



## CITY OF FISHERS AGENDA

**BOARD/COMMISSION:** Plan Commission Meeting

**DATE:** 4/12/2023, at 6:00 PM

**DIRECTIONS:** Launch Fishers Theater , 12175 Visionary Way, Fishers, IN 46038

Members of the public can [submit comments to the board via form submittal](#) before 12pm on the day of the meeting.

Members of the public may [stream the live meeting](#) online.

In accordance with the Americans with Disabilities Act (ADA), the City of Fishers will, upon request, provide appropriate aid (i.e. interpreters) and/or assistance leading to effective participation for people with disabilities. Anyone who requires such assistance should [email Kelly Lewark](#), Office Manager, no later than 48 hours before the scheduled event or call at (317) 595-3487.

1. **Call to Order**
2. **Pledge of Allegiance to The Flag of The United States**
3. **Roll Call**
4. **Approval of Previous Minutes**
  - a. 3-1-23
5. **Public Hearings**
  - a. Magnolia Grove Salon  
Parcel: 13-11-35-00-00-041.001  
Address: 13483 E 116th  
Case: RZ-22-4  
Request: To approve of a rezone of 1.76 acres from R2 to C1. Petitioner: Bill Butz

(bill.butz@kimley-horn.com)

Planner: Bre King, Senior Planner (kingb@fishers.in.us)

b. UDO Update – CONTINUED FROM MARCH MEETING

Case: TA-23-2

Address: Citywide

Request: Consideration of a text amendment to the Unified Development Ordinance (UDO) establishing voting requirements for new HOAs.

Petitioner: City of Fishers

Planner: Megan Vukusich, Director (vukusichm@fishers.in.us)

**6. Staff Communication**

a.

- Summary of Council Action
- Allisonville Road Corridor Study

**7. Summary of Council Action**

**8. Adjournment**

**CITY OF FISHERS  
ADVISORY PLAN COMMISSION MINUTES  
March 1, 2023  
LAUNCH FISHERS THEATER**

**The meeting of the Advisory Plan Commission convened at 6:00 p.m.**

**Mr. Stevenson confirmed quorum and called the meeting to order.**

A roll call was taken and those members present were: Rick Fain, Bill Stuart, Selina Stoller, Howard Stevenson, Steve Richards, Pete Peterson, Bruce Molter, Kim Logan, Todd Zimmerman

Others present: Rodney Retzner, Megan Vukusich, Kay Prange, Ross Hilleary, Tracy Gaynor, Tony Bagato, David Compton, Keith Lash, Kylie Amick, Larry Lannan, Josh Huser, Brad DeReamer, Jonathan Isaacs

Pete Peterson made a Motion to approve the Minutes from the 2-1-23 meeting. Ms. Logan and Mr. Zimmerman abstained as they did not attend the meeting. The Motion was approved 7-0.

**a. UDO Update**

**Case:** TA-23-2

**Address:** Citywide

**Request:** Consideration of a text amendment to the Unified Development Ordinance (UDO).

**Petitioner:** City of Fishers

**Planner:** Megan Vukusich, Director ([vukusichm@fishers.in.us](mailto:vukusichm@fishers.in.us))

Megan Vukusich presented the Text Amendment request for an update to the UDO to allow new HOA's to allow changes to covenants and restrictions based on a majority vote, rather than the 75% in most communities.

**Mr. Stevenson opened the Public Comment portion of the meeting.**

Josh Huser (12863 Shakespeare Way)- This is a great addition. Avalon has been unable to make quorum with the 75% threshold.

Brad DeReamer (City Councilor, Britton Falls)- 100% of HOA's are having trouble, such as Gray Eagle, Britton Falls. Representing the homeowners.

Christina Wilson (Representing BAGI) -Recommends collaborative approach, propose to continue for 30 days.

[Letter to Plan Commission.](#)

Jonathan Isaacs (Representing M/I Homes) – (8495 Woodfield Crossing) Spoke about declarant right

Tony Bagato (Representing Lennar) – (7561 Timber Springs Dr.) 51% is not ideal, this only applies to new developments once the developer turns over to the HOA.

David Compton (Representing Pulte) (10995 Spice Ln)- There is some positive, but the developer can't lose control at 51%. Reminder of Surfside tragedy.

**Mr. Stevenson closed the Public Comment portion of the meeting.**

In Commission discussion, Selina Stoller, Pete Peterson, agree deeper discussion is needed, continue to bring groups together. Kim Logan suggested 66%. Bill Stuart noted the difference between covenants and by-laws. Todd Zimmerman understands both sides. We have to be careful in communication.

Mr. Stevenson asked for a Motion. Pete Peterson made a Motion to continue, seconded by Bill Stuart. The Motion was approved, 8-0. Mr. Peterson had to leave the meeting before the vote was taken.

b. **Geist Waterfront Park Rezone**

Parcels: 13-15-01-00-00-012.341, 13-15-01-00-00-012.301, 13-15-01-00-00-012.000, 13-15-01-00-00-012.002, 13-15-01-00-00-012.311

Address: 10811 Olio Rd

Case: RZ-23-1

Request: Consideration of a rezone to Open Space for the Geist Waterfront Park.

Petitioner: City of Fishers

Planner: Megan Vukusich, Director ([vukusichm@fishers.in.us](mailto:vukusichm@fishers.in.us))

The Rezone request was presented by Megan Vukusich.

**Mr. Stevenson opened the Public Comment portion of the meeting. Seeing no one present to speak about the Rezone, he closed the Public Comment portion of the meeting.**

**Mr. Stevenson asked for a Motion. Selina Stoller made a Motion to approve, seconded by Mr. Fain. The motion was approved, 8-0.**

**The Meeting was adjourned at 6:55 p.m.**

Respectfully Submitted by:

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Kay Prange, Recording Secretary

**ORDINANCE NO. 091922C**  
**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF**  
**THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA**

This is an ordinance to amend the Official Zoning Map incorporated into the Unified Development Ordinance (“UDO”) for the City of Fishers (the “City”), previously enacted by the City pursuant to its authority under the laws of the State of Indiana IC 36-7-4 et seq., as amended.

WHEREAS, the City’s Plan Commission has conducted a public hearing on \_\_\_\_\_ for case \_\_\_\_\_ as required by law in regard to the proposal to amend the City’s Official Zoning Map to designate the real estate identified on Exhibit A, attached hereto and incorporated herein (the “Real Estate”), as within the C1 Commercial zoning district; and

WHEREAS, the Plan Commission at its April 12<sup>th</sup>, 2023 meeting sent a \_\_\_\_\_ recommendation to the Fishers City Council by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed; and

WHEREAS, to support its long-term vision for the City, the Council desires to adopt certain amendments to the Official Zoning Map.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA, AS FOLLOWS:

**Section 1. Declaration.** The City’s Official Zoning Map is hereby amended to designate the Real Estate as within the C1 Commercial zoning district.

**Section 2. Purpose and Intent.** The purpose and intent of this text amendment is to support the City’s long-term vision for the City.

**Section 3. Approval.** This amendment shall become effective upon its adoption and publication in accordance with Indiana law. Development of the Real Estate shall be governed entirely by the provisions of the C1 Commercial zoning district and the provisions of the UDO.

**ORDINANCE NO. 091922C**

SO ORDAINED by the Common Council of the City of Fishers, Indiana, on this \_\_\_\_ day of \_\_\_\_\_ 2023.

**COMMON COUNCIL OF THE CITY OF FISHERS,  
HAMILTON COUNTY, INDIANA**

**YAY**

**NAY**

**ABSTAIN**

|  |                                   |  |  |
|--|-----------------------------------|--|--|
|  | Todd Zimmerman,<br>President      |  |  |
|  | John Weingardt,<br>Vice President |  |  |
|  | C. Pete Peterson,<br>Member       |  |  |
|  | Cecilia C. Coble,<br>Member       |  |  |
|  | Brad DeReamer,<br>Member          |  |  |
|  | Selina Stoller,<br>Member         |  |  |
|  | Jocelyn Vare,<br>Member           |  |  |
|  | Crystal Neumann,<br>Member        |  |  |
|  | David Giffel,<br>Member           |  |  |

I hereby certify that the foregoing Ordinance/ Resolution was delivered to City of Fishers Mayor Scott Fadness on the 17th day of April 2023, at \_\_\_\_\_ m.

ATTEST: \_\_\_\_\_  
Jennifer L. Kehl, City Clerk

**MAYOR'S APPROVAL**

\_\_\_\_\_  
**Scott A. Fadness, Mayor**

\_\_\_\_\_  
**DATE**



**MAYOR'S VETO**

\_\_\_\_\_  
**Scott A. Fadness, Mayor**

\_\_\_\_\_  
**DATE**

This instrument prepared by: Christopher P. Greisl, City Attorney, City of Fishers, Hamilton County, Indiana, One Municipal Drive, Fishers, Indiana, 46038

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." Christopher P. Greisl

**Exhibit A**  
**Legal Description of Real Estate**

PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 18 NORTH, RANGE 5 EAST OF THE SECOND PRINCIPAL MERIDIAN, FALL CREEK TOWNSHIP, HAMILTON COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID QUARTER QUARTER SECTION; THENCE NORTH 00 DEGREES 09 MINUTES 04 SECONDS EAST 208.71 FEET ALONG THE EAST LINE OF SAID QUARTER QUARTER SECTION TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DUE WEST 208.71 FEET; THENCE NORTH 00 DEGREES 09 MINUTES 04 SECONDS EAST 208.71 FEET; THENCE DUE EAST 208.71 FEET TO THE EAST LINE OF SAID QUARTER QUARTER SECTION; THENCE SOUTH 00 DEGREES 09 MINUTES 04 SECONDS WEST 208.71 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING.

ALSO:

PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 18 NORTH, RANGE 5 EAST OF THE SECOND PRINCIPAL MERIDIAN, FALL CREEK TOWNSHIP, HAMILTON COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS. FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID QUARTER QUARTER SECTION; THENCE DUE WEST (ASSUMED BEARING) 208.71 FEET ALONG THE SOUTH LINE OF SAID QUARTER QUARTER SECTION; THENCE NORTH 00 DEGREES 09 MINUTES 04 SECONDS EAST 208.71 FEET; THENCE DUE EAST 208.71 FEET TO THE EAST LINE OF SAID QUARTER QUARTER SECTION; THENCE SOUTH 00 DEGREES 09 MINUTES 04 SECONDS WEST 208.71 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:

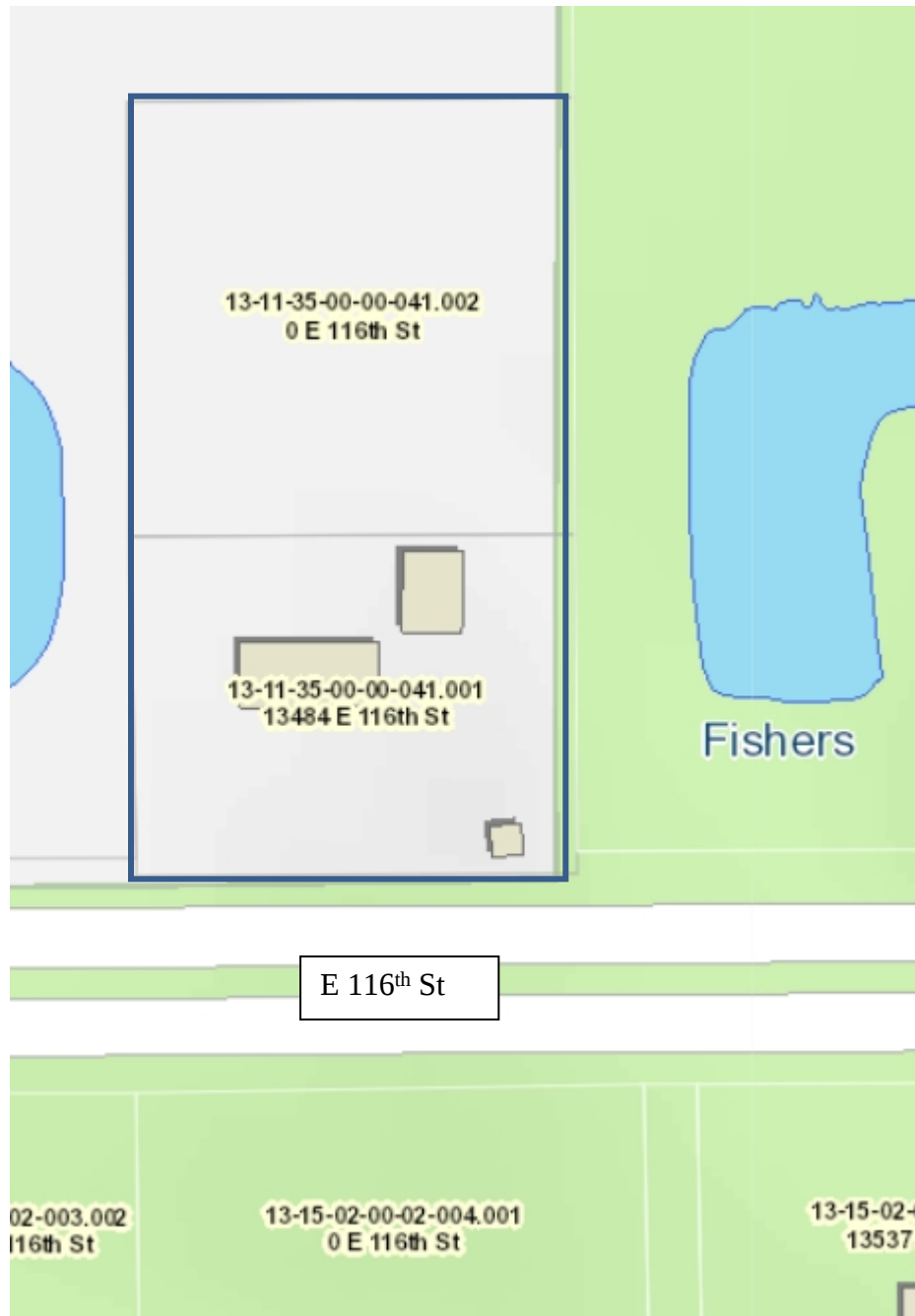
A PART OF THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 35, TOWNSHIP 18 NORTH, RANGE 5 EAST, HAMILTON COUNTY, INDIANA, AND BEING A PART OF THE LAND OF INSTRUMENT NUMBER 9909939439, OFFICE OF THE RECORDER MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 89 DEGREES 55 MINUTES 54 SECONDS EAST (ASSUMED BEARING) 1,320.97 FEET ALONG THE SOUTH LINE OF SAID SECTION TO THE POINT OF BEGINNING OF THIS DESCRIPTION BEING THE SOUTHEAST CORNER OF SAID SOUTHWEST QUARTER-QUARTER SECTION: THENCE NORTH 89 DEGREES 55 MINUTES 54 SECONDS WEST 208.71 FEET ALONG THE SOUTH LINE OF SAID SECTION TO THE SOUTHWEST CORNER OF THE GRANTOR'S LAND; THENCE NORTH 0 DEGREES 11 MINUTES 55 SECONDS EAST 50.00 FEET ALONG THE WEST LINE OF THE GRANTOR'S LAND; THENCE SOUTH 89 DEGREES 55 MINUTES 54 SECONDS EAST 208.71 FEET TO THE EAST LINE OF SAID QUARTER-QUARTER SECTION; THENCE SOUTH 0 DEGREES 11 MINUTES 55 SECONDS WEST 50.00 FEET ALONG THE EAST LINE OF THE SAID QUARTER-QUARTER TO THE POINT OF BEGINNING AND CONTAINING 0.240 ACRES, MORE OR LESS.

*13484 E 116<sup>th</sup> St*  
*13-11-35-00-00-041.001*

**ORDINANCE NO. 091922C**

**EXHIBIT B**



*13484 E 116<sup>th</sup> St*  
*13-11-35-00-00-041.001*



## Advisory Plan Commission Staff Report

**Meeting Date:** April 12, 2023

**DEPARTMENT CONTACT:**

Bre King, Department of Planning & Zoning,  
One Municipal Drive, Fishers, IN. 46038

**CASE NUMBER:**

RZ-22-4

**PETITIONER:**

Bill Butz of Kimley-Horn

**PROPERTY ADDRESS/LOCATION:**

13484 E 116th

**REQUEST:**

Consideration of a rezone of 1.76 acres from R2 to C1.

**EXISTING ZONING:**

R2

**PROPOSED ZONING:**

C1

**FISHERS 2040:**

Suburban Residential

**LOT SIZE:** 1.76

**LOCATION MAP**



**STAFF RECOMMENDATION**

☒ Favorable Recommendation   ☐ Unfavorable Recommendation   ☐ No Recommendation

## ZONING HISTORY:

No previous zoning petitions have been submitted for this property. Per MapFishers, a residence was built approximately 1976 and has remained residential as the City grew around the property.

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## SURROUNDING LAND USE & ZONING:

North: R2 – Institutional Use

East: PUDC – Commercial Use

South: ER- Residential Use

West: R2 – Institutional Use

In the image below:

- Yellow Represents R2 (Residential 2)
- Orange Represents ER (Estate Residential)
- Grey Represents PUDC (Planned Unit Development Commercial)



## SUMMARY OF PUBLIC COMMENTS:

October 27<sup>th</sup>, 2022, Community Meeting Details:

The meeting was held in the training conference room at Fire Station 91 and began promptly at 5:30 PM. The civil engineer associated with the project, Bill Butz, presented a brief introduction to the elevations and site plan and then opened the floor to questions. The owner of the proposed salon provided information on the business plan including the maximum number of stylists as 23 which is similar in size to Flipped Out Stylists ( 11862 Olio Rd, Fishers, IN 46037), a nearby salon that houses 26 stylists.

The comments that arose were similar to the concerns raised in written correspondence attached to this report.

The public questioned the history of the PUD where Kroger is located. However, the subject property is not a portion of the “Northwest Corner 116 Street and Olio Road PUD” (Ordinance No. 110514B) or applying to be a continuation of the beforementioned PUD.

The question arose if the building would be subdivided into future tenants. The owner stated that there are no plans to subdivide the building. If the building were to be subdivide it would require significant changes to the structure as well as changes to the number of parking spaces and associated infrastructure.

The owners described conversations with the church as to a potential connection to the existing church drive. However, the church is not interested in connecting at this time.

The residents provided a few suggestions such as limiting business hours to no later than 8PM, limiting the number of tenant spaces, limiting parking spaces and moving the pond to the front of the property.

There were significant questions about traffic, including U-turns. After speaking with our Engineering department, U-turns are determined to be non-problematic. U-Turns were included in the Engineering Departments original traffic discussions, and they find no issues with the proposal.

The petitioner is taking the feedback from the meeting to meet with the owner. Staff anticipates the petitioner addressing the concerns at Plan Commission.

#### Meeting Attendees:

Allen R Wilkie – 9737 Gulfstream Dr (Rezone Property Owner)

Rachel Petry – 6390 W Chelmsford (Rezone Property Owner)

Jacquelyn Thompson – 13429 E 116<sup>th</sup> St

Cam and Valeria Kucic – 13665 E 114<sup>th</sup> St

Laura Villanyi – 13575 E 114<sup>th</sup> St  
Donna Bond – 13555 E 114<sup>th</sup> St  
Elizabeth and Chris Cook – 13625 E 114<sup>th</sup> St

### Public Comments

Public Comments were received by the following residents and the full text of the comments were provided to the Commission prior to the October meeting. These comments have also been attached to this staff report. Please see the image below indicating the location of the comments with stars, and the location of the proposed rezone in the green box:

- Donna Bond of 13555 E 114<sup>th</sup> St
- Angela Mattingly of 13487 E 116<sup>th</sup>
- Jacquelyn Thompson of 13429 E 116<sup>th</sup> St
- Kim Cook of 13595 E 114<sup>th</sup> St



The comments included concerns including traffic, buffering the Commercial Use from Residential, Kroger PUD Standards about the extent of commercial activity for the Kroger PUD, and the status of existing commercial space elsewhere in the city.

### Staff Response to Public Comments:

#### Traffic:

Several of the comments included concerns about traffic. This property is on the Northside of 116<sup>th</sup>, which contains a median separating traffic traveling East and West. Because of this, the design for Magnolia Grove Salon will feature an intersection that will not allow traffic to turn left into or to leave the development. Our Engineering department has reviewed the proposed plans and use for this property to determine if traffic will be an issue and they determined that the traffic generated by the salon will not cause a problem for the city at large, or the 4 residents South of the 116<sup>th</sup> St median. Engineering's bullet point responses are below:

- Site should be a low volume generator.
- The proposed driveway will be a right-in/right-out
- The traffic entering the site will not have to stop
- There will be enough gaps in the westbound traffic to allow traffic to exit the site efficiently

#### Buffering:

Comments included the concern that if the property were rezoned to Commercial, there would be no buffer from Residential use.

This property is currently zoned residential and was used as a residence when the Northwest Corner and 116<sup>th</sup> St PUD was created. This PUD is where the Kroger development sits. That is why the pond was placed by the two properties that are currently zoned residential to buffer those properties from Kroger. However, the subject property is requesting to be zoned C1. A C1 zoning would not require a buffer from the institutional use to the West and North (Place of Worship) or the Commercial use to the East. This property is no longer desirable for residential use as it is surrounded by nonresidential use on a busy thoroughfare. The property is currently surrounded by nonresidential uses.

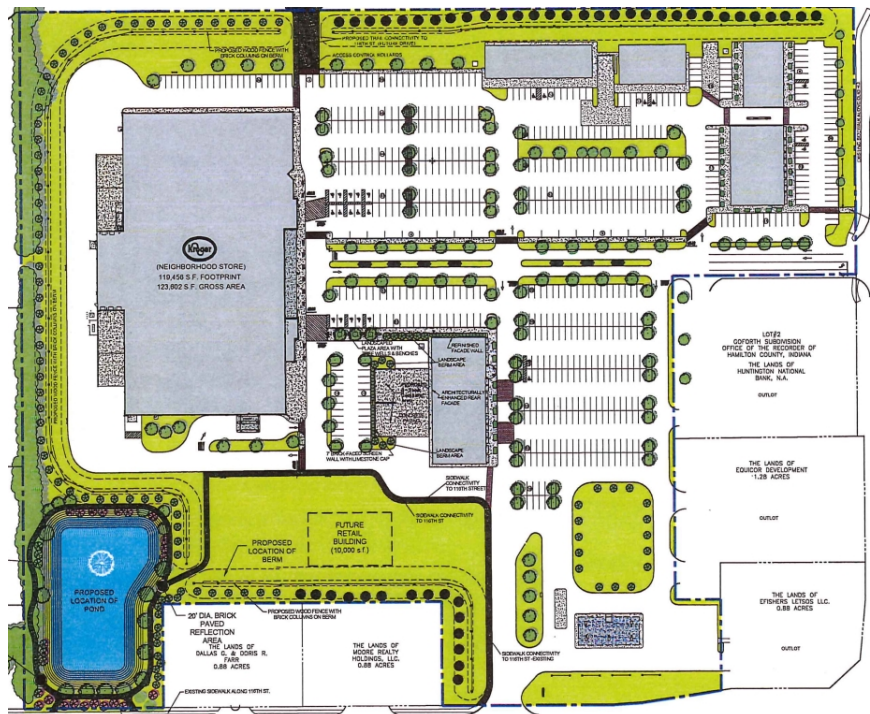
The properties along 114<sup>th</sup> St. maintain their buffer from the subject property through landscaping and distance. The two properties along 116<sup>th</sup> St also have the landscaped median and road as a buffer.

#### PUD Standards:

The area indicated in the concept plan below is a portion of the Northwest Corner 116<sup>th</sup> St and Ohio Road Planned Unit Development. This Planned Unit Development (PUD) does not include the subject property for the Magnolia Grove Salon. Per the image, the boundaries stop at the detention pond. A Planned Unit Development is a development with rules and regulations related to zoning that do not follow one specific zoning district. The rules and regulations of the PUD only apply to properties in the PUD zoning. The rules do not apply to properties outside the zoning district.

The subject property for Magnolia Grove Salon is not a part of this PUD and is currently zoned R2. This rezone is seeking to rezone the property to C1, which is the least intense commercial zoning district in the Fishers Unified Development Ordinance.

The Northwest Corner PUD does stipulate that the commercial uses associated with that PUD cannot extend beyond 1400' from the intersection of 116<sup>th</sup> and Olio. However, the PUD standards do not apply to this property. The PUD standards would prevent the Kroger development from expanding to the West, but not in the case of a rezone that is not related to or governed by the Northwest Corner of 116<sup>th</sup> and Olio PUD.



On the January 20, 2015 Staff report for the City Council 3<sup>rd</sup> reading of the Northwest Corner of 116th St and Olio Road PUD Text Amendment, staff commented that “All rezones require staff review, public comment, a Plan Commission recommendation, and a City Council decision.” This illustrates the fact that staff acknowledged that any future rezone would be reviewed at the time of application to determine the acceptability of the use as the area has developed and grown. Again, statements made about the specific rezone to PUD do not apply to properties not included in that zoning district. As an area grows, develops and is enhanced, staff and elected officials’ recommendations can change over time.

#### Existing Commercial Space:

Public comments also included concern that existing commercial locations in the city are vacant. This is, however, not a zoning concern.

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## PETITION OVERVIEW:

The current zoning of the property is R2-Residential. The R2 District is intended to be provide for single-family homes in a lower density range of approximately 1.0 to 1.7 dwelling units per acre. The property currently has a single-family home.

This project was originally scheduled for the October Plan Commission meeting. However, on the day of the meeting, 4 residents South of 116<sup>th</sup> St presented concerns about the rezone petition. These comments are provided further in this staff report. After the 4 residents voiced their comments, staff worked with the petitioner to schedule a public meeting on October 27<sup>th</sup>, 2022 to discuss the proposal with the residents who expressed concern. The request was then tabled until April 12, 2023. The item was noticed for the April meeting as required by Indiana State Law.

The petitioner has requested a rezone to the C1 zoning district as described in the Unified Development Ordinance to allow for the proposed use of a salon. An additional use will be proposed later in the development process that will be suitable for a C1 zoning. The C1 District is established to provide for the development of professional and office type businesses which may serve as buffer areas between residential and more intense commercial districts. It is intended that the C1 District will result in the development of office buildings arranged in a park type environment, with structures that would be compatible with neighboring residential uses.

The images and site plan provided are for illustrative purposes. As the proposal is a straight zone to the C1 district, the site design and architecture will obtain approval during the Technical Advisory Committee process.

### Development Standards

Any future development will be required to meet all development standards of the Fishers Unified Development Ordinance for a C1 zoning district.

### Architecture

The proposed architecture is residential in nature and harmonious with the surrounding properties and residential uses such as the Moore Dentistry building to the East of the subject property.

### Open Space

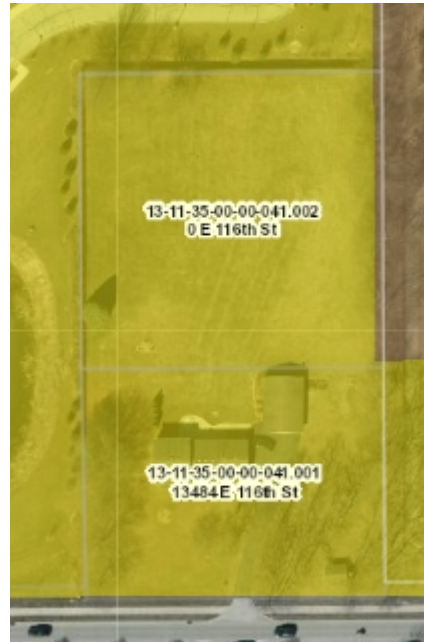
Open Space will be provided as required by the Unified Development Ordinance.

### Site Access & Right of Way

The site will be accessed by a single drive that will allow for a right in and right out only.

#### Fishers 2040

The Fishers 2040 plan lists the future plans as suburban residential.



#### April Plan Commission Updates

In response to public comments, the petitioner has decreased the proposed size of the structure from 9,288 sf to 6,986 sf. There are 57 parking spaces proposed for the development. As the proposal is a straight zone to the C1 district, the site design and architecture will obtain approval during the Technical Advisory Committee process.

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#### **STAFF RECOMMENDATION:**

When making their decision, Plan Commission shall be reasonable regard to:

1. The Comprehensive Plan;
2. Current conditions and the character of structures and uses in each zoning district;
3. The most desirable use for which the land in each zoning district is adapted;
4. The conservation of property values throughout the jurisdiction; and
5. Responsible development and growth.

Fishers 2040 The Fishers 2040 Future Land Use Map identifies this area as Suburban Residential, which is defined as single-family detached residential at low densities ranging from

2-4 dwelling units per acre. However, as the C1 district is intended to provide a buffer from Residential to more intense commercial uses, and the commercial uses surrounding the property, Staff feels like the proposed rezone would be a benefit to the site and the City.

#### Current Conditions

The proposed development is in a busy area of the city. To the West is an institutional use (An institutional use is the use of land, buildings or other structures for some public or social purpose, in this case, a church that is located in a R2 zoning district but is not a residential use.) and Kroger abuts the Eastern property line of the subject area. Specifically, the Kroger detention pond.

The intersection of 116th and Olio is a commercial area of the city and will complement the new commercial use nicely. Residential development exists across from the boulevard style, 116th St. This property is at a portion of 116th with an unbroken landscaped median that will not allow traffic from the proposed use to turn left to travel East on 116th. The proposed development aligns with the current conditions and character of the surrounding land.

#### City Council

This item was given First Reading at City Council on September 18, 2022.

Staff recommends Plan Commission send a **favorable recommendation** to City Council. This item is anticipated to go to City Council on April 17th, 2023, for final reading.

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### STAFF RECOMMENDATION

☒ Favorable Recommendation    ☐ Unfavorable Recommendation    ☐ No Recommendation

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Public Comments:

|                                                                               |                                                                                                                                                                                                                                                                           |
|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Name:                                                                         | Donna Bond                                                                                                                                                                                                                                                                |
| Address:                                                                      | 13555 E. 114th St.<br>Fishers, IN 46037                                                                                                                                                                                                                                   |
| Email:                                                                        | <a href="mailto:jerrybond@mac.com">jerrybond@mac.com</a>                                                                                                                                                                                                                  |
| Subdivision or business name:                                                 | Cedarstone HOA                                                                                                                                                                                                                                                            |
| Is this comment regarding City Council redistricting? :                       | No                                                                                                                                                                                                                                                                        |
| Please select the meeting to which you would like to submit a public comment: | Plan Commission Meeting                                                                                                                                                                                                                                                   |
| Meeting Date:                                                                 | Oct 05, 2022                                                                                                                                                                                                                                                              |
| Project Name/Resolution Number:                                               | RZ-22-4 Magnolia Grove Salon                                                                                                                                                                                                                                              |
| Comment:                                                                      | I am against changing the zoning of this residential area to commercial. It is not in the best interests of the neighborhood. Commercial zoning would bring too much public traffic to an area already impacted by a huge increase in traffic due to Kroger Marketplacve. |

|                                                                               |                                                                                 |
|-------------------------------------------------------------------------------|---------------------------------------------------------------------------------|
| Name:                                                                         | Angela Mattingly                                                                |
| Address:                                                                      | 13487 E 116th Street<br>Fishers, IN 46037                                       |
| Email:                                                                        | <a href="mailto:angela@envisionideas.com">angela@envisionideas.com</a>          |
| Subdivision or business name:                                                 | Spencer Subdivision - directly across the street from proposed development      |
| Is this comment regarding City Council redistricting??:                       |                                                                                 |
| Please select the meeting to which you would like to submit a public comment: | Plan Commission Meeting                                                         |
| Meeting Date:                                                                 | Oct 05, 2022                                                                    |
| Project Name/Resolution Number:                                               | Case # RZ-22-4 - Consideration of a rezone of 1.76 acres from R2 to C2 (or C1?) |

Comment:

I object to rezoning 13484 E 116th Street from R2 to commercial (C1 or C2 - the documents related to this project list both) for several reasons:

(1) Traffic is already backed up in this area due to all the commercial development at the corner of 116th and Olio plus the residential developments further east. Adding a large commercial development with nearly 60 parking spaces would make traffic in this area even more unmanageable.

(2) When Kroger expanded, the pond and nature area were to be the buffer between the commercial and residential area. The City of Fishers agreed that this was the buffer. Why are we looking into a carve out for commercial in the middle of an area zoned as residential?

(3) In addition to the buffer mentioned above, PUD decisions in the early 2000's state that the limit for commercial is 1000 feet from the corner of 116th and Olio. This is not within that agreed upon area.

(4) Let's fill up the buildings already sitting empty in commercial areas of Fishers before adding more in areas that the City of Fishers has already agreed would remain residential.

Thank you for your time.  
Angela Mattingly

Name:

Jacquelyn Thompson

Address:

13429 East 116th Street  
Fishers, IN 46037

Email:

[jthompson2235@yahoo.com](mailto:jthompson2235@yahoo.com)

Subdivision or business name:

116th Street/ Magnolia Grove Salon

Is this comment regarding City Council redistricting?  
?:

No

Please select the meeting to which you would like  
to submit a public comment:

Plan Commission Meeting

Meeting Date:

Oct 05, 2022

Project Name/Resolution Number:

RZ-22-4

Comment:

When the expansion of Kroger was approved the green space just east of this land was intended to be the buffer between commercial and residential. Allowing a rezone of this property puts commercial activity on the west side of the agreed upon buffer. With the addition of Cornerstone Lutheran Church, Kroger, Starbucks and increased development on the east side of fishers, traffic on this particular area of 116th is already unmanageable. Adding any additional commercial activity in this area is unwise.

|                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Name:                                                                         | kim cook                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| Address:                                                                      | 13595 e 114th st<br>fishers, IN 46037                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Email:                                                                        | <a href="mailto:kimlcook@msn.com">kimlcook@msn.com</a>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| Subdivision or business name:                                                 | Cedarstone                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| Is this comment regarding City Council redistricting??:                       | No                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| Please select the meeting to which you would like to submit a public comment: | Plan Commission Meeting                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Meeting Date:                                                                 | Oct 05, 2022                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Project Name/Resolution Number:                                               | RZ-22-4 Magnolia Grove Salon                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Comment:                                                                      | <p>1. The size of the structure is too big (9000 sq ft)</p> <p>2.the zoning classification should not be changed to commercial from residential</p> <p>3. It is more than a 1000 ft from the intersection of 116th and Olio as designed by the PUD for any commercial. Which was reinforced when it was agreed upon for the Nature Area put in by Kroger, designating the end of the commercial area limit that the city and commission agreed to.</p> <p>4. the traffic management at this area is already a problem</p> <p>These are just a few of the reasons that we feel this rezoning should not be granted</p> |

**From:** Vukusich, Megan <[vukusichm@fishers.in.us](mailto:vukusichm@fishers.in.us)>

**Sent:** Thursday, March 2, 2023 3:15 PM

**To:** Chris Cooke <[chris.cooke@cookefg.com](mailto:chris.cooke@cookefg.com)>

**Cc:** Elizabeth Cooke <[elizcooke@comcast.net](mailto:elizcooke@comcast.net)>; Andy.mattingly@forumcu.com; Tim Mattingly <[tim@indyamr.com](mailto:tim@indyamr.com)>; Jacquelyn Thompson <[jacque@kineticrecreation.com](mailto:jacque@kineticrecreation.com)>; Freddie McClure <[freddiemcclure@gmail.com](mailto:freddiemcclure@gmail.com)>; lauraworld@mac.com; Joseph Bond <[jerrybond@icloud.com](mailto:jerrybond@icloud.com)>; Jerry Bond <[jerrybond@mac.com](mailto:jerrybond@mac.com)>

**Subject:** RE: Magnolia Grove -- Proposed rezone west of 116th and Olio, Dec 7 Plan Commission agenda

Chris – See below and attached.

**MEGAN VUKUSICH**

Director, Planning and Zoning

Tel: 317.588.1431, Mobile: 317.526.3905

[vukusichm@fishers.in.us](mailto:vukusichm@fishers.in.us)



**From:** Chris Cooke <[chris.cooke@cookefg.com](mailto:chris.cooke@cookefg.com)>

**Sent:** Tuesday, February 28, 2023 12:33 PM

**To:** Vukusich, Megan <[vukusichm@fishers.in.us](mailto:vukusichm@fishers.in.us)>

**Cc:** Elizabeth Cooke <[elizcooke@comcast.net](mailto:elizcooke@comcast.net)>; [Andy.mattingly@forumcu.com](mailto:Andy.mattingly@forumcu.com); Tim Mattingly <[tim@indyamr.com](mailto:tim@indyamr.com)>; Jacquelyn Thompson <[jacque@kineticrecreation.com](mailto:jacque@kineticrecreation.com)>; Freddie McClure <[freddiemcclure@gmail.com](mailto:freddiemcclure@gmail.com)>; [lauraworld@mac.com](mailto:lauraworld@mac.com); Joseph Bond <[jerrybond@icloud.com](mailto:jerrybond@icloud.com)>; Jerry Bond <[jerrybond@mac.com](mailto:jerrybond@mac.com)>

**Subject:** FW: Magnolia Grove -- Proposed rezone west of 116th and Olio, Dec 7 Plan Commission agenda

**EXTERNAL SENDER:** Please exercise increased caution. Do not open attachments or click links from unknown senders unexpected email messages.

Megan, thanks in advance for your help on these items. Chris Cooke

1. Please include my email (below) in the record for the revised Magnolia Salon proposal (April Plan Commission agenda). **Will do.**
2. Can you email me any info on the "new" version of the Magnolia salon as it becomes available? We hear some changes were made, but have not seen anything yet. **See attached.**
3. Farr Property on 116<sup>th</sup> -- If your department receives a proposal for the Farr property (13562 E. 116<sup>th</sup> -- next to Moore Berry Dentistry) I would appreciate you adding this email in the Plan Commission's information packet. **Will do.**
4. If a Farr property request is received, please email/forward any proposed plans to me as they become available (or let me know how to request them). **Will do.**
5. The Farr property currently has a very large sign picturing a two story, multiple tenant office building. I would note that all 116<sup>th</sup> and Olio PUDs have height limits and square footage limits for this corner, and green space requirements. **They have submitted for a temporary sign permit application. A review of the site design will be completed when they submit for permits.**
6. There is currently a 6' construction fence all the way around the Farr parcel. The fence is blocking the sidewalk -- you have to walk in the street to get around the fence. Is this allowed? (and it is really ugly too.....) **Our code enforcement team is aware and are working with the property owner.**

Thanks again, Chris

**From:** Chris Cooke, CIMA®

**Sent:** Wednesday, November 16, 2022 5:18 PM

**To:** [peterpson@fishers.in.us](mailto:peterpson@fishers.in.us); [stollers@fishers.in.us](mailto:stollers@fishers.in.us); [zimmermant@fishers.in.us](mailto:zimmermant@fishers.in.us); [hstevenson@slegalgroupp.com](mailto:hstevenson@slegalgroupp.com); [dawn.lang@me.com](mailto:dawn.lang@me.com)

**Cc:** [coblec@fishers.in.us](mailto:coblec@fishers.in.us); [weingardtj@fishers.in.us](mailto:weingardtj@fishers.in.us); Scott Fadness <[scott@scottfadness.com](mailto:scott@scottfadness.com)>

**Subject:** Magnolia Grove -- Proposed rezone west of 116th and Olio, Dec 7 Plan Commission agenda

## **Fishers Plan Commission, Fishers City Council, Mayor Fadness,**

Magnolia Grove salon is back for a second round of meetings in front of the plan commission (116<sup>th</sup> St, west of Olio Rd), and in the near future there is likely a proposal for the Farr property

(same part of 116<sup>th</sup>/Olio). The original staff report recommending approval of the Magnolia Grove Salon (Plan Commission agenda for December 7, 2022) suggested that “only this single parcel is under discussion” and that the rest of the 116<sup>th</sup> and Olio corner should not be considered (i.e. the Kroger Marketplace PUD/SuperKroger). We believe that is incorrect, ignores past precedent regarding this corner, and that any zoning in this area MUST include the history of the Olio/116<sup>th</sup> St zoning process, the NW corner Olio/116<sup>th</sup> PUD documents, their approval process, and various commitments made by Fishers personnel and area developers.

*These commitments are public record and discussed in the Fishers Town Council YouTube video from March 3, 2014. Fishers Town Council, 3/3/2014, First Reading for SuperKroger at 116<sup>th</sup> and Olio Rd (35 min – 46 min) <https://www.youtube.com/watch?v=HzqdoLN7ezQ> (35min mark to the 46 min mark)*

**Historical Note:** 116<sup>th</sup> and Olio corner has had approximately 100 public meetings over the last 20 years with attendance including well over 200 residents from the area, various developers, and Fishers’ personnel as seen/heard in the video. Newer members of the Plan Commission and Fishers City Council may not remember the hundreds of hours of work by area residents, developers, and Fishers personnel and the 100+ meetings before reaching these various agreements and commitments. VIDEO/AUDIO history will assist our current plan commission members when discussing upcoming rezoning requests on this corner.....please listen to the 2014 Fishers Town Council Member’s words in the video below (including Mayor Fadness and others!). I also suggest opening the Closed Caption (CC) so you can see their words (some audio is hard to hear).

Fishers Town Council, 3/3/2014, First Reading for SuperKroger at 116<sup>th</sup> and Olio Rd (35 min – 46 min)  
<https://www.youtube.com/watch?v=HzqdoLN7ezQ>

1. **Video evidence of zoning commitments** -- Fishers Town Council member Stuart Easley opens the discussion and talks about this area and the extensive zoning history. The Video includes discussion of the 116<sup>th</sup> and Olio Super Kroger (Kroger Marketplace PUD) when brought to Fishers Town Council for first reading (RIGHT NEXT TO MAGNOLIA SALON PROPERTY and the pending FARR PROPERTY). Various Town Council members talk about this corner. You very clearly hear at least *TWO COMMITMENTS* noted by various Fishers Town Council members at this PUBLIC MEETING. There are also slides in the presentation documenting these commitments.
  - a. The amount of total retail/commercial square footage at 116<sup>th</sup> and Olio was to be strictly limited.
  - b. The distance the retail/commercial would extend from the corner of 116<sup>th</sup> and Olio would be limited to 1400 feet.
  - c. There are height, lighting, and other restrictions in the PUD as well.
2. **Fishers Residents justifiably BELIEVED and RELIED UPON these commitments** from our Fishers Town Council, documented in the Kroger Marketplace PUD, and agreed to by all parties. Commitments were made at various public meetings and specified the limited distance that retail would be allowed to creep from the Olio corner. These commitments are public record giving notice to future developers (like Magnolia Grove) of the square footage and distance limits. This is especially important when the commitments came over many years (2003 – present), during about 100 public meetings

relating to the 4 corners of this intersection, and between various Fishers representatives, developers, and over 200 residents of this area (see #3).

3. The colorful, detailed Fishers Future Land Use Map (adopted in 2021) found on page 19 of the Fishers 2040 Land Use document ratifies the history of this corner and these commitments. <https://www.fishers.in.us/DocumentCenter/View/26139/Fishers-2040---Land-Use>. This recently adopted map designates the SuperKroger fence/pond as the western edge of the commercial district (1400 feet per the PUD), and designates the proposed Magnolia Grove property as RESIDENTIAL/R2. **Residents have a right to rely upon this recently adopted map.**
4. The Fall Creek Community Organization (**FCCO**) represented over 200 residents of Fall Creek Township from 2003 to about 2015. The **FCCO** actively worked with Fishers and local developers to make this 116<sup>th</sup>/Olio corner special and achieve better zoning outcomes. **FCCO** reached agreements on buffers between commercial and residential, commercial square footage limits, and maximum distance from the intersection. The **FCCO** was present at every Plan Commission and Town Council meeting for over 10 years. Note: FCCO disbanded after the 2014 SuperKroger zoning as we believed the zoning was well defined on all 4 corners of the intersection and all negotiations with developers and the Town/City of Fishers on this corner were completed.
5. Currently there is a single dentist's office on the **OUTSIDE** of the COMMERCIAL MOUND/FENCED area. This dental office "use and intensity" should set the MAXIMUM INTENSITY precedent for any commercial use allowed on the OUTSIDE of the commercial mound/fence area. Also, commercial uses farther from the corner should be LESS INTENSE as we go to the west. The most intense uses should be inside or next to the mounded commercial area. Dentist's Office is approx. 5000 sq ft, 7am – 7pm weekdays only, 25 parking spaces, about 6 -8 customers per hour, and strongly resembles a single family home. (Magnolia Grove is originally proposed as a 9000 square foot, 23 stylist salon, PLUS a dog washing business, over 57 parking spots. Expected customers would be 25 to 30 per hour at this type of facility). WAY TOO INTENSE VERSUS THE EXISTING PRECEDENTS (DENTIST BUSINESS) and the zoning history on this corner.

THANK YOU TO OUR PLAN COMMISSION AND CITY COUNCIL FOR REVIEWING THIS IMPORTANT HISTORY OF THE 116<sup>th</sup> and OLIO RD. CORNER.

Chris Cooke

#### ADDITIONAL INFO IF NEEDED REGARDING THE TOWN COUNCIL MEETING/VIDEO

Screenshots and transcripts of the 3/3/2014 Fishers Town Council meeting are shown below. These items may further assist your understanding of this 116<sup>th</sup> and Olio corner and its zoning history.

TRANSCRIPT OF VIDEO --

<https://www.youtube.com/watch?v=HzqdoLN7ezQ> – Fishers Town Council, 3/3/2014, First Reading for SuperKroger at 116<sup>th</sup> and Olivo Rd, 35 min – 46min >> 3 agenda items related to proposed SuperKroger at 116<sup>th</sup> & Olivo (#10, 11, 12)

**35 min -- Stuart Easley** – the next 3 items (10/11/12) relate to planned SuperKroger – Stuart offers his historic perspective – “the whole corner of Olivo/116<sup>th</sup> has much history with the residents and much planning in the original PUD. **David George** also on Plan Commission at the time. Developers and residents spent many meetings to get aligned on limiting retail square footage per acre and limits on commercial area etc and this petition deviates from that. *This deviates substantially from past agreements.* Stuart not interested in 1<sup>st</sup> reading because of this prior alignment. Suggest no first reading per Stuart as this new proposal violates the spirit of the area and existing PUD. And the longstanding alignment of the residents and the town and existing developers.....send a clear signal about the intent of the town.....extensive work on size, scale, type, *distance from intersection*, etc. Plan Commission is public hearing, then it could come back to Town Council if passes Plan Commission. Historical context – neighborhood retail, limited size, distance, etc all agreed upon.....”

**Scott Fadness** – Adam give a summary, and then have council weigh in.

**Adam Zach(?)**..... – plan dept – intro of location, changes requested are noted

**Stuart Easley** – “Noting that since original meetings there are all new faces in the planning department and they may not know the history.....long public input process.”

**Adam** – discusses annexing 6.8 acres of property, access rights on 118<sup>th</sup> st, and rezone from R2 to PUD-C. demo old Kroger, build new Kroger, amend existing PUD, **LIMIT AS TO HOW FAR RETAIL COULD EXTEND**. Many clauses memorializing what Stuart Easley is referring to. Adjust numbers to make all bigger. **Notes limit of 1000 ft. Need to extend to 1400’ limit.** Taller buildings, max parking adjusted. Outdoor displays changed.

**Scott Fadness** – recommends NO first reading on rezone/PUD and tabling the annexation.

**Stuart Easley** – Plan Commission come back with (can’t hear this??)

**Pete Peterson** – Motion to table annexation, no 1<sup>st</sup> reading on rezone or PUD amendments (unanimously approved)

**New Member on Council (name?)** – I appreciate Stuart and David’s comments on this and it misses the vision of the PUD. I align with Stuart and agree with lots of time spent on these existing plans.

**Pete Peterson** – thanking Mr Cooke for showing up and Pete agrees with Stuart’s comments.

**David George** – I remember all of this area. Different developers, but all aligned. I REMEMBER RETAIL SQ FT PER ACRE AND DISTANCE FROM THE INTERSECTION. (limits on commercial -- WHERE THE LINE WAS/WILL BE). Both sides came to agreement on it.....

3 Pictures below are captured from the video’s presentation slides.....

1. Red square around proposed SuperKroger area including new parcel at center of discussion.
2. New parcel being annexed and rezoned, and distance from center of intersection modified from 1000’ to 1400’. (Magnolia is WEST of this parcel and OUTSIDE THE 1400’ LIMITS SET BY THIS PUD AND ZONING PROCESS).
3. PUD amended language including a 1400’ limit on commercial. (Magnolia would not be within these limits).

# Kroger Marketplace Aerial Map

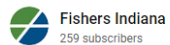


# Kroger Marketplace Annexation

- ❑ Two parcels
- ❑ 6.80 acres total
- ❑ Contiguous to current town limits
- ❑ Also includes adjacent 118<sup>th</sup> Street ROW

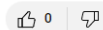


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## Kroger Marketplace Text Amendment

|                                                                 | Current      | Proposed     |
|-----------------------------------------------------------------|--------------|--------------|
| Max Single Occupancy                                            | 65,000 SF    | 125,000 SF   |
| Max SF of Retail – Parcel A                                     | 90,000 SF    | 160,000 SF   |
| Max SF of Office – Parcel A                                     | 27,000 SF    | 20,000 SF    |
| Extent of Commercial Area from 116 <sup>th</sup> St and Ohio Rd | 1,000 ft     | 1,400 ft     |
| Max Building Height                                             | 35'          | 48'          |
| Max Retail Parking                                              | 1 per 250 SF | 1 per 200 SF |

- Allows for roll up doors at entryways
- Merchandise can be displayed outdoors between the entryway for a maximum coverage of 1,800 SF
- Merchandise can be displayed outdoors at the fuel center for a maximum coverage of 250 SF

41:18 / 1:01:44

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Thanks for reading this far, and thanks for your consideration,

**J. Christopher Cooke,** CIMA®

Partner

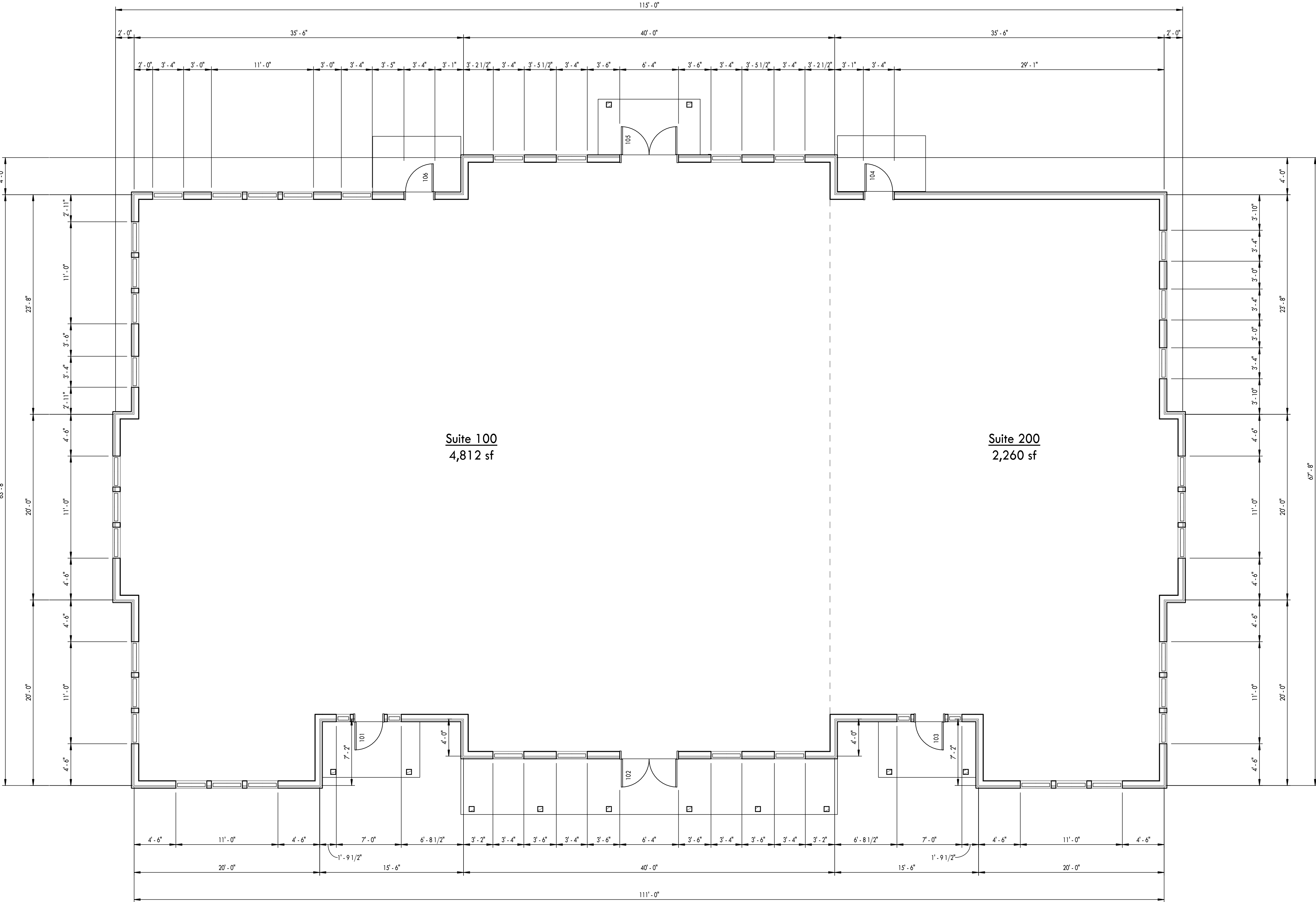
Direct: (317) 814-7810 | [Chris.Cooke@cookefg.com](mailto:Chris.Cooke@cookefg.com)











OVERALL BUILDING  
7,072 sf

FIRST FLOOR PLAN

1

3/16" = 1'-0"

## GENERAL NOTES

- A. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFICATION OF ALL DIMENSIONS AND JOB CONDITIONS. ANY DEVIATION FROM WHAT IS NOTED IN DRAWINGS SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT IMMEDIATELY.
- B. ALL DIMENSIONS SHOWN ARE FACE OF BRICK, MASONRY OR METAL STUD FRAMING - UNLESS NOTED OTHERWISE.
- C. PROVIDE DEEP LEG DEFLECTION TRACK AT ALL METAL STUD CONNECTIONS WITH STRUCTURE ABOVE - TYPICAL.
- D. PROVIDE FIRE RATED WOOD BLOCKIN IN METAL STUD WALLS FOR ANY WALL SUPPORTED ITEMS.
- E. PROVIDE APPROVED FIRE RATED STOPPING MATERIALS IN ANY OPENINGS IN FIRE RATED ASSEMBLIES.
- F. REFER TO DOOR AND WINDOW SCHEDULES FOR ALL MATERIALS, FINISHES AND HARDWARE INFORMATION.
- G. REFER TO EXTERIOR ELEVATIONS FOR ALL BRICK MASONRY AND OTHER EXPANSION JOINT LOCATIONS.
- H. ALL MATERIALS LOCATED IN CEILING PLENUM SHALL BE RATED FOR SUCH INSTALLATION OR PROTECTED TO PROVIDE COMPLIANCE. THIS INCLUDES BUT IS NOT LIMITED TO INSULATION (FHC 25/50) POWER AND LOW VOLTAGE WIRING, TELECOMMUNICATIONS CABLING, PLUMBING SUPPLY, DRAIN LINES AND SUPPORTING BRACKETS, AND/OR BLOCKING FOR CEILING HUNG ITEMS.
- I. PRIOR TO ORDERING ANY PRODUCTS, CONTRACTOR SHALL SUBMIT SAMPLES TO THE ARCHITECT OF ALL FINISH MATERIALS TO BE USED ON THE PROJECT. THE CONTRACTOR SHALL BEAR SOLE RESPONSIBILITY FOR ANY MATERIALS ORDERED INCORRECTLY WHEN THE MATERIAL WAS NOT REVIEWED BY THE ARCHITECT.
- J. PROVIDE CONCRETE FILLED STEEL PIPE BOLLARDS AT ALL REQUIRED UTILITY EQUIPMENT LOCATIONS SUCH AS GAS METERS, ELECTRICAL TRANSFORMERS, PANELS, ETC. COORDINATE WITH UTILITY COMPANY AND CONTRACTORS WHEN APPLICABLE FOR NECESSARY LOCATIONS. REFER TO CIVIL DRAWINGS FOR BOLLARD SPECIFICATIONS AND ADDITIONAL INFORMATION.
- K. ALL DOORS, UNLESS OTHERWISE NOTED, TO HAVE HING SIDE SET 4" FROM CORNER SHOWN TO OUTSIDE OF FRAME.
- L. UNLESS SPECIFIED ELSEWHERE, ALL INTERIOR SLABS AND SLAB INFILLS TO BE FF-50/FL-35 OVERALL AND FF-35/FL-25 LOCAL.
- M. ALL EXIT DOORS TO HAVE TACTILE EXIT SIGNAGE PER 703.4 OF THE ANSI 117.1 2009.



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## PROJECT INFORMATION

MAGNOLIA GROVE  
SALON

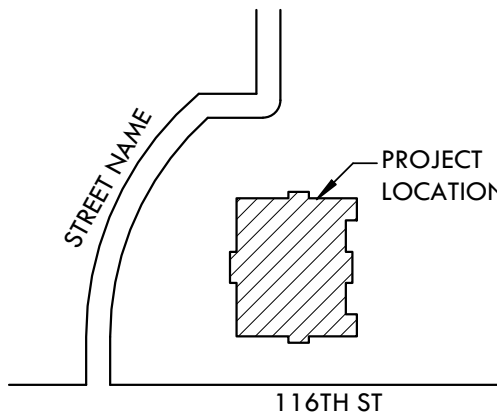
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## ISSUE DATES

| ISSUE | DATE |
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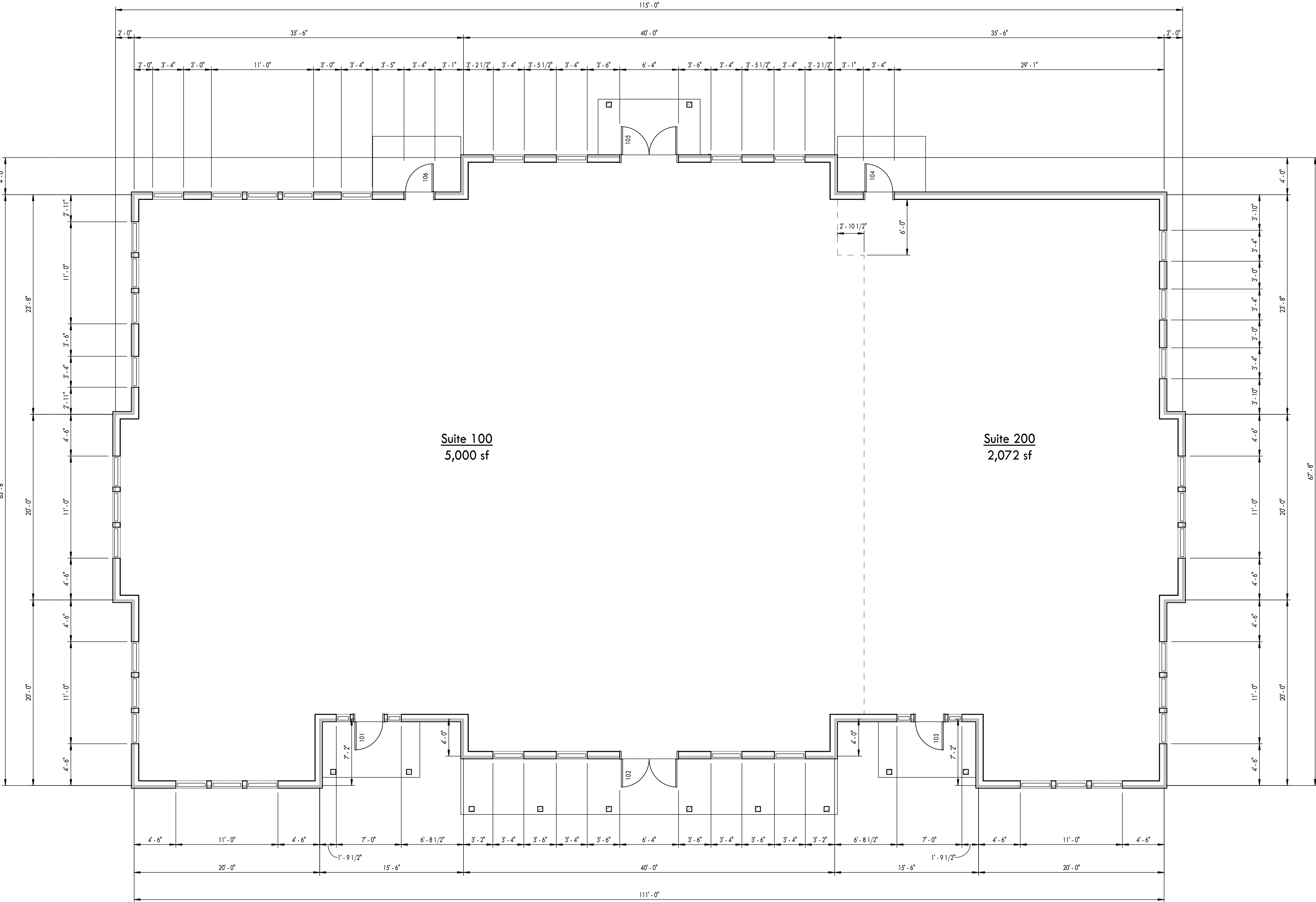
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FIRST FLOOR PLAN



**KEY PLAN**

**A101**



OVERALL BUILDING  
7,072 sf

FIRST FLOOR PLAN

1

3/16" = 1'-0"

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SALON

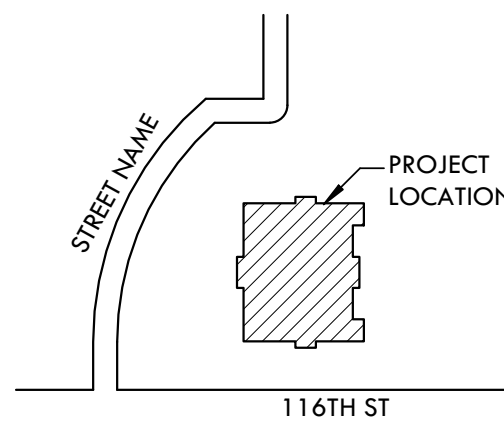
Fishers, Indiana

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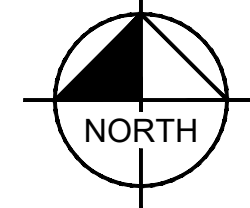
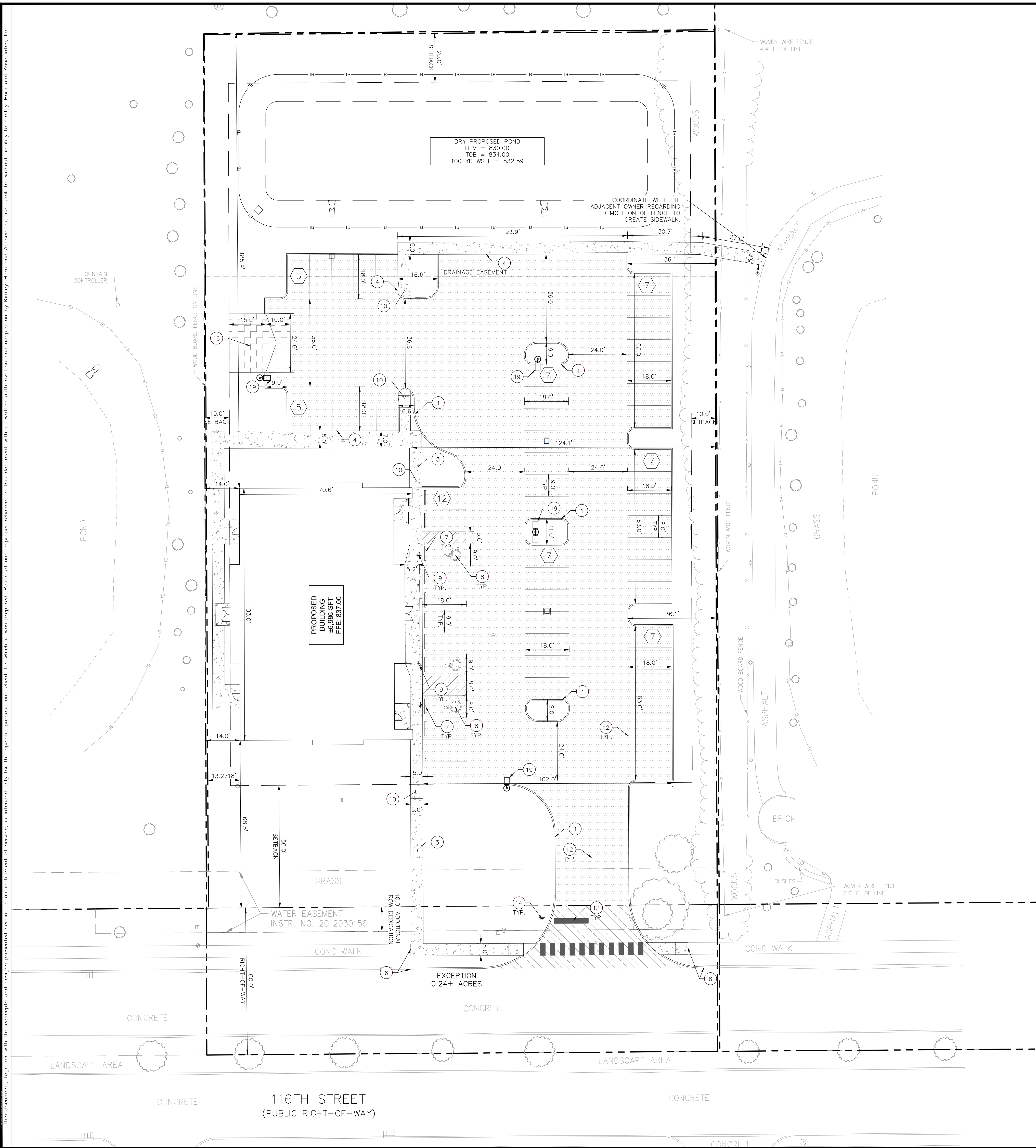
220145

FIRST FLOOR PLAN



**KEY PLAN**

**A101**



GRAPHIC SCALE IN FEET

0 10' 20' 40'

A horizontal scale bar with alternating black and white segments. The segments are labeled 0, 10', 20', and 40' at the top. The bar is divided into four equal segments, each representing 10 feet. The first segment (0-10') is white, the second (10-20') is black, the third (20-30') is white, and the fourth (30-40') is black.

## PAVING LEGEND

|                                                                                     |                                                                                        |
|-------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
|  | <u>STANDARD DUTY ASPHALT PAVEMENT</u><br>SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION |
|  | <u>RIGHT OF WAY PAVEMENT</u><br>SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION          |
|  | <u>CONCRETE SIDEWALK</u><br>SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION              |
|  | <u>HEAVY DUTY CONCRETE PAVEMENT</u><br>SEE CONSTRUCTION DETAILS FOR PAVEMENT SECTION   |

## SITE SUMMARY

|                                      |   |       |        |
|--------------------------------------|---|-------|--------|
| SITE ZONING                          | = | C1    |        |
| SITE ACREAGE                         | = | 1.76  | AC. ±  |
| BUILDING AREA                        | = | 9,288 | SF     |
| BUILDING HEIGHT                      | = | 27'   | FT     |
| PARKING SPACES (STANDARD) REQUIRED   | = | 31    | SPACES |
| PARKING SPACES (ACCESSIBLE) REQUIRED | = | 2     | SPACES |
| PARKING SPACES (STANDARD) PROVIDED   | = | 54    | SPACES |
| PARKING SPACES (ACCESSIBLE) PROVIDED | = | 3     | SPACES |
| TOTAL PARKING SPACES PROVIDED        | = | 57    | SPACES |

## KEY NOTES

1. CONCRETE CURB, TYP. (SEE DETAILS)
2. DEPRESSED CONCRETE CURB AND GUTTER (SEE DETAILS)
3. CONCRETE SIDEWALK, TYP. (SEE DETAILS)
4. COMBINED CURB AND WALK (SEE DETAIL) (5' FROM FACE OF CURB)
5. CONCRETE CURB AND GUTTER (SEE DETAILS)
6. CONNECT TO EXISTING PAVEMENT, SIDEWALK, CURB, TYP.
7. CONCRETE PARKING BUMPER TYP. (SEE DETAILS)
8. ACCESSIBLE PAVEMENT MARKINGS, TYP. (SEE DETAILS)
9. ACCESSIBLE PARKING SIGN, TYP. (SEE PLAN FOR VAN LOCATION)  
(MUTCD R7-8, SEE DETAILS)
10. ACCESSIBLE RAMP (SEE DETAILS)
11. 2" WIDE TACTILE WARNING STRIP
12. 4" WIDE PAVEMENT MARKING, WHITE SOLID LINE, TYP.
13. 24" WIDE STOP BAR, TYP. (SEE DETAILS)
14. STOP SIGN, TYP. (MUTCD R1-1, SEE DETAILS)
15. CONCRETE BOLLARD, TYP. (SEE DETAILS)
16. TRASH COMPACTOR AND ENCLOSURE  
(SEE ARCHITECTURAL PLANS FOR DETAILS)
17. TRANSFORMER PAD (REFER TO UTILITY PROVIDER)
18. MONUMENT SIGN (SEE ARCHITECTURAL PLANS FOR DETAILS)
19. LIGHT POLES SHOWN FOR COORDINATION ONLY  
(SEE SITE LIGHTING PLAN)
20. BIKE RACK (SEE LANDSCAPE PLAN FOR DETAILS)
21. RETAINING WALL (SEE ARCHITECTURAL PLANS FOR DETAILS)
22. 2' CURB TURNOUT (SEE DETAILS)
23. 3--FT TRANSITION CURB (SEE DETAILS)

## BENCHMARKS

ORIGINATING BENCHMARK:  
HSE 26  
1/4" DISC IN CONCRETE SET ON THE EAST SIDE OF OLIO ROAD, 100'±  
NORTH OF THE BACK OF CURB OF THE NORTH ENTRANCE TO FALL CREEK  
INTERMEDIATE SCHOOL AND 25'± EAST OF THE BACK OF WALK WHICH  
RUNS ALONG OLIO ROAD.  
ELEV: 838.42 (NAVD 88 DATUM)

TEMPORARY BENCHMARKS  
AS SHOWN ON SURVEY

## GENERAL PLAN NOTES

REFER TO GENERAL NOTES SHEET FOR MORE INFORMATION INCLUDING THE FOLLOWING: (EXISTING LEGEND, BENCHMARK INFORMATION, AND SPECIFIC GENERAL PLAN NOTES.)

|                                                           |                      |                       |                                                                                                                                                                                           |                  |          |  |  |  |  |  |  |  |  |
|-----------------------------------------------------------|----------------------|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|----------|--|--|--|--|--|--|--|--|
| <div>MAGNOLIA GROVE<br/>SALON<br/>FISHERS, IN 46037</div> | <div>SITE PLAN</div> | <div>DYANNE LLC</div> | <div>Kimley»Horn</div> <div>© 2023 KIMLEY-HORN AND ASSOCIATES, INC.<br/>250 EAST 96TH STREET, SUITE 580,<br/>INDIANAPOLIS, IN 46260<br/>PHONE: 317.418-9560<br/>WWW.KIMLEY-HORN.COM</div> | SCALE:           | AS NOTED |  |  |  |  |  |  |  |  |
|                                                           |                      |                       |                                                                                                                                                                                           | DESIGNED BY: KED |          |  |  |  |  |  |  |  |  |
|                                                           |                      |                       |                                                                                                                                                                                           | DRAWN BY: MPH    |          |  |  |  |  |  |  |  |  |
|                                                           |                      |                       |                                                                                                                                                                                           | CHECKED BY: WAB  |          |  |  |  |  |  |  |  |  |
|                                                           |                      |                       |                                                                                                                                                                                           |                  |          |  |  |  |  |  |  |  |  |
| ORIGINAL ISSUE:<br>10/03/2022                             |                      |                       |                                                                                                                                                                                           |                  |          |  |  |  |  |  |  |  |  |
| KHA PROJECT NO.<br>170345000                              |                      |                       |                                                                                                                                                                                           |                  |          |  |  |  |  |  |  |  |  |
| SHEET NUMBER                                              |                      |                       |                                                                                                                                                                                           |                  |          |  |  |  |  |  |  |  |  |
| C3.0                                                      |                      |                       |                                                                                                                                                                                           |                  |          |  |  |  |  |  |  |  |  |



# Advisory Plan Commission Staff Report

Meeting Date: April 12, 2023

## DEPARTMENT CONTACT:

Megan Vukusich, [vukusichm@fishers.in.us](mailto:vukusichm@fishers.in.us)

## CASE NUMBER:

TA-23-2

## PETITIONER:

City of Fishers

## PROPERTY ADDRESS/LOCATION:

Citywide

**REQUEST:** Consideration of a text amendment to the Unified Development Ordinance (UDO) to establish voting requirements for new HOAs.

## EXISTING ZONING:

N/A

## PROPOSED ZONING:

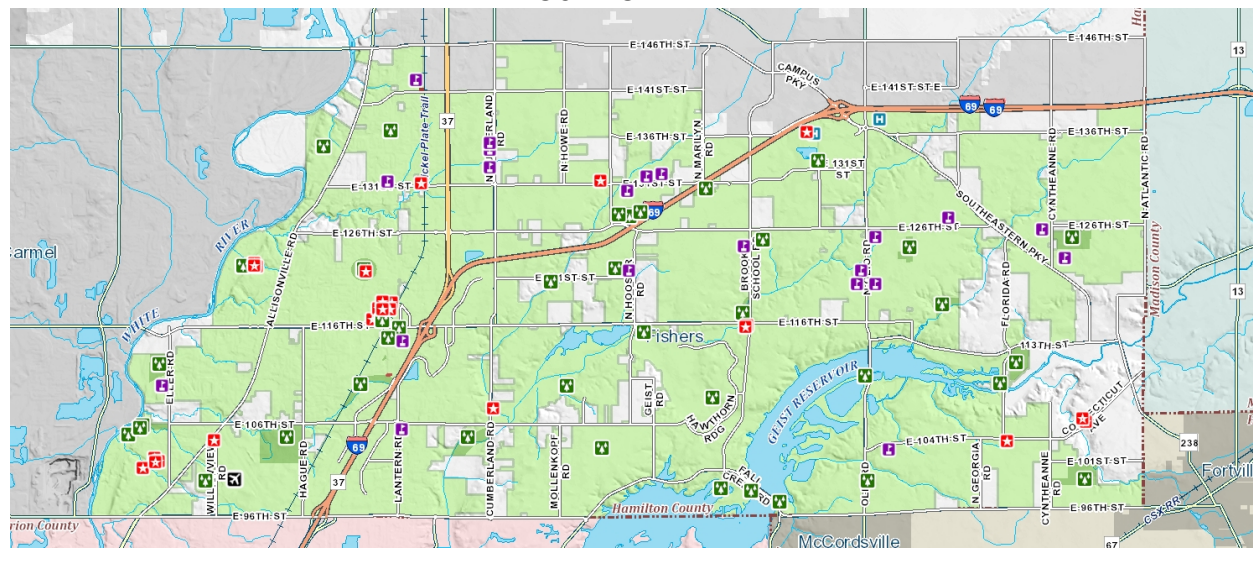
N/A

## FISHERS 2040:

N/A

**LOT SIZE:** N/A

## LOCATION MAP



## STAFF RECOMMENDATION

☒ Favorable Recommendation    ☐ Unfavorable Recommendation    ☐ No Recommendation

## ZONING HISTORY:

The city has been helping neighborhood homeowners' associations (HOAs) with amending their

covenants and restrictions to help manage investment companies purchasing homes in their neighborhoods. We have heard from neighborhoods that it is challenging to meet the high percentage requirements that are set in their covenants to be able to make changes.

The city is bringing forward an amendment to the Unified Development Ordinance (UDO) that would require any new HOA to limit the percentage of votes required to make an amendment to governing documents by a simple majority vote for items involving approving budgets, changes to HOA operations, and changes to rental restrictions. All other covenants, conditions, and restrictions would require a 75% consenting vote to change.

Below is the existing state statute related to this topic.

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**IC 32-25.5-3-9Amending governing documents; consents required**

Sec. 9. The governing documents must contain a provision allowing the owners to amend the governing documents at any time, from time to time, subject to the following:

- (1) The declarant's consent to an amendment may be required if:
  - (A) the declarant owns one (1) or more units within the subdivision; and
  - (B) not more than seven (7) years have passed since the original governing documents were first recorded.
- (2) The consent of the owners to the amendment has been obtained as evidenced by either of the following:
  - (A) The vote of the owners at a meeting duly called for the purpose of considering the amendment.
  - (B) A written instrument signed by the owners.

The governing documents may not require that the consent of more than seventy-five percent (75%) of the owners is required for consent under this subdivision.

(3) If the consent of first mortgage holders is required, only first mortgage holders that provide an address to the secretary of the board must be notified. The consent of a first mortgage holder must be indicated in a written instrument signed by the mortgage holder. However, a mortgage holder is considered to have consented to a proposed amendment if the mortgage holder does not respond to a written request for consent within thirty (30) days after the mortgage holder receives the request. The governing documents may not require that the consent of more than seventy-five percent (75%) of first mortgage holders eligible to receive notice is required for consent under this subdivision.

(4) Notwithstanding subdivisions (1) through (3), the governing documents may require the approval of at least ninety-five percent (95%) of the owners to convey common areas or to dissolve the plan of governance for the homeowners association.

*As added by P.L.141-2015, SEC.11. Amended by P.L.164-2016, SEC.6.*

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**SUMMARY OF PUBLIC COMMENTS:**

A public hearing was held at the Advisory Plan Commission March 1, 2023 meeting. At the meeting we heard from several stakeholders:

- Josh Huser – Fishers resident from Avalon HOA. Supportive of amendment.
- Brad DeReamer – Fishers City Councilor who initiated the amendment. Supportive of amendment.

Developers/Builder

The following individuals requested a continuance at the March Plan Commission meeting to ensure this would not impact developers as they built out neighborhoods. Staff held a meeting on March 21, 2023, to discuss this amendment with these individuals.

- Christina Wilson – Builders Association of Greater Indiana (BAGI)
- Jonathan Isaacs – M/I Homes
- Tony Bagato – Lennar
- David Compton – Pulte

A revision to the amendment addressing their concerns is included in the latest draft and includes the following language:

“In accordance with Ind. Code 32-25.5-3-9(1), until a certificate of occupancy has been issued on the last parcel of property subject to the governing documents of the HOA owed by the declarant to the original governing documents, amendments to the governing documents as provided in 3. above shall require the consent of the declarant, regardless of the approval of the other members.”

#### HOA Virtual Town Hall

Staff held a virtual town hall on March 27, 2023 at 7:30pm. Notice of this meeting was posted on the public website and included in the city’s monthly HOA newsletter which is distributed to 300+ Fishers neighborhoods.

We had 22 participants. During the meeting we asked several survey questions. A summary of the results is below:

- Biggest challenges for HOA:
  - o Obtaining quorum to conduct regulation business.
  - o Changing rental restrictions
  - o Changing other CC&Rs
- Majority of those on the call have current voting requirements of 75% to change bylaws and CC&Rs.
- HOA board members are the ones who typically vote on budget items. These voting requirements ranged from simple majority to 75%. Those HOAs with 2/3 or 75% voting requirements find it challenging to conduction regular business.
- Participation methods include mail in ballots, virtual participation of meetings, and a few allowed for electronic voting and voting windows.

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#### **PETITION OVERVIEW:**

Below is the revised language we are proposing with this text amendment. Revisions from the March Plan Commission include:

- Allowing for approval of the budget to be a simple majority of members.
- Allowing for amendments to governing documents related to HOA operations and rental

restrictions to be a simple majority of members.

- All other amendments to CC&Rs may be approved by no more than 75% vote of members.
- Amendments to governing documents as described here to not take effect until the certificate of occupancy has been issued for the last home in the neighborhood.

## **L. Amending Governing Documents**

In addition to the requirements above and the requirements of Ind. Code 32-25.5-3 et seq. which provisions are applicable to all HOAs, the governing documents of any HOA concerning the operation and maintenance of such open space, common area and amenities, as well as the governing documents of the HOA themselves, must contain provisions allowing the owners of parcels of property subject to such governing documents to amend such governing documents at any time, and from time to time, and subject to the following:

1. Each “member” of an HOA for this purpose shall be an owner, in fee simple, of each parcel of property subject to such governing documents concerning such parcel, and each such “member” shall be entitled to one vote per parcel of property so owned.
2. In accordance with Ind. Code 32-25.5-3-3, and specifically subject to the quorum requirements under Ind. Code 32-25.5-3-3, the governing documents must provide for the annual budget to be approved at a meeting of the HOA members by a simple majority of the members of the HOA in attendance at a meeting called and conducted in accordance with the requirements of the HOA's governing documents.
3. In accordance with Ind. Code 32-25.5-3-9, the governing documents of the HOA must contain a provision allowing the members to amend the governing documents at any time, from time to time and such amendment may not require the consent of more than seventy-five percent (75%) of the members; provided, however, amendment to the governing documents specifically involving changes relating to HOA operations and rental restrictions may not require consent of more than fifty percent (50%) of the members.
4. In accordance with Ind. Code 32-25.5-3-9(1), until a certificate of occupancy has been issued on the last parcel of property subject to the governing documents of the HOA owed by the declarant to the original governing documents, amendments to the governing documents as provided in 3. above shall require the consent of the declarant, regardless of the approval of the other members.
5. HOAs are encouraged to allow member participation through virtual meetings and electronic voting.

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### **STAFF RECOMMENDATION:**

When making their decision, Plan Commission shall be reasonable regard to:

1. The Comprehensive Plan;
2. Current conditions and the character of structures and uses in each zoning district;

3. The most desirable use for which the land in each zoning district is adapted;
4. The conservation of property values throughout the jurisdiction; and
5. Responsible development and growth.

Staff recommends Plan Commission send a **favorable recommendation** to City Council. This item is anticipated to go to City Council on April 17, 2023, for final reading.

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### STAFF RECOMMENDATION

☒ Favorable Recommendation    ☐ Unfavorable Recommendation    ☐ No Recommendation

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**ORDINANCE NO.**  
**AN ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE OF**  
**THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA**

This is an ordinance to amend the Unified Development Ordinance (“UDO”) for the City of Fishers (the “City”), previously enacted by the City pursuant to its authority under the laws of the State of Indiana IC 36-7-4 et seq., as amended.

WHEREAS, the City’s Plan Commission has conducted a public hearing on \_\_\_\_\_ for case \_\_\_\_\_ as required by law in regard to the text amendment; and

WHEREAS, the Plan Commission at its \_\_\_\_\_ meeting sent a \_\_\_\_\_ recommendation to the Fishers City Council by a vote of \_\_\_\_ in favor and \_\_\_\_ opposed.

NOW, THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FISHERS, HAMILTON COUNTY, INDIANA, THE SUCESSOR IN INTEREST TO THE TOWN OF FISHERS, PURSANT TO IND. CODE 36-4-1 ET. SEQ., THAT THE ZONING ORDINANCE, A PART OF THE COMPREHENSIVE PLAN AND ORDINANCES – 2018, ORDINANCE NO. 071618F, AS AMENDED, IS HEREBY AMENDED AS FOLLOWS:

**Section 1. AMENDMENT.** This Text Amendment amends certain sections of the Unified Development Ordinance;

**Section 2. PURPOSE STATEMENT.** The purpose of this ordinance is to add regulatory language in the furtherance of the overall Purpose & Intent provisions of Section 1.2.2. (UDO Introductory Provisions).

**Section 3. CHANGES TO THE UDO REGULATIONS.** The following sections of the UDO regulations shall be changed, as follows:

**Sec. 7.1.5 *Owner’s Association Bylaw and Covenant Standards***

**A. Applicability**

This section specifies covenants required between the City and the owners’ association (**such association or entity being referred to herein as an “HOA”**) that is established independent of a residential development’s Declaration of Covenants instrument. Any residential development that has common area or any other area, facility, or amenity that is to be owned and/or maintained by the owner’s association shall record a legally binding covenant instrument applicable to each property owner and parcel within the development.

**L. Amending Governing Documents**

In addition to the requirements above and the requirements of Ind. Code 32-25.5-3 et seq. which provisions are applicable to all HOAs, the governing documents of any HOA concerning the operation and maintenance of such open space, common area and amenities, as well as the governing documents of the HOA themselves, must contain provisions allowing the owners of parcels of property subject to such governing documents to amend such governing documents at any time, and from time to time, and subject to the following:

1. Each “member” of an HOA for this purpose shall be an owner, in fee simple, of each parcel of property subject to such governing documents concerning such parcel, and each such “member” shall be entitled to one vote per parcel of property so owned.
2. In accordance with Ind. Code 32-25.5-3-3, and specifically subject to the quorum requirements under Ind. Code 32-25.5-3-3, the governing documents must provide for the annual budget to be approved at a meeting of the HOA members by a simple majority of the members of the HOA in attendance at a meeting called and conducted in accordance with the requirements of the HOA's governing documents.
3. In accordance with Ind. Code 32-25.5-3-9, the governing documents of the HOA must contain a provision allowing the members to amend the governing documents at any time, from time to time and such amendment may not require the consent of more than seventy-five percent (75%) of the members; provided, however, amendment to the governing documents specifically involving changes relating to HOA operations and rental restrictions may not require consent of more than fifty percent (50%) of the members.
4. In accordance with Ind. Code 32-25.5-3-9(1), until a certificate of occupancy has been issued on the last parcel of property subject to the governing documents of the HOA owed by the declarant to the original governing documents, amendments to the governing documents as provided in 3. above shall require the consent of the declarant, regardless of the approval of the other members.
5. HOAs are encouraged to allow member participation through virtual meetings and electronic voting.

ORDINANCE NO. \_\_\_\_\_

SO ORDAINED by the Common Council of the City of Fishers, Indiana, on this \_\_\_\_ day of \_\_\_\_\_ 2023.

**COMMON COUNCIL OF THE CITY OF FISHERS,  
HAMILTON COUNTY, INDIANA**

| YAY |                                 | NAY | ABSTAIN |
|-----|---------------------------------|-----|---------|
|     | John Weingardt,<br>President    |     |         |
|     | Cecilia Coble<br>Vice President |     |         |
|     | C. Pete Peterson,<br>Member     |     |         |
|     | Brad DeReamer,<br>Member        |     |         |
|     | Selina Stoller,<br>Member       |     |         |
|     | Todd Zimmerman,<br>Member       |     |         |
|     | Jocelyn Vare,<br>Member         |     |         |
|     | Crystal Neumann,<br>Member      |     |         |
|     | David Giffel,<br>Member         |     |         |

I hereby certify that the foregoing Ordinance/ Resolution was delivered to City of Fishers Mayor Scott Fadness on the \_\_\_\_\_ day of \_\_\_\_\_, 2023 at \_\_\_\_\_ p.m.

ATTEST: \_\_\_\_\_

**Jennifer L. Kehl, Fishers City Clerk**

**MAYOR'S APPROVAL**

\_\_\_\_\_  
**Scott A. Fadness, Mayor**

\_\_\_\_\_  
**DATE**

**MAYOR'S VETO**

\_\_\_\_\_  
**Scott A. Fadness, Mayor**

\_\_\_\_\_  
**DATE**

This instrument prepared by: Christopher P. Greisl, City Attorney, City of Fishers, Hamilton County, Indiana, One Municipal Drive, Fishers, Indiana, 46038

"I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law." Christopher P. Greisl

