

**ORDINANCE NO. 090407**

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

This is an ordinance to amend Ordinance No. 061603B, the South Avalon Estates Planned Unit Development Ordinance (the "South Avalon Estates PUD"), previously enacted by the Town of Fishers pursuant to its authority under the laws of the State of Indiana, IC 36-7-4 *et seq.*, as amended.

**WHEREAS**, the Plan Commission of the Town of Fishers has conducted a public hearing on Docket No. 7-TA-07 as required by law in regard to the application filed by Beazer Homes Indiana, LLP (the "Developer") to amend the South Avalon Estates PUD; and,

**WHEREAS**, the Plan Commission at its October 9, 2007 meeting sent no recommendation to the Town of Fishers Town Council;

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

**SECTION 1.** The subject real estate (the "Real Estate"), commonly known as South Avalon Estates, is located within District A of the originally approved South Avalon Estates PUD, and more particularly described in the Legal Description attached hereto as Exhibit A. This Ordinance shall not apply to the lots so identified on Exhibit B.

**SECTION 2.** The Development Guidelines' Rear Yard Setback standard, as set forth in Exhibit 2 of the South Avalon Estates PUD and applicable to the Real Estate, is hereby amended as follows:

Rear Yard Setback	<ul style="list-style-type: none"><li>• Twenty (20) feet for a lot with a home that includes either:<ul style="list-style-type: none"><li>(1) a third car garage or an extended two car garage; and/or</li><li>(2) a first floor rear elevation enhancement such as a patio, deck, screened porch, sunroom or kitchen bumpout.</li></ul></li><li>• Thirty (30) feet for all other lots.</li></ul>
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**SECTION 3.** At the time a purchase agreement is entered between the Developer and a prospective purchaser of a homesite along the Real Estate's western boundary, the Developer shall advise the prospective purchaser in writing that the adjacent Olio Fields includes lights.

**SECTION 4.** The Developer shall include on the secondary plats of the Real Estate and on the applicable individual lot plans when a building permit application is submitted for those lots the following language: "Rear Yard Setback: Twenty (20) feet for a lot with a home that includes either: (1) a third car garage or an extended two car garage; and/or (2) a first floor rear elevation enhancement such as a patio, deck, screened porch, sunroom or kitchen bumpout. Thirty (30) feet for all other lots."

**SECTION 5.** All other provisions of the South Avalon Estates PUD shall remain in effect with the adoption of this ordinance. All provisions and representations of the South Avalon Estates PUD 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 6.** 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 7<sup>th</sup> day of November, 2007.

**THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA**

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

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

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

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

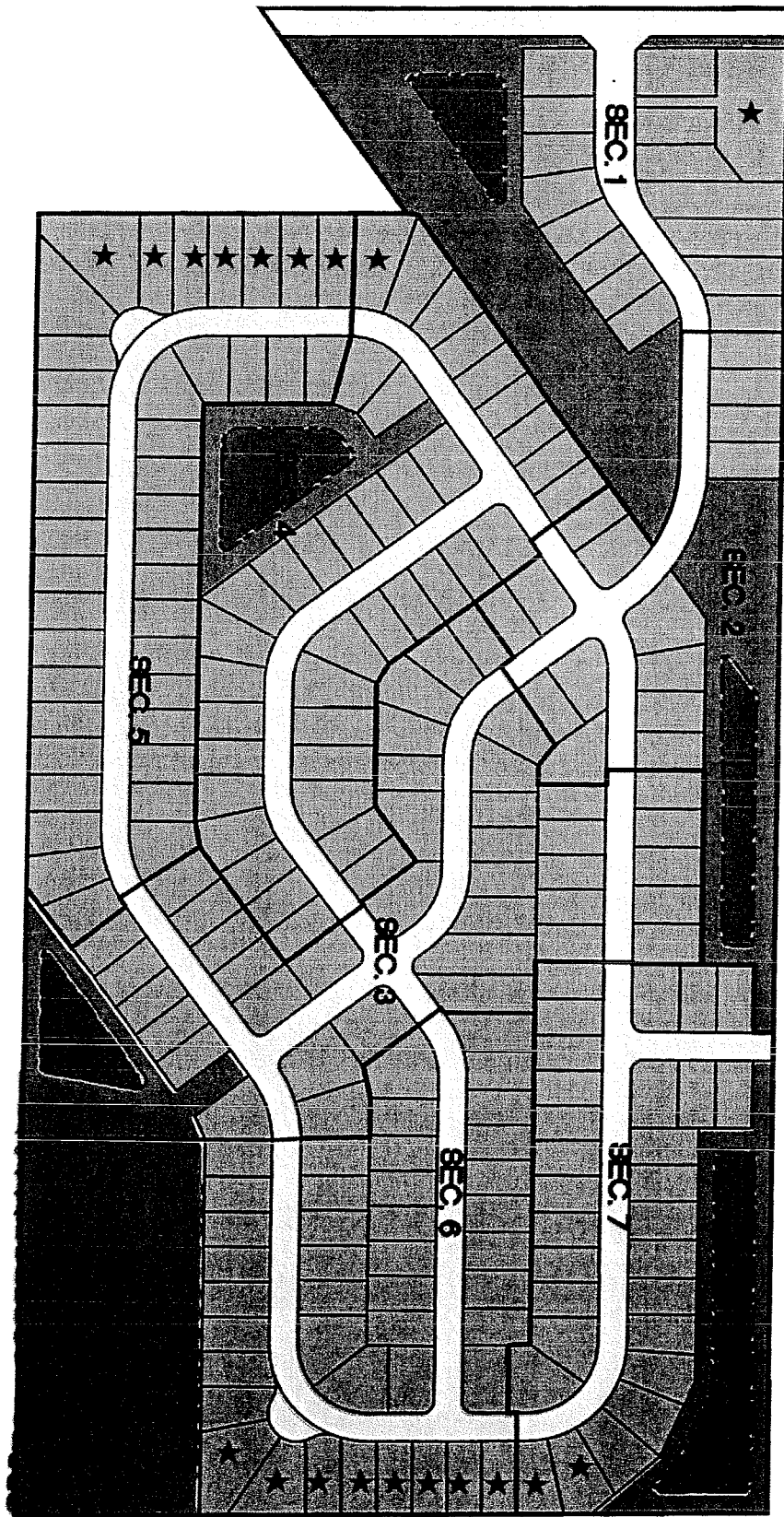
**EXHIBIT A**  
**LEGAL DESCRIPTION**

A part of the West Half of the Northeast Quarter of Section 36, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Northeast corner of said Half Quarter Section; thence South 00 degrees 17 minutes 26 seconds East along the East line of said Half Quarter Section 70.00 feet; thence South 89 degrees 15 minutes 25 seconds West 125.72 feet; thence South 00 degrees 44 minutes 35 seconds East 85.32 feet; thence South 89 degrees 15 minutes 25 seconds West 141.46 feet; thence South 00 degrees 44 minutes 35 seconds East 20.00 feet; thence North 89 degrees 15 minutes 25 seconds East 141.46 feet; thence South 00 degrees 44 minutes 35 seconds East 71.07 feet; thence South 39 degrees 04 minutes 55 seconds East 76.96 feet; thence North 89 degrees 41 minutes 29 seconds East 76.11 feet to a point on the East line of said Half Quarter Section; thence South 00 degrees 17 minutes 26 seconds East along the East line of said Half Quarter Section 2,359.09 feet to a point on the Southeast corner of said Half Quarter Section; thence South 89 degrees 03 minutes 05 seconds West along the South line of said Half Quarter Section 1,328.52 feet to a point on the Southwest corner of said Half Quarter Section; thence North 00 degrees 10 minutes 29 seconds West along the West line of said Half Quarter Section 2,273.02 feet; thence South 45 degrees 08 minutes 24 seconds East 204.52 feet to a point on a curve concave southerly, the radius point of said curve being South 45 degrees 08 minutes 24 seconds East 50.00 feet from said point; thence easterly along said curve 64.32 feet to the point of tangency of said curve, said point being North 28 degrees 33 minutes 36 seconds East 50.00 feet from the radius point of said curve, said point also being the point of curvature of a curve concave northerly, the radius point of said curve being North 28 degrees 33 minutes 36 seconds East 50.00 feet from said point; thence easterly along said curve 42.51 feet to the point of tangency of said curve, said point being South 20 degrees 09 minutes 31 seconds East 50.00 feet from the radius point of said curve, said point also being the point of curvature of a curve concave southerly, the radius point of said curve being South 20 degrees 09 minutes 31 seconds East 175.00 feet from said point; thence easterly along said curve 59.30 feet to the point of tangency of said curve, said point being North 00 degrees 44 minutes 34 seconds West 175.00 feet from the radius point of said curve; thence North 89 degrees 15 minutes 25 seconds East 254.01 feet to the point of curvature of a curve concave southerly, the radius point of said curve being South 00 degrees 44 minutes 35 seconds East 175.00 feet from said point; thence easterly along said curve 59.30 feet to a point on said curve, said point being North 18 degrees 40 minutes 20 seconds East 175.00 feet from the radius point of said curve; thence North 18 degrees 40 minutes 20 seconds East 184.59 feet; thence North 82 degrees 55 minutes 52 seconds West 20.69 feet; thence North 36 degrees 27 minutes 00 seconds West 447.17 feet to a point on the North line of said Half Quarter Section; thence North 89 degrees 15 minutes 25 seconds East along said North line 933.15 feet to the place of beginning, containing 73.851 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.

# EXHIBIT B

## CONCEPT PLAN



★ Indicates lots to which this Ordinance is inapplicable.

