

ORDINANCE NO. 061603 B

**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 PUD-R and this ordinance shall hereinafter be referred to as the South Avalon Estates PUD Ordinance:

SEE "EXHIBIT 1" ATTACHED HERETO.

SECTION 2. PURPOSE AND INTENT

The purpose and intent of this PUD-R is to provide an innovative residential development which promotes creativity and flexibility in the development of the Real Estate

SECTION 3. LAND USE

All uses of the R3-C zoning classification are permitted.

SECTION 4. DEVELOPMENT STANDARDS.

Except as varied by the development standards set out in the Development Guidelines, attached hereto as "Exhibit 2" and adopted as part of this ordinance, the development standards shall be the same as the standards set out in Section 151.068 R5 Residential District of the Zoning Code.

SECTION 5. OTHER REQUIREMENTS.

Any other requirements not specified by this PUD Ordinance shall be subject to Section 151.065 R3-C Residential District.

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 All provisions or parts thereof in conflict herewith are hereby repealed.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 3, must be recorded with the Hamilton County Recorder's office upon approval of this PUD District, and a verification of the recorded document must be submitted to the Department of Development and the Clerk-Treasurer.

ADOPTED BY THE Town Council of the Town of Fishers, Indiana on this 21st day of July 2003.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

AYE

NAY

BY: Scott M. Faultless

Scott Faultless,
President

Timothy O.Lima,
Vice President

Eileen Pritchard

Stuart F. Easley,
Member

Eileen N. Pritchard

Eileen N. Pritchard,
Member

Dan E. Henke,
Member

David C. White

Charles P. White,
Member

David 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

EXHIBIT "1"

LAND DESCRIPTION

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 Northwest corner of said Half Quarter Section; thence North 89 degrees 15 minutes 25 seconds East along the North line of said Half Quarter Section 1323.06 feet to the Northeast corner of said Half Quarter Section; thence South 00 degrees 17 minutes 26 seconds East along said East line 2,666.44 feet to 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 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 2,671.25 feet to the place of beginning, containing 81.224 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.

Exhibit "2"

Development Guidelines

District A

Maximum Number of Lots	225
Minimum Lot Area	7,440
Minimum Lot Width	62'
Minimum Lot Depth	120'
Front Yard Setback	20'
Rear Yard Setback	30'
Minimum Side Yard Separation	6'
Minimum Floor Area (excluding garages, porches, etc.)	
1-story	1,800 square feet
2-story	2,000 square feet
Maximum lot coverage (excluding sidewalks and driveway)	35%
Maximum Building Height	
Primary structure	35'
Accessory structure	15'
Off-street Parking Spaces	2
Minimum Open Space	16.3 +/- acres (includes ponds, buffer yards and all other common areas)

District B

Maximum Number of Lots	13
Minimum Lot Width	70'
Front Yard Setback	25'
Rear Yard Setback	30'
Minimum Side Yard Separation	6'
Minimum Floor Area (excluding garages, porches, etc.)	
1-story	1,600 square feet
2-story	2,400 square feet
Maximum lot coverage (excluding sidewalks and driveway)	35%
Maximum Building Height	
Primary structure	35'
Accessory structure	15'
Off-street Parking Spaces	2

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

Trinity Homes, LLC (the "Developer") 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:

See Exhibit A attached hereto.

Section 2. Docket No.: 9-R-03

Section 3. Statement of Commitments:

A. Development Commitments.

- (1) Streets shall have street trees on both sides of the street. Street trees shall be placed on average between 40 - 60 feet on center in a planting strip between the street and the sidewalk. The planting strip shall be a minimum of four feet wide. Trees shall be a minimum of two (2) inch caliper, as measured twelve (12) inches from the ground. Trees shall be deciduous and selected from the Town's approved List of Recommended Species.
- (2) Streets shall have sidewalks on both sides of the street.
- (3) Pedestrian crossings shall be clearly identified by color or texture change, through the use of stamped asphalt or concrete, pavers or paint markings.
- (4) Residential street lights shall not exceed twenty (20) feet in height. Decorative Washington style streetlights or similar style with reflectors or shielding and decorative street signs attached thereto will be utilized and maintained by the Homeowners' Association.
- (5) Traffic control signage will be mounted on decorative posts similar in style to the streetlights and also maintained by the Homeowners' Association.
- (6) Cul-de-sac islands shall be landscaped with plant material.
- (7) If the rear of any lot abuts 126th Street, it shall have twenty (20) feet of common area, adjacent to the thoroughfare or right-of-way. This common area shall not be used as part of utility easements. This common area shall contain an opaque screen of either a wall or fence of ornamental block, brick, metal or wood, or an earthen berm, in combination with shrubs. A minimum of fifty percent of the shrubs shall be evergreen. Evergreen or deciduous trees shall be planted at a rate six trees per 100 lineal feet and may be evenly spaced or clustered. This tree requirement is in addition to the street tree requirement. These improvements shall be provided by the developer or Homeowners' Association.
- (8) All detached single-family lots shall have a minimum depth of 120 feet.
- (9) No more than 10 lots may have rear lot lines adjacent to the east perimeter.

*There must be at least a balance
of 75' of common area - JPC*

- (10) The conservation area is defined as an area in which trees are to remain to the greatest extent possible, with consideration only for the requirements of drainage, utilities, and trails. The location of the conservation is shown on the concept plan.
- (11) Prior to any site development, highly visible (orange) construction fencing shall be installed outside the drip line of the conserved trees. Signage clearly identifying the area shall be posted.
- (12) Construction of all trails must coincide with the development of the Plat in which it is located.
- (13) District B, as shown on the concept plan attached hereto as Exhibit B, will be exempt from these development commitments.

B. Architectural Commitments.

- (1) Corner lots shall be deemed to have two (2) front yards; therefore, the front yard landscaping and fencing requirements apply to both street frontages on corner lots.
- (2) Front yard fences shall be limited to 42 inches in height and shall be a minimum of 50 percent open. Fences shall be limited to six feet in all other yards.
- (3) All chain link fences shall be vinyl-coated and limited to forty-two (42") inches in height and are prohibited in front yards, with corner lots deemed to have two front yards. Stockade fences are prohibited. Any fence located on the development perimeter adjacent to 126th Street shall comply with a design standard of a wood shadow box style fence not greater than five (5) feet in height. All fences shall be subject to review and approval by the Architectural Control Committee of the Homeowners' Association.
- (4) A standard landscaping package shall be included with each home sold. This landscape package shall provide for trees and shrubs around the building. In addition to the street tree requirement:
 - a. Lots greater than 65 feet in width at the setback line shall be planted with at least two (2) trees either deciduous and/or evergreen and a minimum of eight (8) shrubs. The deciduous tree should be of at least two-inch caliper as measured twelve inches from the ground and the evergreen at least six feet in height.
 - b. Lots with street frontage less than sixty-five (65) feet shall require one (1) deciduous or evergreen lawn tree of the same dimensions as stated above and a minimum of four (4) shrubs shall be planted at the foundation of the structure.
- (5) All homes in District A, as shown on the concept plan attached hereto as Exhibit B, shall have garages that are courtyard-, side-, or rear-loaded.
- (6) All homes shall have a minimum two-car attached garage.
- (7) For lots less than 65 feet wide with a garage equal to or exceeding fifty (50) percent of the width of the residence, the garage shall be side-loading or recessed a minimum of four feet behind the front façade. If the garage is less than 50 percent of the width of the residence, the garage may be front loading, but shall not protrude more than fourteen (14) feet from the first

floor façade. Front-loading garages protruding more than eight (8) feet shall also contain a window on the side facing the entry. If the front-loaded garage protrudes more than twelve (12) feet, it shall contain two windows on the side facing the entry.

- (8) Garages that protrude more than fourteen (14) feet shall have a side-loaded or court entry and shall have two (2) windows located on the front elevation of the garage.
- (9) A third car garage may be added to residences with front-load garages if the front elevation is over 50 feet in width and if a minimum of 23 feet of residential façade is indicated in the front elevation. The third car garage entrance must be recessed 4 feet from the 2-car garage entrance. Any three-car driveway must taper to a maximum of 16 wide at the property line. On lots more than 65 feet in width, residences with a front-loading garage that protrudes in front of the first floor façade shall be equal to or greater than 40 feet wide.
- (10) All homes shall have a light beside the front door, and two “dusk-to-dawn” type lights on the garage.
- (11) Like model elevations shall be separated by at least one (1) lot and no like model elevations shall be directly across the street from one another. No two (2) adjacent residences shall have the same exterior siding color.
- (12) The colors utilized for the non-brick or non-stone areas should feature a base color with natural tones, subtle hues and may be accented with brighter, more intense complementary or contrasting tones.
- (13) Those new homes adjacent to 126th Street that are not accessed by a frontage road and/or positioned with a front facing 126th Street shall contain “Hardi-Plank” siding as the predominate building material, or masonry on the first floor. At least one window shall be provided on each side with shutters on all windows on all sides.
- (14) There shall be a mandatory Homeowners’ Association established with the following requirements included: an initiation fee, a budget requirement to fund general reserves, establishment of an architectural control committee to oversee improvements after the initial home construction, and a provision for professional management upon turnover.
- (15) Mini-barns are prohibited.
- (16) Satellite dishes shall not exceed 30 inches in diameter and shall meet FCC standards.
- (17) All new homes shall be a minimum standard of Trinity Classic product, or equivalent.
- (18) Homes with a 50% brick front (windows, doors, garage doors, accompanying frames and any other opening are excluded from calculations of the total area), or a covered front porch with railings (of at least eight feet in width and four feet in depth or a minimum of 32 square feet) shall have at least two (2) of the following significant architectural design features. Homes with less than a 50% brick front and without a front porch of the preceding dimensions shall have a combination of four (4) or more of the following features.

- a. Reverse gable peak
- b. Covered front porch with railings on front and side (of at least eight feet in width and four feet in depth or a minimum of 32 square feet)
- c. 32 inch brick or stone plinth with water table on all sides
- d. Architectural treatment on gable ends
- e. A separate overhead door per car for each garage
- f. Covered front stoop/steps with pathway leading from sidewalk or driveway
- g. Bay-window on front elevation
- h. Architecturally treated entranceways (for homes without a front porch)
- i. Garage doors containing windows of high standard and quality
- j. Overhang or soffit of at least 15 inches from exterior wall
- k. Transom windows
- l. Veranda/balcony
- m. Two or more roof planes
- n. Brick accent area of at least 25 percent of the front elevation
- o. Dormers (at least two)
- p. At least 2 feet of relief at two or more points along the front facade elevation, excluding relief for doors and windows and garage.
- q. Decorative shutters
- r. Architecturally-enhanced articulated trim mouldings, i.e. fipons above windows

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 the South Avalon Estates PUD Ordinance by the Town Council of Fishers, Indiana assigning the PUD-R zoning classification to the real estate identified in Docket No. 9-R-03.

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, Trinity Homes, LLC, has caused this commitment to be executed as of the _____ day of _____, 2003.

Trinity Homes, LLC

By: _____

STATE OF INDIANA)
) SS:
COUNTY OF _____)

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

Witness my hand and Notarial Seal this _____ day of _____, 2003.

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.

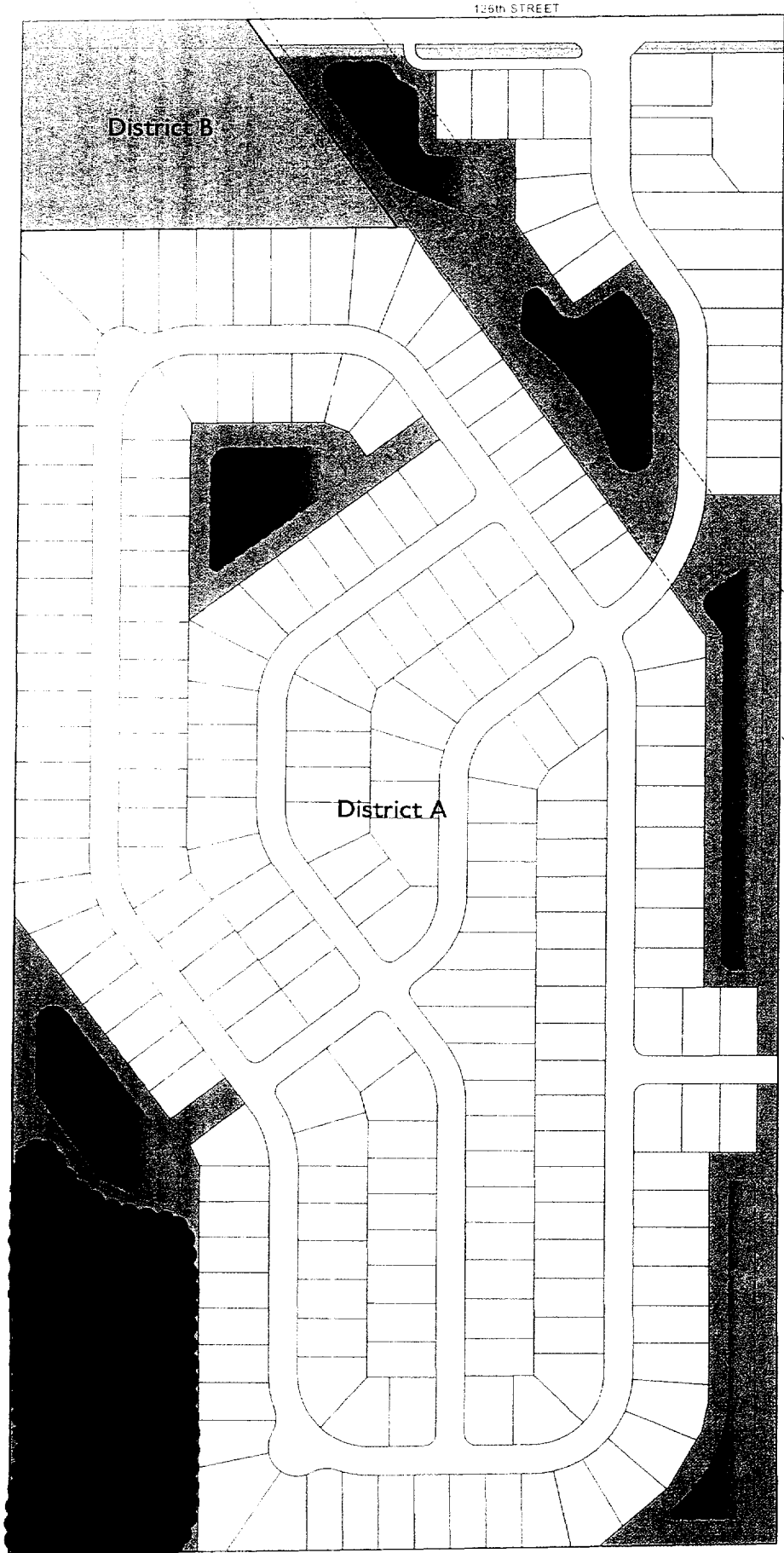
EXHIBIT "A"

LAND DESCRIPTION

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 Northwest corner of said Half Quarter Section; thence North 89 degrees 15 minutes 25 seconds East along the North line of said Half Quarter Section 1323.06 feet to the Northeast corner of said Half Quarter Section; thence South 00 degrees 17 minutes 26 seconds East along said East line 2,666.44 feet to 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 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 2,671.25 feet to the place of beginning, containing 81.224 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.

EXHIBIT "B"



North

Open Space

District A	
Buffer	0.39 acres
Ponds	5.41
Common Area	12.95

District B	
Buffer	0.20
Open space	N/A

**Development Guidelines
Comparison to Original Avalon PUD Ordinance**

	South Avalon Estates District A	Original Avalon District F
Maximum Number of Lots	225	225
Minimum Lot Area	7,440'	6,600'
Minimum Lot Width	62' Avg. 64'	55' and 70'* Avg. 58'
Minimum Lot Depth	120'	120'
Front Yard Setback	20'	20' porch 25' building
Rear Yard Setback	30'	30'
Minimum Side Yard	6'	6'
Minimum Floor Area (excluding garages, porches, etc.)		
1-story	1800 square ft.	1400/1800 square ft.*
2-story	2000 square ft.	1800/2600 square ft.*
Maximum lot coverage (excluding sidewalks and driveway)	35%	35%
Maximum Building Height		
Primary structure	35'	35'
Accessory structure	15'	25'
Off-street Parking Spaces	2	2
Minimum Open Space	16.3 +/- acres (includes ponds, buffer yards and all other common areas)	16.3 +/- acres (includes ponds, buffer yards and all other common areas)
Garages	At least 2-car attached; all homes either courtyard-, side-, or rear- loaded	At least 2-car attached
Average Home Price	\$210,000	\$185,000

*Under the original ordinance, lots within 250' of the east perimeter (approximately 37 of the 225 lots) were required to be 70' wide and 1,800 square feet for a 1-story and 2,600 square feet for a multi-story. Under the updated concept plan, now only 10 lots can back up to the east perimeter; ponds now span most of the east perimeter in place of the lots planned under the original concept plan.