

118th STREET AND OLIO ROAD
ORDINANCE NO. 100311A

AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF FISHERS, INDIANA

SECTION 1. DECLARATION

That the text of the Unified Development Ordinance of the Town of Fishers, Indiana, Ordinance No. 090605A, and the OFFICIAL ZONING MAP, TOWN OF FISHERS, INDIANA dated October 16, 2006, which accompanies and is a part of the Zoning Code of the Town of Fishers, Indiana, as amended ("UDO"), are hereby amended as follows;

That the zoning classification of the Real Estate legally described as:

Lot 1 and Lot 2 in Russell's Subdivision in Hamilton County, Indiana, as per plat recorded in Plat Book 2, Page 71, in the Office of the Recorder of Hamilton County, Indiana, per instrument No. 9909941469, is hereby zoned as PUD-C (Commercial Planned Unit Development District) to be further defined as 118th and Olio PUD-C.

SECTION 2. PURPOSE AND INTENT

To create a commercial district at the northwest corner of the intersection of 118th and Olio Road through the adoption of development standards including architectural design and material standards to enhance the commercial area and to be compatible with the surrounding commercial districts.

SECTION 3. LAND USE

- A. All uses described in Article 02.023 C1 Commercial District shall be permitted.
B. All uses described in Article 02.025 C2 Neighborhood Business District shall be permitted.

The following uses shall be excluded;

- Coffee shop
- Dance Studio
- Day care, adult
- Day care, child
- Dry Cleaner
- Fuel sales
- Grocery/convenience mart
- Hardware store
- Mortuary
- Office supply store
- Package goods store (alcohol)
- Veterinary clinic
- Nursing and convalescent home
- Restaurant, fast food
- Check cashing establishments

- Self-service laundry
- Drive thru facilities

Section 4. DEVELOPMENT STANDARDS

- A. Cross Reference: The regulations of of Article 02: Zoning Districts and Regulations and Article 05: Development Standards shall apply except as modified by this Ordinance.
- B. General Regulations: Article 02.023 C1 Commercial District shall apply except as modified by this Ordinance.
 - 1) North side yard setback shall be 10 feet.
 - 2) West side yard setback shall be 10 feet provided that a six foot board on board wood fence be installed along the property line to screen any structures or parking areas in addition to the landscaping as defined in paragraph M., below.
 - 3) Setback along Olio Road frontage shall be 45 feet.
 - 4) Setback along 118th frontage shall be 50 feet.
- C. Accessory Structures Standards (AS) shall apply.
- D. Architectural Design Standards (AD) shall apply.
- E. Density and Intensity Standards (DI) shall apply.
- F. Entrance and Driveway Standards shall apply except; D. Proximity 1. Within one hundred (100) feet of the right-of-way line of an intersecting street.
- G. Environmental Standards (EN) shall apply.
- H. Fence and Wall Standards (FW) shall apply.
- I. Floodplain Standards (FP) shall apply.
- J. Floor Area Standards (FA) shall apply.
- K. Height Standards (HT) shall apply.
- L. Home Occupation Standards (HO) shall apply.
- M. Landscaping Standards (LA) shall apply except; Article 5.044 LA-07 Landscaping Standards Buffer Yard, E. Small-sized Buffer Yard, shall be installed, but portions of the planting materials may be installed on the adjoining property with that property owners consent.
- N. Lighting Standards (LT) shall apply.
- O. Loading Standards (LD) shall apply.
- P. Lot Standards (LO) shall apply.
- Q. Outdoor Storage Standards (OS) shall apply.
- R. Parking Standards (PK) shall apply except; Article 5.066 PK-04 (F) Parking Lot Connectivity and (H) Outlet Required shall not apply.
- S. Pedestrian Accessibility Standards (PA) shall apply.
- T. Performance Standards (PF) shall apply.
- U. Property Identification Standards (PI) shall apply.
- V. Public Improvement Standards (PV) shall apply.
- W. Setback Standards shall be modified as defined in Paragraph B. above.
- X. Sewer and Water Standards (SW) shall apply.
- Y. Sexually Oriented Business Standards (SX) shall apply.
- Z. Sign Standards (SG) shall apply.
- AA. Structure Quantity Standards (SQ) shall apply.
- BB. Telecommunication Facility Standards (TC) shall apply.
- CC. Temporary Use/Structure Standards (TU) shall apply.
- DD. Use-specific Standards (US) shall apply except; Drive-up Windows shall not apply.

Section 5. Design Standards

- A. Cross References: The regulations of Article 07: Design Standards applicable to a Planned Unit Development shall apply except as modified by this Ordinance.
- B. Article 7.015 Easement Standards C. Cross-Easements and E. Shared Driveway Easements shall not apply until such time as the property immediately to the west of the Real Estate is developed with a Commercial or Commercial PUD zoning.
- C. Article 7.026 OP-02: Open Space Standards; Commercial and Industrial shall not apply. Open Space within the this 118th and Olio PUD-C shall be as depicted on the attached site plan labeled Exhibit "A". Any changes or alterations to Exhibit "A" must be approved by the PUD Committee.
- D. Article 7.033 PL-02 Perimeter Landscaping Standards; Commercial and Industrial Development shall not apply
- E. Article 7.037 SR-02 Street and Right-of-way Standards; Commercial and Industrial; Paragraphs C.3. Connectivity and C.4. Stub Streets; shall not apply.

Section 6. Miscellaneous Standards

In addition to the terms in this 118th and Olio PUD, , the 118th and Olio PUD shall adhere to the Commitments attached to and a part of this PUD. The Commitments shall be recorded separately and shall be enforceable by the several owners of the Russell's Sub-Division plat, recorded on October 4, 1956, as Instrument No. 6115 in the Office of the Recorder of Hamilton County, Indiana.

Section 7. Procedures

- A. The procedures set forth in Article 09: Processes, Permits & Fees; Planned Unit Development shall apply.
- B. 118th and Olio PUD-C shall be assigned to the Town's 116th and OLIO ROAD PUD Committee for review pursuant to Article 09.020 Planned Unit Development; Final Development Plan.
- C. The 116th and OLIO ROAD PUD Committee shall have discretion and flexibility to consider and approve modifications relating to architecture, signage, parking and landscaping design standards established or referenced by this Ordinance so long as the PUD Committee determines such modifications are consistent with the intent of this Ordinance and consistent with the quality and character represented in this 118th and Olio PUD-C Ordinance.

Section 8. Adoption

This 118th and Olio PUD-C Ordinance shall be in force and effect from and after its passage by the Town Council and after the occurrence of all other actions required by law. All provisions or parts thereof in conflict herewith are hereby repealed.

Upon motion duly made and seconded, this Ordinance was passed by the members of the Town Council of Fishers, Indiana this 19th day of DEC, 2011.

| AYE | | NAY |
|-------------------------------|---------------------------------|-------|
| BY: <u>Scott A. Faultless</u> | Scott A. Faultless President | _____ |
| <u>Michael Colby</u> | Michael Colby | _____ |
| <u>Eileen Pritchard</u> | Eileen Pritchard | _____ |
| <u>Stuart Easley</u> | Stuart Easley | _____ |
| <u>Daniel Henke</u> | Daniel Henke | _____ |
| <u>David George</u> | David George | _____ |
| <u>Edward Offerman</u> | Edward Offerman | _____ |

ATTEST: Linda Gaye Cordell
Linda Gaye Cordell, Clerk-Treasurer
100311A

APPROVED by: Douglas D. Church; Church, Church, Hittle and Antrim, Town Attorney

Exhibit 1 This Exhibit depicts the proposed Site as it existed as a residential property when the two most intense Commercial PUD's were approved and developed adjacent to and north of the Site.

Exhibit 2 This Exhibit depicts the Site in relation to the surrounding commercial uses. The proximity of the two Rice parcels is highlighted. Both of the Rice parcels have approved of the proposed development of the Site.

Exhibit 3 This Exhibit is a close-up of the Site and the two approving Rice parcels.

Exhibits 4 and 5 These Exhibits reflect the chronological order of development that has been typical in Fishers for a multi-site commercial project. The numbers reflect from first to last the order of development. The first parcels are those that have frontage on the high traffic thoroughfare. These properties typically rely on drive by traffic for marketing and sales. The last parcels to be developed are typically, single use, owner occupied businesses. In these cases, they are medical or professional offices. The timeline depicted in both of these Exhibits spans more than a decade.

Exhibit 6 This Exhibit is a diagram showing that each of the lots along 118th Street has an existing sanitary sewer lateral available for connection.

Exhibit 7 This Exhibit is a grid defining characteristics of the 6 Commercial PUD's that are adjacent to the Site. There is not any characteristic requested with this 118th and Olio PUD that is not already exceeded by another, previously approved Commercial PUD. In particular, the lot coverage, which measures the intensity of the development of a site, is substantially less than the two PUD's that are adjacent to and north of the Site.

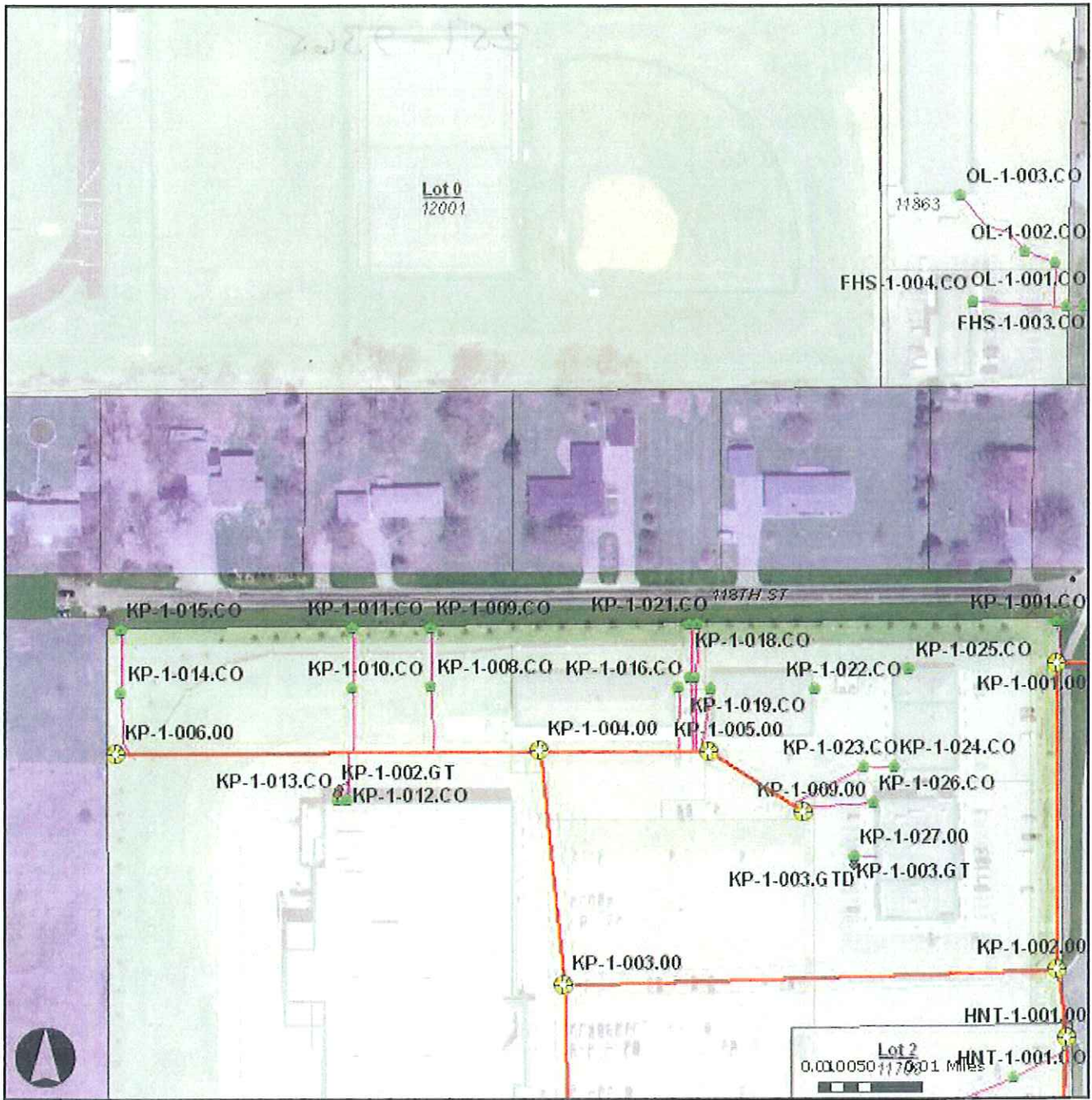


EXHIBIT 6

Disclaimer

HSE assumes no legal responsibility for the information contained herein, which is provided 'as is' with no warranties of any kind. HSE disclaims all liability of any kind arising out of the use of, or misuse of, this information and disclaims all express or implied warranties, including warranties of merchantability, fitness for a particular purpose, and non-infringement of proprietary rights. HSE will not be liable for any actions, claims, damages or judgments of any nature whatsoever arising out of the use or misuse of the information contained in this mapping site.

Independent verification of all information contained on this Web Site should be obtained by any user. HSE, its employees, agents and personnel, disclaims, and shall not be held liable for, any and all damage, loss or liability, whether direct, indirect, or consequential which arises or may arise from this Web Site information or the use thereof by any person or entity.

| | Passed | Acres | Sq/Ft/Acre | Zoning Uses | Lot C coverage | | Business Hours | Trash/Service Hours |
|---------------------------------|-----------|-------|----------------------|-------------|----------------|--------|---------------------|---|
| | | | | | permitted | actual | | |
| 116th and Olio PUD-C | 5/7/2011 | 20 | 6000 | C1,C2,C3 | 75% | | No Midnight-6:00 AM | No 10:00 PM-7:00 AM |
| NW Corner 116th and Olio PUD-C | 8/6/2001 | 25 | 6000 | C1,C2,C3 | 75% | | No Midnight-6:00 AM | No 10:00 PM-7:00 AM |
| SE Corner Olio Road/116th PUD-M | 1/23/2002 | 15 | 6000 | C1,C2,C3 | 75% | | No Restrictions | No Midnight-6:00 AM |
| Clark/Shamrock PUD-C Note: | 10/7/2002 | 1.4 | 9280 | C1 | 75% | 75% | No Restrictions | No Midnight-6:00 AM |
| Walker PUD-M | 7/7/2005 | 0.5 | 5400 | C2 | 75% | 80% | No Restrictions | No Midnight-6:00 AM |
| | | | | | | | | 10' rear yard permitted 5' side yard permitted with no landscape requirement adjacent to residential |
| Shops at Geist Pointe PUD-C | 11/7/2007 | 10 | 7000 | C1,C2 | 75% | | No Restrictions | No Midnight-6:00 AM |
| Proposed 118th and Olio PUD-C | | 0.68 | 8675 (5900 sqft) | C1,C2 | 75% | 58% | No 11:00 PM-6:00 AM | No 8:00 PM - 8:00 AM |

EXHIBIT 7



aerial view from Southeast



Fall Creek Vision Center
118th & Olio Road, Fishers, Indiana

blackline

75' HALF 5' 75'
 PROPOSED F/W PER
 HAMILTON COUNTY
 TANGIQUHARE PLAN
 DATED 7-9-07

FENCE IS 0.5' NORTH OF POINT NORTH LINE SE QUARTER, SECTION 35-18-5

(102)

5 89'35"24" W

208 72'

(110)

(101)

1/2 EAST 1/2 LINE
 HARRISON ALON
 TOWN OF
 SECTION 35
 SE QUARTER
 SECTION 35
 TOWN OF
 HARRISON ALON

5 CONCRETE WALL

PROPOSED BUILDING
 +/- 5800 GROSS S.F.
 WOOD FRAME

BO. MEBANG B. VEGORRELL, L.S.
 INSTRUMENT NO. 5918941490

LOT 3

LOT 1

N 00'18'33" W 208 72'

N 00'18'33" W 208 72'

N 00'18'33" W 208 72'

EAST LINE SE QUARTER, SECTION 35-18-5

N 00'18'33" W 208 72'

OLIO ROAD

6 SPACES

7 SPACES

12 SPACES

APPROX 50' EXIST. HALF-R.O.W.
 CONFRM W/ HAMILTON CO.
 HIGHWAY DEPT.

75' PROPOSED HALF-R.O.W.
 PER HAMILTON CO.
 THROUGH-FREEWAY PLAN

APPROX 50' EXIST. HALF-R.O.W.
 CONFRM W/ HAMILTON CO.
 HIGHWAY DEPT.

50.00'

25' E/W

25' E/W

25' E/W

BLIND OR DRIVE

(103)

104 36'

N 89'35'24" E

202 72'

104 36'

(100)

REVISIONS OF EXHIBIT A PLAN OF W.V.
 INSTRUMENT NO. 200600063535 28.007

SOUTH DRIVE

LOT 3
 TOWNE CENTER AT GUEST
 INSTRUMENT NO. 200600063535

DEMOTION OF PAVEMENT
 IMPROVEMENT NO. 200600063535

70.97'

EXHIBIT A

Conceptual SITE PLAN

1"=50'-0"



blackline
 STUDIO FOR ARCHITECTURE
 1847 Virginia Avenue, Studio 211 Indianapolis, Indiana 46203
 phone: 317.643.7300
 www.blacklineidc.net

PROPOSED DEVELOPMENT
 FALL CREEK VISION CENTER
 118TH & OLIO ROAD
 FISHERS, INDIANA

CERTIFICATION

PRELIMINARY
 NOT FOR CONSTRUCTION

| | |
|------------|--|
| DATE BY | |
| CHECKED BY | |
| TITLE | |
| | |
| | |
| | |

CONCEPTUAL
 SITE PLAN
 11.21.2011
 CONCEPTUAL ONLY

SHEET NUMBER
C1

COMMITMENTS CONCERNING THE
USE AND DEVELOPMENT OF REAL ESTATE

The undersigned, Boomerang Development, LLC (hereafter "Property Owner"), makes the following Commitments Concerning the Use and Development of Real Estate to the Fishers Town Council ("Town Council").

1. Description of Real Estate:

Lots Numbered 1 and 2 in Russell's Sub-Division, A Subdivision in Hamilton County, Indiana, as per plat thereof, recorded on October 4, 1956, as instrument No. 6115, in Plat Book 2, page 71 in the Office of the Recorder of Hamilton County, Indiana.

2. Related Ordinance:

These Commitments are attached to and a part of the Town of Fishers Ordinance No. 10311A the ("Ordinance") and are in accordance with Article 9.018(J)(4): Planned Unit Development; PUD District Ordinance & Concept Plan; Town Council; Commitments of the Town of Fishers Unified Development Ordinance.

3. Statement of Commitments:

- a. Property Owner commits that the exterior building materials of any structure placed upon the Real Estate will conform to the materials presented at the Town of Fishers Plan Commission hearing, dated November 16, 2011. Those materials specifically being; brick, exterior insulated finishing system (eifs) and aluminum framed glass.
- b. Property Owner commits that the hours of operation of the businesses operating upon the Real Estate shall be limited to the hours of 6:00 AM until 11:00 PM.
- c. Property Owner commits that a landscape buffer including a six foot tall board on board fence will be installed, in conjunction with the construction of any building upon the Real Estate, between the Real Estate and Lot Number 3 of the aforementioned Russell's Sub-Division. This buffer will be installed in a location, mutually agreed upon by Property Owner and the owner of Lot Number 3. This buffer will adhere, at a minimum, to the standards defined in the Unified Development Ordinance of the Town of Fishers, Paragraph 5.044 LA-07 E. Small-sized Buffer Yard.

2012021116 MISC \$17.00
04/19/2012 12:51:12P 3 PGS
Mary L. Clark
HAMILTON County Recorder IN
Recorded as Presented



- d. Property Owner commits that application to install street trees along Olio Road will be made to the Hamilton County Highway Department, which has jurisdiction over Olio Road and the adjoining right-of-way,
- e. Property Owner commits that no trash removal nor regularly scheduled deliveries shall be permitted between the hours of 8:00 PM and 8:00 AM. Snow removal may be permitted as needed.

4. Binding Effect.

- a. These Commitments are binding upon the Property Owner, each subsequent owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless modified or terminated.
- b. These Commitments may be modified or terminated only by a decision of the Fishers Town Council made at a public hearing with public notice in accordance with the applicable rules and regulations.

5. Effective Date

These Commitments shall be effective on the date upon which the Town Council of Fishers, Indiana approves the Ordinance (the "Effective Date")

6. Recording

The Property Owner shall record these Commitments in the Office of the Recorder of Hamilton County, Indiana, attached as Exhibit "A" to the Town of Fishers Ordinance No. 100311A. The recording shall take place within thirty days of the Effective Date. The Property Owner shall deliver a copy of the recorded instrument to the Town of Fishers Department of Development prior to applying for any subsequent permits applicable to the Real Estate.

7. Enforcement

These Commitments may be enforced by the Town Council of Fishers, Indiana and by the several owners of the lots within the aforementioned Russell's Sub-Division.

The Town Council hereby accepts these Commitments in conjunction with the approval of the Ordinance.

Dated this 19th day of December 2011



Printed: Scott Faultless
President, Town of Fishers, Town Council

Executed this 15th day of Dec, 2011

BOOMERANG DEVELOPMENT, LLC.

By: [Signature]
Corby D. Thompson, Managing Member

STATE OF INDIANA)
)SS:
COUNTY OF HAMILTON)

Subscribed and sworn to before me, a Member Notary Public, in and for said County and State, appeared Corby D. Thompson, the Managing Member of Boomerang Development, LLC, and acknowledged the execution of the foregoing Commitment Concerning the Use and Development of Real Estate.

WITNESS my hand and Notarial Seal this 15th day of December, 2011.

My Commission Expires 3-18-16
Residing in Hancock County

[Signature]
Notary Public –



Tamara Dible
Comm Exp. 3-18-20
Res. of Hancock C

I affirm, under penalties of perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law; Corby D. Thompson.

Approved by: Douglas D. Church, Esq., Church, Church, Hittle and Antrim, Town Attorney

Prepared by: Corby D. Thompson, Boomerang Development, LLC
11911 Lakeside Drive, Fishers, Indiana 46038