

Year

2014

OAKHURST PUD

v.04.18.14

Town of Fishers  
Planned Development  
Ordinance  
031714A

## 1.01 Declaration, Purpose and Intent, and Permitted Uses

Declaration	Purpose and Intent	Permitted Uses
<p><b>Ordinance No. 031714A</b> ("this Ordinance")  <b>Adopted:</b> _____</p> <p>The text of the Briarwood PUD, Ordinance No.040212B, the Briarwood at Fishers Planned Unit Development District Ordinance No. 080706B, and of the Unified Development Ordinance (the "UDO") of the Town of Fishers, Indiana, Ordinance No. 090605A, as amended, and the OFFICIAL ZONING MAP, TOWN OF FISHERS, INDIANA, dated October 16, 2006, as amended, which accompanies and is a part of the Zoning Code of the Town of Fishers, Indiana, are hereby amended as follows:</p> <p>The zoning classification of the real estate legally described in Section 1.07 of this Ordinance (the "Real Estate") is hereby designated as a <b>Residential - Planned Unit Development District (PUD-R)</b>, and that said PUD-R zoning district shall hereafter be known as the <b>"Oakhurst PUD."</b></p> <p>Development of the Real Estate shall be governed entirely by the provisions of this Ordinance and those provisions of the UDO specifically referenced in this Ordinance. All provisions of the UDO that conflict with the provisions of this Ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this Ordinance.</p> <p>This Ordinance replaces and supersedes Ordinance No. 040212B, adopted May 21, 2012 and Ordinance No. 080706B, adopted October 2, 2006.</p>	<p>The purpose of this PUD is to encourage improved design in the development of land by promoting the following objectives:</p> <ul style="list-style-type: none"> <li>• Provide for the development of a residential neighborhood;</li> <li>• Greater flexibility in applying the ordinances to the development of the Real Estate;</li> <li>• Innovative approach to meet the demands of the residential market;</li> <li>• The recognition of the interdependency of various markets;</li> <li>• Efficient use of land resulting in more cost effective networks of utilities, streets and other facilities; and</li> <li>• Coordination of architectural styles, building forms and relationships, graphics and other private improvements.</li> </ul>	<p><b>Permitted Uses:</b></p> <ul style="list-style-type: none"> <li>• All uses described in <i>Article 02.011 R4 Residential District</i></li> </ul> <p><b>Excluded Uses:</b></p>

## 1.02 Applicability

- A. The standards of the UDO applicable to the **R4 Residential District** shall apply to the development of the Real Estate, except as modified, revised, or expressly made inapplicable by this PUD District Ordinance (this "Ordinance"). "Article" cross-references of this Ordinance shall hereafter refer to the Article section as specified and referenced in the UDO. Capitalized terms that are not otherwise defined herein shall have the meaning ascribed to them in the UDO. Pursuant to *Article 04.002(F): Amendments to the Unified Development Ordinance*, an amendment to the UDO shall apply to this Ordinance unless this Ordinance has specified an alternative development or design standard and *Article 01.010: Basic Provisions: Transition Rules* also shall apply to amendments.

## 1.03 Concept Plan

- A. The Concept Plan is hereby incorporated. The Real Estate's development plan may vary from the Concept Plan; however, 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 Real Estate.



## 1.04 Development Standards

- A. **Cross References:** The regulations of *Article 02: Zoning Districts & Regulations* and *Article 05: Development Standards* shall apply except as modified by this Ordinance.

- B. General Regulations: *Article 02.012: R4 Residential District Development Standards* shall apply except as provided below:
- (1) Maximum Number of Dwelling Units: 49
  - (2) Minimum Lot Width: 65 feet
  - (3) Minimum Side Setback: 7 feet
  - (4) Minimum Living Unit Area for two-story home: 2,350 square feet
- C. Accessory Structure Standards (AS): shall apply.
- D. Architectural Design Standards (AD): shall apply, except as modified below.
- (1) Architectural design shall be substantially similar in quality and character to the Illustrative Elevations depicted in *Section 1.08* of this Ordinance.
  - (2) *Article 05.012 AD-01(A)(1)(b): Architectural Design; Single-Family Residential; Facade; Masonry; Side and Rear Elevation* shall not apply; rather, the following shall apply:
    - (i) Dwellings on lots designated with an asterisk on the attached Concept Plan shall include: (a) a minimum thirty-six (36) inch brick or stone plinth with water table on all sides; and (b) a rear facade that incorporates one (1) or more of the following features: first floor masonry, rear sun room, rear screened porch, rear covered porch or other rear facade modulation, or a breakfast nook with landscaped patio (minimum one tree and eight shrubs).
  - (3) *Article 05.012 AD-01(A)(2): Architectural Design; Single-Family Residential; Facade; Exterior Material* shall apply; however, aluminum, vinyl and heavy-gauge vinyl shall not be permitted as a siding material.
  - (4) *Article 05.012 AD-01(A)(3): Architectural Design; Single-Family Residential; Facade; Architectural Features* shall apply and the following architectural features, which shall be worth one (1) point unless indicated otherwise:
    - (i) More than one (1) siding profile on the front elevation (e.g., second siding profile such as shake, vertical or other horizontal siding used as an accent);
    - (ii) Large feature window on the second floor above the front door;
    - (iii) A reverse gable peak;
    - (iv) A thirty-six (36) inch brick or stone plinth with water table on all sides;
    - (v) Decorative shutters;
  - (5) *Article 05.012 AD-01(C): Architectural Design; Single-Family Residential; Roof* shall apply except as modified below:
    - (i) *AD-01(C)(1): Minimum Roof Pitch* shall be increased to require that the main roof have a minimum pitch of 6 (vertical units):12 (horizontal units).
    - (ii) *AD-01(C)(2): Materials* shall apply. All dwellings shall be required to have dimensional shingles.
    - (iii) *AD-01(C)(3): Minimum Eave/Overhang Width* shall be modified to require that all dwellings shall have eaves or overhangs a minimum of eleven (11) inches deep. Depth shall be determined prior to the installation of masonry.
  - (6) *Article 05.012 AD-01(A)(4): Architectural Design; Single-Family Residential; Dimensions* shall be modified to provide that the garage shall not exceed more than sixty-one percent (61%) of the front facade width.
  - (7) *Article 05.012 AD-01(D): Architectural Design; Single-Family Residential; Automobile Storage* shall apply except as modified below:
    - (i) *AD-01(D)(2) Garage Capacity of Three or More* shall be modified to require every two (2) bays shall have a separate door and shall be offset two (2) feet from the other bays.
    - (ii) *AD-01(D)(3): Architectural Design; Single-Family Residential; Automobile Storage; Minimum Garage Depth* shall be modified to twenty (20) feet.
    - (iii) *AD-01(D)(4): Architectural Design; Single-Family Residential; Automobile Storage; Garage-forward Design* shall apply. Additionally, all homes shall have decorative garage doors and windows in garage doors.
  - (8) *Article 05.012 AD-01(G)(3): Architectural Design; Single-Family Residential; Model Homes; Largest Model* shall not apply.

- E. Density & Intensity Standards (DI): shall apply.
- F. Entrance & Driveway Standards (ED): shall apply.
- G. Environmental Standards (EN): shall apply.
- H. Fence & Wall Standards (FW): shall apply.
- I. Floodplain Standards (FP): shall apply.
- J. Floor Area Standards (FA): shall apply.
- K. Height Standards (HT): shall apply.
- L. Home Occupation Standards (HO): shall apply.
- M. Landscaping Standards (LA): shall apply except as modified below:
  - (1) *Article 05.038 LA-01(A): Landscaping Standards; Placement* shall only apply to perimeter and buffer yard landscaping.
  - (2) *Article 05.040 LA-03(B): Landscaping Standards; Residential Subdivision Lot and Foundation Plantings* shall be increased to require that all lots shall have a minimum of eight (8) shrubs planted along the foundation facing a street.
  - (3) The Commitments to Adjoining Property Owners, attached as Exhibit A to the PUD Ordinance, regarding buffer yards shall continue to apply.
- N. Lighting Standards (LT): shall apply.
- O. Loading Standards (LD): shall apply.
- P. Lot Standards (LO): shall apply, except as modified below:
  - (1) *Article 05.052 LO-01(D)(2): Lot Standards; General; Minimum Lot Width; Minimum Corner Lot Width* shall be modified to require that the minimum lot width for corner lots shall be ninety (90) feet.
- Q. Outdoor Storage Standards (OS): shall apply.
- R. Parking Standards (PK): shall apply.
- S. Pedestrian Accessibility Standards (PA): shall apply.
- T. Performance Standards (PF): shall apply.
- U. Property Identification Standards (PI): shall apply.
- V. Public Improvement Standards (PV): shall apply.
- W. Setback Standards (SB): shall apply.
- X. Sewer & Water Standards (SW): shall apply.
- Y. Sexually Oriented Business Standards (SX): shall apply.
- Z. Sign Standards (SG): shall apply.
- AA. Structure Quantity Standards (SQ): shall apply.
- BB. Telecommunication Facility Standards (TC): shall apply.
- CC. Temporary Use/Structure Standards (TU): shall apply.
- DD. Use-specific Standards (US): shall apply.
- EE. Vision Clearance Standards (VC): shall apply.

## 1.05 Design Standards

- A. Cross References: The regulations of *Article 07: Design Standards* applicable to a *Planned Unit Development (PUD)* shall apply except as modified by this Ordinance:
- B. Access Road Standards (AC): shall apply.
- C. Alley Standards (AL): shall apply.
- D. Anti-monotony Standards (AM): shall apply, except as modified below:
  - (1) *Article 07.008 AM-01(C)(1): Anti-monotony Standards; Residential Neighborhood; Anti-Monotony Code; Front Facade* shall be modified to provide that front facades on the same model shall not be duplicated as set forth in *Article 07.008 AM-01(C)(3)*.
  - (2) *Article 07.008 AM-01(C)(2): Anti-monotony Standards; Residential Neighborhood; Anti-Monotony Code; Exterior Siding Color* shall be modified to provide that at the time the Certificate of Occupancy is issued, a dwelling may not have the same exterior siding color as a dwelling within two (2) lots on each side of the subject lot on the same side of the street or as the house directly across the street from the subject lot.

- E. Common Area Standards (CA): shall apply.
- F. Covenant Standards (CE): shall apply.
- G. Dedication of Public Improvement Standards (DD): shall apply.
- H. Density & Intensity Standards (DE): shall apply.
- I. Development Name Standards (DN): shall apply.
- J. Easement Standards (EA): shall apply.
- K. Erosion Control Standards (EC): shall apply.
- L. Floodplain Standards (FL): shall apply.
- M. Lot Establishment Standards (LT): shall apply.
- N. Mixed Use Development Standards (MU): shall apply.
- O. Monument & Marker Standards (MM): shall apply.
- P. On-street Parking Standards (OG): shall apply.
- Q. Open Space Standards (OP): shall apply. Open Space shall be as generally depicted on the Concept Plan.
  - (1) Landscape Preservation Easement. A tree preservation easement (the "Easement") as approximately shown on the Concept Plan as "Tree Preservation Area" shall be recorded. The exact location of the Easement from the Real Estate's perimeter property line shall be established with the approval of the Detailed Development Plan and prior to any site improvements on the Real Estate. The Easement shall not include those areas needed for utilities and drainage. The Easement shall be determined by the Developer meeting with the Community Development Department to discuss the conservation plan (the "Conservation Plan"), to be prepared in accordance with *Article 07.027 OP-03: Open Space Standards; Conservation Area Protection*.
- R. Pedestrian Network Standards (PN): shall apply.
- S. Perimeter Landscaping Standards: shall apply, except as modified below:
  - (1) *Article 7.032 PL-01(C)(1)(d) Perimeter Landscaping Standards; Residential Development; Single-family and Multifamily Residential; Trees and Shrubs; Ratio* shall be modified to (i) provide that sixty percent (60%) to seventy-five percent (75%) of the required trees and shrubs along 101st Street shall be evergreen; and (ii) require that a greater concentration of the required evergreens be planted along the eastern portion (shaded on the concept plan) of the 101st Street perimeter.
- U. Storm Water Standards (SM): shall apply.
- V. Street & Right-of-way Standards (SR): shall apply.
- W. Street Lighting Standards (SL): shall apply.
- X. Street Name Standards (SN): shall apply.
- Y. Street Sign Standards (SS): shall apply.
- Z. Surety Standards (SY): shall apply.
- AA. Utility Standards (UT): shall apply.

#### 1.06 Procedures

- A. The procedures set forth in *Article 09: Processes, Permits & Fees; Planned Unit Development* shall apply.

## 1.07 Real Estate

A part of the Northwest Quarter of Section 8, Township 17 North, Range 6 East, Fall Creek Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southwest corner of said Quarter Section; thence North 00 degrees 36 minutes 24 seconds West along the West line of said Quarter Section a distance of 600.00 feet; thence North 89 degrees 33 minutes 52 seconds East 511.50 feet; thence North 00 degrees 36 minutes 24 seconds West 727.51 feet to a point on the North line of the South Half of said Quarter Section; thence North 89 degrees 25 minutes 49 seconds East along said North line 285.00 feet; thence South 00 degrees 36 minutes 24 seconds East 359.33 feet; thence North 89 degrees 25 minutes 49 seconds East 450.00 feet; thence South 00 degrees 36 minutes 24 seconds East 269.90 feet; thence North 89 degrees 33 minutes 52 seconds East 313.50 feet; thence South 00 degrees 36 minutes 24 seconds East 700.00 feet to a point on the South line of said Quarter Section; thence South 89 degrees 33 minutes 52 seconds West along said South line 1,560.00 feet to the place of beginning, containing 30.785 acres, more or less.

## 1.08 Illustrative Elevations (1 of 4)





# Oakhurst PUD

## 1.08 Illustrative Elevations (2 of 4)



1.08 Illustrative Elevations (3 of 4)



## 1.08 Illustrative Elevations (4 of 4)



1.09 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 17th day of MAY, 2014.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

AYE

NAY

BY:

[Signature]

John W. Weingardt,  
President

\_\_\_\_\_  
\_\_\_\_\_

C. Pete Peterson,  
Vice President

\_\_\_\_\_  
\_\_\_\_\_

[Signature]

Michael Colby,  
Member

\_\_\_\_\_  
\_\_\_\_\_

[Signature]

Renee Cox,  
Member

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

Stuart F. Easley,  
Member

\_\_\_\_\_  
\_\_\_\_\_

[Signature]

Scott A. Faultless,  
Member

\_\_\_\_\_  
\_\_\_\_\_

David C. George,  
Member

\_\_\_\_\_  
\_\_\_\_\_


ATTEST:

[Signature]

Linda Gaye Cordell, Clerk-Treasurer,  
The Town of Fishers, Indiana  
Ordinance No. 031714A

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

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

2014048730 MISC \$26.00  
10/28/2014 11:05:23A 8 PGS  
Mary L. Clark  
HAMILTON County Recorder IN  
Recorded as Presented  


OAKHURST SUBDIVISION  
Lots: 8-13 and Common Area  
Parcel Nos.: 13-16-08-00-02-  
005.001 and 13-16-08-00-02-  
005.002  
Instrument No.: 2007019411

**MODIFIED COMMITMENTS GOVERNING THE USE AND DEVELOPMENT OF  
REAL ESTATE**

WHEREAS, pursuant to Ind. Code § 36-7-4-1015(b)(5), the Plan Commission for the Town of Fishers, Hamilton County, Indiana (“Commission”) may modify a land use commitment previously approved by providing notice, holding a public hearing, and approving the amended commitment;

WHEREAS, the Commission and the Fishers Town Council previously approved a commitment concerning, among other items, (a) construction of mounds on property bordering a residential subdivision known as Oakhurst; and (b) installation of trees on the border of the Oakhurst property which commitment was Exhibit A to Ordinance No. 080706B and was recorded in the Office of the Hamilton County Recorder on April 9, 2007 as instrument no. 2007019411 (“Commitment”);

WHEREAS, Michael and Laura Bowman (jointly, “Bowman”), Richard and Jeri Beitman (jointly, “Beitman”) and RH of Indiana, L.P. (“Ryland”) each own portions of the property subject the Commitment;

WHEREAS, Bowman, Beitman and Ryland now seek to modify the Commitment;

WHEREAS, pursuant to Ind. Code § 36-7-4-1015, notice of a public hearing has been published and a public hearing held; and

WHEREAS, the Commission now desires to approve modified commitments as provided below.

NOW, THEREFORE, BE IT RESOLVED by the Plan Commission of the Town of Fishers, Hamilton County, Indiana meeting in regular session as follows:

**Section 1. Bowman (Trees).** In conjunction and in coordination with the development of Oakhurst, Ryland, at its sole expense, shall install Norway Spruce trees, with a typical height of six feet (6 ft.) at planting; at a minimum spacing of six (6) trees per one hundred (100) lineal feet, along the joint property line between the future lots numbered 12 and 13 of Oakhurst and

the Bowman's property which property is generally located at 10348 Cyntheanne Road and identified by parcel no. 13-16-08-00-02-005.001 ("Bowman Property"). Installation of the trees shall be coordinated with the Bowmans to minimize the new trees impact on the existing trees in the area and shall be on Ryland's property.

**Section 2. Bowman (Sewer and Water).** Ryland will install, at Ryland's expense, a sewer lateral within a recorded easement between proposed lots numbered 12 and 13 that will be stubbed within five feet (5 ft.) of the Bowman Property line for the purpose of serving the residence on the Bowman Property. Any future availability fees, connection fees or sewage fees will be the responsibility of the Bowman Property owner(s). If the water utility that serves Oakhurst is Citizen's Energy, Ryland will install, at Ryland's expense, a water lateral between proposed lots numbered 11 and 12 within a utility easement within five feet (5 ft.) of the Bowman Property line for the purpose of serving the residence on the Bowman Property. Any future availability fees, connection fees or water charges will be the responsibility of the Bowman Property owner(s). If the water utility that serves Oakhurst is the Town of Fortville, Ryland will pay the One Thousand Two Hundred and no/100 Dollar (\$1,200.00) availability fee to the Town of Fortville for the benefit of the Bowman Property, but will not install any service connection.

**Section 3. Bowman (Storm Water).** Ryland, through its agents, will investigate the surface storm water run-off and any subsurface drainage facilities outflow (jointly, "Storm Water Discharge") currently existing that drain through or across Oakhurst from the Bowman Property. Ryland will install adequate storm water facilities, within customary platted easements within Oakhurst, to provide for the acceptance and release of the Storm Water Discharge. In the event that a current easement exists across Oakhurst for the benefit of the Bowman Property drainage, the Bowman's will grant a vacation of the current easement.

**Section 4. Beitman (Mounds).** In conjunction and in coordination with the development of Oakhurst, Ryland, at its sole expense, will construct mounding within the west boundary of lots 8 through 11 of Oakhurst, and along the south boundary of the Beitman's property which property is generally located at 10290 Cyntheanne Road and identified by parcel no. 13-16-08-00-02-005.002 ("Beitman Property"). The mounds will be random in size and shape and will be four (4) to five (5) feet in height. There will be limited, minimal breaks within the mounds to allow for drainage and utilities. In conjunction with the mounds, Ryland will have installed Norway Spruce trees on Ryland's property, with a typical height of six feet (6 ft.) at planting, at a minimum spacing of six (6) trees per one hundred (100) lineal feet.

**Section 5. Beitman (Sewer and Water).** Ryland will install, at Ryland's expense, a sewer lateral along the eastern boundary of Common Area #3 that will be stubbed within a utility easement within five feet (5 ft.) of the Beitman Property line for the purpose of serving the

residence on the Beitman Property. Any future availability fees, connection fees or sewage fees will be the responsibility of the Beitman Property owner(s). In the event that the water utility that serves Oakhurst is Citizen's Energy, Ryland will install, at Ryland's expense, a water lateral along the eastern boundary of Common Area #3 that will be stubbed within a utility easement within five feet (5 ft.) of the Beitman Property line for the purpose of serving the residence on the Beitman Property. Any future availability fees, connection fees or water charges will be the responsibility of the Beitman Property owner(s). In the event that the water utility that serves Oakhurst is the Town of Fortville, Ryland will pay the One Thousand Two Hundred and no/100 Dollar (\$1,200.00) availability fee to the Town of Fortville for the benefit of the Beitman Property, but will not install any service connection.

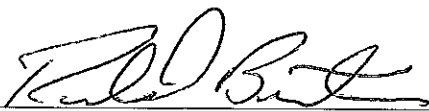
**Section 6. Storm Water.** Ryland, through its agents, will investigate the outflow of the existing pond at the northeast corner of the Beitman Property. Ryland will install adequate storm water facilities, within customary platted easements within Oakhurst, to provide for the release of the current outflow from the pond. In the event that a current easement exists across Oakhurst for the benefit of the Beitman Property drainage, the Beitman's will grant a vacation of the current easement.


**Section 7. Continuing Effect of Commitment.** Any provision of the Commitment not specifically changed by this Modified Commitment Governing The Use And Development Of Real Estate ("Modified Commitment") shall remain in full force and effect.

**Section 8. Binding Effect.** These commitments are binding upon the Ryland, Bowman and Beitman and each other person acquiring an interest in the Oakhurst Property, Bowman Property or Beitman Property unless modified or terminated pursuant to Indiana statutes.


**Section 9. Effective Date.** The commitments contained herein shall be effective upon execution by the parties and approval of the Fishers Plan Commission.

**Section 10. Recording.** This undersigned hereby authorizes the Town of Fishers to record this Modified Commitment in the Office of the Hamilton County Recorder.

By:   
Richard Beitman

By:   
Jeri Beitman

R.H. of Indiana, L.P.

By: 

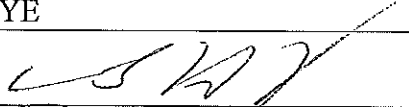
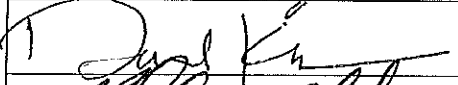
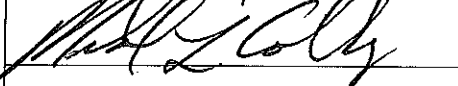
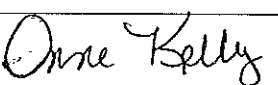



Its: ASSISTANT VP

By: Michael Bowman  
Michael Bowman

By: Laura Bowman  
Laura Bowman

ALL OF WHICH IS APPROVED by the Plan Commission of the Town of Fishers,  
Indiana, this 19<sup>th</sup> day of October, 2014.

**ADVISORY PLAN COMMISSION OF THE TOWN OF FISHERS,  
HAMILTON COUNTY, INDIANA**

AYE		NAY
	Warren Harling, President	
	Daniel Kloc, Vice President	
	Michael L. Colby, Member	
	Geffrey Rainbolt, Member	
	Anne Kelly, Member	
	Brian Baehl, Member	
	Todd Bracken, Member	
	Karen Anderson, Member	
	Kelly Marburger Novak, Member	
	Kim Logan, Member	
	Rick Fain, Member	



ATTEST: Emily Trent DATE: 10/14/2014  
Emily Trent, Recording Secretary  
Town of Fishers, Indiana

Approved by: Jennifer C. Messer, Town Attorney, Church, Church, Hittle and Antrim

STATE OF INDIANA )  
 )SS:  
COUNTY OF HAMILTON )

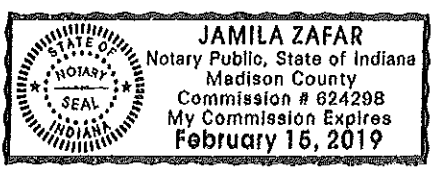
Subscribed and sworn to before me, a Notary Public, in and for said county and state  
aforementioned, this 14th day of October, **RICHARD BEITMAN**, personally appeared and  
affixed his signature to this document and his signature is acknowledged in front of the notary.

Commission expires: 2/15/19

Jamila Zafar  
Notary Signature

County of residence: Madison

Jamila Zafar  
Notary Printed Name



STATE OF INDIANA )  
 )SS:  
COUNTY OF HAMILTON )

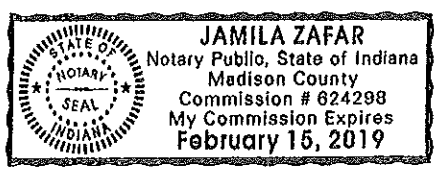
Subscribed and sworn to before me, a Notary Public, in and for said county and state  
aforementioned, this 14th day of October, **JERI BEITMAN**, personally appeared and affixed  
her signature to this document and her signature is acknowledged in front of the notary.

Commission expires: 2/15/19

Jamila Zafar  
Notary Signature

County of residence: Madison

Jamila Zafar  
Notary Printed Name



STATE OF INDIANA )  
 )SS:  
COUNTY OF HAMILTON )

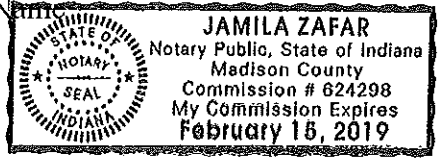
Subscribed and sworn to before me, a Notary Public, in and for said county and state  
aforementioned, this 14th day of October, Kenneth E. Windler, known to me to be the  
Assistant V. P. of R.H. of Indiana, L.P., personally appeared and affixed his  
signature to this document and his signature is acknowledged in front of the notary.

Commission expires: 2/15/19

Jamila Zafar  
Notary Signature

County of residence: Madison

Jamila Zafar  
Notary Printed Name



STATE OF INDIANA )  
 )SS:  
COUNTY OF HAMILTON )

Subscribed and sworn to before me, a Notary Public, in and for said county and state  
aforementioned, this 14th day of October, **MICHAEL BOWMAN**, personally appeared and  
affixed his signature to this document and his signature is acknowledged in front of the notary.

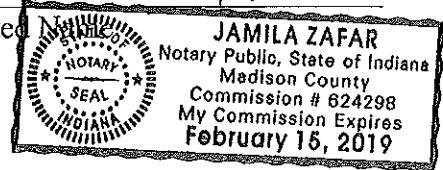
Commission expires: 2/15/19

Jamila Zafar  
Notary Signature

County of residence: Madison

Jamila Zafar  
Notary Printed

STATE OF INDIANA )  
 )SS:  
COUNTY OF HAMILTON )



Subscribed and sworn to before me, a Notary Public, in and for said county and state  
aforementioned, this 14th day of October, **LAURA BOWMAN**, personally appeared and  
affixed her signature to this document and her signature is acknowledged in front of the notary.

Commission expires: 2/15/19

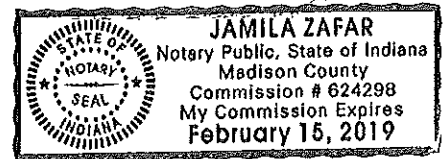
Jamila Zafar  
Notary Signature

County of residence: Madison

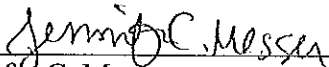
Jamila Zafar  
Notary Printed Name

Mail to:

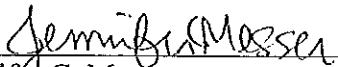
Jennifer C. Messer  
Church Church Hittle & Antrim  
2 North Ninth  
P.O. Box 10  
Noblesville, IN 46061



I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law, Jennifer C. Messer, Attorney at Law, Church Church Hittle & Antrim, 10765 Lantern Road, Suite 201, Fishers, IN 46038.

  
\_\_\_\_\_  
Jennifer C. Messer

This instrument prepared by: Jennifer C. Messer, Attorney at Law, Church Church Hittle & Antrim, 10765 Lantern Road, Suite 201, Fishers, IN 46038.

  
\_\_\_\_\_  
Jennifer C. Messer

17.00  
④ 200  
200

**COMMITMENTS CONCERNING THE USE  
AND DEVELOPMENT OF REAL ESTATE**

Centex Homes (the "Developer") makes the following commitments to the Fishers Town Council (the "Town") regarding the use and development of the following described real estate (the "Real Estate") located in Hamilton County, Indiana:

**Section 1. Description of Real Estate:**

A part of the Northwest Quarter of Section 8, Township 17 North, Range 6 East, Fall Creek Township, Hamilton County, Indiana, more particularly described as follows: Beginning at the Southwest corner of said Quarter Section; thence North 00 degrees 36 minutes 24 seconds West along the West line of said Quarter Section a distance of 600.00 feet; thence North 89 degrees 33 minutes 52 seconds East 511.50 feet; thence North 00 degrees 36 minutes 24 seconds West 727.51 feet to a point on the North line of the South Half of said Quarter Section; thence North 89 degrees 25 minutes 49 seconds East along said North line 285.00 feet; thence South 00 degrees 36 minutes 24 seconds East 359.33 feet; thence North 89 degrees 25 minutes 49 seconds East 450.00 feet; thence South 00 degrees 36 minutes 24 seconds East 269.90 feet; thence North 89 degrees 33 minutes 52 seconds East 313.50 feet; thence South 00 degrees 36 minutes 24 seconds East 700.00 feet to a point on the South line of said Quarter Section; thence South 89 degrees 33 minutes 52 seconds West along said South line 1,560.00 feet to the place of beginning, containing 30.785 acres, more or less.

**Section 2. Ordinance No.: 080706B**

2007019411 MISC \$19.00  
04/09/2007 02:27:51P 4 PGS  
Jennifer J Hayden  
HAMILTON County Recorder IN  
Recorded as Presented

**Section 3. Statement of Commitments:**

**A. Commitments to the Town**

- 1) Prior to the formal annexation of the Real Estate into the Town of Fishers, any home constructed within the Real Estate 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.
- 2) In exchange for the Town providing sanitary sewer service to the Real Estate, the Developer agrees not to remonstrate against annexation of the Real Estate by the Town of Fishers:
  - a) The Developer agrees to include a Waiver of Remonstrance provision in the covenants and restrictions for the Real Estate, which will be recorded and provided to the purchaser of each lot within the Real Estate;
  - b) The Developer agrees to include a Waiver of Remonstrance provision on the recorded Subdivision Plat.
  - c) The Developer agrees to waive all rights to remonstrate against annexation of the Real Estate by the Town.

B. Commitments to Adjoining Property Owners

- 1) The Developer agrees to install the buffering as described below. The affected property owner shall notify the Developer in writing of the property owner's preferred buffering alternative, if an alternative is provided, prior to the approval of the Detailed Development Plan by the Plan Commission:
  - a) "Beitman Property"  
(10290 Cyntheanne Road - Parcel #13-16-08-00-02-005.002)  
Along the entire length of the shared property line (southern and eastern property line of said parcel) of the Beitman Property, the Developer shall install on the Beitman property either: (i) evergreen trees planted twenty feet (20') on center, six feet (6') tall at planting; or (ii) a combination of a six-foot (6') tall solid wooden privacy fence and evergreen trees; however, evergreens shall only be installed along the property line where a fence is not installed or where a fence already exists.
  - b) "Bowman Property"  
(10348 Cyntheanne Road – Parcel #13-16-08-00-02-005.001)  
Along the entire length of the shared property line (eastern property line of said parcel) of the Bowman Property, the Developer shall remove the existing vegetation and trees, as mutually identified by the Developer and the Bowmans, and install evergreen trees on the Bowman's property to be planted twenty feet (20') on center, six feet (6') tall at planting along the entire length of the shared property line. If elected by the property owner, the Developer shall install a six foot (6') tall solid wooden privacy fence on the Bowman's property, at the north end of the shared property line, in lieu of the evergreens .
  - c) "Kelly Property"  
(15851 Connecticut Avenue – Parcel #13-16-08-00-00-032.000)  
A common area shall be established along the entire length of the shared property line (eastern property line of said parcel) of the Kelly Property. The common area shall include the required plantings and moundings for perimeter buffering as per the Town's Landscaping Ordinance 080403C.

**Section 4.     **Binding Effect****

A. These commitments are binding upon the Developer, each subsequent owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless modified or terminated.

B. These commitments may be modified or terminated only by a decision of the Fishers Town Council following a public hearing held by the Fishers Plan Commission wherein notice has been given as provided by the Plan Commission's rules.

**Section 5.     **Effective Date****

The commitments contained herein shall be effective upon adoption of an ordinance by the Town Council of Fishers, Indiana assigning the requested "Briarwood at Fishers" PUD-R zoning classification to the real estate identified in Ordinance No. 080706B.

**Section 6.     **Recording****

The undersigned hereby authorizes the Town to record these commitments in the Office of the Recorder of Hamilton County, Indiana.

**Section 7. Enforcement**

These commitments may be enforced by the adjoining property owners of the Real Estate, the Plan Commission and by the Town Council of Fishers, Indiana.

IN WITNESS WHEREOF, Centex Homes, has caused this commitment to be executed as of the 4<sup>th</sup> day of December, 2006.

Centex Homes,  
a Nevada general partnership  
By: Centex Real Estate Corporation  
A Nevada corporation,  
It's Managing General Partner

By: [Signature]  
Edward F. Hackett  
Its: Indianapolis Division Manager

STATE OF INDIANA        )  
                                      ) SS:  
COUNTY OF Marion    )

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Edward F. Hackett, of Centex Homes, who having been duly sworn acknowledged the execution of the foregoing Commitments.

Witness my hand and Notarial Seal this 4<sup>th</sup> day of December, 2006.

My Commission Expires:

[Signature]  
Notary Public



Printed Merry Wiggins  
Residing in \_\_\_\_\_ County

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law: Steven D. Hardin.

Prepared by: Steven D. Hardin, Attorney at Law, Baker & Daniels, LLP  
970 Logan Street, Noblesville, Indiana 46060, (317) 569-9600.