

**ORDINANCE NO. 021604A**

**AN ORDINANCE AMENDING THE ZONING ORDINANCE  
OF FISHERS, INDIANA -1980**

THIS ORDINANCE #021604A (the "Thorpe Creek PUD") IS AN ORDINANCE AMENDING THE ZONING ORDINANCE OF FISHERS, INDIANA, DATED NOVEMBER 3, 1980 - Ordinance No. 110380, as amended (the "Zoning Ordinance"), which Zoning Ordinance includes the Comprehensive Plan - Chapter 150, as amended and the Zoning Code, Chapter 151, as amended;

**SECTION 1. DECLARATION**

It is hereby ordained by the Town Council (the "Council") of the Town of Fishers, Indiana (the "Town") that the text of the Zoning Ordinance and the Official Zoning Map (the "Zone Map") of the Town, which accompanies and is part of the Zoning Ordinance, are hereby amended as follows:

That the Zoning Classification of the real estate described in what is attached hereto and incorporated herein by this reference as Exhibit "A" (the "Real Estate") is hereby zoned PUD-R per the terms and conditions of this Thorpe Creek PUD.

**SECTION 2. PURPOSE AND INTENT**

The purpose and intent of the Thorpe Creek PUD is to provide an innovative mixed residential/commercial development which promotes creativity and flexibility in the development of the Real Estate to be compatible with the surrounding property .

**SECTION 3. DEFINITIONS**

The following definitions shall apply throughout this Thorpe Creek PUD:

- A. **Declaration.** The term "Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions prepared and recorded by the Developer with the Recorder of Hamilton County, Indiana.
- B. **Detached Single Family Residence.** The term "Detached Single Family Residence" shall mean and refer to a single family residence which is not attached to another single family residence.
- C. **Developer.** The term Developer shall mean and refer to Precedent Residential Development, LLC, or its successors and assigns.
- D. **District Map.** Attached hereto and incorporated herein by this reference as Exhibit "B" is a conceptual district map (the "District Map") allocating the Real Estate into District A, District B, District C, and District D.

- E. **Homeowners Association.** The term "Homeowners Association" shall mean and refer to a non-profit corporation established by the Developer per the terms of the Declaration.
- F. **Neighborhood Association.** The term "Neighborhood Association" shall mean and refer to the non-profit corporation established by the Developer per the terms of the Neighborhood Declaration.
- G. **Neighborhood Declaration.** The term "Neighborhood Declaration" shall mean and refer to the Neighborhood Declarations of Covenants, Conditions, and Restrictions prepared and recorded by the Developer, with the Recorder of Hamilton County, Indiana, for District B.

**SECTION 4. LAND USE.** Detached Single Family Residences and other related and accessory residential land uses are permitted in what are identified on the District Map as District A, District B, District C, and District D and as further specified in the development standards matrix attached hereto and made a part hereof as Exhibit "C" (the "Development Standards Matrix"). The District Map allocates the Real Estate into Districts (the "Districts") to which the Development Standards Matrix corresponds.

**SECTION 5. DEVELOPMENT STANDARDS.** The following standards shall be applicable to Districts A, B, C, and D:

- A. Street trees shall be planted on both sides of all streets internal to the subdivision, except (i) in those areas in which the Town's Subdivision Control Ordinance prohibits fences, walls, hedges, trees, or shrubs and (ii) on the west side of the cul-de-sac street, to be located in the southwest corner of the Real Estate adjacent to the Geist Overlook subdivision. The number of required street trees shall be the quotient equal to (i) the total lineal length of those segments of internal streets in which street trees are permitted to be planted divided by (ii) 50 feet. Street trees shall be placed approximately 50 feet on center, except in areas where utility regulations prohibit the placement of street trees. The planting strip shall be the area between the street and the sidewalk, and shall be a minimum of 4 feet in width (the "Planting Strip"). Street trees shall be a minimum of 2 inch caliper at planting, as measured 12 inches from the ground. Street trees shall be deciduous and selected from the Town of Fishers' approved List of Recommended Species. If, by reason of utility regulations, all of the required street trees cannot be planted within the Planting Strip, then there shall be planted, within a common area within the Real Estate, street trees equal in number to the difference between (i) the required street trees and (ii) the number of street trees that are planted within the Planting Strip.
- B. Behind (i) all lots immediately adjacent to 126th Street, there shall be a twenty (20) foot common area adjacent to such thoroughfares or right-of-ways. Utility easements shall not exist within this twenty (20) foot common area. This common area shall contain either (i) a wall or fence of ornamental block, brick, metal or wood, or (ii) an undulating earthen berm (averaging four (4) to six (6) feet in height) in combination with landscape plant material. Evergreen or deciduous trees shall be planted at a minimum rate of eight (8)

trees per one hundred (100) lineal feet and may be evenly spaced or clustered. Deciduous trees shall be of at least two (2) inch caliper at planting as measured twelve (12) inches above the ground, and evergreen trees shall be at least seven (7) feet in height at planting. A minimum of fifty (50) percent of such trees shall be evergreen trees. These improvements shall be provided by the Developer and maintained by the Homeowners Association.

- C. The height of accessory structures shall not exceed fifteen (15) feet.
- D. A standard landscaping package shall be included with each residence sold. This landscape package shall provide for trees and shrubs around the residence. In addition to the street tree requirement, each residence shall be planted with at least two (2) deciduous trees and/or evergreen trees, and a minimum of eleven (11) shrubs. The deciduous tree shall be of at least two-inch caliper at planting as measured twelve (12) inches from the ground, and the evergreen at least six (6) feet in height at planting.
- E. Street lights shall not exceed fifteen (15) feet in height, and shall be located at major intersections throughout the subdivision. The height of such lights shall be measured from the ground. Each light shall have shielding to direct light downward in order to minimize light spillover.
- F. Cul-de-sac islands shall be landscaped with plant material.
- G. All residences shall have a minimum two-car garage.
- H. Lot Coverage shall not exceed forty-five (45) percent.
- I. All lots shall have a minimum depth of one hundred twenty (120) feet.
- J. Side load or courtyard entry garages shall have two (2) windows located on the front elevation of the garage.
- K. Front loading garages protruding more than eight (8) feet shall also contain a window on the side of the garage closest to the entry to the residence.
- L. A third car garage may be added to residences. Any three (3) car driveway must taper to a maximum of sixteen (16) feet wide at the lot line.
- M. In order to achieve any of the following, one (1) driveway may serve two (2) residences, but not more than two (2) residences:
  - 1. Remove garage entrances from the street; and/or
  - 2. Provide distinctive open space opportunities; and/or
  - 3. Take advantage of unique topography

N. Residences with either (i) brick on at least fifty (50) percent of the area of the front facade (windows, doors, garage doors, accompanying frames and any other opening are excluded from calculations of the area) or (ii) a covered front porch, with railings, of at least eight feet in width and four feet in depth or a minimum of thirty-two (32) square feet, shall have at least two (2) of the following significant architectural design features. Residences with neither (i) fifty (50) percent brick on the area of the front facade (windows, doors, garage doors, accompanying frames and any other opening are excluded from calculations of the area) nor (ii) a front porch of the preceding dimensions shall have a combination of four (4) or more of the following features.

1. A reverse gable peak;
2. A covered front porch, with railings on front and side, of at least eight (8) feet in width and four (4) feet in depth or a minimum of thirty-two (32) square feet;
3. A thirty-two (32) inch brick or stone plinth with water table on all sides;
4. Architectural treatment on gable ends;
5. Two separate overhead garage doors for each two (2) car garage, and three (3) separate overhead garage doors for each three (3) car garage;
6. Covered front stoop/steps with pathway leading from sidewalk or driveway;
7. A bay-window on the front elevation;
8. Architecturally treated entranceways for residences without a front porch;
9. Garage doors containing windows of high standard and quality;
10. Overhang or soffit of at least eight (8) inches from exterior walls;
11. Transom windows;
12. A veranda/balcony;
13. Two or more roof planes;
14. A brick accent area of at least twenty-five (25) percent of the area of the front elevation (windows, doors, garage doors, accompanying frames and any other openings are excluded from calculations of the area);
15. At least two (2) dormers;

16. At least two (2) feet of relief at two (2) or more points along the front facade elevation, excluding relief for doors and windows and garage;
17. Decorative shutters; or
18. Architecturally-enhanced articulated trim moldings, such as fipons above windows.

## **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 Exit 10 Planned Unit Development Committee and the Planned Unit Development process as set forth in Section 151.072 Planned Unit Development District. Any requirements not specified by this PUD Ordinance shall be subject to Chapters 151.064 R3 Residential District of the Town of Fishers Code of Land Use Ordinances.

The petitioner shall follow all Procedures for Detailed Development Plan Approval, provided by Department of Development staff. In addition, the petitioner shall:

- A. Meet with staff to discuss the project,
- B. Meet with the PUD Committee to present preliminary plans and drawings for the project; the PUD Committee will review the preliminary plans and drawings and will make a recommendation to the Plan Commission,
- C. Submit preliminary elevations and lighting along with material samples, color boards and other materials which further illustrate the project to the PUD committee,
- D. Meet with the PUD Committee for review of the final detailed development plan and approval of final plans and drawings for the project,

## **SECTION 7. APPROVAL**

This ordinance shall be in full force and effect from and after its passage by the Town Council. All provisions or parts thereof in conflict herewith are hereby repealed.

*Including the commitments attached hereto, made part of hereof, + marked EXHIBIT E /MC*

ADOPTED BY THE Town Council of the Town of Fishers, Indiana on this 17<sup>th</sup> day of May, 2004.

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

**AYE**

**NAY**

**BY:**

<u>Scott A. Faultless</u>	Scott A. Faultless, President	_____
<u>Stuart F. Easley</u>	Stuart F. Easley, Vice President	_____
<u>Eileen N. Pritchard</u>	Timothy O. Lima, Member	_____
<u>Daniel E. Henke</u>	Eileen N. Pritchard, Member	_____
<u>Charles P. White</u>	Daniel E. Henke, Member	_____
<u>David C. George</u>	Charles P. White, Member	_____
	David C. George, Member	_____

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

DATE: May 17, 2004

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

## EXHIBIT "A"

### SURVEY LAND DESCRIPTION

A part of the Northwest Quarter of Section 31, Township 18 North, Range 6 East in Hamilton County, Indiana described as follows:

Beginning at the Northwest Corner of the Northwest Quarter of said Section 31: thence North 89 degrees 34 minutes 36 Seconds East along the north line of said northwest quarter a distance of 1315.45 feet to the East Line of the West Half of the said quarter section; thence South 00 degrees 29 minutes 20 seconds East along said east line a distance of 2681.38 feet to the south line of the said northwest quarter section; thence South 89 degrees 35 minutes 55 seconds West along said south line a distance of 1319.30 feet to a stone marking the Southwest Corner of said quarter section; thence North 00 degrees 24 minutes 25 seconds West along the West line of said quarter section a distance of 2652.48 feet to a railroad spike marking the Northeast Corner Section 36, Township 18 North, Range 5 East; thence North 00 degrees 22 minutes 55 seconds West continuing along said west line a distance of 28.40 feet to the Point of Beginning, containing 81.09 acres, more or less.

AND

The East Half of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter, all in Section 36, Township 18 North, Range 5 East in Hamilton County, Indiana described as follows:

Beginning at a railroad spike marking the Northeast Corner of the Northeast Quarter of said Section 36; thence South 00 degrees 24 minutes 25 seconds East along the East line of the Northeast Quarter Section of said Section 36 a distance of 2652.48 feet to a stone marking the Southeast Corner of the Northeast Quarter of said Section 36; thence South 00 degrees 05 minutes 36 seconds West along the East line of the Southeast Quarter of said Section 36 a distance of 1335.12 feet to a 5/8 inch capped rebar with yellow plastic cap stamped, "SCHNEIDER ENG FIRM #0001", hereinafter referred to as Schneider rebar found marking the Southeast Corner of the Northeast Quarter of the Southeast Quarter of said Section 36; thence South 88 degrees 52 minutes 09 seconds West along the south line said quarter quarter section a distance of 1324.34 feet to a Schneider rebar found marking the Southwest Corner of said quarter quarter section; thence North 00 degrees 06 minutes 10 seconds West along the West Line of said quarter quarter section a distance of 1334.90 feet to

a Schneider rebar marking the Northwest Corner of said quarter quarter section and being the Southwest Corner of the East Half of the Northeast Quarter of said Section 36; thence North 00 degrees 16 minutes 58 seconds West along the west line of said east half a distance of 2661.63 feet to a mag nail found marking the Northwest Corner of the East Half of the Northeast Quarter of said Section 36; thence North 89 degrees 15 minutes 22 seconds East along the North Line of the Northwest Quarter of said Section 36 a distance of 1323.06 feet to the Point of Beginning, containing 121.53 acres, more or less.

For a combined acreage of 202.62 acres.

ALSO: The entire width of right-of-way of 126<sup>th</sup> Street that is contiguous to the real estate described hereinabove.



EXHIBIT "B"

Date: May 17, 2004

# Thorpe Creek

## Conceptual Site Development Plan



Scale: 1"=500'

- District 'A'
- District 'B'
- District 'C'
- District 'D'

- Tree Preservation Area
- Tree Conservation Area
- Green Space
- \*\*\*\* Greenway Trail  
- 30' Easement



# PRECEDENT

Residential Development, LLC  
(317) 805-1280

## falcon

ENGINEERING, INC.

13110 Promise Road, Noblesville, IN 46060  
Phone: (317) 841-3141 Fax: (317) 841-9951

NOTE: THIS DRAWING IS A PRELIMINARY SITE DEVELOPMENT PLAN. THE DEVELOPER RESERVES THE RIGHT TO CHANGE THE PLAN AT THEIR DISCRETION WITHOUT NOTICE.

EXHIBIT "C"

**THORPE CREEK  
PUD Development Standards Matrix**

5/17/2004

Parcel	Land Use Type	Permitted Land Use	Acreeage	Open Space Acreeage	Dwelling Unit (Maximum)	Density	Square Feet Per Residential Unit (Minimum)	Lot Width (Minimum)	Front Setback (Minimum)	Rear Setback (Minimum)	Side Setback (Minimum)	Building Height (Maximum)
A	Single-family detached	R3	59.21	11.70	116	1.96	1800 sq. ft. ranch 2300 sq. ft. multi-story	90'	25'	20'	6'	35'
B	Single-family detached	R4-C	59.8	11.96	163	2.73	1500 sq. ft. ranch	67'	25' *	20' **	6'	35'
C	Single-family detached	R4-C	31.42	10.06	61	1.94	1800 sq. ft. ranch 2100 sq. ft. multi-story	70'	25'	20'	6'	35'
D	Single-family detached	R-3	52.18	14.10	85	1.63	2000 sq. ft. ranch 2400 sq. ft. multi-story	100'	25'	20'	6'	35'
<b>TOTAL:</b>			202.61	47.82	425	2.10						

\* Provided, however, that the front yard setback applicable to the 9 lots on the east side of the street and cul-de-sac in the southwest corner of District "B" shall be 20'.  
 \*\* Provided, however, that the rear yard setback applicable to the 9 lots on the east side of the street and cul-de-sac in the southwest corner of District "B" shall be 15'.

EXHIBIT "D"

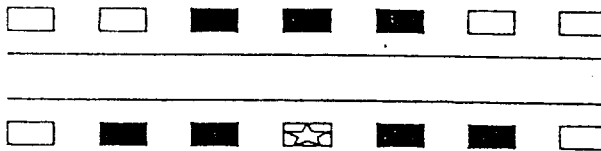
The Monotony Code



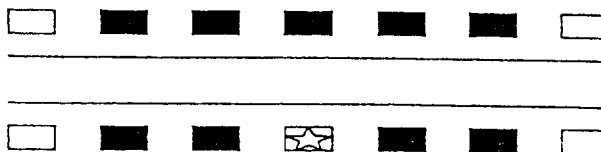
Pulte Homes of Indiana  
11590 North Meridian Street, Suite 530  
Carmel, IN 46032

In an effort to maintain Pulte's high standard of neighborhood integrity and design, please review the following guidelines relating to our monotony code:

1. Brick packages may not be duplicated for two homesites 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 homesites 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.)



Obviously, not all streets run perfectly straight and we have corner lots and cul-de-sacs to contend with as well. In these situations, the Developer, and its successor and assignee, shall apply and may modify or vary this Monotony Code in its sole and absolute discretion.

# EXHIBIT E

## COMMITMENTS CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE

PRECEDENT RESIDENTIAL DEVELOPMENT, LLC, (hereafter, "Precedent"), the contract purchaser of the real estate located in Hamilton County, Indiana, and described in what is attached hereto and incorporated herein by referenced as Exhibit "A" (the "Real Estate"), makes the following Commitments (the "Commitments") to the Advisory Plan Commission of the Town of Fishers (the "Plan Commission") and the Town Council of the Town of Fishers, Indiana (the "Council") for the Thorpe Creek Subdivision.

**Section 1. Cross Reference.** These Commitments are made in connection with approvals obtained under Docket Number 2-IZ-04 and Ordinance Number ~~0121604A~~ 021604A

**Section 2. Exhibits.** The following exhibits are attached hereto and incorporated herein by reference:

Exhibit "A". Attached hereto and incorporated herein by reference as Exhibit "A" is the legal description of the real estate (the "Real Estate");

Exhibit "B". Attached hereto and incorporated herein by reference as Exhibit "B" is the conceptual district map (the "District Map") which apports the Real Estate into districts A, B, C, and D (the "Districts");

Exhibit "C". Attached hereto and incorporated herein by reference as Exhibit "C" is the development standards matrix (the "Development Standards Matrix") which specifies the development standards applicable to each District;

Exhibit "D". Attached hereto and incorporated herein by reference as Exhibit "D" is what shall hereafter be referred to as the "Monotony Code".

Exhibit "E". Attached hereto and incorporated herein by reference as Exhibit "E" in 4 parts is what shall hereafter be referred to as the "Southwest Corner Drawings".

**Section 3. Definitions.** Different words and terms are defined throughout these Commitments and, further, the following definitions shall apply throughout these Commitments:

1. Conservation Area. The term "Conservation Area" shall mean and refer to the areas identified on Exhibit B as Conservation Areas located within lots. The secondary plat of the Real Estate, to be recorded with the Recorder of Hamilton County, Indiana, shall also identify the Conservation Areas. These Conservation Areas will be generally in the area

identified on Exhibit D; however, the exact area of the Conservation Area shall be as designated on the final plat by the Developer, in the Developer's sole discretion.

2. Detached Single Family Residence. The term "Detached Single Family Residence" shall mean and refer to a single family residence which is not attached to another single family residence;
3. Developer. The term "Developer" shall mean and refer to Precedent Residential Development, LLC, and its successors and assigns.
4. Homeowners Association. The term "Homeowners Association" shall mean and refer to a non-profit corporation established by the Developer per the terms of the Umbrella Declaration.
5. Masonry. Brick, stone, cultured stone, EIFS, stucco, or the equivalent.
6. Neighborhood Association. The term "Neighborhood Association" shall mean and refer to the non-profit corporation established by the Developer per the terms of the Neighborhood Declaration.
7. Neighborhood Declaration. The term "Neighborhood Declaration" shall mean and refer to the Neighborhood Declarations of Covenants, Conditions, and Restrictions prepared and recorded by the Developer, with the Recorder of Hamilton County, Indiana, for District B.
8. Preservation Area. The term "Preservation Area" shall mean and refer to the areas identified on Exhibit B as Preservation Areas located within common areas. The secondary plat of the Real Estate, to be recorded with the Recorder of Hamilton County, Indiana, shall also identify the Preservation Areas. These Preservation Areas will be generally in the area identified on Exhibit D; however, the exact area of the Preservation Area shall be as designated on the final plat by the Developer, in the Developer's sole discretion.
9. Southwest Cul-de-sac. The term "Southwest Cul-de-sac" shall mean and refer to the cul-de-sac, to the east of which are nine (9) lots, as shown on the District Map in the southwest corner of District B.
10. Umbrella Declaration. The term "Umbrella Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions applicable to all Districts prepared and recorded by the Developer with the Recorder of Hamilton County, Indiana.

**Section 4. Commitments Applicable to All Districts.** The following commitments are applicable to all Detached Single Family Residences within any District:

1. Decorative Washington-style street lights, or similar style street lights, with reflectors, shields, and attached decorative street signs, shall be utilized and shall be maintained by the Homeowners Association and/or Neighborhood Association designated by the Developer.
2. Traffic control signage shall be mounted on decorative posts, similar in style to the decorative street lights, and shall also be maintained by the Homeowners Association and/or Neighborhood Association designated by the Developer.
3. The colors utilized for exterior building materials, other than brick and stone, shall feature a base color with natural tones and subtle hues, and may be accented with brighter, more intense or complimentary contrasting tones.
4. All fences shall be subject to review and approval by the Architectural Review Committee, and shall comply with the following requirements:
  - A. Front yard fences shall not exceed forty-two (42) inches in height and shall be a minimum of 50% open. Unless otherwise restricted or qualified in these Commitments, fences in all yards other than front yards shall not exceed six (6) feet in height.
  - B. Stockade fences are prohibited.
  - C. Any fence located between a residence adjacent to 126th Street shall be a wood shadow box style fence not greater than five (5) feet in height.
5. Mini barns are prohibited.

**Section 5. District A Commitments.** The following commitments shall apply to District A:

1. Uniform mailboxes shall be used for each residence within District A;
2. The permitted exterior building material shall be decorative precast panels, Masonry, wood, composite lap, Hardi-Plank or similar type siding, or shingle siding. Vinyl is not permitted as an exterior building material; provided, however, that vinyl-clad windows and soffits shall be permitted.

3. The first floor of the rear elevation of all residences which are immediately adjacent to 126<sup>th</sup> Street shall be all Masonry, excluding windows, doors, and garage doors.
4. The roofs on all primary structures shall be at a pitch of 6 vertical to 12 horizontal (6:12); provided, however, that ancillary roofs may have a lesser pitch.
5. The exterior building materials on all fireplace chases on the exterior of a residence shall be masonry; provided, however, that interior or direct vent fireplaces shall not require masonry exteriors.
6. The minimum square footage (i) for a ranch home with one occupiable floor shall be 1,800 square feet, exclusive of garages, porches, and basements, and (ii) for a multi-level residence shall be 2,300 square feet, exclusive of garages, porches, and basements.
7. All residences shall have either (i) a dusk to dawn, garage-mounted coach light or (ii) a dusk to dawn yard light.
8. All residences shall have address stones or decorative address plaques.
9. The Monotony code shall apply.

**Section 6. District B Commitments.** The following commitments shall apply to District B:

1. Standard mailboxes consisting of at least two mailboxes per post with newspaper holders shall be utilized.
2. The Developer will establish a Neighborhood Declaration which shall provide for lawn maintenance, and snow removal, all (i) in a manner and to an extent to be determined by the Developer in its discretion and (ii) to be funded by mandatory assessments to be collected by the Neighborhood Association.
3. There shall be a mandatory Neighborhood Association established for District B which shall require (i) an initiation fee, (ii) a budget to fund general reserves for the above-described lawn and landscaping maintenance and snow removal, and (iii) a requirement of professional management upon turnover of the Neighborhood Association by the Developer to the homeowners.
4. The permitted exterior building material shall be decorative precast panels, Masonry, wood, composite lap, Hardi-Plank or similar type siding, or shingle siding. Vinyl is not permitted as an exterior building material; provided, however, that vinyl-clad windows and soffits shall be permitted.

5. All homes shall have a light at the front door.
6. The roofs on all primary structures shall be at a pitch of 5 vertical to 12 horizontal (5:12); provided, however, that ancillary roofs may have a lesser pitch.
7. The minimum square footage for a ranch home with one occupiable floor shall be 1,500 square feet, exclusive of garages, porches, and basements.
8. Each residence shall incorporate a floor plate of at least nine (9) feet on the first or main floor of the residence.
9. Each residence shall have a master bedroom on the first or main floor of the residence.
10. All residences shall have address stones or decorative address plaques.
11. All metal flue terminations shall be painted black and located to the rear or side elevation of the residence.
12. The Monotony Code shall apply.

**Section 7. District C Commitments.** The following commitments shall apply within District C:

1. Uniform mailboxes shall be used for each residence within District C.
2. The Developer will establish a Neighborhood Declaration which shall offer all residences lawn and landscaping maintenance, and snow removal, all (i) in a manner and to an extent to be determined by the Developer in its discretion and (ii) to be paid directly by each residence directly to the sub-contractors.
3. The permitted exterior building material shall be decorative precast panels, Masonry, wood, composite lap, Hardi-Plank or similar type siding, or shingle siding. Vinyl is not permitted as an exterior building material; provided, however, that vinyl-clad windows and soffits shall be permitted.
4. The first floor of all four elevations on all residences immediately adjacent to 126<sup>th</sup> Street shall be of Masonry material, excluding windows, doors, and garage doors.
5. All homes shall have a light at the front door.



6. The roofs on all primary structures shall be at a pitch of 6 vertical to 12 horizontal (6:12); provided, however, that ancillary roofs may have a lesser pitch.
7. The exterior building materials on all fireplace chases on the exterior of a residence shall be Masonry; provided, however, that interior or direct vent fireplaces shall not require masonry exteriors.
8. The minimum square footage (i) for a ranch home with one occupiable floor shall be 1,800 square feet, exclusive of garages, porches, and basements, and (ii) for a multi-level residence shall be 2,100 square feet, exclusive of garages, porches, and basements.
9. Each residence shall incorporate a floor plate of at least nine (9) feet on the first or main floor of the residence.
10. Each residence shall have a master bedroom on the first or main floor of the residence.
11. All residences shall have address stones or decorative address plaques.
12. All metal flue terminations shall be painted black and located to the rear or side elevation of the residence.
13. All residences shall have a minimum eight (8) inch roof overhang.
14. The Monotony Code shall apply.

**Section 8. District D Commitments.** The following commitments shall apply to District D:

1. Uniform mailboxes shall be used for each residence within District D.
2. The permitted exterior building material shall be decorative precast panels, Masonry, wood, composite lap, Hardi-Plank or similar type siding, or shingle siding. Vinyl is not permitted as an exterior building material; provided, however, that vinyl-clad windows and soffits shall be permitted.
3. The roofs on all primary structures shall be at a pitch of 6 vertical to 12 horizontal (6:12); provided, however, that ancillary roofs may have a lesser pitch.
4. The exterior building materials on all fireplace chases on the exterior of a residence shall be Masonry; provided, however, that interior or direct vent fireplaces shall not require masonry exteriors.

5. The minimum square footage (i) for a ranch home with one occupiable floor shall be 2,000 square feet, exclusive of garages, porches, and basements, and (ii) for a multi-level residence shall be 2,400 square feet, exclusive of garages, porches, and basements.
6. All residences shall have either (i) a dusk to dawn garage-mounted coach light or (ii) a dusk to dawn yard light.
7. All residences shall have address stones or decorative address plaques.
8. The Monotony Code shall apply.
9. The Umbrella Declaration shall reserve and dedicate to the Town a thirty (30) foot trail way easement, from the top of bank of Thorpe Creek, across the southeast corner of District D, in the area identified on the District Map as “Greenway Trail”.

**Section 9. Central Park Commitments.** The Developer shall install the following within the central park, all of which shall hereafter be referred to as the Improvements:

1. One swimming pool of approximately one thousand nine hundred fifty (1950) square feet;
2. One wading pool of approximately one hundred forty (140) square feet;
3. One pool house;
4. One basketball court;
5. One playground containing playground equipment appropriate for preschool children through grade school children;
6. Landscaping to provide shade around seeding areas, playgrounds, and parking lots, and to define pedestrian ways. Such landscaping shall include, but shall not be limited to, a combination of deciduous trees, evergreens, and ornamental flowering species.

The Improvements shall be of a type, location, size, design, configuration, architecture, and composition determined by the Developer in the Developer's sole discretion.

**Section 10. Conservation Area Commitments.** The commitments applicable to the Conservation Areas are as follows:

1. Except as noted immediately below, each builder and/or Developer shall endeavor to conserve trees within the Conservation Area, and owners of lots shall not remove trees within Conservation Areas:
  - A. The clearing of underbrush, as defined and determined by the Developer's certified arborist or landscape architect, and the clearing of dead trees shall be allowed;
  - B. The removal of trees necessary for the installation of utilities, walking trails, and drainage improvements and infrastructure shall be allowed; and
  - C. Trees may be removed as necessary for public health and safety .

Except as set forth immediately above in subparagraphs A, B, and C, each tree within the Conservation Area which is badly damaged or destroyed by a lot owner or during the course of construction activities and which is greater than four (4) inches in diameter, measured six (6) inches above the ground, shall be replaced within one (1) year, by the person or entity causing such damage or destruction, with a tree which is at least two and one-half (2-1/2) inches in diameter measured six (6) inches above the ground. Any trees which are so replaced and which die within one (1) year of their planting shall promptly be replaced with a substantially similar tree.

**Section 11. Preservation Area Commitments.** The commitments applicable to Preservation Areas shall be as follows:

1. Preservation Areas shall be owned and maintained by the Homeowners Association as a common area, and residential construction shall not occur within the Preservation Areas. Except as noted immediately below, each builder and/or developer shall endeavor to preserve trees within the Preservation Areas, and the owners of lots or the Homeowners Association shall not remove trees within the Preservation Areas:
  - A. The clearing of underbrush and dead trees shall be allowed;
  - B. The removal of trees necessary for the installation of utilities, drainage improvements and infrastructure, and trails shall be allowed; and
  - C. The removal of trees for public health and safety shall be allowed.

Except as set forth in paragraphs A, B, and C immediately above, each tree within the Preservation Area which is badly damaged or destroyed by a lot owner or during the course of construction activities and which is greater than four (4) inches in diameter,

measured six (6) inches above the ground, shall be replaced within one (1) year, by the person or entity causing such damage or destruction, with a tree which is at least two and one-half (2-1/2) inches in diameter measured six (6) inches above the ground. Any trees which are so replaced and which die within one (1) year of their planting shall promptly be replaced with a substantially similar tree.

2. Subject only to alteration and tree removal in order to accommodate drainage, utilities, and trails, the flood plain along Thorpe Creek shall be maintained in its natural state, to the best of the Developer's ability.

### **Section 12. Southwest Corner**

As illustrated on the Southwest Corner Drawings, (i) to the west of the Southwest Cul-de-sac there shall be fifty-five (55) feet of tree preservation, the installation of a two (2) to three (3) foot high dry stacked stone wall, and twenty-six (26) foot wide pavement within a forty (40) foot right-of-way and (ii) to the south of the Southwest Cul-de-sac there shall be forty-five (45) feet of tree preservation.

### **Section 13. Binding on Successors**

These Commitments are binding on the Owner of the Real Estate, each subsequent Owner of the Real Estate, and each other person acquiring an interest in the Real Estate, unless modified or terminated by the Commission. These Commitments may be modified or terminated only by a decision of the Plan Commission after a public hearing wherein notice as provided by the rules of the Plan Commission has been made. The provisions of this paragraph notwithstanding, these Commitments shall terminate as to any part or parts of the Real Estate hereafter reclassified (rezoned) on the Town's Official Zone Map.

### **Section 14. Effective Date**

The Commitments contained herein shall be effective upon the occurrence of all of the following events:

1. The adoption of an ordinance by the Town Council of Fishers, Indiana, assigning the requested PUD-M Classification to the Real Estate;
2. The acquisition of the Real Estate by Precedent or its successors and assigns; and
3. The commencement of the development of the Real Estate in accordance with the assignment of the requested PUD-M classification.

**Section 15. Recording**

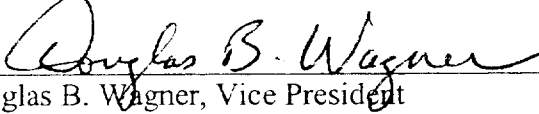
The undersigned hereby authorizes the Secretary of the Commission to record these Commitments in the Office of the Recorder of Hamilton County, Indiana.

**Section 16. Enforcement**

These Commitments may be enforced by the Commission and the Town Council of Fishers, Indiana and any property owner within or immediately adjacent to the Real Estate.

IN WITNESS WHEREOF, PRECEDENT RESIDENTIAL DEVELOPMENT, LLC, has caused these Commitments to be executed as of the date first written above.

PRECEDENT RESIDENTIAL DEVELOPMENT, LLC

By:   
Douglas B. Wagner, Vice President

STATE OF INDIANA        )  
  ) SS:  
COUNTY OF MARION     )

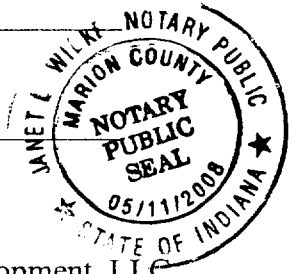
Before me the undersigned, a Notary Public in and for said County and State, personally appeared *Douglas B. Wagner*, as Vice President, Precedent Residential Development, LLC, and having been duly sworn, acknowledged execution of the foregoing Commitments.

Witness my hand and Notarial Seal this 17TH day of MAY, 2004.

My Commission Expires:  
5-11-2008

Residing in MARION County

*Janet L. Wilke*  
\_\_\_\_\_  
Notary Public  
*JANET L. WILKE*  
\_\_\_\_\_  
Printed Name



Prepared By: Douglas B. Wagner, Vice President, Precedent Residential Development, LLC.

Reviewed By: Charles D. Frankenberger, Nelson & Frankenberger, 3105 East 98th Street, Suite 170, Indianapolis, Indiana 46280 (317) 844-0106.

EXHIBIT "A"

SURVEY LAND DESCRIPTION

A part of the Northwest Quarter of Section 31, Township 18 North, Range 6 East in Hamilton County, Indiana described as follows:

Beginning at the Northwest Corner of the Northwest Quarter of said Section 31: thence North 89 degrees 34 minutes 36 Seconds East along the north line of said northwest quarter a distance of 1315.45 feet to the East Line of the West Half of the said quarter section; thence South 00 degrees 29 minutes 20 seconds East along said east line a distance of 2681.38 feet to the south line of the said northwest quarter section; thence South 89 degrees 35 minutes 55 seconds West along said south line a distance of 1319.30 feet to a stone marking the Southwest Corner of said quarter section; thence North 00 degrees 24 minutes 25 seconds West along the West line of said quarter section a distance of 2652.48 feet to a railroad spike marking the Northeast Corner Section 36, Township 18 North, Range 5 East; thence North 00 degrees 22 minutes 55 seconds West continuing along said west line a distance of 28.40 feet to the Point of Beginning, containing 81.09 acres, more or less.

AND

The East Half of the Northeast Quarter and the Northeast Quarter of the Southeast Quarter, all in Section 36, Township 18 North, Range 5 East in Hamilton County, Indiana described as follows:

Beginning at a railroad spike marking the Northeast Corner of the Northeast Quarter of said Section 36; thence South 00 degrees 24 minutes 25 seconds East along the East line of the Northeast Quarter Section of said Section 36 a distance of 2652.48 feet to a stone marking the Southeast Corner of the Northeast Quarter of said Section 36; thence South 00 degrees 05 minutes 36 seconds West along the East line of the Southeast Quarter of said Section 36 a distance of 1335.12 feet to a 5/8 inch capped rebar with yellow plastic cap stamped, "SCHNEIDER ENG FIRM #0001", hereinafter referred to as Schneider rebar found marking the Southeast Corner of the Northeast Quarter of the Southeast Quarter of said Section 36; thence South 88 degrees 52 minutes 09 seconds West along the south line said quarter quarter section a distance of 1324.34 feet to a Schneider rebar found marking the Southwest Corner of said quarter quarter section; thence North 00 degrees 06 minutes 10 seconds West along the West Line of said quarter quarter section a distance of 1334.90 feet to

a Schneider rebar marking the Northwest Corner of said quarter quarter section and being the Southwest Corner of the East Half of the Northeast Quarter of said Section 36; thence North 00 degrees 16 minutes 58 seconds West along the west line of said east half a distance of 2661.63 feet to a mag nail found marking the Northwest Corner of the East Half of the Northeast Quarter of said Section 36; thence North 89 degrees 15 minutes 22 seconds East along the North Line of the Northwest Quarter of said Section 36 a distance of 1323.06 feet to the Point of Beginning, containing 121.53 acres, more or less.

For a combined acreage of 202.62 acres.

ALSO: The entire width of right-of-way of 126<sup>th</sup> Street that is contiguous to the real estate described hereinabove.



EXHIBIT "B"

Date: May 17, 2004

# Thorpe Creek

## Conceptual Site Development Plan



Scale: 1"=500'



- District 'A'
- District 'B'
- District 'C'
- District 'D'

- Tree Preservation Area
- Tree Conservation Area
- Green Space
- \*\*\*\* Greenway Trail  
- 30' Easement



# PRECEDENT

Residential Development, LLC

(317) 805-1280

## falcon

ENGINEERING, INC.

13110 Promise Road, Noblesville, IN 46060  
Phone: (317) 841-3141 Fax: (317) 841-9951

NOTE: THIS DRAWING IS A PRELIMINARY SITE DEVELOPMENT PLAN. THE DEVELOPER RESERVES THE RIGHT TO CHANGE THE PLAN AT THEIR DISCRETION WITHOUT NOTICE.

**EXHIBIT "C"**

**THORPE CREEK  
PUD Development Standards Matrix**

Parcel	Land Use Type	Permitted Land Use	Acreage	Open Space Acreage	Dwelling Unit (Maximum)	Density	Square Feet Per Residential Unit (Minimum)	Lot Width (Minimum)	Front Setback (Minimum)	Rear Setback (Minimum)	Side Setback (Minimum)	Building Height (Maximum)
A	Single-family detached	R3	59.21	11.70	116	1.96	1800 sq. ft. ranch 2300 sq. ft. multi-story	90'	25'	20'	6'	35'
B	Single-family detached	R4-C	59.8	11.96	163	2.73	1500 sq. ft. ranch	67'	25'*	20'**	6'	35'
C	Single-family detached	R4-C	31.42	10.06	61	1.94	1800 sq. ft. ranch 2100 sq. ft. multi-story	70'	25'	20'	6'	35'
D	Single-family detached	R-3	52.18	14.10	85	1.63	2000 sq. ft. ranch 2400 sq. ft. multi-story	100'	25'	20'	6'	35'
<b>TOTAL:</b>			<b>202.61</b>	<b>47.82</b>	<b>425</b>	<b>2.10</b>						

\* Provided, however, that the front yard setback applicable to the 9 lots on the east side of the street and cul-de-sac in the southwest corner of District "B" shall be 20'.

\*\*Provided, however, that the rear yard setback applicable to the 9 lots on the east side of the street and cul-de-sac in the southwest corner of District "B" shall be 15'.

EXHIBIT "D"

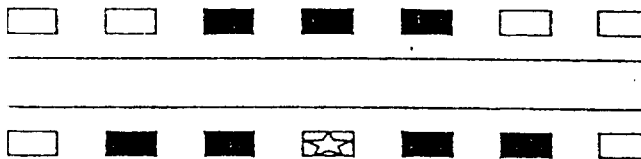
The Monotony Code



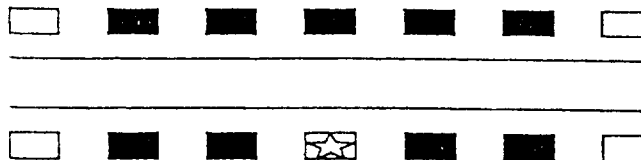
Pulte Homes of Indiana  
11590 North Meridian Street, Suite 530  
Carmel, IN 46032

In an effort to maintain Pulte's high standard of neighborhood integrity and design, please review the following guidelines relating to our monotony code:

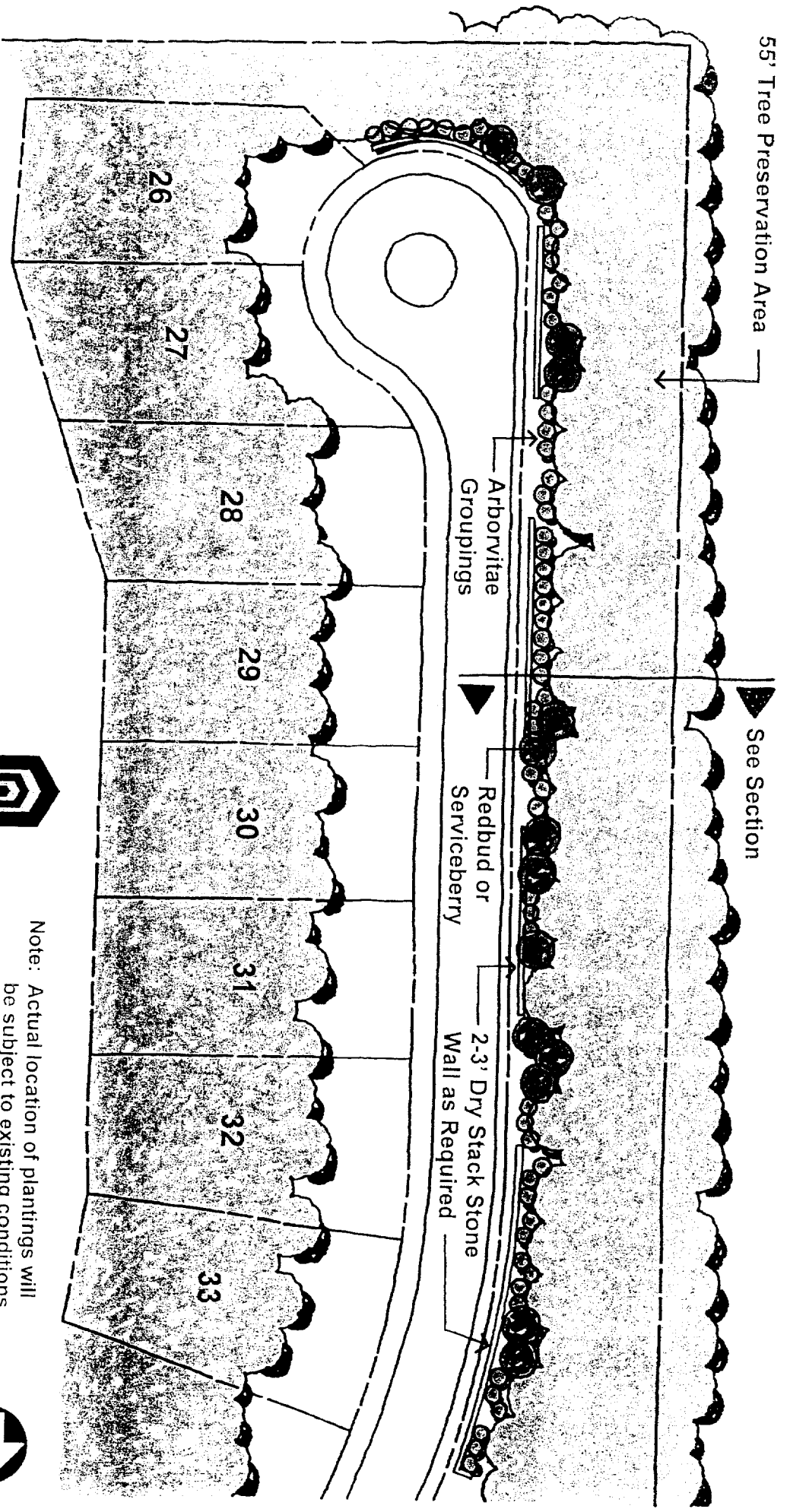
1. Brick packages may not be duplicated for two homesites on each side of the residence on the same side of the street. Also, brick packages may not be duplicated for three houses across the street from a residence. (Please refer to the illustration below.)



2. Front elevations on the same plan may not be duplicated for two homesites on each 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.)



Obviously, not all streets run perfectly straight and we have corner lots and cul-de-sacs to contend with as well. In these situations, the Developer, and its successor and assignee, shall apply and may modify or vary this Monotony Code in its sole and absolute discretion.



Note: Actual location of plantings will be subject to existing conditions.

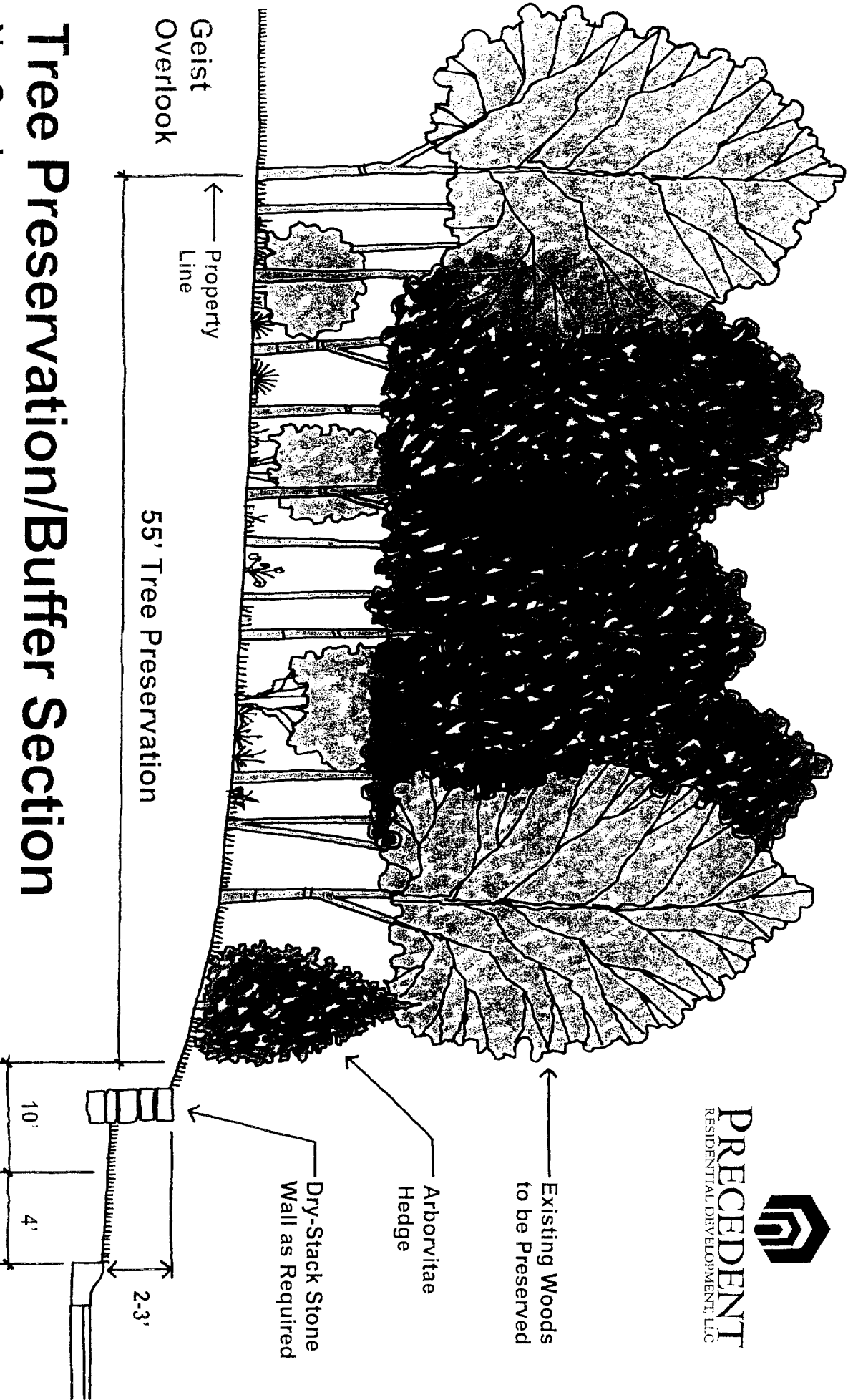
**PRECEDENT**  
RESIDENTIAL DEVELOPMENT, LLC



# Tree Preservation/Buffer Plan

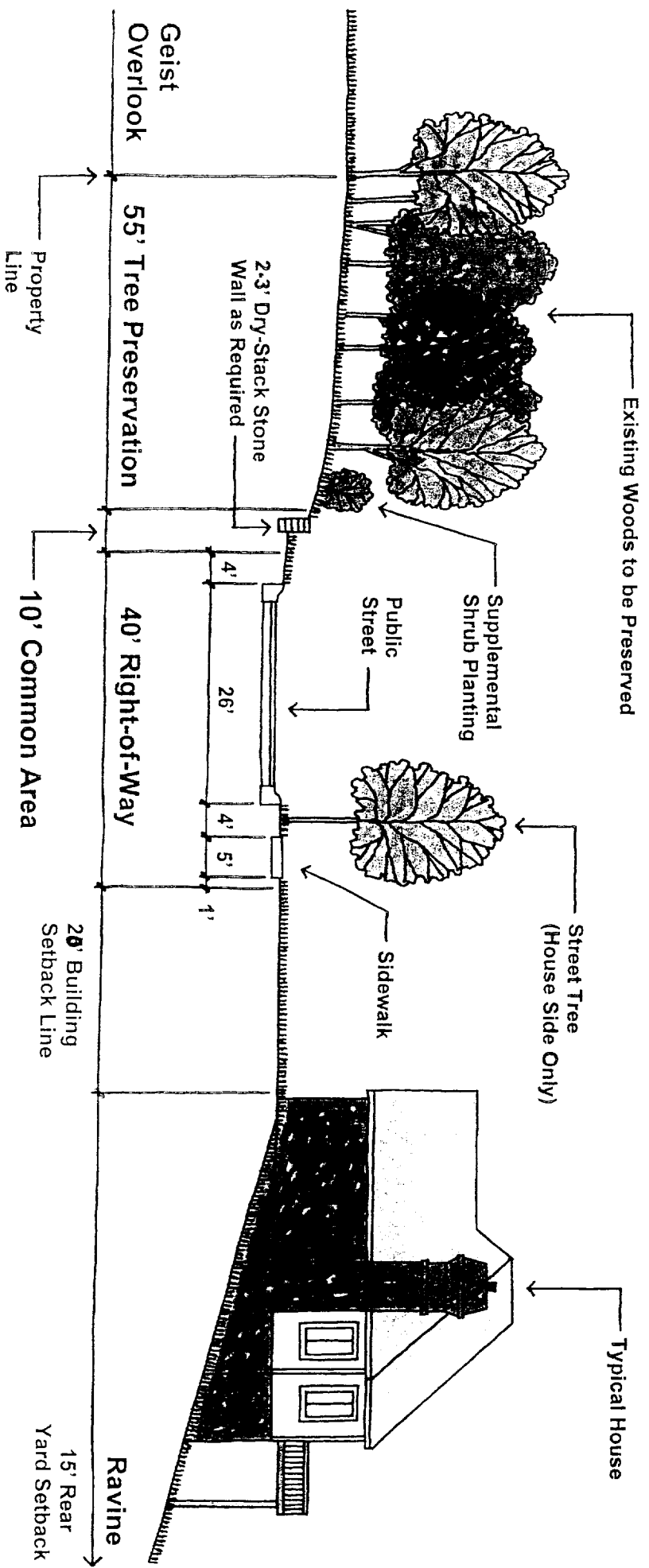


**PRECEDENT**  
RESIDENTIAL DEVELOPMENT, LLC



# Tree Preservation/Buffer Section

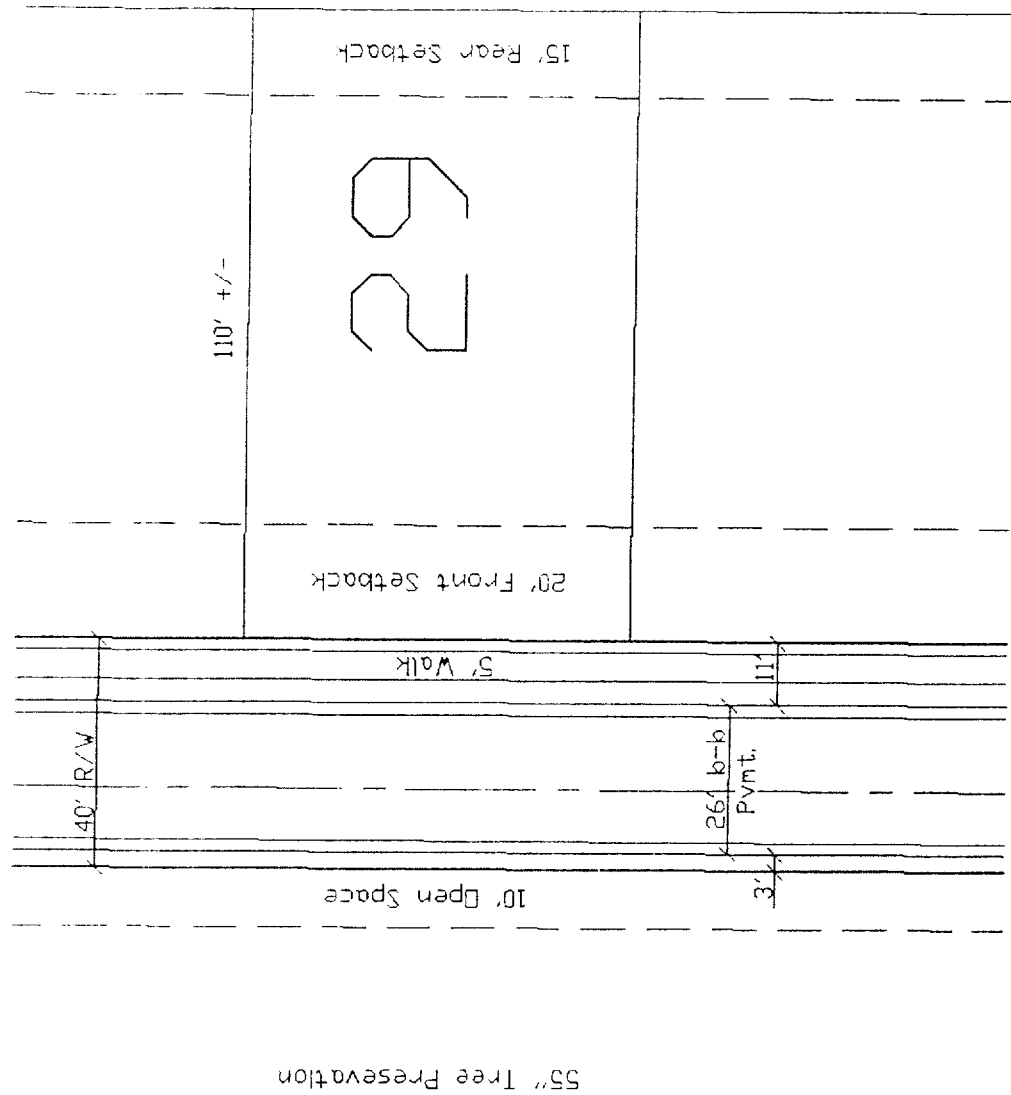
No Scale



# Tree Preservation/Buffer Section

No Scale

Date: May 14, 2004



- Legend**
- b-b = back of curb to back of curb
  - PL = Property line
  - R/W = Right-of-way



GRAPHIC SCALE



1" = 30'



**PRECEDENT**

Residential Development, LLC

(317) 805-1280

**falcon**  
ENGINEERING, INC.

13110 Promise Road  
Noblesville, IN 46060  
Phone: (317) 841-3141 Fax: (317) 841-9951

Lot Layout

Thorpe Creek

Design By AES	Checked By AES	Approved By
Fishers, Fall Creek Township, Hamilton County, Indiana		