

ORDINANCE NO. 030606B

**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 Vermillion PUD Ordinance:

SEE "EXHIBIT A" ATTACHED HERETO.

SECTION 2. PURPOSE AND INTENT

The purpose and intent of this PUD-R is to provide an innovative residential development that promotes creativity and flexibility in the development of the Real Estate to provide for the housing needs of a broad spectrum of the Fishers housing market

SECTION 3. LAND USE

Single family residential. Community market areas are established within the PUD to include varying lot sizes, common features and amenities to serve the needs of a multiple home buying markets in a way which will fit harmoniously within the surrounding land uses and development patterns.

SECTION 4. CONCEPTUAL DEVELOPMENT PLAN

The Concept Plan, attached hereto as "Exhibit B", is adopted as part of this ordinance. Adoption of the Concept Plan, however, does not constitute approval of any detailed and final development plans; such further approval is subject to the procedures set out in Section 6, below.

SECTION 5. DEVELOPMENT STANDARDS.

The development, landscaping and parking standards applicable to the Residential R-2 zoning district shall apply except as modified by this ordinance.

A. Overall PUD Acreage and Density Standards

Total Acreage: 338 Maximum Number of Lots: 533

Maximum Density: 1.58

Minimum Common Areas/Parks/Conservation Areas: 100 acres

Area	A	B	C	D	E
Land Use Description	Active Adult/ Empty Nester	Single-Family Estate	Single-Family Custom	Single-Family	Single-Family
Maximum Number of Lots ¹	76	54	89	136	178
Acres (+/-) ²	34.30	101.82	58.40	74.73	69.29
Minimum Lot Area SF	8,400	22,000	15,000	12,150	9,100
Minimum Lot Width at Building Line	70'	110'	100'	90'	70'
Minimum Lot Depth	120	180'	150'	135'	130'
Minimum Front Yard Setback	25'	40'	40'	30'	30'
Minimum Side Yard (each side/aggregate)	5'/15'	10'/30'	5'/30'	5'/30'	10'/20'
Minimum Rear Yard Setback	25'	50'	40'	30'	25'
Min. Living Area (2-story/1-story)	2,200/1,800	3,200/2,800	3,200/2,800	2,400/2,000	2,000/1,800
Building Height ³ (2-story/1-story)	35'/20'	35'/20'	35'/20'	35'/20'	35'/20'
Parking ⁴	4 spaces	4 spaces	4 spaces	4 spaces	4 spaces
Street width (to back of curb) Collector Roads	32'	32'	32'	32'	32'
Street width (to back of curb) Non-Collector Residential Streets	26'	26'	26'	26'	26'
Street width (to back of curb) Frontage Road (Single Loaded)	22'	22'	22'	22'	22'
Connecticut Avenue	Developer will work with the Town of Fishers Development Department to establish street width design standards for Connecticut Avenue with the goal to preserve the existing tree line to the extent possible.				

¹ Maximum number of lots may vary within each area by five percent (5%); however, the total maximum number of lots within the PUD will not be exceeded.

² Acreage may vary within each area by ten percent (10%).

³ Refers to maximum building height for primary/accessory structures

⁴ Refers to minimum off-street parking spaces and includes the number of spaces inside a garage and on a driveway

B. Parkland Dedication

- 1) The Town may elect to acquire the "Creekside Park" area anytime prior to approval of the detailed development plan. If the Town does not make this election, then the floodplain within this area, approximately twenty (20) acres, shall be common area. If the Town makes this election, then the area identified as "~~Creekside Park~~" shall be dedicated to the Town of Fishers for use as a passive nature park subject to park impact fee credits in an amount to be approved by the land owner and the Town Council and set forth within an intent agreement. If the amount of the impact fee credit cannot be agreed upon, then the fair market value shall be determined by the appraised value determined by the average of three appraisals. The Town and the land owner shall each select an appraiser and the two appraisers shall select the third appraiser. The Town and the land owner shall share equally the appraisal costs.
- 2) The area identified as "Flat Fork Creek Area" (which includes the area west of the creek's centerline and an area thirty feet (30') east of the creek's centerline) shall be common area. If the Town acquires the property immediately west of this area, then this area shall be dedicated to the Town of Fishers.

C. Tree Conservation Easement

- 1) A tree conservation easement ("Easement") as approximately shown on the Tree Conservation Exhibit, attached hereto as "Exhibit C", as "Conservation Area" shall be recorded. 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 as per Ordinance 080403C 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 Easement under Ordinance 080403C. In addition, the clearing of woodlands as identified above and designated to be preserved shall be prohibited beyond one hundred feet (100') from a dwelling so as not to disturb the existing understory habitat (shelter, food source) of the wildlife that may live or visit the woodlands. It is acknowledged that certain areas of the woodlands will not be appropriate for the Easement due to drainage and utility needs as will be identified at the time of the detailed development plan.

- D. The street exit lane onto 101st Street shall be located so that it is not directly opposite an existing home on the south side of 101st Street.

E. Area "A" Active Adult & Empty Nester Design Standards

1) Architecture

- Masonry shall be defined as brick, stone, cultured stone, stucco, EFIS or similar materials;
- All homes shall have masonry, wood or other hardboard exterior siding; no vinyl siding shall be permitted; and
- All homes shall be built with basements or crawlspace, no slab foundations permitted (unless soils conditions on a lot are unsuitable for basement construction).

2) Landscaping

- Street Trees. All streets shall have street trees on both sides of the street. Street trees shall be planted a maximum of forty feet (40') on center (except where restricted by utility regulations).
- All homes shall have sodded front and side yards. Rear yards shall be sodded or seeded.
- All homes shall have front yard sprinkler systems installed.

3) Garages

- Any third car garage must be offset from the primary two-car garage by a minimum of two feet (2').

4) Additional Standards

- All driveways shall be concrete;
- Uniform dusk to dawn yard or coach lights as determined by the developer shall be required in the front yard;
- Uniform mailboxes as determined by the developer shall be required;
- No accessory structures and no outdoor play sets shall be permitted.
- Individual lot lawn maintenance and snow removal shall be provided by the Homeowners Association.

F. Area "B" Estate and Area "C" Custom Area Design Standards

1) Architecture

- All homes shall be built with masonry, wood, or hardboard exterior siding, no vinyl siding shall be permitted;
- All homes shall be built from construction plans drawn specifically for each individual lot such that no two (2) homes shall be identical; and
- The exterior chase of fireplaces shall be masonry (unless direct vent).
- All homes shall be built with basements or crawlspace, no slab foundations permitted (unless soils conditions on a lot are unsuitable for basement construction).

2) Garages

- No front-loading garages permitted (except third or fourth single car garages that are set back a minimum of ten feet (10') from primary front facade). All primary garages shall be side-load, rear-load, angle-load or courtyard style.

3) Landscaping

- Street Trees. All streets shall have street trees on both sides of the street. Street trees shall be planted a maximum of fifty feet (50') on center (except where restricted by utility regulations).
- All homes shall have sodded front and side yards. Rear yards shall be sodded or seeded.
- All homes shall have front yard sprinkler systems installed.

4) Additional Standards

- Dusk to dawn yard or coach lights as determined by the developer shall be required in the front yard.

G. Area "D" Single Family Design Standards

1) Architecture

- All homes shall have masonry, wood or hardboard exterior siding, no vinyl siding shall be permitted;
- All homes shall have masonry on a minimum of fifty percent (50%) of the front elevation, not including doors, windows and other openings.
- All homes shall be built with basements or crawlspace, no slab foundations permitted (unless soils conditions on a lot are unsuitable for basement construction).

2) Landscaping

- Street Trees. All streets shall have street trees on both sides of the street. Street trees shall be planted a maximum of fifty feet (50') on center (except where restricted by utility regulations).
- All homes shall have sodded front and side yards. Rear yards shall be sodded or seeded.

3) Garages

- No front-loading garages permitted (except third single car garages that are set back a minimum of ten feet (10') from primary front facade). All primary garages shall be side-load, rear-load, angle-load or courtyard style.

4) Additional Standards

- All driveways shall be concrete;
- Uniform dusk to dawn yard or coach lights as determined by the developer shall be required in the front yard;
- Uniform mailboxes as determined by the developer shall be required;
- No accessory structures shall be permitted.

5) Model Homes

- It is anticipated that two (2) model homes will be constructed for marketing purposes within this area. One (1) of these models must exceed three thousand (3,000) square feet.

H. Area "E" Single Family Design Standards

1) Architecture

- All homes shall have masonry, wood or hardboard exterior siding, no vinyl siding shall be permitted;

- All homes shall have masonry on a minimum of fifty percent (50%) of the front elevation, not including doors, windows and other openings;
- All homes shall be built with basements or crawlspace, no slab foundations permitted (unless soils conditions on a lot are unsuitable for basement construction).

2) Landscaping

- Street Trees. All streets shall have street trees on both sides of the street. Street trees shall be planted a maximum of fifty feet (50') on center (except where restricted by utility regulations).
- All homes shall have sodded front and side yards, rear yards shall be sodded or seeded.

3) Garages

- Any third car garage must be offset from the primary two car garage by a minimum of two feet (2').

4) Additional Standards

- All driveways shall be concrete;
- Uniform dusk to dawn yard or coach lights as determined by the developer shall be required in the front yard;
- Uniform mailboxes as determined by the developer shall be required;
- No accessory structures shall be permitted.

5) Model Homes

It is anticipated that two (2) model homes will be constructed for marketing purposes within this area. One (1) of these models must exceed twenty eight hundred (2,800) square feet.

I. Additional Development and Design Standards. The following additional development and design standards shall apply to all areas.

1) Architecture

- 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;
- Front loading garages protruding more than eight feet (8') from the front building line of the residence shall also contain a window on the side of the garage closest to the entry to the residence;
- All homes shall incorporate a minimum total of four (4) points from the following list of "Architectural Features":
 - Front porch equal to or greater than eight (8) feet in width and four (4) feet in depth (2 points);
 - Veranda/balcony or patio with minimum dimensions of 10' x 10';
 - Reverse Gable;
 - Two or more roof planes visible from the front of the Dwelling (2 points);
 - Decorative garage doors or windows in garage doors;
 - A separate overhead door per car for each garage bay;

- No garage doors facing and parallel to the street (2 points);
- Masonry on one hundred percent (100%) of the front elevation, excluding doors, garage doors, windows, architectural features, cantilevered areas, bay windows, and any area that does not have a supporting foundation for the brick load including, without limitation, the small area above the garage door on some models, and any areas on the façade that are above roofing materials and would thus require brick to be laid above the roof (2 points);
- At least four feet (4') of relief at one or more points along the front elevation;
- Full first floor masonry, excluding doors, garage doors, windows, architectural features, cantilevered areas, bay windows, and any area that does not have a supporting foundation for the brick load including, without limitation, the small area above the garage door on some models, and any areas on the façade that are above roofing materials and would thus require brick to be laid above the roof;
- Sunroom, screened porch, or breakfast nook;
- Transom windows;
- Bay window;
- Two or more dormers;
- Cement or fiber board siding in all areas not covered by Masonry, excluding doors, garage doors, windows, architectural features, cantilevered areas, and bay windows;
- Hip roof;
- More than two (2) masonry materials on the front elevation;
- Brick detailing, either multiple quoins or other features such as arches, keystones;
- Architectural treatments on gable ends;
- Covered stoop/steps with a connection pathway from sidewalk;
- Architecturally treated entrances for homes without a front porch;
- At least two (2) feet of relief at two (2) or more points along the front elevation;
- Architecturally enhanced /articulated trim moldings such as fipons above windows;
- Decorative shutters on front of home;
- Decorative front door or side lights; and
- Decorative columns composed of wood or glass;
- Garage service door; and
- Overhangs of eight inches (8") or more (2 points).

2) Driveways

- A third car garage may be added to residences. Any three (3) car driveway must taper to a maximum of sixteen feet (16') wide at the lot line.
- No driveway shall be located within twenty-five feet (25') of the intersection of two street lines. For purposes of this subsection, driveways shall not be deemed to include the flared base of the driveway located at

- the intersection to the street.
- 3) Streetlights shall not exceed fifteen feet (15') in height, and shall be located at major intersections throughout the subdivision. Each light shall have shielding to direct light downward in order to minimize light spillover.
 - 4) Amenity Area. The Community Recreation Center as located on the Concept Plan shall include:
 - One swimming pool of a minimum size of 1,800 square feet;
 - One wading pool of a minimum size of 140 square feet;
 - One pool house with restroom facilities;
 - One basketball court;
 - One playground containing playground equipment appropriate for preschool children through grade school children.

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.

ADOPTED BY THE Town Council of the Town of Fishers, Indiana on this 15 day of MAY, 2006.

THE TOWN COUNCIL OF FISHERS, HAMILTON COUNTY, INDIANA

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

Land Description

A part of the Northeast Quarter of the Northwest Quarter of Section 8, Township 17 North, Range 6 East, a part of the Northwest Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 6 East, the west half of the south half of the Northeast Quarter of Section 8, Township 17 North, Range 6 East, and a part of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 6 East located in Fall Creek Township, Hamilton County, Indiana, being described as follows:

BEGINNING at a 5/8" iron rod with yellow cap stamped S0083 marking the southeast corner of the Northeast Quarter of the Northwest Quarter of Section 8, Township 17 North, Range 6 East, thence North 31 degrees 12 minutes 12 seconds West (assumed bearing) 938.50 feet to a 3/4" iron rod (4" below the road surface) on the centerline of Connecticut Avenue, the following 4 courses are on and along the centerline of Connecticut Avenue,)1.) thence North 46 degrees 43 minutes 21 seconds East 772.68 feet to a P.K. nail marking the point of intersection of the centerline of Connecticut Avenue and the south line of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 6 East, said point of intersection being North 89 degrees 53 minutes 45 seconds East 72.60 feet from the stone with cut cross marking the southwest corner of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 6 East (2.) thence North 46 degrees 54 minutes 07 seconds East 258.05 feet to a P.K. nail (3.) thence North 46 degrees 33 minutes 13 seconds East 557.13 feet to a P.K. nail (4.) thence North 46 degrees 04 minutes 49 seconds East 938.00 feet to a P.K. nail marking the point of intersection of the centerline of Connecticut Avenue and the east line of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 6 East; thence South 00 degrees 58 minutes 39 seconds West 1207.99 feet to a 5/8" iron rod with yellow cap stamped S0083 marking the southeast corner of the Southwest Quarter of said Southeast Quarter; thence South 89 degrees 53 minutes 45 seconds West 989.25 feet on and along the south line of the Southwest Quarter of said Southeast Quarter to a 5/8" iron rod with yellow cap stamped S0083; thence South 00 degrees 12 minutes 33 seconds West 1331.87 feet, more or less, to a 5/8" iron rod with yellow cap stamped S0083 on the south line of the Northwest Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 6 East, said 5/8" iron rod with yellow cap stamped S0083 being North 89 degrees 49 minutes 13 seconds East 330.17 feet from a 5/8" iron rod with yellow cap stamped S0083 marking the southwest corner of the Northwest Quarter of said Northeast Quarter; thence North 89 degrees 49 minutes 13 seconds East 991.28 feet, more or less, to a 5/8" iron rod with yellow cap stamped S0083 marking the northeast corner of the Southwest Quarter of said Northeast Quarter; thence South 00 degrees 07 minutes 19 seconds West 1330.55 feet to a P.K. nail marking the southeast corner of the Southwest Quarter of said Northeast Quarter; thence South 89 degrees 44 minutes 40 seconds West 1322.34 feet to the southwest corner of the Southwest Quarter of said Northeast Quarter; thence North 00 degrees 09 minutes 36 seconds East 1332.30 feet to the POINT OF BEGINNING. Containing 74.748 acres, more or less and being subject to applicable easements and rights-of-way of record.

ALSO INCLUDING:

A part of the east half of the Southwest Quarter of Section 5, Township 17 North, Range 6 East, a part of the Southeast Quarter of Section 5, Township 17 North, Range 6 East and a part of the Northeast Quarter of Section 5, Township 17 North, Range 6 East located in Fall Creek Township, Hamilton County, Indiana, being described as follows:

BEGINNING at a stone with cross at the southeast corner of the Southwest Quarter of Section 5, Township 17 North, Range 6 East; thence South 89 degrees 54 minutes 33 seconds West (assumed bearing) 1314.03 feet to a 5/8" iron rod with yellow cap stamped S0083 marking the southwest corner of the east half of said Southwest Quarter; thence North 01 degree 01 minute 32 seconds East 2210.10 feet on and along the west line of said east half to a 5/8" iron rod with yellow cap stamped S0083 marking the point of intersection of said west line and the south line of a 26 2/3 acre tract of real estate described in Deed Record 130, page 214 and recorded as Instrument #1039; thence North 89 degrees 49 minutes 41 seconds East 4.08 feet to a 5/8" iron rod with yellow cap stamped S0083 marking the southeast corner of said 26 2/3 acre tract; thence North 00 degrees 58 minutes 39 seconds East 440.00 feet parallel with the west line of said Southwest Quarter to a 5/8" iron rod with yellow cap stamped S0083 marking the northeast corner of said 26 2/3 acre tract, said 5/8" iron rod with yellow cap stamped S0083 being on the north line of said Southwest Quarter at a point North 89 degrees 49 minutes 41 seconds East 1320.00 feet from the stone with + at the northwest corner of said Southeast Quarter; thence North 89 degrees 49 minutes 41 seconds East 1312.58 feet to a stone with + marking the center of said Section 5; thence North 01 degree 09 minutes 31 seconds East 331.83 feet to a 5/8" iron rod with yellow cap stamped S0083 marking the point of intersection of the west line of the Northeast Quarter of said Section 5 and the south bank of Fall Creek; the following 12 courses are included for closure purposes, the actual boundary line follows the south bank of Fall Creek (1.) thence South 89 degrees 23 minutes 50 seconds East 33.36 feet; (2.) thence North 82 degrees 06 minutes 22 seconds East 156.41 feet; (3.) thence North 57 degrees 41 minutes 19 seconds East 77.81 feet (4.) thence North 31 degrees 39 minutes 56 seconds East 144.20 feet; (5.) thence North 24 degrees 55 minutes 56 seconds East 100.00 feet; (6.) thence North 08 degrees 33 minutes 23 seconds West 173.65 feet; (7.) thence North 02 degrees 46 minutes 52 seconds West 145.02 feet; (8.) thence North 03 degrees 47 minutes 58 seconds East 229.48 feet; (9.) thence North 69 degrees 06 minutes 38 seconds East 95.53 feet; (10.) thence North 84 degrees 14 minutes 42 seconds East 162.35 feet; (11.) thence North 74 degrees 13 minutes 36 seconds East 234.81 feet; (12.) thence North 82 degrees 30 minutes 21 seconds East 249.57 feet; thence South 78 degrees 09 minutes 00 seconds East 231.06 feet to a point on the westerly right-of-way line of State Road #238 (as per Indiana Dept. of Highways Project S116 (1) 1969), the following 4 courses are on and along said westerly right-of-way line; (1.) thence South 13 degrees 03 minutes 40 seconds East 77.87 feet; (2.) thence South 16 degrees 28 minutes 55 seconds East 498.70 feet to a 5/8" iron rod with yellow cap stamped S0083; (3.) thence South 15 degrees 24 minutes 56 seconds East 300.17 feet to a 5/8" iron rod with yellow cap stamped S0083; (4.) thence South 35 degrees 18 minutes 29 seconds East 107.70 feet; thence North 76 degrees 29 minutes 36 seconds East 20.00 feet to a P.K. nail on the centerline of said State Road #238; the following 5 courses are on and along the centerline of said State Road #238 (1.) thence South 13 degrees 40 minutes 51 seconds East 311.34 feet to a P.K. nail marking the point of curvature of a curve to the left, said point of curvature being South 76 degrees 19 minutes 09 seconds West 2423.00 feet from the radius point of said curve; (2.) thence southeasterly 189.90 feet on and along said curve to the left to a P.K. nail marking the point of tangency of said curve,

said point of tangency being South 71 degrees 49 minutes 43 seconds West 2423.00 feet from the radius point of said curve; (3.) thence South 18 degrees 10 minutes 17 seconds East 288.65 feet to a railroad spike; (4.) thence South 18 degrees 22 minutes 25 seconds East 367.28 feet to a P.K. nail; (5.) thence South 19 degrees 05 minutes 51 seconds East 9.92 feet to a P.K. nail marking the point of intersection of the centerline of State Road #238 and the centerline of Connecticut Avenue, the following 3 courses are on and along the centerline of Connecticut Avenue; (1.) thence South 46 degrees 04 minutes 49 seconds West 1875.29 feet; (2.) thence South 46 degrees 33 minutes 12 seconds West 557.13 feet; (3.) thence South 46 degrees 54 minutes 07 seconds West 258.05 feet to the point of intersection of the centerline of Connecticut Avenue and the south line of the Southeast Quarter of said Section 5; thence South 89 degrees 53 minutes 45 seconds West 72.60 feet to the POINT OF BEGINNING. Containing 193.40 acres, more or less and being subject to all applicable easements and rights-of-way of record.

ALSO INCLUDING:

A part of the Southeast Quarter of Section 5, Township 17 North, Range 6 East located in Fall Creek Township, Hamilton County, Indiana, being described as follows:

BEGINNING at a 5/8" iron rod with yellow cap stamped S0083 marking the point of intersection of an existing fence line (December 1993) and the east line of the Southeast Quarter of Section 5, Township 17 North, Range 6 East, said Point of Beginning being North 00 degrees 52 minutes 55 seconds East (assumed bearing) 1541.47 feet from the stone marking the southeast corner of said Southeast Quarter, said Point of Beginning also being North 00 degrees 52 minutes 55 seconds East 6.97 feet from the southeast corner of an 8 acre tract of real estate described in Deed Record 349, page 825; thence North 00 degrees 52 minutes 55 seconds East 449.46 feet on and along the east line of said Southeast Quarter to a 5/8" iron rod with yellow cap stamped S0083 marking the southeast corner of a cemetery described in Deed Record 116, page 195; thence North 89 degrees 07 minutes 05 seconds West 209.00 feet on and along the south line of said cemetery to a 5/8" iron rod with yellow cap stamped S0083; thence North 31 degrees 17 minutes 23 seconds West 207.70 feet on and along the southwest line of said cemetery to a P.K. nail in the centerline of Connecticut Avenue; thence South 48 degrees 07 minutes 27 seconds West 459.11 feet on and along the centerline of Connecticut Avenue to a P.K. nail at the point of intersection of the centerline of Connecticut Avenue east of State Road #238 and the centerline of State Road #238; thence South 19 degrees 05 minutes 51 seconds East 9.92 feet on and along the centerline of State Road #238 to a P.K. nail at the point of intersection of the centerline of State Road #238 and the centerline of Connecticut Avenue west of State Road #238; thence South 46 degrees 04 minutes 49 seconds West 462.00 feet on and along the centerline of State Road #238 to a P.K. nail at the southwest corner of said 8 acre tract; thence South 89 degrees 57 minutes 16 seconds East 430.28 feet on and along the south line of said 8 acre tract to a P.K. nail at the point of intersection of the south line of said 8 acre tract and the centerline of State Road #238; thence North 16 degrees 04 minutes 28 seconds West 1.59 feet on and along the centerline of state Road #238 to the point of intersection of the centerline of State Road #238 and the westerly extension of the existing fence line mentioned at the Point of Beginning of this description; thence North 89 degrees 55 minutes 17 seconds East 92.65 feet on and along the westerly extension of and on and along said existing fence line, the following 4 courses are on and along said existing fence line (1.) thence North 88 degrees 46 minutes 24

seconds East 57.82 feet; (2.) thence North 89 degrees 37 minutes 20 seconds East 189.55 feet; (3.) thence North 89 degrees 13 minutes 00 seconds East 107.37 feet; (4.) thence North 89 degrees 29 minutes 37 seconds East 104.13 feet to the POINT OF BEGINNING. Containing 8.461 acres, more or less and being subject to all applicable easements and rights-of-way of record.

ALSO INCLUDING:

Property located in Hamilton County:

The Northeast Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 6 East, containing 40 acres, more or less.

ALSO INCLUDING:

Thirty (30) acres of uniform width off of the East side of the Northwest Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 6 East.

Excepting therefrom that portion of the above described real estate as set out in a Warranty Deed recorded October 21, 2004 as Instrument No. 200400072995 and more particularly described as follows:

A part of the Northeast Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 6 East, Hamilton County, Indiana, described as follows:

Beginning at the Northeast corner of said Quarter Section; thence South 00 degrees 29 minutes 58 seconds East 7.044 meters (23.11) along the East line of said Quarter Section; thence North 44 degrees 58 minutes 23 seconds West 9.836 meters (32.27 feet) to the North line of said Quarter Section; thence North 89 degrees 17 minutes 22 seconds East 6.891 meters (22.61 feet) along the said North line to the point of beginning and containing 0.006 acres, more or less.

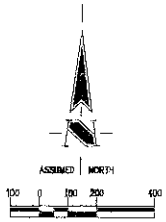
VERMILLION

for Republic Development, LLC

338 Acres

3/30/06

EXHIBIT B



5571.001 pre6 exhibit.pdf 3/30/06

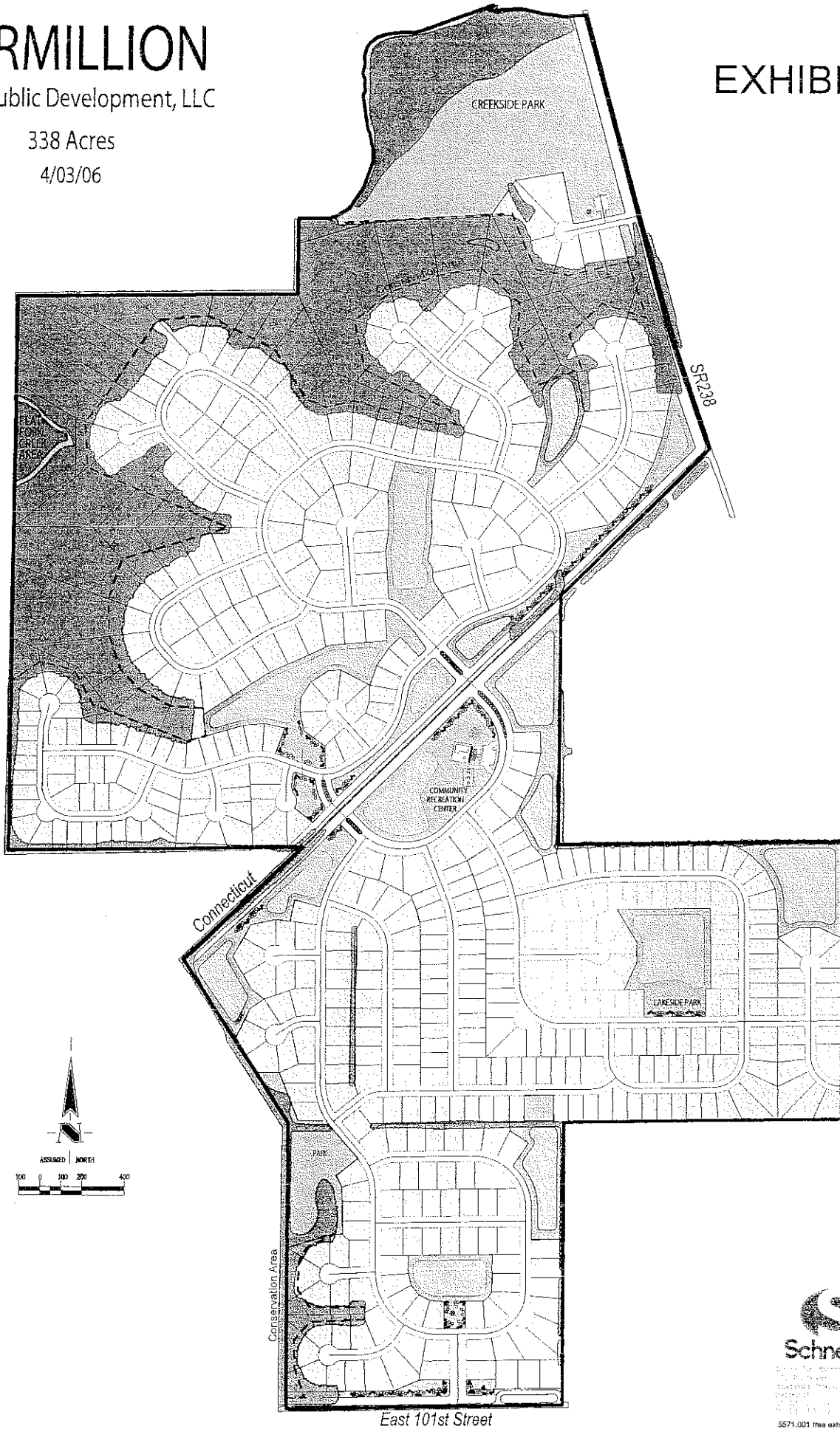
VERMILLION

for Republic Development, LLC

338 Acres

4/03/06

EXHIBIT C



COMMITMENTS CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE

Republic Development, LLC (the "Developer") makes the following commitments to the Fishers Town Council (the "Town") regarding the use and development of the following described real estate (the "Real Estate") located in Hamilton County, Indiana:

Section 1. Description of Real Estate:

See attached Exhibit "A".

Section 2. Ordinance No.: 030606B

Section 3. Statement of Commitments:

- A. The Developer agrees to not remonstrate against annexation of the Real Estate by the Town of Fishers;
- B. The Developer agrees to include a waiver of remonstrance provision in the covenants and restrictions for the Real Estate, which will be recorded and provided to the purchaser of each lot within the Real Estate; and
- C. The Developer agrees that, prior to the formal annexation of the Real Estate to the Town of Fishers, any home constructed on the Real Estate shall voluntarily contribute to the Town of Fishers the standard Park and Road Impact Fees normally assessed by the Town for a single family home at the time a building permit is issued.

Section 4. Binding Effect

A. These commitments are binding upon the Developer, each subsequent owner of the Real Estate and each other person acquiring an interest in the Real Estate, unless modified or terminated.

B. These commitments may be modified or terminated only by a decision of the Fishers Town Council following a public hearing held by the Fishers Plan Commission wherein notice has been given as provided by the Plan Commission's rules.

Section 5. Effective Date

The commitments contained herein shall be effective upon adoption of an ordinance by the Town Council of Fishers, Indiana assigning the requested PUD-R zoning classification to the real estate identified in Ordinance No. 030606B.

Section 6. Recording

The undersigned hereby authorizes the Town to record these commitments in the Office of the Recorder of Hamilton County, Indiana.

Section 7. Enforcement

These commitments may be enforced by the Plan Commission and by the Town Council of Fishers, Indiana.

IN WITNESS WHEREOF, Republic Development, LLC, an Indiana limited liability company, has caused this commitment to be executed as of the _____ day of _____, 2006.

Republic Development, LLC

By: _____

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Lawrence M. Moon, of Republic Development, LLC, who having been duly sworn acknowledged the execution of the foregoing Commitments.

Witness my hand and Notarial Seal this _____ day of _____, 2006.

My Commission Expires:

Notary Public

Printed _____
Residing in _____ County

Prepared by: Steven D. Hardin, Attorney at Law, Bingham McHale, LLP
970 Logan Street, Noblesville, Indiana 46060, (317) 776-8668.

“EXHIBIT A”

Land Description

A part of the Northeast Quarter of the Northwest Quarter of Section 8, Township 17 North, Range 6 East, a part of the Northwest Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 6 East, the west half of the south half of the Northeast Quarter of Section 8, Township 17 North, Range 6 East, and a part of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 6 East located in Fall Creek Township, Hamilton County, Indiana, being described as follows:

BEGINNING at a 5/8" iron rod with yellow cap stamped S0083 marking the southeast corner of the Northeast Quarter of the Northwest Quarter of Section 8, Township 17 North, Range 6 East, thence North 31 degrees 12 minutes 12 seconds West (assumed bearing) 938.50 feet to a 3/4" iron rod (4" below the road surface) on the centerline of Connecticut Avenue, the following 4 courses are on and along the centerline of Connecticut Avenue,)1.) thence North 46 degrees 43 minutes 21 seconds East 772.68 feet to a P.K. nail marking the point of intersection of the centerline of Connecticut Avenue and the south line of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 6 East, said point of intersection being North 89 degrees 53 minutes 45 seconds East 72.60 feet from the stone with cut cross marking the southwest corner of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 6 East (2.) thence North 46 degrees 54 minutes 07 seconds East 258.05 feet to a P.K. nail (3.) thence North 46 degrees 33 minutes 13 seconds East 557.13 feet to a P.K. nail (4.) thence North 46 degrees 04 minutes 49 seconds East 938.00 feet to a P.K. nail marking the point of intersection of the centerline of Connecticut Avenue and the east line of the Southwest Quarter of the Southeast Quarter of Section 5, Township 17 North, Range 6 East; thence South 00 degrees 58 minutes 39 seconds West 1207.99 feet to a 5/8" iron rod with yellow cap stamped S0083 marking the southeast corner of the Southwest Quarter of said South- east Quarter; thence South 89 degrees 53 minutes 45 seconds West 989.25 feet on and along the south line of the Southwest Quarter of said Southeast Quarter to a 5/8" iron rod with yellow cap stamped S0083; thence South 00 degrees 12 minutes 33 seconds West 1331.87 feet, more or less, to a 5/8" iron rod with yellow cap stamped S0083 on the south line of the Northwest Quarter of the Northeast Quarter of Section 8, Township 17 North, Range 6 East, said 5/8" iron rod with yellow cap stamped S0083 being North 89 degrees 49 minutes 13 seconds East 330.17 feet from a 5/8" iron rod with yellow cap stamped S0083 marking the southwest corner of the Northwest Quarter of said Northeast Quarter; thence North 89 degrees 49 minutes 13 seconds East 991.28 feet, more or less, to a 5/8" iron rod with yellow cap stamped S0083 marking the northeast corner of the Southwest Quarter of said Northeast Quarter; thence South 00 degrees 07 minutes 19 seconds West 1330.55 feet to a P.K. nail marking the southeast corner of the Southwest Quarter of said Northeast Quarter; thence South 89 degrees 44 minutes 40 seconds West 1322.34 feet to the southwest corner of the Southwest Quarter of said Northeast Quarter; thence North 00 degrees 09 minutes 36 seconds East 1332.30 feet to the POINT OF BEGINNING. Containing 74.748 acres, more or less and being subject to applicable easements and rights-of-way of record.

ALSO INCLUDING:

A part of the east half of the Southwest Quarter of Section 5, Township 17 North, Range 6 East, a part of the Southeast Quarter of Section 5, Township 17 North, Range 6 East and a part of the Northeast Quarter of Section 5, Township 17 North, Range 6 East located in Fall Creek Township, Hamilton County, Indiana, being described as follows:

BEGINNING at a stone with cross at the southeast corner of the Southwest Quarter of Section 5, Township 17 North, Range 6 East; thence South 89 degrees 54 minutes 33 seconds West (assumed bearing) 1314.03 feet to a 5/8" iron rod with yellow cap stamped S0083 marking the southwest corner of the east half of said Southwest Quarter; thence North 01 degree 01 minute 32 seconds East 2210.10 feet on and along the west line of said east half to a 5/8" iron rod with yellow cap stamped S0083 marking the point of intersection of said west line and the south line of a 26 2/3 acre tract of real estate described in Deed Record 130, page 214 and recorded as Instrument #1039; thence North 89 degrees 49 minutes 41 seconds East 4.08 feet to a 5/8" iron rod with yellow cap stamped S0083 marking the southeast corner of said 26 2/3 acre tract; thence North 00 degrees 58 minutes 39 seconds East 440.00 feet parallel with the west line of said Southwest Quarter to a 5/8" iron rod with yellow cap stamped S0083 marking the northeast corner of said 26 2/3 acre tract, said 5/8" iron rod with yellow cap stamped S0083 being on the north line of said Southwest Quarter at a point North 89 degrees 49 minutes 41 seconds East 1320.00 feet from the stone with + at the northwest corner of said Southeast Quarter; thence North 89 degrees 49 minutes 41 seconds East 1312.58 feet to a stone with + marking the center of said Section 5; thence North 01 degree 09 minutes 31 seconds East 331.83 feet to a 5/8" iron rod with yellow cap stamped S0083 marking the point of intersection of the west line of the Northeast Quarter of said Section 5 and the south bank of Fall Creek; the following 12 courses are included for closure purposes, the actual boundary line follows the south bank of Fall Creek (1.) thence South 89 degrees 23 minutes 50 seconds East 33.36 feet; (2.) thence North 82 degrees 06 minutes 22 seconds East 156.41 feet; (3.) thence North 57 degrees 41 minutes 19 seconds East 77.81 feet (4.) thence North 31 degrees 39 minutes 56 seconds East 144.20 feet; (5.) thence North 24 degrees 55 minutes 56 seconds East 100.00 feet; (6.) thence North 08 degrees 33 minutes 23 seconds West 173.65 feet; (7.) thence North 02 degrees 46 minutes 52 seconds West 145.02 feet; (8.) thence North 03 degrees 47 minutes 58 seconds East 229.48 feet; (9.) thence North 69 degrees 06 minutes 38 seconds East 95.53 feet; (10.) thence North 84 degrees 14 minutes 42 seconds East 162.35 feet; (11.) thence North 74 degrees 13 minutes 36 seconds East 234.81 feet; (12.) thence North 82 degrees 30 minutes 21 seconds East 249.57 feet; thence South 78 degrees 09 minutes 00 seconds East 231.06 feet to a point on the westerly right-of-way line of State Road #238 (as per Indiana Dept. of Highways Project S116 (1) 1969), the following 4 courses are on and along said westerly right-of-way line; (1.) thence South 13 degrees 03 minutes 40 seconds East 77.87 feet; (2.) thence South 16 degrees 28 minutes 55 seconds East 498.70 feet to a 5/8" iron rod with yellow cap stamped S0083; (3.) thence South 15 degrees 24 minutes 56 seconds East 300.17 feet to a 5/8" iron rod with yellow cap stamped S0083; (4.) thence South 35 degrees 18 minutes 29 seconds East 107.70 feet; thence North 76 degrees 29 minutes 36 seconds East 20.00 feet to a P.K. nail on the centerline of said State Road #238; the following 5 courses are on and along the centerline of said State Road #238 (1.) thence South 13 degrees 40 minutes 51 seconds East 311.34 feet to a P.K. nail marking the point of curvature of a curve to the left, said point of curvature being South 76 degrees 19 minutes 09 seconds West 2423.00 feet from the radius point of said curve; (2.) thence southeasterly 189.90 feet on and along said curve to the left to a P.K. nail marking the point of tangency of said curve,

said point of tangency being South 71 degrees 49 minutes 43 seconds West 2423.00 feet from the radius point of said curve; (3.) thence South 18 degrees 10 minutes 17 seconds East 288.65 feet to a railroad spike; (4.) thence South 18 degrees 22 minutes 25 seconds East 367.28 feet to a P.K. nail; (5.) thence South 19 degrees 05 minutes 51 seconds East 9.92 feet to a P.K. nail marking the point of intersection of the centerline of State Road #238 and the centerline of Connecticut Avenue, the following 3 courses are on and along the centerline of Connecticut Avenue; (1.) thence South 46 degrees 04 minutes 49 seconds West 1875.29 feet; (2.) thence South 46 degrees 33 minutes 12 seconds West 557.13 feet; (3.) thence South 46 degrees 54 minutes 07 seconds West 258.05 feet to the point of intersection of the centerline of Connecticut Avenue and the south line of the Southeast Quarter of said Section 5; thence South 89 degrees 53 minutes 45 seconds West 72.60 feet to the POINT OF BEGINNING. Containing 193.40 acres, more or less and being subject to all applicable easements and rights-of-way of record.

ALSO INCLUDING:

A part of the Southeast Quarter of Section 5, Township 17 North, Range 6 East located in Fall Creek Township, Hamilton County, Indiana, being described as follows:

BEGINNING at a 5/8" iron rod with yellow cap stamped S0083 marking the point of intersection of an existing fence line (December 1993) and the east line of the Southeast Quarter of Section 5, Township 17 North, Range 6 East, said Point of Beginning being North 00 degrees 52 minutes 55 seconds East (assumed bearing) 1541.47 feet from the stone marking the southeast corner of said Southeast Quarter, said Point of Beginning also being North 00 degrees 52 minutes 55 seconds East 6.97 feet from the southeast corner of an 8 acre tract of real estate described in Deed Record 349, page 825; thence North 00 degrees 52 minutes 55 seconds East 449.46 feet on and along the east line of said Southeast Quarter to a 5/8" iron rod with yellow cap stamped S0083 marking the southeast corner of a cemetery described in Deed Record 116, page 195; thence North 89 degrees 07 minutes 05 seconds West 209.00 feet on and along the south line of said cemetery to a 5/8" iron rod with yellow cap stamped S0083; thence North 31 degrees 17 minutes 23 seconds West 207.70 feet on and along the southwest line of said cemetery to a P.K. nail in the centerline of Connecticut Avenue; thence South 48 degrees 07 minutes 27 seconds West 459.11 feet on and along the centerline of Connecticut Avenue to a P.K. nail at the point of intersection of the centerline of Connecticut Avenue east of State Road #238 and the centerline of State Road #238; thence South 19 degrees 05 minutes 51 seconds East 9.92 feet on and along the centerline of State Road #238 to a P.K. nail at the point of intersection of the centerline of State Road #238 and the centerline of Connecticut Avenue west of State Road #238; thence South 46 degrees 04 minutes 49 seconds West 462.00 feet on and along the centerline of State Road #238 to a P.K. nail at the southwest corner of said 8 acre tract; thence South 89 degrees 57 minutes 16 seconds East 430.28 feet on and along the south line of said 8 acre tract to a P.K. nail at the point of intersection of the south line of said 8 acre tract and the centerline of State Road #238; thence North 16 degrees 04 minutes 28 seconds West 1.59 feet on and along the centerline of state Road #238 to the point of intersection of the centerline of State Road #238 and the westerly extension of the existing fence line mentioned at the Point of Beginning of this description; thence North 89 degrees 55 minutes 17 seconds East 92.65 feet on and along the westerly extension of and on and along said existing fence line, the following 4 courses are on and along said existing fence line (1.) thence North 88 degrees 46 minutes 24