ORDINANCE NUMBER 13-18

AN ORDINANCE OF THE CITY OF WESTFIELD AND WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA CONCERNING AMENDMENT TO TITLE 16 – LAND USE CONTROLS

This is a Planned Unit Development District Ordinance to amend the Westfield-Washington Zoning Ordinance of the City of Westfield and Washington Township, Hamilton County, Indiana (the "Zoning Ordinance"), enacted by the City of Westfield pursuant to its authority under the laws of the State of Indiana, Ind. Code § 36-7-4 et seq., as amended.

WHEREAS, the City of Westfield, Indiana (the "City") and the Township of Washington, both of Hamilton County, Indiana are subject to the Zoning Ordinance;

WHEREAS, the Westfield-Washington Advisory Plan Commission (the "Commission") considered a petition (**Petition No. 1306-PUD-07**), filed by the property owner, Village Park Plaza, LLC (the "Petitioner"), with the Commission requesting an amendment to the Zoning Ordinance and to the Zoning Map with regard to the subject real estate more particularly described in **Exhibit A** attached hereto (the "Real Estate");

WHEREAS, the Commission forwarded **Petition No. 1306-PUD-07** to the Common Council of the City of Westfield, Hamilton County, Indiana (the "Common Council") with a _____recommendation in accordance with Indiana Code § 36-7-4-608, as required by Indiana Code § 36-7-4-1505;

WHEREAS, the Secretary of the Commission certified the action of the Commission to the Common Council on _____, 2013;

WHEREAS, the Common Council is subject to the provisions of the Indiana Code §36-7-4-1507 and Indiana Code § 36-7-4-1512 concerning any action on this request; and

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Westfield, Hamilton County, Indiana, meeting in regular session, that the Zoning Ordinance and Zoning Map are hereby amended as follows:

Section 1. **Applicability of Ordinance.**

1.1 This PUD District Ordinance (this "Ordinance") applies to the Real Estate and shall hereafter be referred to as the "Village Park Plaza PUD".

1.2 Development of the Real Estate shall be governed by the provisions of the Zoning Ordinance unless specifically modified by the terms of this Ordinance. All provisions and representations of the Zoning Ordinance that conflict with the provisions of this Ordinance are hereby made inapplicable to the Real Estate and shall be superseded by the terms of this Ordinance.

1.3 The underlying zoning district shall be the **GB –General Business District** (the "Underlying Zoning District"). Except as modified, revised, supplemented or expressly made inapplicable by this Ordinance, the standards of the Zoning Ordinance applicable to the Underlying Zoning District shall apply.

1.4 Section (*"WC §"*) cross-references of this Ordinance shall hereafter refer to the Section as specified and referenced in the Zoning Ordinance.

1.5 The US Highway 31 Overlay Zone (*WC § 16.04.070*) shall not apply to the Real Estate, except for the following provisions:

W C§ 16.04.070(6) and *(7)*. In addition, no outside, unenclosed storage of refuse shall be permitted on any lot. All refuse shall be contained in enclosed facilities. All heating, ventilating, communication and like equipment for any facility shall be screened from view in a manner that is homogeneous with the balance of the structure.

1.6 This Ordinance is adopted with the intent and purpose to repeal, supersede and/or void any and all variances previously granted to the Real Estate by the Board of Zoning Appeals ("Granted Variances"). Further, this Ordinance is adopted with the expressed request and consent of the Petitioner. Any Granted Variance held to be valid after the adoption date of this Ordinance shall render this Ordinance void.

Section 2. **Legally Established Pre-Existing Improvements**. The Real Estate has been developed as a regional shopping center, as generally depicted on the Concept Plan, in compliance with either Granted Variances or in compliance with the Zoning Ordinance in effect at the time that each improvement was made to the Real Estate (the "Existing Improvements"). Some of the Existing Improvements may not conform to the regulations of this Ordinance ("Legally Established Nonconforming Existing Improvement"), either as a result of the adoption of this Ordinance, or as a result of outside factors that have impacted the Real Estate (e.g., perimeter roadway improvements). Legally Established Nonconforming Existing Improvements may continue after the effective date of this Ordinance in accordance with the Zoning Ordinance's nonconforming development standard

provisions. Modifications to Existing Improvements on the Real Estate, including any new construction, new sign permits, building renovations, or site plan changes, shall comply with the standards set forth in this Ordinance. Repair, maintenance and restoration of Existing Improvements on the Real Estate shall not be deemed a modification that requires compliance with the standards of this Ordinance.

Section 3. **Definitions**. Capitalized terms not otherwise defined in this Ordinance shall have the meanings ascribed to them in the Zoning Ordinance.

3.1 Concept Plan: The plan attached hereto and incorporated herein by reference as **Exhibit B**. Exhibit B is a general plan for the development of the Real Estate.

Section 4. **Permitted Uses.** All uses permitted in the Underlying Zoning District shall be permitted; in addition, all uses permitted in the LB Local and Neighborhood Business District shall be permitted.

Section 5. **Development Standards.**

5.1 General Regulations. The regulations of *WC § 16.04.050 Business Districts* applicable to the Underlying Zoning District shall apply.

5.2 Off-Street Loading and Parking. Shall be provided in accordance with the provisions of the Zoning Ordinance (*WC § 16.04.120*), except as modified below:

A. Parking Space Size. The minimum off-street parking space size shall be nine (9) feet in width by eighteen (18) feet in length, exclusive of access drives, aisles, ramps, columns, and office or work area.

5.3 Landscaping and Screening. Shall be provided in accordance with the provisions of the Zoning Ordinance (*WC § 16.06*).

5.4 Sign Standards. Shall be provided in accordance with the provisions of the Zoning Ordinance (*WC § 16.08.010*), except as modified below:

A. General Sign Standards:

i. Wording on permitted Wall Signs and Monument Signs shall be limited to store trade name (DBA), logo, hallmark, insignia or other trade identification only. Each tenant's customary signature or logo, hallmark, insignia or other trade identification shall be permitted to the extent it otherwise complies with this Ordinance.

ii. Sign company names or stamps shall not be visible on Signs.

iii. Painted and printed Signs shall be prohibited on the exterior surface of any building.

iv. Exposed raceways, ballast boxes or electrical transformers shall be prohibited except as required by Code, or if required by special

conditions, as determined by the Director.

v. Exposed sign illumination or illuminated sign cabinets or modules shall be prohibited.

B. Wall Sign Standards: The following shall replace and supersede the Zoning Ordinance's sign standards for Center In-Line Tenant Wall Signage:

i. Location: All Wall Signs shall be located on designated Sign Planes within the limits of the tenant's Facade and shall not project more than eight (8) inches (twelve (12) inches to accommodate a pin mounted letter) beyond the face of the Sign Plane, measured horizontally. No Wall Sign shall be located closer than eighteen (18) inches to the end of the tenant's Facade.

ii. Design: Wall Signs shall consist of individual reverse channel type letter only.

iii. Quantity: A tenant shall be permitted one (1) Wall Sign per each of its Facade; however, a tenant shall have no more than two (2) total Wall Signs, except if a tenant has multiple Front Facades (e.g., corner or building end space), then such tenant shall be permitted up to three (3) total Wall Signs.

iv. Front Façade Sign Height:

a. If a tenant's Front Facade width is twenty (20) feet or less, then the maximum height of letters shall be twenty-four (24) inches.

b. If a tenant's Front Facade width is greater than twenty (20) feet, then the maximum height of letters shall be thirty (30) inches.

c. If the gross square footage of a tenant's space exceeds five thousand (5,000) square feet, then the total height of letters may be thirty-six (36) inches, provided the Sign does not encroach beyond the designated Sign Plane for that tenant space.

d. If the gross square footage of a tenant's space exceeds nine thousand (9,000) square feet, then the maximum height of the letters shall be forty-eight (48) inches.

e. If the gross square footage of a tenant's space exceeds twenty-four thousand (24,000) square feet, then the maximum height of letters shall be sixty (60) inches.

v. Front Façade Sign Width: The total width of a tenant's Front Façade Wall Sign shall not exceed seventy percent (70%) of the tenant's Front Facade and shall in no event exceed a length of thirty (30) feet.

vi. Rear Façade Signs: Wall Signs on a tenant's Rear Façade shall be limited to seventy percent (70%) of its allowable Front Façade signage (for a single sign). Raceways shall be prohibited for Wall Signs on Rear Facades.

vii. Building E: Wall Signs on the west Façade of the Real Estate's

southwest most building (identified as "Building E" on the Concept Plan) shall be permitted letters up to forty-eight (48) inches in height. The north and south elevations shall be permitted Rear Façade Wall Signs.

C. Under Canopy Blade Signs: Each tenant shall be permitted one (1) additional sign that is perpendicular to the storefront, under the canopy, and preferably adjacent to the tenant's primary customer entrance. Tenants may elect to use a variety of media for this sign; however, all under-canopy blade signs are required to meet the following criteria:

i. Shall be fabricated as a single panel and be constructed of wood, metal, sandblasted glass or other material deemed acceptable by the Director and with the consent of the Property Owner.
ii. Shall be wall mounted, supported by bracket(s) to the tenant's Front Facade, or hung from the canopy or trellis above. Hanging signs shall be hung from solid brackets, not chains.
iii. Shall not exceed four (4) square feet in size.
iv. Shall consist of individual letters which shall not exceed six (6) inches in height and may be routed out of the face of the sign panel or mounted to the face of the sign panel.
v. Verbiage shall be limited to the tenant's trade name (DBA) and logo. Graphic representations are not limited in content although they should incorporate imagery consistent with the store theme or product line.
vi. Shall be non-illuminated.

5.5 Lighting. Shall be provided in accordance with the provisions of the Zoning Ordinance (*WC § 16.07.010*).

Section 6. **Architectural and Design Standards.** The procedures and regulations of *WC § 16.04.165 Development Plan Review* applicable to the Underlying Zoning District shall apply

Section 7. **Expansion of PUD District**. This Ordinance is contemplated in the future to be expanded to incorporate adjacent real estate as generally identified on **Exhibit C**, attached hereto (the "Additional Real Estate"), in order to encourage and facilitate the coordinated (re)development of this commercial node.

ALL OF WHICH IS HEREBY ADOPTED BY THE CITY COUNCIL OF WESTFIELD, HAMILTON COUNTY, INDIANA THIS _____ DAY OF _____, 2013.

WESTFIELD COMMON COUNCIL
HAMILTON COUNTY, INDIANA

Voting For	**Voting Against**	**Abstain**
_____	_____	_____
Jim Ake	Jim Ake	Jim Ake
_____	_____	_____
John Dippel	John Dippel	John Dippel
_____	_____	_____
Steven Hoover	Steven Hoover	Steven Hoover
_____	_____	_____
Robert L. Horkay	Robert L. Horkay	Robert L. Horkay
_____	_____	_____
Bob Smith	Bob Smith	Bob Smith
_____	_____	_____
Cindy L. Spoljaric	Cindy L. Spoljaric	Cindy L. Spoljaric
_____	_____	_____
Robert W. Stokes	Robert W. Stokes	Robert W. Stokes

ATTEST:

_____
Cindy J. Gossard, Clerk-Treasurer

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: Timothy E. Ochs.

This Instrument prepared by: Timothy E. Ochs, Esq., Attorney at Law, Ice Miller, LLP, One America Square, Suite 2900, Indianapolis, Indiana 46282-0200.

I hereby certify **ORDINANCE 12-XX** was delivered to the Mayor of Westfield on the _____ day of _____, 2013.

_____

Cindy J. Gossard, Clerk Treasurer

I hereby APPROVE ORDINANCE 13-XX
this _____ day of_____ , 2013.

_____

J. Andrew Cook, Mayor

I hereby VETO ORDINANCE 13-XX
this _____ day of_____ , 2013.

_____

J. Andrew Cook, Mayor

ATTEST:

_____

Cindy J. Gossard, Clerk Treasurer

EXHIBIT A
REAL ESTATE

EXHIBIT "A", LEGAL DESCRIPTION

PARCEL I - Fee Simple:

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST LOCATED IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA BEING BOUNDED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST; THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) 418.79 FEET ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER TO ITS POINT OF INTERSECTION WITH THE NORTHERLY EXTENSION OF THE EASTERN BOUNDARY OF THE 1.959 ACRE TRACT OF LAND DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT #83-3497 IN DEED RECORD 336, PAGE 110, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 40.00 FEET ALONG THE NORTHERLY EXTENSION OF THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND AND ALONG THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND TO A POINT BEING 40.00 FEET (MEASURED PERPENDICULARLY IN A SOUTHERLY DIRECTION) FROM THE NORTH LINE OF SAID SOUTHWEST QUARTER AND BEING THE POINT OF BEGINNING OF THE DESCRIPTION OF THE 13.590 ACRE TRACT OF LAND DESCRIBED IN A LIMITED WARRANTY DEED RECORDED AS INSTRUMENT #90 10609 IN SAID RECORDER'S OFFICE, THE NEXT THIRTEEN (13) COURSES ARE ALONG THE BOUNDARY OF SAID 13.590 ACRE TRACT OF LAND; 1.) THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST 919.86 FEET; 2.) THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST 662.37 FEET; 3.) THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 67.46 FEET TO THE TERMINUS OF THE FOURTH (4TH) COURSE OF THE DESCRIPTION OF THE 52.495 ACRE TRACT OF LAND DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT #9010607, IN SAID RECORDER'S OFFICE AND THE POINT OF BEGINNING OF THIS DESCRIPTION 4.) THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 275.88 FEET; 5.) THENCE NORTH 00 DEGREES 16 MINUTES 48 SECONDS WEST 160.00 FEET; 6.) THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 235.00 FEET; 7.) THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST 145.90 FEET; 8.) THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 324.00 FEET; 9.) THENCE NORTH 00 DEGREES 16 MINUTES 48 SECONDS WEST 248.35 FEET; 10.) THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 257.00 FEET; 11.) THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS 109.00 FEET; 12.) THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 67.54 FEET

TO THE EASTERN LIMITED ACCESS RIGHT-OF-WAY LINE FOR U.S. ROAD #31 (REF.: WARRANTY DEED RECORDED AS INSTRUMENT #12008 IN DEED RECORD 279, PAGE 612, IN SAID RECORDER'S OFFICE), SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE TO THE WEST AND BEING NORTH 87 DEGREES 09 MINUTES 26 SECONDS EAST 11,546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; 13.) THENCE NORTHERLY 20.03 FEET ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE AND ALONG SAID CURVE TO THE SOUTHWESTERN CORNER OF SAID 1.959 ACRE TRACT OF LAND, SAID POINT BEING NORTH 87 DEGREES 03 MINUTES 28 SECONDS EAST 11,546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 110.95 FEET ALONG THE WESTERLY EXTENSION OF THE SOUTHERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND TO THE WEST LINE OF SAID SOUTHWEST QUARTER; THENCE SOUTH 00 DEGREES 19 MINUTES 05 SECONDS EAST 2,366.24 FEET ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER TO ITS SOUTHWEST CORNER; THENCE NORTH 89 DEGREES 01 MINUTE 27 SECONDS EAST 1,326.16 FEET ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER TO THE TERMINUS OF THE NINTH (9TH) COURSE OF THE DESCRIPTION OF SAID 52.495 ACRE TRACT OF LAND; THENCE NORTH 00 DEGREES 41 MINUTES 21 SECONDS EAST 88.60 FEET ALONG THE BOUNDARY OF SAID 52.495 ACRE TRACT OF LAND TO A POINT ON THE WESTERN BOUNDARY OF GREYHOUND PASS (REF.: DEED OF DEDICATION RECORDED AS INSTRUMENT 9023061 IN SAID RECORDER'S OFFICE), SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE TO THE EAST AND BEING SOUTH 50 DEGREES 34 MINUTES 12 SECONDS WEST 340.00 FEET FROM THE RADIUS POINT OF SAID CURVE, THE NEXT FIVE (5) COURSES ARE ALONG THE BOUNDARY OF GREYHOUND PASS; 1.) THENCE NORTHWESTERLY AND NORTHERLY 231.34 FEET ALONG SAID CURVE TO ITS POINT OF TANGENCY, SAID POINT OF TANGENCY BEING SOUTH 89 DEGREES 33 MINUTES 18 SECONDS WEST 340.00 FEET FROM THE RADIUS POINT OF SAID CURVE; 2.) THENCE NORTH 00 DEGREES 26 MINUTES 42 SECONDS WEST 511.12 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID POINT OF CURVATURE BEING NORTH 89 DEGREES 33 MINUTES 18 SECONDS EAST 255.00 FEET FROM THE RADIUS POINT OF SAID CURVE; 3.) THENCE NORTHERLY, NORTHWESTERLY, AND WESTERLY 399.82 FEET ALONG SAID CURVE TO ITS POINT OF TANGENCY, SAID POINT OF TANGENCY BEING NORTH 00 DEGREES 16 MINUTES 48 SECONDS WEST 255.00 FEET FROM THE RADIUS POINT OF SAID CURVE; 4.) THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 798.72 FEET; 5.) THENCE NORTH 00 DEGREES 08 MINUTES 51 SECONDS EAST 90.00 FEET TO THE NORTHWESTERN CORNER OF GREYHOUND PASS; THENCE NORTH 45 DEGREES 16 MINUTES 30 SECONDS WEST 84.84 FEET TO THE EASTERN LIMITED ACCESS RIGHT-OF-WAY LINE FOR STATE ROAD #431 (REF.: RIGHT OF WAY GRANT RECORDED AS INSTRUMENT #147 IN DEED

RECORD 171, PAGE 280 IN SAID RECORDER'S OFFICE); THENCE NORTH 00 DEGREES 16 MINUTES 12 SECONDS WEST 29.33 FEET ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE; THENCE NORTH 01 DEGREE 47 MINUTES 33 SECONDS WEST 48.45 FEET ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE TO THE SOUTHERN TERMINUS OF SAID EASTERN LIMITED ACCESS RIGHT-OF-WAY LINE FOR U.S. ROAD #31; THENCE NORTH 01 DEGREES 47 MINUTES 33 SECONDS WEST 112.29 FEET ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE TO THE NORTHWESTERN CORNER OF A 1.64 ACRE TRACT OF LAND; DESCRIBED IN A SPECIAL WARRANTY DEED RECORDED AS INSTRUMENT NO. 91 5079 IN SAID RECORDER'S OFFICE; THENCE NORTH 89 DEGREES 43 MINUTES 12 SECONDS EAST 299.80 FEET ALONG THE NORTHERN BOUNDARY OF SAID 1.64 ACRE TRACT OF LAND TO ITS NORTHEASTERN CORNER ON THE WESTERN BOUNDARY OF A 6.528 ACRE TRACT OF LAND, DESCRIBED IN A SPECIAL (LIMITED) WARRANTY DEED RECORDED AS INSTRUMENT NO. 91 7977 IN SAID RECORDER'S OFFICE; THE NEXT FOUR (4) COURSES ARE ALONG THE BOUNDARY OF SAID 6.528 ACRE TRACT OF LAND; 1.) THENCE NORTH 00 DEGREES 16 MINUTES 48 SECONDS WEST 108.90 FEET; 2.) THENCE NORTH 89 DEGREES 43 MINUTES 12 SECONDS EAST 437.00 FEET; 3.) THENCE NORTH 00 DEGREES 16 MINUTES 48 SECONDS WEST 135.00 FEET; 4.) THENCE NORTH 89 DEGREES 43 MINUTES 12 SECONDS EAST 254.00 FEET TO THE NORTHEASTERN CORNER OF SAID 6.528 ACRE TRACT OF LAND ON THE SEVENTH (7TH) COURSE OF THE DESCRIPTION OF SAID 52.495 ACRE TRACT OF LAND, THE NEXT THREE (3) COURSES ARE ALONG THE BOUNDARY OF SAID 52.495 ACRE TRACT OF LAND; 1.) THENCE NORTH 00 DEGREES 16 MINUTES 48 SECONDS WEST 13.20 FEET; 2.) THENCE NORTH 07 DEGREES 17 MINUTES 33 SECONDS WEST 164.22 FEET; 3.) THENCE NORTH 51 DEGREES 53 MINUTES 58 SECONDS EAST 210.05 FEET TO THE POINT OF BEGINNING.

EXCEPT:

(BURGER KING)

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER, THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) ALONG THE NORTH LINE THEREOF 418.79 FEET TO A
PROLONGATION NORTHERLY OF THE EAST LINE OF A 1.959 ACRE TRACT

OF LAND DESCRIBED IN WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 83-3497 IN DEED RECORD 336, PAGE 110, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG SAID PROLONGATION AND SAID LINE 304.49 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID TRACT 306.13 FEET TO THE SOUTHWEST CORNER THEREOF, BEING ALSO A POINT ON THE EASTERLY LIMITED-ACCESS RIGHT-OF-WAY LINE FOR U.S.R. 31, DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 12008 IN DEED RECORD 279, PAGE 612 IN THE OFFICE OF THE RECORDER OF SAID COUNTY, SAID LIMITED-ACCESS RIGHT-OF-WAY LINE BEING A NON-TANGENT CURVE CONCAVE WESTERLY AND SAID POINT BEING NORTH 87 DEGREES 03 MINUTES 28 SECONDS EAST 11546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE SOUTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 269.22 FEET TO A POINT BEING NORTH 88 DEGREES 23 MINUTES 38 SECONDS EAST 11546.16 FEET FROM SAID RADIUS POINT, AND BEING ALSO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 315.55 FEET TO A POINT ON A WEST LINE OF A TRACT OF LAND DEEDED TO WAL-MART STORES, INC. PER WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 90-10609, IN THE OFFICE OF THE RECORDER OF SAID COUNTY; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST ALONG SAID WEST LINE 108.35 FEET TO THE SOUTHWEST CORNER OF SAID TRACT OF LAND; THENCE SOUTH 00 DEGREES 01 MINUTES 41 SECONDS EAST 23.33 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 313.15 FEET TO THE ABOVE SAID LIMITED-ACCESS RIGHT-OF-WAY, BEING ALSO A POINT ON THE ABOVE DESCRIBED CURVE; THENCE NORTHERLY ALONG SAID LIMITED-ACCESS RIGHT-OF-WAY LINE AND SAID CURVE AN ARC DISTANCE OF 131.71 FEET TO THE POINT OF BEGINNING.
CONTAINING 0.950 ACRES +/- OR 41,382.05 SQUARE FEET.

ALSO EXCEPT:

(EAST SIDE MARIO'S)

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER, THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) ALONG THE NORTH LINE THEREOF 418.79 FEET TO

THE PROLONGATION NORTHERLY OF THE EAST LINE OF A 1.959 ACRE TRACT OF LAND DESCRIBED IN WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 83-3497 IN DEED RECORD 336, PAGE 110, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG SAID PROLONGATION AND SAID LINE 304.49 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID TRACT 306.13 FEET TO THE SOUTHWEST CORNER THEREOF, BEING ALSO A POINT ON THE EASTERLY LIMITED-ACCESS RIGHT-OF-WAY LINE FOR U.S.R. 31, DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 12008 IN DEED RECORD 279, PAGE 612, IN THE OFFICE OF THE RECORDER OF SAID COUNTY, SAID LIMITED-ACCESS RIGHT-OF-WAY LINE BEING A NON-TANGENT CURVE CONCAVE WESTERLY, AND SAID POINT BEING NORTH 87 DEGREES 03 MINUTES 28 SECONDS EAST 11546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE SOUTHERLY 400.93 FEET ALONG SAID CURVE TO THE POINT OF BEGINNING; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST 313.15 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 41 SECONDS EAST 197.95 FEET THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 309.85 FEET TO SAID EASTERLY LIMITED-ACCESS RIGHT-OF-WAY LINE; THENCE ALONG SAID RIGHT-OF-WAY LINE FOR THE NEXT TWO COURSES: (1) NORTH 01 DEGREES 47 MINUTES 33 SECONDS WEST 61.92 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE WESTERLY, AND SAID POINT BEING NORTH 89 DEGREES 43 MINUTES 48 SECONDS EAST 11546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; (2) NORTHERLY 137.58 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.423 ACRES +/- OR 61,696 SQUARE FEET.

ALSO EXCEPT:

(MIKE'S CAR WASH)

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER, THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) ALONG THE NORTH LINE THEREOF 418.79 FEET TO A PROLONGATION NORTHERLY OF THE EAST LINE OF A 1.959 ACRE TRACT OF LAND DESCRIBED IN WARRANTY DEED RECORDED AS

INSTRUMENT NUMBER 83-3497 IN DEED RECORD 336, PAGE 110 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG SAID PROLONGATION AND SAID LINE 304.49 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE SOUTH LINE OF SAID TRACT 306.13 FEET TO THE SOUTHWEST CORNER THEREOF, BEING ALSO A POINT ON THE EASTERLY LIMITED-ACCESS RIGHT-OF-WAY LINE FOR U.S.R. 31, DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 12008 IN DEED RECORD 279, PAGE 612, IN THE OFFICE OF THE RECORDER OF SAID COUNTY, SAID LIMITED-ACCESS RIGHT-OF-WAY LINE BEING A NON-TANGENT CURVE CONCAVE WESTERLY AND SAID POINT BEING NORTH 87 DEGREES 03 MINUTES 28 SECONDS EAST 11,546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE ALONG SAID LIMITED-ACCESS RIGHT-OF-WAY FOR THE FOLLOWING TWO COURSES: (1) SOUTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 538.52 FEET TO THE END POINT OF SAID CURVE, SAID POINT BEING NORTH 89 DEGREES 43 MINUTES 48 SECONDS EAST 11546.16 FEET FROM SAID RADIUS POINT; (2) SOUTH 01 DEGREES 47 MINUTES 33 SECONDS EAST ALONG A NON-TANGENT LINE 227.83 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 89 DEGREES 43 MINUTES 12 SECONDS EAST 304.74 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 41 SECONDS EAST 66.97 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST 108.90 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 299.80 FEET TO THE ABOVE SAID LIMITED-ACCESS RIGHT-OF-WAY; THENCE NORTH 01 DEGREES 47 MINUTES 33 SECONDS WEST ALONG SAID LIMITED-ACCESS RIGHT-OF-WAY LINE 175.93 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.220 ACRES +/- OR 53,143.20 SQUARE FEET.

ALSO EXCEPT - (ROOSTERS/MOYER JEWELERS):

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, BEING BOUNDED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST; THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) 418.79 FEET ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER TO ITS POINT OF INTERSECTION WITH THE NORTHERLY EXTENSION OF THE EASTERN BOUNDARY OF THE 1.959 ACRE TRACT OF LAND DESCRIBED IN

A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 83-3497IN DEED RECORD 336 PAGE 110, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 304.49 FEET ALONG THE NORTHERLY EXTENSION FOR THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND AND ALONG THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND TO ITS SOUTHEASTERN CORNER; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 306.13 FEET ALONG THE SOUTHERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND TO ITS SOUTHWESTERN CORNER ON THE EASTERN LIMITED ACCESS RIGHT-OF-WAY LINE FOR U.S.R. 31 (REF. WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 12008 IN DEED RECORD 279, PAGE 612), SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE TO THE WEST AND BEING NORTH 87 DEGREES 03 MINUTES 28 SECONDS EAST 11,546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE SOUTHERLY 538.52 FEET ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE AND CURVE TO A POINT BEING NORTH 89 DEGREES 43 MINUTES 48 SECONDS EAST 11,546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE ALONG SAID RIGHT-OF-WAY SOUTH 01 DEGREES 47 MINUTES 33 SECONDS EAST 516.05 FEET TO THE EASTERN LIMITED ACCESS RIGHT-OF-WAY LINE FOR S.R. 431 (REF. RIGHT-OF-WAY GRANT RECORDED AS INSTRUMENT NUMBER 147 IN DEED RECORD 171, PAGE 280); THENCE CONTINUING SOUTH 01 DEGREES 47 MINUTES 33 SECONDS EAST ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE 48.45 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 12 SECONDS EAST ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE 29.33 FEET; THENCE SOUTH 45 DEGREES 16 MINUTES 30 SECONDS EAST 84.84 FEET TO THE NORTH RIGHT-OF-WAY LINE FOR GREYHOUND PASS (146TH STREET RELOCATED); THENCE SOUTH 00 DEGREES 08 MINUTES 51 SECONDS WEST 90.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE FOR SAID GREYHOUND PASS; BEING ALSO A POINT ON THE PROPOSED EASTERN LIMITED ACCESS RIGHT-OF-WAY FOR U.S.R. 31; THENCE ALONG SAID PROPOSED LIMITED ACCESS RIGHT-OF-WAY LINE FOR THE NEXT THREE COURSES: (1) THENCE SOUTH 45 DEGREES 02 MINUTES 40 SECONDS WEST 85.82 FEET; (2) THENCE SOUTH 00 DEGREES 22 MINUTES 08 SECONDS WEST 39.75 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST, SAID POINT BEING NORTH 89 DEGREES 37 MINUTES 52 SECONDS WEST 3099.10 FEET FROM THE RADIUS POINT OF SAID CURVE; (3) THENCE SOUTHERLY 77.99 FEET ALONG SAID CURVE TO A POINT BEING SOUTH 88 DEGREES 55 MINUTES 38 SECONDS WEST 3099.10 FEET FROM THE RADIUS POINT OF SAID CURVE, AND BEING ALSO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 89 DEGREES 43 MINUTES 12 SECONDS EAST 304.30 FEET; THENCE SOUTH 00 DEGREES 30 MINUTES 37 SECONDS EAST 138.20 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 299.85 FEET TO A POINT ON THE PROPOSED EASTERN

LIMITED ACCESS RIGHT-OF-WAY FOR U.S.R. 31, BEING A CURVE CONCAVE TO THE EAST, SAID POINT BEING SOUTH 86 DEGREES 22 MINUTES 13 SECONDS WEST 3099.10 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE NORTHERLY 138.30 FEET ALONG SAID CURVE AND SAID PROPOSED LIMITED ACCESS RIGHT-OF-WAY TO THE POINT OF BEGINNING.

CONTAINING 0.960 ACRES +/- OR 41,818 SQUARE FEET MORE OR LESS.

ALSO EXCEPT:

(APPLEBEE'S)

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST OF THE SECOND PRINCIPAL MERIDIAN IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, BEING BOUNDED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST; THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) 418.79 FEET
ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER TO ITS POINT OF
INTERSECTION WITH THE NORTHERLY EXTENSION OF THE EASTERN BOUNDARY OF THE 1.959 ACRE TRACT OF LAND DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 83-3497IN DEED RECORD 336, PAGE 110, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 304.49 FEET ALONG THE NORTHERLY EXTENSION OF THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND AND ALONG THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND TO ITS SOUTHEASTERN CORNER; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS WEST 306.13 FEET ALONG THE SOUTHERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND TO ITS SOUTHWESTERN CORNER ON THE EASTERN LIMITED ACCESS RIGHT-OF-WAY LINE FOR U.S.R. 31 (REF. WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 12008 IN DEED RECORD 279, PAGE 612), SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE TO THE WEST AND BEING NORTH 87 DEGREES 03 MINUTES 28 SECONDS EAST 11,546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE SOUTHERLY 538.52 FEET ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE AND CURVE TO A POINT BEING NORTH 89 DEGREES 43 MINUTES 48 SECONDS EAST 11,546.16 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE ALONG SAID RIGHT-OF-WAY SOUTH 01 DEGREES 47

MINUTES 33 SECONDS EAST 516.05 FEET TO THE EASTERN LIMITED ACCESS RIGHT-OF-WAY LINE FOR S.R. 431 (REF. RIGHT-OF-WAY GRANT RECORDED AS INSTRUMENT NUMBER 147 IN DEED RECORD 171, PAGE 280); THENCE CONTINUING SOUTH 01 DEGREES 47 MINUTES 33 SECONDS EAST ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE 48.45 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES12 SECONDS EAST ALONG SAID LIMITED ACCESS RIGHT-OF-WAY LINE 29.33 FEET; THENCE SOUTH 45 DEGREES 16 MINUTES 30 SECONDS EAST 84.84 FEET TO THE NORTH RIGHT-OF-WAY LINE FOR GREYHOUND PASS (146TH STREET RELOCATED); THENCE SOUTH 00 DEGREES 08 MINUTES 51 SECONDS WEST 90.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE FOR SAID GREYHOUND PASS, BEING ALSO A POINT ON THE PROPOSED EASTERN LIMITED ACCESS RIGHT-OF-WAY FOR U.S.R. 31; THENCE ALONG SAID PROPOSED LIMITED ACCESS RIGHT-OF-WAY LINE FOR THE NEXT THREE COURSES: (1) THENCE SOUTH 45 DEGREES 02 MINUTES 40 SECONDS WEST 85.82 FEET; (2) THENCE SOUTH 00 DEGREES 22 MINUTES 08 SECONDS WEST 39.75 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE EAST, SAID POINT BEING NORTH 89 DEGREES 37 MINUTES 52 SECONDS WEST 3099.10 FEET FROM THE RADIUS POINT OF SAID CURVE; (3) THENCE SOUTHERLY 216.29 FEET ALONG SAID CURVE TO A POINT BEING SOUTH 86 DEGREES 22 MINUTES 13 SECONDS WEST 3099.10 FEET FROM THE RADIUS POINT OF SAID CURVE, AND BEING ALSO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 89 DEGREES 43 MINUTES 12 SECONDS EAST 299.85 FEET; THENCE SOUTH 00 DEGREES 30 MINUTES 37 SECONDS EAST 115.80 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 40.00 FEET AND A CENTRAL ANGLE OF 90 DEGREES 13 MINUTES 49 SECONDS; THENCE SOUTHERLY, SOUTHWESTERLY, AND WESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 62.99 FEET, (SAID ARC BEING SUBTENDED BY A CHORD BEARING SOUTH 44 DEGREES 36 MINUTES 18 SECONDS WEST 56.68 FEET), TO THE POINT OF TANGENCY THEREOF; THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 247.23 FEET TO A POINT ON THE PROPOSED EASTERN LIMITED ACCESS RIGHT-OF-WAY FOR U.S.R. 31, BEING A CURVE CONCAVE TO THE EAST, SAID POINT BEING SOUTH 83 DEGREES 28 MINUTES 35 SECONDS WEST 3099.10 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE NORTHERLY 156.53 FEET ALONG SAID CURVE AND SAID PROPOSED LIMITED ACCESS RIGHT-OF-WAY TO THE POINT OF BEGINNING.

CONTAINING 1.046 ACRES +/- OR 45,551 SQUARE FEET MORE OR LESS.

ALSO EXCEPT - (146th STREET):

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18

NORTH, RANGE 4 EAST, HAMILTON COUNTY, INDIANA DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION; THENCE NORTH 89 DEGREES 01 MINUTE 27 SECONDS EAST (ASSUMED BEARING) 165.202 METERS (542.00 FEET) ALONG THE SOUTH LINE OF SAID SECTION; THENCE NORTH 0 DEGREES 58 MINUTES 33 SECONDS WEST 5.029 METERS (16.50 FEET) TO THE POINT OF BEGINNING OF THIS DESCRIPTION, WHICH POINT IS ON THE NORTH BOUNDARY OF 146TH STREET; THENCE CONTINUING NORTH 0 DEGREES 58 MINUTES 33 SECONDS WEST 0.457 METERS (1.50 FEET) TO THE EASTERN BOUNDARY OF SR 431 (REF.: RIGHT OF WAY GRANT RECORDED AS INSTRUMENT #147 IN DEED RECORD 171, PAGE 280 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA); THENCE NORTH 63 DEGREES 19 MINUTES 48 SECONDS WEST 14.452 METERS (47.41 FEET) ALONG THE BOUNDARY OF SAID SR 431; THENCE SOUTH 89 DEGREES 01 MINUTE 27 SECONDS WEST 60.960 METERS (200.00 FEET) ALONG SAID BOUNDARY; THENCE NORTH 50 DEGREES 32 MINUTES 10 SECONDS WEST 15.121 METERS (49.61 FEET) ALONG SAID BOUNDARY; THENCE SOUTH 83 DEGREES 21 MINUTES 08 SECONDS EAST 21.023 METERS (68.97 FEET); THENCE NORTH 89 DEGREES 15 MINUTES 51 SECONDS EAST 70.328 METERS (230.73 FEET) TO THE NORTH LINE OF A 15.00 FEET WIDE SANITARY SEWER EASEMENT DESCRIBED IN EXHIBIT "A" OF THE SANITARY SEWER AND WATER LINE EASEMENT RECORDED AS INSTRUMENT #33672, IN DEED RECORD 330, PAGES 512 TO 519; THENCE NORTH 89 DEGREES 10 MINUTES 01 SECOND EAST 156.847 METERS (514.59 FEET) ALONG THE NORTH LINE OF SAID WATER LINE EASEMENT; THENCE NORTH 88 DEGREES 31 MINUTES 29 SECONDS EAST 34.827 METERS (114.26 FEET) ALONG SAID NORTH LINE; THENCE NORTH 42 DEGREES 13 MINUTES 36 SECONDS EAST 9.175 METERS (30.10 FEET) TO THE WEST LINE OF A SANITARY SEWER AND WATER LINE EASEMENT RECORDED AS INSTRUMENT #9104427; THENCE NORTH 0 DEGREE 07 MINUTES 07 SECONDS EAST 75.000 METERS (246.06 FEET) ALONG THE WEST LINE OF SAID SANITARY SEWER AND WATER LINE EASEMENT; THENCE SOUTH 89 DEGREES 45 MINUTES 13 SECONDS EAST 12.121 METERS (39.77 FEET) TO THE WEST BOUNDARY OF GREYHOUND PASS DESCRIBED IN DEED OF DEDICATION RECORDED AS INSTRUMENT #9023061; THENCE SOUTH 0 DEGREES 26 MINUTES 42 SECONDS EAST 7.845 METERS (25.74 FEET) ALONG THE WEST BOUNDARY OF SAID GREYHOUND PASS; THENCE SOUTHEASTERLY 103.142 METERS (338.39 FEET) ALONG AN ARC TO THE LEFT HAVING A RADIUS OF 103.632 METERS (340.00 FEET) AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 28 DEGREES 57 MINUTES 26 SECONDS EAST AND A LENGTH OF 98.937 METERS (324.60 FEET) ALONG SAID BOUNDARY TO THE NORTH BOUNDARY OF 146TH STREET; THENCE SOUTH 89 DEGREES 01

MINUTE 27 SECONDS WEST 263.746 METERS (865.31 FEET) ALONG THE BOUNDARY OF SAID 14 6TH STREET TO THE POINT OF BEGINNING AND CONTAINING 0.5838 HECTARES (1.443 ACRES) MORE OR LESS.

ALSO EXCEPT (PARCEL 7A):

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18NORTH, RANGE 4 EAST, HAMILTON COUNTY, INDIANA DESCRIBED AS FOLLOWS:

BEGINNING ON THE SOUTH LINE OF SAID SECTION NORTH 89 DEGREES 01
MINUTE 27 SECONDS EAST (ASSUMED BEARING) 165.202 METERS (542.00 FEET) FROM THE SOUTHWEST CORNER OF SAID SECTION; THENCE NORTH 0 DEGREES 58 MINUTES 33 SECONDS WEST 5.029 METERS (16.50 FEET); IN DEED OF DEDICATION RECORDED AS INSTRUMENT #9023061;THENCE NORTH 89 DEGREES 01 MINUTE 27 SECONDS EAST 263.746 METERS (865.31 FEET) TO THE WEST BOUNDARY OF GREYHOUND PASS DESCRIBED THENCE SOUTH 0 DEGREES 58 MINUTES 33 SECONDS EAST 5.029 METERS (16.50 FEET) TO SAID SOUTH LINE; THENCE SOUTH 89 DEGREES 01 MINUTE 27 SECONDS WEST 263.746 METERS (865.31 FEET) ALONG THE SAID SOUTH LINE TO THE POINT OF BEGINNING AND CONTAINING 0.1326 HECTARE (0.328 ACRES) MORE OR LESS.

(Note: All reference to acreage or square footage is for informational purposes only)

PARCEL II - Fee Simple:

PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST LOCATED IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, BEING BOUNDED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST; THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) 418.79 FEET ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER TO ITS POINT OF INTERSECTION WITH THE NORTHERLY EXTENSION OF THE EASTERN BOUNDARY OF THE 1.959 ACRE TRACT OF LAND DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT #83 3497 IN DEED RECORD 336, PAGE 110, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST 40.00 FEET ALONG THE NORTHERLY EXTENSION OF THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND AND ALONG

THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT OF LAND TO A POINT BEING 40.00 FEET (MEASURED PERPENDICULARLY IN A SOUTHERLY DIRECTION) FROM THE NORTH LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST 919.86 FEET PARALLEL WITH THE NORTH LINE OF SAID SOUTHWEST QUARTER; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST 662.37 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST 67.46 FEET; THENCE SOUTH 51 DEGREES 53 MINUTES 58 SECONDS WEST 210.05 FEET; THENCE SOUTH 07 DEGREES 17 MINUTES 33 SECONDS EAST 164.22 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST 531.94 FEET TO A POINT ON THE NORTHERN BOUNDARY OF GREYHOUND PASS (REF.: DEED OF DEDICATION RECORDED AS INSTRUMENT #90 23061 IN SAID RECORDER'S OFFICE), SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE TO THE SOUTHWEST AND BEING NORTH 21 DEGREES 35 MINUTES 35 SECONDS EAST 345.00 FEET FROM THE RADIUS POINT OF SAID CURVE, THE NEXT FOUR (4) COURSES ARE ALONG THE BOUNDARY OF GREYHOUND PASS; 1.) THENCE EASTERLY, SOUTHEASTERLY, AND SOUTHERLY 416.05 FEET ALONG SAID CURVE TO ITS POINT OF TANGENCY, SAID POINT OF TANGENCY BEING SOUTH 89 DEGREES 18 MINUTES 39 SECONDS EAST 345.00 FEET FROM THE RADIUS POINT OF SAID CURVE; 2.) THENCE SOUTH 00 DEGREES 41 MINUTES 21 SECONDS WEST 499.25 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID POINT OF CURVATURE BEING NORTH 89 DEGREES 18 MINUTES 39 SECONDS WEST 260.00 FEET FROM THE RADIUS POINT OF SAID CURVE (SAID POINT HEREINAFTER REFERRED TO AS POINT "A"); 3.) THENCE SOUTHERLY, SOUTHEASTERLY AND EASTERLY 415.96 FEET ALONG SAID CURVE TO ITS POINT OF TANGENCY, SAID POINT OF TANGENCY BEING SOUTH 00 DEGREES 58 MINUTES 33 SECONDS EAST 260.00 FEET FROM THE RADIUS POINT OF SAID CURVE; 4.) THENCE NORTH 89 DEGREES 01 MINUTE 27 SECONDS EAST 391.46 FEET TO THE EASTERN BOUNDARY OF THE 30.00 ACRE TRACT OF LAND DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT #33740 IN DEED RECORD 330, PAGE 554, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, THE NEXT FIVE (5) COURSES ARE ALONG THE BOUNDARY OF SAID 30.00 ACRE TRACT OF LAND: 1.) THENCE NORTH 00 DEGREES 07 MINUTES 07 SECONDS EAST 259.99 FEET; 2.) THENCE NORTH 45 DEGREES 07 MINUTES 07 SECONDS EAST 232.38 FEET; 3.) THENCE NORTH 00 DEGREES 07 MINUTES 07 SECONDS EAST 1,726.93 FEET; 4.) THENCE NORTH 44 DEGREES 52 MINUTES 53 SECONDS WEST 232.38 FEET; 5.) THENCE NORTH 00 DEGREES 07 MINUTES 07 SECONDS EAST 300.00 FEET TO A POINT ON THE NORTH LINE OF SAID SOUTHWEST QUARTER; THENCE SOUTH 89 DEGREES 19 MINUTES 32 SECONDS WEST 1,587.07 FEET ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER TO THE POINT OF BEGINNING.

CONTAINING 51.533 ACRES MORE OR LESS.

ALSO:

COMMENCING AT POINT "A"; THENCE SOUTH 00 DEGREES 41 MINUTES 21 SECONDS WEST 219.09 FEET TO A POINT ON THE SOUTHWESTERN BOUNDARY OF GREYHOUND PASS, SAID POINT BEING ON A NON-TANGENT CURVE CONCAVE TO THE NORTHEAST (SAID CURVE HEREINAFTER REFERRED TO AS "CURVE #1") AND BEING SOUTH 50 DEGREES 34 MINUTES 12 SECONDS WEST 340.00 FEET FROM THE RADIUS POINT OF "CURVE #1", SAID POINT ALSO BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 00 DEGREES 41 MINUTES 21 SECONDS WEST 88.60 FEET TO THE SOUTH LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 89 DEGREES 01 MINUTE 27 SECONDS EAST 81.14 FEET ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER TO THE "POINT OF BEGINNING" OF THE DESCRIPTION OF GREYHOUND PASS; THENCE NORTH 00 DEGREES 58 MINUTES 33 SECONDS WEST 16.50 FEET ALONG THE WESTERN BOUNDARY OF GREYHOUND PASS TO A POINT ON "CURVE #1", SAID POINT BEING SOUTH 32 DEGREES 31 MINUTES 50 SECONDS WEST 340.00 FEET FROM THE RADIUS POINT OF "CURVE #1"; THENCE NORTHWESTERLY 107.05 FEET ALONG THE SOUTHWESTERN BOUNDARY OF GREYHOUND PASS AND ALONG "CURVE #1" TO THE POINT OF BEGINNING.

CONTAINING 0.090 ACRES MORE OR LESS.

EXCEPT:

(MENARD'S)

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST OF THE SECOND PRINCIPAL MERIDIAN, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 418.79 FEET TO ITS POINT OF INTERSECTION WITH THE NORTHERLY EXTENSION OF THE EASTERN BOUNDARY OF THE 1.959 ACRE TRACT OF LAND DESCRIBED IN A WARRANTY DEED RECORDED AS INSTRUMENT NUMBER 83-3497 IN DEED RECORD 336, PAGE 110, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA;

THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE NORTHERLY EXTENSION OF THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT AND ALONG THE EASTERN BOUNDARY OF SAID 1.959 ACRE TRACT A DISTANCE OF 40.00 FEET TO A POINT 40.00 FEET SOUTH BY PERPENDICULAR MEASUREMENT OF THE NORTH LINE OF SAID SOUTHWEST QUARTER; THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST PARALLEL WITH SAID NORTH LINE A DISTANCE OF 919.86 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST A DISTANCE OF 662.37 FEET; THENCE SOUTH 89 DEGREES 43 MINUTES 12 SECONDS WEST A DISTANCE OF 67.46 FEET; THENCE SOUTH 51 DEGREES 53 MINUTES 58 SECONDS WEST A DISTANCE OF 210.05 FEET; THENCE SOUTH 07 DEGREES 17 MINUTES 33 SECONDS EAST A DISTANCE OF 164.22 FEET; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST A DISTANCE OF 306.19 FEET; THENCE SOUTH 89 DEGREES 53 MINUTES 03 SECONDS EAST A DISTANCE OF 133.44 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89 DEGREES 53 MINUTES 03 SECONDS EAST A DISTANCE OF 243.42 FEET; THENCE NORTH 45 DEGREES 06 MINUTES 57 SECONDS EAST A DISTANCE OF 59.40 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 57 SECONDS EAST A DISTANCE OF 96.00 FEET; THENCE SOUTH 89 DEGREES 53 MINUTES 03 SECONDS EAST A DISTANCE OF 617.09 FEET; THENCE SOUTH 00 DEGREES 07 MINUTES 07 SECONDS WEST A DISTANCE OF 642.00 FEET; THENCE NORTH 89 DEGREES 53 MINUTES 03 SECONDS WEST A DISTANCE OF 818.34 FEET TO A POINT ON THE EASTERN BOUNDARY OF GREYHOUND PASS AS DESCRIBED IN A RIGHT-OF-WAY DEDICATION RECORDED AS INSTRUMENT NUMBER 90-23601 IN SAID RECORDER'S OFFICE, SAID POINT BEING ON A CURVE CONCAVE TO THE SOUTHWEST, SAID POINT BEARING NORTH 82 DEGREES 59 MINUTES 27 SECONDS EAST A DISTANCE OF 345.00 FEET FROM THE RADIUS POINT OF SAID CURVE; THENCE NORTHWESTERLY ALONG THE NORTHEASTERN BOUNDARY OF SAID GREYHOUND PASS AND ALONG SAID CURVE AN ARC DISTANCE OF 207.28 FEET TO A POINT WHICH BEARS NORTH 48 DEGREES 34 MINUTES 01 SECONDS EAST A DISTANCE OF 345.00 FEET FROM SAID RADIUS POINT; THENCE NORTH 00 DEGREES 06 MINUTES 57 SECONDS EAST A DISTANCE OF 317.96 FEET TO THE POINT OF BEGINNING.

CONTAINING 12.189 ACRES MORE OR LESS.

ALSO EXCEPT:

(TUTTLE GROVE APARTMENT, TRACT II)

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST OF THE SECOND PRINCIPAL MERIDIAN,

HAMILTON COUNTY, INDIANA MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER; THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 1338.46 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST ALONG SAID NORTH LINE A DISTANCE OF 379.00 FEET TO A RAILROAD SPIKE SET THIS SURVEY; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST A DISTANCE OF 70.16 FEET TO A REBAR WITH CAP SET THIS SURVEY; THENCE SOUTH 07 DEGREES 50 MINUTES 31 SECONDS WEST A DISTANCE OF 70.78 FEET TO A REBAR WITH CAP SET THIS SURVEY; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST A DISTANCE OF 1028.74 FEET TO THE NORTHERLY LINE OF REAL ESTATE AS DESCRIBED IN A SPECIAL (LIMITED) WARRANTY DEED TO MENARD, INC. AS RECORDED BY INSTRUMENT NO. 9251639, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, SAID POINT BEING A REBAR WITH CAP SET THIS SURVEY; THENCE NORTH 89 DEGREES 53 MINUTES 03 SECONDS WEST ALONG SAID NORTHERLY LINE A DISTANCE OF 162.53 FEET, THENCE SOUTH 00 DEGREES 06 MINUTES 57 SECONDS WEST ALONG SAID NORTHERLY LINE A DISTANCE OF 96.00 FEET, THENCE SOUTH 45 DEGREES 06 MINUTES 57 SECONDS WEST ALONG SAID NORTHERLY LINE A DISTANCE OF 59.40 FEET, THENCE NORTH 89 DEGREES 53 MINUTES 03 SECONDS WEST ALONG SAID NORTHERLY LINE AND THE EXTENSION THEREOF A DISTANCE 376.86 FEET; THENCE NORTH 00 DEGREES 16 MINUTES 48 SECONDS WEST A DISTANCE OF 306.19 FEET; THENCE NORTH 07 DEGREES 17 MINUTES 33 SECONDS WEST A DISTANCE OF 164.22 FEET, THENCE NORTH 51 DEGREES 53 MINUTES 58 SECONDS EAST A DISTANCE OF 210.05 FEET, THENCE NORTH 89 DEGREES 43 MINUTES 12 SECONDS EAST A DISTANCE OF 67.46 FEET, THENCE NORTH 00 DEGREES 16 MINUTES 48 SECONDS WEST A DISTANCE OF 702.36 FEET TO THE POINT OF BEGINNING.

THE AREA IS 13.320 ACRES MORE OR LESS.

ALSO EXCEPT - (TUTTLE GROVE APARTMENTS, TRACT 1):

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST OF THE SECOND PRINCIPAL MERIDIAN, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST

QUARTER; THENCE NORTH 89 DEGREES 19 MINUTES 32 SECONDS EAST (ASSUMED BEARING) ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 1717.46 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST A DISTANCE OF 70.16 FEET TO A REBAR WITH CAP SET THIS SURVEY; THENCE SOUTH 07 DEGREES 50 MINUTES 31 SECONDS WEST A DISTANCE OF 70.78 FEET TO A REBAR WITH CAP SET THIS SURVEY; THENCE SOUTH 00 DEGREES 16 MINUTES 48 SECONDS EAST A DISTANCE OF 1028.74 FEET TO THE NORTHERLY LINE OF REAL ESTATE AS DESCRIBED IN A SPECIAL (LIMITED) WARRANTY DEED TO MENARD, INC. AS RECORDED BY INSTRUMENT NO. 9251639, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, SAID POINT BEING A REBAR WITH CAP SET THIS SURVEY; THENCE SOUTH 89 DEGREES 53 MINUTES 03 SECONDS EAST ALONG SAID NORTHERLY LINE A DISTANCE OF 454.56 FEET TO THE NORTHEAST CORNER OF SAID REAL ESTATE; THENCE NORTH 00 DEGREES 07 MINUTES 07 SECONDS EAST A DISTANCE OF 708.66 FEET; THENCE NORTH 44 DEGREES 52 MINUTES 53 SECONDS WEST A DISTANCE OF 232.38 FEET; THENCE NORTH 00 DEGREES 07 MINUTES 07 SECONDS EAST A DISTANCE OF 300.00 FEET TO THE NORTH LINE OF SAID SOUTHWEST QUARTER; THENCE SOUTH 89 DEGREES 19 MINUTES 32 SECONDS WEST ALONG SAID NORTH LINE A DISTANCE OF 288.40 FEET TO THE POINT OF BEGINNING.

THE AREA IS 10.871 ACRES MORE OR LESS.

EXCEPT - (146TH STREET):

A PART OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 18 NORTH, RANGE 4 EAST, HAMILTON COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION; THENCE NORTH 89 DEGREES 01 MINUTE 27 SECONDS EAST (ASSUMED BEARING) 605.546 METERS 1986.70 FEET ALONG THE SOUTH LINE OF SAID SECTION TO THE PROLONGED EAST LINE OF THE OWNER'S LAND; THENCE NORTH 0 DEGREES 06 MINUTES 46 SECONDS EAST 12.194 METERS (40.01 FEET) ALONG SAID PROLONGED LINE TO THE POINT OF BEGINNING OF THIS DESCRIPTION, WHICH POINT IS ON THE NORTH BOUNDARY OF 146TH STREET; THENCE SOUTH 89 DEGREES 01 MINUTE 27 SECONDS WEST 119.621 METERS (392.46 FEET) ALONG THE NORTH BOUNDARY OF SAID 146TH STREET TO THE NORTHERN BOUNDARY OF GREYHOUND PASS DESCRIBED IN A DEED OF DEDICATION RECORDED AS INSTRUMENT #912361, IN THE OFFICE OF THE RECORDER, HAMILTON COUNTY, INDIANA; THENCE NORTHWESTERLY 46.934 METERS (153.98 FEET) ALONG

AN ARC TO THE RIGHT AND HAVING A RADIUS OF 79.248 METERS (260.00 FEET) AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 74 DEGREES 00 MINUTES 34 SECONDS WEST AND A LENGTH OF 46.25 METERS (151.74 FEET) ALONG THE NORTHERLY AND NORTHEASTERLY BOUNDARY OF SAID GREYHOUND PASS; THENCE NORTH 34 DEGREES 30 MINUTES 30 SECONDS EAST 3.360 METERS (11.02 FEET); THENCE SOUTHEASTERLY 44.816 METERS (147.03 FEET) ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 75.89 METERS (248.98 FEET) AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 74 DEGREES 01 MINUTE 42 SECONDS EAST AND A LENGTH OF 44.163 METERS (144.89 FEET); THENCE NORTH 89 DEGREES 01 MINUTE 27 SECONDS EAST 15.65 METERS (51.35 FEET); THENCE NORTH 82 DEGREES 34 MINUTES 12 SECONDS EAST 16.102 METERS (52.83 FEET); THENCE SOUTH 89 DEGREES 52 MINUTES 43 SECONDS EAST 71.013 METERS (232.98 FEET); THENCE NORTH 89 DEGREES 01 MINUTE 27 SECONDS EAST 17.081 METERS (56.04 FEET) TO AN EAST LINE OF THE OWNER'S LAND; THENCE SOUTH 0 DEGREES 06 MINUTES 46 SECONDS WEST 3.089 METERS (10.13 FEET) ALONG SAID EAST LINE TO THE POINT OF BEGINNING AND CONTAINING 0.0628 HECTARES (0.155 ACRES) MORE OR LESS.

(Note: All reference to acreage or square footage is for informational purposes only)

ALSO EXCEPT FROM PARCEL I AND PARCEL II:

THAT PART OF PARCEL I AND PARCEL II DEEDED TO THE BOARD OF COMMISSIONERS OF HAMILTON COUNTY, STATE OF INDIANA IN A CERTAIN WARRANTY DEED, GRANT OF TEMPORARY RIGHT OF WAY AND GRANT OF TERMINATION OF ACCESS RIGHTS DATED JANUARY 8, 1999, AND RECORDED JANUARY 14, 1999, AS INSTRUMENT NUMBER 9902569, ALL IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

PARCEL III - Easement:

TOGETHER WITH THOSE RIGHTS AND EASEMENTS CONSTITUTING RIGHTS IN REAL PROPERTY CREATED DEFINED AND LIMITED BY THAT CERTAIN "EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND" BETWEEN WAL-MART STORES, INC. AND VILLAGE DEVELOPERS LIMITED PARTNERSHIP DATED MAY 3, 1990 AND RECORDED MAY 7, 1990 AS INSTRUMENT NUMBER 9010610, AMENDED BY FIRST AMENDMENT TO EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND BY AND BETWEEN WAL-MART REAL ESTATE BUSINESS TRUST, A DELAWARE STATUTORY TRUST, AND VILLAGE DEVELOPERS LIMITED PARTNERSHIP, AN INDIANA LIMITED PARTNERSHIP, DATED JULY 23, 2004, AND RECORDED JANUARY 3, 2005, AS INSTRUMENT

NUMBER 200500000153, AND IN AGREEMENT BETWEEN VILLAGE DEVELOPERS LIMITED PARTNERSHIP, WAL-MART STORES, INC. AND MUNDY REALTY, INC. DATED MAY 22, 1991 AND RECORDED MAY 29, 1991 AS INSTRUMENT NUMBER 9112660, ALL IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

PARCEL IV - Easement:

TOGETHER WITH THOSE RIGHTS AND EASEMENTS CONSTITUTING RIGHTS IN REAL PROPERTY CREATED DEFINED AND LIMITED BY THAT CERTAIN EASEMENTS WITH COVENANTS AND RESTRICTIONS AFFECTING LAND BETWEEN MUNDY REALTY, INC., AND VILLAGE DEVELOPERS LIMITED PARTNERSHIP DATED FEBRUARY 18, 1991 AND RECORDED MARCH 5, 1991 AS INSTRUMENT NUMBER 9104827, AND AGREEMENT BETWEEN VILLAGE DEVELOPERS LIMITED PARTNERSHIP, WAL-MART STORES, INC. AND MUNDY REALTY, INC. DATED MAY 22, 1991 AND RECORDED MAY 29, 1991 AS INSTRUMENT NUMBER 9112660, BOTH IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

PARCEL V - Easement:

TOGETHER WITH THOSE RIGHTS AND DRAINAGE EASEMENTS CONSTITUTING RIGHTS IN REAL PROPERTY CREATED DEFINED AND LIMITED BY THAT CERTAIN WARRANTY DEED DATED MAY 6, 1982 AND RECORDED MAY 7, 1982 IN DEED RECORD 330 PAGE 554, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

PARCEL VI - Easement:

TOGETHER WITH THOSE RIGHTS AND EASEMENTS CONSTITUTING RIGHTS IN REAL PROPERTY CREATED DEFINED AND LIMITED BY THAT CERTAIN RECIPROCAL UTILITY AND ACCESS EASEMENT AGREEMENT BY AND BETWEEN VILLAGE DEVELOPERS LIMITED PARTNERSHIP, AN INDIANA LIMITED PARTNERSHIP, AND WESTFIELD PROPERTIES LIMITED PARTNERSHIP, AN INDIANA LIMITED PARTNERSHIP, DATED MAY 4, 1990 AND RECORDED MAY 7, 1990 AS INSTRUMENT NUMBER 9010608, MODIFIED BY ADDENDUM TO RECIPROCAL UTILITY AND ACCESS EASEMENT AGREEMENT BY AND BETWEEN VILLAGE DEVELOPERS LIMITED PARTNERSHIP, AN INDIANA LIMITED PARTNERSHIP, CARMEL/T&R ASSOCIATES LIMITED PARTNERSHIP, AN OHIO LIMITED PARTNERSHIP, AND T&R DEVELOPMENT, INC.,AN OHIO CORPORATION, DATED OCTOBER 10, 1993 AND RECORDED OCTOBER 14, 1993 AS INSTRUMENT NUMBER 9350238, BOTH IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

PARCEL VII - Easement:

TOGETHER WITH THOSE RIGHTS AND EASEMENTS CONSTITUTING RIGHTS IN REAL PROPERTY CREATED DEFINED AND LIMITED BY THAT CERTAIN RESERVATION OF UTILITY EASEMENT BY VILLAGE DEVELOPERS LIMITED PARTNERSHIP, AN INDIANA LIMITED PARTNERSHIP, DATED AUGUST 19, 1992 AND RECORDED AUGUST 26, 1992 AS INSTRUMENT NUMBER 9232750, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

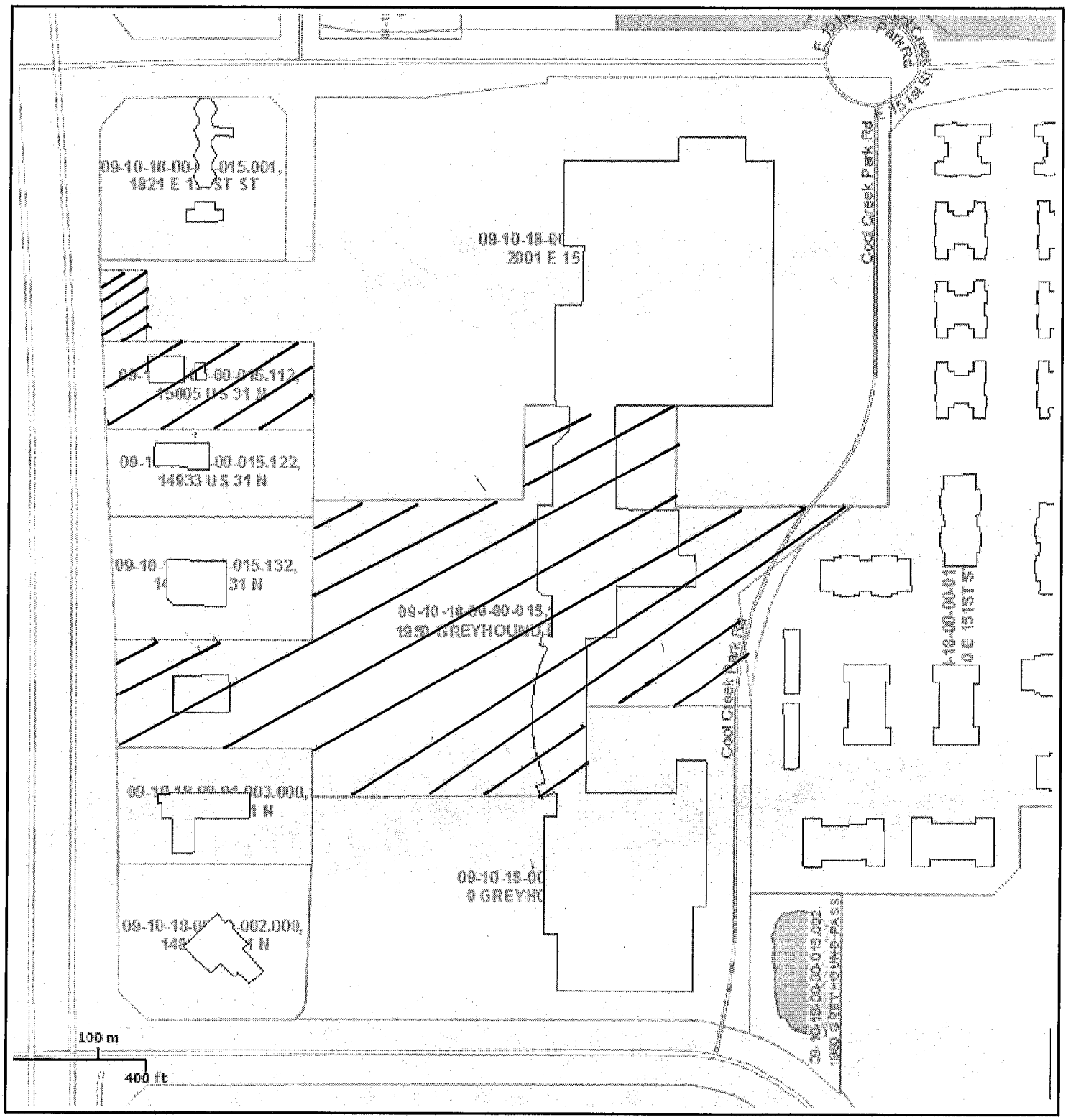
PARCEL VIII - Easement:

TOGETHER WITH THOSE RIGHTS AND EASEMENTS CONSTITUTING RIGHTS IN REAL PROPERTY CREATED DEFINED AND LIMITED BY THAT CERTAIN PERPETUAL NON-EXCLUSIVE EASEMENT AS CONTAINED IN THAT CERTAIN SPECIAL (LIMITED) WARRANTY DEED BY AND BETWEEN VILLAGE DEVELOPERS LIMITED PARTNERSHIP, AN INDIANA LIMITED PARTNERSHIP, AND MENARD, INC., A WISCONSIN CORPORATION, DATED DECEMBER 10, 1992 AND RECORDED DECEMBER 29, 1992 AS INSTRUMENT NUMBER 9251639, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

PARCEL IX - Easement:

TOGETHER WITH CERTAIN NON-EXCLUSIVE THEATRE PYLON SIGN EASEMENT, CREATED DEFINED AND LIMITED BY THAT CERTAIN COVENANTS, CONDITIONS, RESTRICTIONS AND NON-EXCLUSIVE EASEMENTS AS CONTAINED IN THAT CERTAIN COVENANTS, CONDITIONS, AND RESTRICTIONS AGREEMENT BY AND BETWEEN VILLAGE DEVELOPERS LIMITED PARTNERSHIP, AN INDIANA LIMITED PARTNERSHIP, AND EQUUS AGER, INC., AN INDIANA CORPORATION, DATED NOVEMBER 17, 1992 AND RECORDED NOVEMBER 24, 1992 AS INSTRUMENT NUMBER 9246407, IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA.

EXHIBIT B
CONCEPT PLAN



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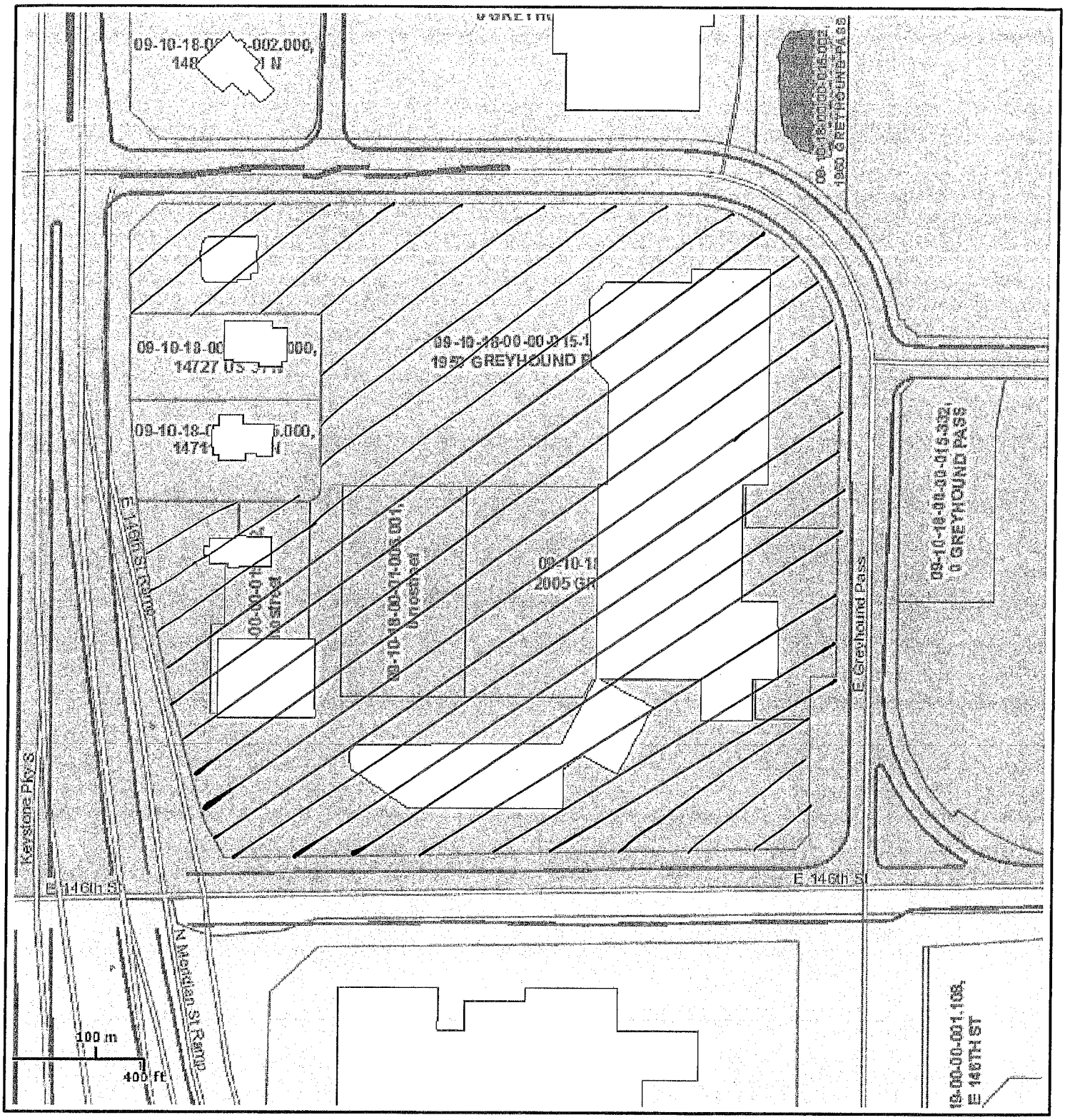

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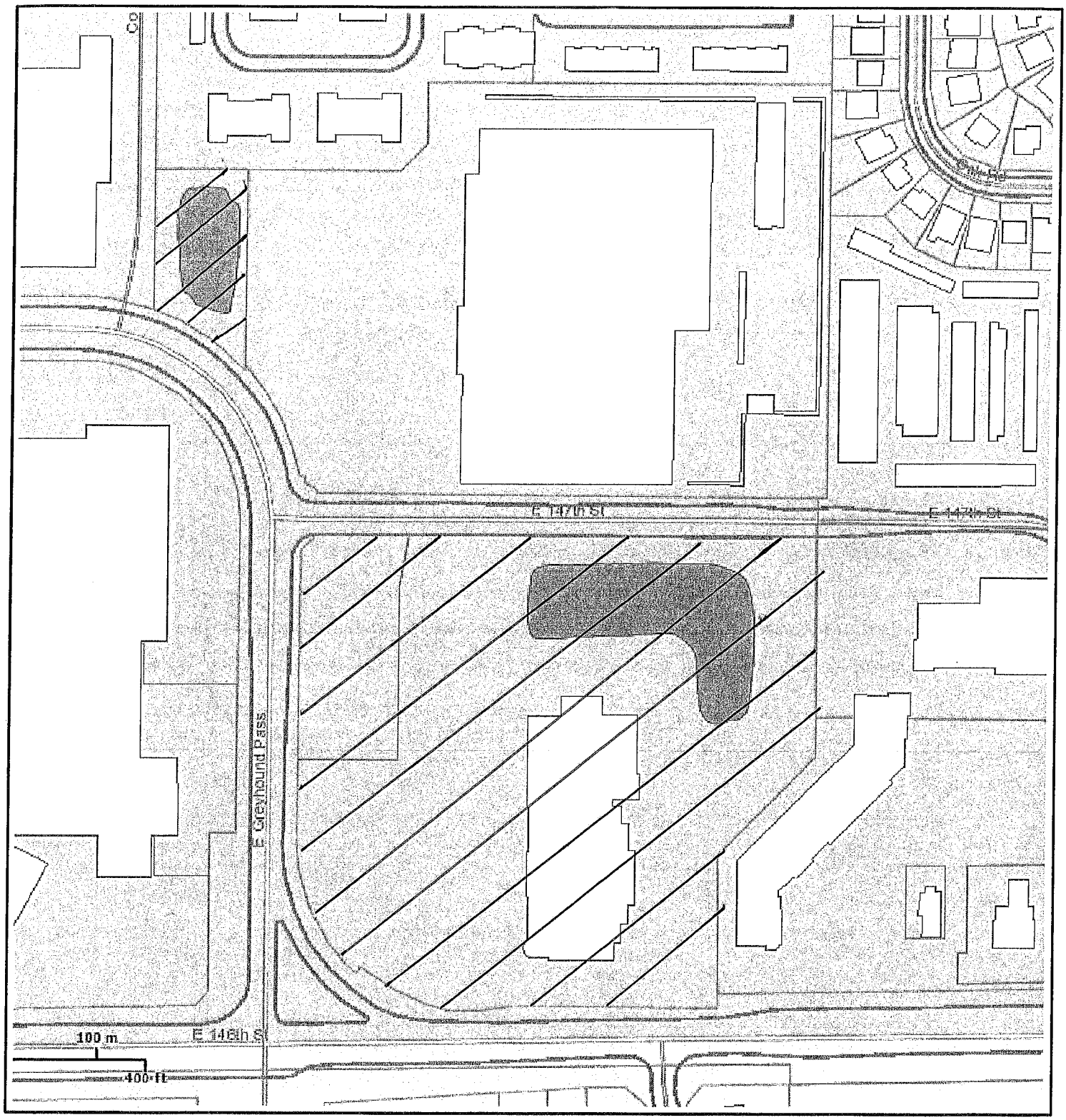

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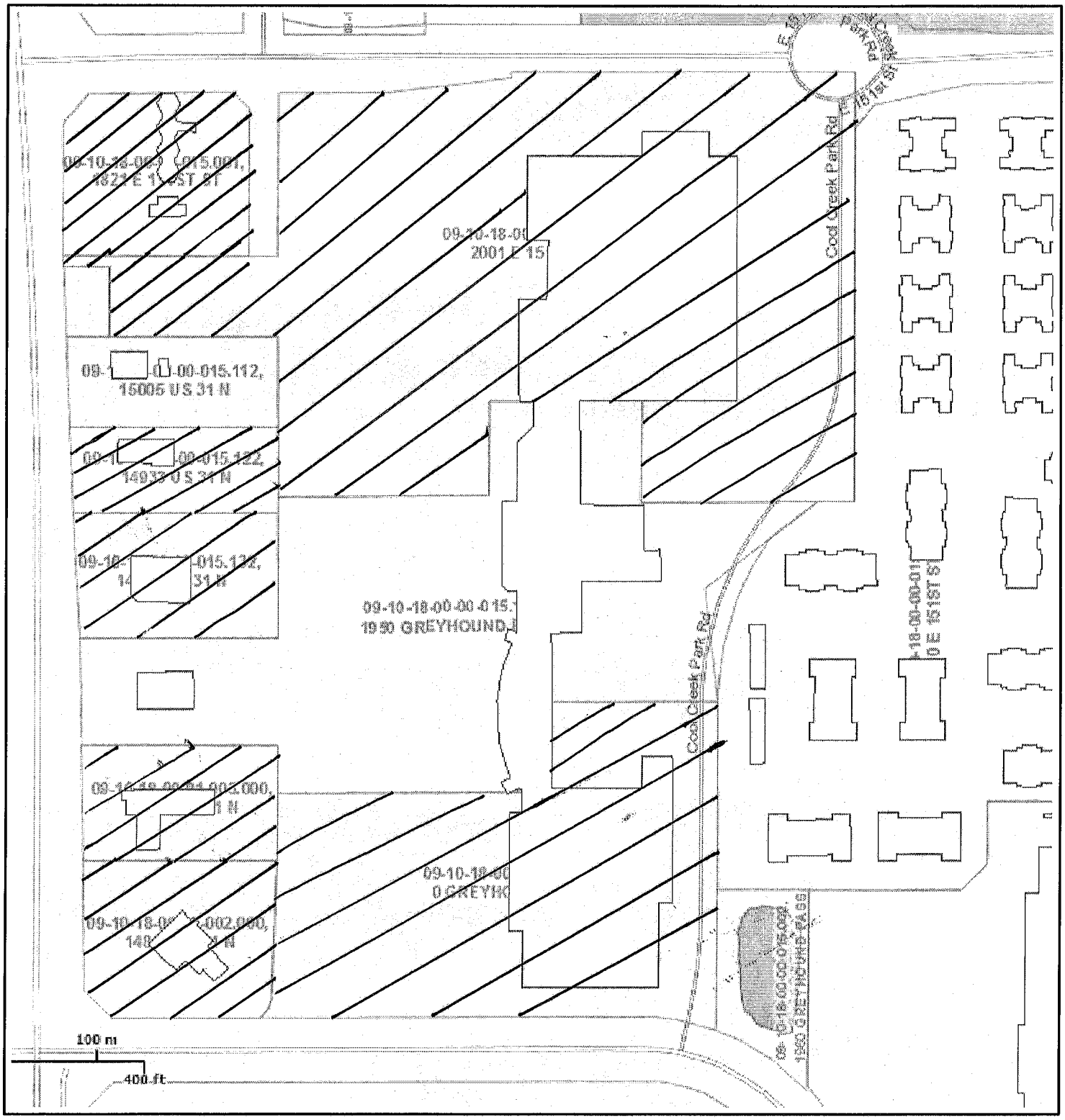
EXHIBIT C
ADDITIONAL REAL ESTATE



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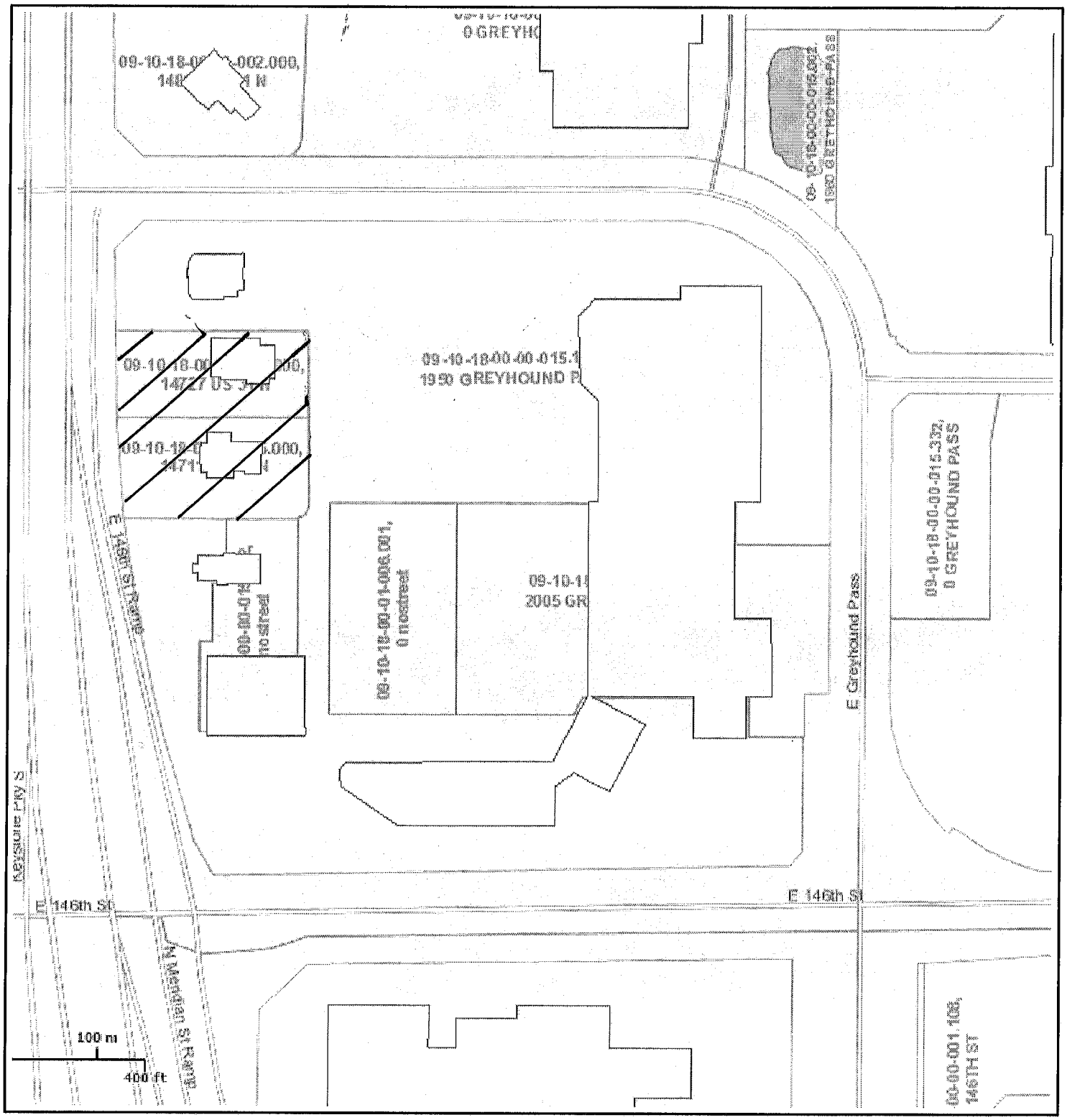

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