

ORDINANCE NO. 23-04

AN ORDINANCE OF THE CITY OF PORTAGE, INDIANA
AMENDING CHAPTER 90, ARTICLE V
OF THE CITY OF PORTAGE MUNICIPAL CODE
ENTITLED "ZONING MAP"

BE IT, AND IT HEREBY IS ORDAINED by the Common Council of the City of Portage, Indiana as follows:

SECTION ONE: This Ordinance shall amend Chapter 90, Article V of the City of Portage Municipal Code, and accompanying Zoning Map, in the following manner:

The zoning shall be changed from R2-Low Density Residential to M1-Multi Family Residential and M2-Multi Family Residential for 33.7 acres +/- south of Lute Road between East Bend and Roswell Drive.

The legal descriptions listed below:

Parcel Description: 33.7 acres +/-

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 24, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE 2nd PRINCIPAL MERIDIAN IN PORTER COUNTY, INDIANA, EXCEPTING THEREFROM THE FOLLOWING DESCRIBED THREE PARCELS:

PARCEL NO. 1 - THE WEST 200 FEET OF THE NORTH 200 FEET OF SAID NE 1/4 OF THE SW 1/4;

PARCEL NO. 2 - THE EAST 400 FEET OF THE NORTH 544.3 FEET OF SAID NE 1/4, OF THE SW 1/4;

PARCEL NO. 3 - PART OF SAID NE 1/4 OF THE SW 1/4 BEGINNING AT A POINT ON THE NORTH LINE OF SAID NE 1/4 OF THE SW 1/4 AND 374.83 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE CONTINUING NORTH 90 DEGREES 00 MINUTES EAST, 220 FEET ALONG SAID NORTH LINE; THENCE SOUTH 00 DEGREES 33 MINUTES 22 SECONDS EAST, 161.30 FEET ALONG LINE PARALLEL TO THE WEST LINE OF SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 90 DEGREES 00 MINUTES WEST, 220 FEET; THENCE NORTH 00 DEGREES 33 MINUTES 22 SECONDS WEST, 161.30 FEET TO THE POINT OF BEGINNING. (THE REMAINDER OF SAID NE 1/4 OF THE SW 1/4 AFTER EXCEPTING THE 3 PARCELS DESCRIBED ABOVE CONTAINS 33.7 ACRES, MORE OR LESS).

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:

PART OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 24, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE 2nd PRINCIPAL MERIDIAN IN THE CITY OF PORTAGE, PORTER COUNTY, INDIANA, REFERENCED TO THE NORTHWEST CORNER THEREOF; THENCE N90°00'00"E 594.83 FEET ALONG THE NORTH LINE OF SAID NE 1/4, SW 1/4 TO THE NORTHEAST CORNER OF THE CLAU R. ACKERMANN AND KAREN E. ACKERMANN TRACT, AS DESCRIBED IN DEED RECORD 333, PAGE 529, IN THE OFFICE OF THE RECORDER OF SAID PORTER COUNTY, WHICH NORTHEAST CORNER IS THE POINT OF BEGINNING; THENCE S00°33' 22" E 161.30 FEET TO THE SOUTHEAST CORNER OF SAID ACKERMANN TRACT; THENCE S90-°00'00"W 110.00 FEET TO THE SOUTHWEST CORNER OF A TRACT BELONGING TO CLAU R. ACKERMANN AND KAREN E. ACKERMANN , AS DESCRIBED IN DEED RECORD 335, PAGE 67 IN SAID RECORDERS OFFICE; THENCE S00°33' 22"E 78.70 FEET; THENCE N90°00'00"E 164.00 FEET; THENCE N00°33'22"W 240.00 FEET TO SAID NORTH LINE; THENCE S90°00'00"W 54.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.496 ACRES, MORE OR LESS.

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:
PART OF THE NORTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 24,
TOWNSHIP 36 NORTH, RANGE 7 WEST, OF THE 2ND PRINCIPAL MERIDIAN IN
THE CITY OF PORTAGE, PORTER COUNTY, INDIANA, REFERENCED TO THE
NORTHWEST CORNER THEREOF; THENCE N90°00'00"E 320.83 FEET ALONG
THE NORTH LINE OF SAID NE 1/4, SW 1/4 TO THE POINT OF BEGINNING;
THENCE CONTINUING N90°00'00"E 49.00 FEET ALONG SAID NORTH LINE TO
THE NORTHWEST CORNER OF THE LISA M. LUTE TRACT, AS DESCRIBED IN
DOCUMENT NUMBER 2001-028491 IN THE OFFICE OF THE RECORDER OF
SAID PORTER COUNTY; THENCE S00°33'22"E 161.30 FEET TO THE
SOUTHWEST CORNER OF SAID LUTE TRACT; THENCE N90°00'00"E 115.00
FEET TO THE SOUTHEAST CORNER OF SAID LUTE TRACT; THENCE
S00°33'22"E 78.70 FEET; THENCE S90°00' 00"W 164.00 FEET; THENCE
N00°33'22"W 240.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.478
ACRES, MORE OR LESS.

M1 Zoning: 24.336 Acres +/-

PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER,
SECTION 24, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE 2ND PRINCIPAL
MERIDIAN, IN PORTER COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST
QUARTER OF SECTION 24; THENCE NORTH 89 DEGREES 47 MINUTES 29
SECONDS EAST, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER,
A DISTANCE OF 1528.03 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, A DISTANCE
OF 120.82 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 42 SECONDS EAST,
A DISTANCE OF 240.00 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 29
SECONDS EAST, A DISTANCE OF 328.00 FEET; THENCE NORTH 00 DEGREES
49 MINUTES 42 SECONDS WEST, A DISTANCE OF 240.00 FEET; THENCE
NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, A DISTANCE OF 279.53
FEET; THENCE SOUTH 00 DEGREES 44 MINUTES 50 SECONDS EAST, A
DISTANCE OF 544.52 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 29
SECONDS EAST, A DISTANCE OF 400.02 FEET TO THE EAST LINE OF SAID
NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 00
DEGREES 44 MINUTES 50 SECONDS EAST, ALONG SAID EAST LINE, A
DISTANCE OF 553.25 FEET; THENCE SOUTH 89 DEGREES 15 MINUTES 10
SECONDS WEST, A DISTANCE OF 215.43 FEET TO A POINT ON A NON-
TANGENT CURVE; THENCE SOUTHWESTERLY, ALONG A CURVE, CONCAVE
TO THE NORTHWEST, HAVING A RADIUS OF 85.00 FEET, AN ARC DISTANCE
OF 103.76 FEET, A CHORD BEARING SOUTH 54 DEGREES 48 MINUTES 58
SECONDS WEST, AND A CHORD DISTANCE OF 97.44 FEET TO A POINT OF
TANGENCY; THENCE SOUTH 89 DEGREES 47 MINUTES 17 SECONDS WEST, A
DISTANCE OF 580.81 FEET; THENCE NORTH 00 DEGREES 46 MINUTES 48
SECONDS WEST, A DISTANCE OF 277.99 FEET; THENCE SOUTH 89 DEGREES
10 MINUTES 18 SECONDS WEST, A DISTANCE OF 450.33 FEET; THENCE
NORTH 00 DEGREES 49 MINUTES 42 SECONDS WEST, A DISTANCE OF 682.57
FEET; THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, A
DISTANCE OF 200.01 FEET; THENCE NORTH 00 DEGREES 49 MINUTES 42
SECONDS WEST, A DISTANCE OF 200.01 FEET TO THE POINT OF BEGINNING.
CONTAINING 1,060,090 SQUARE FEET (24.336 ACRES) MORE OR LESS.

M2 Zoning: 8.396 Acres +/-

PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 24, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE 2ND PRINCIPAL MERIDIAN, IN PORTER COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 24; THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1328.01 FEET TO THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 00 DEGREES 49 MINUTES 42 SECONDS EAST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 882.58 FEET TO THE POINT OF BEGINNING;
THENCE NORTH 89 DEGREES 10 MINUTES 18 SECONDS EAST, A DISTANCE OF 450.33 FEET; THENCE SOUTH 00 DEGREES 46 MINUTES 48 SECONDS EAST, A DISTANCE OF 277.99 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 17 SECONDS EAST, A DISTANCE OF 580.81 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY, ALONG A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 85.00 FEET, AN ARC DISTANCE OF 103.76 FEET, A CHORD BEARING NORTH 54 DEGREES 48 MINUTES 58 SECONDS EAST, AND A CHORD DISTANCE OF 97.44 FEET TO A POINT OF NON-TANGENCY; THENCE NORTH 89 DEGREES 15 MINUTES 10 SECONDS EAST, A DISTANCE OF 215.43 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 00 DEGREES 44 MINUTES 50 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 229.87 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 89 DEGREES 47 MINUTES 17 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 1326.50 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE NORTH 00 DEGREES 49 MINUTES 42 SECONDS WEST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 445.16 FEET TO THE POINT OF BEGINNING.
CONTAINING 365,722 SQUARE FEET (8.396 ACRES) MORE OR LESS

SECTION TWO: Conditions precedent:

- 1) **The Agreement for Written Commitments and the Concept Plan dated 01/20/2023 with building types as presented.**

SECTION THREE: Conflicting Ordinances. Any ordinance or provision of any Ordinance of the City of Portage in conflict with the provisions of this ordinance is hereby repealed.


SECTION FOUR: Severability. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without such invalid part or parts.

SECTION FIVE: Effective Date. This Ordinance shall be in full force and effect from and after its passage and adoption by the Common Council and approval by the Mayor of the City of Portage, Indiana.


PASSED AND ADOPTED by the Common Council of the City of Portage, Indiana
This 3rd day of May, 2023.


PRESIDING OFFICER

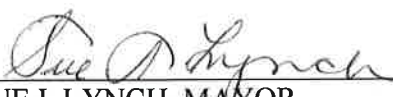
ATTEST:


NINA RIVAS,
CLERK-TREASURER

Presented by me to the Mayor of the City of Portage, Porter County, Indiana, this
3rd day of May, 2023.


NINA RIVAS,
CLERK-TREASURER

Approved by me, the Mayor of the City of Portage, Porter County, Indiana, this
3rd day of May, 2023.


SUE I. LYNCH, MAYOR

This is to certify that the preceding Ordinance was considered and voted upon, after a public hearing, by the Plan Commission to send a favorable recommendation to the Common Council for a Change of Zoning from R2 (Low Density Residential) to M1 (Multi-Family Residential) and M2 (Multi-Family Residential) with the attached Agreement for Written Commitments and the Concept Plan dated 01/20/2023 with building types as presented, on the 6th day of February 2023.
5 yes 3 nay


A.J. MONROE - AICP,
EXECUTIVE SECRETARY



SITE DATA

LAND USE	UNITS	AREA	% OF SITE
PAIRED COTTAGES (90'u x 125'd TYP.)	90	19.4	59.3%
REAR-LOADED TOWNHOMES	40	4.7	14.4%
OPEN SPACE / DETENTION	-	8.6	26.3%
TOTAL	130	32.7	100.0%

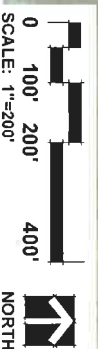
CONCEPT PLAN
PORTAGE, INDIANA

1/20/2023

RIVERTRACE



GRWA ASSOCIATES, INC.
CONSULTING ENGINEERS AND ARCHITECTS
www.grwa.com



ZONING EXHIBIT



<p>LUTE PROPERTY CITY OF PORTAGE, INDIANA PROPOSED ZONING EXHIBIT</p>		<p>Manhard CONSULTING</p> <p>103 Ziegler Drive, Lombard, IL 60148-8110 TEL: 630.831.8100 FAX: 630.831.8591 manhard.com Civil Engineers Surveying Water Resource Engineers Water & Waste Water Engineers Construction Managers Environmental Scientists Landmarks Architects Planners</p>	<p>DATE: 06/20/24</p> <p>SCALE: 1" = 50'</p> <p>PROJECT: ZONING EXHIBIT</p>
<p>PROJECT NO: 24-001</p> <p>DATE: 06/20/24</p> <p>SCALE: 1" = 50'</p> <p>PROJECT: ZONING EXHIBIT</p>			<p>DATE: 06/20/24</p> <p>SCALE: 1" = 50'</p> <p>PROJECT: ZONING EXHIBIT</p>

AGREEMENT FOR WRITTEN COMMITMENTS

This Agreement for Written Commitments (hereinafter referred to as the "Agreement") is made this 3rd day of May, 2023 by Olthof Homes, Inc., a for-profit corporation organized in the State of Indiana (hereinafter referred to as the "Owner"), for the creation of certain written commitments to induce the City of Portage Plan Commission and the City Council (collectively herein referred to as the "City") to approve the application for an Amendment to the Zoning Map filed by Owner for certain real estate located within the City of Portage, Indiana.

WITNESSETH

WHEREAS, Owner is or is about to become the fee simple title owner of the real property located in Portage, Indiana and more fully described as follows (hereinafter referred to as the "Property"):

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 24, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE 2nd PRINCIPAL MERIDIAN IN PORTER COUNTY, INDIANA, EXCEPTING THEREFROM THE FOLLOWING DESCRIBED THREE PARCELS:

PARCEL NO. 1 - THE WEST 200 FEET OF THE NORTH 200 FEET OF SAID NE 1/4 OF THE SW 1/4;

PARCEL NO. 2 - THE EAST 400 FEET OF THE NORTH 544.3 FEET OF SAID NE 1/4, OF THE SW 1/4;

PARCEL NO. 3 - PART OF SAID NE 1/4 OF THE SW 1/4 BEGINNING AT A POINT ON THE NORTH LINE OF SAID NE 1/4 OF THE SW 1/4 AND 374.83 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE CONTINUING NORTH 90 DEGREES 00 MINUTES EAST, 220 FEET ALONG SAID NORTH LINE; THENCE SOUTH 00 DEGREES 33 MINUTES 22 SECONDS EAST, 161.30 FEET ALONG LINE PARALLEL TO THE WEST LINE OF SAID NORTHEAST 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 90 DEGREES 00 MINUTES WEST, 220 FEET; THENCE NORTH 00 DEGREES 33 MINUTES 22 SECONDS WEST, 161.30 FEET TO THE POINT OF BEGINNING. (THE REMAINDER OF SAID NE 1/4 OF THE SW 1/4 AFTER EXCEPTING THE 3 PARCELS DESCRIBED ABOVE CONTAINS 33.7 ACRES, MORE OR LESS).

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:

PART OF THE NORTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 24, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE 2ND PRINCIPAL MERIDIAN IN THE CITY OF PORTAGE, PORTER COUNTY, INDIANA, REFERENCED TO THE NORTHWEST CORNER THEREOF; THENCE N90°00'00"E 594.83 FEET ALONG THE NORTH LINE OF SAID NE 1/4, SW 1/4 TO THE NORTHEAST CORNER OF THE CLAUD R. ACKERMANN AND KAREN E. ACKERMANN TRACT, AS DESCRIBED IN DEED RECORD 333, PAGE 529, IN THE OFFICE OF THE RECORDER OF SAID PORTER COUNTY, WHICH NORTHEAST CORNER IS THE POINT OF BEGINNING; THENCE S00°33' 22" E 161.30 FEET TO THE SOUTHEAST CORNER OF SAID ACKERMANN TRACT; THENCE S90-°00'00"W 110.00 FEET TO THE SOUTHWEST CORNER OF A TRACT BELONGING TO CLAUD R. ACKERMANN AND KAREN E. ACKERMANN, AS DESCRIBED IN DEED RECORD 335, PAGE 67 IN SAID RECORDERS OFFICE; THENCE S00°33' 22"E 78.70 FEET; THENCE N90°00'00"E 164.00 FEET; THENCE N00°33'22"W 240.00 FEET TO SAID NORTH LINE; THENCE S90°00'00"W 54.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.496 ACRES, MORE OR LESS.

ALSO EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:

PART OF THE NORTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 24, TOWNSHIP 36 NORTH, RANGE 7 WEST, OF THE 2ND PRINCIPAL MERIDIAN IN THE CITY OF PORTAGE, PORTER COUNTY, INDIANA, REFERENCED TO THE NORTHWEST CORNER THEREOF; THENCE N90°00'00"E 320.83 FEET ALONG THE NORTH LINE OF SAID NE 1/4, SW 1/4 TO THE POINT OF BEGINNING; THENCE CONTINUING N90°00'00"E 49.00 FEET ALONG SAID NORTH LINE TO THE NORTHWEST CORNER OF THE LISA M. LUTE TRACT, AS DESCRIBED IN DOCUMENT NUMBER 2001-028491 IN THE OFFICE OF THE RECORDER OF SAID PORTER COUNTY; THENCE S00°33'22"E 161.30 FEET TO THE SOUTHWEST CORNER OF SAID LUTE TRACT; THENCE N90°00'00"E 115.00 FEET TO THE SOUTHEAST CORNER OF SAID LUTE TRACT; THENCE S00°33'22"E 78.70 FEET; THENCE S90°00' 00"W 164.00 FEET; THENCE N00°33'22"W 240.00 FEET TO THE POINT OF BEGINNING, CONTAINING 0.478 ACRES, MORE OR LESS.

WHEREAS, Owner filed an application to amend the Zoning Map by changing the zoning classification from the R2 District, Single-Family Residential to M1 – Multi-Family Residential District and M2 – Multi-Family Residential District;

WHEREAS, Owner shall and does hereby agree to certain commitments to be placed upon and binding upon the Property; and

WHEREAS, the City, after paying reasonable regard to the Comprehensive Plan, current conditions and the character of current structures and uses in each district, the most desirable use for which the land in each district is adapted, the conservation of property values throughout the jurisdiction, and the responsible development and growth of the City, deems that the Application should be granted under certain and specific terms, conditions, and restrictions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Owner and the City covenant, promise and agree as follows:

1. **Ownership of the Property.** Owner represents and warrants that it is the fee simple title owner of the Property.

2. **Approval of Application for Zoning Amendment.** The Application is hereby deemed approved, and the Zone Map amended to reflect the Property rezoned to the M1 – Multi-Family Residential District and M2 – Multi-Family Residential District zoning classifications; as depicted on the Conceptual Site Plan attached hereto and incorporated herein as Exhibit “A” and legally described as follows:

The following portion of the Property shall be classified and zoned to the M1 – Multi-Family Residential District classification:

M1 ZONING:

PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 24, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE 2ND PRINCIPAL MERIDIAN, IN PORTER COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 24; THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1528.03 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, A DISTANCE OF 120.82 FEET; THENCE SOUTH 00 DEGREES 49 MINUTES 42 SECONDS EAST, A DISTANCE OF 240.00 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, A DISTANCE OF 328.00 FEET; THENCE NORTH 00 DEGREES 49 MINUTES 42 SECONDS WEST, A DISTANCE OF 240.00 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, A DISTANCE OF 279.53 FEET; THENCE SOUTH 00 DEGREES 44 MINUTES 50 SECONDS EAST, A DISTANCE OF 544.52 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, A DISTANCE OF 400.02 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 00 DEGREES 44 MINUTES 50 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 553.25 FEET; THENCE SOUTH 89 DEGREES 15 MINUTES 10 SECONDS WEST, A DISTANCE OF 215.43 FEET TO A POINT ON A NON-TANGENT

CURVE; THENCE SOUTHWESTERLY, ALONG A CURVE, CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 85.00 FEET, AN ARC DISTANCE OF 103.76 FEET, A CHORD BEARING SOUTH 54 DEGREES 48 MINUTES 58 SECONDS WEST, AND A CHORD DISTANCE OF 97.44 FEET TO A POINT OF TANGENCY; THENCE SOUTH 89 DEGREES 47 MINUTES 17 SECONDS WEST, A DISTANCE OF 580.81 FEET; THENCE NORTH 00 DEGREES 46 MINUTES 48 SECONDS WEST, A DISTANCE OF 277.99 FEET; THENCE SOUTH 89 DEGREES 10 MINUTES 18 SECONDS WEST, A DISTANCE OF 450.33 FEET; THENCE NORTH 00 DEGREES 49 MINUTES 42 SECONDS WEST, A DISTANCE OF 682.57 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, A DISTANCE OF 200.01 FEET; THENCE NORTH 00 DEGREES 49 MINUTES 42 SECONDS WEST, A DISTANCE OF 200.01 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,060,090 SQUARE FEET (24.336 ACRES) MORE OR LESS

The following portion of the Property shall be classified and zoned to the M2 – Multi-Family Residential District classification:

M2 ZONING:

PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, SECTION 24, TOWNSHIP 36 NORTH, RANGE 7 WEST OF THE 2ND PRINCIPAL MERIDIAN, IN PORTER COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SOUTHWEST QUARTER OF SECTION 24; THENCE NORTH 89 DEGREES 47 MINUTES 29 SECONDS EAST, ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1328.01 FEET TO THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 00 DEGREES 49 MINUTES 42 SECONDS EAST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 882.58 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 89 DEGREES 10 MINUTES 18 SECONDS EAST, A DISTANCE OF 450.33 FEET; THENCE SOUTH 00 DEGREES 46 MINUTES 48 SECONDS EAST, A DISTANCE OF 277.99 FEET; THENCE NORTH 89 DEGREES 47 MINUTES 17 SECONDS EAST, A DISTANCE OF 580.81 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY, ALONG A CURVE, CONCAVE TO THE

NORTHWEST, HAVING A RADIUS OF 85.00 FEET, AN ARC DISTANCE OF 103.76 FEET, A CHORD BEARING NORTH 54 DEGREES 48 MINUTES 58 SECONDS EAST, AND A CHORD DISTANCE OF 97.44 FEET TO A POINT OF NON-TANGENCY; THENCE NORTH 89 DEGREES 15 MINUTES 10 SECONDS EAST, A DISTANCE OF 215.43 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 00 DEGREES 44 MINUTES 50 SECONDS EAST, ALONG SAID EAST LINE, A DISTANCE OF 229.87 FEET TO THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE SOUTH 89 DEGREES 47 MINUTES 17 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 1326.50 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE NORTH 00 DEGREES 49 MINUTES 42 SECONDS WEST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, A DISTANCE OF 445.16 FEET TO THE POINT OF BEGINNING.

CONTAINING 365,722 SQUARE FEET (8.396 ACRES) MORE OR LESS

3. **Development of the Property.**

A. **Conceptual Site Plan.** Owner's initial development of the Property reasonably consistent with the Conceptual Site Plan, Exhibit "A" attached hereto and shall specifically provide for the following:

1. A pedestrian path not less than five feet wide and constructed of hard surface (Portland cement or asphalt) from August Boulevard to the area near southeast corner of the Property as shown on the Conceptual Site Plan. This pedestrian path shall continue onto and through the parcel to the east owned by the Portage Township Schools and shall connect to the existing sidewalk on the north side of the cul-de-sac and south of the baseball field. The distance of this off-site path is approximately 415 lineal feet.
2. A robust landscape buffer shall be provided along the entire east side of the Property not less than 60 feet wide to include a raised earthen berm, fence and heavy landscaping.
3. There shall be a dedicated right-of-way from Augusta Boulevard to the western property line generally located in the area shown on the Conceptual Site Plan.

4. Access to Augusta Boulevard from homes within the Property shall be limited to those reasonable necessary and generally as shown on the Conceptual Site Plan.

B. Nothing in this Agreement shall prohibit Owner from petitioning the Board of Zoning Appeals for a variance from use or development standard variances on the Property pursuant to the Portage Zoning Ordinance and/or I.C. 36-7-4-900 *et seq.*

4. **Subsequent Owners.** This Agreement shall run with the land and be binding upon subsequent owners of the Property, unless modified or terminated hereinafter.

5. **Duration and Termination.** This Agreement shall be effective at such time as Owner's development of the Property begins and shall continue in full force and effect unless and until modified or terminated by the Plan Commission at a public hearing after notice as provided by the Plan Commission's rules. In the event that the City adopts new or changed zoning classifications for the Property after the date of this Agreement, the Property shall be zoned to a classification most similar to and which permits the uses currently available in the M1 – Multi-Family Residential District and M2 – Multi-Family Residential District as contemplated by the Conceptual Site Plan and this Agreement.

6. **Severability of Enforcement.** While this Agreement is entered into jointly by each Owner party, all parties, including City, recognize that each individual party shall separately and severally enjoy the benefits and bear the obligations and burdens of the terms of this Agreement. The City shall not seek any enforcement action against or revoke or terminate this Agreement against any party, or their successor and assigns, who is in substantial compliance with this Agreement. A violation of this Agreement by one Owner party shall not create or be deemed to be a violation or breach of any other party or the entire Property.

7. **Merger.** This Agreement constitutes the entire agreement of the parties, and all promises, undertakings, representations, agreements, understandings, and arrangements with reference to representations are herein merged.

8. **Construction.** This Agreement is entered into in the State of Indiana and shall be construed in accordance with the laws thereof. In the event of a conflict or ambiguity within this Agreement, the more restrictive provision shall be deemed to prevail. The headings appearing as titles for each of the provisions of this Agreement are included for purposes of convenience only and shall not be considered in the construction of any of the substantive provisions herein.

9. **Counterpart Execution.** This Agreement may be signed in one or more counterparts, each of which shall be deemed an original but all of which shall be deemed one and the same instrument.

10. **Designated Party of Enforcement - Variances.** The City shall be the designated party of enforcement of this Agreement and the covenants and agreements contained herein. The City of Portage Board of Zoning Appeals may grant variances to the terms of this Agreement

provided the standard provision to be varied would be a developmental standard variance under Indiana law.

11. **Enforceability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable for any reason this Agreement and the other provisions herein shall be deemed to be null and void *ab initio* and of no force and effect whatsoever.

IN WITNESS WHEREOF, the City and Owner have executed this Agreement for Written Commitments at Portage, Indiana, upon the date and year first above written.

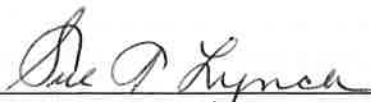
OWNER:

OLTHOF HOMES, INC., an Indiana for-profit corporation

By: _____
Name
Title

CITY:

CITY OF PORTAGE

By:  _____
Name: Sue Lynch
Title: Mayor

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

Before me, the undersigned, a Notary Public for said county and state, personally appeared _____, the _____ of Olthof Homes, Inc. an Indiana for-profit corporation, being first duly sworn by me upon oath, acknowledged the execution of the foregoing instrument to be a free and voluntary act for and on behalf of said company. Signed and sealed this ____ day of _____, 2023.

My Commission Expires: _____
Notary Public
Printed: _____

STATE OF INDIANA)
) SS:
COUNTY OF PORTER)

Before me, the undersigned, a Notary Public for said county and state, personally appeared Sue Lynch, Mayor of the City of Portage, Indiana, being first duly sworn by me upon oath, acknowledged the execution of the foregoing instrument to be a free and voluntary act for and on behalf of said company. Signed and sealed this ____ day of _____, 2023.

My Commission Expires: _____
Notary Public
Printed: _____

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. *Todd A. Leeth*

This Instrument Prepared By:

Todd A. Leeth
Hoepfner Wagner & Evans LLP
103 E. Lincolnway
Valparaiso, Indiana 46383
(219) 464-4961

