

**COVENANTS**  
**FOR**  
**OAK RIDGE**  
**BOONE COUNTY**

MISC. 124 Pl. 545

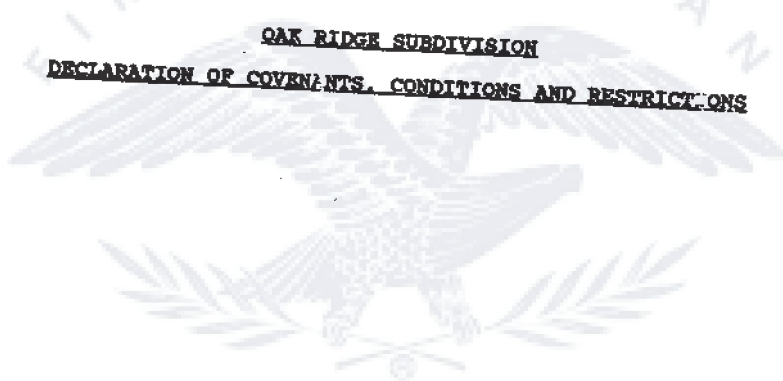


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*Upstairs - Andreoli*

FIRST AMERICAN  
 OAK RIDGE SUBDIVISION  
 DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS



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Nov 13 10 20 AM '91

MARY ALICE BALDWIN  
 RECORDER OF BOONE COUNTY  
 LEBANON, INDIANA 46032

*Miss BK 124 PG 545*

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DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made and entered into this 4<sup>th</sup> day  
of NOVEMBER, 1991, by ROBERT P. CARTER and  
SYLVIA J. CARTER, Husband and Wife, ("Developer"), and JAMES  
D. ARTHUR, JR. and ALTWAIN L. ARTHUR, Husband and Wife,  
("Owner").

WITNESSETH:

WHEREAS, Developer is the fee simple title holder of  
all the lands in Boone County, Indiana, contained in and  
fully described on Exhibit "A", attached hereto and made  
a part hereof (hereinafter the "Real Estate").  
Specifically, James D. Arthur, Jr. and Altwain L. Arthur,  
Husband and Wife, are the fee simple owners of land which  
encompasses two (2) lots of Oak Ridge.

WHEREAS, Developer intends to divide the Real Estate  
into one hundred eighteen (118) tracts (each such tract  
hereinafter referred to individually as a "Lot" and  
collectively as "Lots"), more or less, such subdivision  
known as Oak Ridge.

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

Section 1.02. Developer: "Developer" shall mean Robert P. Carter and Sylvia J. Carter, Husband and Wife, their 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 1.03. Lot: "Lot" (also referred to as "Tract"), referred to in the plural thereon as "Lots", shall mean any of the one hundred eighteen (118) tracts, more or less, into which the Real Estate is subdivided, the legal description being attached as Exhibit "A", which tract are to be numbered in sequence as set out in the plat of the Oak Ridge Subdivision recorded in the Office of the Recorder of Boone County, Indiana, in Book Number 7, Page 57-59, 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 eighteen (118) single-family residences and related improvements otherwise permitted hereunder.

Section 1.04. 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 1.05. 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 or easement.

Section 1.06. 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) landscaping plans; (v) all other data or information which Developer may reasonably request.

Section 1.07. Owners' Association: "Owners' Association" shall mean the unincorporated association of owners established in accordance with Article IV of this

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Declaration, or such other legal entity as may be formed as a successor thereto.

Section 1.08. Subdivision: "Subdivision" shall mean the Real Estate as divided into Lots, all as evidenced by a plat thereof recorded herewith in the Office of the Recorder of Boone County, Indiana, Book Number 7, Page 57-58 identified as the plat of Oak Ridge Subdivision, and any subsequent plats recorded thereto.

Section 1.09. Maintenance Costs: "Maintenance Costs" shall mean all of the costs necessary to keep the facility or improvements which the Owners' 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 Owners' Association or incurred in connection with the enforcement of the terms and provisions of this Declaration. All lots in the subdivision shall be assessed and become a part of the Oak Ridge Legal Drain to be established by Developers and approved by the Boone County Drainage Board. Drainage assessments run with each lot and will be payable in May and November along with real property taxes.

## ARTICLE II

### Character of Lots

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

Section 2.02. Improvement 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.

Section 2.02. Occupancy or Residential Use of Partially Completed Dwelling House Prohibited: No dwelling house constructed on a Lot shall be occupied or used for residential purposes for human habitation until it has been substantially completed. The determination of whether a dwelling house has been "substantially completed" shall be made by Developer and the Boone County or Zionsville Building Inspector, and such decision shall be binding on all parties affected thereby.

#### 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 V of this Declaration shall be administered and enforced by Developer, or their 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 Development 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 the covenants, conditions or restrictions as the same are recorded in the Office of the Boone County Recorder. In the event that a written approval is not

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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 is inconsistent as to design, size or costs with the 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 two (2) complete sets of Lot Development Plans 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 house building 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 and drawings representing a part of the Lot Development Plans and any other plans reasonably required to be submitted to Developer shall be drawn to a scale of 1" = 10', or to such other scale as Developer may require. All plans submitted shall be prepared by either a registered land surveyor, 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 Developer's 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 shall have the right to go upon any Lot within without being a trespasser to inspect any work being performed thereon to assure compliance with this Declaration and conformity with Lot Development Plans and with any other plans or submittals made to him and upon which any approvals required by this Declaration were 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

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Developer in good faith until such time, if any, as they may be assigned by Developer to another of one or more Lots 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 Boone County Recorder's Office. Following any such assignment and recordation, the duties, responsibilities and rights of Developer under this Declaration shall immediately vest in and be performed by the assignee or successor.

ARTICLE IV

Association of Owners and Assessments

Section 4.01. Association of Owners: In order to provide for the continuing maintenance and administration of the Subdivision, there is hereby established an unincorporated association of Owners of Lots in Oak Ridge Subdivision ("Owners' Association"). The Owners' Association shall be comprised of and limited in members to the Owners from time to time of the several Lots within the Subdivision. Membership in the Owners' Association shall commence immediately upon becoming an Owner and continue for so long as ownership of a Lot or Lots continues. At such time as an Owner conveys title and ceases to be an Owner, membership in the Association shall terminate. A new Owner of a Lot shall automatically become a member. Although an Owner need not participate in the administration of the Subdivision, all Owners and the ownership of any Lot or Lots shall be subject to any and all rules and regulations duly established by the Owners' Association (as well as being subject to the rights of Developer and the terms and provisions of this Declaration) and shall be liable for the payment of all assessments levied by the Owners' Association. The Owners' Association

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may assign or otherwise transfer its rights, responsibilities and duties under this Declaration to any legal entity which may be formed as a successor thereof. Any such assignment or transfer shall be in writing and shall be effective when written evidence thereof is duly recorded with reference to this Declaration in the Office of the Recorder of Boone County, Indiana.

Section 4.02. Rights and Duties of the Owners' Association:

The Owners' Association shall be responsible for the following: (a) maintenance and repair of such facilities and improvements otherwise determined by the Owners' Association to be for the common good ("common areas" shown on Plat) of the Owners and/or Lots and appropriate for Owners' Association maintenance; (b) payment of insurance (if any under Section 8.05 of this Declaration); (c) determination of general and special assessments levied against the Owners; (d) promulgation and enforcement of the rules and regulations in this Declaration or as otherwise duly promulgated by the Owners; and (e) exercise of the powers vested in the Owners' Association by this Declaration.

Section 4.03. Meetings of the Owners' Association and Voting Rights:

Business of the Owners' Association shall be conducted at meetings of the Owners' Association. Meetings of the Association may be called by the then current Chairman or Secretary-Treasurer of the Owners' Association or upon request of the Owner(s) of at least three (3) Lots. Written notice of any meeting of the Lot Owners shall be personally delivered or mailed by first class United States mail by the Secretary-Treasurer to all Owners at least twenty (20) days prior to any proposed meeting. Owners shall be entitled to one (1) vote for each Lot owned. All matters before the Owners' Association, except as otherwise specified by this Declaration, shall be decided by a vote, in person or by written proxy, of the Owner(s) of a majority of the Lots. In cases of joint ownership, any joint owner

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may cast the votes corresponding to the Lot or Lots so owned, and once any such vote is cast, it shall be conclusive and binding on all joint owners of any such Lot.

Section 4.04. Assessments: The Owners' Association shall have the power to levy uniform, general and special assessments against each Owner and each Lot, without regard to the size thereof relative to any other Lot in the Subdivision.

Section 4.05. Creation of a Lien and Personal Obligation of Assessments: Developer hereby covenants and each Owner of each Lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree, to pay to the Owners' Association general and special assessments, such assessments to be established and collected as provided in this Article. Until paid in full, an assessment not paid when due, together with interest thereon (at a percentage rate per annum equal to the then-current Indiana statutory maximum annual interest rate) and costs of collection (including reasonable attorneys' fees and court costs) shall be a continuing lien upon the Lot against which such assessment is made. Each assessment, together with interest and costs of collection as aforesaid, shall also become and remain, until paid in full, the personal obligation of the one or more persons or entities in ownership of the Lot at the time when the assessment first became due and payable. If any Owner fails, refuses or neglects to make payment of an assessment when due, the lien for such assessment on such Owner's Lot may, at any time following notice thereof by first class United States mail of the amount thereof to an Owner and the expiration of ten (10) days from the date such notice is sent, be foreclosed by the Owners' Association in the same manner in which a Mechanic's Lien is foreclosed from time to time under Indiana law, or in any other manner otherwise from time to

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time permissible or provided by law. The Owners' Association may, at its option, bring a suit against the Owner (and if more than one, either jointly or severally) to recover a money judgment for any unpaid assessment without foreclosing the lien for such assessment or waiving the lien securing the same. In any action to recover an assessment, whether by foreclosure or otherwise, the Owners' Association shall be entitled to recover interest as aforesaid and the costs and expenses of such action, including, but not limited to, reasonable attorneys' fees and court costs.

Section 4.06. Purpose of Assessment: General or special assessments levied by the Owners' Association shall be used exclusively to exercise those powers and advance those purposes for which the Owners' Association has been formed by this Declaration.

Section 4.07. Basis for Assessment: Except as provided in Section 4.09 hereof, general or special assessments levied by the Owners' Association shall be assessed uniformly against each Lot (and the Owner(s) thereof), regardless of whether any such Lot is improved or unimproved and without regard to the type of improvements constructed on any Lot, or the extent of use of the facilities and improvements for which any assessment, general or specified, is made.

Section 4.08. Annual Meeting. Adoption of Budget and General Assessment: Between May 1 and July 10th of each year, the Owners shall hold an annual meeting with notice to all Owners in the manner required by 4.03 of this Declaration. At the annual meeting, the Owners shall elect a Chairman and a Secretary-Treasurer to coordinate and handle the day-to-day affairs of the Owners' Association and shall adopt a proposed budget, such Chairman and Secretary-Treasurer to serve for, and budget to cover, the period from September 1 to August 31 next succeeding. The budget, adopted by the Owners' Association, shall provide

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for allocation of anticipated expenses in such a manner that the obligations imposed by this Declaration will be met and shall further outline all anticipated expenses and obligations for the period covered thereby. Following approval of the budget, the Chairman and Secretary-Treasurer shall fix a uniform general assessment against each Lot (and the Owner(s) thereof) in an amount necessary to defray the expenses and obligations budgeted, together with an amount, if any, approved by the Owners to permit establishment of and/or contribution into a reserve account in order to defray anticipated future capital expenditures. Notice of the uniform general assessment shall be sent by the Secretary-Treasurer to each Lot Owner as soon as practicable following the annual meeting. Unless otherwise determined by majority vote of the Owners, the general assessment established shall be paid in full to the Secretary-Treasurer of the Owners' Association in one (1) installment on or before August 31 next succeeding. Upon receipt of payment, the Secretary-Treasurer shall deposit the amount involved in an account opened and maintained in the name of the Owners' Association at a state or national bank having its principal banking offices in either Lebanon, Zionsville or Indianapolis, Indiana. Withdrawals from such account shall be made only upon the approval of both the Chairman and Secretary-Treasurer signing jointly and only for a purpose or purposes set forth in this Declaration.

Section 4.02. Special Assessments: In addition to the general assessment, the Owners' Association may levy in any calendar year one (1) or more uniform special assessments against each Lot (and the Owner(s) thereof) for the purpose of defraying, in whole or in part, any unanticipated expenses or obligations or the costs of any major reconstruction, repair, replacement or maintenance required, PROVIDED THAT the levy of any such special assessment must be approved by the Owner(s) of at least two-thirds (2/3's) of the Lots who are voting in person

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or by written proxy at a special meeting of Owners duly called for such purpose, subject to written notice delivered in person or sent by first class United States mail at least fifteen (15) days in advance to each Owner of the time, place and purpose of such meeting. Following approval of the levy of any such special assessment, the vote of the Owner(s) of at least a majority of the Lots shall establish the date or dates any such special assessment shall become due, and the manner in which it shall be paid to the Secretary-Treasurer for deposit in the Owners' Association account established and maintained in accordance with Section 4.09 hereof, for use consistent with the purpose or purposes for which such special assessment was levied.

Section 4.10. Subordination of the Lien to Mortgages:

The lien of the assessments provided for herein against a Lot shall be subordinate to the lien of a recorded bona fide first mortgage covering such Lot and subordinate to any tax or special assessment lien on such Lot in favor of any governmental taxing or assessing authority. The sale or transfer of a Lot shall not affect the assessment lien. The sale or transfer of a Lot pursuant to bona fide mortgage foreclosure proceedings or any other bona fide proceeding in lieu thereof shall, however, extinguish the lien of such assessment as to any payment which became due prior to such sale or transfer. No such sale or transfer shall release a Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 4.11. Duties of Chairman and Secretary-Treasurer of the Owners' Association:

The Chairman and Secretary-Treasurer of the Owners' Association shall have the duties set forth in this Declaration, shall attend to and handle the day-to-day affairs of the Owners' Association and shall attend to handle such other duties delegated to them by the Owners. All acts taken and things done shall be measured by a standard of reasonableness and

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neither the Chairman nor the Secretary-Treasurer shall have any liability to an Owner, Owners or the Owners' Association unless acting in bad faith in a manner inconsistent with the terms and provisions of this Declaration. Notwithstanding the foregoing, in no event (except in the case of a bona fide emergency involving a total expenditure not exceeding Two Hundred Fifty Dollars (\$250) or such other amount from time to time established by the Owners), shall either the Chairman or Secretary-Treasurer have any right, privilege or authority to contract for, solicit, hire or otherwise obtain services or materials which are not included within and covered by the budget then applicable or which are otherwise funded by a special assessment levied in accordance with Section 4.09 hereof.

Section 4.12. Certificates: The Owners' Association shall, within twenty (20) days after demand made at any time, furnish a certificate in writing signed by the Secretary-Treasurer of the Owners' Association, specifying that the assessment respecting a Lot has been paid or that certain assessments remain unpaid, as the case may be. A reasonable charge may be made by the Owners' Association for the issuance of such certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

#### ARTICLE V

##### Lot Development

Section 5.01. Lot Development: Prior to the development, improvement or alteration of, or 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 V. In the event of a conflict

between a set of duly approved Lot Development Plans and the terms and provisions of this Article V, the terms and provisions of this Article V shall control.

Section 5.02. 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 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, and such other accessory buildings or structures related to swimming pools, tennis courts and other recreational facilities, including greenhouses, 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 constructed on a Lot, exclusive of open porches, attached garages and basement, shall be 2,200 square feet in the case of a one story residence, and in the case of a dwelling house having more than one story, a minimum of 1,600 square feet of the required minimum finished floor area shall be located on the first floor.
- (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

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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, shack, 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 on a lot.

- (d) Any accessory buildings (other than greenhouses or indoor pools with track roofs or canvas dome covers) constructed on a lot shall have a fiberglass or asphalt shingle, slate, tile or wood shake roof and shall be made out of the same materials, or combination thereof, out of which the single-family dwelling house on the same lot is constructed, provided that, structures such as polebarns shall be specifically prohibited.
- (e) 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 or stone veneer so that no portion of the exterior thereof is left exposed above ground.
- (f) Each attached garage shall be designed as a part of the single-family dwelling house to which it is attached.
- (g) 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 7 to 12 or greater unless otherwise approved by Developer as a part of Developer's approval of Lot Development Plans.

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- (h) No house or other structure shall contain aluminum or vinyl siding. Further, no plywood or other sheets of wood with dimensions of four (4) foot by eight (8) foot may be used for exterior siding.
- (i) No open loop geothermal heat pumps shall be allowed.

Section 5.03. Tree Preservation: Existing mature trees (having a trunk in excess of six (6) inches in diameter measured at a point three (3) feet from undisturbed ground) shall be preserved to the extent the removal thereof 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 5.04. 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. All builders will be required to utilize and pay for a thirty (30) cubic yard trash receptacle for each home during period of construction in order to properly dispose of debris. Every builder or owner shall be required to furnish a Port-O-Let for their workers during construction. However, multiple builders or owners may combine to provide Port-O-Lets to their workers.

Section 5.05. Storage Tanks: No storage tanks, of any nature, for any use, shall be allowed on or be buried on any lot.

Section 5.06. Mailboxes: Mailboxes installed for mail delivery to a Lot shall be located, and shall be of a type, color and manufacture approved prior to installation by Developer. Such mailboxes shall be installed in a location which is also approved by Developer.

Section 5.07. Driveways: No lot shall be permitted to contain more than one driveway and each lot shall be allowed only one cut onto a public road adjoining the property. No direct access of any type shall be allowed onto Pleasant View Church Road or Turkey Foot Road from any Lot in this Subdivision. 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, brick or other material acceptable to Developer.

A driveway constructed on any Lot to and from the Public Roads shall be constructed and maintained so as to provide the sole means of ingress and egress to such Lots for vehicular traffic. However, circular drives which provide more than one cut onto a public road may be allowed upon approval of the 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. No asphalt or concrete driveway surface shall be placed behind a curb containing these inlet grates.

Section 5.08. 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.

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Section 5.09. Sewage Disposal Systems:

a) Installation: Private sewage disposal systems (septic systems) are prohibited on all lots in the subdivision as the development will be served by municipal sanitary sewers from the Town of Zionsville. The owners of Lots 47-55 will be serviced by a sanitary sewer force main which by design will require the home located on each lot to install an ejection type sewage pumping system.

Section 5.10. 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 5.11. Ponding of Water: 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, owner shall prevent water run-off and the depositing of soil and mud from the lot onto the street.

Section 5.12. Antenna Discs or Other Similar Structures: No antenna discs, antenna towers or other free-standing antenna structures or devices shall be erected, placed or permitted to remain on any Lot.

Section 5.13. 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 pumps and downspout drains. These tiles flow into six (6) inch diameter interceptor drains located under the street curb and eventually they outlet into the storm sewer manholes. In no situation shall sump pump or downspout drains be outletted directly to the surface of a 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 behind the home.

Section 5.14. Oak Ridge Legal Drain: All Lots within the Oak Ridge Subdivision and three (3) tracts located adjacent to the development are included in the Oak Ridge Legal Drain. This legal drain has been established by the Boone County Drainage Board and the Boone County Surveyor to provide a method for future maintenance of the reconstructed Pee Wee Creek flow channel (Lots 28-32), storm sewers, lake (Lots 35-39), dam and outfall structures (Lots 38-39) and the subsurface tile drains located in the subdivision and an offsite storm sewer located along C.R. 975E. Easements have been provided on certain lots as shown on the Secondary Plat in order that contractors employed by the Boone County Surveyor may gain access across lots in the subdivision to maintain said drainage improvements. Each lot will be assessed a yearly drainage fee not to exceed \$100.00 per lot. This fee is billed by the Boone County Treasurer and is payable at the time of property taxes in May and November. Failure to pay said assessment could result in a property being involved in a Tax Sale for failure to pay delinquent taxes. The Oak Ridge Legal Drain shall remain under the jurisdiction of the Boone County Drainage Board until such time as annexation of the development occurs by the Town of Sionsville and then only upon the creation of a Stormwater Management Board or a similar such maintenance entity by the Town.

Section 5.15. Compacted Fill Material On Lots: Lots may contain compacted fill material. This soil, although it has been properly compacted, may not contain similar

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engineering properties of undisturbed soil for the purpose of foundation construction. Consult the development engineer prior to construction on any lot.

Section 5.16. Sidewalks: Concrete sidewalks shall be installed on all lots except 20-22, 38-40, 48-50, 60-61 which are located at the end of cul-de-sacs. Sidewalks shall be four (4) feet in width and a minimum of four (4) inches in depth. It shall be the responsibility of the Lot owner or the builder on each lot requiring sidewalks to complete the sidewalk prior to issuance of a Certificate of Occupancy on the new home by the local building inspector. Handicapped ramps shall be provided on those lots as detailed by the Oak Ridge construction plans.

#### ARTICLE VI

##### Use and Maintenance of Lots

Section 6.01. 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, except pick-up trucks or other similar vehicles customarily used by the Owners of suburban real estate parcels similar in size to the Lots contained herein.

Section 6.02. 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 6.03. Signs: No sign of any kind shall be displayed to public view on any Lot except that one two-sided sign (not exceeding five (5) square feet per side) may be displayed at any time for the purpose of advertising the property for sale or for rent, or may be displayed by a builder to advertise during construction.

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Section 6.04. 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:

- (i) Mow such portion of the Lot or Lots upon which grass has been planted at such times as may be reasonably required.
- (ii) Remove all debris or rubbish;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance;
- (iv) Keep the exterior of all improvements in such a state of repair and maintenance as to avoid their becoming unsightly.

Section 6.05. 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 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 6.06. 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. Each single-family dwelling house built shall be equipped with a garbage disposal unit of a type, kind and capacity approved by Developer, and once installed, each such unit shall be kept and maintained in good working order so as to be and remain environmentally acceptable.

Section 6.07. 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 5.08. 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 and other growths to be reasonably cut and shall prevent the accumulation of rubbish and debris thereon.

Section 5.09. Owners' 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 VI, or as otherwise required by this Declaration, the Owners' 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, if any, conform to the requirements of this Article VI, or as otherwise set forth in this Declaration. The out-of-pocket costs incurred by the Owners' 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 attorneys fees, all without relief from valuation and appraisal laws, as if constituting an unpaid general assessment levied under Article IV of this Declaration. Neither the Owners' Association nor any of its agents, employees or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

ARTICLE VII

Easements

Section 7.01. Easements: The strips of ground shown on the survey of lots attached hereto and designated Drainage and Utility Easements ("DE" or "UE"), or Lake Maintenance Easement ("LME") 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:

"Lake Maintenance Easements" (L.M.E.) are created to provide access to the wet detention areas in the subdivision.

"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.

The Owners shall take title to the Lots subject to the foregoing easement 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 7.02. Drainage Retention Basing: Wet retention areas encompass parts of Lots. The owners of

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these Lots are specifically prohibited from changing the contour or in any way changing or modifying the retention areas so to lessen their effectiveness or make them unworkable. Specifically, no docks, piers or structures of any type shall be constructed or placed on or in the wet retention areas.

ARTICLE VIII

General

Section 8.01. 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 8.02. 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 Owners from time to time of Lots and all parties claiming under them, the Owners' Association, the Boone County Area or Zionsville Plan Commission, 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 8.03. 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 8.04. 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 thereby 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 8.05. 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 persons or damage to or the destruction of property occurring on or about each such Owner's Lot.

Section 8.06. 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 or assigns.

Section 8.07. 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

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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 or any ten (10) year period they are amended or changed.

Section 8.08. 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 Boone County, Indiana.

Section 8.09. Waiver of Remonstrance Against Annexation: Each and every owner of Lots in the subdivision shall, by virtue of his or her ownership, automatically waive remonstrance against annexation of the subdivision under I.C. 36-4-3-11 and I.C. 36-9-22-2 by the Town of Zionsville.

Section 8.10. Lots 48 and 49 Tree Preservation: In order to have the maximum preservation of trees and screening between owners of adjacent land and lots numbered 48 and 49 in the Oak Ridge Subdivision, no tree removal shall occur until said trees are marked and approved by Developer and George T. and Eulala F. Russell.

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IN WITNESS WHEREOF, the undersigned have caused this Declaration of Covenants, Conditions and Restrictions to be executed on the day and in the year first above written.

Robert P. Carter  
ROBERT P. CARTER

Sylvia J. Carter  
SYLVIA J. CARTER

STATE OF INDIANA )  
COUNTY OF BOONE ) SS:

Before me, a Notary Public in and for said County and State, personally appeared Robert P. Carter and Sylvia J. Carter, who after having been duly sworn, acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions.

Witness my hand and notarial seal this 4th day of November, 1991.

Paula Jayne Bickey  
Notary Public Paula Jayne Bickey

My Commission Expires: 5/6/92

County of Residence: Boone

James D. Arthur, Jr.  
JAMES D. ARTHUR, JR.

Altwain L. Arthur  
ALTWAIN L. ARTHUR

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STATE OF INDIANA )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public in and for said County and State, personally appeared James D. Arthur, Jr. and Altvain L. Arthur, who after having been duly sworn, acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions.

Witness my hand and notarial seal this 2 day of

Apr., 1991.

*[Signature]*  
Notary Public



My Commission Expires:

May 19 - 1995

County of Residence:

Lebanon

BOOK 124 PAGE 577

This instrument prepared by Michael J. Andreoli, DONALDSON, ANDREOLI & TRUITT, 129 North Meridian Street, Lebanon, Indiana 46052.

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LEGAL DESCRIPTION

PARCEL A

Part of the Northeast Quarter of the Southeast Quarter of Section 27, and part of the South Half of Section 26, both in Township 18 North, Range 2 East, in Eagle Township, Boone County, Indiana, described as follows: Beginning at a point of the North line of the Northeast Quarter of the Southeast Quarter of said Section 27 being North 88 degrees 56 minutes 44 seconds East (assumed bearing) 606.67 feet - measured (606.00 feet - deed) from the Northwest corner thereof; thence North 88 degrees 56 minutes 44 seconds East along said North line 707.99 feet - measured (708.29 feet - deed) to the Northeast corner of the Northeast Quarter of the Southeast Quarter of said Section 27; thence North 89 degrees 02 minutes 26 seconds East (North 89 degrees 00 minutes 01 second East - deed) along the North line of the Southwest Quarter of said Section 26, a distance of 120.00 feet (deed - measured); thence South 00 degrees 21 minutes 49 seconds East (South 01 degree 02 minutes 57 seconds East - deed) parallel with the West line of the Southwest Quarter of said Section 26, a distance of 427.00 feet (deed - measured); thence North 89 degrees 02 minutes 26 seconds East (North 89 degrees 00 minutes 01 second East - deed) parallel with said North line 1239.41 feet - measured (1224.47 feet - deed) to the West line of the East Half of the Southwest Quarter of said Section 26; thence South 00 degrees 04 minutes 20 seconds West (South 00 degrees 47 minutes 25 seconds East - deed) along said West line 890.25 feet - measured (895.92 feet - deed) to the Northwest corner of the Southeast Quarter of the Southwest Quarter of said Section 26; thence North 89 degrees 05 minutes 03 seconds East (North 89 degrees 00 minutes 18 seconds East - deed) 1352.62 feet - measured (1340.28 feet - deed) to the Northeast corner of said Quarter-Quarter Section; thence North 89 degrees 05 minutes 03 seconds East (89 degrees 04 minutes 15 seconds East - deed) along the North line of the Southwest Quarter of the Southeast Quarter of said Section 26 as distance of 1339.09 feet (1343.22 feet - deed) to the Northeast corner thereof; thence South 00 degrees 21 minutes 16 seconds West (00 degrees 08 minutes 26 seconds East - deed) along the East line of the Southwest Quarter of the Southeast Quarter of said Section 26 a distance of 777.73 feet deed - measured (801.57 feet - earlier deed); thence South 87 degrees 37 minutes 58 seconds West (South 87 degrees 41 minutes 28 seconds West - deed) 708.67 feet - measured (711.72 feet - deed) to the centerline of Turkey Foot Road; thence North 78 degrees 50 minutes 04 seconds West (North 78 degrees 46 minutes 35 seconds West) 540.13 feet - measured (571.57 feet - deed); thence South 00 degrees 00 minutes 58 seconds West (South 00 degrees 04 minutes 04 seconds West) 126.50 feet deed - measured; thence South 87 degrees 37 minutes 58 seconds West (South 87 degrees 41 minutes 28 seconds West - deed) 1172.70 feet - measured (1172.08 feet - deed) to a point on the Northeast line of an abandoned railroad right-of-way; thence (the next 6 courses along said right-of-way line as best re-established from original deed) North 45 degrees 23 minutes 36 seconds West (North 48 degrees 10 minutes 37 seconds West - deed) 389.86 feet - measured (355.24 feet - deed); thence North 52 degrees 54 minutes 59 seconds West (North 51 degrees 58 minutes 37 seconds West - deed) 492.26 feet - measured (522.89 feet - deed); thence North 58 degrees 39 minutes 59 seconds West (North 57 degrees 43 minutes 37 seconds West - deed) 221.10 feet deed - measured; thence

CONTINUED . . . . .  
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EXHIBIT "A"

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North 61 degrees 24 minutes 59 seconds West (North 60 degrees 28 minutes 37 seconds West - dead) 414.50 feet - dead measured; thence North 69 degrees 09 minutes 59 seconds West (North 68 degrees 13 minutes 37 seconds West - dead) 272.60 feet - dead measured; thence North 69 degrees 54 minutes 59 seconds West (North 69 degrees 57 minutes 37 seconds West - dead) 907.45 feet - measured (906.55 feet - dead); thence leaving said right-of-way, North 01 degree 04 minutes 13 seconds West (North 01 degree 08 minutes 37 seconds West - dead) 823.45 measured (823.30 feet - dead) to the Point of Beginning and containing 96.343 acres, more or less.

EXCEPT: Part of the South Half of Section 26, Township 18 North, Range 2 East in Boone County, Indiana, more particularly described as follows: Beginning at the Northeast corner of the Southeast Quarter of the Southwest Quarter of said Section 26; thence North 89 degrees 05 minutes 05 seconds East (North 89 degrees 04 minutes 15 seconds East - dead) 271.26 feet measured (280.50 feet - dead) along the North line of said Southwest Quarter of the Southeast Quarter of said Section 26 to the centerline of Turkey Foot Road; thence the following two courses along said centerline: 1) South 21 degrees 03 minutes 35 seconds East (South 21 degrees 49 minutes 44 seconds East - dead) 85.84 feet measured (84.48 feet - dead); 2) South 25 degrees 09 minutes 04 seconds East (South 25 degrees 55 minutes 13 seconds East - dead) 90.67 feet dead - measured; thence South 79 degrees 56 minutes 41 seconds West (South 79 degrees 10 minutes 32 seconds West - dead) 255.12 feet dead - measured; thence South 72 degrees 56 minutes 42 seconds West (South 72 degrees 10 minutes 33 seconds West - dead) 115.35 feet dead and measured; thence North 57 degrees 45 minutes 18 seconds West (North 58 degrees 31 minutes 27 seconds West - dead) 91.64 feet dead and measured; thence South 87 degrees 08 minutes 04 seconds West (South 86 degrees 21 minutes 55 seconds West - dead) 80.00 feet dead - measured; thence North 02 degrees 51 minutes 56 seconds West (North 03 degrees 38 minutes 05 seconds West - dead) 188.57 feet - measured (192.89 feet - dead) to the North line of the Southeast Quarter of said Southwest Quarter of Section 26; thence North 89 degrees 05 minutes 03 seconds East (North 89 degrees 00 minutes 18 seconds East - dead) along said North line 187.74 feet - measured (179.15 feet - dead) to the Point of Beginning containing 2.218 acres, more or less.

PARCEL B

Part of the Northeast Quarter of the Southeast Quarter of Section 27, Township 18 North, Range 2 East in Eagle Township, Boone County, Indiana and being more particularly described as follows: Beginning at the Northwest corner of said Quarter-Quarter Section; thence North 88 degrees 56 minutes 44 seconds East along the North line of said Quarter-Quarter Section 606.67 feet - measured (606.00 feet - dead); thence South 01 degree 04 minutes 13 seconds East (South 01 degree 08 minutes 37 seconds East - dead) 100.00 feet - dead measured; thence South 88 degrees 56 minutes 44 seconds West 608.51 feet - measured (606.57 feet - dead) to the West line of said Quarter-Quarter Section; thence North 00 degrees 00 minutes 56 seconds West (North 00 degrees 03 minutes 52 seconds West - dead) along said West line 100.02 feet, dead and measured to the Point of Beginning, containing 1.395 acres, more or less.

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