

FISHERS MARKETPLACE PUD
AMENDMENT

A Planned Unit Development District

Year

2013

v.03.15.13

Town of Fishers
Planned Develop-
ment Ordinance
020813

ORDINANCE NO. 020813

An Ordinance to Amend the Unified Development Ordinance of the Town of Fishers, Hamilton County, Indiana - 2006

This is an ordinance to amend the text of the Unified Development Ordinance of the Town of Fishers, Indiana, Ordinance No. 090605A (the "UDO"), and the Fishers Marketplace Planned Unit Development Ordinance No. 070506, as amended by Ordinance 081808D, 032111B, and 081511A (the "Fishers Marketplace PUD Ordinance") previously enacted by the Town of Fishers pursuant to Its authority under the laws of the State of Indiana, IC 36-7-4 et seq., as amended.

WHEREAS, the Plan Commission of the Town of Fishers has conducted a public hearing on Docket No. 2-TA-13 as required by law in regard to the application filed by the ONB Realty I LLC and Thompson Thrift Development, Inc., to amend the Fishers Marketplace PUD Ordinance regarding the subject real estate described in Exhibit A attached hereto (the "Real Estate"); and

WHEREAS, the Plan Commission at its March 12, 2013 meeting sent a favorable recommendation to the Fishers Town Council by a vote of eleven (11) in favor and zero (0) opposed.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fishers, Hamilton County, Indiana, meeting in regular session, that the Fishers Marketplace PUD Ordinance is hereby amended as follows (the "SECTION" references below refer to the Sections of the Fishers Marketplace PUD Ordinance):

1. **SECTION 12. SIGNS. Subsection C. Building Identification Signs, Subsection D. Incidental Signs, Subsection E. Suspended Signs in Integrated Centers**, shall be and hereby are repealed in their entirety and replaced with Article 05.094 § 04 Commercial & Industrial Districts, Sections A (7) through A (15) of the UDO. SR 37, 131st St., Parkside Drive, and the various internal easements depicted on the Frontage Plan, attached hereto as Exhibit B, shall be deemed as frontage.
2. **SECTION 12. SIGNS. Subsection G. Temporary Signs**, shall be amended to include the provisions of Article 05.094 § 04 Commercial & Industrial Districts, Section B (1) and Sections B (3) through B (7) of the UDO.

EFFECTS OF APPROVAL. All other provisions of the Fishers Marketplace PUD Ordinance shall remain in effect with the adoption of this ordinance. All provisions and representations of the Fishers Marketplace PUD Ordinance that conflict with the provisions of this ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this ordinance.

APPROVAL. This ordinance shall be in full 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 fully passed by the members of the Town Council this 1st day of April Two Thousand and Thirteen.

Fishers Marketplace PUD Amendment


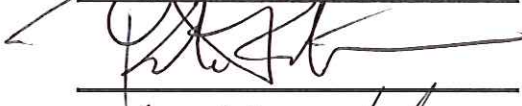

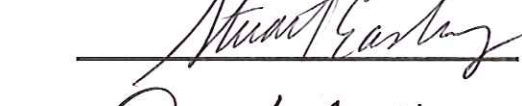
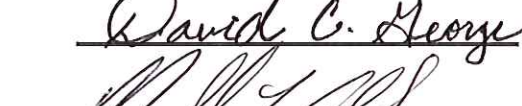
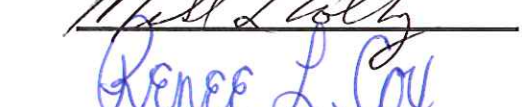

Year
2013

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

AYE

NAY

BY:

John W. Weingardt,
President

C. Pete Peterson,
Vice President

Scott A. Faultless,
Member

Stuart F. Easley,
Member

David C. George,
Member

Michael Colby,
Member

Renee Cox,
Member

ATTEST:



Linda Gaye Cordell, Clerk-Treasurer,
The Town of Fishers, Indiana
Ordinance No. 020813

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

Prepared by: Steven D. Hardin, Esq.,
Faegre Baker Daniels, LLP, 600 East 96th Street, Suite 600,
Indianapolis, Indiana 46240 (317) 569-9600

Exhibit A - Real Estate

NORTH ONB

Legal Description

TRACT 1:

Parts of the Southeast Quarter of Section 19 and the Northeast Quarter of Section 30, Township 18 North, Range 5 East, Delaware Township, Hamilton County, Indiana, being described as follows:

Commencing at the Northeast corner of the Southeast Quarter of said Section 19; thence South 00 degrees 00 minutes 02 seconds East (an assumed bearing) 2,668.45 feet along the East line of the Southeast Quarter of said Section 19 to the Southeast corner thereof, said point also being the Northeast corner of the Northeast Quarter of said Section 30; thence South 89 degrees 25 minutes 19 seconds West 1,291.52 feet along the North line of the Northeast Quarter of said Section 30 to the Northwest corner of a tract of land granted to Hamilton Southeastern Schools ("School Tract") recorded in Deed Record 266, Page 398, of the Hamilton County, Indiana Recorder's Office and the Point of Beginning of this description; thence South 00 degrees 10 minutes 47 seconds West 865.32 feet; thence North 89 degrees 49 minutes 13 seconds West 582.23 feet; thence South 00 degrees 10 minutes 17 seconds West 566.10 feet along the Western boundary line of said "School Tract"; thence South 89 degrees 29 minutes 44 seconds West 481.11 feet to a point of curvature to the left, said point being located North 00 degrees 30 minutes 16 seconds West 385.00 feet from the radius point of said curve; thence Westerly 266.58 feet along said curve to its point of tangency being located on the Eastern right-of-way line of State Road 37 per Right-of-Way Document recorded in Deed Record 149, page 441 in the Hamilton County Recorder's Office, said point being located North 40 degrees 10 minutes 35 seconds West 385.00 feet from the radius point of said curve, the following Two courses are along the Eastern right-of-way line of State Road 37; 1) thence North 00 degrees 02 minutes 06 seconds West 1,511.40 feet to the North Line of the Northeast Quarter of said Section 30; 2) thence North 00 degrees 02 minutes 06 seconds West 1,336.28 feet; thence North 89 degrees 28 minutes 01 second East 359.46 feet; thence South 00 degrees 00 minutes 16 seconds East 1,336.04 feet to the North line of the Northeast Quarter of said Section 30; thence North 89 degrees 25 minutes 11 seconds East 954.96 feet along said North line to the Point of Beginning, containing 46.496 acres, more or less.

EXCEPT that real estate conveyed to the State of Indiana by Warranty Deed recorded February 26, 2008, as Instrument 2008009323, more particularly described as follows:

A part of the Northeast Quarter of Section 30, Township 18 North, Range 5 East, Hamilton County, Indiana, and being that part of the grantor's land lying within the right of way lines depicted on the attached Right of Way Parcel Plat, marked Exhibit "B", described as follows: Commencing at the Northeast corner of the Southeast Quarter of Section 19, Township 18 North Range 5 East; thence South 00 degrees 00 minutes 02 seconds East (an assumed bearing) 2,668.45 feet along the East line of the Southeast Quarter of said Section 19 to the Southeast corner thereof, said point also being the Northeast corner of the Northeast Quarter of said Section 30; thence South 89 degrees 25 minutes 19 seconds West 1,291.52 feet along the North line of the Northeast Quarter of said Section 30 to the Northwest corner of a tract of land granted to Hamilton Southeastern Schools ("School Tract") recorded in Deed Record 266, Page 398, of the Hamilton County, Indiana Recorder's Office; thence South 00 degrees 10 minutes 47 seconds West 865.32 feet; thence North 89 degrees 49 minutes 13 seconds West 582.23 feet; thence South 00 degrees 10 minutes

17 seconds West 566.10 feet along the Western boundary line of said "School Tract"; thence South 89 degrees 29 minutes 44 seconds West 481.11 feet to a point of curvature to the left, said point being located North 00 degrees 30 minutes 16 seconds West 385.00 feet from the radius point of said curve; thence Westerly 266.58 feet along said curve to its point of tangency being located on the Eastern right-of-way line of State Road 37 per Right-of-Way Document recorded in Deed Record 149, Page 441, in the Hamilton County Recorder's Office, said point being located North 40 degrees 10 minutes 35 seconds West 385.00 feet from the radius point of said curve (the foregoing portion of this description beginning with the words "thence South 00 degrees 00 minutes 02 seconds East (an assumed bearing)" is taken from Instrument Number 2007000985) to the East boundary of S.R. 37 and a Northwest corner of a tract of land described in Instrument Number 200600061116 and the Point of Beginning of this description designated as point "201" on said plat; thence North 0 degrees 02 minutes 06 seconds west 1330.22 feet along the East boundary of said S.R. 37 to the point designated "214" on said plat; thence South 9 degrees 52 minutes 07 seconds East 76.12 feet to the point designated "213" on said plat; thence South 44 degrees 28 minutes 51 seconds East 78.54 feet to the point designated "212" on said plat; thence South 89 degrees 57 minutes 33 seconds East 275.33 feet to the point designated "211" on said plat; thence South 0 degrees 02 minutes 06 seconds East 94.00 feet to the point designated "210" on said plat; thence North 89 degrees 57 minutes 33 seconds West 275.33 feet to the point designated "209" on said plat; thence South 47 degrees 44 minutes 01 seconds West 74.28 feet to the point designated "208" on said plat; thence South 0 degrees 02 minutes 06 seconds East 1044.73 feet to a Northeast corner of said tract of land described in said Instrument Number 200600061116; thence along the South line of said tract 16.71 feet along an arc to the left having a radius of 385 feet and subtended by a long chord having a bearing of South 51 degrees 03 minutes 59 seconds West and a length of 16.70 feet to the point of beginning and containing 1.164 acres, more or less.

TRACT 2:

Non-exclusive perpetual easement for vehicular and pedestrian ingress, egress, utilities and incidental purposes as set out in Cross Easement Declaration by and between Britton Park Development, LLC, and H2O Resorts II, LLC, dated December 7, 2006, and recorded January 5, 2007, as Instrument No. 2007000986.

TRACT 3:

Non-exclusive, perpetual easement for drainage, utilities, landscaping, and incidental purposes as set out in Declaration of Easements, Covenants and Restrictions for Fishers Marketplace by Britton Park Development, LLC, dated December 7, 2006, and recorded December 21, 2006, as Instrument 2006075312.

Property Address: 0 SR 37, Fishers, IN 46038

SOUTH ONB

A part of the Northeast Quarter of Section 30, Township 18 North, Range 5 East located in Delaware Township, Hamilton County, Indiana being bounded as follows:

BEGINNING at the southwestern corner of the 3.987 acre tract of land described in the WARRANTY DEED recorded as instrument #2007002262 by the Recorder of Hamilton County, Indiana, said Point of Beginning being on the South Line of the Northeast Quarter of Section 30, Township 18 North, Range 5 East and being South 89 degrees 36 minutes 52 seconds West (assumed bearing) 357.02 feet from the Southeast Corner of said Northeast Quarter; thence South 89 degrees 36 minutes 52 seconds West 1,379.32 feet along the South Line of said Northeast Quarter to the southeastern corner of the 0.502 acre tract of land described in the WARRANTY DEED recorded as instrument #20060006116 by said Recorder, the following three (3) courses are along the boundary of said 0.502 acre tract of land; 1) thence North 00 degrees 21 minutes 23 seconds West 12.68 feet; 2) thence North 63 degrees 40 minutes 12 seconds West 55.90 feet; 3) thence South 89 degrees 45 minutes 54 seconds West 39.99 feet to the southeastern corner of the 0.426 acre tract of land described in the WARRANTY DEED recorded as instrument #2008005304 by said Recorder, the following four (4) courses are along the boundary of said 0.426 acre tract of land; 1) thence North 00 degrees 14 minutes 06 seconds West 27.00 feet; 2) thence North 87 degrees 22 minutes 21 seconds West 160.20 feet; 3) thence South 89 degrees 45 minutes 54 seconds West 400.00 feet; 4) thence North 85 degrees 38 minutes 09 seconds West 127.54 feet to the eastern right-of-way line of State Road 37 per said Right-of-Way Document recorded in Deed Record 149, page 441; thence North 45 degrees 38 minutes 32 seconds West 95.71 feet to the eastern boundary of State Road 37, the eastern boundary of the 0.237 acre tract of land, described in the WARRANTY DEED WITH LIMITATION OF ACCESS recorded as instrument #200600061115 by said Recorder; thence North 00 degrees 02 minutes 06 seconds West 1,002.99 feet and along said eastern boundary and the eastern boundary of the 0.059 acre tract of land described in the WARRANTY DEED WITH LIMITATION OF ACCESS recorded as instrument 2008005305 by said Recorder to the southern boundary of the 46.496 acre tract of land described in the LIMITED WARRANTY DEED recorded as instrument #2007000985 by said Recorder, said point being on a non-tangent curve concave to the south and being North 37 degrees 41 minutes 27 seconds West 385.00 feet from said radius point of said curve; thence northeasterly and easterly 249.88 feet along the southern boundary of said 46.496 acre tract of land and along said curve to its point of tangency, said point of tangency being North 00 degrees 30 minutes 16 seconds West 385.00 feet from said radius point of said curve; thence North 89 degrees 29 minutes 44 seconds East 555.38 feet along the southern boundary of said 46.496 acre tract of land and along the southern boundary of the 0.383 acre tract of land described in the QUITCLAIM DEED recorded as instrument #2008003589 by said Recorder to its southeastern corner, the following four (4) courses are along the boundary of said 0.383 acre tract of land; 1) thence North 00 degrees 23 minutes 08 seconds West 55.16 feet to the point of curvature of a curve to the left (said curve hereinafter referred to as Curve #1), said point of curvature being North 89 degrees 36 minutes 52 seconds East 463.00 feet from said radius point of Curve #1; 2) thence northerly 169.94 feet along Curve #1 to its point of tangency, said point of tangency being North 68 degrees 35 minutes 04 seconds East 463.00 feet from said radius point of Curve #1; 3) thence North 21 degrees 24 minutes 56 seconds West 110.41 feet to the point of curvature of a curve to the right (said curve hereinafter referred to as Curve #2), said point of curvature being South 68 degrees 35 minutes 04 seconds West 537.00 feet from said radius point of Curve #2; 4) thence northerly 1.80 feet along said curve to the eastern boundary of said 46.496 acre tract of land, said point being South 68 degrees 46 minutes 31 seconds West 537.00 feet from said radius

point; thence North 00 degrees 10 minutes 21 seconds East 239.89 feet to a southwestern corner of said 46.496 acre tract of land; thence South 89 degrees 49 minutes 13 seconds East 37.00 feet to the northwestern corner of the 3.000 acre tract of land described in the LIMITED WARRANTY DEED recorded as instrument #2008003590 by said Recorder, the next six (6) courses are along the boundary of said 3.000 acre tract of land and along the boundary of the 3.298 acre tract of land described in said instrument #2008003590; 1) thence South 00 degrees 10 minutes 21 seconds West 43.97 feet to the point of curvature of a curve to the left (said curve is concentric with Curve #2), said point of curvature being North 89 degrees 49 minutes 39 seconds West 463.00 feet from the radius point said curve; 2) thence southerly 174.45 feet along said curve to its point of tangency, said point of tangency being South 68 degrees 35 minutes 04 seconds West 463.00 feet from said radius point of said curve; 3) thence South 21 degrees 24 minutes 56 seconds East 110.41 feet to the point of curvature of a curve to the right (said curve is concentric with Curve #1), said point of curvature being North 68 degrees 35 minutes 04 seconds East 537.00 feet from said radius point of said curve; 4) thence southerly 197.10 feet along said curve to its point of tangency, said point of tangency being North 89 degrees 36 minutes 52 seconds East 537.00 feet from said radius point of said curve; 5) thence South 00 degrees 23 minutes 08 seconds East 55.01 feet; 6) thence North 89 degrees 29 minutes 44 seconds East 433.93 feet to the eastern boundary line of the 103.901 acre tract of land described in the CORPORATE LIMITED WARRANTY DEED recorded as instrument #200500021250 by said Recorder, following four (4) courses are along the boundary of said 103.901 acre tract of land; 1) thence South 00 degrees 10 minutes 47 seconds West 103.82 feet; 2) thence South 89 degrees 25 minutes 19 seconds West 95.31 feet; 3) thence South 00 degrees 10 minutes 47 seconds West 632.17 feet; 4) thence North 89 degrees 36 minutes 54 seconds East 1,029.76 feet to the northwest corner of said 3.987 acre tract of land; thence South 00 degrees 10 minutes 47 seconds West 500.00 feet along the western boundary of said 3.987 acre tract of land to the POINT OF BEGINNING containing 45.290 acres, more or less.

This property is commonly known as: Northeast corner of 131st Street and S.R. 37, Hamilton County, Indiana.

Less the following:

A part of the Northeast Quarter of Section 30, Township 18 North, Range 5 East, in Hamilton County, Indiana, more particularly described as follows:

Commencing at the southeast corner of said Northeast Quarter; thence South 89 degrees 36 minutes 52 seconds West along the south line of said Northwest Quarter (basis of bearings per Instrument Number 200500021250, on file in the Office of the Recorder of Hamilton County, Indiana) 1,736.33 feet to the southeast corner of the tract of land conveyed to the State of Indiana, described in Instrument Number 200600061116 ("Indiana Tract 1"), on file in the Office of said Recorder, the following three (3) courses are along the east, northeasterly and north lines of said Indiana Tract 1; (1)thence North 00 degrees 21 minutes 23 seconds West 12.68 feet; (2) thence North 63 degrees 40 minutes 12 seconds West 55.90 feet; (3)thence South 89 degrees 45 minutes 54 seconds West 39.99 feet to the southeast corner of a tract of land conveyed to the State of Indiana, described in Instrument Number 2008005304 ("Indiana Tract 2"), the following four (4) courses are along the east and north lines of said Indiana Tract 2; (1)thence North 00 degrees 14 minutes 06 seconds West 27.00 feet; (2)thence North 87 degrees 22 minutes 21

seconds West 160.20 feet; (3) thence South 89 degrees 45 minutes 54 seconds West 400.00 feet; (4) thence North 85 degrees 38 minutes 09 seconds West 127.54 to the east right-of-way line of State Road 37 per Deed Record 149, Page 441, on file in the Office of said Recorder; thence North 45 degrees 38 minutes 32 seconds West along said east right-of-way line 95.71 feet to the east right-of-way line of State Road 37 as described in Instrument Number 200600061115, on file in the Office of said Recorder; thence North 00 degrees 02 minutes 06 seconds West along said east right-of-way line 795.50 feet; thence North 51 degrees 36 minutes 39 seconds East 180.98 feet; thence North 89 degrees 58 minutes 14 seconds East 99.46 feet to the POINT OF BEGINNING; thence North 00 degrees 00 minutes 10 seconds East 7.10 feet; thence South 89 degrees 59 minutes 55 seconds East 59.00 feet; thence South 00 degrees 00 minutes 10 seconds West 29.00 feet; thence North 89 degrees 59 minutes 55 seconds West 59.00 feet; thence North 00 degrees 00 minutes 10 seconds East 21.90 feet to the POINT OF BEGINNING. Containing 0.039 acres; more or less.

AND

A part of the Northeast Quarter of Section 30, Township 18 North, Range 5 East, in Hamilton County, Indiana, more particularly described as follows:

Commencing at the southeast corner of said Northeast Quarter; thence South 89 degrees 36 minutes 52 seconds West (basis of bearings per Instrument Number 200500021250, on file in the Office of the Recorder of Hamilton County, Indiana) along the south line of said Northeast Quarter 357.02 feet to the POINT OF BEGINNING; thence continuing along said south line South 89 degrees 36 minutes 52 seconds West 958.58 feet; thence North 00 degrees 23 minutes 06 seconds West 146.03 feet; thence North 51 degrees 42 minutes 47 seconds West 127.50 feet to the point of curve of a curve concave to the south having a radius of 299.00 feet, the radius point of which bears South 38 degrees 17 minutes 13 seconds West; thence westerly along said curve 201.81 feet to a point that bears North 00 degrees 23 minutes 08 seconds West from said radius point; thence South 89 degrees 16 minutes 28 seconds West 84.22 feet; thence North 00 degrees 23 minutes 08 seconds West 33.00 feet; thence South 89 degrees 36 minutes 52 seconds West 2.83 feet; thence North 41 degrees 52 minutes 20 seconds West 45.28 feet; thence North 05 degrees 31 minutes 42 seconds West 63.36 feet; thence North 00 degrees 23 minutes 08 seconds West 633.42 feet; thence North 89 degrees 36 minutes 52 seconds East 11.50 feet; thence North 00 degrees 23 minutes 08 seconds West 11.16 feet; thence North 89 degrees 29 minutes 44 seconds East 336.94 feet to the east line of the 45.290-acre tract of land described in Instrument Number 2009074930, the following two (2) courses are along the east and north lines of said 45.290-acre tract; 1) thence South 00 degrees 10 minutes 47 seconds West 566.10 feet; 2) thence North 89 degrees 36 minutes 54 seconds East 1,029.75 feet to the northwest corner of the 3.987-acre tract described in Instrument Number 2007002262; thence South 00 degrees 10 minutes 47 seconds West along the west line of said 3.987-acre tract 500.00 feet to the POINT OF BEGINNING. Containing 17.759 acres, more or less. Subject to all highways, rights-of-way and easements.

ALSO: Appurtenant easement rights established in that certain Grant of Drainage Easement recorded as Instrument Number 2007026643 in the Office of Recorder of Hamilton County, Indiana.

Exhibit B - Frontage Plan

