

ORDINANCE NO. ~~4-R-06~~ 030606 A

AN ORDINANCE AMENDING THE ZONING ORDINANCE
OF FISHERS, INDIANA-1980

THIS ORDINANCE # 4-R-06 (the "Bridger Pines PUD") IS AN ORDINANCE AMENDING THE ZONING ORDINANCE OF FISHERS, INDIANA, DATED NOVEMBER 3, 1980 – Ordinance No. 110380, as amended (the "Zoning Ordinance"), which Zoning Ordinance includes the Comprehensive Plan – Chapter 150, as amended and the Zoning Code, Chapter 151, as amended;

SECTION 1. DECLARATION

It is hereby ordained by the Town Council (the "Council") of the Town of Fishers, Indiana (the "Town") that the text of the Zoning Ordinance and the Official Zoning Map (the "Zoning Map") of the Town, which accompanies and is part of the Zoning Ordinance, are hereby amended as follows:

That the Zoning Classification of the real estate described in what is attached hereto and incorporated herein by this reference as Exhibit "A" (the "Real Estate") is hereby zoned PUD-R per the terms and conditions of this Bridger Pines PUD.

SECTION 2. PURPOSE AND INTENT

The purpose and intent of the Bridger Pines PUD is to provide a development of the Real Estate, which is compatible with the surrounding properties.

SECTION 3. DEFINITIONS

The following definitions shall apply throughout this Bridger Pines PUD:

- A. Declaration. The term "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions prepared and recorded by the Developer with the Recorder of Hamilton County, Indiana.
- B. Developer. The term Developer shall mean and refer to Boomerang Development, LLC, or its successors and assigns.
- C. Property Owners Association. The term "Property Owners Association" shall mean and refer to a non-profit corporation established by the Developer per the terms of the Declaration.

SECTION 4. DEVELOPMENT STANDARDS

The following standards shall apply:

- A. Street trees shall be planted on both sides of all streets internal to the subdivision. Street trees shall be placed approximately fifty feet (50') on center, except in areas where utility regulations prohibit the placement of street trees. The planting strip shall be the area between the street and the sidewalk, and shall be a minimum of four feet (4') in width (the "Planting Strip"). Street trees shall be a minimum of two-inch (2") caliper at planting, as measured twelve inches (12") from the ground. Street trees shall be deciduous and selected from the Town of Fishers' approved List of Recommended Species. If, by reason of utility regulations, not all of the required street trees can be planted within the Planting Strip, then there shall be planted, within a common areas within the Real Estate, street trees equal in number to the difference between (i) the required street trees and (ii) the number of street trees that are planted within the Planting Strip.
- B. A standard landscaping package shall be included with each residence sold. This landscape package shall provide for trees and shrubs around the residence. In addition to the street tree requirement, each residence shall be planted with at least two (2) deciduous trees and/or evergreen trees, and a minimum of twelve (12) shrubs. The deciduous tree shall be of at least two inch (2") caliper at planting as measured twelve inches (12") from the ground, and the evergreen at least six feet (6') in height at planting.
- C. Street lights shall not exceed fifteen (15') in height, and shall be located at major intersections throughout the subdivision. Each light shall have shielding to direct light downward in order to minimize light spillover.
- D. Side load or courtyard entry garages shall have a minimum of two (2) windows located on the front of the elevation of the garage.
- E. Front loading garages protruding more than eight feet (8') from the front building line of the residence shall also contain a window on the side of the garage closest to the entry to the residence.
- F. A third car garage may be added to residences. Any three (3) car driveway must taper to a maximum of sixteen feet (16') wide at the lot line.
- G. Vinyl siding shall not be permitted as an exterior material within the Bridger Pines development.
- H. Residences will have brick on at least fifty percent (50%) of the area of the front façade (windows, doors, garage doors, accompanying frames and any other opening are excluded from calculations of the area) and shall have at least two (2) of the following significant architectural design features:

1. A reverse gable peak.
2. A covered front porch, with railings on front and side, of at least eight feet (8') in width and four feet in depth or a minimum of thirty-two) (32 square feet.
3. A thirty-two inch (32") brick or stone plinth with water table on all sides.
4. Architectural treatment on gable ends.
5. Two (2) separate overhead garage doors for each two (2) car garage, and three (3) separate overhead garage doors for each three (3) car garage.
6. Covered front stoop/steps with pathway leading from sidewalk or driveway.
7. A bay window on the front elevation.
8. Architecturally treated entranceways for residences without a front porch.
9. Garage doors containing windows of high standard and quality.
10. Transom windows.
11. A veranda/balcony.
12. Two (2) or more roof planes.
13. At least two (2) dormers.
14. At least two feet (2') of relief at two (2) or more points along the front façade elevation, excluding relief for doors and windows and garage.
15. Decorative shutters.
16. Architecturally enhanced articulated trim moldings, such as fipons above windows.

SECTION 5. PROCEDURES

The adoption of this Ordinance and the subsequent consideration of any detailed and final development plan shall be consistent and pursuant to the provisions of the Planned Unit Development Committee and the Planned Unit Development process as set forth in Section 151.072 Planned Unit Development District. Any requirements not specified by this PUD Ordinance shall be subject to Chapters 151.068, R5 Residential District, of the Town of Fishers Code of Land Use Ordinances.

The petitioner shall follow all Procedures for Detailed Development Plan Approval, provided by Department of Development staff. In addition, the petitioner shall:

- A. Meet with staff to discuss the project.
- B. Meet with the PUD Committee to present preliminary plans and drawings for the project; the PUD Committee will review the preliminary plans and drawings and will make a recommendation to the Plan Commission.
- C. Submit preliminary elevations and lighting along with material samples, color boards and other materials which further illustrate the project to the PUD Committee.
- D. Meet with the PUD Committee for review of the final detailed development plan and approval of final plans and drawings for the project.

SECTION 6. APPROVAL

This Ordinance including the Commitments attached hereto, made part hereof and marked Exhibit "B" shall be in full force and effect from and after its passage by the Town Council. All provisions or parts thereof in conflict herewith are hereby repealed.

ADOPTED BY The Town Council of the Town of Fishers, Indiana on this
15th day of MAY, 2006.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

Scott A. Faultless Scott A. Faultless _____
President
Stuart F. Easley Stuart F. Easley _____
Vice President
Eileen N. Pritchard Eileen N. Pritchard _____
Member
Daniel E. Henke Daniel E. Henke _____
Member
Charles P. White Charles P. White _____
Member
David C. George David C. George _____
Member

Arthur J. Levine _____
Member

ATTEST: Linda Gaye Cordell DATE: 5-15-06
Linda Gaye Cordell, Clerk-Treasurer
Town of Fishers, Indiana

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

EXHIBIT "A"

The following described real estate, to-wit:

A part of the South half of the South half of Section 8, Township 17 North, Range 6 East, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southwest corner of said Section 8, thence east along the south line of said Section 8, a distance of 1,650.00 feet to the point of Beginning; thence east along the south line of said Section 8, a distance of 2,310.00 feet to the Southeast corner of the Southwest quarter of the Southeast Quarter of said Section 8, thence north along the east line of the Southwest quarter of the Southeast quarter of said Section 8, a distance of 1,320.00 feet to a point on the north line of the South half of the South half of said Section 8, then west along said north line of the South half of the South half of said Section 8, a distance of 2,310.00 feet, thence South 90 degrees, 00 minutes, 00 seconds East, a distance of 1,320.00 feet to the point of Beginning. Containing 70.00 acres more or less.

Excepting however, the following described real estate to-wit:

Part of the Southwest Quarter of the Southeast Quarter of Section 8, Township 17 North, Range 6 East, located in Hamilton County, Indiana, more particularly described as follows:

BEGINNING at a point on the south line of said Quarter Section, a distance of 129.86 feet North 90 degrees, 00 minutes, 00 seconds East (assumed bearing) from the southwest corner thereof; thence North 90 degrees, 00 minutes, 00 seconds East, along the south line of said Quarter, a distance of 499.29 feet; thence North 01 degrees, 19 minutes, 30 seconds West, a distance of 238.03 feet; Thence South 87 degrees, 52 minutes, 28 seconds West, a distance of 434.09 feet, thence South 00 degrees, 00 minutes, 00 seconds West, a distance of 221.87 feet to the Point of Beginning containing 2.305 acres more or less.

Containing in all approximately 67.7 acres.

EXHIBIT "B"

COMMITMENTS CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE

BOOMERANG DEVELOPMENT, LLC (hereafter, "Boomerang"), the contract purchaser of the real estate located in Hamilton County, Indiana, and described in what is attached hereto and incorporated herein by referenced as Exhibit "A" (the "Real Estate"), makes the following Commitments (the "Commitments") to the Advisory Plan Commission of the Town of Fishers (the "Plan Commission") and the Town Council of the Town of Fishers, Indiana (the "Council") for the Bridger Pines Subdivision.

Section 1. Cross Reference. These Commitments are made in connection with approvals obtained under Docket Number 4-R-06 and Ordinance Number 030606 A.

Section 2. Exhibits. The following exhibits are attached hereto and incorporated herein by reference:

Exhibit "1". Attached hereto and incorporated herein by reference as Exhibit "1" is the originally filed conceptual site plan and subsequently revised per Exhibit "2" attached hereto.

Exhibit "2". Attached hereto and incorporated herein by reference as Exhibit "2" is the illustrative development plan of the Bridger Pines subdivision. Lot numbers referenced to in this Exhibit "B" shall be referenced relative to all future development plans by the lots numbered on this Exhibit "2."

Section 3. Definitions. Different words and terms are defined throughout these Commitments and, further, the following definitions shall apply throughout these Commitments:

1. **Conservation Area.** The term "Conservation Area" shall mean and refer to the areas identified on future secondary plats as Conservation Areas. Conservation Areas shall generally be the wooded, ravined areas that will not be part of any platted lot and areas thirty feet to fifty feet (30' – 50') deep in platted lots that abut the wooded, ravined areas.

2. **Bridger Pines.** The term "Bridger Pines" shall be used to define the residential project contemplated herein. The terms "Development" and "Project" where used are interchangeable with and mean the same as Bridger Pines.

3. **Developer.** The term "Developer" shall mean and refer to Boomerang Development, LLC, and its successors and assigns.

4. Property Owners Association. The term “Property Owners Association” shall mean and refer to a non-profit corporation established by the Developer per the terms in the Declaration of Covenants, Conditions and Restrictions.

5. Masonry. Brick, stone, cultured stone or the equivalent.

Section 4. Residential Architectural Commitments. The following commitments are applicable to all Single Family Residences within Bridger Pines:

1. Each resident shall have a minimum fifty percent (50%) masonry of the area of the front façade (windows, garage doors and other openings excluded from the calculation of area).

2. Overhangs shall be framed as twelve inches (12”) in depth.

3. Front loading garages protruding more than eight feet (8’) from the front building line of the residence shall also contain a window on the side of the garage closest to the entry of the residence.

4. Side load or courtyard garages shall have a minimum of two (2) windows located on the front elevation of the garage.

5. Residences constructed on lots numbered 1-20, 85-93, and 106 shall have a complete first floor masonry wrap (exclusive of windows, openings, doors and trim materials).

6. Residences constructed on lots numbered 5-11 shall be single-story ranch style homes.

7. Decorative street lights with reflectors and shields and attached decorative street signs shall be utilized and shall be maintained by the Property Owners Association.

8. Traffic control signage shall be mounted on decorative posts, similar in style to the decorative street lights, and shall also be maintained by the Property Owners Association.

9. The colors utilized for exterior building materials, other than brick and stone, shall feature a base color with natural tones and subtle hues, and may be accented with brighter, more intense or complimentary contrasting tones. Vinyl shall not be permitted as an exterior siding material.

10. All fences shall be subject to review and approval by the Architectural Control Committee and shall comply with the following requirements:

A. Front yard fences will be strictly prohibited except for use on any model home property.

B. Wood (or other similar materials approved by The Bridger Pines Architectural Control Committee) fences (shall not exceed forty-two inches (42”) in height and shall be a minimum of fifty percent (50%) open. Unless otherwise restricted or qualified in these Commitments, wrought iron (or similar materials approved by The Bridger Pines Architectural Control Committee) fences in all yards shall not exceed six feet (6’) in height. Chain link fences shall be prohibited.

C. Stockade fences are strictly prohibited.

D. A farm fence shall be installed along the north line of Bridger Pines beginning at lot #33 and west until it reaches the bank of the creek.

E. A privacy fence shall be installed at the rear of lots numbered 1-10 and then along the west line of the common area behind lots 13 and 14.

11. Mini barns or detached storage units are strictly prohibited.

12. Uniform mailboxes shall be used for each residence.

13. The roofs on all primary structures shall be at a pitch of 6 vertical to 12 horizontal (6:12); provided, however, that ancillary roofs may have a lesser pitch.

14. The exterior building materials on all fireplace chases on the exterior of a residence shall be masonry; provided, however, that interior or direct vent fireplaces shall not require masonry exteriors.

15. The minimum square footage (i) for a ranch style home with one occupiable floor shall be 1,800 square feet, exclusive of garages, porches and basements, and (ii) for a multi-level residence shall be 2,000 square feet, exclusive of garages, porches, and basements.

16. All residences shall have either (i) dusk to dawn, garage-mounted coach lights or (ii) a dusk to dawn yard light.

17. A monotony code shall apply to provide for a diversity of exterior treatments along each streetscape.

Section 5. Park Commitments. The Developer shall install the following within the central park, all of which shall hereafter be referred to as the “Improvements:”

1. One (1) swimming pool.

2. One (1) wading pool.

3. One (1) pool house.

4. One (1) playground containing playground equipment appropriate for preschool children through grade school children.

5. Landscaping to provide shade around seeding areas, playgrounds, and parking lots and to define pedestrian ways. Such landscaping shall include, but shall not be limited to, a combination of deciduous trees, evergreens and ornamental flowering species.

The Improvements shall be of a type, location, size, design, configuration, architecture, and composition determined by the Developer in the Developer's sole discretion.

Section 6. Conservation Area Commitments. The commitments applicable to Conservation Areas are as follows:

1. Except as noted immediately below, each builder and/or Developer shall endeavor to conserve trees within the Conservation Area, and owners of lots shall not remove trees within Conservation Areas.

A. The clearing of underbrush, as defined and determined by the Developer's certified arborist or landscape architect, and the clearing of dead trees shall be allowed.

B. The removal of trees necessary for public health and safety.

C. Trees may be removed as necessary for public health and safety.

Except as set forth immediately above in subparagraphs A, B and C, each tree within the Conservation Area which is badly damaged or destroyed by a lot owner or during the course of construction activities and which is greater than four inches (4") in diameter, measured six inches (6") above the ground, shall be replaced within one (1) year, by the person or entity causing such damage or destruction, with a tree which is at least two and one-half inches (2.5") inches in diameter measured six inches (6") inches above the ground. Any trees which are so replaced and which die within one (1) year of their planting shall promptly be replaced with a substantially similar tree.

Section 7. Impact Fees. Prior to the formal annexation of the Real Estate to the Town of Fishers, any home constructed within the Bridger Pines subdivision shall voluntarily contribute to the Town of Fishers, at the time that a building permit is issued, the then standard impact fees normally assessed by the Town of Fishers for a single family home.

Section 8. Binding on Successors. These Commitments are binding on the Owner of the Real Estate, each subsequent Owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless modified or terminated by the Commission. These Commitments may be modified or terminated only by a decision of the Plan Commission after a public hearing wherein notice as provided by the rules of the

Plan Commission has been made. The provisions of this paragraph 7 notwithstanding, these Commitments shall terminate as to any part or parts of the Real Estate hereafter reclassified (rezoned) on the Town's Official Zone Map.

Section 9. Effective Date. The Commitments contained herein shall be effective upon the occurrence of all of the following events:

1. The adoption of an ordinance by the Town Council of Fishers, Indiana, assigning the requested PUD-R Classification to the Real Estate;
2. The acquisition of the Real Estate by Boomerang or its successors and assigns; and
3. The commencement of the development of the Real Estate in accordance with the assignment of the requested PUD-R classification.

Section 10. Recording. The undersigned hereby authorizes the Secretary of the Commission to record these Commitments in the Office of the Recorder of Hamilton County, Indiana.

Section 11. Enforcement. These Commitments may be enforced by the Commission and the Town Council of Fishers, Indiana and any property owner within or immediately adjacent to the Real Estate.

IN WITNESS WHEREOF, BOOMERANG DEVELOPMENT, LLC, has caused these Commitments to be executed as of the date first written above.

BOOMERANG DEVELOPMENT, LLC

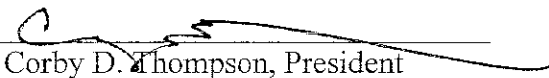
By: 
Corby D. Thompson, President

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