

**ORDINANCE NO. 110606B**

**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, 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 a Mixed Use Planned Development (PUD-M) and this ordinance shall hereinafter be referred to as the *George Property PUD Ordinance*:

Part of the Southeast Quarter of the Northeast Quarter of Section 30, Township 18 North, Range 6 East in Hamilton County, Indiana, more particularly described as follows: Beginning on the East line of the Northeast Quarter of Section 30, Township 18 North, Range 6 East, 1333.90 feet South 00 degrees 37 minutes 55 seconds West (assumed bearing) of the Northeast corner thereof (said point being the Northeast corner of the Southeast Quarter of said Northeast Quarter); thence North 89 degrees 35 minutes 15 seconds West on and along the North line of the Southeast Quarter of said Northeast Quarter 1333.52 feet to the West line of said Quarter Quarter; thence South 00 degrees 30 minutes 05 seconds West on and along said West line 555.58 feet; thence South 89 degrees 35 minutes 15 seconds East parallel with the North line aforesaid 1332.25 feet to the East line of said Northeast Quarter; thence North 00 degrees 37 minutes 55 seconds East on and along said East line 555.58 feet to the Beginning Point. EXCEPT: A part of the Southeast Quarter of the Northeast Quarter of section 30, Township 18 North, Range 6 East, Hamilton County, Indiana intended to be all that part of Instrument Number 9944, Book 245, page 202 lying within the proposed right of way together with any gaps depicted on the right of Way Parcel Plat for Hamilton County Bridge No. 173, described as follows: Commencing at the Southeast corner of the Southeast Quarter of the Northeast Quarter of Section 30, Township 18 North, Range 6 East; thence along the East line of said Section, North 00 degrees 00 minutes 00 seconds East, 778.54 feet to the South line of the owners land, said point being the point of beginning of this description; thence along said South line South 89 degrees 45 minutes 25 seconds West, 60.00 feet to a point on proposed right of way; thence along proposed right of way North 00 degrees 00 minutes 00 seconds East, 151.71 feet; thence along said right of way, North 14 degrees 02 minutes 10 seconds East, 103.08 feet;

thence along said right of way North 00 degrees 00 minutes 00 seconds East, 303.97 feet to the North line of the owners land; thence along said North line North 89 degrees 45 minutes 25 seconds East, 35.00 feet to the East line of said Quarter Quarter Section; thence along said East line, South 00 degrees 00 minutes 00 seconds West, 555.58 feet to the point of beginning of this description.

## SECTION 2. PURPOSE AND INTENT

The purpose and intent of this planned development (PUD-M) is to provide an innovative mixed-use development that promotes creativity and flexibility in the development of the Real Estate. The Real Estate includes two defined areas identified as "District A" and "District B" on the Concept Plan, attached hereto as "Exhibit A".

To the extent that the development, architectural, landscaping and parking standards specified in this PUD Ordinance conflict with or address the same subject matter as the Town's Zoning and Subdivision Control Ordinances, the development, architectural, landscaping and parking standards specified in this PUD Ordinance shall replace and supersede any such standard. Matters not governed by this PUD Ordinance shall be governed by the terms, conditions, and provisions of the Town of Fishers Zoning and Subdivision Control Ordinances in existence on October 1, 2006 (collectively hereafter "Fishers Zoning Code"). References to "Articles" within this PUD Ordinance shall refer to those "Article" sections and subsections of the Town of Fishers Unified Development Ordinance in effect at the time of adoption of this PUD Ordinance (the "UDO"). The underlying zoning for District A shall be the *Commercial C2 District* and the underlying zoning for District B shall be the *Residential R2 District*.

## SECTION 3. PERMITTED LAND USES

- A. Commercial District ("District A"). All office uses scheduled as permitted uses in *Article 02.023 C1 Commercial District* and all uses described in *Article 02.025 C2 Neighborhood Business District*, including, without limitation, all restaurant uses and retail uses defined and enumerated in *Article 11; Definitions* shall be permitted; provided, however, that the following uses, as defined in *Article 11; Definitions* shall be prohibited: *Fast Food Restaurant, High Intensity Retail, Special Handling Retail and Very High Intensity Retail*. Additionally, the following uses shall also be prohibited: fuel sales; mortuaries; hardware store; building supply store; pawn shop; check cashing establishments (e.g., A-1 Cash Advance, Advance America, Check Into Cash, Check n' Go); temporary/seasonal retail sale stores (e.g., Halloween costumes, fireworks); self-service laundry facilities, provided, however, that dry cleaning facilities providing pickup services, only, are permitted; automotive, engine, and machinery repair or sales facilities; and automobile part sales.
- B. Residential District ("District B"). All uses described in *Article 02.007 R2 Residential District* shall be permitted.

## SECTION 4. CONCEPTUAL DEVELOPMENT PLAN

The Concept Plan, attached hereto as Exhibit A, is adopted as part of this ordinance. The Concept Plan layout and location of anticipated uses is illustrative and the development of the

Real Estate is controlled by the standards of this PUD Ordinance. Adoption of the Concept Plan, however, does not constitute approval of any detailed and final development plans; such further approval is subject to the development standards set forth by this PUD Ordinance and the procedures set out in Section 11, below.

**SECTION 5. DEVELOPMENT STANDARDS**

The development standards applicable to each of the Districts shall be the Development Standards ("Development Standards") in *Article 05; Development Standards* applicable to the underlying Zoning Districts assigned to each of the Districts in Section 3 above, as modified, revised, or expressly made inapplicable by this PUD Ordinance.

**SECTION 6. DEFAULT DESIGN STANDARDS**

The design standards applicable to each of the Districts shall be the Design Standards ("Design Standards") in *Article 07; Design Standards* applicable to the Planned Unit Development (PD) subdivision type, as modified, revised, or expressly made inapplicable by this PUD Ordinance.

**SECTION 7. BULK STANDARDS**

**A. District "A" – Commercial District**

The development standards of *Article 02.026; Neighborhood Business District Development Standards* shall not apply and are replaced and superseded as follows:

<b>Bulk Standard</b>	<b>District "A"</b>
District Acreage <sup>1</sup>	8.62 acres
Minimum Project Area	None
Minimum Lot Area	1 acre
Minimum Lot Frontage	150'
Sewer and Water	Yes
Minimum Front Setback	50'
Minimum Side Setback	10'
Minimum Aggregate Side Setback	20'
Minimum Rear Setback	20'
Minimum Building Separation	20'
Minimum Internal Setback	18'
Maximum Impervious Surface Coverage	75%
Minimum Gross Floor Area	None
Maximum Gross Floor Area:	
<ul style="list-style-type: none"> <li>– The total gross floor area of all buildings shall not exceed (i) six thousand (6,000) SF multiplied by the number of acres within District A plus (ii) twelve thousand six hundred (12,600) SF of office buildings.</li> <li>– No freestanding, single user, outbuilding shall exceed 10,000 SF.</li> </ul>	
Minimum Required Open Space	15%
Maximum Primary Structure Height	35'
Maximum Accessory Structure Height	18'

<sup>1</sup> Acreage may vary within each district by fifteen percent (15%).

B. District "B" – Residential District

The development standards of *Article 02.008; Residential District Development Standards* shall not apply and are replaced and superseded as follows:

Bulk Standard	District "B"
District Acreage <sup>1</sup>	8.19 acres
Minimum Lot Area	11,000 SF
Minimum Lot Width at Building Line	85'
Minimum Lot Frontage	35'
Sewer and Water	Requires municipal water and sewer hookup
Minimum Front Setback	25'
Minimum Side Setback	3'
Minimum Building Separation <sup>2</sup>	12'
Minimum Aggregate Side Setback	25'
Minimum Rear Setback	25'
Maximum Number of Lots	1.95 du/acre
Maximum Impervious Surface Coverage	45%
Minimum Living Area	2,200 SF
Maximum Primary Structure Height	35'
Maximum Accessory Structure Height	18'

SECTION 8. ALTERNATIVE DEVELOPMENT STANDARDS

Except as specified below, the Development Standards set forth in *Article 05; Development Standards* shall apply to District B (Residential District) of this PUD Ordinance.

A. Architectural Design Standards; Single-family Residential. Except as specified below, the applicable Architectural Design Standards in *Article 05.012 AD-01; Architectural Design; Single-family Residential* shall apply:

- (1) *Article 05.012 AD-01(A)(1); Masonry* is hereby replaced and superseded, in its entirety, by the following:
  - a) Each Dwelling must have a minimum of fifty percent (50%) masonry on the front elevation, excluding doors, garage doors, windows, architectural features, cantilevered areas, bay windows, and any area that does not have a supporting foundation for the brick load including, without limitation, the small area above the garage door on some models, and any areas on the façade that are above roofing materials and would thus require brick to be laid above the roof.
  - b) The exterior chase of fireplaces shall be brick or other masonry material, except for direct-vent and interior fireplaces.
- (2) *Article 05.012 AD-01(A)(2); Exterior Material* is hereby revised as follows:
  - a) All dwellings shall have fiber cement boarding (e.g., Hardi-Plank). Fiber cement siding shall have a maximum eight and one-quarter inch (8.25") exposed board face or a maximum double seven and one-quarter inch (7.25") reveal.
  - b) Vinyl siding shall be prohibited other than for accents and vinyl-clad windows. For vinyl siding accents, the siding shall (i) be minimum .042 millimeter siding;

<sup>2</sup> Brick ledges, cantilevered chimneys, bay windows, decks, and screened-in porches shall be permitted to encroach into side setbacks, rear setbacks, and minimum building separation; provided, however, that any such encroachments by decks and screened-in porches shall not exceed five feet (5') into the rear yard and three feet (3') into the side yard and the minimum building separation.

(ii) be nailed and not stapled to the side of the dwelling; and (iii) have a maximum ten (10) inch exposed board face, or a maximum double five (5) inch reveal.

(3) *Article 05.012 AD-01(A)(3); Architectural Features* is hereby replaced and superseded by the following:

- a) All dwellings shall have at least a partial basement;
- b) Architectural Features: All Dwellings shall have a total of six (6) or more points from the following list. All features are worth one point unless otherwise noted:
  1. Front porch equal to or greater than eight (8) feet in width and four (4) feet in depth: (2 points);
  2. Veranda/balcony;
  3. Reverse Gable;
  4. Turret on Dwelling: (2 points);
  5. Two or more roof planes visible from the front of the Dwelling: (2 points);
  6. Decorative garage doors or windows in garage doors;
  7. A separate overhead door per car for each garage bay;
  8. No front loading garages: (2 points);
  9. Masonry accent areas on one hundred percent of the front elevation, excluding openings and areas which will not support brick;
  10. At least four feet of relief at one or more points along the front elevation;
  11. Full first floor Masonry on the front elevation, excluding doors, garage doors, windows, architectural features, cantilevered areas, bay windows, and any area that does not have a supporting foundation for the brick load including, without limitation, the small area above the garage door on some models, and any areas on the façade that are above roofing materials and would thus require brick to be laid above the roof;
  12. Sunroom, screened porch, or breakfast nook;
  13. Transom windows;
  14. Bay window;
  15. Two or more dormers;
  16. Cement or fiber board siding in all areas not covered by Masonry, excluding doors, garage doors, windows, architectural features, cantilevered areas, bay windows, and any area that does not have a supporting foundation for the brick load including, without limitation, the small area above the garage door on some models, and any areas on the façade that are above roofing materials and would thus require brick to be laid above the roof;
  17. Hip roof;
  18. More than two Masonry materials on the front elevation;
  19. Brick detailing, either multiple quoins or other features such as arches, keystones;
  20. Architectural treatments on gable ends;
  21. Covered stoop/steps with a connection pathway from sidewalk;
  22. Architecturally treated entrances for Dwellings without a front porch;
  23. At least two (2) feet of relief at two (2) or more points along the front elevation;
  24. Architecturally enhanced /articulated trim moldings such as fipons above windows;
  25. Decorative shutters on front of Dwelling;

26. Decorative front door or side lights; and
  27. Decorative columns composed of wood, plastic, or fiberglass.
- (4) *Article 05.012 AD-01(C)(2); Materials* is hereby supplemented to also permit three tab asphalt or fiberglass shingles with a twenty-five (25)-year life.
- (5) *Article 05.012 AD-01(D); Automobile Storage* shall apply except as follows:
- a) All garages shall be attached and courtyard or side-loading. No front loading garages shall be permitted;
  - b) The floor plans for all homes shall offer a three (3) car garage as an option available for purchase by a homebuyer;
  - c) *Article 05.012 AD-01(D)(2); Garage Capacity of Three or More* is hereby replaced and superseded by the following:
    1. There is no recess requirement for side-load or courtyard-loaded garages; however, the third bay on three-car garages for side-loaded or courtyard garages shall have a separate garage door.
  - d) The minimum garage depth specified in *Article 05.012 AD-01(D)(3); Minimum Garage Depth* is hereby changed to twenty (20) feet;
  - e) *Article 05.012 AD-01(D)(5); Carports* is hereby revised to prohibit carports.
- (6) *Article 05.012 AD-01(G); Model Homes* is hereby revised to delete and eliminate *Article 05.012 AD-01(G)(3); Largest Model* and with respect to *Article 05.012 AD-01(G)(4); Basement* to require partial basements.
- (7) All Dwellings shall comply with or be equivalent in quality to the durability and sustainability standards outlined by the "Specifications for Pulte Classic Series", attached hereto as Exhibit D. The Director of the Development Department shall determine compliance and applicability of these standards as it relates to the specific homebuilder(s).
- B. Architectural Design Standards; Commercial. The buildings constructed in District A shall be of an architectural style similar to or compatible with the Illustrative Commercial Architecture Exhibit, attached hereto as Exhibit B.
- C. Entrances and Driveway Standards. Except as noted below, all applicable standards set forth in *Article 05; Entrance and Driveway Standards (ED)* shall apply:
- (1) *Article 05.023 ED-01(D)(2); Proximity* prohibiting an entrance or driveway from being installed within fifty feet (50') of the right of way line, is hereby deleted and shall not apply.
  - (2) The location of access points shall be determined during the development plan approval process.
- D. Floor Area Standards. *Article 05; Floor Area Standards (FA)* shall not apply to the use and development of the Real Estate.
- (1) Minimum square footages dwelling units are specified in Section 7 of this PUD Ordinance; and
  - (2) There shall be no average floor area requirements.
- E. Landscaping Standards. Except as noted below, all of the applicable standards set forth in *Article 05; Landscaping Standards (LA)* shall apply:
- (1) All of the requirements in *Article 05.044 LA-07; Landscaping Standards; Buffer Yards* shall apply; provided, however, that there shall be no buffer yard required in

- any area where District B abuts a parcel of real estate which is on the perimeter of the Real Estate and which is zoned C1 Commercial or a zoning district of lesser intensity than C1 Commercial.
- (2) All of the provisions and standards in *Article 07.027 OP-03; Open Space Standards; Optional Conservation Area Protection* shall be optional and elective to the Developer and, to the extent that the Developer preserves any natural areas, the Developer shall receive an Open Space credit equal to two (2) times the area of the preserved natural area.
  - (3) *Article 05.040 LA-03; Residential Subdivision Lot and Foundation Plantings* is hereby modified and increased to require the following: All lots shall have a minimum of (i) thirty (30), two (2) gallon shrubs, (ii) one (1) shade tree and one (1) flowering tree, each with a two (2) inch caliper at planting, and (iii) a sodded front yard and, for sodding purposes only, corner lots are deemed to have two (2) front yards.
  - (4) Irrigation of Common Areas. An irrigation system shall be installed at the main entranceways into the Real Estate and adjacent to Cyntheanne Road. Such systems shall be maintained in good working order by the property owner(s).
- F. Lot Standards. Except as noted below, all of the applicable standards of *Article 05; Lot Standards (LO)* shall apply:
- (1) *Article 05.052 LO-01(D)(2); Minimum Corner Lot Width* is hereby modified to provide that the minimum lot width for corner lots shall be either at least the lesser of (i) 1.2 times the minimum lot width for the zoning district or (ii) fifteen (15) feet greater than the minimum lot width for the zoning district.
- G. Parking Standards. *Article 05; Parking Standards (PK)* shall apply to the development of the Real Estate with the exception of *Article 05.063 PK-01(L)(1) Administrative Increase*, which shall not apply.
- H. Pedestrian Accessibility Standards. Except as noted below, all of the applicable standards of *Article 05; Pedestrian Accessibility (PA)* shall apply:
- (1) The Developer shall install a trail that shall be six (6) feet in width and composed of asphalt, and located along the Real Estate's perimeter adjacent to Cyntheanne Road.
- I. Public Improvement Standards. All of the applicable standards in *Article 05; Public Improvement Standards (PV)* shall apply with the exception of *Article 05.081 PV-01(A)*, which shall not apply to the use and development of the Real Estate and which shall be replaced and superseded by the following:
- (1) Developments are permitted only if the public streets, drainage facilities, and utilities located within the development are adequate to serve the proposed development.
    - a) Drainage facilities and public utilities shall have sufficient capacity to serve the development.
    - b) The Director of Development and/or Town Engineer shall make a determinate as to needed street and drainage improvements within the development based upon the requirements of the Zoning Ordinance.
    - c) The Director of Development and/or Town Engineer shall make a determination as to needed utility improvements within the development based upon the requirements of the Zoning Ordinance.

- d) When public improvements are required, the Developer or authorized representative is required to post performance and maintenance guarantees for such improvements.
- J. Setback Standards. With the exception of *Article 05.082; SB-01(I) Top of Bank Setback*, which shall not apply to the use and development of the Real Estate, all of the applicable standards of *Article 05; Setback Standards (SB)* shall apply, but only to the extent not in conflict with or modified by this PUD Ordinance.
- K. Sign Standards. All of the applicable sign standards of *Article 05; Sign Standards (SG)*, as amended, revised, modified, and supplemented below, shall apply:
- (1) Permanent Subdivision Identification Signs shall be permitted in a location at the entryways as follows:
    - a) A total of two (2) such signs, each of which may be up to thirty-two (32) square feet in size, shall be permitted.
  - (2) Monument column signs identifying the neighborhood shall be permitted. Up to three (3) such signs shall be permitted. The total sign area of such signs shall not exceed 4.5 feet, and the structural column framing such signs shall not exceed six (6) feet in height.
  - (3) The number, size and location of such signage in District A shall be governed by the UDO; provided, however, that:
    - a) All signage illumination within shall be either internally illuminated with reverse channel lighting or externally illuminated with wall-mounted gooseneck luminaries;
    - b) Any wall signage shall be a maximum one (1) square foot of wall signage for each lineal foot of the front elevation of the particular user, and no particular user's wall sign may exceed three-hundred (300) square feet; and
    - c) The ground floor of each user shall be entitled to one (1) blade sign beneath the any canopy or awning.
  - (4) Off-site weekend directional signage, not located upon the Real Estate shall be permitted for up to six (6) signs.
  - (5) The following shall apply to Temporary Subdivision Signs:
    - a) Two (2) temporary subdivision signs, up to ninety-six (96) square feet in size, are permitted.
    - b) The temporary subdivision signs must be removed when the Certificate of Occupancy is issued for the last home to be constructed.
  - (6) Each model home shall be allowed one (1) sign per model, indicating the corresponding name and square footage of the Dwelling. The maximum size of a model sign is thirty-two (32) square feet.
  - (7) Signage which is located on canopies and which does not exceed forty (40) square feet is allowed and shall be permitted to state the name of the development, builder and/or the developer's name and logo.
  - (8) On site directional signs are permitted, so long as such signs do not exceed sixteen (16) square feet each. The location of such signs shall be approved during the development plan approval process.
  - (9) One (1) identification ground sign shall be permitted for the amenity area; provided, however, that such signs shall not have a sign area in excess of thirty-two (32) square feet.



- (10) Real estate signs, per Section 158.48 of the Fishers Zoning Code shall be permitted.
- (11) All monument signs, other than the monument column signs permitted under Section 8(K)(2) above, shall be landscaped as required by *Section 158.41(A)(5)* of the Fishers Zoning Code.

L. Temporary Use/Structural Standards. Except as noted below, all of the applicable standards of *Article 05; Temporary Use & Structure Standards (TU)* shall apply to the use and development of the Real Estate:

- (1) *Article 05.100; TU-01(G); Construction and Sales Trailer Limitations* is hereby replaced and superseded with the provision that a construction trailer and/or sales trailer shall be permitted until such time as the Certificate of Occupancy is issued with respect to the last home to be developed.
- (2) *Article 05.101; TU-02(C)(1)(b); Duration*, pertaining to construction trailers is hereby replaced and superseded with the statement, "once the temporary use permit for the construction trailer has been issued, the construction trailer may remain for up to three (3) weeks prior to the start of site improvements, and shall be removed when the last Certificate of Occupancy has been issued."
- (3) *Article 05.101; TU-02(D); Model Homes* pertaining to single-family model homes is hereby supplemented to provide as follows:
  - a) *Article 05.101; TU-02(D)(4); Street Requirements* is hereby revised to provide that, prior to being occupied, all model homes shall have frontage on an asphalt street with curbs in front of the model homes.
  - b) *Article 05.101; TU-02(D)(5); Fire Hydrant Proximity* is hereby revised to provide that, prior to occupancy, all model homes shall be located within 500 feet of a functioning fire hydrant and, further, that an unoccupied model home which is not located within 500 feet of a functioning fire hydrant, may be constructed and completed, so long as the Developer provides a letter to the Town in form and content acceptable to the Town, indemnifying the Town against any claims or damages arising out damage or destruction to the model home which occurs prior to the installation of a functioning fire hydrant within 500 feet of the model home. Further, all model homes shall be entitled to have the required inspections so long as gravel access to the model home is maintained and, therefore, model homes shall be entitled to the required inspections even though they are not located within 500 feet of a functioning fire hydrant.
  - c) *Article 05.101; TU-02(D)(6); Signage* is hereby revised as set forth by this PUD Ordinance.
- (4) Except as noted below, all of the applicable provisions in *Article 05.101; TU-02(E); Sales Trailers*, and applicable to District B, shall apply:
  - a) The Developer shall be permitted to have one (1) sales trailer area where a model homes exist.
  - b) *Article 05.101; TU-02(E)(1)(b); Duration* is hereby modified so that a Temporary Use Permit for a sales trailer is valid for twenty-four (24) months and is renewable by the Director for an unlimited number of additional twenty-four (24) month periods, which renewals will not unreasonably be withheld.
  - c) *Article 05.101; TU-02(E)(3); Street Requirements* is hereby modified to provide that sales trailers may be installed, at the Developer's risk, prior to the installation of roads and curbs, so long as the Developer provides the Town of Fishers with an

indemnification letter, in form and content acceptable to the Town, indemnifying and holding harmless the Town, from any and all claims or liabilities arising out of or in connection with the sales trailer; provided, however, that until the installation of road and curbs, such sales trailers shall remain unoccupied.

- d) Article 05.108; TU-02(E)(6); Hours of Operation is hereby modified to provide that the hours of operation shall be limited to between 8:00 a.m. and 8:00 p.m. daily.

M. Vision Clearance Standards. Except as noted below, all of the applicable provisions of Article 05; Vision Clearance Standards (VC) shall apply.

- (1) Article 05.115; VC-01(B); Sight Triangle Leg Lengths is replaced with: Twenty-five (25) feet measured from the closest edge of the right of way.
- (2) Article 05.115; VC-01(C); Curb Cuts is replaced with: Where curb cuts are established, the twenty-five foot sight triangle leg lengths shall be measured from the back of curb or pavement of the intersecting roadways or driveways.

SECTION 9. ALTERNATIVE DESIGN STANDARDS

Except as noted below, all of the Design Standards in Article 07; Design Standards shall apply.

A. Anti-Monotony Standards; Residential Neighborhood. None of the provisions of Article 07; Anti-Monotony Standards (AM) shall apply to the use and development of the Real Estate, and, instead, the following Anti-Monotony Code shall apply:

- (1) Brick packages may not be duplicated for two home sites on each side of the residence on the same side of the street. Also, brick packages may not be duplicated for three houses across the street from a residence. (Please refer to the illustration below.)



- (2) Front elevations on the same plan may not be duplicated for two home sites on each side of the residence on the same side of the street. Also, elevations for the same plan may not be duplicated for five houses across the street from the residence. (Please refer to the illustration below.)



B. Construction Surety Standards; General. Article 07; Surety Standards (SY) shall be inapplicable to the use and development of the Real Estate and, in its place, there is hereby inserted the requirement that, at the time an Improvement Location Permit is issued, the Developer shall pay an amount equal to one percent (1%) of the total cost of

any street, sidewalk, path, drainage facility, or other improvement made the subject of the Improvement Location Permit to be dedicated to the Town of Fishers.

- C. Covenant Standards; Residential. *Article 07; Covenant Standards (CE)* is hereby supplemented to require for District B, that the Developer shall establish a mandatory Homeowner's Association (hereinafter the "HOA") which will maintain an account for replacement reserves, to be funded by mandatory assessments and to provide revenue for landscaping maintenance. The Director of Development will, from time to time, have authority to request from the HOA a copy of the budget and maintenance schedule, should such Director of Development determine that landscape materials are not being maintained to adequate standards. Additionally, the HOA shall continuously utilize outside professional management and, upon the request of the Director of Development, a copy of the contract with the outside professional manager shall be provided to the Town of Fishers.
- D. Lot Establishment Standards; Residential. *Article 07.018; Lot Establishment Standards; Residential* is hereby revised as follows:
- (1) *Article 07.018; LT-01(B)(3); Corner Lots* is hereby modified to provide that the minimum lot width for corner lots shall be either at least the lesser of (i) 1.2 times the minimum lot width for the zoning district or (ii) fifteen (15) feet greater than the minimum lot width for the particular Area
  - (2) *Article 07.018; LT-01(B)(5); Special Lots* is hereby revised to substitute "15%" for "25%." Also, Lots, on which existing natural water features are present, must be a minimum of fifteen (15) feet deeper.
- E. Open Space Standards. Except as noted below, the applicable standards in *Article 07; Open Space Standards (OP)* shall apply:
- (1) The open space requirement shall be located approximately where illustrated on the Concept Plan. The exact location of open space shall be determined during the approval of Detailed Development Plans and Final Development Plans. The open space, which shall be permitted to include ponds, wetlands, and floodplain areas, shall be a minimum of and shall not be required to exceed twenty-five percent (25%) of the Real Estate.
  - (2) *Article 07.025; OP-01(C)(3)(d)(i); Perimeter Access Width* is hereby modified to provide that a buffer area around the full circumference of the water feature of at least fifteen (15) feet from the top of bank shall be available as open space.
  - (3) *Article 07.025; OP-01(C)(2); Man-made Water Feature* is hereby supplemented to provide that where such water features adjacent to a public right of way, the Developer shall install a fountain or bubbler-type feature, of the Developer's design, in order prevent the water from becoming stagnant.
  - (4) *Article 07.025; OP-01(C)(3)(d)(i); Width* is hereby modified to indicate that the minimum width around the perimeter shall be twenty (20) feet from top of bank and, further, *Article 07.025; OP-01(C)(3)(d)(ii); Plantings* shall be inapplicable to the use and development of the Real Estate.
- F. Pedestrian Network Standards. Except as noted below, all of the standards set forth in *Article 07; Pedestrian Network Standards (PN)* shall apply:
- (1) *Article 07.028; PN-01(C)(6); Special Requirements* shall not apply;

(2) Except as noted below, all of the provisions *Article 07.028; PN-01(D) Pedestrian Crosswalk* shall apply:

- a) The second sentence of *Article 07.028; PN-01(D)(1); Requirement* providing that “the Plan Commission may require that crosswalks be marked at other intersections or pedestrian-crossing points on as-needed basis” is inapplicable to the use and development of the Real Estate; provided, however, that crosswalks shall be installed per the plans approved by the Technical Advisory Committee.
- b) *Article 07.028; PN-01(D)(2); Mid-Block* is deleted and hereby inapplicable to the use and development of the Real Estate.

G. Perimeter Landscaping Standards. Except as noted below, all of the standards in *Article 07; Perimeter Landscaping Standards (PL)* shall apply:

- (1) *Article 07.032; PL-01(C)(1)(a); Minimum Number of Trees* is hereby increased to require twelve (12) trees per 100 lineal feet of perimeter planting.

H. Street Lighting Standards. Except as noted below, all applicable provisions of *Article 07.038; SL-01; Street Lighting Standards; Residential Development* shall apply:

- (1) The Developer shall provide two (2) dusk-to-dawn lights, without a manual override switch, adjacent to the garage door on each Dwelling.
- (2) Street lights will be required at all intersections of internal streets.
- (3) All street lighting shall be installed with reflectors or other such devices or controls so that light is reflected downward to mitigate light spillover.

I. Street Right of Way Standards. Except as noted below, all of the applicable standards of *Article 07; Street and Right of Way Standards (SR)* shall apply:

- (1) *Article 07.036; SR-01(C)(8); Street Width* is hereby revised to indicate that all main entrances from perimeter road ways will have a boulevard, the right of way of which shall be fifty (50) feet in width.
- (2) *Article 07.036; SR-01(C)(10); Block Length* is hereby replaced and superseded with the requirement that the maximum block length permitted is three-thousand two-hundred (3,200) feet.
- (3) A centerline radius of fifty (50) feet shall be permitted.
- (4) There shall be no requirement for a minimum tangent of one hundred (100) feet between reverse curves; instead, reverse curves, with tangents in between are permitted.
- (5) All local streets within this PUD shall have a minimum right of way width of fifty-two (52) feet, and shall be a minimum of twenty-eight (28) feet from back of curb to back of curb.
- (6) Dedication of right-of-way. Along those segments of Cyntheanne Road which are contiguous with the Real Estate, the Developer shall dedicate a sixty (60) foot one half right-of-way.

## SECTION 10. COMMITMENTS

A. The Developer shall be subject to the Commitments, attached hereto as "Exhibit C", which shall include the following:

- 1) Prior to the formal annexation of the Real Estate into the Town of Fishers, the Developer agrees that any home or building 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 the applicable land use.

- 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 include a Waiver of Remonstrance in the PUD Ordinance.

## SECTION 11. PROCEDURES

The following procedure shall apply throughout this Planned Development:

- A. Subsequent Approvals. The adoption of this PUD Ordinance and the subsequent consideration of any Detailed Development Plans and Final Development Plans shall be consistent and pursuant to the provisions of the Planned Unit Development Committee and the Planned Unit Development process as set forth in *Article 09; Planned Unit Development* of the Unified Development Ordinance. The petitioner shall follow all Procedures for Detailed Development Plan Approval, provided by Department of Development staff. In addition, the petitioner shall:
  - (1) Meet with staff to discuss the project;
  - (2) Meet with the PUD Committee to present preliminary plans and drawings for the project. The PUD Committee will review the preliminary plans and drawings for compliance with this PUD Ordinance and will make a recommendation to the Plan Commission;
  - (3) Submit preliminary elevations and lighting along with material samples, color boards and other materials that further illustrate the project to the PUD Committee; and
  - (4) Meet with the PUD Committee for review of the final detailed development plan and approval of final plans and drawings of the project for compliance with this PUD Ordinance.
  - (5) Detailed Development Plans, which are in substantial compliance with the terms, conditions, and provisions of this PUD Ordinance, including all of its exhibits, shall be approved, and Final Development Plans, which are substantial compliance with the Detailed Development Plan, shall be approved.
- B. Appeal. The denial by the Department of Development of any request for approvals may be appealed to the Plan Commission, which may affirm or reverse the decision of the Department of Development, and the denial by the Plan Commission of any request for approvals may be appealed to the Town Council which may affirm or reverse the decision of the Plan Commission. In circumstances permitted under the Zoning Ordinance, appeal may also be made to the Town's Board of Zoning Appeals.

SECTION 12. 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 on this 19<sup>th</sup> day of February, 2007.

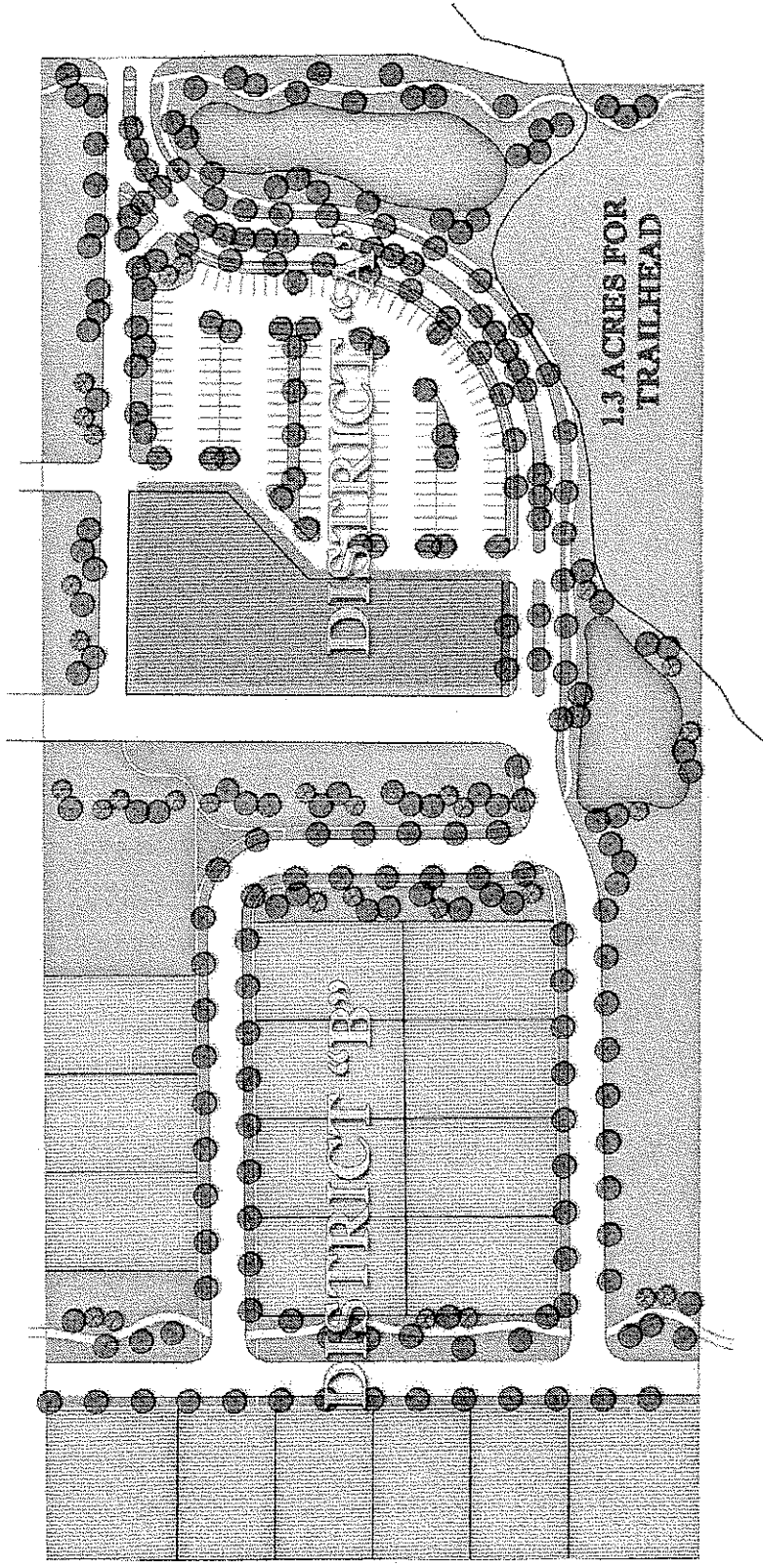
THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

BY:	AYE	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>David C. George</u>	David George, Member	_____
<u>Arthur J. Levine</u>	Arthur J. Levine, Member	_____
<u>Eileen N. Pritchard</u>	Eileen N. Pritchard, Member	_____
<u>Charles P. White</u>	Charles P. White, 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., Baker & Daniels LLP,  
970 Logan Street, Noblesville, IN 46060

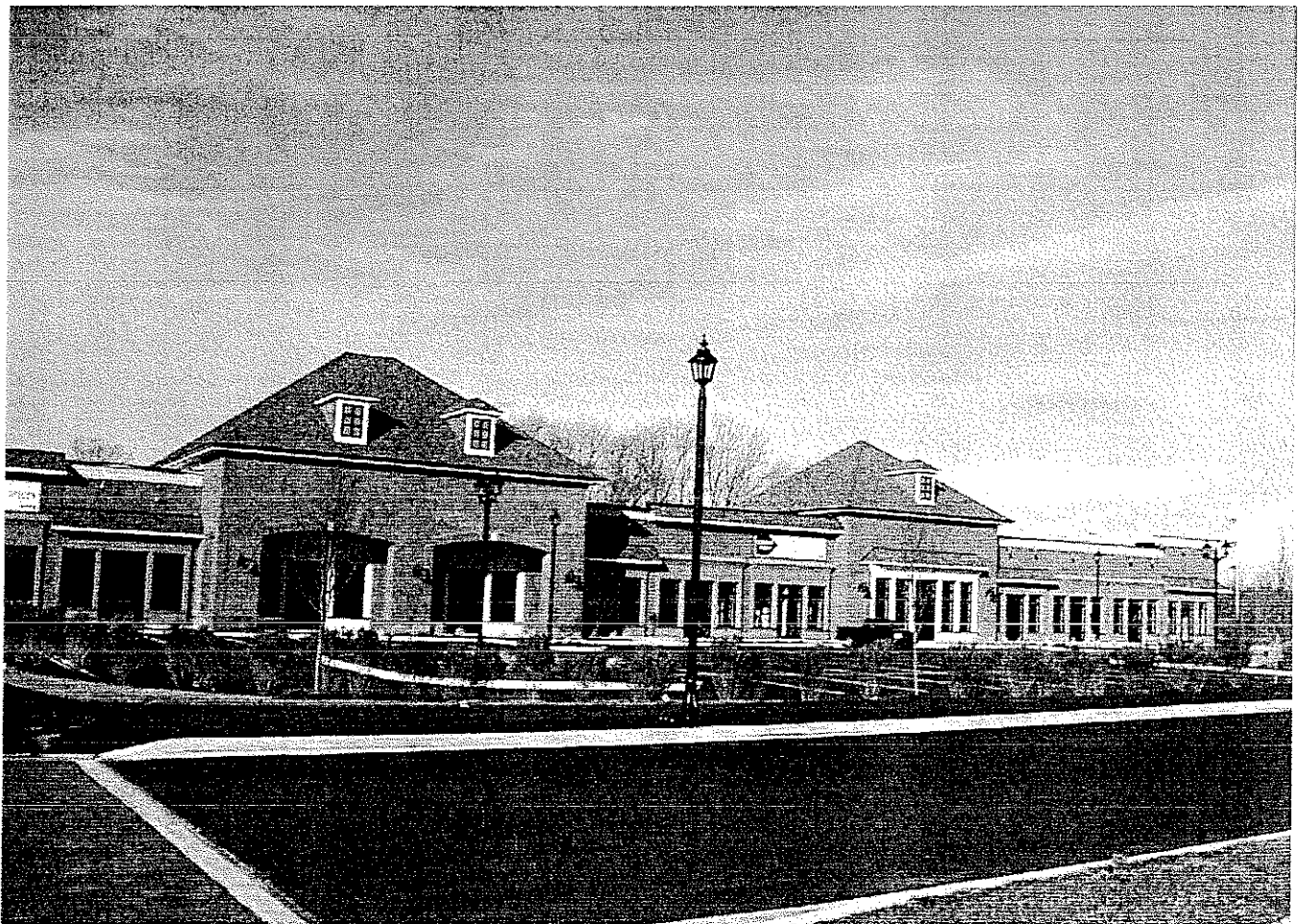
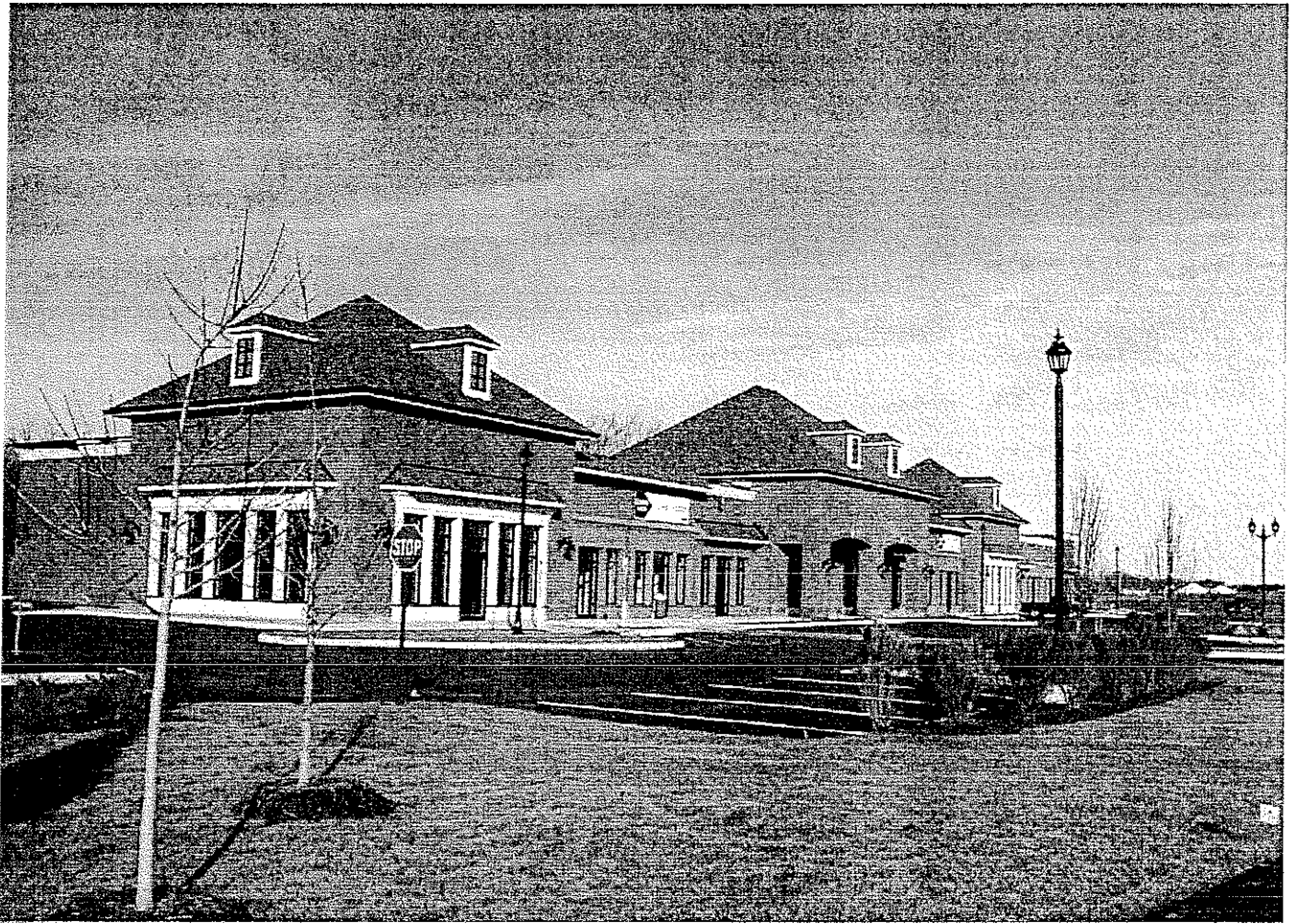


**George Property - Schematic Layout**  
Fishers, Indiana  
January 2, 2007





EXHIBIT B - ILLUSTRATIVE COMMERCIAL EXHIBIT





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

James S. George (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:**

Part of the Southeast Quarter of the Northeast Quarter of Section 30, Township 18 North, Range 6 East in Hamilton County, Indiana, more particularly described as follows: Beginning on the East line of the Northeast Quarter of Section 30, Township 18 North, Range 6 East, 1333.90 feet South 00 degrees 37 minutes 55 seconds West (assumed bearing) of the Northeast corner thereof (said point being the Northeast corner of the Southeast Quarter of said Northeast Quarter); thence North 89 degrees 35 minutes 15 seconds West on and along the North line of the Southeast Quarter of said Northeast Quarter 1333.52 feet to the West line of said Quarter Quarter; thence South 00 degrees 30 minutes 05 seconds West on and along said West line 555.58 feet; thence South 89 degrees 35 minutes 15 seconds East parallel with the North line aforesaid 1332.25 feet to the East line of said Northeast Quarter; thence North 00 degrees 37 minutes 55 seconds East on and along said East line 555.58 feet to the Beginning Point. EXCEPT: A part of the Southeast Quarter of the Northeast Quarter of section 30, Township 18 North, Range 6 East, Hamilton County, Indiana intended to be all that part of Instrument Number 9944, Book 245, page 202 lying within the proposed right of way together with any gaps depicted on the right of Way Parcel Plat for Hamilton County Bridge No. 173, described as follows: Commencing at the Southeast corner of the Southeast Quarter of the Northeast Quarter of Section 30, Township 18 North, Range 6 East; thence along the East line of said Section, North 00 degrees 00 minutes 00 seconds East, 778.54 feet to the South line of the owners land, said point being the point of beginning of this description; thence along said South line South 89 degrees 45 minutes 25 seconds West, 60.00 feet to a point on proposed right of way; thence along proposed right of way North 00 degrees 00 minutes 00 seconds East, 151.71 feet; thence along said right of way, North 14 degrees 02 minutes 10 seconds East, 103.08 feet; thence along said right of way North 00 degrees 00 minutes 00 seconds East, 303.97 feet to the North line of the owners land; thence along said North line North 89 degrees 45 minutes 25 seconds East, 35.00 feet to the East line of said Quarter Quarter Section; thence along said East line, South 00 degrees 00 minutes 00 seconds West, 555.58 feet to the point of beginning of this description.

**Section 2. Ordinance No.: 110606B**

**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 or building 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 the applicable land use.
- 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.
- 3) The Developer commits to include in the covenants and restrictions for the Real Estate the following:
  - a) The hours of operation of any wine and spirits store shall be (i) between 9:00 a.m. and 11:00 p.m. on Monday through Thursday, and (ii) between 9:00 a.m. and 12:00 midnight on Friday and Saturday;
  - b) No user may continuously conduct business, without stopping, for any interval of twenty-four (24) consecutive hours, it being the intention of this restriction that no business shall stay open twenty-four (24) hours a day;
  - c) Deliveries and trash removal for the commercial area shall be no earlier than 7:00 a.m. and no later than 9:00 p.m.; provided, however, that there shall be no restrictions on the times during which snow removal can occur;
  - d) A restriction that prohibits off-track betting, gambling, adult theatre, strip club or other adult entertainment uses.
- 4) The Developer commits to dedicating to the Town, at the time of development plan approval, approximately one and one-third (1.3) acres ("Trailhead"), as shown on the Concept Plan attached hereto as Exhibit A, to be used by the Town for a Thorpe Creek trailhead and access point. Developer reserves the rights upon dedication for any and all easements necessary to accommodate the development of the Real Estate.

B. Commitments to Adjoining Property Owner(s)

- 1) Drainage.
  - a) The Real Estate will be developed so that there will be no general sheet drainage on to lands adjoining the Real Estate. All storm water runoff shall be treated as required by law.
  - b) The drainage plan proposed for the Real Estate, once developed, will be designed in furtherance of the objective that, while accepting storm water runoff from adjoining properties, the Real Estate, once developed, will not sheet-drain on adjoining properties as it currently does and, as such, there will be no general sheet drainage onto properties adjoining the Real Estate.
  - c) All storm water drainage points to be located on the Real Estate shall be approved by the Town of Fishers and/or the Hamilton County Surveyor's Office, whichever has jurisdiction. Further, all storm water runoff from the Real Estate shall be treated for sediment and other harmful contaminants as required by Indiana law.

**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 George Property PUD-M zoning classification to the real estate identified in Ordinance No. 110606B.

**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, James S. George, has caused this commitment to be executed as of the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

By: \_\_\_\_\_  
James S. George

STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF \_\_\_\_\_ )

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

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

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.

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

## EXHIBIT D

# GRAY EAGLE HIGHLANDS

## QUALITY FEATURES – CLASSIC SERIES

### ENERGY SAVINGS FEATURES:

- Energy Star Certification – 5 Star
- Two-step energy seal process through-out entire home to reduce air infiltration
- Low E windows
- 90% high efficiency gas furnace with air conditioning
- 40 gallon Power shot water heater
- Insulated foam sheathing board with building paper housewrap and fiberglass batt insulation exterior wall system
- Fiberglass batt insulation in all cantilevers and bays
- Blown fiberglass insulation in all heated ceiling areas
- Outside air induction on all furnace systems
- Ridge and soffit vent system for maximum attic ventilation

### SUPERIOR EXTERIOR FEATURES:

- Insulated fiberglass entry door with full weather stripping and dead bolt
- Spacious insulated 2 car garage with drywall and prime painted finish
- Dual glazed vinyl windows with decorative grids on front of home
- Pre-wire for garage door opener
- Sectional overhead garage door with rubber sweep
- Certainteed asphalt roof shingles with 25 year limited warranty
- Concrete walkway from driveway to front porch
- Two exterior electrical outlets
- Two freeze resistant exterior water spigots
- Concrete Patio per Plan
- Front lawn sod
- Rear & side lawn hydroseed

### PULTE QUALITY ASSURANCE:

- Pre-construction information session
- Pre-drywall consultation
- Pre-closing homeowner orientation
- Customer service walk at 3-month
- Customer service walk at 11-month
- Measured customer satisfaction
- Protection Plan: 2-5-10 year limited warranty



The above interior and exterior standards are subject to change, but must comply with or be equivalent in value.

### ELEGANT INTERIOR FEATURES:

- 9' ceilings on first floor
- Stain resistant Textured wall to wall carpeting with rebond 6 lbs. pad
- Armstrong vinyl flooring in kitchen, nook, half bath, powder bath, master bath, foyer and laundry
- Stained stair handrail
- Kohler Sterling product for sinks, Lavatories, Showers & Bath Tubs
- Kohler Pedestal sink in powder room per plan
- Moen Faucets in all baths
- Mirrors in bathrooms and master suite dressing area above vanity
- Merrillat Millbridge II cabinets
- Custom Laminate countertops in kitchen, hall and master baths
- Stainless steel kitchen sink with 1/3 HP disposal
- General Electric self cleaning electric range
- General Electric dishwasher & range hood fan
- Sea Gull light fixtures throughout
- Four panel provincial doors with polo style knobs
- Premiere interior trim package
- Fireplace with Custom Mantel, Ceramic Tile Hearth and Face
- Centralized "Structured wiring system" for voice and data communication
- Phone – Category 5 dedicated runs to each location per plan
- Cable TV-RG-6 dedicated runs to each location per plan
- Gracefully textured drywall ceilings
- Glued and screwed 3/4" tongue and groove (OSB) oriented strand board floor decking
- Engineered floor joist system

### QUALITY FEATURE UPGRADES STANDARD TO THE GRAY EAGLE HOMES COLLECTION:

- Brick Chimney Chase
- Partial Basement
- Garden Bath
- Elevation 1C
- Vaulted Ceiling
- Classic Trim Package
- Window Grids on 4 sides
- Hardwood in Foyer
- 2 Car Side Entry Garage Elevation C
- Hardi-Plank Siding

### CLASSIC SERIES COLLECTION:

Pulte Homes of Indiana Reserved the Right to Substitute, Without Notice, Material of Similar Quality for any Product Listed in these Specifications