

**ZONING COMMITMENTS CONCERNING THE DEVELOPMENT  
AND USE OF REAL ESTATE**

Cross-Reference: \_\_\_\_\_

In accordance with the Indiana Code Section 36-7-4-615 and Indiana Code 36-7-4-1512 et seq., the undersigned, Wilfong Land Companies, LLC and other Wilfong-related entities (“Developer”), the contract purchaser of the following described real estate located in Hamilton County, Indiana, makes the following commitments concerning the use and development of real estate (“Commitments”) to the Westfield Town Council.

**Section 1. Description of Real Estate.** Real estate is described on Exhibit “A”, attached hereto and incorporated herein (the “Real Estate”).

**Section 2. Cross References.** Commitments are made in connection with approvals obtained under Docket Number 0705-PUD-02, and Ordinance Number \_\_\_\_\_ (the “Ordinance”) recorded as instrument number \_\_\_\_\_ in the Office of the Recorder of Hamilton County, Indiana.

**Section 3. Commitments.**

1. The Developer shall remove any existing billboard signs from the real estate within 90 days of the approval of a Development Plan including that portion of the real estate containing the sign.
2. The Developer shall adhere to the written development commitments made to property owners surrounding the real estate. Copies of which are contained in the zoning file numbers 0606-PUD-07 and 0705-PUD-02 in the office of the Westfield Development Department and attached to these zoning commitments as Exhibit “B”.
3. The Developer shall dedicate, free of charge, all required utility easements, including those needed for the Westside Interceptor along mutually agreeable locations.
4. The Developer shall not seek reimbursement or credit of Road Impact Fees for the construction of Eagle Parkway (extension of 191<sup>st</sup> Street and Ditch Road).
5. The Developer shall submit a petition for annexation prior to filing an application for Development Plan review.
6. The Developer shall take one of the following actions relative the Midland Trace Trail at the election of the Town:
  - a. Build the Midland Trace Trail across that portion of the real estate formerly part of the railroad right-of-way and dedicate said former right-of-way to the town of Westfield. Construction and dedication of the former right-of-way under this option would occur after the approval of a development plan application including any area of the real estate south of State Road 32.
  - b. Pay an amount of money equal to the pro rata share of construction cost associated with trail construction across the real estate for a trail construction project undertaken by the town or Washington Township and dedicate former

right-of-way to the Town. Payment and dedication of former right-of-way under this option would occur prior to application for development plan approval for real estate south of State Road 32 and after approval of funding for said trail construction project.

- c. Agree to pay an amount of money equal to the pro rata share of construction cost associated with trail construction across the real estate for a trail construction project undertaken by the town or Washington Township and dedicate former right-of-way to the Town. Payment under this option would occur after approval of a development plan for real estate south of State Road 32 and after approval of funding for said trail construction project. Dedication of former right-of-way would be made as part of the development plan approval.

- 7. The Developer shall install additional tree plantings where gaps exist in the western-most, north/south tree line to meet the Eagletown PUD buffer yard standards. This commitment will also require additional tree plantings if trees are removed on the adjacent property if at the time it remains undeveloped.

**Section 4. Binding on Successors.**

These Commitments are binding on the owner of the Real Estate, and any subdivider of the Real Estate, unless modified or terminated by the Westfield Town Council. These Commitments may be modified or terminated only by a decision of the Westfield Advisory Plan Commission after a public hearing wherein notice as provided by the rules of the Plan Commission has been made. The applicant may appeal any decisions of the Westfield Advisory Plan Commission to the Westfield Town Council.

**Section 5. Effective Date.** The Commitments contained herein shall be effective upon the occurrence of all of the following events:

- A. The adoption of an ordinance by the Westfield Town Council assigning the requested PUD Zone Classification to the Real Estate; and
- B. The acquisition of the Real Estate by the Developer or its successors and assigns.

IN WITNESS WHEREOF, WILFONG LAND COMPANIES, LLC, has caused these Commitments to be executed this \_\_\_\_ day of August, 2007.

WILFONG LAND COMPANIES

By: \_\_\_\_\_  
Ralph L. Wilfong, II, Member  
Wilfong Land Companies, LLC

STATE OF INDIANA            )  
  ) SS:  
COUNTY OF HAMILTON        )

Before me the undersigned, a Notary Public in and for said County and State, personally appeared *Ralph L. Wilfong*, as Member, Wilfong Land Companies, LLC, and having been duly sworn, acknowledged execution of the foregoing Commitments.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

My Commission Expires:

\_\_\_\_\_

\_\_\_\_\_  
Notary Public

Residing in \_\_\_\_\_ County

\_\_\_\_\_  
Printed Name

Instrument prepared by Jon C. Dobosiewicz, Wilfong-Kreutz Land Development, 17830 Casey Road, Westfield, Indiana 46074.

## EXHIBIT "A"

### Legal Description

A part of Sections 26, 27, 33, and 34, Township 19 North, Range 3 East, Washington Township, Hamilton County, Indiana, being described as follows:

Beginning at the Southeast corner of Section 33, Township 19 North, Range 3 East; Thence S 89°23'24" W, 1848.13; Thence N 0°25'34" W, 265.25 feet; Thence N 89°51'50" E, 151.39 feet; Thence N 0°02'12" E, 1032.28 feet; Thence S 89°29'04" W, 644.87 feet to the centerline of Eagletown Road; Thence along said centerline N 0°05'29" E, 118.93 feet; Thence N 60°42'53" E, 472.59 feet; Thence S 88°00'00" E, 283.05 feet; Thence N 0°00'00" E, 362.82 feet; Thence N 89°31'51" E, 624.07 feet; Thence N 0°02'16" E, 3295.85 feet to the north line of said Section 33 and the centerline of 186<sup>th</sup> Street; Thence along said north line and centerline N 89°22'24" E, 397.11 feet; Thence S 0°51'51" W, 523.56 feet; Thence N 89°30'14" E, 518.44 feet; Thence N 0°03'18" E, 524.60 feet to the north line of said Section 33 and the centerline of 186<sup>th</sup> Street; Thence East along the north lines of Sections 33 and 34 and said centerline N 89°25'17" E, 1747.15 feet to the centerline of Casey Road; Thence along the centerline of Casey Road N 0°05'47" E, 3978.31 feet to centerline of W 193<sup>rd</sup> Street; Thence along said centerline N 89°46'14" E, 1036.92 feet; Thence S 0°51'46" W, 206.83 feet; Thence S 89°33'26" E, 292.45 feet; Thence N 0°08'30" W, 210.22 to the intersection of W 193<sup>rd</sup> Street and Six Points Road; Thence East along the centerline of 193<sup>rd</sup> Street N 89°28'39" E, 2653.67 feet to the East line of Section 27 and the intersection of 193<sup>rd</sup> Street and Spring Mill Road; Thence along said East line and Spring Mill Road S 0°12'01" W, 1323.27 feet to the intersection of Spring Mill Road and 191<sup>st</sup> Street; Thence S 89°28'13" W, 1500.85 feet; Thence S 0°00'00" W, 255.38 feet; Thence N 90°00'00" E, 999.40 feet; Thence S 0°56'40" W, 263.91 feet; Thence N 90°00'00" E, 503.87 feet to the East line of Section 27 and the centerline of Spring Mill Road; Thence along said east line and centerline N 0°12'01" E, 403.34 feet; Thence N 89°52'06" E, 480.07 feet; Thence N 0°24'30" E, 129.31 feet to the centerline of 191<sup>st</sup> Street; Thence along said centerline N 89°49'29" E, 1689.91 feet; Thence S 0°22'09" W, 586.40 feet; Thence S 88°46'39" W, 516.94 feet; Thence S 0°09'54" W, 2049.01 feet to the South line of Section 26 and the centerline of 186<sup>th</sup> Street; Thence along said south line and centerline S 89°49'55" W, 1195.61 feet; Thence N 0°02'44" W, 796.41 feet; Thence N 88°42'55" W, 454.23 feet to the West line of said Section 26 and the centerline of Spring Mill Road; Thence along said West line and centerline S 0°12'01" W, 807.94 feet to the Southwest corner of said Section 26 and the intersection of Spring Mill Road and 186<sup>th</sup> Street; Thence along the south line of Section 27 and the centerline of 186<sup>th</sup> Street S 89°26'12" W, 634.57 feet; Thence N 0°08'03" E, 974.94 feet; Thence S 89°14'41" W, 2017.69 feet; Thence S 0°13'01" W, 628.64 feet; Thence S 89°26'12" W, 525.85 feet; Thence S 0°16'07" W, 339.56 feet to the South line of said Section 27 and the centerline of 186<sup>th</sup> Street; Thence along said south line and centerline N 89°26'12" E, 695.78 feet; Thence S 0°04'20" W, 280.96 feet; Thence N 88°33'51" E, 499.22 feet; Thence S 0°04'17" W, 2365.24 feet; Thence S 89°14'29" W, 679.80 feet; Thence S 0°06'04" E, 1314.33 feet; Thence N 89°42'00" E, 1760.39 feet; Thence S 0°10'02" W, 1529.22 feet; Thence N 89°00'00" W 52.11 feet; Thence S 0°00'00" E 480.35 feet; Thence S 89°00'00" E 49.93 feet; Thence S 0°15'37" W 170.01 feet; Thence S 89°59'33" W, 432.60 feet; Thence N 0°12'54" E, 842.05 feet to the centerline of SR 32 and the South line of Section 34; Thence along said South line S 89°31'38" W, 3960.04 feet to the point of beginning. Containing 998 acres more or less.

June 22, 2006

Guy Markusfeld

- 8' high mound along the entire western board and along the northern border until the "woods" meets the new mound.
- Mound will be a 2/1 slope on the Markusfeld side and a 2/1 or 3/1 slope on Eagle Station side
- 7 to 8 foot tall Norway Spruce to be planted 11' apart on top of mound.
- Privacy fence along the property line along the west boundary and Northern boundary. This would be an 8 foot "shadow box" type fence
- South side of property, would be a "scalloped" "shadow box" fence 6 feet high at high point. Gate to be included.
- We will provide to Guy the engineered drawings for storm water as our plan develops. These will be the plans that the County/City will approve as part of our construction plans.
- If we buy Wheelers 45 acres to the east we will do the fence and mound to same specifications.
- Markusfelds feel that the TND homes need to be buffered. Mound along Springmill Road into Countryside (just north of the entryway that is north of 161<sup>st</sup> street) are a good example of what would be satisfactory on the south side of 186<sup>th</sup>.
- The mound would not be as wide at the far west end where the 4 lots back up to 186<sup>th</sup>.
- Spruce trees, shrubbery, and hard woods to make it more interesting on the south side of 186<sup>th</sup>.
- Walking path along 186<sup>th</sup> street on the south side
- Water and sewer designed so that they can develop their land if they desire
- Mounds to be built 2008 or 2009 and trees planted immediately so they can get height quicker.
- Markusfeld's have the right to join the Home Owners Association. (each homeowner would have to pay the typical fees that are assessed on a yearly basis)
- The security gate would be an automatic, sliding security gate.

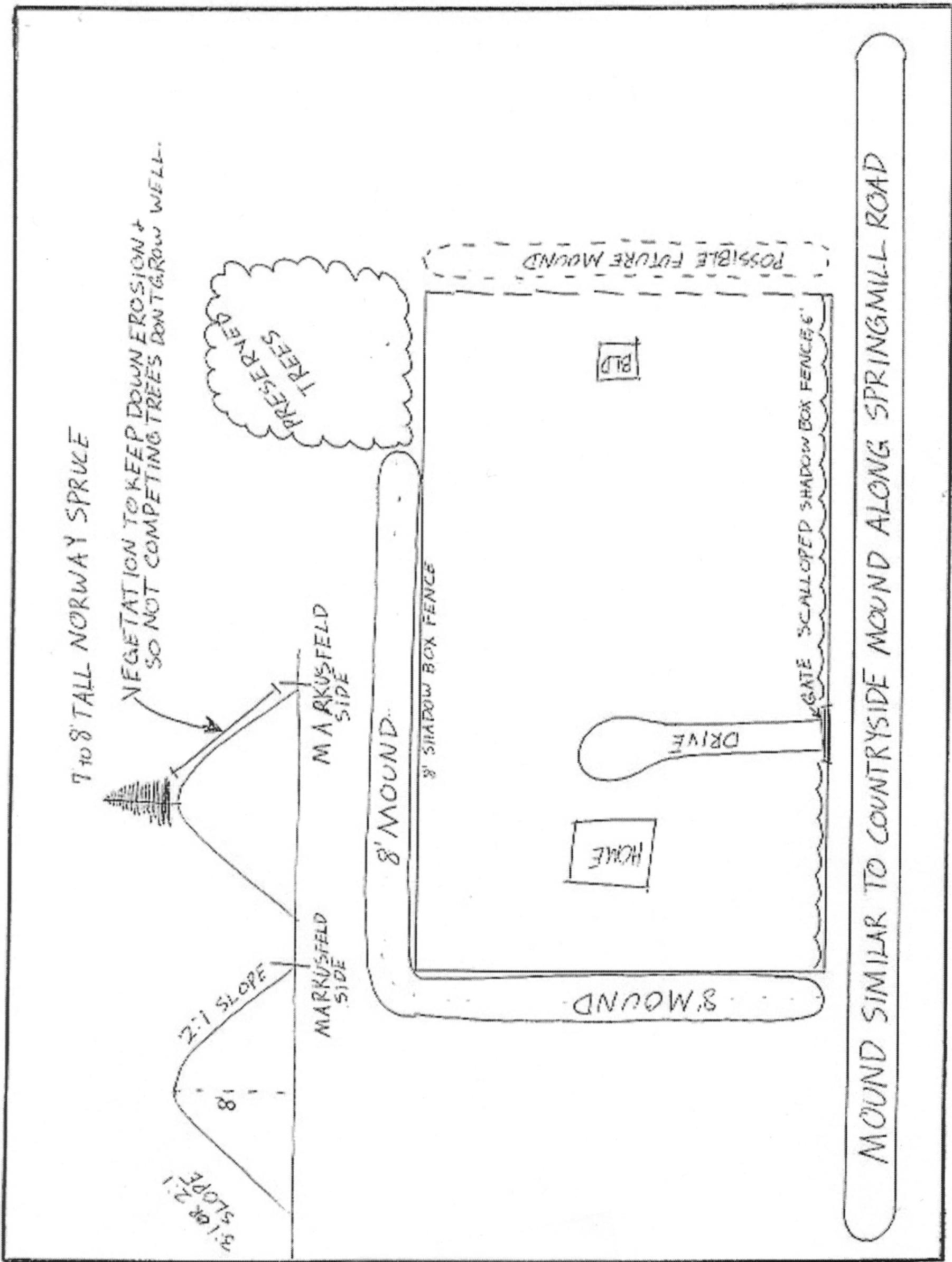


Exhibit B - Page 2 of 8

NOT TO SCALE

THOMPSON ENGINEERING

# WILFONG

LAND COMPANIES

June 26, 2006

Mrs. Mary Ann White  
1206 W. 186<sup>th</sup> Street  
Westfield, IN 46074

Re: development commitments

Dear Mary Ann:

I appreciate being able to meet with you twice during the past couple of weeks.

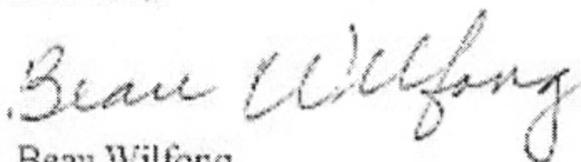
This letter is intended to grant to you commitments that we are willing to make regarding the development of Eagle Station. I understand that you have deep concerns regarding kids wandering and trespassing onto your farm to play in the creek or sneak into the barn and that the hay loft poses dangers to young kids. Additionally, I understand that keeping Casey Road as frontage is important to you.

We are willing to make the following commitments:

- Plant Norway Spruce trees along the entire length of Casey Road. This could be done on our property or your side as you may wish. The trees would be approximately 6 feet tall. We would be willing to plant these trees during 2007 or 2008.
- Build a fence along the entire length of your eastern property line along Casey Road. This could be a 6 foot "shadow box" type or another type that you desire.
- Install several "no trespassing" signs that would be of wood engraving and more attractive and longer lasting than the typical plastic black and orange signs that are stapled onto a post.
- Design our plan to keep Casey Road as a public road along your eastern boundary (we may need to re-route the southern end because of a safety factor as it will be near the intersection of Eagle Parkway and 186<sup>th</sup> Street. The Town of Westfield will help determine the best solution to that and we will involved you in those discussions)
- The drainage of Eagle Station will be designed by licensed engineers and reviewed by the Town of Westfield and/or the Hamilton County Surveyor.

If you have any questions, please feel free to call me at 431 1857

Sincerely,

  
Beau Wilfong

# WILFONG

LAND COMPANIES

June 27, 2006

Ms. Aleli Campbell  
343 E. 191 Street  
Westfield, IN 46074

Dear Ms. Campbell:

I appreciate the opportunity to meet with you at your property to discuss your concerns as we propose the development of our Eagle Station project adjacent to your home. As a follow-up to our meeting and pursuant your request to me, I am memorializing the following commitments to you:

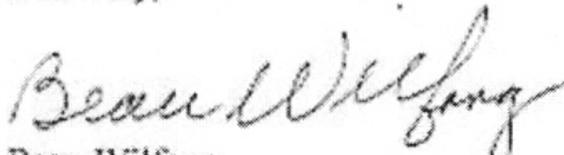
1. At the time we develop construction plans, we will make sure that any surface water that is generated on our side of our shared property line is intercepted on our side and does not cross onto your property;
2. Our plan will not result in you losing any of your ground to the rights-of-way of either 191<sup>st</sup> Street nor Springmill Road.
3. We will provide for a connection of existing Springmill Road onto our street system to allow for your continuing direct access to the south.
4. We will provide a minimum of 20' of buffer yard on our side of the property line.
5. We will provide for your access to the Town's wastewater system in the form of placing a sanitary sewer lateral or main near the property line.

I further commit to you to review with you the construction, drainage, utility and landscape plans for the area around your property when they become available, and to solicit your comments prior to commencing any work.

If I have missed any of the points we discussed, or you have any additional questions, please do not hesitate to contact me at 431-1857.

Again, thank you for your time and efforts in helping us address your concerns.

Sincerely,

  
Beau Wilfong

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# WILFONG

## LAND COMPANIES

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August 28, 2006

Ms. Melda Corn  
19006 North Springmill Road  
Westfield, IN 46074

**RE: Development Commitments**

Dear Ms. Corn:

This letter is intended to grant you commitments that we are willing to make regarding the development of Eagle Station. I understand that you have several dogs and three horses and area concerned about screening in order to lessen the impact on your property of the surrounding development.

We are willing to make the following commitments:

1. We will provide a minimum 30' wide common area along our north property line extending from Springmill Road to the west end of your property, then turn northward along the western edge of your property. Also on the east side of Springmill Road across from your property.
2. A berm 6' to 8' in height will be installed within the above noted common areas along the length of your property.
3. Norway Spruce trees a minimum of 6' tall at planting will be installed in a staggered row 8' apart along the length of your property within our common area.
4. The trees and mounding would be installed no later than 2008 and prior to construction of a subdivision adjacent to your property.
5. Landscape areas shall be maintained in accordance with the requirements of the Eagle Station PUD (See attached exhibit A). Language referencing these requirements will be placed in the eventual Home Owner's Association Declarations.
6. We will provide for a connection of the existing Springmill Road onto our street system to allow for your continuing direct access to the south.
7. This Commitment is being referenced in a commitment being made to the Town and will be placed on file with the Westfield Department of Development.

We hereby acknowledge the rural and agricultural character of the some of the properties nearby or directly adjacent to the Eagle Station development. As such, the Petitioner / Developer accepts the possibility for friction to exist between new urban and suburban development and existing rural / agricultural uses. To the extent that properties and uses neighboring Eagle Station may be of a rural or agricultural character, the Petitioner / Developer will not consider those uses objectionable or a nuisance while they maintain the same use at the time adjacent Eagle Station property is developed.

8. The following language will be placed in the eventual Home Owner's Association Declarations:

The Owners acknowledge the rural and agricultural character of the some of the properties nearby or directly adjacent to the Eagle Station development. As such, the Owners accept the possibility for friction to exist between new urban and suburban development and existing rural / agricultural uses. To the extent that properties and uses neighboring Eagle Station may be of a rural or agricultural character, the Owners will not consider those uses objectionable or a nuisance while they maintain the same use at the time adjacent Eagle Station property is developed.

If you have any questions please feel free to call me at 431-1857.

Sincerely yours,

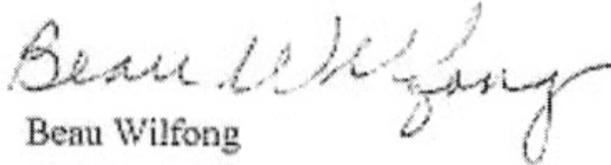
  
Beau Wilfong

EXHIBIT "A"

C. Maintenance

1. All newly planted vegetative material shall meet minimum American Standard for Nursery Stock Standards.
2. Landscaping shall be maintained in healthy growing condition. This includes:
  - a. Regular irrigation, weeding, fertilizing, pruning, mowing, and other maintenance of outside plant materials on the property;
  - b. Mature trees shall not be topped. They shall be pruned according to procedures established in the National Arborist Association Standards, published by the National Arborist Association;
  - c. Treating plant materials that exhibit evidence of insect pest or disease damage;
  - d. Replacement of dead or dying plant materials with specimens in good, healthy, growing condition. Replacement shall be completed using the same plant materials approved on landscape plans.
  - e. Replenishing natural landscape materials such as rock, stone, bark chips and shavings that no longer cover the area in which they were originally deposited.
  - f. Repairing, replacing, or maintaining structural landscaping features including, but not limited to fountains, reflecting pools, outdoor art work, screening walls, retaining walls, fences, benches or other street furniture elements, as necessary to maintain these items in good condition.
  - g. Any other action necessary to maintain landscaping installed in accordance with an approved landscape plan.
3. Plantings and landscaping features required by this Chapter shall be subject to inspection to verify continued compliance with this Chapter.

# WILFONG

LAND COMPANIES

November 8, 2006

Ms. Melda Corn  
19006 North Springmill Road  
Westfield, IN 46074

**RE: Development Commitments**

Dear Ms. Corn:

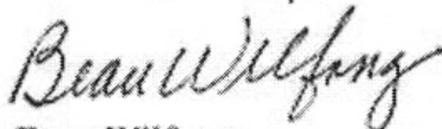
This letter is intended to clarify and further define commitment number two contained within the letter I sent to you dated August 28, 2006 (see text below):

"2. A berm 6' to 8' in height will be installed within the above noted common areas along the length of your property."

Per your request the berm will be undulating with a minimum height of 6' and a maximum height of 8' from the existing grade.

If you have any questions please feel free to call me at 431-1857.

Sincerely yours,

  
Beau Wilfong