

**RESOLUTION 07-2013**

**A RESOLUTION APPROVING THE FINAL PLAT AND AUTHORIZING AND DIRECTING THE MAYOR OR VILLAGE ADMINISTRATOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH SADDLEBROOK DEVELOPMENT, LLC FOR SECTION 4, PHASE 1 OF THE CHESTNUT ESTATES SUBDIVISION.**

WHEREAS, the Council of the Village of Commercial Point is authorized by statute and by the Subdivision Regulations of the Village to approve final plats of a subdivision or a portion of a subdivision; and

WHEREAS, the Mayor and Village Administrator are authorized to enter into contracts and agreements on behalf of the Village of Commercial Point; and

WHEREAS, Council has determined that it is in the best interest of the Village to approve the proposed final plat and enter into a development agreement with Saddlebrook Development, LLC for Section 4, Phase 1 of the Chestnut Estates Subdivision.

NOW THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF COMMERCIAL POINT, COUNTY OF PICKAWAY, STATE OF OHIO, A MAJORITY OF ITS MEMBERS ELECTED THERETO CONCURRING THAT:

Section 1. Council of the Village of Commercial Point acting pursuant to statute and Section 81.05.04 of the Subdivision Regulations of the Village of Commercial Point, hereby approves the final plat and authorizes and directs the Mayor or Village Administrator to enter into a development agreement with Saddlebrook Development, LLC for Section 4, Phase 1 of the Chestnut Estates Subdivision, a copy of which attached hereto as Exhibit A, and which is incorporated herein and is made a part of this Ordinance.

Section 2. This Resolution shall become effective from and after the earliest period allowed by law.

Vote on Passage of Resolution:

Motion by: Mr. Cruz

2<sup>nd</sup>: Mr. Thompson

Roll Call:

Yes Randy Shelton

           Clarence Wissinger

Yes Jason Thompson

Yes Vidal Cruz

Yes Kimberly Gooden-Kinney

Yes Nicole Evans

Adopted this 1st day of July, 2013.

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Joe Hammond, Mayor

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Wendy Hastings, Fiscal Officer

Approved as to Form:

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Michael Hess, Law Director

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**DEVELOPMENT AGREEMENT**

*Homes, Inc.*  This Agreement entered into this 26<sup>th</sup> day of February, 2013, by and between Westport Property Group LLC (hereinafter called the "Owner") and the Village of Commercial Point, Ohio (hereinafter called the "Village") for the Chestnut Estates, Section 4 (hereinafter called the "Project")

WHEREAS, certain ordinances of the Village in force on the date of this Agreement (hereinafter called the "Subdivision Regulations") require the Owner to enter into an agreement with the Village.

NOW, THEREFORE, the Owner and the Village, in consideration of the mutual covenants set forth herein, agree that:

- I. OWNER RESPONSIBILITIES: The Owner will:
- 1.1 Develop or cause the development of the Project in accordance with the Subdivision Regulations Construction and Material Specifications and the approved construction plans.
  - 1.2 Unless specifically stated otherwise, be responsible for the entire cost associated with developing the Project, including providing the real estate, engineering, construction, fees and deposits.
  - 1.3 Provide the Village with plans, specifications and supporting data describing the improvements contained in the Project. The improvements to be provided will include:
    - (a) Streets and parking areas, graded full width and paved, including drainage structures, bridges, curbing and other improvements as shown on the Village Standard Drawings;
    - (b) Sanitary sewers, including manholes, services and all appurtenances;
    - (c) Water distribution system including mains, services, valves, fire hydrants and all appurtenances;
    - (d) Storm sewers, including manholes, inlets and all the appurtenances;
    - (e) Monuments, stakes, and all survey control required.
    - (f) Street signs designating the name of each street at each intersection within the development. Street signs shall conform to the standards established by the Village.
    - (g) All other improvements shown on the plans as approved by the Village, including street lights.

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- 1.4 Await the Village's approval of the plans and specifications before beginning any construction work.
- 1.5 Guarantee that the labor, material and equipment used to develop the Project meets the Village requirements by providing a performance bond equal to one hundred percent (100%) of the estimated constructed cost of the public improvements unless, the plat is not to be signed.
- 1.6 Give the Village at least three days notice prior to beginning any construction work and will keep the Village advised of the work schedule throughout the development of the project.
- 1.7 Prior to conditional acceptance of the Project by the Village, guarantee all labor, material and equipment incorporated in the improvements that will become public against defects and deficiencies, for at least one year, by providing either:
  - (a) A maintenance bond equal to twenty-five percent (25%) of the construction cost for the public improvements; or
  - (b) A certification to the Village by a financial institution or corporation acceptable to the Village Solicitor.

That funds equaling ten percent (10%) of the estimated construction cost for public improvements have been set aside in an escrow account.

That these funds cannot be released without a release by the Village.

That the institution or corporation holding the funds shall release to the Village any and all of the funds so escrowed for the purposes enumerated herein; and

That the escrow account will not be closed out without the approval of the Village with the final acceptance of the public improvements by the Village constituting release of the escrow account lacking any formal release by the Village.
- 1.8 Provide a written request for the maintenance guarantee release upon completion of at least one year maintenance period during which the public improvements are maintained in a satisfactory condition and all expenses incurred by the Village pursuant to this Project having been paid in full.
- 1.9 Cause the work described in the approved plans, specifications and supporting data, as required herein, to be completed within a year of the approval of the construction plans unless approved otherwise by the Village.
- 1.10 Remove or cause to be removed such dirt and debris and debris and foreign matter from all public rights-of-way, improvements and/or easements as were deposited, left or resulted from the construction of improvements of any nature within the development, within twenty-four hours after being notified by the Village that

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such work is required. Such removal shall be done to the satisfaction of the Village Engineer.

- 1.11 Prior to acceptance or conditional acceptance of the Project by the Village, the Owner will
  - a. Provide the Village the original, signed plans, with two sets of prints, annotated to reflect the "as-constructed" conditions, the original recorded plat, and a copy of the "as-constructed", plans on a compact disc Auto Cad format, and GIS plan indicating all project utilities.
  - b. Have all sanitary sewers cleaned and provide a bond guaranteeing that after two years or after the last home in this phase is completed, whichever is longer, all sanitary sewers will be re-cleaned and televised and a videotape provided to the Village

**II. GENERAL TERMS:**

- 2.1 When there appears to be, or there is in fact, a conflict between this Agreement and the Subdivision Regulations, the more stringent shall govern.
- 2.2 No conveyance shall be made of any lot or parcel smaller in frontage or area than indicated on the plat except for the purpose of increasing the area of another lot.
- 2.3 The Owner shall hold the Village free and harmless from any and all claims for damage of every nature arising or growing out of the construction of improvements or resulting from improvements and shall defend, at his own cost and expense, any suit or action brought against the Village by reason thereof, except such liability of the Village resulting from its sole negligence.
- 2.4 Upon violation of, or failure to comply with, any of the terms of this Agreement by the Owner, the Village may take any of the following actions:
  - (a) Stop all work on the Project forthwith;
  - (b) Continue any unfinished work or replace any unaccepted work to a point that any public improvements do not appear to create a health or safety hazard or create a maintenance or repair expense to the Village because of their state of completion by:
    1. Holding the bonding company responsible,
    2. Using the certified check, or proceeds thereof, or
    3. Using the funds in the escrow account.
- 2.5 This Agreement represents the entire and integrated agreement between the Owner and the Village for the Project and supersedes all prior negotiations,

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representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Village.

- 2.6 The Owner and the Village each binds himself and his partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement; except as above, neither the Owner nor the Village shall assign, sublet, or transfer his interest in this Agreement without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any office or any agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the Owner and the Village.
- 2.7 Notices: Any notice required by this Agreement shall be conclusively presumed to have been received if in writing and if delivered personally or sent by registered or certified mail, postage prepaid, to the party to be notified at the party's last address on file with the party sending the notice.
- 2.8 Legal interpretation: This Agreement shall be construed and interpreted in accordance with the laws of the State of Ohio.

IN CONSIDERATION WHEREOF, the Village hereby grants the Owner the right and privilege to make the improvements stipulated herein.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals, and have executed this Agreement on the day and year first above written.

**VILLAGE OF COMMERCIAL POINT**

**ATTEST:**

Wendy R. Hastings

By Joe Stangor Mayor

**OWNER**

By [Signature]

**ATTEST:**

Kelley Gausland

Its Vice President, Westport Homes, Inc

**ACCEPTED AS TO FORM:**

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