

**Year**

**2013**

v.06.05.13

**THE HAVEN**

A Planned Unit Development District

Town of Fishers  
Planned Development  
Ordinance  
020413



## 1.02 Applicability



- A. The standards of the UDO applicable to the **R2 Residential District** shall apply to the development of the Real Estate, except as modified, revised, or expressly made inapplicable by this PUD District Ordinance (this "Ordinance"). The Real Estate may be developed pursuant to the UDO's **R2 Residential District** standards, or, it may be developed pursuant to the terms of this Ordinance. "Article" cross-references of this Ordinance shall hereafter refer to the *Article* section as specified and referenced in the UDO. Capitalized terms that are not otherwise defined herein shall have the meaning ascribed to them in the UDO. Pursuant to *Article 04.002(F): Amendments to the Unified Development Ordinance*, an amendment to the UDO shall apply to this Ordinance unless this Ordinance has specified an alternative development or design standard.

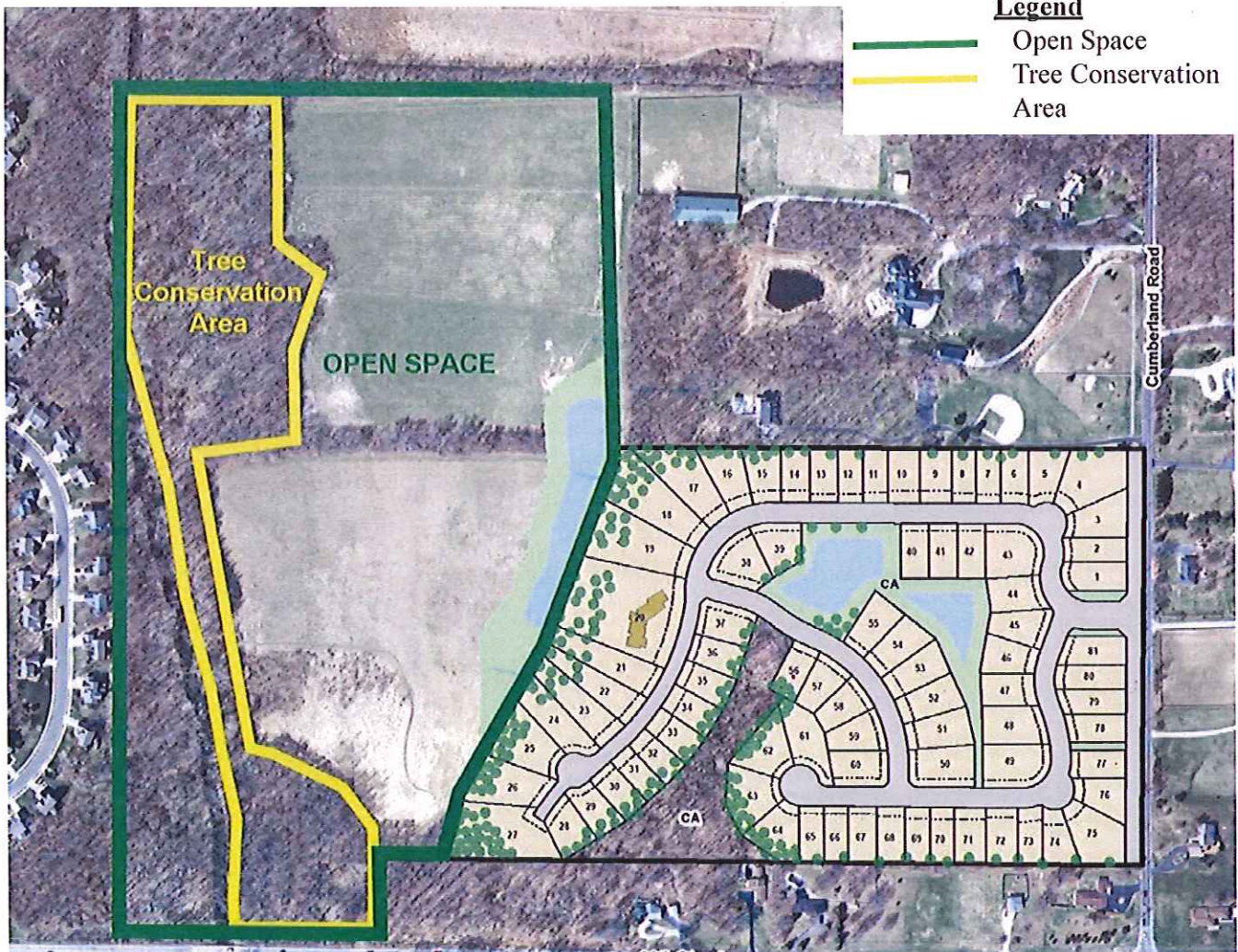
## 1.03 Concept Plan

- A. The Concept Plan is hereby incorporated. Per *Article 09.017(A)(2)(a): Planned Unit Development District; General; Purpose & Intent*, the Concept Plan provides the Plan Commission and Town Council with a general vision for the development of the Real Estate. All references in this Ordinance to lot numbers are based upon the general locations of those lots as depicted on the Concept Plan and are intended to provide a locational representation. The actual lot numbers shall be determined at the time of final platting and may differ from the lot numbers contained in this Ordinance.

### Concept Plan Exhibit

#### Legend

-  Open Space
-  Tree Conservation Area



## 1.04 Development Standards

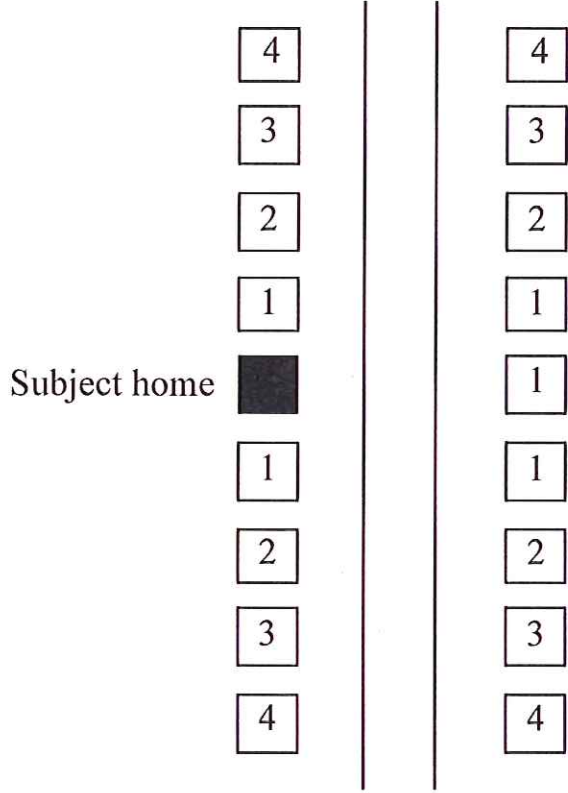
- A. Cross References: The regulations of Article 02: Zoning Districts & Regulations and Article 05: Development Standards shall apply except as modified by this Ordinance and except with respect to land along the west boundary of the Real Estate conveyed to adjacent land owners (the "Covington Area").
- B. General Regulations:
- (1) The maximum number of Dwellings for the Real Estate shall not exceed eighty-one (81).
  - (2) *Article 02.008: R2 Residential District Development Standards* shall apply, except as provided below:
    - (i) Minimum Lot Area: 6,800 square feet
    - (ii) Minimum Lot Width at Building Line: 62 feet
    - (iii) Minimum Lot Frontage: 50 feet; provided lots fronting on cul-de-sacs, eyebrows or private access drives shall have a Minimum Lot Width of 40 feet
    - (iv) Minimum Front Setback: 20 feet
    - (v) Minimum Side Setback: 5 feet
    - (vi) Minimum Aggregate Side Setback: 10 feet
    - (vii) Minimum Rear Setback: 20 feet
    - (viii) Maximum Impervious Surface Coverage: 45% of the Lot Area
    - (ix) Minimum Living Unit Area: One and one-half story: 2,200 square feet
    - (x) Maximum Structure Height: One and one half stories
- C. Accessory Structure Standards (AS): shall apply except as modified below:
- (1) *Article 05.007 AS-04: Accessory Structures; Residential* shall apply; however in ground swimming pools and swing sets shall not be permitted on Lot 4 through Lot 17. Further, above ground swimming pools and mini barns shall not be permitted on any Lot.
- D. Architectural Design Standards (AD): shall apply except as modified below:
- (1) *Article 05.012 AD-01(A)(2): Architectural Design; Single-Family Residential; Facade; Exterior Material* shall apply; however, aluminum and heavy-gauge vinyl shall not be permitted as a siding material.
  - (2) *Article 05.012 AD-01(C): Architectural Design; Single-Family Residential; Roof* shall apply except as modified below:
    - (i) *AD-01(C)(2): Materials* shall be modified to require that all dwellings have dimensional shingles. Metal may be used as an accent material and only on a secondary roof plane.
    - (ii) *AD-01(C)(3): Minimum Eave/Overhang Width* shall be modified to require that all dwellings have eaves or overhangs a minimum of twelve (12) inches deep on the front and rear elevations; no minimum overhang shall be required for the side elevations. Depth shall be determined prior to the installation of masonry.
    - (iii) The Illustrative Architectural Exhibit of Section 1.10 is provided for informational purposes and provides examples of likely home elevations.
  - (3) All homes shall have decorative garage doors.
  - (4) One and one-half story shall mean a house with a master bedroom located on the first floor and having a second story living area no greater than 50% of the first floor livable area, unless otherwise approved by the PUD Committee.
  - (5) All homes shall include Architectural Features from *Article 05.012 AD-01(A)(3): Architectural Features* sufficient to accumulate eight (8) or more points. Multiple features (e.g., hip roof, two or more dormers) within a given category (e.g., roof) shall each be counted as part of the total number of features.
- E. Density & Intensity Standards (DI): shall apply.
- F. Entrance & Driveway Standards (ED): shall apply.
- G. Environmental Standards (EN): shall apply.
- H. Fence & Wall Standards (FW): shall apply except as modified below:
- (1) *Article 5.029 FW-01: Fence & Wall; General* shall apply, however, on Lots 4 through 17:
    - (i) All rear yard fences shall be wrought iron style fencing not to exceed 6' in height.
    - (ii) All rear yard fences shall be located south of the 15' landscape easement.
    - (iii) Opaque privacy fences up to 6' in height shall be permitted around patio areas not to exceed 17' from the back of the home.

- I. Floodplain Standards (FP): shall apply.
- J. Floor Area Standards (FA): shall apply.
- K. Height Standards (HT): shall apply.
- L. Home Occupation Standards (HO): shall apply.
- M. Landscaping Standards (LA): shall apply except as modified below:
  - (1) *Article 5.039 LA-02: Landscaping Standards; Street Trees, §B* shall apply; however, street trees along Cumberland Road shall be provided at a ratio of one (1) ornamental tree per twenty-five (25) feet (in lieu of one (1) canopy tree per fifty (50) feet), exclusive of emergency access easements or entry drives.
  - (2) *Article 5.039 LA-02: Landscaping Standards; Street Trees, §C* shall apply except for the western cul-de-sac street where street trees shall be planted in the front yard.
  - (3) *Article 5.039 LA-02: Landscaping Standards; Street Trees, §D* shall apply, however; street trees along Cumberland Road shall be planted within the outer ten (10) feet of the right-of-way.
  - (4) *Article 5.040 LA-03: Landscaping Standards; Residential Subdivision Lot and Foundation Plantings, §A* shall not apply to the western cul-de-sac street.
- N. Lighting Standards (LT): shall apply, except as modified by Section 1.05 (W) - Street Lighting Standards (SL) of this Ordinance below.
- O. Loading Standards (LD): shall apply.
- P. Lot Standards (LO): shall apply.
- Q. Outdoor Storage Standards (OS): shall apply.
- R. Parking Standards (PK): shall apply.
- S. Pedestrian Accessibility Standards (PA): shall apply except as modified below:
  - (1) The Mud Creek Greenway path identified in the Parks Master Plan shall not be required to be constructed; however, a twenty-five (25) foot wide greenway trail easement, with appropriate indemnities, shall be provided from the southernmost property line to the northernmost property line of the Real Estate in favor of the Town of Fishers. This easement will be generally located within the Tree Conservation Easement, defined below. The exact location will be determined at the time of primary platting.
- T. Performance Standards (PF): shall apply.
- U. Property Identification Standards (PI): shall apply.
- V. Public Improvement Standards (PV): shall apply.
- W. Setback Standards (SB): shall apply.
- X. Sewer & Water Standards (SW): shall apply.
- Y. Sexually Oriented Business Standards (SX): shall apply.
- Z. Sign Standards (SG): shall apply.
- AA. Structure Quantity Standards (SQ): shall apply.
- BB. Telecommunication Facility Standards (TC): shall apply.
- CC. Temporary Use/Structure Standards (TU): shall apply.
- DD. Use-specific Standards (US): shall apply.
- EE. Vision Clearance Standards (VC): shall apply.

## 1.05 Design Standards

- A. Cross References: The regulations of *Article 07: Design Standards* applicable to a *Planned Unit Development (PUD)* shall apply except as modified by this Ordinance:
- B. Access Road Standards (AC): shall apply.
- C. Alley Standards (AL): shall apply.
- D. Anti-monotony Standards (AM): shall not apply, rather all homes shall comply with the Facade Variety Code, as set forth below:

Facade Variety Code



- 1 Home cannot be of the same elevation of the same plan as the Subject home. Must be a different color package.
- 2 Home cannot be of the same elevation of the same plan as the Subject home. Cannot be the identical color package as the Subject home but may have the same brick.
- 3 Home may be of the same plan and elevation as the Subject home, but must be a different color package.
- 4 May be identical to Subject home.



- E. Common Area Standards (CA): shall apply.
- F. Covenant Standards (CE): shall apply.
- G. Dedication of Public Improvement Standards (DD): shall apply.
- H. Density & Intensity Standards (DE): shall apply.
- I. Development Name Standards (DN): shall apply.
- J. Easement Standards (EA): shall apply.
- K. Erosion Control Standards (EC): shall apply.
- L. Floodplain Standards (FL): shall apply.
- M. Lot Establishment Standards (LT): shall apply.
- N. Mixed Use Development Standards (MU): shall apply.
- O. Monument & Marker Standards (MM): shall apply.
- P. On-street Parking Standards (OG): shall apply.
- Q. Open Space Standards (OP): shall apply, except as modified herein. Open Space shall be located as generally depicted on the Concept Plan. Such Open Space, except for the Covington Area and those areas appropriate for wetlands mitigation, shall be designated as "Common Area" on the final plat. Such Open Space shall not be developed for residential uses, but may be used for farming, pasture, passive or active recreational and amenity uses, pasture fence, riding or walking trails, gardens, wetlands mitigation (up to fifteen (15) acres), and other similar uses.
- R. Pedestrian Network Standards (PN): shall apply except as modified below:
  - (1) An off-street horse trail easement shall be provided along the south property line from Cumberland Road to and within the Common Area. There shall be no requirements regarding trail surfacing, trail width or trail length. The exact location of the horse trail easement shall be determined at the time of primary platting.
  - (2) A walking trail shall be provided in the Open Space. There shall be no requirements regarding trail surfacing, trail width or trail length. The exact location of the walking trail easement shall be determined at the time of Final Development Plan approval.
- S. Perimeter Landscaping Standards: shall not apply; rather, the following shall apply:
  - (1) Cumberland Road - A perimeter landscaping easement, a minimum depth of twenty (20) feet, shall be established along the length of the Real Estate's Cumberland Road frontage. The perimeter landscaping easement shall abut the Cumberland Road right-of-way and shall not overlap other easements. The perimeter landscaping easement along Cumberland Road shall include the following:
    - (i) Evergreen (spruce) trees shall be provided at an average rate of ten (10) trees per one-hundred (100) feet exclusive of emergency access easements or entry drives and shall be a minimum of eight (8) feet tall at planting.
    - (ii) The "Horse Fence Exhibit" is hereby incorporated. A decorative white fence, generally consistent in quality and character as the fence depicted in the Horse Fence Exhibit, shall be installed within the perimeter landscaping easement along Cumberland Road from the north property line to the south property line, except for breaks required for streets or emergency access points. The decorative white fence shall be of vinyl construction.
    - (iii) Planting Pattern: Plantings may be planted in a staggered double row or may be planted in clusters or irregular patterns to create a more natural planting pattern; and in combination with the decorative fence. The exact location of the trees and fence shall be subject to impediments and considerations such as easements, storm drainage, lines of sight, and best practices.



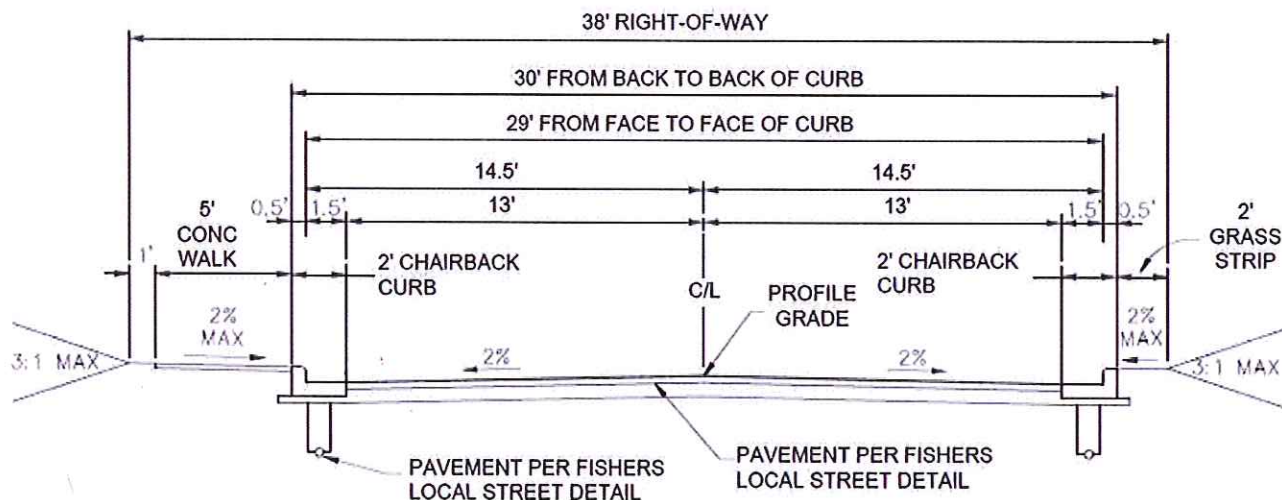
- (2) North Property Line – A 15' perimeter landscape easement shall be provided along the north property line from the east line of Lot 4 to the west line of Lot 16. A 15' Drainage and Utility Easement shall be provided south of said 15' perimeter landscape easement. The 15' perimeter landscape easement shall include the following:
  - (i) Evergreen (spruce) trees shall be provided at an average rate of eight (8) trees per one-hundred (100) feet and shall be a minimum of eight (8) feet tall at planting, except for those trees on Lots 13 through 16 which shall be a minimum of ten (10) feet tall at planting. Installation of said trees shall occur no later than the first planting season after development of Lots 13 through 16 occurs.
  - (ii) The decorative white fence shall also be placed along the north property line from Cumberland Road to the westerly edge of proposed Lot 15.
  - (iii) The decorative white fence shall be of vinyl construction.
- (3) South Property Line - A 15' perimeter landscape easement shall be provided along the south property line of The Haven to include the Southeast corner of Lot 64, and Lots 65, 66, 67, 68 and 69. Native Indiana hardwoods, not less than 2" caliper at planting shall be provided at an average rate of six (6) trees per one-hundred (100) feet within said landscape easement. Installation of said trees shall occur no later than the first planting season after development of the Southeast corner of Lot 64, and Lots 65, 66, 67, 68 and 69. In addition, subject to the approval of the neighboring property owner south of the Southeast corner of Lot 64, and Lots 65, 66, 67, 68 and 69, an additional eighteen (18) spruce trees not less than 7' tall at planting shall be installed either on said lots or on the neighboring property owners property, or a combination thereof.

U. Storm Water Standards (SM): shall apply.

V. Street & Right-of-way Standards (SR): shall apply, provided however:

- (1) The western most cul-de-sac street shall be permitted to be up to 600' in length consistent with the requirements for a standard subdivision. The "Cul-de-Sac Exhibit" is hereby incorporated. The western most cul-de-sac shall be developed in compliance with the standards set forth in the Cul-de-Sac Exhibit.
- (2) The cul-de-sac bulb shall have a 40' radius with a 5' sidewalk abutting the back of curb on the northwest side.
- (3) There shall be a private access drive off of the southwest terminus of the cul-de-sac to serve all or part of Lots 25 through 29. The private access drive shall be approximately 115' in length, with an easement width of 28' and 18' back-to-back pavement section. Curb details shall be determined in cooperation with the Fire Department at the time of primary platting.

**Cul-de-Sac Exhibit**





The Developer shall dedicate additional right-of-way along Cumberland Road (the "ROW") pursuant to the Town's Thoroughfare Plan at the time of Final Development Plan approval. Perimeter Landscaping may be located within the ROW upon review and approval by the Town's Development and Engineering Departments. If and when Cumberland Road is widened in the future, then the Developer, Owner's Association or Owner shall work with the Town regarding any modifications to the Perimeter Landscaping and such modifications shall not cause the Real Estate to otherwise become nonconforming.

The Developer shall dedicate additional right-of-way along Cumberland Road (the "ROW") pursuant to the Town's Thoroughfare Plan at the time of Final Development Plan approval.

- W. Street Lighting Standards (SL): shall apply except as modified below:
  - (i) Street lights shall only be required at the main entrance drive from Cumberland Road and the two (2) internal intersections.
  - (ii) Two (2) dusk-to-dawn lights that operate on a photo cell shall be installed on either side of the garage door on each home.
- X. Street Name Standards (SN): shall apply.
- Y. Street Sign Standards (SS): shall apply.
- Z. Surety Standards (SY): shall apply.
- AA. Utility Standards (UT): shall apply.
- BB. Tree Preservation: A tree conservation easement ("Tree Conservation Easement") shall be established on the final plat approximately as shown on the Concept Plan. Within the Easement, no trees with a diameter at breast height ("DBH") in excess of six inches (6") or evergreens eight feet (8') or more in height (the "Protected Trees") shall be removed unless the tree is damaged, diseased, dead, listed as Invasive and Poor Characteristic Species in the Town of Fishers Approved List of Recommended Species or is required to be removed in order to comply with safety requirements of any governmental agency. If a Protected Tree is damaged or otherwise removed by the developer or builder, except as permitted to be removed as listed above, then the developer or builder (as the case may be) shall reestablish the Protected Tree with a tree or trees of combined equal or greater DBH subject to the availability of space for their healthy growth in the Tree Conservation Easement. It is acknowledged that certain areas of the Tree Conservation Easement will not be appropriate for preservation due to drainage and utility needs as will be identified at the time of approval of the final plat.

#### 1.06 Procedures

- A. The procedures set forth in *Article 09: Processes, Permits & Fees; Planned Unit Development* shall apply. Dwellings shall be reviewed administratively at the time of building permit review for compliance with this Ordinance. If the Director determines proposed homes elevations do not comply with this Ordinance, then the PUD Committee shall review and may approve the proposed building elevations.
- B. The PUD Committee shall have discretion and flexibility to consider and approve modifications pertaining to architecture, signage and landscaping design standards established or referenced by this Ordinance if the Committee determines such modifications are consistent with the intent of this Ordinance and consistent with the quality and character represented in this Ordinance.

#### 1.07 Miscellaneous

Reserved.

1.08 Adoption

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 17<sup>th</sup> day of JUNE, Two Thousand and Thirteen.

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

AYE

NAY

BY:

Handwritten signatures of John W. Weingardt, C. Pete Peterson, Scott A. Faultless, Stuart F. Easley, David C. George, and Michael Colby.

John W. Weingardt, President
C. Pete Peterson, Vice President
Scott A. Faultless, Member
Stuart F. Easley, Member
David C. George, Member
Michael Colby, Member
Renee Cox, Member

Blank lines for NAY votes.

ATTEST:

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

Ordinance No. 020413

Approved by: Douglas D. Church, Esq., Town Attorney, Church, Church, Hittle and Antrim
Prepared by: Steven D. Hardin, Esq.
Faegre Baker Daniels, LLP, 600 East 96th Street, Suite 600, Indianapolis, Indiana 46240 Phone: (317) 569-9600

## 1.09 Real Estate

Property Address: 9750 Cumberland Road, Fishers, IN

Parcel I: (Instr. #2003-1627)

Sixty-four (64) acres off the North side of 79.64 acres off the South side of the Southeast Quarter of Section 7, Township 17 North, Range 5 East, in Delaware Township, Hamilton County, Indiana.

Parcel II: (Pt. Instr. #91-5992)

A part of the Southeast Quarter of Section 7, Township 17 North, Range 5 East, in Delaware Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southwest corner of said Southeast Quarter; thence East along the South line of said Section a distance of 678.72 feet; thence North and parallel with the West line of said Quarter Section 256.72 feet; thence West and parallel with the South line of said Quarter Section 678.72 feet to the West line of said Quarter Section; thence South along the West line of said Quarter Section to the point of beginning, containing in all 4.00 acres, more or less.

Parcel III: (Part of Instr. #91-27018)

Part of the Southeast Quarter of Section 7, Township 17 North, Range 5 East in Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the said Southeast Quarter Section; thence North 00 degrees 07 minutes 45 seconds East (assumed bearing) along the east line of the said Quarter Section 1309.99 feet-measured (1308.63 feet-deed) to the Northeast corner of 79.64 acres off the South side of the said Quarter Section; thence North 89 degrees 25 minutes 32 seconds West along the North line thereof and parallel with the South line of the said Quarter Section 1329.00 feet to the Point of Beginning, which is the Southwest corner of a tract of land conveyed to Philip M. Paligraf per Warranty Deed recorded as Instrument #8615031 in Book 358, pages 118 and 119 in the Office of the Recorder of Hamilton County, Indiana; thence North 00 degrees 00 minutes 00 seconds along the West line of said Paligraf tract and its extension thereof 931.13 feet; thence North 89 degrees 45 minutes 12 seconds West parallel with the North line of the said Quarter Section 1303.16 feet to the west line of the said Quarter Section; thence South 00 degrees 38 minutes 12 seconds West along the said West line 923.63 feet to the Northwest corner of 79.64 acres off the South side of the said Quarter Section; thence South 89 degrees 25 minutes 32 seconds East along the North line thereof and parallel with the South line of the said Quarter section 1313.47 feet to the point of beginning, containing 27.85 acres, more or less.

Surveyor's Report for Job #070320

## 1.10 Illustrative Architectural Exhibit (1 of 4)



## 1.10 Illustrative Architectural Exhibit (2 of 4)



## 1.10 Illustrative Architectural Exhibit (3 of 4)



## 1.10 Illustrative Architectural Exhibit (4 of 4)

