

Ordinance No. 062016



**AN ORDINANCE AMENDING THE TEXT OF THE BRITTON FALLS PUD
ORDINANCE AND APPROVING THE THIRD AMENDMENT TO THE
BRITTON FALLS COMMITMENTS
CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE
(Western One-Half (1/2) of AREA 4-B)**

This is an ordinance approving a text amendment to the Britton Falls PUD Ordinance and an amendment to the Commitments Concerning the Use and Development of Real Estate applicable to the western one-half (1/2) of Area 4-B of the Britton Falls PUD. The legal description of the western one-half (1/2) of Area 4-B is attached here to and incorporated herein as Exhibit A (the "Real Estate").

On June 6, 2007, Pulte Homes of Indiana, LLC, ("Pulte"), recorded certain Commitments Concerning the Use and Development of Real Estate (the "2007 Commitments") in connection with the approval of Ordinance Number 021907B (the "PUD Ordinance"). The 2007 Commitments were recorded on June 6, 2007, as Instrument No. 2007031072 in the Office of the Recorder of Hamilton County, Indiana. The 2007 Commitments amended and restated those certain Commitments Concerning the Use and Development of Real Estate (the "Original Commitments") that had been recorded on September 12, 2006, as Instrument No. 200600054008 in the Office of the Recorder of Hamilton County, Indiana.

On August 19, 2013, the Fishers Town Council approved certain amendments to the 2007 Commitments (the "2013 Second Amendment"). The 2013 Second Amendment does not apply to the Real Estate. Grand Communities Ltd ("Developer") now has purchased the Real Estate and is developing it into a single family residential neighborhood to be known as "Piper Glen". The builder in Piper Glen would like to offer to its prospective home owners a carriage style garage option, and it has requested the amendment below to allow this option (the "Third Amendment").

Section 1. Amendment of the Commitments

- 1.1 The 2007 Commitments hereby are amended with respect to the Real Estate as set forth herein. References to "Exhibits" and "Sections" refer to the Exhibits and Sections referenced in the 2007 Commitments.
- 1.2 Sec. 6(10) of the 2007 Commitments is hereby deleted and replaced in its entirety with the following:

Section 6(10) The following additional architectural standards shall apply to Area 4-B:

- A. All of the dwellings shall have Hardie-plank or similar cement board siding. Vinyl siding is prohibited other than for accents and vinyl-clad windows.
- B. No front-loading garages permitted (except third and fourth car garages that are set back a minimum of eighteen feet (18') from the primary front facade) ("Carriage Garage"). All primary garages shall be side-load, rear-load, angle-load or courtyard style.
- C. Decorative garage doors with windows shall be required on all front-loading garages, as shown illustratively on Exhibit B, attached hereto. Other decorative garage doors also shall be permitted as long as the garage doors are substantially similar or greater in quality, character, and architectural detailing as the decorative garage doors shown on Exhibit B.
- D. All of the dwellings shall have at least a partial basement
- E. All of the dwellings shall be either: (i) substantially similar in quality and character as the illustrative elevations attached hereto as Exhibit C; or (ii) otherwise approved by the PUD Committee.
- F. The floor plans for dwellings shall offer a three (3) car garage as an option available for purchase by a homebuyer.

Section 2. **Text Amendment**

- 2.1 If a home includes a Carriage Garage, then the minimum Aggregate Side Setback shall be twenty (20) feet.

Section 3. **Effective Date**

- 3.1 This Third Amendment shall be effective with respect to the Real Estate adoption by the City Council of this Third Amendment.

Section 4. **Recording**

- 4.1 The undersigned hereby authorizes the Secretary of the Plan Commission to record this Ordinance in the Office of the Recorder of Hamilton County, Indiana.

Section 5. **Prior Commitments**

- 5.1 The 2007 Commitments remain in effect with respect to the Real Estate, as

modified by this Third Amendment. In the event of any conflict between the 2007 Commitments and this Third Amendment, then this Third Amendment shall control.

Section 6. **Enforcement**

6.1 This Third Amendment may be enforced by the Plan Commission and/or the City Council.

Section 7. **Binding Effect**

7.1 This Third Amendment is binding on Developer and its successors and assigns unless modified or terminated by a decision by the Plan Commission or City Council after a public hearing wherein notice is given as provided by the Plan Commission's rules. This Third Amendment shall terminate with respect to any part of the Real Estate hereafter rezoned to change the permitted use(s) of that part of the Real Estate.

IN WITNESS WHEREOF, Developer has executed this instrument this 3rd day of October, 2016.

GRAND COMMUNITIES Ltd.

By: 

Printed: Todd E. Hess

Title: President



STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Todd E. Huss, the PRESIDENT of Grand Communities Ltd., owner of the real estate who in such capacity acknowledged the execution of the foregoing instrument and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 3rd day of OCTOBER, 20 16

K. Lehman
Notary Public
KRISTINA KAE LEHMAN
Printed Name of Notary Public
My Commission expires: 5/17/23
My County of residence: BOONE

Date: 10/3, 2016

Approved by the City Council of Fishers, Indiana, _____, 2016:

Printed: _____
President, City Council of Fishers, Indiana

**COMMON COUNCIL OF THE CITY OF FISHERS,
HAMILTON COUNTY, INDIANA**

Ord 062016

YAY

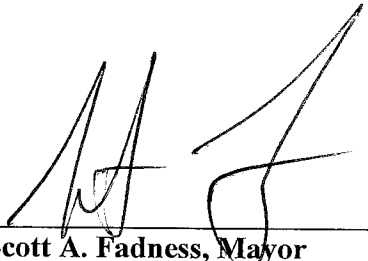
NAY

ABSTAIN

	John Weingardt, President		
<i>David C. B.</i>	David George, Vice-President		
<i>Stuart</i>	C. Pete Peterson, Member		
<i>G. Miller</i>	Eric Moeller, Member		
	Selina M. Stoller, Member		
	Richard W. Block, Member	<i>R. W. Block</i>	
<i>Cecilia C. Coble</i>	Cecilia C. Coble, Member		
	Todd P. Zimmerman, Member		
	Brad DeReamer, Member	<i>Brad DeReamer</i>	

I hereby certify that the foregoing Ordinance/Resolution was delivered to City of Fishers Mayor Scott Fadness on the 14th day of September 2016, at 9 p. m.

ATTEST: *Jennifer L. Kehl*
Jennifer L. Kehl, City Clerk



Scott A. Fadness, Mayor

Ord 062016

MAYOR'S APPROVAL

9/19/2016

DATE



MAYOR'S VETO

Scott A. Fadness, Mayor

DATE

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

Quit Claim Deed (Instrument Number 2012-018423)

A part of the Northeast Quarter of Section 32, Township 18 North, Range 6 East, Fall Creek Township, Hamilton County, Indiana described as follows:

Commencing at the Northeast corner of said Quarter Section; thence South 89 degrees 05 minutes 59 seconds West (assumed bearing), along the North line of said Quarter Section 1,331.07 feet to a mag nail at the POINT OF BEGINNING; thence South 00 degrees 07 minutes 59 seconds East, 2,658.18 feet to a 5/8 inch rebar with red cap stamped FIRM 0066 on the South line of said Quarter Section; thence South 89 degrees 15 minutes 18 seconds West, 1,295.77 feet to the Southwest corner of said Quarter Section; thence North 00 degrees 59 minutes 06 seconds West, 2,654.44 feet to the Northwest corner of said Quarter Section; thence North 89 degrees 05 minutes 59 seconds East, along the North line of said Quarter Section, 200.00 feet; thence South 00 degrees 59 minutes 06 seconds East, parallel with the West line of said Quarter Section, 300.00 feet; thence North 89 degrees 05 minutes 59 seconds East, parallel with said North line, 100.00 feet; thence North 00 degrees 59 minutes 06 seconds West, parallel with said West line, 300.00 feet to said North line; thence North 89 degrees 05 minutes 59 seconds East, 1,035.29 feet to the point of beginning and containing 79.53 acres, more or less.

THE ABOVE-DESCRIBED REAL ESTATE WAS FOUND BY THIS SURVEY BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

A part of the Northeast quarter of Section 32, Township 18 North, Range 6 East, Fall Creek Township, Hamilton County, Indiana, described as follows:

Commencing at the Northeast corner of said quarter Section; thence South 89 degrees 05 minutes 45 seconds West 1,331.07 feet along the North line of said quarter Section to the East line of the West half of said quarter Section also being the POINT OF BEGINNING of this description; thence South 00 degrees 07 minutes 44 seconds East 2,658.25 feet along said East line to the South line of said quarter Section; thence South 89 degrees 15 minutes 13 seconds West 1,315.37 feet along said South line to the West line of said quarter Section; thence North 00 degrees 33 minutes 40 seconds West 2,654.43 feet along said West line to the North line of said quarter Section; thence North 89 degrees 05 minutes 45 seconds East 200.00 feet along said North line to the Northwest corner of the property owned by Mary E. Owens as exception recorded in Inst. No.: 2008-043774, Dated: August 27, 2008 in the Office of the Recorder, Hamilton County, Indiana; thence along the bounds of said exception by the next three (3) courses: 1) South 00 degrees 33 minutes 40 seconds East 300.00 feet; 2) North 89 degrees 05 minutes 45 seconds East 100.00 feet; 3) North 00 degrees 33 minutes 40 seconds West 300.00 feet to said North line; thence North 89 degrees 05 minutes 45 seconds East 1,035.43 feet along said North line to the place of beginning, containing 80.133 acres, more or less.

EXHIBIT B

Example: Decorative Garage Doors with Windows



EXHIBIT C

Illustrative Elevations



STRATFORD TUDOR

designed by JFE



COASTAL CLASSIC

designed by JFE



ENGLISH ELEGANCE

designed by JFE



STRATFORD TUDOR

designed by JFE



FRENCH MANOR

designed by JFE



ENGLISH ELEGANCE

designed by JFE



VILLA MILANO

designed by JFE



CASA BELLA

designed by JFE

Illustrative Elevations



AMERICAN HERITAGE

Designed by JFC



GRANDE VISTA

Designed by JFC



CASA BELLA

Designed by JFC



WESTERN CRAFTSMAN

Designed by JFC



ENGLISH ELEGANCE

Designed by JFC



ENGLISH ELEGANCE

Designed by JFC



WESTERN CRAFTSMAN

Designed by JFC



COASTAL CLASSIC

Designed by JFC

Illustrative Elevations



AMERICAN CLASSIC



FRENCH MANOR



VINTAGE VICTORIAN



GRANDE VISTA



WESTERN CRAFTSMAN



NANTUCKET RETREAT



CAMBRIDGE COTTAGE



ENGLISH ELEGANCE



FRENCH MANOR



PACIFIC CRAFTSMAN



NANTUCKET RETREAT



VILLA TOSCANO



COASTAL CLASSIC



HYDE PARK COTTAGE



ENGLISH ELEGANCE

Illustrative Elevations



CAMBRIDGE COTTAGE



WESTERN CRAFTSMAN



AMERICAN CLASSIC



AMERICAN CLASSIC



PACIFIC CRAFTSMAN



BELLA VISTA



STRATFORD TUDOR



WESTERN CRAFTSMAN



AMERICAN CLASSIC



AMERICAN CLASSIC



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BELLA VISTA



PACIFIC CRAFTSMAN



HYDE PARK COTTAGE



AMERICAN CLASSIC



CAMBRIDGE COTTAGE



PACIFIC CRAFTSMAN



ENGLISH ELEGANCE



FRENCH MANOR



GRANDE VISTA



AMERICAN CLASSIC



COASTAL CLASSIC



FRENCH MANOR

Illustrative Elevations



BUCKS COUNTY RETREAT



NANTUCKET RETREAT



AMERICAN CLASSIC



COASTAL CLASSIC



VINTAGE VICTORIAN

designed by *J. L. ...*