

**FAIRLANE CENTER AND KIRKPATRICK
ORDINANCE NO. 061588**

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

BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF FISHERS, INDIANA, THAT THE ZONING ORDINANCE, A PART OF THE COMPREHENSIVE PLAN AND ORDINANCES - 1980, ORDINANCE NO. 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:

That the zoning classification of the following described real estate is hereby designated as PD.

(Here insert legal description.)

SECTION 2. LAND USE

All uses described in Article 18 and Article 20 of Chapter 2 of Ordinance No. 110380 shall be permitted in this PD District, with the addition of the following supplementary list of permitted uses:

(A) Warehousing and Distribution Operations, completely enclosed within a building, when it is integral to the primary use of the property, and

(B) Professional Offices, as a primary use.

SECTION 3. DEVELOPMENT STANDARDS

The following development Standards shall apply to all of the real estate herein described, regardless of land use:

(A) MINIMUM BUILDING SETBACKS

The following minimum setback lines apply to any and all structures erected upon the premises:

(1) Front Yard Setback: 50 feet on Interior PD District Streets, 65 feet on All Others.

(2) Side Yard Setback: Side yards of 20 feet shall be provided along each side lot line. Where the side yard abuts an adjacent residential district or land use, the side yard shall not be less than 75 feet.

(3) Rear Yard Setback: Rear yards of 35 feet shall be provided along each rear lot line. Where the rear yard abuts an adjacent residential zone district or land use, the rear yard shall not be less than 75 feet.

(B) MAXIMUM STRUCTURE HEIGHT

Maximum height of all buildings and structures shall not exceed 35 feet.

(C) MAXIMUM LOT COVERAGE

Maximum coverage of any given lot by buildings or other structures shall not exceed 50% of the gross area of the lot.

(D) REQUIRED LANDSCAPING AND SCREENING

The following general landscaping guidelines shall be followed by all property developers within the PD District designated by this Ordinance. Landscaping requirements will be imposed upon property at the time of individual applications for Improvement Location Permits.

(1) *Adjacent to Public Rights-of-Way.* On the site of a building or open lot use providing an off-street parking area or other vehicular use area where such area will not be entirely screened by an intervening building or structure from any abutting right-of-way, there shall be provided landscaping between such area and such right-of-way, as follows:

(a) A strip of land at least ten (10) feet in depth located between the abutting right-of-way and the off-street parking or other vehicular use area shall be landscaped, such landscaping to include one shade tree for each fifty (50) lineal feet of frontage or fraction thereof. In addition, a hedge, wall or other durable landscape barrier of at least two (2) feet in height shall be placed along the perimeter of such landscape strip. If such barrier is of non-living material, then one shrub or vine shall be placed at intervals of not less than ten (10) feet. The remainder of the required landscape areas shall be planted with grass, ground cover, or other landscape treatment, excluding pavement.

(b) All property other than the required landscaped strip lying between the right-of-way and off-street parking area or other vehicular use area shall be landscaped with at least grass or other ground cover.

(c) Necessary accessways from the public right-of-way through all such landscaping shall be permitted to service the parking or other vehicular use areas and such accessways may be subtracted from the lineal dimension used to determine the number of trees required.

(2) *Perimeter Landscaping Relating to Abutting Properties.* On the site of a building or structure or open lot use providing an off-street parking area or other vehicular use area, where such areas will not be entirely screened by an intervening building or structure from abutting property, that portion of such area not so screened shall be provided with a wall or hedge or other durable landscape barrier not greater than eight (8) feet in height nor less than three and one-half (3 1/2) feet in height, to form a continuous screen between the off-street parking area or other vehicular use area and such abutting property. Such landscape barrier shall be located between the common lot line and the off-street parking area or other vehicular use area exposed to the abutting property, provided the purpose of screening off-street parking area and other vehicular use areas is accomplished. If such barrier consists all or in part of plant materials, such plant materials shall be planted in a planting strip of not less than five (5) feet in width.

In addition, one tree shall be provided for each seventy-five (75) lineal feet of such landscape barrier or fractional part thereof. Such trees shall be located between the common lot line and the off-street parking area or other vehicular use area. Each such tree shall be planted in at least twenty-five (25) square feet of planting area with a minimum dimension of at least five (5) feet. Each such planting area shall be landscaped with grass, ground cover, or other landscape material,

excluding paving, in addition to the required tree.

The provisions of this subsection shall not be applicable where a proposed parking area or other vehicular use area abuts an existing hedge, wall, or other durable landscape barrier on an abutting property. Said existing barrier may be used to satisfy the landscape barrier requirements of this subsection, provided that said existing barrier meets all applicable standards of this Ordinance and protection against vehicular encroachment is provided for hedges.

(3) *Parking Area.* Off-street parking areas shall have at least ten (10) square feet of interior landscaping for each parking space, excluding those spaces abutting a perimeter for which landscaping is required by other sections hereof and excluding all parking spaces which are directly served by an aisle abutting and running parallel to such a perimeter. In addition, other vehicular use areas shall have one (1) square foot of landscape area for each 100 square feet or fraction thereof of paved area for the first 50,000 square feet, excluding the first 5,000 square feet of paved area plus one (1) square foot of landscape area for each 200 square feet or fraction thereof of paved area for all paved area over 50,000 square feet. Each separate landscaped area shall contain a minimum of 50 square feet and shall have a minimum dimension of at least five (5) feet and shall include at least one tree having a clear trunk of at least five (5) feet, with the remaining area adequately landscaped with shrubs, ground cover or other authorized landscaping material, not to exceed three (3) feet in height.

The total number of trees shall not be less than one (1) for each one hundred (100) square feet or fraction thereof of required interior landscaped area. Such landscaped areas shall be located in such a manner as to divide and break up the expanse of paving.

In other vehicular use areas where the strict application of this subsection will seriously limit the function of said area, the required landscaping may be located near the perimeter of the paved area, including such perimeters which may be adjacent to a building on the site. Such required interior landscaping which is relocated as herein provided shall be in addition to the perimeter landscaping requirements.

The front of a vehicle may encroach upon any interior landscaped area when said area is at least three and one-half (3 1/2) feet in depth per abutting parking space and protected by wheel stops or curbing. Two (2) feet of said landscaped area may be part of the required depth of each abutting parking space.

(4) *Existing Plant Material.* In instances where healthy plant material exists on a site prior to its development, in part or in whole, for purposes of off-street parking or other vehicular use areas, the agency charged with the issuance of building permits may adjust the application of the above mentioned standards to allow credit for such plant material if, in its opinion, such an adjustment is in keeping with and will preserve the intent of this Ordinance.

(5) *Plan Approval.* Detailed development shall include landscaping plans for any property located within the PD District designated by this Ordinance. Such plans shall be reviewed by the PD committee to determine compliance with requirements specified herein. Landscape plans included in the Detailed Development Plans shall include the following:

- (a) Landscaping materials, natural and artificial;
 - (1) location and spacing of existing and proposed plant materials;
 - (2) types of materials identified by botanical and common names

and listed on a plant material schedule, with method of transplant specified; all trees to be removed should be noted;

(3) size of materials, in diameter and height, at installation and at maturity;

(b) Proposed treatment of all ground surfaces (paving, turf, and grading);

(c) Quantity of each of the planting and artificial materials to be used, and

(d) Methods of protecting landscaped areas.

(E) OTHER DEVELOPMENT STANDARDS

Other development standards not specifically defined by this Ordinance or by subsequent covenants and restrictions recorded for this PD District shall be determined by the development standards prescribed by Section 20.20 of the Fishers Zoning Ordinance - 1980.

SECTION 4. 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 Indiana State Highway #37, 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 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 5. 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 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.

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

(2) Before approval of a Preliminary Development Plan, a detailed determination of land use intensity shall be declared, and the Commission shall make a finding that said intensity is consistent with the Land Use Plan of current adoption and the best interests of the entire Town and surrounding areas.

SECTION 6. 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 review and approval.

(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.

(7) A statement expressing the order and estimated time of 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. If approved, the preliminary plan with amendments, if any, shall be stamped "Approved Preliminary Development

Plan" and be signed by the President and Secretary of the Commission, and one copy shall be permanently retained in the office of the Commission.

(C) The approved Preliminary Development Plan shall then be certified to the Town Board for adoption as a "PD" Planned Development District pursuant to the laws governing amendment of 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 detailed 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 members of the committee, and one copy shall be permanently retained in the office of the Commission. Approval of the final Detailed Development Plan shall constitute approval of the development standards contained within the covenants to be recorded with each phase of the development. The Town by its Code Enforcement officer, as designated by ordinance, shall enforce compliance with the development standards as contained in the covenants.

(1) Approval of a detailed site plan for all of the real estate shall be obtained within _____ 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 _____ period or an approved extension of time, the Commission shall initiate an amendment to 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.

(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 therefor 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 _____ 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 7. 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 _____ 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 8. 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 9. COVENANTS AND MAINTENANCE

(A) Covenants shall be required by the Commission as an ingredient for stability 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 conservation. 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 interests 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 specified 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 shows 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 non-discriminatory 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 10. 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

