Plat Cab G Pg. 36

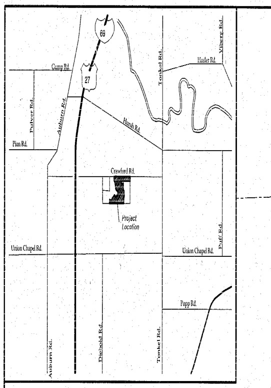
2011053932
RECORDED: 11/22/2011 2:05:00 PM
JOHN MCGAULEY
ALLEN COUNTY RECORDER
FORT WAYNE, IN

Secondary Plat of:

HAWTHORNE PARK ESTATES, SECTION I

A subdivision of part of the South Half of the Southwest Quarter of Section 24, Township 32 North, Range 12 East, Allen County, Indiana.

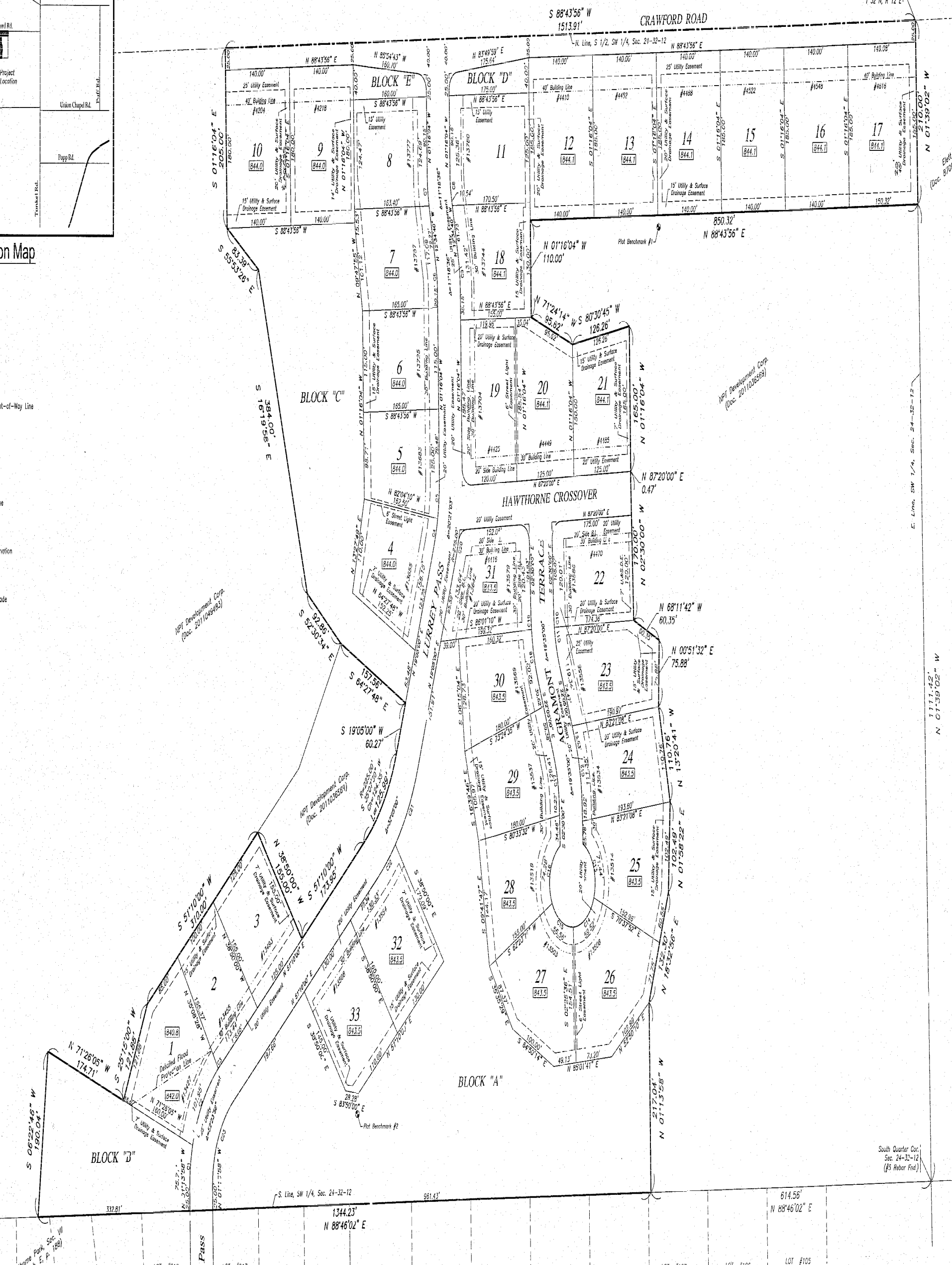
Developer:	Surveyor - Planner:	Engineer:
NPT Development Corp.	Sauer Land Surveying, Inc.	Civil Engineering Services
10808 LaCabreah Lane	14033 Illinois Road, Suite C	8121 Union Chapel Road
Fort Wayne, IN 46845	Fort Wayne, IN 46814	Fort Wayne, IN 46845
Tel: 260/489-7095	Tel: 260/469-3300 Fax: 469-3301	Tel: 260/627-2791



Location Map

PLAT LEGEND

- Plat Boundary Line
- Interior Street and Road Right-of-Way Line
- Interior Lot Line
- Building Set-back Line
- Easement Line
- Adjoining Plat Interior Lot Line
- #NNNN Street Address Number
- NN Lot Number and Block Designation
- Street Centerline Curve Data
- Minimum Flood Protection Grade



Part of the South Half of the Southwest Quarter of Section 24, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Commencing at a #5 rebar at the South Quarter corner of said Section 24; thence North 01 degrees 39 minutes 02 seconds West (GPS basis for all bearings in this description), on and along the East line of said Southwest Quarter, a distance of 1111.42 feet to a #5 rebar at the true point of beginning; thence North 01 degrees 39 minutes 02 seconds West, continuing on and along said East line, a distance of 210.00 feet to a #5 rebar at the Northeast corner of the South Half of said Southwest Quarter; thence South 88 degrees 43 minutes 56 seconds West, on and along the North line of said South Half, being within the right-of-way of Crawford Road, a distance of 1513.91 feet to a survey spike; thence South 01 degrees 16 minutes 04 seconds East, a distance of 205.00 feet to a #5 rebar; thence South 55 degrees 53 minutes 26 seconds East, a distance of 83.39 feet to a #5 rebar; thence South 16 degrees 19 minutes 58 seconds East, a distance of 384.00 feet to a #5 rebar; thence South 52 degrees 30 minutes 34 seconds East, a distance of 92.86 feet to a #5 rebar; thence South 64 degrees 27 minutes 48 seconds East, a distance of 157.56 feet to a #5 rebar; thence South 19 degrees 05 minutes 00 seconds West, a distance of 60.27 feet to the point of curvature of a tangent circular curve to the right having a radius of 225.00 feet; thence Southwesterly, on and along the arc of said curve, an arc distance of 125.99 feet, being subtended by a long chord having a length of 124.35 feet and a bearing of South 35 degrees 07 minutes 30 seconds West to the point of tangency; thence South 51 degrees 10 minutes 00 seconds West and tangent to said curve, a distance of 173.95 feet to a #5 rebar; thence North 38 degrees 50 minutes 00 seconds West, a distance of 155.00 feet to a #5 rebar; thence South 51 degrees 10 minutes 00 seconds West, a distance of 310.00 feet to a #5 rebar; thence South 25 degrees 15 minutes 00 seconds West, a distance of 121.88 feet to a #5 rebar; thence North 71 degrees 26 minutes 05 seconds West, a distance of 174.71 feet to a #5 rebar; thence South 06 degrees 22 minutes 46 seconds West, a distance of 190.04 feet to a #5 rebar on the South line of said Southwest Quarter; thence North 88 degrees 46 minutes 02 seconds East, on and along the South line of said Southwest Quarter, a distance of 1344.23 feet to a #5 rebar; thence North 01 degrees 13 minutes 58 seconds West, a distance of 217.04 feet to a #5 rebar; thence North 18 degrees 32 minutes 56 seconds East, a distance of 132.30 feet to a #5 rebar; thence North 01 degrees 58 minutes 22 seconds East, a distance of 102.49 feet to a #5 rebar; thence North 13 degrees 20 minutes 41 seconds West, a distance of 110.76 feet to a #5 rebar; thence North 00 degrees 51 minutes 32 seconds East, a distance of 75.88 feet to a #5 rebar; thence North 68 degrees 11 minutes 42 seconds West, a distance of 60.35 feet to a #5 rebar; thence North 02 degrees 30 minutes 00 seconds West, a distance of 170.00 feet to a #5 rebar; thence North 87 degrees 20 minutes 00 seconds East, a distance of 0.47 feet to a #5 rebar; thence North 01 degrees 16 minutes 04 seconds West, a distance of 165.00 feet to a #5 rebar; thence South 80 degrees 30 minutes 45 seconds West, a distance of 126.26 feet to a #5 rebar; thence North 71 degrees 24 minutes 14 seconds West, a distance of 95.62 feet to a #5 rebar; thence North 01 degrees 16 minutes 04 seconds West, a distance of 110.00 feet to a #5 rebar; thence North 88 degrees 43 minutes 56 seconds East and parallel with the North line of the South Half of said Southwest Quarter, a distance of 850.32 feet to the point of beginning, containing 28.780 acres of land, subject to legal right-of-way for Crawford Road and subject to all easements of record.

We, NPT Development Corp., the undersigned owners by virtue of that certain deed shown in Document Number 2011036569 in the Office of the Recorder of Allen County, Indiana, of the real estate shown and described herein, do hereby lay off, plat, dedicate and subdivide, said real estate into lots, streets and easements in accordance with the information shown on the plat. Further, we hereby subject and impress all of said land in said addition with the limitations and easements attached hereto and made a part thereof by reference. This subdivision shall be known and designated as HAWTHORNE PARK ESTATES, SECTION I.

IN WITNESS THEREOF, NPT Development Corp., organized and existing under the laws of the State of Indiana, Owner of the real estate described in said Plat, has hereunto set its hand, by its duly authorized officer, this Nov 10 day of Nov, 2011.

NPT DEVELOPMENT CORP.

By: ______________________
Joseph L. Zehr, President

AUDITOR'S OFFICE
FILED
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Tera K. Klutz
AUDITOR OF ALLEN COUNTY

Consent for permanent structures issued by the Allen County Drainage Board on **08/25/2011** in accordance with Indiana Code 36-9-27-72, on file at the Allen County Surveyor's Office as Drainage Board Rec. Doc. **#11-087** reference - **Hawthorne Park Estates, Section I, Regulated Drain**. Furthermore, the Stormwater Management Plan for **HAWTHORNE PARK ESTATES, SECTION I**, has been approved on **09/22/2011** under Drainage Board Rec. Doc. **#11-097**.

CERTIFICATE OF SURVEYOR

I, John C. Sauer, hereby certify that I am a Land Surveyor registered in compliance with the laws of the State of Indiana; that based on my knowledge, experience and belief this plat and accompanying legal description accurately depicts a subdivision of real estate described in Document Number 2011036569 in the Office of the Recorder of Allen County, Indiana; that following the completion of construction and grading, all corners will be marked with 24 inch long #5 rebars bearing plastic caps imprinted "Sauer S0364"; and that there has been no change from the matters of survey revealed by the survey referenced hereon or any prior subdivision plats contained therein, on any lines that are common with this new subdivision.

I, John C. Sauer, certify the above statements to be correct to the best of my information, knowledge, and belief. 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.

______________________ Date: Nov. 10, 2011
John C. Sauer, Indiana Land Surveyor

ALLEN COUNTY PLAN COMMISSION CORPORATE SEAL

JOHN C. SAUER REGISTERED No. S0364 STATE OF INDIANA LAND SURVEYOR

RECEIVED
NOV 14 2011
By DPS

This plat lies entirely within a Rule 12 - IAC 865 boundary survey certified by John C. Sauer, Indiana Land Surveyor, and duly recorded under Document Number 2011050331 in the Office of the Recorder of Allen County, Indiana.

LOT CURVE DATA

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	175.00'	50.71'	50.53'	N 07°04'05" E	16°36'06"
C2	175.00'	105.39'	103.80'	N 32°27'15" E	34°30'16"
C3	175.00'	3.95'	3.95'	N 50°31'12" E	01°17'37"
C4	225.00'	34.40'	34.37'	S 14°42'12" W	08°45'36"
C5	225.00'	45.52'	45.44'	S 04°31'40" W	11°35'28"
C6	125.00'	24.67'	24.63'	S 06°55'22" E	11°18'36"
C7	175.00'	34.54'	34.49'	N 06°55'22" W	11°18'36"
C8	125.00'	24.67'	24.63'	N 06°55'22" W	11°18'36"
C9	175.00'	34.54'	34.49'	S 06°55'22" E	11°18'36"
C10	175.00'	14.94'	14.94'	S 04°56'47" E	04°53'34"
C11	175.00'	44.87'	44.75'	S 14°44'17" E	14°41'26"
C12	225.00'	76.90'	76.53'	S 12°17'30" E	19°35'00"
C13	50.00'	71.44'	65.52'	S 21°33'56" E	81°52'08"
C14	50.00'	59.52'	56.07'	S 53°28'16" W	68°12'15"
C15	50.00'	56.56'	53.59'	N 60°01'13" W	64°48'47"
C16	50.00'	74.28'	67.63'	N 14°56'35" E	85°06'50"
C17	175.00'	59.81'	59.52'	S 12°17'30" E	19°35'00"
C18	225.00'	61.40'	61.21'	S 14°15'56" E	15°38'07"
C19	225.00'	15.50'	15.50'	S 04°28'26" E	03°56'53"
C20	275.00'	38.05'	38.02'	S 15°07'10" W	07°55'41"
C21	275.00'	101.00'	100.43'	N 29°36'18" E	21°02'36"
C22	275.00'	52.99'	52.91'	N 45°38'48" E	11°02'24"
C23	125.00'	114.32'	110.38'	N 24°58'01" E	52°23'58"

BENCHMARKS:

Beginning Benchmark: USCGS Standard Tablet in the top of an 8" concrete post located 82 feet North of the centerline of Union Chapel Road and 42 feet West of the centerline of Tonkel Road (Formerly SR 427), Sec. 25-32-12

ELEVATION = 818.37 feet [NGVD '29]
= 817.90 feet [NAVD'88]

Plat Benchmark #1: Bronze Disk in Concrete of West side 18" Outlet pipe, 13.3 feet South of the Southwest corner of Lot 14. with the elevation 841.36 stamped on the top of the disk.

ELEVATION=841.36 (NAVD'88)

Plat Benchmark #2: Bronze Disk in Concrete Grade Beam in Block "A", 23.6 feet South of themost Southerly corner of Lot 33 with the elevation 842.35 stamped on the top of the disk.

ELEVATION=842.35 (NAVD'88)

SAUER LAND SURVEYING INC. PLAT BENCH MARK 841.36 DO NOT DISTURB

SAUER LAND SURVEYING INC. PLAT BENCH MARK 842.35 DO NOT DISTURB

AREA TABLE

LOT#	Area (sq. ft.)
1	24593
2	16275
3	19375
4	21004
5	18422
6	18975
7	19352
8	19954
9	25200
10	25200
11	21819
12	25900
13	25900
14	25900
15	25900
16	25900
17	27694
18	20761
19	22434
20	21534
21	19682
22	20997
23	22261
24	20710
25	21338
26	24581
27	22770
28	18994
29	21571
30	18345
31	21329
32	21539
33	21250

Entity	Area (sq. ft.)
Block A	221746
Block B	43415
Block C	88730
Block D	5688
Block E	5200
Street	161427

NORTH

SCALE IN FEET:
0 100 200

Original Map Scale: 1"=100'
Date: August 2, 2011
Revised: November 10, 2011
11/28/11 - Lot #17 Easement, Lot #9/#10 Easement

NOTES:

1. All buried utilities shall allow for the proposed swale grades all shown on the approved engineering plans.
2. U. & S. D. E. indicates utility and surface drainage easement.
3. "Side B. L." indicates side building line on corner lots.
4. All right-of-way intersection radii are 20 feet.
5. [ ] Boxed elevation indicates minimum flood protection grade (NAVD'88 DATUM).
6. All common areas to be blanket utility and surface drainage easements.

APPROVALS

ALLEN COUNTY PLAN COMMISSION
DATE: Nov. 10, 2011

ALLAN D. FRISINGER, PRESIDENT

KENNETH R. NEUMEISTER, VICE PRESIDENT

ALLEN COUNTY SURVEYOR
DATE: Nov. 10, 2011

ALLAN D. FRISINGER, LS, ALLEN COUNTY SURVEYOR

ZONING ADMINISTRATOR
DATE: Nov. 21, 2011

KIMBERLY BOWMAN, AICP, EXECUTIVE DIRECTOR

BOARD OF COMMISSIONERS
DATE: Nov 10, 2011

F. NELSON PETERS, PRESIDENT

LINDA K. BLOOM, VICE PRESIDENT

THERESE M. BROWN, SECRETARY

ATTEST:

TERA K. KLUTZ, CPA, AUDITOR

This instrument prepared by John C. Sauer, Indiana Land Surveyor

8028951
Tx:4014814

DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS, EASEMENTS AND ARCHITECTURAL RESTRICTIONS APPENDED TO THE PLAT OF HAWTHORNE PARK ESTATES, SECTION I, A SUBDIVISION IN PERRY TOWNSHIP, ALLEN COUNTY, INDIANA

02-02-24-300-017.001-057

NPT Development Corp., an Indiana corporation (the "Developer") by Joseph L. Zehr, President, declares that it is the owner of the real estate shown and legally described in this Plat ("Real Estate"), and lays off, plats and subdivides the Real Estate in accordance with the information shown on the certified Plat attached to and incorporated by reference in this document. The platted Subdivision shall be known and designated as Hawthorne Park Estates, Section I, a Subdivision in Perry Township, Allen County, Indiana (the "Subdivision").

The Lots shall be subject to and impressed with the restrictions, covenants, limitations, easements and architectural restrictions hereinafter set forth. The provisions herein contained shall run with the land and shall inure to the benefit of the Owners of the Lots in the Subdivision and all land included therein, and shall be binding upon each Owner and their respective legal representatives, successors, grantees, heirs and assigns.

The Lots shown on the Plat are numbered from 1 through 33 inclusive, and all dimensions are shown in feet and decimals of a foot on the Plat. All streets and easements specifically shown or described are expressly dedicated to public use for their usual and intended purposes.

PREFACE

In addition to the recordation of the Plat and this document, there will also be recorded articles of incorporation for an Indiana not-for-profit corporation to be known as Hawthorne Park Estates Community Association, Inc., (the "Association"), and each Owner of a Lot in the Subdivision of Hawthorne Park Estates shall become a member of the Association, and be bound by its articles of incorporation and bylaws, upon acquisition of title to a Lot. Developer reserves the right to subdivide and plat, and to consent to allow third parties to subdivide and plat nearby and/or adjacent real estate as additional Sections of the Subdivision, and the lots in such additional Sections subsequently platted and subdivided may also be permitted or required to be members of the Association upon acquisition of title to a lot to such additional sections as may be more particularly provided in the recorded Plats of such additional Sections of the Subdivision, if any.

Section 1. **DEFINITIONS**. The following words and phrases shall have the meanings stated, unless the context clearly indicates that a different meaning is intended:

1.1 "Articles". The articles of incorporation of the Association approved by the Indiana Secretary of State, including any and all amendments to those articles.

1.2 "Association". Hawthorne Park Estates Community Association, Inc., an Indiana non-profit corporation, its successors and assigns.

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ALLEN COUNTY PLAT COMMISSION CORPORATE

48+INC

Titan Title

1.3 "Builder". An individual or entity who is licensed to build single-family residential dwellings in the county in which the subdivision is located and is the Owner of a Lot in the Subdivision.

1.4 "Board of Directors". The duly elected or appointed board of directors of the Association.

1.5 "Bylaws". The Bylaws adopted by the Association, including any and all amendments to those Bylaws.

1.6 "Committee". The Architectural Control Committee established under Section 6 of these Covenants.

1.7 "Common Area". All real property owned by the Association for the common use and enjoyment of Owners.

1.8 "Covenants". This document and the restrictions, limitations and covenants imposed under it and the Plat.

1.9 "Developer". NPT Development Corp., an Indiana corporation, and any Successor Developer designated by the Developer.

1.10 "Lot", and in plural form, "Lots". Any of the platted lots in the Plat, or any tract(s) of Real Estate which may consist of one or more Lots or part(s) of them upon which one single family residence may be or is erected in accordance with the Covenants, and any applicable zoning ordinance; provided, however, that no tract of land consisting of part of a Lot, or parts of more than one Lot, shall be considered a "Lot" under these Covenants unless the tract has a frontage of at least 90 feet in width at the established front building line as shown on the Plat and further meets the requirements of Section 7.4. In addition to one single family residence, Lots 9 and 10; and 12 through 17 shall be permitted to erect an Auxiliary Building in accordance with and subject to the Architectural Control requirements and setbacks set forth in Section 6.1.1.

1.11 "Owner", and in the plural form, "Owners". The record owner(s) (whether one or more persons or entities) of fee simple title to a Lot or Lots, including land contract buyers, but excluding those having an interest in a Lot merely as security for the performance of an obligation.

1.12 "Zoning Authority". The applicable governmental Plan Commission and/or Zoning Authority, or its successor agency, then having zoning authority and jurisdiction over the Real Estate to issue improvement location permits, and to issue certificates of occupancy for residences constructed on Lots.

1.13 "Plat". This recorded secondary Plat of Hawthorne Park Estates, Section I, including the dedication, protective restrictions, covenants, limitations, easements and architectural restrictions.

1.14 "Subdivision". The Subdivision of Hawthorne Park Estates, including all existing and future sections of such subdivisions.

Section 2. PROPERTY RIGHTS.

2.1 Owners' Easements of Enjoyment. Each Owner shall have the right and an easement of enjoyment in the Common Area that is appurtenant to and passes with the title to every Lot, subject to the following rights which are granted to the Association.

ALLEN COUNTY PLAN COMMISSION CORPORATE

2.1.1 To charge reasonable admission and other fees for the use of any recreational facility located in the Common Area.

2.1.2 To impose reasonable restrictions, limitations, conditions, rules, and regulations regarding Owner's use and enjoyment of the Common Area as well as those permitted in Section 7.6.

2.1.3 To suspend the voting rights and right to the use of the recreational facilities in the Common Area for any period during which any assessment against an Owner's Lot remains unpaid, or an Owner is in violation of the Covenants, the Articles, the Bylaws, or any rule or regulation of the Association.

2.1.4 To dedicate or transfer all or any part of the Common Area or any interest or easement therein to any public agency, authority or utility upon the vote and approval of at least two-thirds (2/3) of each class of Association members. Provided however, that Developer, without such vote and approval, may, prior to the time when fee simple title to all Lots have been conveyed by Developer, transfer, dedicate or convey such portions of the Common Area to adjoining Lot Owners as may necessary to allow such ad joiners to comply with the requirements of the Zoning Authority, permit requirements, or with provisions of Section 7, and the Developer may convey easements in, on and over any Common Area to a public utility, before the Authority Transfer Date to any Common Area to the Association, but no such easement shall be granted over areas on which structures or buildings then exist. No such dedication or transfer, except those made by Developer as provided above, shall be effective unless an instrument signed by at lease two-thirds of each class of Association members agreeing to such dedication or transfer, is recorded.

2.2 Delegation of Use. An Owner may delegate, in accordance with the Bylaws, the Owner's right to use and enjoy the Common Area and any recreational facilities located thereon, to members of the Owner's family residing on the Owner's Lot, and tenants or land contract purchasers who reside on the Owner's Lot.

Section 3. MEMBERSHIP AND VOTING RIGHTS

3.1 Membership of Owner. All Owners shall be members of the Association, and shall be subject to and bound by the Articles and By Laws of the Association from the commencement of ownership to a Lot. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

3.2 Association Classes of Membership. The Association shall have the following two classes of voting memberships:

3.2.1 **Class A.** Class A membership consists of all Owners, except Developer. Class A members shall be entitled to one vote for each Lot owned after and only after the Authority Transfer Date set forth in Section 4.1. Prior to the Authority Transfer Date, Class A Lot Owners shall have no voting rights in the Association. When more than one person holds an interest in a Lot, all such persons shall be members. The vote, when applicable and effective, for such Lot shall be exercised as its Owners among themselves determine; but in no event shall more than one vote be cast with respect to each Lot.

3.2.2 **Class B.** Class B membership consists of Developer. The Class B member shall be entitled to 300 votes less that number of votes which Class A members are entitled to exercise. Class B membership shall cease upon the happening of either of the following events, whichever occurs first:

3.3.2.1 When fee simple title to all Lots have been conveyed by Developer; or

3.3.2.2 on December 31, 2023; or

3.3.2.3 When Developer executes and records an irrevocable disclaimer of its Class B membership.

3.2.3 Additional Sections. The Developer reserves the right to subdivide and plat, and to consent to and allow third parties to subdivide and plat nearby and/or adjacent real estate as additional Sections of the Subdivision, and each Owner of a Lot in such additional Sections shall, pursuant to the terms of that recorded Plat and covenants, also be members of the Association as provided therein, and provided further that

Allen County Recorder Document #: 2011053932

Developer shall have Class B voting rights for its lots in such additional Sections in a ratio of not more than three to one (3:1).

Section 4. INITIAL MANAGEMENT AND CONTROL BY DEVELOPER.

4.1 Definition of "Authority Transfer Date". The Authority Transfer Date is that date upon which Class A members of the Association shall have and hold voting rights for each Lot as set forth in section 3.2 hereof and in the Articles and By-Laws of the Association. The Authority Transfer Date shall be the earlier of:

(a) When title to 75% of all of the Lots in the Subdivisions have been conveyed by Developer to a third party. For purposes of Section 4.1(a), the term "Subdivisions" includes any additional or future sections of the Subdivision which are shown on the final primary Plat of the Subdivision as future sections or which additional sections are platted as additional sections of the Subdivision within twelve (12) years from the first conveyance of a lot in the Subdivision by the Developer to a third party, or

(b) When Developer, in its sole and absolute discretion, so determines and provides sixty days' prior Notice to the Owners.

4.2 Prior to the Authority Transfer Date. Prior to the Authority Transfer Date as defined above, the Developer shall appoint all members of the Board of Directors of the Association, and the Class A members shall have no voting rights in the Association. Directors appointed by the Developer shall serve at the will of the Developer and shall be deemed to be Owners only for the purpose of serving on the Board. Meetings of the Board of Directors, prior to the Authority transfer Date, shall not be required to be held open to Lot Owners, and notice of such meetings to Owners shall not be required. In addition, prior to the Authority Transfer Date, the Board shall not be required to seek Owner approval of the budget or the Annual Assessment.

4.3 Assessment limitations. Prior to the Authority Transfer Date, the Board may increase the annual assessment, but not by more that 8% above the annual assessment for the previous year.

Section 5. COVENANT FOR MAINTENANCE ASSESSMENTS

5.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner, except Developer and a Builder that has been temporarily exempted as provided hereinafter, by acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements and professional accounting, and legal fees of the Association. Such assessments shall be established and collected as provided in these Covenants and the Bylaws. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on a Lot and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees shall also be the personal obligation of the Owner of such Lot at the time when the assessment became due. Notwithstanding any other provision herein to the contrary, Developer shall have the absolute and unrestricted right from time to time to temporarily exempt a Builder as a Lot Owner from the obligation to pay any Assessments or any lien for any such Assessments. A temporary exemption, if so granted by Developer to a Builder shall terminate at the earlier of: (i) six (6) years from the date of acceptance of a deed from Developer; (ii) thirty days after the Developer provides the Builder with written notice of the revocation of the temporary exemption; (iii) the date on which the Builder first conveys title to the Lot, to a successor-in-interest, but nothing contained herein shall prevent Developer from granting the successor-in-interest a temporary exemption if the successor-in-interest is a Builder; or is holding the Lot in inventory for sale; or (iv) the date on which a residence located on a Lot is occupied by residents living therein. A Lot Owner first acquiring title from a Builder that was granted a temporary exemption shall be obligated to pay the prorated remaining portion (based upon a per diem basis) of any Assessment at the time of and concurrently with the successor in interest's acquisition of title to the Lot from the Builder. The prorated remaining portion of the Assessment due from the Owner first acquiring title from a Builder shall be a lien against a Lot, and shall not be subordinate to the lien of any first mortgage.

5.2 Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to promote the recreation, health and welfare of the residents in the Subdivisions, for the improvement of Common Areas in the Subdivisions, the proportionate cost of the maintenance of any Common Impoundment Basins located in any Common Areas into which the Subdivision's storm waters drain and attendant water level control structures, for professional accounting and legal fees of the Association, and

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for solid waste disposal as provided in Section 8.

5.3 Maximum Annual Assessments. Until January 1 of the year immediately following the first conveyance by Developer of a Lot, the maximum annual assessment shall be $700.00 per Lot including weekly refuse/garbage pickup services as provided in Section 8. The Board of Directors may increase the maximum annual assessment by a percentage not more than 8% above the annual assessment for the previous year; subsequent assessments may be made by the Board of Directors, as follows:

5.3.1 From and after the Authority Transfer Date, the maximum annual assessment may be increased each year by the Board of Directors, by a percentage not more than 8% above the annual assessment for the previous year, without a vote of the membership.

5.3.2 From and after the Authority Transfer Date, the maximum annual assessment may be increased by a percentage in excess of 8% only by the vote or written consent of a majority of each class of members of the Association.

5.4 Special Assessments for Capital Improvements. In addition to the annual assessments authorized in Section 5.3, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any new construction, or repair or replacement of an existing capital improvement in the Common Area, including fixtures, related personal property and professional accounting and legal fees; provided that any such assessment shall require the written consent of at least 75% of each class of members of the Association in the Subdivisions and the written consent of 75% of each class of members of the Association in any then platted additional Sections, if any, of the Subdivision

5.5 Notice and Quorum for Any Action Authorized Under Subsections 5.3 and 5.4. Any action authorized under Sections 5.3 and 5.4 shall be taken at a meeting of the Association called for that purpose, written notice of which shall be sent to all members not less than 30 days, nor more than 60 days, in advance of the meeting. If the proposed action is favoured by a majority of the votes cast at such meeting, but such vote is less than the requisite percentage of each class of members, members who were not present in person or by proxy may give their consent in writing, provided the same is obtained by an officer or agent of the Association within 60 days of the date of such meeting.

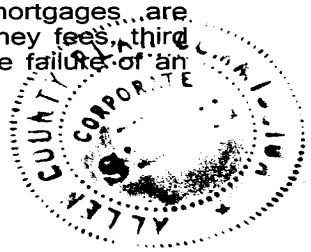
5.6 Uniform Rate of Assessment. Except for irrigation fees permitted in Section 7.6, all annual and special assessments must be fixed at a uniform rate for all Lots, including any additional Sections and may be collected on a monthly, quarterly, or yearly basis, provided, however, Lots owned by Developer upon which there is no residence constructed and Builders granted a temporary exemption pursuant to Section 5.1 shall not be subject to annual or special assessments.

5.7 Date of Commencement of Annual Assessments Due Dates. Annual assessments made under Section 5.3 shall commence as of the first day following the first conveyance of a Lot by Developer, excepting Lots owned by the Developer and Builders whose Lots are temporarily exempted. The first annual assessment shall be pro-rated to the date of closing. The Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of the date the annual assessment is due. Written notice of the annual assessment shall be given to every Owner. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association stating whether an assessment on a Lot has been paid.

5.8 Effect of Non-payment of Assessments/Remedies of the Association.

5.8.1 Any assessment not paid within 30 days after its due date shall bear interest from the due date at the rate of 12% per annum or at the maximum legal rate permitted by the State of Indiana which ever is greater.

5.8.2 The Association may bring an action against each Owner personally obligated to pay the same, and foreclose the lien of an assessment against a Lot. No Owner may waive or otherwise escape liability for the assessments made under the Covenants by non-use of the Common Area or abandonment of a Lot. The lien for delinquent assessments may be foreclosed in the same manner as mortgages are foreclosed in Indiana. The Association shall also be entitled to recover attorney fees, third party collection fees and all other costs and expenses incurred because of the failure of an Owner to timely pay assessments made under this Section 5.



5.9 Subordination of Assessment Lien to First Mortgage Liens. Except as otherwise provided in Article 5.1 hereof, the lien of the assessments made under the Covenants shall at all times be subordinate to the lien of any first mortgage. Any sale or transfer of any Lot shall not affect the assessment lien against it. No sale or transfer shall relieve an Owner or Lot from liability for any assessment subsequently becoming due, or from the lien of an assessment. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to assessments which become due prior to such sale or transfer.

5.10 Storm Water System Maintenance. The Association shall be obligated to maintain, repair and/or replace, as necessary, the storm water drainage system, all storm water quality amenities, and any current or future Storm Water Detention Basin together with outlet and water level control structures located on the Common Areas, as filed and approved by the Allen County Plan Commission, the Allen County Surveyor's Office and the Allen County Drainage Board. All of these drainage systems and approvals have been granted for the use and benefit of this Section of this subdivision, and any future Sections of Hawthorne Park Estates. The cost of all such repair, maintenance and replacement shall be assessed in accordance with Section 5.2 hereof.

The Allen County Drainage Board and/or the Allen County Surveyor's Office, or its successor agency, shall have the right to order the Association to carry out its obligations to maintain, repair or replace the Storm Water Drainage System, all water quality amenities, and any current or future storm water detention system improvements as provided hereinabove. Assessments which have been collected by the Allen County Drainage Board from Hawthorne Park Estates Lots will be utilized by the Allen County Drainage Board and or by the Allen County Surveyor for maintenance, repair and replacement of the regulated storm pipe system prior to the Associations incurring such maintenance, repair or replacement obligations.

Section 6. ARCHITECTURAL CONTROL

6.1 Construction Approval. No structure or improvement, including but not limited to, building, residence, Auxiliary Building (as defined and permitted in Section 1.10 and 6.1.1) garage, fence, wall, in-ground swimming pool and spa, exterior lighting, swing set, play equipment, permanent basketball goals or other structures for sports and recreation, statues, lawn ornaments, or other non-living landscaping ornamentation device or any other structure shall be commenced, erected or maintained upon a Lot, nor shall any exterior addition (collectively, "structures"), change or alteration be made to a structure on a Lot unless and until the plans and specification showing the structure's nature, kind, shape, height, materials and location are submitted to and approved by the Architectural Control Committee in writing as to the structure's harmony of external design and location in relation to the surrounding structures and topography in the Subdivision. The Developer shall serve as the Architectural Control Committee until residences are constructed on all Lots in the Subdivision at which time the Board of Directors of the Association shall serve as the Architectural Control Committee. Until the Association succeeds to the Architectural Control Committee's responsibilities pursuant to Section 6.5, the Developer may from time to time, in writing, appoint another entity, individual, or group of individuals to act as its representative for the Developer in some or all matters regarding its rights, duties, and responsibilities under Section 6. The burden of proof shall be upon the party submitting the plans and specifications (including any landscaping plans) to conclusively establish that the plans and specifications were actually submitted for approval and that the structure's harmony of external design and location in relation to the surrounding structures and topography in the Subdivision. The Developer shall have the right to temporarily exempt any Builder or Lot Owner from submitting landscaping plans. Such exemption may be revoked at any time by the Developer and the Lot Owner shall thereafter be required to submit for approval a landscaping plan and to install the approved landscaping pursuant to these covenants, including Section 6.6 hereof.

6.1.1 Auxiliary Building. An Auxiliary Building may be permitted on Lots 9 and 10 and Lots 12 through 17 in the sole and absolute discretion of the Architectural Contract Committee. Any permitted Auxiliary Building shall not exceed two stories and shall not exceed 1,300 square feet on the first or second floors, shall not extend into the rear yard of the Lot any further than the single family residence erected on the Lot (exclusive of patios, porches, screened in or open), must be constructed of materials and have an exterior design and appearance harmonious with the single family residence constructed on the Lot, and must have received Architectural Control approval pursuant to Section 6.1. An Auxiliary Building, if permitted, may be used as an additional garage and storage area, game room, exercise room, loft, or uses similar thereto. No such Auxiliary Building shall be used as a residence nor shall an Auxiliary Building be permitted to exist without the existence of a separate single family residence on the same Lot. At the time

ALLEN COUNTY RECORDER

of sale of any Lot by Developer, the Developer or the Architectural Control Committee may grant prior approval of an Auxiliary Building to be erected at a later time, but if the exterior design and appearance is not then specified or pre-approved, then Architectural Control Committee approval shall again as to the exterior design, materials and appearance be required prior to construction, which final approval shall not be unreasonably withheld or delayed.

6.2 Lawn. In the event the Owner of a Lot fails to commence construction on a Lot within twelve (12) months after the purchase of said Lot, the Lot Owner shall seed the entire Lot with grass and regularly mow and maintain same. Should the Lot Owner fail to comply with the requirements as set forth herein, the Architectural Control Committee shall have the right to enter upon the Lot and seed the entire Lot with grass, and to mow and maintain the Lot and shall have the right to claim a lien upon the Lot and to recover personally from the Lot Owner for all their costs, expense and attorney fees incurred as a result of any default or breach of this covenant, which lien shall be subject to the same collection rights and remedies granted to the Association in Section 5. The Lien shall not become effective against bona fide purchasers for value without notice thereof, unless and until said lien is duly recorded in the Recorder's Office of Allen County, Indiana.

6.3 Dwelling Façade. The entire front façade, except soffits, of every residence constructed on any Lot shall be either brick, stone masonry, or such other materials as may be approved by the Architectural Control Committee from time to time.

6.4 Committee Authority. The Architectural Control Committee shall have the exclusive authority and responsibility to review plans for construction of all structures proposed to be constructed in the Subdivision. The Developer from time to time may delegate to its representative or to the Board of Directors (or such other entity designated in the Articles or Bylaws) of the Association the authority and responsibility to review plans for construction of fences; residential yard playground equipment and basketball poles in the Subdivisions. Such delegation shall be made in writing, signed by the Developer, and delivered or mailed to the Association's registered office.

6.5 Board of Directors Authority. After residences are constructed on all Lots in the Subdivision, the Board of Directors (or such other entity designated under its Articles or Bylaws) of the Association shall then succeed to the Architectural Control Committee's responsibilities of Developer under this Section 6 to review construction, modifications and additions of any and all improvements and structures in the Subdivision, including by way of illustration and not limitation, the improvements and structures described in Section 6.1 hereof.

6.6 Time Constraint. In the event the Architectural Control Committee (or Board of Directors of the Association or other representative acting under Sections 6.1, 6.3 or 6.4) fails to act to approve, modify, or disapprove the design and location of a proposed improvement or structure within 30 days after said plans and specifications have been submitted to it, approval will not be required, and approval under this Section 6 will be deemed to have been given.

6.7 Landscaping/Construction Activity. Once construction of any structure is commenced on any Lot, there shall be no lapse of construction activity greater than sixty (60) consecutive days (excluding any days where construction is delayed or not possible due to adverse weather conditions). All Owners, except Developer, shall Landscape or cause to be landscaped, their Lot in a manner as to maintain consistency with the integrity of the landscaping contained on other Lots in the Subdivision on which residences have been constructed. The burden of proof shall be upon the party submitting the plans and specifications to conclusively establish that the plans and specifications were actually submitted for approval and that the landscaping was installed in compliance with these landscape covenants. Upon completion of a residence, all landscaping as approved in the plans and specifications shall be installed promptly, and in no event, later than one hundred eighty (180) days following the issuance of the certificate of occupancy for the residence constructed thereon or fifteen (15) months from the initial commencement of construction, whichever is earlier. In the event landscaping plans were not submitted to the Architectural Control Committee for approval, or in the event landscaping plans were submitted and approved by the Architectural Control Committee but the Landscaping installed was not in accordance with the approved landscaping plans and specifications, then and in either of such events, the Developer shall have the right, upon thirty (30) days prior written notice to a Lot Owner, to require the Lot Owner to install the previously approved, or to submit landscaping plans and specifications for approval by the Architectural Control Committee and install such landscaping. In the event the Architectural Control Committee denies approval of such landscaping plans and specifications, the Architectural Control Committee shall have the right to determine and require that landscaping be installed consistent with the integrity of the landscaping

Allen County Recorder Document #: 2011053932

contained on other Lots in the Subdivision on which residences have been constructed. The Developer shall have the right to file an action to enforce compliance and recover all its costs, expenses, and attorney fees as well as to require the Lot Owner to install landscaping pursuant to plans and specifications imposed by the Developer upon the Lot Owner, within thirty (30) days from the date of the Developer's written demand. In the event a Lot Owner fails to comply therewith, the Developer and any contractor or agent of the Developer shall be and is hereby granted a license to enter upon the Lot, to install the landscaping, to recover the costs thereof, together with interest and attorney fees from the Lot Owner, in the same manner and pursuant to the same procedures that Assessments may be recovered and liens foreclosed against a Lot Owner pursuant to these Covenants.

6.8 Non-liability of Architectural Control Committee. Plans and specifications are not reviewed for engineering or structural design or quality of materials, or to assure that any improvements constructed pursuant thereto are located within recorded set backs established by either the Plat, the Covenants, or applicable zoning ordinances, or designed or constructed pursuant to Covenants or building codes, and by approving such plans and specifications, neither the Architectural Control Committee, the Developer, its representative, nor the Association assumes liability or responsibility therefore for any defect in any structure constructed from such plans and specifications, nor for any actions of any Builder in connection therewith. Neither the Architectural Control Committee, the Developer, it representative, the Association, the Board of Directors, nor the officer, directors, members, employees, agents, or any appointed representative of any of them shall be liable by way of legal or equitable relief or in damages to anyone by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval, modification, or disapproval of any such plans and specifications. Every Lot Owner, for himself and for all parties claimed by or through such Lot Owner, agrees not to bring any action or suit against Architectural Control Committee, the Developer, its representative, the Association, the Board of Directors, or the officers, directors, members, employees, agents, or appointed representatives of any of them to recover seeking legal or equitable relief or damages and hereby releases all claims, demands, and causes of action arising out of or in connection with any judgment, negligence, or nonfeasance and hereby waives the provisions of any law which provide that a general release does not extend to claims, demands, and causes of actions not known at the time this release is given.

6.9 Fence Restrictions. Notwithstanding any other provisions to the contrary in this plat or Section 6, the Committee may deny approval of the erection, construction or modification of any fence on Lot 1 and Lots 4 through 7, Lots 9 and 10; Lots 12 through 18; Lots 20 and 21; Lots 23 through 30; and Lots 32 and 33 if, in the Committee's sole discretion, such a fence would create an unreasonable sight or view obstruction of any pond or lake in the Subdivision for any other Lot. The Committee may establish from time to time guidelines for fences that do not tend to create an unreasonable obstruction of sight or view.

Section 7 GENERAL PROVISIONS

7.1 Use. Lots may not be used for any uses and purposes other than for single-family residential uses and purposes and for a home occupation that meets the requirements set forth hereinafter. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one single-family residence not to exceed two and one-half stories in height as well as one Auxiliary Building, as permitted in Section 6.1.1, on Lots 9 and 10 and Lots 12 through 17. Each residence shall include a garage attached as part of the residence, which garage shall have a floor area of not less than 660 square feet; to accommodate not less than three cars which attached garage shall have 2 or more overheard garage doors which have an aggregate width of not less than 24 feet for all such overhead garage doors; such overhead doors to be located on the exterior wall of the garage which is accessed by the driveway. No Lot shall be used for any purpose other than as a single-family residence, provided however, Developer shall have the sole authority to approve a Builder using the home on any Lot as a model for the purpose of selling homes in the Subdivision constructed or to be constructed by the Builder. Developer shall further have the sole authority to approve outdoor signage and/or flag poles in connection with the Builder's model home. A home occupation may be permitted so long as:

(i) the Owner has obtained any and all required governmental approvals necessary or required in order to conduct the home occupation on the Lot;

(ii) the Architectural Control Committee has been provided with written notice of the proposed home occupation at the earlier of forty-five (45) days prior to the commencement of the home occupation in the residence or forty-five (45) days prior to the date of filing of any required application with any applicable governmental agency, if required;

ALLEN COUNTY COMMISSION CORPORATE

(iii) any such home occupation use shall be conducted entirely within the residence and such home occupation shall be clearly incidental and secondary to the use of the residence for single-family dwelling purposes and shall not change the character thereof;

(iv) there shall be no sign attached to the exterior of the residence or free standing sign or display that indicates from the exterior that the residence is being utilized in whole or in part for any purpose other than that of a single-family residence;

(v) there shall be no vehicle or equipment related to the operation of the business ungaraged and visible at any time except for the purpose of ingress and egress from the property;

(vi) there shall be no customers that come in, on or to the residence nor shall there be any employees of the home occupation other than the Lot Owner and direct family members provided, however, intermittent or occasional customers and employees that park only in the driveway of the Lot with the home occupation shall be permitted; and

(vii) the operating of the Association shall not be considered a business activity under this Section 7.1.

7.2 Dwelling Size. No residence shall be built on a Lot having a ground floor area upon the foundation, exclusive of any open porches, breezeways or garages, of less than 2,200 square feet for a one-story residence, or a total living area exclusive of open porches, breezeways and garages of less than 2,600 square feet for a residence that has more than one story.

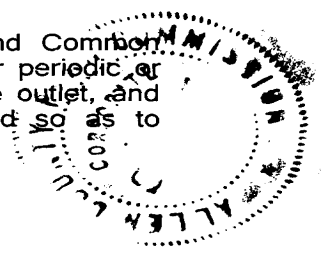
7.3 Building Lines. No residence shall be located on a Lot nearer to the front building setback line, or nearer to the side yard building setback line than the minimum building setback lines shown on the Plat. In addition, no residence shall be located nearer than a distance of 5 feet to an interior Lot line; provided however the aggregate of both side yards shall be a minimum of 12 feet. No dwelling shall be located on an interior Lot nearer than 15 feet to the rear Lot line.

7.4 Minimum Lot Size. No residence shall be erected or placed on a Lot having a width of less than 90 feet at the front Lot minimum building setback line, nor shall any residence be erected or placed on any Lot having an area of less than 10,000 square feet.

7.5 Utility Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. No Owner shall erect on a Lot, or grant to any person, firm or corporation the right, license, or privilege to erect or use, or permit the use of, overhead wires, cable, poles or overhead facilities of any kind for any utility service or for electrical, telephone or television service (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Subdivision). Nothing contained in these Covenants shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables. Electrical service entrance facilities installed for any residence or other structure on a Lot connecting it to the electrical distribution system of any electric public utility shall be provided by the Owner of the Lot that constructs the residence or structure, and shall carry not less than 3 wires and have a capacity of not less than 200 amperes. Any public utility charged with the maintenance of underground installations shall have access to all easements in which said installations are located for operation, maintenance and replacement of service connections.

7.5.1 All easements dedicated on the Plat or these Covenants shall be kept free of all permanent structures, and any structure, shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the entities for which such easements are intended to benefit, to install, repair, maintain or place any utilities, including but not limited to electrical, phone, water and sewage utilities, and the removal of any such obstructions by utilities or sewage treatment works shall in no way obligate them either in damages or to restore the easement or any obstruction thereon to its original form.

7.6 Surface Drainage Easements. Surface drainage easements and Common Area used for drainage purposes as shown on the Plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the grading of the drainage easements shall be constructed and maintained so as to



achieve this purpose. Such easements shall be maintained in an unobstructed condition and the County Surveyor (or any other proper public authority having jurisdiction over storm drainage) shall have the right to determine if any obstruction exists, and to repair and maintain, or require such repair and maintenance, as shall be reasonably necessary to keep the drainage easements and conductors unobstructed

All Lots directly abutting any retention pond located on any Common Area shall be permitted to access and use the water in the pond for an open loop geothermal heating and cooling system. No Lot shall be permitted to use any such retention pond for a closed loop geothermal system. Access to and use of the retention pond for an open loop geothermal system shall require the prior written approval of the Association. As a condition of approval, the Association shall be entitled to impose reasonable conditions of approval, such as by way of illustration and not limitation, size and location of water intake inlet, pump and water line location and size as well as screening and burying of any line and pump. Neither the Developer nor the Association shall have any liability to any Lot Owner due to the inadequacy of the water or inability of the water level or volume to service any such geothermal system.

No Lot abutting any retention pond shall be permitted to access, use, or draw water from any pond for irrigation purposes without the prior written consent of the Association which approval may be withheld or conditioned in its sole and absolute discretion. Any approval so granted may impose conditions and restrictions as well as the requirement to pay an annual or monthly fee, and any such approval may be revoked at any time upon 15 days prior written notice to the Lot Owner. Any fee charged for irrigation need not be uniform for each Lot and differential irrigation fees may be based upon Lot size, irrigation water usage, and whether the Lot Owner has an open loop geothermal system that discharges into the pond.

7.7 Nuisance. No noxious or offensive activity shall be carried upon any Lot, nor shall anything be done there which may be or become an annoyance or nuisance to residents in the Subdivision.

7.8 Structures Other Than Single-Family Residence. Except as specifically permitted in this Plat and Covenants, no structure, whether temporary, permanent, or otherwise, shall be erected, maintained, or used on any Lot other than one single-family residence. Prohibited structures include, by way of illustration and not limitation, shack, or storage shed. Notwithstanding the foregoing, the Architectural Control Committee may, subject to compliance with Section 6, permit to be erected and maintained in its sole and absolute discretion residential playground equipment such as swing sets, in-ground swimming pools, cabanas, gazebos, fences on any Lot, and docks for any Lots located on a detention pond. In exercising such discretion, the Architectural Control Committee may establish, maintain, and revise from time to time guidelines for consideration and evaluation of such structures, and shall endeavour to act reasonably consistent in the application of its guidelines then in effect and in consideration and evaluation of any such requested approvals. The decision of the Architectural Control Committee shall not be subject to appeal or challenge.

7.9 Outside Storage. No boat, boat trailer, jet ski, snowmobile, recreational vehicle, motor home, truck, bus, camper, any motor vehicle not currently titled, registered, or having a current license plate, or any non-operable motor vehicle shall be permitted to be parked outside an enclosed garage on a Lot or on any public or private street in the Subdivision for periods in excess of 48 hours, or for a period which is the aggregate is in excess of 16 days per calendar year. The term "truck" as used in this Section 7.9 is defined to mean any motor vehicle which has a gross vehicle weight in excess of 8,700 pounds or which is rated at a load carrying capacity of one-ton or more. In determining the 48-hour or sixteen-calendar day requirements of this Section, there shall be included any temporary removal or moving of such prohibited parking or storage where the primary purpose of such removal or moving is to avoid or evade the requirements of this Section.

7.10 Free-Standing Poles. Except as provided in Section 7.1, no clotheslines or clothes poles, or any other free standing, semi-permanent or permanent poles, rigs, or devices, regardless of purpose, with the exception of a flag pole displaying the United States federal or state flag, and with the exception of a permanent basketball pole, also with the exception of yard lighting shall be constructed, erected, or located or used on a Lot, provided however, that the installation and location thereof must be approved by the Architectural Control Committee under Sections 6 and 7.8.

7.11 Signs. Except as provided in Section 7.1, no sign of any kind shall be displayed to the public view on a Lot except one professional sign of not more than five square feet, advertising a Lot for sale or rent, or signs used by a Builder to advertise a Lot during the construction and sales periods.

ALLEN COUNTY PLAN COMMISSION

7.12 Antennas. Subject to valid and applicable federal statutes, no radio or television antenna with more than 24 square feet of grid area, or that attains a height in excess of 6 feet above the highest point of the roof of a residence, shall be attached to a residence on a Lot. No free-standing radio or television antenna shall be permitted on a Lot. No solar panels (attached, detached or free-standing) are permitted on a Lot. Satellite receiving disk or dish shall be permitted on a Lot, provided however, that the installation and location of a satellite dish must be approved by the Committee under Sections 6 and 7.8.

7.13 Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on or in a Lot. No derrick or other structure designed for boring for oil or natural gas shall be erected, maintained or permitted on a Lot.

7.14 Animals. No animals, livestock or poultry of any kind shall be raised, bred, maintained or kept on a lot, provided that any acceptable animals are not kept for any commercial purpose. In case of a dispute or disagreement, the Architectural Control Committee is herewith granted the authority to conclusively determine whether an animal is acceptable or is not a permitted.

7.15 Garbage/Dumping. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept except in sanitary containers. No incinerators shall be kept or allowed on a Lot. Garbage cans shall not be placed at the street for collection and pick-up earlier than 4:00 p.m. on the day prior to the scheduled pickup. Garbage cans shall be located inside an enclosed garage except when placed at the street for trash pick up.

7.16 Workmanship and Maintenance of Lots and Dwelling Units. All structures on a Lot shall be constructed in a substantial, good and workmanlike manner and of new materials. No roof siding, asbestos siding or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any structure on a Lot, and no roll roofing of any description or character shall be used on the roof of any residence or attached garage on a Lot. No Lot, lawn, landscaping or structure shall be permitted to become overgrown, unsightly or fall into disrepair. Should the Lot Owner fail to comply with the requirements as set forth within, the Architectural Control Committee shall have the right to make any necessary alterations, repairs or maintenance approved by the Architectural Control Committee to carry out the provision herein. The Association shall have the right to claim a lien upon the Lot, and to recover personally from the Lot Owner, for all of their costs, expenses and attorney fees.

7.17 Driveways. All driveways on Lots from the street to the garage shall be poured concrete and not less than 16 feet in width, provided however, in the event the driveway serves a side loading garage, then in that event, the driveway shall be poured concrete and not less than 14 feet in width at the street. Driveway culverts as required on Lots 9 and 10 and Lots 12 through 17 must be installed where required by Allen County Highway and the Allen County Surveyor's Office.

7.18 Individual Utilities. No individual water supply system or individual sewage disposal system shall be installed, maintained or used on a Lot in the Subdivision except that an individual water system may be used for the purpose of a swimming pool or lawn irrigation.

7.19 Street Utility Easements. In addition to the utility easements designated in this document, easements in the streets, as shown on the Plat, are reserved and granted to all public utility companies, the Owners of the Real Estate and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove every type of gas main, water main and sewer main (sanitary and storm), electric, telephone, or cable TV service, or any other public utility with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction over the maintenance and repair of said streets.

7.20 Storm Water Runoff. No rain and storm water runoff, sump pump, or such things as roof water, street pavement and surface water caused by natural precipitation, shall at any time be discharged or permitted to flow into the sanitary sewage system serving the Subdivision, which shall be a separate sewer system from any storm water and surface water runoff sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the Subdivision's storm and surface water runoff sewer system.

7.21 Completion of Infrastructure. Before any residence on a Lot shall be used and occupied as such, the Developer shall install all infrastructure improvements serving

PLAN COMMISSION

the Lot as shown on the approved plans and specifications for the Subdivision filed with the Zoning Authority and other governmental agencies having jurisdiction over the Subdivision. This covenant shall run with the land and be enforceable by the Zoning Authority or by any aggrieved Owner.

7.22 Certificate of Compliance. Before a Lot may be used or occupied, such user or occupier shall first obtain from the Zoning Authority the improvement location permit and certificate of occupancy or compliance then required by the Zoning Authority.

7.23 Enforcement. Except as otherwise provided in these Covenants, the Association, Developer and any Owner (individually or collectively) shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, Covenants, reservations, liens and charges now or subsequently imposed by the provisions of these Covenants or the Plat. Failure by the Association, Developer or an Owner to enforce any provisions in the Covenants shall in no event be deemed a waiver of the right to do so later.

7.24 Invalidation. Invalidation of any one of these Covenants by judgment or court order shall not affect the remaining provisions, and such provisions shall remain in full force and effect.

7.25 Duration of Covenants. These Covenants shall run with the land and be effective for a period of 20 years from the date the Plat and these Covenants are recorded; after which time the Covenants shall automatically be renewed for successive periods of 10 years.

7.26 Amendments. Any provision of these Covenants may be amended, but such amendment is subject to the following requirements and limitations:

7.26.1 Except as otherwise provided in Section 7.26.2, in order to amend any provisions of these Covenants, the amendment shall require the written consent of at least 75% of each class of members of the Association in the Subdivisions and the written consent of 75% of each class of members in any then platted additional Sections, if any, of the Subdivision. For purposes of this Section 7.26.1, the term "Owner" and "Lots" shall have the same meaning with respect to "Owners" and "Lots" in such future sections, as the term "Owner" and "Lots" is defined in Sections 1.10 and 1.11. Further, until single-family residences are constructed on all Lots in the Subdivision and certificates of occupancy are issued for those residences, in order to amend these Covenants, the Developer, in addition to those persons whose signatures are required under this Section 7.26.1, also must approve and sign the amendment in order for the amendment to be valid and effective.

7.26.2 Notwithstanding the provisions of Section 7.26.1, Developer and its successors and assigns shall have the exclusive right for a period of six years from the date the Plat and these Covenants are recorded, to amend the Plat or any of the Covenant provisions, provided however such amendment shall not serve to reduce the minimum size and other requirements contained in Section 7.2, without the written consent of at least 75% of the Owners.

7.27 Lot Size Alterations. No Lot or combination of Lots may be further subdivided until approval for such subdivision has been obtained from the Zoning Authority; except, however, the Developer and its successors in title shall have the absolute right to increase the size of any Lot by adding to such Lot a part of an adjoining Lot (thus decreasing the size of such adjoining Lot) so long as neither of the Lots from which land was added or deleted violates the limitations imposed under Section 1.10 and the requirements of Section 7.4.

Section 8. MANDATORY SOLID WASTE DISPOSAL. Unless weekly refuse/garbage pickup services are provided by a governmental entity having jurisdiction thereof, the Association shall be obligated to select a contractor for the disposal of garbage and other solid waste and may pay for the cost of such disposal through assessments established under Section 5, provided however the Association may elect to have the selected contractor bill each Lot Owner directly. An Owner who privately arranges for solid waste disposal to service the Owner's Lot shall not be exempt from payment of any part of an assessment attributable to the cost of waste disposal for which the Association contracts under this Section 8.

Section 9. ATTORNEY FEES AND RELATED EXPENSES. In the event the Association, Developer, an Owner, or the Zoning Authority is successful in any proceeding, whether at law or in equity, brought against an Owner to enforce any restriction, covenant, limitation, easement, condition, reservation, lien, or charge now or subsequently imposed by the

Allen County Recorder Document #: 2011053932

provisions of these Covenants, the successful party seeking enforcement thereof shall be entitled to recover from the party against whom the proceeding was brought, the reasonable attorney fees and related litigation costs and expenses incurred in such proceeding; and provided further, however, in no event shall the Developer or the Association or their respective officers, directors, agents, or employees ever be held liable for any attorney fees or litigation costs and expenses of any other party in any legal proceeding.

Section 10. FLOOD PROTECTION GRADES. In order to minimize potential damage to residences from surface water, minimum flood protection grades are hereby established as set forth below. All residences on such Lots shall be constructed so that the minimum elevation of the first floor, or the minimum sill elevation of any opening below the first floor, equals or exceeds the applicable minimum flood protection grade established in this Section 11. The flood protection grades shall be Mean Sea Level and shall be as follows:

Lot 1 South Side	842.0 feet mean sea level
Lot 1 West Side	840.8 feet mean sea level
Lots 4 through 7 and 9 and 10	844.0 feet mean sea level
Lots 12 through 18 and 20 and 21	844.1 feet mean sea level
Los 23 through 33	843.5 feet mean sea level

Section 11. ZONING ORDINANCE REQUIREMENTS. Notwithstanding any other provision herein to the contrary, in the event any applicable zoning ordinance (as modified by any variance that may have been granted with respect to any Lot or the Subdivision) in effect at the time of the recordation of these Covenants contains more stringent requirements than these Covenants, the more stringent zoning ordinance requirements (but as modified by any granted variance) in effect on the date of recordation of these Covenants shall apply; provided, however, nothing contained herein shall prohibit any Lot or the Subdivision from applying for or from being granted a variance with respect to any current or future enacted zoning ordinance, but no variance may be granted which would establish less stringent requirements than the terms and provisions of these Covenants.

Section 12. SIDEWALKS. Plans and specifications for the Subdivision approved by and on file with the Zoning Authority require the installation of concrete sidewalks within the street rights-of-way in front of Lots 1 through 8 and Lot 11; Lots 18 through 21; the west side only of Lot 22; Lots 23 and 24; the North 25.78 feet only of Lot 25 and the west only side of Lot 31 and Lots 32 and 33 as the obligation of the Owner of the Lot (exclusive of Developer). The sidewalk to be located on a Lot shall be completed in accordance with such plans and specifications prior to the issuance of a certificate of occupancy for such Lot. This Covenant is enforceable by the Zoning Authority, the Developer, the Association, or an Owner, by specific performance or other appropriate legal or equitable remedy. Should a certificate of occupancy be issued to Developer for a Lot on which a sidewalk is required to be constructed, Developer shall be considered as an Owner subject to enforcement of this Covenant but only with respect to that Lot.

IN WITNESS WHEREOF, NPT Development Corp., an Indiana corporation, by its duly authorized President, Joseph L. Zehr, Owner of the Real Estate, has signed this document on this 10th day November, 2011.

Developer:

NPT Development Corp.

By:_____
Joseph L. Zehr
Its: President

STATE OF INDIANA)
) §
COUNTY OF ALLEN)

Before me, a Notary Public in and for said County and State, this 10th day of November, 2011, personally appeared Joseph L. Zehr, known to me to be the duly authorized President of NPT Development Corp., Inc., and acknowledged the execution of the above and aforegoing as his voluntary act and deed and on behalf of said corporation

Allen County Recorder Document #: 2011053932

for the purposes and uses set forth in this document.

Witness my hand and notarial seal.

My Commission Expires:
October 19, 2019

Lisa A. Downey, Notary Public

NOTARY PUBLIC SEAL INDIANA

This instrument prepared by Vincent J. Heiny, Attorney at Law, Haller & Colvin, P.C., 444 East Main Street, Fort Wayne, Indiana 46802, Telephone: (260) 426-0444.

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. Lisa A. Downey.

ALLEN COUNTY PLAN COMMISSION