

ORDINANCE NO. 120312

**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"), as amended, and the Pet Palace (Pierson Bark Park) Planned Unit Development District Ordinance No. 030705D (the "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. 7-TA-12 as required by law in regard to the application filed regarding the subject real estate described in **Exhibit A** (the "Real Estate") attached hereto; and,

WHEREAS, the Plan Commission at its January 15, 2013, meeting sent a favorable recommendation to the Town of Fishers Town Council by a vote of (6) in favor and (3) opposed;

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Fishers, Hamilton County, Indiana, meeting in regular session, that the PUD Ordinance is hereby amended as follows:

Section 1. **Applicability of Amendment Ordinance.**

- 1.1 This Ordinance applies only to the Real Estate.
- 1.2 The text of the PUD Ordinance shall remain in effect with the adoption of this Ordinance.
- 1.3 All provisions and representations of the PUD Ordinance or UDO that conflict with the provisions of this Ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this Ordinance.

Section 2. **Permitted Uses.**

- 2.1 The permitted uses shall be as set forth in the PUD Ordinance with the following additions and deletions:
 - A. A pet care and boarding facility (kennel) use shall be permitted within Area A (as delineated on the PUD Ordinance's Concept Plan).
 - B. A pet care and board facility (kennel) is a prohibited use within Area B (as delineated by the PUD Ordinance's Amended Concept Plan).

Section 3. Commitments. The Modified Commitments Concerning the Use and Development of Real Estate, attached hereto as **Exhibit B**, are hereby approved and accepted by the Town Council

Section 4. Development Standards. All development standards not specifically addressed by this Amendment Ordinance, Ordinance 030705D, or Ordinance 120103E shall be determined by the Fishers UDO, as amended.

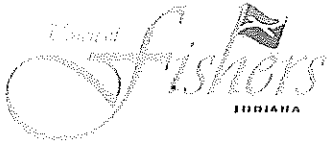
Section 5. Approval. This Ordinance shall be in full force and effect from and after its passage by the Town Council and after the occurrence of all other actions required by law. All provisions or parts thereof in conflict herewith are hereby repealed.

ADOPTED BY THE Town Council of the Town of Fishers, Indiana, this 4th day of March, 2013.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

AYE	NAY
BY: <u>[Signature]</u>	_____
<u>[Signature]</u>	_____
<u>[Signature]</u>	_____
<u>[Signature]</u>	_____
<u>[Signature]</u>	_____
<u>[Signature]</u>	_____
<u>[Signature]</u>	_____
<u>[Signature]</u>	_____

ATTEST: [Signature]
Linda Gaye Cordell, Clerk-Treasurer,
The Town of Fishers, Indiana
Ordinance No. 120312



Proposed Rezone Pierson Bark Park

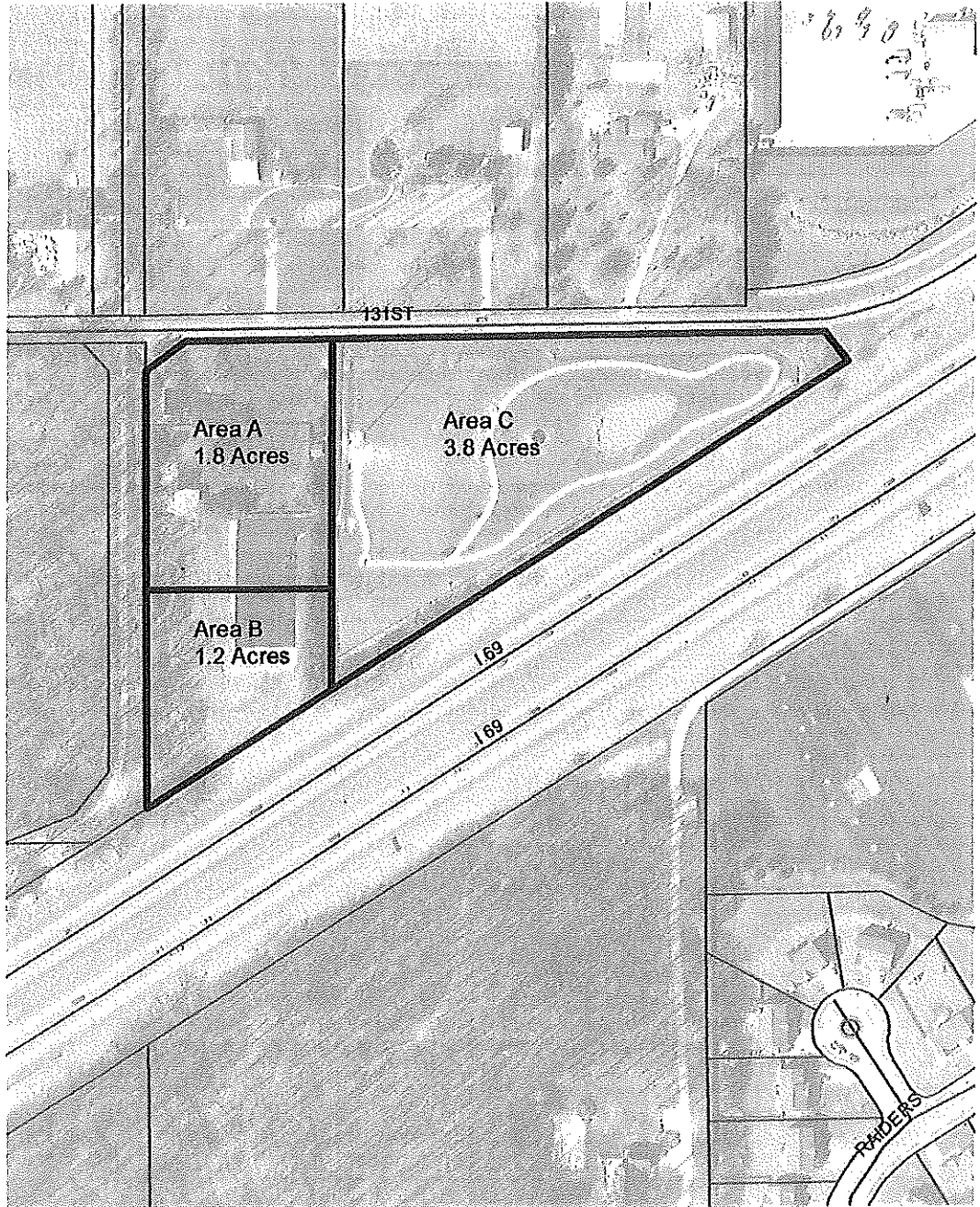
Town Council

John W. Weingardt
C. Pete Peterson
Scott A. Faultless
Stuart F. Easley
David C. George
Michael L. Colby
Renee L. Cox

Clark-Treasurer

Linda Gaye Cordell

This map was derived using parcel data supplied by Hamilton County, Indiana Information Services. This map is for display purposes only and is not to be considered accurate for legal descriptions or other legal purposes.



Legend

Town of Fishers
Development Department
One Municipal Drive
Fishers, Indiana 46038
www.fishers.in.us

EXHIBIT A
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.

EXHIBIT B

COMMITMENTS CONCERNING THE USE AND AND DEVELOPMENT OF REAL ESTATE

Andrew and Heather Pierson (the "Landowner") make 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. Petition:

These Commitments were originally made in connection with a request for a change of zoning with respect to the Real Estate. The change of zoning petition is identified by the Town Council of the Town of Fishers (the "Council") as Ordinance No. 030705D (the "PUD Ordinance"). The Landowner now has petitioned to amend the PUD Ordinance and modify the Commitments. The petition is identified by the Council as Ordinance No. 120312 (the "Amendment Ordinance"). The Commission held a public hearing on the Amendment Ordinance, and, following the public hearing, the Council approved the Amendment Ordinance and authorized these modified commitments, which shall modify and replace the Commitments in their entirety.

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. All dog runs shall be screened from Interstate 69 and 131st Street with fencing or other opaque materials.

- d. Any dog run located within Area A shall be located no closer than eighty (80) feet from the 131st Street right-of-way line (as it existed at the time of the Effective Date).
- e. Any dog run within Area A shall be located no closer than fifty (50) feet to the Real Estate's west property line. The Landowner shall preserve and maintain the existing tree line and vegetation located on the Real Estate's west property line in Area A between the property line and existing fence, as generally depicted on the attached Exhibit A.
- f. If and when the existing 2000 square foot structure in sub-area A is converted to a kennel facility, under no circumstance shall more than 14 inside runs be permitted in this structure. This restriction does not apply to any new kennel structure.
- g. e.g. If and when the petitioner submits a change of use permit or any other type of building permit for the conversion of the existing structure on sub-area A to a kennel the petitioner will furnish the Town with a floor plan showing no more than 14 inside runs. The petitioner hereby agrees to allow Town staff to inspect the facility at any time to ensure this commitment is adhered to.

C. Lighting

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

D. Architecture

- a. Any addition to the current house may be completed using materials matching the existing structure.
- b. Any new structures shall meet the commercial architectural requirements of the Fishers Unified Development Ordinance, as amended.

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 (35) foot 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 (5) feet 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 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 the Amendment Ordinance (the "Effective Date").

Section 6. Recording

The Landowners shall record these commitments in the Office of the Recorder of Hamilton County, Indiana, within thirty (30) days of the Effective Date. The Landowners shall deliver a copy of the recorded instrument to the Town of Fishers Department of Development prior to applying for any subsequent permits for the Real Estate.

Section 7. Enforcement

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

**[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS.]**

IN WITNESS WHEREOF, Andrew and Heather Pierson, has caused this commitment to be executed as of the _____ day of _____, 2013.

Andrew Pierson

Heather Pierson

STATE OF INDIANA)
) SS:
COUNTY OF _____)

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

Witness my hand and Notarial Seal this _____ day of _____, 2013.

My Commission Expires:

Notary Public

Printed _____
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

This instrument prepared by: Steven D. Hardin, Attorney at Law, Faegre Baker Daniels, LLP, 600 East 96th Street, Suite 600, Indianapolis, Indiana 46240, (317) 569-9600.

