

## **ORDINANCE NO. 100305D**

### **AN ORDINANCE AMENDING THE ZONING ORDINANCE OF FISHERS, INDIANA - 1980.**

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF FISHERS, INDIANA - 1980. BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FISHERS, INDIANA, THAT THE ZONING ORDINANCE, A PART OF THE COMPREHENSIVE PLAN AND ORDINANCE - 1980, ORDINANCE NO. 110380, AS AMENDED, IS HEREBY AMENDED AS FOLLOWS:

#### **SECTION 1. DECLARATION**

That the text of the Zoning Code of the Town of Fishers, Indiana, Ordinance No. 110380, and the Official Zoning Map, Town of Fishers, Indiana, dated November 3, 1980, which accompanies and is part of the Zoning Code of the Town of Fishers, Indiana, as amended, and Fishers Ordinance No. 042103A and 042103B are hereby amended as follows:

That the Zoning Classification of the following described Real Estate is hereby zoned as PUD-R and this ordinance shall hereinafter be referred to as the Somerset Hills PUD Ordinance.

SEE "EXHIBIT 1" ATTACHED HERETO.

#### **SECTION 2. PURPOSE AND INTENT**

The purpose and intent of this PUD-R is to provide an innovative residential development which promotes creativity and flexibility in the development of the Real Estate.

#### **SECTION 3. LAND USE**

All uses of the R-3 zoning classification are permitted.

#### **SECTION 4. DEVELOPMENT STANDARDS.**

Except as varied by the development standards set forth in the Development Guidelines, attached hereto as "Exhibit 2" and adopted as part of this ordinance, the development standards shall be the same as the standards set out in Section 151.064 R3 Residential District of the Zoning Code. The signage, landscaping, parking and all other applicable development standards of the Land Use Code shall apply.

#### **SECTION 5. CONCEPTUAL DEVELOPMENT PLAN.**

The concept plan is attached hereto as "Exhibit 3" is adopted as part of this ordinance.

## SECTION 6. OTHER REQUIREMENTS.

Any other requirements not specified by this PUD Ordinance shall be subject to Section 151.064 R3 Residential District.

## SECTION 7. PROCEDURES.

The adoption of this ordinance and the subsequent consideration of any detailed and final development Plan shall be consistent and pursuant to the provisions of the Planned Unit Development process as set forth in Section 151.072 Planned Unit Development District.

## SECTION 8. APPROVAL

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

## SECTION 9. WRITTEN COMMITMENTS

A copy of the Commitments Concerning the Use and Development of Real Estate, attached hereto as "Exhibit 4", must be recorded with the Hamilton County Recorder's office upon approval of this PUD District, and a verification of the recorded document must be submitted to the Department of Development and the Clerk-Treasurer.

ADOPTED BY THE Town Council of the Town of Fishers, Indiana on this 3<sup>rd</sup> day of January, 2006.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

BY:

Scott A. Faultless

Scott A. Faultless,  
President

Eileen N. Pritchard

Eileen N. Pritchard,  
Vice President

Timothy O. Lima

Timothy O. Lima,  
Member

Stuart F. Easley

Stuart F. Easley,  
Member

Dan E. Henke

Dan E. Henke,  
Member

Charles P. White

Charles P. White,  
Member

David C. George  
Member

David C. George

ATTEST:

Linda Gaye Cordell

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

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

Prepared by: Steven D. Hardin, Esq.  
Bingham McHale LLP  
970 Logan Street  
Noblesville, IN 46060  
(317) 776-8668

## LAND DESCRIPTION

Part of the East Half of the Northeast Quarter of Section 13, Township 18 North, Range 5 East, Hamilton County, Indiana, and being more particularly described as follows: Beginning at the Northeast corner of said half-quarter Section; thence South 0 degrees 03 minutes 06 seconds West (assumed basis of bearings) along the East line of said half-quarter section 680.22 feet; thence South 69 degrees 31 minutes 03 seconds West 283.57 feet; thence North 0 degrees 50 minutes 00 seconds East 680.09 feet to the North line of said half-quarter section; thence North 89 degrees 27 minutes 32 seconds East along said North line, 274.30 feet to the point of beginning.

ALSO INCLUDING: Part of the East Half of the Northeast Quarter of the Section 33, Township 18 North, Range 5 East, Hamilton County, Indiana, and being more particularly described as follows: Beginning at a point on the East line of said half-quarter section being South 0 degrees 03 minutes 06 seconds West (assumed basis of bearings) 680.22 feet from the Northeast corner thereof; thence south 0 degrees 03 minutes 06 seconds West along East line 1969.35 feet to the Southeast corner thereof; thence South 89 degrees 21 minutes 26 seconds West along the South line of said half-quarter section, 440.46 feet; thence North 0 degrees 03 minutes 17 seconds East 2650.36 feet to the North line of said half-quarter section; thence North 89 degrees 27 minutes 32 seconds East along said North line, 166.01 feet to a point South 89 degrees 27 minutes 32 seconds West 274.30 feet from the Northeast corner of said half-quarter section; thence South 0 degrees 50 minutes 00 seconds West 680.09 feet; thence North 89 degrees 31 minutes 03 seconds East 283.57 feet to the point of beginning.

ALSO INCLUDING: Part of the Northeast Quarter of Section 33, Township 18 North, Range 5 East of the Second Principal Meridian in Fall Creek Township, Hamilton County, Indiana described as follows: Beginning at a point on the North line of the Northeast Quarter of Section 33, Township 18 North, Range 5 East that is 440.31 feet measured South 89 degrees 15 minutes 04 West (assumed bearing) on said North line from the Northeast corner of said Northeast Quarter; thence South 00 degrees 01 minute 39 seconds East 2650.10 feet to a point on the South line of said Northeast Quarter that is 440.46 feet West of the Southeast corner of said Northeast Quarter; thence South 89 degrees 08 minutes 28 seconds West on the South line of said Northeast Quarter 879.73 feet to the West line of the East Half of said Northeast Quarter; thence North 00 degrees 03 minutes 22 seconds West on the West line of said East Half 1944.90 feet to a point that is 706.87 feet South of the Northwest corner of said East Half, said point being the Southwesterly corner of real estate described in a Warranty Deed recorded as Instrument Number 9406778 in the Office of the Recorder of Hamilton County, Indiana; (the following four courses being on the Southerly and Easterly lines of said real estate) 1.) thence North 87 degrees 17 minutes 35 seconds East 368.56 feet; 2.) thence North 01 degree 17 minutes 04 seconds West 250.95 feet; 3.) thence North 87 degrees 07 minutes 02 seconds West 68.52 feet; 4.) thence North 00 degrees 07 minutes 27 seconds East 429.00 feet to a point on the North line of said Northeast Quarter that is 1025.82 feet West of the Northeast corner of said Northeast Quarter; thence North 89 degrees 15 minutes 04 seconds East on the North line of said Northeast Quarter 585.51 to the place of beginning, containing 48.394 acres, more or less.

## ALSO INCLUDING:

Part of the West Half of the Northeast Quarter of Section 33, Township 18 North, Range 5 East, Hamilton County, Indiana, and being more particularly described as follows: Beginning at a point on the West line of said half-quarter section being South 0 degrees 02 minutes 34 seconds West 839.33 feet from the Northwest corner thereof; thence North 89 degrees 44 minutes 34 seconds East 1320.94 feet to a point on the East line of said half-quarter section, said point being South 0 degrees 04 minutes 35 seconds West, along east line, 844.88 feet from the Northeast corner thereof; thence South 0 degrees 04 minutes 35 seconds West along said east line 165.00 feet; thence South 89 degrees 44 minutes 34 seconds West 1320.84 feet to the West line of said half-quarter section; thence North 0 degrees 02 minutes 34 seconds East along said west line 165.00 feet to the point of beginning and containing 5.003 acres, more or less. Subject to right of way for Hoosier Road off the entire West side thereof and all other legal easements and rights of way of record.

## ALSO INCLUDING:

Part of the West Half of the Northeast Quarter of Section 33, Township 18 North, Range 5 East, Hamilton County, Indiana, and being more particularly described as follows: Beginning at a point on the West line of said half-quarter section being South 0 degrees 02 minutes 34 seconds West 1004.33 feet from the Northwest corner thereof; thence North 89 degrees 44 minutes 34 seconds East 1320.84 feet to a point on the East line of said half-quarter section, said point being South 0 degrees 04 minutes 35 seconds West, along said east line, 1009.88 feet from the Northeast corner thereof; thence South 0 degrees 04 minutes 35 seconds West along said east line 330.00 feet; thence South 89 degrees 44 minutes 34 seconds West 1320.65 feet to the West line of said half-quarter section; thence North 0 degrees 02 minutes 34 seconds East along said West line 330.00 feet to the point of beginning and containing 10.006 acres, more or less. Subject to right of way for Hoosier Road off the entire West side thereof and all other legal easements and rights of way of record.

## Somerset Hills PUD Development Guidelines

Maximum Lots	162 188
Minimum Lot Area	9750 square feet
Minimum Lot Width at the building set back line	75'
Minimum Lot Depth	130'
Front Yard Setback	25'
Side Yard Setback	5' minimum set back 15' building separation 15' total setback per lot
Rear Yard Setback	30'
Minimum Lot Frontage (Measured at Right of Way)	20'
Minimum Floor Area (excluding garages, porches, etc.)	
One-story	1,400
Two-story	1,800
Maximum lot coverage (excluding sidewalks and driveway)	35%
Maximum Building Height	
Primary	35'
Accessory	25'
Off-street Parking Spaces	2
Open Space (includes the open space and amenity area as depicted on the concept plan)	9 12 +/- acres

## COMMITMENTS CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE

GBC Development, LLC (the "Developer") makes the following commitments to the Fishers Advisory Plan Commission (the "Commission") regarding the use and development of the following described real estate (the "Real Estate") located in Hamilton County, Indiana:

**Section 1.**      **Description of Real Estate:**

See Exhibit A attached hereto.

**Section 2.**      **Docket No.:** 10-R-05

**Section 3.**      **Statement of Commitments:**

- A.      Street Trees. Streets shall have street trees on both sides of the street. Street trees shall be placed on average between 40 - 60 feet on center in a planting strip between the street and the sidewalk. The planting strip shall be a minimum of four feet wide. Trees shall be a minimum of two (2) inch caliper, as measured twelve (12) inches from the ground. Trees shall be deciduous and selected from the Town's approved List of Recommended Species.
  
- B.      Architectural Commitments. The homes will be built to meet or exceed the architectural character of the homes in the Rolling Knoll, Weatherstone, and existing Somerset Hills subdivisions, including the following:
  - 1.      Roof Pitch Requirements.
    - i.      All homes in the community shall feature at least a 6/12 primary roof pitch.
  
  - 2.      Landscaping Requirements
    - i.      A minimum of fifteen foundation plantings in front of home.
    - ii.     One 2" caliper tree located in the front yard (outside of planting beds).
  
  - 3.      Miscellaneous Requirements
    - i.      All driveways to be concrete
    - ii.     Public sidewalks on all lots
    - ii.     Uniform dusk to dawn carriage or yard lights as determined by the developer
    - iii.    Uniform mailboxes as determined by the developer

4. Fences. All fences require prior approval by the neighborhood's architectural review committee. No chain link or metal fences with the exception of wrought iron are allowed, except around the swimming pool, athletic facilities and other amenity areas. All fences along 126<sup>th</sup> Street will be of the same design and material.
  5. Exterior Construction. The exteriors of all homes shall be constructed of brick, stone, wood, Hardi-plank and/or heavy gauge vinyl (.040 in.).
  6. Hoosier Road Perimeter Lots. Lots adjacent to Hoosier Road shall have first floor masonry wrap.
- C. Tree Preservation Easement. A tree preservation easement ("Easement") along the north perimeter of the Real Estate shall be recorded at a depth determined by the Development Department and Developer at the time of approval of the Detailed Development Plan. Within the Easement, no trees with a diameter at breast height ("DBH") in excess of 6 inches (6") or evergreens eight feet (8') or more in height (the "Protected Trees") shall be removed unless the tree poses a health or safety risk or is damaged, diseased, dead or is required to be removed in order to provide drainage or utility services or to comply with safety requirements of any governmental agency. If a Protected Tree is damaged or otherwise removed by the Developer or builder, then the Developer or builder (as the case may be) shall reestablish the Protected Tree within the Easement with a tree with at least 2" DBH.

**Section 4. Binding Effect**

- A. These commitments are binding upon the Developer, each subsequent owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless modified or terminated.
- B. These commitments may be modified or terminated only by a decision of the Fishers Town Council following a public hearing held by the Fishers Plan Commission wherein notice has been given as provided by the Plan Commission's rules.

**Section 5. Effective Date**

The commitments contained herein shall be effective upon adoption of an ordinance by the Town Council of Fishers, Indiana assigning the requested PUD-R zoning classification to the real estate identified in Docket No. 10-R-05.

**Section 6. Recording**



## "SOMERSET HILLS"

### STATEMENT OF PURPOSE

GBC Development, LLC ("GBC Development") submits this request to amend the Somerset Hills PUD located at Hoosier Road and 126th Street. Currently Somerset Hills consists of 75 acres +/-, and GBC Development now requests to add an additional 15.010 acres +/- to the existing Somerset Hills PUD (see Tab 2).

The Somerset Hills PUD development standards and commitments are attached at Tab C2 and Tab C4, respectively. The Somerset Hills PUD included a maximum density of approximately 2.2 units per acre (162 lots on 75 acres). The Somerset Hills' density and architectural requirements will also apply to the additional 15 acres. The Somerset Hills commitments also included the commitment that the homes will be built to meet or exceed the architectural character of the homes in the Rolling Knoll, Weatherstone, and existing Somerset Hills subdivisions.

At the December 5<sup>th</sup> Town Council 2<sup>nd</sup> reading, the Town Council raised three issues. Those issues, and GBC's proposed solutions, are set out below:

1. Issue: Will you reduce the maximum number of lots from 195 to 188 (to reflect the actual number of lots platted in the original Somerset Hills (155) plus the additional lots in this new section (33))?  
Response: Yes. (Please see Tab C2)
2. Issue: Can this development commit to enhanced rear home architecture for those homes backing up to Hoosier Road?  
Response: Yes. GBC has revised the PUD Ordinance to require first floor masonry wrap for all homes adjacent to Hoosier Road. (Please see Tab C4)
3. Issue: Will this development address the potential "cut through traffic" through Somerset Hills from 126<sup>th</sup> Street to Hoosier Road?  
Response: Yes. GBC will work with the Development and Engineering Departments to address this potential issue and to implement appropriate traffic calming measures (e.g., additional stop signs, reduced speed limits) during the development plan approval process. Alternatively, GBC has included (at Tab E) an alternative site plan that includes no access onto Hoosier Road.

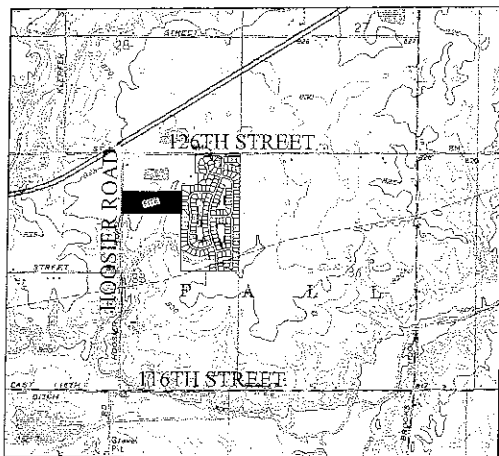
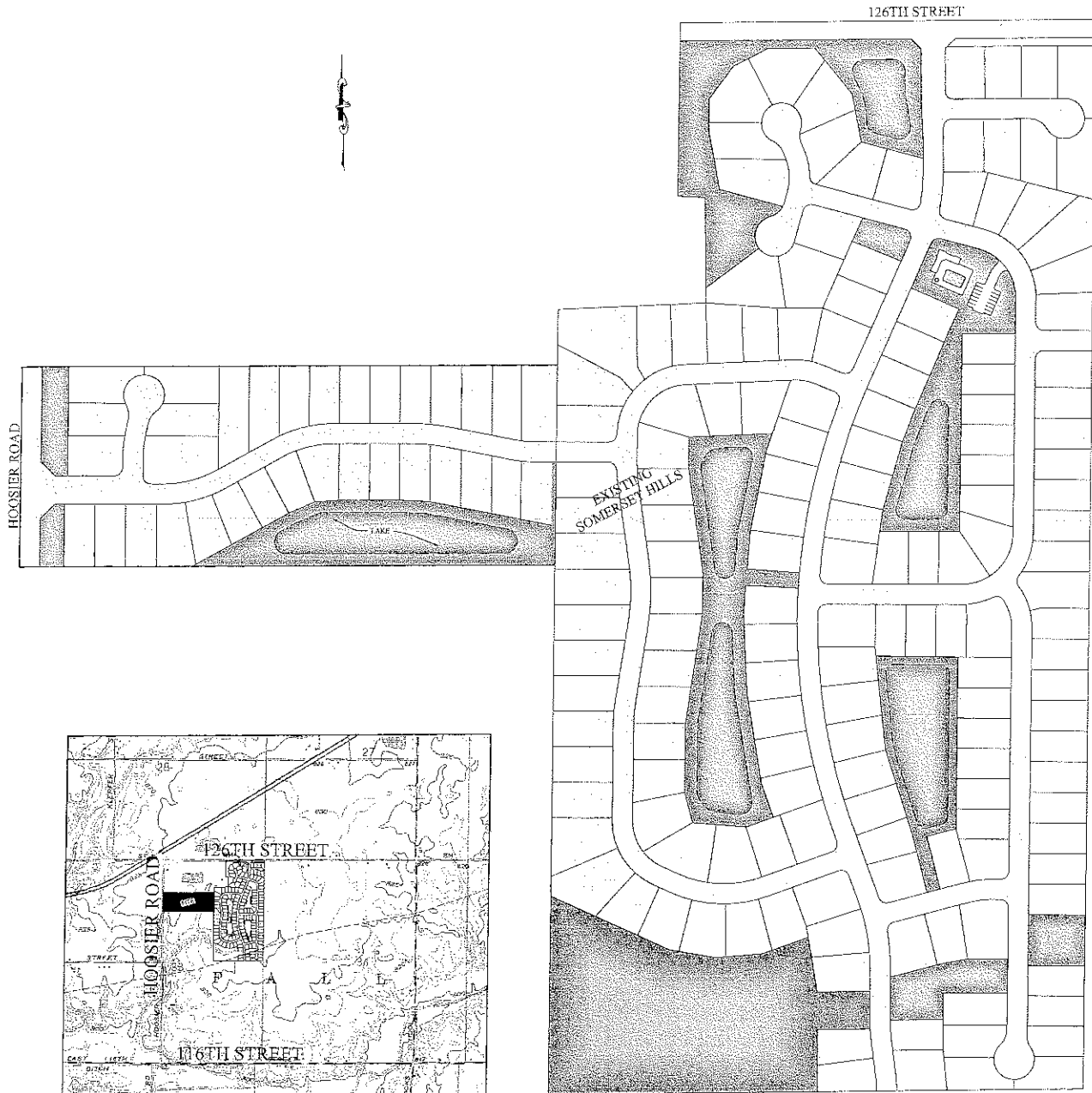
Thank you for your consideration.

# "SOMERSET HILLS"

## AERIAL LOCATION MAP



# CONCEPT PLAN



VICINITY MAP  
(N.T.S.)

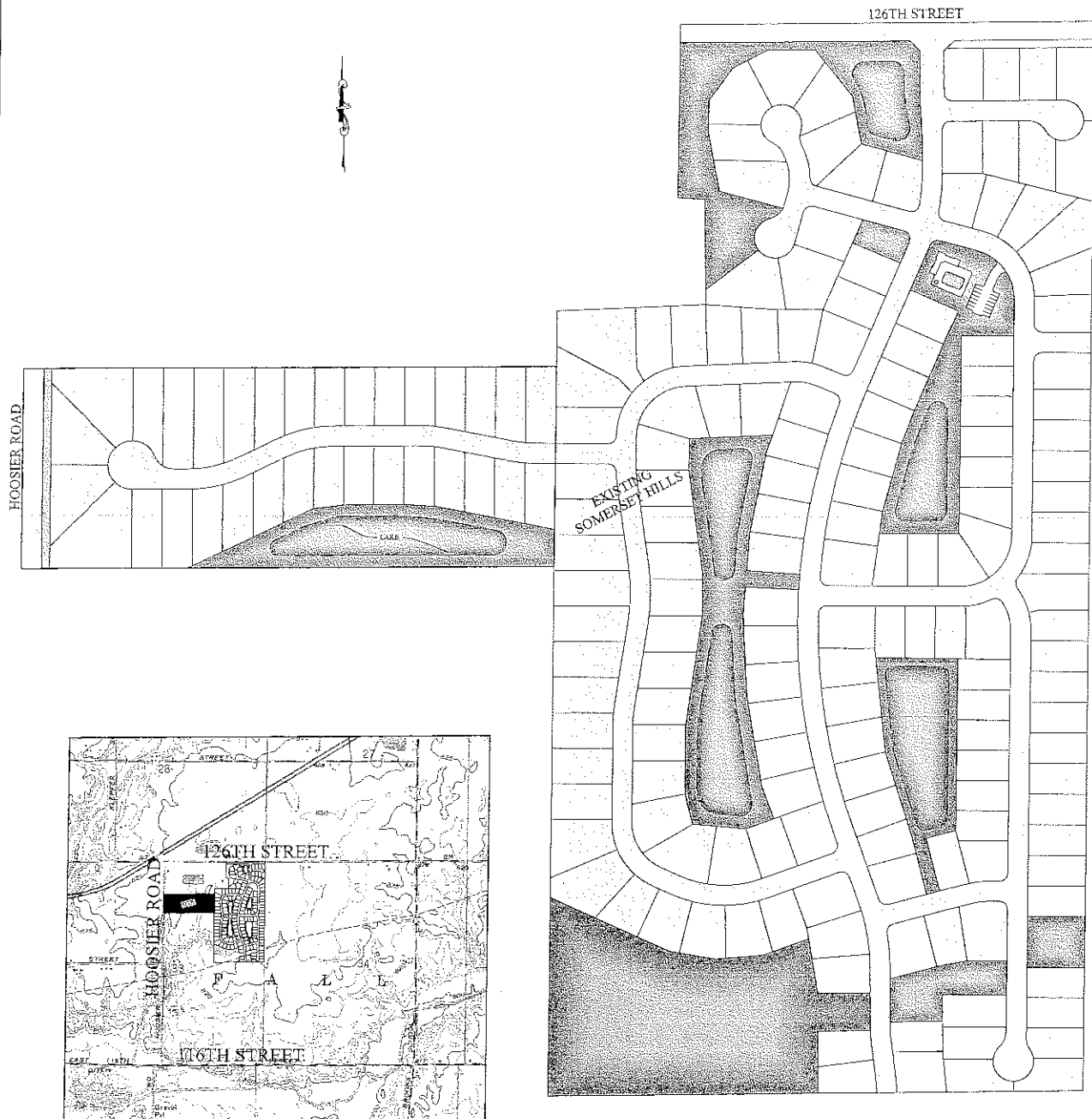


## Development Standard Comparison

	Somerset Hills	R3
Minimum Lot Area	9750 square feet	12,000 square feet
Minimum Lot Width at the building set back line	75'	90'
Minimum Lot Depth	130'	120'
Front Yard Setback	25'	30'
Side Yard Setback	5' minimum set back 15' building separation 15' total setback per lot	10'
Rear Yard Setback	30'	30'
Minimum Floor Area (excluding garages, porches, etc.)		
One-story	1,400	1,400
Two-story	1,800	1,800
Maximum lot coverage (excluding sidewalks and driveway)	35%	35%
Maximum Building Height		
Primary	35'	35'
Accessory	25'	25'
Off-street Parking Spaces	2	2
Open Space (includes the open space and amenity area as depicted on the concept plan)	12 +/- acres	0 acres
Architectural Commitments	Yes	No

# CONCEPT PLAN

## ALTERNATIVE LAYOUT



Steppelerworth & Associates, Inc.  
 CIVIL ENGINEERS LAND SURVEYORS  
 5015 W. 126TH ST. INDIANAPOLIS, IN 46254  
 317.555.1234 FAX 317.555.1235

The undersigned hereby authorizes the Secretary of the Commission to record these commitments in the Office of the Recorder of Hamilton County, Indiana.

**Section 7.     Enforcement**

These commitments may be enforced by the Plan Commission and by the Town Council of Fishers, Indiana.

IN WITNESS WHEREOF, GBC Development, LLC, an Indiana limited liability company, has caused this commitment to be executed as of the \_\_\_\_\_ day of December, 2005.

GBC Development, LLC

By: \_\_\_\_\_

STATE OF INDIANA        )  
                                      ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me the undersigned, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, of GBC Development, LLC, who having been duly sworn acknowledged the execution of the foregoing Commitments.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of December, 2005.

My Commission Expires:

\_\_\_\_\_  
Notary Public

Printed \_\_\_\_\_  
Residing in \_\_\_\_\_ County

Prepared by: Steven D. Hardin, Attorney at Law, Bingham McHale, LLP, 970 Logan Street, Noblesville, IN 46060, (317) 776-8668.