

ORDINANCE NO. 100608

**AN ORDINANCE TO AMEND THE
UNIFIED DEVELOPMENT ORDINANCE OF THE
TOWN OF FISHERS, HAMILTON COUNTY, INDIANA - 2006**

This is an ordinance to amend Ordinance No. 070207, the Lantern Pointe Parcel 1 PUD Amendment Ordinance (the "Lantern Pointe Parcel 1 PUD"), 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. 11-TA-08 as required by law in regard to the application filed by Edward Rose Properties, Inc. (the "Developer") to amend the Lantern Pointe Parcel 1 PUD; and,

WHEREAS, the Plan Commission at its November 12, 2008 meeting sent a unanimous favorable recommendation to the Town of Fishers Town Council by a vote of nine (9) 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 Lantern Pointe Parcel 1 PUD is hereby amended as follows:

SECTION 1. DECLARATION.

The subject real estate, approximately 22.591 acres, more particularly described as: Block 1 of Lantern Pointe, as per plat thereof recorded January 12, 2000 in Plat Cabinet 2, Slide 388 as Instrument No 200000002098 in the Office of the Recorder of Hamilton County, Indiana (the "Real Estate"), is currently zoned Lantern Pointe Parcel 1 PUD.

This Ordinance shall hereafter be known as the Lantern Pointe Parcel 1 PUD Amendment (the "Amendment") and shall replace and supersede all standards set forth by the Lantern Pointe Parcel 1 PUD. The development of the Real Estate shall hereafter be regulated by this Amendment.

SECTION 2. APPLICABILITY.

The standards of the Town of Fishers Unified Development Ordinance (the "UDO") shall apply to the development of the Real Estate as set forth by *Article 04 Planned Unit Development (PUD) District* of the UDO. Pursuant to *Article 04.002(F); Amendments to the Unified Development Ordinance*, unless this Ordinance has specified an alternative development or design standard, an amendment to the Unified Development Ordinance shall apply to this Planned Unit Development District, as applicable. "Article" cross-references of this Amendment Ordinance shall hereafter refer to the *Article* section as specified and referenced in the UDO. Except as modified, revised, or expressly made inapplicable by this Amendment, the standards of the UDO as amended and as legally applicable to the underlying Zoning Districts set forth by Section 4 of this Amendment shall apply to the development of the Real Estate.

SECTION 3. CONCEPT PLAN.

The Concept Plan is attached hereto as Exhibit A. Per *Article 09.017(A)(2)(a): Planned Unit Development District; General; Purpose & Intent*, the Concept Plan provides the Plan Commission and Town Council with a general vision for the development of the site.

SECTION 4. LAND USE.

All uses described in *Article 02.017 M2 Multifamily Residential District* and *Article 2.025 C2 Neighborhood Business District* shall be permitted in addition to the following uses: hotel/motel; restaurant with liquor license; drive-throughs, outdoor sales and seating as an ancillary use to the primary use; and printing and publishing. The following uses shall be prohibited: auto service stations/gasoline filling stations. Commercial uses shall be restricted to an area approximately five (5) acres bounded by Lantern Road and 106th Street in the south end of the Real Estate (the "Corner Area"). The underlying Zoning Districts for residential uses shall be the *M2 Multifamily Residential District* and the underlying Zoning District for non-residential uses shall be the *C2 Neighborhood Business District*.

SECTION 5. DEVELOPMENT STANDARDS.

The development standards applicable to each of the land uses shall be the Development Standards ("Development Standards") in *Article 05; Development Standards* applicable to the underlying Zoning Districts assigned in Section 4 of this Amendment except as modified, revised, or expressly made inapplicable by this Amendment:

(A) Multifamily Development Standards. The following bulk standards shall apply to the development of the Real Estate and shall replace in their entirety the development standards of *Article 02.018; M2 District Development Standards* for the residential uses:

Maximum Units	220 ¹
Minimum Project Area	no minimum
Minimum Lot Width	no minimum
Minimum Project Lot Frontage	150' on public street
Sewer and Water	required
Minimum Building Setbacks	20' from Lantern Road/106th Street 30' from west property line 15' from all other property lines
Minimum Building Separation	10'
Maximum Impervious Surface	75%
Minimum Living Unit Area	One-bedroom: 700 SF Two-bedroom: 860 SF Three-bedroom ² : 1,200 SF
Maximum Structure Height	Primary Structure: 40'/ Accessory Structure: 22'

¹ Subject to compliance with all other applicable development standards, if all or any part of the Corner Area is developed for M2 uses, then up to an additional one hundred (100) multi-family units shall be permitted within the Corner Area.

² No more than 15% of all units shall be 3-bedroom units.

- (B) Architectural Design Standards; Multifamily Residential. Except as specified below, the applicable Architectural Design Standards in *Article 05.013 AD-02; Architectural Design; Multifamily Residential* shall apply:
- (1) *Article 05.013 AD-02(A)(2); Materials* shall be replaced with the following: All siding shall be masonry or fiber cement plank siding. Aluminum and vinyl siding shall be prohibited. Lap siding shall have a maximum nine-inch (9") exposed board face.
 - (2) *Article 05.013 AD-02(C)(2); Materials* shall be replaced with the following: Quality roof materials such as tile, slate, three-dimensional asphalt, thirty-year asphalt or fiberglass shingles shall be used on all structures.
 - (3) *Article 05.013 AD-02(D)(3) and (4) Minimum Garage Depth and Width* shall be replaced with the following: Minimum Garage Depth shall be nineteen feet and six inches (19'-6") and the Minimum Garage Width shall be twelve feet (12').
- (C) Landscaping Standards (LA). Except as specified below, the applicable Landscaping Standards in *Article 05* shall apply:
- (1) *Article 05.043 LA-06; Landscaping Standards; Parking Lot Plantings* shall only be applicable to a parking lot perimeter immediately abutting the Real Estate's Lantern Road and 106th Street property lines.
 - (2) *Article 05.044 LA-07; Landscaping Standards; Buffer Yards* shall not be applicable between the *M2 Multifamily* and *C2 Neighborhood Commercial* uses on the Real Estate, however, the following plantings shall be required on the *C2 Neighborhood Commercial* property within twenty-five (25') feet of the property line between the land uses: a minimum four (4) canopy trees, four (4) evergreen trees and ten (10) shrubs per two hundred (200) lineal feet of contiguous boundary. Plantings shall be installed pursuant to *Article 05.038 LA-01; Landscaping Standards; General*.
- (D) Parking Standards (PK). Except as specified below, the applicable Parking Standards in *Article 05* shall apply:
- (1) *Article 05.065 PK-03(A), (B)(1) & (C); Parking Standards; Multifamily Residential; Off-street, On-Street & Visitor Parking Spaces* shall be replaced with the following: A minimum of two (2) parking spaces are required per dwelling unit and shall be spread evenly throughout the development.
- (E) Use-Specific Standards (US). *Article 5.112 US-08(B); Use-specific Standards; Neighborhood Business* shall be inapplicable to the development of the Real Estate.

SECTION 6. DESIGN STANDARDS.

The design standards applicable to each of the uses shall be the Design Standards ("Design Standards") in *Article 07; Design Standards* applicable to a Planned Unit Development (PD) as modified, revised, or expressly made inapplicable by this Amendment:

- (A) Perimeter Landscaping Standards (PL). *Article 07.032 and 07.033* shall be inapplicable to the development of the Real Estate, rather, in order to accommodate the building orientation and intended streetscape design, a minimum of ten (10) shrubs shall be planted per one hundred (100) lineal feet along Lantern Road/106th Street abutting the *M2 Multifamily* uses. These plantings shall be in addition to any other landscaping plantings that may be required (e.g., street trees, foundation plantings) along Lantern Road or 106th Street. The landscaping standards as set forth by this Amendment and *Article 05 Landscaping Standards (LA)* shall apply.

(B) Open Space Standards (OP), *Article 07.025 and 07.026* shall not apply to the development of the Real Estate.

SECTION 7. PARK DEDICATION AND TRAILS.

In support of the Cheeney Creek Natural Area, and subject to obtaining all necessary approvals, the Developer shall do the following:

- (A) prior to the issuance of a certificate of occupancy, dedicate to the Town a thirty-foot (30') wide strip of land along the west property line of the Real Estate parallel to the Hoosier Heritage Port Authority railroad and additional land at the southwestern most portion of the Real Estate for a trailhead parking lot (collectively, the "Parkland"). Setback relief shall be granted from the Parkland. If the Parkland is not accepted by the Town, then the applicable setbacks shall be pursuant to Section 5 of this Ordinance. If the Parkland is accepted by the Town, then the Real Estate's minimum building setback shall be five feet (5') from the Parkland property line. However, parking, detention and other infrastructure improvements shall have no setback requirement from the Parkland property line.
- (B) an eight-foot (8') wide asphalt trail shall be installed along the 106th Street frontage when any area adjacent to 106th Street is developed.
- (C) within the Parkland, a dirt, mulch or aggregate surface trail (the "Parkland Trail") shall be installed prior to issuance of a certificate of occupancy. The Parkland Trail's final location, width and material shall be subject to the Park's Director review and approval prior to construction.
- (D) a footbridge (the "Creek Footbridge") shall be constructed across Cheeney Creek, near the northern terminus of the Parkland, prior to issuance of a certificate of occupancy. The Creek Footbridge's location, design and materials shall be subject to the Park's Director's review and approval prior to construction.
- (E) within the Parkland, a parking lot with a minimum of ~~six (6)~~ twelve (12) spaces shall be installed for trailhead parking ("Trailhead Parking") prior to the issuance of a certificate of occupancy. The design and development of the Trailhead Parking shall be in coordination with and subject to the Park's Director's review and approval prior to construction.
- (F) An eight-foot (8') wide asphalt trail shall be installed connecting the "trailhead parking" with the Cheeney Creek trail network.

SECTION 8. PROCEDURE.

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 process as set forth by *Article 09.017 Planned Unit Development, General* of the Unified Development Ordinance.

If, in the future, the Town determines that additional 106th Street right-of-way is required beyond the current proposed fifty-foot (50') half right-of-way, then the Developer shall dedicate at no cost to the Town, an additional ten feet (10') of right-of-way ("R/W"). All development and design standards applicable to the Real Estate shall be applied as if the R/W remained a part of the development (e.g., setbacks shall be measured from original right-of-way line, dedicated property shall count towards required landscaping requirements). In addition, if the Real Estate is developed

prior to dedication of the R/W, then the dedication shall not cause the Real Estate to otherwise become nonconforming.

SECTION 9. ADOPTION.

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 December, 2008.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

AYE	BY:	NAY
	<u>Scott A. Faultless</u>	_____
	Scott A. Faultless, President	_____
	<u>Daniel E. Henke</u>	_____
	Daniel E. Henke, Vice President	_____
	<u>Stuart F. Easley</u>	_____
	Stuart F. Easley, Member	_____
	<u>Eileen N. Pritchard</u>	_____
	Eileen N. Pritchard, Member	_____
	<u>Charles P. White</u>	_____
	Charles P. White, Member	_____
	<u>David George</u>	_____
	David George, Member	_____
	<u>Arthur J. Levine</u>	_____
	Arthur J. Levine, Member	_____

ATTEST: Linda Gaye Cordell
Linda Gaye Cordell, Clerk-Treasurer,
The Town of Fishers, Indiana

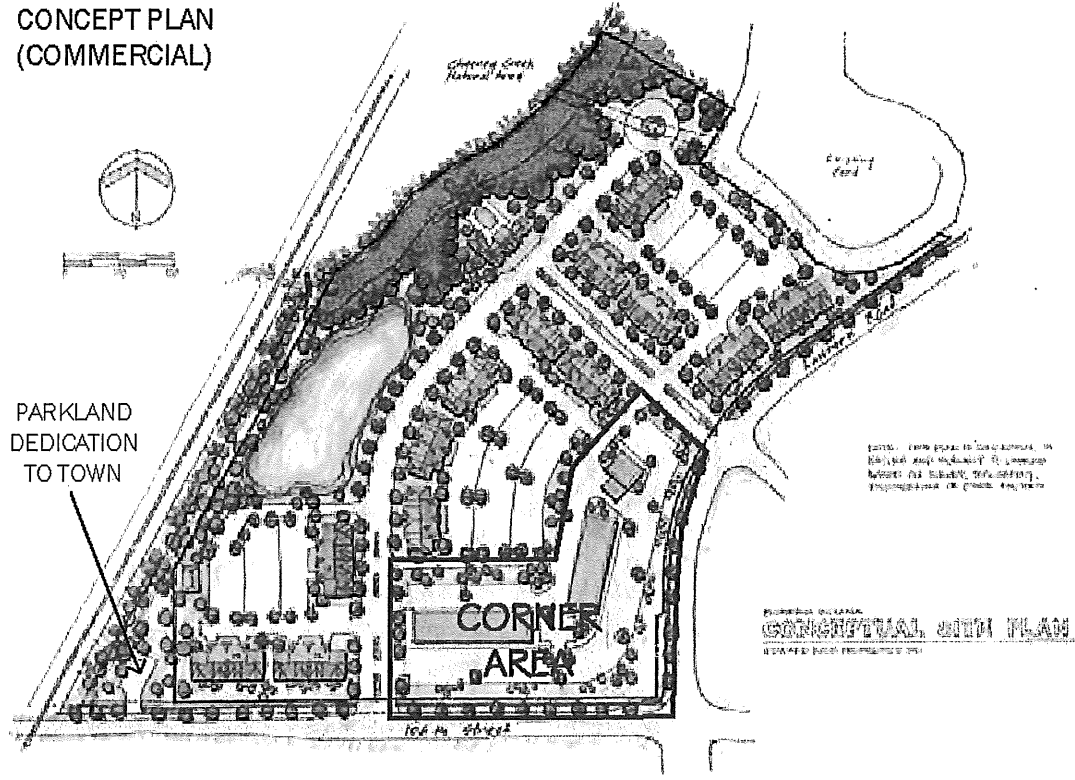
Approved by: Douglas D. Church, Esq., Church, Church, Hittle and Antrim, Town Attorney

Prepared by: Steven D. Hardin, Esq., Attorney at Law, Baker & Daniels LLP
Jesse M. Pohlman, Land Use Consultant, Baker & Daniels LLP
600 East 96th Street, Suite 600, Indianapolis, Indiana 46240

EXHIBIT A: CONCEPT PLANS

BELLA VISTA APARTMENTS

**CONCEPT PLAN
(COMMERCIAL)**



**CONCEPT PLAN
(NO COMMERCIAL)**

