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**AUDITOR'S CERTIFICATE**

2007 053261

State of Indiana)

)  
SS:

County of Lake)

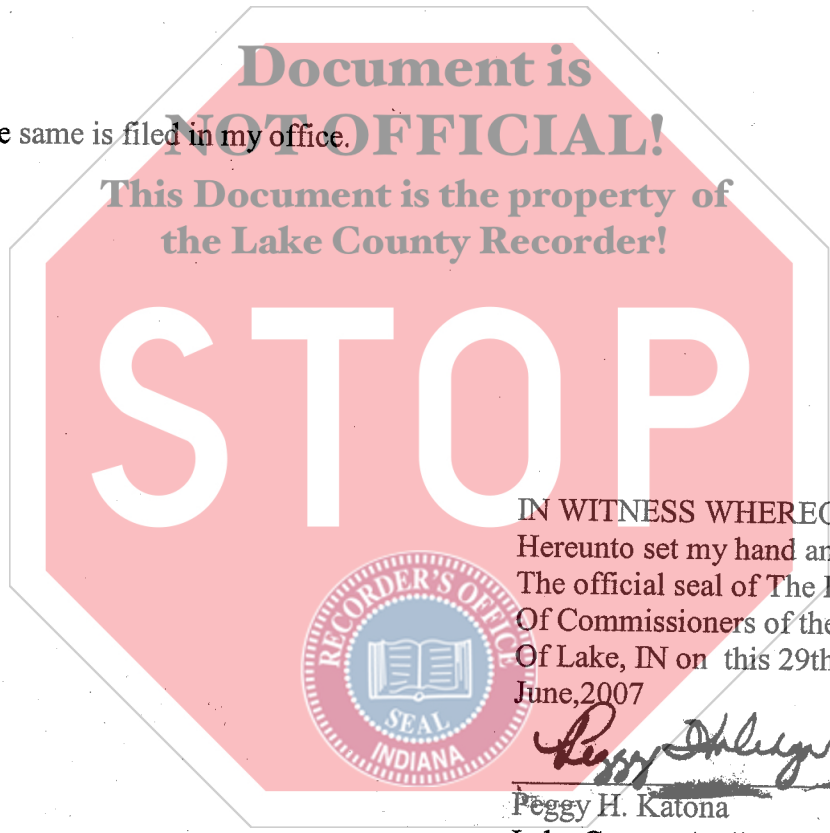
I, Peggy H. Katona, Lake County Auditor, in and for said County and State,

do hereby certify :

This is a true and correct copy of the Development Agreement by and among  
The City of Hobart, Indiana, The Hobart Redevelopment Commission, and  
B3 Properties, LLC.

STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD  
2007 JUN 29 PM 2:35  
MICHAELA BROWN  
RECORDER

And the same is filed in my office.



IN WITNESS WHEREOF, I  
Hereunto set my hand and affix  
The official seal of The Board  
Of Commissioners of the County  
Of Lake, IN on this 29th day of  
June, 2007

*Peggy H. Katona*  
Peggy H. Katona  
Lake County Auditor

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A RESOLUTION OF THE COMMON COUNCIL  
OF THE CITY OF HOBART, INDIANA  
REGARDING ASSIGNMENT OF A DEVELOPMENT AGREEMENT

RESOLUTION NO. 2007 - 18

WHEREAS, the Lake County Redevelopment Commission ("County Commission") did on January 30, 1992, adopt a declaratory resolution ("Declaratory Resolution") establishing the Lake County Economic Development Area No. 1 ("Area") and an allocation area coterminous with the Area ("Allocation Area") and the Declaratory Resolution was confirmed by a Confirmatory Resolution adopted on June 3, 1992;

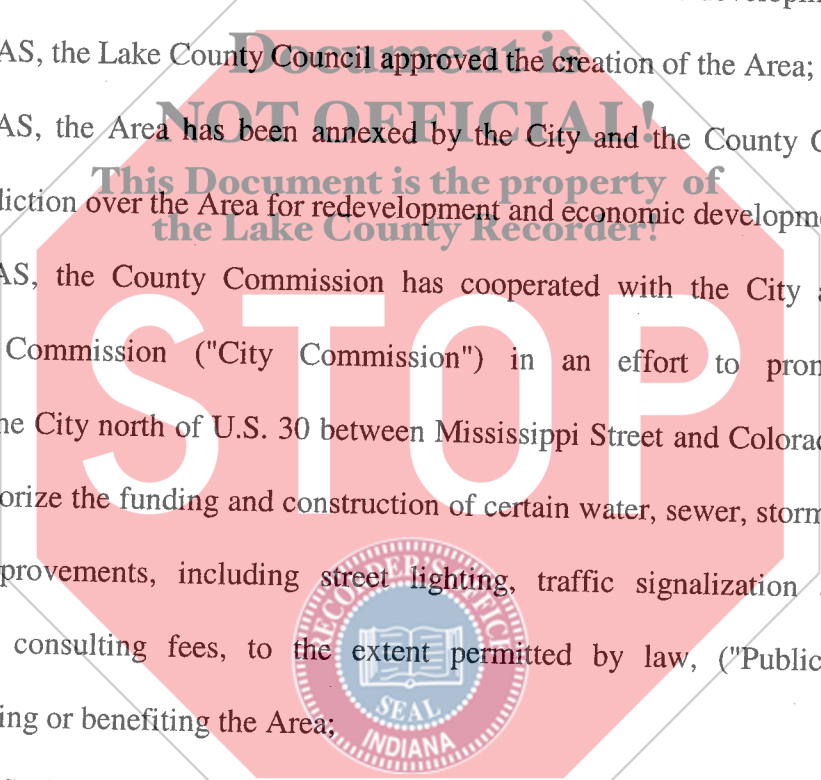
WHEREAS, the Declaratory Resolution approved the Economic Development Plan ("Plan") which Plan contained specific recommendations for economic development in the Area;

WHEREAS, the Lake County Council approved the creation of the Area;

WHEREAS, the Area has been annexed by the City and the County Commission has maintained jurisdiction over the Area for redevelopment and economic development purposes;

WHEREAS, the County Commission has cooperated with the City and the Hobart Redevelopment Commission ("City Commission") in an effort to promote economic development in the City north of U.S. 30 between Mississippi Street and Colorado Street and to take steps to authorize the funding and construction of certain water, sewer, stormwater and road infrastructure improvements, including street lighting, traffic signalization and associated professional and consulting fees, to the extent permitted by law, ("Public Infrastructure Projects") in, serving or benefiting the Area;

WHEREAS, the County Commission previously adopted a resolution, following a public hearing, amending the Declaratory Resolution to: (i) enlarge the boundaries of the Area; and (ii)



*[Handwritten signatures and scribbles]*

include the construction of the Public Infrastructure Projects in, serving or benefiting the Area, as expanded, to the Plan;

WHEREAS, the County Commission adopted a resolution on October 4, 2006, following a public hearing on September 20, 2006, to further amend the Declaratory Resolution to add the acquisition of easements in certain parcels of property to the acquisition list for the Area to assist in completion of the Public Infrastructure Projects;

WHEREAS, the City and the City Commission entered into agreements with Diamond Veil Development, Inc. and B-3 Properties, LLC on March 19, 2007 for the development of Silverstone Crossing ("Development Agreements") to promote economic development in the City;

WHEREAS, the Development Agreements contract for the design of the Public Infrastructure Projects;

WHEREAS, it is the desire of the City have the County Commission oversee funding, bidding and construction of the Public Infrastructure Projects and to assign the Development Agreements, including all rights and obligations therein, to the County Commission; and

WHEREAS, the County Commission has expressed its desire to assist the City and oversee the funding, bidding and construction of the Public Infrastructure Projects;

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF HOBART, INDIANA, THAT:

Section 1. This Common Council hereby assigns the Development Agreements attached hereto and incorporated herein as Exhibit A, including all rights and obligations therein, to the County Commission.

Section 2. This resolution shall be effective upon passage.

Adopted at a meeting of the Common Council held June 6, 2007 by a vote of 7 ayes and 0 nays.

CITY OF HOBART, INDIANA COMMON COUNCIL

  
Mayor

Attest:

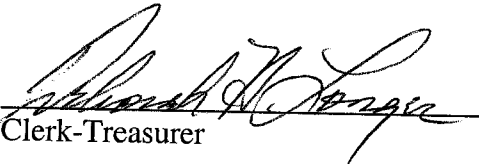
  
Clerk-Treasurer



EXHIBIT A

Development Agreements



PLEASE ADD to your AGENDA 6-6-07  
CITY OF HOBART

**AGENDA ITEM REQUEST FORM**  
(PLEASE PRINT)

MEETING DATE: JUNE 6, 2007

BOARD OF PUBLIC WORKS (4:00 P.M.)  
 COMMON COUNCIL (6:00 P.M.)

ITEM TO BE ADDED TO AGENDA: Resolution 2007-16

BRIEF DESCRIPTION OF REQUEST FOR CONSIDERATION: \_\_\_\_\_

Assigns the development agreements previously executed by the Council with DIAMOND VEIL Development and B-3 Properties, LLC to the LAKE County Redevelopment Commission to facilitate the Economic Development of this area located N. of U.S. 30 between Mississippi Street and COLORADO St. per our discussions with LAKE County Econ. Development office.

SUPPORTING DOCUMENTATION ATTACHED: Resolution 2007-16

REQUEST SUBMITTED BY: Deb Longaker C-T  
ADDRESS (DEPARTMENT): \_\_\_\_\_

PHONE NUMBER (EXT.): \_\_\_\_\_

DATE SUBMITTED: \_\_\_\_\_

TURN IN COMPLETED REQUEST FORM TO THE CLERK-TREASURER'S OFFICE, HOBART CITY HALL

65

2007 023796

STATE OF INDIANA  
LAKE COUNTY  
FILED

MAR 21 2:03

MICHAEL A. BROWN  
RECORDER

# DEVELOPMENT AGREEMENT

by and among

**Document is NOT OFFICIAL!**  
THE CITY OF HOBART, INDIANA,

This Document is the property of  
the Lake County Recorder!

THE HOBART REDEVELOPMENT COMMISSION

**STOP**

and

DIAMOND VEIL DEVELOPMENT, INC.



→ HOBART REDEVELOPMENT COMMISSION  
414 MAIN STREET  
HOBART, IN 46342  
ATTN: DIRECTOR OF DEVELOPMENT

**FILED**

MAR 21 2007

PEGGY HOLINGA KATONA  
LAKE COUNTY AUDITOR

003761

\$ 13900  
CA#

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**SCHEDULE OF EXHIBITS**

**EXHIBIT**

- A Silverstone Crossing Development Site Legal Description and Individual POD Legal Descriptions
- B Silverstone Crossing Site Plan
- C Silverstone Crossing POD Plan
- D Description of Public Infrastructure Improvements for Commercial PUD Area (including POD E)
- E Estimated Costs of Public Infrastructure Improvements for Commercial PUD Area (including POD E)
- F Silverstone Crossing POD Section Guidelines, Uses and General Descriptions (to be incorporated and attached herein in substantially the same form subject to final approval of the Plan Commission and Common Council)
- G Common Council PUD Ordinance (to be incorporated and attached herein at a later date)



## AGREEMENT

THIS AGREEMENT, made on ~~December~~ <sup>MARCH</sup> 19, ~~2006~~ <sup>2007</sup>, by and among the City of Hobart, Indiana, a political subdivision and municipal corporation of the State of Indiana (the "City"), the Hobart Redevelopment Commission (the "City Commission") and Diamond Veil Development, Inc., an Indiana corporation (the "Developer") (each sometimes being referred to herein as a "Party" or collectively as the "Parties").

## RECITALS

WHEREAS, the Lake County Redevelopment Commission (the "County Commission") exists and operates under the provisions of I.C. 36-7-14, commonly known as the "Redevelopment of Cities and Towns Act of 1953," as amended from time to time ("Act"); and

WHEREAS, the Indiana legislature has determined that the clearance, replanning and development of economic development areas are public uses and purposes for which public money may be spent; and

WHEREAS, I.C. 36-7-14 and I.C. 36-7-25 authorize the County Commission to declare an area to be an economic development area and to establish an allocation area within an economic development area providing for the distribution of certain property tax revenues generated within the allocation area; and

WHEREAS, the County Commission adopted a Declaratory Resolution (the "Declaratory Resolution") on January 30, 1992, which was effective on that date and was modified and confirmed by a Confirmatory Resolution (the "Confirmatory Resolution," collectively the "1992 Resolutions") that was adopted on June 3, 1992; and

WHEREAS, the 1992 Resolutions confirmed the County Commission's establishment of an economic development area known as the "Lake County Economic Development Area #1" (the "Area"), of which the entire area has been designated an allocation area for purposes of tax increment financing (the "TIF Area"), in a portion of Ross Township, Lake County, Indiana, that is further described in the aforementioned 1992 Resolutions; and

WHEREAS, the County Commission adopted an Economic Development Plan (the "Plan") for the Area which contemplates certain public improvements; and

WHEREAS, the area described in Exhibit A attached hereto and incorporated herein (the "Development Site") is located within the corporate boundaries of the City and approximately sixty-six percent (66%) of the Development Site is located within the Area previously determined by the County Commission to be an economic development area under the Act; and

WHEREAS, the County Commission previously entered into a lease (the "Lease") with the Lake County Redevelopment Authority (the "Authority") and has pledged the tax increment from the TIF Area to the payment of lease rentals (the "Lease Rentals") under the

Lease, and the Authority has pledged the Lease Rentals to the payment of its Economic Development Lease Rental Revenue Bonds of 1995; and

**WHEREAS**, the Area established by the County Commission has been annexed into the municipal boundaries of the City; and

**WHEREAS**, the Merrillville Community School Corporation (the "Corporation") and the County Commission entered a settlement agreement (the "Settlement Agreement") related to the Area that was filed on October 28, 1992 in the Lake Superior Court, Room No. 2; and

**WHEREAS**, the Settlement Agreement contained provisions: (i) limiting the capture of incremental assessed valuation in the TIF Area, that is coterminous with the Area; (ii) limiting the amount of bonds or other obligations payable from tax increment funds that could be issued to finance projects to promote the economic development of the Area; and (iii) provided that the TIF Area could not be expanded; and

**WHEREAS**, the City has identified certain economic development projects that it desires to have undertaken in, serving or benefiting the Area, as expanded (as explained hereinafter), in order to promote economic development north of U.S. 30 between Mississippi Street and Colorado Street (the "City Projects"); and

**WHEREAS**, the County Commission desires to pay for the City Projects with the proceeds of a bond financing in the aggregate principal amount not to exceed \$6,500,000 and the tax increment collected; and

**WHEREAS**, the County Commission desires to assist the City with the City Projects; and

**WHEREAS**, the County Commission and the Corporation entered into an amendment to the Settlement Agreement (the "Amendment") on July 14, 2004 to permit the City Projects to proceed by: (i) extending the term for which incremental assessed valuation in the TIF Area may be captured; (ii) authorizing the use of tax increment funds on hand, and the issuance of bonds or other obligations of the County Commission to finance the City Projects; and (iii) permitting the expansion of the Area, but not the TIF Area, to include the City Projects; and

**WHEREAS**, the City of Hobart Common Council (the "Common Council") adopted Ordinance No. 2004-20 on August 11, 2004, consenting to the issuance of bonds by the County Commission payable from tax increment collected in the TIF Area and for the purpose of financing the City Projects within the expanded Area and authorizing the County Commission to undertake projects in the Plan and activities in the Area, as if the annexation to the City had not occurred; and

**WHEREAS**, the Common Council amended Ordinance No. 2004-20 on July 6, 2005 through the adoption of Ordinance No. 2005-29, requiring that the City grant final

development approval for all private development projects within the Area that will benefit from the City Projects prior to the issuance of bonds by the County Commission to finance said Public City Projects; and

**WHEREAS**, the County Commission adopted Resolution No. 002-2006 on October 4, 2006, after holding a public hearing on September 20, 2006, to amend the Declaratory Resolution to add the acquisition of easements in certain parcels of property to the acquisition list for the Area to complete certain Public Infrastructure Improvements; and

**WHEREAS**, the City has entered into certain contracts for the design and engineering of certain of the Public Infrastructure Improvements, to be paid for by the County Commission with existing Tax Incremental Financing Revenues ("TIF Revenues") on hand, and as a condition of such payment, the City has assigned those contracts to the County Commission through Resolution No. 2006-39 adopted by the Common Council on August 16, 2006; and

**WHEREAS**, the County Commission adopted Resolution No. 001-06 on September 20, 2006 to accept the assignment of the contracts and to authorize its treasurer to pay claims presented pursuant to such contracts, upon the City presenting documentation of its acceptance of the work performed thereunder; and

**WHEREAS**, all conditions have been met as required in the Amendment to allow the County Commission to use existing TIF Revenues not to exceed \$1,500,000, on or before December 31, 2006, to pay for the City Projects and to begin the process, on or before December 31, 2006, for the issuance of Bonds, in one or more series, not to exceed \$6,500,000 to be sold on or before June 15, 2007 to further finance the City Projects.

**WHEREAS**, the Developer currently owns the real estate consisting of POD E of the Development Site, as more particularly depicted in Exhibit B ("Site Plan") and Exhibit C ("POD Plan"); and

**WHEREAS**, B3 Properties, LLC ("B3") currently owns all of the other real estate consisting of PODs A, B, C and D of the Development Site as more particularly depicted in Exhibit B ("Site Plan") and Exhibit C ("POD Plan"); and

**WHEREAS**, B3 has sought and received a tentative plan approval for the Planned Unit Development ("PUD") from the City based upon the conceptual plans submitted by B3, which approval is subject to the submission of the preliminary and final plans, the preliminary and final plans and the rezoning to PUD; and

**WHEREAS**, the Developer along with B3 have purchased the Development Site, with the intent to develop it as "Silverstone Crossing," a PUD comprised of a business, commercial, and retail development consisting of approximately 149 acres located in PODs B, C and D (collectively the "PUD Commercial Area"), a residential development consisting of approximately 54 acres located in POD A (the "PUD Residential Area"), and a business, commercial, and retail development consisting of approximately 30 acres located in POD E,

which are more particularly depicted in Exhibit B and Exhibit C, attached hereto and incorporated herein; and

**WHEREAS**, the City Commission and the City believe that developing the Development Site and accomplishing the Public Infrastructure Improvements as described herein are in the best interests of the health, safety and welfare of the City and its residents and comply with the public purposes and provisions of the Act and all other applicable federal, state and local laws under which the project has been undertaken and is being assisted; and

**WHEREAS**, the City Commission and the City desire to facilitate the project in accordance with the powers granted the City Commission under the Act by undertaking the Public Infrastructure Improvements and the financing thereof subject to the conditions contained herein; and

**WHEREAS**, the Parties agree that it is of mutual benefit for the Parties to enter into this Agreement relating to the project and the Public Infrastructure Improvements that will include the commitments of each Party; and

**WHEREAS**, each of the Parties understands and agrees that certain actions contemplated by this Agreement are required to be undertaken by persons, agencies or entities that are not party to this Agreement and that any action by such third parties shall require independent approval by the respective person, agency, entity or governing body thereof;

**NOW, THEREFORE**, in consideration of the mutual promises and obligations in this Agreement, the adequacy of which consideration is hereby acknowledged, the Parties agree as follows:

#### **SECTION 1. DEFINITIONS.**

Defined terms are indicated by initial capital letters. Defined terms shall have the meaning set forth herein, whether or not such terms are used before or after the definitions are set forth. The following terms are more specifically defined below:

**Bonds.** Bonds mean the Lake County Redevelopment Commission Lease Purchase Revenue Bonds or the Lake County Redevelopment Commission Revenue Bonds, one of which shall be proposed to be issued by the County Commission with the prior approval of the City pursuant to Section 5.2 hereof to be payable from the project TIF Revenues.

**City Projects.** City Projects has the meaning as used in Exhibit A of Ordinance No. 2004-20 of the Common Council, adopted on August 11, 2004.

**Connector Road.** Connector Road means the roadway depicted as Avenue "F" in Exhibit C that the Developer and/or B3 will construct, along with the related infrastructure, and which will be paid for by the Developer and/or B3, unless all other obligations of the City, as described in this Agreement have been paid in full with the Bond proceeds, in which case, the

City may determine to use the excess Bond proceeds to help pay the costs associated with the construction of the Connector Road.

**Development.** Silverstone Crossing Development.

**Loop Road.** Loop Road means the roadway depicted as Avenue "A" in Exhibit C that the City will construct, along with the related infrastructure, and which will be paid for from the Bond proceeds as a part of the Public Infrastructure Improvements.

**Non-Residential Usage.** Any commercial or business usage that is a permitted use in the PUD Commercial Area or in POD E, as more particularly described in the Common Council PUD Ordinance (the "PUD Ordinance"), which shall be prepared, completed and adopted by the Common Council at a later date, but shall be incorporated herein and attached hereto in Exhibit G, as if the PUD Ordinance was in existence at the time of this Agreement's Effective Date.

**POD.** POD means the individual sections or divisions of the Development as depicted in Exhibit C.

**Private Investment** includes, but is not limited to, the costs associated with construction and improvements on the Development Site by the Developer and B3.

**Public Infrastructure Improvements.** Those public improvement projects currently planned by the County Commission and the City, which shall include the construction of water, sewer, stormwater, and road infrastructure improvements, including street lighting, traffic signalization, and other miscellaneous infrastructure improvements, of which the public infrastructure improvements relevant to the PUD Commercial Area and POD E are more particularly described in the attached Exhibit D and Exhibit E.

**Silverstone Crossing.** An approximately 233 acre development, consisting of an approximately 149 acre PUD Commercial Area, an approximately 54 acre PUD Residential Area, and an approximately 30 acre POD E commercial area, to be located on the Development Site depicted on the Site Plan shown in Exhibit B.

**State.** State of Indiana.

**Term.** The Term of this Agreement shall be as defined in Section 2.2 hereof

**TIF.** Tax Incremental Financing, as provided by Indiana Code §36-7-14.

**TIF Revenues.** The real property tax revenues, as described in Indiana Code §36-7-14-39(b)(2), that are collected from the project.

## **SECTION 2. EFFECTIVE DATE AND TERM.**

**2.1 Effective Date.** This Agreement shall be effective as of the date first written above ("Effective Date").

**2.2 Term.** The Term of this Agreement shall commence upon the Effective Date and continue until the later of the date on which (i) all of the Public Infrastructure Improvements have been completed or (ii) all of the Development in POD E has been completed by the Developer in accordance with the Agreement.

### **SECTION 3. RECITALS.**

The Recitals set forth above are a part of this Agreement for all purposes.

### **SECTION 4. OBLIGATIONS OF THE DEVELOPER.**

**4.1 Generally.** The Parties acknowledge and agree that the agreement of the City and City Commission to perform and abide by the covenants and obligations set forth in this Agreement are material consideration of the Developer's commitment to perform and abide by the covenants and obligations of the Developer contained in this Agreement.

**4.2 Title to Property.** The Developer agrees with the City and City Commission to provide a certified copy of the Developer's deed showing ownership of POD E of the Development Site and a certified copy of the Developer's title insurance policy ensuring Developer's title to POD E of the Development Site.

**4.3 Development Strategy.** The Developer agrees with the City and City Commission that it shall market and develop POD E of the Development Site so that Silverstone Crossing is a quality business, retail, commercial, and residential site which will comply with all zoning requirements and the terms and conditions approved by the Common Council. The POD E uses may include the permitted commercial, retail and business uses as more particularly described in the PUD Ordinance, which shall be prepared, completed and adopted by the Common Council at a later date, but shall be incorporated herein and attached hereto in Exhibit G, as if the PUD Ordinance was in existence at the time of this Agreement's Effective Date.

**4.4 Declaration of Use Restriction.** The Developer agrees with the City and City Commission that it shall prepare, execute, and record a Declaration of Use Restriction (the "Declaration of Use Restriction") that shall run with the land for all parcels in POD E (the "Restricted Parcels"), as more particularly described in the attached Exhibit A and Exhibit C, and shall limit the use of these parcels to Non-Residential Usage, as defined in Section 1. The Developer further agrees to state in the Declaration of Use Restriction for the Restricted Parcels that if any present or future owner, grantee, heir, or assign of the Restricted Parcels fails to adhere to the use restriction by converting the Restricted Parcels to a residential use, said owner will be subject to monetary damages in the amount of twenty-five percent (25%) of the cost of the Public Infrastructure Improvements for a violation of the Declaration of Use Restriction in POD E; such monetary damages are payable to the County Commission. The Developer agrees that the Declaration of Use Restriction shall state that all owners, grantees, heirs, and assigns of the Restricted Parcels cannot vacate the restriction on use without the prior written approval and consent of the County Commission, the City Plan Commission, and the City Council.

**4.5 Right-Of-Way Easements.** The Developer agrees to provide the City and City Commission with such right-of-way easements across and through POD E as may be necessary for the purpose of constructing the Public Infrastructure Improvements necessary for the Development.

**4.6 Construction of Connector Road.** The Developer agrees with the City and City Commission that the Developer and/or B3 will construct a connector, along with the related infrastructure, between the Loop Road and the Development depicted as Avenue "F" in Exhibit C. The Developer further agrees that the Developer and/or B3 will complete the construction of the Connector Road within eighteen (18) months of the City completing construction of the Loop Road along with the related infrastructure. The Developer also agrees that the Developer and/or B3 will pay for the cost of constructing the Connector Road, along with the related infrastructure, unless all other obligations of the City, as described in this Agreement have been paid in full with the Bond proceeds, in which case, the City may determine to use the excess Bond proceeds to help pay the costs associated with the construction of the Connector Road. If the Connector Road is to be constructed by B3 on property owned by the Developer, the Developer agrees with the City and City Commission to allow B3 to construct a connector between the Loop Road and the Development depicted as Avenue "F" in Exhibit C on the Developer's property.

**4.7 Land and Building Requirements.** The Developer agrees with the City and City Commission to allow the City and City Commission to control the land use and building requirements and restrictions for POD E. The Developer further agrees to adhere to the land and building requirements and restrictions for POD E as described in Exhibit F and Exhibit G, which shall be incorporated herein and attached hereto at a later date, as if both exhibits were in their final form at the time of this Agreement's Effective Date.

**4.8 Cooperation to Expedite Process; Required Approvals.** The Developer hereby agrees to endorse and support the City and City Commission's efforts to expedite the project through the required planning, design, permitting, waiver, right-of-way easements, and related regulatory processes. The Developer acknowledges and agrees to submit preliminary and final plans and specifications for approval as may be required pursuant to the City's zoning and subdivision regulations.

**4.9 Contracting and Inspection.** The Developer agrees to allow the City and City Commission to be the contracting entity, in which the City and City Commission will seek public bids in accordance with I.C. 36-1-12, pending assignment of this duty by the County, as amended from time to time, to obtain contractors for the completion of the Loop Road and related Public Infrastructure Improvements. The Developer further agrees that the Bond proceeds will be used to pay for the costs associated with the public bidding process and all costs of inspection and engineering associated with the Loop Road and related Public Infrastructure Improvements, including, but not limited to, the costs of all plans, drawings and specifications that may be required for the Public Infrastructure Improvements to be publicly bid pursuant to the requirements of I.C. 36-1-12.

**4.10 Employment of Local Labor.** The Developer hereby agrees to use its best efforts to employ qualified local contractors and other related labor during construction of the



Development project and further agrees to pay its employees and independent contractors any minimum wage requirement or Common Construction Wage, as required by the City, during the construction of the Development.

**4.11 Costs of Public Infrastructure Improvement for POD E.** If the costs of and related to the Public Infrastructure Improvements of POD E are in excess of what may be funded with the Bond proceeds, the Developer agrees to pay to the City the amount of the excess costs. If there are costs in excess of what may be funded with the Bond proceeds, as determined at the time of and by the receipt of public bids for the Public Infrastructure Improvements, the Developer agrees to pay the excess costs to the City within thirty (30) days of receiving notice of the excess costs from the City.

**4.12 Completion of Development.** Developer agrees to complete at least thirty percent (30%) of the Development in POD E within six (6) years of the Effective Date of the Agreement and one hundred percent (100%) of the Development in POD E within fifteen (15) years of the Effective Date of the Agreement. If the Developer fails to meet the time commitments, the Developer agrees to pay monetary damages in the amount of thirty percent (30%) of the costs of the Public Infrastructure Improvements in POD E for failing to meet the six (6) year time commitment and one hundred percent (100%) of the costs of the Public Infrastructure Improvements in POD E for failing to meet the fifteen (15) year time commitment.

**4.13 Security Interest.** To secure the Developer's completion commitment for POD E within the prescribed time limits set forth in Section 4.12, the Developer agrees to execute a mortgage (the "Performance Mortgage") on POD E in favor of the City and City Commission. The Performance Mortgage shall serve as the City and City Commission's security interest in POD E and shall be junior and subordinate to any and all mortgages on POD E held by the Developer's primary lender. The City and City Commission's security interest in POD E shall be released quarterly by the City and City Commission to the Developer in proportion to the amount of the Development in POD E that the Developer has completed in accordance with this Agreement, as evidenced by the quarterly review the Developer shall submit to the City and City Commission, as hereinafter described in Section 8.2. In the event that the Developer sells or otherwise disposes of a portion of or all of the Development to a third party, unaffiliated with the Developer, for purposes of development, the Performance Mortgage will be released on that portion of the Development sold or otherwise disposed of to a third party, such release being subject to such other terms and conditions as may be negotiated with the third party.

## **SECTION 5. OBLIGATIONS OF THE CITY AND CITY COMMISSION.**

**5.1 Generally.** The Parties acknowledge and agree that the Developer's agreement to perform and abide by the covenants and obligations set forth in this Agreement is material consideration for the City and City Commission's commitment to perform and abide by the covenants and obligations of the City and City Commission contained in the Agreement.

**5.2 Completion of and Financing of Public Infrastructure Improvements.** Subject to the terms and conditions of this Agreement (including without limitation the following), the City and City Commission agree to provide the Public Infrastructure

Improvements to the PUD Commercial Area and POD E, including the creation of the Loop Road, to be financed with the proceeds of the Bonds issued by the County Commission with the prior approval of the City. Notwithstanding anything contained herein, in the event the costs of the Public Infrastructure Improvements of POD E are in excess of what may be funded with the Bond proceeds, the Developer shall pay to the City the amount of the excess costs related to POD E to permit timely completion of the Public Infrastructure Improvements of POD E.

The obligations of the City and City Commission hereunder are subject to the actions of the City and City Commission necessary to complete the financings contemplated herein as required by the Act which the City and City Commission in good faith agree to undertake.

**5.3 Cooperation.** Consistent with City policy, the City and City Commission hereby agree to endorse and support Developer's efforts to expedite the project through the required planning, design, permitting, waiver and related regulatory processes.

## **SECTION 6. COOPERATION-IMPLEMENTATION.**

**6.1 City and City Commission Cooperation.** Upon submission by Developer of all appropriate applications and processing fees for any required approval referenced in this Agreement, the City and City Commission shall promptly and diligently commence and complete all steps necessary to comply with its obligation to support or endorse said approval.

**6.2 Conditions.** The City and City Commission's obligations under Section 5 of this Agreement are conditioned upon the Developer's submission, in a timely manner, of all documents, applications, plans, and other information necessary for the City and City Commission to meet the obligations contained herein. It is the express intent of the Parties to cooperate and work diligently and in good faith to obtain the approvals necessary to accomplish the project.

## **SECTION 7. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.**

**7.1 Cooperation.** In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment including all appeals. Each Party shall select its own legal counsel and retain such counsel at its own expense, and in no event shall City or City Commission be required to bear the fees and costs of Developer's attorneys nor shall Developer be required to bear the fees and costs of City or City Commission's attorneys.

The Parties agree that this Section 7.1 shall constitute a separate agreement entered into concurrently with this Agreement, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification, or setting aside.

**SECTION 8. DEFAULT; TERMINATION; QUARTERLY REVIEW.**

**8.1 Default.** Any material failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, unless such period is extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of a default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured, then no default shall exist and the noticing Party shall take no further action.

**8.2 Quarterly Review.** On or before the 1<sup>st</sup> day of each quarter (each January 1, April 1, July 1 and October 1), the Developer shall submit to the City and City Commission a report demonstrating Developer's good-faith compliance with the terms of this Agreement. This report shall include the following information and documents: (i) a status report of the construction completed to date, (ii) an update on the project schedule, (iii) an itemized accounting generally identifying the Private Investment to date.

**8.3 Enforced Delay in Performance for Causes Beyond Control of Party; Extension of Time of Performance.** Notwithstanding anything to the contrary contained in this Agreement, none of the Parties shall be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environments regulations, contract defaults by third parties or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Upon the request of any of the Parties, an extension of time for such cause will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon by all the Parties.

**SECTION 9. NO AGENCY, JOINT VENTURE OR PARTNERSHIP; CONFLICT OF INTEREST.**

**9.1 No Agency, Joint Venture or Partnership.** It is specifically understood and agreed to by and between the Parties that:

- a) The project, as described in this Agreement, is a private development;
- b) The City and City Commission have no interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until

such time, that the City and City Commission accept the same pursuant to the provisions of this Agreement; and

c) The City and City Commission and the Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and City Commission and the Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the City and City Commission and the Developer.

**9.2 Conflict of Interest; City and City Commission Representatives Not Individually Liable.** No member, official, employee, or agent of the City or City Commission shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, employee, or agent participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he/she is, directly or indirectly, interested. No member, official, employee, or agent of the City or City Commission shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Developer or successor or assign or on any obligations under the terms of the Agreement. No partner, employee or agent of the Developer or successors of them shall be personally liable to the City or City Commission under this Agreement.

#### **SECTION 10. MISCELLANEOUS.**

**10.1 Severability.** If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties.

**10.2 Other Necessary Acts.** Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to accomplish the project contemplated by this Agreement and to provide and secure to the other Parties the full and complete enjoyment of its rights and privileges hereunder.

**10.3 Waiver of Jury Trial.** The parties acknowledge that disputes arising under this Agreement are likely to be complex and they desire to streamline and minimize the cost of resolving such disputes. In any legal proceeding, each party irrevocably waives the right to trial by jury in any action, counterclaim, dispute or proceeding based upon, or related to the subject matter of this Agreement. This waiver applies to all claims against all parties to such actions and proceedings. This waiver is knowingly, intentionally and voluntarily made by both parties.

**10.4 Attorneys' Fees.** In the event of any litigation, mediation or arbitration between the Parties regarding an alleged breach of this Agreement, neither Party shall be entitled to any award of attorney's fees.

**10.5 Equal Employment Opportunity.** The Developer, for itself and its successors and assigns, agrees that during the construction of the project:

a) The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and

b) The Developer will state, in all solicitations or advertisements for employees placed by or on behalf of the Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

**10.6 Titles of Articles and Sections.** Any titles of the several parts, sections, and paragraphs of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

**10.7 Counterparts.** This Agreement may be executed in counterparts, all of which shall be deemed originals.

**10.8 Notices and Demands.** A notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

a) in the case of the Developer, is addressed to or delivered personally to

Developer: Diamond Veil Development, Inc.  
1270 Stoney Brook Court  
Crown Point, IN 46307  
Attn: Robert Stiglich, President and Secretary

With a copy to: Clyde Compton, Esq.  
8700 Broadway  
Merrillville, IN 46410

and

b) in the case of the City Commission is addressed to or delivered personally to:

City Commission: Hobart Redevelopment Commission  
414 Main Street  
Hobart, IN 46342  
Attn: Director of Development

With a copy to:

City Attorney John Bushemi, Esq.  
8926 Broadway  
Merrillville, IN 46410

and

c) in the case of the City is addressed to or delivered personally to:

City:

City of Hobart, Indiana  
414 Main Street  
Hobart, IN 46342  
Attn: Mayor  
Attn: Clerk-Treasurer

With copy to:

City Attorney John Bushemi, Esq.  
8959 Broadway  
Merrillville, IN 46410

or at such other address with respect to such Party as that Party may from time to time designate in writing and forward to the other as provided in this Section.

**10.9 Governing Law.** This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

**10.10 Authority.** The undersigned persons executing and delivering this Agreement on behalf of each of the Parties represent and certify that they are the duly authorized officers of such Party and have been fully empowered to execute and deliver this Agreement on behalf of such Party and that all necessary action to execute and deliver this Agreement has been taken by such Party.

**10.11 No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the Parties herein.

**10.12 Assignment.** The Developer's rights under this Agreement shall be personal to Developer and shall not run with the land. Upon written consent of the City and City Commission, Developer may assign its corresponding rights and obligations under this Agreement to another party. Notwithstanding the foregoing, the Developer shall have the right to assign its rights under this Agreement to another entity that is owned or controlled by the current owners of the original Developer without the consent of the City and City Commission. Additionally, in the event the Developer is in default with respect to its obligations to its lender for the project, such lender may receive an assignment of the Developer's interests in the

Agreement, it being understood, however, that the obligations of the City and City Commission under this Agreement will remain subject to satisfaction of the obligations of the Developer as described herein. Additionally, the assignee would have the same corresponding contractual rights and development obligations as Developer has under this Agreement.

**10.13 Further Assurances.** The Parties agree that they will each undertake in good faith as permitted by law any action and execute and deliver any document reasonably required to carry out the intents and purposes of this Agreement.

**10.14 Facsimile Signatures.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Any telecopied version of a manually executed original shall be deemed a manually executed original.

**SECTION 11. AMENDMENTS.**

**11.1 Amendment.** This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the Parties, in accordance with this Agreement.

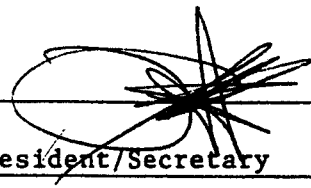


IN WITNESS WHEREOF, the Parties hereby execute this Agreement on the date first written above.

**DEVELOPER:**

DIAMOND VEIL DEVELOPMENT, INC.

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



Its: President/Secretary



*(Signature Page to Development Agreement)*



CITY OF HOBART, INDIANA

*Becky Juziwski*  
Member, City Council

*Diana M. Buzyniec*  
Member, Board of Public Works

ATTEST:

*Robert A. Long*  
Clerk-Treasurer



(Signature Page to Development Agreement)

BDDDB01 4562874v8

**HOBART REDEVELOPMENT  
COMMISSION**

Vice President Margaret J. Huchta

ATTEST:

Michael J. Lees  
Secretary



*(Signature Page to Development Agreement)*

**EXHIBIT A**

**Silverstone Crossing Development Site Legal Description (PODs A-D)**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTH HALF OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4 IN SPROUTS ADDITION TO MERRILLVILLE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 27, PAGE 75; THENCE SOUTH 80 DEGREES 53 MINUTES 30 SECONDS EAST, ALONG THE SOUTH LINE OF LOTS 4 TO 13 IN SAID SPROUTS ADDITION, 1019.38 FEET TO THE SOUTHEAST CORNER OF SAID LOT 13, SAID POINT ALSO LYING ON THE WEST LINE OF LOT 1 IN BLOCK 8 IN LINCOLNWAY FARMS, INC., GREEN ACRES DEVELOPMENT, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 23, PAGE 14; THENCE SOUTH 00 DEGREES 01 MINUTES 44 SECONDS EAST, ALONG SAID WEST LINE OF LOT 1, 2.18 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 83 DEGREES 33 MINUTES 57 SECONDS EAST, ALONG THE SOUTH LINE OF LOTS 1 TO 4 IN SAID BLOCK 8, 403.07 FEET TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE NORTH 86 DEGREES 11 MINUTES 20 SECONDS EAST, ALONG THE SOUTH LINE OF LOTS 5 TO 13 IN SAID BLOCK 8, 902.20 FEET TO THE SOUTHEAST CORNER OF SAID LOT 13; THENCE SOUTH 00 DEGREES 04 MINUTES 13 SECONDS EAST, 113.09 FEET; THENCE SOUTH 89 DEGREES 30 MINUTES 59 SECONDS, 688.82; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 171.44 FEET TO A POINT ON THE SOUTH LINE OF LOT 7 IN SAID GREEN ACRES DEVELOPMENT; THENCE NORTH 85 DEGREES 38 MINUTES 39 SECONDS EAST ALONG THE SOUTH LINE OF LOTS 7 TO 13 IN SAID BLOCK 7, 635.42 FEET TO THE SOUTHEAST CORNER OF SAID LOT 13; THENCE NORTH 87 DEGREES 07 MINUTES 45 SECONDS EAST, 60.07 FEET TO THE SOUTHWEST CORNER OF LOT 1 IN BLOCK 6 OF SAID GREEN ACRES DEVELOPMENT; THENCE NORTH 88 DEGREES 37 MINUTES 06 MINUTES EAST ALONG THE SOUTH LINE OF LOTS 1 TO 9 IN SAID BLOCK 6, 862.31 FEET TO THE NORTHWEST CORNER OF LOT 14 IN SAID BLOCK 6; THENCE SOUTH 00 DEGREES 01 MINUTES 31 SECONDS EAST ALONG THE WEST LINE OF LOTS 14 TO 19 IN SAID BLOCK 6, 501.42 FEET; THENCE NORTH 89 DEGREES 29 MINUTES 20 SECONDS EAST; THENCE SOUTH 00 DEGREES 02 MINUTES 52 SECONDS EAST, 588.00 FEET TO THE SOUTHWEST CORNER OF LOT 32 IN SAID BLOCK 6; THENCE SOUTH 89 DEGREES 29 MINUTES 20 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 32, 866.70 FEET TO THE SOUTHEAST CORNER OF SAID LOT 32; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF LOTS 25 TO 29 IN SAID BLOCK 6, 488.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 29; THENCE NORTH 89 DEGREES 29 MINUTES 24 SECONDS WEST, 2218.40 FEET TO THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 23; THENCE SOUTH 00 DEGREES 01 MINUTES 31 SECONDS EAST ALONG SAID WEST LINE, 1320.02 FEET; THENCE SOUTH 89 DEGREES 29 MINUTES 57 SECONDS EAST, 473.80 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00

SECONDS WEST, 341.34 FEET; THENCE NORTH 88 DEGREES 46 MINUTES 52 SECONDS WEST, 1470.69 FEET; THENCE SOUTH 29 DEGREES 53 MINUTES 20 SECONDS WEST, 20.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF THE CHESAPEAKE OHIO RAILROAD; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS ALONG SAID NORTH RIGHT-OF-WAY, 1038.05 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, 680.62 FEET TO THE EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET; THENCE NORTH 02 DEGREES 49 MINUTES 56 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY, 153.30 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 43 SECONDS EAST, 688.32 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 45 SECONDS EAST, 1634.80 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, 432.12 FEET TO THE SOUTHWEST CORNER OF LOT 19 IN SAID SPROUTS ADDITION; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG LOTS 19 TO 15 IN SAID SPROUTS ADDITION, 540.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 203.3 ACRES, MORE OR LESS.

Silverstone Crossing Development Site Legal Description (POD E)

**PARCEL E1**

Document is  
That part of the southwest quarter of section 14 and the northwest quarter of section 23, all in township 35 north, range 8 west of the second principal meridian, described as follows: commencing at the intersection of the northwesterly line of land described in quit-claim release by deed in trust recorded as document 059966 with the northerly line of the Chesapeake and Ohio Railroad right-of-way; thence north 60 degrees 06 minutes 39 seconds west, along said northerly right-of-way line, 1038.05 feet; thence north 0 degrees 00 minutes 45 seconds east, along a line parallel with the west line of said southwest quarter of section 14, 391.20 feet; thence north 89 degrees 59 minutes 15 seconds west, along a line perpendicular to said west line, 680.96 feet to the east line of Mississippi Street per document number 99058822; thence northerly, along said east line, being a curve convex to the east and having a radius of 3874.72 feet and a 150.17 foot chord bearing north 2 degrees 41 minutes 27 seconds west, an arc distance of 150.18 feet to a point of beginning; thence south 89 degrees 59 minutes 15 seconds east 688.04 feet; thence north 0 degrees 00 minutes 45 seconds east 1634.80 feet to a point on the easterly extension of the north line of lot 20 in aforesaid sprouts addition; thence north 89 degrees 59 minutes 15 seconds west, along said extension and north line, 726.33 feet to the northwest corner of said lot 20; thence south 0 degrees 00 minutes 45 seconds west, along the west line of lots 20 through 24, both inclusive, in aforesaid sprouts addition, 500.00 feet to the southwest corner of said lot 24;

THENCE CONTINUING SOUTH 0 DEGREES 00 MINUTES 45 SECONDS WEST, ALONG THE EAST LINE OF MISSISSIPPI STREET, 518.76 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 14; THENCE SOUTH 0 DEGREES 06 MINUTES 38 SECONDS EAST, ALONG THE EAST LINE OF MISSISSIPPI STREET, 291.57 FEET TO A CORNER OF WIDENED MISSISSIPPI STREET PER AFORESAID DOCUMENT 99058822; THENCE EASTERLY AND SOUTHERLY, ALONG THE WIDENED LINES OF MISSISSIPPI STREET PER SAID DOCUMENT AND HAVING THE FOLLOWING FOUR BEARINGS AND DISTANCES: SOUTH 89 DEGREES 06 MINUTES 09 SECONDS EAST 9.03 FEET; THENCE SOUTHEASTERLY, ALONG A CURVE CONVEX TO THE SOUTHWEST AND HAVING A RADIUS OF 3764.72 FEET AND A 100.66 FOOT CHORD BEARING SOUTH 4 DEGREES 50 MINUTES 42 SECONDS EAST, AN ARC DISTANCE OF 100.66 FEET TO A POINT OF TANGENCY; THENCE SOUTH 5 DEGREES 36 MINUTES 39 SECONDS EAST 102.55 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY, ALONG A CURVE CONVEX TO THE SOUTHEAST AND HAVING A RADIUS OF 3874.72 FEET AND A 122.39 FOOT CHORD BEARING SOUTH 4 DEGREES 42 MINUTES 22 SECONDS EAST, AN ARC DISTANCE OF 122.40 FEET; TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.

#### **PARCEL E2**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF LAND DESCRIBED IN QUIT-CLAIM RELEASE BY DEED IN TRUST RECORDED AS DOCUMENT 059966 WITH THE NORTHERLY LINE OF THE CHESAPEAKE AND OHIO RAILROAD RIGHT-OF-WAY; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 1038.05 FEET TO A POINT OF BEGINNING; THENCE NORTH 0 DEGREES 00 MINUTES 45 SECONDS EAST, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 14, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG A LINE PERPENDICULAR TO SAID WEST LINE, 680.96 FEET TO THE EAST LINE OF MISSISSIPPI STREET PER DOCUMENT NUMBER 99058822, SAID POINT ALSO LYING ON AFORESAID NORTHERLY RAILROAD RIGHT-OF-WAY; THENCE SOUTH 60 DEGREES 06 MINUTES 39 SECONDS EAST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 785.32 FEET TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.

#### **Individual POD Legal Descriptions**

#### **General Property/POD A Description**

STARTING AT THE SOUTHEAST CORNER OF LOT 13 IN BLOCK 8 OF LINCOLNWAY FARMS INC, GREENACRES DEVELOPMENT, THENCE 113 FT. SOUTH TO THE POINT OF COMMENCEMENT.

689 FT. GENERALLY EAST, THENCE 171 FT. GENERALLY NORTH, THENCE 1557 FT. GENERALLY EAST, THENCE 501 FT. SOUTH FOLLOWING THE PROPERTY LINE THENCE 867 FT. WEST TO THE EAST RIGHT OF WAY OF THE PROPOSED AVENUE "D", THENCE 588 FT. SOUTH, THENCE 867 FT. EAST TO THE PROPERTY LINE, THENCE 488 FT. SOUTH TO THE NORTH LINE OF NORTHEAST QUARTER SECTION 23-35-8, THENCE 2218 FT. TO THE EAST RIGHT OF WAY OF IOWA STREET, THENCE, NORTH TO THE INTERSECTION OF THE PROPOSED AVENUE "B", THENCE ALONG THE SOUTH RIGHT OF WAY OF AVENUE B TO THE INTERSECTION OF AVENUE B AND THE PROPOSED AVENUE "C", THENCE NORTHWEST FOLLOWING THE EAST RIGHT OF WAY OF THE PROPOSED AVENUE TO THE INTERSECTION OF THE PROPOSED AVENUE C AND IOWA STREET.

**General Property/POD B Description**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4 IN SPROUTS ADDITION TO MERRILLVILLE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 27, PAGE 75; THENCE SOUTH 80 DEGREES 53 MINUTES 30 SECONDS EAST, 1019.38 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 44 SECONDS EAST, 2.18 FEET; THENCE SOUTH 83 DEGREES 33 MINUTES 57 SECONDS EAST, 403.07 FEET; THENCE NORTH 86 DEGREES 11 MINUTES 20 SECONDS EAST, 902.20 FEET TO THE WEST RIGHT-OF-WAY LINE OF IOWA STREET; THENCE SOUTH ALONG SAID WEST RIGHT-OF-WAY TO THE NORTH RIGHT-OF-WAY LINE OF AVENUE "A"; THENCE GENERALLY NORTHWESTERLY AND WESTERLY ALONG SAID NORTH RIGHT-OF-WAY, APPROXIMATELY 2640 FEET TO THE EAST LINE OF LOT 17 IN SAID SPROUTS ADDITION; THENCE NORTH, 280 FEET TO THE POINT OF BEGINNING, CONTAINING 30 ACRES, MORE OR LESS.

**General Property/POD C Description-Commercial**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST INTERSECTION OF AVENUE "A" AND AVENUE "F"; THENCE GENERALLY EASTERLY AND SOUTHEASTERLY ALONG THE SOUTH RIGHT-OF-WAY LINE OF AVENUE "A", APPROXIMATELY 2240 FEET TO THE WEST RIGHT-OF-WAY LINE OF IOWA STREET; THENCE GENERALLY SOUTHERLY AND WESTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF AVENUE "A", APPROXIMATELY 2683 FEET TO THE NORTHEAST INTERSECTION OF AVENUE "A"

AND AVENUE "F"; THENCE NORTH, 1606 FEET TO THE POINT OF BEGINNING, CONTAINING 43 ACRES, MORE OR LESS.

**General Property/POD D Description-Commercial**

THAT PART OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE SOUTH 00 DEGREES 10 MINUTES 31 SECONDS EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, 1320.02 FEET; THENCE SOUTH 89 DEGREES 29 MINUTES 57 SECONDS EAST, 473.80 FEET; THENCE SOUTH, 341.34 FEET; THENCE NORTH 88 DEGREES 46 MINUTES 52 SECONDS WEST, 1470.69 FEET; THENCE SOUTH 29 DEGREES 53 MINUTES 20 SECONDS, 20.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF THE CHESAPEAKE OHIO RAILROAD; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF WAY NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, 1038.05 FEET; THENCE NORTH, 426 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF AVENUE "A"; THENCE GENERALLY EASTERLY AND NORTHERLY ALONG SAID SOUTH RIGHT-OF-WAY, APPROXIMATELY 2550 FEET TO THE POINT OF BEGINNING, CONTAINING 27 ACRES, MORE OR LESS.

This Document is the property of  
the Lake County Recorder!

**General Property/POD E Description-Commercial**

**PARCEL E1**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF LAND DESCRIBED IN QUIT-CLAIM RELEASE BY DEED IN TRUST RECORDED AS DOCUMENT 059966 WITH THE NORTHERLY LINE OF THE CHESAPEAKE AND OHIO RAILROAD RIGHT-OF-WAY; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 1038.05 FEET; THENCE NORTH 0 DEGREES 00 MINUTES 45 SECONDS EAST, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 14, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG A LINE PERPENDICULAR TO SAID WEST LINE, 680.96 FEET TO THE EAST LINE OF MISSISSIPPI STREET PER DOCUMENT NUMBER 99058822; THENCE NORTHERLY, ALONG SAID EAST LINE, BEING A CURVE CONVEX TO THE EAST AND HAVING A RADIUS OF 3874.72 FEET AND A 150.17 FOOT CHORD BEARING NORTH 2 DEGREES 41 MINUTES 27 SECONDS WEST, AN ARC DISTANCE OF 150.18 FEET TO A POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 59 MINUTES 15 SECONDS EAST 688.04 FEET; THENCE NORTH 0

DEGREES 00 MINUTES 45 SECONDS EAST 1634.80 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 20 IN AFORESAID SPROUTS ADDITION; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG SAID EXTENSION AND NORTH LINE, 726.33 FEET TO THE NORTHWEST CORNER OF SAID LOT 20; THENCE SOUTH 0 DEGREES 00 MINUTES 45 SECONDS WEST, ALONG THE WEST LINE OF LOTS 20 THROUGH 24, BOTH INCLUSIVE, IN AFORESAID SPROUTS ADDITION, 500.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 24; THENCE CONTINUING SOUTH 0 DEGREES 00 MINUTES 45 SECONDS WEST, ALONG THE EAST LINE OF MISSISSIPPI STREET, 518.76 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 14; THENCE SOUTH 0 DEGREES 06 MINUTES 38 SECONDS EAST, ALONG THE EAST LINE OF MISSISSIPPI STREET, 291.57 FEET TO A CORNER OF WIDENED MISSISSIPPI STREET PER AFORESAID DOCUMENT 99058822; THENCE EASTERLY AND SOUTHERLY, ALONG THE WIDENED LINES OF MISSISSIPPI STREET PER SAID DOCUMENT AND HAVING THE FOLLOWING FOUR BEARINGS AND DISTANCES: SOUTH 89 DEGREES 06 MINUTES 09 SECONDS EAST 9.03 FEET; THENCE SOUTHEASTERLY, ALONG A CURVE CONVEX TO THE SOUTHWEST AND HAVING A RADIUS OF 3764.72 FEET AND A 100.66 FOOT CHORD BEARING SOUTH 4 DEGREES 50 MINUTES 42 SECONDS EAST, AN ARC DISTANCE OF 100.66 FEET TO A POINT OF TANGENCY; THENCE SOUTH 5 DEGREES 36 MINUTES 39 SECONDS EAST 102.55 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY, ALONG A CURVE CONVEX TO THE SOUTHEAST AND HAVING A RADIUS OF 3874.72 FEET AND A 122.39 FOOT CHORD BEARING SOUTH 4 DEGREES 42 MINUTES 22 SECONDS EAST, AN ARC DISTANCE OF 122.40 FEET; TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.

**PARCEL E2**

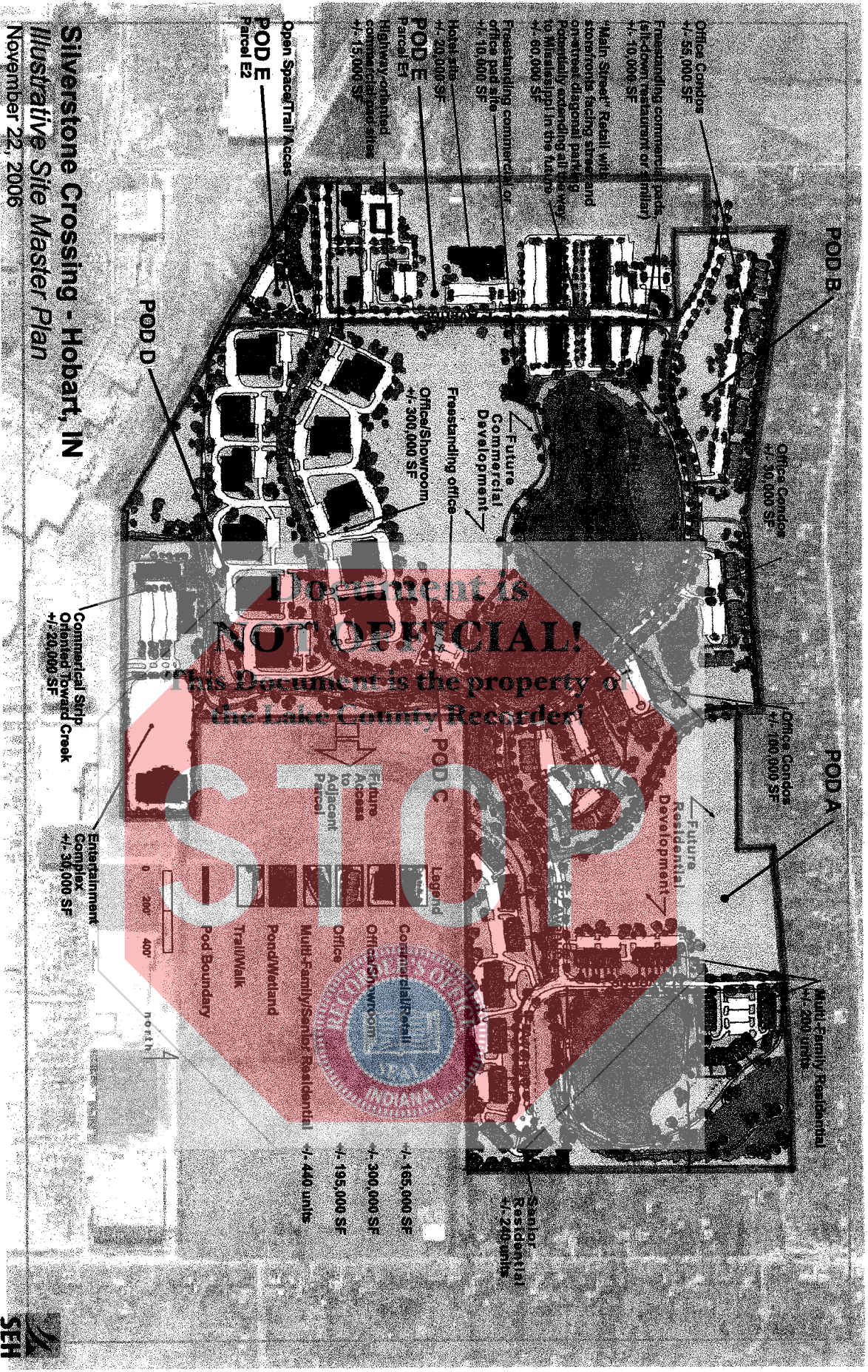
THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF LAND DESCRIBED IN QUIT-CLAIM RELEASE BY DEED IN TRUST RECORDED AS DOCUMENT 059966 WITH THE NORTHERLY LINE OF THE CHESAPEAKE AND OHIO RAILROAD RIGHT-OF-WAY; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 1038.05 FEET TO A POINT OF BEGINNING; THENCE NORTH 0 DEGREES 00 MINUTES 45 SECONDS EAST, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 14, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG A LINE PERPENDICULAR TO SAID WEST LINE, 680.96 FEET TO THE EAST LINE OF MISSISSIPPI STREET PER DOCUMENT NUMBER 99058822, SAID POINT ALSO LYING ON AFORESAID NORTHERLY RAILROAD RIGHT-OF-WAY; THENCE SOUTH 60 DEGREES 06 MINUTES 39 SECONDS EAST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 785.32 FEET TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.



**EXHIBIT B**

**[Attach Development Site Master Plan]**





**Silverstone Crossing - Hobart, IN**  
**Illustrative Site Master Plan**  
 November 22, 2006



**EXHIBIT C**

**[Attach Development POD Plan (with letter labels on roads)]**





**EXHIBIT D**

Public Infrastructure Improvements include the following improvements for the Commercial PUD Area (including POD E): 8,900 LF of roadway and storm sewer improvements, two traffic signals, ninety street lights, 8,800 LF of eight-inch sanitary sewer, and 8,900 LF of twelve-inch watermain.



**EXHIBIT E**

**Estimated Costs of PUD Commercial Area (including POD E)**

**Commercial PUD (PODs B,C,D and E)**

**A Avenue**

Roadway Improvements 6550 LF @ \$250/LF	\$1,637,500	
Street Lighting, 66 EA @ \$4,000/EA	\$264,000	
8-inch Sanitary Sewer 6500 LF @ \$50/LF	\$325,000	
12-inch Watermain 6550 LF @ \$50/LF	<u>\$327,500</u>	
		\$2,554,000

**F Avenue**

Roadway Improvements 1750 LF @ \$250/LF	\$437,500	
Street Lighting, 18 EA @ \$4,000/EA	\$72,000	
8-inch Sanitary Sewer 1700 LF @ \$50/LF	\$85,000	
12-inch Watermain 1750 LF @ \$50/LF	<u>\$87,500</u>	
		\$682,000

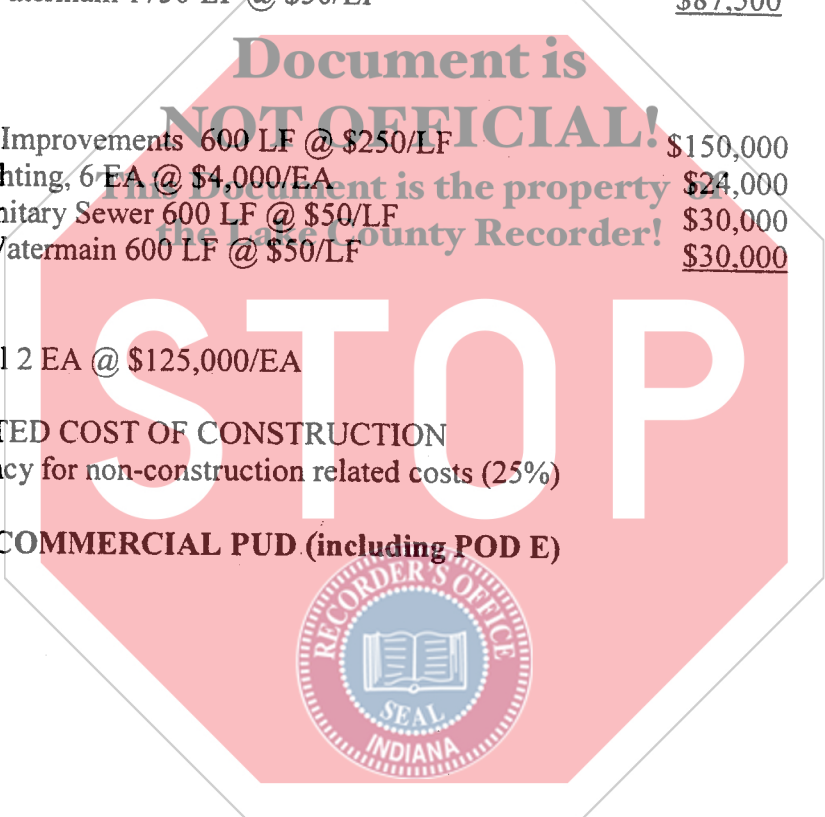
**B1 Avenue**

Roadway Improvements 600 LF @ \$250/LF	\$150,000	
Street Lighting, 6 EA @ \$4,000/EA	\$24,000	
8-inch Sanitary Sewer 600 LF @ \$50/LF	\$30,000	
12-inch Watermain 600 LF @ \$50/LF	<u>\$30,000</u>	
		\$234,000

Traffic Signal 2 EA @ \$125,000/EA		<u>\$250,000</u>
------------------------------------	--	------------------

ESTIMATED COST OF CONSTRUCTION	\$3,720,000
Contingency for non-construction related costs (25%)	<u>\$930,000</u>

<b>TOTAL COMMERCIAL PUD (including POD E)</b>	<b>\$4,650,000</b>
---	--------------------



*Note: Storm sewer costs have been included in the roadway cost. The 25% non-construction related costs are for design engineering, bidding assistance, construction engineering or any other costs not associated with construction.*

**SCHEDULE A**

South 60°06'39" East, along said Northerly right-of-way line, 785.32 feet to the point of beginning; all in Lake County, Indiana.

**PARCEL C3**

Lots 20,21,22,23 and 24 in Sprouts Addition to Merrillville as per plat thereof recorded in Plat Book 27 page 75, in the Office of the Recorder of Lake County, Indiana.

**AND**

A parcel of land being a part of the Southwest Quarter of Section 14, Township 35 North, Range 8 West and a part of the Northwest Quarter of Section 23, Township 35 North, Range 8 West of the Second Principal Meridian in Lake County, Indiana, described more particularly as follows: Beginning at the Southwest corner of said Section 14-35-8; thence North Zero degrees East 526.73 feet; thence North 90 degrees East 319.11 feet; thence South 89 degrees 01 minutes, 30 seconds East 249.0 feet; thence South Zero degrees, 16 minutes, 30 seconds East 821.6 feet; thence North 89 degrees, 12 minutes West 571.40 feet; thence North Zero degrees, 12 minutes 30 seconds West 391.4 feet to the point of beginning.

Vacant land  
Hobart, Indiana 46342



This policy is valid only if Schedules A and B are attached.  
Schedule A consists of 3 page(s)

**SCHEDULE A**

**EXHIBIT A**

**PARCEL C1**

That part of the Southwest Quarter of Section 14 and the Northwest Quarter of Section 23, all in Township 35 North, Range 8 West of the Second Principal Meridian, described as follows: Commencing at the intersection of the Northwesterly line of land described in Quit-Claim release by deed in Trust recorded as Document 059966 with the Northerly line of the Chesapeake and Ohio Railroad right-of-way; thence North 60°06'39" West, along said Northerly right-of-way line, 1038.05 feet; thence North 0°00'45" East, along a line parallel with the West line of said Southwest Quarter of Section 14, 391.20 feet; thence North 89°59'15" West, along a line perpendicular to said West line, 680.96 feet to the East line of Mississippi Street per Document Number 99058822; thence Northerly, along said East line, being a curve convex to the East and having a radius of 3874.72 feet and a 150.17 foot chord bearing North 2°41'27" West, an arc distance of 150.18 feet to a point of beginning; thence South 89°59'15" East 688.04 feet; thence North 0°00'45" East 688.04 feet; thence North 0°00'45" East 1634.80 feet to a point on the Easterly extension of the North line of Lot 20 in aforesaid Sprouts addition; thence North 89°59'15" West, along said extension and North line, 726.33 feet to the Northwest corner of said Lot 20; thence South 0°00'45" West, along the West lines of Lots 20 through 24, both inclusive, in aforesaid Sprouts addition, 500.00 feet to the Southwest corner of said Lot 24; thence continuing South 0°00'45" West, along the East line of Mississippi Street, 518.76 feet to a point on the South line of said Southwest Quarter of Section 14; thence South 0°06'38" East, along the East line of Mississippi Street, 291.57 feet to a corner of widened Mississippi Street per aforesaid Document 99058822; thence Easterly and Southerly, along the widened line of Mississippi Street per said Document and having the following four bearings and distances: South 89°06'09" East 9.03 feet; thence Southeasterly, along a curve convex to the Southwest and having a radius of 3764.72 feet and a 100.66 foot chord bearing South 4°50'42" East, an arc distance of 100.66 feet to a point of tangency; thence South 5°36'39" East 102.55 feet to a point of curvature; thence Southeasterly, along a curve convex to the Southeast and having a radius of 3874.72 feet and a 122.39 foot chord bearing South 4°42'22" East, an arc distance of 122.40 feet, to the point of beginning, all in Lake County, Indiana.

**EXCEPTING THEREFROM:**

Lots 20,21,22,23 and 24 in Sprouts Addition to Merrillville as per plat thereof recorded in Plat Book 27 page 75, in the Office of the Recorder of Lake County, Indiana.

**AND**

A parcel of land being a part of the Southwest Quarter of Section 14, Township 35 North, Range 8 West and a part of the Northwest Quarter of Section 23, Township 35 North, Range 8 West of the Second Principal Meridian in Lake County, Indiana, described more particularly as follows: Beginning at the Southwest corner of said Section 14-35-8; thence North Zero degrees East 526.73 feet; thence North 90 degrees East 319.11 feet; thence South 89 degrees 01 minutes, 30 seconds East 249.0 feet; thence South Zero degrees, 16 minutes, 30 seconds East 821.6 feet; thence North 89 degrees, 12 minutes West 571.40 feet; thence North Zero degrees, 12 minutes 30 seconds West 391.4 feet to the point of beginning.

**PARCEL C2**

That part of the Southwest Quarter of Section 14 and the Northwest Quarter of Section 23, all in Township 35 North, Range 8 West of the Second Principal Meridian, described as follows: Commencing at the intersection of the Northwesterly line of land described in Quit-Claim Release by Deed in Trust recorded as Document 059966 with the Northerly line of the Chesapeake and Ohio Railroad right-of-way; thence North 60°06'39" West, along said Northerly right-of-way line, 1038.05 feet to a point of beginning; thence North 0°00'45" East, along a line parallel with the West line of said Southwest Quarter of Section 14, 391.20 feet; thence North 89°59'15" West, along a line perpendicular to said West line, 680.96 feet to the East line of Mississippi Street per Document Number 99058822, said point also lying on aforesaid Northerly Railroad right-of-way line; thence

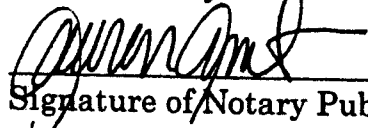
This policy is valid only if Schedules A and B are attached.  
 Schedule A consists of 3 page(s)



County of Porter)  
) SS:  
State of Indiana )

Before me, a Notary Public in and for said County and State, on this 9<sup>th</sup> day of March, 2007, personally appeared Hugh A Smith, on behalf of himself, and on behalf of Marvin D Smith, with a POA, who acknowledged the execution of the above and foregoing Consent of Primary Lender, as his own free and voluntary act.

WITNESS my hand and Notarial Seal.

  
\_\_\_\_\_  
Signature of Notary Public



SEAL

My Commission expires: 9/14/2012



**CONSENT OF PRIMARY LENDER**

Lake County Trust, as Trustee under Trust Agreement dated May 17, 1988, and known as Trust #3844, and Hugh A. Smith and Marvin D. Smith, as Trustees of the Mary Hughes Smith Revocable Trust, under Trust Agreement dated July 11, 1983, hold a mortgage in the amount of \$4,800,000 from Diamond Veil Development, Inc., an Indiana Corporation, dated January 18, 2007, and recorded January 19, 2007, as Instrument No. 2007-005530, in the Office of the Recorder of Lake County, Indiana, on the land described as follows:

See attached Exhibit A

We hereby consent to the Performance Mortgage granted by Diamond Veil Development, Inc, to the City of Hobart, Indiana, and the Hobart Redevelopment Commission, on February 14, 2006, which encumbers the same land described on the attached Exhibit A.

Dated this 9 day of March, 2007.

*Hugh A. Smith, Trustee*

Hugh A Smith, as Trustee of the Mary Hughes Smith Revocable Living Trust, Dated July 11, 1983, and as an officer of the Beneficiary of Lake County Trust, Trust No. 3844, Dated May 17, 1988.

*Marvin D. Smith by Hugh A. Smith trustee A/A*

Marvin D Smith, as Trustee of the Mary Hughes Smith Revocable Living Trust, Dated July 11, 1983, and as an officer of the Beneficiary of Lake County Trust, Trust No. 3844, Dated May 17, 1988.

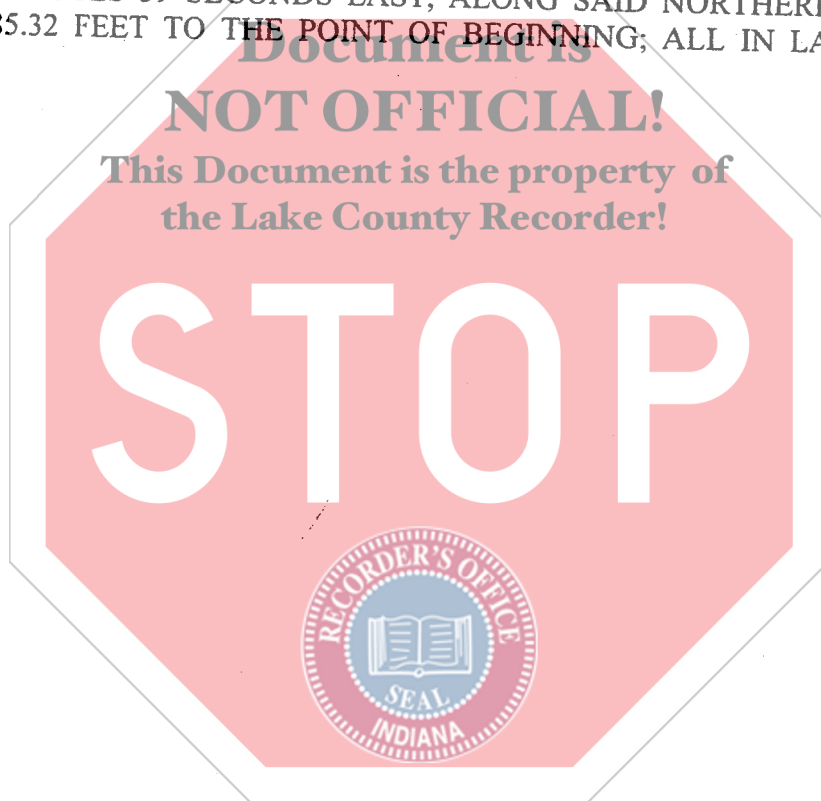


[Notary signature follows].

DEGREES 42 MINUTES 22 SECONDS EAST, AN ARC DISTANCE OF 122.40 FEET; TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.

**PARCEL E2**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH , RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF LAND DESCRIBED IN QUIT-CLAIM RELEASE BY DEED IN TRUST RECORDED AS DOCUMENT 059966 WITH THE NORTHERLY LINE OF THE CHESAPEAKE AND OHIO RAILROAD RIGHT-OF-WAY; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 1038.05 FEET TO A POINT OF BEGINNING; THENCE NORTH 0 DEGREES 00 MINUTES 45 SECONDS EAST, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 14, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG A LINE PERPENDICULAR TO SAID WEST LINE, 680.96 FEET TO THE EAST LINE OF MISSISSIPPI STREET PER DOCUMENT NUMBER 99058822, SAID POINT ALSO LYING ON AFORESAID NORTHERLY RAILROAD RIGHT-OF-WAY; THENCE SOUTH 60 DEGREES 06 MINUTES 39 SECONDS EAST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 785.32 FEET TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.



**EXHIBIT C**

**General Property/POD E Description-Commercial**

**PARCEL E1**

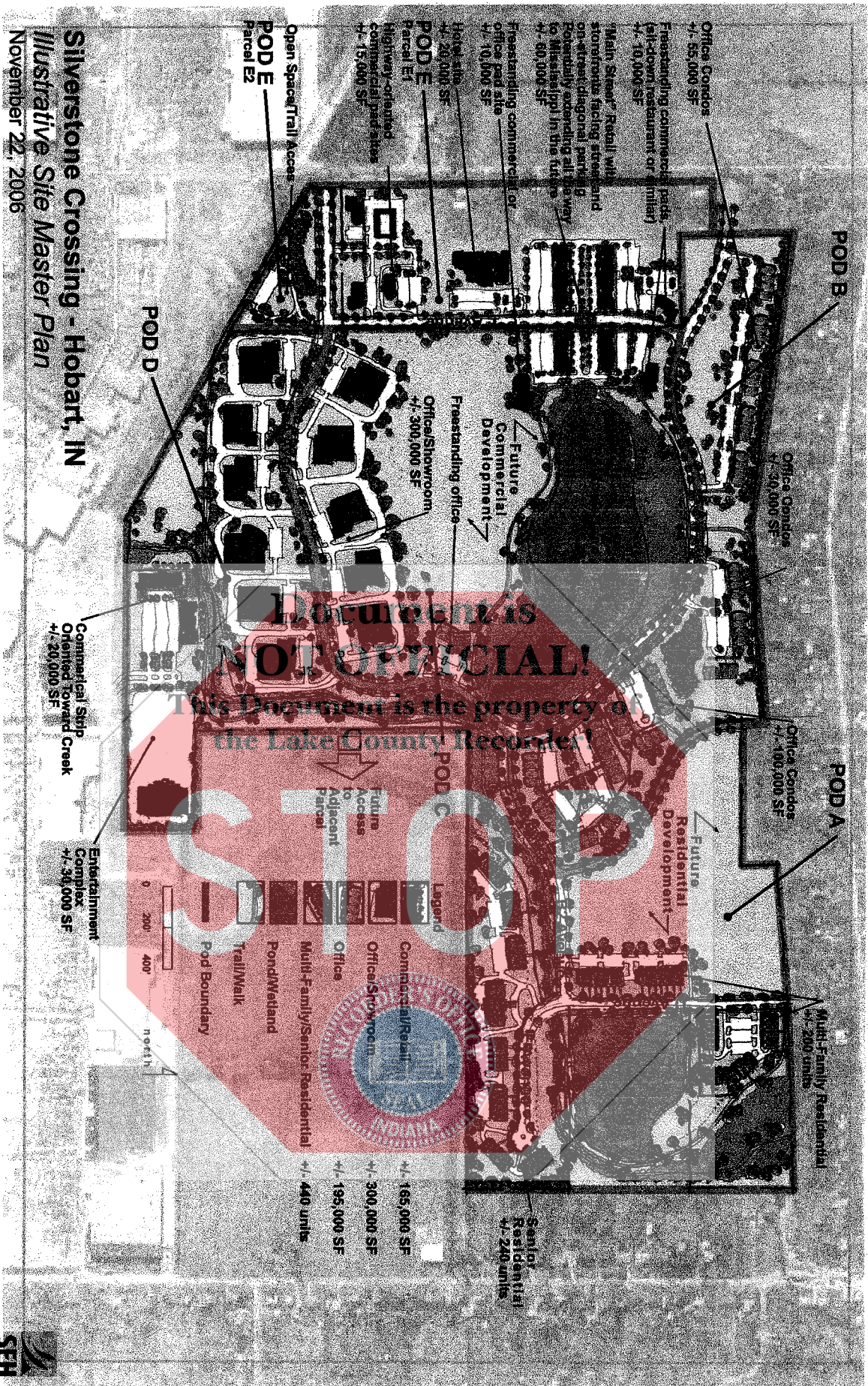
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**EXHIBIT B**

**[Attach POD Plan]**





**EXHIBIT A**

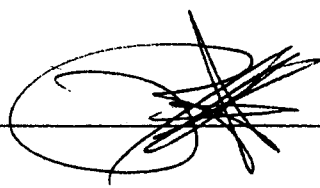
**[Attach Site Plan]**





IN WITNESS WHEREOF, Mortgagor has executed this Performance Mortgage this 14th day of ~~December, 2006~~ February, 2007

Mortgagor: Diamond Veil Development, Inc.

By: 

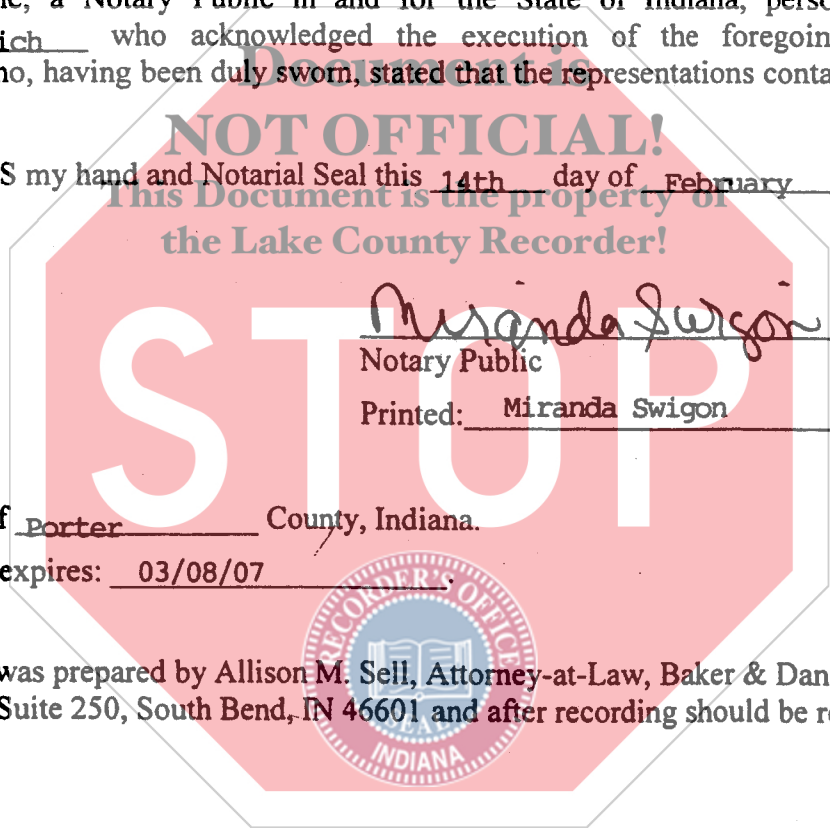
Its: President/Secretary

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

Before me, a Notary Public in and for the State of Indiana, personally appeared Robert Stiglich who acknowledged the execution of the foregoing Performance Mortgage and who, having been duly sworn, stated that the representations contained therein are true.

WITNESS my hand and Notarial Seal this 14th day of February, ~~2006~~ 2007

[SEAL]



Miranda Swigon  
Notary Public  
Printed: Miranda Swigon

I am a resident of Porter County, Indiana.

My commission expires: 03/08/07

This instrument was prepared by Allison M. Sell, Attorney-at-Law, Baker & Daniels, 205 W. Jefferson Blvd., Suite 250, South Bend, IN 46601 and after recording should be returned to Allison M. Sell.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Allison M. Sell

represents that no provision in the Primary Loan or any other documentation requires Mortgagor to obtain the consent of Primary Lender prior to entering into this Performance Mortgage. Mortgagor shall, no later than five (5) business days after the execution of this Performance Mortgage, obtain the written consent of Primary Lender to this Performance Mortgage, in a form acceptable to Mortgagees, including, without limitation, a statement that the current outstanding balance on the Primary Loan is no more than the amount set forth above.



City of Hobart, Indiana  
414 Main Street  
Hobart, IN 46342  
Attn: Mayor  
Attn: Clerk-Treasurer

with a copy to: John Bushemi, Esq.  
City Attorney  
8926 Broadway  
Merrillville, IN 46410

or at such other place as either party may, by notice in writing, designate as a place for service of notice.

17. Successors and Assigns. This Performance Mortgage shall (a) run with the land, (b) apply and extend to, be binding upon and inure to the benefit of Mortgagor, Mortgagor's heirs, administrators, successors and assigns and all persons claiming under or through Mortgagor, and the word "Mortgagor" shall include all such persons, and (c) shall apply and extend to, be binding upon and inure to the benefit of Mortgagees and Mortgagees' successors and assigns. The word "Mortgagees" shall include the successors and assigns of Mortgagees, and the holder or holders, from time to time, of any Indebtedness instruments.

18. Miscellaneous. The captions in this Performance Mortgage are for convenience or reference only and shall be disregarded in construing or interpreting any of the provisions of this Performance Mortgage. All changes to this Performance Mortgage must be in writing signed by Mortgagees and, if this Performance Mortgage is recorded, shall not be effective until being recorded. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. This Performance Mortgage shall be interpreted and enforced according to the laws of the State of Indiana. This Performance Mortgage shall not be interpreted or construed against the drafter of this Performance Mortgage.

19. Identification of Primary Mortgage Lien Provisions. If and when a Primary Lender is obtained, the Mortgagor shall provide all information required in this Performance Mortgage to the Mortgagees, including but not limited to the information contained in the following paragraph.

This Performance Mortgage is and shall be subordinate to the lien of that certain mortgage dated January 18, 2007, and executed by Mortgagor in favor of Lake County Trust, as Trustee under a Trust Agreement dated May 17, 1988, and known as Trust #3844 and Hugh A. Smith and Marvin D. Smith, as Trustees of the Mary Hughes Smith Revocable Trust under a Trust Agreement dated July 11, 1983 ("Primary Lender"), securing indebtedness in the original principal amount of Four Million Eight Hundred Thousand Dollars (\$4,800,000.00), recorded on January 19, 2007, as Instrument No. 2007-005530, in the office of the Recorder of Lake County, Indiana, which has a current outstanding principal amount of Four Million Eight Hundred Thousand Dollars (\$4,800,000.00) (the "Primary Loan"). Mortgagor hereby warrants and

13. Foreclosure Proceedings and Receiver. Upon the commencement of any proceedings to foreclose this Performance Mortgage, Mortgagees shall be entitled forthwith to the appointment of a receiver or receivers, as a matter of right, without the giving of notice to any other party, without regard to the adequacy or inadequacy of any security for the Indebtedness and without the requirement of any bond. Mortgagees shall be entitled to recover judgment either before or after or during the pendency of any proceedings for the enforcement of this Performance Mortgage. The right of Mortgagees to recover such judgment shall not be affected by the exercise of any other right, power or remedy for the enforcement of this Performance Mortgage, or the foreclosure of the lien of this Performance Mortgage.

14. No Exclusive Remedy. Each and every right, power and remedy conferred upon or reserved to Mortgagees in this Performance Mortgage is cumulative and shall be in addition to every other right, power and remedy given in this Performance Mortgage or now or hereafter existing at law or in equity. No delay or omission of Mortgagees in the exercise of any right, power or remedy shall be construed to be a waiver of any Event of Default or any acquiescence thereto.

15. Provisions Severable. In the event any one or more of the provisions of this Performance Mortgage for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Performance Mortgage, but this Performance Mortgage shall be construed as if such invalid, illegal or unenforceable provisions was never contained in this Performance Mortgage. Mortgagor agrees that its obligations hereunder are joint and several.

16. Notices. All notices pursuant to this Performance Mortgage shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by registered or certified United States mail, addressed to Mortgagor at the following addresses:

Diamond Veil Development, Inc.  
1270 Stoney Brook Court  
Crown Point, IN 46307  
Attn: Robert Stiglich, President and Secretary

with a copy to:

Clyde Compton, Esq.  
8700 Broadway  
Merrillville, IN 46410

and to Mortgagees at the following addresses:

Hobart Redevelopment Commission  
414 Main Street  
Hobart, IN 46342  
Attn: Director of Development

(b) Failure to complete at least thirty percent (30%) of the Development in POD E within six (6) years of the effective date of the Development Agreement and failure to complete one hundred percent (100%) of the Development in POD E within fifteen (15) years of the effective date of the Development Agreement, as further described in Sections 4.12 and 4.13 of the Development Agreement.

(c) Lease, sublease, assignment, sale, contracting for sale, transfer or encumbrance of all or any part of the Mortgaged Property, without Mortgagees' prior written consent as required herein;

(d) If Mortgagor becomes the subject of an order for relief under the United States Bankruptcy Code, takes any action to obtain relief under the United States Bankruptcy Code, files an answer admitting bankruptcy or insolvency or in any manner is adjudged bankrupt or insolvent;

(e) Any part of the Mortgaged Property or all or any substantial part of the property or assets of Mortgagor are placed in the hands of any receiver or trustee, or Mortgagor consents, agrees or acquiesces to the appointment of any such receiver or trustee; and/or

(f) (i) Default in the payment of principal or interest, when due, under the terms of any note or obligation secured or evidenced by the Primary Mortgage, or (ii) acceleration of any note or indebtedness secured by the Primary Mortgage, or (iii) institution of proceedings to enforce or foreclose the Primary Mortgage or any other lien or encumbrance upon all or any part of the Mortgaged Property; and/or

(g) Default under the Development Agreement.

12. Foreclosure and Application of Proceeds. All expenses which may be paid or incurred by or on behalf of Mortgagees in connection with the foreclosure of this Performance Mortgage, including but not limited to reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and cost of procuring all title searches, policies and examinations and similar data and assurances with respect to title as Mortgagees reasonably may deem necessary to prosecute such suit and all expenses incurred as a result of, arising out of or related to any default under the Development Agreement, this Performance Mortgage and the satisfaction of the Primary Loan and all amounts due thereunder, shall constitute Advancements, shall be immediately due and payable by Mortgagor, with interest thereon, and shall be allowed and included as Indebtedness in the judgment for sale. The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied in the following order of priority: First, on account of all Advancements incident to the foreclosure proceedings and all Costs; second, all other items which under the terms of this Performance Mortgage constitute Indebtedness; and third, any remainder to the person or persons entitled thereto as determined by the court in the foreclosure proceedings.

8. Transfer of Mortgaged Property. Mortgagor shall not, without the prior written consent of Mortgagees (which consent may be withheld at Mortgagees' complete discretion, without reasonable cause), lease, transfer, sell, contract to sell, mortgage or in any way further encumber all or any part of the Mortgaged Property, except for the liens of the Primary Loan. Upon the transfer of the Mortgaged Property to a third party, unaffiliated with the Mortgagor, the Performance Mortgage on that portion of the Mortgaged Property transferred to a third party, will be released, such release being subject to such other terms and conditions as may be negotiated with the third party.

9. Release of Performance Mortgage Upon the Completion of POD E. The Performance Mortgage shall be released quarterly (on or soon after each January 1, April 1, July 1 and October 1) to the Mortgagor in proportion to the amount of POD E the Mortgagor has completed, as evidenced by the quarterly review the Mortgagor shall submit to the Mortgagees, in accordance with Section 4.13 of the Development Agreement.

10. Condemnation. If all or any part of the Mortgaged Property, is taken or damaged pursuant to an exercise, or threat of exercise, of the power of eminent domain, the entire proceeds of the award or compensation payable in respect of the part so taken or damaged are hereby assigned to and shall be paid directly to Mortgagees. The proceeds of any award or compensation actually received by Mortgagees after deduction therefrom of all costs and expenses including reasonable attorneys' fees incurred by Mortgagees in connection with the taking, at Mortgagees' option, shall be applied, without premium, in part or entirely to payment of the Indebtedness or to restoration of the Mortgaged Property. Mortgagees' rights under this section are subject to the rights of the mortgagees under the Primary Mortgage (also referred to as the Primary Loan), if and when a Primary Lender is obtained, all as defined in Section 19, below.

11. Default and Acceleration. Time is of the essence in this Performance Mortgage. Upon the occurrence of any "Event of Default" (as hereinafter defined), and at any time thereafter, then, in any and every such case, the entire Indebtedness shall, at the option of Mortgagees, become immediately due and payable without any notice, presentment, demand, protest, notice of protest, or other notice of dishonor or demand of any kind, all of which are hereby expressly waived by Mortgagor, and Mortgagees shall have the right immediately to foreclose the mortgage lien created by this Performance Mortgage against the Mortgaged Property, to enforce every other security interest created by this Performance Mortgage and to institute any action, suit or other proceeding which Mortgagees may deem necessary or proper for the protection of its interests. Each of the following shall constitute an "Event of Default" for purposes of this Performance Mortgage:

- (a) Default: (i) in the payment when due for a period of five (5) days of any of the Indebtedness, which shall be due without notice or grace period, or (ii) in the performance of any covenant or term of this Performance Mortgage not cured within thirty (30) days of notice from Mortgagees of such non-monetary default;

its ability to perform its obligations under the Development Agreement or this Performance Mortgage; (e) Mortgagor has not failed to disclose any information in Mortgagor's possession which would affect Mortgagees' willingness to enter into the Development Agreement or this Performance Mortgage; (f) the Real Estate is not located in a flood area; (g) the Real Estate and the Mortgaged Property is now and shall remain at all times in the future, free of any mechanic's or materialman's lien; (h) Mortgagor will execute, acknowledge and deliver, at the reasonable request of Mortgagees, such documents as are necessary or desirable to perfect the liens created hereby; and (i) the Real Estate is not subject to the disclosure requirements provided for in the Indiana Responsible Property Transfer Law.

5. Insurance. Mortgagor shall keep the Mortgaged Property insured against loss by fire, extended casualty, vandalism, malicious mischief and such other hazards as reasonably may be required from time to time by Mortgagees for the benefit and protection of Mortgagees, shall maintain liability, automobile coverage, worker's comprehensive insurance and such other policies as may be reasonably required by Mortgagees from time to time (the "Required Insurance"). The Required Insurance shall be written in forms, amounts, and by companies reasonably satisfactory to Mortgagees. Copies of all policies shall be provided to Mortgagees, with evidence that they have been fully paid up for no less than one year. Any monies received as payment for any loss under any of the Required Insurance paid over to Mortgagees may be applied, at the option of Mortgagees, either to the prepayment of any portion, as Mortgagees may select, of the Indebtedness, without premium, or to the reimbursement of Mortgagor for expenses incurred by Mortgagor in the restoration or repair of the Mortgaged Property. Proceeds paid or payable to Mortgagor of the Required Insurance shall be applied to restoration of the Mortgaged Property in such fashion as Mortgagees reasonably may require. Mortgagees' rights under this section are subject to the rights of the mortgagees under the Primary Mortgage (also referred to as Primary Loan), if and when a Primary Lender is obtained, all as defined in Section 19, below.

6. Taxes. Mortgagor will pay and discharge or cause to be paid and discharged when due, and before any penalty attaches, all taxes (including real and personal property taxes), general and special assessments, water and sewer rents or assessments, and all other governmental and municipal charges and impositions of any kind imposed upon or assessed against Mortgagor or the Mortgaged Property, or any part thereof, or arising in respect of the occupancy, use or possession thereof. Mortgagor warrants that all real estate taxes due have been paid.

7. Protection of Security by Mortgagees. Mortgagees may, at Mortgagees' option, but without any duty or obligation of any sort to do so and without in any way waiving or relieving any default by Mortgagor, make any payment and perform any act required of Mortgagor by this Performance Mortgage or the Primary Loan, including but not limited to, payment of principal and interest due under the Primary Loan, insurance premiums, taxes, assessments, repair expenses and prior liens and encumbrances. All expenses so incurred, including reasonable attorneys' fees, and any other expenses incurred by Mortgagees to protect the Mortgaged Property shall constitute Advancements and shall immediately be due and payable by Mortgagor.

future advances made to Mortgagor by Mortgagees and all future obligations of Mortgagor assumed by Mortgagees shall be deemed Indebtedness pursuant to this Performance Mortgage, up to a maximum amount of Thirteen Million and 00/100 Dollars (\$13,000,000.00), whether made as an obligation of Mortgagees, made at Mortgagees' option, or made otherwise, are secured by this Performance Mortgage to the same extent as if the future obligations or advances were Indebtedness made on the date hereof. Any future modification, extension, and renewals of the Indebtedness secured by this Performance Mortgage or the obligations contained herein shall be secured by this Performance Mortgage to the same extent as if the future modifications, extensions, and renewals were made as of the date hereof.

Mortgagor hereby further covenants with the Mortgagees as follows:

1. Performance and Completion of Development. Mortgagor covenants and agrees to promptly complete POD E of the Development within the time limits prescribed in the second paragraph herein and in Section 4.12 of the Development Agreement.

2. Payment of Public Infrastructure Improvement Costs. Mortgagor covenants and agrees to promptly pay the Public Infrastructure Improvement Costs in accordance with the monetary damages prescribed in the second paragraph herein and in Section 4.12 of the Development Agreement and any other indebtedness secured hereby, upon the failure of the Mortgagor to complete POD E of the Development in accordance with the time limits prescribed in the second paragraph herein and in Section 4.12 of the Development Agreement, all without relief from valuation and appraisal laws and with attorneys' fees and court costs in the event of default and such other costs as provided in Section 12 of this Performance Mortgage.

3. Care and Condition of Mortgaged Property. Mortgagor shall (a) promptly repair, restore or rebuild the Mortgaged Property, or any portion thereof, which is damaged or destroyed; (b) keep the Mortgaged Property in good condition and repair, without waste, and free from encroachments and from mechanic's or materialman's liens or claims for liens not expressly subordinated to this Performance Mortgage; (c) pay when due any indebtedness which may be secured by a lien or charge on the Mortgaged Property, whether or not superior to the lien of this Performance Mortgage; (d) comply with all requirements of law and covenants and restrictions of record applicable to the Mortgaged Property or its use; (e) permit no change in or alteration of the design, structural character or general nature of the Real Estate and the Improvements unless done in accordance with the requirements and restrictions of the Development Agreement; and (f) permit Mortgagees to enter upon and inspect the Mortgaged Property at all reasonable times.

4. Warranties. Mortgagor covenants and warrants that: (a) Mortgagor is lawfully seized of the Real Estate in fee simple, has valid and indefeasible title to the Mortgaged Property and has a good and legal right to convey and mortgage the Mortgaged Property; (b) the Mortgaged Property is and will remain free from all liens and encumbrances except only this Performance Mortgage and the Prior Lien, as specifically identified in Section 19 of this Performance Mortgage; c) Mortgagor will warrant and defend title to the Mortgaged Property against all claims made thereon; (d) Mortgagor is not a party to, nor are threatened to be made a party to, any suits, actions or other litigation which might have an adverse effect on Mortgagor or

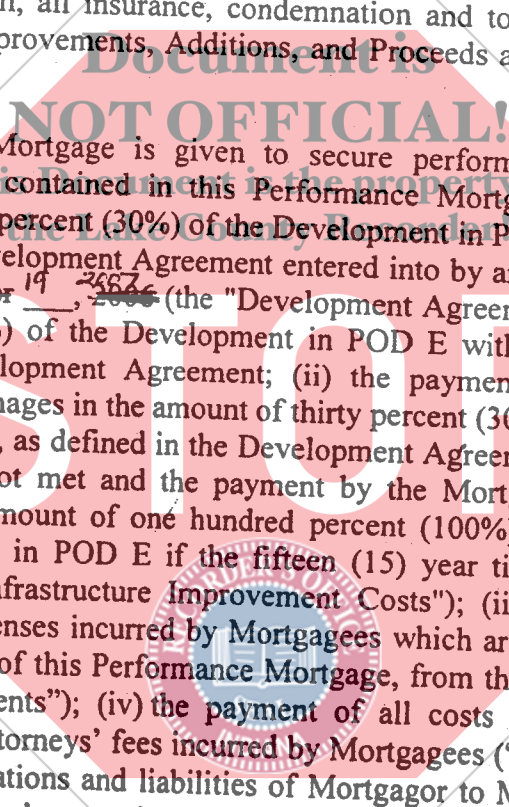


19 2007 023795

PERFORMANCE MORTGAGE

MICHAEL A. BROWN

THIS INSTRUMENT ("Performance Mortgage") WITNESSES that **Diamond Veil Development, Inc.** ("Mortgagor"), in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby MORTGAGES and WARRANTS to the City of Hobart, Indiana and the Hobart Redevelopment Commission ("Mortgagees"), certain real estate located in Silverstone Crossing Development, (the "Development"), and depicted on Exhibit A and Exhibit B as POD E ("POD E"), Lake County, Indiana, and more particularly described on Exhibit C, attached hereto and made a part hereof ("Real Estate"), together with all of the rights, title and interests of Mortgagor in and to: (i) All rights, privileges, interests, tenements, hereditaments, easements and appurtenances in any way now or hereafter pertaining to the Real Estate ("Easements"); (ii) All buildings and other improvements of every kind and description now or hereafter placed on the Real Estate, together with all fixtures, machinery and equipment now or hereafter attached to or regularly used in connection with the Real Estate, and all replacements thereof ("Improvements"); (iii) All extensions, improvements, betterments, substitutes, replacements, renewals, additions and appurtenances of or to the Easements or Improvements ("Additions"); and (iv) All awards, payments or proceeds of conversion, whether voluntary or involuntary, of any of the foregoing, including, without limitation, all insurance, condemnation and tort claims ("Proceeds"). The Real Estate, Easements, Improvements, Additions, and Proceeds are referred to together as the "Mortgaged Property".



This Performance Mortgage is given to secure performance by Mortgagor of the covenants and agreements contained in this Performance Mortgage and to secure: (i) the completion of at least thirty percent (30%) of the Development in POD E, within six (6) years of the effective date of the Development Agreement entered into by and among the Mortgagor and the Mortgagees on ~~December~~ <sup>MARCH</sup> 19, ~~2006~~ <sup>2007</sup> (the "Development Agreement") and the completion of one hundred percent (100%) of the Development in POD E within fifteen (15) years of the effective date of the Development Agreement; (ii) the payment by the Mortgagor to the Mortgagees of monetary damages in the amount of thirty percent (30%) of the costs of the Public Infrastructure Improvements, as defined in the Development Agreement, in POD E if the six (6) year time commitment is not met and the payment by the Mortgagor to the Mortgagees of monetary damages in the amount of one hundred percent (100%) of the costs of the Public Infrastructure Improvements in POD E if the fifteen (15) year time commitment is not met (collectively, the "Public Infrastructure Improvement Costs"); (iii) the payment of all sums advanced and costs and expenses incurred by Mortgagees which are made or incurred pursuant to, or allowed by, the terms of this Performance Mortgage, from the date paid or incurred until reimbursement ("Advancements"); (iv) the payment of all costs of repossession, collection, disposition and reasonable attorneys' fees incurred by Mortgagees ("Costs"); (v) the payment of all other indebtedness, obligations and liabilities of Mortgagor to Mortgagees, now existing or hereafter arising, whether fixed or contingent, direct or indirect, primary or secondary, joint or several, and regardless of how created or evidenced ("Additional Liabilities"); and (vi) the payment of any and all extensions or renewals ("Extensions") of any of the foregoing indebtedness. (Hereinafter, Public Infrastructure Improvement Costs, Advancements, Costs, Additional Liabilities and Extensions collectively shall be referred to as the "Indebtedness"). All

BDDB01 459386RV4



HOBART REDEVELOPMENT COMMISSION  
414 MAIN STREET  
HOBART, IN 46342  
ATTN: DIRECTOR OF DEVELOPMENT

\$50.00  
CAK# 014092

**EXHIBIT G**

**Common Council PUD Ordinance**

The PUD Ordinance, stating the permitted uses for the Development, shall be prepared, completed and passed by the Common Council at a later date, but shall be incorporated herein and attached as this Exhibit G, as if the PUD Ordinance was in existence at the time of this Agreement's Effective Date.



(c) The storage, utilization or manufacture of products ranging from free or active burning to intense burning, as determined by the zoning administrator, is permitted under the following conditions.

(1) All storage, utilization or manufacture of such materials or products shall be within completely enclosed buildings or structures having incombustible walls.

(2) All buildings or structures shall be set back at least forty (40) feet from the property boundaries or, in lieu thereof, shall be protected throughout by an automatic sprinkler system complying with standards for installation prescribed by the National Fire Protection Association.

(d) Materials or products which produce flammable or explosive vapors or gasses under ordinary weather temperatures shall not be permitted in this district, with the exception of the following which are permitted:

(1) Materials required for emergency or stand-by equipment.

(2) Materials used in secondary processes which are auxiliary to a principal operation, such as paint spraying of finished products.

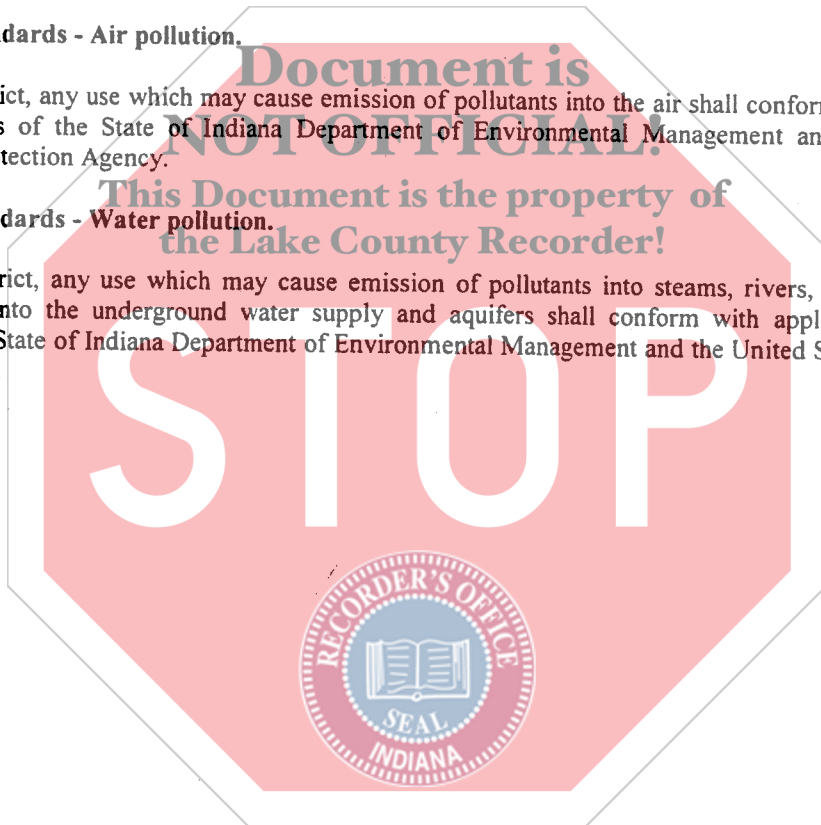
(3) Flammable liquids and oils, sold and used in conjunction with the operation of an automobile service station and customarily required or used in such operation.

**Performance standards - Air pollution.**

In an M-1 district, any use which may cause emission of pollutants into the air shall conform with applicable air quality regulations of the State of Indiana Department of Environmental Management and the United States Environmental Protection Agency.

**Performance standards - Water pollution.**

In an M-1 district, any use which may cause emission of pollutants into streams, rivers, lakes, waterways or watercourses, or into the underground water supply and aquifers shall conform with applicable water quality regulations of the State of Indiana Department of Environmental Management and the United States Environmental Protection Agency.



and other transportation facilities) exceed the decibel levels at the designated octave bands shown hereinafter for the districts indicated.

Maximum permitted sound level in decibels along A-1, R and OS district boundaries or 125 feet from plant or operation boundary.

Maximum permitted sound level in decibels along business district boundaries or 125 feet from plant or operation boundary.

Octave band cycles per second	line	line
0000 to 0075	67	73
0075 to 0150	62	68
0150 to 0300	58	64
0300 to 0600	54	60
0600 to 1200	49	55
1200 to 2400	45	51
2400 to 4800	41	47
Above 4800	37	43

**Performance standards - Odorous matter.**

In an M-1 district, the emission of noxious odorous matter in such quantities as to produce a public nuisance beyond the property boundaries is prohibited.

**Performance standards - Vibration.**

In an M-1 district, any process or equipment which produces intense earth-shaking vibrations, such as are created by heavy drop forges or heavy hydraulic surges, shall be set back at least five hundred (500) feet from the property boundaries on all sides, except for a property line adjoining an M-2 district where such set back shall not be mandatory. However, in no case shall such vibrations be allowed to create a public nuisance beyond the property boundaries.

**Performance standards - Toxic or noxious matter.**

In an M-1 district, no use of any property shall discharge across the boundaries of such property toxic and noxious matter in such concentrations as to be detrimental or to endanger the public health, safety, comfort or welfare or to cause injury or damage to other property or business.

**Performance standards - Glare or heat.**

In an M-1 district, any operation producing intense glare or heat shall be performed within a completely enclosed building and effectively screened in such a manner as to not create a public nuisance or hazard along property boundaries.

**Performance standards - Fire and explosive hazards.**

In an M-1 district, fire and explosive hazards shall be controlled as follows:

- (a) Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted in M-1 districts.
- (b) The storage, utilization or manufacture of materials ranging from incombustible to moderate burning as determined by the zoning administrator, is permitted.

- (a) Establishments engaged in production, processing, cleaning testing or repair other than those specifically listed as permitted uses in M-1 districts, but not including any use first listed as permitted in an M-2 district.
- (b) Airports and heliports.
- (c) Bus terminals.
- (d) Concrete and cement products, batch plants.
- (e) Railroad freight terminals, railroad switching and classification yards, repair shops and roundhouses.
- (f) Stadiums, auditoriums and arenas.
- (g) Theaters, automobile drive-in.
- (h) Recycling drop-off centers. (See 24-7.122)
- (i) Recycling stations. (See 24-7.124)
- (j) Adult Entertainment Facilities and Uses, including massage parlors, adult literature sales locations, exotic dancing establishments, and similar uses. (*Ord. 94-65, Adopted 11/2/1994*)

**Limitations of use.**

Permitted uses in the M-1 district are subject to the following additional general limitations:

- (a) Dwelling units are not permitted.
- (b) All production, servicing and processing shall be conducted in completely enclosed buildings unless otherwise indicated hereafter. Within one hundred fifty (150) feet of any residence district, all storage shall be within completely enclosed buildings or structures, and storage located elsewhere in this district may be open to the sky but shall be enclosed by a solid wall or by solid fences.
- (c) However, open off-street loading facilities and open off-street parking of motor vehicles may be unenclosed, except for such screening of parking and loading facilities as may be required under the provisions as set forth in Article XV, "Off-Street Parking and Loading."
- (d) Same as B-3. (*Ord. 97-15, Adopted 2/4/1998*)

**Performance standards - Noise.**

In an M-1 district, sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter.

Impulsive type noise shall be subject to the performance standards hereinafter prescribed; provided, that such noise shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this comprehensive amendment, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two (2) decibels. Noises incapable of being so measured, such as those of an irregular and intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.

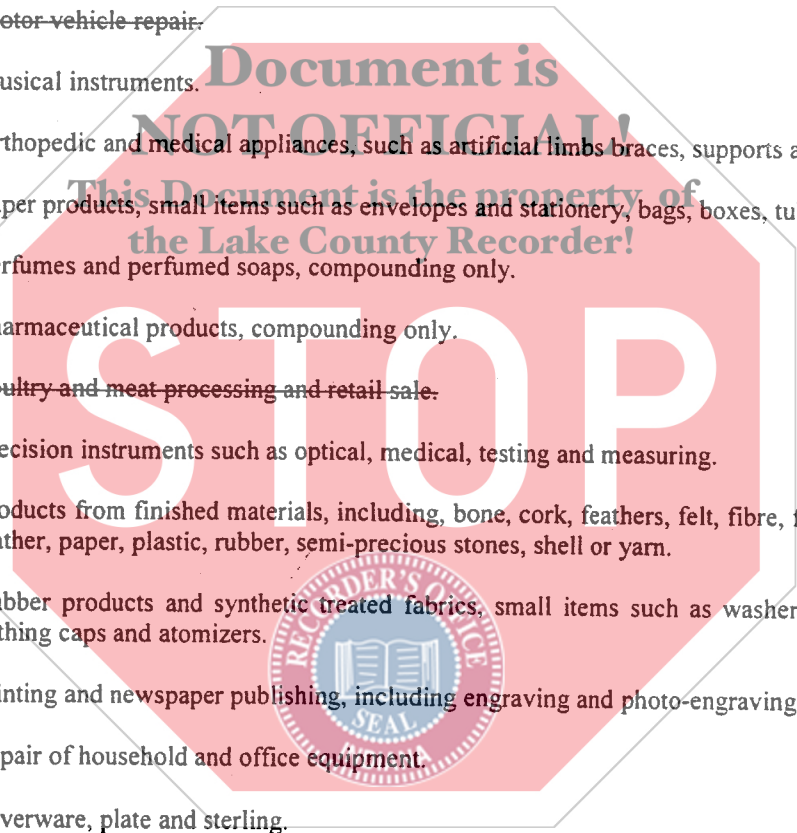
At no point either on the boundary of an agricultural or residence district or an OS-1, B-1, B-2 or B-3 district or at one hundred twenty-five (125) feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of an individual plant or operation (other than the operation of motor vehicles

- (58) Statuary, mannequins, figurines and religious and church art goods, excluding foundry operations.
  - (59) Textiles, including spinning, weaving, manufacturing, dying, printing, knit goods, yarn, thread and cordage, but not including textile bleaching.
  - (60) Tobacco curing and manufacturing of tobacco products.
  - (61) Tools and hardware such as bolts, nuts and screws, doorknobs, drills, hand tools and cutlery, hinges, house hardware, locks, nonferrous metal castings and plumbing appliances and fixtures.
  - (62) Toys.
  - (63) Umbrellas.
  - (64) Upholstering (bulk), including mattress manufacturing and rebuilding and renovating furniture.
  - (65) Vehicles, children's such as bicycles, wagons and baby carriages.
  - (66) Watches.
  - (67) Wood products, such as furniture, boxes, crates, baskets, pencils and cooperage works.
- (c) ~~Wholesaling and warehousing, including motor freight terminals.~~
- (d) *Public and community service uses, as follows:*
- (1) Publicly owned facilities and utilities.
  - (2) Private utilities providing service to the public.
  - (3) Similar uses as determined by the Plan Commission.
- (e) *Miscellaneous uses, as follows.*
- (1) ~~Radio and television towers~~
  - (2) Signs, as regulated in Article XVI.
- (f) *Uses incidental to permitted uses, as follows:*
- (1) Accessory uses.
  - (2) Temporary buildings or structures for construction purposes, for a period not to exceed the duration of such construction.
  - (3) 8 ft. (eight foot) fence in height. (*Ord. 2005-43, Adopted 10.19.05*)

**Conditional uses.**

In an M-1 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:"

- (33) Laboratories, medical, dental, research, experimental and testing; provided that there is no danger from fire or explosion, nor of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences.
- (34) Laundries.
- (35) Leather products, including shoes and machine belting.
- (36) Luggage.
- (37) Machine shops for tool, die and pattern making.
- (38) ~~Meat products.~~
- (39) Metal finishing, plating, grinding, sharpening, grinding, polishing, cleaning, rust proofing and heat treatment.
- (40) ~~Metal stamping and extrusion of small products such as bottle caps, buttons, costume jewelry, kitchen utensils, pins and needles and razor blades.~~
- (41) Mobile homes and house trailers.
- (42) ~~Motor vehicle repair.~~
- (43) Musical instruments.
- (44) Orthopedic and medical appliances, such as artificial limbs braces, supports and stretchers.
- (45) Paper products, small items such as envelopes and stationery, bags, boxes, tubes and wallpaper.
- (46) Perfumes and perfumed soaps, compounding only.
- (47) Pharmaceutical products, compounding only.
- (48) ~~Poultry and meat processing and retail sale.~~
- (49) Precision instruments such as optical, medical, testing and measuring.
- (50) Products from finished materials, including, bone, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastic, rubber, semi-precious stones, shell or yarn.
- (51) Rubber products and synthetic treated fabrics, small items such as washers, gloves, footwear, bathing caps and atomizers.
- (52) Printing and newspaper publishing, including engraving and photo-engraving.
- (53) Repair of household and office equipment.
- (54) Silverware, plate and sterling.
- (55) Soap and detergents, packaging only.
- (56) Soldering and welding.
- (57) Sporting and athletic equipment such as balls, baskets, bats, cues, gloves racquets and rods.



(7) ~~Boat building and boat repairs of pleasure craft and other small craft, but not including ship building or shop repairs.~~

(8) Book binding and tooling, hand and machine worked.

(9) ~~Bottling works, beverage.~~

(10) Brushes and brooms.

(11) Cameras and other photographic equipment and supplies.

(12) Canvas and canvas products.

(13) Ceramic products such as pottery and glazed tile.

(14) Clothing.

(15) Cosmetics and Toiletries.

(16) Data processing, hardware and software.

(17) Dentures.

(18) Drugs, compounding only.

(19) Dry cleaning.

(20) Electrical appliances, such as fixtures, home appliances and toys.

(21) Electrical equipment assembly, such as television, radio and computer.

(22) Electrical supplies, manufacture and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.

(23) Food products (except for meat or fish), processing and combining of, including baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing and pressing.

(24) ~~Fur goods, not including tanning and dyeing.~~

(25) Glass products, from previously manufactured glass.

(26) ~~Hair, felt and feather products, (except washing, curing and dyeing).~~

(27) ~~Hat bodies of fur, felt and cloth.~~

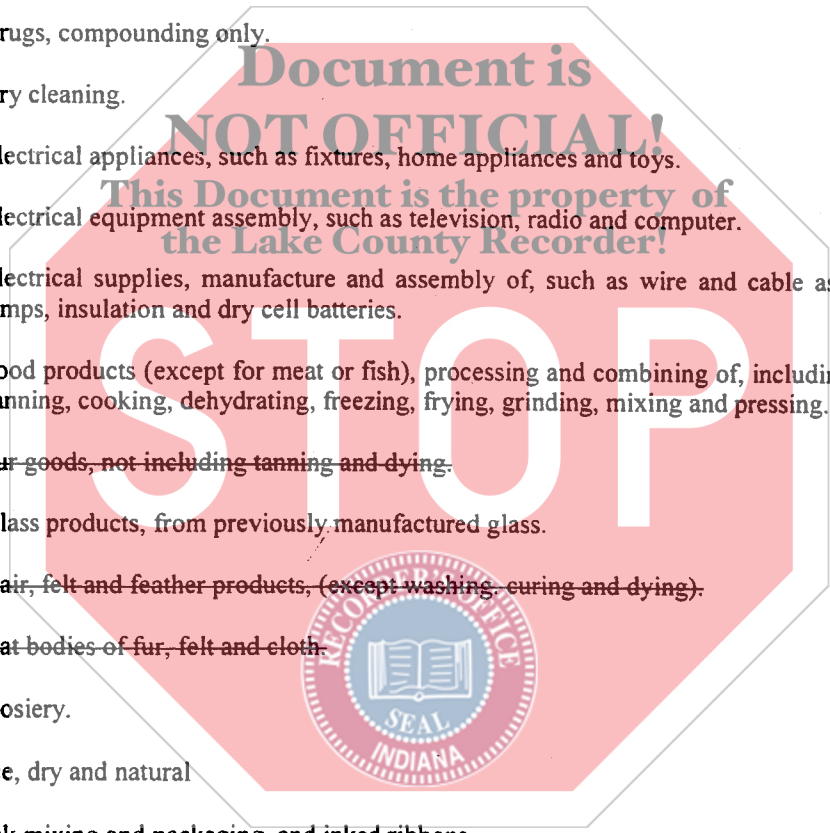
(28) Hosiery.

(29) Ice, dry and natural

(30) Ink mixing and packaging, and inked ribbons.

(31) ~~Insecticides.~~

(32) Jewelry.





**M-1 Light Manufacturing Districts.**

**Permitted uses.**

The following listed uses and no others are permitted uses in an M-1 district:

(a) *Retail and service uses as follows:*

- (1) Auto service stations ~~and truck stops.~~
- (2) Building materials, sales.
- (3) Car washes and auto supplies.
- (4) ~~Cartage and express facilities.~~
- (5) Contractor and construction shops.
- (6) Dry cleaning establishments and pressing plants.
- (7) ~~Fuel sales, with storage of fuel oils, kerosene, gasoline and other flammable products limited to one hundred twenty thousand (120,000) gallons per tank, with the total storage not to exceed five hundred thousand (500,000) gallons.~~
- (8) Garages, model display and sales.
- (9) Ice sales.
- (10) Linen, towel, diaper and other similar services.
- (11) Mobile home sales and house trailer sales.
- (12) Motor vehicle sales, including storage, servicing and repairs.
- (13) Office and household equipment and machinery, sales and service.
- (14) Parking garages and parking lots, other than accessory.
- (15) Planned unit developments, industrial.

(b) *Production, processing, cleaning, testing and repair, as follows:*

- (1) Advertising displays.
- (2) Art needlework and hand weaving.
- (3) Awnings, draperies and venetian blinds.
- (4) Bakeries.
- (5) Beverages, nonalcoholic.
- (6) ~~Blacksmith shops and ornamental ironworks.~~

(36) Lumberyards.

(37) Roofing materials sales.

(38) Mini-warehouses intending to serve residential or retail material wholly enclosed in a building, totally surrounded by an opaque fence and decorative landscaping approved by the Plan Commission. (Ord. 94-67, Adopted 11/2/1994)

(c) *Public and community service uses, as follows:*

(1) Libraries.

(2) Police stations.

(3) Fire stations.

(4) Other such public uses.

(d) *Residential uses, as follows:*

(1) Motels and transient hotels.

#### **Conditional uses.**

In a B-3 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:"

(a) Any use allowed as a conditional use in a B-2 district as set forth in Section 24-84.

(b) Additional conditional uses, as follows:

(1) Advertising signs (billboards).

(2) Outdoor amusement establishments, fairgrounds, picnic groves, kiddie parks and other similar amusement centers, including stadiums and arenas.

#### **Limitations of use.**

Permitted uses in the B-3 district are subject to the following additional general limitations:

(a) Dwelling units and lodging rooms other than those located in a transient hotel or motel are not permitted.

(b) All businesses, services, processing or storage shall be conducted in completely enclosed buildings unless said open storage is a minimum of one hundred fifty (150) feet from any residential district, and then only if said open storage is completely invisible by reason of a wall or opaque fence, or as otherwise indicated hereafter, and except when establishments of the "drive-in" type offer goods and services directly to customers waiting in parked motor vehicles.

(c) Outdoor sales of retail items may be sold only if:

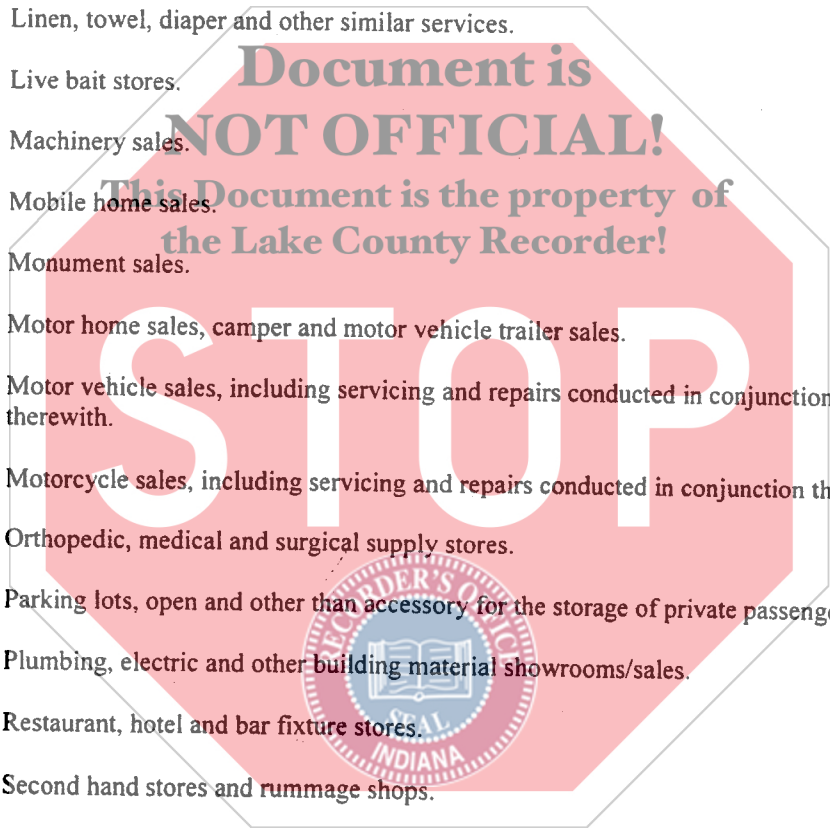
(1) the sale takes place on the same property where a permanent retail business is located;

(2) the items sold are among the permitted uses listed for this district;

(3) the items are sold by the same owner or operator of the permanent business;

(4) said outdoor sales shall not result in the lack of compliance with any other required provision of this chapter, such as setback, parking, etc. (Ord. 97-15, Adopted 2/4/1998)

- (9) Blueprinting and photostating establishments.
- (10) Boat sales, motor and sail, including servicing and repairs conducted in conjunction therewith.
- (11) Car washes and auto laundries.
- (12) Caskets and casket supplies.
- (13) Clothing and costume rental shops.
- (14) Dry cleaning plants.
- (15) Exterminating shops.
- (16) Feed and seed stores.
- (17) Frozen food lockers.
- (18) Greenhouses and nurseries.
- (19) Commercial laundries.
- (20) Linen, towel, diaper and other similar services.
- (21) Live bait stores.
- (22) Machinery sales.
- (23) Mobile home sales.
- (24) Monument sales.
- (25) Motor home sales, camper and motor vehicle trailer sales.
- (26) Motor vehicle sales, including servicing and repairs conducted in conjunction therewith.
- (27) Motorcycle sales, including servicing and repairs conducted in conjunction therewith.
- (28) Orthopedic, medical and surgical supply stores.
- (29) Parking lots, open and other than accessory for the storage of private passenger automobiles.
- (30) Plumbing, electric and other building material showrooms/sales.
- (31) Restaurant, hotel and bar fixture stores.
- (32) Second hand stores and rummage shops.
- (33) Taxidermists shops.
- (34) Truck stops, including the sale of fuel, truck washing, food and supplies.
- (35) Undertaking establishments and funeral parlors.



- (c) All permitted uses in this district shall be conducted in completely enclosed buildings, except for off-street parking and loading. Outdoor sales of retail items may be sold only if:
  - (1) the sale takes place on the same property where a permanent retail business is located;
  - (2) the items sold are among the permitted uses listed for this district;
  - (3) the items are sold by the same owner or operator of the permanent business;
  - (4) said outdoor sales shall not result in the lack of compliance with any other required provision of this chapter, such as setback, parking, etc.;
  - (5) the outdoor sale is a temporary, infrequent activity, approved by the Hobart Board of Works. (*Ord. 97-15, Adopted 2/4/1998*)
- (d) Establishments of a "drive-in" type offering goods or services directly to customers waiting in parked motor vehicles are not permitted, except for such services which are clearly incidental to a principal permitted use.

**Conditional uses.**

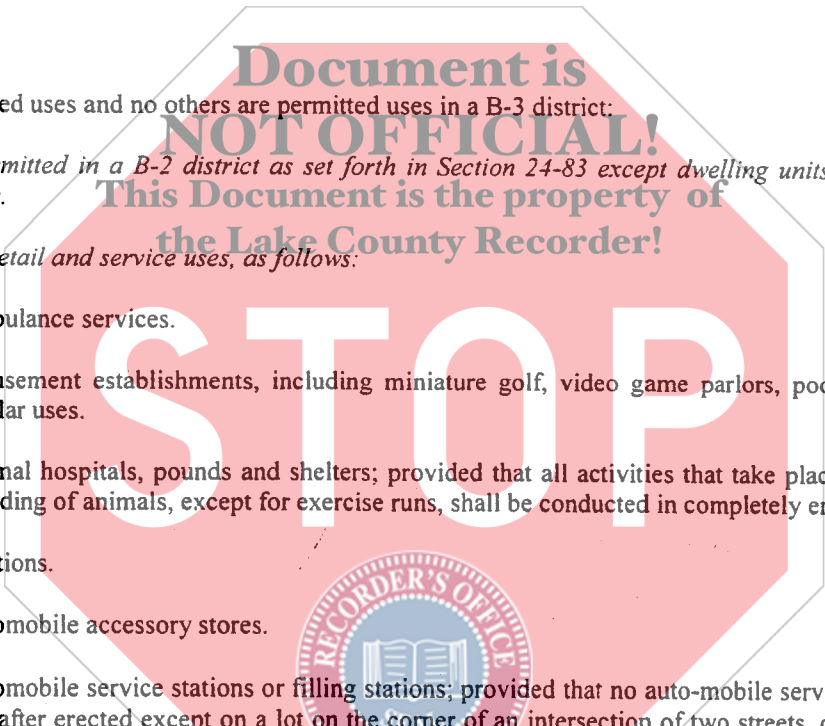
In a B-2 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:" any use allowed as a conditional use in a B-1 district as set forth in Section 24-76.

**B-3. Highway Oriented Business Districts.**

**Permitted uses.**

The following listed uses and no others are permitted uses in a B-3 district:

- (a) *Any use permitted in a B-2 district as set forth in Section 24-83 except dwelling units, churches, parks, playgrounds.*
- (b) *Additional retail and service uses, as follows:*
  - (1) Ambulance services.
  - (2) Amusement establishments, including miniature golf, video game parlors, pool halls, and other similar uses.
  - (3) Animal hospitals, pounds and shelters; provided that all activities that take place for the care and boarding of animals, except for exercise runs, shall be conducted in completely enclosed buildings.
  - (4) Auctions.
  - (5) Automobile accessory stores.
  - (6) Automobile service stations or filling stations; provided that no auto-mobile service station shall be hereafter erected except on a lot on the corner of an intersection of two streets, or on a lot situated on a corner where one street runs into another at a "T" intersection. In such instances the lot on which the service station is located shall have not less than seventy-five (75) feet frontage on one street and not less than one hundred (100) feet frontage on the other street. Such service stations shall have entrances from each street on which such lot fronts.
  - (7) Battery, brake and tire sales and service stations.
  - (8) Bicycle stores, including rental and repair.



- (1) Employment agencies.
- (2) Machinery sales rooms, excluding repair or servicing. The storage and display of machinery, except for household appliances and office machines such as typewriters and computers, shall be restricted to new floor samples.
- (3) Pet shops.
- (4) Physical culture and health spas, privately owned and operated. Such centers may include gymnasiums, swimming pools, reducing salons, karate and judo studios and the like.
- (5) Picture framing establishments.
- (6) Radio and television sales, repair and service shops.
- (7) Restaurants and taverns, including live entertainment and dancing and the service of liquor in conjunction therewith.
- (8) Theaters, except for drive-in theaters.
- (9) Ticket agencies and travel bureaus.
- (10) Convenience printing establishments.
- (11) Newspaper offices.
- (12) Clothing/costume rental shop.
- (13) Pawn shops.
- (14) Photograph developing and processing shops.

(c) *Miscellaneous uses, as follows:*

- (1) Laboratories, including medical and dental, research and testing.
- (2) Restricted production and repair, limited to the following: Art needle-work and hand weaving; clothing, custom manufacturing and altering for retail only; jewelry; watches; dentures; optical lenses; shoes; and other similar craft and professional services.

(d) *Residential uses:*

- (1) In a B-2 district, single family dwelling units are permitted on blocks on which the current frontage is at least 50% single family residential, and must satisfy the requirements of the R-2 District.

**Limitations of use.**

Permitted uses in the B-2 district are subject to the following additional general limitations:

- (a) Dwelling units are not permitted below the second floor, on lots which contain a business use.
- (b) All business establishments shall be retail or service establishments dealing directly with consumers, except for wholesale establishments where storage of merchandise is limited to samples.

**Limitations of use.**

Permitted uses in the B-1 district are subject to the following additional general limitations:

- (a) Dwelling units are not permitted below the second floor.
- (b) All business establishments shall be retail or service establishments dealing directly with consumers.
- (c) Business establishments classified as "retail and service" hereinafter are restricted to a maximum gross floor area of twelve thousand five hundred (12,500) square feet each, exclusive of any floor area devoted to off-street parking or loading facilities.
- (d) All permitted uses in this district shall be conducted in completely enclosed buildings, except for off-street parking and loading.
- (e) Establishments of a "drive-in" type offering goods or services directly to customers waiting in parked motor vehicles are not permitted, except for such services which are clearly incidental to a principal permitted use.

**Conditional uses.**

In a B-1 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:"

- (a) Churches.
- (b) Convents, monasteries, rectories and parish houses.
- (c) Municipal and privately owned recreation buildings or community centers.
- (d) Parking lots and parking garages other than accessory, for vehicles not exceeding one and one-half (1.5) ton capacity.
- (e) Parks and playgrounds.
- (f) Philanthropic institutes.
- (g) Public utility and public service uses.
- (h) Recycling drop-off centers. (See 24-7.122)
- (i) Nursing homes, convalescent homes and residential facilities for long or short-term care.
- (j) Undertaking establishments and funeral parlors.

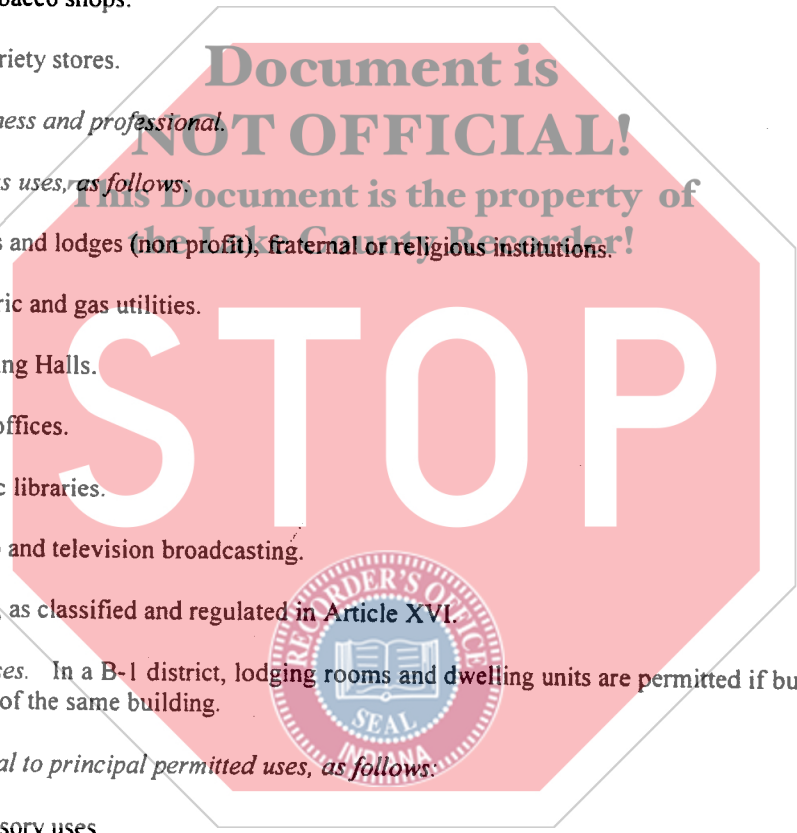
**B-2 Central Business Districts.**

**Permitted uses.**

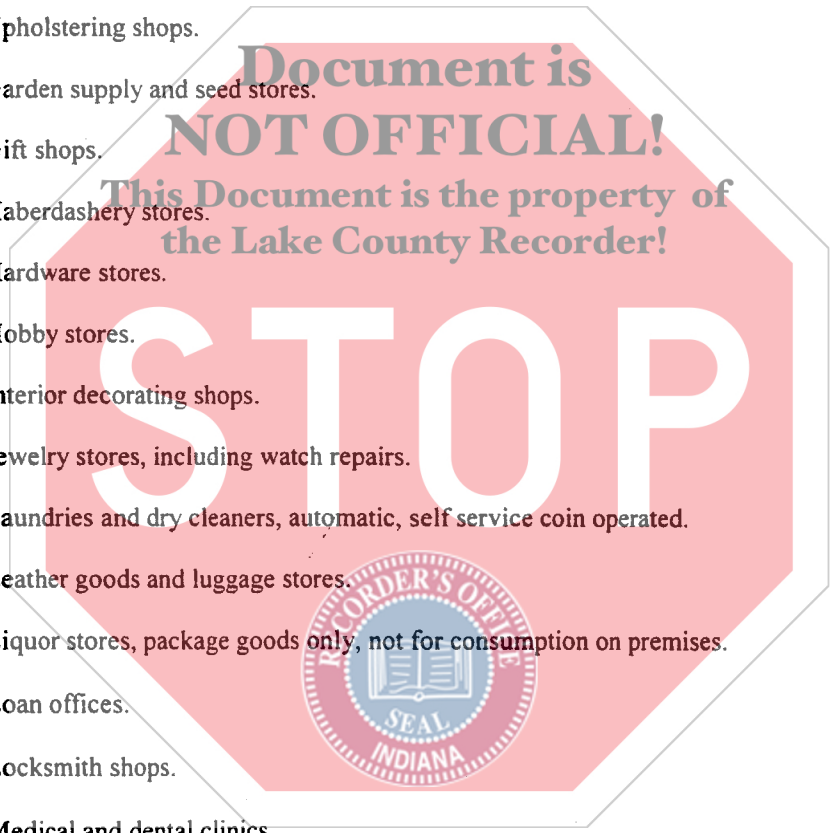
The following listed uses and no others are permitted uses in a B-2 district:

- (a) *Any use permitted in a B-1 district as set forth in Section 24-75.*
- (b) *Additional retail and service uses, as follows:*

- (41) Optician shops.
  - (42) Paint and wallpaper stores.
  - (43) Planned unit developments, business.
  - (44) Restaurants.
  - (45) Schools, including music, dance or business.
  - (46) Sewing machine stores, household machines only.
  - (47) Shoe and hat repair shops.
  - (48) Shoe stores.
  - (49) Sporting goods stores.
  - (50) Tailor shops.
  - (51) Telegraph and Facsimile offices.
  - (52) Tobacco shops.
  - (53) Variety stores.
- (b) *Offices, business and professional.*
- (c) *Miscellaneous uses, as follows:*
- (1) Clubs and lodges (non profit), fraternal or religious institutions.
  - (2) Electric and gas utilities.
  - (3) Meeting Halls.
  - (4) Post offices.
  - (5) Public libraries.
  - (6) Radio and television broadcasting.
  - (7) Signs, as classified and regulated in Article XVI.
- (d) *Residential uses.* In a B-1 district, lodging rooms and dwelling units are permitted if business uses occupy the first floor of the same building.
- (e) *Uses incidental to principal permitted uses, as follows:*
- (1) Accessory uses.
  - (2) Home occupations.
  - (3) Temporary construction buildings.



- (14) Custom dressmaking and millinery shops.
- (15) Dairy, ice cream and candy shops.
- (16) Delicatessens.
- (17) Department stores.
- (18) Drug stores or convenience pharmacy.
- (19) Dry cleaning and laundry receiving stations.
- (20) Dry goods stores.
- (21) Electric, household appliance, television and radio stores.
- (22) Florist shops and conservatories.
- (23) Grocery or convenience stores.
- (24) Furrier shops, including storage.
- (25) Upholstering shops.
- (26) Garden supply and seed stores.
- (27) Gift shops.
- (28) Haberdashery stores.
- (29) Hardware stores.
- (30) Hobby stores.
- (31) Interior decorating shops.
- (32) Jewelry stores, including watch repairs.
- (33) Laundries and dry cleaners, automatic, self service coin operated.
- (34) Leather goods and luggage stores.
- (35) Liquor stores, package goods only, not for consumption on premises.
- (36) Loan offices.
- (37) Locksmith shops.
- (38) Medical and dental clinics.
- (39) Musical instrument stores, including servicing.
- (40) Office supply stores.





- (g) Recycling stations. (See 24-7. Definitions).

**Regulations along residence district boundaries.**

In a PBP district, on properties or portions thereof located directly across the street from a residence district, if any point on the exterior surface of any building or structure in a PBP district is at a greater height than twenty-five (25) feet above curb level, such point projected vertically on the ground shall in no case be nearer to the residence district boundary than a horizontal distance equal to one (1) times the height of such point above curb level. However, stacks, tanks, bulkheads or ventilating equipment, including towers enclosing same, shall be exempt from such limitation if not exceeding in the aggregate twenty-five (25) feet in lineal dimension parallel to the street for any one hundred (100) feet of street frontage. Parapets not exceeding three (3) feet in height shall also be exempt from such limitation.

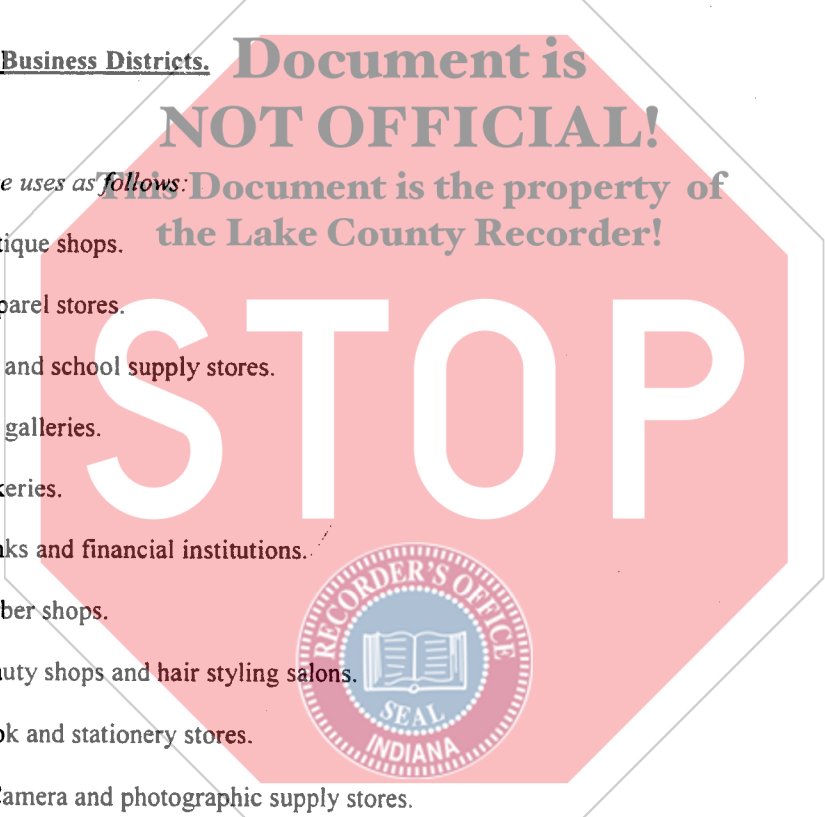
Where the boundary line separating a PBP from a residence district coincides with a property line or is separated by an alley, no building, structure or other obstruction in the manufacturing district shall be located within twenty (20) feet of the side lot line or thirty (30) feet of the rear lot line of the manufacturing district where it abuts a residence district. Further, if any point on the exterior surface of any building or structure in a PBP district is at a greater height than twenty-five (25) feet above curb level, such point projected vertically on the ground shall in no case be nearer to the side or rear lot line of any property in an adjacent residence district than a horizontal distance equal to the height of such point above curb level. However, stacks, tanks, bulkheads or ventilating equipment, including towers enclosing same, shall be exempt from such limitation if not exceeding in the aggregate twenty-five (25) feet in lineal dimension parallel to such residential lot line for any one hundred (100) feet of length of such lot line. Parapets not exceeding three (3) feet in height shall also be exempt from such limitation.

**B-1 Neighborhood Business Districts.**

**Permitted uses.**

(a) Retail and service uses as follows:

- (1) Antique shops.
- (2) Apparel stores.
- (3) Art and school supply stores.
- (4) Art galleries.
- (5) Bakeries.
- (6) Banks and financial institutions.
- (7) Barber shops.
- (8) Beauty shops and hair styling salons.
- (9) Book and stationery stores.
- (10) Camera and photographic supply stores.
- (11) Carpet, rug, linoleum and tile stores.
- (12) China and glassware stores.
- (13) Coin and philatelic stores.

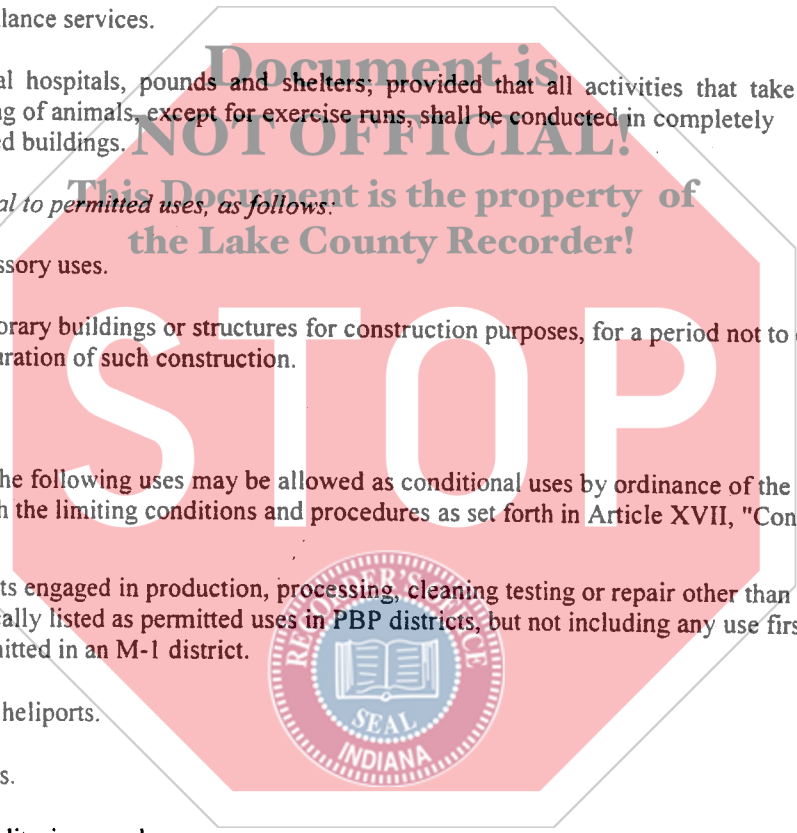


- (5) Publicly owned facilities and utilities.
  - (6) Private utilities providing service to the public.
  - (7) Similar uses as determined by the plan commission.
- (e) *Miscellaneous uses, as follows.*
- (1) Radio and television towers
  - (2) Signs, as regulated in Article XVI.
  - (3) Clubs and lodges (non profit), fraternal or religious institutions.
  - (4) Meeting Halls.
  - (5) Radio and television broadcasting.
  - (6) Personal communications structures.
  - (7) Photograph developing and processing shops.
  - (8) Ambulance services.
  - (9) Animal hospitals, pounds and shelters, provided that all activities that take place for the care and boarding of animals, except for exercise runs, shall be conducted in completely enclosed buildings.
- (f) *Uses incidental to permitted uses, as follows:*
- (1) Accessory uses.
  - (2) Temporary buildings or structures for construction purposes, for a period not to exceed the duration of such construction.

**Conditional uses.**

In a PBP district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:"

- (a) Establishments engaged in production, processing, cleaning testing or repair other than those specifically listed as permitted uses in PBP districts, but not including any use first listed as permitted in an M-1 district.
- (b) Airports and heliports.
- (c) Bus terminals.
- (d) Stadiums, auditoriums and arenas.
- (e) Theaters, automobile drive-in.
- (f) Recycling drop-off centers. (See 24-7. Definitions).



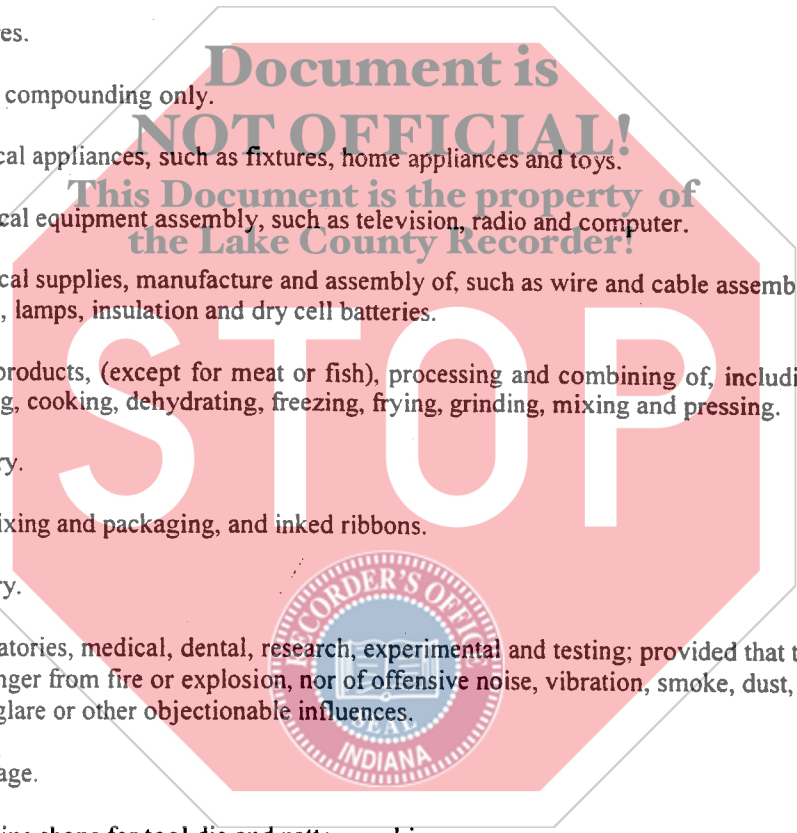
- (32) Paper products, small items such as envelopes and stationery, bags, boxes, tubes and wallpaper.
- (33) Perfumes and perfumed soaps, compounding only.
- (34) Pharmaceutical products, compounding only.
- (35) Precision instruments such as optical, medical, testing and measuring.
- (36) Printing and newspaper publishing, including engraving and photoengraving.
- (37) Repair of household and office equipment.
- (38) Silverware, plate and sterling.
- (39) Soap and detergents, packaging only.
- (40) Sporting and athletic equipment such as balls, baskets, bats, cues, gloves racquets and rods.
- (41) Statuary, mannequins, figurines and religious and church art goods, excluding foundry operations.
- (42) Textiles, including spinning, weaving, manufacturing, dying, printing, knit goods, yarn, thread and cordage, but not including textile bleaching.
- (43) Tobacco curing and manufacturing of tobacco products.
- (44) Tools and hardware such as bolts, nuts and screws, doorknobs, drills, hand tools and cutlery, hinges, house hardware, locks, nonferrous metal castings and plumbing appliances and fixtures.
- (45) Toys.
- (46) Umbrellas.
- (47) Upholstering (bulk), including mattress manufacturing and rebuilding and renovating furniture.
- (48) Watches.
- (49) Wood products, such as furniture, boxes, crates, baskets, pencils and cooperage works.

(c) *Wholesaling and warehousing.*

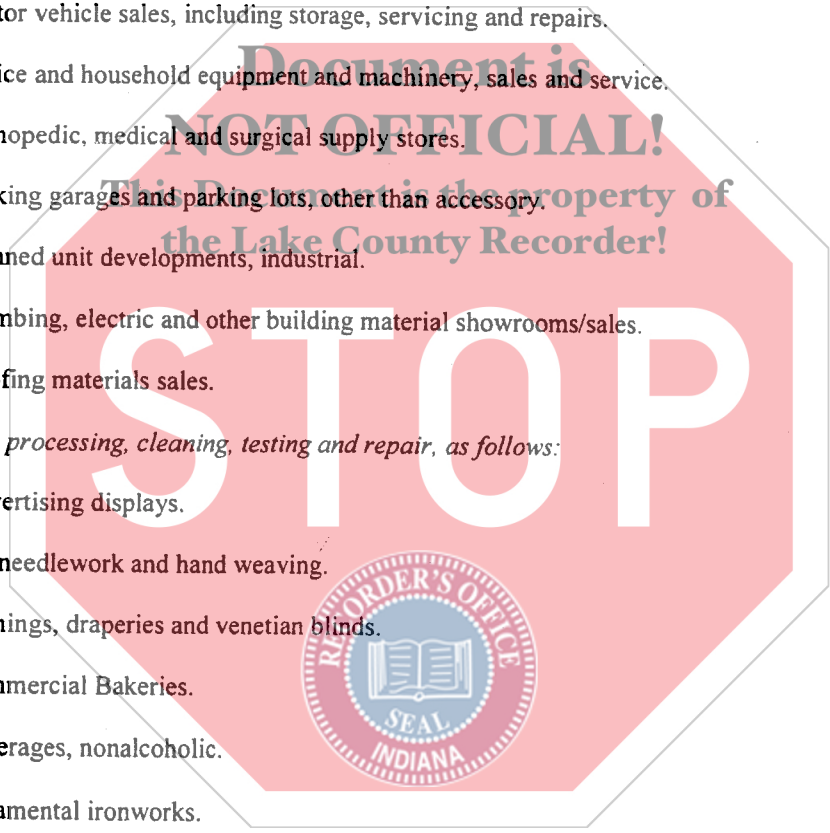
(d) *Public and community service uses, as follows:*

- (1) Libraries.
- (2) Police stations.
- (3) Fire stations.
- (4) Post offices.

- (9) Bottling works, beverage.
- (10) Brushes and brooms.
- (11) Cameras and other photographic equipment and supplies.
- (12) Canvas and canvas products.
- (12) Ceramic products such as pottery and glazed tile.
- (13) Children's bicycles, wagons and baby carriages.
- (14) Clothing.
- (15) Commercial Dry cleaning.
- (16) Commercial Laundries.
- (17) Cosmetics and Toiletries.
- (18) Data processing, hardware and software.
- (19) Dentures.
- (20) Drugs, compounding only.
- (20) Electrical appliances, such as fixtures, home appliances and toys.
- (21) Electrical equipment assembly, such as television, radio and computer.
- (22) Electrical supplies, manufacture and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.
- (23) Food products, (except for meat or fish), processing and combining of, including baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing and pressing.
- (24) Hosiery.
- (25) Ink mixing and packaging, and inked ribbons.
- (26) Jewelry.
- (27) Laboratories, medical, dental, research, experimental and testing; provided that there is no danger from fire or explosion, nor of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences.
- (28) Luggage.
- (29) Machine shops for tool die and pattern making.
- (30) Musical instruments.
- (31) Orthopedic and medical appliances, such as artificial limbs braces, supports and stretchers.



- (11) Feed and seed stores.
  - (12) Frozen food lockers.
  - (13) Garages, model display and sales.
  - (14) Greenhouses and nurseries.
  - (15) Linen, towel, diaper and other similar services.
  - (16) Lumberyards.
  - (17) Machinery sales.
  - (18) Mini-warehouses intending to serve residential or retail material wholly enclosed in a building, surrounded by an opaque fence and decorative landscaping approved by the Plan Commission.
  - (19) Mobile home sales and house trailer sales.
  - (20) Motorcycle sales, including servicing and repairs conducted in conjunction therewith.
  - (21) Motor vehicle sales, including storage, servicing and repairs.
  - (22) Office and household equipment and machinery, sales and service.
  - (23) Orthopedic, medical and surgical supply stores.
  - (24) Parking garages and parking lots, other than accessory.
  - (25) Planned unit developments, industrial.
  - (26) Plumbing, electric and other building material showrooms/sales.
  - (27) Roofing materials sales.
- (b) *Production, processing, cleaning, testing and repair, as follows:*
- (1) Advertising displays.
  - (2) Art needlework and hand weaving.
  - (3) Awnings, draperies and venetian blinds.
  - (4) Commercial Bakeries.
  - (5) Beverages, nonalcoholic.
  - (6) Ornamental ironworks.
  - (7) Boat building and boat repairs of pleasure craft and other small craft, but not including shipbuilding or shop repairs.
  - (8) Book binding and tooling, hand and machine worked.



- (d) Lodging rooms and dwelling units which are located above the first floor of a permitted office service use.
- (e) Recycling drop-off centers. (See 24-7.122).
- (f) Institutions for the care of patients such as: hospitals, sanitariums, long-term care and short-term care, rest and convalescent homes. (Ord 2001-10, Adopted 6/20/2001)

**Prohibited uses.**

In an OS-1 district, the following uses are prohibited.

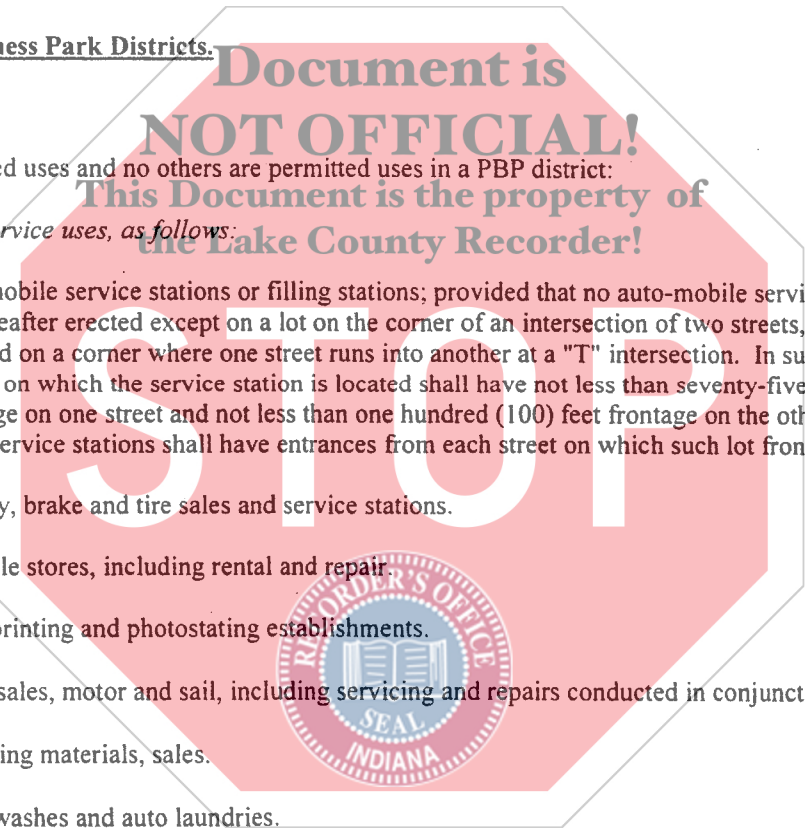
- (a) Commercial retail establishments.
- (b) Drive-in establishments.
- (c) Outdoor storage of goods and materials.
- (d) Warehousing.
- (e) Outdoor sales. (Ord. 97-15, Adopted 2/4/1998)

**PBP. Planned Business Park Districts.**

**Permitted uses.**

The following listed uses and no others are permitted uses in a PBP district:

- (a) *Retail and service uses, as follows:*
  - (1) Automobile service stations or filling stations; provided that no auto-mobile service station shall be hereafter erected except on a lot on the corner of an intersection of two streets, or on a lot situated on a corner where one street runs into another at a "T" intersection. In such instances the lot on which the service station is located shall have not less than seventy-five (75) feet frontage on one street and not less than one hundred (100) feet frontage on the other street. Such service stations shall have entrances from each street on which such lot fronts.
  - (2) Battery, brake and tire sales and service stations.
  - (3) Bicycle stores, including rental and repair.
  - (4) Blueprinting and photostating establishments.
  - (5) Boat sales, motor and sail, including servicing and repairs conducted in conjunction therewith.
  - (6) Building materials, sales.
  - (7) Car washes and auto laundries.
  - (8) Cartage and express facilities, including moving companies and storage therein.
  - (9) Contractor and construction shops.
  - (10) Dry cleaning.



such that landscaping between adjacent uses be minimized and landscaped areas surrounding clusters of pad development will be maximized.

### **Setbacks**

Setbacks from Mississippi Street shall be 50 feet minimum. Setbacks from streets within Silverstone Crossing shall be minimum of 10 feet with a maximum of 25 feet for principal buildings or parking. "Internal" pads with no frontage on local streets shall have 5 feet minimum setbacks from adjacent properties and 15 feet maximum setbacks for principal buildings or parking.

**Below is a listing of approved uses in POD(s) B, C, D and E. All of the uses are commercial uses.**

### **OS-1 Office Service Districts.**

#### **Permitted uses.**

The following listed uses and no others are permitted uses in an OS-1 district:

- (a) Banks, credit unions, savings and loan institution and other similar uses. Drive-up teller windows, cash stations and the like are permitted only as an accessory use.
- (b) Churches, rectories and parish houses.
- (c) Medical and dental offices, including clinics.
- (d) Office buildings for business and professional offices.
- (e) Off-street parking lots.
- (f) Other uses as determined by the Plan Commission to be similar in design and intent to the above listed uses.
- (g) Personal services including barber shops, beauty shops, health and fitness centers and other similar uses.
- (h) Accessory structures and uses customarily incidental to the above listed uses.

#### **Conditional uses.**

In an OS-1 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses."

- (a) Any use customarily related to and providing service for an above listed permitted use such as: pharmacy or apothecary shop and an opticians shop.
- (b) Funeral parlor or mortuary establishment; provided, that an adequately sized off-street assembly area for vehicles to be used in a funeral procession is provided which is in addition to the required off-street parking area.
- (c) Publicly owned buildings, telephone exchanges and public utility offices, but not including storage yards, transformer stations, substations or gas regulator stations.

### **Main Street Commercial**

Buildings in the Main Street Commercial area shall be of a traditional commercial storefront character, oriented toward wide public sidewalks that encourage pedestrian movement and window shopping. The Main Street itself will have a landscaped median and on-street, diagonal parking.

### **Lot Area**

Buildings in the Main Street Commercial area shall be owned condominium style, with individual building owners responsible for maintenance of individual buildings and an association responsible for maintenance of common areas within the district. There is no minimum or maximum lot area, but buildings in the Main Street Commercial area shall be a maximum of 80 feet deep and a minimum of 20 feet wide. There are no lot area limitations in the other areas of Silverstone Crossing.

### **Floor Area**

There are no minimum or maximum floor area requirements in the Main Street Commercial area, but building facades must change character at a minimum of every 50' feet, regardless of interior dimensions.

### **Facades**

The bulk of individual building facades shall be located at the ROW line with exceptions being made for recessed entries. Buildings shall have 0 foot side setbacks as well with side walls adjoining those of neighboring properties. Properties at the ends of streets in the Main Street Commercial area may have side setbacks up to 10 feet to allow for landscaping and/or patio seating.

### **Setbacks**

Setbacks in the Main Street Commercial area shall be zero at front and sides, with the exception of buildings at the end of blocks which will be allowed a 10 foot maximum side setback to allow for landscaping and/or patio seating. Rear setbacks will vary.

### **Highway Commercial**

Highway Pad Commercial will capitalize on visibility and access at the Mississippi Street frontage with combined district signage and architectural character that is complimentary with other commercial properties within Silverstone Crossing.

Maximum floor area in this area is not to exceed 10,000 square feet per floor with a maximum of 2 floors.

### **Structures**

Buildings in the Highway Commercial area shall be placed close to each other such that they can share common access from the primary streets and encourage customers to park once regardless of how many businesses they will visit in the area. Buildings shall be developed on that part of the site nearest the primary streets to minimize the need for infrastructure and to maximize the amount of contiguous open space along the Mississippi Street corridor. Buildings shall be sited



- (b) Multiple-family residential.

### **POD B General Area Description and -Commercial Office Condominium**

Small flexible spaces allow for individual business space ownership in an association-maintained building and site. Building scale, type and landscaping resemble residential condos with landscaped parking areas replacing traditional garages. Front doors shall be clearly located with subtle signage.

Commercial buildings in the Office/Condo pod shall be small structures no taller than two stories with front pedestrian scale entries oriented toward the primary street or a shared parking court adjoining the primary street. Parking shall be located in front to minimize impact on adjacent residential properties and shall be heavily landscaped. Buildings shall be located on site such that visual impacts on adjacent residential properties are minimized.

Office condo buildings shall be setback a minimum of 30' from the rear of the property and parking areas shall be located in front at a minimum of 25 feet from the principal street.

### **POD C, D and E General Area Description-Office Showroom, Main Street Commercial, Highway Commercial**

#### **Office Showroom**

Office showrooms shall be comprised of a larger area for light manufacturing/assembly, and a smaller area for office/showroom space. The office/showroom space shall orient toward the primary street and be of an architectural character that distinguishes itself from the adjoining manufacturing/assembly space. All loading shall be in the rear, oriented away from the primary street.

#### **Structures**

Office showroom structures and their associated parking shall occupy that part of the site closest to the primary street to minimize infrastructure and maximize the contiguous open space at the back of individual parcels. Parking lots and drive aisles should begin no further than 25' from the street right of way and buildings should be set back no further than 15' from the rear edge of the parking lot.

#### **Setbacks**

Minimum front setbacks of 15 feet and maximum setbacks of 25 feet shall apply to parking and drive surfaces. Buildings shall be set back no further than 15 feet from the rear edge of parking lots. There are no side setbacks and businesses are encouraged to share drive aisles and loading dock access aisles with adjacent properties. Rear setbacks are a minimum of 25' with landscaping required to screen loading areas.

disposed of in accordance with applicable state, county and city health, safety and environmental codes. Use of sealed compactors is encouraged.

Where food service/restaurant kitchen refuse storage is not accommodated as part of the principal building, refuse storage is permissible in an accessory storage enclosure.

Accessory structures shall be functionally integrated with the established architectural design theme and located away from building frontages, pedestrian areas and primary public views from adjacent properties. Structures shall be softened or screened with plantings such as shrubs, vines and evergreens.

### **Noise Control**

Music, public address announcements and other forms of outdoor audio are discouraged. Sound shall be contained within the site boundaries. Outdoor music or other forms of outdoor audio associated with special events shall be controlled by the city's regulations for special events.

Commercial entertainment facilities such as bars, nightclubs, etc. shall minimize noise pollution through the incorporation of vestibule entrances. Doors and windows shall be designed/engineered to contain/isolate sound within the interior of the building unit.

### **POD A General Area Description-Residential PUD-R-4**

Residential 3 and 4 Story Multi-Family Buildings

This portion of the neighborhood shall provide for the housing needs of the growing population of empty nesters and retirees, and anyone else desiring maintenance-free living near an active commercial hub. Residential development is clustered into a compact area of the overall site, oriented toward the creek and/or ponds/wetlands. Not only is this site configuration compatible with existing adjacent development, it allows for preservation of ample open space which serves as a neighborhood amenity for Silverstone Crossing and the broader region as well.

#### **Assisted Living & Nursing Home**

The diverse mix within the senior housing community shall allow for the varying needs of empty nesters and retirees throughout their lives. The senior community shall be fully integrated into the fabric of the neighborhood to provide easy access to neighborhood open space and commercial districts. Assisted living and nursing home are situated adjacent to each other to maximize overlap of staffing and facilities needs. Architectural character shall be compatible with other residential development in Silverstone Crossing.

List of approved uses included the following:

- (a) Any use permitted in an R-3 district, as set forth in Section 24-36 of Hobart Zoning code, with the except single family residences.

two types of signs should be used on a single building façade (i.e., wall signs, projecting signs, and awning signs).

### Sign Location

Wall signs on commercial and mixed-use storefront type buildings shall generally be placed within a "sign band" immediately above the storefront. Wall signs on buildings shall not obstruct or obscure architectural features.

### Sign Material

Sign materials shall be consistent or compatible with the building construction materials and architectural style of the building façade on which they are to be displayed. Neon signs may be appropriate for windows.

External illumination of signs is encouraged. Internal illumination, especially of individual sign letters is discouraged.

Suitable sign types include:

- Awning, canopy or marquee signs
- Free-standing signs
- Ground, low profile or monument signs
- Projecting signs
- Wall signs
- Window signs (small accent signs)

Prohibited sign types include:

- Pole or pylon signs, except at Highway Pad Commercial area
- Billboards
- Internally illuminated awnings
- Flashing or rotating signs
- Portable signs
- Search lights
- Audible or music signs
- Roof signs

### Outdoor Storage

Outdoor storage of any kind, including boats, snowmobiles, vehicles, equipment, raw materials, etc. is prohibited. Seasonal equipment, supplies, etc. shall be either stored within each facility or within a permanent accessory structure.

Outdoor placement of freestanding unenclosed dumpsters or refuse containers is prohibited. Refuse shall be securely stored and enclosed as part of the principal structure, and contained and

Parking lot illumination shall consist of a combination of commercial grade parking lot and pedestrian style fixtures. Pedestrian fixtures shall be used for lighting internal parking lot walkways. Parking lot fixtures shall be employed to illuminate parking bays and drive aisles and shall be of compatible color and design.

Parking lot illumination shall achieve levels to provide safety while minimizing over-lighting and excessive spillover of ambient light onto adjacent natural areas. Cutoff fixtures shall be located below the mature height of trees in parking lot islands. This will prevent ambient "glow" or light pollution onto other developments. Evenly distributed illumination shall be provided at a level consistent with City Codes.

Appropriate light sources include:

- Incandescent
- Halogen
- High pressure sodium
- "Warm" metal halide

Inappropriate light sources:

- Fluorescent
- Neon, except in "Main Street" area
- Colored

Appropriate light fixture types:

- Pole mounted
- Recesses
- Shield spotlighting
- Bollards in "Main Street" area
- Wall mounted

Inappropriate Light Fixture Types include:

- Internally lit awnings
- Blinking or flashing
- Search lights or rotating spot lights

### Signs

Signs should be architecturally compatible with the style, composition, materials, colors and details of the building, and with other signs on nearby buildings. Signs should be an integral part of the building and site design.

A sign program should be developed for buildings that house more than one business. Similarly, a sign program should be developed for the Main Street Commercial area and this program should establish a separate, more comprehensive program than is in place elsewhere within the development. Signs need not match, but should be compatible with each other. No more than



incorporated in buffer strips as long as it is not vinyl. With the exception of individual Highway Commercial pads and individual Office Showroom pads, all landscaping shall be association maintained.

### **Parking Areas**

Parking bays in excess of 10 spaces in length shall be divided by intermediate landscape islands. Landscape

Islands shall provide at least one parking stall width of landscape areas (9x18 or 9x36 for single or double bay 90 degree parking). A minimum of one shade tree, one coniferous tree, or two ornamental trees, combined with low shrubs or perennials shall be planted in each intermediate planting island.

### **Minimum Landscape Requirements**

- All construction projects shall include landscaping; restore all disturbed ground surface with suitable permanent vegetation to prevent erosion and enhance visual character.
- All projects shall include overstory and understory plantings such as shade trees, coniferous trees, shrubs and perennial grasses and flowers.
- Minimum tree sizes shall be 2 ½" caliper for deciduous overstory trees, 1 ½" caliper for ornamental deciduous trees and 6 foot height for coniferous trees.

### **Site Lighting**

Exterior light fixtures shall be selected and located to minimize glare and negative effects upon the night character of the neighborhood. Lighting of structures shall be minimized to reduce ambient light pollution above and below.

Security lighting behind commercial or office areas shall be pole-mounted at rear of developed site and aimed toward building and/or loading areas to minimize impact on adjacent properties to the rear.

Pedestrian scale lighting, not exceeding 15 feet in height, shall be located on public sidewalks and private walkways. Street lighting, pedestrian lighting, and parking lot lighting shall all be of the same "family" of design fixtures. Substitutions must be pre-approved by association. Illumination shall produce an even distribution of light at levels consistent with City Codes.

Lighting fixtures style shall be compatible with the architecture of nearby buildings. Lights attached to buildings shall be screened by the building's architectural features to eliminate glare onto adjacent properties.

Continuous walkways a minimum of 10 feet wide shall be provided around ponds and along creek as indicated in the Illustrative Site Master Plan. Connection to Regional Trail shall occur adjacent to Mississippi St/"A" Avenue Intersection.

All sidewalks and walkways shall meet the Americans with Disabilities Act (ADA) standards for accessibility.

Where possible, walks and trails shall serve as dual purpose for service/maintenance access to avoid duplication.

Trails shall be located and designed to blend with the natural topography, especially around the pond. Trails shall be constructed of asphalt or concrete.

### **Parking Lot Design**

All driveways, parking areas, and loading areas shall be paved with asphalt, concrete or pavers.

Parking lots shall be designed to promote efficient traffic patterns and minimize conflicts between vehicles and pedestrians. Shared parking between businesses shall be utilized when feasible.

Parking lots shall be broken into smaller areas located at the side and to the rear of buildings whenever possible, with the exception of the Office Condo and Office Showroom areas where parking is required to be located in the front. When parking is located adjacent to a roadway, a landscaped buffer must be provided (see "Landscaping & Screening").

Lots shall be designed to incorporate intermediate planting beds to break up large areas of impervious surface.

### **Open Space**

A large contiguous green space at the center of Silverstone Crossing will incorporate existing ponds and wetlands and will "borrow" additional open space from undeveloped portions of adjacent parcels. A drainage ditch, reconfigured as a meandering creek winds along the south and east edges of the development and a regional trail will parallel the creek. These passive recreation spaces will create an open space network which shall be a prime amenity not only for those living, working, or visiting this particular development, but for a much broader regional group of users as well. It is this network of open spaces that will be the signature identity of Silverstone Crossing.

### **Landscaping and Screening Overall Site**

A landscaped buffer strip at least 10 feet wide shall be provided between all parking areas and the sidewalk or roadway. The buffer strip shall consist of shade trees, coniferous trees, low shrubs and/or perennials suitable for the climate of the region. Ornamental fencing may be

When possible, natural day lighting shall be incorporated into building design to conserve energy, double hung windows are recommended, as they reinforce the traditional building system. Allowable window types include casement and fixed glass.

Decks and balconies are recommended to enhance connectivity with and accessibility to the outdoors. They shall be designed to reinforce the building aesthetic. No decks or balconies shall be located at street level in front of commercial properties.

### **Color**

Primary building finish and roof colors shall blend with the natural surroundings and neighboring buildings.

Bright, vibrant colors may be used as accents on such elements as doorways, window frames, signs, fascias and other decorative trim elements. Light colors such as white and beige should be used to provide contrast and accents for doorways, window frames and fascias.

### **Architectural Detailing**

Architectural detailing shall be sensitive to the massing and proportion of adjacent structures and complement the detailing of surrounding buildings, such as cornice lines, balconies and decorative timber or stonework.

When using masonry, wrap masonry to terminate at inside corner or 4 feet back from façade large surface areas lacking articulation are prohibited.

### **Mechanical Equipment Placement & Screening**

All rooftop mechanical equipment and ground level utilities shall be permanently screened from view from adjacent roads, primary parking areas and adjacent properties. Equipment screens shall be well designed and detailed, using durable, permanent materials that are architecturally compatible with the primary building materials. For rooftop equipment, screening provided by roof structure is preferred.

Rooftop equipment may also be screened by a smaller accent roof or enclosure. If this structure is set back from the primary façade a distance equal to its height, this structure may exceed the building height limit.

Exterior plumbing and protuberances such as dryer vents or waste vents shall not be located on primary building facades or on roof planes facing the primary entrance.

### **Walks and Trails**

Buildings shall be constructed of authentic, long-lasting materials suitable to the climate and character of Northwest Indiana.

All building facades facing a public street must be constructed of brick, pre-cast concrete architectural masonry, fluted block, glass, wood, hardy board or an equivalent architectural treatment. Building materials of similar quality should be used on all facades, front, side and rear.

Suitable construction materials include:

- Natural stone
- Wood or contoured "architectural" asphalt shingles
- Architectural masonry units (excluding concrete block and cinder block)
- Precast concrete (with prior written approval from association)

Prohibited construction materials include:

- Unadorned plain or painted concrete block
- Pre-fab or tilt-up concrete wall panels
- Pre-fabricated steel or sheet metal panels, (unless architect-designed plans pre-approved by association)
- Aluminum, vinyl, fiberglass, asphalt or fiberboard siding
- Manufactured, metal pole-barn type structures

#### Entrances, Doors and Windows

The main entrance of commercial buildings shall be clearly identifiable, placed at sidewalk grade and shall face the primary street or parking area with secondary entrances to the side or rear. Secondary entries should incorporate similar character/materials as the main entry, although the level of finish need not be as high. Recessed entrances accompanied by canopies, awnings or arcades are encouraged to provide shelter for pedestrians.

Attached Residential shall include multiple entries to break up the mass of larger scaled buildings and reduce the amount of distance needed to travel to reach units not situated near a central main entry point. Front and rear porches are encouraged and the use of sliding glass doors is discouraged.

#### Doors

Doors at main commercial entrances shall be pronounced and transparent to allow views to business inside. Rear commercial doors need not be of the same character, but they should be of a similar level of quality and finish, particularly in the Main Street Commercial area where secondary public entries are encouraged.

#### Windows



## **Building Massing**

The scale and proportion of new buildings shall respect the elevation and topographical slope on the building site, as well as significant view corridors of the surrounding landscape.

Buildings shall have a well-defined front façade with primary entrances facing the street or main parking area.

Building with facades longer than 50 feet in length shall be broken into articulated modules with minor variations in setbacks, colors, rooflines and window organization. Variations in the forms and materials used in each module will provide interest at the pedestrian scale and strengthen the architectural character of the overall development.

New building facades shall have a pedestrian scale aesthetic. This can be accomplished by establishing a layering of rhythmic patterns with architectural elements such as windows, columns, rooflines, building materials (woodwork and stonework) and colors.

Multi-story buildings shall feature exterior articulation that defines each story at base, middle and top.

Building facades are encouraged to step back horizontally as they step vertically. This will diminish the size of the building and reinforce the sense of human scale.

## **Building Height**

Building height will vary. Buildings shall range in height from 1-2 stories in commercial areas and 2-4 stories in the residential area. The height of new buildings shall respect elevation and topographical slope of the building site, as well as significant view corridors of the surrounding landscape.

New free-standing one-story commercial buildings should express greater height through roof pitch and articulation with dormers and chimneys.

Where three story buildings are proposed, the fourth story shall be incorporated into the roof area as a half-story and expressed through dormers and balconies.

Buildings shall relate in height to neighboring buildings. Where neighboring building heights differ, a visual transition shall be provided by bringing rooflines down below that upper story.

Buildings shall step down in height toward the street or parking areas and toward neighboring buildings in order to provide a sense of human scale to these active pedestrian areas.

## **Building Materials**

## EXHIBIT F

### Silverstone Crossing POD Section Guidelines, Uses and General Description

**\*The guidelines and uses described in this exhibit are subject to final approval by the Plan Commission and Common Council but will be adopted in substantially the same form and will be incorporated herein in Exhibit F as if they were in existence at the time of this Agreement's Effective Date.**

#### **Building Context and Character**

Building form, scale, height, details, construction materials and colors shall respect the character of the Indiana landscape, which features open prairies, small farm houses and fields, small wooded streams, limestone and subtle earth tones with gentle slopes. Highlighting the surrounding landscape will help set the development apart from other nearby developments which include a wide array of automobile-focused, franchise commercial establishments.

New buildings may be designed in a variety of innovative styles, although they should draw upon the design features in the Guidelines. Standardized "franchise" or corporate architecture is not acceptable. Franchises or national chains must follow these guidelines and use the design vocabulary to create a unique building that is supportive of the character being set at Silverstone Crossing.

#### **Building Placement**

It is recommended that the siting of new buildings consider the following:

- Topographical elevations and slopes
- Soil conditions
- Natural drainage patterns
- Significant vegetation
- Significant view corridors
- Minimization of required infrastructure
- Microclimate (sun, wind, shade)
- Access and circulation (pedestrian and vehicular)
- Lakes and streams
- Statutory/ordinance requirements

#### **Setbacks**

Yard setbacks shall be in addition to any buffer, common area, or landscape area located along the property line of the lot.

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE SOUTH 00 DEGREES 10 MINUTES 31 SECONDS EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, 1320.02 FEET; THENCE SOUTH 89 DEGREES 29 MINUTES 57 SECONDS EAST, 473.80 FEET; THENCE SOUTH, 341.34 FEET; THENCE NORTH 88 DEGREES 46 MINUTES 52 SECONDS WEST, 1470.69 FEET; THENCE SOUTH 29 DEGREES 53 MINUTES 20 SECONDS, 20.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF THE CHESAPEAKE OHIO RAILROAD; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, 1038.05 FEET; THENCE NORTH, 426 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF AVENUE "A"; THENCE GENERALLY EASTERLY AND NORTHERLY ALONG SAID SOUTH RIGHT-OF-WAY, APPROXIMATELY 2550 FEET TO THE POINT OF BEGINNING, CONTAINING 27 ACRES, MORE OR LESS.



**EXHIBIT C**

**General Property/POD B Description**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4 IN SPROUTS ADDITION TO MERRILLVILLE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 27, PAGE 75; THENCE SOUTH 80 DEGREES 53 MINUTES 30 SECONDS EAST, 1019.38 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 44 SECONDS EAST, 2.18 FEET; THENCE SOUTH 83 DEGREES 33 MINUTES 57 SECONDS EAST, 403.07 FEET; THENCE NORTH 86 DEGREES 11 MINUTES 20 SECONDS EAST, 902.20 FEET TO THE WEST RIGHT-OF-WAY LINE OF IOWA STREET; THENCE SOUTH ALONG SAID WEST RIGHT-OF-WAY TO THE NORTH RIGHT-OF-WAY LINE OF AVENUE "A"; THENCE GENERALLY NORTHWESTERLY AND WESTERLY ALONG SAID NORTH RIGHT-OF-WAY, APPROXIMATELY 2640 FEET TO THE EAST LINE OF LOT 17 IN SAID SPROUTS ADDITION; THENCE NORTH, 280 FEET TO THE POINT OF BEGINNING, CONTAINING 30 ACRES, MORE OR LESS.

**General Property/POD C Description-Commercial**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST INTERSECTION OF AVENUE "A" AND AVENUE "F"; THENCE GENERALLY EASTERLY AND SOUTHEASTERLY ALONG THE SOUTH RIGHT-OF-WAY LINE OF AVENUE "A", APPROXIMATELY 2240 FEET TO THE WEST RIGHT-OF-WAY LINE OF IOWA STREET; THENCE GENERALLY SOUTHERLY AND WESTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF AVENUE "A", APPROXIMATELY 2683 FEET TO THE NORTHEAST INTERSECTION OF AVENUE "A" AND AVENUE "F"; THENCE NORTH, 1606 FEET TO THE POINT OF BEGINNING, CONTAINING 43 ACRES, MORE OR LESS.

**General Property/POD D Description-Commercial**

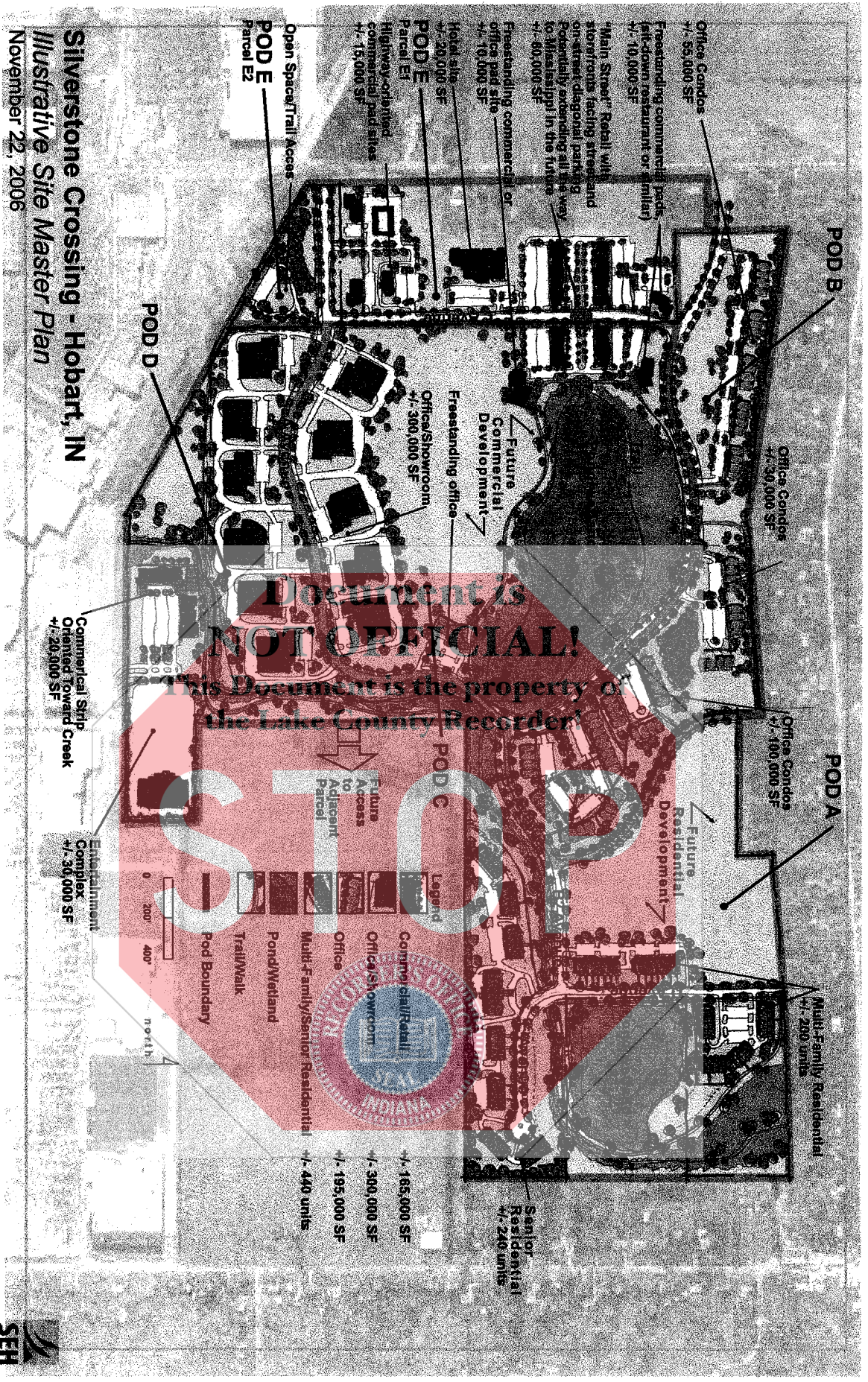
THAT PART OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:



**EXHIBIT B**

**[Attach POD Plan]**





**Silverstone Crossing - Hobart, IN**  
**Illustrative Site Master Plan**  
 November 22, 2006

**EXHIBIT A**

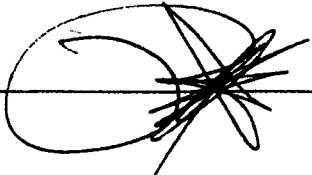
**[Attach Site Plan]**





IN WITNESS WHEREOF, Mortgagor has executed this Performance Mortgage this 14th day of ~~December, 2006~~ February, 2007.

Mortgagor: B3 Properties, LLC

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

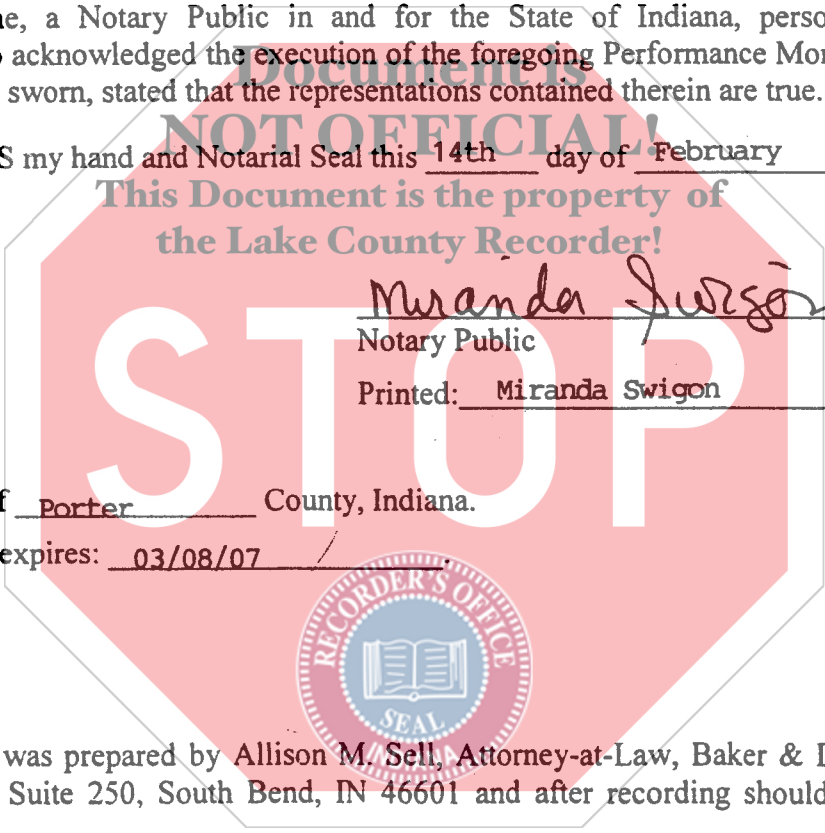
Its: Managing Member \_\_\_\_\_

STATE OF INDIANA )  
 ) SS:  
COUNTY OF LAKE )

Before me, a Notary Public in and for the State of Indiana, personally appeared Robert Stiglich who acknowledged the execution of the foregoing Performance Mortgage and who, having been duly sworn, stated that the representations contained therein are true.

WITNESS my hand and Notarial Seal this 14th day of February, ~~2006~~ 2007

[SEAL]



Miranda Swigon  
Notary Public  
Printed: Miranda Swigon

I am a resident of Porter County, Indiana.

My commission expires: 03/08/07



This instrument was prepared by Allison M. Sell, Attorney-at-Law, Baker & Daniels, 205 W. Jefferson Blvd., Suite 250, South Bend, IN 46601 and after recording should be returned to Allison M. Sell.

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Allison M. Sell

Performance Mortgage. Mortgagor shall, no later than five (5) business days after the execution of this Performance Mortgage, obtain the written consent of Primary Lender to this Performance Mortgage, in a form acceptable to Mortgagees, including, without limitation, a statement that the current outstanding balance on the Primary Loan is no more than the amount set forth above.



City of Hobart, Indiana  
414 Main Street  
Hobart, IN 46342  
Attn: Mayor  
Attn: Clerk-Treasurer

with a copy to: John Bushemi, Esq.  
City Attorney  
8926 Broadway  
Merrillville, IN 46410

or at such other place as either party may, by notice in writing, designate as a place for service of notice.

17. Successors and Assigns. This Performance Mortgage shall (a) run with the land, (b) apply and extend to, be binding upon and inure to the benefit of Mortgagor, Mortgagor's heirs, administrators, successors and assigns and all persons claiming under or through Mortgagor, and the word "Mortgagor" shall include all such persons, and (c) shall apply and extend to, be binding upon and inure to the benefit of Mortgagees and Mortgagees' successors and assigns. The word "Mortgagees" shall include the successors and assigns of Mortgagees, and the holder or holders, from time to time, of any Indebtedness instruments.

18. Miscellaneous. The captions in this Performance Mortgage are for convenience or reference only and shall be disregarded in construing or interpreting any of the provisions of this Performance Mortgage. All changes to this Performance Mortgage must be in writing signed by Mortgagees and, if this Performance Mortgage is recorded, shall not be effective until being recorded. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. This Performance Mortgage shall be interpreted and enforced according to the laws of the State of Indiana. This Performance Mortgage shall not be interpreted or construed against the drafter of this Performance Mortgage.

19. Identification of Primary Mortgage Lien Provisions. If and when a Primary Lender is obtained, the Mortgagor shall provide all information required in this Performance Mortgage to the Mortgagees, including but not limited to the information contained in the following paragraph.

This Performance Mortgage is and shall be subordinate to the lien of that certain mortgage dated \_\_\_\_\_, 20\_\_\_\_, and executed by Mortgagor in favor of \_\_\_\_\_ ("Primary Lender"), securing indebtedness in the original principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_.00), recorded on \_\_\_\_\_, 20\_\_\_\_, as Instrument No. \_\_\_\_\_, in the office of the Recorder of \_\_\_\_\_ County, Indiana, which has a current outstanding principal amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_.00) (the "Primary Loan"). Mortgagor hereby warrants and represents that no provision in the Primary Loan or any other documentation requires Mortgagor to obtain the consent of Primary Lender prior to entering into this

terms of this Performance Mortgage constitute Indebtedness; and third, any remainder to the person or persons entitled thereto as determined by the court in the foreclosure proceedings.

13. Foreclosure Proceedings and Receiver. Upon the commencement of any proceedings to foreclose this Performance Mortgage, Mortgagees shall be entitled forthwith to the appointment of a receiver or receivers, as a matter of right, without the giving of notice to any other party, without regard to the adequacy or inadequacy of any security for the Indebtedness and without the requirement of any bond. Mortgagees shall be entitled to recover judgment either before or after or during the pendency of any proceedings for the enforcement of this Performance Mortgage. The right of Mortgagees to recover such judgment shall not be affected by the exercise of any other right, power or remedy for the enforcement of this Performance Mortgage, or the foreclosure of the lien of this Performance Mortgage.

14. No Exclusive Remedy. Each and every right, power and remedy conferred upon or reserved to Mortgagees in this Performance Mortgage is cumulative and shall be in addition to every other right, power and remedy given in this Performance Mortgage or now or hereafter existing at law or in equity. No delay or omission of Mortgagees in the exercise of any right, power or remedy shall be construed to be a waiver of any Event of Default or any acquiescence thereto.

15. Provisions Severable. In the event any one or more of the provisions of this Performance Mortgage for any reason shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Performance Mortgage, but this Performance Mortgage shall be construed as if such invalid, illegal or unenforceable provisions were never contained in this Performance Mortgage. Mortgagor agrees that their obligations hereunder are joint and several.

16. Notices. All notices pursuant to this Performance Mortgage shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by registered or certified United States mail, addressed to Mortgagor at the following address:

B3 Properties, LLC  
10971 Four Seasons Place, Suite 216  
Crown Point, IN 46307  
Attn: Robert Stiglich, Managing Partner

with a copy to:

Clyde Compton, Esq.  
8700 Broadway  
Merrillville, IN 46410

and to Mortgagees at the following addresses:

Hobart Redevelopment Commission  
414 Main Street  
Hobart, IN 46342  
Attn: Director of Development

cured within thirty (30) days of notice from Mortgagees of such non-monetary default;

(b) Failure to complete at least thirty percent (30%) of the Development in the PUD Commercial Area within six (6) years of the effective date of the Development Agreement and failure to complete one hundred percent (100%) of the Development in the PUD Commercial Area within fifteen (15) years of the effective date of the Development Agreement, as further described in Sections 4.12 and 4.13 of the Development Agreement.

(c) Lease, sublease, assignment, sale, contracting for sale, transfer or encumbrance of all or any part of the Mortgaged Property, without Mortgagees' prior written consent as required herein;

(d) If Mortgagor becomes the subject of an order for relief under the United States Bankruptcy Code, takes any action to obtain relief under the United States Bankruptcy Code, files an answer admitting bankruptcy or insolvency or in any manner is adjudged bankrupt or insolvent;

(e) Any part of the Mortgaged Property or all or any substantial part of the property or assets of Mortgagor is placed in the hands of any receiver or trustee, or Mortgagor consents, agrees or acquiesces to the appointment of any such receiver or trustee; and/or

(f) (i) Default in the payment of principal or interest, when due, under the terms of any note or obligation secured or evidenced by the Primary Mortgage, or (ii) acceleration of any note or indebtedness secured by the Primary Mortgage, or (iii) institution of proceedings to enforce or foreclose the Primary Mortgage or any other lien or encumbrance upon all or any part of the Mortgaged Property; and/or

(g) Default under the Development Agreement.

12. Foreclosure and Application of Proceeds. All expenses which may be paid or incurred by or on behalf of Mortgagees in connection with the foreclosure of this Performance Mortgage, including but not limited to reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs and cost of procuring all title searches, policies and examinations and similar data and assurances with respect to title as Mortgagees reasonably may deem necessary to prosecute such suit and all expenses incurred as a result of, arising out of or related to any default under the Development Agreement, this Performance Mortgage and the satisfaction of the Primary Loan and all amounts due thereunder, shall constitute Advancements, shall be immediately due and payable by Mortgagor, with interest thereon, and shall be allowed and included as Indebtedness in the judgment for sale. The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied in the following order of priority: First, on account of all Advancements incident to the foreclosure proceedings and all Costs; second, all other items which under the

the Mortgaged Property shall constitute Advancements and shall immediately be due and payable by Mortgagor.

8. Transfer of Mortgaged Property. Mortgagor shall not, without the prior written consent of Mortgagees (which consent may be withheld at Mortgagees' complete discretion, without reasonable cause), lease, transfer, sell, contract to sell, mortgage or in any way further encumber all or any part of the Mortgaged Property, except for the liens of the Primary Loan. Upon the transfer of the Mortgaged Property to a third party, unaffiliated with the Mortgagor, the Performance Mortgage on that portion of the Mortgaged Property transferred to a third party, will be released, such release being subject to such other terms and conditions as may be negotiated with the third party.

9. Release of Performance Mortgage Upon the Completion of the PUD Commercial Area. The Performance Mortgage shall be released quarterly (on or soon after each January 1, April 1, July 1 and October 1) to the Mortgagor in proportion to the amount of the PUD Commercial Area the Mortgagor has completed, as evidenced by the quarterly review the Mortgagor shall submit to the Mortgagees, in accordance with Section 4.13 of the Development Agreement.

10. Condemnation. If all or any part of the Mortgaged Property, is taken or damaged pursuant to an exercise, or threat of exercise, of the power of eminent domain, the entire proceeds of the award or compensation payable in respect of the part so taken or damaged are hereby assigned to and shall be paid directly to Mortgagees. The proceeds of any award or compensation actually received by Mortgagees after deduction therefrom of all costs and expenses including reasonable attorneys' fees incurred by Mortgagees in connection with the taking, at Mortgagees' option, shall be applied, without premium, in part or entirely to payment of the Indebtedness or to restoration of the Mortgaged Property. Mortgagees' rights under this section are subject to the rights of the mortgagees under the Primary Mortgage (also referred to as the Primary Loan), if and when a Primary Lender is obtained, all as defined in Section 19, below.

11. Default and Acceleration. Time is of the essence in this Performance Mortgage. Upon the occurrence of any "Event of Default" (as hereinafter defined), and at any time thereafter, then, in any and every such case, the entire Indebtedness shall, at the option of Mortgagees, become immediately due and payable without any notice, presentment, demand, protest, notice of protest, or other notice of dishonor or demand of any kind, all of which are hereby expressly waived by Mortgagor, and Mortgagees shall have the right immediately to foreclose the mortgage lien created by this Performance Mortgage against the Mortgaged Property, to enforce every other security interest created by this Performance Mortgage and to institute any action, suit or other proceeding which Mortgagees may deem necessary or proper for the protection of its interests. Each of the following shall constitute an "Event of Default" for purposes of this Performance Mortgage:

- (a) Default: (i) in the payment when due for a period of five (5) days of any of the Indebtedness, which shall be due without notice or grace period, or (ii) in the performance of any covenant or term of this Performance Mortgage not

against all claims made thereon; (d) Mortgagor is not a party to, nor is threatened to be made a party to, any suits, actions or other litigation which might have an adverse effect on Mortgagor or its ability to perform its obligations under the Development Agreement or this Performance Mortgage; (e) Mortgagor has not failed to disclose any information in Mortgagor's possession which would affect Mortgagees' willingness to enter into the Development Agreement or this Performance Mortgage; (f) the Real Estate is not located in a flood area; (g) the Real Estate and the Mortgaged Property is now and shall remain at all times in the future, free of any mechanic's or materialman's lien; (h) Mortgagor will execute, acknowledge and deliver, at the reasonable request of Mortgagees, such documents as are necessary or desirable to perfect the liens created hereby; and (i) the Real Estate is not subject to the disclosure requirements provided for in the Indiana Responsible Property Transfer Law.

5. Insurance. Mortgagor shall keep the Mortgaged Property insured against loss by fire, extended casualty, vandalism, malicious mischief and such other hazards as reasonably may be required from time to time by Mortgagees for the benefit and protection of Mortgagees, shall maintain liability, automobile coverage, worker's comprehensive insurance and such other policies as may be reasonably required by Mortgagees from time to time (the "Required Insurance"). The Required Insurance shall be written in forms, amounts, and by companies reasonably satisfactory to Mortgagees. Copies of all policies shall be provided to Mortgagees, with evidence that they have been fully paid up for no less than one year. Any monies received as payment for any loss under any of the Required Insurance paid over to Mortgagees may be applied, at the option of Mortgagees, either to the prepayment of any portion, as Mortgagees may select, of the Indebtedness, without premium, or to the reimbursement of Mortgagor for expenses incurred by Mortgagor in the restoration or repair of the Mortgaged Property. Proceeds paid or payable to Mortgagor of the Required Insurance shall be applied to restoration of the Mortgaged Property in such fashion as Mortgagees reasonably may require. Mortgagees' rights under this section are subject to the rights of the mortgagees under the Primary Mortgage (also referred to as the Primary Loan), if and when a Primary Lender is obtained, all as defined in Section 19, below.

6. Taxes. Mortgagor will pay and discharge or cause to be paid and discharged when due, and before any penalty attaches, all taxes (including real and personal property taxes), general and special assessments, water and sewer rents or assessments, and all other governmental and municipal charges and impositions of any kind imposed upon or assessed against Mortgagor or the Mortgaged Property, or any part thereof, or arising in respect of the occupancy, use or possession thereof. Mortgagor warrants that all real estate taxes due have been paid.

7. Protection of Security by Mortgagees. Mortgagees may, at Mortgagees' option, but without any duty or obligation of any sort to do so and without in any way waiving or relieving any default by Mortgagor, make any payment and perform any act required of Mortgagor by this Performance Mortgage or the Primary Loan, including but not limited to, payment of principal and interest due under the Primary Loan, insurance premiums, taxes, assessments, repair expenses and prior liens and encumbrances. All expenses so incurred, including reasonable attorneys' fees, and any other expenses incurred by Mortgagees to protect

Liabilities and Extensions collectively shall be referred to as the "Indebtedness"). All future advances made to Mortgagor by Mortgagees and all future obligations of Mortgagor assumed by Mortgagees shall be deemed Indebtedness pursuant to this Performance Mortgage, up to a maximum amount of Thirteen Million and 00/100 Dollars (\$13,000,000.00), whether made as an obligation of Mortgagees, made at Mortgagees' option, or made otherwise, are secured by this Performance Mortgage to the same extent as if the future obligations or advances were Indebtedness made on the date hereof. Any future modification, extension, and renewals of the Indebtedness secured by this Performance Mortgage or the obligations contained herein shall be secured by this Performance Mortgage to the same extent as if the future modifications, extensions, and renewals were made as of the date hereof.

Mortgagor hereby further covenants with the Mortgagees as follows:

1. Performance and Completion of Development. Mortgagor covenants and agrees to promptly complete the PUD Commercial Area of the Development within the time limits prescribed in the second paragraph herein and in Section 4.12 of the Development Agreement.
2. Payment of Public Infrastructure Improvement Costs. Mortgagor covenants and agrees to promptly pay the Public Infrastructure Improvement Costs in accordance with the monetary damages prescribed in the second paragraph herein and in Section 4.12 of the Development Agreement and any other indebtedness secured hereby, upon the failure of the Mortgagor to complete the PUD Commercial Area of the Development in accordance with the time limits prescribed in the second paragraph herein and in Section 4.12 of the Development Agreement, all without relief from valuation and appraisal laws and with attorneys' fees and court costs in the event of default and such other costs as provided in Section 12 of this Performance Mortgage.
3. Care and Condition of Mortgaged Property. Mortgagor shall (a) promptly repair, restore or rebuild the Mortgaged Property, or any portion thereof, which is damaged or destroyed; (b) keep the Mortgaged Property in good condition and repair, without waste, and free from encroachments and from mechanic's or materialman's liens or claims for liens not expressly subordinated to this Performance Mortgage; (c) pay when due any indebtedness which may be secured by a lien or charge on the Mortgaged Property, whether or not superior to the lien of this Performance Mortgage; (d) comply with all requirements of law and covenants and restrictions of record applicable to the Mortgaged Property or its use; (e) permit no change in or alteration of the design, structural character or general nature of the Real Estate and the Improvements unless done in accordance with the requirements and restrictions of the Development Agreement; and (f) permit Mortgagees to enter upon and inspect the Mortgaged Property at all reasonable times.
4. Warranties. Mortgagor covenants and warrants that: (a) Mortgagor is lawfully seized of the Real Estate in fee simple, has valid and indefeasible title to the Mortgaged Property and has a good and legal right to convey and mortgage the Mortgaged Property; (b) the Mortgaged Property is and will remain free from all liens and encumbrances except only this Performance Mortgage and the Prior Lien, as specifically identified in Section 19 of this Performance Mortgage; c) Mortgagor will warrant and defend title to the Mortgaged Property



2007 023794

PERFORMANCE MORTGAGE

MICHAEL A. BROWN

THIS INSTRUMENT (Performance Mortgage) WITNESSES that B3 Properties, LLC ("Mortgagor"), in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby MORTGAGES and WARRANTS to the City of Hobart, Indiana and the Hobart Redevelopment Commission ("Mortgagees"), certain real estate located in Silverstone Crossing Development, (the "Development"), and depicted on Exhibit A and Exhibit B as POD B, POD C and POD D (collectively, the "PUD Commercial Area"), Lake County, Indiana, and more particularly described on Exhibit C, attached hereto and made a part hereof ("Real Estate"), together with all of the rights, title and interests of Mortgagor in and to: (i) All rights, privileges, interests, tenements, hereditaments, easements and appurtenances in any way now or hereafter pertaining to the Real Estate ("Easements"); (ii) All buildings and other improvements of every kind and description now or hereafter placed on the Real Estate, together with all fixtures, machinery and equipment now or hereafter attached to or regularly used in connection with the Real Estate, and all replacements thereof ("Improvements"); (iii) All extensions, improvements, betterments, substitutes, replacements, renewals, additions and appurtenances of or to the Easements or Improvements ("Additions"); and (iv) All awards, payments or proceeds of conversion, whether voluntary or involuntary, of any of the foregoing, including, without limitation, all insurance, condemnation and tort claims ("Proceeds"). The Real Estate, Easements, Improvements, Additions, and Proceeds are referred to together as the "Mortgaged Property".

This Performance Mortgage is given to secure performance by Mortgagor of the covenants and agreements contained in this Performance Mortgage and to secure: (i) the completion of at least thirty percent (30%) of the Development in the PUD Commercial Area, within six (6) years of the effective date of the Development Agreement entered into by and among the Mortgagor and the Mortgagees on ~~December 19, 2006~~ <sup>March 19, 2007</sup> (the "Development Agreement") and the completion of one hundred percent (100%) of the Development in the PUD Commercial Area within fifteen (15) years of the effective date of the Development Agreement; (ii) the payment by the Mortgagor to the Mortgagees of monetary damages in the amount of thirty percent (30%) of the costs of the Public Infrastructure Improvements, as defined in the Development Agreement, in the PUD Commercial Area if the six (6) year time commitment is not met and the payment by the Mortgagor to the Mortgagees of monetary damages in the amount of one hundred percent (100%) of the costs of the Public Infrastructure Improvements in the PUD Commercial Area if the fifteen (15) year time commitment is not met (collectively, the "Public Infrastructure Improvement Costs"); (iii) the payment of all sums advanced and costs and expenses incurred by Mortgagees which are made or incurred pursuant to, or allowed by, the terms of this Performance Mortgage, from the date paid or incurred until reimbursement ("Advancements"); (iv) the payment of all costs of repossession, collection, disposition and reasonable attorneys' fees incurred by Mortgagees ("Costs"); (v) the payment of all other indebtedness, obligations and liabilities of Mortgagor to Mortgagees, now existing or hereafter arising, whether fixed or contingent, direct or indirect, primary or secondary, joint or several, and regardless of how created or evidenced ("Additional Liabilities"); and (vi) the payment of any and all extensions or renewals ("Extensions") of any of the foregoing indebtedness. (Hereinafter, Public Infrastructure Improvement Costs, Advancements, Costs, Additional

HOBART REDEVELOPMENT COMMISSION  
414 MAIN STREET  
HOBART, IN 46342  
ATTN: DIRECTOR OF DEVELOPMENT

BDDB01 4593246v3

\$42.00  
ck # 014082

**EXHIBIT G**

**Common Council PUD Ordinance**

The PUD Ordinance, stating the permitted uses for the Development, shall be prepared, completed and passed by the Common Council at a later date, but shall be incorporated herein and attached as this Exhibit G, as if the PUD Ordinance was in existence at the time of this Agreement's Effective Date.



**Performance standards - Fire and explosive hazards.**

In an M-1 district, fire and explosive hazards shall be controlled as follows:

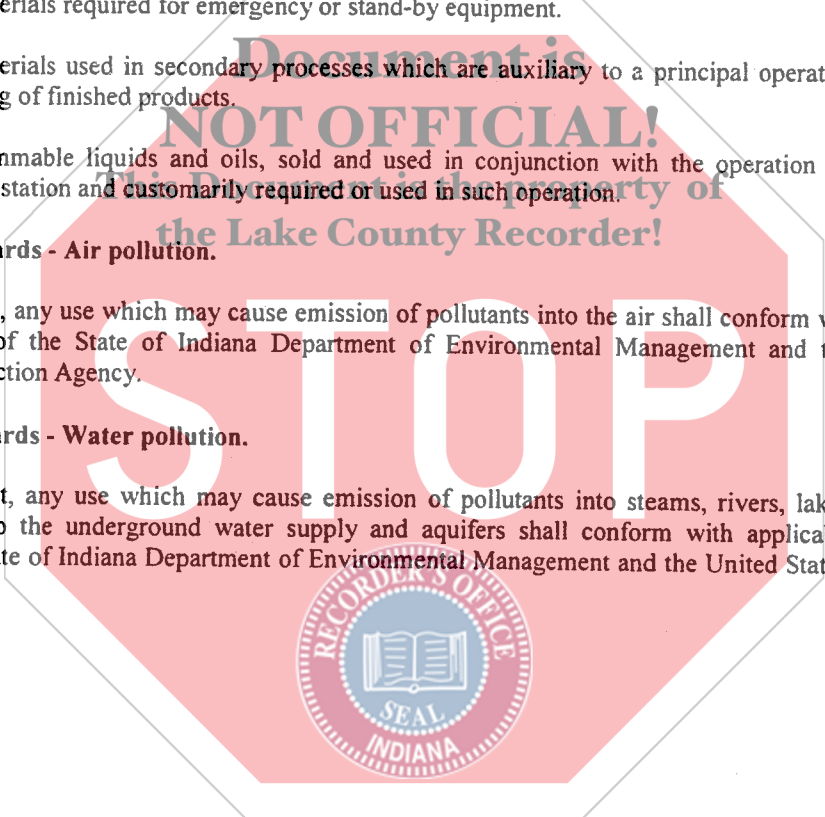
- (a) Activities involving the storage or manufacture of materials or products which decompose by detonation are not permitted in M-1 districts.
- (b) The storage, utilization or manufacture of materials ranging from incombustible to moderate burning as determined by the zoning administrator, is permitted.
- (c) The storage, utilization or manufacture or products ranging from free or active burning to intense burning, as determined by the zoning administrator, is permitted under the following conditions.
  - (1) All storage, utilization or manufacture of such materials or products shall be within completely enclosed buildings or structures having incombustible walls.
  - (2) All buildings or structures shall be set back at least forty (40) feet from the property boundaries or, in lieu thereof, shall be protected throughout by an automatic sprinkler system complying with standards for installation prescribed by the National Fire Protection Association.
- (d) Materials or products which produce flammable or explosive vapors or gasses under ordinary weather temperatures shall not be permitted in this district, with the exception of the following which are permitted:
  - (1) Materials required for emergency or stand-by equipment.
  - (2) Materials used in secondary processes which are auxiliary to a principal operation, such as paint spraying of finished products.
  - (3) Flammable liquids and oils, sold and used in conjunction with the operation of an automobile service station and customarily required or used in such operation.

**Performance standards - Air pollution.**

In an M-1 district, any use which may cause emission of pollutants into the air shall conform with applicable air quality regulations of the State of Indiana Department of Environmental Management and the United States Environmental Protection Agency.

**Performance standards - Water pollution.**

In an M-1 district, any use which may cause emission of pollutants into streams, rivers, lakes, waterways or watercourses, or into the underground water supply and aquifers shall conform with applicable water quality regulations of the State of Indiana Department of Environmental Management and the United States Environmental Protection Agency.



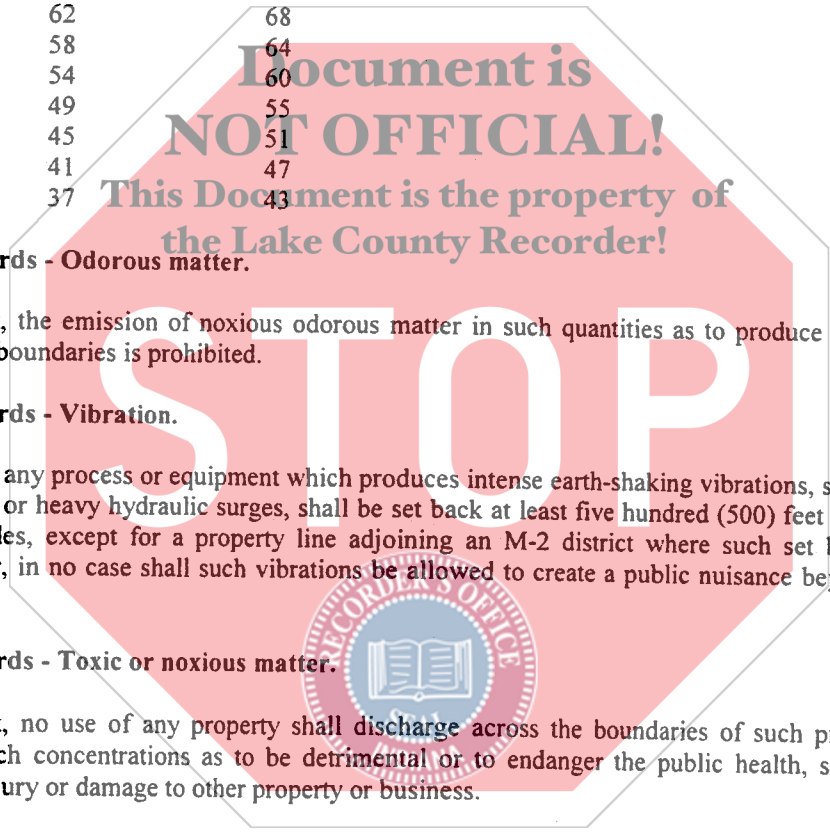
Impulsive type noise shall be subject to the performance standards hereinafter prescribed; provided, that such noise shall be capable of being accurately measured with such equipment. Noises capable of being so measured, for the purpose of this comprehensive amendment, shall be those noises which cause rapid fluctuations of the needle of the sound level meter with a variation of no more than plus or minus two (2) decibels. Noises incapable of being so measured, such as those of an irregular and intermittent nature shall be controlled so as not to become a nuisance to adjacent uses.

At no point either on the boundary of an agricultural or residence district or an OS-1, B-1, B-2 or B-3 district or at one hundred twenty-five (125) feet from the nearest property line of a plant or operation, whichever distance is greater, shall the sound pressure level of an individual plant or operation (other than the operation of motor vehicles and other transportation facilities) exceed the decibel levels at the designated octave bands shown hereinafter for the districts indicated.

Maximum permitted sound level in decibels along A-1, R and OS district boundaries or 125 feet from plant or operation boundary.

Maximum permitted sound level in decibels along business district boundaries or 125 feet from plant or operation boundary.

Octave band cycles per second	line	line
0000 to 0075	67	73
0075 to 0150	62	68
0150 to 0300	58	64
0300 to 0600	54	60
0600 to 1200	49	55
1200 to 2400	45	51
2400 to 4800	41	47
Above 4800	37	43



**Performance standards - Odorous matter.**

In an M-1 district, the emission of noxious odorous matter in such quantities as to produce a public nuisance beyond the property boundaries is prohibited.

**Performance standards - Vibration.**

In an M-1 district, any process or equipment which produces intense earth-shaking vibrations, such as are created by heavy drop forges or heavy hydraulic surges, shall be set back at least five hundred (500) feet from the property boundaries on all sides, except for a property line adjoining an M-2 district where such set back shall not be mandatory. However, in no case shall such vibrations be allowed to create a public nuisance beyond the property boundaries.

**Performance standards - Toxic or noxious matter.**

In an M-1 district, no use of any property shall discharge across the boundaries of such property toxic and noxious matter in such concentrations as to be detrimental or to endanger the public health, safety, comfort or welfare or to cause injury or damage to other property or business.

**Performance standards - Glare or heat.**

In an M-1 district, any operation producing intense glare or heat shall be performed within a completely enclosed building and effectively screened in such a manner as to not create a public nuisance or hazard along property boundaries.

(3) 8 ft. (eight foot) fence in height. (Ord. 2005-43, Adopted 10.19.05)

**Conditional uses.**

In an M-1 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:"

- (a) Establishments engaged in production, processing, cleaning testing or repair other than those specifically listed as permitted uses in M-1 districts, but not including any use first listed as permitted in an M-2 district.
- (b) Airports and heliports.
- (c) Bus terminals.
- (d) Concrete and cement products, batch plants.
- (e) Railroad freight terminals, railroad switching and classification yards, repair shops and roundhouses.
- (f) Stadiums, auditoriums and arenas.
- (g) Theaters, automobile drive-in.
- (h) Recycling drop-off centers. (See 24-7.122)
- (i) Recycling stations. (See 24-7.124)
- (j) Adult Entertainment Facilities and Uses, including massage parlors, adult literature sales locations, exotic dancing establishments, and similar uses. (Ord. 94-65, Adopted 11/2/1994)

**Limitations of use.**

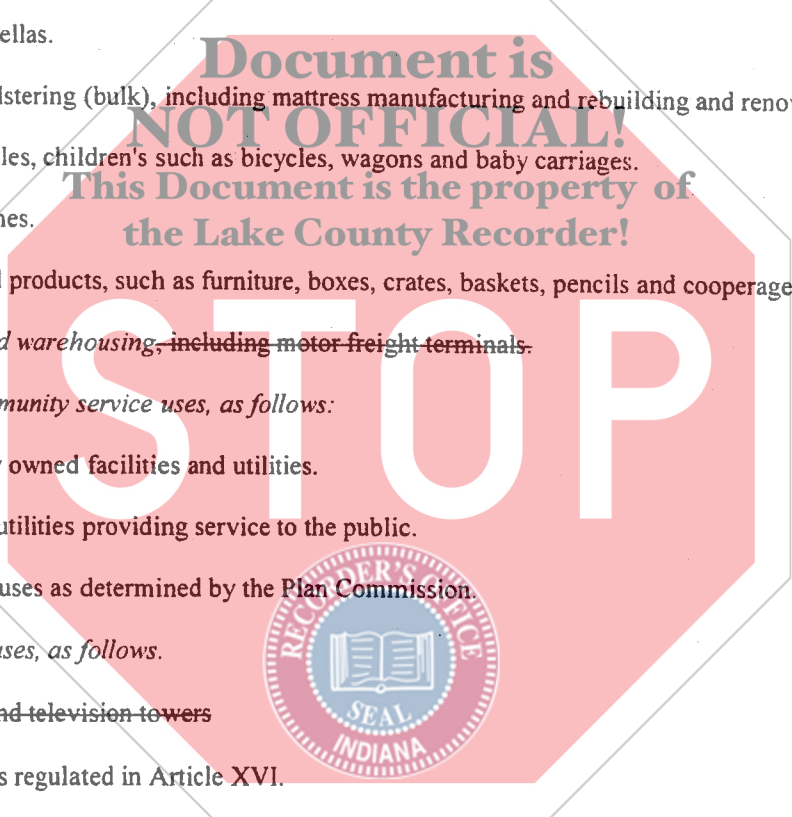
Permitted uses in the M-1 district are subject to the following additional general limitations:

- (a) Dwelling units are not permitted.
- (b) All production, servicing and processing shall be conducted in completely enclosed buildings unless otherwise indicated hereafter. Within one hundred fifty (150) feet of any residence district, all storage shall be within completely enclosed buildings or structures, and storage located elsewhere in this district may be open to the sky but shall be enclosed by a solid wall or by solid fences.
- (c) However, open off-street loading facilities and open off-street parking of motor vehicles may be unenclosed, except for such screening of parking and loading facilities as may be required under the provisions as set forth in Article XV, "Off-Street Parking and Loading."
- (d) Same as B-3. (Ord. 97-15, Adopted 2/4/1998)

**Performance standards - Noise.**

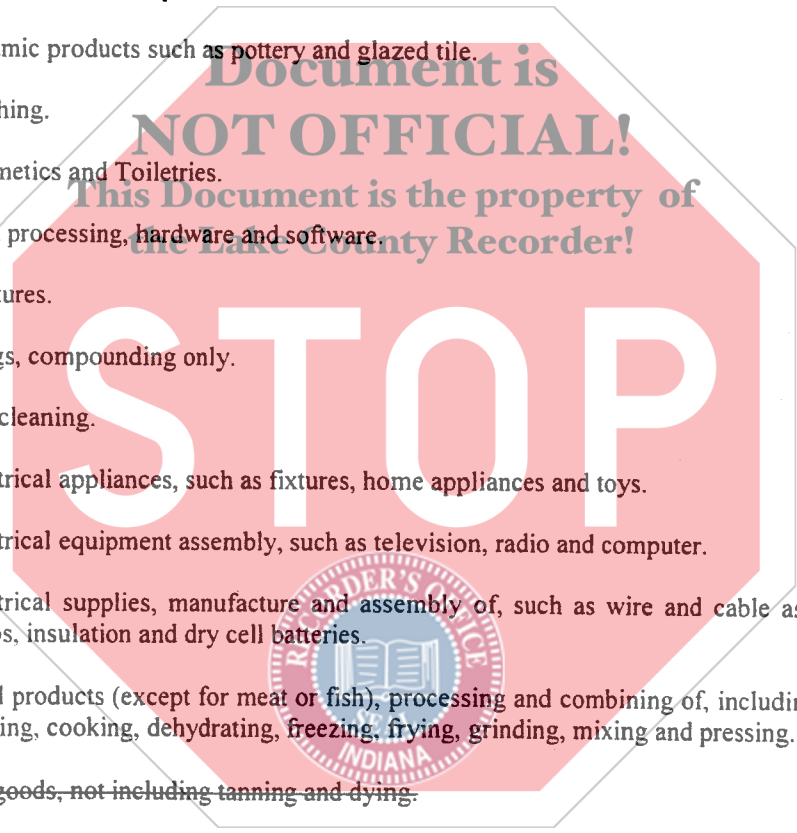
In an M-1 district, sound levels shall be measured with a sound level meter and associated octave band filter manufactured according to standards prescribed by the American Standards Association. Measurements shall be made using the flat network of the sound level meter.

- (53) Repair of household and office equipment.
  - (54) Silverware, plate and sterling.
  - (55) Soap and detergents, packaging only.
  - (56) Soldering and welding.
  - (57) Sporting and athletic equipment such as balls, baskets, bats, cues, gloves racquets and rods.
  - (58) Statuary, mannequins, figurines and religious and church art goods, excluding foundry operations.
  - (59) Textiles, including spinning, weaving, manufacturing, dying, printing, knit goods, yarn, thread and cordage, but not including textile bleaching.
  - (60) Tobacco curing and manufacturing of tobacco products.
  - (61) Tools and hardware such as bolts, nuts and screws, doorknobs, drills, hand tools and cutlery, hinges, house hardware, locks, nonferrous metal castings and plumbing appliances and fixtures.
  - (62) Toys.
  - (63) Umbrellas.
  - (64) Upholstering (bulk), including mattress manufacturing and rebuilding and renovating furniture.
  - (65) Vehicles, children's such as bicycles, wagons and baby carriages.
  - (66) Watches.
  - (67) Wood products, such as furniture, boxes, crates, baskets, pencils and cooperage works.
- (c) *Wholesaling and warehousing, including motor freight terminals.*
- (d) *Public and community service uses, as follows:*
- (1) Publicly owned facilities and utilities.
  - (2) Private utilities providing service to the public.
  - (3) Similar uses as determined by the Plan Commission.
- (e) *Miscellaneous uses, as follows.*
- (1) ~~Radio and television towers~~
  - (2) Signs, as regulated in Article XVI.
- (f) *Uses incidental to permitted uses, as follows:*
- (1) Accessory uses.
  - (2) Temporary buildings or structures for construction purposes, for a period not to exceed the duration of such construction.



- (28) Hosiery.
- (29) Ice, dry and natural
- (30) Ink mixing and packaging, and inked ribbons.
- (31) ~~Insecticides.~~
- (32) Jewelry.
- (33) Laboratories, medical, dental, research, experimental and testing; provided that there is no danger from fire or explosion, nor of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences.
- (34) Laundries.
- (35) Leather products, including shoes and machine belting.
- (36) Luggage.
- (37) Machine shops for tool, die and pattern making.
- (38) ~~Meat products.~~
- (39) Metal finishing, plating, grinding, sharpening, grinding, polishing, cleaning, rust proofing and heat treatment.
- (40) ~~Metal stamping and extrusion of small products such as bottle caps, buttons, costume jewelry, kitchen utensils, pins and needles and razor blades.~~
- (41) Mobile homes and house trailers.
- (42) ~~Motor vehicle repair.~~
- (43) Musical instruments.
- (44) Orthopedic and medical appliances, such as artificial limbs braces, supports and stretchers.
- (45) Paper products, small items such as envelopes and stationery, bags, boxes, tubes and wallpaper.
- (46) Perfumes and perfumed soaps, compounding only.
- (47) Pharmaceutical products, compounding only.
- (48) ~~Poultry and meat processing and retail sale.~~
- (49) Precision instruments such as optical, medical, testing and measuring.
- (50) Products from finished materials, including, bone, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastic, rubber, semi-precious stones, shell or yarn.
- (51) Rubber products and synthetic treated fabrics, small items such as washers, gloves, footwear, bathing caps and atomizers.
- (52) Printing and newspaper publishing, including engraving and photo-engraving.

- (2) Art needlework and hand weaving.
- (3) Awnings, draperies and venetian blinds.
- (4) Bakeries.
- (5) Beverages, nonalcoholic.
- (6) ~~Blacksmith shops and ornamental ironworks.~~
- (7) ~~Boat building and boat repairs of pleasure craft and other small craft, but not including ship building or shop repairs.~~
- (8) Book binding and tooling, hand and machine worked.
- (9) ~~Bottling works, beverage.~~
- (10) Brushes and brooms.
- (11) Cameras and other photographic equipment and supplies.
- (12) Canvas and canvas products.
- (13) Ceramic products such as pottery and glazed tile.
- (14) Clothing.
- (15) Cosmetics and Toiletries.
- (16) Data processing, hardware and software.
- (17) Dentures.
- (18) Drugs, compounding only.
- (19) Dry cleaning.
- (20) Electrical appliances, such as fixtures, home appliances and toys.
- (21) Electrical equipment assembly, such as television, radio and computer.
- (22) Electrical supplies, manufacture and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.
- (23) Food products (except for meat or fish), processing and combining of, including baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing and pressing.
- (24) ~~Fur goods, not including tanning and dying.~~
- (25) Glass products, from previously manufactured glass.
- (26) ~~Hair, felt and feather products, (except washing, curing and dying).~~
- (27) ~~Hat bodies of fur, felt and cloth.~~





hereafter, and except when establishments of the "drive-in" type offer goods and services directly to customers waiting in parked motor vehicles.

(c) Outdoor sales of retail items may be sold only if:

- (1) the sale takes place on the same property where a permanent retail business is located;
- (2) the items sold are among the permitted uses listed for this district;
- (3) the items are sold by the same owner or operator of the permanent business;
- (4) said outdoor sales shall not result in the lack of compliance with any other required provision of this chapter, such as setback, parking, etc. (Ord. 97-15, Adopted 2/4/1998)

**M-1 Light Manufacturing Districts.**

**Permitted uses.**

The following listed uses and no others are permitted uses in an M-1 district:

(a) *Retail and service uses as follows:*

- (1) Auto service stations ~~and truck stops.~~
- (2) Building materials, sales.
- (3) Car washes and auto supplies.
- (4) ~~Cartage and express facilities.~~
- (5) Contractor and construction shops.
- (6) Dry cleaning establishments and pressing plants.
- (7) ~~Fuel sales, with storage of fuel oils, kerosene, gasoline and other flammable products limited to one hundred twenty thousand (120,000) gallons per tank, with the total storage not to exceed five hundred thousand (500,000) gallons.~~
- (8) Garages, model display and sales.
- (9) Ice sales.
- (10) Linen, towel, diaper and other similar services.
- (11) Mobile home sales and house trailer sales.
- (12) Motor vehicle sales, including storage, servicing and repairs.
- (13) Office and household equipment and machinery, sales and service.
- (14) Parking garages and parking lots, other than accessory.
- (15) Planned unit developments, industrial.

(b) *Production, processing, cleaning, testing and repair, as follows:*

- (1) Advertising displays.

- (32) Second hand stores and rummage shops.
- (33) Taxidermists shops.
- (34) Truck stops, including the sale of fuel, truck washing, food and supplies.
- (35) Undertaking establishments and funeral parlors.
- (36) Lumberyards.
- (37) Roofing materials sales.
- (38) Mini-warehouses intending to serve residential or retail material wholly enclosed in a building, totally surrounded by an opaque fence and decorative landscaping approved by the Plan Commission. (Ord. 94-67, Adopted 11/2/1994)

(c) *Public and community service uses, as follows:*

- (1) Libraries.
- (2) Police stations.
- (3) Fire stations.
- (4) Other such public uses.

(d) *Residential uses, as follows:*

- (1) Motels and transient hotels.

**Conditional uses.**

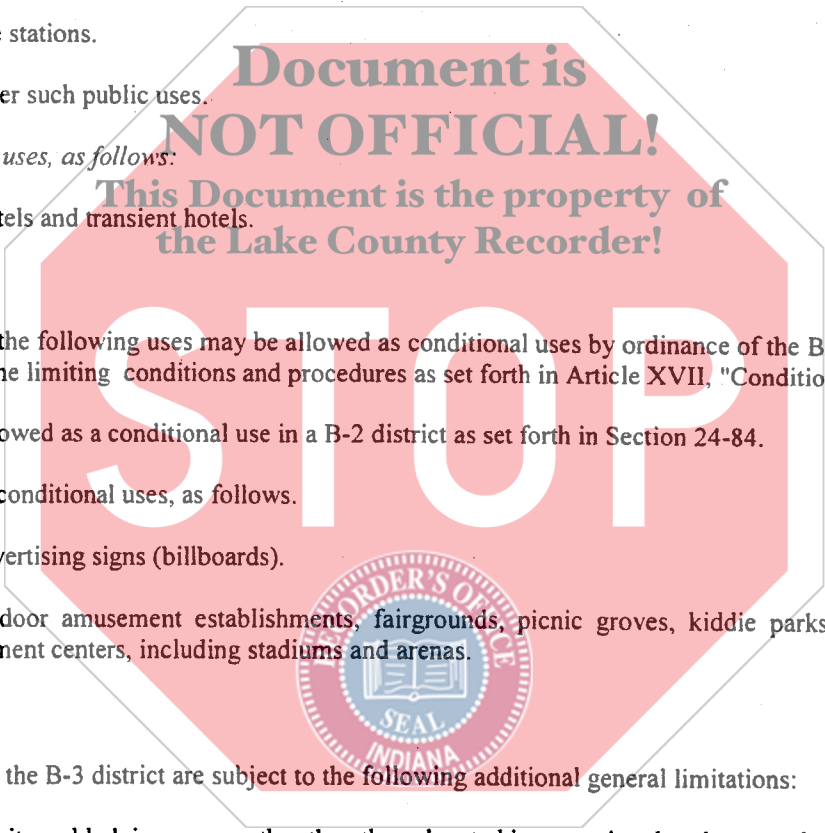
In a B-3 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:"

- (a) Any use allowed as a conditional use in a B-2 district as set forth in Section 24-84.
- (b) Additional conditional uses, as follows.
  - (1) Advertising signs (billboards).
  - (2) Outdoor amusement establishments, fairgrounds, picnic groves, kiddie parks and other similar amusement centers, including stadiums and arenas.

**Limitations of use.**

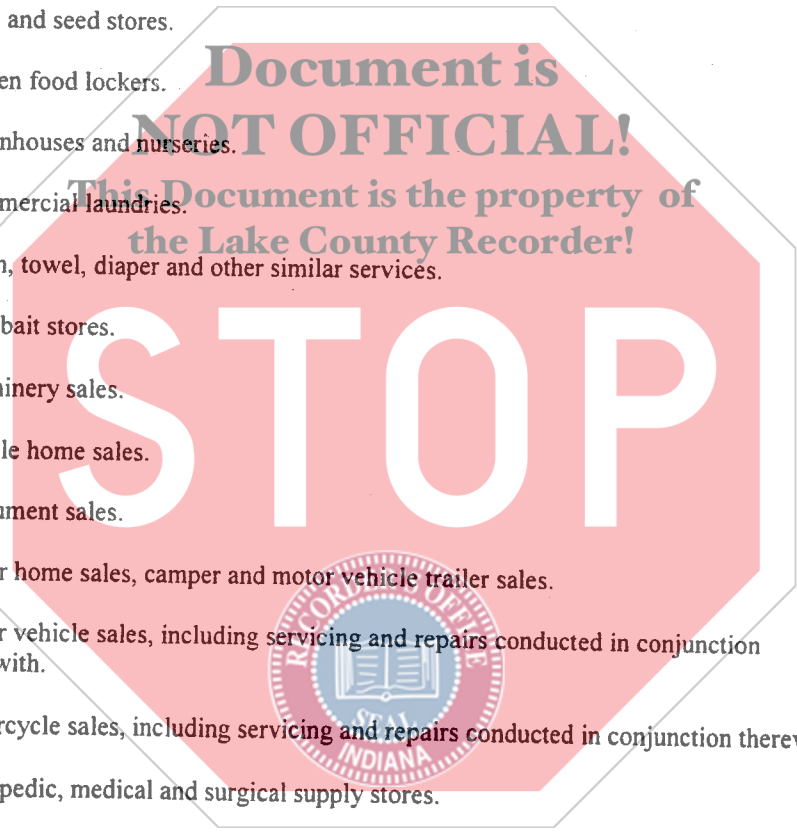
Permitted uses in the B-3 district are subject to the following additional general limitations:

- (a) Dwelling units and lodging rooms other than those located in a transient hotel or motel are not permitted.
- (b) All businesses, services, processing or storage shall be conducted in completely enclosed buildings unless said open storage is a minimum of one hundred fifty (150) feet from any residential district, and then only if said open storage is completely invisible by reason of a wall or opaque fence, or as otherwise indicated



on a corner where one street runs into another at a "T" intersection. In such instances the lot on which the service station is located shall have not less than seventy-five (75) feet frontage on one street and not less than one hundred (100) feet frontage on the other street. Such service stations shall have entrances from each street on which such lot fronts.

- (7) Battery, brake and tire sales and service stations.
- (8) Bicycle stores, including rental and repair.
- (9) Blueprinting and photostating establishments.
- (10) Boat sales, motor and sail, including servicing and repairs conducted in conjunction therewith.
- (11) Car washes and auto laundries.
- (12) Caskets and casket supplies.
- (13) Clothing and costume rental shops.
- (14) Dry cleaning plants.
- (15) Exterminating shops.
- (16) Feed and seed stores.
- (17) Frozen food lockers.
- (18) Greenhouses and nurseries.
- (19) Commercial laundries.
- (20) Linen, towel, diaper and other similar services.
- (21) Live bait stores.
- (22) Machinery sales.
- (23) Mobile home sales.
- (24) Monument sales.
- (25) Motor home sales, camper and motor vehicle trailer sales.
- (26) Motor vehicle sales, including servicing and repairs conducted in conjunction therewith.
- (27) Motorcycle sales, including servicing and repairs conducted in conjunction therewith.
- (28) Orthopedic, medical and surgical supply stores.
- (29) Parking lots, open and other than accessory for the storage of private passenger automobiles.
- (30) Plumbing, electric and other building material showrooms/sales.
- (31) Restaurant, hotel and bar fixture stores.



**Limitations of use.**

Permitted uses in the B-2 district are subject to the following additional general limitations:

- (a) Dwelling units are not permitted below the second floor, on lots which contain a business use.
- (b) All business establishments shall be retail or service establishments dealing directly with consumers, except for wholesale establishments where storage of merchandise is limited to samples.
- (c) All permitted uses in this district shall be conducted in completely enclosed buildings, except for off-street parking and loading. Outdoor sales of retail items may be sold only if:
  - (1) the sale takes place on the same property where a permanent retail business is located;
  - (2) the items sold are among the permitted uses listed for this district;
  - (3) the items are sold by the same owner or operator of the permanent business;
  - (4) said outdoor sales shall not result in the lack of compliance with any other required provision of this chapter, such as setback, parking, etc.;
  - (5) the outdoor sale is a temporary, infrequent activity, approved by the Hobart Board of Works. (*Ord. 97-15, Adopted 2/4/1998*)
- (d) Establishments of a "drive-in" type offering goods or services directly to customers waiting in parked motor vehicles are not permitted, except for such services which are clearly incidental to a principal permitted use.

**Conditional uses.**

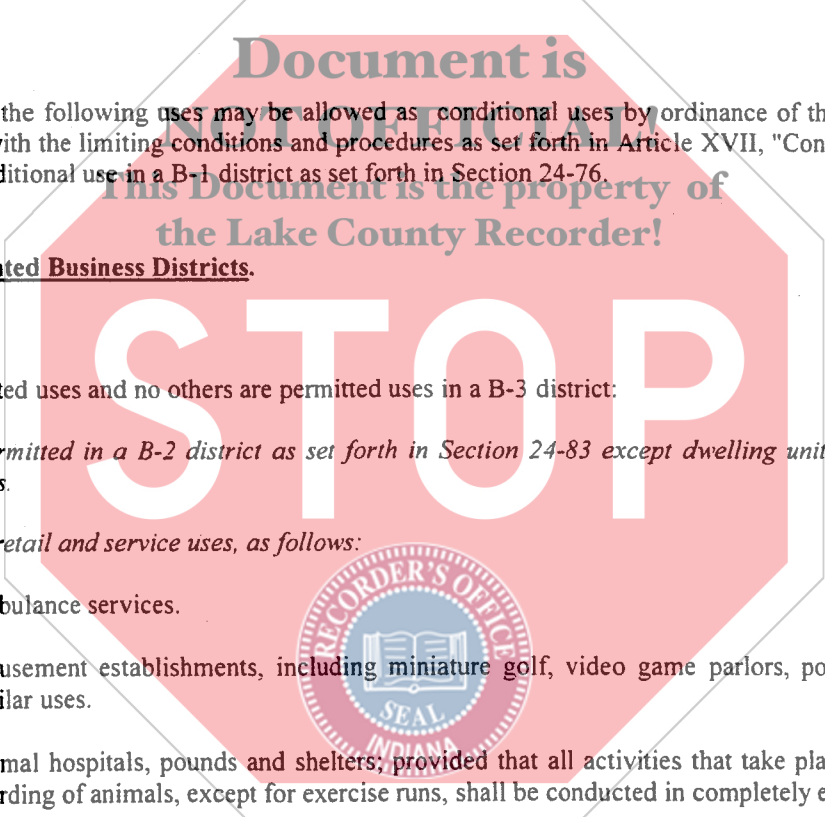
In a B-2 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:" any use allowed as a conditional use in a B-1 district as set forth in Section 24-76.

**B-3. Highway Oriented Business Districts.**

**Permitted uses.**

The following listed uses and no others are permitted uses in a B-3 district:

- (a) *Any use permitted in a B-2 district as set forth in Section 24-83 except dwelling units, churches, parks, playgrounds.*
- (b) *Additional retail and service uses, as follows:*
  - (1) Ambulance services.
  - (2) Amusement establishments, including miniature golf, video game parlors, pool halls, and other similar uses.
  - (3) Animal hospitals, pounds and shelters; provided that all activities that take place for the care and boarding of animals, except for exercise runs, shall be conducted in completely enclosed buildings.
  - (4) Auctions.
  - (5) Automobile accessory stores.
  - (6) Automobile service stations or filling stations; provided that no auto-mobile service station shall be hereafter erected except on a lot on the corner of an intersection of two streets, or on a lot situated



**B-2 Central Business Districts:**

**Permitted uses.**

The following listed uses and no others are permitted uses in a B-2 district:

- (a) *Any use permitted in a B-1 district as set forth in Section 24-75.*
- (b) *Additional retail and service uses, as follows:*
- (1) Employment agencies.
  - (2) Machinery sales rooms, excluding repair or servicing. The storage and display of machinery, except for household appliances and office machines such as typewriters and computers, shall be restricted to new floor samples.
  - (3) Pet shops.
  - (4) Physical culture and health spas, privately owned and operated. Such centers may include gymnasiums, swimming pools, reducing salons, karate and judo studios and the like.
  - (5) Picture framing establishments.
  - (6) Radio and television sales, repair and service shops.
  - (7) Restaurants and taverns, including live entertainment and dancing and the service of liquor in conjunction therewith.
  - (8) Theaters, except for drive-in theaters.
  - (9) Ticket agencies and travel bureaus.
  - (10) Convenience printing establishments.
  - (11) Newspaper offices.
  - (12) Clothing/costume rental shop.
  - (13) Pawn shops.
  - (14) Photograph developing and processing shops.
- (c) *Miscellaneous uses, as follows:*
- (1) Laboratories, including medical and dental, research and testing.
  - (2) Restricted production and repair, limited to the following: Art needle-work and hand weaving; clothing, custom manufacturing and altering for retail only; jewelry; watches; dentures; optical lenses; shoes; and other similar craft and professional services.
- (d) *Residential uses:*
- (1) In a B-2 district, single family dwelling units are permitted on blocks on which the current frontage is at least 50% single family residential, and must satisfy the requirements of the R-2 District.

(2) Home occupations.

(3) Temporary construction buildings.

**Limitations of use.**

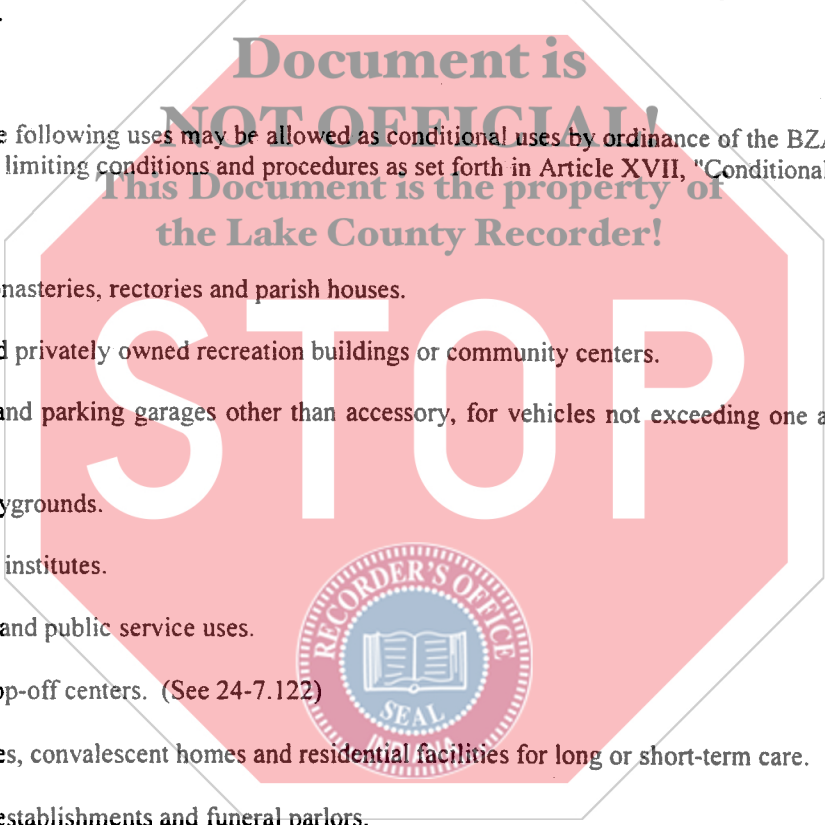
Permitted uses in the B-1 district are subject to the following additional general limitations:

- (a) Dwelling units are not permitted below the second floor.
- (b) All business establishments shall be retail or service establishments dealing directly with consumers.
- (c) Business establishments classified as "retail and service" hereinafter are restricted to a maximum gross floor area of twelve thousand five hundred (12,500) square feet each, exclusive of any floor area devoted to off-street parking or loading facilities.
- (d) All permitted uses in this district shall be conducted in completely enclosed buildings, except for off-street parking and loading.
- (e) Establishments of a "drive-in" type offering goods or services directly to customers waiting in parked motor vehicles are not permitted, except for such services which are clearly incidental to a principal permitted use.

**Conditional uses.**

In a B-1 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:"

- (a) Churches.
- (b) Convents, monasteries, rectories and parish houses.
- (c) Municipal and privately owned recreation buildings or community centers.
- (d) Parking lots and parking garages other than accessory, for vehicles not exceeding one and one-half (1.5) ton capacity.
- (e) Parks and playgrounds.
- (f) Philanthropic institutes.
- (g) Public utility and public service uses.
- (h) Recycling drop-off centers. (See 24-7.122)
- (i) Nursing homes, convalescent homes and residential facilities for long or short-term care.
- (j) Undertaking establishments and funeral parlors.



- (39) Musical instrument stores, including servicing.
- (40) Office supply stores.
- (41) Optician shops.
- (42) Paint and wallpaper stores.
- (43) Planned unit developments, business.
- (44) Restaurants.
- (45) Schools, including music, dance or business.
- (46) Sewing machine stores, household machines only.
- (47) Shoe and hat repair shops.
- (48) Shoe stores.
- (49) Sporting goods stores.
- (50) Tailor shops.
- (51) Telegraph and Facsimile offices.
- (52) Tobacco shops.
- (53) Variety stores.

(b) *Offices, business and professional.*

(c) *Miscellaneous uses, as follows:*

- (1) Clubs and lodges (non profit), fraternal or religious institutions.
- (2) Electric and gas utilities.
- (3) Meeting Halls.
- (4) Post offices.
- (5) Public libraries.
- (6) Radio and television broadcasting
- (7) Signs, as classified and regulated in Article XVI.

(d) *Residential uses.* In a B-1 district, lodging rooms and dwelling units are permitted if business uses occupy the first floor of the same building.

(e) *Uses incidental to principal permitted uses, as follows:*

- (1) Accessory uses.



- (11) Carpet, rug, linoleum and tile stores.
- (12) China and glassware stores.
- (13) Coin and philatelic stores.
- (14) Custom dressmaking and millinery shops.
- (15) Dairy, ice cream and candy shops.
- (16) Delicatessens.
- (17) Department stores.
- (18) Drug stores or convenience pharmacy.
- (19) Dry cleaning and laundry receiving stations.
- (20) Dry goods stores.
- (21) Electric, household appliance, television and radio stores.
- (22) Florist shops and conservatories.
- (23) Grocery or convenience stores.
- (24) Furrier shops, including storage.
- (25) Upholstering shops.
- (26) Garden supply and seed stores.
- (27) Gift shops.
- (28) Haberdashery stores.
- (29) Hardware stores.
- (30) Hobby stores.
- (31) Interior decorating shops.
- (32) Jewelry stores, including watch repairs.
- (33) Laundries and dry cleaners, automatic, self service coin operated.
- (34) Leather goods and luggage stores.
- (35) Liquor stores, package goods only, not for consumption on premises.
- (36) Loan offices.
- (37) Locksmith shops.
- (38) Medical and dental clinics.





- (e) Theaters, automobile drive-in.
- (f) Recycling drop-off centers. (See 24-7. Definitions).
- (g) Recycling stations. (See 24-7. Definitions).

**Regulations along residence district boundaries.**

In a PBP district, on properties or portions thereof located directly across the street from a residence district, if any point on the exterior surface of any building or structure in a PBP district is at a greater height than twenty-five (25) feet above curb level, such point projected vertically on the ground shall in no case be nearer to the residence district boundary than a horizontal distance equal to one (1) times the height of such point above curb level. However, stacks, tanks, bulkheads or ventilating equipment, including towers enclosing same, shall be exempt from such limitation if not exceeding in the aggregate twenty-five (25) feet in lineal dimension parallel to the street for any one hundred (100) feet of street frontage. Parapets not exceeding three (3) feet in height shall also be exempt from such limitation.

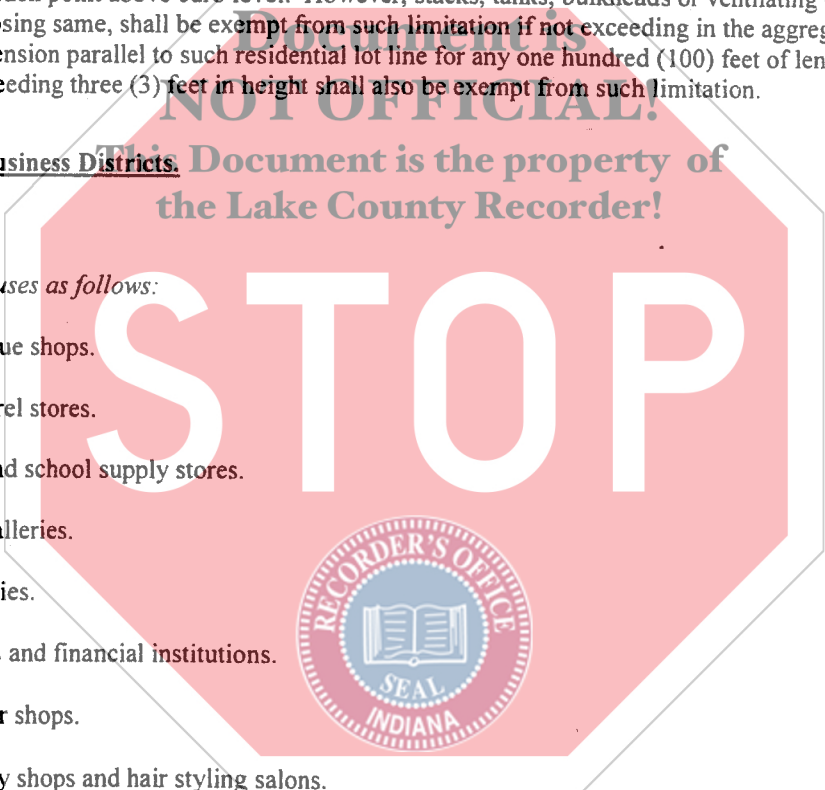
Where the boundary line separating a PBP from a residence district coincides with a property line or is separated by an alley, no building, structure or other obstruction in the manufacturing district shall be located within twenty (20) feet of the side lot line or thirty (30) feet of the rear lot line of the manufacturing district where it abuts a residence district. Further, if any point on the exterior surface of any building or structure in a PBP district is at a greater height than twenty-five (25) feet above curb level, such point projected vertically on the ground shall in no case be nearer to the side or rear lot line of any property in an adjacent residence district than a horizontal distance equal to the height of such point above curb level. However, stacks, tanks, bulkheads or ventilating equipment, including towers enclosing same, shall be exempt from such limitation if not exceeding in the aggregate twenty-five (25) feet in lineal dimension parallel to such residential lot line for any one hundred (100) feet of length of such lot line. Parapets not exceeding three (3) feet in height shall also be exempt from such limitation.

**B-1 Neighborhood Business Districts.**

**Permitted uses.**

(a) Retail and service uses as follows:

- (1) Antique shops.
- (2) Apparel stores.
- (3) Art and school supply stores.
- (4) Art galleries.
- (5) Bakeries.
- (6) Banks and financial institutions.
- (7) Barber shops.
- (8) Beauty shops and hair styling salons.
- (9) Book and stationery stores.
- (10) Camera and photographic supply stores.



- (3) Fire stations.
  - (4) Post offices.
  - (5) Publicly owned facilities and utilities.
  - (6) Private utilities providing service to the public.
  - (7) Similar uses as determined by the plan commission.
- (e) *Miscellaneous uses, as follows.*
- (1) Radio and television towers
  - (2) Signs, as regulated in Article XVI.
  - (3) Clubs and lodges (non profit), fraternal or religious institutions.
  - (4) Meeting Halls.
  - (5) Radio and television broadcasting.
  - (6) Personal communications structures.
  - (7) Photograph developing and processing shops.
  - (8) Ambulance services.
  - (9) Animal hospitals, pounds and shelters; provided that all activities that take place for the care and boarding of animals, except for exercise runs, shall be conducted in completely enclosed buildings.
- (f) *Uses incidental to permitted uses, as follows:*
- (1) Accessory uses.
  - (2) Temporary buildings or structures for construction purposes, for a period not to exceed the duration of such construction.

**Conditional uses.**

In a PBP district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses:"

- (a) Establishments engaged in production, processing, cleaning testing or repair other than those specifically listed as permitted uses in PBP districts, but not including any use first listed as permitted in an M-1 district.
- (b) Airports and heliports.
- (c) Bus terminals.
- (d) Stadiums, auditoriums and arenas.

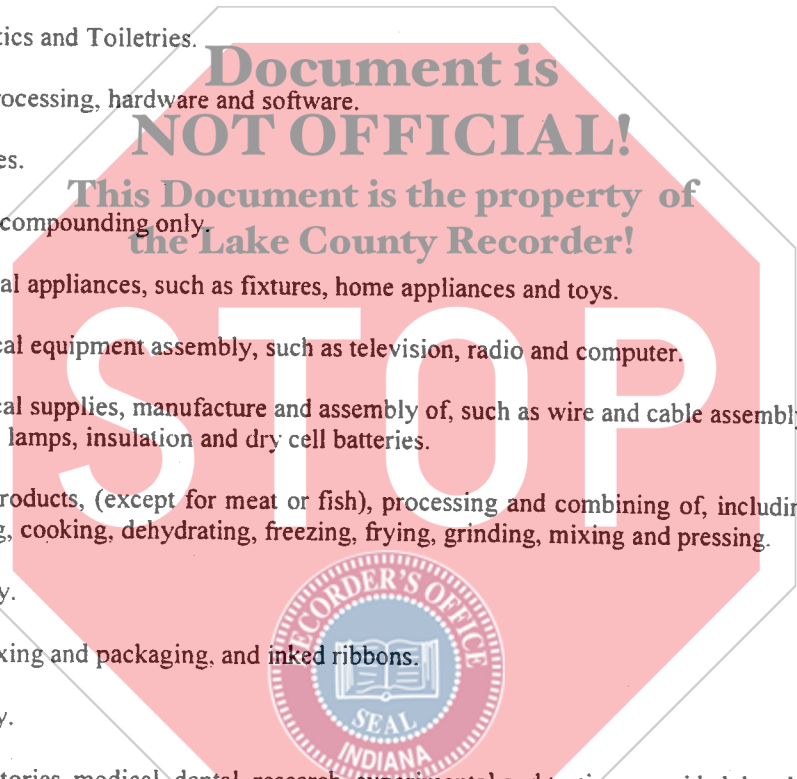
- (30) Musical instruments.
- (31) Orthopedic and medical appliances, such as artificial limbs braces, supports and stretchers.
- (32) Paper products, small items such as envelopes and stationery, bags, boxes, tubes and wallpaper.
- (33) Perfumes and perfumed soaps, compounding only.
- (34) Pharmaceutical products, compounding only.
- (35) Precision instruments such as optical, medical, testing and measuring.
- (36) Printing and newspaper publishing, including engraving and photoengraving.
- (37) Repair of household and office equipment.
- (38) Silverware, plate and sterling.
- (39) Soap and detergents, packaging only.
- (40) Sporting and athletic equipment such as balls, baskets, bats, cues, gloves racquets and rods.
- (41) Statuary, mannequins, figurines and religious and church art goods, excluding foundry operations.
- (42) Textiles, including spinning, weaving, manufacturing, dyeing, printing, knit goods, yarn, thread and cordage, but not including textile bleaching.
- (43) Tobacco curing and manufacturing of tobacco products.
- (44) Tools and hardware such as bolts, nuts and screws, doorknobs, drills, hand tools and cutlery, hinges, house hardware, locks, nonferrous metal castings and plumbing appliances and fixtures.
- (45) Toys.
- (46) Umbrellas.
- (47) Upholstering (bulk), including mattress manufacturing and rebuilding and renovating furniture.
- (48) Watches.
- (49) Wood products, such as furniture, boxes, crates, baskets, pencils and cooperage works.

(c) *Wholesaling and warehousing.*

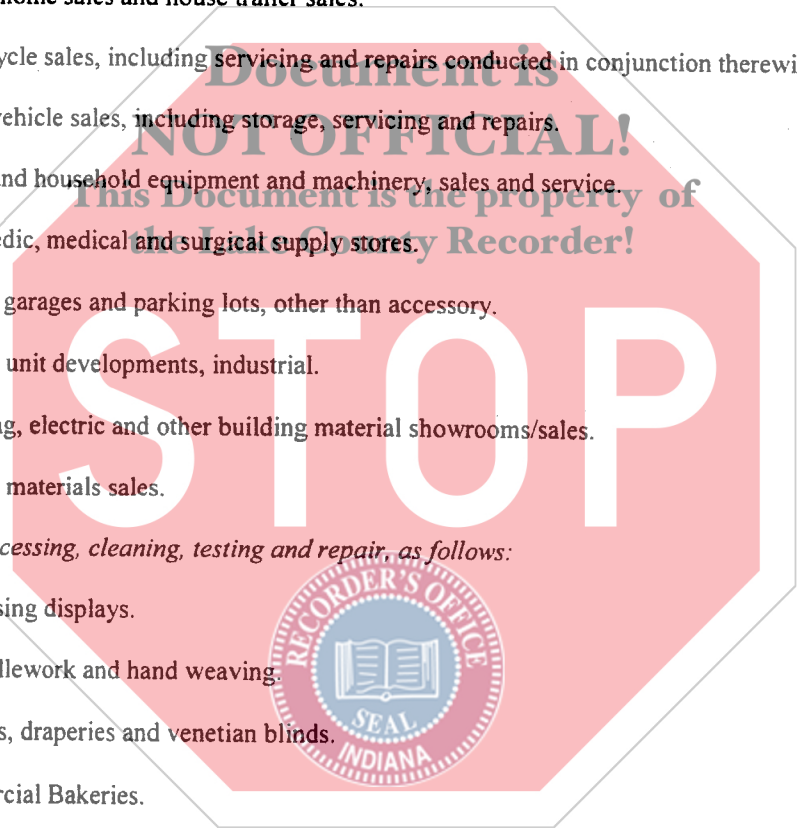
(d) *Public and community service uses, as follows:*

- (1) Libraries.
- (2) Police stations.

- (7) Boat building and boat repairs of pleasure craft and other small craft, but not including shipbuilding or shop repairs.
- (8) Book binding and tooling, hand and machine worked.
- (9) Bottling works, beverage.
- (10) Brushes and brooms.
- (11) Cameras and other photographic equipment and supplies.
- (12) Canvas and canvas products.
- (12) Ceramic products such as pottery and glazed tile.
- (13) Children's bicycles, wagons and baby carriages.
- (14) Clothing.
- (15) Commercial Dry cleaning.
- (16) Commercial Laundries.
- (17) Cosmetics and Toiletries.
- (18) Data processing, hardware and software.
- (19) Dentures.
- (20) Drugs, compounding only.
- (20) Electrical appliances, such as fixtures, home appliances and toys.
- (21) Electrical equipment assembly, such as television, radio and computer.
- (22) Electrical supplies, manufacture and assembly of, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries.
- (23) Food products, (except for meat or fish), processing and combining of, including baking, boiling, canning, cooking, dehydrating, freezing, frying, grinding, mixing and pressing.
- (24) Hosiery.
- (25) Ink mixing and packaging, and inked ribbons.
- (26) Jewelry.
- (27) Laboratories, medical, dental, research, experimental and testing; provided that there is no danger from fire or explosion, nor of offensive noise, vibration, smoke, dust, odors, heat, glare or other objectionable influences.
- (28) Luggage.
- (29) Machine shops for tool die and pattern making.



- (9) Contractor and construction shops.
  - (10) Dry cleaning.
  - (11) Feed and seed stores.
  - (12) Frozen food lockers.
  - (13) Garages, model display and sales.
  - (14) Greenhouses and nurseries.
  - (15) Linen, towel, diaper and other similar services.
  - (16) Lumberyards.
  - (17) Machinery sales.
  - (18) Mini-warehouses intending to serve residential or retail material wholly enclosed in a building, surrounded by an opaque fence and decorative landscaping approved by the Plan Commission.
  - (19) Mobile home sales and house trailer sales.
  - (20) Motorcycle sales, including servicing and repairs conducted in conjunction therewith.
  - (21) Motor vehicle sales, including storage, servicing and repairs.
  - (22) Office and household equipment and machinery, sales and service.
  - (23) Orthopedic, medical and surgical supply stores.
  - (24) Parking garages and parking lots, other than accessory.
  - (25) Planned unit developments, industrial.
  - (26) Plumbing, electric and other building material showrooms/sales.
  - (27) Roofing materials sales.
- (b) *Production, processing, cleaning, testing and repair, as follows:*
- (1) Advertising displays.
  - (2) Art needlework and hand weaving.
  - (3) Awnings, draperies and venetian blinds.
  - (4) Commercial Bakeries.
  - (5) Beverages, nonalcoholic.
  - (6) Ornamental ironworks.



- (c) Publicly owned buildings, telephone exchanges and public utility offices, but not including storage yards, transformer stations, substations or gas regulator stations.
- (d) Lodging rooms and dwelling units which are located above the first floor of a permitted office service use.
- (e) Recycling drop-off centers. (See 24-7.122).
- (f) Institutions for the care of patients such as: hospitals, sanitariums, long-term care and short-term care, rest and convalescent homes. (Ord 2001-10, Adopted 6/20/2001)

**Prohibited uses.**

In an OS-1 district, the following uses are prohibited.

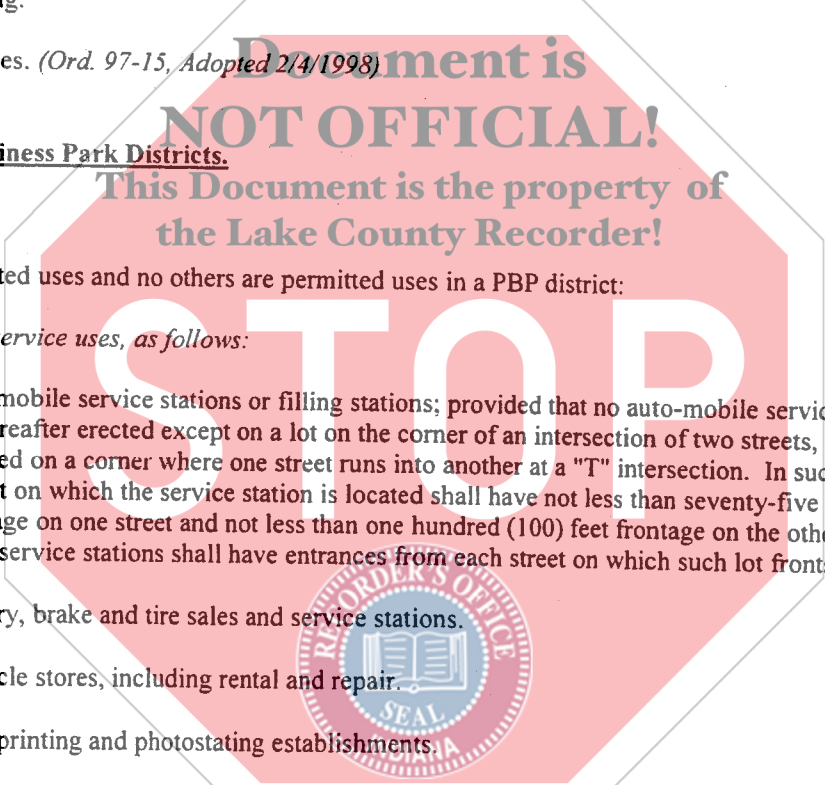
- (a) Commercial retail establishments.
- (b) Drive-in establishments.
- (c) Outdoor storage of goods and materials.
- (d) Warehousing.
- (e) Outdoor sales. (Ord. 97-15, Adopted 2/4/1998)

**PBP. Planned Business Park Districts.**

**Permitted uses.**

The following listed uses and no others are permitted uses in a PBP district:

- (a) *Retail and service uses, as follows:*
  - (1) Automobile service stations or filling stations; provided that no auto-mobile service station shall be hereafter erected except on a lot on the corner of an intersection of two streets, or on a lot situated on a corner where one street runs into another at a "T" intersection. In such instances the lot on which the service station is located shall have not less than seventy-five (75) feet frontage on one street and not less than one hundred (100) feet frontage on the other street. Such service stations shall have entrances from each street on which such lot fronts.
  - (2) Battery, brake and tire sales and service stations.
  - (3) Bicycle stores, including rental and repair.
  - (4) Blueprinting and photostating establishments.
  - (5) Boat sales, motor and sail, including servicing and repairs conducted in conjunction therewith.
  - (6) Building materials, sales.
  - (7) Car washes and auto laundries.
  - (8) Cartage and express facilities, including moving companies and storage therein.



of how many businesses they will visit in the area. Buildings shall be developed on that part of the site nearest the primary streets to minimize the need for infrastructure and to maximize the amount of contiguous open space along the Mississippi Street corridor. Buildings shall be sited such that landscaping between adjacent uses be minimized and landscaped areas surrounding clusters of pad development will be maximized.

### **Setbacks**

Setbacks from Mississippi Street shall be 50 feet minimum. Setbacks from streets within Silverstone Crossing shall be minimum of 10 feet with a maximum of 25 feet for principal buildings or parking. "Internal" pads with no frontage on local streets shall have 5 feet minimum setbacks from adjacent properties and 15 feet maximum setbacks for principal buildings or parking.

**Below is a listing of approved uses in POD(s) B, C, D and E. All of the uses are commercial uses.**

### **OS-1 Office Service Districts.**

#### **Permitted uses.**

The following listed uses and no others are permitted uses in an OS-1 district:

- (a) Banks, credit unions, savings and loan institution and other similar uses. Drive-up teller windows, cash stations and the like are permitted only as an accessory use.
- (b) Churches, rectories and parish houses.
- (c) Medical and dental offices, including clinics.
- (d) Office buildings for business and professional offices.
- (e) Off-street parking lots.
- (f) Other uses as determined by the Plan Commission to be similar in design and intent to the above listed uses.
- (g) Personal services including barber shops, beauty shops, health and fitness centers and other similar uses.
- (h) Accessory structures and uses customarily incidental to the above listed uses.

#### **Conditional uses.**

In an OS-1 district, the following uses may be allowed as conditional uses by ordinance of the BZA of the City only in accordance with the limiting conditions and procedures as set forth in Article XVII, "Conditional Uses."

- (a) Any use customarily related to and providing service for an above listed permitted use such as: pharmacy or apothecary shop and an opticians shop.
- (b) Funeral parlor or mortuary establishment; provided, that an adequately sized off-street assembly area for vehicles to be used in a funeral procession is provided which is in addition to the required off-street parking area.

dock access aisles with adjacent properties. Rear setbacks are a minimum of 25' with landscaping required to screen loading areas.

### **Main Street Commercial**

Buildings in the Main Street Commercial area shall be of a traditional commercial storefront character, oriented toward wide public sidewalks that encourage pedestrian movement and window shopping. The Main Street itself will have a landscaped median and on-street, diagonal parking.

### **Lot Area**

Buildings in the Main Street Commercial area shall be owned condominium style, with individual building owners responsible for maintenance of individual buildings and an association responsible for maintenance of common areas within the district. There is no minimum or maximum lot area, but buildings in the Main Street Commercial area shall be a maximum of 80 feet deep and a minimum of 20 feet wide. There are no lot area limitations in the other areas of Silverstone Crossing.

### **Floor Area**

There are no minimum or maximum floor area requirements in the Main Street Commercial area, but building facades must change character at a minimum of every 50' feet, regardless of interior dimensions.

### **Facades**

The bulk of individual building facades shall be located at the ROW line with exceptions being made for recessed entries. Buildings shall have 0 foot side setbacks as well with side walls adjoining those of neighboring properties. Properties at the ends of streets in the Main Street Commercial area may have side setbacks up to 10 feet to allow for landscaping and/or patio seating.

### **Setbacks**

Setbacks in the Main Street Commercial area shall be zero at front and sides, with the exception of buildings at the end of blocks which will be allowed a 10 foot maximum side setback to allow for landscaping and/or patio seating. Rear setbacks will vary.

### **Highway Commercial**

Highway Pad Commercial will capitalize on visibility and access at the Mississippi Street frontage with combined district signage and architectural character that is complimentary with other commercial properties within Silverstone Crossing.

Maximum floor area in this area is not to exceed 10,000 square feet per floor with a maximum of 2 floors.

### **Structures**

Buildings in the Highway Commercial area shall be placed close to each other such that they can share common access from the primary streets and encourage customers to park once regardless



List of approved uses included the following:

- (a) Any use permitted in an R-3 district, as set forth in Section 24-36 of Hobart Zoning code, with the except single family residences.
- (b) Multiple-family residential.

### **POD B General Area Description and -Commercial Office Condominium**

Small flexible spaces allow for individual business space ownership in an association-maintained building and site. Building scale, type and landscaping resemble residential condos with landscaped parking areas replacing traditional garages. Front doors shall be clearly located with subtle signage.

Commercial buildings in the Office/Condo pod shall be small structures no taller than two stories with front pedestrian scale entries oriented toward the primary street or a shared parking court adjoining the primary street. Parking shall be located in front to minimize impact on adjacent residential properties and shall be heavily landscaped. Buildings shall be located on site such that visual impacts on adjacent residential properties are minimized.

Office condo buildings shall be setback a minimum of 30' from the rear of the property and parking areas shall be located in front at a minimum of 25 feet from the principal street.

### **POD C, D and E General Area Description-Office Showroom, Main Street Commercial, Highway Commercial**

#### **Office Showroom**

Office showrooms shall be comprised of a larger area for light manufacturing/assembly, and a smaller area for office/showroom space. The office/showroom space shall orient toward the primary street and be of an architectural character that distinguishes itself from the adjoining manufacturing/assembly space. All loading shall be in the rear, oriented away from the primary street.

#### **Structures**

Office showroom structures and their associated parking shall occupy that part of the site closest to the primary street to minimize infrastructure and maximize the contiguous open space at the back of individual parcels. Parking lots and drive aisles should begin no further than 25' from the street right of way and buildings should be set back no further than 15' from the rear edge of the parking lot.

#### **Setbacks**

Minimum front setbacks of 15 feet and maximum setbacks of 25 feet shall apply to parking and drive surfaces. Buildings shall be set back no further than 15 feet from the rear edge of parking lots. There are no side setbacks and businesses are encouraged to share drive aisles and loading

Outdoor placement of freestanding unenclosed dumpsters or refuse containers is prohibited. Refuse shall be securely stored and enclosed as part of the principal structure, and contained and disposed of in accordance with applicable state, county and city health, safety and environmental codes. Use of sealed compactors is encouraged.

Where food service/restaurant kitchen refuse storage is not accommodated as part of the principal building, refuse storage is permissible in an accessory storage enclosure.

Accessory structures shall be functionally integrated with the established architectural design theme and located away from building frontages, pedestrian areas and primary public views from adjacent properties. Structures shall be softened or screened with plantings such as shrubs, vines and evergreens.

### **Noise Control**

Music, public address announcements and other forms of outdoor audio are discouraged. Sound shall be contained within the site boundaries. Outdoor music or other forms of outdoor audio associated with special events shall be controlled by the city's regulations for special events.

Commercial entertainment facilities such as bars, nightclubs, etc. shall minimize noise pollution through the incorporation of vestibule entrances. Doors and windows shall be designed/engineered to contain/isolate sound within the interior of the building unit.

### **POD A General Area Description-Residential PUD-R-4**

#### **Residential 3 and 4 Story Multi-Family Buildings**

This portion of the neighborhood shall provide for the housing needs of the growing population of empty nesters and retirees, and anyone else desiring maintenance-free living near an active commercial hub. Residential development is clustered into a compact area of the overall site, oriented toward the creek and/or ponds/wetlands. Not only is this site configuration compatible with existing adjacent development, it allows for preservation of ample open space which serves as a neighborhood amenity for Silverstone Crossing and the broader region as well.

#### **Assisted Living & Nursing Home**

The diverse mix within the senior housing community shall allow for the varying needs of empty nesters and retirees throughout their lives. The senior community shall be fully integrated into the fabric of the neighborhood to provide easy access to neighborhood open space and commercial districts. Assisted living and nursing home are situated adjacent to each other to maximize overlap of staffing and facilities needs. Architectural character shall be compatible with other residential development in Silverstone Crossing.

A sign program should be developed for buildings that house more than one business. Similarly, a sign program should be developed for the Main Street Commercial area and this program should establish a separate, more comprehensive program than is in place elsewhere within the development. Signs need not match, but should be compatible with each other. No more than two types of signs should be used on a single building façade (i.e., wall signs, projecting signs, and awning signs).

### Sign Location

Wall signs on commercial and mixed-use storefront type buildings shall generally be placed within a "sign band" immediately above the storefront. Wall signs on buildings shall not obstruct or obscure architectural features.

### Sign Material

Sign materials shall be consistent or compatible with the building construction materials and architectural style of the building façade on which they are to be displayed. Neon signs may be appropriate for windows.

External illumination of signs is encouraged. Internal illumination, especially of individual sign letters is discouraged.

Suitable sign types include:

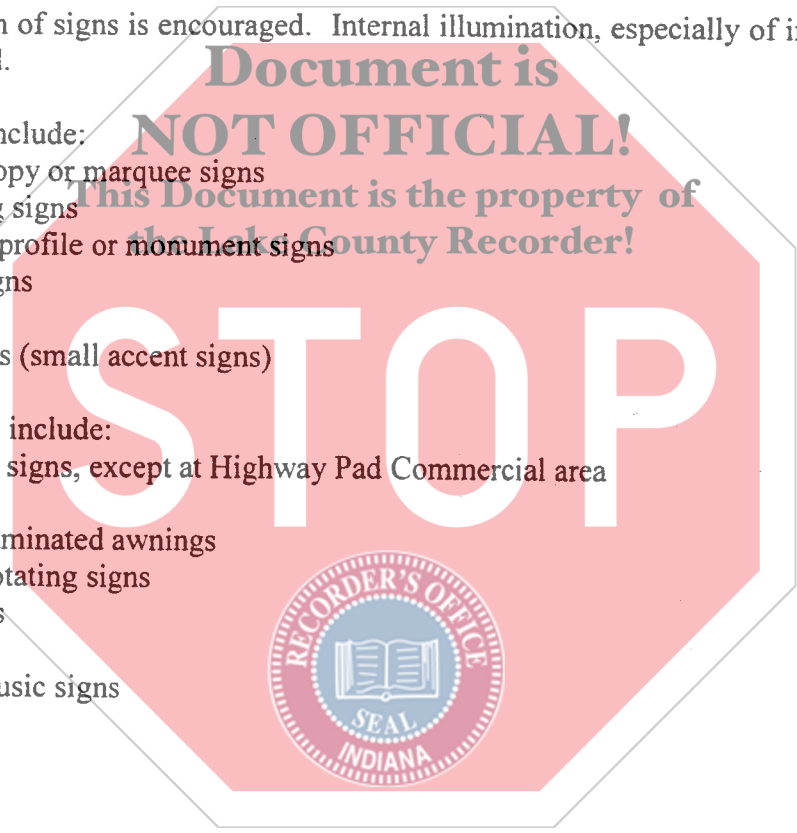
- Awning, canopy or marquee signs
- Free-standing signs
- Ground, low profile or monument signs
- Projecting signs
- Wall signs
- Window signs (small accent signs)

Prohibited sign types include:

- Pole or pylon signs, except at Highway Pad Commercial area
- Billboards
- Internally illuminated awnings
- Flashing or rotating signs
- Portable signs
- Search lights
- Audible or music signs
- Roof signs

### Outdoor Storage

Outdoor storage of any kind, including boats, snowmobiles, vehicles, equipment, raw materials, etc. is prohibited. Seasonal equipment, supplies, etc. shall be either stored within each facility or within a permanent accessory structure.



Lighting fixtures style shall be compatible with the architecture of nearby buildings. Lights attached to buildings shall be screened by the building's architectural features to eliminate glare onto adjacent properties.

Parking lot illumination shall consist of a combination of commercial grade parking lot and pedestrian style fixtures. Pedestrian fixtures shall be used for lighting internal parking lot walkways. Parking lot fixtures shall be employed to illuminate parking bays and drive aisles and shall be of compatible color and design.

Parking lot illumination shall achieve levels to provide safety while minimizing over-lighting and excessive spillover of ambient light onto adjacent natural areas. Cutoff fixtures shall be located below the mature height of trees in parking lot islands. This will prevent ambient "glow" or light pollution onto other developments. Evenly distributed illumination shall be provided at a level consistent with City Codes.

Appropriate light sources include:

- Incandescent
- Halogen
- High pressure sodium
- "Warm" metal halide

Inappropriate light sources:

- Fluorescent
- Neon, except in "Main Street" area
- Colored

Appropriate light fixture types:

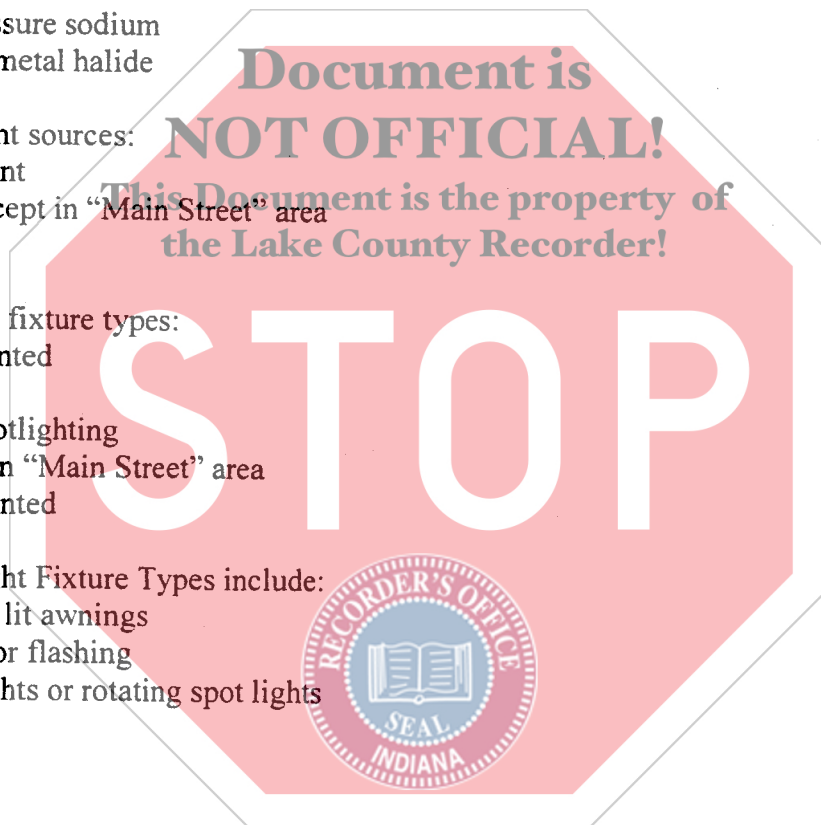
- Pole mounted
- Recesses
- Shield spotlighting
- Bollards in "Main Street" area
- Wall mounted

Inappropriate Light Fixture Types include:

- Internally lit awnings
- Blinking or flashing
- Search lights or rotating spot lights

### Signs

Signs should be architecturally compatible with the style, composition, materials, colors and details of the building, and with other signs on nearby buildings. Signs should be an integral part of the building and site design.



## Landscaping and Screening Overall Site

A landscaped buffer strip at least 10 feet wide shall be provided between all parking areas and the sidewalk or roadway. The buffer strip shall consist of shade trees, coniferous trees, low shrubs and/or perennials suitable for the climate of the region. Ornamental fencing may be incorporated in buffer strips as long as it is not vinyl. With the exception of individual Highway Commercial pads and individual Office Showroom pads, all landscaping shall be association maintained.

### Parking Areas

Parking bays in excess of 10 spaces in length shall be divided by intermediate landscape islands. Landscape

Islands shall provide at least one parking stall width of landscape areas (9x18 or 9x36 for single or double bay 90 degree parking). A minimum of one shade tree, one coniferous tree, or two ornamental trees, combined with low shrubs or perennials shall be planted in each intermediate planting island.

### Minimum Landscape Requirements

- All construction projects shall include landscaping; restore all disturbed ground surface with suitable permanent vegetation to prevent erosion and enhance visual character.
- All projects shall include overstory and understory plantings such as shade trees, coniferous trees, shrubs and perennial grasses and flowers.
- Minimum tree sizes shall be 2 ½" caliper for deciduous overstory trees, 1 ½" caliper for ornamental deciduous trees and 6 foot height for coniferous trees.

### Site Lighting

Exterior light fixtures shall be selected and located to minimize glare and negative effects upon the night character of the neighborhood. Lighting of structures shall be minimized to reduce ambient light pollution above and below.

Security lighting behind commercial or office areas shall be pole-mounted at rear of developed site and aimed toward building and/or loading areas to minimize impact on adjacent properties to the rear.

Pedestrian scale lighting, not exceeding 15 feet in height, shall be located on public sidewalks and private walkways. Street lighting, pedestrian lighting, and parking lot lighting shall all be of the same "family" of design fixtures. Substitutions must be pre-approved by association. Illumination shall produce an even distribution of light at levels consistent with City Codes.

## Walks and Trails

Continuous walkways a minimum of 10 feet wide shall be provided around ponds and along creek as indicated in the Illustrative Site Master Plan. Connection to Regional Trail shall occur adjacent to Mississippi St/A Avenue Intersection.

All sidewalks and walkways shall meet the Americans with Disabilities Act (ADA) standards for accessibility.

Where possible, walks and trails shall serve as dual purpose for service/maintenance access to avoid duplication.

Trails shall be located and designed to blend with the natural topography, especially around the pond. Trails shall be constructed of asphalt or concrete.

## Parking Lot Design

All driveways, parking areas, and loading areas shall be paved with asphalt, concrete or pavers.

Parking lots shall be designed to promote efficient traffic patterns and minimize conflicts between vehicles and pedestrians. Shared parking between businesses shall be utilized when feasible.

Parking lots shall be broken into smaller areas located at the side and to the rear of buildings whenever possible, with the exception of the Office Condo and Office Showroom areas where parking is required to be located in the front. When parking is located adjacent to a roadway, a landscaped buffer must be provided (see "Landscaping & Screening").

Lots shall be designed to incorporate intermediate planting beds to break up large areas of impervious surface.

## Open Space

A large contiguous green space at the center of Silverstone Crossing will incorporate existing ponds and wetlands and will "borrow" additional open space from undeveloped portions of adjacent parcels. A drainage ditch, reconfigured as a meandering creek winds along the south and east edges of the development and a regional trail will parallel the creek. These passive recreation spaces will create an open space network which shall be a prime amenity not only for those living, working, or visiting this particular development, but for a much broader regional group of users as well. It is this network of open spaces that will be the signature identity of Silverstone Crossing.

## Windows

When possible, natural day lighting shall be incorporated into building design to conserve energy, double hung windows are recommended, as they reinforce the traditional building system. Allowable window types include casement and fixed glass.

Decks and balconies are recommended to enhance connectivity with and accessibility to the outdoors. They shall be designed to reinforce the building aesthetic. No decks or balconies shall be located at street level in front of commercial properties.

## Color

Primary building finish and roof colors shall blend with the natural surroundings and neighboring buildings.

Bright, vibrant colors may be used as accents on such elements as doorways, window frames, signs, fascias and other decorative trim elements. Light colors such as white and beige should be used to provide contrast and accents for doorways, window frames and fascias.

## Architectural Detailing

Architectural detailing shall be sensitive to the massing and proportion of adjacent structures and complement the detailing of surrounding buildings, such as cornice lines, balconies and decorative timber or stonework.

When using masonry, wrap masonry to terminate at inside corner or 4 feet back from façade large surface areas lacking articulation are prohibited.

## Mechanical Equipment Placement & Screening

All rooftop mechanical equipment and ground level utilities shall be permanently screened from view from adjacent roads, primary parking areas and adjacent properties. Equipment screens shall be well designed and detailed, using durable, permanent materials that are architecturally compatible with the primary building materials. For rooftop equipment, screening provided by roof structure is preferred.

Rooftop equipment may also be screened by a smaller accent roof or enclosure. If this structure is set back from the primary façade a distance equal to its height, this structure may exceed the building height limit.

Exterior plumbing and protuberances such as dryer vents or waste vents shall not be located on primary building facades or on roof planes facing the primary entrance.

## Building Materials

Buildings shall be constructed of authentic, long-lasting materials suitable to the climate and character of Northwest Indiana.

All building facades facing a public street must be constructed of brick, pre-cast concrete architectural masonry, fluted block, glass, wood, hardy board or an equivalent architectural treatment. Building materials of similar quality should be used on all facades, front, side and rear.

Suitable construction materials include:

- Natural stone
- Wood or contoured "architectural" asphalt shingles
- Architectural masonry units (excluding concrete block and cinder block)
- Precast concrete (with prior written approval from association)

Prohibited construction materials include:

- Unadorned plain or painted concrete block
- Pre-fab or tilt-up concrete wall panels
- Pre-fabricated steel or sheet metal panels, (unless architect-designed plans pre-approved by association)
- Aluminum, vinyl, fiberglass, asphalt or fiberboard siding
- Manufactured, metal pole-barn type structures

## Entrances, Doors and Windows

The main entrance of commercial buildings shall be clearly identifiable, placed at sidewalk grade and shall face the primary street or parking area with secondary entrances to the side or rear. Secondary entries should incorporate similar character/materials as the main entry, although the level of finish need not be as high. Recessed entrances accompanied by canopies, awnings or arcades are encouraged to provide shelter for pedestrians.

Attached Residential shall include multiple entries to break up the mass of larger scaled buildings and reduce the amount of distance needed to travel to reach units not situated near a central main entry point. Front and rear porches are encouraged and the use of sliding glass doors is discouraged.

## Doors

Doors at main commercial entrances shall be pronounced and transparent to allow views to business inside. Rear commercial doors need not be of the same character, but they should be of a similar level of quality and finish, particularly in the Main Street Commercial area where secondary public entries are encouraged.



## Building Massing

The scale and proportion of new buildings shall respect the elevation and topographical slope on the building site, as well as significant view corridors of the surrounding landscape.

Buildings shall have a well-defined front façade with primary entrances facing the street or main parking area.

Building with facades longer than 50 feet in length shall be broken into articulated modules with minor variations in setbacks, colors, rooflines and window organization. Variations in the forms and materials used in each module will provide interest at the pedestrian scale and strengthen the architectural character of the overall development.

New building facades shall have a pedestrian scale aesthetic. This can be accomplished by establishing a layering of rhythmic patterns with architectural elements such as windows, columns, rooflines, building materials (woodwork and stonework) and colors.

Multi-story buildings shall feature exterior articulation that defines each story at base, middle and top.

Building facades are encouraged to step back horizontally as they step vertically. This will diminish the size of the building and reinforce the sense of human scale.

## Building Height

Building height will vary. Buildings shall range in height from 1-2 stories in commercial areas and 2-4 stories in the residential area. The height of new buildings shall respect elevation and topographical slope of the building site, as well as significant view corridors of the surrounding landscape.

New free-standing one-story commercial buildings should express greater height through roof pitch and articulation with dormers and chimneys.

Where three story buildings are proposed, the fourth story shall be incorporated into the roof area as a half-story and expressed through dormers and balconies.

Buildings shall relate in height to neighboring buildings. Where neighboring building heights differ, a visual transition shall be provided by bringing rooflines down below that upper story.

Buildings shall step down in height toward the street or parking areas and toward neighboring buildings in order to provide a sense of human scale to these active pedestrian areas.

## **EXHIBIT F**

### **Silverstone Crossing POD Section Guidelines, Uses and General Descriptions**

**\*The guidelines and uses described in this exhibit are subject to final approval by the Plan Commission and Common Council but will be adopted in substantially the same form and will be incorporated herein in Exhibit F as if they were in existence at the time of this Agreement's Effective Date.**

#### **Building Context and Character**

Building form, scale, height, details, construction materials and colors shall respect the character of the Indiana landscape, which features open prairies, small farm houses and fields, small wooded streams, limestone and subtle earth tones with gentle slopes. Highlighting the surrounding landscape will help set the development apart from other nearby developments which include a wide array of automobile-focused, franchise commercial establishments.

New buildings may be designed in a variety of innovative styles, although they should draw upon the design features in the Guidelines. Standardized "franchise" or corporate architecture is not acceptable. Franchises or national chains must follow these guidelines and use the design vocabulary to create a unique building that is supportive of the character being set at Silverstone Crossing.

#### **Building Placement**

It is recommended that the siting of new buildings consider the following:

- Topographical elevations and slopes
- Soil conditions
- Natural drainage patterns
- Significant vegetation
- Significant view corridors
- Minimization of required infrastructure
- Microclimate (sun, wind, shade)
- Access and circulation (pedestrian and vehicular)
- Lakes and streams
- Statutory/ordinance requirements

#### **Setbacks**

Yard setbacks shall be in addition to any buffer, common area, or landscape area located along the property line of the lot.

**EXHIBIT E**

**Estimated Costs of PUD Commercial Area (including POD E)**

**Commercial PUD (PODs B,C,D and E)**

**A Avenue**

Roadway Improvements 6550 LF @ \$250/LF	\$1,637,500	
Street Lighting, 66 EA @ \$4,000/EA	\$264,000	
8-inch Sanitary Sewer 6500 LF @ \$50/LF	\$325,000	
12-inch Watermain 6550 LF @ \$50/LF	<u>\$327,500</u>	
		\$2,554,000

**F Avenue**

Roadway Improvements 1750 LF @ \$250/LF	\$437,500	
Street Lighting, 18 EA @ \$4,000/EA	\$72,000	
8-inch Sanitary Sewer 1700 LF @ \$50/LF	\$85,000	
12-inch Watermain 1750 LF @ \$50/LF	<u>\$87,500</u>	
		\$682,000

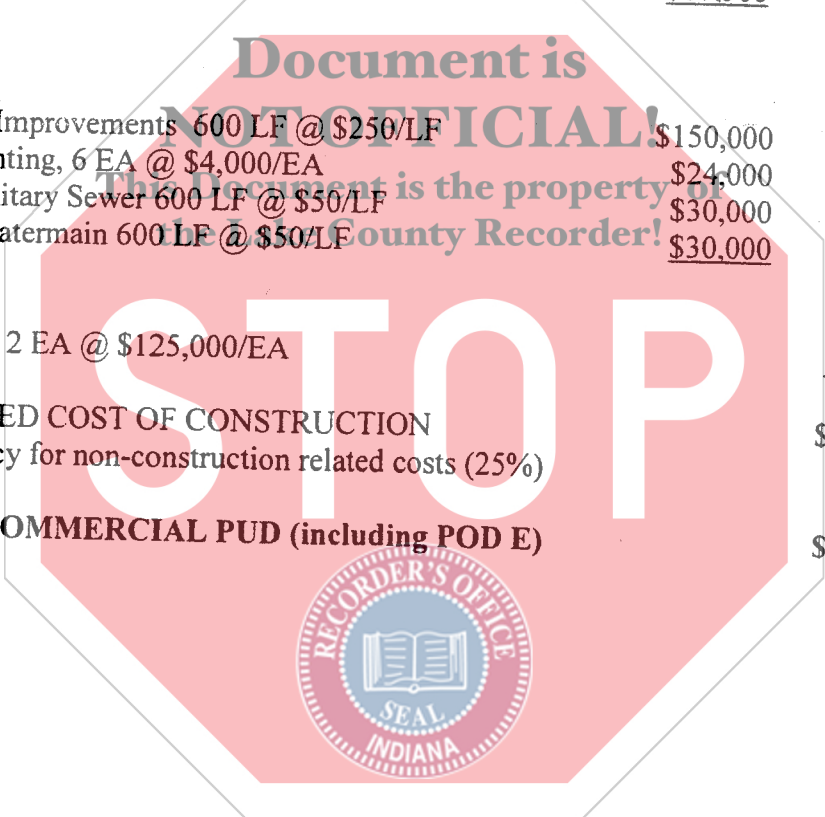
**B1 Avenue**

Roadway Improvements 600 LF @ \$250/LF	\$150,000	
Street Lighting, 6 EA @ \$4,000/EA	\$24,000	
8-inch Sanitary Sewer 600 LF @ \$50/LF	\$30,000	
12-inch Watermain 600 LF @ \$50/LF	<u>\$30,000</u>	
		\$234,000

Traffic Signal 2 EA @ \$125,000/EA \$250,000

ESTIMATED COST OF CONSTRUCTION \$3,720,000  
Contingency for non-construction related costs (25%) \$930,000

**TOTAL COMMERCIAL PUD (including POD E) \$4,650,000**



*Note: Storm sewer costs have been included in the roadway cost. The 25% non-construction related costs are for design engineering, bidding assistance, construction engineering or any other costs not associated with construction.*

**EXHIBIT D**

Public Infrastructure Improvements include the following improvements for the Commercial PUD Area (including POD E): 8,900 LF of roadway and storm sewer improvements, two traffic signals, ninety street lights, 8,800 LF of eight-inch sanitary sewer, and 8,900 LF of twelve-inch watermain.



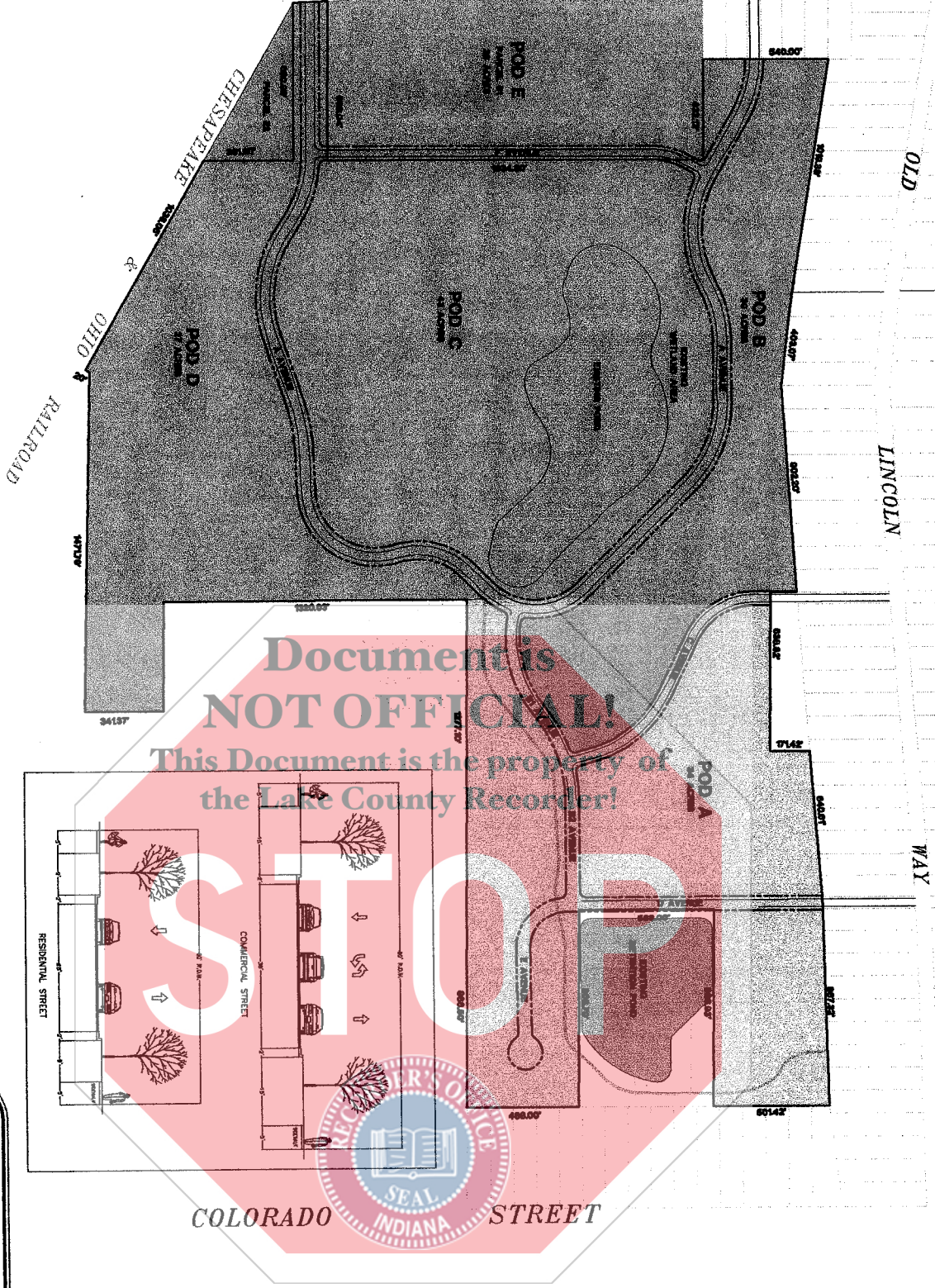
**EXHIBIT C**

**[Attach Development POD Plan (with letter labels on roads)]**

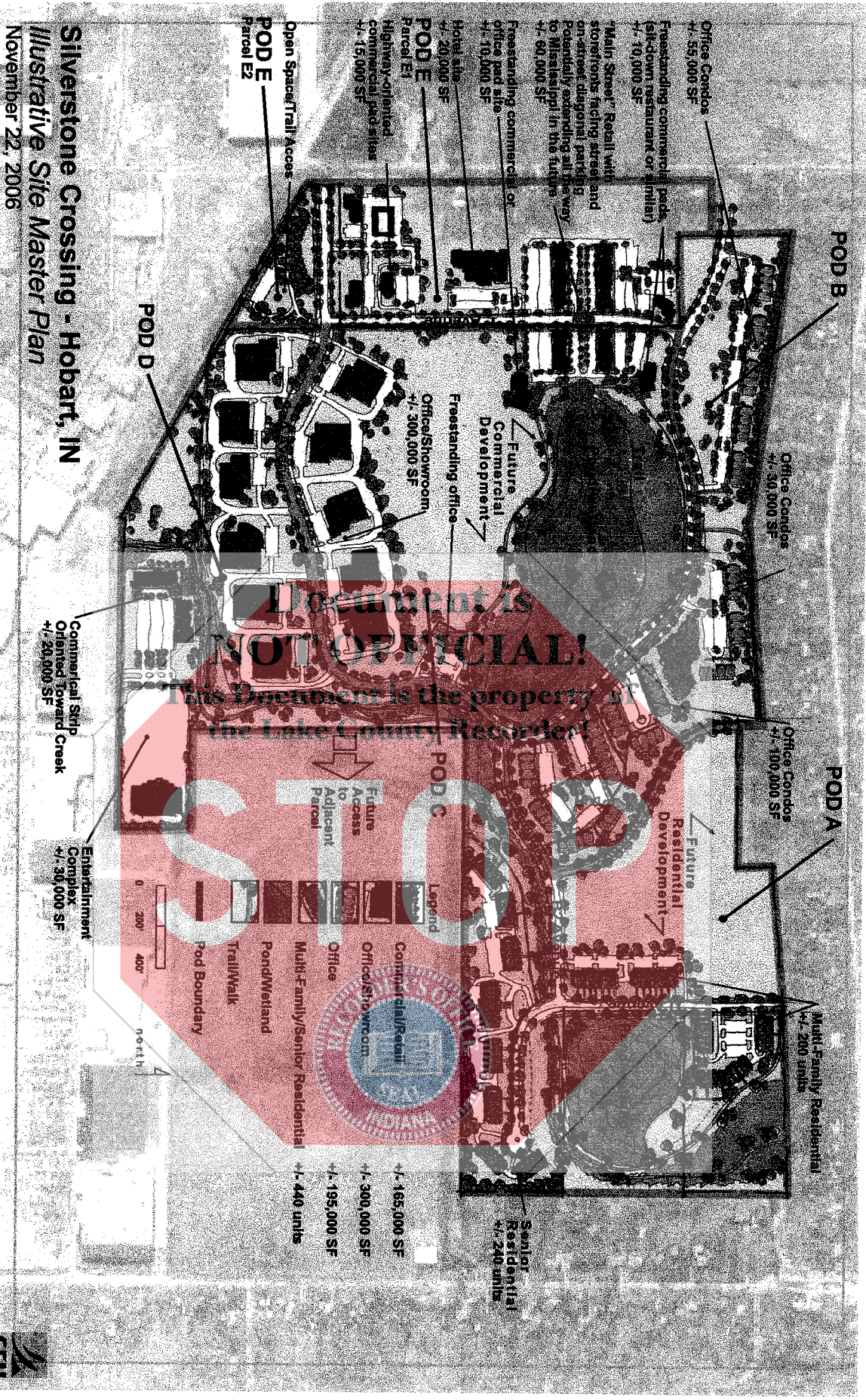


MISSISSIPPI

STREET



SILVERSTONE CROSSING  
HOBART, INDIANA



**Silverstone Crossing - Hobart, IN**  
**Illustrative Site Master Plan**  
 November 22, 2006



**EXHIBIT B**

[Attach Development Site Master Plan]





DEGREES 00 MINUTES 45 SECONDS EAST 1634.80 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 20 IN AFORESAID SPROUTS ADDITION; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG SAID EXTENSION AND NORTH LINE, 726.33 FEET TO THE NORTHWEST CORNER OF SAID LOT 20; THENCE SOUTH 0 DEGREES 00 MINUTES 45 SECONDS WEST, ALONG THE WEST LINE OF LOTS 20 THROUGH 24, BOTH INCLUSIVE, IN AFORESAID SPROUTS ADDITION, 500.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 24; THENCE CONTINUING SOUTH 0 DEGREES 00 MINUTES 45 SECONDS WEST, ALONG THE EAST LINE OF MISSISSIPPI STREET, 518.76 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 14; THENCE SOUTH 0 DEGREES 06 MINUTES 38 SECONDS EAST, ALONG THE EAST LINE OF MISSISSIPPI STREET, 291.57 FEET TO A CORNER OF WIDENED MISSISSIPPI STREET PER AFORESAID DOCUMENT 99058822; THENCE EASTERLY AND SOUTHERLY, ALONG THE WIDENED LINES OF MISSISSIPPI STREET PER SAID DOCUMENT AND HAVING THE FOLLOWING FOUR BEARINGS AND DISTANCES: SOUTH 89 DEGREES 06 MINUTES 09 SECONDS EAST 9.03 FEET; THENCE SOUTHEASTERLY, ALONG A CURVE CONVEX TO THE SOUTHWEST AND HAVING A RADIUS OF 3764.72 FEET AND A 100.66 FOOT CHORD BEARING SOUTH 4 DEGREES 50 MINUTES 42 SECONDS EAST, AN ARC DISTANCE OF 100.66 FEET TO A POINT OF TANGENCY; THENCE SOUTH 5 DEGREES 36 MINUTES 39 SECONDS EAST 102.55 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY, ALONG A CURVE CONVEX TO THE SOUTHEAST AND HAVING A RADIUS OF 3874.72 FEET AND A 122.39 FOOT CHORD BEARING SOUTH 4 DEGREES 42 MINUTES 22 SECONDS EAST, AN ARC DISTANCE OF 122.40 FEET; TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.

**PARCEL E2**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF LAND DESCRIBED IN QUITCLAIM RELEASE BY DEED IN TRUST RECORDED AS DOCUMENT 059966 WITH THE NORTHERLY LINE OF THE CHESAPEAKE AND OHIO RAILROAD RIGHT-OF-WAY; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 1038.05 FEET TO A POINT OF BEGINNING; THENCE NORTH 0 DEGREES 00 MINUTES 45 SECONDS EAST, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 14, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG A LINE PERPENDICULAR TO SAID WEST LINE, 680.96 FEET TO THE EAST LINE OF MISSISSIPPI STREET PER DOCUMENT NUMBER 99058822, SAID POINT ALSO LYING ON AFORESAID NORTHERLY RAILROAD RIGHT-OF-WAY; THENCE SOUTH 60 DEGREES 06 MINUTES 39 SECONDS EAST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 785.32 FEET TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.

AND AVENUE "F"; THENCE NORTH, 1606 FEET TO THE POINT OF BEGINNING, CONTAINING 43 ACRES, MORE OR LESS.

**General Property/POD D Description-Commercial**

THAT PART OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF SECTION 23, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 23; THENCE SOUTH 00 DEGREES 10 MINUTES 31 SECONDS EAST ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 23, 1320.02 FEET; THENCE SOUTH 89 DEGREES 29 MINUTES 57 SECONDS EAST, 473.80 FEET; THENCE SOUTH, 341.34 FEET; THENCE NORTH 88 DEGREES 46 MINUTES 52 SECONDS WEST, 1470.69 FEET; THENCE SOUTH 29 DEGREES 53 MINUTES 20 SECONDS, 20.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF THE CHESAPEAKE OHIO RAILROAD; THENCE CONTINUING ALONG SAID NORTH RIGHT-OF-WAY NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, 1038.05 FEET; THENCE NORTH, 426 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF AVENUE "A"; THENCE GENERALLY EASTERLY AND NORTHERLY ALONG SAID SOUTH RIGHT-OF-WAY, APPROXIMATELY 2550 FEET TO THE POINT OF BEGINNING, CONTAINING 27 ACRES, MORE OR LESS.

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**General Property/POD E Description-Commercial**

**PARCEL E1**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF LAND DESCRIBED IN QUIT-CLAIM RELEASE BY DEED IN TRUST RECORDED AS DOCUMENT 059966 WITH THE NORTHERLY LINE OF THE CHESAPEAKE AND OHIO RAILROAD RIGHT-OF-WAY; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 1038.05 FEET; THENCE NORTH 0 DEGREES 00 MINUTES 45 SECONDS EAST, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 14, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG A LINE PERPENDICULAR TO SAID WEST LINE, 680.96 FEET TO THE EAST LINE OF MISSISSIPPI STREET PER DOCUMENT NUMBER 99058822; THENCE NORTHERLY, ALONG SAID EAST LINE, BEING A CURVE CONVEX TO THE EAST AND HAVING A RADIUS OF 3874.72 FEET AND A 150.17 FOOT CHORD BEARING NORTH 2 DEGREES 41 MINUTES 27 SECONDS WEST, AN ARC DISTANCE OF 150.18 FEET TO A POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 59 MINUTES 15 SECONDS EAST 688.04 FEET; THENCE NORTH 0

689 FT. GENERALLY EAST, THENCE 171 FT. GENERALLY NORTH, THENCE 1557 FT. GENERALLY EAST, THENCE 501 FT. SOUTH FOLLOWING THE PROPERTY LINE THENCE 867 FT. WEST TO THE EAST RIGHT OF WAY OF THE PROPOSED AVENUE "D", THENCE 588 FT. SOUTH, THENCE 867 FT. EAST TO THE PROPERTY LINE, THENCE 488 FT. SOUTH TO THE NORTH LINE OF NORTHEAST QUARTER SECTION 23-35-8, THENCE 2218 FT. TO THE EAST RIGHT OF WAY OF IOWA STREET, THENCE, NORTH TO THE INTERSECTION OF THE PROPOSED AVENUE "B", THENCE ALONG THE SOUTH RIGHT OF WAY OF AVENUE B TO THE INTERSECTION OF AVENUE B AND THE PROPOSED AVENUE "C", THENCE NORTHWEST FOLLOWING THE EAST RIGHT OF WAY OF THE PROPOSED AVENUE TO THE INTERSECTION OF THE PROPOSED AVENUE C AND IOWA STREET.

**General Property/POD B Description**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF LOT 4 IN SPROUTS ADDITION TO MERRILLVILLE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 27, PAGE 75; THENCE SOUTH 80 DEGREES 53 MINUTES 30 SECONDS EAST, 1019.38 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 44 SECONDS EAST, 2.18 FEET; THENCE SOUTH 83 DEGREES 33 MINUTES 57 SECONDS EAST, 403.07 FEET; THENCE NORTH 86 DEGREES 11 MINUTES 20 SECONDS EAST, 902.20 FEET TO THE WEST RIGHT-OF-WAY LINE OF IOWA STREET; THENCE SOUTH ALONG SAID WEST RIGHT-OF-WAY TO THE NORTH RIGHT-OF-WAY LINE OF AVENUE "A"; THENCE GENERALLY NORTHWESTERLY AND WESTERLY ALONG SAID NORTH RIGHT-OF-WAY, APPROXIMATELY 2640 FEET TO THE EAST LINE OF LOT 17 IN SAID SPROUTS ADDITION; THENCE NORTH, 280 FEET TO THE POINT OF BEGINNING, CONTAINING 30 ACRES, MORE OR LESS.

**General Property/POD C Description-Commercial**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST INTERSECTION OF AVENUE "A" AND AVENUE "F"; THENCE GENERALLY EASTERLY AND SOUTHEASTERLY ALONG THE SOUTH RIGHT-OF-WAY LINE OF AVENUE "A", APPROXIMATELY 2240 FEET TO THE WEST RIGHT-OF-WAY LINE OF IOWA STREET; THENCE GENERALLY SOUTHERLY AND WESTERLY ALONG THE NORTH RIGHT-OF-WAY LINE OF AVENUE "A", APPROXIMATELY 2683 FEET TO THE NORTHEAST INTERSECTION OF AVENUE "A"

LINE OF SAID SOUTHWEST QUARTER OF SECTION 14; THENCE SOUTH 0 DEGREES 06 MINUTES 38 SECONDS EAST, ALONG THE EAST LINE OF MISSISSIPPI STREET, 291.57 FEET TO A CORNER OF WIDENED MISSISSIPPI STREET PER AFORESAID DOCUMENT 99058822; THENCE EASTERLY AND SOUTHERLY, ALONG THE WIDENED LINES OF MISSISSIPPI STREET PER SAID DOCUMENT AND HAVING THE FOLLOWING FOUR BEARINGS AND DISTANCES: SOUTH 89 DEGREES 06 MINUTES 09 SECONDS EAST 9.03 FEET; THENCE SOUTHEASTERLY, ALONG A CURVE CONVEX TO THE SOUTHWEST AND HAVING A RADIUS OF 3764.72 FEET AND A 100.66 FOOT CHORD BEARING SOUTH 4 DEGREES 50 MINUTES 42 SECONDS EAST, AN ARC DISTANCE OF 100.66 FEET TO A POINT OF TANGENCY; THENCE SOUTH 5 DEGREES 36 MINUTES 39 SECONDS EAST 102.55 FEET TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY, ALONG A CURVE CONVEX TO THE SOUTHEAST AND HAVING A RADIUS OF 3874.72 FEET AND A 122.39 FOOT CHORD BEARING SOUTH 4 DEGREES 42 MINUTES 22 SECONDS EAST, AN ARC DISTANCE OF 122.40 FEET; TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.

#### **PARCEL E2**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF LAND DESCRIBED IN QUIT-CLAIM RELEASE BY DEED IN TRUST RECORDED AS DOCUMENT 059966 WITH THE NORTHERLY LINE OF THE CHESAPEAKE AND OHIO RAILROAD RIGHT-OF-WAY; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 1038.05 FEET TO A POINT OF BEGINNING; THENCE NORTH 0 DEGREES 00 MINUTES 45 SECONDS EAST, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 14, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG A LINE PERPENDICULAR TO SAID WEST LINE, 680.96 FEET TO THE EAST LINE OF MISSISSIPPI STREET PER DOCUMENT NUMBER 99058822, SAID POINT ALSO LYING ON AFORESAID NORTHERLY RAILROAD RIGHT-OF-WAY; THENCE SOUTH 60 DEGREES 06 MINUTES 39 SECONDS EAST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 785.32 FEET TO THE POINT OF BEGINNING; ALL IN LAKE COUNTY, INDIANA.

**Individual POD Legal Descriptions**

#### **General Property/POD A Description**

STARTING AT THE SOUTHEAST CORNER OF LOT 13 IN BLOCK 8 OF LINCOLNWAY FARMS INC, GREENACRES DEVELOPMENT, THENCE 113 FT. SOUTH TO THE POINT OF COMMENCEMENT.

SECONDS WEST, 1470.69 FEET; THENCE SOUTH 29 DEGREES 53 MINUTES 20 SECONDS WEST, 20.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF THE CHESAPEAKE OHIO RAILROAD; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS ALONG SAID NORTH RIGHT-OF-WAY, 1038.05 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, 680.62 FEET TO THE EAST RIGHT-OF-WAY LINE OF MISSISSIPPI STREET; THENCE NORTH 02 DEGREES 49 MINUTES 56 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY, 153.30 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 43 SECONDS EAST, 688.32 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 45 SECONDS EAST, 1634.80 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, 432.12 FEET TO THE SOUTHWEST CORNER OF LOT 19 IN SAID SPROUTS ADDITION; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG LOTS 19 TO 15 IN SAID SPROUTS ADDITION, 540.00 FEET, TO THE POINT OF BEGINNING, CONTAINING 203.3 ACRES, MORE OR LESS.

**Silverstone Crossing Development Site Legal Description (POD E)**

**PARCEL E1**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTHWESTERLY LINE OF LAND DESCRIBED IN QUITCLAIM RELEASE BY DEED IN TRUST RECORDED AS DOCUMENT 059966 WITH THE NORTHERLY LINE OF THE CHESAPEAKE AND OHIO RAILROAD RIGHT-OF-WAY; THENCE NORTH 60 DEGREES 06 MINUTES 39 SECONDS WEST, ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, 1038.05 FEET; THENCE NORTH 0 DEGREES 00 MINUTES 45 SECONDS EAST, ALONG A LINE PARALLEL WITH THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 14, 391.20 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG A LINE PERPENDICULAR TO SAID WEST LINE, 680.96 FEET TO THE EAST LINE OF MISSISSIPPI STREET PER DOCUMENT NUMBER 99058822; THENCE NORTHERLY, ALONG SAID EAST LINE, BEING A CURVE CONVEX TO THE EAST AND HAVING A RADIUS OF 3874.72 FEET AND A 150.17 FOOT CHORD BEARING NORTH 2 DEGREES 41 MINUTES 27 SECONDS WEST, AN ARC DISTANCE OF 150.18 FEET TO A POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 59 MINUTES 15 SECONDS EAST 688.04 FEET; THENCE NORTH 0 DEGREES 00 MINUTES 45 SECONDS EAST 1634.80 FEET TO A POINT ON THE EASTERLY EXTENSION OF THE NORTH LINE OF LOT 20 IN AFORESAID SPROUTS ADDITION; THENCE NORTH 89 DEGREES 59 MINUTES 15 SECONDS WEST, ALONG SAID EXTENSION AND NORTH LINE, 726.33 FEET TO THE NORTHWEST CORNER OF SAID LOT 20; THENCE SOUTH 0 DEGREES 00 MINUTES 45 SECONDS WEST, ALONG THE WEST LINE OF LOTS 20 THROUGH 24, BOTH INCLUSIVE, IN AFORESAID SPROUTS ADDITION, 500.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 24; THENCE CONTINUING SOUTH 0 DEGREES 00 MINUTES 45 SECONDS WEST, ALONG THE EAST LINE OF MISSISSIPPI STREET, 518.76 FEET TO A POINT ON THE SOUTH

**EXHIBIT A**

**Silverstone Crossing Development Site Legal Description (PODs A-D)**

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 14 AND THE NORTH HALF OF SECTION 23, ALL IN TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE SECOND PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:  
BEGINNING AT THE SOUTHWEST CORNER OF LOT 4 IN SPROUTS ADDITION TO MERRILLVILLE, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 27, PAGE 75; THENCE SOUTH 80 DEGREES 53 MINUTES 30 SECONDS EAST, ALONG THE SOUTH LINE OF LOTS 4 TO 13 IN SAID SPROUTS ADDITION, 1019.38 FEET TO THE SOUTHEAST CORNER OF SAID LOT 13, SAID POINT ALSO LYING ON THE WEST LINE OF LOT 1 IN BLOCK 8 IN LINCOLNWAY FARMS, INC., GREEN ACRES DEVELOPMENT, ACCORDING TO THE PLAT THEREOF RECORDED IN PLAT BOOK 23, PAGE 14; THENCE SOUTH 00 DEGREES 01 MINUTES 44 SECONDS EAST, ALONG SAID WEST LINE OF LOT 1, 2.18 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 83 DEGREES 33 MINUTES 57 SECONDS EAST, ALONG THE SOUTH LINE OF LOTS 1 TO 4 IN SAID BLOCK 8, 403.07 FEET TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE NORTH 86 DEGREES 11 MINUTES 20 SECONDS EAST, ALONG THE SOUTH LINE OF LOTS 5 TO 13 IN SAID BLOCK 8, 902.20 FEET TO THE SOUTHEAST CORNER OF SAID LOT 13; THENCE SOUTH 00 DEGREES 04 MINUTES 13 SECONDS EAST, 113.09 FEET; THENCE SOUTH 89 DEGREES 30 MINUTES 59 SECONDS, 688.82; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 171.44 FEET TO A POINT ON THE SOUTH LINE OF LOT 7 IN BLOCK 7 IN SAID GREEN ACRES DEVELOPMENT; THENCE NORTH 85 DEGREES 38 MINUTES 39 SECONDS EAST ALONG THE SOUTH LINE OF LOTS 7 TO 13 IN SAID BLOCK 7, 635.42 FEET TO THE SOUTHEAST CORNER OF SAID LOT 13; THENCE NORTH 87 DEGREES 07 MINUTES 45 SECONDS EAST, 60.07 FEET TO THE SOUTHWEST CORNER OF LOT 1 IN BLOCK 6 OF SAID GREEN ACRES DEVELOPMENT; THENCE NORTH 88 DEGREES 37 MINUTES 06 MINUTES EAST ALONG THE SOUTH LINE OF LOTS 1 TO 9 IN SAID BLOCK 6, 862.31 FEET TO THE NORTHWEST CORNER OF LOT 14 IN SAID BLOCK 6; THENCE SOUTH 00 DEGREES 01 MINUTES 31 SECONDS EAST ALONG THE WEST LINE OF LOTS 14 TO 19 IN SAID BLOCK 6, 501.42 FEET; THENCE NORTH 89 DEGREES 29 MINUTES 20 SECONDS EAST; THENCE SOUTH 00 DEGREES 02 MINUTES 52 SECONDS EAST, 588.00 FEET TO THE SOUTHWEST CORNER OF LOT 32 IN SAID BLOCK 6; THENCE SOUTH 89 DEGREES 29 MINUTES 20 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 32, 866.70 FEET TO THE SOUTHEAST CORNER OF SAID LOT 32; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE WEST LINE OF LOTS 25 TO 29 IN SAID BLOCK 6, 488.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 29; THENCE NORTH 89 DEGREES 29 MINUTES 24 SECONDS WEST, 2218.40 FEET TO THE WEST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 23; THENCE SOUTH 00 DEGREES 01 MINUTES 31 SECONDS EAST ALONG SAID WEST LINE, 1320.02 FEET; THENCE SOUTH 89 DEGREES 29 MINUTES 57 SECONDS EAST, 473.80 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, 341.34 FEET; THENCE NORTH 88 DEGREES 46 MINUTES 52

**HOBART REDEVELOPMENT  
COMMISSION**

Vice President Margaret J. Kuehler

ATTEST:

Michael J. Keus  
Secretary



*(Signature Page to Development Agreement)*

CITY OF HOBART, INDIANA

*Becky Juzurcki*  
Member, City Council

*Ainda M. Buzinec*  
Member, Board of Public Works

ATTEST:

*Robert H. Long*  
Clerk-Treasurer



*(Signature Page to Development Agreement)*



IN WITNESS WHEREOF, the Parties hereby execute this Agreement on the date first written above.

**DEVELOPER:**

B3 PROPERTIES, LLC

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

Its: Managing Member \_\_\_\_\_



*(Signature Page to Development Agreement)*

**10.12 Assignment.** The Developer's rights under this Agreement shall be personal to Developer and shall not run with the land. Upon written consent of the City and City Commission, Developer may assign its corresponding rights and obligations under this Agreement to another party. Notwithstanding the foregoing, the Developer shall have the right to assign its rights under this Agreement to another entity that is owned or controlled by the current owners of the original Developer without the consent of the City and City Commission. Additionally, in the event the Developer is in default with respect to its obligations to its lender for the project, such lender may receive an assignment of the Developer's interests in the Agreement, it being understood, however, that the obligations of the City and City Commission under this Agreement will remain subject to satisfaction of the obligations of the Developer as described herein. Additionally, the assignee would have the same corresponding contractual rights and development obligations as Developer has under this Agreement.

**10.13 Further Assurances.** The Parties agree that they will each undertake in good faith as permitted by law any action and execute and deliver any document reasonably required to carry out the intents and purposes of this Agreement.

**10.14 Facsimile Signatures.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Any telecopied version of a manually executed original shall be deemed a manually executed original.

**SECTION 11. AMENDMENTS.**

**11.1 Amendment.** This Agreement may be amended from time to time, in whole or in part, by mutual written consent of the Parties, in accordance with this Agreement.



b) in the case of the City Commission is addressed to or delivered personally to:

City Commission: Hobart Redevelopment Commission  
414 Main Street  
Hobart, IN 46342  
Attn: Director of Development

With a copy to: City Attorney John Bushemi, Esq.  
8926 Broadway  
Merrillville, IN 46410

and

c) in the case of the City is addressed to or delivered personally to:

City: City of Hobart, Indiana  
414 Main Street  
Hobart, IN 46342  
Attn: Mayor  
Attn: Clerk-Treasurer

With copy to: City Attorney John Bushemi, Esq.  
8959 Broadway  
Merrillville, IN 46410

or at such other address with respect to such Party as that Party may from time to time designate in writing and forward to the other as provided in this Section.

**10.9 Governing Law.** This Agreement shall be interpreted and enforced according to the laws of the State of Indiana.

**10.10 Authority.** The undersigned persons executing and delivering this Agreement on behalf of each of the Parties represent and certify that they are the duly authorized officers of such Party and have been fully empowered to execute and deliver this Agreement on behalf of such Party and that all necessary action to execute and deliver this Agreement has been taken by such Party.

**10.11 No Third-Party Beneficiaries.** Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the parties hereto and their respective successors or assigns, any remedy or claim under or by reason of this Agreement or any term, covenant, or condition hereof, as third-party beneficiaries or otherwise, and all of the terms, covenants, and conditions hereof shall be for the sole and exclusive benefit of the Parties herein.

resolving such disputes. In any legal proceeding, each party irrevocably waives the right to trial by jury in any action, counterclaim, dispute or proceeding based upon, or related to the subject matter of this Agreement. This waiver applies to all claims against all parties to such actions and proceedings. This waiver is knowingly, intentionally and voluntarily made by both parties.

**10.4 Attorneys' Fees.** In the event of any litigation, mediation or arbitration between the Parties regarding an alleged breach of this Agreement, neither Party shall be entitled to any award of attorney's fees.

**10.5 Equal Employment Opportunity.** The Developer, for itself and its successors and assigns, agrees that during the construction of the project:

a) The Developer will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; and

b) The Developer will state, in all solicitations or advertisements for employees placed by or on behalf of the Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

**10.6 Titles of Articles and Sections.** Any titles of the several parts, sections, and paragraphs of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

**10.7 Counterparts.** This Agreement may be executed in counterparts, all of which shall be deemed originals.

**10.8 Notices and Demands.** A notice, demand, or other communication under the Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

a) in the case of the Developer, is addressed to or delivered personally to

Developer:

B3 Properties, LLC  
10971 Four Seasons Place, Suite 216  
Crown Point, IN 46307  
Attn: Robert Stiglich

With a copy to:

Clyde Compton, Esq.  
8700 Broadway  
Merrillville, IN 46410

and

**SECTION 9. NO AGENCY, JOINT VENTURE OR PARTNERSHIP; CONFLICT OF INTEREST.**

**9.1 No Agency, Joint Venture or Partnership.** It is specifically understood and agreed to by and between the Parties that:

- a) The project, as described in this Agreement, is a private development;
- b) The City and City Commission have no interest or responsibilities for, or due to, third parties concerning any improvements until such time, and only until such time, that the City and City Commission accept the same pursuant to the provisions of this Agreement; and
- c) The City and City Commission and the Developer hereby renounce the existence of any form of agency relationship, joint venture or partnership between City and City Commission and the Developer and agree that nothing contained herein or in any document executed in connection herewith shall be construed as creating any such relationship between the City and City Commission and the Developer.

**9.2 Conflict of Interest; City and City Commission Representatives Not Individually Liable.** No member, official, employee, or agent of the City or City Commission shall have any personal interest, direct or indirect, in the Agreement, nor shall any such member, official, employee, or agent participate in any decision relating to the Agreement which affects his personal interests or the interests of any corporation, partnership, or association in which he/she is, directly or indirectly, interested. No member, official, employee, or agent of the City or City Commission shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Developer or successor or assign or on any obligations under the terms of the Agreement. No partner, employee or agent of the Developer or successors of them shall be personally liable to the City or City Commission under this Agreement.

**SECTION 10. MISCELLANEOUS.**

**10.1 Severability.** If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of this Agreement, or the application of this Agreement to other situations, shall continue in full force and effect unless amended or modified by mutual consent of the parties.

**10.2 Other Necessary Acts.** Each Party shall execute and deliver to the other all such other further instruments and documents as may be reasonably necessary to accomplish the project contemplated by this Agreement and to provide and secure to the other Parties the full and complete enjoyment of its rights and privileges hereunder.

**10.3 Waiver of Jury Trial.** The parties acknowledge that disputes arising under this Agreement are likely to be complex and they desire to streamline and minimize the cost of

legal counsel and retain such counsel at its own expense, and in no event shall City or City Commission be required to bear the fees and costs of Developer's attorneys nor shall Developer be required to bear the fees and costs of City or City Commission's attorneys.

The Parties agree that this Section 7.1 shall constitute a separate agreement entered into concurrently with this Agreement, and that if any other provision of this Agreement, or the Agreement as a whole, is invalidated, rendered null, or set aside by a court of competent jurisdiction, the Parties agree to be bound by the terms of this section, which shall survive such invalidation, nullification, or setting aside.

## **SECTION 8. DEFAULT; TERMINATION; QUARTERLY REVIEW.**

**8.1 Default.** Any material failure by either Party to perform any term or provision of this Agreement, which failure continues uncured for a period of thirty (30) days following written notice of such failure from the other Party, unless such period is extended by written mutual consent, shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which said failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 30-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 30-day period. Upon the occurrence of a default under this Agreement, the non-defaulting Party may institute legal proceedings to enforce the terms of this Agreement or, in the event of a material default, terminate this Agreement. If the default is cured, then no default shall exist and the noticing Party shall take no further action.

**8.2 Quarterly Review.** On or before the 1<sup>st</sup> day of each quarter (each January 1, April 1, July 1 and October 1), the Developer shall submit to the City and City Commission a report demonstrating Developer's good-faith compliance with the terms of this Agreement. This report shall include the following information and documents: (i) a status report of the construction completed to date, (ii) an update on the project schedule, (iii) an itemized accounting generally identifying the Private Investment to date.

**8.3 Enforced Delay in Performance for Causes Beyond Control of Party; Extension of Time of Performance.** Notwithstanding anything to the contrary contained in this Agreement, none of the Parties shall be deemed to be in default where delays in performance or failures to perform are due to, and a necessary outcome of, war, insurrection, strikes or other labor disturbances, walk-outs, riots, floods, earthquakes, fires, casualties, acts of God, restrictions imposed or mandated by other governmental entities, enactment of conflicting state or federal laws or regulations, new or supplemental environments regulations, contract defaults by third parties or similar basis for excused performance which is not within the reasonable control of the Party to be excused. Upon the request of any of the Parties, an extension of time for such cause will be granted in writing for the period of the enforced delay, or longer as may be mutually agreed upon by all the Parties.

**SECTION 5. OBLIGATIONS OF THE CITY AND CITY COMMISSION**

**5.1 Generally.** The Parties acknowledge and agree that the Developer's agreement to perform and abide by the covenants and obligations set forth in this Agreement is material consideration for the City and City Commission's commitment to perform and abide by the covenants and obligations of the City and City Commission contained in the Agreement.

**5.2 Completion of and Financing of Public Infrastructure Improvements.** Subject to the terms and conditions of this Agreement (including without limitation the following), the City and City Commission agree to provide the Public Infrastructure Improvements to the PUD Commercial Area and POD E, including the creation of the Loop Road, to be financed with the proceeds of the Bonds issued by the County Commission with the prior approval of the City. Notwithstanding anything contained herein, in the event the costs of the Public Infrastructure Improvements of the PUD Commercial Area are in excess of what may be funded with the Bond proceeds, the Developer shall pay to the City the amount of the excess costs related to the PUD Commercial Area to permit timely completion of the Public Infrastructure Improvements of the PUD Commercial Area.

The obligations of the City and City Commission hereunder are subject to the actions of the City and City Commission necessary to complete the financings contemplated herein as required by the Act which the City and City Commission in good faith agree to undertake.

**5.3 Cooperation.** Consistent with City policy, the City and City Commission hereby agree to endorse and support Developer's efforts to expedite the project through the required planning, design, permitting, waiver and related regulatory processes.

**SECTION 6. COOPERATION-IMPLEMENTATION.**

**6.1 City and City Commission Cooperation.** Upon submission by Developer of all appropriate applications and processing fees for any required approval referenced in this Agreement, the City and City Commission shall promptly and diligently commence and complete all steps necessary to comply with its obligation to support or endorse said approval.

**6.2 Conditions.** The City and City Commission's obligations under Section 5 of this Agreement are conditioned upon the Developer's submission, in a timely manner, of all documents, applications, plans, and other information necessary for the City and City Commission to meet the obligations contained herein. It is the express intent of the Parties to cooperate and work diligently and in good faith to obtain the approvals necessary to accomplish the project.

**SECTION 7. COOPERATION IN THE EVENT OF LEGAL CHALLENGE.**

**7.1 Cooperation.** In the event of any administrative, legal or equitable action or other proceeding instituted by any person not a party to this Agreement challenging the validity of any provision of this Agreement, the Parties shall cooperate in defending such action or proceeding to settlement or final judgment including all appeals. Each Party shall select its own

Improvements, including, but not limited to, the costs of all plans, drawings and specifications that may be required for the Public Infrastructure Improvements to be publicly bid pursuant to the requirements of I.C. 36-1-12.

**4.10 Employment of Local Labor.** The Developer hereby agrees to use its best efforts to employ qualified local contractors and other related labor during construction of the Development project and further agrees to pay its employees and independent contractors any minimum wage requirement or Common Construction Wage, as required by the City, during the construction of the Development.

**4.11 Costs of Public Infrastructure Improvements for PUD Commercial Area.** If the costs of and related to the Public Infrastructure Improvements of the PUD Commercial Area are in excess of what may be funded with the Bond proceeds, the Developer agrees to pay to the City the amount of the excess costs. If there are costs in excess of what may be funded with the Bond proceeds, as determined at the time of and by the receipt of public bids for the Public Infrastructure Improvements, the Developer agrees to pay the excess costs to the City within thirty (30) days of receiving notice of the excess costs from the City.

**4.12 Completion of Development.** Developer agrees to complete at least thirty percent (30%) of the Development in the PUD Commercial Area within six (6) years of the Effective Date of the Agreement and one hundred percent (100%) of the Development in the PUD Commercial Area within fifteen (15) years of the Effective Date of the Agreement. If the Developer fails to meet the time commitments, the Developer agrees to pay monetary damages in the amount of thirty percent (30%) of the costs of the Public Infrastructure Improvements in the PUD Commercial Area for failing to meet the six (6) year time commitment and one hundred percent (100%) of the costs of the Public Infrastructure Improvements in the PUD Commercial Area for failing to meet the fifteen (15) year time commitment.

**4.13 Security Interest.** To secure the Developer's completion commitment for the PUD Commercial Area within the prescribed time limits set forth in Section 4.12, the Developer agrees to execute a mortgage (the "Performance Mortgage") on the PUD Commercial Area in favor of the City and City Commission. The Performance Mortgage shall serve as the City and City Commission's security interest in the PUD Commercial Area and shall be junior and subordinate to any and all mortgages on the PUD Commercial Area held by the Developer's primary lender. The City and City Commission's security interest in the PUD Commercial Area shall be released quarterly by the City and City Commission to the Developer in proportion to the amount of the Development in the PUD Commercial Area that the Developer has completed in accordance with this Agreement, as evidenced by the quarterly review the Developer shall submit to the City and City Commission, as hereinafter described in Section 8.2. In the event that the Developer sells or otherwise disposes of a portion of or all of the Development to a third party, unaffiliated with the Developer, for purposes of development, the Performance Mortgage will be released on that portion of the Development sold or otherwise disposed of to a third party, such release being subject to such other terms and conditions as may be negotiated with the third party.



restriction on use without the prior written approval and consent of the County Commission, the City Plan Commission, and the City Council.

**4.5 Right-Of-Way Easements.** The Developer agrees to provide the City and City Commission with such right-of-way easements across and through the Development Site as may be necessary for the purpose of constructing the Public Infrastructure Improvements necessary for the Development.

**4.6 Construction of Connector Road.** The Developer agrees with the City and City Commission that the Developer and/or Diamond Veil will construct a connector, along with the related infrastructure, between the Loop Road and the Development depicted as Avenue "F" in Exhibit C. The Developer further agrees that the Developer and/or Diamond Veil will complete the construction of the Connector Road within eighteen (18) months of the City completing construction of the Loop Road along with the related infrastructure. The Developer also agrees that the Developer and/or B3 will pay for the cost of constructing the Connector Road, along with the related infrastructure, unless all other obligations of the City, as described in this Agreement have been paid in full with the Bond proceeds, in which case, the City may determine to use the excess Bond proceeds to help pay the costs associated with the construction of the Connector Road. If the Connector Road is to be constructed by Diamond Veil on property owned by the Developer, the Developer agrees with the City and City Commission to allow Diamond Veil to construct a connector between the Loop Road and the Development depicted as Avenue "F" in Exhibit C on the Developer's property.

**4.7 Land and Building Requirements.** The Developer agrees with the City and City Commission to allow the City and City Commission to control the land use and building requirements and restrictions for the PUD Commercial Area and the PUD Residential Area. The Developer further agrees to adhere to the land and building requirements and restrictions for the PUD Commercial Area and the PUD Residential Area as described in Exhibit F and Exhibit G, which shall be completed in their final form at a later date, but shall be incorporated herein and attached hereto as if both exhibits were in their final form at the time of this Agreement's Effective Date.

**4.8 Cooperation to Expedite Process; Required Approvals.** The Developer hereby agrees to endorse and support the City and City Commission's efforts to expedite the project through the required planning, design, permitting, waiver, right-of-way easements, and related regulatory processes. The Developer acknowledges and agrees to submit preliminary and final plans and specifications for approval as may be required pursuant to the City's zoning and subdivision regulations and also for final approval of the PUD.

**4.9 Contracting and Inspection.** The Developer agrees to allow the City and City Commission to be the contracting entity, pending assignment of this duty by the County, in which the City and City Commission will seek public bids in accordance with I.C. 36-1-12, as amended from time to time, to obtain contractors for the completion of the Loop Road and related Public Infrastructure Improvements. The Developer further agrees that the Bond proceeds will be used to pay for the costs associated with the public bidding process and all costs of inspection and engineering associated with the Loop Road and related Public Infrastructure

### **SECTION 3. RECITALS.**

The Recitals set forth above are a part of this Agreement for all purposes.

### **SECTION 4. OBLIGATIONS OF THE DEVELOPER.**

**4.1 Generally.** The Parties acknowledge and agree that the agreement of the City and City Commission to perform and abide by the covenants and obligations set forth in this Agreement are material consideration of the Developer's commitment to perform and abide by the covenants and obligations of the Developer contained in this Agreement.

**4.2 Title to Property.** The Developer agrees with the City and City Commission to provide a certified copy of the Developer's deed showing ownership of the PUD Commercial Area and the PUD Residential Area of the Development Site and a certified copy of the Developer's title insurance policy ensuring Developer's title to the PUD Commercial Area and the PUD Residential Area of the Development Site.

**4.3 Development Strategy.** The Developer agrees with the City and City Commission that it shall market and develop the Development Site so that Silverstone Crossing is a quality business, retail, commercial, and residential site which will comply with all zoning requirements and the terms and conditions of the PUD approved by the Common Council. The PUD Commercial Area, PODs B, C and D, uses may include the permitted commercial, retail and business uses as more particularly described in the PUD Ordinance, which shall be prepared, completed and adopted by the Common Council at a later date, but shall be incorporated herein and attached hereto in Exhibit G, as if the PUD Ordinance was in existence at the time of this Agreement's Effective Date. The PUD Residential Area, POD A, uses may include the permitted residential uses as more particularly described in the aforementioned PUD Ordinance, which shall be prepared, completed and adopted by the Common Council at a later date, but shall be incorporated herein and attached hereto in Exhibit G, as if the PUD Ordinance was in existence at the time of this Agreement's Effective Date.

**4.4 Declaration of Use Restriction.** The Developer agrees with the City and City Commission that it shall prepare, execute, and record a Declaration of Use Restriction (the "Declaration of Use Restriction") that shall run with the land for all parcels in PODs B, C, and D (the "Restricted Parcels"), as more particularly described in the attached Exhibit A and Exhibit C, and shall limit the use of these parcels to Non-Residential Usage, as defined in Section 1. The Developer further agrees to state in the Declaration of Use Restriction for the Restricted Parcels that if any present or future owner, grantee, heir, or assign of the Restricted Parcel fails to adhere to the use restriction by converting the Restricted Parcels to a residential use, said owner will be subject to monetary damages in the amount of fifty percent (50%) of the cost of the Public Infrastructure Improvements for a violation of the Declaration of Use Restriction in PODs B and D and in the amount of 100% of the cost of the Public Infrastructure Improvements for a violation of the Declaration of Use Restriction in POD C; such monetary damages are payable to the County Commission. The Developer agrees that the Declaration of Use Restriction shall state that all owners, grantees, heirs, and assigns of the Restricted Parcels cannot vacate the

**Loop Road.** Loop Road means the roadway depicted as Avenue "A" in Exhibit C that the City will construct, along with the related infrastructure, and which will be paid for from the Bond proceeds as a part of the Public Infrastructure Improvements.

**Non-Residential Usage.** Any commercial or business usage that is a permitted use in the PUD Commercial Area or in POD E, as more particularly described in the Common Council PUD Ordinance (the "PUD Ordinance"), which shall be prepared, completed and adopted by the Common Council at a later date, but shall be incorporated herein and attached hereto in Exhibit G, as if the PUD Ordinance was in existence at the time of this Agreement's Effective Date.

**POD.** POD means the individual sections or divisions of the Development as depicted in Exhibit C.

**Private Investment** includes, but is not limited to, the costs associated with construction and improvements on the Development Site by the Developer and Diamond Veil.

**Public Infrastructure Improvements.** Those public improvement projects currently planned by the County Commission and the City, which shall include the construction of water, sewer, stormwater, and road infrastructure improvements, including street lighting, traffic signalization, and other miscellaneous infrastructure improvements, of which the public infrastructure improvements relevant to the PUD Commercial Area and POD E are more particularly described in the attached Exhibit D and Exhibit E.

**Silverstone Crossing.** An approximately 233 acre development, consisting of an approximately 149 acre PUD Commercial Area, an approximately 54 acre PUD Residential Area, and an approximately 30 acre POD E commercial area, to be located on the Development Site depicted on the Site Plan shown in Exhibit B.

**State.** State of Indiana.

**Term.** The Term of this Agreement shall be as defined in Section 2.2 hereof.

**TIF.** Tax Incremental Financing, as provided by Indiana Code §36-7-14.

**TIF Revenues.** The real property tax revenues, as described in Indiana Code §36-7-14-39(b)(2), that are collected from the project.

## **SECTION 2. EFFECTIVE DATE AND TERM.**

**2.1 Effective Date.** This Agreement shall be effective as of the date first written above ("Effective Date").

**2.2 Term.** The Term of this Agreement shall commence upon the Effective Date and continue until the later of the date on which (i) all of the Public Infrastructure Improvements have been completed or (ii) all of the Development in the PUD Commercial Area and PUD Residential Area has been completed by the Developer in accordance with the Agreement.

are in the best interests of the health, safety and welfare of the City and its residents and comply with the public purposes and provisions of the Act and all other applicable federal, state and local laws under which the project has been undertaken and is being assisted; and

**WHEREAS**, the City Commission and the City desire to facilitate the project in accordance with the powers granted the City Commission under the Act by undertaking the Public Infrastructure Improvements and the financing thereof subject to the conditions contained herein; and

**WHEREAS**, the Parties agree that it is of mutual benefit for the Parties to enter into this Agreement relating to the project and the Public Infrastructure Improvements that will include the commitments of each Party; and

**WHEREAS**, each of the Parties understands and agrees that certain actions contemplated by this Agreement are required to be undertaken by persons, agencies or entities that are not party to this Agreement and that any action by such third parties shall require independent approval by the respective person, agency, entity or governing body thereof;

**NOW, THEREFORE**, in consideration of the mutual promises and obligations in this Agreement, the adequacy of which consideration is hereby acknowledged, the Parties agree as follows:

**SECTION 1. DEFINITIONS.**

Defined terms are indicated by initial capital letters. Defined terms shall have the meaning set forth herein, whether or not such terms are used before or after the definitions are set forth. The following terms are more specifically defined below:

**Bonds.** Bonds mean the Lake County Redevelopment Commission Lease Purchase Revenue Bonds or the Lake County Redevelopment Commission Revenue Bonds, one of which shall be proposed to be issued by the County Commission with the prior approval of the City pursuant to Section 5.2 hereof to be payable from the project TIF Revenues.

**City Projects.** City Projects has the meaning as used in Exhibit A of Ordinance No. 2004-20 of the Common Council, adopted on August 11, 2004.

**Connector Road.** Connector Road means the roadway depicted as Avenue "F" in Exhibit C that the Developer and/or Diamond Veil will construct, along with the related infrastructure, and which will be paid for by the Developer and/or Diamond Veil, unless all other obligations of the City, as described in this Agreement have been paid in full with the Bond proceeds, in which case, the City may determine to use the excess Bond proceeds to help pay the costs associated with the construction of the Connector Road.

**Development.** Silverstone Crossing Development.

Lease, and the Authority has pledged the Lease Rentals to the payment of its Economic Development Lease Rental Revenue Bonds of 1995; and

**WHEREAS**, the Area established by the County Commission has been annexed into the municipal boundaries of the City; and

**WHEREAS**, the Merrillville Community School Corporation (the "Corporation") and the County Commission entered a settlement agreement (the "Settlement Agreement") related to the Area that was filed on October 28, 1992 in the Lake Superior Court, Room No. 2; and

**WHEREAS**, the Settlement Agreement contained provisions: (i) limiting the capture of incremental assessed valuation in the TIF Area, that is coterminous with the Area; (ii) limiting the amount of bonds or other obligations payable from tax increment funds that could be issued to finance projects to promote the economic development of the Area; and (iii) provided that the TIF Area could not be expanded; and

**WHEREAS**, the City has identified certain economic development projects that it desires to have undertaken in, serving or benefiting the Area, as expanded (as explained hereinafter), in order to promote economic development north of U.S. 30 between Mississippi Street and Colorado Street (the "City Projects"); and

**WHEREAS**, the County Commission desires to pay for the City Projects with the proceeds of a bond financing in the aggregate principal amount not to exceed \$6,500,000 and the tax increment collected; and

**WHEREAS**, the County Commission desires to assist the City with the City Projects; and

**WHEREAS**, the County Commission and the Corporation entered into an amendment to the Settlement Agreement (the "Amendment") on July 14, 2004 to permit the City Projects to proceed by: (i) extending the term for which incremental assessed valuation in the TIF Area may be captured; (ii) authorizing the use of tax increment funds on hand, and the issuance of bonds or other obligations of the County Commission to finance the City Projects; and (iii) permitting the expansion of the Area, but not the TIF Area, to include the City Projects; and

**WHEREAS**, the City of Hobart Common Council (the "Common Council") adopted Ordinance No. 2004-20 on August 11, 2004, consenting to the issuance of bonds by the County Commission payable from tax increment collected in the TIF Area and for the purpose of financing the City Projects within the expanded Area and authorizing the County Commission to undertake projects in the Plan and activities in the Area, as if the annexation to the City had not occurred; and

**WHEREAS**, the Common Council amended Ordinance No. 2004-20 on July 6, 2005 through the adoption of Ordinance No. 2005-29, requiring that the City grant final development approval for all private development projects within the Area that will benefit from

the City Projects prior to the issuance of bonds by the County Commission to finance said City Projects; and

**WHEREAS**, the County Commission adopted Resolution No. 002-2006 on October 4, 2006, after holding a public hearing on September 20, to amend the Declaratory Resolution to add the acquisition of easements in certain parcels of property to the acquisition list for the Area to complete certain Public Infrastructure Improvements; and

**WHEREAS**, the City has entered into certain contracts for the design and engineering of certain of the Public Infrastructure Improvements, to be paid for by the County Commission with existing Tax Incremental Financing Revenues ("TIF Revenues") on hand, and as a condition of such payment, the City has assigned those contracts to the County Commission through Resolution No. 2006-39 adopted by the Common Council on August 16, 2006; and

**WHEREAS**, the County Commission adopted Resolution No. 001-06 on September 20, 2006 to accept the assignment of the contracts and to authorize its treasurer to pay claims presented pursuant to such contracts, upon the City presenting documentation of its acceptance of the work performed thereunder; and

**WHEREAS**, all conditions have been met as required in the Amendment to allow the County Commission to use existing TIF Revenues not to exceed \$1,500,000, on or before December 31, 2006, to pay for the City Projects and to begin the process, on or before December 31, 2006, for the issuance of Bonds, in one or more series, not to exceed \$6,500,000 to be sold on or before June 15, 2007 to further finance the City Projects.

**WHEREAS**, the Developer currently owns all of the real estate constituting the Development Site, as more particularly depicted in Exhibit B ("Site Plan") and Exhibit C ("POD Plan"), with the exception of POD E, which is owned by Diamond Veil Development, Inc. ("Diamond Veil"); and

**WHEREAS**, the Developer has sought and received a tentative plan approval for the Planned Unit Development ("PUD") from the City based upon the conceptual plans submitted by the Developer, which approval is subject to the submission of the preliminary and final plats, the preliminary and final plans and the rezoning to PUD; and

**WHEREAS**, the Developer along with Diamond Veil have purchased the Development Site, with the intent to develop it as "Silverstone Crossing," a PUD comprised of a business, commercial, and retail development consisting of approximately 149 acres located in PODs B, C and D (collectively the "PUD Commercial Area"), a residential development consisting of approximately 54 acres located in POD A (the "PUD Residential Area"), and a business, commercial, and retail development consisting of approximately 30 acres located in POD E, which are more particularly depicted in Exhibit B and Exhibit C, attached hereto and incorporated herein; and

**WHEREAS**, the City Commission and the City believe that developing the Development Site and accomplishing the Public Infrastructure Improvements as described herein

## AGREEMENT

THIS AGREEMENT, made on ~~December~~ <sup>MARCH</sup> 19, <sup>2007</sup> 2006, by and among the City of Hobart, Indiana, a political subdivision and municipal corporation of the State of Indiana (the "City"), the Hobart Redevelopment Commission (the "City Commission"), and B3 Properties, LLC, an Indiana limited liability company (the "Developer") (each sometimes being referred to herein as a "Party" or collectively as the "Parties").

## RECITALS

WHEREAS, the Lake County Redevelopment Commission (the "County Commission") exists and operates under the provisions of I.C. 36-7-14, commonly known as the "Redevelopment of Cities and Towns Act of 1953," as amended from time to time ("Act"); and

WHEREAS, the Indiana legislature has determined that the clearance, replanning and development of economic development areas are public uses and purposes for which public money may be spent; and

WHEREAS, I.C. 36-7-14 and I.C. 36-7-25 authorize the County Commission to declare an area to be an economic development area and to establish an allocation area within an economic development area providing for the distribution of certain property tax revenues generated within the allocation area; and

WHEREAS, the County Commission adopted a Declaratory Resolution (the "Declaratory Resolution") on January 30, 1992, which was effective on that date and was modified and confirmed by a Confirmatory Resolution (the "Confirmatory Resolution," collectively the "1992 Resolutions") that was adopted on June 3, 1992; and

WHEREAS, the 1992 Resolutions confirmed the County Commission's establishment of an economic development area known as the "Lake County Economic Development Area #1" (the "Area"), of which the entire area has been designated an allocation area for purposes of tax increment financing (the "TIF Area"), in a portion of Ross Township, Lake County, Indiana, that is further described in the aforementioned 1992 Resolutions; and

WHEREAS, the County Commission adopted an Economic Development Plan (the "Plan") for the Area which contemplates certain public improvements; and

WHEREAS, the area described in Exhibit A attached hereto and incorporated herein (the "Development Site") is located within the corporate boundaries of the City and approximately sixty-six percent (66%) of the Development Site is located within the Area previously determined by the County Commission to be an economic development area under the Act; and

WHEREAS, the County Commission previously entered into a lease (the "Lease") with the Lake County Redevelopment Authority (the "Authority") and has pledged the tax increment from the TIF Area to the payment of lease rentals (the "Lease Rentals") under the

**SCHEDULE OF EXHIBITS**

**EXHIBIT**

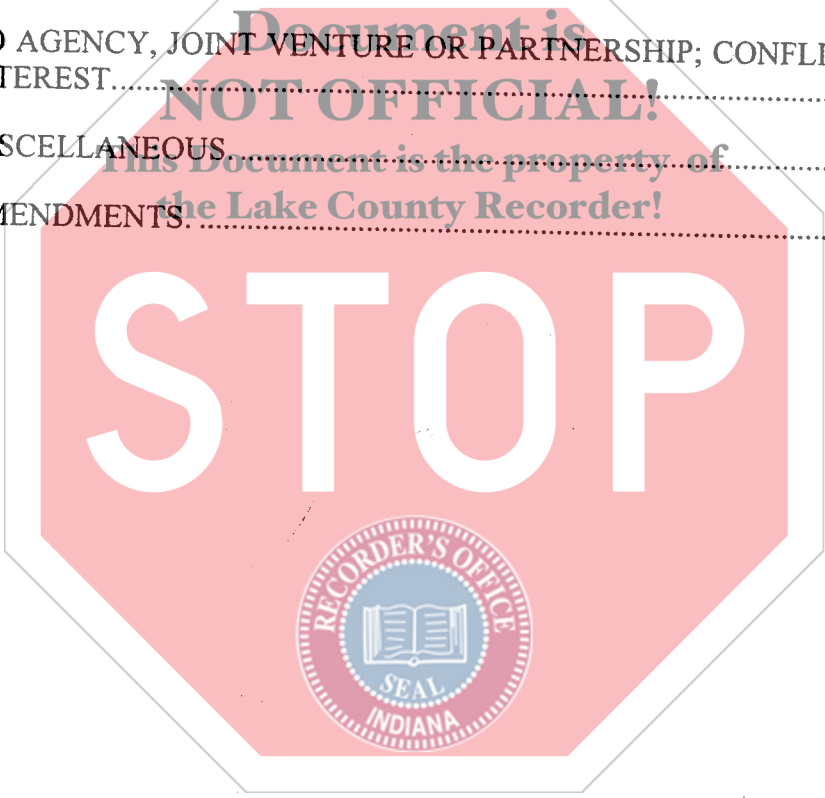
- A Silverstone Crossing Development Site Legal Description and Individual POD Legal Descriptions
- B Silverstone Crossing Site Plan
- C Silverstone Crossing POD Plan
- D Description of Public Infrastructure Improvements for Commercial PUD Area (including POD E)
- E Estimated Costs of Public Infrastructure Improvements for Commercial PUD Area (including POD E)
- F Silverstone Crossing POD Section Guidelines, Uses and General Descriptions (to be incorporated and attached herein in substantially the same form subject to final approval of the Plan Commission and Common Council)
- G Common Council PUD Ordinance (to be incorporated and attached herein at a later date)





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STATE OF INDIANA  
LAKE COUNTY  
FILED FOR RECORD

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2007 MAR 21 2:03

MICHAEL A. BROWN  
RECORDER

# DEVELOPMENT AGREEMENT

by and among

**THE CITY OF HOBART, INDIANA,**

*This Document is the property of  
the Lake County Recorder!*

**THE HOBART REDEVELOPMENT COMMISSION**

**FILED**

and

**STOP**

MAR 21 2007

REGGY HOLINGA KATONA  
LAKE COUNTY AUDITOR

**B3 PROPERTIES, LLC**



**HOBART REDEVELOPMENT COMMISSION  
414 MAIN STREET  
HOBART, IN 46342  
ATTN: DIRECTOR OF DEVELOPMENT**

BDD01 4555310v7

8/3900  
cl#

003762

June 29, 2007

Please return Resolution No. 2007-18 to

City of Hobart  
414 Main Street  
Hobart, IN 46342

