter, gazebo, activity area, or public building(s) shall qualify as a Development Amenity Option.

- (4) Article 7.26 OP-02: Open Space Standards; Commercial and Industrial; (C)(3): *Site Features that Qualify as Open Space; Man-made Water Features* shall apply, except as modified below:
- (i) Any man-made water feature (including retention/detention facilities) shall count one hundred percent (100%) toward the minimum Open Space requirement.
- R. Pedestrian Network Standards (PN): shall apply.
- S. Perimeter Landscaping Standards (PL): shall apply, except as modified below:
- (1) Article 7.33 PL-02: Perimeter Landscaping Standards; Commercial and Industrial Development; (A): *Applicability* shall apply, except as modified below:
 - (i) Perimeter Landscaping standards shall apply to any portion of a commercial or industrial development that abuts an expressway, interstate highway, primary arterial, secondary arterial, or collector. Perimeter Landscaping shall be in aggregate with other landscape requirements, not in addition to.
 - (ii) Perimeter Landscaping shall not be required in any existing easement that restricts landscaping.
- 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, except as modified below:
- (1) Article 7.41 SL-04: Street Lighting Standards; Commercial and Industrial Development; (B)(1): *Street Lights at Intersections* shall apply, except as modified below:
 - (i) The petitioner shall propose a lighting design that provides at least the minimum amount of light necessary for vehicular and pedestrian safety at all intersections within the development. Fixtures installed in these areas shall not exceed thirty (30) feet in overall height.
- 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.



1.6 Food Trucks

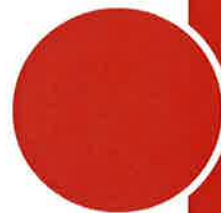
- A. Food trucks shall be permitted, and shall have all manners of restaurants uses.

1.7 Procedures

- A. The procedures set forth in *Article 9: Processes, Permits & Fees; Planned Unit Development* shall apply, as amended.. Development plans shall be reviewed and approved based upon compliance with the development and design standards set forth herein.
- B. If applicable: (1) The Real Estate shall be assigned to the City's general PUD Committee (the "Committee") for review pursuant to *Article 9.20 Planned Unit Development; Final Development Plan; and (2) prior to the Committee's review, the Mayor or Mayor's Designee shall review each building's preliminary architectural plan (e.g. elevations, roof plan, floor plan, and rendering) and approve such plan based upon compliance with the development and design standards set forth herein.*
- C. The Committee, if applicable, and the Mayor or Mayor's Designee shall have discretion and flexibility to consider and approve modifications pertaining to any development and design standards established or referenced by this Ordinance if the Committee or Mayor or Mayor's Designee determines such modifications are consistent with the intent of this Ordinance and consistent with the quality and character represented in this Ordinance.

1.8 PUD Expiration

If, after five (5) years from the date of approval of this Ordinance, construction in the form of grading, infrastructure installation, or other land alteration has not commenced, then the provisions set forth by this Ordinance shall be rescinded as applied to the Real Estate, and the EN Employment Node District shall govern the Real Estate.



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1.9 Adoption



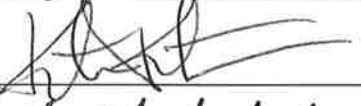


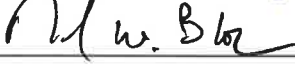
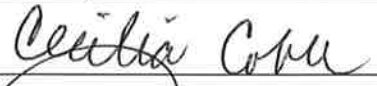

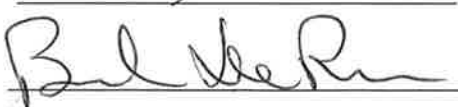
This ordinance shall be in full force and effect from and after its passage by the Common Council and after the occurrence of all other actions required by law. All provisions or parts of the UDO in conflict herewith are hereby repealed.

APPROVED by the Common Council of the City of Fishers this 19th day of JUNE, 2017.

THE COMMON COUNCIL OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA

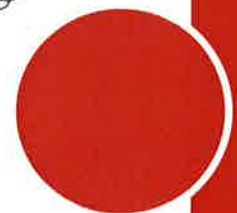
AYE

NAY

	John W. Weingardt, President	_____
	David C. George, Vice-President	_____
	C. Pete Peterson, Member	_____
	Eric Moeller, Member	_____
	Selina M. Stoller, Member	_____
	Richard W. Block, Member	_____
	Cecilia C. Coble, Member	_____
	Todd P. Zimmerman, Member	_____
	Brad DeReamer, Member	_____



Approved by: Chris Greisl, City of Fishers, City Attorney
 Prepared by: Ken Kern
 Sunbeam Development Corp.,
 11800 Exit Five Parkway, Suite 110
 Fishers, Indiana 46037. (317) 842-1166.



PUD

ALL OF WHICH IS SO ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA this 19th day of JUNE 2017.

COMMON COUNCIL OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA

YAY		NAY	ABSTAIN
<i>David C. George</i>	David C. George, President		
<i>Todd P. Zimmerman</i>	Todd P. Zimmerman, Vice-President		
<i>C. Pete Peterson</i>	C. Pete Peterson, Member		
<i>Eric Moeller</i>	Eric Moeller, Member		
<i>Selina M. Stoller</i>	Selina M. Stoller, Member		
<i>Richard W. Block</i>	Richard W. Block, Member		
<i>Cecilia C. Coble</i>	Cecilia C. Coble, Member		
<i>John W. Weingardt</i>	John W. Weingardt, Member		
<i>Brad DeReamer</i>	Brad DeReamer Member		

I hereby certify that the foregoing Ordinance was delivered to City of Fishers Mayor Scott Fadness on the 19th day of June 2017, at 9:40 m.

ATTEST:
Jennifer L. Kehl, City Clerk

Jennifer L. Kehl

MAYOR'S APPROVAL

Scott A. Fadness, Mayor

DATE

6/19/17



MAYOR'S VETO

Scott A. Fadness, Mayor

DATE

This document was prepared by Christopher P. Greisl, City Attorney, 1 Municipal Drive, Fishers, IN 46038 In accordance with Indiana Code, 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: /s/ Chris Greisl, Esq.