RESOLUTION 14-117

Document Cross Reference Nos. 200600049310

A RESOLUTION OF THE CITY OF WESTFIELD CONCERNING MODIFICATION TO THE WRITTEN COMMITMENTS ESTABLISHED FOR FRAMPTON 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 August 14, 2006, enacted Ordinance 06-38, recorded as Instrument No. 200600049310, which rezoned the real estate described in Exhibit A attached hereto.

WHEREAS, Commitments Concerning the Use and Development of Real Estate were made to the Westfield Town Council conditioned upon approval of Ordinance No. 06-38 (the "Previous Commitments") and were recorded in the Office of the Recorder of Hamilton County, Indiana, as part of Instrument No. 200600049310;

WHEREAS, Grand Communities, Ltd., now has filed a petition with the Westfield-Washington Township Advisory Plan Commission (the "Commission") under Docket 1407-ZC-01 to modify the Previous Commitments (the "Modification");

WHEREAS, the Commission has forwarded the Modification, attached hereto as Exhibit B, under Docket 1407-ZC-01 to the Westfield City Council with a favorable recommendation, which was certified by the Secretary of the Commission on July 21, 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NOW THEREFORE BE IT RESOLVED BY THE WESTFIELD CITY COUNCIL THAT THE PREVIOUS COMMITMENTS SHALL BE AND HEREBY ARE REPEALED IN THEIR ENTIRETY AND REPLACED WITH THE COMMITMENTS DESCRIBED IN THE MODIFICATION.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 _____ DAY OF _____, 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: 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 14-117 was delivered to the Mayor of Westfield on the _____ day of _____ , 2014, at _____ _____ m.

_____
Cindy J. Gossard, Clerk-Treasurer

I hereby APPROVE RESOLUTION 14-117
this _____ day of _____, 2014.

_____
J. Andrew Cook, Mayor

I hereby VETO RESOLUTION 14-117
this _____ day of_____, 2014.

_____
J. Andrew Cook, Mayor

EXHIBIT A

Legal Description

A part of the Northwest and Southwest Quarter of the Northwest Quarter of Section 10, Township 18 North, Range 3 East, Washington Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of the Northwest Quarter of said Section 10; thence North 88 degrees 57 minutes 01 seconds East along the North line of said Quarter Quarter Section a distance of 1,303.82 feet to the Northeast corner thereof; thence South 00 degrees 03 minutes 50 seconds West along the East line of said Quarter Quarter Section a distance of 1,317.92 feet to the Southeast corner thereof; thence South 89 degrees 12 minutes 17 seconds West along the South line of said Quarter Quarter Section a distance of 808.21 feet to the East line of the West fifteen (15) acres of the Southwest Quarter of the Northwest Quarter of said Section 10; thence South 00 degrees 09 minutes 20 seconds West along said East line a distance of 1,314.37 feet to the South line of said Quarter Quarter Section; thence South 89 degrees 27 minutes 31 seconds West along the South line of said Quarter Quarter Section a distance of 497.58 feet to the Southwest corner thereof; thence North 00 degrees 09 minutes 20 seconds East along the West line of said Quarter Quarter Section a distance of 704.71 feet to the Southwest corner of real estate described in Instrument Number 2000-9029 in the Office of the Recorder, Hamilton County, Indiana; thence along the East line of said real estate the following eight (8) calls: (1) South 89 degrees 50 minutes 40 seconds East 16.50 feet; (2) North 25 degrees 43 minutes 10 seconds East 55.62 feet; (3) North 00 degrees 09 minutes 20 seconds East 100.22 feet; (4) North 11 degrees 29 minutes 49 seconds East 50.85 feet; (5) North 00 degrees 09 minutes 20 seconds East 100.00 feet; (6) North 03 degrees 39 minutes 37 seconds West 150.26 feet; (7) North 25 degrees 33 minutes 42 seconds West 55.31 feet; (8) North 89 degrees 50 minutes 40 seconds West 16.50 feet to a point on the West line of said Quarter Quarter Section; thence North 00 degrees 09 minutes 20 seconds East along said West line 1419.61 feet to the place of beginning, subject to all legal highways, rights-of-ways, easements, and restrictions of record.

EXHIBIT B

COMMITMENTS CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE

Grand Communities, Ltd. (the "Owner") makes the following commitments to the Westfield City Council (the "Council") regarding the use and development of the following described real estate (the "Real Estate") located in Hamilton County, Indiana:

Section 1. **Description of Real Estate**:

See the legal description, attached hereto and incorporated herein at Exhibit "A".

Section 2. **Resolution: 14-117**

Section 3. **Statement of Modification of Previous Commitments.**

In 2006, Commitments Concerning the Use and Development of Real Estate were made to the Westfield Town Council conditioned upon approval of Ordinance No. 06-38 regarding the use and development of the Real Estate and were recorded in the Office of the Recorder of Hamilton County, Indiana, as part of Instrument No. 200600049310 (the "Previous Commitments"). On _____, 2014, the Council approved Resolution 14-117, which repealed in its entirety the Previous Commitments and replaced them with the Commitments set forth herein.

Section 4. **Statement of Commitments**:

These commitments shall run with land, be binding on the Owner of the Real Estate, subsequent owners of the Real Estate and other persons acquiring an interest therein.

A. The number of homes on the Real Estate shall not exceed 73 unless otherwise permitted herein.

B. At the time the Owner records its secondary plat for Frampton Estates, Owner shall also record an easement against and dedicate approximately nine (9) acres of land along the southern portion of the Real Estate to the City of Westfield for use as a public park (the "Park"). If the City elects, in the future, not to use the Park as a public park facility, then the Park shall revert back to the Owner.

C. In the event that the City of Westfield does not desire to receive the Park dedication or in the event the Park reverts back to the Owner, Owner reserves the right to develop such property into eleven (11) additional single-family home lots with minimum lot widths of 90' at building line. In such case, the number of homes on the Real Estate shall not exceed 82.

D. At least twenty-five percent (25%) of the Real Estate, including the Park, shall be set aside as Open Space. If the Park is dedicated to the City, then at least twelve (12%) of the remainder of the Real Estate shall be set aside as Open Space.

E. No two-family attached homes shall be permitted on the Real Estate.

F. The existing trees along the Real Estate's northern and southern property lines, as identified on the attached Concept Plan, attached hereto and incorporated herein at Exhibit "B," shall be preserved within a tree conservation easement ("Easement"), which shall be recorded on Lots 13 through 25 as illustrated on the Concept Plan. Within the Easement, no trees with a diameter at breast height ("DBH") in excess of six inches (6") or evergreens eight feet (8') or more in height (the "Protected Trees") shall be removed unless the tree is damaged, diseased or dead, or required to be removed in order to comply with safety requirements of any governmental agency. If a Protected Tree is damaged or otherwise removed, except as permitted to be removed as listed above, then the developer, builder or homeowner (as the case may be) shall reestablish the Protected Tree with a tree or trees of combined equal or greater DBH subject to the availability of space for their healthy growth in the Easement.

G. Owner agrees to install, at Owner's expense, "No Trespassing" signs along the Real Estate's southern property line, as shown on the attached Concept Plan.

H. Lots along the Real Estate's northern property line shall have a minimum rear yard setback of fifty (50'), as measured from the property line.

I. Architecture:

a. Vinyl siding shall be prohibited. Exterior materials shall include brick, stone and/or fiber cement board.

b. All homes shall be substantially similar in quality and character as the elevations attached hereto as Exhibit "C."

c. Rear/Side Building Facade Enhancements: Homes on a perimeter lot with a side or rear building facade oriented toward 161st Street or Ditch Road shall utilize architectural features in accordance with the following:

i. Minimum Requirement:
a) A rear building facade oriented toward 161st Street or Ditch Road shall incorporate a minimum of seven (7) points from the list of architectural features; and
b) A side building facade oriented toward 161st Street or Ditch Road shall incorporate a minimum of four (4) points from the list of architectural features.

ii. Architectural Features: All architectural features listed below are worth one (1) point unless indicated otherwise:
a) Main Roof Design (a maximum of two (2) points from this subsection may qualify):
(1) Two (2) or more dormers;

(2) Twelve (12) inch overhangs around the entire home, as measured prior to the installation of masonry materials;
(3) A minimum roof pitch of 8:12 around the entire home;
(4) Two (2) or more gables.

b) Exterior Materials:
(1) One hundred percent (100%) masonry materials around the entire home, as architecturally appropriate (i.e. exception for areas above the main roof line)(2 points); or
(2) Full first floor masonry materials around the entire home (exclusive of openings).

c) Facade Projections or Recessions (a maximum of three (3) points from this subsection may qualify):
(1) A minimum of one (1) four-foot (4') deep offset the entire vertical plane of the building façade;
(2) A minimum of two (2) two-foot (2') deep offsets the entire vertical plane of the building façade;
(3) Sunroom (minimum sixty-four (64) square feet)(2 points);
(4) Screened-in porch (minimum sixty-four (64) square feet);
(5) Covered patio or covered porch (minimum one hundred and forty-four (144) square feet);
(6) Exterior fireplace chase covered with masonry material;
(7) Second floor cantilever with a minimum depth of one (1) foot projecting over the first floor and minimum length of thirty percent (30%) of the total length of the rear building facade.

d) Windows (a maximum of two (2) points from this subsection may qualify):
(1) Decorative shutters on all windows of the home, as architecturally appropriate.
(2) Multiple masonry material detailing (e.g., quoins, keystones, arches, soldier courses), as architecturally appropriate.
(3) A minimum of seventy-five (75) square feet of windows.
(4) Bay window (a minimum of six (6) feet wide) (shall not qualify as a point if the bay window is used to meet subsection (2) above).
(5) Minimum five and one-half inch (5-1/2") wide trim around all windows of the home.

iii. Streetscape Diversity for Perimeter Lots: The rear building facade of homes on adjacent perimeter lots may not have more than three (3) of the same architectural features that qualify towards meeting the above requirements.

d. Minimum living area:

i. One-story home: 2000 square feet
ii. Two-story home: 2400 square feet

J. Perimeter Landscaping

a. The landscaping along Ditch Road and 161st Street shall incorporate berms, plantings and trees substantially consistent with the landscaping shown on the Concept Plan and the Conceptual Landscape Plan, attached hereto and incorporated herein at Exhibit "D."

K. Owner shall bear the cost of relocating any utility poles necessary to accommodate construction of acceleration/deceleration lanes at the proposed entrances, provided that utility poles are at least ten (10') feet from the pavement of such acceleration/deceleration lanes, as shall be determined by the Director.

Section 5. **Modification of Commitments**

These commitments may be modified or terminated only by a decision made at a public hearing after notice has been given in accordance with the City's Rules of Procedures.

Section 6. **Effective Date**

The commitments contained herein shall be effective upon the approval of Resolution 14-117 and shall continue in effect until modified or terminated by the Westfield City Council.

Section 7. **Recording**

The undersigned hereby authorizes the Secretary of the Council to record these commitments in the Office of the Recorder of Hamilton County, Indiana, upon approval of Resolution 14-117.

Section 8. **Enforcement**

These commitments may be enforced by the City Council of the City of Westfield, Hamilton County, Indiana.

IN WITNESS WHEREOF, Owner has caused this commitment to be executed as of the _____ day of _____, 2014.

_____
Grand Communities, Ltd
By: _____
Its: _____ (Title)

STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared _____, who having been duly sworn acknowledged the execution of the foregoing Commitments.

Witness my hand and Notarial Seal this _____day of _____, 2014.

_____
Notary Public

_____
Printed

My Commission Expires: _____ Residing in _____County, Indiana

Prepared by: 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.

Prepared by: Steven D. Hardin, Attorney at Law, Faegre Baker Daniels, LLP, 600 East 96th Street, Suite 600, Indianapolis, Indiana 46240, (317) 569-9600

EXHIBIT A

Legal Description

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EXHIBIT B – CONCEPT PLAN

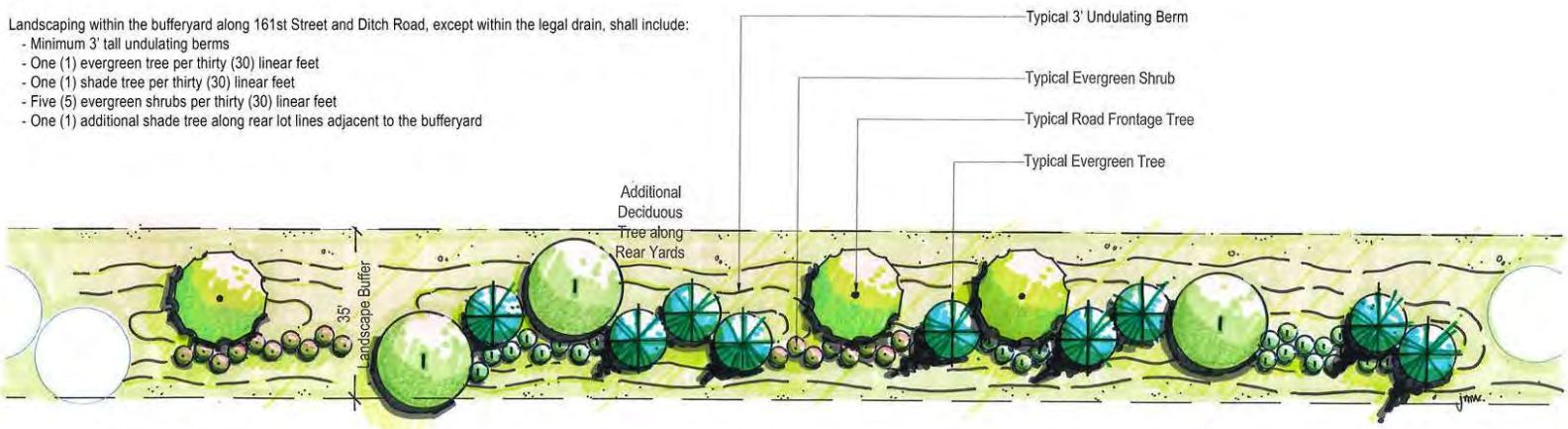
EXHIBIT C – ARCHITECTURAL ELEVATIONS

MASTERPIECE COLLECTION

MASTERPIECE COLLECTION

EXHIBIT D – CONCEPTUAL LANDSCAPE PLAN

Landscaping within the bufferyard along 161st Street and Ditch Road, except within the legal drain, shall include:
- Minimum 3' tall undulating berms
- One (1) evergreen tree per thirty (30) linear feet
- One (1) shade tree per thirty (30) linear feet
- Five (5) evergreen shrubs per thirty (30) linear feet
- One (1) additional shade tree along rear lot lines adjacent to the bufferyard



Grand Communities, Ltd.

Frampton Estates Westfield, Indiana

NTS

Conceptual Landscape Buffer -- Ditch Road and 161st Street Typical Plan and Cross-Section

June 30, 2014

BAKER & DANIELS LLP

PRESENTED BY: STEVEN D. HARDIN, ESQ.

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WWW.BAKERANDDANIELS.COM

FRAMPTON ESTATES

FRAMPTON ESTATES

CENTEX HOMES

54 acres +/-
East side of Ditch Road, North of 161t Street

REQUEST FOR CHANGE OF ZONING
Submitted for August 14, 2006 Town Council