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Mary L. Clark
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RESOLUTION 13-108

Document Cross Reference Nos. 200600065832, 200600070317, & 2011014610

A RESOLUTION OF THE CITY OF WESTFIELD CONCERNING MODIFICATION TO THE WRITTEN COMMITMENTS ESTABLISHED FOR WALNUT RIDGE ESTATES

WHEREAS, the City of Westfield is governed by its duly elected Mayor and City Council, ("Council") who have the duty and authority to administer the Westfield-Washington Township Zoning Ordinance and all other related zoning matters within Washington Township, Indiana through a Joinder Agreement with the Township;

WHEREAS, the Westfield Town Council, on October 16, 2006, enacted Ordinance 06-50, recorded as Instrument No. 200600065832, which rezoned the real estate described in Exhibit 1 attached hereto. At the time of the rezoning, certain "Commitments Concerning the Use and Development of Real Estate" were recorded as Instrument No. 200600070317 (the "Original Commitments");

WHEREAS, the Westfield City Council, on March 14, 2011, by Resolution 11-05, approved the "Commitments Concerning the Use and Development of Real Estate" ("2011 Commitments"), recorded as Instrument No. 2011014610. The 2011 Commitments amended, replaced, and restated the Original Commitments;

WHEREAS, Beazer Homes of Indiana LLP, now has filed a petition with the Westfield-Washington Township Advisory Plan Commission (the "Commission") under Docket 0608-REZ-06 to modify the 2011 Commitments (the "Modification");

WHEREAS, the Commission has forwarded the Modification, attached hereto as Exhibit 2, under Docket 0608-REZ-06 to the Westfield City Council with a unanimous favorable recommendation, which was certified by the Secretary of the Commission on March 19, 2013; and

COPY

WHEREAS, the Westfield City Council is subject to the provisions of Ind. Code § 36-7-4-1512 concerning any action on this request;

NOW THEREFORE BE IT RESOLVED BY THE WESTFIELD CITY COUNCIL THAT THE 2011 COMMITMENTS SHALL BE AND HEREBY ARE MODIFIED AS DESCRIBED IN THE MODIFICATION.

This Resolution shall be in full force and effect immediately upon adoption.

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ALL OF WHICH IS ORDAINED THIS 8 DAY OF April, 2013.

WESTFIELD CITY COUNCIL
HAMILTON COUNTY, INDIANA

Voting For	Voting Against	Abstain
Jim Ake	Jim Ake	Jim Ake
John Dippel	John Dippel	John Dippel
Steven Hoover	Steven Hoover	Steven Hoover
Robert L. Horkay	Robert L. Horkay	Robert L. Horkay
Robert J. Smith	Robert J. Smith	Robert J. Smith
Cindy L. Spoljaric	Cindy L. Spoljaric	Cindy L. Spoljaric
Robert W. Stokes	Robert W. Stokes	Robert W. Stokes

ATTEST:

Cindy J. Gossard, Clerk-Treasurer

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: Steven D. Hardin, Esq.

Prepared by: Steven D. Hardin, Esq., Faegre Baker Daniels, LLP, 600 E. 96th Street, Suite 600, Indianapolis, IN 46240.

I hereby certify RESOLUTION 13-108 was delivered to the Mayor of Westfield on the 9th day of April, 2013, at 3:00 p m.

Cindy J. Gossard, Clerk-Treasurer

I hereby APPROVE RESOLUTION 13-108 this 10 day of April, 2013.

J. Andrew Cook, Mayor

I hereby VETO RESOLUTION 13-108 this _____ day of_____, 2013.

J. Andrew Cook, Mayor

Exhibit 1

Legal Description

Part of the South Half of the Southwest Quarter of Section 5, Township 18 North, Range 4 East, Hamilton County, Indiana, being more particularly described as follows:

Beginning at the Southwest corner of said quarter section; thence North 0 degrees 04 minutes 09 seconds East (assumed basis of bearings) 1329.41 feet to the Northwest corner of said half-quarter section; thence South 88 degrees 58 minutes 17 seconds East on and along the North line of said half-quarter section 1331.77 feet; thence South 0 degrees 02 minutes 05 seconds West 1321.80 feet to the South line of said half-quarter section; thence north 89 degrees 17 minutes 58 seconds West on and along said south line, 1332.46 feet to the point of beginning.

Except that portion of the above Real Estate deeded to the Town of Westfield and further described as follows:

A part of the South Half of the Southwest Quarter of Section 5, Township 18 North, Range 4 East, Hamilton County, Indiana, described as follows:

Beginning at the Northwest corner of said half-quarter section; thence South 88 degrees 58 minutes 17 seconds East 41.78 feet along the north line of said half-quarter section; thence South 1 degree 01 minutes 43 seconds West 16.50 feet to the south boundary of 169th Street; thence South 45 degrees 32 minutes 56 seconds West 35.06 feet to the east boundary of Carey Road; thence North 89 degrees 55 minutes 51 seconds West 16.50 feet to the west line of the said half-quarter section; thence North 0 degrees 04 minutes 09 seconds East 41.78 feet along said west line to the point of beginning and containing 0.032 acres, more or less, inclusive of the presently existing right-of-way which contains 0.025 acres, more or less, for a net additional taking of 0.007 acres, more or less.

EXHIBIT 2

COMMITMENTS MODIFYING EXISTING COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A ZONE MAP CHANGE.

In accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615, the Owner of the real estate located in the City of Westfield, Hamilton County, Indiana, which is described below, makes the following modifications of commitments concerning the use and development of the following described parcel of real estate:

LEGAL DESCRIPTION: See Attached "Exhibit A – Legal Description"

STATEMENT OF MODIFICATION OF COMMITMENTS:

In 2011, Commitments by Walnut Ridge Estates, LLC; were made to the Westfield City Council regarding the use and development of the real estate described above and recorded in Hamilton County, Indiana, as Instrument No. 2011014610 (the "Existing Commitments"). The Existing Commitments shall be modified as follows:

1. "Exhibit B – Home Elevations" attached hereto shall replace the home elevations identified as Exhibit "C" within the Existing Commitments. The attached home elevations are illustrative examples and general representations. Additional elevations for each floor plan will be substantially similar in quality and character.

2. "Exhibit C – Conceptual Landscape Plan" attached hereto shall replace the conceptual landscape plan identified as Exhibit "D" within the Existing Commitments.

In all other respects, the Existing Commitments shall remain in effect and unchanged.

This MODIFICATION OF COMMITMENTS shall run with the land, be binding on the Owner of the above-referenced real estate, subsequent owners of the above-referenced real estate and other persons acquiring an interest therein. This MODIFICATION OF COMMITMENTS may be modified or terminated by a decision of the Westfield City Council following a public hearing held by the Westfield - Washington Township Plan Commission.

The MODIFICATION OF COMMITMENTS contained in this instrument shall be effective upon the Westfield City Council approval of Resolution 13-108.

This MODIFICATION OF COMMITMENTS may be enforced jointly or severally by:

1. The Westfield City Council;

2. Owners of all parcels of ground adjoining the real estate and all owners of real estate within the area included in the petition who were not petitioners for approval.

The undersigned hereby authorizes the City of Westfield, Indiana, to record this MODIFICATION OF COMMITMENTS in the Office of the Recorder of Hamilton County, Indiana, upon final approval of Resolution 13-108 by the Westfield City Council.

IN WITNESS WHEREOF, Owner has executed this instrument this 1st day of April, 2013.

RIVEREDGE PROFESSIONAL CENTER, LLC

By: Paul L Korel

Printed: PAUL L KOREL

Title: Member

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Paul L Kozel, the Member of Riveredge Professional Center, LLC, an Indiana limited liability company, Owner of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 1st day of April, 2013.

Signature: Christe K Bridges

Printed: Christa K Bridges

County of Residence Hamilton

My Commission expires: 8/26/2014

This instrument was prepared by Steven D. Hardin, Esq., Faegre Baker Daniels LLP, 600 East 96th Street, Suite 600, Indianapolis, IN 46240.

I affirm under the penalties for perjury, that I have taken reasonable care to redact each and every Social Security number from this document, unless it is required by law. Steven D. Hardin

Exhibit A – Legal Description

Part of the South Half of the Southwest Quarter of Section 5, Township 18 North, Range 4 East, Hamilton County, Indiana, being more particularly described as follows:

Beginning at the Southwest corner of said quarter section; thence North 0 degrees 04 minutes 09 seconds East (assumed basis of bearings) 1329.41 feet to the Northwest corner of said half-quarter section; thence South 88 degrees 58 minutes 17 seconds East on and along the North line of said half-quarter section 1331.77 feet; thence South 0 degrees 02 minutes 05 seconds West 1321.80 feet to the South line of said half-quarter section; thence north 89 degrees 17 minutes 58 seconds West on and along said south line, 1332.46 feet to the point of beginning.

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EXHIBIT B – HOME ELEVATIONS

EXHIBIT B – HOME ELEVATIONS

Beazer Homes

Stratford ACN

Stratford ACN

Cambridge FCN

Cambridge FCN

Beazer Homes

Cambridge ITN

Cambridge ITN

Beazer Homes

Bradbury SHN

Bradbury SHN

Beazer Homes

Lancaster ERN

Lancaster ERN

Beazer Homes

Lancaster ITN

Lancaster ITN

Beazer Homes

O’Hara TRN Elevation

Wakefield TRN Elevation

Wakefield ACM Elevation

Beazer Homes

Driftwood ERM Elevation

Beazer Homes

Vanderbilt TRH Elevation

EXHIBIT C – CONCEPTUAL LANDSCAPE PLAN

TABLE OF LANDSCAPING REQUIREMENTS

WHOLE SITE LANDSCAPING REQUIREMENT PER WESTFIELD ZONING		
REQUIRED PER DWELLING UNIT		TOTAL REQUIRED
SHADE TREE:	4	160
FLOWERING OR EVERGREEN TREE:	2	80
SHRUBS:	4	160
LOT LANDSCAPING PER COMMITMENTS (COUNTS TOWARD WHOLE SITE TOTAL)		
REQUIRED LANDSCAPING PER LOT		TOTAL REQUIRED
SHADE TREE PER LOT:	2	80
FLOWERING TREE PER LOT:	1	40
CONIFER TREE PER LOT:	1	40
3-4' TALL SHRUB PER LOT:	8	360
18-24" TALL SHRUB PER LOT:	12	480
ROAD FRONTAGE LANDSCAPING REQUIREMENT PER WESTFIELD ZONING 1 SHADE TREE/30 LINEAR FEET (COUNTS TOWARD WHOLE SITE TOTAL)		
TOTAL REQUIRED ALONG CAREY RD:	28	
TOTAL REQUIRED ALONG 169TH ST:	28	
TOTAL:	56	
BUFFER YARD LANDSCAPING REQUIREMENT PER WESTFIELD ZONING 1 EVERGREEN TREE & 5 EVERGREEN SHRUBS/30 LINEAR FEET (DOES NOT COUNT TOWARD WHOLE SITE TOTAL)		
TOTAL TREES ALONG SOUTH BORDER:	38	
TOTAL SHRUBS ALONG SOUTH BORDER:	190	

TOTAL REQUIRED PLANTS

SHADE TREE:	160
FLOWERING TREE:	40
EVERGREEN TREE:	78
TOTAL TREES:	278
EVERGREEN SHRUBS:	190
3-4' TALL SHRUBS:	360
18-24" TALL SHRUBS:	480
TOTAL SHRUBS:	1030

TOTAL PROVIDED PLANTS

SHADE TREE:	217
FLOWERING TREE:	40
EVERGREEN TREE:	165
TOTAL TREES:	422
EVERGREEN SHRUBS:	223
3-4' TALL SHRUBS:	380
18-24" TALL SHRUBS:	480
TOTAL SHRUBS:	1083

* COUNT OF PROVIDED PLANTS INCLUDES LOT PLANTINGS NOT SHOWN IN PLAN.

LEGEND	SIZE AT INSTALLATION
= EXISTING SHADE TREE	-
= PROPOSED SHADE TREES	8' HIGH & 2" CALIPER
= EXISTING EVERGREEN TREE	-
= PROPOSED EVERGREEN TREE	6' HIGH
= PROPOSED SHRUBS	18" HIGH
= PROPOSED EVERGREEN BUFFER	7' HIGH

WALNUT RIDGE ESTATES

Date: 03-13-2013

WEIHE ENGINEERS
10505 N. College Avenue
Indianapolis, Indiana 46280
weihe.net
317 | 846 - 6611

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NTS

LOCATION: H:\2012\W120359\Engineering\design\exhibits\Preliminary Landscape exhibit.dwg
DATE/TIME: March 14, 2013 - 7:44am
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