

ORDINANCE NO. 03-29

AN ORDINANCE OF THE TOWN OF WESTFIELD CONCERNING AMENDMENT TO TITLE 16 – LAND USE CONTROLS

WHEREAS, The Town of Westfield, Indiana and the Township of Washington, both of Hamilton County, Indiana are subject to the Westfield Washington Township Zoning Ordinance; and

WHEREAS, the Westfield-Washington Township Plan Commission (“Commission”) considered a petition (docket 0307-PUD-05) filed with the commission to rezone certain lands; and

WHEREAS, the Westfield Washington Township Plan Commission did take action to forward the request to the Westfield town Council with a “no action” recommendation under the provision of IC 36-7-4-605; and

WHEREAS, the Secretary of the Commission certified the action of the commission to the town Council on August 25, 2003; and

WHEREAS, the Westfield Town Council is subject to the provision of IC 36-7-4-608(g) concerning any action on this request.

**NOW THEREFORE BE IT ORDAINED BY THE WESTFIELD TOWN COUNCIL
THAT TITLE 16 OF THE WESTFIELD CODE OF ORDINANCE BE AMENDED AS
FOLLOWS:**

SECTION 1. WC-16-04.20 Zoning maps amended as follows:

The Zoning Map accompanying and made a part of the Zoning Ordinance is amended to reclassify the real estate described in Attachment “A” hereto (Real Estate) from SF-3 and EI (US31 Overlay) to EI-PUD, such real estate being subject to commitments and standards as detailed in Attachment “B”.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

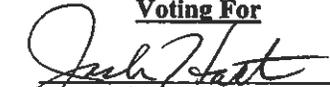
ALL OF WHICH IS HEREBY ADOPTED BY THE TOWN COUNCIL OF
WESTFIELD, INDIANA THIS 18 DAY OF Sept, 2003
THE TOWN COUNCIL OF WESTFIELD, HAMILTON COUNTY, INDIANA

WESTFIELD TOWN COUNCIL

Voting For

Voting Against

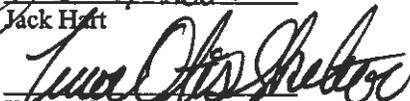
Abstain



Jack Hart

Jack Hart

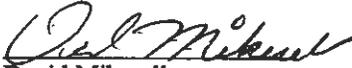
Jack Hart



Teresa Otis-Skelton

Teresa Otis-Skelton

Teresa Otis-Skelton

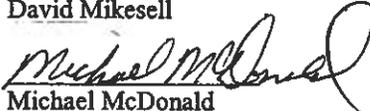


David Mikesell

David Mikesell

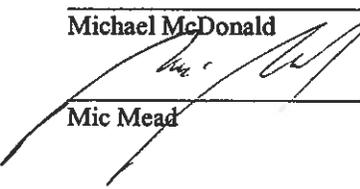
David Mikesell

Michael McDonald



Michael McDonald

Michael McDonald

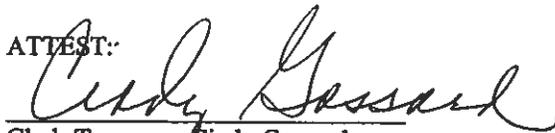


Mic Mead

Mic Mead

Mic Mead

ATTEST:



Clerk-Treasurer, Cindy Gossard

This ordinance prepared by
Jerry Rosenberger, Town Manager

ATTACHMENT A

EXHIBIT "A"

Description of Right-of-Way:

That portion of railroad right-of-way located in Hamilton county, Section 1, Township 18N, Range 3E, a distance of 1,240 feet from the centerline of the right-of-way, a distance of 20 feet along the boundary immediately adjacent to grantee's real estate described in EXHIBIT "B". Above tract containing 24,800 square feet more or less.

The above tract containing .569 acres. South side.

933 8924

EXHIBIT "B"

Part of the West Half of the Northwest Quarter of Section 1, Township 18 North, Range 3 East, Hamilton County, Indiana, and being more particularly described as follows: Beginning at the intersection of the West line of said half-quarter section with the South right of way line of Chicago and Southeastern Railroad; thence South along said west line to the Southwest corner of said half-quarter section; thence East along the South line of said half-quarter section 80 rods to the Southeast corner thereof thence North along the East line of said half-quarter section to said South railroad right of way line; thence West along said South right of way line to the point of beginning and containing 47.5 acres, more or less. Subject to all legal easements and rights of way of record.

The Instrument Recorded JUL 13 1993
Sharon K. Oney, Recorder, Hamilton County, IN

9338924

7.6 acres

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
30 day of May, 2002
Robin Mills, Auditor of Hamilton County
Parcel # _____

File Number: 20244
Parcel Number: _____

800200038931
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L. CLARK
05-30-2002 12:13 PM
HARR DEED 16.00

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Jeff DeLillo and Donald A. Crans and James J. Kent, Their Successors and/or Assigns, (Grantor) of Hamilton County, in the State of Indiana, CONVEY AND WARRANT(S) to Oak Ridge Properties, LP (Grantee) of Hamilton County, in the State of Indiana, for the sum of One and 00/100 Dollars (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Hamilton County, State of Indiana:

Part of the Northwest Quarter of Section 1, Township 18 North, Range 3 East in Washington Township, Hamilton County, Indiana, described as follows:

Commencing at the Northeast corner of the Northwest Quarter of Section 1, Township 18 North, Range 3 East, said corner being located 79.77 feet North 89 degrees 49 minutes 58 seconds East (assumed bearing) from the Southeast corner of Southwest Quarter of Section 36, Township 19 North, Range 3 East; thence South 89 degrees 49 minutes 58 seconds West on the North line of said Northwest Quarter 476.30 feet to the centerline of Westfield Park Road; thence South 01 degrees 02 minutes 08 seconds West on the center line of Westfield Park Road 582.00 feet to the point of curvature of a curve to the right having a radius of 325.00 feet; thence Southwesterly curving to the right, on said centerline, an arc distance of 98.38 feet to the point of tangency of said curve; thence South 18 degrees 22 minutes 43 seconds West on said centerline and tangent to said curve 121.06 feet to the point of curvature of a curve to the left having a radius of 300.00 feet; thence Southwesterly curving to the left of said centerline, an arc distance of 96.23 feet to the point of tangency of said curve; thence South 00 degrees 00 minutes 00 seconds on said centerline and tangent to said curve 757.22 feet; thence South 90 degrees 00 minutes 00 seconds West, leaving said centerline, 560.76 feet (deed, 567.54 feet measured) to the place of beginning of the within described real estate, being the approximate centerline of the Anna Kendall legal Drain (aka Grassy Branch) thence South 90 degrees 00 minutes 00 seconds West 154.03 feet (deed, 147.25 feet measured) to the Westerly line of real estates described in a Warranty Deed recorded as Instrument Number 8803348 in the Office of the Recorder of Hamilton County, Indiana; thence South 01 degrees 04 minutes 34 seconds East on the Westerly line of said real estate 761.48 feet to the South line of said Northwest Quarter; thence North 86 degrees 46 minutes 06 seconds East on the South line of said Northwest Quarter 676.56 feet to the Westerly right-of-way line of the aforesaid Westfield Park Road; thence North 00 degrees 00 minutes 00 seconds on said right-of-way line 86.85 feet said point being the approximate centerline of the aforesaid Anna Kendall legal drain; thence Northwesterly with the meandering of the centerline of said legal drain to the place of beginning.

Subject to any and all easements, agreements and restrictions of record. The address of such real estate is commonly known as: Westfield Business Park, Westfield, Indiana 46074

Tax bills should be sent to Grantee at such address unless otherwise indicated below.

IN WITNESS WHEREOF, Grantor has executed this deed this 20th day of May, 2002.

ATTACHMENT B

WESTFIELD, INDIANA

PUD ORDINANCE NO. 03-_____

OAK RIDGE PROPERTIES P.U.D.

PLANNED UNIT DEVELOPMENT
DISTRICT

TABLE OF CONTENTS
AND SCHEDULE OF EXHIBITS

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- Section 8. Signage
- Section 9. Phasing Sequence
- Section 10. Traffic
- Section 11. Public and Private Streets
- Section 12. Recreational Amenities
- Section 13. Concept Plan

SCHEDULE OF EXHIBITS

- 1. Legal Description of Real Estate
- 2. Permitted Uses Allowed in PUD

3. Enclosed Industrial District Regulations (WC 16.04.060)
4. Landscape Standards (WC 16.06 et sec)
5. Concept Plan

ORDINANCE NO. 03- _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF THE TOWN OF WESTFIELD
AND WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA

This PUD Ordinance (the " _____ PUD") amends the Zoning Ordinance of the Town of Westfield and Washington Township, Hamilton County, Indiana (the "Zoning Ordinance"), enacted by the Town of Westfield under authority of Chapter 174 of the Acts of the Indiana General Assembly 1947, as amended;

WITNESSETH:

WHEREAS, the Westfield–Washington Township Plan Commission ("Commission") has conducted a public hearing as required by law in regard to the application for a change of zoning district filed by, Owners, Oak Ridge Properties, L.P., for the real estate containing approximately fifty-five (55) acres, legally described on Exhibit "1" hereto, and located in Washington Township, Westfield, Indiana (the "Real Estate"); and

WHEREAS, the Commission has sent to the Town Council of the Town of Westfield, Indiana (the "Town Council") its recommendation adopted on the 25th day of August, 2003.

NOW, THEREFORE, BE IT ORDAINED by the Town Council meeting in regular session, that the Zoning Ordinance and the Zone Map (the "Zone Map") of the Zoning Ordinance are hereby amended as follows:

SECTION 1. LEGISLATIVE INTENT. Having given reasonable regard to (i) the Comprehensive Plan, (ii) current conditions and the character of current structures and uses in the Real Estate, (iii) the most desirable use for which the Real Estate is adapted, (iv) conservation of property values throughout the Town of Westfield and Washington Township, and (v) responsible development and growth, it is the intent of the Plan Commission in recommending, and the Council in adopting, to:

- A) Encourage flexibility in the development of land in order to promote its most appropriate use;
- B) Improve the design, character and quality of new development;

- C) Encourage a harmonious and appropriate mixture of uses;
- D) Facilitate the adequate and economic provisions of streets, utilities, and municipal services;
- E) Preserve the natural environmental and scenic features of the Real Estate;
- F) Encourage and provide a mechanism for arranging improvement on-site so as to preserve desirable features; and
- G) Mitigate the problems, which may be presented by specific site conditions.

SECTION 2. EFFECT. The development standards created by this Oak Ridge Properties PUD ordinance supersede the development standards of the Zoning Ordinance. Unless otherwise specified herein, the owner(s) of the Real Estate shall otherwise comply with the terms, conditions, and procedures of PUD Ordinance 02-01, as amended (WC 16.04.190) (the "PUD Ordinance").

SECTION 3. DEFINITIONS. Unless otherwise specified in (i) this Oak Ridge Properties PUD, the definitions of the Zoning Ordinance shall apply to words and terms set forth in this Oak Ridge Properties PUD.

SECTION 4. PERMITTED USES AUTHORIZED IN THIS PUD. Permitted uses described on Exhibit "2" in the PUD include all of the uses marked on the exhibit. These Permitted Uses are not Special Exceptions and do not require approval of the Westfield Board of Zoning Appeals as Special Exceptions, and their inclusion on the list indicates they are Permitted Uses in the PUD.

The subject Real Estate is classified on the Zone Map from SF3 (Single Family Residential) District and EI (Enclosed Industrial) District with the US Highway 31 Overlay Zone to EI/PUD, with an incorporation by reference of the underlying zoning classification of Enclosed Industrial of the Zoning Ordinance of the Town of Westfield in force at the time of the enactment of this PUD. A copy of the Enclosed Industrial development standards, which were in force at the time of the enactment of this PUD, except as modified in this PUD, is attached hereto and made a part hereof as Exhibit "4".

SECTION 5. DEVELOPMENT STANDARDS AND ARCHITECTURAL DESIGN COMMITMENTS. These commitments shall impose development standards with respect to the PUD area located on the concept plan and apply to all permitted uses authorized by this PUD.

- A) Minimum Lot Area – 43,560 square feet (one acre).
- B) Minimum Lot Frontage on Road – in accordance with the provisions of the Zoning Ordinance.
- C) Minimum Setback Lines:

- Front Yard – Not less than 80 feet on expressways, primary arterials, and secondary arterials. Not less than forty (40) feet on all other streets.
- Side Yard – in accordance with the provisions of the Zoning Ordinance.
- Rear Yard – in accordance with the provisions of the Zoning Ordinance.

D) Maximum building height:

- On lots adjacent to Oak Ridge Road and defined on the concept plan: thirty-five (35) feet.
- All other lots in the PUD: forty-five (45) feet.

E) Minimum ground square footage – none; however, not more than 80% of the total area of any lot of any development or multiple lot shall be occupied by buildings, roads, parking area, drainage facilities and other accessory uses.

F) All off-street parking shall be provided in accordance with the provisions of the Westfield Zoning Ordinance.

G) Loading and unloading berths shall be provided in accordance with the Westfield Zoning Ordinance.

H) Construction Development Standards. The construction development standards for building materials (per WC 16.04.165, D, 4, f, (1) through (3)) shall apply to all facades.

I) Outside Storage.

- For the purposes of this ordinance, outside storage is defined as inventoried product for sale. Such inventory shall be limited to six (6) pieces. As a means of example, one vehicle or piece of mechanical equipment shall constitute one piece of inventory for sale. The exception to this definition, which applies only to the operation of Custom Concrete, is the outside storage of materials used on the work site; such materials may be stored in three-sided structures that may be situated near the perimeter of the Custom Concrete site and to the rear of the primary structure with the fourth (open) side facing to the interior of the property.
- Business equipment or vehicles used regularly on the work site of the principal use of the primary structure shall not be considered outside storage when parked on the PUD property. (By way of example: trucks, equipment, and backhoes used on the work site of Custom Concrete.). The parking of such business equipment or vehicles shall be permitted on the site of the principal use and to the rear of the primary structure of the principal use.
- Outside storage shall be in accordance with the standards presented here.
 - Outside storage shall be located to the rear of the primary structure and within an area defined by lines extended and continuing from the side facades of the primary structure. No outside storage shall be allowed in the front of or on the sides of primary structures.

- Outside storage shall be screened or made visually obscure from public or private rights-of-way contained within the PUD and/or adjacent, adjoining or abutting properties not contained within the PUD, such screening or visual obstruction being accomplished by installing opaque fences or landscaped berms or a combination of both. Berms, if used, shall be at least three (3) feet in height and landscaped with at least seven (7) evergreen trees per one hundred (100) linear feet and two (2) shade trees per one hundred (100) linear feet. Upon planting, evergreen trees shall be at least eight (8) feet tall and shade trees shall be at least two (2) inches in caliper. Landscaping of outside storage areas shall be maintained.

SECTION 6. LANDSCAPING. Attached hereto and incorporated herein by reference as Exhibit "4" are landscaping standards, set forth in Section 16.06 of the Zoning Ordinance (the "Landscaping Standards"). Those Landscaping Standards, as they exist and are in force on the date of the enactment of the Oak Ridge Properties, PUD, shall apply to the Development, with the following exceptions:

A) Perimeter buffer yard landscaping and buffer yard landscaping between the P.U.D. and western residential property (along Oak Ridge Road) shall be as follows:

- 1) Perimeter buffer yards along Oak Ridge Road shall be 25 feet wide and landscaped using a combination of berms and landscaping. This treatment shall be consistent along the entire perimeter of the PUD, which is adjacent to Oak Ridge Road. Berms shall be at least four (4) feet in height with 3:1 slopes and landscaped with at least seven (7) evergreen trees per one-hundred (100) lineal feet and two (2) shade trees per one-hundred (100) lineal feet. Ornamental trees may be substituted, one (1) for one (1), for evergreen trees, provided at least sixty (60) percent of the trees used are evergreen trees.
- 2) Existing trees shall be preserved on the northern property line of the P.U.D. and as described above.

SECTION 7. US HIGHWAY 31 OVERLAY ZONE. The US Highway 31 Overlay Zone Standards and Restrictions do not apply to the real estate contained in this PUD.

SECTION 8. SIGNAGE. The signage within this PUD shall be in compliance with the Westfield Zoning Ordinance. Sign permits shall be required.

SECTION 9. PHASING SEQUENCE. The phasing of this PUD shall be complied with over the next fifteen (15) years. If there is a conflict in phasing and timing between WC 16.04.190 and this Ordinance; then this Ordinance shall control. The Developer/Owner of the PUD shall not lose any rights with respect to development of the site from the fact that the phasing and timing is not done in compliance with the above-described regulations. At the expiration of the 15-year time period, the developer may request an extension of time from the Westfield Town Council and re-submit the build-out schedule of this PUD.

SECTION 10. TRAFFIC. The Developer commits to control work-site vehicle traffic leaving the Custom Concrete facility. The work-site vehicle traffic will be required to exit the real estate onto Westfield Park Road from the location depicted on the concept plan and will not be allowed to exit to the west onto Oak Ridge Road.

The developer has obtained contemporaneous with this PUD Ordinance a comprehensive traffic analysis, and said analysis has been submitted for the files in the Community Development Department. These traffic commitments shall supersede any requirement of traffic studies as any development plans are approved pursuant to this Ordinance and shall supersede if in conflict traffic study requirements of Ordinance WC 16.04.190 due to the fact that the developer is committing and limiting traffic at the time of the adoption of the PUD Ordinance.

SECTION 11. PUBLIC AND PRIVATE STREETS. Public or private streets shall be allowed in this industrial subdivision. The street pavement shall be 36 feet in width. Private streets shall be maintained by the to-be-created Non-Profit Property Owner's Association.

SECTION 12. RECREATIONAL AMENITIES. The Developer commits to dedicate to the Town of Westfield the former railroad right-of-way along the northern portion of the PUD tract to be used by the Town or its assignees for a linear park. The Developer commits to make available to the occupants of the PUD access to the linear park by street layout and/or pedestrian access easements.

SECTION 13. CONCEPT PLAN. The Concept Plan is incorporated herein and approved and marked as Exhibit "5."

Upon motion duly made and seconded, this PUD Ordinance was fully passed by the members of the Town Council this 8th day of September, 2003.

TOWN COUNCIL, TOWN OF WESTFIELD

BY: _____

AYE

NAY

_____ John Hart _____

_____ Theresa O. Skelton _____

_____ Michael McDonald _____

_____ Mic Mead _____

_____ David Mikesell _____

ATTEST:

Cindy Gossard, Clerk-Treasurer
Town of Westfield, Indiana

This Ordinance prepared by: Gordon D. Byers
Attorney at Law
949 Conner Street, Suite 101
Noblesville, Indiana 46060

EXHIBIT 1

LEGAL DESCRIPTION

CORPORATE QUIT CLAIM DEED

MAIL DEED TO: Joe L. Carr & Betty I. Carr
2816 W. 193rd Street
Westfield, IN 46074

MAIL TAX BILLS TO: (Same)
9338924

1996 Barnes & Thornburg Form 102a

AUDITOR'S RECORD
Transfer No. _____
Taxing Units _____
Date _____

NO INDIANA GROSS INCOME TAX DUE

THIS INDENTURE WITNESSETH, that U.S. RAILROAD VEST CORPORATION
the Grantor,
QUIT CLAIMS AND RELEASES TO Joe L. Carr & Betty I. Carr
the Grantee(s),
for and in consideration of one dollar (\$1.00), and other valuable consideration, the receipt of which
is hereby acknowledged, the following described real estate in Hamilton County, State
of Indiana.

The property commonly known as
See attached EXHIBIT "A". Description of the Right-of-Way hereby
conveyed is adjacent to the property described in Exhibit "B".
Subject to restrictions, conditions, covenants and
easements, legal highways, and all taxes, and zoning
restrictions.

Executed this 23rd day of July, 1993

U.S. RAILROAD VEST, CORPORATION

BY: Wayde P. Allen
Wayde P. Allen, President

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
13 day of August 1993
J. K. Cherry
Hamilton County

County of LaPorte)
State of Indiana) SS:
Parcel # _____

This Instrument Recorded AUG 18 1993
Sharon K. Cherry, Recorder, Hamilton County, IN

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared
Wayde P. Allen, the President of U.S. Railroad Vest Corporation and acknowledged the execution
of the foregoing Corporate Quit Claim Deed effective as of the date set forth above.

Herbert F. Kissell Notary Public
Signature
Printed Name
A Resident of Marshall County, Indiana
My Commission Expires 2/13/94
This instrument was prepared by: Wayde P. Allen

EXHIBIT "A"

Description of Right-of-Way:

That portion of railroad right-of-way located in Hamilton county, Section 1, Township 18N, Range 3E, a distance of 1,240 feet from the centerline of the right-of-way, a distance of 20 feet along the boundary immediately adjacent to grantee's real estate described in EXHIBIT "B". Above tract containing 24,800 square feet more or less.

The above tract containing .569 acres. South side.

9338924

EXHIBIT "B"

Part of the West Half of the Northwest Quarter of Section 1, Township 18 North, Range 3 East, Hamilton County, Indiana, and being more particularly described as follows: Beginning at the intersection of the West line of said half-quarter section with the South right of way line of Chicago and Southeastern Railroad; thence South along said west line to the Southwest corner of said half-quarter section; thence East along the South line of said half-quarter section 80 rods to the Southeast corner thereof thence North along the East line of said half-quarter section to said South railroad right of way line; thence West along said South right of way line to the point of beginning and containing 47.5 acres, more or less. Subject to all legal easements and rights of way of record.

The Instrument Recorded AUG 13 1993
Sharon K. Olsney, Recorder, Hamilton County, IN

9338924

76 am

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
30 day of May, 2002
Robin McNeill Auditor of Hamilton County
Parcel # _____

File Number: 20244
Parcel Number: _____

200200038931
Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L CLARK
05-30-2002 12:13 PM
HARR DEED 16.00

WARRANTY DEED

THIS INDENTURE WITNESSETH, That Jeff D'Alto and Donald A. Crans and James J. Kent, Their Successors and/or Assigns, (Grantor) of Hamilton County, in the State of Indiana, CONVEY AND WARRANT(S) to Oak Ridge Properties, LP (Grantee) of Hamilton County, in the State of Indiana, for the sum of One and 00/100 Dollars (\$1.00) and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the following described real estate in Hamilton County, State of Indiana:

Part of the Northwest Quarter of Section 1, Township 18 North, Range 3 East in Washington Township, Hamilton County, Indiana, described as follows:

Commencing at the Northeast corner of the Northwest Quarter of Section 1, Township 18 North, Range 3 East, said corner being located 79.77 feet North 89 degrees 49 minutes 58 seconds East (assumed bearing) from the Southeast corner of Southwest Quarter of Section 36, Township 19 North, Range 3 East; thence South 89 degrees 49 minutes 58 seconds West on the North line of said Northwest Quarter 476.30 feet to the centerline of Westfield Park Road; thence South 01 degrees 02 minutes 08 seconds West on the center line of Westfield Park Road 582.00 feet to the point of curvature of a curve to the right having a radius of 325.00 feet; thence Southwesterly curving to the right, on said centerline, an arc distance of 98.38 feet to the point of tangency of said curve; thence South 18 degrees 22 minutes 43 seconds West on said centerline and tangent to said curve 121.06 feet to the point of curvature of a curve to the left having a radius of 300.00 feet; thence Southwesterly curving to the left of said centerline, an arc distance of 96.23 feet to the point of tangency of said curve; thence South 00 degrees 00 minutes 00 seconds on said centerline and tangent to said curve 757.22 feet; thence South 90 degrees 00 minutes 00 seconds West, leaving said centerline, 560.76 feet (deed, 567.54 feet measured) to the place of beginning of the within described real estate, being the approximate centerline of the Anna Kendall legal Drain (aka Grassy Branch) thence South 90 degrees 00 minutes 00 seconds West 154.03 feet (deed, 147.25 feet measured) to the Westerly line of real estates described in a Warranty Deed recorded as Instrument Number 8803348 in the Office of the Recorder of Hamilton County, Indiana; thence South 01 degrees 04 minutes 34 seconds East on the Westerly line of said real estate 761.48 feet to the South line of said Northwest Quarter; thence North 86 degrees 46 minutes 06 seconds East on the South line of said Northwest Quarter 676.56 feet to the Westerly right-of-way line of the aforesaid Westfield Park Road; thence North 00 degrees 00 minutes 00 seconds on said right-of-way line 86.85 feet said point being the approximate centerline of the aforesaid Anna Kendall legal drain; thence Northwesterly with the meandering of the centerline of said legal drain to the place of beginning.

Subject to any and all easements, agreements and restrictions of record. The address of such real estate is commonly known as: Westfield Business Park, Westfield, Indiana 46074

Tax bills should be sent to Grantee at such address unless otherwise indicated below.

IN WITNESS WHEREOF, Grantor has executed this deed this 20th day of May, 2002.

EXHIBIT 2

PERMITTED USES

Exhibit 3

Land Use List
Oak Ridge Properties L.P.
0307-PUD-05

Key: Highlighted uses are the only uses on this list that are recommended for lots that abut Oak Ridge Road, but they may locate anywhere in the project.

Uses that are **not** highlighted are **not** permitted on lots that abut Oak Ridge Road, but are permitted anywhere else in the development.

Advertising and business signs (including fabrication)

~~Assembly halls~~

Auction rooms

Auto repair garages

Auto rust proofing

Auto storage (okay if totally enclosed in a building)

~~Bicycle sales, rental, etc~~

~~Blueprinting, photocopying, etc~~

Cemetery monuments etc

Charitable donation pick up station

~~Charitable institutions~~

~~Civic clubs~~

Commercial parking lots etc

Commissary, food catering

Concrete contractors (limited to one - Custom Concrete)

~~Consumer services/offices~~

~~Custard stands~~

~~Deli~~

Distributors, inside storage

~~Dry cleaning/laundry pickup~~

~~Educational institutions~~

~~Employment agencies~~

Exterminators

~~Financial institutions~~

~~Florists~~

Frozen food stores/lockers

Construction/building-related contractors

Glass fabrication/installation

~~Government offices/institutions~~

Health, fitness & exercise center

Home remodeling co.

~~Insurance co~~

~~Laundromats, & self-service dry cleaning~~

~~Lawyers~~

~~Locksmith shop~~

Exhibit 3

Hospital/medical/health-related offices/institutions

Mortuaries

Newspaper publishing

Pet grooming

Philanthropic institutions

Photography studio

Picture framing

Printing and photocopying

Radio/TV service

Real Estate offices

Shoe repair

Storage/transfer (household goods)

Taylor/seamstress

Taxidermist

Tennis facilities

Testing laboratories

Tire/auto service center

Tool/light equipment rental

Travel bureaus

Upholsters

Warehouses-inside storage

Wholesalers-inside storage

Assembly operation of pre-manufactured parts, components

Assembly, repair/manufacturing of light components parts

Data processing

Engineering/research labs

Industrial schools/training facilities

Machine, welding, tool & die shops

Manufacturing & Assembly of:

- Communication equipment
- Major household appliances
- Marine equipment
- Office equipment
- Cabinets
- Cans & containers
- Cloth products from finished cloth
- Furniture
- Glass & glass products
- Jewelry
- Musical instruments
- Non-alcoholic beverages
- Office machinery
- Optical goods
- Paper boxes/products from finished paper

Exhibit 3

- Portable household appliances, electric hand tools, etc
- Recording instruments, phonograph records, etc
- Tools, implements, machinery

Mattresses manufacturing and upholstering

Milk processing, bottling & manufacturing of milk products

Pharmaceutical, medicine & cosmetic manufacturing

Secondary food processing and packaging (initially processed off the premises)

Stamping & fabricating metal shops

Cemeteries-human or pet

~~Convents, monasteries, rectories, parishes~~

~~Office buildings-general purpose~~

Wireless communication service facilities

EXHIBIT 3

**ENCLOSED INDUSTRIAL
DISTRICT REGULATIONS**
(WC 16.04.060)

WC 16.04.060 Industrial Districts

A. Performance Standards - The industrial uses defined below, including accessory buildings and uses, are permitted in the districts indicated in Figure 1 in accordance with the requirements of this section. No activity involving the storage, utilization or manufacture of materials or products which decompose by detonation shall be permitted unless specifically approved and licensed by the Town Council and then only in the OI district. Such activity shall be conducted in accordance with the rules promulgated by the Indiana State Fire Marshal. Such materials shall include, but are not limited to, all primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, HMX, PET, and picric acid, propellants and components thereof, such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerin; unstable organic compounds such as acetylides, tetrazoles, and ozonides, strong oxidizing agents such as liquid oxygen, perchloric acid, perchlorates, chlorates, and hydrogen peroxide in concentrations greater than 35 percent; nuclear fuels, fissionable materials and products and reactor elements such as uranium 235 and plutonium 239.

The restrictions of this section shall not apply to (1) the activities of site preparation or construction, maintenance, repair, alterations, modification or improvement of buildings, equipment or other improvements on or within the lot line; (2) the operation of motor vehicles or other facilities for the transportation of personnel, materials or products; (3) conditions beyond the control of the user such as fire, explosion, accidents, failure or breakdown of equipment or facilities or emergencies; (4) safety or emergency warning signals or alarms necessary for the protection of life, limb or property.

1. **EI** - An enclosed industrial district is one for industry to conduct their operations entirely within enclosed buildings of any size and shall be used so as to comply with the standards in paragraph C. herein.
2. **OI** - An open industrial district is one for industry requiring both buildings and open area for manufacturing, fabricating, processing, extraction, heavy repairing, dismantling, storage or disposal of equipment, raw materials, manufactured products or wastes, and shall be used so as to comply with the standards in paragraph C. herein.
3. Standards for Enclosed and Open Industrial Uses:
 - a) **Smoke** -
 - For Enclosed Industrial district the emission of more than 70 smoke units per hour per stack and emissions in excess of Ringelmann No. 2 are

prohibited, except that for one hour during any 24 hour period, this rate may be increased to 80 smoke units per stack up to and including ringelmann No. 3 for the purging, soot blowing and fire cleaning.

- For Open Industrial districts the emission of more than 90 smoke units per hour per stack and emission in excess of ringelmann No. 3 are prohibited, except that for a one hour period during the 24 hour period this rate may be increased to 120 smoke units per hour per stack, still at ringelmann No. 3 for purposes of process purging, soot blowing and fire cleaning.
- b) **Particulate Matter** - The rate of emission of particulate matter from an individual process within the boundaries of any lot shall not exceed a figure of 0.06 pounds per 1,000 pounds of effluent gas for enclosed industrial use, not 0.2 pounds per 1,000 pounds of effluent gas for open industrial use. For enclosed industrial use and open industrial use not more than 50 percent by weight particles larger than 44 microns (325) mesh shall be allowed.
- c) **Odor** - Any enclosed or open industrial use activity or operation which releases odors to the atmosphere shall be so controlled as to insure that it will produce no public nuisance or hazard at or beyond the nearest residential district boundary line.
- d) **Poisonous and Injurious Fumes and Gases** - The emission of toxic or injurious fumes and gases shall be controlled so as to comply with the following: The emission from any source shall not cause at or beyond any lot line, concentrations of toxic and/or injurious fumes and gases in excess of 10 percent for an enclosed industrial use, and 25 percent for an open industrial use, of the threshold limit as set for the fume or gas in question in the "Threshold Limit Values for Toxic Materials in Industry" issued by the Indiana Department of Environmental Management, from the American Conference of Governmental Hygienists, latest issue. The emission of any gas or fumes across lot lines in such concentrations as to be detrimental to or endanger public health, safety, comfort and welfare or shall cause injury or damage to property or business is prohibited.
- e) **Glare and Heat** - No enclosed or open industrial use, operation, activity or structure shall cause heat or glare in such a manner as to be a public nuisance at or beyond any residential or business district boundary.
- f) **Vibration** - Any enclosed or open industrial use creating intense earthshaking vibrations such as are created by a heavy drop forge shall be set back from a residential district boundary at least 250 feet, or at least 150 feet from a business district boundary. Earthshaking vibrations at the industrial property line shall not be in violation of this ordinance as long as the vibration is not perceptible without the aid of instruments.

g) Noise -

- 1) **Enclosed Industrial Use** - At no point 125 feet from the boundary of an enclosed industrial district, or any district which permits an enclosed industrial use, shall the sound pressure level of any operation or plant (other than background noises produced by sources not under the control of this chapter) exceed the decibel limits in the octave bands designated below:

Enclosed Industrial Use

Octave Band Frequency (Cycle Per Second)	Maximum Permitted Sound Level (in decibels) 125 Feet from District Adjoining Residential District Boundary	Maximum Sound Level (in decibels) 125 Feet from District Adjoining Business District Boundary
0 to 75	75	80
76 to 150	70	75
151 to 300	65	70
301 to 600	59	64
601 to 1200	53	58
1201 to 2400	48	53
2401 to 4800	48	49
Above 4800	41	46

Sound levels shall be measured with a sound level meter and associated octave band analyzer or filter, manufactured in compliance with standards prescribed by the American Standards Association.

- 2) **Open Industrial Use** - At no point 125 feet from the boundary of an open industry district shall the sound pressure of any operation or plant (other than background noises produced by sources not under control of this chapter) exceed the decibel limits in the octave bands designated as follows:

Open Industrial Use

Octave Band Frequency Cycle Per Second	Maximum Permitted Sound Level (in decibels) 125 feet from District Adjoining Residential District Boundaries	Maximum Sound Level (in decibels) 125 feet from District Adjoining Business District Boundaries
0 to 75	75	81
76 to 150	70	76
151 to 300	66	72
301 to 600	62	68
601 to 1200	57	63
1201 to 2400	53	59
2401 to 4800	49	55
Above 4800	45	51

Sound levels shall be measured with a sound level meter and associated octave band analyzer or filter, manufactured in compliance with standards prescribed by the American Standards Association.

h) **Fire Hazards** - The storage, utilization or manufacture of solid materials, or products ranging from incombustible to moderate burning is permitted. The storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted provided the following conditions are met:

- For Enclosed Industrial use and Open Industrial use said materials shall be stored, utilized or manufactured in such a manner and protected by such means as approved by the Indiana State Fire Marshal
- For Enclosed Industrial use and Open Industrial use the storage, utilization or manufacture of flammable liquids or gases which produce flammable or explosive vapors shall be permitted in accordance with the rules and regulations of the Indiana State Fire Marshall regulating the use, handling, storage and sale of flammable liquids - Official Regulation Number 5, effective July 23, 1973.

4. Other provisions and requirements for Enclosed Industrial districts and Open Industrial districts are as follows:

- The disposal of wastes discharged into public streams and sewage systems shall meet the requirements of the stream pollution control law of the State of Indiana (IC 13-1-3) as amended.
- One-half of an alley abutting the rear of a lot may be included in the rear yard, but such alley space shall not be included for loading and unloading berths.

- In all districts permitting enclosed industrial districts or open industrial districts, it is permissible to erect more than one principal building devoted to enclosed industrial or open industrial use on a lot.
- Buildings may be erected higher than the normal maximum height of 60 feet in the enclosed industrial, open industrial, and general business districts, provided that buildings shall be set back from the required side yard lines and rear yard lines one foot for each two feet of height above 45 feet.
- Chimneys, cooling towers, elevator bulkheads, fire towers, scenery lofts, power transmission lines or towers and distribution poles and lines, and essential mechanical appurtenances may be erected to any height not prohibited by other laws or ordinances.
- The Plan Commission shall review and approve plans to assure adherence to developmental standards and overall conformity to the master plan and Zoning Ordinance.

B. EI - Enclosed Industry District -

1. Permitted Uses -

- All industrial uses as outlined in Figure 2 are permitted in this district provided the use conforms with the applicable requirements set forth in the General Requirements and Standards of this section.
- All businesses listed under "Enclosed Industrial" as contained in Figure 2.

2. Special Exceptions -

- General construction companies
- Painting and decorating contractors - heavy commercial
- Electrical contractors - heavy commercial
- Plumbing contractors - heavy commercial
- Concrete contractors - heavy commercial
- Roofing contractors - heavy commercial
- Sheet metal contractors - heavy commercial
- Septic system contractors
- Ice and coal stations
- Coal yards
- Salt storage - outside
- Night clubs, bars and restaurants which have less than 50% of their proposed gross sales derived from food sales
- Kennels

- Lumber yards - including millwork
- Liquor stores
- Taverns
- Amusement parks
- Manufactured home parks - in accordance with the provisions of WC 16.04.090
- Convents, monasteries, theological schools, rectories, parish houses

Planned Business Developments for 5 or 10 acres or more for all classes of Local and General Businesses contained in Figure 2 do not require an approval as a special exception.

3. Minimum Tract Requirement - 3 Acres
 4. Lot Frontage on Road - Not less than 70 feet
 5. Minimum Setback Lines -
 - Front Yard - Not less than 100 feet on expressways, primary arterials, and secondary arterials. Not less than 40 feet on all other streets.
 - Side Yard - Not less than 20 feet in width except a side yard abutting a street or road shall be not less than 40 feet in width
 - Rear Yard - Not less than 20 feet in depth
 - Minimum Lot Width at Building Line - None
 6. Maximum Building Height - Shall not exceed 60 feet
 7. Minimum Gross Ground Level Space - None
 8. Parking - Off-street parking shall be provided in accordance with the provisions in this chapter.
 9. Loading and Unloading Berths - Loading and unloading berths shall be provided in accordance with the provisions of this chapter.
- C. OI - Open Industrial District -
1. Permitted Uses - The uses as outlined in Figure 2 are permitted in this district provided the use conforms with the applicable requirements set forth in the General Requirements and the Performance Standards of this section.

2. Special Exceptions -

- Amusements Parks
- Explosive, matches and fireworks manufacturing
- Abattoir
- Coke manufacturing
- Kennels
- Foundries
- Leather products manufactured from finished leather
- Thermal, electric, steam and atomic power plants
- Creosote manufacturing and treatment
- Auto Race Tracks and Speedways
- Fat Rendering and Fertilizer Manufacturing
- Heliports
- Leather Curing and Tanning
- Manufacture of Chemicals and Gasses
- Manufacture of Cement, Lime or Gypsum
- Manufacture of Detergents and Soaps
- Glue-Manufacturing
- Malt Products, Brewery, Distiller of Liquor & Spirits
- Oil Processing, Refining and Manufacturing
- Open Hearths and Blast Furnaces
- Production of Emulsified Asphalt and Preparation of Asphaltic Concrete Paving Materials
- Radio, Facsimile, TV and Microwave Towers
- Reduction Plants
- Railroad and Other Mass Transit Right-of-Way and Track
- Sand, Gravel, or Aggregate Processing
- Rock Crushing, Grinding or Milling
- Slaughtering and Allied food Processing
- Slaughter House
- Stockyards - for Shipping, Holding and Sale of Animals
- Tar, Tar Paper Products -Manufacture and Processing
- Scrap Metal, Junk or Salvage Storage
- Auto Wrecking or Shredding
- Material Recycling Facilities (MRF's)
- Commercial Composting Facilities

3. Minimum Tract Requirement - 3 Acres

4. Front Frontage on Road - Not less than 70 feet

5. Minimum Setback Lines -

- Front Yard - Not less than 100 feet on expressways, primary arterials, and secondary arterials. Not less than 40 feet on all other streets.
- Side Yard - Not less than 20 feet in width except a side yard abutting a street or road shall be not less than 40 feet in width
- Rear Yard - Not less than 40 feet in depth
- Minimum lot width at building line - None

6. Maximum Building Height - Shall not exceed 60 feet

7. Minimum Gross Ground Level Space Required - None

8. Parking - Off-street parking shall be provided in accordance with the provisions of this ordinance.

9. Loading and Unloading Berths - Loading and unloading berths shall be provided in accordance with the provisions of this ordinance.

D. BI-PD - Enclosed Industrial - Planned Development - This district is established for the purpose of developing businesses that qualify as enclosed industrial and used as a part of a comprehensive development including industrial parks.

1. Permitted Uses -

- All industrial uses as outlined in Figure 2 are permitted in this district provided the use conforms with the applicable requirements set forth in the general requirements and standards of this section.

- All businesses listed under "Enclosed Industrial" as contained in Figure 2.

2. Special Exceptions -

- General Construction Companies
- Painting and Decorating Contractors - Heavy Commercial
- Electrical Contractors - Heavy Commercial
- Plumbing Contractors - Heavy Commercial
- Concrete Contractors - Heavy Commercial
- Roofing Contractors - Heavy Commercial
- Sheet Metal Contractors - Heavy Commercial
- Septic System Contractors

- Ice and Coal Stations
- Coal Yards
- Salt Storage - Outside
- Night Clubs, Bars and Restaurants which have less than 50% of their proposed gross sales derived from food sales
- Kennels
- Lumber Yards - Including Millwork
- Liquor Stores
- Taverns
- Amusement Parks
- Manufactured Home Parks - In accordance with the provisions of WC 16.04.090
- Convents, Monasteries, Theological Schools, Rectories, Parish Houses
- Material Recycling Facilities (MRFs)
- Commercial Composting Facilities

Planned Business Developments for 5 or 10 acres or more for all classes of Local and General Businesses contained in Figure 2 do not require an approval as a special exception.

3. **Minimum Tract Requirement - 20 acres**
4. **Lot Frontage on Road - Not less than 200 feet**
5. **Minimum Setback Lines - Front, Side and Rear Yards - Not less than 100 feet from expressways, primary arterials, and secondary arterials. Not less than 40 feet from all other streets.**
6. **Maximum Building Height - Shall not exceed 60 feet**
7. **Minimum Ground Level Square Footage - None: However, not more than eighty (80) percent of the total area of any lot or any development on multiple lots shall be occupied by buildings, roads, parking area, drainage facilities and other accessory uses.**
8. **Parking - Off-street parking shall be provided in accordance with the provisions of this chapter.**
9. **Loading and Unloading Berths - Loading and unloading berth shall be provided in accordance with the provisions of this chapter.**
10. **Application Procedures - Applications for a planned general office development shall consist of the following steps:**

a) Preliminary plans presented to the Building Commissioner must -

- Be drawn to scale.
- Show dimensional boundaries of property to be developed.
- Indicate location, type and size of structures, and use and arrangement of all structures (details are not necessary).
- Show the proposed number of parking and loading spaces.
- Show the proposed locations and width of driveways, entrances and exits.
- Show all areas to be maintained as permanent open space.
- Provide a traffic study to include:
 - 1) A comparative analysis of present capacity of streets adjacent to the proposed development with potential capacity volumes, taking into consideration the effect the proposed development will have upon engendering additional traffic; and
 - 2) A circulation plan for all streets (existing and proposed) which will show recommendations for controlling, signaling, channeling, storing and warning traffic.
- Include a statement of financial responsibility which demonstrates the ability of the developer to proceed with construction and development
- Show locations and dimensions of sidewalks
- Provide for dedication of any right-of ways that may be necessary
- Show location of any easements for utilities, public or private
- Include a statement of proposed covenants to insure that the development plan is reasonable
- Insure proper drainage
- Provide a statement as to the proposed timetable for development if the project is to be done in phases
- Submit a preliminary plan indicating the proposed location of land within the property to be developed. Such plan shall indicate the proposed general location of such future buildings and construction requirements such as exterior design and height that shall be met by the developer, tenant, or owner including landscaping requirements, parking, traffic control patterns, and other information which will satisfy the Plan Commission as to the total size and impact of the planned business development

b) After approval of the preliminary plans by the Plan Commission, the following is required for final plan approval:

- Engineering plans and specifications for all sanitary sewers, storm sewers, and water distribution lines, as well as telephone, gas and electric utility lines
- Any changes from preliminary plans
- Deed or easement agreements
- Final Construction schedule stating the date for final construction on the proposed development
- File a surety bond or escrow agreement to insure the final completion of all site improvements which includes streets, drives, walks, walls, water mains, storm and sanitary sewers, and landscape plantings. The bond shall be made to the town for an amount to be specified by the Town Council.
- Landscaping Plan

E. **OI-PD - Open Industrial - Planned Development** - This district is established for the purpose of developing businesses that qualify as open industrial and used as a part of a comprehensive development including industrial parks.

1. **Permitted Uses** - All open industrial uses as outlined in Figure 2 are permitted in this district provided the use conforms with the applicable requirements set forth in the general requirements and standards of this section.

2. **Special Exceptions** -

- Coal Yards
- Ice and Coal Station
- Scrap Metal, Junk or Salvage, Auto Wrecking-Shredding
- Salt Storage
- Trucking Companies
- Abattoir (Slaughterhouse)
- Coke Manufacturing
- Concrete Mixing
- Creosote Manufacturing and Treatment
- Fat Rendering and Fertilizing Manufacturing
- Foundries
- Leather Curing
- Malt Products, Brewery, Distillation of Liquor and Spirits
- Manufacturing of Cement, Lime, Gypsum
- Manufacturing of Chemicals and gases
- Manufacturing of Detergents and Soaps
- Manufacturing of Explosives, Matches and Fireworks
- Manufacturing of Glue

- Manufacturing of Paper
- Manufacturing of Railroad Equipment
- Motor Truck Terminals
- Oil Processing and Refining, Manufacturing
- Hazardous Waste Facility
- Open Hearths and Blast Furnaces
- Production of Emulsified Asphalt and Asphalt Plants
- Reduction Plants
- Rock Crushing, Grinding, or Milling
- Sand, Gravel or Aggregate - Washing, Screening, Processing
- Slaughter House
- Slaughtering and Allied Food Processing
- Stockyards
- Tar and Tar Paper
- Atomic Power Plants
- Amusement Park
- Auto or Motorcycle Track
- Pet Cemeteries
- Kennels

Planned Business Developments for 5 or 10 acres or more for all classes of Local and General Businesses contained in Figure 2 do not require an approval as a special exception.

3. Minimum Tract Requirement - No real estate shall have an initial zone classification of OI-PD unless it is at least 20 acres in gross area.
4. Minimum Lot Size - None
5. Lot Frontage on Road - Not less than 200 feet
6. Minimum Setback Lines - Front, Side and Rear Yards - Not less than 100 feet from expressways, primary arterials, and secondary arterials. Not less than 40 feet from all other streets.
7. Maximum Building Height - Shall not exceed 60 feet
8. Minimum Ground Level Square Footage - None. However, not more than eighty percent of the total area of any lot or any development on multiple lots shall be occupied by buildings, roads, drainage facilities and other accessory uses.
9. Parking - Off-street parking shall be provided in accordance with the provisions of this chapter.

10. **Loading and Unloading Berths** - Loading and unloading berths shall be provided in accordance with the provisions of this chapter.

11. **Application Procedures** - Applications for a Planned General Office Development shall consist of the following steps:

a) Preliminary plans presented to the Building Commissioner must:

- Be drawn to scale.
- Show dimensional boundaries of property to be developed.
- Indicate location, type and size of structures, and use arrangement of all structures (details are not necessary).
- Show the proposed number of parking and loading spaces.
- Show the proposed locations and width of driveways, entrances and exits.
- Provide a traffic study to include:

1) A comparative analysis of present capacity of streets adjacent to the proposed development with potential capacity volumes, taking into consideration the effect the proposed development will have upon engendering additional traffic; and

2) A circulation plan for all streets (existing and proposed) which will show recommendations for controlling, signaling, channeling, storing and warning traffic.

- Include a statement of financial responsibility which demonstrates the ability of the developer to proceed with construction and development
- Show locations and dimensions of sidewalks.
- Provide for dedication of any right-of ways that may be necessary.
- Show location of any easements for utilities, public or private.
- Include a statement of proposed covenants to insure that the development plan is reasonable.
- Insure proper drainage.
- Provide a statement as to the proposed timetable for development if the project is to be done in phases.
- Submit a preliminary plan indicating the proposed location of land within the property to be developed. Such plan shall indicate the proposed general location of such future buildings and construction requirements such as exterior design and height that shall be met by the developer, tenant, or owner including landscaping requirements, parking, traffic control patterns, and other information which will satisfy the Plan Commission as to the total size and impact of the planned business development.

b) After approval of the preliminary plans by the Plan Commission, the following is required for final plan approval:

- Engineering plans and specifications for all sanitary sewers, storm sewers, and water distribution lines, as well as telephone, gas and electric utility lines.
- Any changes from preliminary plans.
- Deed or easement agreements.
- Final Construction schedule stating the date for final construction on the proposed development.
- File a surety bond or escrow agreement to insure the final completion of all site improvements which includes streets, drives, walks, walls, water mains, storm and sanitary sewers, and landscape plantings. The bond shall be made to the town for an amount to be specified by the Town Council.
- Landscaping Plan.

EXHIBIT 4

LANDSCAPING STANDARDS
(WC 16.06 ET SEC)

LANDSCAPING STANDARDS

Chapter 6. Landscaping Standards

WC 16.06.010 - General Landscaping Provisions

- A. Purpose and Intent - This Chapter establishes regulations for the preservation of natural features and minimum standards for the provision, installation, and maintenance of landscape materials. The regulations specified herein are intended to promote the health, attractiveness, and safety of the community; foster aesthetically pleasing and environmentally sensitive development that protects and preserves the appearance and character of the community; and encourages the preservation of natural areas such as mature tree stands and stream corridors.

This Chapter establishes standards to manage and control drainage and erosion; to increase the compatibility of development with the natural environment and adjacent developments; to encourage connectivity through the use of a pedestrian network; and to maintain and increase the value of land by requiring landscaping to be incorporated into developments. The standards set forth herein promote important physical and psychological benefits through the use of landscaping to reduce noise and lighting; promote innovative and cost conscious approaches to the design, installation, and maintenance of landscaping; and establish procedures and standards for the administration and enforcement of this Chapter.

B. Applicability

1. This Chapter shall apply to all zoning districts and all public, private, and institutional developments, except those approved prior to the enactment of this Chapter and those that have fulfilled filing requirements at the time of the enactment of this Chapter.
2. This Chapter shall apply to nonresidential uses, residential subdivisions, or other residential developments that require site development plan approval or a special exception.
3. This Chapter shall not apply to previously-authorized building permits, a previously-approved site development plans, or previously-approved subdivision plats.
4. This Chapter shall not apply to detached single-family residences not located within subdivisions.

C. Content of Landscape Plan - Landscaping plans shall comply with the following standards:

1. Landscape plans shall be submitted for all required green belt buffer areas, buffer yards, conservation easements, landscape easements, and areas owned in common within proposed developments. It is recommended that landscape plans be

prepared by licensed landscape architects, nurserymen, or other professionals experienced in landscape design, installation, and maintenance. A narrative describing ownership, use, and maintenance responsibilities of these areas should be specified in the submittal.

2. Landscape plans shall show the entire project drawn to scale on standard sized sheets (minimum 24" x 36") and shall contain the following information:
 - a. Names and addresses of owners, developers, plan preparers, plan preparation dates, scale of drawings, and north arrows;
 - b. Locations and dimensions of all existing and proposed structures, parking lots, driveways, roadways, rights-of-way, sidewalks, pedestrian pathways, bicycle pathways, ground signs, refuse disposal areas, bicycle parking areas, freestanding electrical equipment, recreation facilities, utility lines, easements, freestanding structural features, landscape improvements, earth berms, walls, fences, screens, sculptures, fountains, street furniture, lights, courts, paved areas, buffer yards, primary and secondary green space areas, and green belt space;
 - c. Locations, quantities, sizes, and names (botanical names and common names) – of planting materials;
 - d. Existing and proposed grading plans, indicating contours at not more than two-foot intervals;
 - e. Locations of barriers to be placed at or beyond driplines of trees to be preserved and types of materials to be used for barriers;
 - f. Planting and installation details as necessary to ensure conformance with required standards;
 - g. Details indicating specific grading measures or protective devices to be utilized where trees are to be preserved in areas of cut and fill; and
 - h. Tables clearly displaying relevant statistical information, including numbers of existing trees and numbers of trees preserved, for example.
 3. Standard size sheets at the same scale as landscape plans that display locations, sizes, and common names of existing individual trees that measure twelve (12) inches or more in caliper, areas of dense trees or shrubs, and other natural areas.
- D. Modifications - When a change in use occurs, or when modifications that require a building permit are made to existing structures, landscaping shall be required to be installed in a manner that is comparable in nature and extent to the impact of the proposed change or modification.

WC 16.06.020 - Preservation and Replacement of Trees

- A. Developers shall take reasonable measures to design and locate proposed structures in a manner that minimizes the destruction of significant tree specimens.
- B. Prior to site development plan approval or the issuance of a building permit, developers shall inventory all trees which possess a caliper measure of at least twelve (12) inches. Tree inventories shall depict locations, sizes, and common names of existing trees and individual shrubs; areas containing dense trees or shrubs; and other natural site features. Existing trees that are to be preserved shall be credited toward required landscaping requirements based on the sizes of such preserved trees.
- C. The following considerations shall be made in regard to tree preservation efforts:
 1. The practicability of arranging site plan components around existing features. Plans for groups of structures should be designed so as to preserve areas of high tree concentrations, desirable individual tree specimens, and desirable stands of trees and shrubs;
 2. The condition of vegetation with respect to continued vitality;
 3. The possibility of preserving vegetation through pruning rather than removal.
 4. The desirability of a particular tree or species by reason of its appearance; historic or ecological significance; botanical characteristics; and the function the vegetation would fulfill as a site plan component;
 5. The practical and economic possibility of designing the location and grades of proposed structures and paving to preserve existing vegetation; and
 6. The potential for interference with utility services along the use of roads and walkways.
- D. Tree preservation plans shall be submitted with site plans that detail locations, sizes, and common names of preserved trees; individual shrubs; areas of dense tree or shrub concentrations, and other natural features which are to be preserved or removed. No disturbance shall be permitted in the critical root zones of preserved trees. Disturbances include trenching, backfilling, driving or parking equipment, and dumping trash, oil, paint, or other materials detrimental to plant health.
- E. Should any tree designated for preservation die within five (5) years of project completion, the owner shall replace such tree with a tree (or trees) of equal tree preservation value within 180 days (see following paragraph for value calculation).
- F. Incentives to Preserve Trees – Existing trees that are preserved shall contribute to required on-site landscaping, based proportionally on their caliper measure. Certain “cull” species and deformed trees may not be permitted to be credited. Preserved trees under eight (8) inches in caliper shall be credited at the rate of one (1) times the caliper measure of such trees. However, trees with a caliper of less than two (2)

inches shall not qualify for credit. Preserved trees between eight (8) and sixteen (16) inches in caliper shall be credited at the rate of two (2) times the caliper measure of such trees. If preserved trees possess caliper measures of sixteen (16) inches or greater, credit shall be calculated at the rate of four (4) times the caliper measure of such trees. A qualifying six (6) inch caliper preserved tree shall be credited as three (3) required two (2) inch caliper trees. A qualifying fourteen (14) inch caliper preserved tree shall be credited as twenty-eight (28) required two (2) inch caliper trees. And, a qualifying eighteen (18) inch caliper preserved tree shall be credited as thirty-six (36) required two (2) inch caliper trees.

- G. Barriers shall be used to protect trees during site development. Barriers shall be specified on landscape plans and shall be placed at or beyond the driplines of trees to be preserved. Such barriers shall remain in place during site construction. No vehicles, machinery, tools, chemicals, construction materials, or temporary soil deposits shall be permitted within such barriers. No notices or other objects shall be nailed or stapled to preserved trees.
- H. Grading measures or protective devices, such as tree wells, tree walls, or specialized fill and pavement designs, shall be installed when necessary to preserve identified tree specimens.

WC 16.06.030 - Selection, Installation, and Maintenance of Plant Materials

A. Selection

1. **Shade Trees** - Shade trees shall be a minimum of eight (8) feet in height and have a caliper measure of at least two (2) inches, measured twelve (12) inches above finished grade. Shade trees shall be of a variety that will attain an average mature spread greater than twenty (20) feet.
2. **Evergreen Trees** - Evergreen trees shall be a minimum height of six (6) feet.
3. **Ornamental Trees** - Ornamental trees shall have a minimum trunk size of two (2) inches in caliper, measured six (6) inches above finished grade.
4. **Shrubs** shall possess a minimum height of eighteen (18) inches at the time of planting.
5. **Substitutions** - If plant substitutions become necessary due to seasonal planting problems or a lack of plant availability, revisions to planting plans shall be permitted based on the substitution list below. For on-site requirements only, substitutions may be made for up to one-half (50%) of required plants. If plant substitutions do not fulfill the following criteria, changes to previously-approved plans shall be resubmitted and reviewed for new approval.
 - a. 1 shade tree = 2 ornamental trees = 2 evergreen trees
 - b. 1 ornamental tree = 1 evergreen tree

B. Installation

1. Landscaping materials shall be installed in accordance with planting procedures established by the American Association of Nurseryman.
2. Required landscaping of development projects shall be completed prior to the issuance of Certificates of Occupancy for non-residential and multi-family projects, and prior to the issuance of building permits for more than fifty percent (50%) of the lots within each section of residential subdivisions. Landscaping installation may be delayed up to 120 days due to the following:
 - a. Periods of adverse weather, or
 - b. Conflicts between construction scheduling and proper planting conditions.

C. Maintenance

1. All newly planted vegetative material shall meet minimum American Standard for Nursery Stock Standards.
2. Landscaping shall be maintained in healthy growing condition. This includes:
 - a. Regular irrigation, weeding, fertilizing, pruning, mowing, and other maintenance of outside plant materials on the property;
 - b. Mature trees shall not be topped. They shall be pruned according to procedures established in the National Arborist Association Standards, published by the National Arborist Association;
 - c. Treating plant materials that exhibit evidence of insect pest or disease damage;
 - d. Replacement of dead or dying plant materials with specimens in good, healthy, growing condition. Replacement shall be completed using the same plant materials approved on landscape plans.
 - e. Replenishing natural landscape materials such as rock, stone, bark chips and shavings that no longer cover the area in which they were originally deposited.
 - f. Repairing, replacing, or maintaining structural landscaping features including, but not limited to fountains, reflecting pools, outdoor art work, screening walls, retaining walls, fences, benches or other street furniture elements, as necessary to maintain these items in good condition.
 - g. Any other action necessary to maintain landscaping installed in accordance with an approved landscape plan.
3. Plantings and landscaping features required by this Chapter shall be subject to inspection to verify continued compliance with this Chapter.

WC 16.06.040 - General Landscape Design Standards

- A. Consultation - A landscape architect, nurseryman, or other professional experienced in the installation and care of plant materials shall be consulted to ensure that proposed plants are appropriate and will survive.
- B. Scale and Nature of Landscaping - The scale and nature of landscaping materials shall be appropriate to the size of proposed structures. Large-scale buildings should be complemented by large-scale plants. Form, texture, color, pattern of growth, and adaptability to local conditions shall be considered when selecting plant materials.
- C. Clearance - Trees shall be planted so that when they reach maturity, there will be a minimum of ten (10) feet of clearance between tree trunks and structures, building overhangs, walls, fences, and other trees.
- D. Materials - Grass and other vegetative ground cover shall be used in all green space areas, including parking lot islands, except for decorative mulch planting beds containing trees and/or shrubs; and inert stabilization in areas subject to severe runoff or erosion.
- E. Lines of Sight - Plantings in landscaped areas shall not obstruct sight lines as per WC 16.04.230 2.v).
- F. Energy Conservation - Plantings shall be arranged to promote energy conservation wherever practical. This includes using deciduous trees on the south and west sides of buildings to provide shade from summer sun and planting evergreens on the north of buildings to insulate against winter winds.
- G. Noise Reduction - Properties adjacent to highly trafficked roads or businesses shall arrange landscaping to reduce the intensity of noise by reflecting, deflecting, or absorbing sound. Some techniques to accomplish this include using earth berms, walls, fences, or plantings to provide physical separation and to absorb noise. When a berm is used to form a visual screen in lieu of or in conjunction with a hedge or wall, it shall not exceed a slope of thirty (30) degrees and shall be completely covered with shrubs, grass, or other living ground cover.
- H. Landscape plans shall clearly identify areas where stone or other inert materials are to be used as ground cover. Areas not so designated shall be required to have grass or other vegetative ground cover.
- I. Trash and Loading Facilities - Trash dumpsters, trash pads, loading areas consisting of two or more loading spaces, loading docks, service areas, and maintenance areas shall be screened from residential uses and public roads. Screening of such facilities shall be achieved by using a six (6) feet high, completely opaque fence or wall, a six (6) feet high berm, or a six (6) feet high evergreen screen planted nine (9) feet on center in a double staggered row.
- J. Heating and Cooling Facilities - Ground-mounted heating and cooling units for nonresidential or multi-family structures shall be completely screened.

- K. Softening of Walls and Fences - Plant materials other than ground cover shall be placed intermittently (approximately every 40 feet) against long expanses (over 80 feet) of building walls, fences, and other barriers to create a softening effect. However, ground cover plants may supplement the plant materials required by this paragraph.
- L. Detention/Retention Basins and Ponds - Detention/retention basins and ponds shall be landscaped in a manner that replicates the natural form of ponds. Such landscaping shall include shade trees, ornamental trees, evergreens, shrubbery, hedges, and/or other plant materials.

WC 16.06.050 - On-Site and Street Frontage Landscaping Requirements

A. On-Site Standards

- 1. Yards, setback areas, and green space areas within developments shall be landscaped with live vegetation.
- 2. The minimum numbers of shade trees, evergreen trees, ornamental trees, and shrubs required to be planted are set forth in Table 16.06.050-01.

Table 16.06.050-01: Minimum On-Site Requirements

Land Use Type	Plant Materials		
	Shade Trees	Ornamental or Evergreen Trees	Shrubs
Single-Family Residential	4 per dwelling unit	2 per dwelling unit	4 per dwelling unit
Multi-Family in MF 1&2 districts only	1 per dwelling unit	1 per dwelling unit	4 per dwelling unit
Institutional Uses	2 per acre	3 per acre	10 per acre
Business Uses	10 per acre	10 per acre	25 per acre
Industrial Uses	5 per acre	5 per acre	25 per acre

A proportional decrease in the required number of trees is allowed if larger caliper trees are planted. Trees with caliper measures of four (4) inches may replace two (2) required two (2) inch caliper trees.

3. Institutional uses include, without limitation, schools, churches and government offices.
4. For Institutional uses:
 - o Trees required to be planted in interior parking lot landscaping areas may be counted toward meeting on-site landscaping requirements as set forth in the table above.
 - o Identified acreage for constructed athletic fields and courts (including the adjacent perimeter for coaching and spectator viewing), and constructed playgrounds with equipment may be subtracted from the total acreage before computing on-site requirements.
5. Trees should be grouped together whenever possible to simulate natural tree stands, versus trees being planted in straight rows.
6. Required trees and plantings within residential land uses must be planted somewhere within such residential land uses. Required trees and plantings within such land uses are not intended to be requirements per each lot, but are intended to be aggregate requirements per subdivision section or per multi-family development.
7. Required trees and plantings within non-residential land uses must be planted per each lot requirement. Trees and plantings are not credited to overall development requirements.
8. Existing trees or woodlands that are preserved may be counted toward minimum planting requirements.

B. Road Frontage Standards

1. In residential developments, where property abuts primary arterials, secondary arterials, or collector roads not internal to subdivisions, at least one shade tree per thirty (30) linear feet of road frontage shall be planted adjacent to road rights-of-way. Trees planted along road frontage in residential developments may be credited toward overall on-site landscaping requirements set forth in Table 16.06.050-01.
2. In non-residential developments where property abuts any public right-of-way, at least one shade tree per forty (40) linear feet of road frontage shall be planted adjacent to road rights-of-way. Trees planted along road frontage in non-residential developments may be credited toward overall on-site landscaping requirements set forth in Table 16.06.050-01.

3. Shade trees required to be planted along road frontage shall be located outside drainage and utility easements, shall be located in a manner that mitigates interference with infrastructure located within such easements and may be clustered or grouped in order to attain creative site design.
4. When evergreen and/or ornamental trees are preserved along road frontage and qualify for preservation credit, they may count 1:1 toward road frontage requirements.

WC 16.06.060 - Buffer Yard Requirements

- A. Plantings in buffer yards should physically separate and visually screen different land uses and/or zoning districts from one another without precluding connectivity between uses. Plants used for screening must reach a minimum height of forty-eight (48) inches within three years of installation, and be at least eighteen (18) inches tall when planted. Plantings in buffer yards shall consist of two (2) or more species of both trees and shrubs.
- B. Buffer sizes shall be determined by adjacent zoning districts and/or land uses in accordance with Table 16.06.060-01. If adjacent properties possess a mix of land uses, then the highest intensity use shall determine the required buffer yard size.

WESTFIELD-WASHINGTON TOWNSHIP ZONING ORDINANCE

Table 16.06.060 -- 01 : Minimum Required Buffer Yard

Land Uses	Adjoining									
	AG	SF <i>AG-SF1</i> <i>AG-SF1-I</i>	SF <i>SF2</i>	SF <i>SF3</i>	SF <i>SF4</i> <i>SF5</i>	MF	Institutional <i>Churches</i> <i>Schools</i> <i>Gov't Offices</i>	Commercial	Industrial <i>EI</i>	Industrial <i>OI</i>
AG	-	40	40	40	40	40	15	15	15	15
SF <i>AG-SF1</i> <i>AG-SF1-I</i>	40	-	20	20	20	20	40	40	40	40
SF <i>SF2</i>	40	20	-	20	20	20	40	40	40	40
SF <i>SF3</i>	40	20	20	-	20	20	40	40	40	40
SF <i>SF4</i> <i>SF5</i>	40	20	20	20	-	20	40	40	40	40
MF	40	20	20	20	20	-	40	40	40	40
Institutional <i>Churches</i> <i>Schools</i> <i>Gov't Offices</i>	15	40	40	40	40	40	-	15	40	40
Commercial	15	40	40	40	40	40	15	-	15	15
Industrial <i>EI</i>	15	40	40	40	40	40	40	15	-	15
Industrial <i>OI</i>	15	40	40	40	40	40	40	15	15	-

1. Institutional uses include, without limitation, schools, churches and government offices.
2. For primary institutional structures on lots of record (as of December 10, 2001, when Ordinance 01-16 was adopted) less than ten (10) acres in size adjacent to residential uses, the Plan Commission may approve a buffer yard width of less than 40 feet (but no less than 15 feet) provided that:
 - The proposed structure shall be finished in a manner that is in character with the adjacent neighborhood.

- The buffer yard landscaping may be required to be supplemented with a fence or masonry wall to assist in addressing the impact of the proposed use on adjacent existing uses.

No drives or parking areas shall be permitted in the reduced buffer yard area.

- C. Within buffer yards, at least one (1) evergreen tree per thirty (30) linear feet and five (5) evergreen shrubs per thirty (30) linear feet shall be planted. Such plantings should be arranged in a manner that creates a visual barrier between uses without precluding connectivity between uses. In order to create a more effective buffer, the Plan Commission may approve evergreen trees to be substituted in lieu of evergreen shrubbery on a 1:3 basis (tree:shrub). Up to 60% of shrubbery may be substituted for trees. (Staff note: Additional trees may be substituted to lessen required shrubbery planting, but additional shrubbery may not be substituted to reduce required tree plantings).
- D. If woodlands are located within buffer yards, preserved trees may be substituted for required plants in buffer yards (see WC 16.06.030, Selection, Installation, and Maintenance of Plant Materials for substitution guidelines).
- E. In residential districts, plantings required to be placed in buffer yards shall not be credited toward total on-site landscaping requirements set forth in Table 16.06.050-01.
- F. In non-residential districts, trees required to be planted in buffer yards shall be credited toward total on-site landscaping requirements set forth in Table 16.06.050-01.
- G. Buffer yards shall not be required between uses within planned developments or within subdivisions.

WC 16.06.070 - Parking Area Landscaping

The following landscape requirements shall be applied to parking lots to screen parking areas from streets, to prevent the creation of large expanses of paving, and to provide shade to paved areas.

A. Interior Parking Lot Landscaping

- 1. Area Required - A portion of vehicular use areas shall be maintained as landscaped area. The total amount of interior parking lot area that must be landscaped shall be based on the total number of proposed parking spaces. Such standards are set forth in Table 16.06.070-01:

Table 16.06.070 – 01 : Percentage of Parking Lot Landscaping

Number of Parking Spaces	Percentage of Vehicular Use Area to Be Landscaped
0 to 4	0 %

WESTFIELD-WASHINGTON TOWNSHIP ZONING ORDINANCE

5 to 24	5 %
25 to 49	7.5 %
50 or more	10 %

2. Parking Lot Islands

- a. Parking lot islands shall be dispersed throughout parking lots in a design and configuration that aesthetically corresponds to the size and shape of parking lots. Combining or placing parking lot islands together such that more than one tree may be planted in the island shall be considered when possible.
- b. Parking lot islands shall be constructed at least six (6) inches above the surface of parking lots; they shall be a minimum of one hundred twenty (120) square feet in area; and they shall be a minimum of seven (7) feet in width, measured from back of curb to back of curb.
- c. Interior landscaped areas shall be curbed in a manner that restricts vehicles from driving over landscaped areas.
- d. Interior landscaped areas shall be dispersed so as to define aisles and limit unbroken rows of parking spaces to a maximum of two hundred (200) feet in length.
- e. Parking lot islands shall include at least one (1) tree and four (4) shrubs per parking lot island. One hundred (100) percent of every parking island shall be covered with permitted groundcover material to achieve complete coverage.
- f. No landscaping within parking lot islands may unreasonably obstruct visibility for vehicles entering, maneuvering in, or exiting parking areas. Such landscaping shall be constructed in compliance with visibility standards set forth in WC 16.04.230 2.v).

B. Perimeter Parking Lot Landscaping

1. Application

- a. Perimeter landscaping is required for parking lots with ten (10) or more spaces where:
 - 1.) the parking lot is located within a required yard; or
 - 2.) the parking lot is located within twenty (20) feet of a lot line or right-of-way line.
- b. Perimeter parking lot landscape areas shall be at least five (5) feet wide and shall extend along the perimeter of parking lots. Plantings should be grouped in an aesthetically pleasing manner.

- c. Trees required to be planted in perimeter parking lot landscape areas may be counted toward meeting total on-site landscaping requirements as set forth in Table 16.06.050-01.
2. Requirements - Perimeter parking lot landscape areas shall include the following landscape improvements:
 - a. There shall be one tree per thirty (30) linear feet of parking lot length. Trees may be clustered.
 - b. There shall be one shrub per three (3) feet of parking lot length. Shrubs may be clustered.
 - c. Perimeter parking lot landscape areas not planted with trees or shrubs shall be covered with grass or other permitted groundcover or mulch.

WC 16.06.080 - Recommended Plant Materials

- A. Table 16.06.080-01, Table of Recommended Plant Materials, lists plant materials recommended for use in fulfilling landscaping requirements.
- B. Table 16.06.080-02, Plant Use Table, suggests appropriate uses for each specie of tree, shrub, ground cover, and vine.
- C. A minimum of three (3) different species of shade trees shall be used per each development site.

EXHIBIT 5

CONCEPT PLAN

Oak Ridge Properties PUD Site Location Map

MORSE
RESERVE

16TH ST

SHINGTON

WESTFIELD

32

WESTFIELD F

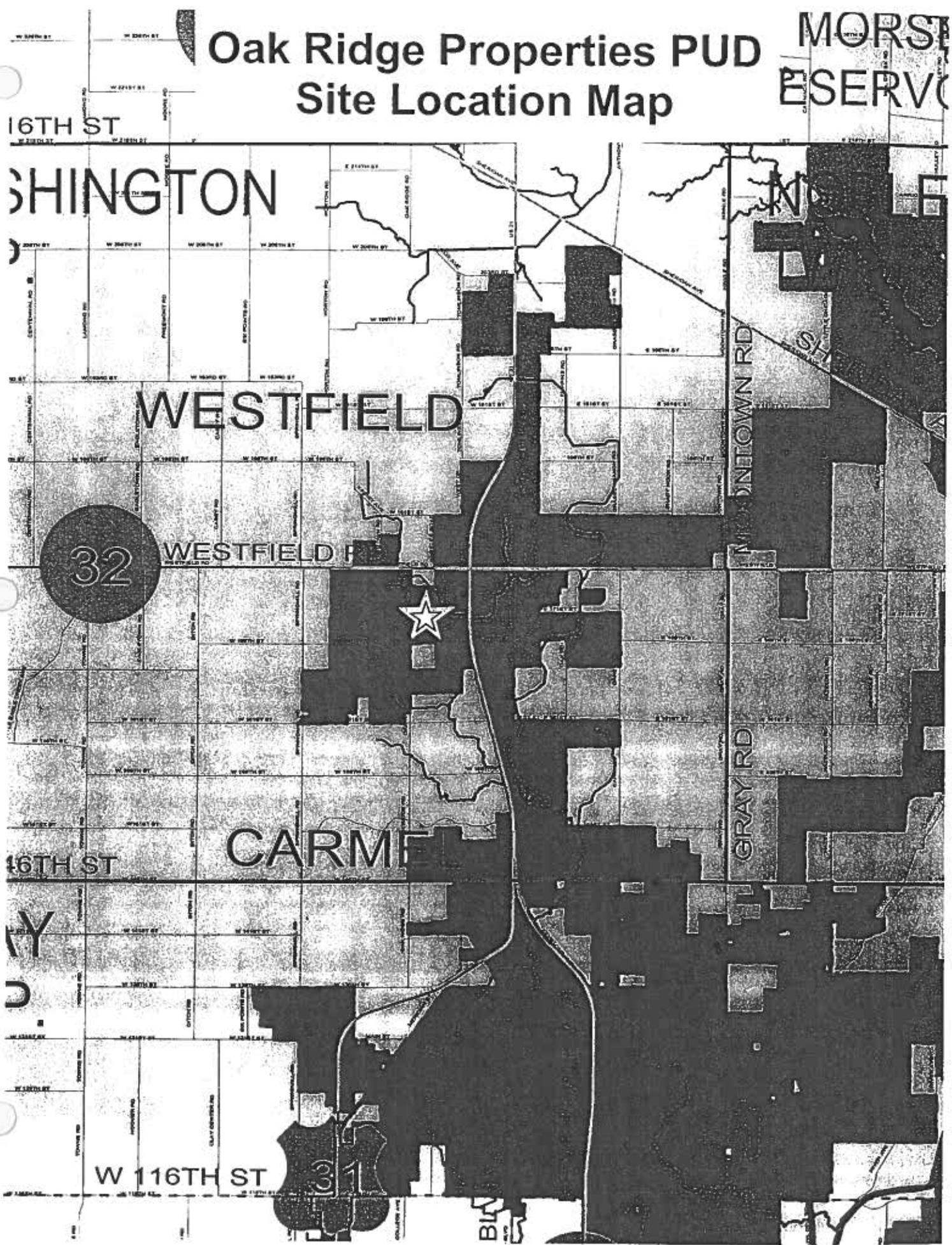


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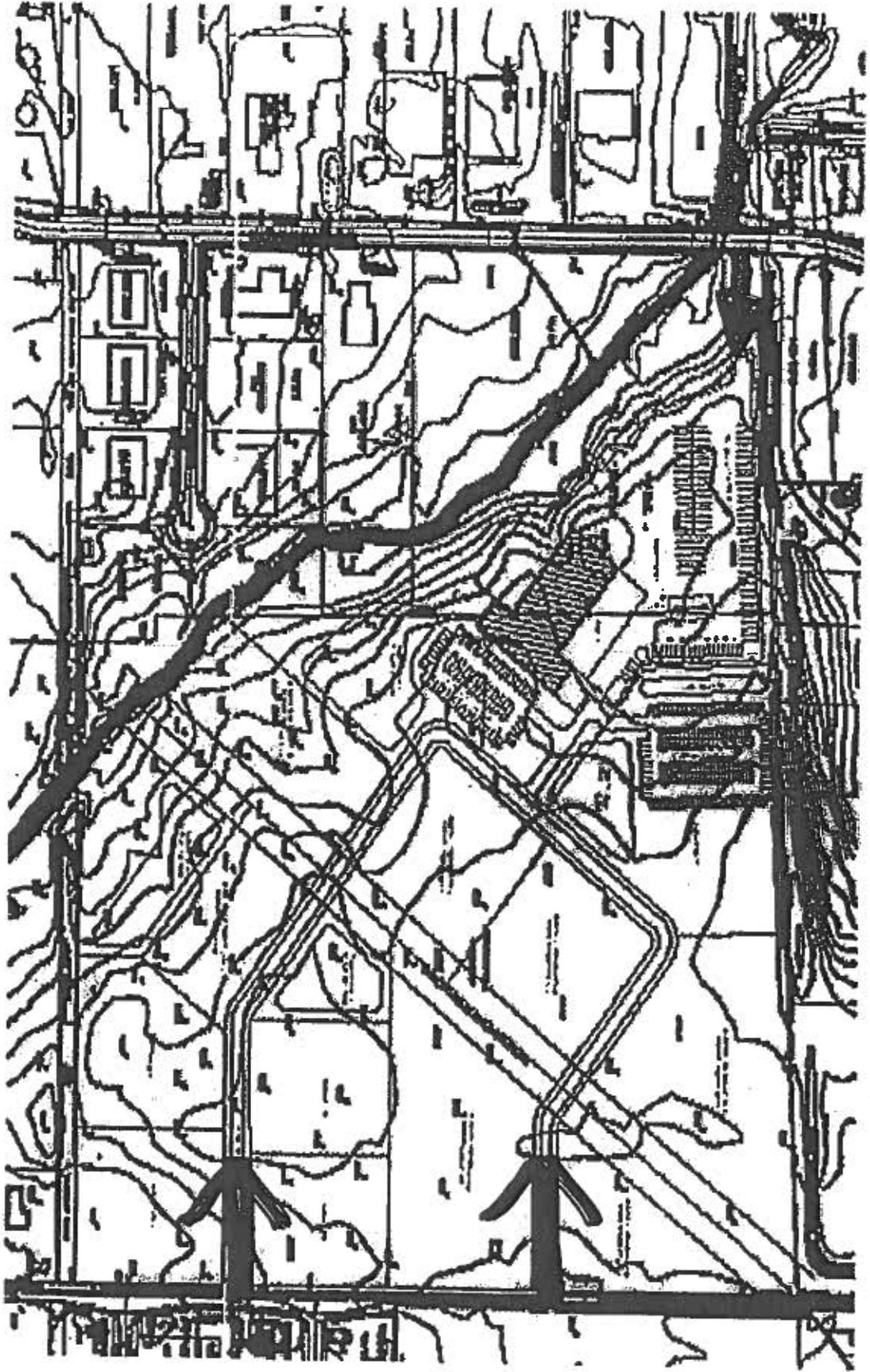
16TH ST

W 116TH ST

31



The Site



Intensity Zones

