

COPY

ORDINANCE NO. ~~000~~ 0309/0

AN ORDINANCE AMENDING THE HANCOCK COUNTY, INDIANA
ZONING ORDINANCE

AN ORDINANCE TO AMEND TITLE XV, CHAPTER 156,
OF THE HANCOCK COUNTY CODE

AN ORDINANCE TO AMEND ORDINANCE NO. 052305,
THE VILLAGES AT BROOKSIDE PLANNED UNIT DEVELOPMENT

BE IT ORDAINED BY THE TOWN COUNCIL OF MCCORDSVILLE,
HANCOCK COUNTY, INDIANA, THAT THE VILLAGES AT BROOKSIDE PUD-M,
REGARDING THE SUBJECT REAL ESTATE DESCRIBED IN EXHIBIT A ATTACHED
HERETO (THE "REAL ESTATE") IS HEREBY AMENDED AS FOLLOWS:

SECTION I

The Real Estate is hereby assigned to Parcel F of the Villages at Brookside PUD (the "PUD").
The Real Estate shall be subject to the permitted uses and development standards of the PUD
applicable to Parcel F, except as otherwise further restricted or modified below:

- (A) Preliminary Development Plan. The amended preliminary development plan attached hereto as Exhibit B is hereby incorporated and approved.
- (B) Permitted Uses. The permitted uses for Parcel F are hereby further restricted as follows:
 - (1) A gas station shall be prohibited from Parcel F; and
 - (2) There shall be a maximum of two (2) drive-thru restaurants permitted.
- (C) Hours of Operation. Regular hours of operation shall be limited to the hours of 6:00 a.m. to 10:00 pm for retail uses, 6:00 a.m. – 8:00 p.m. for office uses and hours of serving for restaurants 6:00 a.m. to 11:00 p.m.
- (D) Deliveries. Semi tractor trailers shall be limited to delivery between the hours of 7:00 a.m. and 9:00 p.m.
- (E) Architecture. In addition to the otherwise applicable architectural standards of the Town's Overlay District and the PUD, the following shall apply:
 - (1) The outlot buildings on Parcel F shall have a residential look as defined by the illustrations attached hereto as Exhibit C;
 - (2) Any building of over 100,000 square feet shall have an architectural style and design generally as illustrated by the Illustrative Lowe's Elevation, attached hereto as Exhibit D and in particular changes in the building's facade shall appear as multiple storefronts as illustrated by the Illustrative Lowe's Elevation.
- (F) Landscaping. The landscaping standards, including the minimum twenty-five percent (25%) overall open space and five percent (5%) within the parking lots shall apply. In addition, the perimeter landscaping buffer along the west and south property lines of the Real Estate shall be per the PUD except as modified below:

- (a) The earthen berm shall be a minimum of ten feet (10') tall (rather than eight feet tall);
 - (b) Evergreen trees shall be planted on the southern and western slopes of the earthen berm every twelve feet (12') on center within six feet (6') of the required fence; and
 - (c) Deciduous trees shall be planted on the southern and western slopes of the earthen berm every twenty-four feet (24') on center (rather than fifty feet on center) within fifteen feet (15') of the required fence.
- (G) Lighting. The Real Estate's lighting shall be regulated by the PUD and the applicable zoning ordinance standards, however, decorative lighting shall be incorporated for those areas shown on the Conceptual Lighting Plan, attached hereto as Exhibit E.
- (H) Pedestrian. Internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks or scored concrete to enhance pedestrian safety and comfort, as well as the attractiveness of the walkways.
- (I) Signage. Signs shall be as regulated per the PUD, except as further regulated below:
 - (1) One (1) twelve-foot (12') tall multi-tenant monument sign on CR600W and two (2) six-foot (6') tall multi-tenant signs, one (1) on CR900N and one (1) on CR600W shall be permitted as illustrated on the Conceptual Signage Plan attached hereto as Exhibit F.
 - (2) No individual outlot user shall be permitted ground signs.
 - (3) A decorative stone center identification sign with enhanced landscaping shall be required as shown on the Conceptual Signage Plan.

SECTION II

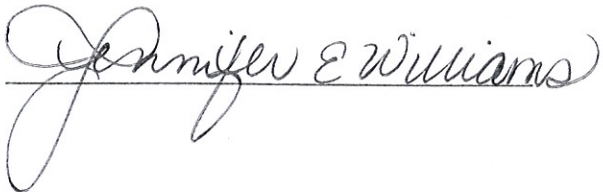
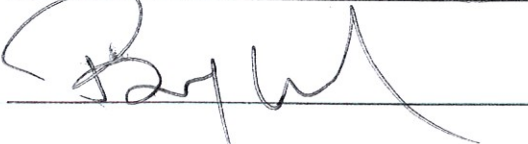
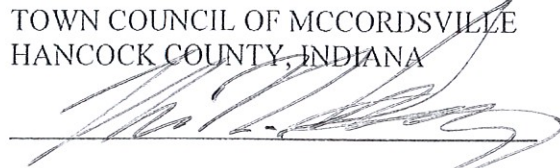
All other provisions of the Villages at Brookside PUD Ordinance shall remain in effect with the adoption of this ordinance. All provisions and representations of the Villages at Brookside PUD Ordinance that conflict with the provisions of this ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this ordinance. This Ordinance shall apply only to the Real Estate highlighted on the Concept Plan.

SECTION III

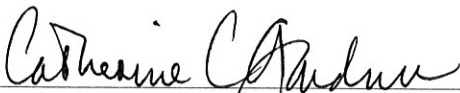
This ordinance shall be in full force and effect from and after its passage by the Town Council and after the occurrence of all other actions required by law. All provisions or parts thereof in conflict herewith are hereby repealed.

ADOPTED THIS ____ DAY OF _____, 2010.

TOWN COUNCIL OF MCCORDSVILLE
HANCOCK COUNTY, INDIANA



ATTEST:

By: 

Printed: Catherine C. Gardner

Approved by: Gregory Morelock, Esq.
Town Attorney

Prepared by: George W. Somers, Wallack Somers & Haas, P.C., One Indiana Square, Suite
1500, Indianapolis, Indiana 46240. (317) 231-9000

Exh. A

REAL ESTATE

LEGAL DESCRIPTION

Part of the Northeast Quarter of Section 23, Township 17 North, Range 5 East of the Second Principal Meridian in Hancock County, Indiana, described as follows:

Commencing at the Northeast corner of the Northeast Quarter of said Section 23; thence South 01 degree 09 minutes 35 seconds West along the east line thereof 1081.50 feet to the southeast corner of the land described in a General Warranty Deed to PKCW OLIO 86 PARTNERS, LLC recorded as Instrument 2007-0006507 in the Office of the Recorder of Hancock County, Indiana and the northeast corner of the plat currently being recorded for Villages at Brookside Section 2; thence North 89 degrees 43 minutes 22 seconds West along the south and north lines thereof respectively 821.86 feet to the POINT OF BEGINNING; thence continuing North 89 degrees 43 minutes 22 seconds West along the south and north lines thereof respectively 604.02 feet to the southwest corner of the PKCW land; thence North 01 degree 09 minutes 35 seconds East along the west line thereof 1081.89 feet to the north line of the Northeast Quarter Section; thence South 89 degrees 42 minutes 25 seconds East along said north line 587.65 feet; thence South 00 degrees 17 minutes 35 seconds West 1081.60 feet to the POINT OF BEGINNING, containing 14.796 acres, more or less.

Parcel 1

LEGAL DESCRIPTION (TITLE COMMITMENT 27088)

A part of the Northeast Quarter of Section 23, Township 17 North, Range 5 East, Hancock County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of said quarter marked by a Harrison monument; thence South 01 degree 09 minutes 35 seconds West, (Basis of bearing per prior Civil Design survey) along the East line of said quarter section 1081.50 feet; thence leaving said East line North 89 degrees 43 minutes 22 seconds West, a distance of 1400.00 feet; thence North 01 degrees 09 minutes 34 seconds East, a distance of 1081.88 feet to the North line of said Northeast quarter; thence South 89 degrees 42 minutes 25 seconds East, along said north line 1400.00 feet to the point of beginning, containing 34.76 acres, more or less.

AS-SURVEYED LEGAL DESCRIPTION

A part of the Northeast Quarter of Section 23, Township 17 North, Range 5 East, Hancock County, Indiana, being more particularly described as follows:

Beginning at the Northeast corner of said quarter marked by a Harrison monument; Thence along the east line of said quarter section South 00 degrees 07 minutes 25 seconds West (Assumed Basis of bearing) for a distance of 1081.62 feet; Thence South 89 degrees 14 minutes 28 seconds West for a distance of 1425.88 feet; Thence North 00 degrees 07 minutes 25 seconds East for a distance of 1081.92 feet to the North line of said Northeast quarter; Thence along said north line North 89 degrees 15 minutes 29 seconds East for a distance of 1425.87 feet to the point of beginning, containing 35.404 acres, more or less.

Excepting there from:

Exception A Instrument #20-08303

A part of the East Half of the Northeast Quarter and a part of the Northeast Quarter of the Southeast Quarter of Section 23, Township 17 North, Range 5 East, Hancock County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached right of Way Parcel Plat, marked Exhibit "B", described as follows:

Commencing at the northeast corner of said section, designated as point "7" on said plat, thence South 89 degrees 05 minutes 48 seconds West 4.573 meters (15.00 feet) along the north line of said section to the prolonged west boundary of County Road 600 West; thence South 0 degrees 02 minutes 08 seconds East 4.573 meters (15.00 feet) along the prolonged boundary of said County Road 600 West to the point of beginning of this description which point of beginning is where the west boundary of said County Road 600 West meets the south boundary of County Road 900 North thence continuing South 0 degrees 02 minutes 08 seconds East 795.899 meters (2,611.22 feet) along the boundary of said County Road 600 West to the north line of the Northeast Quarter of the Southeast Quarter of said section, thence South 0 degrees 00 minutes 00 seconds East 400.054 meters (1,312.51 feet) along said boundary to the south line of said quarter quarter section; thence South 89 degrees 18 minutes 39 seconds West 11.429 meters (37.50 feet) along said south line; thence North 0 degrees 00 minutes 00 seconds East 400.186 meters (1,312.95 feet) to point "405" designated on said plat, which point is on the north line of said quarter quarter section; thence South 89 degrees 58 minutes 30 seconds West 2.000 meters (6.56 feet) along said north line to point "408" designated on said plat; thence North 0 degrees 38 minutes 19 seconds East 170.010 meters (557.78 feet) to point "409" designated on said plat; thence North 0 degrees 02 minutes 08 seconds West 460.000 meters (1,509.19 feet) to a point "410" designated on said plat; thence North 3 degrees 36 minutes 43 seconds West 80.156 meters (262.98 feet) to point "411" designated on said plat; thence North 0 degrees 02 minutes 08 seconds West 70.000 meters (229.66 feet) to point "412" designated on said plat; thence North 17 degrees 50 minutes 02 Seconds West 16.358 meters (53.67 feet) to point "415" designated on said plat; which point is on the south boundary of said County Road 900 North; thence North 89 degrees 05 minutes 48 seconds East 21.431 meters (70.31 feet) along the boundary of said County Road 900 North to the point of beginning and containing 1.4505 hectares (3.584 acres) more or less.

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LEGAL DESCRIPTION AS SHOWN IN INSTRUMENT #05001348

Parcel I:

The Southwest Quarter of the Northeast Quarter; the Northeast Quarter of the Southwest Quarter and the Southeast Quarter EXCEPT the Southeast Quarter of the Southeast Quarter, all in Section 23, Township 17 North, Range 5 East, containing 200 acres, more or less.

Parcel II:

The East Half of the Northeast Quarter of Section Twenty-three (23), Township Seventeen (17) North, Range Five (5) East, in Hancock County, Indiana, containing 80 acres, more or less.

Parcel III:

a part of the Northwest Quarter of the Northeast Quarter of Section 23, Township 17 North, Range 5 East, described as follows:

Beginning at the northeast corner of the Northwest Quarter of the Northeast Quarter; thence South on the east line thereof 1,317 feet to the southeast corner of the Northwest Quarter of the Northeast Quarter; thence West on the south line thereof 760.73 feet; thence North parallel with the east line of said Northwest Quarter of the Northeast Quarter 1,315 feet and to the north line thereof thence East on said north line 760.73 feet to the place of beginning, containing 22.98 acres, more or less.

Parcel IV:

Part of the Southeast Quarter of the Southeast Quarter of Section 23, Township 17 North, Range 5 East, beginning at a point on the west line of said quarter quarter section 208 feet North of the southwest corner thereof; thence North on said west line 5 feet; thence East parallel with the south line of said quarter quarter section 1241.4 feet, more or less, to a diagonal line beginning at a railroad spike on the south line of said quarter quarter section 280 feet West of the southeast corner thereof and extending northeasterly to another railroad spike on the east line of said quarter quarter section 333 feet North of the southeast corner thereof; thence southwesterly on said diagonal line to a point 5 feet due South of said 1241.4 foot line; thence West parallel with the south line of said quarter quarter section to the place of beginning.

Exception A Instrument #20-08303

A part of the East Half of the Northeast Quarter and a part of the Northeast Quarter of the Southeast Quarter of Section 23, Township 17 North, Range 5 East, Hancock County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached right of Way Parcel Plat, marked Exhibit "B", described as follows:

Commencing at the northeast corner of said section, designated as point "7" on said plat, thence South 89 degrees 05 minutes 48 seconds West 4.573 meters (15.00 feet) along the north line of said section to the prolonged west boundary of County Road 600 West; thence South 0 degrees 02 minutes 08 seconds East 4.573 meters (15.00 feet) along the prolonged boundary of said County Road 600 West to the point of beginning of this description which point of beginning is where the west boundary of said County Road 600 West meets the south boundary of County Road 900 North thence continuing South 0 degrees 02 minutes 08 seconds East 795.899 meters (2,611.22 feet) along the boundary of said County Road 600 West to the north line of the Northeast Quarter of the Southeast Quarter of said section, thence South 0 degrees 00 minutes 00 seconds East 400.054 meters (1,312.51 feet) along said boundary to the south line of said quarter quarter section; thence South 89 degrees 18 minutes 39 seconds West 11.429 meters (37.50 feet) along said south line; thence North 0 degrees 00 minutes 00 seconds East 400.186 meters (1,312.95 feet) to point "405" designated on said plat, which point is on the north line of said quarter quarter section; thence South 89 degrees 58 minutes 30 seconds West 2.000 meters (6.56 feet) along said north line to point "408" designated on said plat; thence North 0 degrees 38 minutes 19 seconds East 170.010 meters (557.78 feet) to point "409" designated on said plat; thence North 0 degrees 02 minutes 08 seconds West 460.000 meters (1,509.19 feet) to a point "410" designated on said plat; thence North 3 degrees 36 minutes 43 seconds West 80.156 meters (262.98 feet) to point "411" designated on said plat; thence North 0 degrees 02 minutes 08 seconds West 70.000 meters (229.66 feet) to point "412" designated on said plat; thence North 17 degrees 50 minutes 02 seconds West 16.358 meters (53.67 feet) to point "415" designated on said plat; which point is on the south boundary of said County Road 900 North; thence North 89 degrees 05 minutes 48 seconds East 21.431 meters (70.31 feet) along the boundary of said County Road 900 North to the point of beginning and containing 1.4505 hectares (3.584 acres) more or less.

Exception B Instrument #01-15891

Beginning at a point on the south line of the West Half of the Southeast Quarter of Section 23, Township 17 North, Range 5 East, said point being North 89 degrees 55 minutes 02 seconds West 238.35 feet from a "Hancock County" monument marking the southeast corner of said West Half of the Southeast Quarter and running thence North 89 degrees 55 minutes 02 seconds West 210.0 feet along said south line, thence North 01 degree 13 minutes and 48 seconds East 210.0 feet, thence South 89 degrees 55 minutes 02 seconds East 210.0 feet, thence South 01 degree, 13 minutes and 48 seconds West 210.0 feet to the point of beginning.

Being a part of the Southwest Quarter of the Southeast Quarter of Section 23, Township 17 North, Range 5 East and containing 1.012 acres, more or less.

Exception C Instrument #99-574

A parcel of land lying in the Southeast Quarter of Section 23, Township 17 North, Range 5 East, being more particularly described as follows:

Commence at the southeast corner of said Southeast Quarter; thence on an assumed bearing of North 90 degrees 00 minutes 00 seconds West along the south line of said Southeast Quarter a distance of 1,784.21 feet to the point OF BEGINNING of the following described parcel of land; thence continue North 90 degrees 00 minutes 00 seconds West along said south line of the Southeast Quarter a distance of 200.00 feet; thence North 00 degrees 57 minutes 22 seconds East a distance of 210.00 feet; thence North 90 degrees 00 minutes 00 seconds East parallel to said south line of the Southeast Quarter a distance of 200.00 feet; thence South 00 degrees 57 minutes 22 seconds West a distance of 210.00 feet to the POINT OF BEGINNING of the above described parcel of land.

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FINDINGS OF FACT

The Northwest, Northeast and Southeast corners of the Northeast Quarter of Section 23, Township 17 North, Range 5 East were all found per the county surveyor's office records.

The south and west lines were set per client instructions.

BASIS OF BEARINGS: The bearings shown on the face of this survey are based on the Indiana State Plane Coordinate System, East Zone, NAD83. Said bearings originated from a field traverse which was tied to said coordinate system by GPS observations and observations of selected CORS base stations in the National Spatial Reference System. The East line of the Northeast Quarter of said Section 23, is designated the 'basis of bearing' for this survey.

SURVEYOR'S REPORT

This is a new split off survey of a +/- 37.423 acre tract of real estate which is a part of the real estate described in Instr. 050013138 recorded in the Hancock County, Indiana Recorder's Office. The tract lies within the Northeast Quarter of Section 23 Township 17 North Range 5 East in Vernon Township, Hancock County, Indiana.

In accordance with the Indiana Survey Standards as defined in Indiana Administrative Code 865 IAC 1-12 (Rule 12), the following observations and opinions are submitted regarding the various uncertainties in the locations of the lines and corners established on this survey as a result of:

1) Due to Variances in Record Monuments:
No variances found.

2) Due to the Record Deed Descriptions:
This is a new split, so no uncertainties exist. See finding and Facts for more detail.

3) Due to Inconsistencies in Lines of Occupation:
See the hereon drawing for differences of record lines, occupation lines, and fence lines.

4) This survey falls under the classification of an "Urban Survey", which has a positional accuracy of 0.07 feet plus 50 parts per million as defined in 865 IAC 1-12-7.

To the best of my knowledge, belief and information, the parcel lies in Flood Hazard Zone C (Areas of minimal flooding) according to the Federal Emergency Management Agency's Flood Insurance Rate Map, Hancock County, Indiana, Community Panel No. 1804190025B, Dated October 15, 1982.

This survey was prepared with the benefit of a Land Title Commitment #27088 prepared by Stewart Title Guaranty Company; and is therefore subject to any statement of fact that such document may disclose. Additional documents regarding a sanitary sewer development agreement which said document was not recorded at the time of this survey. At the time of the latest revision a new title commitment was presented to this author which was prepared by Chicago Title Insurance. This title references in the schedule B items this survey with no date.

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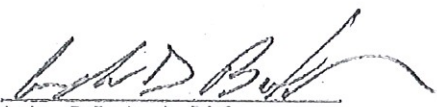
SURVEYOR'S CERTIFICATE

This certificate relates to that certain survey numbered 2007-0402 and dated March 29, 2007, made by EMH&T, INC., covering a portion of the Northeast Quarter of Section 23, Township 17 North, Range 5 East.

The undersigned, being a registered surveyor of the State of Indiana certifies to PKCW Oil & Gas Partners, LLC; PK Capital, LLC; Sherwood Hills South, Inc.; and Monroe County Land Title Co., Inc., d/b/a TitlePlus, as agent for Chicago Title Insurance Company as follows:

1. This plat or map and the survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys," jointly established and adopted by ALTA and NSPS in 2005, and includes items 1,2,3,4,6,7A,8,9,10,11A,13,14 and 15 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA and NSPS and in effect on the date of this certification, undersigned further certifies that in my professional opinion, as a land surveyor in the State of Indiana, the Relative Positional Accuracy of this survey does not exceed that which is specified therein.
2. The survey was made on the ground in February, 2007, and correctly shows the area of the subject property, the location and type of all buildings, structures and other improvements situated on the subject property, and any other matters situated on the subject property.
3. Except as shown on the survey, there are no visible easements or rights of way of which the undersigned has been advised.
4. There are no observable, above ground encroachments (a) by the improvements on the subject property upon adjoining properties, streets or alleys, or (b) by the improvements on adjoining properties, streets or alleys upon the subject property.
5. The location of each easement, right of way, servitude, and other matter affecting the subject property and listed in the title insurance commitment dated February 21, 2007, issued by Stewart Title Guaranty Company with respect to the subject property, has been shown on the survey, together with appropriate recording references, to the extent that such matters can be located. The property shown on the survey is the property described in that title commitment. The location of all improvements on the subject property is in accord with minimum setback provisions and restrictions of record referenced in such title commitment.
6. The subject property has access to and from a duly dedicated and accepted public street or highway.
7. The subject property does not serve any adjoining property for drainage, utilities, or ingress or egress.
8. All observable evidence of water, sewer, gas and electric lines and mains are located as shown on this survey.
9. All required building set back lines on the subject property are noted thereon.
10. The record description of the subject property forms a mathematically closed figure.
11. No portion of the property shown on the survey lies within a Special Hazard Area, as described on the Flood Insurance Rate Map for the community in which the subject property is located.

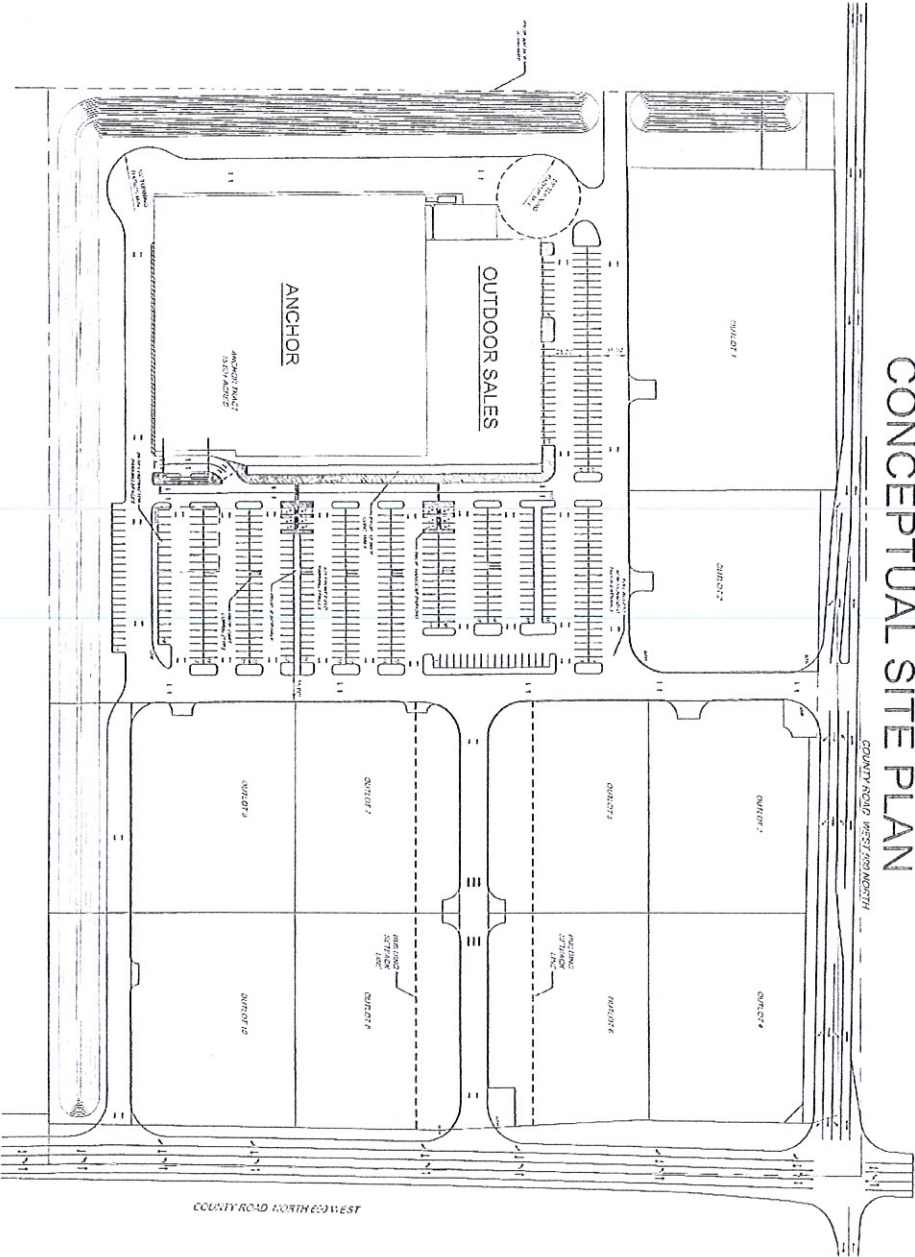
The parties listed above, their successors and/or assigns, are entitled to rely on the survey and this certificate as being true and accurate.


Andrew D. Baxter, Jr., P.L.S.
Registered Land Surveyor #LS20400029
May 30, 2007



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EXHIBIT B CONCEPTUAL SITE PLAN



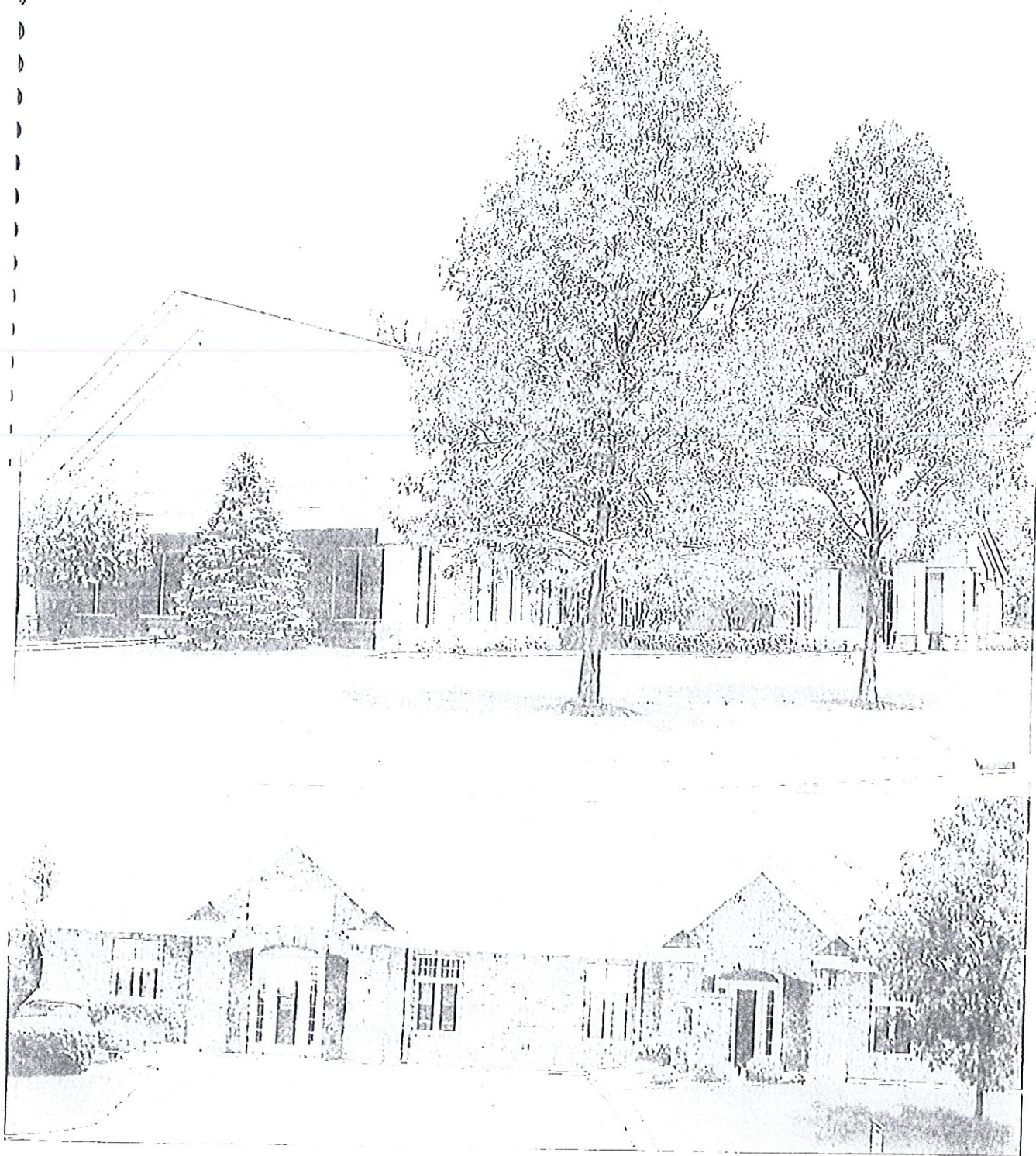
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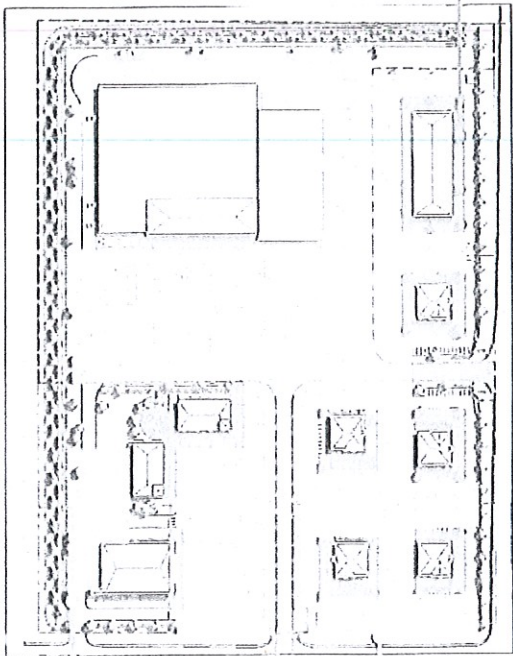
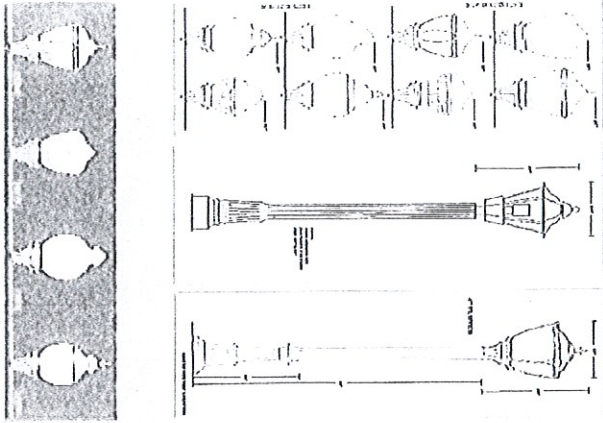
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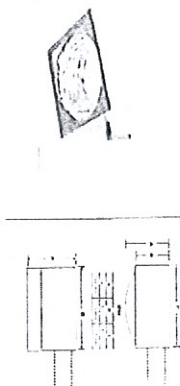
Paul Rite co.

CONCEPTUAL LIGHTING PLAN

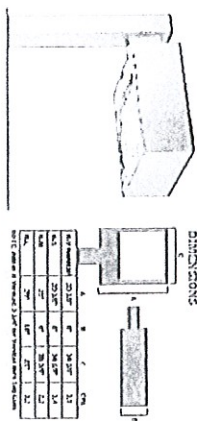
DECORATIVE/PEDESTRIAN LEVEL LIGHTING



STREET/PARKING LIGHTING



BUILDING UTILITY LIGHTING



DIMENSIONS

Model	Height	Width	Depth	Weight
Model 1	20" H	12" W	6" D	15 lbs
Model 2	20" H	12" W	6" D	15 lbs
Model 3	20" H	12" W	6" D	15 lbs
Model 4	20" H	12" W	6" D	15 lbs

NOTES: All dimensions are nominal. 1/2" and 3/4" dimensions are for reference only.

Brookside Village Shops - McCordsville, Indiana

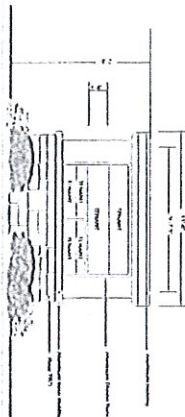
JDD PROJECT, LLC
1005 Randolph Ave.
St. Paul, MN 55105
651.222.4402

Exh B

Good site as

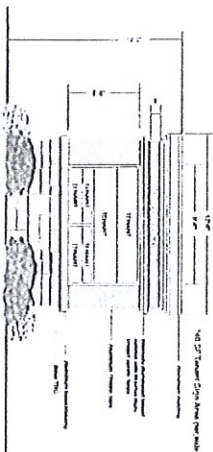
CONCEPTUAL SIGN PLAN

MULTI-TENANT MONUMENT SIGN



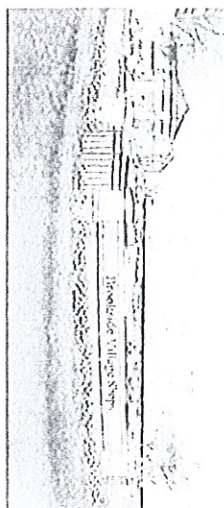
Height to top of sign 12' 0"

MULTI-TENANT MONUMENT SIGN

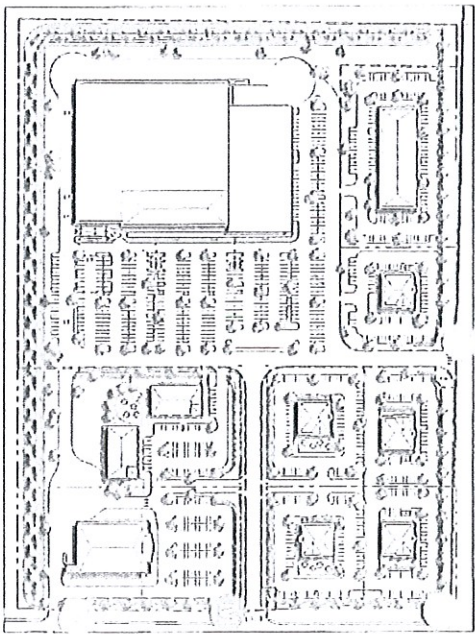


Height to top of sign 12' 0"

PROJECT IDENTIFICATION SIGN



Height to top of sign 12' 0"



Brookside Village Shops - McCordsville, Indiana

JDS DESIGN, LLC
1003 KANSAS AVE.
CINCINNATI, OH 45202

EXHIBIT