RESOLUTION 14-118

Document Cross Reference Nos. 20060065837

A RESOLUTION OF THE CITY OF WESTFIELD CONCERNING MODIFICATION TO THE WRITTEN COMMITMENTS ESTABLISHED FOR RICKER'S GAS STATION AND CONVENIENCE STORE

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, in 2006, Commitments ("Previous Commitments") were made to the Westfield City Council as a part of Ordinance No. 06-49 regarding the use and development of the real estate, described in Exhibit A attached hereto, and recorded in Hamilton County, Indiana, as a part of Instrument No. 20060065837;

WHEREAS, L & Q Realty, LLC, has filed a petition with the Westfield-Washington Township Advisory Plan Commission (the "Commission") under Docket 1407-ZC-02 to modify the Previous Commitments (the "Modification");

WHEREAS, the Commission has forwarded the Modification, attached hereto as Exhibit B, under Docket 1407-ZC-02 to the Westfield City Council with a favorable recommendation, which was certified by the Secretary of the Commission on August 5, 2014; and

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 SECTION 4, ITEM E, 3. OF THE PREVIOUS COMMITMENTS SHALL BE MODIFIED AS DESCRIBED IN THE MODIFICATION ATTACHED AS EXHIBIT B.

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

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ALL OF WHICH IS ORDAINED THIS 11 DAY OF August, 2014.

WESTFIELD CITY COUNCIL
HAMILTON COUNTY, INDIANA

Voting For	Voting Against	Abstain
Jim Ake	Jim Ake	Jim Ake
Chuck Lehman	Chuck Lehman	Chuck Lehman
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: Joseph M. Scimia, Esq.

Prepared by: Joseph M. Scimia, Esq., Faegre Baker Daniels, LLP, 600 E. 96th Street, Suite 600, Indianapolis, IN 46240.

I hereby certify RESOLUTION 14-118 was delivered to the Mayor of Westfield on the 12 day of August, 2014, at 10:30 a. m.

Cindy J. Gossard, Clerk-Treasurer

I hereby APPROVE RESOLUTION 14-118 this 12 day of Aug., 2014.

J. Andrew Cook, Mayor

I hereby VETO RESOLUTION 14-118 this _____ day of _____, 2014.

J. Andrew Cook, Mayor

US.54649265.01

EXHIBIT A

Legal Description

Lot 2 of Bridgewater Center at 146th Street per the Plat thereof recorded as Instrument Number 2013059163 on Slide 126 in Plat Cabinet 5 in the Office of the Recorder of Hamilton County, Indiana.

EXHIBIT B

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 2006, Commitments were made to the Westfield City Council as a part of Ordinance No. 06-49 regarding the use and development of the real estate described above and recorded in Hamilton County, Indiana, as a part of Instrument No. 20060065837 (the "Existing Commitments"). The Existing Commitments shall be modified as follows:

1. Section 4, Item E, 3. shall be modified to read "All gas pumps shall be located and covered with a canopy as depicted on the site plan attached hereto as Exhibit B."

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 14-118.

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 14-118 by the Westfield City Council.

IN WITNESS WHEREOF, Owner has executed this instrument this ___ day of

_____, 2014.

L & Q Realty, LLC

By: _____

Printed: _____

Title: _____

STATE OF INDIANA_____)
) SS:
COUNTY OF_____)

Before me, a Notary Public in and for said County and State, personally appeared _____ _____ as _____ of L & Q Realty, LLC, the 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 ____ day of _____, 20___.

Signature: _____

Printed: _____

County of Residence_____

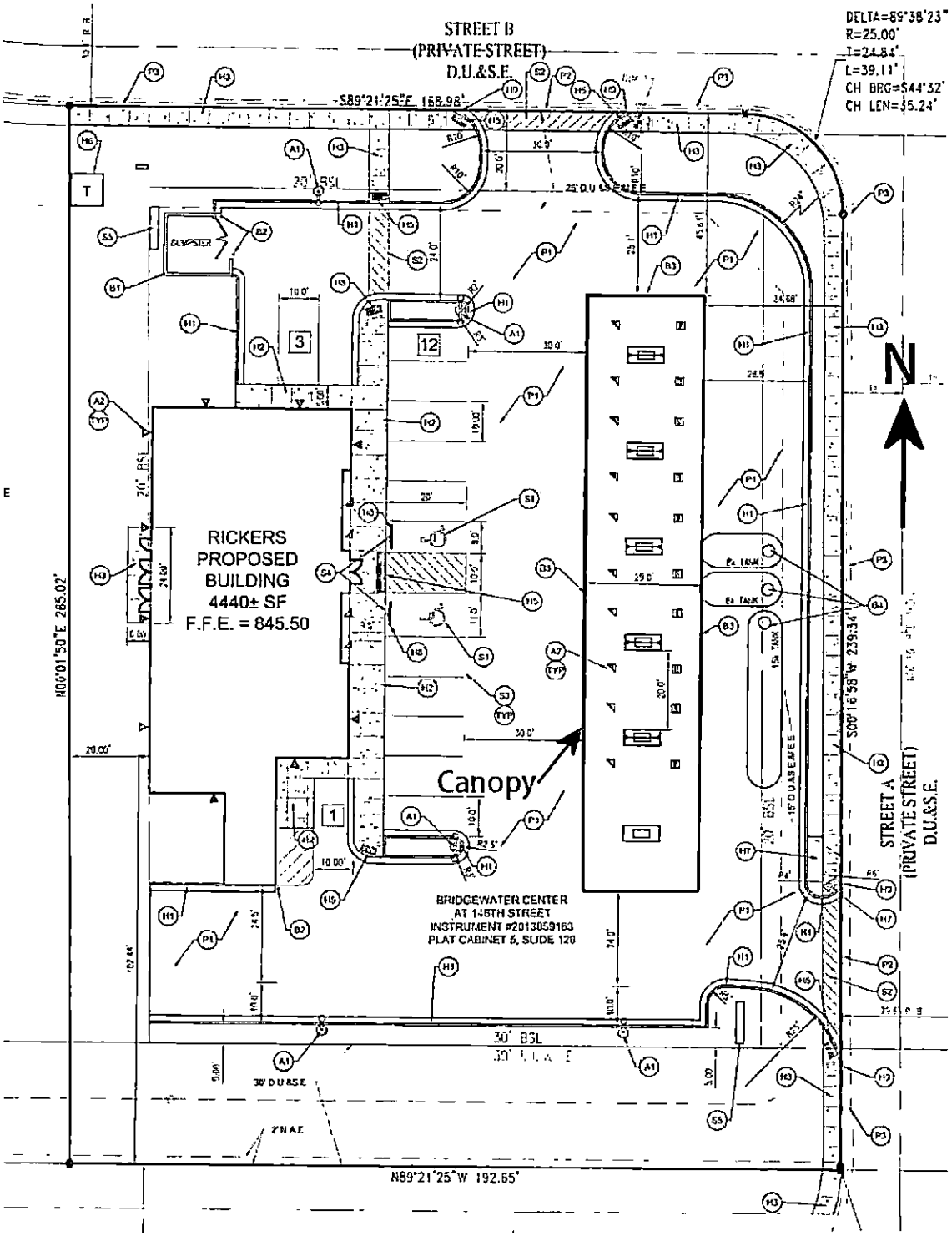
My Commission expires: _____

This instrument was prepared by Joseph M. Scimia, 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. Joseph M. Scimia

Exhibit A – Legal Description

Lot 2 of Bridgewater Center at 146th Street per the Plat thereof recorded as Instrument Number 2013059163 on Slide 126 in Plat Cabinet 5 in the Office of the Recorder of Hamilton County, Indiana.

EXHIBIT B

SITE PLAN