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Jennifer Hayden
Hamilton County Recorder IN
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THE YARD PUD

City of Fishers
Planned Development
Ordinance
No. 121916D

Year
2017

THE YARD PUD

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Planned Development
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THE YARD PUD

1.01 Declaration, Purpose and Intent, and Permitted Uses

Declaration	Purpose and Intent	Permitted Uses
<p>Ordinance No. 121916D (this Ordinance") Adopted: _____</p> <p>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:</p> <p>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 "the Yard PUD."</p> <p>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 All provisions of the UDO that conflict with the provisions of this Ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this Ordinance. All previous PUD Ordinances, and amendments thereto, applicable to the Real Estate are hereby repealed.</p>	<p>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.</p>	<p>All uses described in the C3 Commercial District, and</p> <ul style="list-style-type: none"> • Theater • Coffee House • movie theater • culinary accelerator • food truck • indoor entertainment <p>The following uses described in the C3 Commercial District are prohibited:</p> <ul style="list-style-type: none"> • automobile sales and service • car wash • fuel sales • fuel/energy station • fuel/service station • mortuary • place of worship • tattoo parlor • piercing studio • nail salon • massage parlor • 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, speciality 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 <p>*Drive up windows, exterior menu boards, and speakers will be reviewed and approved by the City Council at a public meeting (no additional public hearing shall be required). This limitation shall not apply to the culinary accelerator uses nor food trucks.</p>

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1.02 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.

1.03 Concept Plan

- A. The Concept Plans, attached hereto as **Exhibit A**, are hereby incorporated. 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 the Yard 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.

1.04 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 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)(2): *Enclosure*; shall apply. In addition, an aluminum fence at least thirty-six inches tall shall also be permitted.

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- (6) 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, steel, aluminum, metal, precast concrete, stone, and porcelain/ceramic tile.
 - (4) 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.
 - (5) 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.
 - (6) Article 5.15 AD-03: Architectural Design; Commercial; (G): *Signature Feature*; shall not apply. Instead, signature features substantially similar to and in the locations depicted on the Signature Feature Exhibit, attached hereto as **Exhibit C**, shall satisfy this requirement.
- 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 three hundred and seventy-five (375) 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)(3), (4), and (5): *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 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) At 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.

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- (3) 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.
- (4) 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.
- (5) Article 5.45 LA-07: Landscaping Standards; Buffer Yards; shall not apply. Instead, a Buffer Yard shall be installed as shown on the Buffer Yard Exhibit, attached hereto as **Exhibit D**.
- 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 or 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: Five (5) 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 or Mayor or Mayor's Designee that may vary from the sign code as long as it is in keeping with the quality and character of the proposed development.

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- 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.

1.05 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) The Real Estate shall have a maximum of two (2) ingress/egress points onto 116th Street.
 - (ii) The Real Estate shall have a maximum of three (3) ingress/egress points onto IKEA Way.
 - (iii) All ingress/egress points shall be a minimum of one hundred fifty (150) feet (measured from mid-point to mid-point) away from 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; (G): *Pavement Width* shall apply, except as modified below:
 - (i) Parking shall be permitted on access roads within the Real Estate.
- 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) 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 open hundred percent (100%) toward the open space requirement.
 - (2) 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.
 - (3) 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 the Pipeline Restricted Landscape Areas as shown in **Exhibit E** attached hereto and incorporated herein.
- 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.

1.06 Food Trucks & Culinary Accelerators

- A. Food trucks and culinary accelerators shall be permitted, and shall have all manners of restaurant uses.

1.07 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.

1.08 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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ORD 121916D

1.09 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 20th day of FEBRUARY 2017.

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

AYE

NAY

Handwritten signatures of council members in blue ink.

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

I hereby certify that the foregoing Ordinance was delivered to City of Fishers Mayor Scott Fadness on the 20th day of FEBRUARY 2017, at 8:00 P.M.

ATTEST: Jennifer L. Kehl, City Clerk

Signature of Scott A. Fadness, Mayor

MAYOR'S APPROVAL

DATE 2/20/2017

MAYOR'S VETO

Scott A. Fadness, Mayor

DATE



Approved by: Chris Greisl, City of Fishers, City Attorney
Prepared by: Steven D. Hardin, Esq.,
Faegre Baker Daniels LLP, 600 East 96th Street, Suite 600,
Indianapolis, Indiana 46240. (317) 569-9600.

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: Rex A. Ramage.

1.10 Real Estate

Lots 8-12 and 14-18 of Spring Dale Estates - First Section, as per plat thereof, recorded October 13, 1959 in Plat Book 2 Page 166, in the Office of the Recorder of Hamilton County, Indiana containing 4.48 acres, more or less.

And

Lots 19-23 and 25-30 of Spring Dale Estates - Section Two, as per plat thereof, recorded March 12, 1982 in Plat Book 9 Page 40, in the Office of the Recorder of Hamilton County, Indiana containing 7.76 acres, more or less.

And

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

Exhibit A - Concept Plan (Option A)

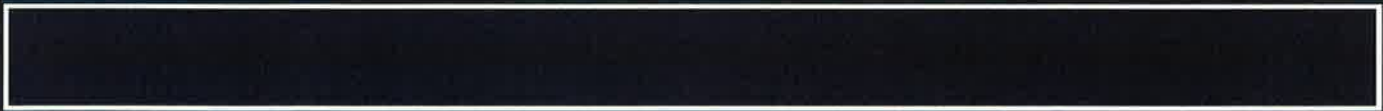


Exhibit A - Concept Plan (Option B)

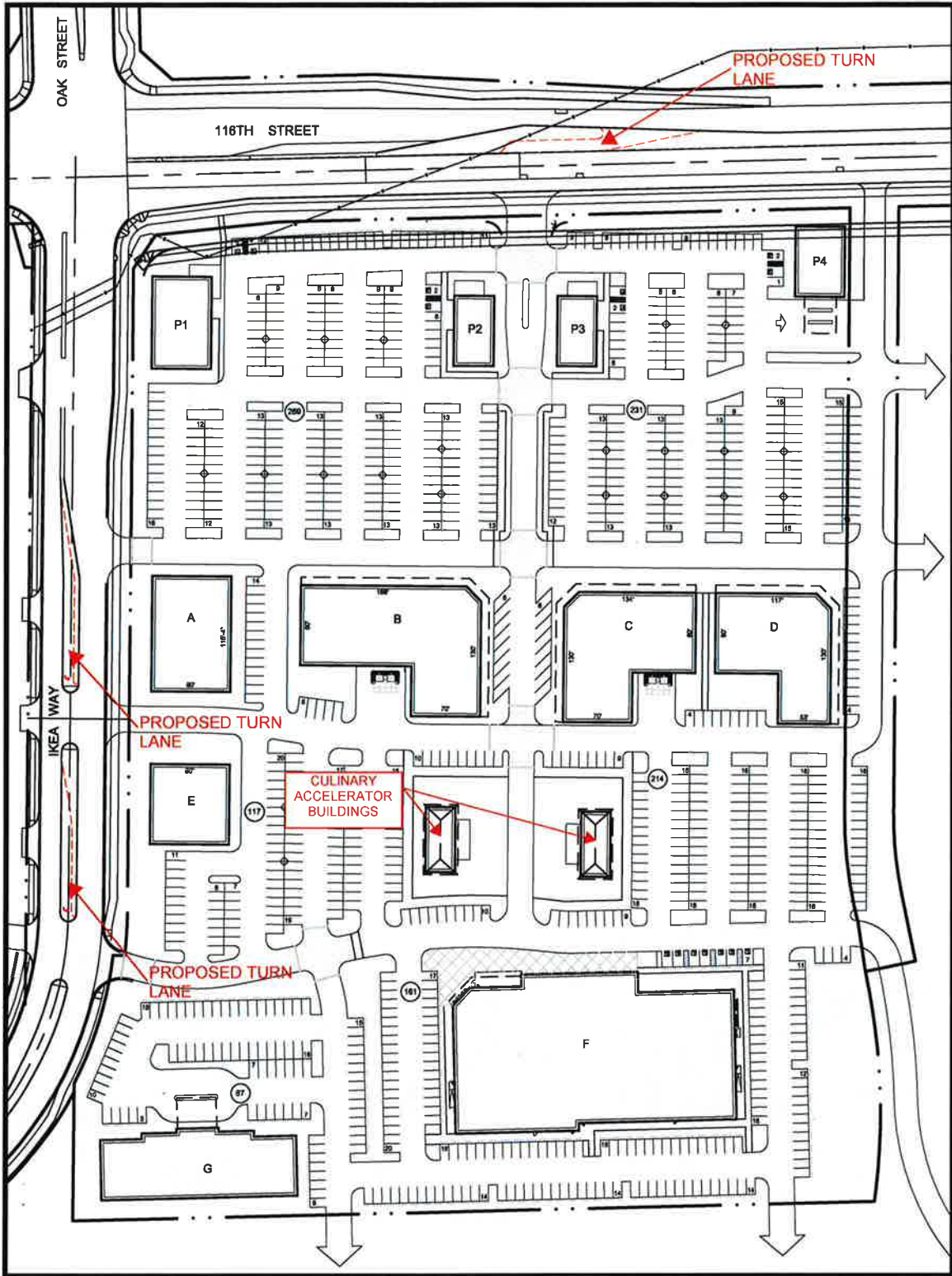


Exhibit B - Illustrative Architectural Exhibit (P.1)



Exhibit C - Signature Feature Exhibit (P.1)



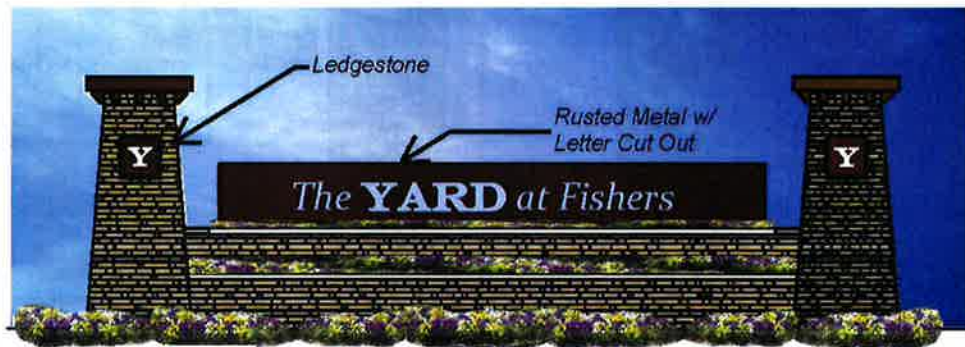
Corner Feature



Entry Feature



Entry Feature



Corner Feature



Entry Feature

Exhibit C - Signature Feature Exhibit (P.2)

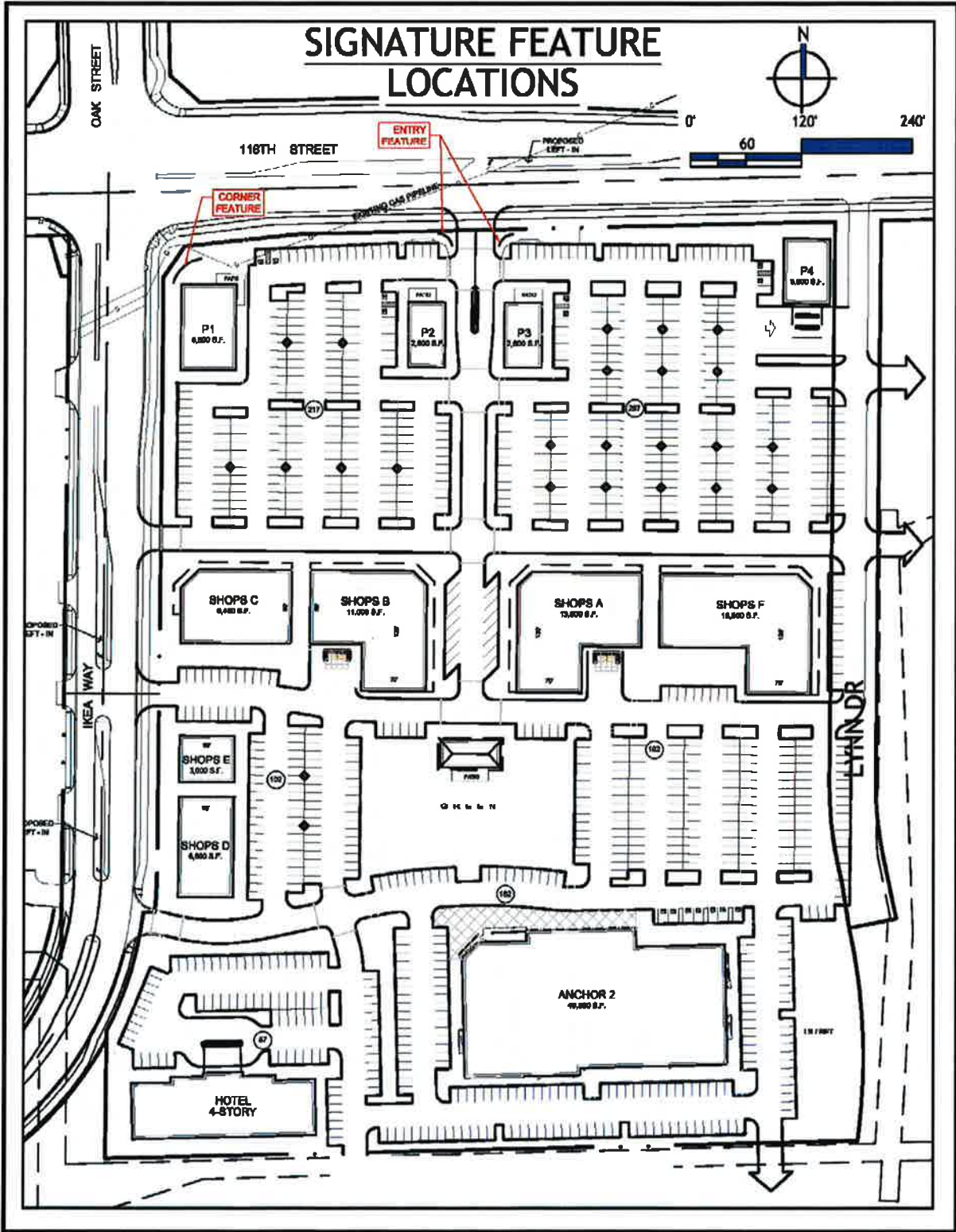


Exhibit E - Pipeline Restricted Landscape Areas

