

STAFF REPORT

Department of Metropolitan Development Division of Planning Current Planning Section

Case Number: 2023-MOD-018 (Amended)
Address: 4411 Wild Pheasant Lane (approximate address)
Location: Franklin Township, Council District #25
Zoning: D-P
Petitioner: Nicole Smithers
Request: Modification of Development Statement, related to 2003-ZON-060, to modify Commitment 8.B to legally establish a six-foot solid privacy fence (current commitment prohibits six-foot solid privacy fences along perimeter lots of the subdivision, unless they fence a patio, deck, hot tub, etc., are no more than 300 square feet and abut the residence).

This petition was continued from the October 26, 2023 hearing to the December 14, 2023 hearing at the request of staff to amend the request and allow sufficient time for new notices to be mailed by the petitioner.

RECOMMENDATIONS

Amendment: This petition was amended to correctly note the commitment being modified with this request from Commitment 8.A to 8.B.

Staff has **no recommendation** for this modification.

SUMMARY OF ISSUES

LAND USE

- ◇ The subject site, zoned D-P, is in the New Bethel neighborhood and is specifically within the Hunter's Crossing Estates subdivision. It is developed with a single-family dwelling with a fenced in rear yard and is surrounded by single-family dwellings.
- ◇ Petition 2003-ZON-060 rezoned the site from the D-P district to the D-P district to provide for 833 single-family dwellings at a density of 1.98 units per acre. With the creation of this subdivision, commitments associated to the development were put in place.

MODIFICATION

- ◇ The request would modify Commitment 8.A to legally establish a six-foot solid privacy fence on a perimeter lot of the subdivision. The 2003-ZON-060 Development Statement only permits six-foot tall solid privacy fences along the perimeter lots of the subdivision if they fence a patio, deck, hot tub area or the like and are no more than 300 square feet in size and abut the residence.

(Continued)

STAFF REPORT 2023-MOD-018 (Continued)

Staff Analysis

- ◇ Because staff played no role in the limitations placed for the development of the subdivision such as the perimeter lot fence limitations, staff does not have a recommendation.
- ◇ Staff would note that Commitment 8.G notes that “if the ARC approves a fence which is actually not in compliance with these specific perimeter lot fencing restrictions; and the ARC is unable to reach an agreement with the homeowner to bring the fence into compliance within 60 days of the date upon which the fence is finally determined to be in violation (either due to written admission by the ARC, or final determination of court of law, the ARC’s approval was in error) then the HOA shall promptly (weather permitting) supplement the landscaping on the mound located within the common buffer area behind/beside the lot on which such improper fence is located in a manner sufficient that the improper fence is effectively screened from the direct view of a person looking out the largest front window on each of the two closest existing residences which are located directly across Pentecost or Semour Road (as applicable) from the offending lot.”
- ◇ The petitioner submitted the Architectural Review Committee Application Form and the Architectural Review Committee Approval Letter for the fence that was installed.

GENERAL INFORMATION

EXISTING ZONING AND LAND USE

D-P	Metro	Residential (Single-family dwelling)
-----	-------	--------------------------------------

SURROUNDING ZONING AND LAND USE

North	D-P	Residential (Single-family dwelling)
South	D-P	Residential (Single-family dwelling)
East	D-A	Residential (Single-family dwelling)
West	D-P	Residential (Single-family dwellings)

COMPREHENSIVE PLAN

The Comprehensive Land Use Plan for Indianapolis and Marion County (2018) recommends suburban neighborhood development.

THOROUGHFARE PLAN

Wild Pheasant Lane is classified in the Official Thoroughfare Plan for Marion County, Indiana as a local street, with a 50-foot existing and proposed right-of-way.

FLOODWAY / FLOODWAY FRINGE

This site is not located within a floodway or floodway fringe.

WELLFIELD PROTECTION DISTRICT

This site is not located within a wellfield protection district.

SITE PLAN

File-dated September 26, 2023.

ARCHITECTURAL REVIEW COMMITTEE APPLICATION FORM

File-dated September 26, 2023.

ARCHITECTURAL REVIEW COMMITTEE APPROVAL LETTER

File-dated September 26, 2023.

(Continued)

STAFF REPORT 2023-MOD-018 (Continued)

D-P STATMENT

File-dated September 21, 2023.

ZONING HISTORY – SITE

EXISTING VIOLATIONS

1. VIO23-004097- The failure to comply with the terms, provisions, conditions or commitments of a variance grant, special exception, ordinance, or other approval grant; (Failure to comply with rezoning petition 2003-ZON-060; specifically, commitment #8.B.....the use of a solid privacy fence shall not be permitted unless it is for purposes of fencing a patio, deck, or hot tub area, and shall not exceed 300sq feet in size).

PREVIOUS CASES

2003-ZON-060; 10050 East Thompson Road (subject site), Rezoning of 423 acres from the D-P district to the D-P district to provide for 833 single-family dwellings at a density of 1.98 units per acre, **approved**.

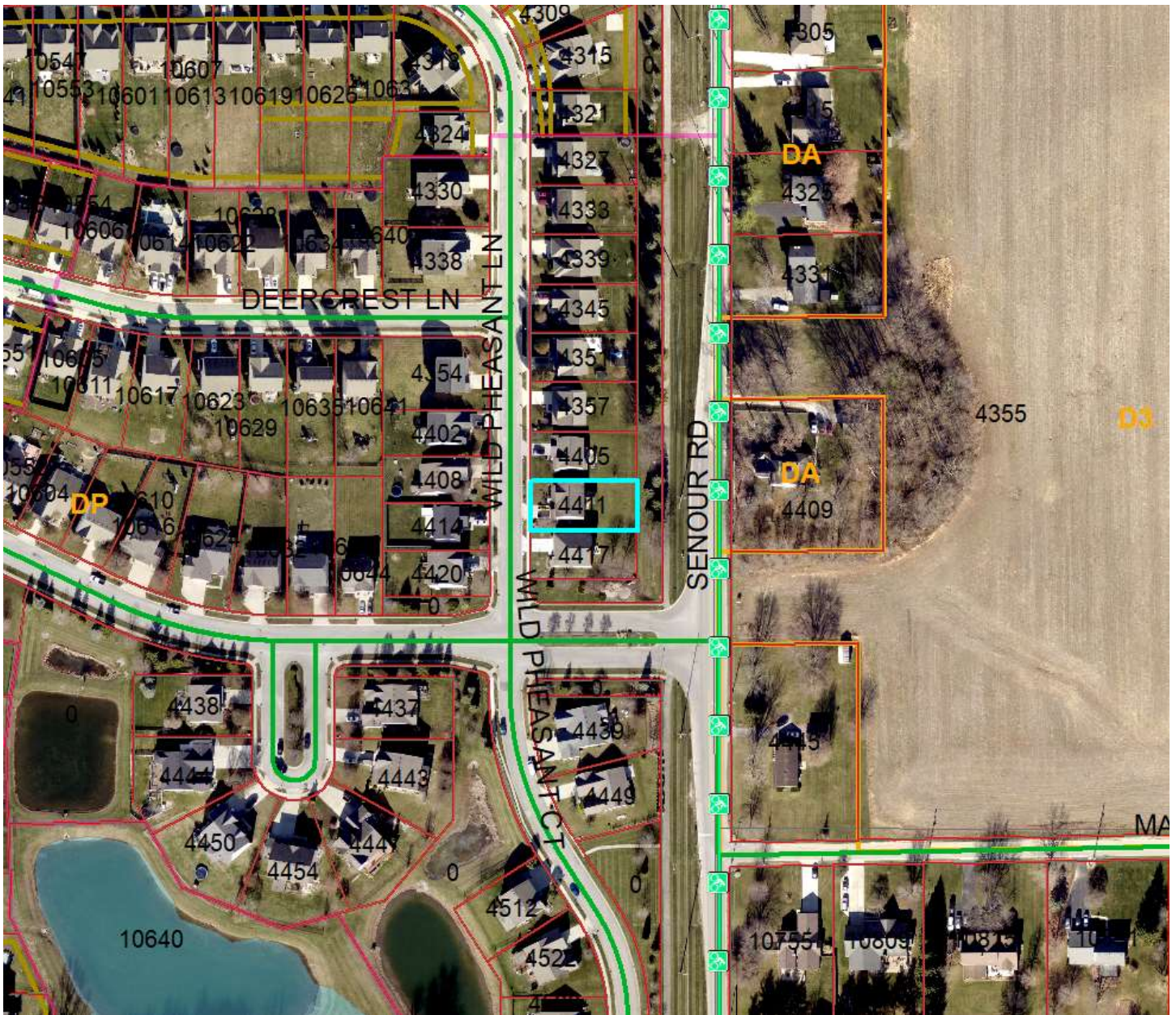
96-Z-18 / 96-DP-24650 Senour Road (subject site), Rezoning of 423 acres from the D-A district to the D-P district to provide for a commercial center, golf course and single-family dwellings at a density of 1.18 units per acre, **approved**.

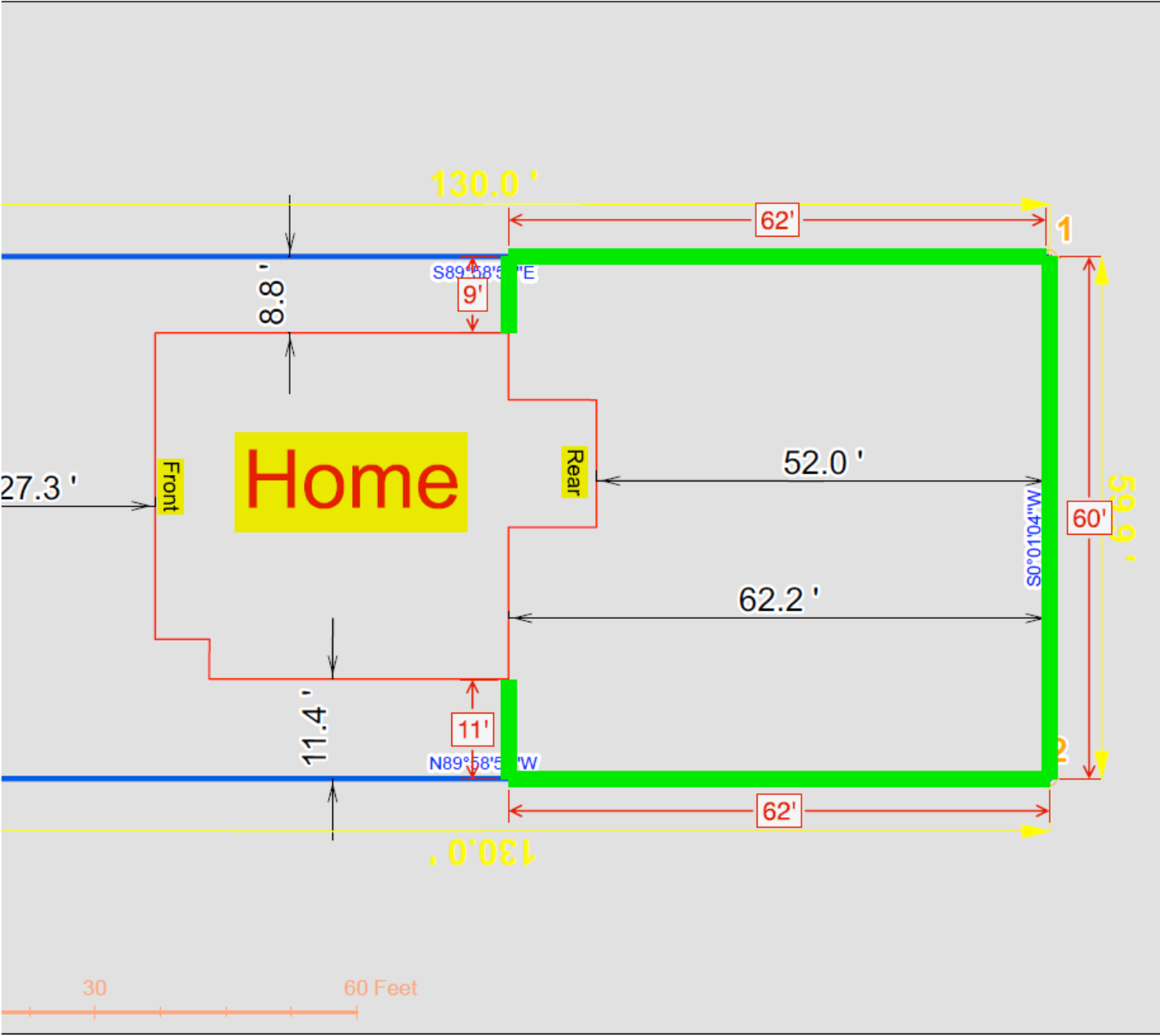
ZONING HISTORY – VICINITY

2022-ZON-036; 4161 and 4355 Senour Road (east of site), Rezoning of 63.60 acres from the D-A district to the D-3 district, **approved**.

MI

2023-MOD-018; Location Map





8. Other than perimeter fencing installed by the Developer, any fencing proposed along the perimeter of the development shall be of a uniform style, design, color and height within each neighborhood, and shall be subject to the approval of the applicable architectural control committee. In addition, the following additional provisions shall be applicable to all the perimeter lots located in Neighborhood 3 (with the exception of the perimeter lots located in Parcel A which contain homes with the front of the residence primarily facing Senour Road):

A. All fences constructed around an in-ground swimming pool shall be of a uniform style, design, color and height; and be in compliance with applicable ordinances for such pool fences.

B. With the exception of the provision of 8(A), the use of a solid "privacy" fence shall not be permitted unless it is for purposes of fencing a patio, deck, hot tub area or the like; and even in such case the area covered by a "privacy" fence shall not exceed 300 square feet in size (approx. 15' x 20', as an example), and the area fenced with the "privacy" fence must abut the residence.

C. No "privacy" fence shall exceed 6' in height. Further, the ARC shall determine a uniform style/design for "privacy" fences which will be used as the uniform standard for any and all "privacy" fencing on any perimeter lot (with the exception of the perimeter lots located in Parcel A which contain homes with the front of the residence primarily facing Senour Road).

D. With the exception of the above described fencing for in-ground pools, and for "privacy" fences, any other fencing in the rear/side yard of the residence shall be limited to vinyl coated chain link fence not to exceed four (4) feet in height.

E. There shall be no in-ground pools permitted on either of the first two perimeter lots along Pentecost Road which are just West of the intersection of Pentecost Road and Senour Road.

F. The Homeowner's Association shall require the prompt removal of any fence constructed which is not approved by the ARC as being in compliance with these perimeter lot fencing restrictions.

G. If the ARC approves a fence which is actually not in compliance with these specific perimeter lot fencing restrictions; and the ARC is unable to reach an agreement with the homeowner to bring the fence into compliance within 60 days of the date upon which the fence is finally determined to be in violation (either due to written admission by the ARC, or final determination of court of law, the

ARC's approval was in error, then the HOA shall promptly (weather permitting) supplement the landscaping on the mound located within the common buffer area behind/beside the lot on which such improper fence is located in a manner sufficient that the improper fence is effectively screened from the direct view of a person looking out the largest front window on each of the two closest existing residences which are located directly across Pentecost or Senour Road (as applicable) from the offending lot.

9. Any fence which is constructed on any platted lot shall be constructed only in the rear yard; and shall not extend any closer to the public street in front of the residence than the applicable rear corner of the residence. However, the foregoing restriction shall not prohibit the extension of a primarily rear yard fence, up the side yard of the home as reasonable necessary to connect the fence to a garage service door.

HUNTERS CROSSING

3002 E 56TH ST. INDIANAPOLIS, IN 46220

317-253-1401

ARCHITECTURAL REVIEW COMMITTEE

HOMEOWNER REQUEST FOR CHANGE

1) Name Nicole Smithers Phone 317-650-6386

Address 4411 Wild Pheasant Lane

Lot # 4411 Email: nikismithers@gmail.com

2) Briefly describe the proposed change: Add a 6 ft wood privacy fence

3) Will there be changes or modifications in basic utility services or existing structures to accommodate the proposed change? Please indicate.

Electric	Yes	No	Yes	No
Telephone	_____	<u>X</u>	_____	<u>X</u>
Gas	_____	<u>X</u>	_____	<u>X</u>
Water	_____	<u>X</u>	_____	<u>X</u>
Sewage	_____	<u>X</u>	_____	<u>X</u>
TV Cable	_____	<u>X</u>	_____	<u>X</u>
Exterior Walls	_____	_____	_____	<u>X</u>
Patio Fencing	_____	_____	_____	<u>X</u>
Patio Slab	_____	_____	_____	<u>X</u>
Sidewalks	_____	_____	_____	<u>X</u>
Pavements	_____	_____	_____	<u>X</u>
Other	_____	_____	_____	<u>changes will be adding a new fence</u>

4) Please indicate the major materials, which will be used in this project. Be as specific as possible. (Exterior materials must conform to those used on the original building or be sufficiently compatible).

6 ft boards and 4x4 wood supports

5) Will the proposed project extend beyond your property line or limited common area? Yes _____ No X
If yes, please provide the name and address of the affected homeowner listed below.

Name _____ Address _____

6) Would any part of the proposed improvement extend into any Common Area, Utility Drainage or Sewer Easement, Landscape Easement, Landscape Prevention Easement, or Lake Easement shown on the plot plan of your lot? Yes _____ No X

7) If the project is an addition or alteration that would change the structural appearance of your residence, please attach the following information:

- A) Plot plan indicating the location and dimension of the project.
- B) Blueprints or working drawings indicating all necessary dimensions and elevations.
- C) Color swatches/chips of the paint(s) and/or stain(s) to be used.
- D) If available, a photograph or drawing of a similar project.

2023-MOD-018; Architectural Review Committee Application (Continued)

8) Project schedule:

- A) The project will be done by: Homeowner
 X Contractor(s)
 Both
- B) Please indicate the approximate time needed to complete the project,
subsequent to the committee approval. TBD based on contractor availability
- C) Please indicate any building permits that will be required. N/A

Fence Location: Per fence guidelines: All fencing erected on a Lot must be erected either within six (6) inches of the property line OR more than four (4) feet from the property line of such Lot. If you decide to come within six inches of your property line, then you give permission to your neighbors to connect to your fence. If you decide to erect your fence more than four feet of your property, you are still responsible for maintaining the lawn up to your property line.

Please choose one of the following:

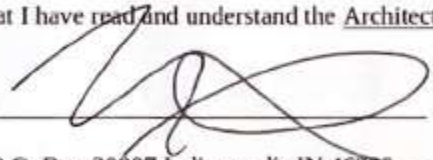
- X My fence will be within 6 inches of property line (or adjoining neighbor's fence).
- The fence will be more than 4 feet from property line.

A PLOT PLAN INDICATING THE LOCATION AND DIMENSIONS OF THE PROPOSED IMPROVEMENT MUST BE INCLUDED WITH ANY ARCHITECTURAL CHANGE REQUEST. THIS FORM WILL BE RETURNED TO YOU IF A PLAN IS NOT INCLUDED.

All submitted materials shall remain the property of the Association. You may wish to make a copy for your personal records.

You must complete improvements in accordance with all HOA restrictions, Covenants and Architectural Guidelines as well as meet city/county codes and regulations.

I hereby acknowledge that I have read and understand the Architectural Control Standards set forth by the committee.

Homeowner's Signature 

Send request to: MAIL: P.O. Box 20887 Indianapolis IN 46220
FAX: 317-259-0387
EMAIL: kboyd@ardsleymgmt.com

 Approved Approved with Conditions (Stated Below) Denied (Stated Below)

Signature

Date

2023-MOD-018; Architectural Review Committee Letter

Hunters Crossing Estates Community Association, Inc.
3002 East 56th Street
Indianapolis, IN 46220
317-253-1401

5/15/2023

NICOLE SMITHERS
4411 WILD PHEASANT LANE
INDIANAPOLIS, IN 46239

RE: 4411 WILD PHEASANT LANE
Lot#: 18

Dear NICOLE SMITHERS:

The improvement request that you sent in regarding a fence was received and approved by the Architectural Control Committee.

- **You are still required to follow up with your local municipality to determine if a permit is necessary for your improvement.**
- **It is highly recommended that you have the property lines properly marked before any fence installation.**
- **If your improvement is going into an easement- be aware that if the local utilities or city/county need access to this easement they can require you to remove your improvement at your expense.**

You have 90 days from beginning of the project to complete the updates unless you apply to the committee for an extension.

Any questions please feel free to contact Robin Wiggins at rwiggins@ardsleymgmt.com.

Thank you,

Hunters Crossing Estates Community Association, Inc.

2023-MOD-018; Photographs



Photo of the Subject Property: 4411 Wild Pheasant Lane



Photo of the subject site looking northeast from the subdivision entrance.



Photo of the subject site looking south along the berm west of the trail that runs along Senour Road.



Photo of the subject site immediately west of the trail and berm.



Photo of the adjacent property south of the site.



Photo of the subject site fence and the adjacent property north of the site.