

ORDINANCE NO. 091806

**AN ORDINANCE AMENDING THE TEXT OF THE
HAMILTON PROPER PUD
ORDINANCE NO. 010693A OF FISHERS, INDIANA**

THIS ORDINANCE AMENDS The HAMILTON PROPER PD, ORDINANCE NO. 010693A (the "Hamilton Proper PD") AS FOLLOWS:

1. Parcel 17 shall hereinafter refer to the parcel of real estate legally described in Exhibit A attached hereto and incorporated herein by this reference (jointly, "Parcel 17"). Parcel 17 shall further be separated into two parcels, 17a and 17b. Parcel 17a shall be the parcel of real estate legally described in Exhibit B ("Parcel 17a"), and Parcel 17b shall be the parcel of real estate legally described in Exhibit C ("Parcel 17b").
2. The following uses shall be permitted on Parcel 17a:
 - A. Community Services II (as defined in the Hamilton Proper PD) shall be permitted on Parcel 17a. No other uses shall be permitted on Parcel 17a.
3. The following uses shall be permitted or prohibited, as indicated, on Parcel 17b:
 - A. All uses described in Section 151.073 (C1, Commercial District) and Section 151.074 (C2, Commercial District) of the Fishers Zoning Code, as amended (the "Zoning Ordinance"), shall be permitted except as specifically provided otherwise.
 - B. All fast food restaurants shall be prohibited. For purposes of this Ordinance, "fast food restaurants" shall have the same definition as Fast Food Restaurants as defined in Article 11 of the Town of Fishers Unified Development Ordinance, adopted on October 16, 2006 and effective on November 15, 2006 (the "UDO"). Examples of fast food restaurants that are prohibited included McDonald's, Hardee's, Wendy's, Burger King, Taco Bell, Kentucky Fried Chicken, Long John Silver's, and White Castle. Family Restaurants, Takeout Restaurants, Fine Dining Restaurants and Deli-Style and Ice Cream Shop/Parlors, each as defined in the UDO, shall be permitted. Notwithstanding anything to the contrary, coffee shops or Coffee Houses, as defined in the UDO, shall be permitted.
 - C. Sit-down or full service restaurants are permitted to serve alcoholic beverages. Drive-Up Windows shall be permitted; provided, however, that menu-boards for Drive-Up Windows shall not be permitted except for Coffee Houses.
 - D. Gas stations, car washes, and convenience stores shall be prohibited. Examples of convenience stores include Village Pantry and Seven-Eleven.
 - E. Nightclubs shall be prohibited. Nightclubs shall include establishments that restrict access to those under the age of 21 years, frequently serve alcoholic beverages without food sales to customers, and often have disc jockeys or live music.
 - F. High Intensity Retail and Very High Intensity Retail, as those terms are defined in the UDO, shall be prohibited.

4. The following development guidelines shall be followed with respect to Parcel 17b:
- A. Development of a retail Lifestyle Center in two (2) buildings at the main entrance to the site shall be limited to a maximum of 39,000 gross square feet. Development of the balance of Parcel 17(b) as depicted on **Exhibit D** is conceptual and buildings sizes and or locations can be adjusted provided all revisions comply with the requirements of this Ordinance. The maximum square footage of the balance of the of Parcel 17(b), other than the two buildings at the main entrance to the site, shall be limited to 60,000 square feet, in the aggregate. Prior to the occupancy of any building within Parcel 17b, the buffering requirements set forth in Subsection 5(E) below and the Park/Open space Area set forth in Subsection 5(A)(3) hereof shall be met.
- B. No buildings in the Commercial Area shall be open to the public between the hours of 12:00 midnight and 6:00 a.m.
5. All improvements constructed on Parcel 17b shall comply with the following architectural standards:
- A. Bulk and density standards
- (1) Building setbacks from property lines:
- (i) Front 50 feet
- (ii) Side 10 feet
- (iii) Rear 20 feet
- (2) Buffer to adjacent residential property
- Landscape buffer no higher than two (2) feet along the eastern property line of the Commercial Area shall include some of the existing tree line and shall include some infill landscaping with a combination of canopy, evergreen and ornamental trees and both evergreen and deciduous shrubs.
- (3) Park / Open Space (Parcel 17a)
- The park and open space located on Parcel 17(a), shall be installed, as represented on **Exhibit D**. Bermed lawn seating for athletic field spectators shall be constructed along the south boundary of the Commercial Area, except for the easterly 300 lineal feet. Access to the Commercial Area north of the fields is provided by pedestrian walkways at three (3) points along the bermed seating area. A restroom facility shall be installed in the approximate location represented on **Exhibit D** and shall be made available to patrons of the athletic fields during the hours contained in the License Agreement for use of the fields.
- (4) Lot coverage
- Lot coverage, inclusive of buildings, parking areas and all other impervious surfaces, is not to exceed 75 percent, resulting in an open space requirement of 25 percent of the land area.

(5) Building Height

Buildings are restricted to 35 feet maximum height, not to exceed two (2) floors. Pitched roof heights are measured from grade to the mid-point of the roof. The building height restrictions applies to all buildings including the 39,000 square foot Lifestyle Center.

(6) Parking Standards

(i) Parking ratios

- (A) Retail: Minimum of one (1) space for every 250 gross square feet for the first 2,000 gross square feet and one space for every 300 square feet up to 25,000 square feet.
- (B) General Office: Minimum of one (1) space for every 300 gross square footage, maximum of one (1) space for every 250 square feet.
- (C) Restaurant: Minimum of one (1) space for every three seats plus one for each employee on largest shift.
- (D) All other uses not listed above, including medical office uses, shall comply with the parking ratios contained in the Zoning Ordinance.

(ii) Parking lot landscaping shall be required at a minimum of five percent of the total parking area and shall be part of the landscaping plan reviewed by the Town of Fishers Plan Commission. The interior parking lot landscaping is calculated as part of the 25 percent open space lot coverage area requirement.

(iii) Parking lot perimeter landscaping shall include:

- (A) One deciduous tree per 35 lineal feet of parking lot perimeter and planted within 10 feet of the parking lot edge;
- (B) Shrubs shall be planted at a maximum ratio of one shrub per four lineal feet around the perimeter and shall be maintained at a height of at least 36 inches at maturity. Minimum size at planting shall be 24 inches in height. No less than 50% of the required shrubs shall be evergreen trees;
- (C) A wall or mound may be installed in lieu of shrubs, at a minimum of 36 inches and maximum of 42 inches in height.

(iv) Parking lot interior landscaping shall include:

- (A) One landscape island per 20 spaces distributed equally throughout the lot with a size of at least 180 square feet, containing at least one tree;
- (B) Each landscape island shall be bordered by a four-inch or higher curb above the surface of the parking lot.

B. Architectural Standards

- (1) All buildings must have similar design, color palette, and be of similar materials to those of the retail center. Specifically, the retail center design as shown on **Exhibit E** is designed to resemble residential structures found in older neighborhoods. Features that dominate the residential style of the neighboring outlot buildings must include a combination of elements shown for the retail center, including pitch of roof, residential style windows and entrance features. Additionally, to further enhance the residential style, elements such as covered walkways, dormers, balconies and/or chimneys shall be included where appropriate to the mass and scale of the individual building.
- (2) All buildings must screen all roof and ground mounted mechanical equipment with approved materials or landscaping.
- (3) The exterior of all buildings adjacent to residentially zoned or occupied areas shall consist of a brick, masonry or stone façade or stucco (eifs) materials with masonry surface and appearance.
- (4) All structures within an individual PUD area shall be constructed with similar complimentary materials and compatible architecture.
- (5) Facades that have greater than 100 feet in length, measured horizontally, shall incorporate wall plane projections or recesses having depth of at least five (5) percent of the length of the façade and extending at least twenty (20) percent of the length of the façade. No uninterrupted length of any façade shall exceed 100 horizontal feet.
- (6) Where large multi-tenant retail establishments contain additional separately owned stores that occupy less than 25,000 square feet of gross floor area, with separate, exterior customer entrances, the ground level façade of such stores shall have glazing between the height of three feet and eight feet above the walkway grade for no less than 50 percent of the horizontal length of the street-front building façade of such stores, and between 10 percent to 40 percent of the rear building façade.
- (7) Building facades must include one pattern of no less than three (3) repeating elements as follows:
 - (i) Color change;
 - (ii) Texture change;
 - (iii) Material module change;
 - (iv) An expression of architectural or structural bays through a change in plane no less than 12 inches in width and 3 inches in depth, such as an offset, reveal or projecting rib.
- (8) Roofs for the retail center and the retail outlots shall have no less than two (2) of the following features:
 - (i) The average height of such roof area shall not exceed 15 percent of the height of the supporting wall and such parapets shall not at any point exceed 1/3 of the height of the supporting wall, with the exception that in all cases parapets, pitched or sloped roof elements shall be tall enough to screen roof-mounted mechanical

equipment as viewed from 116th Street. Such roof features shall contain three-dimensional cornice treatment;

- (ii) Overhanging eaves, extending no less than three (3) feet past the supporting walls;
- (iii) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to four inches of vertical rise for 12 inches of horizontal run and less than or equal to 16 inches of vertical rise for every 12 inches of horizontal run;
- (iv). Three (3) or more roof slope planes.

In all cases roof-mounted equipment shall be screened from public view, and dormers may be incorporated into roofs if architecturally appropriate.

- (9) Buildings on any two (2) adjacent lots, located along an access drive, shall exhibit one of the following characteristics:
 - (i) Appearance of Significantly Different Roof Lines. For example, if one building has a flat roof with a mansard or parapet treatment, adjacent buildings shall have the appearance, when viewed from the front elevation, of a pitched roof with hip or gable ends.
 - (ii) Significantly Different Building Height. For example, if two (2) adjacent buildings have similar roof structures or forms, there shall be a building height difference of no less than five feet; or, a minimum offset of five feet in height for the primary horizontal line (i.e., the main horizontal line of a mansard or parapet treatment, or the soffit line for a pitched roof).
- (10) Materials and colors
 - (i) Predominant exterior building materials shall be high-quality materials, including, but not limited to brick, limestone, other native stone and tinted/textured concrete masonry units.
 - (ii) Façade colors shall be low reflectance, subtle, neutral or earth tone colors. The use of high-intensity colors, metallic colors, black or fluorescent colors shall be prohibited.
 - (iii) Building trim and accent areas may feature brighter colors, including primary colors, but neon tubing shall not be an acceptable feature for building trim or accent areas.
 - (iv) Exterior building materials shall not include standard-faced (plain) concrete block, tilt-up concrete panels, or prefabricated steel panels.
 - (v) Reflective or mirrored glass is prohibited. Insulating and Low-E glazing is encouraged.

- (vi) In no case shall exterior EIFS material be within 12" of grade.
 - (vii) In no case shall the pitch of shingled roofs be less than 4:12 or more than 16:12.
 - (viii) Pitched roof areas, roof screens, and parapets shall restrict rooftop equipment such as HVAC units, from public view. Roof screens shall be of approved materials.
 - (ix) Chimney and flues, exposed to view, shall be of wood, masonry, or EIFS.
 - (x) Fabric awnings and canopies shall be permitted in approved locations only.
 - (xi) All exterior material colors shall be submitted to 116 Retail, LLC, or its successor (the "Developer") as the developer of Parcel 17(b) for approval.
- (11) Entryways
- (i) Each retail establishment greater than 20,000 square feet shall have clearly defined, highly visible customer entrances featuring no less than three (3) of the following:
 - (A) Canopies or porticos;
 - (B) Overhangs;
 - (C) Recesses/projections;
 - (D) Arcades;
 - (E) Raised corniced parapets over the door;
 - (F) Peaked roof forms;
 - (E) Arches;
 - (F) Architectural details such as tile work and moldings which are integrated into the building structure and design;
 - (G) Integral planters or wing walls that incorporate landscaped areas and/or places for sitting.
 - (ii) All building facades that are visible from adjoining properties and/or public streets shall comply with the requirements of Items one (1) through nine (9).
 - (iii) Retail establishments less than 20,000 square feet shall incorporate a minimum of (1) entrance feature from items (A) through (G) above.
- (12) Pedestrian circulation
- (i) A continuous internal pedestrian walkway along the south side of the retail center and outlots, no less than eight (8) feet in width, shall be provided. In addition,

other pedestrian walkways shall be installed to connect to any restaurants and/or multi-tenant buildings from the primary internal pedestrian walkways. These pedestrian walkways shall be connected at three (3) locations to pedestrian walkways made of natural materials along the bermed seating area of the athletic fields. Focal points of pedestrian activity such as, but not limited to, street crossings, building and store entry points, shall feature adjoining landscaped areas that include trees, shrubs, benches, lower beds and/or ground cover.

- (ii) Sidewalks, no less than five feet in width, shall be provided along the full length of all retail and office buildings along any façade featuring a customer entrance, and along any façade abutting public parking areas. Such sidewalks located along any façade featuring a customer entrance shall include periodic planting beds.
 - (iii) All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as but not limited to pavers, bricks or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.
- (13) Trash removal, compaction, service vehicles, deliveries, parking lot sweepers, etc. shall not be permitted between the hours of 12:00 midnight and 6:00 a.m. with the exception of snow removal. Furthermore, no loading dock area may face an adjacent residential area.

C. Signage

- (1) All wall signage shall be reverse channel letter neon with internal illumination, or shall be externally illuminated via ground or wall mounted lamps, or shall be non-illuminated. Blade signage is allowed under canopies.
- (2) Signage may be building-mounted, suspended, or adhered to glass/storefronts and shall compliment the architecture of the buildings in regard to materials, colors, and proportion.
- (3) All other signage requirements shall be in conformance with Chapter 158 of the Fishers Sign Code.
- (4) Ground signs shall be architecturally compatible with buildings and be constructed of similar materials and color patterns. Ground signs shall be restricted to have internal illumination only of the individual letters on the sign and not of the entire panel.
- (5) All signage shall be submitted to the Developer for approval.

D. Lighting

- (1) Limit to 0.5-foot candles at the property line, except those areas containing an egress/ingress to an adjoining public road.
- (2) No greater than a 20 to 1 ratio of lighting with a ten (10) foot-candle maximum on site, except under canopies or drive-throughs which shall be no greater than fifty (50) foot-candles of illumination.

- (3) Light poles shall be limited to twenty-five (25) feet in height.
- (4) Light fixtures shall be decorative along the entrance drives and along public rights-of-way approved as part of the overall architecture, but overall site illumination into the atmosphere shall be restricted through the use of shields on the fixture to include a horizontal lamp and no more than 180-degree angle of light.
- (5) Cutoff fixtures shall be used to prevent glare to adjacent residential areas.

E. Landscaping

- (1) All landscaping not defined in this ordinance shall be required as in Chapter 162 of Title XV of the Fishers Code of Ordinances.
- (2) A 15-foot landscape easement is required between the Commercial Area and the south side of 116th Street, the Commercial Area and the east side of Hoosier Road, exclusive of driveways and parking areas. Entrance drives may cross the area at a 90-degree angle.
- (3) A “living fence” is to be installed as a bufferyard between the Parcel 17(b) and adjacent property to the east. Trees shall be planted no more than 20 feet apart with three (3) canopy trees and three (3) evergreen trees per 100 lineal feet. All trees must be planted in the setback between five (5) and fifteen (15) feet from the property line. Mounding area shall be a minimum of three (3) feet for no more than 60% of this area.
- (4) Six (6) street trees and ten (10) shrubs are required for every 100 lineal feet along 116th Street and can be placed within the 15-foot landscape easement.
- (5) A decorative fence no greater than 36 inches tall, made of wrought iron or painted aluminum with a repeating pattern of stone columns may be installed along the entire length of 116th Street at the option of the Developer. The stone columns shall be of the same color and material as the monument signage at the entrance and both are shown on **Exhibit D**.

F. Accessory uses

- (1) Dumpster and trash compactors shall be enclosed by a masonry enclosure that is 8'-0" above adjacent grade, but in no event less than 1'-0" taller than the dumpster receptacle and gated with an opaque gate assembly.
- (2) Accessory structures including trash dumpster and compactors are not permitted within any front yard or within any side or rear yard setback requirements.
- (3) No outdoor sales areas are permitted unless surrounded by a permanent structure consistent with material of the building, except for temporary sales of seasonal products such as flowers or the sale of food from a restaurant that is located in a permanent structure located on Parcel 17b.

- (4) Permanent outdoor display areas are permitted provided that they are surrounded by a combination of 2.5-foot tall masonry wall or wrought iron fencing or combination of the two.

G. Other Requirements

- (1) Any other requirements not specified by this PUD Ordinance Amendment shall be subject to Chapter 151.074 C2 Commercial District of the Zoning Ordinance.
- (2) The development plan approval for this proposal must follow the procedural requirements for PUDs in general under the Zoning Ordinance, i.e., Detailed Development Plan approval by the Advisory Plan Commission and PUD Committee. In addition, the Detailed Development Plan shall substantially comply with the conceptual plan attached as **Exhibit D** and the architectural renderings attached as **Exhibit E**, with respect to the final layout and visual style. Any substantial change in a proposed Detailed Development Plan from the conceptual plan or architectural renderings shall require a further amendment to the Hamilton Proper PD by the Town Council after recommendation by the Plan Commission in accordance with all applicable statutes and ordinances.

6. Except for the provisions of this Ordinance to the contrary, all other applicable provisions of the Zoning Ordinance of Fishers, Indiana applicable to development of real estate located in a C-2 District Shall apply.

7. The Hamilton Proper PD, as hereby amended, shall remain in full force and effect. In the event of a conflict between the provisions of the Hamilton Proper PD and this Ordinance, the provisions of this Ordinance shall control.

8. This Ordinance shall be in full force and effect from and after its passage by the Town Council. All provisions or parts thereof in conflict herewith are hereby repealed.

ADOPTED BY The Town of Council of the Town of Fishers, Indiana on this ___ day of _____, 200__.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

BY: Scott A. Faultless

Scott A. Faultless,
President

BY: Eileen N. Pritchard

Eileen N. Pritchard,
Vice President

BY: Stuart Easley

Stuart Easley,
Member

BY: Daniel E. Henke

Daniel E. Henke,
Member

BY: Charles P. White

Charles P. White,
Member

BY: _____

David C. George,
Member

BY: Arthur J. Levine

Arthur J. Levine,
Member

ATTEST: Linda Gaye Cordell

Linda Gaye Cordell, Clerk-Treasurer, Town of Fishers, Indiana

DATE: 12-18-06

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

This Document Prepared by Timothy E. Ochs, Esq., ICE MILLER, One American Square, Box 82001, Indianapolis, IN 46282-0200; Telephone: (317) 236-2100

EXHIBIT A

HAMILTON PROPER DEVELOPMENT PARCEL 17 (OVERALL)

A parcel of land in the North Half of the Northeast Quarter of Section 4, Township 17 North, Range 5 East of the Second Principal Meridian, Fall Creek Township, Hamilton County, Indiana, described as follows:

To fix the point of beginning, commence at the Northwest corner of said Northeast Quarter; thence North 89 degrees 12 minutes 32 seconds East (basis of bearings is derived from instrument number 9502169, Hamilton County Records), on the North line of said Northeast Quarter, 200.34 feet to the Southwest corner of the Southeast Quarter of Section 33, Township 18 North, Range 5 East, Hamilton County, Indiana, said point being the **POINT OF BEGINNING**; thence North 89 degrees 14 minutes 29 seconds East, continuing on said North line, 2,040.60 feet to the Northwest corner of a parcel of land described in Deed Record 339, Page 705, Hamilton County Records, said line also being the West line of Booth Acres as recorded in Instrument Number 9104006, Hamilton County Records; thence South 00 degrees 06 minutes 09 seconds West, on the West line of said parcel, 594.33 feet to a point in the centerline of Mud Creek (the following eighteen (18) courses being along said centerline); (1) thence South 62 degrees 57 minutes 57 seconds West a distance of 75.49 feet; (2) thence South 83 degrees 23 minutes 43 seconds West a distance of 93.34 feet; (3) thence North 62 degrees 41 minutes 04 seconds West a distance of 50.71 feet; (4) thence North 86 degrees 54 minutes 31 seconds West a distance of 40.50 feet; (5) thence South 63 degrees 43 minutes 11 seconds West a distance of 72.15 feet; (6) thence North 74 degrees 51 minutes 54 seconds West a distance of 70.22 feet; (7) thence South 68 degrees 09 minutes 38 seconds West a distance of 68.85 feet; (8) thence North 86 degrees 24 minutes 02 seconds West a distance of 94.60 feet; (9) thence South 83 degrees 27 minutes 19 seconds West a distance of 112.44 feet; (10) thence North 85 degrees 12 minutes 09 seconds West a distance of 75.93 feet; (11) thence South 84 degrees 06 minutes 35 seconds West a distance of 94.37 feet; (12) thence South 64 degrees 05 minutes 01 seconds West a distance of 22.46 feet; (13) thence South 88 degrees 16 minutes 07 seconds West a distance of 44.99 feet; (14) thence South 87 degrees 04 minutes 48 seconds West a distance of 671.21 feet; (15) thence North 89 degrees 33 minutes 39 seconds West a distance of 145.30 feet; (16) thence South 83 degrees 24 minutes 32 seconds West a distance of 255.54 feet; (17) thence North 89 degrees 14 minutes 01 seconds West a distance of 222.16 feet; (18) thence South 86 degrees 02 minutes 55 seconds West a distance of 25.01 feet to the centerline of Hoosier Road (the following three (3) courses being along said centerline); (1) thence North 18 degrees 37 minutes 11 seconds East a distance of 424.99 feet to the point of curvature of a tangent curve concave Northwesterly having a central angle of 19 degrees 24 minutes 39 seconds and a radius of 500.00 feet; (2) thence Northeasterly along the arc of said curve a distance of 169.39 feet (said arc being subtended by a chord having a bearing of North 08 degrees 54 minutes 51 seconds East and a length of 168.58 feet); (3) thence North 00 degrees 47 minutes 28 seconds West a distance of 139.49 feet to the **Point of beginning**, containing 31.96 acres, more or less and subject to rights-of-way, easements and restrictions of record.

EXHIBIT B

HAMILTON PROPER DEVELOPMENT PARCEL 17-A

A parcel of land in the North Half of the Northeast Quarter of Section 4, Township 17 North, Range 5 East of the Second Principal Meridian, Fall Creek Township, Hamilton County, Indiana, described as follows:

To fix the point of beginning, commence at the Northwest corner of said Northeast Quarter; thence North 89 degrees 12 minutes 32 seconds East (basis of bearings is derived from instrument number 9502169, Hamilton County Records), on the North line of said Northeast Quarter, 200.34 feet to the Southwest corner of the Southeast Quarter of Section 33, Township 18 North, Range 5 East, Hamilton County, Indiana, said point being the **POINT OF BEGINNING**; thence North 89 degrees 14 minutes 29 seconds East, continuing on said North line, 2,040.60 feet to the Northwest corner of a parcel of land described in Deed Record 339, Page 705, Hamilton County Records, said line also being the West line of Booth Acres as recorded in Instrument Number 9104006, Hamilton County Records; thence South 00 degrees 06 minutes 09 seconds West, on the West line of said parcel, 594.33 feet to a point in the centerline of Mud Creek (the following eighteen (18) courses being along said centerline); (1) thence South 62 degrees 57 minutes 57 seconds West a distance of 75.49 feet; (2) thence South 83 degrees 23 minutes 43 seconds West a distance of 93.34 feet; (3) thence North 62 degrees 41 minutes 04 seconds West a distance of 50.71 feet; (4) thence North 86 degrees 54 minutes 31 seconds West a distance of 40.50 feet; (5) thence South 63 degrees 43 minutes 11 seconds West a distance of 72.15 feet; (6) thence North 74 degrees 51 minutes 54 seconds West a distance of 70.22 feet; (7) thence South 68 degrees 09 minutes 38 seconds West a distance of 68.85 feet; (8) thence North 86 degrees 24 minutes 02 seconds West a distance of 94.60 feet; (9) thence South 83 degrees 27 minutes 19 seconds West a distance of 112.44 feet; (10) thence North 85 degrees 12 minutes 09 seconds West a distance of 75.93 feet; (11) thence South 84 degrees 06 minutes 35 seconds West a distance of 94.37 feet; (12) thence South 64 degrees 05 minutes 01 seconds West a distance of 22.46 feet; (13) thence South 88 degrees 16 minutes 07 seconds West a distance of 44.99 feet; (14) thence South 87 degrees 04 minutes 48 seconds West a distance of 671.21 feet; (15) thence North 89 degrees 33 minutes 39 seconds West a distance of 145.30 feet; (16) thence South 83 degrees 24 minutes 32 seconds West a distance of 255.54 feet; (17) thence North 89 degrees 14 minutes 01 seconds West a distance of 222.16 feet; (18) thence South 86 degrees 02 minutes 55 seconds West a distance of 25.01 feet to the centerline of Hoosier Road (the following three (3) courses being along said centerline); (1) thence North 18 degrees 37 minutes 11 seconds East a distance of 424.99 feet to the point of curvature of a tangent curve concave Northwesterly having a central angle of 19 degrees 24 minutes 39 seconds and a radius of 500.00 feet; (2) thence Northeasterly along the arc of said curve a distance of 169.39 feet (said arc being subtended by a chord having a bearing of North 08 degrees 54 minutes 51 seconds East and a length of 168.58 feet); (3) thence North 00 degrees 47 minutes 28 seconds West a distance of 139.49 feet to the **Point of beginning**, containing 31.96 acres, more or less and subject to rights-of-way, easements and restrictions of record.

LESS THE FOLLOWING

A parcel of land in the North Half of the Northeast Quarter of Section 4, Township 17 North, Range 5 East of the Second Principal Meridian, Fall Creek Township, Hamilton County, Indiana, described as follows:

To fix the point of beginning, commence at the Northwest corner of said Northeast Quarter; thence North 89 degrees 12 minutes 32 seconds East (basis of bearings is derived from instrument number 9502169, Hamilton County Records), on the North line of said Northeast Quarter, 200.34 feet to the Southwest corner of the Southeast Quarter of Section 33, Township 18 North, Range 5 East, Hamilton County, Indiana; thence North 89 degrees 14 minutes 29 seconds East, continuing on said North line, 355.79 feet to the point of beginning of this description; thence continuing North 89 degrees 14 minutes 29 seconds East, on said North line, 1684.81 feet to the Northwest corner of a parcel of land described in Deed Record 339, Page 705, Hamilton County Records, said line also being the West line of Booth Acres as recorded in Instrument Number 9104006, Hamilton County Records; thence South 00 degrees 06 minutes 09 seconds West, on the West line of said parcel, 335.07 feet;

thence South 89 degrees 14 minutes 29 seconds West, parallel with said North line, 1679.84 feet; thence North 00 degrees 45 minutes 31 seconds West perpendicular to said North line, 335.00 feet to the point of beginning, containing 12.939 acres, more or less and subject to rights-of-way, easements and restrictions of record.

EXHIBIT C

HAMILTON PROPER DEVELOPMENT PARCEL 17-B

A parcel of land in the North Half of the Northeast Quarter of Section 4, Township 17 North, Range 5 East of the Second Principal Meridian, Fall Creek Township, Hamilton County, Indiana, described as follows:

To fix the point of beginning, commence at the Northwest corner of said Northeast Quarter; thence North 89 degrees 12 minutes 32 seconds East (basis of bearings is derived from instrument number 9502169, Hamilton County Records), on the North line of said Northeast Quarter, 200.34 feet to the Southwest corner of the Southeast Quarter of Section 33, Township 18 North, Range 5 East, Hamilton County, Indiana; thence North 89 degrees 14 minutes 29 seconds East, continuing on said North line, 355.79 feet to the point of beginning of this description; thence continuing North 89 degrees 14 minutes 29 seconds East, on said North line, 1684.81 feet to the Northwest corner of a parcel of land described in Deed Record 339, Page 705, Hamilton County Records, said line also being the West line of Booth Acres as recorded in Instrument Number 9104006, Hamilton County Records; thence South 00 degrees 06 minutes 09 seconds West, on the West line of said parcel, 335.07 feet; thence South 89 degrees 14 minutes 29 seconds West, parallel with said North line, 1679.84 feet; thence North 00 degrees 45 minutes 31 seconds West perpendicular to said North line, 335.00 feet to the point of beginning, containing 12.939 acres, more or less and subject to rights-of-way, easements and restrictions of record.

EXHIBIT D

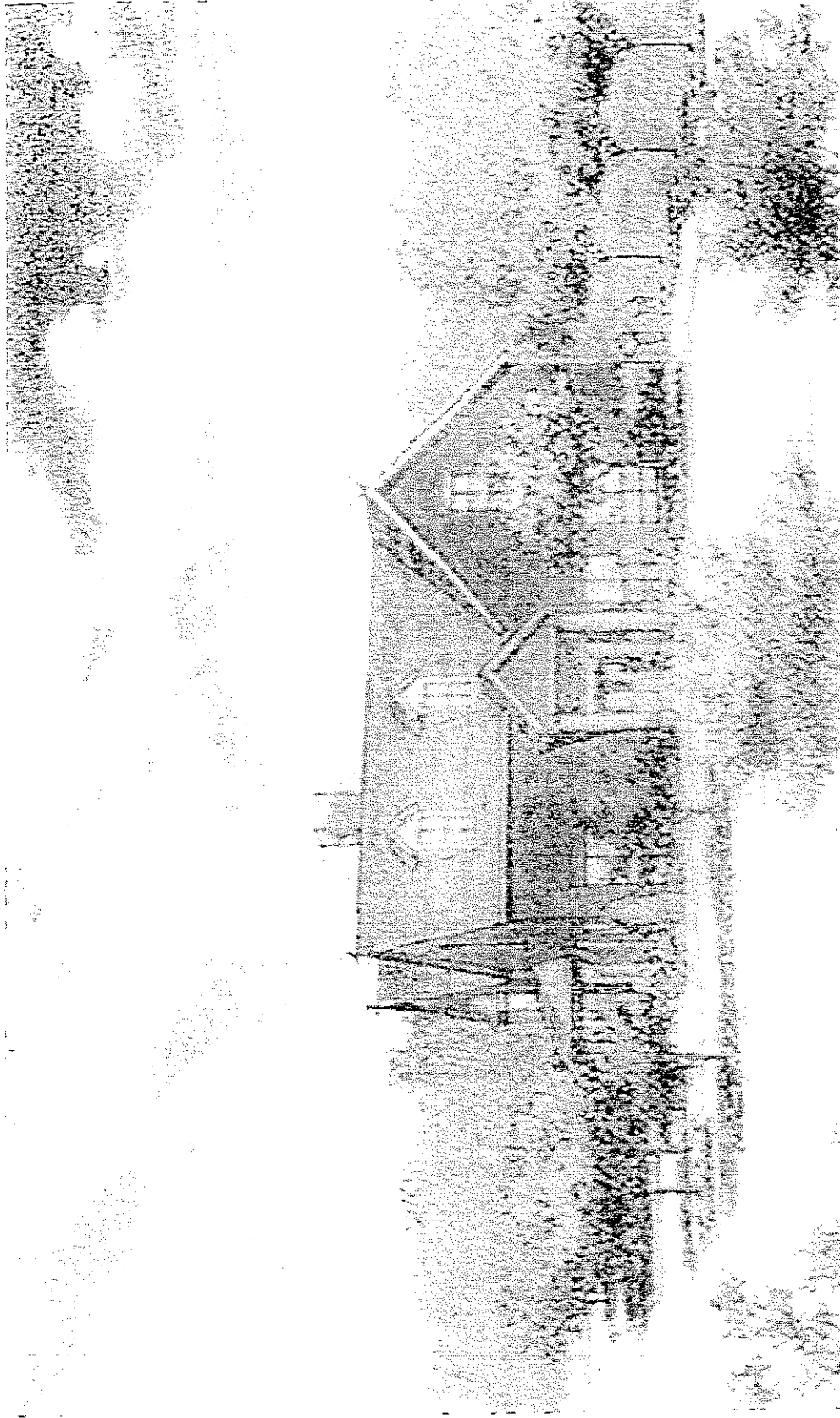
SITE PLAN

[See following page]

EXHIBIT D

Renderings of Buildings

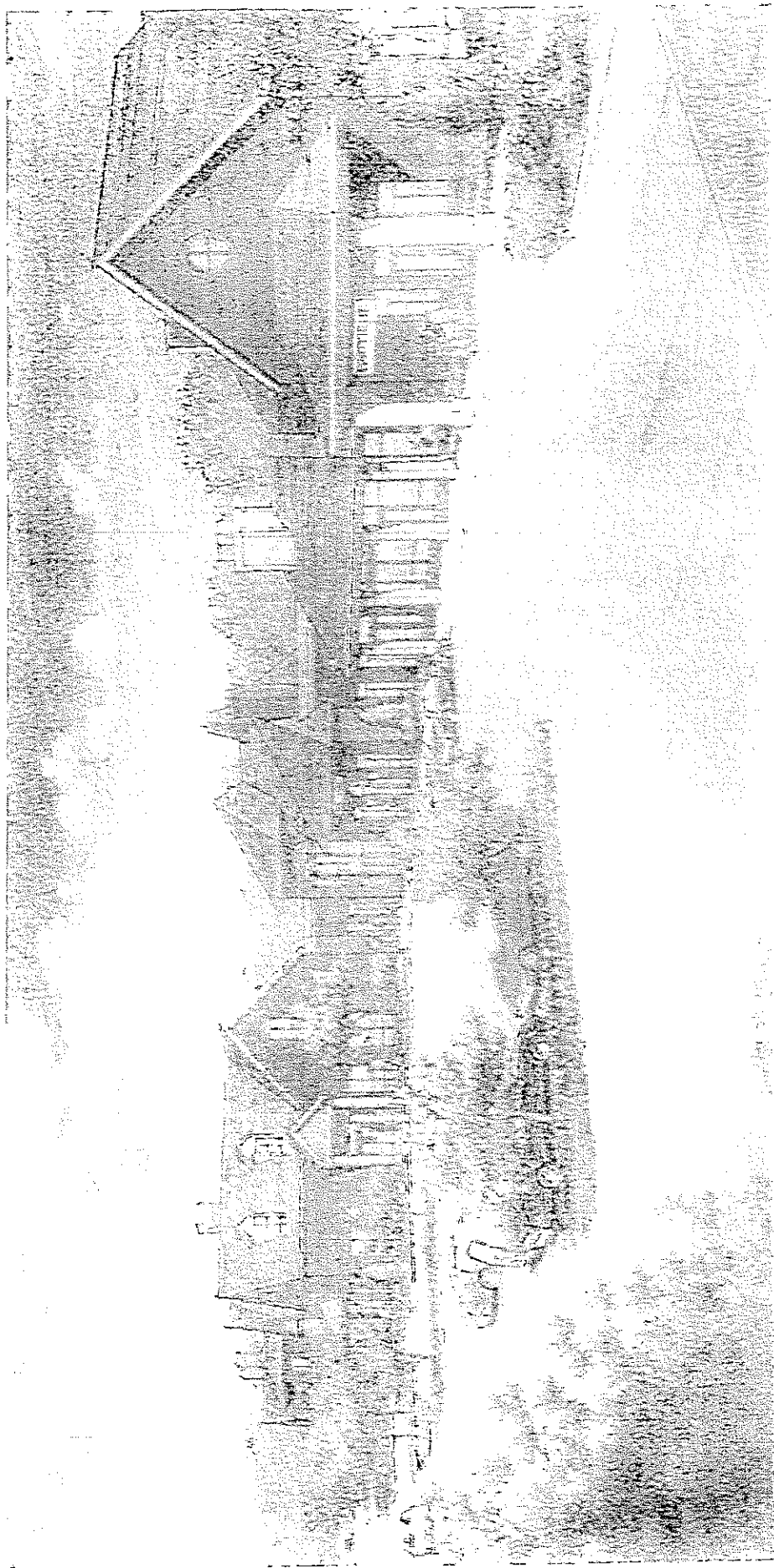
[See following pages]



Hamilton Proper Lifestyle Development

W. W. MANOUR

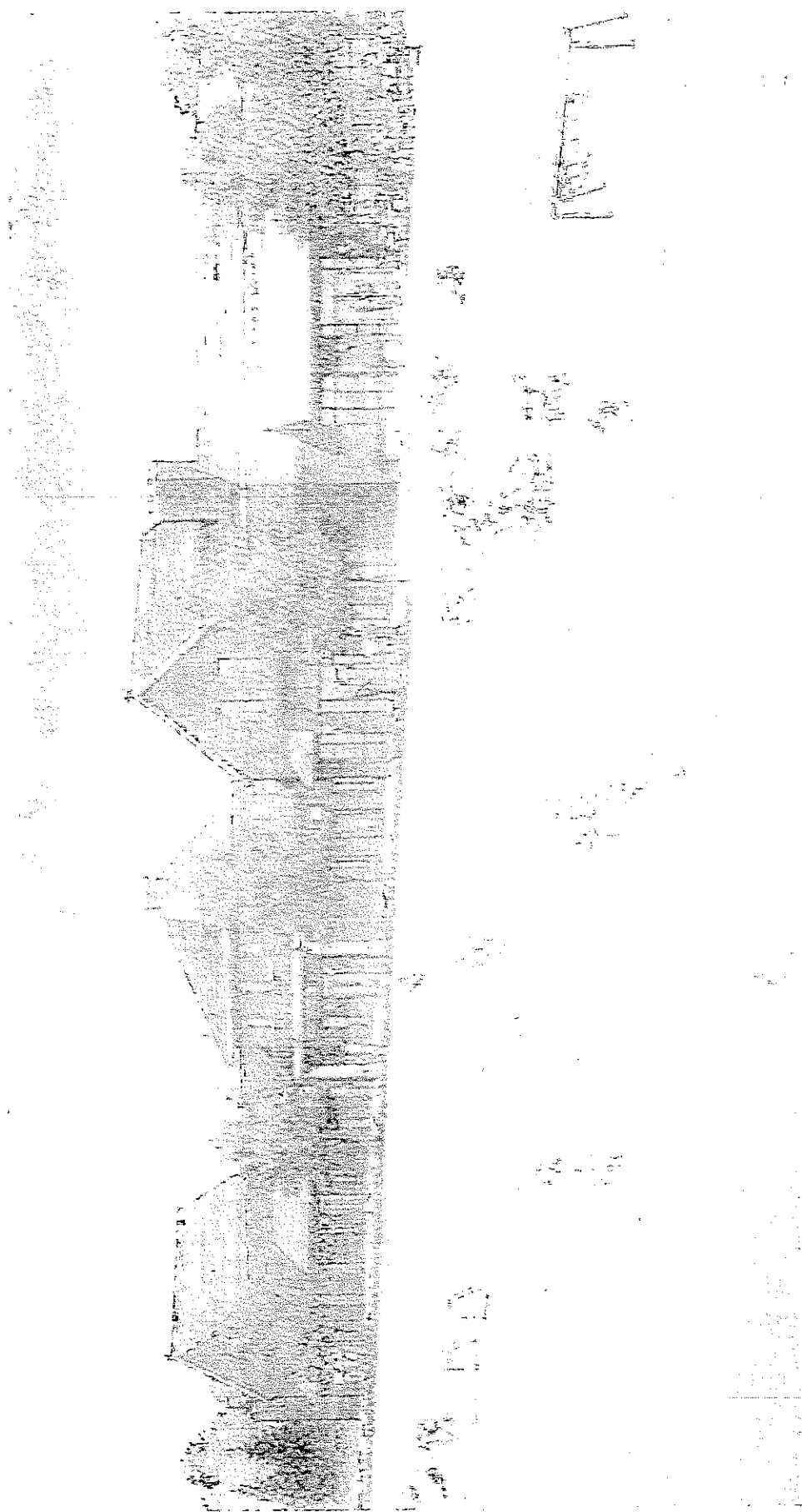
*Sample Outlot Development
September 13, 2005*



Hamilton Proper Lifestyle Development

MANSUR

North Generation
August 8, 2005



Hamilton Proper Lifestyle Development

MIANSUR

Hamilton Proper - Ord 091806

