

ORDINANCE NO. 090788B

BE IT ORDAINED by the Town Board of Fishers, Indiana, that the zoning ordinance, a part of the comprehensive plan and ordinances - 1980, Ordinance Number 110380, as amended, is hereby amended as follows:

SECTION 1. DECLARATION

That the Zone Map, identified as OFFICIAL ZONING MAP, TOWN OF FISHERS, INDIANA, dated November 3, 1980, which accompanies and is a part of the Zoning Ordinances of the Town of Fishers, Indiana, as amended, is hereby changed as follows: As it relates to the following described real estate only:

SEE ATTACHED "EXHIBIT A"

SECTION 2. LAND USE

The above described real estate is hereby designated as a P.D. district, as further defined in this Ordinance.

A. All uses described in Article 1 through Article 22 of Chapter 2 of Ordinance No. 110380 shall be permitted in this PD district except that the following uses shall not be permitted:

- (1) Trailer courts;
- (2) Labor camps;
- (3) Junk yards;
- (4) Commercial storage of building or construction materials;
- (5) Distillation of bones;
- (6) Dumping, disposal, incineration or reduction of garbage, sewage, dead animals or refuse;
- (7) Fat rendering;
- (8) Stockyard or slaughter of animals;
- (9) Smelting of iron, tin, zinc or other ores;
- (10) Refining of petroleum or of its products;
- (11) Cemeteries or mausoleums;
- (12) Jail, penal, detention or correction farms.

B. Accessory Structures and Uses

Accessory structures and uses shall be allowed which are subordinate, appropriate and incidental to the above permitted primary uses, including supportive services directly related to and in the same building with the primary use, provided no exterior signage announcing such services or advertising to the public shall be permitted. Such permitted supportive services shall include pharmacy accessory to building medical offices, cafeteria, tobacco/candy/newspaper counter and similar uses designed and operated principally for service to building occupants, provided the total area occupied by such accessory uses shall not exceed ten percent (10%) of the gross leasable area of the building; and

C. The Preliminary Development Plan is attached hereto, incorporated herein and marked "Exhibit D".

The land uses reflected on the Preliminary Development are for demonstrative purposes and, if a question arises as to the uses allowed on the real estate, the written text of the ordinance controls.

However, the land uses and their location on the real estate are identified on the Preliminary Development Plan and are as follows:

1. In the retail-commercial (C-4 Development Standards) area, retail commercial land uses are allowed;

2. In the residential (R-4 Developmental Standards) area, single family land uses are allowed;

3. In the office park (C-4 Developmental Standards):

Office or Office Complex

Professional Offices
Bank, Savings and Loan, Financial Services
Real Estate, Insurance
Clinic (Medical, Dental)
Nursing & Convalescent Homes
Medical or Dental Laboratories
Utility Business Office
Business Offices Related to Local Services
Mortuaries

Public and Semi-Public

Libraries
Community Centers
Governmental Offices and Buildings (limited to offices or clerical use only)
Fire Station
Civic Clubs or Recreational Facilities
Parking Areas for Employees and Public Use

Schools, Private and Professional

Dance
Music
Business
Clerical
Kindergarten, Day Nursery
Arts and Crafts

uses are allowed.

SECTION 3. DEVELOPMENTAL STANDARDS

The following definitions shall apply to this planned development ordinance:

GROSS AREA - the entire area of a project, sub-area, or platted area;

GROSS DENSITY - the total number of dwelling units divided by the gross area in acres;

(A) Developmental standards of the following zoning classifications shall apply to the sub-areas of the overall PD district zone map:

(1) Single-family residential sub-area development shall be developed in conformity with the developmental standards of the R-4 zoning district of Article 11 of the zoning ordinance of Fishers, Indiana as it may from time to time be amended.

2) The retail commercial sub-area development shall be developed in conformity with the developmental standards of the C-4 commercial development standards contained in Article 19 of the zoning ordinance of Fishers, Indiana, as it may from time to time be amended.

3) The office land use sub-area shall be developed in conformity with the C-4 Commercial Development Standards contained in Article 19, the Zoning Ordinance of Fishers, Indiana as it may, from time to time, be amended.

SECTION 4. CONFLICT OF COVENANTS AND ORDINANCES

Where the requirements or development standards contained in this planned development ordinance and accompanying developmental standards covenants differ from the standards or requirements found in other sections of the zoning ordinance of Fishers, Indiana, as they may from time to time be amended, and sub-division ordinance, the ordinance and accompanying covenants shall control.

Where possible, it is the intent that the sub-division control ordinance shall serve as a complement to the development standards as described in this PD ordinance and accompanying developmental standards covenants. However, strict adherence to the quantitative and qualitative requirements of the Fishers sub-division control ordinance is not required, where such requirements are not in keeping with the development standards of the above described real estate planned development ordinance and covenants.

SECTION 5. PARKING

Parking, paving and associated curbing (except driveways, steps and walkways) shall be set back not less than fifteen (15) feet from any street right-of-way line and shall conform to the landscaping ratios and requirements set forth herein.

(A) Compliance with Law. Each Property Owner, Lessee, Licensee or occupant shall comply with all governmental requirements.

(B) Off-Street Parking. Each Property Owner, Lessee, Licensee or occupant shall provide adequate off-street parking to accommodate all parking needs for the Lot of Tract. Parking shall not be permitted within street rights-of-way or driveways. Off-street parking facilities shall be so designated and so located that maneuvering within public rights-of-way will be unnecessary.

(C) Minimum Requirements: The minimum parking requirements for facilities within the above described real estate shall be as follows:

1) Business/High Tech Park: One (1) parking space per 400 square feet of gross floor area.

2) Commercial Use: One (1) parking space per 200 square feet of gross floor area.

3) Hotel/Motel Use: One (1) parking space per each room, plus one (1) parking space per employee.

4) Restaurant/Lounge: One (1) parking space per two (2) seats, plus one (1) parking space per employee.

5) Office/Distribution Warehousing Use: One (1) space per 200 square feet of gross floor area for office portion of building plus one (1) space per 5000 square feet of gross floor area for warehousing use.

6) Office Use: One (1) parking space per 200 square feet of floor area.

7) Handicap space requirements: Shall comply with all state and/or local requirements.

SECTION 6. BUILDING HEIGHT.

Maximum building height shall not exceed 150 vertical feet from finished site elevation, only in retail commercial and office sub-areas.

SECTION 7. LOT COVERAGE.

Maximum building and structure footprint of fifty percent (50%) of a Lot is allowed. Buildings, structures, service area for trucks, parking, outdoor storage, required landscaping and other relevant requirements must be contained within the boundaries of any Lot.

SECTION 8. GREEN BELT BUFFER AND BUILDING SETBACK LINES.

The building setback and buffer areas with respect to the area on the perimeter and between sub-areas on the PD real estate shall be controlled by a green belt buffer and building standard setback exhibit, said exhibit marked as "Exhibit C" and incorporated herein by reference.

SECTION 9. OPTION OF SUNBEAM DEVELOPMENT CORPORATION TO ELECT TO BE GOVERNED BY SUBSEQUENTLY ENACTED ZONING ORDINANCE CHANGES AFFECTING DEVELOPMENTAL STANDARDS.

While it is initially recognized that the Town of Fishers Zoning Ordinance, as it may from time to time be amended, and the accompanying developmental standards contained in these covenants tendered by SUNBEAM, assign certain fixed and definite land uses and developmental standards to the affected real estate, it is also recognized by the parties that the Town of Fishers, Indiana, may amend or adopt new developmental standards. It is therefore recognized by the parties that SUNBEAM DEVELOPMENT CORPORATION, its authorized agents, assigns or successors in interest, may elect, subject to the written approval of the Town of Fishers, Indiana, to have the new developmental standards apply to the real estate which is the subject of the ordinance and the developmental standard covenants.

SECTION 10. PURPOSE.

This district is intended to provide more development flexibility than is possible through the application of customary zoning regulations. In recognition of both the rapid changes in design and technology in the building industry and the attributes of the real estate adjacent to the Interstate Highway 69, it is deemed necessary to meet those changes in a manner that will be consistent with the best interests of the entire Town.

(A) Statement of Purpose

- 1) To encourage a more creative approach in land and building site planning;
- 2) To encourage an efficient, aesthetic and desirable use of open space;
- 3) To promote variety in the physical development pattern of the community;
- 4) To achieve flexibility and incentives for residential, commercial and industrial development which will produce a wider range of choice in satisfying the changing needs of Fishers, Indiana;
- 5) To permit special consideration of property with unique features, such as unusual topography, landscape amenities, and size and shape;
- 6) To simplify processing of development proposals for developers and the Commission by providing for concurrent review of land use, subdivision, public improvements and siting considerations.

SECTION 11. APPLICABILITY.

(A) The provisions of this section shall apply only to a tract of land herein described, provided, however, said provisions may apply to a proposed development in which the primary use is residential, business or industrial use when such proposal is deemed to be in the best interests of

the entire Town.

(B) The basic land unit of this PD District is the block, parcel, tract, combination of lots, or acreage, not the lot; provided, however, divisible geographic sections of the entire Planned Development may be designated.

(C) The Town Board shall then adopt and approve the Preliminary Development Plan as a "P.D." Planned Development District pursuant to the laws governing amendment of the zoning codes.

(D) Upon adoption by the Town Board, the approved Preliminary Development Plan shall be forwarded to a committee consisting of: (1) a representative of the Town Board; (2) Plan Commission Chairman; and (3) Building Commissioner or Plan Director, which shall thereafter exercise continuing jurisdiction. The committee shall conduct its business under the title of Fishers Planned Development Committee. Approval by a majority of the committee is sufficient for the conduct of any committee business. Before any development takes place, the committee shall approve a final detailed site plan specifying the exact location, composition, and general engineering features of all lots, drainage, sewage, water supply facilities, site perimeter treatment and other pertinent site development features including general locations and features of proposed buildings. Such approval shall be conditional upon a finding by the committee that the detailed site plan is consistent with the approved Preliminary Development Plan. The approved final detailed site plan shall be stamped "Approved Final Detailed Development Plan" and be signed by any two (2) members of the committee, and one (1) copy shall be permanently retained in the office of the Commission.

1) Approval of a detailed site plan for all of the real estate shall be obtained within twelve (12) years after adoption by the Town Board of the Preliminary Development Plan, unless the Commission, upon proper application, for good cause shown, grants an extension of time for such period as it deems is in the public interest. All or an appropriate part of the Development Plan may be undertaken in sections or phases.

2) An "Approved Final Detailed Development Plan" may mean and be designated the same as a Secondary Plat.

3) A refusal by the Commission to approve a detailed final site plan shall not be construed as a denial, and any such refusal shall not operate as a limitation on the right of the petitioner to continue to seek approval nor shall it impair the right of the petitioner to obtain an extension of time for approval.

4) In the event that approval of a final detailed site plan is not obtained within the twelve (12) year period or an approved extension of time, the Commission shall initiate an amendment of the zoning ordinance so that the land will be zoned to a category adopted by the Town Board as an amendment to the Zoning Ordinance.

5) A proposed Development Plan shall be designed to produce an environment of stable and desirable character in keeping with the principals of good design, and must provide standards of open space, efficiency in street patterns and areas for parking adequate for the occupancy proposed.

SECTION 12. PROCEDURE.

The authorization of a Development Plan shall be subject to the procedures expressed

herein.

(A) Copies of a preliminary plan of the proposed development, containing the following information, shall be submitted for advice:

1) Proposed dimensioned layout (to scale not to exceed 200'=1') of any streets, geographic areas and other elements basic to the proposed use in relationship to site conditions;

2) Proposed locations, amounts and types of uses within the area proposed to be developed;

3) Proposed plan for handling vehicular traffic, sewage disposal, drainage, water supply site perimeter treatment and other pertinent development features;

4) The preliminary plan may be an approximate drawing, but it shall include any other graphic mediums which will explain the features to be contained within the development of engineering feasibility;

5) The plan shall show the boundary lines of the subject area and land uses proposed and the existing zoning of the area proposed to be developed as well as the land adjacent thereto. In the case of a petition by owners, the plan shall also show which property within the area proposed for development is owned by such owners.

6) An enumeration of covenants, in general terms, proposed to be made a part of the Planned Development.

(B) Application for approval of the Preliminary Development Plan shall be submitted to the Commission with sufficient copies of the preliminary plan and any other desired supporting documents at a regular meeting of the Commission as a petition for Amendment to the Zoning Code and subject to the procedures applicable thereto. The Commission may approve the plan submitted, amend and approve the plan as amended, or disapprove the plan. The Commission may impose any reasonable conditions upon its approval, including the recording of covenants.

(E) The petitioner may develop the property involved in phases. The Petitioner may submit to the committee partial detailed site plans which correspond to the phases involved. Such partial detailed site plans, when approved, shall be treated in the same manner as approved final detailed site plans for an entire Planned Development Plan.

(F) Where a platting, replatting or vacation of streets within all or a portion of the land involved is contemplated, the committee shall handle such matters in accordance with its regular procedures and in accordance with law.

(G) No construction or installation work shall be done on any public improvements until satisfactory plans and specifications therefore have been submitted to the committee.

(H) In the exercise of its continuing jurisdiction, the committee may from time to time, modify the approved Final Detailed Development Plan in a manner consistent with the approved Preliminary Development Plan to allow for changed circumstances and conditions unforeseen at the time of original approval.

(I) All development shall be in conformity with the approved detailed Development Plan. In the exercise of its continuing jurisdiction, the Commission shall take cognizance of any material deviations from the approved Detailed Development Plan and take appropriate enforcement action.

(J) Approval by the committee shall expire after a period of twelve (12) years from the approval of a Final Detailed Development Plan, unless the development is fifty percent (50%) completed in terms of public improvements including streets, walkways and utility installations in which instance an extension of time may be granted by the committee.

(K) All proceedings brought under this section shall be subject to the Rules of Procedure of the Commission, where not inconsistent with the procedure otherwise stated herein, except that notice by publication shall be sufficient notice for proceedings related solely to approval and modification of a Final Detailed Development Plan.

SECTION 13. ABANDONMENT OR EXPIRATION.

Under the abandonment of a development authorized under this section (abandonment shall be deemed to have occurred when no improvements have been made pursuant to the approved final detailed Development Plan for twenty-four (24) consecutive months, or upon the expiration of twelve (12) years from the approval by the Commission of a Preliminary Detailed Development Plan for a development which has not been completed or the expiration of an extension granted by the Commission), the Commission shall initiate an amendment to the Zoning Code so that the land will be zoned into a category or categories which most nearly approximates its then existing use or such other zoning category or categories which it deems appropriate.

SECTION 14. RECORDING.

An approved Final Detailed Development Plan and modifications thereof shall be recorded in the appropriate plat books in the offices of the Hamilton County Recorder within two (2) years after approval by the Committee.

SECTION 15. COVENANTS AND MAINTENANCE.

(A) Covenants shall be required by the Commission as an ingredient for salability and longevity of the Planned Development and shall set forth in detail, provisions for the ownership and maintenance of facilities held in common so as to reasonably insure their continuity and conservations. Said covenant provisions shall include special remedies in the event facilities held in common are permitted to deteriorate or are not maintained in a condition consistent with the best interest of the Town, and in such event, the Town shall take those remedial steps provided for in such provisions.

(B) The Commission may require the recording of covenants for any reasonable public or semi-public purpose, including, but not limited to, the allocation of land by the Petitioner for public thoroughfares, and other public and semi-public purposes wherever necessary in conformity with the Comprehensive Plan. Such covenants shall provide that if a governmental unit or agency thereof does not proceed with acquisition of the allocated land within a specific period of time, the covenants shall automatically terminate. If such termination occurs, the Petitioner shall then submit for approval by the Commission a modified final, detailed site plan for such land consistent with the approved Preliminary Development Plan. Such modified final detailed site plans, when approved, shall be treated in the same manner as approved detailed site plans for an entire Development Plan.

(C) The Commission may require the recording of covenants for any other reasonable purpose, including, but not limited to, imposing standards for development of property in the Planned Development. Such development standards may include, but are not limited to, requirements as to the following:

- 1) Lot area;
- 2) Floor area;
- 3) Ratios of floor space to land area;
- 4) Area in which structures may be built ("Buildable area"), including areas for cluster type development without lot lines;
- 5) Setback lines and minimum yards;
- 6) Building separations;
- 7) Height of structures;
- 8) Signs;
- 9) Off-street parking and loading space;
- 10) Design standards;
- 11) Phasing of development.

(D) The Petitioner shall provide financial assurance for the satisfactory installation of all public facilities in the form of bonds or such other assurances as are required in the normal procedures of platting pursuant to the provisions of the Subdivision Control Ordinance.

(E) Adequate provision shall be made for private organization with direct responsibility to, and control by, the property owners involved to provide for the operation and maintenance of all common facilities including private streets jointly shared by such property owners if such facilities are a part of the Development Plan, and, in such instance, legal assurance shall be provided which show that the private organization is self-perpetuating and adequately funded to accomplish its purposes.

(F) Common facilities which are not dedicated to the public shall be maintained to standards assuring continuous and adequate maintenance at a reasonable and nondiscriminatory rate of charge to the beneficiary thereof. Common facilities not dedicated to the public shall be operated and maintained at no expense to any governmental unit.

(G) All private streets shall be maintained by the aforesaid private organization in such a manner that adequate access is provided at all times to vehicular traffic, so that fire, police, health, sanitation and public utility vehicles can serve the properties contiguous or adjacent thereto, and so that said vehicles will have adequate turning area.

SECTION 16. LIMITATION ON REZONING.

The Plan Commission shall not initiate any amendments to the Zoning Code concerning the property involved in a Planned Development before completion of the development as long as development is in conformity with the approved Detailed Development Plan, and proceeding in accordance with the time requirements imposed herein.

This Ordinance shall be in full force and effect from and after its passage.

PASSED by the Town Board of the Town of Fishers, Indiana, on the 7th day of September, 1988.

THE TOWN BOARD OF THE TOWN OF FISHERS, HAMILTON COUNTY, INDIANA

BY: _____
WALTER F. KELLY, President

Roy G. Holland /s/

EXHIBIT B

GREEN BELT BUFFER
AND BUILDING SETBACK LINE EXHIBIT

The enumerated developmental standards on green belt buffer and building setback map marked as "Exhibit B" shall apply to the above described real estate with respect to building setback lines and buffer zones between sub-areas and on the perimeter of the development.

1. SUNBEAM covenants that on the western boundary line of the above described real estate, between the western boundary of the property and the right of way of I-69, the following building setback lines shall apply.

- A. Buildings. Buildings or structures of any kind, or any part thereof, shall not be placed closer than seventy-five (75) feet to any street right-of-way line or closer than twenty (20) feet to a side or rear property line.
- B. Parking. Parking shall be allowed in the seventy-five (75) foot building setback line. However, parking, paving and associated curbing (except driveways, steps and walkways) shall be set back not less than fifteen (15) feet from any street or interstate right-of-way line.
- C. Condominium or Zero Lot Line Cluster. Notwithstanding the foregoing, if any Lot or Tract shall be developed as a condominium, the building setback lines shall not apply to the individual condominium units, but shall only apply to the entire Lot or Tract on which the condominium is constructed.

EXHIBIT B - PAGE TWO

2. SUNBEAM covenants that there shall be a one hundred (100) foot buffer zone between the existing single-family subdivision and the surrounding sub-areas of the real estate where they meet on the north and south as depicted in Exhibit B.

3. SUNBEAM and the TOWN OF FISHERS recognize and agree that the remaining building setback requirements and buffer and landscape zone shall be determined by the FISHER'S PLANNED DEVELOPMENT COMMITTEE as organized pursuant to the PD ordinance and shall be reflected on the proposed final detailed development plan or secondary plat to be submitted to the above described committee.

EXHIBIT C

