

# ORDINANCE NO. 2018 - 78

AMENDING  
HANCOCK COUNTY ZONING ORDINANCE NO. 2007-1B

AMENDING TITLE XV, CHAPTER 156, ZONING  
OF THE HANCOCK COUNTY CODE OF ORDINANCES

## SECTION I

Title XV, Chapter 156 of the Hancock County Code, is amended as follows: The Zoning Map referenced in Section 156.020 for Sugar Creek Township is hereby amended by rezoning the subject area from Residential (RI .0) to Planned Unit Development (PUD).

*(See attached legal description that is incorporated herein as "Exhibit A")*

The following shall be formally known as The Hills Over Sugar Creek Planned Unit Development Zoning Ordinance ("Ordinance") and is intended to guide the growth and development of The Hills Over Sugar Creek subdivision ("The Hills"), as described per the real estate attached as Exhibit A hereto, for the following purposes:

- (1) Adequate Facilities. To secure adequate light, air, and convenience of access; and provide safety from fire, flood and other dangers, and
- (2) Public Safety. To promote the public health, safety convenience, and general welfare.

The provisions of this ordinance shall be the minimum requirements for the protection of the health, safety, comfort, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment. If two or more provisions within this chapter are in conflict or are inconsistent with one another, then the provision which is most restrictive shall control.

**Section 100.001.** No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used or existing use be expanded, except in full compliance with all provisions of this chapter and after the lawful issuance of all permits and certificates required by this ordinance.

**Section 100.002.** As the provisions of this ordinance shall be the minimum requirements for the protection of the health, safety, comfort, convenience, and general welfare of the people at large, and are designed to encourage the establishment and maintenance of reasonable community standards for the physical environment, pursuant to the Hancock County Code there may be from time to time minor modifications of the detailed plan and this ordinance if in the opinion of the Hancock County Planning Director the modification does not change the type of use, any increase in density, any lessening of aesthetic treatments, any alteration of frontage or building location, any change in access points, or any alteration of the development requirements.

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**Section 200.001 Land Uses.** Each land use listed in section 200.002 is either a “permitted” or a “special exception” use in this ordinance. The designation of “permitted” shall be interpreted to mean the use is allowed with the appropriate improvement location permits and architectural control committee approvals without a public hearing. The designation of “special exception” shall be interpreted to mean the use will be checked for compliance with this ordinance and will require a public hearing per the Hancock County Code.

**Section 200.0015 Protected Zone:** No residential primary structure may be located closer than 700 feet and no residential accessory structure may be located closer than 650 feet to the waste control structure included as part of the Lantz confined feeding operation as shown on Exhibit B incorporated herein. All secondary plats shall identify and accurately establish said protected zones and shall contain covenants and restrictions prohibiting such primary and accessory structures in the defined protected zones. This provision may be waived or modified subject to the granting of a special exception by the Board of Zoning Appeals.

**200.0016 Right to Farm Covenant.** Each current and future secondary plat shall contain the following:

The owner of the herein described real estate, for himself, and for all future owners and occupants of said real estate, or any parcel or division thereof, for and in consideration of the right to develop the real estate for other than agricultural uses, hereby:

(1) Acknowledges and agrees that the real estate is adjacent to an area zoned or used for agricultural purposes, which uses include but are not limited to:

- (a) Production of crops;
- (b) Animal husbandry;

- (c) Land application of animal waste;
  - (d) Raising, breeding and sale of livestock and poultry, including confinement feeding operations;
  - (e) Use of farm machinery; and/or
  - (f) The sale of farm products.
- (2) Waives any and all objections to any agricultural uses within two miles of any boundary of the real estate.
- (3) Agrees that agricultural uses do not constitute a nuisance so long as they are not negligently maintained, do not cause bodily injury to third parties, or directly endanger human health.
- (4) Agrees that this covenant is for the benefit of Hancock County, Indiana, and for all persons engaged in agricultural uses within two miles of any boundary of the real estate and is enforceable by any of the foregoing.

**Section 200.002 Permitted and Special Exceptions** (all uses shall meet the standards of the architectural control committee)

Walls/fences and landscaping associated with the entrance to the PUD.....	Permitted
Child Care Home.....	Special Exception
Dwelling, single family .....	Permitted
Home Occupation.....	Special Exception
Nature or recreational preserve.....	Permitted
Flood plain.....	Permitted

**Section 200.003 Accessory Use, Incidental Uses and Structure Standards.** No accessory use or structure shall be permitted to be located, placed, or established on any lot prior to the issuance of a permit for a primary use or structure. All accessory uses and structures shall be permitted only in association with, and on the same lot as, the primary use or structure.

No accessory structure shall be permitted in any front yard, or within the minimum required side and rear yard setbacks.

**Section 200.0031 Permitted Accessory Structures .**

*(all accessory structures shall be submitted to the architectural control committee for approval prior to submittal to the Hancock County Planning Department for an improvement location permit):*

“Mother-in-laws quarters” or single family dwellings constructed and used as accessories to the primary dwelling on the property shall be either:

- a. Attached to and designed and constructed as part of the primary structure, or
- b. Located above the detached garage or outbuilding, and
- c. In no case exceed 1200 square feet in living area.

Attached and detached decks submitted with a landscaping plan.

Outbuildings

Gazebos

In-ground swimming pools

Pool Houses  
Hot Tubs

**Section 200.0032 Incidental Uses and Structures.** The following shall be considered incidental uses and structures and shall meet the requirements below:

- a) Satellite Dish. Satellite dishes shall not exceed 18 inches in diameter. No satellite dish shall be mounted above the height of the highest peak of a roof. No satellite dish shall be located apart from the roof of the primary structure and shall be approved by the architectural control committee prior to installation.
- (b) Other incidental uses and structures are: bird baths and houses, mailboxes, lamp posts, doghouses, patios, yard ornaments, athletic courts, inflatable objects and similar items are all only permitted if approved as part of a landscape plan submitted to the architectural control committee.

**Section 200.100 Temporary Uses.** Except as may be permitted by the Developer during initial construction and upon being issued a permit by Hancock County, within the Property, no tent, shack, trailer or other structure of a temporary nature shall be placed upon a Lot or the Common Areas. Notwithstanding the above, party tents or similar temporary structures may be erected for special events with prior written approval of the Architectural Control Committee or the Developer and children's overnight camping tents will be allowed as long as they are not up longer than forty-eight (48) hours. Dwelling Units may not be temporarily or permanently occupied until the exteriors thereof have been completed and a certificate of occupancy for such Dwelling Unit has been issued by the Hancock County Planning and Building Department. No shack, tent, barn, or other outbuildings, shall be permitted on any Lot at any time, except for temporary structures for social functions as may be permitted by the Architectural Control Committee, nor shall any stable, poultry house or yard, rabbit hut, dog run (as hereby defined as any fenced or secured area where dogs are kept) or other similar yard structure be constructed or allowed to remain on any Lot.

**Section 300.001 Lot Standards.** Each lot in the Project shall meet the minimum standards below:

- (A) Minimum Lot Area = 50,000 square feet
- (B) Minimum Lot Width = as shown on the final detailed plan
- (C) Maximum Lot Coverage (all hard surfaces) = 60%
- (D) Minimum Front Yard Setback (measured from street right-of-way line) = 35 feet
- (E) Minimum Side Yard Setback = 10 feet (for the purposes of this standard, in the event a Lot Owner acquires two (2) lots or combines two (2) lots for the purposes of building one (1) dwelling, the side yard shall be considered the outermost lot line of the combined two lots. Furthermore if two lots are combined to create one building lot, the dwelling and accessory structures may straddle the line common line or dividing line of said two lots).
- (F) Minimum Rear Yard Setback = 15 feet
- (G) Minimum Living Area = 1,900 square feet for one story dwellings and 2,300 square feet for a two-story dwelling.
- (H) Minimum Ground Floor Living Area = 1,900 square feet for one story dwellings and 1,000 square feet for a two-story dwelling.
- (I) Maximum number of primary structures per lot = one (1) dwelling

- (J) Maximum height of primary structure = 35 feet
- (K) Maximum height of accessory structure = 30 feet
- (L) Maximum size of detached accessory structure = 2,000 square feet

Nothing contained in this section shall prevent the combining of adjacent lots to create a larger lot or the splitting of adjoining lots to create lots and one-half lots. Any such combining shall be done by a "lot amendment" which shall be prepared in accordance to the standards for subdivision plats and shall be approved administratively by the plan director. In no event however shall dividing of lots be allowed which create a greater number of lots than the number approved by this ordinance.

**Section 300.002 General Lot Standards.**

- (a) No portion of any structure is allowed to be located within the required setbacks. Structures shall include, but not be limited to garages, carports, balconies, roofs, decks, chimneys, fire escapes, and platforms above adjacent grade level. Parking spaces, interior drives, other vehicle use areas and sidewalks shall be permitted within the required setbacks at adjacent grade level subject to architectural control committee approval.
- (b) All structures and land uses, including any alterations to either, that are established or otherwise occur after the effective date of this Project, shall conform to and are subject to the development standards of Section 305.001 by this Ordinance with the exception that the accessory structure may have a maximum height of 30 feet .
- (c) Telecommunication towers and antenna are not allowed other than satellite dishes permitted by the declaration of covenants filed with the final detailed plans.
- (d) All home occupation land uses in addition to being subject to the public hearing process after given architectural control committee approval shall meet the home occupation development standards as set forth in the Hancock County Code.
- (e) Child Care Home land uses shall in addition to being subject to the public hearing process after given architectural control committee approval shall meet the development standards of I.C. 12-7-2-28.6. and shall be consistent with all applicable regulations of the State of Indiana.
- (f) Mailbox design, material and type shall be mandated by the developer and set out in the Declaration of Covenants recorded with the final detailed plan.
- (g) Landscaping plans as approved by the Architectural Control Committee shall be installed within 180 days of the issuance of the certificate of occupancy, unless extensions of up to 120 days are granted to take advantage of optimal planting conditions.
- (h) All new structures shall include a landscape plan which meets the minimum standards for landscape plans as outlined in the Declaration of Covenants to be recorded with current or future secondary plats.
- (i) Off-street parking shall be in compliance with the Hancock County Code.
- (j) The storage and parking of recreational vehicles shall be in accordance to the Declaration of Covenants to be recorded with current or future secondary plats.
- (k) Each driveway constructed with the primary or accessory structure shall be in compliance with the "Sight Visibility Standards" stated in the Hancock County Code.

- (l) Exterior Construction. The finished exterior of every building constructed or placed on any lot or block in the Development shall be of material other than vinyl, metal, rollbrick siding or any other similar material. No house shall have metal prefabricated flues that extend above the highest roofline. All driveways must be paved with asphalt or concrete.
- (m) House Approval. All houses in the Development shall first be approved by the Developer or its designee.
- (n) Committee Approval. All fences, awnings, satellite dishes less than one meter in diameter (as to screening, location and landscaping), additions and other improvements shall be approved by the Committee prior to erection. Prior to construction, the builder or owner shall submit to the Committee a plot plan, print or brochure and a color scheme.
- (o) Garages Required. All residential dwellings in the Development shall include an attached two-car or more enclosed garage.
- (p) Heating Plants. Every house in the Development must contain a heating plant installed in compliance with the required codes and capable of providing adequate heat for year-round human habitation of the house.
- (q) Diligence in Construction. Every building whose construction or placement on any residential lot in the Development is begun shall be completed within twelve (12) months unless granted an extension by the Architectural control committee. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.
- (r) Prohibition of Used Structures. All structures constructed or placed on any numbered lot in the Development shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such lot.
- (s) Maintenance of Lots and Improvements. The Owner of any lot in the Development shall at all times maintain the lot in such a manner as to prevent the lot from becoming unsightly; and, specifically, such Owner shall:
  - i. Remove all debris or rubbish, and
  - ii. Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.
- (t) Outside Toilets. No outside toilets shall be permitted in the Development (except during a period of construction).
- (u) Construction of septic systems. All septic systems shall be designed and installed in accordance with Indiana Department of Health standards and regulations for residential septic systems.
- (v) In General. No noxious or offensive activities shall be permitted on any lot in the Development, nor shall anything be done on any of said lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another lot in the Development.
- (w) Vehicle Parking. No trucks (larger than a ¾ ton pickup), campers, motor homes, travel trailers, trailers, boats, any commercial vehicle with advertising or similar vehicles may be parked on any street, alley or drive or on any lot in the Development overnight. Other vehicles used for recreation (van conversions/RV's) that cannot be parked in a garage, will be permitted to park in the drive (in front of the garage) for

not more than forty-eight (48) hours to allow for loading and unloading. Such vehicles must not exceed twenty (20) feet in length and must not block normal access of other residents. Furthermore, disabled, non-operational or un-licensed vehicles of any kind shall not be parked on any lot, driveway, alley or street. Storage of any vehicle is prohibited, except in an enclosed garage. It is understood that from time to time owners may invite guests to their home which may cause times of temporary parking on the drives and alleys. However, in no instance shall temporary parking be permitted for longer than twelve (12) consecutive hours and the temporary parking shall be done in such a manner to prevent blocking the streets and alleys and causing driving on the grass surfaces. Commercial moving vans, when conducting contract business, and commercial trucks when in the area to perform service or repair work are an authorized exception to this restriction. All parking by Owners or guests must be: (a) within the garage, (b) on the respective Lot, or (c) on the street for temporary periods of time in a manner such that only one side of the street is used for said temporary periods so not to block any other residents access to the street. Vehicles parked on the private streets, alleys or common area for more than forty-eight (48) consecutive hours are subject to being towed by the Homeowners Association.

- (x) Garbage and Other Refuse. No Owner of a lot in the Development shall burn or permit the burning out of doors of garbage or other refuse, nor shall any such Owner accumulate or permit to accumulate out of doors of such refuse on his lot. All houses built in the Development shall be equipped with a garbage disposal unit.
- (y) Fuel Storage Tanks and Trash Receptacles. No tank for the storage of fuel shall be permitted within the Development. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be so placed and kept as not to be visible from any street or alley within the Development at any time, except at the times when refuse collections are being made.
- (z) Model Homes. No Owner of any lot in the Development shall build or permit the building upon said lot of any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Developer.
- (aa) Temporary Structures. Except for construction and sales trailers or structures, no temporary house, trailer, tent, garage or other outbuilding shall be placed or erected on any lot.
- (bb) Temporary Dwelling Occupancy. Dwelling Units may not be temporarily or permanently occupied until the exteriors, including concrete driveways, thereof have been completed and a certificate of occupancy for such Dwelling Unit has been issued by the County.
- (cc) Temporary Use of Accessory Structures or Vehicles. No motor home, trailer, tent, shack, boat, garage, basement, or other outbuildings shall be used for temporary or permanent residential purposes on any lot or common area in the Development. For the purposes of this ordinance, temporary shall be defined as more than 48 consecutive hours or more than three (3) days in a thirty (30) day period.

#### **Section 305.001 Residential Standards.**

(A) *Intent.*

- (1) The purpose of these residential standards is to:

- (a) Provide minimum requirements for the single family homes and accessory structures to be constructed, repaired, re-constructed or remodeled within the Subdivision, and
- (b) Establish unique standards for development of the Subdivision.

(B) *Residential development and design standards.* It is the intent of these design standards to promote both technically and aesthetically pleasing housing options for the Subdivision.

(1) *Residential subdivision layout.*

(a) *Open space.*

1. The Subdivision shall include provisions for recreation preserve areas, which shall be accessible by means of walking, hiking and/or biking, and shall be a minimum of five (5) acres, which may be Common Area or set aside in a Recreational or Preserve Area Easement platted and shown on the secondary plat. This area may include storm water detention areas and areas designated as floodplain so long as the area is accessible to all owners within the Subdivision.

(b) *Block length.* There is no maximum length of a block of residences along a perimeter of the development or frontage due to the unique shape and ground characteristics of the Subdivision.

(c) *Street interconnectivity.* Due to the floodplain along Sugar Creek to the north and the limited undeveloped land to the south of the Subdivision, this subdivision shall not be connected to adjoining parcels.

(j) *Landscaping.* Landscaping as stated below shall be required for all new homes constructed on each lot per Section 700.001 of this Ordinance within 180 days after the certificate of occupancy is issued.

a. A 20-foot landscaping area adjacent to County Road 400 West shall be platted and landscaped by the Developer per the approved landscape plan. Upon completion by the Developer, the landscaping shall be maintained by the Homeowners Association. All attempts should be made to avoid conflicts with drainage and utility easements that would prevent the installation of landscape materials.

b. A minimum of twenty four (24) trees and forty (40) shrubs shall be provided in the 20 foot landscape area. The trees shall be a roughly equal mix of deciduous canopy trees and evergreen trees.

c. *Planting pattern.* The required trees and shrubs shall be at least 50% evergreen, planted in clusters or irregular patterns; and shall be combined with one of the following landscaping options in addition to the plant material:

1. Decorative perimeter fences/wall constructed of masonry, stone, wood, or decorative metal. Fences/walls constructed of synthetic materials that simulate natural materials will also be considered. Fences/walls shall be at least 36 inches in height, but not over 72 inches in height. Fencing/walls may only be provided by the developer and only located in the area designated as "common area" or "landscape easement". Landscaping shall be placed on the right-of-way side of the fence/wall.

2. Mounds may include fencing. Mounds shall be located in an area designated as "common area" or "landscape easement." Mounds shall be a minimum of three feet in height. Maximum side slope shall not exceed a 3:1 ratio. Engineering design requirements shall determine the setback from the right-of-way line of County Road 400 West.

d. Plant material shall be placed out of the sight visibility triangle as defined by the Hancock County Code. There should be a clear visibility zone between 36 inches and nine feet maintained by the property owner.

**Section 305.300 NATURE PRESERVE AND TREE PROTECTION EASEMENTS:**

Within the designated nature preservation areas, no trees with a diameter at breast height in excess of six inches or evergreens eight feet or more in height shall be removed unless trees are: (a). Within 15 feet of the perimeter of the primary structure or accessory structures; (c). Between the front of the primary structure and the interior roadway of the subdivision; and/or (d). Required to be moved in order to comply with safety requirements of any governmental agency. Prior to construction around a specimen tree in a tree conservation area, the following standards apply.

- o Install highly visible (orange) construction fencing at least three feet outside the drip line of the trees.
- o Avoid injuring roots when installing anchoring posts for fencing.
- o Signs should be posted clearly identifying the plant protection zone.
- o If a portion greater than 30% of the area within the dripline is unavoidably impacted, applicant shall install a root aeration system, tree wall, retaining wall or raised boardwalk as appropriate permanent protection.

Permitted plant species shall be those as designated and approved by the Hancock County Zoning Ordinance.

5. TREE PRESERVATION EASEMENT: The PUD plan shall contain a tree reservation easement along the east bank of Sugar Creek; north, south and east lines of the Development. The purpose of the tree preservation easement shall be to provide a combination of selective visual buffering of certain characteristics of the neighboring properties and as aesthetic enhancements to the same. The easement shall protect the existing mature and healthy trees which are growing in the existing fence line separating the adjoining properties from The Hills. The easement shall allow removal of all trees and understory which are: (1) deemed unhealthy, or (2) a safety hazard, or (3) unsightly and do not compliment the purpose of the easement, or (4) within drainage easements. Trees removed as part of a drainage improvement which otherwise would not be permitted to be removed by this section, shall be replaced by the party responsible for the drainage improvement at a 1:1 ratio. In order to further clarify the restrictions placed upon the preservation easement the following guidelines are hereby established:

- a. all understory scrub brush along the existing tree line. Scrub brush being defined as woody and non woody plant material with a trunk size less than 2”;
- b. maintain all existing trees with a caliper of 4” and greater. However, any decaying or deteriorating trees can be removed. Any trees greater than 2” and less than 4” may be kept or removed at the discretion of the developer;
- c. If and when the understory is removed, compensatory plants and shrubs shall be planted within sixty (60) days after the finish grading of the disturbed areas.

**Section 305.500 Homeowners Association.**

1. The developer shall be required to establish a homeowners association in accordance with the laws of the State of Indiana prior to transferring title to any property within the development.

2. The homeowners association shall be formed as a corporation in a form similar to the sample association provided by the Hancock County Zoning Code, incorporated herein by reference. The covenants of the subdivision secondary plat shall include the following language:

a. Homeowners association. Each lot owner in this subdivision or addition, by acceptance of a deed conveying title thereto, whether from the developer or a subsequent owner of such lot, shall accept such deed subject to the provisions of the bylaws of the Homeowners Association, and thereby becomes a member of the Homeowners Association for the purposes outlined herein. The Homeowners Association shall be self-perpetuating and will not be disbanded.

b. The homeowners association shall be professionally managed by a licensed property manager which shall be required by the association bylaws. The laws of the association shall further require that revisions to the bylaws, covenants, and/or the management firms' contract may occur only upon the consent of 80% or more of the lien holders of the property in the subdivision (not the property owners).

3. The homeowners association shall contract with only one trash collection company for the entire development. The trash collection company shall also provide curbside recycling for the development.

**Section 400.001 Architectural Design Standards.** No building, fence, walls or other structure shall be erected, placed or altered on any tract in this subdivision until the building plans, specification and plot plan showing the location of such structures have been approved as to the conformity and harmony of external design with existing structures herein and as to the building with respect to the topography and finished ground elevations by the Architectural Control Committee. All dwellings shall have elevation exteriors consisting only of natural materials (brick, masonry, EFIS, stucco, wood, cement board and stone). The exteriors of all residences shall comprise of a minimum of 60% masonry on the ground floor level, exclusive of window and doors, unless waived by the Architectural Control Committee based upon the style of dwelling planned for the tract. . No roof for a one-story shall be installed on any dwelling having a roof pitch of less than 8/12 unless a lesser pitch is specifically approved by the Architectural Control Committee. No roof for a more than one-story shall be installed on any dwelling having a roof pitch of less than 6/12. All roof shingles shall be dimensional in type and of a color approved by the Architectural Control Committee, unless the architectural design would be better served by a different roof material and a variance from this section is granted by the Architectural Control Committee. All chimneys shall be total masonry or EFIS. Direct vent fireplaces if used must be placed on the rear elevation of the dwelling. No log homes, modular or concrete homes shall be permitted. No wood foundations or wood basements shall be permitted.

**Section 500.001 Sign Standards.** All signs in the property shall comply with the following standards. All signs shall be maintained in good condition and are subject to removal by the Developer or Architectural Control Committee if abandoned or not maintained as required.

(A) Subdivision entry sign: One double-faced or two single-sided ground/monument type sign is permitted. The sign shall be subject to the permitting process of the Hancock County Planning Department.

a. Sign area on which the identifying name and/or logo can be displayed shall not exceed sixty (60) square feet. The border or use of material to highlight

the sign area shall not be included in the sign area, nor shall any fencing, pillars or incidentals to the sign.

- b. The sign height shall not exceed (6) feet measured from the ground level.
  - c. Setback: Each sign structure shall be setback a minimum of two (2) feet from the right-of-way of any public street and shall be located outside of the sight visibility triangle per the Hancock County Code.
  - d. The entry sign shall contain features that include some percentage of brick/stone and landscaping.
  - e. A minimum of two square feet of landscaping per one square foot of sign area consisting of shrubs and perennial ground cover shall be provided.
- (B) General Signs: Every lot shall be permitted signs that meet the following standards. No permit is required for signs in this section
- a. Yard sale, Garage Sale, Moving Sale, Real Estate For Sale, and Political signs shall be no more than six (6) square feet in area and no higher than four (4) feet from ground level.
    - i. Signs shall be located no closer than 40 feet from the centerline of the street and no closer than 40 feet from any tract side line, unless the tract does not have enough frontage to meet this standard in which case the sign shall be centered between the two tract side lines.
    - ii. With the exception to Real Estate For Sale signs, no sign shall be permitted for longer than thirty (30) consecutive days.
    - iii. No more than 2 times annually are Yard sale, Garage sale, Moving sale and Political signs permitted.
  - b. Model Home signs shall be no larger than 32 square feet and no higher than six (6) feet from ground level.
    - i. Model home signs shall be landscaped to decorate the sign as required by the Architectural Control Committee for the subdivision.
    - ii. Model Home signs shall not exceed six (6) feet in height.
    - iii. Model Home signs shall be subject to the same location standards as noted in the Hancock County Code.
  - c. Commercial signs, other than Real Estate For Sale and signs advertising the builder approved for the respective Lot, shall not be permitted on any Lot.
  - d. No sign or display shall be allowed on the exterior of any dwelling or accessory structure or vehicle parked or stored in the subdivision. This does not prohibit the display of flags and banners during holidays.
  - e. Yard cards or Yard signs and Inflatable Objects shall not be permitted unless granted permission by the Homeowners Association. Such permission if granted, shall only be for temporary periods of time.

**Section 600.001 Exterior Lighting Standards.** There is no minimum lighting standard other than if a yard light is used, it shall meet the standards adopted and in place at the time of the Architectural Control Committee. All other exterior lighting shall meet the standards of the Hancock County Code.

**Section 700.001 Minimum Landscape Requirements for New Home Construction.** All dwellings and improvements shall be subject to following minimum landscape requirements. It

should be noted, there are several very large trees that are scattered throughout the Subdivision. It is the intent of this plan to minimize the removal of those trees and to limit unnecessary removal or cutting of trees and vegetation during construction of the dwelling and accessory buildings. Therefore, the site plan for any proposed dwelling or accessory building or construction activity shall include the location and size of any tree over 6" in caliper measured 36" from the ground level. Any tree encountered which measures over 24" in caliper, measured 36" from the ground level shall be preserved and plans taken to protect the ground from the tree trunk to the drip line of the branches.

(A) To preserve the aesthetic appearance of the Development, no landscaping, grading, excavation, or filling of any nature whatsoever with respect to the initial landscaping of a tract shall be implemented and installed by an Owner other than Developer, unless and until the plans therefore have been submitted to and approved in writing by the Architectural Control Committee. The landscape plan of the residence shall include all street exposures which shall be landscaped in such a manner to be harmonious with the exterior residence design and shall include two (2) trees in the front yard which may be either shade trees of mixed variety (i.e., hard maples or ash) which shall be a minimum of two and one-half (2 ½) inch in caliper, ornamental which shall be a minimum of two (2) inch in caliper or approved pines which shall be a minimum of seven (7) feet high. The landscape design shall also include at least twenty (20) shrubs with a mixture of flowering and evergreen and with an eighteen (18) inch spread or height in the front yard. The approved landscape plan shall be installed by the homeowner within six (6) months after the certificate of occupancy has been issued for the residence. Once installed, the landscaping shall be maintained as designed unless changes are approved by either the NCC or the ASC. The provisions hereof regarding time for approval of plans, right to inspect, right to enjoin and/or require removal, etc. shall also be applicable to any proposed landscaping, clearing, grading, excavation, or filling.

(B) The following sections of the Hancock County Code, as periodically may be amended, shall be adhered to relating to the landscape minimums and plan:

- a. Section 156.065 (C)(1)(j)(4)b
- b. Section 156.065 (C)(1)(j)(4)c
- c. Section 156.065 (C)(1)(j)(4)e
- d. Section 156.065 (C)(1)(j)(4)f

**Section 800.001 Fence and Wall Design and Construction Standards.** Fencing shall not exceed six (6) feet in height and no fence shall be placed closer to the front lot line than the rear of the primary dwelling. Wrought iron ornamental fencing or brick, stone and/or masonry walls surrounding or enclosing pools which are no higher than six (6) feet in height may be permitted. All fencing shall be approved by the Architectural Control Committee. Underground invisible fences used for containment of household pets are permitted. Chain link fencing must be black vinyl coated type if used and not exceed four (4) feet in height. All fencing must be new when first constructed and be maintained in good condition. No wood privacy fences are permitted. On corner lots an additional requirement is that fences may not be placed closer to the street than the building setback line on the side of the dwelling. No walls, dog runs, animal pens or fences to contain pets or animals in a restricted area for temporary periods of time shall be permitted on

any tract. Developer reserves the right to use fencing in landscape easements at the entrance as part of the landscape plan.

**Section 900.001 Street Standards.**

1. Right-of-way width. Streets shall be public right-of-way to be dedicated to the public and alleys shall be private grounds to be maintained as designated by the subdivision declarations and association by-laws. Public street right-of-way shall be a minimum of thirty (30) feet wide. Private alley right-of-way shall be a minimum of twenty (20) feet wide.
2. County Road 400 West. There shall be no direct access from Lot 1 to County Road 400 West. Only one public entrance shall be allowed from County Road 400 West to the subdivision. The entrance shall be constructed as shown on the preliminary plan.
3. Pavement Widths. Streets shall be constructed as shown on the preliminary plan with a width of twenty-eight (28) feet from back of curb to the edge of the pavement where curbs are only on one side. Where curbs are on both sides the street width shall be twenty-eight (28) feet measured from between the backs of the curbs. Alley's shall be constructed as shown on the preliminary plan with a minimum width of sixteen (16) feet where three (3) or less homes are accessed via the alley and where more than three (3) homes access an alley, the pavement width shall be twenty (20) feet. Alley's are not required to be outlined with curb.
4. Street Geometrics. Streets may have reverse curves without being separated by tangent parts. The minimum street centerline radius shall be one hundred twenty-five (125) feet. Cul-de-sac radii shall be forty (40) feet for the right-of-way and thirty-eight (38) feet for the pavement edge.
5. The dedicated right-of-way along the west side of County Road 400 West shall be fifty (50) feet, measured perpendicular from the section line.
6. Alleys are part of the areas to be owned by the Association with access rights given to all emergency personnel and equipment..

**Section 1000.001 Common Areas and Nature Preserve.** As part of the integrated community design, a significant area of common area and nature preserve has been planned along and within the flood basin of Sugar Creek. These areas are identified on the Preliminary Unit Development Plan and referred to as "Common Area" and/or "Nature Preserve". In addition, the preservation and maintenance of existing tree lines and hedgerows shall provide additional Nature Preserve Space within the project.

1. For the purpose of this Ordinance, Common Area and Nature Preserve shall be defined as land set aside to be commonly maintained and enjoyed as permanent open space by the residents, the Developer, and the Homeowners Association. It may be developed with landscaping or such active and passive recreational and cultural features and facilities as are necessary to serve the residents of The Hills. Any land so designated shall be prohibited from development with dwellings or structures associated with primary structures or other such land uses which are inconsistent with the concept of Common Area and Nature Preserve as herein defined. Any land so designated shall be used for storm water runoff, walking trails, passive recreation and all other uses approved by the Indiana Department of Natural resources.

**Section 1100.001 DEFINED WORDS.** Words used in a special sense in this chapter are defined in the Hancock County Zoning Code. All other words, terms, and/or phrases not specifically defined by this chapter shall have the meaning inferred from their context in this chapter or their ordinarily accepted definitions.

**Section 1101.001 DEFINITIONS.** All definitions shall be as found in the Hancock County Zoning Code.

**Section 1102.001 MEANINGS.** The following rules of construction shall apply to the text of this Ordinance:

(1) The particular and specific provisions of this chapter shall supersede any general requirements that are established by it.

(2) The words *SHALL* and *WILL* are always mandatory and not discretionary. The word *MAY* is permissive.

(3) Words used in the present tense include the future; and words used in the singular number include the plural; and the plural includes the singular; words of the masculine gender will include the feminine and the neuter gender will refer to any gender as required, unless the context plainly indicates the contrary.

(4) The phrase *USED FOR* includes arranged for, designed for, intended for, maintained for, or occupied for.

(5) The word *PERSON* includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.

(6) Unless it is plainly evident from the context that a different meaning is intended, a regulation which involves two or more items, conditions, provisions, or events connected by the conjunction *AND*, *OR*, or *EITHER . . . OR*, the use of the conjunction is defined as follows:

(a) *AND* means that all the connected items, conditions, provisions, and events apply together and not separately.

(b) *OR* means that the connected items, conditions, provisions, or events apply separately or in any combination.

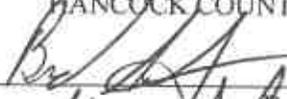
(c) *EITHER . . . OR* means that the connected items, conditions, provisions, or events shall apply separately but not in combination.

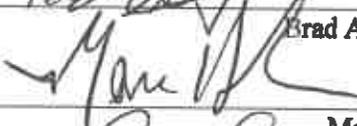
(7) The word *INCLUDES* does not limit a term to the specified examples, but is intended to extend the term's meaning to all other instances or circumstances of like kind or character.

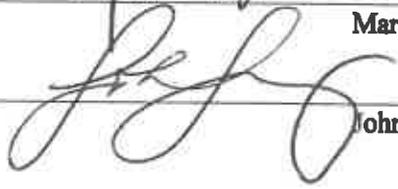
(8) The word lot includes the words plot or parcel.

ADOPTED THIS 3rd DAY OF JULY, 2018.

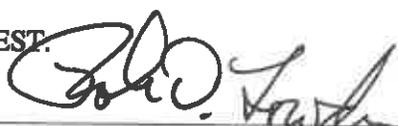
BOARD OF COMMISSIONERS OF  
HANCOCK COUNTY, INDIANA

  
\_\_\_\_\_  
Brad Armstrong

  
\_\_\_\_\_  
Marc Huber

  
\_\_\_\_\_  
John Jessup

ATTEST:

  
\_\_\_\_\_  
Robin D. Lowder, Hancock County Auditor

Petitioners: Todd & Carrie Tholen

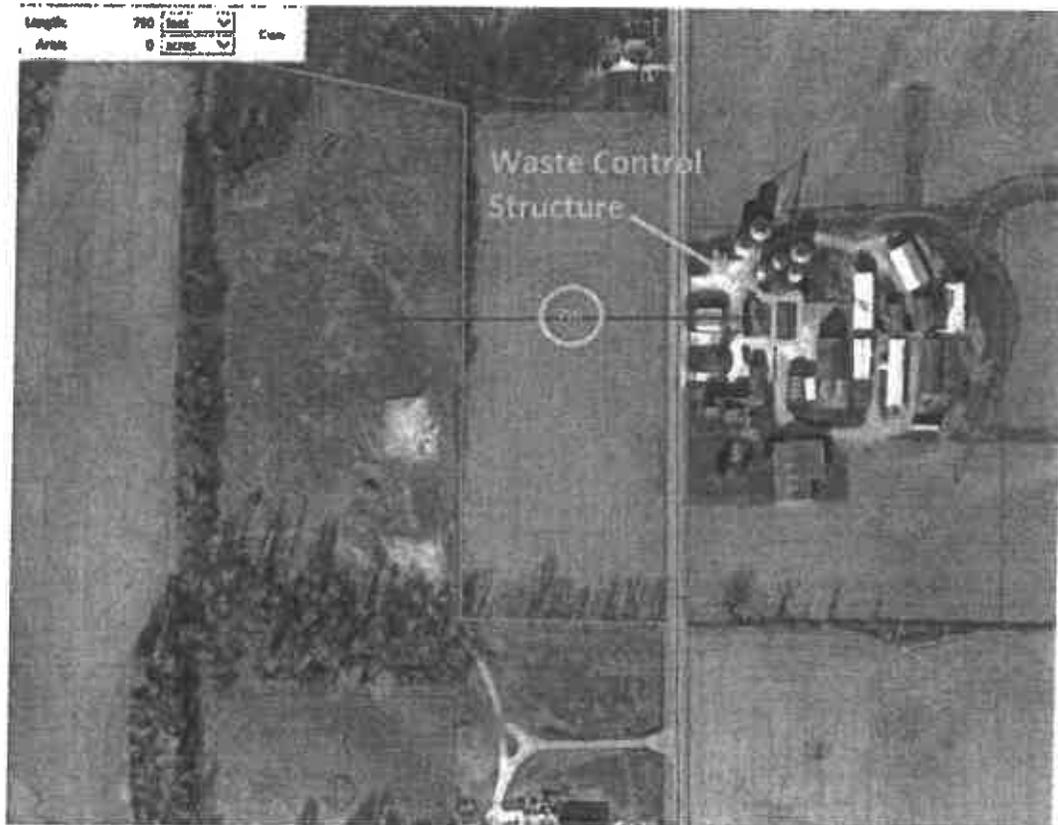
## EXHIBIT A – LEGAL DESCRIPTION OF PUD AREA

Part of the Southeast and Northeast Quarters of Section 20, Township 15 North, Range 6 East of the Second Principal Meridian, Hancock County, Indiana, more particularly described as follows:

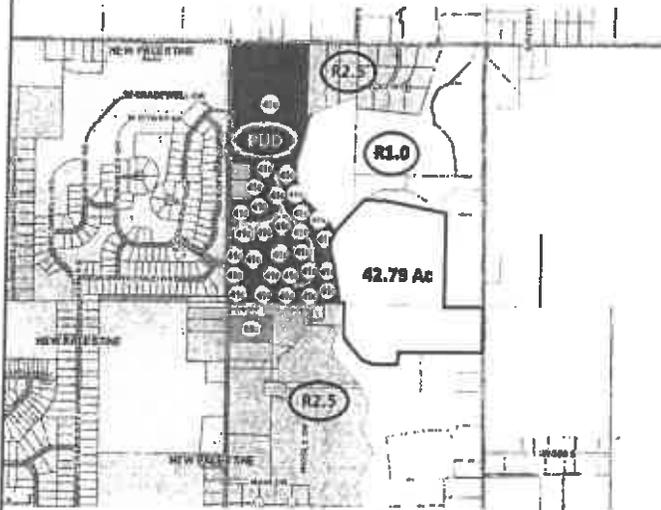
BEGINNING at a 5/8" rebar at the northeast corner of said southeast 1/4 section; thence south 01 degree 28 minutes 28 seconds east (assumed bearing) along the east line of said southeast 1/4 section a distance of 467.70 feet to the southeast corner of a 57.60 acre tract conveyed to Todd A. and Carrie L. Tholen as per Instrument #2015-6521 recorded in the office of the Recorder of Hancock County, Indiana; (the next eight (8) calls are along the south, east, south and west lines of said 57.60 acre tract) (1) south 89 degrees 51 minutes 01 seconds west parallel with the north line of said southeast 1/4 section a distance of 888.19 feet to a 5/8" rebar with a yellow cap inscribed "UCEA Firm 0022"; (2) South 01 degree 39 minutes 34 seconds east a distance of 119.38 feet to a capped rebar; (3) North 89 degrees 52 minutes 19 seconds West a distance of 270.96 feet to a capped rebar; (4) North 65 degrees 39 minutes 26 seconds West a distance of 131.29 feet to a capped rebar; (5) north 47 degrees 37 minutes 11 seconds west a distance of 184.04 feet to a capped rebar; (6) north 21 degrees 57 minutes 23 seconds west a distance of 88.01 feet to a capped rebar; (7) north 01 degree 33 minutes 07 seconds west a distance of 127.31 feet to a capped rebar; (8) North 89 degrees 45 minutes 41 seconds west through a rebar a distance of 45.42 feet to the center of Big Sugar Creek; (the next thirteen (13) calls are along the center of said Big Sugar Creek and continue along the west line of said 57.60 acre tract; (1) north 02 degrees 44 minutes 17 seconds west a distance of 200.04 feet to the north line of said southeast 1/4 section; (2) north 13 degrees 09 minutes 17 seconds west a distance of 62.80 feet; (3) north 07 degrees 28 minutes 54 seconds west a distance of 125.94 feet; (4) north 09 degrees 14 minutes 08 seconds west a distance of 56.76 feet; (5) north 27 degrees 11 minutes 31 seconds west a distance of 96.21 feet; (6) north 15 degrees 29 minutes 11 seconds west a distance of 49.37 feet; (7) north 11 degrees 27 minutes 38 seconds west a distance of 137.66 feet; (8) north 04 degrees 16 minutes 26 seconds east a distance of 113.98 feet; (9) north 22 degrees 31 minutes 30 seconds east a distance of 58.24 feet; (10) north 18 degrees 52 minutes 50 seconds east a distance of 76.40; (11) north 39 degrees 46 minutes 44 seconds east a distance of 135.89 feet; (12) north 50 degrees 26 minutes 31 seconds east a distance of 136.14 feet; (13) north 32 degrees 50 minutes 17 seconds east a distance of 126.30 feet to the north line of said 57.60 acre tract; (the next four (4) calls are along the north, east and north lines of said 57.60 acre tract); (1) south 88 degrees 55 minutes 41 seconds east a distance of 240.65 feet; (2) south 81 degrees 29 minutes 07 seconds east a distance of 652.59 feet; (3) South 01 degree 12 minutes 14 seconds east a distance of 948.91 feet; (4) south 89 degrees 51 minutes 47 seconds east a distance of 392.87 feet to the POINT OF BEGINNING. Containing 42.79 acres, more or less. Subject to all legal highways, rights-of-way, easements and restrictions of record.

## EXHIBIT B – LANTZ WASTE CONTROL STRUCTURE

Lantz Farm  
Waste Control Structure  
Within 750' of Proposed Residential Subdivision



# Hills / Zoning Map



**Min Lot Area and  
Equivalent Density**

**R1.0 = 2,300 sf  
Net Density = 1.9 du/nac**

**R2.5 = 14,000 sf  
Net Density = 3.1 du/nac**

**Proposal = 1.5 ac  
Net Density = 0.66 du/nac**

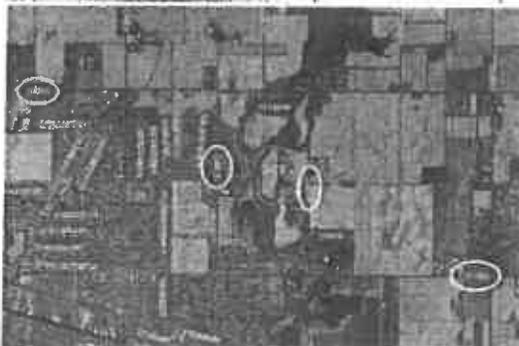
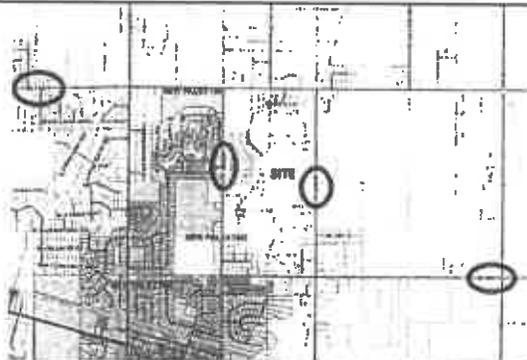
6/27/2018

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# Hills / Vicinity

**Between  
300 S / 400 S  
400 W / 450 W**

**In proximity to  
commercial  
services of New  
Palestine**

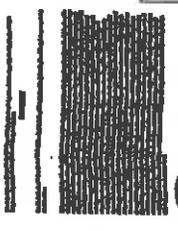
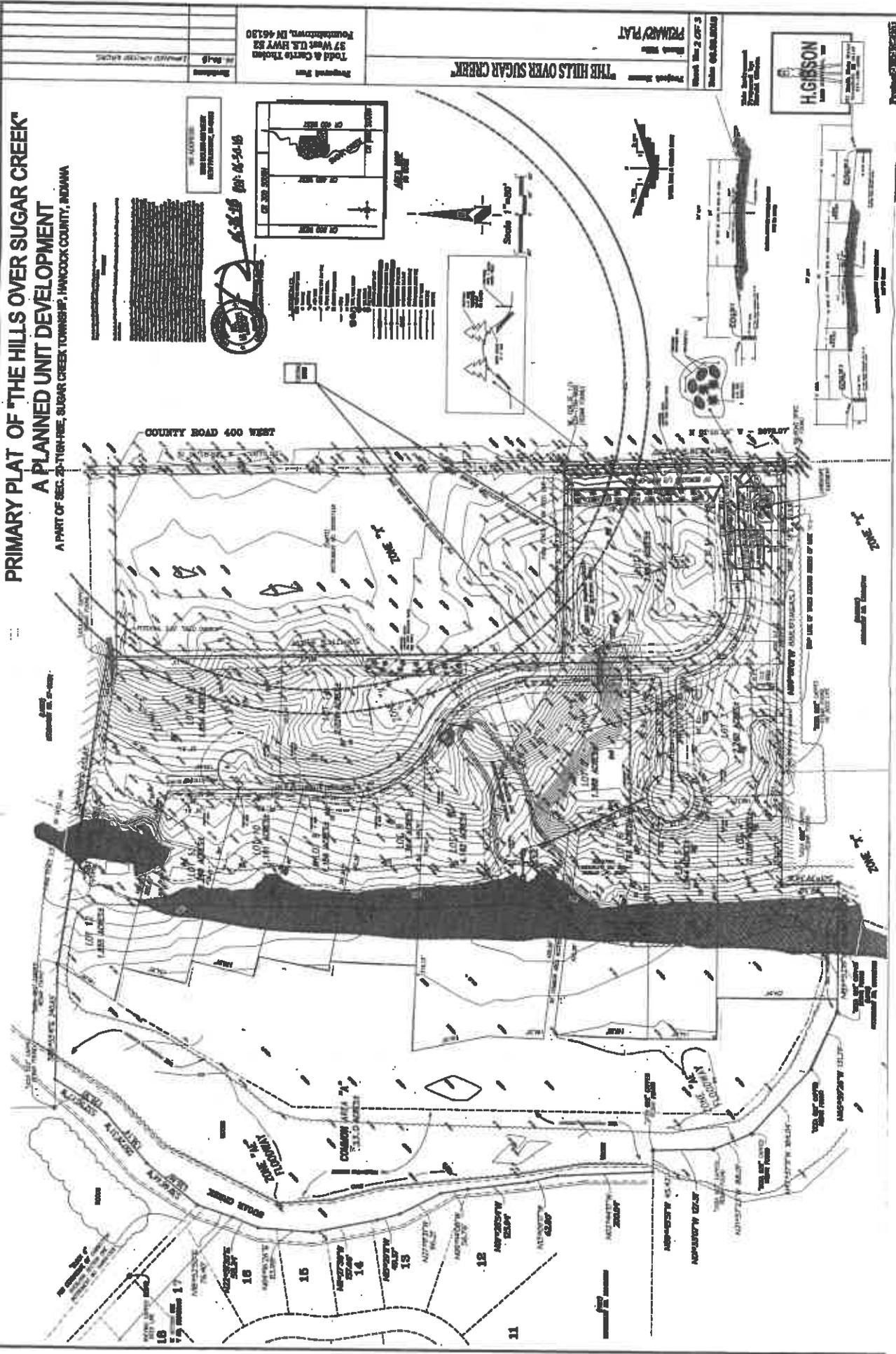


6/27/2018

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# PRIMARY PLAT OF "THE HILLS OVER SUGAR CREEK" A PLANNED UNIT DEVELOPMENT

A PART OF SEC. 27-T19-N16E, SUGAR CREEK TOWNSHIP, HANCOCK COUNTY, INDIANA



Lot No.	Area (Acres)	Use
1	0.25	Office
2	0.25	Office
3	0.25	Office
4	0.25	Office
5	0.25	Office
6	0.25	Office
7	0.25	Office
8	0.25	Office
9	0.25	Office
10	0.25	Office
11	0.25	Office
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97	0.25	Office
98	0.25	Office
99	0.25	Office
100	0.25	Office



Project Name: "THE HILLS OVER SUGAR CREEK"  
 Primary Plat  
 Todd & Curtis Tholen  
 37 West U.S. Hwy 82  
 Hammond, IN 46130

Scale: 1"=400'  
 North Arrow  
 Date: 08/20/2018



Project No: 18-001

COUNTY ROAD 400 WEST

200'

200'