



## CITY COUNCIL STAFF REPORT

**DEPARTMENT CONTACT:**

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**DOCKET NUMBER:**

TA-19-14

**PETITIONER/PROPERTY OWNER:**

City of Fishers

**MEETING DATE:**

February 17, 2020

**PROPERTY ADDRESS/LOCATION:**

City Wide

**SPECIFIC REQUEST:** Consideration of a Text Amendment to the City of Fishers Unified Development Ordinance (UDO) to amend Chapter 6 and Chapter 8 as it relates to the current Open Space Standards.

**SIZE OF PROPERTY:**

N/A

**EXISTING ZONING:**

N/A

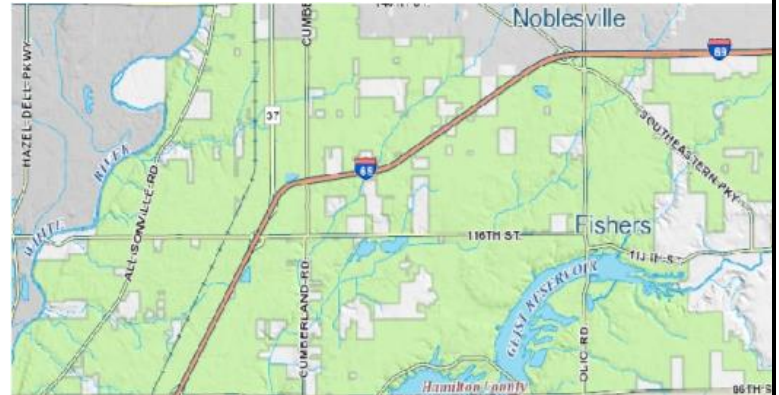
**EXISTING LAND USE:**

N/A

**PROJECT SUMMARY:**

Staff is proposing a Text Amendment to the Unified Development Ordinance (UDO) to modify the open space standards to reduce the overall percentage of open space required for non-residential development.

**LOCATION MAP:**



### STAFF RECOMMENDATION

<input checked="" type="checkbox"/> APPROVE	<input type="checkbox"/> APPROVE WITH CONDITIONS	<input type="checkbox"/> DENY	<input type="checkbox"/> NO RECOMMENDATION
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**ATTACHMENTS**

- |   |  |
|---|--|
| <input type="checkbox"/> SUBMITTED PLANS  | <input type="checkbox"/> LEGAL NOTICE      |
| <input type="checkbox"/> PUBLIC COMMENTS  | <input type="checkbox"/> AGENCY COMMENTS   |
| <input checked="" type="checkbox"/> OTHER | <input type="checkbox"/> LEGAL DESCRIPTION |

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**PETITION HISTORY:**

On June 20, 2016, the City Council approved the Fishers 2040 Comprehensive Plan, which established a future vision framework for the City. In Chapter 6, Summary and Implementation, Open Space was identified as a specific implementation item with a set of action items for Open Space goals. One (1) action item specifically states that the UDO will be revised to:

1. Ensure open spaces are designed to fulfil purposeful functions within the context of specific neighborhoods, the community and the region.
2. Offer a broader range of options for how the City's Open Space requirements may be met.
3. Provide an option to lower the overall percentage of open space required in a specific development if the open space provided is activated with multiple elements such as public art, recreational amenities, environmental best practices and facilities which promote social interaction.
4. Add a payment-in-lieu option for developers, so that if the City determines there is ample open space in close proximity to a new development, open space requirements can be lowered in exchange for fees to be applied to the nearby regional park.

After the Plan was approved, staff worked with a committee to focus on architecture standards for residential and commercial construction. During the three-month process, both committees independently came to the same conclusion that the discussion of vibrancy needed to go beyond architecture. They both stated that new development and redevelopment needed to provide a sense of place by creating active open space, connectivity to other developments and open space, architectural standards that provide uniqueness, and reduced pavement through site planning design.

Based on the Plan and the direction of both committees, staff has drafted new Open Space Standards for the UDO that were approved on September 18, 2017. Since that time, staff has received comments from commercial developers that the standards are difficult to meet in some cases. After discussion with the City Council, staff has prepared some modifications to address ongoing concerns with the non-residential open space standards. In addition, staff has had an in-lie fee ordinance prepared to provide another option towards meeting open space standards as discussed in the Comprehensive Plan.

On December 4<sup>th</sup>, 2019, the Plan Commission held a public hearing and reviewed the proposed text amendment. No one from the public spoke in favor or opposition to the request. After discussion, the Plan Commission recommended approval of the proposed text amendment.

On January 21, 2020, staff presented the proposed text amendment to the City Council during a work session. At the work session, there was discussion about a proposed exemption for infill lots less than two (2) acres. The discussion focused around the exemption leading to smaller businesses not providing any outdoor amenities, public art or a fee. A few of the council members were concerned that removing the exemption could negatively impact smaller business entrepreneurs. During the regular meeting, the City Council amended the proposed text amendment, specifically removing Section 6.9.2. which provides as follows:

**Sec. 6.9.2. Exemption**

Infill lots that are two (2) acres or less and are not part of a PUD that has been designed with open space requirements shall be exempt from this Article.

The City Council directed staff to work with the Plan Commission to provide options and comments related to the amendment. Staff will provide the comments back to the City Council at the February meeting for final adoption.

On February 5, 2020, staff presented the amended ordinance to the Plan Commission. The Plan Commission discussed the ordinance and brought up several comments. The questions and comments focused on the following:

- What are the developer opinions with the ordinance?
- What is fair balance?
- Is the ordinance a miss on our part?
- Could someone get a variance if the business is an entrepreneur and if so, will that be a subjective standard, and open to litigation?
- Concerns that an entrepreneur may take the business elsewhere.
- Can there be a Small Business/Entrepreneur certification? For the “Launch Fishers people” for example.
- Consistency is needed to avoid lawsuits. Council wants to know if everyone plays by the same rules. Right now, every property is treated the same.
- Two options:
  1. Agree with the amendment so all properties are treated the same, or
  2. Propose additional considerations.
- All comments should go back to council

After the discussion, the Commission did not vote or take action regarding the ordinance, and it was directed back to City Council. Overall, the Commission believed that the issue was not easy, but fairness was needed.

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**PETITION OVERVIEW:**

Staff has prepared modifications to the open space standards for non-residential development. Overall, the open space percentage requirements have been reduced from each zoning district. The City Council amended the proposed text amendment and directed staff to work with the Plan Commission to provide options for smaller non-residential lots.

As part of the development standards, there is an option for a Payment In-Lieu of Open Space (PILOS) that will be considered as a separate text amendment after these standards are adopted. Staff is proposing an alternative fee for properties that are two (2) acres or less instead of a blanket exemption. The Draft PILOS (attached) is recommending a fee for non-residential projects be based on 50% of the assessed value of the land area that would be required for open space. Staff is suggesting a smaller fee that could be 25% of the assessed value for projects that are two (2) acres or less.

Staff recommends the City Council approve the ordinance as amended at the previous City Council meeting.

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- ATTACHMENTS:**
- 1) Ordinance No. 012120C
  - 2) Draft PILOS