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Filed for Record in
HAMILTON COUNTY, INDIANA
MARY L. CLARK
On 10-27-2000 At 08:36 a.m.
DEC CDV RES 16.00

1600
④

Cross Reference Instrument No. 2000-0046478

**DECLARATION OF RESTRICTIVE COVENANTS FOR
AUDUBON TRACE SUBDIVISION**

THIS DECLARATION OF RESTRICTIVE COVENANTS FOR AUDUBON TRACE SUBDIVISION (the "Declaration") is made this 20th day of October, 2000, by HEATHER POINTE, L.L.C., an Indiana limited liability company organized and existing under the laws of the State of Indiana, having its principal office and place of business at 700 Market Tower, 10 West Market Street, Indianapolis, Indiana 46204-2960 (the "Declarant"),

WITNESSETH: That

WHEREAS Declarant is the owner of real property described in Exhibit A attached hereto and made a part hereof, which real property has been subdivided into thirty-eight (38) residential lots numbered one (1) through thirty-eight (38) (singularly, a "Lot" and collectively the "Lots"), and is known as Audubon Trace per the plat thereof recorded September 18, 2000 in Plat Cabinet 2, Slide 485, as Instrument No. 2000-0046478 in the Office of the Recorder of Hamilton County, Indiana (the "Real Estate"); and

WHEREAS Declarant, as the owner of the Real Estate, hereby declares that such Real Estate shall be held, sold, and conveyed subject to the following restrictive covenants which shall run with the Real Estate and shall be binding on all parties having any right, title, or interest in the Real Estate or any part thereof, their heirs, successor, successors-in-title, and assigns.

1. Building Elevations. Minimum first floor elevations and minimum lowest finished floor elevations for each Lot shall be constructed in accordance with the guidelines set forth in Exhibit B attached hereto and made a part hereof.
2. Sump Pumps. Dual sump-pumps with battery backup are required in all homes constructed on the Real Estate which contain a basement or crawl space.

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration as of the day and year first above written.

HEATHER POINTE, L.L.C., an Indiana limited liability company

By: CMA Investments, LLC, an Indiana limited liability company, Class A Member

By: Cornelius M. Alig
Cornelius M. Alig, its Sole Member

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said county and state, personally appeared Cornelius M. Alig, who being first duly sworn by me upon his oath, stated that he is the Sole Member of CMA Investments, L.L.C, an Indiana limited liability company, a Class A Member of Heather Pointe, L.L.C., that he is duly authorized to execute the foregoing on behalf of such entities, that any statements or representations of fact contained therein are true and he acknowledged execution of the foregoing on behalf of said entities.

Witness my hand and Notarial Seal this 23rd day of October, 2000.

EILEEN SIROLA
Notary Public
State of INDIANA
Commission Expires SEPT 17 2008

NOTARY PUBLIC:

Eileen Sirola

Printed: Eileen Sirola



My Commission Expires:
9-17-08

My County of Residence:
Marion

This instrument prepared by John B. Baxter, Attorney At Law, JOHNSON, SMITH, PENCE & HEATH, I.L.P., One Indiana Square, Suite 1800, Indianapolis, Indiana 46204.

EXHIBIT A

LAND DESCRIPTION

Part of the Northeast Quarter and Part of the Northwest Quarter of Section 3, Township 17 north, Range 5 East of the Second Principal Meridian, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northeast corner of said Northeast Quarter; thence South 89°36'20" West along the North line of said Northeast Quarter a distance of 1194.39 feet to the centerline of Brooks School Road; thence South 05°22'31" West (assumed bearing) along said centerline a distance of 350.97 feet to a point on the Easterly prolongation of the South line of real estate conveyed to the Noblesville-Hamilton County Building Authority, as recorded by Instrument No. 9232592 and 923771 in the Office of the Recorder of Hamilton County, Indiana, said point also being the POINT OF BEGINNING; thence continuing South 05°22'31" West along said centerline a distance of 1024.72 feet to the Northeast corner of Heather Points Section Two per plot thereof recorded as Instrument No. 9809830012 in Plat Cabinet 2, Slide 159 in the Office of the Recorder of Hamilton County, Indiana; (the following eleven (11) courses are along the Northerly line of said Heather Points Section Two); (1) thence North 78°58'48" West a distance of 477.58 feet; (2) thence North 81°48'08" West a distance of 91.32 feet; (3) thence South 84°47'29" West a distance of 189.86 feet; (4) thence South 89°29'07" West a distance of 214.86 feet; (5) thence North 39°26'37" West a distance of 200.00 feet; (6) thence North 20°42'51" West a distance of 120.00 feet; (7) thence South 43°09'09" West a distance of 149.50 to a point on a non-tangent curve concave Southwesterly having a radius of 280.00 feet and a central angle of 46°03'30"; (8) thence Northwesterly along the arc of said curve a distance of 223.08 feet (said arc being subtended by a chord having a bearing of North 47°22'29" West and a length of 219.07 feet); (9) thence South 19°35'48" West on a non-tangent line to last described curve a distance of 80.00 feet to a point on a non-tangent curve concave Southwesterly having a radius of 220.00 feet and a central angle of 14°22'24"; (10) thence Southeasterly along the arc of said curve a distance of 55.19 feet (said arc being subtended by a chord having a bearing of south 63°13'02" East and a length of 55.05 feet); (11) thence South 34°02'28" West on a non-tangent line to the last described curve a distance of 143.48 feet to the Northeasterly line of real estate conveyed to Hamilton Proper Partners Golf Partnership, L.P. as recorded by Instrument No. 9609809347 in the Office of the Recorder of Hamilton County, (the following four (4) courses are along the Northeasterly line of said real estate); (1) thence North 79°28'03" West a distance of 58.41 feet; (2) thence North 09°51'27" West a distance of 205.00 feet to a non-tangent curve concave Southerly having a radius of 280.00 feet and a central angle of 18°27'19"; (3) thence Easterly along the arc of said curve a distance of 90.19 feet (said arc being subtended by a chord having a bearing of North 89°22'11" East and a length of 89.80 feet); (4) thence North 48°30'51" West on a non-tangent line to the last described curve a distance of 198.58 feet to the centerline of Mud Creek. (the following two (2) courses are along the meanderings of said Mud Creek and said Northeasterly line of real estate conveyed to Hamilton Proper Partners Golf Partnership, L.P. as recorded by Instrument No. 9609809347); (1) thence North 31°17'06" East a distance of 145.37 feet; (2) thence North 55°39'58" East a distance of 108.20 feet to a point on the Southeasterly line of Arbor Glen Section One per plot thereof recorded as Instrument No. 9909922332 in Plat Cabinet 2, Slide 252 in the Office of the Recorder of Hamilton County, Indiana; (the following seventeen (17) courses are along the Southeasterly line of said Arbor Glen Section One and along the meanderings of said Mud Creek); (1) thence North 25°33'25" East a distance of 55.88 feet; (2) thence North 00°54'28" East a distance of 48.90 feet; (3) thence North 13°23'34" East a distance of 141.03 feet; (4) thence North 02°51'05" East a distance of 54.51 feet; (5) thence North 25°31'18" East a distance of 77.82 feet; (6) thence North 32°42'24" East a distance of 83.32 feet; (7) thence North 54°05'12" East a distance of 63.45 feet; (8) thence North 38°13'18" East a distance of 47.37 feet; (9) thence North 72°05'10" East a distance of 39.08 feet; (10) thence South 74°46'04" East a distance of 105.58 feet; (11) thence South 84°18'40" East a distance of 83.93 feet; (12) thence South 80°58'03" East a distance of 44.05 feet; (13) thence South 78°55'09" East a distance of 48.52 feet; (14) thence South 81°17'19" East a distance of 74.34 feet; (15) thence South 76°35'43" East a distance of 52.95 feet; (16) thence North 73°46'04" East a distance of 57.97 feet; (17) thence North 50°14'11" East a distance of 400.07 feet to the West line of aforesaid Noblesville-Hamilton County Building Authority's real estate; thence South 00°23'21" East along the West line of said real estate a distance of 288.02 feet to the Southwest corner thereof; thence North 89°38'39" East along the South line of said real estate and its Easterly prolongation thereof a distance of 484.84 feet to the Point of Beginning. Containing 32.631 acres (1,421,400 Sq. Ft.), more or less.

EXHIBIT B

Lot Number	Minimum First Floor Elevation	Lowest Finished Floor Elevation (Basement)
1	804.0	794.0
2	804.0	794.0
3	804.8	794.8
4	804.8	794.8
5	804.8	784.8
6	805.7	785.7
7	805.9	795.9
8	809.0	789.0
9	811.2	801.2
10	812.8	803.8
11	815.7	805.7
12	819.0	809.0
13	817.0	807.0
14	817.0	807.0
15	811.0	801.0
16	808.5	798.5
17	809.5	799.5
18	814.8	804.8
19	814.8	804.8
20	817.6	807.6
21	818.8	808.8
22	821.2	811.2
23	820.0	810.0
24	815.2	805.2
25	812.9	802.9
26	810.6	800.6
27	808.2	798.2
28	806.7	796.7
29	805.7	795.7
30	805.0	795.0
31	805.0	795.0
32	806.0	796.0
33	806.0	796.0
34	805.5	795.5
35	805.0	795.0
36	804.5	794.5
37	804.0	794.0
38	804.0	794.0

Definitions:

- Minimum First Floor Elevation - shall be the lowest permitted finished floor elevation for the primary/main finished floor of a residence.
- Lowest Finished Floor Elevation - shall be the lowest permitted finished floor elevation for the basement of a residence.