

ORDINANCE NO. 030705D

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

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF FISHERS, INDIANA - 1980. BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF FISHERS, INDIANA, THAT THE ZONING ORDINANCE, A PART OF THE COMPREHENSIVE PLAN AND ORDINANCE - 1980, ORDINANCE NO. 110380, AS AMENDED, AND FISHERS ORDINANCE NO. 120103E IS HEREBY AMENDED AS FOLLOWS:

SECTION 1. DECLARATION

That the text of the Zoning Code of the Town of Fishers, Indiana, Ordinance No. 110380, and the Official Zoning Map, Town of Fishers, Indiana, dated November 3, 1980, which accompanies and is part of the Zoning Code of the Town of Fishers, Indiana, as amended, are hereby amended as follows:

That the Zoning Classification of the following described Real Estate is hereby zoned as PUD-M and this ordinance shall hereinafter be referred to as the Pet Palace PUD Ordinance:

A part of the North Half of the Southwest Quarter of Section 27, Township 18 North, Range 5 East, Hamilton County, Indiana, described as follows:

Beginning South 0 degrees 40 minutes East 63.10 feet from the Northwest corner of said half-quarter section, thence North 28 degrees 12 minutes 45 seconds East 52.88 feet; thence North 88 degrees 55 minutes 30 seconds East 795.93 feet; thence South 82 degrees 05 minutes 25 seconds East 54.43 feet; thence South 32 degrees 12 minutes East 54.86 feet to the North line of I-69, thence South 57 degrees 48 minutes West 1,056.40 feet along said North line, thence North 0 degrees 40 minutes East 552.56 feet to the point of beginning.

SECTION 2. PURPOSE AND INTENT

The purpose and intent of this PUD-M is to provide an innovative mixed use development which promotes creativity and flexibility in the development of the Real Estate. The Real Estate includes three parcels that are identified as Areas A - C on the concept plan ("Concept Plan") attached hereto as "Exhibit A."

SECTION 3. LAND USE

The following uses are permitted:

- Area A: All uses described in ~~Section 151.0775 Industrial District II.5~~ Section 151.073 Commercial District C1; one single-family residence use; veterinary clinic; and office use.
- Area B: All uses described in ~~Section 151.0775 Industrial District II.5~~ Section 151.073 Commercial District C1; parks and recreation area uses; veterinary clinic; pet care and boarding facility (kennel) use; and related retail and office uses.
- Area C: All uses described in ~~Section 151.0775 Industrial District II.5~~ Section 151.073 Commercial District C1; and parks and recreation area uses.

SECTION 4. CONCEPTUAL DEVELOPMENT PLAN.

The Concept Plan, attached hereto as "Exhibit A", is adopted as part of this ordinance. Adoption of the Concept Plan, however, does not constitute approval of any detailed and final development plan; such further approval is subject to the procedures set out in Section 6, below.

SECTION 5. DEVELOPMENT STANDARDS.

- A. Nonresidential Uses. If an Area is used for a permitted C1 use, veterinary clinic, pet care and boarding facility (kennel), or retail and office uses related to a pet care and boarding facility, then the Commercial C1 development standards and the Town's landscaping and parking ordinances shall apply to that use, with the following modifications:
1. Building Setback Lines
 - a). Front Yard: 50 feet
 - b). Side Yard: 10 feet
 - c). Rear Yard: 10 feet
- B. Residential Uses. If the existing single-family residence is redeveloped for a residential use, then the Residential R-2 development standards and Town's landscaping and parking ordinances shall apply to that use.
- C. Park Uses. If an area is used for a park or recreation use, then the Town's landscaping and parking ordinances shall apply with the following modifications:
1. Building Setback Lines
 - a). Front Yard: 50 feet
 - b). Side Yard: 10 feet
 - c). Rear Yard: 10 feet
 2. Perimeter Planting and Bufferyard Standards.
 - a). Along 131st Street, within ten (10) feet of the interior of the fence, there shall be planted three (3) trees per one hundred (100) lineal feet with a species as recommended by the Town of Fishers Department of Development;
 - b). Along 131st Street, within five (5) feet of the exterior of the fence, there shall be planted five (5) shrubs per one hundred (100) lineal feet. Two (2) of the five (5) shrubs shall be evergreen species;
 - c). Along Interstate 69, within fifteen (15) feet of the fence, either inside or outside the fence, whichever space permits, there shall be planted three (3) trees per one

hundred (100) lineal feet. Existing healthy trees on the property shall be given credit toward the required plantings;

- d). A fence, not more than six (6) feet in height, may be installed along the perimeter of the park and may be located on the property line.
3. Off-street parking. Off-street parking facilities shall be provided in accordance with the Town of Fishers Parking Ordinances, with the following modifications:
 - a). A minimum of two (2) spaces per one (1) acre of park shall be required;
 - b). the parking required for the park may be located within any area;
 - c). the parking lot shall meet the landscaping requirements of the Town of Fishers parking lot planting standards.

SECTION 6. PROCEDURES.

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 in Section 151.072 Planned Unit Development District.

SECTION 7. 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.

SECTION 8. WRITTEN COMMITMENTS

A copy of the Commitments Concerning the Use and Development of Real Estate, attached hereto as "Exhibit B", must be recorded with the Hamilton County Recorder's office upon approval of this PUD District, and a verification of the recorded document shall be submitted to the Department of Development.

ADOPTED BY THE Town Council of the Town of Fishers, Indiana on this 16th day of July, 2005.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

AYE

NAY

BY:

Scott Faultless

Scott Faultless,
President

Eileen Pritchard

Eileen N. Pritchard,
Vice President

Stuart F. Easley

Stuart F. Easley,
Member

Timothy O. Lima

Timothy O. Lima,
Member

Dan E. Henke

Dan E. Henke,
Member

Charles P. White

Charles P. White,
Member

David C. George

David C. George
Member

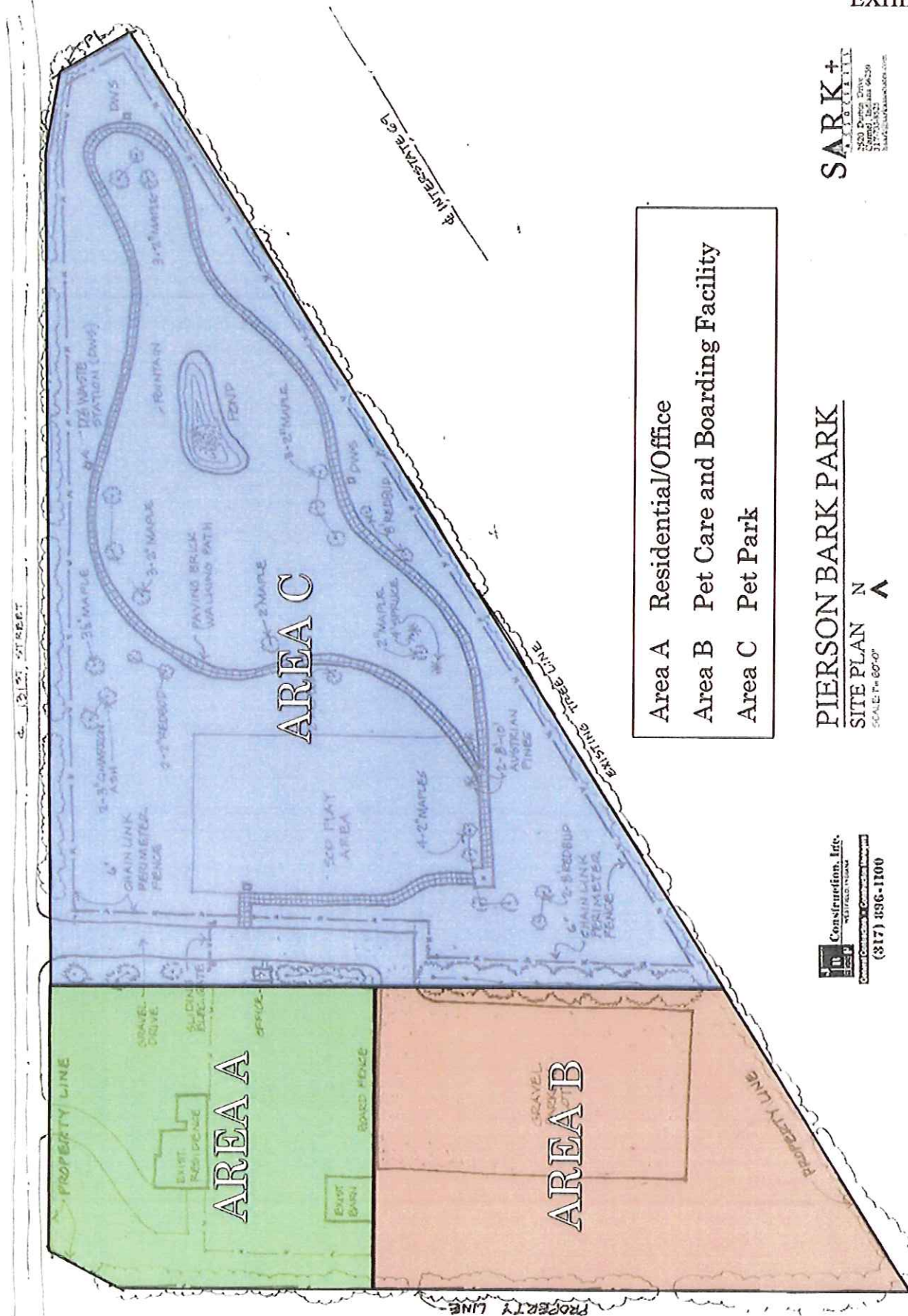
ATTEST:

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.
Bingham McHale LLP
970 Logan Street
Noblesville, IN 46060



- Area A Residential/Office
- Area B Pet Care and Boarding Facility
- Area C Pet Park

SARK+
SARK
2520 PUMPS DRIVE
CUMMERS, ND 58529
318.752.3444

PIERSON BARK PARK
SITE PLAN N
SCALE 1" = 60'-0"

m Construction, Inc.
WESTFIELD, INDIANA
COMMERCIAL CONSTRUCTION DIVISION
(317) 836-1100

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

Heather N. & David P. Shepherd (the "Landowner") makes the following commitments to the Fishers Advisory Plan Commission (the "Commission") 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 North Half of the Southwest Quarter of Section 27, Township 18 North, Range 5 East, Hamilton County, Indiana, described as follows: Beginning South 0 degrees 40 minutes East 63.10 feet from the Northwest corner of said half-quarter section, thence North 28 degrees 12 minutes 45 seconds East 52.88 feet; thence North 88 degrees 55 minutes 30 seconds East 795.93 feet; thence South 82 degrees 05 minutes 25 seconds East 54.43 feet; thence South 32 degrees 12 minutes East 54.86 feet to the North line of I-69, thence South 57 degrees 48 minutes West 1,056.40 feet along said North line, thence North 0 degrees 40 minutes East 552.56 feet to the point of beginning.

Section 2. Docket No.: 3-TA-05

Section 3. Statement of Commitments:

A. Pet Park

- a). Hours: dawn to dusk
- b). Park will be fenced

B. The Pet Palace

- a). Dogs will not be allowed to roam off property;
- b). Dogs will be kept indoors overnight;
- c). No dog runs will extend north from the new kennel building towards 131st Street;
- d). All dog runs shall be screened from Interstate 69 with either fencing, landscaping, or the use or combination of other opaque materials thereof.

C. Lighting

- a). Light poles shall be limited to 25' in height, measured at the base, and shall incorporate bulbs that are shielded.

D. Architecture

- a). No loading docks adjacent to Interstate 69;
- b). No metal roofs;
- c). No metal siding on building facades facing I-69 or 131st Street;

- d). Any new building shall include a minimum of three (3) feet masonry on the facades facing I-69 or 131st Street.

E. Dedication of Right-of-Way

Upon the approval of the Pierson Pet Park detailed development plan (Docket No. 5-DP-05), a thirty-five foot (35') one-half right-of-way along 131st Street shall be dedicated to the Town of Fishers. Additional right-of-way, up to fifty feet (50') one-half, shall be dedicated to the Town of Fishers, at no cost to the Town, when the Town's improvement plans requiring the additional right-of-way are approved by the Town Council. Any existing fence located within the dedicated right-of-way shall be relocated a minimum of five feet (5') from the new right-of-way line with the required landscaping by the Landowner at the time the additional right-of-way is dedicated, at no cost to the Town.

Section 4. Binding Effect

- A. The commitments are binding upon the Landowner, 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 Town Council following a public hearing held by the Plan Commission wherein notice has been given as provided by the 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 PUD-M classification to the Real Estate as requested by the Landowner.

Section 6. Recording

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

Section 7. Enforcement

These commitments may be enforced by the Plan Commission and by the Town Council of Fishers, Indiana.

IN WITNESS WHEREOF, Heather N. & David P. Shepherd, has caused this commitment to be executed as of the _____ day of _____, 2005.

Heather N. Shepherd

David P. Shepherd

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Heather Pierson, who having been duly sworn acknowledged the execution of the foregoing Commitments.

Witness my hand and Notarial Seal this _____ day of _____, 2005.

My Commission Expires:

Notary Public

Printed _____

Residing in _____ County

Prepared by: Steven D. Hardin, Attorney at Law, Bingham McHale, LLP, 970 Logan Street, Noblesville, IN 46060, (317) 776-8650.