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DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
GUILFORD PARK

THIS DECLARATION, made and entered into this 29th day of June, 2000, by Dura Development Corporation ("Developer"),

WITNESSETH:

WHEREAS, Developer is the fee simple title holder of all the lands in Hamilton County, contained in and fully described on Exhibit "A", attached hereto and made a part hereof (hereinafter the "Real Estate").

WHEREAS, Developer intends to divide the Real Estate into one hundred nine (109) tracts (each such tract hereinafter referred to individually as a "Lot" and collectively as "Lots"), more or less, such subdivision known as Guilford Park.

WHEREAS, Developer desires to sell and convey Lots subject to the imposition of certain mutual and beneficial easements, restrictions, covenants, conditions and charges designed to assure ingress and egress thereto and to protect the value and desirability thereof.

NOW, THEREFORE, Developer hereby declares that each Lot and all Lots shall be held, conveyed, encumbered, leased, rendered, used, occupied and improved subject to the following covenants, conditions and restrictions, which shall run with the Real Estate and be binding on each party having any right, title or interest in any Lot or Lots, and his, her or its heirs, beneficiaries, successors, assigns and personal and legal representatives, and which covenants, conditions and restrictions shall inure to the benefit of the Owners and each and every one of the Owner's successors in title to any Lot or Lots into which the Real Estate is subdivided.

ARTICLE I

Definitions

Section 1.01. Association: "Association" shall mean the Guilford Park Homeowners Association, Inc., a non-profit corporation established in accordance with Article IV of this Declaration, or such other legal entity as may be formed as a successor thereto.

Section 1.02. Declaration: "Declaration" shall mean this instrument, together with any amendments or changes hereto which are hereafter made and evidenced as herein required.

Section 1.03. Developer: "Developer" shall mean Durz Development Corporation or its successors or assigns in the ownership, development and division of the Real Estate, and/or any person, firm, corporation or other legal entity specifically designated as such as set out in Article III of this Declaration.

Section 1.04. Driveway: "Driveway," referred to in the plural as "Driveways," shall mean that portion of any Lot developed and hard-surfaced for the purpose of permitting ingress and egress to and from such Lot from any public road, easement or private roadway.

Section 1.05. Lot Development Plans: "Lot Development Plans" shall mean and consist of the following plans: (i) a site plan, prepared by a licensed civil engineer or registered surveyor approved by Developer, showing existing improvements on a Lot, any proposed alteration of the topography, elevation or natural state of the Lot in connection with the improvement thereof or any construction thereon, and locating thereon all proposed improvements and structures showing finished floor elevations and details relating to drainage; (ii) complete house building and/or accessory structure plans, including structural details, exterior elevations and floor plans; (iii) material plans and specifications; (iv) detailed landscaping plans describing the size and name of all plantings as well as location and size of trees which will be removed as part of the construction

process; (v) all other data or information which Developer may reasonably request, including, but not limited to, a fully executed original and two (2) copies of the CHECK LIST OF COMPLIANCE FOR GUILFORD PARK, as well as all accompanying plans, specifications and data requested therein.

Section 1.06. Lots: "Lot" (also referred to as "Tract"), referred to in the plural thereon as "Lots", shall mean any of the one hundred nine (109) tracts, more or less, into which the Real Estate is subdivided, the legal description being attached as Exhibit "A", which tracts are to be numbered in sequence as set out in the plat of the Guilford Park Subdivision as recorded in the Office of the Recorder of Hamilton County, Indiana, and any subsequent phases recorded thereto, as any tract(s) may be enlarged or diminished by Developer in connection with a reconfiguration thereof (in which event each tract shall be defined by the outside boundaries thereof). In no event shall any reconfiguration result in any tract having an area less than the area permitted by applicable zoning laws and in no event shall the Real Estate be divided to permit the construction of more than one hundred nine (109) single-family residences and related improvements otherwise permitted hereunder.

Section 1.07. Maintenance Costs: "Maintenance Costs" shall mean all of the costs necessary to keep the facility or improvements which the Association has determined is for the common good, operational and in good condition, including but not limited to (i) the costs for all upkeep, maintenance, repair or replacement of all or any part thereof, (ii) payment of all insurance premiums and taxes imposed thereon and on the underlying easement or right-of-way, and any other expense related to the continuous operation thereof and (iii) costs associated with the operation of the Association or incurred in connection with the enforcement of the terms and provisions of this Declaration.

Section 1.08, Non-Disturb Areas: "Non-Disturb Areas " shall mean those areas shown on the plat of Guilford Park along the perimeter of the Subdivision.

Section 1.09, Owner: "Owner," referred to in plural as "Owners," shall mean and refer to the record owner, whether one or more persons or entities, their respective heirs, beneficiaries, successors, assigns and personal and legal representatives, of the legal title to any Lot, including contract sellers, but excluding those having such interests merely as security for the performance of an obligation. Developer shall also be considered an owner for purposes of this Declaration for so long as, and to the extent that, Developer owns a Lot or Lots.

Section 1.10, Subdivision: "Subdivision" shall mean the Real Estate as divided into Lots, all as evidenced by a plat thereof as recorded in the Office of the Recorder of Hamilton County, Indiana, identified as the plat of Guilford Park, and any subsequent plat amendment recorded thereto.

ARTICLE II

Character of Lots

Section 2.01, General: In every Lot or group of Lots referred to in these covenants shall be used exclusively for single-family residential purposes.

Section 2.02, Improvements and Development of Lots: No Lot shall be further divided to create any additional tract upon which a single family residence and improvements otherwise permitted hereunder may be constructed, nor shall any improvements be made thereto or construction commence, proceed or continue thereon, except in strict accordance with the terms and provisions of this Declaration. Not more than one (1) single family dwelling house, together with attached garage and such related accessory structures and recreational facilities as may be permitted by this Declaration shall be constructed, altered, placed or permitted to remain on any Lot referred to by the covenants. In the event of multiple Lot ownership, no single family dwelling house shall

be constructed on or across a portion of more than one (1) Lot without the express written consent of the Developer herein.

Section 2.03. Occupancy of Partially Completed Dwelling House

Prohibited: No single family dwelling house constructed on a Lot shall be occupied or used for residential purposes for human habitation until it has been deemed substantially completed. The determination of whether a single family dwelling house has been "substantially completed" shall be made by Developer and the City of Carmel, Indiana, and such decision shall be binding on all parties affected thereby.

Section 2.04. Protection of Non-Disturb Areas. The Developer and/or any Owner shall not take any action nor permit any individual or entity to take any action that could or would disturb the natural state of the Non-Disturb Areas. This shall not prevent an Owner from taking actions and measures to preserve and maintain the trees located in those Non-Disturb Areas or generally maintaining those Non-Disturb Areas in a healthy and safe condition, including, but not limited to, the removal of dead, decayed or dangerous trees or vegetation to prevent imminent hazard or prevent the threat of fire. The following actions and activities shall be specifically prohibited in these Non-Disturb Areas:

- (a) the construction or maintenance of any buildings, structures or other improvements, other than fencing or as otherwise expressly permitted herein;
- (b) the dumping or other disposal of trash, garbage or other refuse of any nature whatsoever in or on the Non-Disturb Areas;
- (c) earth moving or grading or filling;

- (d) the cutting or clearing of timber or trees, or intentional burning, except as determined to be necessary by the Board of Directors of the Association to control or prevent imminent hazard, disease or fire; and
- (e) the construction, maintenance or erection of any sign or billboard on or in the Non-Disturb Areas.

Notwithstanding the above provisions, Developer reserves the right to install erosion control structures or devices in the Non-Disturb Areas and to enter into and on the Non-Disturb Areas to remove dead, decayed or dangerous trees or vegetation or to prevent imminent hazard or the threat of fire.

The Association shall enforce the provisions of this Section 2.04. Such enforcement rights shall include the right to enter into and on the Non-Disturb Areas in order to monitor compliance with and enforce the terms of this Section, including the right to repair any damage to the Non-Disturb Areas. Any Owner that violates the provisions of this Section shall reimburse the Association for the costs incurred by the Association (a) to enforce the provisions of this Section, including, but not limited to, reasonable attorney fees, and (b) to repair any damage to the Non-Disturb Areas, including the replacement of any destroyed or damaged trees or vegetation. This reimbursement amount shall be deemed to be a special assessment to be paid and collected in accordance with the provisions of Section 5.04 below.

ARTICLE III

Developer

• Section 3.01, Developer: The powers and authorities contained in this Article shall be vested in Developer and the covenants, conditions and restrictions in Article VI of this Declaration shall be administered and enforced by Developer, or its designated successors and/or assigns. Developer's

administration and enforcement of such covenants, conditions and restrictions shall include, but not be limited to, approval of Lot Developments Plans prior to the improvement of any Lot. Neither the exercise of such administration and enforcement duties by Developer, nor the approval of any Lot Development Plans by Developer, shall relieve any owner of any duty and obligation imposed by this Declaration or compliance with any additional covenants, conditions or restrictions as the same are recorded in the Office of the Hamilton County Recorder. In the event that a written approval is not received from Developer within thirty (30) days from the date submittals are made, the failure to issue such written approval shall mean the disapproval thereof. In the event of a disapproval, Developer shall give a short statement of the reason or reasons for such disapproval within ten (10) days following receipt of a written request to do so. The Developer shall not unreasonably withhold approval and shall act in a manner which is neither arbitrary or capricious. However, Developer reserves the right to unilaterally deny approval of Lot Development Plans if the single family dwelling house is inconsistent as to design, color, building materials, size or costs with adjacent lots.

Section 3.02. Powers of Developer. No Lot shall be developed and no single family dwelling house, accessory building, driveway or other structure or improvement of any type, kind or character shall be constructed, placed, altered or permitted to remain on any Lot in the Subdivision without the prior written approval of Developer. Any required approval shall be requested by an Owner by written application to Developer. Such written application shall be made in the manner and form prescribed from time to time by Developer, and shall be accompanied by three (3) complete sets of Lot Development Plans as defined in Section 1.04 of these covenants, and such other information as may be reasonably required by Developer. The authority given to Developer hereby is for the purpose of determining whether the proposed improvement and development of a Lot is consistent with the terms and provisions of this Declaration, is consistent

with and meets Developer's overall plans for improvement and development of the Real Estate and is compatible and consistent with the development of other Lots. In furtherance of the foregoing purposes, Developer is hereby given discretion as to matters related to location, building orientation, layout, design, architecture, color schemes and appearance in approving Lot Development Plans. Any single family dwelling house or other accessory structure plans included as a part of any application to Developer for required approvals shall set forth the color and composition of all exterior materials proposed to be used and any site plan submitted shall describe and detail all proposed landscaping and include any other material or information which Developer may reasonably require. All plans submitted shall be prepared by a registered land surveyor and an engineer or architect unless Developer specifically permits otherwise.

Section 3.03. Liability of Developer: Neither Developer, nor his agents, successors or assigns, shall be responsible in any way for any defects or insufficiencies in any plans, specifications or other materials submitted for review, whether or not approved by Developer, nor for any defects in any work done in accordance therewith. Developer shall not be liable to any person, firm, corporation, or other legal entity aggrieved by Developers' exercise of (or failure to exercise) any of his powers as specified in Section 3.02 hereof, and shall have no liability whatsoever which is claimed or alleged to result, in whole or in part, upon refusal by Developer to approve Lot Development Plans submitted to Developer.

Section 3.04. Inspection: Developer, the Association or their assigns and the Carmel-Clay Township Plan Commission shall have the right to go upon any Lot, without being a trespasser, to inspect any work being performed thereon, in order to assure compliance with this Declaration and conformity with Lot Development Plans and with any other plans or submittals made to them and upon which any approvals required by this Declaration are based.

Section 3.05. Assignment of Duties: All of the duties, responsibilities and rights held by Developer under this Declaration shall be exercised and administered by Developer in good faith until such time, if any, as they may be assigned by Developer to another or one or more Owners referenced by these covenants or any other legal entity formed as a successor thereto. Any such assignment shall be at the option and sole discretion of Developer and may be made at any time or stage of development. Any assignment by Developer shall be by written instrument duly executed and recorded in the Office of the Hamilton County Recorder. Following such assignment and recordation, the duties and responsibilities and rights of Developer under this Declaration shall immediately vest in and be performed by the assignee or successor.

ARTICLE IV

**Association Membership, Voting Rights,
Board of Directors, and Professional Management**

Section 4.01. Membership. Initially, the person(s) who serve as incorporator(s) of the Association shall be the member(s) (the "Initial Member(s)"). The Initial Member(s) shall remain member(s) of the Association until the Association Articles of Incorporation are accepted by the Indiana Secretary of State, at which time the Initial Member(s) shall cease to be member(s) unless they also qualify as Class A or Class B members. Every Owner of a Lot which is subject to assessment shall be a member (a "Member") of the Association, and shall be subject to any and all rules and regulations duly established by the Association. Apart from the Initial Member(s), a membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.02. Classes of Membership and Voting Rights. The Association shall have the following two classes of voting membership:

- Class A. Class A Members shall be all Owners with the exception of the Developer. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be exercised as the Members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.
- Class B. The Class B Member shall be the Developer. The Developer shall be entitled to three (3) votes for each Lot owned. For purposes of this calculation, it shall be assumed that Developer owns all Lots, which number shall be reduced as Lots are conveyed by the Developer to an Owner. The Class B Membership shall cease and be converted to a Class A Membership on the happening of either of the following events, whichever occurs earlier:

 - A. December 31, 2010; or
 - B. When the total number of votes outstanding in the Class A Membership is equal to the total number of votes outstanding in the Class B Membership; provided, however, that the Class B Membership shall recommence in the event that the Developer subsequently records a plat of part of or all of the Real Estate and, by virtue thereof, total number of votes outstanding in the Class A Membership is no longer equal to or greater than the total number of votes outstanding in the Class B Membership; or
 - C. The date on which the Class B Member agrees in writing to the cessation and conversion of the Class B membership.

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Section 4.03. Board of Directors. The Board of Directors of the Association shall be appointed and/or elected as prescribed by the Association's Articles and By-Laws. The Board of Directors shall manage the affairs of the Association. Directors need not be Members of the Association.

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Section 4.04. Professional Management. The Association may, in its sole and subjective discretion, engage or employ a professional manager or management company, possessing experience in the management of homeowners associations, to assist the Board of Directors in the management and administration of the Association. No contract or agreement for professional management of the Association, nor any other contract between Developer and the Association, shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause and without payment of any termination fee upon written notice of ninety (90) days or less.

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Section 4.05. Fulfillment of Commitments. Notwithstanding the cessation of the Class B Membership and the turnover of the Association, and notwithstanding the conveyance of any Common Area by the Developer to the Association, the Developer reserves the right to enter upon any lots and/or Common Areas for the purpose of complying with any written or unwritten commitments extended to any municipality or zoning jurisdiction in connection with any zoning approvals, plat approvals, variance approvals, special use or exception approvals, and/or any other approvals granted by such municipality or zoning jurisdiction.

ARTICLE V

Covenant for Maintenance Assessments

Section 5.01. Creation of the Lien and Personal Obligation of Assessments. Each Owner

of any Lot, except the Developer, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (a) Regular Yearly Assessments (for Maintenance Costs); and
- (b) Special Assessments for capital improvements and operating deficits and for special maintenance or repairs as provided in this Declaration; and

- (c) One-Time Assessment for purposes specified below.

Assessments against a Lot shall commence to accrue from the date each Lot is conveyed by the Declarant to an Owner and shall be collected as hereinafter provided. All such assessments, together with prejudgment interest at eight percent (8%) per annum, costs and reasonable attorneys' fees, shall be a charge on the land 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 attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them. No charge or assessment shall ever be levied by the Association against the Developer.

Section 5.02. Purpose of Regular Yearly Assessments. The Regular Yearly Assessments

levied by the Association shall be used exclusively, in the reasonable discretion of the Board of Directors of the Association, for the promotion of the recreation, health, safety and welfare of the residents in the Subdivision, for the improvement, maintenance and repair of the Common Area, for the performance of the obligations and duties of the Association and for other purposes only as

specifically provided herein. As and if necessary, a portion of the Regular Yearly Assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Area, and other capital improvements which the Association is required to maintain.

Section 5.03. Maximum Regular Yearly Assessments.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Regular Yearly Assessment on any Lot shall be Three Hundred and Twenty Five Dollars (\$325.00) per Lot per year. The Regular Yearly Assessment provided for herein shall commence for each Lot on the date of conveyance of such Lot to an Owner, which assessment shall be pro-rated according to the number of days remaining in the calendar year of the conveyance. For every year thereafter a conveyance of a Lot, the Owner shall pay the Regular Yearly Assessment in full.

(b) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year not more than twenty percent (20%) above the maximum Regular Yearly Assessment for the previous year, without a vote of the membership. In addition, upon the employment and engagement by the Association of a professional manager or management company to assist the Board of Directors in the management and administration of the Association, there shall immediately and automatically, without a vote of membership, be added to the regular annual assessment the cost of such professional management.

(c) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year by more than twenty percent (20%) above the maximum Regular Yearly Assessment for the previous year, by a vote of two-thirds (2/3) of the votes entitled to be cast by members who cast votes in person or by proxy at a meeting duly called for this purpose.

(d) The Board of Directors from time to time may fix the Regular Yearly Assessment, without any vote of the membership, at any amount not in excess of the maximum.

Section 5.04. Special Assessments for Capital Improvements and Operating Deficits.

In addition to the Regular Yearly Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain, or to recover any operating deficits which the Association may from time to time incur, provided that any such assessment shall have the approval of two-thirds (2/3) of the votes entitled to be cast by those members who cast votes in person or by proxy at a meeting duly called for this purpose.

Section 5.05. One-Time Assessment. Upon the closing of the initial conveyance of each Lot by Developer, the purchaser of such Lot shall pay to the Association, in addition to any other amounts then owed or due to the Association, as a contribution to its working capital and start-up fund, an amount of One Hundred Dollars (\$100.00), which payment shall be non-refundable and shall not be considered as an advance payment of any assessment or other charge owed the Association with respect to such Lot. Such working capital and start-up fund shall be held and used by the Association for payment of, or reimbursement to Developer for advances made to pay, expenses of the Association for its early period of operation of the Association and the Property, to enable the Association to have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary by the Board of Directors.

Section 5.06. Quorum. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence

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of Members or of proxies entitled to cast sixty percent (60%) of the total number of votes entitled to be cast (Class A and Class B votes combined) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

• Section 5.07. Uniform Rate of Assessment. Regular Yearly Assessments and Special Assessments for capital improvements and to recover operating deficits must be fixed at a uniform rate for all Lots, except that any individual or entity purchasing a Lot or Lots solely for the purpose of construction of a for-sale single family dwelling house thereon (a "Builder") shall pay only twenty-five percent (25%) of the Regular Yearly Assessments and Special Assessments so long as any single family dwelling house constructed upon a Lot by Builder has not been conveyed to an Owner intending to occupy or rent said dwelling house to an individual or entity for use as a residence.

• Section 5.08. Date of Commencement of Yearly Assessments; Due Dates. The Regular Yearly Assessment provided for herein shall commence as to each Lot within a recorded Plat on the first day of the first month following the recording of such Plat. The Board of Directors shall fix any increase in the amount of the yearly assessments at least thirty (30) days in advance of the effective date of such increase. Written notice of any increase in the Regular Yearly Assessment, and written notice of any Special Assessment and such other assessment notices as the Board of Directors shall deem appropriate, shall be sent to every Owner subject thereto. The due dates for all assessments, and the assessment and collection period (i.e., annual, monthly, lump-sum or otherwise) for any Special Assessments, shall be established by the Board of Directors. The Association shall, upon

demand, and for a reasonable charge, furnish a certificate in recordable form signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance.

Section 5.09. Effect of Nonpayment of Assessments; Remedies of the Association. If any assessment (or periodic installment of such assessment, if applicable) is not paid on the due date established therefor pursuant to this Declaration, then the entire unpaid assessment (together with interest thereon, costs and attorneys' fees as provided in this Declaration) shall become delinquent and shall constitute a continuing lien on the Lot to which such assessment relates, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall not pass to such Owner's successors in title unless expressly assumed by them. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, or both. In such event, there shall be added to the amount of such assessment the costs and attorney's fees of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided, costs of the action and reasonable attorneys' fees to be fixed by the court. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area owned by the Association or abandonment of his Lot.

Section 5.10. Subordination of the Lien to Mortgages; Sale or Transfer. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the

necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. No sale or transfer of any Lot (whether voluntary or pursuant to foreclosure or otherwise) shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof; and, except as hereinabove provided, the sale or transfer of any Lot shall not affect the lien of assessments becoming due prior to the date of such sale or transfer except to the extent that a purchaser may be protected against the lien for prior assessments by a binding certificate from the Association, issued pursuant to this Declaration, as to whether or not such assessments have been paid.

ARTICLE VI

Lot Development

Section 6.01. Lot Development: Prior to the development, improvement or alteration of, the construction on or addition to, a Lot or Lots, the Owner(s) thereof shall first obtain written approval from Developer of the Lot Development Plans as required by Article III of this Declaration. Any improvement, development or alteration of a Lot or Lots, and any construction thereon or addition thereto, shall strictly comply with this Article VI. In the event of a conflict between a set of duly approved Lot Development Plans and the terms and provisions of this Article VI, the terms and provisions of Article VI shall control.

Section 6.02. Type, Size and Nature of Construction Permitted: No single-family dwelling house, garage, driveway, accessory building, fence, swimming pool, tennis court or other recreational facility permitted by this Declaration shall be erected, placed or altered on any Lot without the prior written approval of Developer or Association, respectively, as required by this

Declaration. Such approval shall be obtained prior to the commencement of construction and shall be subject to the following minimum standards:

- A. No structure or building shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling not exceeding two and one-half (2 1/2) stories in height, one private attached garage for a minimum of two (2) vehicles, maximum of four (4), and such other accessory buildings or structures related to swimming pools, tennis courts and other recreational facilities, including conservatories which are usual and incidental to the use of the Lot for single-family residential purposes.
- B. The minimum finished floor area of a one-story dwelling house construct on a Lot, exclusive of open or screen porches, attached garages and basements or below grade levels, shall be 1,400 square feet.
- C. No single family dwelling house, garage or accessory structure of any kind shall be moved onto any Lot and all materials incorporated into the construction thereof shall be new, except that used brick, weathered barn siding or the like, or interior design features utilizing other than new materials, may be approved by Developer. No tent, basement, garage, barn or other structure shall be placed or constructed on any Lot at any time for use as either a temporary or permanent residence or for any other purpose except as reasonably required in connection with the construction of a single family dwelling house on a Lot.
- D. The concrete or block foundation of any single family dwelling house or accessory structure constructed on a Lot shall be covered on the exterior with wood, brick,

- 2 aluminum or vinyl siding or stone veneer so that no portion of the exterior thereof is left exposed above ground.
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- 5 E. Each attached garage shall be designed as a part of the single family dwelling house to which it is attached. Further, garage doors shall remain closed except when entering, exiting or otherwise having the need to access the garage.
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- 7 F. The roof of each single-family dwelling house constructed on a Lot (excluding that portion of the roof covering the attached garage or open or enclosed porch) shall have a pitch of between 6-12 to 12-12 or greater unless otherwise approved by Developer
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- 9 as a part of Developer's approval of Lot Development Plans.
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- 11 G. No open loop geothermal heat pumps shall be allowed.

Section 6.03, Tree Preservation: Existing mature trees (having a trunk in excess of six (6) inches in diameter measured at a point three (3) feet from undistributed ground) shall be preserved to the extent the removal is not mandatory in connection with the construction of an approved single family dwelling house or accessory building unless the removal thereof is otherwise specifically approved by Developer or any such tree is dead or decayed and dangerous.

Section 6.04, Completion of Construction: All construction upon a Lot shall be completed in strict accordance with the Lot Development Plans approved by Developer. The exterior of any dwelling house built upon a Lot or combination of Lots shall be completed within eighteen (18) months after the date of commencement of the foundation and the site graded and any areas to be covered with grass shall be seeded or sodded. Each Lot shall be kept and maintained in a sightly and orderly manner during the period of construction. During construction, Owner is responsible for any damage to curbs previously installed in the Subdivision by Developer. In the event of damage to a curb by Owner, or Owners' Builder, which required said curb to be repaired or replaced, then, and

in that event, the Developer shall cause said curb to be replaced and the costs of repair shall be paid by the Owner causing said damage.

Section 6.05. Storage Tanks: No storage tanks, of any nature, for any use, shall be allowed on or be buried on any Lot.

Section 6.06. Mailboxes: All mailboxes installed throughout the Subdivision will be uniform and will be constructed and installed by the Developer in a material suitable to Developer at his sole discretion. The cost of these mailboxes, including the installation, will be paid to Developer by the owner prior to installation by Developer. The Developer and Owners hereby release Hamilton County, or as the case may be, the City of Carmel, from any and all liability due to mailbox damage caused by snowplows or other vehicles owned, operated, or under the control of either Hamilton County or the City of Carmel, Indiana, provided said damage was not the result of willful misconduct or gross negligence. Mailbox maintenance shall be the sole responsibility of its Owner.

Section 6.07. Driveways: No Lot shall be permitted to contain more than one driveway and each Lot shall be allowed only one cut onto a public street adjoining the Lot. A driveway constructed on any Lot to and from the private street shall be constructed and maintained so as to provide the sole means of ingress and egress to such Lots for vehicular traffic.

The driveway on each Lot shall be cut and stone or gravel placed thereon prior to development or improvement of the Lot to the extent necessary to avoid the transmittal of mud from construction traffic to the Public Roads. Upon substantial completion of construction, each driveway shall be constructed of either hard mixed aggregate, concrete, asphalt paving, brick or other material acceptable to Developer.

Under no conditions shall driveways be constructed over curb inlets of the storm sewer system within the right-of-way of the public road or private roadway. No asphalt or concrete driveway shall be placed behind a curb containing these inlet grates.

Section 6.08. Fences, Walls, Hedges or Shrub Plantings: No fence, wall, hedge or other screening shall be erected, placed, altered or permitted to remain on any Lot other than as approved (as to location, type, materials, design and height) by Developer under Article III of this Declaration. In no such situation shall these structures or plantings be placed within platted drainage and utility easements or within the right-of-way of a public street.

Section 6.09. Ditches and Swales: The Owner of any Lot on which any part of a drainage tile, open storm drainage ditch or swale is situated shall keep such portion thereof as may be situated upon his Lot or Lots continuously unobstructed and in good repair, and shall provide for the installation of such culverts upon said Lots as may be reasonably necessary to accomplish the purposes of this subsection, all at each such Owner's own cost and expense.

Section 6.10. Ponding and Runoff: No Owner shall cause or permit any pond to be created on any Lot, including without implied limitation, from any swale, ditch, stream or creek located on the Real Estate. Further, each owner shall prevent water run-off and the depositing of soil and mud from the Lot onto the street through the use of silt fences installed during the home building process. To the extent that an owner permits, causes or allows mud to enter onto the streets or private roadways in the Subdivision, during construction or otherwise, the Developer reserves the right to clean the streets and bill or assess the Owner for said costs. The Owner shall pay or reimburse to Developer the reasonable charge for street cleaning and maintenance within thirty (30) days after being billed or assessed thereto.

Section 6.11. Antenna Dishes or other Similar Structures: Satellite dishes may be erected and placed within the single-family residence constructed on the Lot; provided that said antenna disc, tower or structure is concealed from external view and placed within the structure itself.

Section 6.12. Subsurface Drains: Each Lot in the Subdivision has been provided with a four (4) inch tile drainage outlet for the purpose of accepting the flow from sump pump drains. These tiles flow into six (6) inch diameter interceptor drains located under the street curb and eventually they outlet into the storm sewer system. In no situation shall a sump pump be outletted directly to the surface of the street. Gravity drainage from downspouts may be drained into ravines at the rear of Lots only in situations where the downspout is located below the elevation of the street drain. All floor drains shall drain into the sewage disposal system of the home. In no situation shall sump pumps be outletted into the sanitary sewer system of the home or in a ravine or open areas on the Lot.

Section 6.13. Compacted Fill Material On Lots: Lots may contain compacted fill material. This soil, although it has been properly compacted, may not contain similar engineering properties of undisturbed soil for the purpose of foundation construction. Owners shall be solely responsible for soil compaction, or lack thereof, and each Owner shall hereby relieve the Developer of any and all responsibility or liability for disturbed or undisturbed soil as it relates to the owner's construction process, or any other. Developer makes no promises, representations or warranties, either express or implied, as to the nature, quality or compaction of the soil on any individual Lot as each owner is responsible for testing and determining the quality and characteristics of soil on their respective Lot.

Section 6.14. Treeshouses and Playground Equipment: No treeshouses will be allowed on any Lot in the Subdivision. Further, any and all playground equipment shall be made of wood as its

primary building material. In no event shall any playground equipment be allowed that uses metal or plastic as its primary building material. The location and installation of any playground equipment shall be done only with the express written approval of Developer.

ARTICLE VI

Use and Maintenance of Lots

Section 7.01. Vehicle Parking: No camper, motor home, truck, trailer or boat may be parked or stored overnight or longer on any Lot in open public view. Further, no vehicles as set out above, including automobiles, light trucks or pickups, shall be parked or stored on the private roadways or any Common Area in the Subdivision.

Section 7.02. Home Occupations: No home occupation shall be conducted or maintained on any Lot other than one which is incidental to a business, profession or occupation of the Owner or occupant of such Lot and which is generally or regularly conducted at another location which is away from such Lot. No signs of any nature, kind or description shall be erected, placed or permitted to remain on any Lot advertising a permitted home occupation.

Section 7.03. Signs: No sign of any kind shall be displayed to public view on any Lot except that one two-sided (not exceeding six (6) square feet per side) may be displayed at any time for the purpose of advertising the property for sale, or may be displayed by a builder to advertise during construction, provided that, said sign is submitted and approved in writing by Developer.

Section 7.04. Maintenance of Tracts and Improvements: The Owner of any Lot shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly, and, specifically, each such Owner shall:

- A. Mow such portion of the Lot or Lots upon which grass has been planted at such times as may be reasonably required;

- 5
- B. Remove all debris or rubbish;
- C. Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance; and
- D. Keep the exterior of all improvements in such a state of repair and maintenance as to avoid their becoming unsightly.

Section 7.05. Animals: Only dogs, cats and similar animals generally and customarily recognized as household pets, not exceeding in the aggregate three (3) in number, may be kept or maintained on any Lot as household pets. All animals kept or maintained on any Lot in this Subdivision shall be kept reasonably confined by means of leash, invisible fencing, or other product similar thereto, so as not to become an annoyance or nuisance. No animal shall be kept or maintained on a Lot for commercial purposes or primarily for breeding purposes.

Section 7.06. Garbage, Trash and Other Refuse: The outside burning of garbage or other refuse shall not be permitted on any Lot, nor shall any outside accumulation of refuse or trash be permitted on any Lot. In no event shall any Owner allow a trash or recycling receptacle to remain outside for longer than a twenty-four (24) hour period of time.

Section 7.07. Nuisances: No noxious or offensive activity shall be conducted upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood or another Owner.

Section 7.08. Maintenance of Undeveloped and Unoccupied Lots: Owners of undeveloped or unoccupied Lots shall at all times keep and maintain such Lots in an orderly manner, causing weeds or other growths to be reasonably cut and shall prevent the accumulation of rubbish and debris thereon.

• **Section 7.09, Association's Right to Perform Certain Maintenance:** In the event that the Owner of any Lot in this Subdivision fails to reasonably maintain such Owner's Lot and any improvements situated thereon in accordance with the provisions of this Article VII, or as otherwise required by this Declaration, the Association, by and through its agents, employees or contractors, shall have the right, but not the obligation, following notice in writing to such Owner of an intention to do so unless reasonable maintenance as detailed in such notice is performed and the expiration of twenty (20) days thereafter without such maintenance being done, to enter upon such Lot without being a trespasser to repair, mow, clean, or perform such other acts as may be reasonably necessary to make such Lot and the improvements situated thereon, conform to the requirements of this Article VII, or as otherwise set forth in this Declaration. The out-of-pocket costs incurred by the Association in connection therewith shall be collectible from the Owner(s) of any such Lot and shall represent a lien against any such Lot until paid in full together with interest thereon, cost of collection and attorney's fees, all without relief from valuation and appraisal laws, as if constituting an unpaid general assessment levied under Article V of this Declaration. Neither the Developer or the Association nor any of its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

• **Section 7.10, Drainage and/or Retention Ponds:** Block E of the Subdivision has a drainage and/or retention pond that provides for the accumulation of water throughout the Subdivision. All water activities shall be specifically prohibited on the drainage and/or retention pond.

ARTICLE VIII

• **Easements and Common Areas**

• **Section 8.01, Easements:** The strips of ground shown on the survey of Lots attached hereto and designated Drainage and Utility Easements ("DE" or "UE") either separately or together, are

• Section 7.09. Association's Right to Perform Certain Maintenance: In the event that the Owner of any Lot in this Subdivision fails to reasonably maintain such Owner's Lot and any improvements situated thereon in accordance with the provisions of this Article VII, or as otherwise required by this Declaration, the Association, by and through its agents, employees or contractors, shall have the right, but not the obligation, following notice in writing to such Owner of an intention to do so unless reasonable maintenance as detailed in such notice is performed and the expiration of twenty (20) days thereafter without such maintenance being done, to enter upon such Lot without being a trespasser to repair, mow, clean, or perform such other acts as may be reasonably necessary to make such Lot and the improvements situated thereon, conform to the requirements of this Article VII, or as otherwise set forth in this Declaration. The out-of-pocket costs incurred by the Association in connection therewith shall be collectible from the Owner(s) of any such Lot and shall represent a lien against any such Lot until paid in full together with interest thereon, cost of collection and attorney's fees, all without relief from valuation and appraisal laws, as if constituting an unpaid general assessment levied under Article V of this Declaration. Neither the Developer or the Association nor any of its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

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ARTICLE VIII

• **Easements and Common Areas**

• Section 8.01. Easements: The strips of ground shown on the survey of Lots attached hereto and designated Drainage and Utility Easements ("DE" or "UE") either separately or together, are

hereby created for the use (including required ingress and egress necessary as a part thereof) of public utility companies, governmental agencies, police, fire, ambulance and other emergency vehicles, and the Owners of the Lots herein as follows:

• "Drainage Easements" (D.E.) are created to provide paths and courses for area and local storm drainage, either overland or in adequate underground conduit, to serve the needs of this and adjoining ground and/or the public drainage system. No structures, including fences, shall be built on a Drainage Easement which obstruct flow from the area being served, nor shall any changes be made in the finished grade elevations of any Lot, whether in connection with the construction of improvements thereon or otherwise, so as to modify, alter or change the location or depth of any drainage swales, ditches or creeks located within any such Drainage Easement without the approval of all Federal, State, County or Municipal authorities from whom approvals are required by law, or which would in any way prohibit, impede, restrict or alter the natural flow of surface water drainage.

• "Utility Easements" (U.E.) are created for the use of public utility companies, not including transportation companies, for the installation, operation and maintenance of mains, ducts, poles, lines and wires necessary to provide utility service to a Lot or Lots, subject to the condition that following any installation or maintenance, the affected area within such Utility Easement shall be returned to the condition existing prior thereto at the cost and expense of the party responsible for having such work performed. Those areas designated as private roadways shall be utilized and treated as a Utility Easement to the limited extent that specific permission is hereby granted to the governmental and quasi-public agencies of police, fire, ambulance and other emergency vehicles to access those Lots serviced by the private roadway throughout the Subdivision.

The Owners shall take title to the Lots subject to the foregoing easements rights in, along and through the strips of ground properly designated as hereinabove set forth on the recorded survey of the Lots for the purposes herein stated.

Section 8.42. Common Area: The purpose of the plat designated as Common Area, Blocks A, B, C, D, and E ("Open Space") shall be transferred and conveyed to the Association prior to the date the Class B membership ceases or terminates, subject to the following restrictions and limitations:

- A. The Open Space, following completion of the Subdivision, shall be maintained in its then natural state except for such selective clearing as from time to time may be necessary to implement good husbandry practices;
- B. Blocks A, B, C, D, and E may be used by the Owners, their guests and invitees, as a passive recreational area, subject to the rules and regulations as adopted by the Association; and
- C. No structures shall be permitted in the Open Space.

ARTICLE IX

General

• Section 9.01. Waiver of Damages: Neither the Developer, their nominees, representatives or designees, shall be liable for any claim for damages whatsoever arising out of or by reason of any acts taken (or not taken) or things done or performed (or not done or performed) pursuant to any authorities reserved, granted or delegated pursuant to this Declaration.

• Section 9.02. Enforcement: The right to enforce the restrictions contained in this Declaration and all covenants and restrictions contained herein including, but not limited to, the right of injunctive relief, or the right to seek the removal by due process of law of structures erected or maintained in violation of this Declaration, is hereby given and reserved to Developer, the Association and the Owners from time to time of Lots and all parties claiming under them, all of whom shall have the right, individually, jointly or severally, to pursue any and all remedies, in law and equity available under applicable Indiana law, without being required to show actual damage of any kind whatsoever, and shall be entitled to recover, in addition to appropriate monetary damages, if any, reasonable attorneys' fees and other legal costs and expenses incurred as a result thereof.

Section 9.03. Severability: The provisions of this Declaration shall be severable and no provision shall be affected by the invalidity of any other provision to the extent that such invalidity does not also render such other provision invalid. In the event of the invalidity of any provision, this Declaration shall be interpreted and enforced as if all invalid provisions were not contained herein.

Section 9.04. Non-Liability of Developer: Developer shall not have any liability to an Owner or to any person or entity with respect to drainage on, over, under or through a Lot. Upon the improvement and development of a Lot, the proper handling of storm and surface water drainage shall be the responsibility of the Owner of such Lot, and each Owner by the acceptance of a deed to a Lot, shall be deemed to and does hereby release and forever discharge Developer from, and shall indemnify and hold harmless Developer against, any and all liability arising out of or in connection with the handling, discharge, transmission, accumulation or control of storm or surface water drainage to, from, over, under or through the Lot described in such deed.

Section 9.05. Public Liability and Property Damage Insurance: Each Owner shall obtain and pay for such public liability and property damage insurance as may be desired to provide protection against loss, cost and expense by reason of injury to or the death of person or damage to or the destruction of property occurring on or about each such Owner's Lot.

Section 9.06. Binding Effect: This Declaration, and the covenants, conditions and restrictions herein contained shall be binding upon Developer, each Owner and any person, firm, corporation or other legal entity now or hereafter claiming an interest in any Lot and their or its respective successors and assigns.

Section 9.07. Duration: This Declaration and the restrictions imposed hereby shall run with the Real Estate and shall be binding on all owners and all persons claiming under them for an initial period of twenty-five (25) years from the date of recordation, and shall automatically extend for

• successive periods of ten (10) years each, unless prior to the expiration of the initial period of any ten (10) year period they are amended or changed.

• Section 9.08. Amendments to Declaration: This Declaration may be amended or changed at any time with approval in writing by the Owners of all Lots herein and shall not become binding and effective until the date of recordation in the Office of the Recorder of Hamilton County, Indiana. The provisions herein notwithstanding, this Declaration may be amended at any time and from time to time by the Developer as long as the Developer is the Owner of a Lot within the Guilford Park Subdivision.

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IN WITNESS WHEREOF, the undersigned has caused this Declaration of Covenants,

Conditions and Restrictions to be executed on the day and in the year first above written.

"DEVELOPER"

By: _____

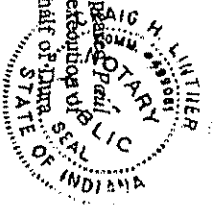
Printed: Paul Shoopman

Is: President

STATE OF INDIANA)
) ss:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Paul Shoopman, the President of Dura Development Corporation, who acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions for and on behalf of Dura Development Corporation.

Witness my hand and Notarial Seal this 29th day of June, 2001.



Notary, Signature

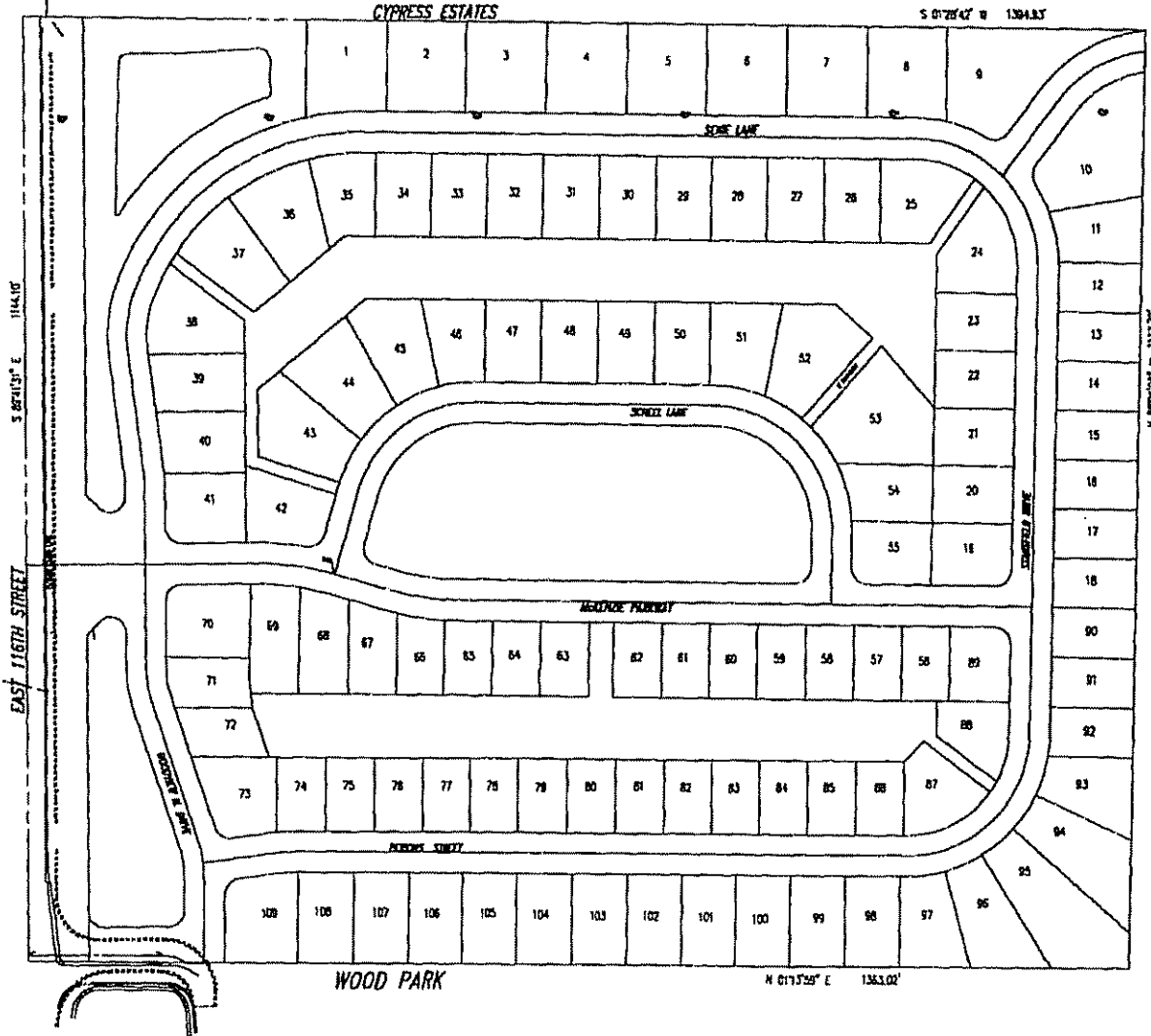
Printed: GENE H. LITLER

My Commission Expires: 12/31/09

County of Residence: Boone

This instrument prepared by Paul G. Reis, Attorney-at-Law, 12358 Hancock Street, Carmel, IN 46032.

Guilford Park - Exhibit A



217111 W. 88°50'00" N

WOOD PARK

N 01°13'29" E 1363.02'

CYPRESS ESTATES

S 01°28'42" W 1384.83'

EAST 116TH STREET

S 89°13'01" E 1164.10'

EAST 117TH STREET

MULFORD PARKWAY

SHELL LANE

SEBE LANE

ADAMS STREET

LAND DESCRIPTION

Part of the Northwest Quarter of Section 1, Township 17 North, Range 3 East in Hamilton County, Indiana described as follows: Commencing at the northwest corner of said Northwest Quarter, thence South 89 degrees 41 minutes 31 seconds East along the north line thereof a distance of 1319.60 feet to the Point of Beginning; thence continuing along said north line South 89 degrees 41 minutes 31 seconds East a distance of 1144.10 feet; thence South 01 degrees 28 minutes 42 seconds West parallel with the east line of said Northwest Quarter a distance of 1394.93 feet to the south line of the North Half of said Northwest Quarter; thence North 88 degrees 05 minutes 26 seconds West along said north line a distance of 1138.06 feet to the east line of Woodpark Section One "B", an addition in Hamilton County, Indiana per Instrument #9011472 as recorded in the Office of the Recorder of said County; thence North 01 degrees 13 minutes 59 seconds East along the east line of said Woodpark Addition a distance of 1353.02 feet to the Point of Beginning, containing 36.12 acres, more or less.

EXHIBIT A