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HENDRICKS COUNTY RECORDER

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

OF

SARATOGA WOODLANDS



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DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

OF

SARATOGA WOODLANDS

THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS OF SARATOGA WOODLANDS (the "Declaration"), is made this 1st day of August, 1995, by SARATOGA ASSOCIATES, LLC, an Indiana limited liability company (hereinafter referred to as "Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of the real estate in Hendricks County, Indiana, which is more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "Real Estate"). The deed conveying the Real Estate to Declarant was recorded in Book 339, page 755, as Instrument No. 2511 in the office of the Recorder of Hendricks County, Indiana;

WHEREAS, Declarant desires and intends to subdivide the Real Estate into residential lots in order to create a residential community to be known as "Saratoga Woodlands";

WHEREAS, before so subdividing the Real Estate, Declarant desires to subject the Real Estate to certain easements, covenants, restrictions, reserved rights, assessments, charges and liens as provided herein for the benefit of the Real Estate and each owner of all or any part thereof;

WHEREAS, Declarant further desires to create an organization to own the Common Areas (hereinafter defined), to provide for the improvement, maintenance, repair and replacement of the Common Areas and certain easements created herein and the facilities located therein or thereon, to administer and enforce the covenants and restrictions contained in this Declaration, to collect and disburse the assessments and charges imposed and created hereby, and generally to promote the welfare and interests of the owners of all or any part of the Real Estate;

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the State of Indiana a nonprofit corporation under the name "Saratoga Woodlands Owners Association, Inc.," or a similar name, for the purpose of exercising the foregoing functions; and

WHEREAS, Declarant may from time to time subject additional real estate to the provisions of this Declaration as provided herein;

NOW, THEREFORE, Declarant hereby declares that the Real Estate, and any additional real estate as may by subsequent amendment be subjected to this Declaration as provided herein, shall be held, sold and conveyed subject to the following easements, covenants and restrictions which shall run with the land and shall be binding

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on, and inure to the benefit of, all persons or entities now or hereafter having any right, title, or interest in the Real Estate or any part thereof, and their heirs, successors and assigns. Declarant hereby reserves the right and privilege to subject Additional Land (as hereinafter defined) to the terms and provisions of this Declaration by recording with the Recorder of Hendricks County, Indiana, an amendment or supplement to this Declaration making reference to the terms and provisions hereof and stating that such Additional Land is subject to the provisions hereof. Such amendment or supplement shall not require the vote or approval of any Owners (as hereinafter defined). Any such Additional Land, from and after being so subjected to the provisions of this Declaration, shall be deemed a part of the Real Estate for all purposes of this Declaration. Declarant further reserves certain other rights as more specifically set forth herein.

ARTICLE I

DEFINITIONS

Section 1.1. Access Easement. "Access Easement" means that area designated on any Plat as an Access Easement, either separately or in combination with any other easement designated on such Plat.

Section 1.2. Additional Land. "Additional Land" means any real estate now owned or hereafter acquired by Declarant and located adjacent to the Real Estate as described in Exhibit A or as augmented by any additional real estate subjected to the provisions of this Declaration as provided above, which real estate is subject to Declarant's unilateral right reserved above to subject the same to the provisions of this Declaration.

Section 1.3. Applicable Date. "Applicable Date" means the date determined pursuant to Section 3.3 of this Declaration.

Section 1.4. Association. "Association" means Saratoga Woodlands Owners Association, Inc., or an organization of similar name, formed, or to be formed, as an Indiana nonprofit corporation, its successors and assigns.

Section 1.5. Board of Directors. "Board of Directors" means the board of directors of the Association.

Section 1.6. Committee. "Committee" means the Architectural Control Committee established pursuant to Section 4.1 of this Declaration.

Section 1.7. Common Areas. "Common Areas" means all portions of the Real Estate (including improvements thereto) shown on any Plat which are not Lots and which are not dedicated to the public.

Section 1.8. Common Expenses. "Common Expenses" means (i) expenses of administration of the Association, (ii) expenses of and in connection with the improvement, maintenance, repair or replacement of the Common Areas and the performance of any other responsibilities and duties of the Association provided herein, (iii) assessments imposed by the Master Declaration with respect to the Real Estate, (iv) all sums lawfully assessed against the Owners by the Association and (v) all sums declared by this Declaration to be Common Expenses.

Section 1.9. Declarant. "Declarant" means Saratoga Associates, LLC, an Indiana limited liability company, and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including (but not limited to) any mortgagee acquiring title to any portion of the Real Estate pursuant to the exercise of rights under, or foreclosure of, a mortgage executed by Declarant.

Section 1.10. Development Period. "Development Period" means the period of time commencing with the date of recordation of this Declaration and ending on the later of the following: (i) the date Declarant no longer owns any Lot within or upon the Real Estate or (ii) the date which is three (3) years after the date on which all improvements and installations required by Section 5.3 of the Plainfield Subdivision Regulations, as amended, have been completed and, if applicable, accepted for public maintenance by any appropriate governmental unit or agency thereof.

Section 1.11. Entry Sign. "Entry Sign" means any sign or structure identifying Saratoga Woodlands and the landscaping associated therewith installed by Declarant or the Association in any landscape island located in any public right of way within and upon the Real Estate or in a public right of way, a Landscape Easement or Thoroughfare Landscape Easement (as that term is defined in the Master Declaration) within and upon the Real Estate.

Section 1.12. Landscape Easement. "Landscape Easement" means that area designated on any Plat as a Landscape Easement, either separately or in combination with any other easement designated on such Plat.

Section 1.13. Lot. "Lot" means any numbered parcel of land shown and identified as a Lot on any Plat.

Section 1.14. Master Declaration. "Master Declaration" means the Declaration of Easements, Covenants and Restrictions of Saratoga in the Town of Plainfield recorded in Book _____, page _____, as Instrument No. _____ in the office of the Recorder of Hendricks County, Indiana (as the same may be amended or supplemented from time to time). Reference is made to the Master Declaration for a description of the rights, restrictions and obligations associated with the Thoroughfare Landscape Easements, Pathway Easements, Drainage Easements, Utility Easements and Sidewalk Easements identified on any Plat.

Section 1.15. Mortgagee. "Mortgagee" means the holder of a recorded first mortgage lien on any Lot.

Section 1.16. Owner. "Owner" means the record owner, whether one or more persons or entities, of fee-simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation unless specifically indicated to the contrary. The term Owner as used herein shall include Declarant so long as Declarant shall own any Lot.

Section 1.17. Plat. "Plat" means the subdivision plat of the Real Estate (as described in Exhibit A), as hereafter recorded in the Office of the Recorder of Hendricks County, Indiana (as the same may be amended or supplemented from time to time), and any subdivision plat(s) for any Additional Land hereafter subjected to the provisions of this Declaration, which subdivision plats are hereafter recorded in the Office of the Recorder of Hendricks County, Indiana (as the same may be amended or supplemented from time to time).

Section 1.18. Regular Assessments. "Regular Assessments" has the meaning set forth in Section 5.1 of this Declaration.

Section 1.19. Special Assessments. "Special Assessments" has the meaning set forth in Section 5.1 of this Declaration.

ARTICLE II

EASEMENTS AND RESTRICTIONS

Section 2.1. Owners' Easement of Enjoyment of Common Areas. Declarant hereby declares, creates and grants a non-exclusive easement in favor of each Owner for the use and enjoyment of the Common Areas which shall run with and be appurtenant to each Lot, subject to the following:

(i) the right of the Declarant (prior to conveyance of the Common Areas to the Association) to grant nonexclusive easements appurtenant to and for the benefit of all or any part of the real estate subject to the Master Declaration for the use and enjoyment of the Common Areas (or a particularly designated part thereof) by the owners from time to time of such real estate upon and subject to the terms and conditions of such grant, which terms and conditions shall include an obligation to contribute to the cost of the maintenance and repair of such Common Areas (or the particularly designated part which is subject to such easement grant);

(ii) the right of the Declarant (prior to conveyance of the Common Areas to the Association) to grant easements in and to the Common Areas to any political subdivision or governmental authority or public utility company;

(iii) the right of the Association (after conveyance of the Common Areas to the Association by Declarant) to dedicate or transfer all or any part of the Common Areas to any political subdivision or governmental authority or public utility company for such purposes and subject to such conditions as may be set forth in the instrument of dedication or transfer, upon approval of two-thirds (2/3) in the aggregate of both classes of members of the Association;

(iv) any other easements declared, created, granted or reserved elsewhere in this Declaration or in any Plat; and

(v) the terms and provisions of this Declaration.

Neither Declarant nor the Association shall be responsible for any loss, damage or injury to property or injury or death to persons arising out of the use of the Common Areas and any equipment and facilities installed by Declarant or the Association therein or thereon. The Common Areas and all such equipment and facilities shall be used at the sole risk of the user.

Section 2.2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws and any reasonable rules and regulations promulgated from time to time by the Board of Directors, his right of enjoyment of the Common Areas to his family members or tenants who reside on the Lot or to any guests when accompanied by such Owner, family member or tenant.

Section 2.3. Conveyance of Common Areas. Prior to the conveyance of the last Lot by Declarant, Declarant shall convey all of its right, title and interest in and to the Common Areas to the Association by quitclaim deed, and such Common Areas shall then be the property of the Association.

Section 2.4. Easements.

A. Landscape Easements. Declarant hereby declares, creates, grants and reserves the Landscape Easements as nonexclusive easements (i) for access to and the installation or removal of Entry Signs, earth mounds, landscaping, and other landscaping improvements, and (ii) for the use of the Association for access to and the installation, maintenance, repair or replacement of Entry Signs, earth mounds, landscaping, and other landscaping improvements. Except for any Entry Signs, no structures or fences shall be erected or maintained in or upon said Landscape Easements; provided, however, that the Owner of a Lot may install a fence in that portion of a Landscape Easement on such Owner's Lot which is not part of a Drainage Easement, Utility Easement or Sidewalk Easement (as those terms are defined in the Master Declaration) if plans therefor are first approved by the Committee as provided in Section 4.2 of this Declaration.

Each Owner of a Lot subject to a Landscape Easement shall mow, water and otherwise maintain the lawn within any Landscape Easement on such Owner's Lot in good condition and shall at all times keep the same free from litter and the growth of weeds or other unsightly vegetation. In the event an Owner fails to maintain the lawn within the Landscape Easement on such Owner's Lot, the Association shall have the right (but not the obligation) through its agents, employees and contractors to enter upon said Lot and perform such obligations of the Owner, at the Owner's expense. Any costs incurred by the Association shall constitute a special assessment against such Lot and the Owner thereof, to be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general. Neither the Association, nor any of its agents, employees or contractors shall be liable to the Owner for any damage which may result from work performed pursuant to this paragraph A.

B. Access Easement. Declarant hereby declares, creates, grants and reserves the Access Easement as a nonexclusive easement (i) for the use of Declarant during the Development Period for access to and installation or removal of a pedestrian pathway, (ii) for the use of the Association for access to and installation, maintenance, repair or replacement of a pedestrian pathway, and (iii) for the use of all Owners as a pedestrian pathway. No structures, fences or landscaping (except landscaping installed by Declarant or the Association) shall be erected or maintained upon said Access Easement.

C. Declarant's Reserved Rights. Notwithstanding any provisions contained in this Declaration to the contrary, Declarant hereby reserves the nonexclusive right, privilege and easement in, on, over, under and across the entirety of the Real Estate, to tie into and/or otherwise connect to and use (without a tap-on or any other fee for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including (without limitation) cable television service, and drainage lines and facilities constructed or installed in, on, under and/or over all or any portion of the Real Estate.

Section 2.5. Rules and Regulations. The Board of Directors may establish reasonable rules and regulations (not inconsistent with the provisions of this Declaration) concerning the use of the Common Areas and the facilities located thereon and for the enforcement of the provision of this Declaration. Copies of such rules and regulations and amendments thereto shall be furnished by the Association to all Owners prior to the effective date of any such rules and regulations. Such rules and regulations shall be binding upon the Owners, their family members, tenants, guests, invitees and agents until and unless such rules or regulations shall be specifically overruled, cancelled or modified by the Board of Directors or by the Association in a regular or special meeting by the vote of members holding a majority of the total votes of the Association. The Board of Directors shall have the authority to impose reasonable monetary fines and other sanctions for any violation of such rules and regulations, and monetary fines shall be and constitute a special assessment against the Owner against whom it is imposed and his Lot, to be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general.

Section 2.6. Restrictions.

A. **Lot Use.** All Lots shall be used exclusively for residential purposes and for occupancy by a single family. No business building shall be erected on any Lot, and no trade or business of any kind may be conducted on any Lot. Nothing in this paragraph A shall be deemed to preclude an Owner from maintaining an office in his residence for use in connection with the conduct of his business, as long as members of the public are not invited to the office for business purposes, no sign is erected in connection therewith and no employees of the Owner's business use the residence.

B. **Building Size.** The ground floor area of the residence, exclusive of open porches, basements, and garages and other attached accessory buildings, shall not be less than 2000 square feet in the case of a one-story structure, nor less than 1000 square feet in the case of a multiple story structure; provided, no residence of more than one story shall have less than an aggregate of 2000 square feet of finished and livable floor area.

C. **Building Height.** The maximum building height of the residence erected on a Lot shall not exceed 35 feet. The maximum building height of any accessory structure erected on a Lot shall not exceed 20 feet. The building height of the residence or accessory structure for purposes of the foregoing restriction shall be the vertical distance measured from the highest point of the proposed finished grade at the perimeter of the residence or accessory structure (as the case may be) to the highest point of the roof of the residence or accessory structure (as the case may be).

D. **Building Placement.** Building setback lines are established on the Plat(s) of the Real Estate. No building shall be erected or maintained between the established setback lines and the Lot lines of said Lot. No building shall be erected closer to the side of any Lot than 8 feet, with an aggregate side yard requirement of 18 feet; provided, however, that corner Lots (i.e., Lots 1, 32, 10, 27, 13, 23 and 24) may have a minimum side yard of 6 feet for the non-street frontage side yard. In the event a building is erected on more than one Lot, this restriction shall apply to the side lines of the extreme boundary of the multiple Lots.

E. **Mailboxes.** The Committee will designate a standard mailbox and post design for all Lots. Each Owner of a Lot shall cause such standard mailbox and post to be installed and maintained at such Owner's expense.

F. **Driveway Lighting.** The Committee will designate a standard driveway light fixture for all Lots and may designate a standard location for such driveway light fixtures. Each Owner of a Lot shall cause such standard driveway light fixture to be installed and maintained at such Owner's expense. Driveway light fixtures shall be on and illuminated from dusk to dawn, unless the Association shall provide otherwise by rule or regulation.

G. Driveways. All driveways shall be hard-surfaced from the point of connection with the abutting street to the point of connection with the garage apron and shall be totally completed prior to occupancy of the residence.

H. Windows. All residences shall have windows on each side of such residence unless the Committee grants a special exception based on architectural features or landscaping along such side of the residence.

I. Swimming Pools. No above-ground swimming pools shall be permitted on any Lot.

J. Garages and Accessory Structures. All residences shall have an attached garage which will accommodate at least two (2) automobiles. No structure shall be erected, placed or permitted to remain upon any Lot, except a single family residence and such structures and facilities (other than detached storage structures) as are usual and customary accessory structures to a single family residence. No detached storage structure (i.e., minibarns and similar structures) shall be erected or placed on any Lot. No accessory structure shall be constructed or installed on any Lot except in accordance with plans therefor approved by the Committee as provided in Section 4.2 of this Declaration.

K. Exterior Materials. The colors of exterior building materials used on the buildings on a Lot may be limited by the Committee to a certain color range or palette. Loud or garish colors of brick, trim, siding or roofing are prohibited.

L. Diligence in Construction. Every building whose construction or placement on any Lot is begun shall be completed within twelve (12) months after the beginning of such construction or placement. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than forty-five (45) days from the time of such destruction or damage.

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

(i) Mow and water the grass on the Lot and on any portion of the public right of way adjacent to the Lot (i.e., that portion of the public right of way between the curb and the Lot line) and provide fertilizer and weed control at such times as may be reasonably required in order to prevent the growth of weeds or other unsightly vegetation.

(ii) Remove all debris or rubbish from the Lot.

(iii) Cut down and remove dead or diseased trees from the Lot.

(iv) Keep the exterior of all improvements on the Lot in good repair and condition.

(v) Prevent the existence of any other condition on the Lot that reasonably tends to detract from or diminish the aesthetic appearance of the Real Estate.

In addition, the Owner shall maintain trees planted in the public right of way adjacent to such Owner's Lot or in any Landscape Easements on such Owner's Lot and replace the same if they die or become diseased. The foregoing maintenance responsibilities shall not apply to any trees or other landscaping within the public right of way for Saratoga Parkway or Fairfield Road (which is the Connector Road referred to in the Master Declaration) or within a Thoroughfare Landscape Easement (as that term is defined in the Master Declaration), the maintenance of which shall be the responsibility of the Association established pursuant to the Master Declaration.

In the event the Owner of any Lot fails to so perform his maintenance obligations pursuant to this paragraph M in a manner satisfactory to the Association, the Association shall have the right (but not the obligation), through its agents, employees and contractors, to perform such obligations at the Owner's expense. Any costs incurred by the Association shall constitute a special assessment against such Lot and the Owner thereof, to be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general. Neither the Association nor any of its agents, employees or contractors shall be liable to the Owner for any damage which may result from any work performed pursuant to this paragraph M.

N. Nuisances. No noxious or offensive activities shall be carried on on any Lot; nor shall anything be done on any Lot that shall become or be an unreasonable annoyance or nuisance to the Owner of any other Lot. Any violation of this paragraph constitutes a nuisance which may be abated by the Association in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorneys' fees, shall constitute a special assessment against such Lot and the Owner thereof, to be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general. Neither the Association nor any of its agents, employees or contractors shall be liable to the Owner for any damage which may result from any work performed hereunder.

O. Occupancy of Partially Completed Residence Prohibited. No residence constructed on any Lot shall be occupied or used for residential purposes until it shall have been substantially completed. The determination of whether the residence shall have been substantially completed shall be made by the Committee, and such decision shall be binding on all parties.

P. General Prohibitions. In addition to any restrictions or limitations contained elsewhere in this Declaration, the following limitations, restrictions and prohibitions shall apply to the use and occupancy of the Real Estate:

(i) **Signs.** No signs or advertisements shall be displayed or placed on any Lot without the prior written approval of the Committee, other than signs provided by Declarant or the Association and/or one sign of not more than six (6) square feet for the purpose of advertising the Lot and/or residence thereon for sale.

(ii) **Decorative Lawn Ornaments.** Decorative lawn ornaments shall not be placed in the front or side yards of any Lot.

(iii) **Pets.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that normal household pets may be kept in reasonable numbers subject to rules and regulations established by the Board of Directors (provided that such pets are not kept, bred, or maintained for any commercial purpose).

(iv) **Vehicle Parking.** No motor homes, campers, boats, trailers, recreational vehicles or similar vehicles shall be parked or stored on any Lot, unless the same are parked in a garage with the door closed. No vehicle shall be repaired or restored on any Lot, except in a garage with the door closed. Inoperable vehicles shall not be allowed to remain on any Lot or street, except only to the extent necessary to enable movement to a proper repair facility. To the extent permitted by applicable laws and ordinances, parking is prohibited at all times within the cul-de-sac loops of any street within and upon the Real Estate, and overnight parking is prohibited on all streets.

(v) **Garbage, Trash and Other Refuse.** No Owner shall burn garbage or other refuse on his Lot, nor shall any such Owner accumulate out-of-doors any such refuse on his Lot. Rubbish, garbage or other waste shall at all times be kept in sanitary containers.

(vi) **Outside Storage.** Except for construction materials and equipment used by the builder during the construction of the residence on the Lot, all construction materials and equipment, lawn equipment and similar items shall be stored at all times when not in use in enclosed storage areas or accessory buildings.

(vii) **Temporary Structures.** No trailers or temporary storage sheds shall be erected or situated on any Lot, except that used by the builder during the construction of the residence on the Lot.

(viii) **Satellite Dishes and Outside Speakers.** No satellite dishes or outside speakers shall be installed or permitted on any Lot, except satellite dishes eighteen (18) inches or less in diameter which may be installed only at locations approved by the Committee.

(ix) Antennas and Solar Heat Panels. Except as approved by the Committee as provided in Section 4.2, no exposed antennas or solar heat panels shall be installed or permitted on any Lot.

(x) Awnings. No metal, fiberglass or similar type material awnings or patio covers shall be permitted on any Lot.

(xi) Fences. No fences shall be installed in front of the front corner of the residence that is furthest back from the street. No fences shall be installed on any Lot abutting Saratoga Parkway or Fairfield Road closer than thirty (30) feet to the right of way line for Saratoga Parkway or Fairfield Road. Any fences not prohibited by the foregoing provisions of this subparagraph (xi) shall be installed only with the prior written approval of the Committee as provided in Section 4.2.

(xii) Lot Access. All Lots shall be accessed from the interior street areas of the subdivision. No Lot access is permitted from Saratoga Parkway or Fairfield Road.

(xiii) Tree Preservation. No trees, other than dead or diseased trees, shall be removed from any Lot without the prior written approval of the Committee as provided in Section 4.2.

Q. Prohibition Against Granting Other Easements. Without the prior written approval of the Committee, an Owner shall not grant any easements to any third party, including public utility companies, political subdivisions or governmental authorities, for the purposes of providing water, sanitary sewer or stormwater drainage for a property other than such Owner's Lot; provided nothing in this paragraph Q shall be deemed to restrict or otherwise limit Declarant's rights under Section 2.4C of this Declaration.

Section 2.7. Street Lighting. Declarant or the Town of Plainfield, Indiana, may (but shall not be obligated to) provide street lighting for any streets located within the Real Estate in connection with the initial development of the Real Estate. If Declarant or the Town of Plainfield provides such street lighting, any additional street lighting desired by the Owners shall be installed by the Association at its cost, which cost shall be paid by the Association as a Common Expense.

ARTICLE III

ASSOCIATION

Section 3.1. Membership. Each Owner shall, automatically upon becoming an Owner, be and become a member of the Association and shall remain a member of the Association until such time as his ownership of a Lot ceases, at which time his

membership will terminate and the new Owner of his Lot shall be and become a member of the Association.

Section 3.2. Classes of Membership. The Association shall have two (2) classes of membership, as follows:

(i) **Class A Members.** Class A members shall be all Owners other than Declarant (unless the Class B membership has been converted to Class A membership as provided in the following paragraph (ii), in which event Declarant shall then be a Class A member).

(ii) **Class B Members.** The Class B member shall be the Declarant. The Class B membership shall cease and terminate and be converted to Class A membership upon the "Applicable Date" (as such term is hereinafter defined in Section 3.3):

Section 3.3. Voting Rights. Each class of membership of the Association shall have the respective voting rights set forth in this Section 3.3.

(i) As used herein, the term "Applicable Date" shall mean the date which is the earlier of (a) the date on which the written resignation of Declarant as a Class B member is delivered to the Secretary of the Association or (b) the date Declarant no longer owns any Lot.

(ii) Except for matters which this Declaration expressly provides shall be approved by both classes of members of the Association and until the Applicable Date, the Class B membership shall exercise all voting rights with respect to any matter submitted to a vote of the members of the Association and shall have one (1) vote for each Lot of which Declarant is the Owner.

(iii) From and after the Applicable Date and for each matter which this Declaration expressly provides shall be approved by both classes of members of the Association, each Class A member shall be entitled to one (1) vote for each Lot of which such member is the Owner. Where more than one person or entity constitutes the Owner of a particular Lot, all such persons or entities shall be members of the Association, but the vote in respect of such Lot shall be exercised as the persons or entities holding an interest in such Lot determine among themselves, but in no event shall more than one (1) vote be cast with respect to such Lot. Until the Applicable Date, except for each matter which this Declaration expressly provides shall be approved by both classes of members of the Association, the Class A membership shall have no votes with respect to any matter submitted to a vote of the members of the Association.

Section 3.4. Board of Directors. The Board of Directors shall manage the affairs of the Association.

Section 3.5. Professional Management. No contract or agreement for professional management of the Association, nor any other contract between Declarant 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, without any termination fee, on written notice of ninety (90) days or less.

Section 3.6. Responsibilities of the Association. The responsibilities of the Association include, but shall not be limited to:

(i) The administration and enforcement of the covenants and restrictions contained in this Declaration.

(ii) The maintenance and upkeep of the Common Areas (including the landscape islands located in any public right of way within and upon the Real Estate), the Entry Signs and, except to the extent the same is the responsibility of an Owner pursuant to the terms of this Declaration, the Landscape Easements.

(iii) Procuring and maintaining for the benefit of the Association, its Board of Directors and the Owners the insurance coverages required by this Declaration and such other insurance as the Association deems necessary or advisable.

(iv) Payment of taxes, if any, assessed against and payable with respect to the Common Areas.

(v) Assessment and collection from the Owners of the Common Expenses and collection of expenses of the maintenance and repair of the Common Areas (or a particularly designated part thereof) from the owners of any other real estate granted the right to use the Common Areas (or part thereof) by Declarant as provided in Section 2.1.

(vi) Contracting for such services as management, snow removal, security control, trash removal or other services as the Association deems necessary or advisable. Nothing contained herein shall be construed to require the Association to provide snow removal or other services.

(vii) From time to time, adopting, amending or rescinding such reasonable rules and regulations (not inconsistent with the provisions of this Declaration) governing the use and enjoyment of the Common Areas and the management and administration of the Association, as the Association deems necessary or advisable, and enforcement of the same. As part of such rules and regulations, the Association may provide for reasonable

interest and late charges on past due installments of any assessments or other charges against any Lot. Copies of such rules and regulations shall be furnished by the Association to the Owners prior to the time when the same shall become effective.

Section 3.7. Compensation. No director of the Association shall receive compensation for his services as such director.

Section 3.8. Non-Liability of Directors and Officers. Neither the directors or officers of the Association nor any members of the Committee shall be liable to the Owners or any other persons for any error or mistake of judgment in carrying out their duties and responsibilities as said directors, officers or Committee members, except for their own individual willful misconduct or gross negligence.

ARTICLE IV

ARCHITECTURAL CONTROL COMMITTEE

Section 4.1. Creation. There shall be, and hereby is, created and established the Architectural Control Committee to perform the functions provided for herein. Until the Applicable Date, the Committee shall consist of three (3) members appointed, from time to time, by Declarant and who shall be subject to removal by Declarant at any time with or without cause. After the Applicable Date, the Committee shall be a standing committee of the Association, consisting of three (3) persons appointed, from time to time, by the Board of Directors of the Association.

Section 4.2. Purposes and Powers of Committee. The Committee shall regulate the exterior design, appearance and location of residences, buildings, structures or other improvements placed on any Lot and the installation and removal of fences, walls and landscaping on any Lot in such a manner as to preserve and enhance the value and desirability of the Real Estate for the benefit of each Owner, to maintain a harmonious relationship among structures and to provide for the proper functioning of the storm drainage system for the Real Estate. The Committee shall have the right to promulgate, modify and amend at any time and from time to time reasonable rules and regulations for the submission of matters to the Committee for approval. The rules and regulations in effect from time to time shall be available upon request to all Owners and builders who seek to engage in construction upon all or any portion of the Real Estate. Such rules and regulations may set forth additional requirements to those set forth in this Declaration, as long as the same are not inconsistent with this Declaration, and shall be binding on all Owners of any Lot.

(i) **In General.** No residence, building, structure, fence, wall, patio, or other improvement of any type or kind ("improvements") shall be erected, constructed, placed, modified or altered on any Lot and no clearing, excavation, grading or other site work shall take place on any Lot

until plans therefor have been approved in writing by the Committee. Such approval shall include approval of the exterior design and exterior colors and materials. No change shall be made in the exterior colors or materials of any improvement located on a Lot without the prior written approval of the Committee, unless such colors are specifically set forth on the approved list of colors published from time to time by the Committee. Approval of fences or walls may be conditioned upon installation of additional landscaping in order to screen such fence or wall from the view of adjoining property and the set back of such fence from the Lot line. Approval of the Committee shall be obtained only after written application has been made to the Committee by the Owner of the Lot requesting such approval. Such written application shall be in the manner and form prescribed from time to time by the Committee and, in the case of new construction or the modification or alteration of existing improvements, shall be accompanied by two (2) complete sets of plans for any such proposed construction, modification or alteration. Such plans shall include (a) site plans showing the location of all improvements existing upon the Lot and the location of the improvement(s) proposed to be constructed or placed upon the Lot, including any sidewalk required to be installed by the Owner pursuant to the Master Declaration, each properly and clearly designated, (b) exterior elevations of all buildings proposed to be constructed upon such Lot, (c) a finish schedule for all exterior surfaces to be constructed (with samples), (d) with respect to the initial construction on the Lot, a grading and drainage plan for the Lot, and (e) a landscaping plan, and, if applicable, a tree removal plan showing existing trees which will be required to be removed in connection with the proposed construction, together with any other information that the Committee may request.

(ii) Power of Disapproval. The Committee may refuse to grant approvals required under this Article or elsewhere in this Declaration when:

(a) The plans or other information submitted are inadequate or incomplete or show the proposed improvement to be in violation of any provision of this Declaration;

(b) the exterior design (including the roof pitch) of the proposed improvement is not, in the opinion of the Committee, consistent with adjacent improvements or consistent with the general development of the Real Estate as a development of residences having traditional design features;

(c) the exterior finishes are not, in the opinion of the Committee, compatible with finishes on adjacent improvements or appropriate for a development of the type contemplated on the Real Estate or the color range of such finishes is not

consistent with the range or palette established by the Committee for the development;

(d) the grading and drainage plan is not, in the opinion of the Committee, compatible with the general storm water drainage plan for the Real Estate;

(e) the landscaping is not, in the opinion of the Committee, appropriate or sufficient; or

(f) the proposed construction, modification or alteration or the proposed tree removal would, in the opinion of the Committee, be contrary to the interests of any other Owner or inconsistent with the preservation and enhancement of the value of the Real Estate.

Section 4.3. Duties of Committee. The Committee shall approve or disapprove any matters submitted to it for approval within fifteen (15) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall specify the reason or reasons for such disapproval.

Section 4.4. Liability of Committee. The Committee or any member thereof or the Declarant, the Association or any officer, director, agent or employee of any of the foregoing shall not be liable in any way for (i) any defects in any plans, specifications or other materials submitted to it, (ii) any defects in any work done according thereto or (iii) any damages arising out of or in connection with the approval or disapproval of any matter by the Committee.

Section 4.5. Inspection. The Committee may inspect work being performed to assure compliance with this Declaration and the materials submitted to it pursuant to this Article IV.

Section 4.6. Nonapplication to Declarant. Notwithstanding the provisions of this Article IV or any other provisions of this Declaration requiring the approval of the Committee, the Declarant, or any entity related to Declarant, shall not be required to apply for or secure the approval of the Committee in connection with any construction, modification or alteration on the Real Estate by Declarant or any entity related to Declarant.

ARTICLE V

ASSESSMENTS

Section 5.1. Creation of Lien and Personal Obligation. Declarant, for each Lot now or hereafter owned by it, hereby covenants, and each Owner of a Lot 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 (i) regular assessments for Common Expenses ("Regular Assessments") and (ii) special assessments for capital improvements and operating deficits and for special maintenance and repairs ("Special Assessments"). The Regular Assessments may include an amount to be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of any capital improvements which the Association is required to maintain. All such assessments shall be established, shall commence upon such dates and shall be collected as hereinafter provided and shall be due and payable without relief from valuation and appraisal laws. Such assessments, together with interest, costs of collection and reasonable attorneys' fees, shall be a continuing lien upon the Lot against which such assessment is made prior to all other liens except only (i) tax liens on any Lot in favor of any unit of government or special taxing district and (ii) the lien of any first mortgage of record. Each such assessment, together with interest, costs of collection and reasonable attorneys' fees, shall also be the personal obligation of the Owner of the Lot at the time such assessment became due and payable. Where the Owner constitutes more than one person, the liability of such persons shall be joint and several. The personal obligation for delinquent assessments (as distinguished from the lien upon the Lot) shall not pass to such Owner's successors in title unless expressly assumed by them. The Association shall, upon request of a proposed Mortgagee or proposed purchaser having a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of any unpaid assessments or other charges against the Lot. Such statement shall be binding upon the Association as of the date of such statement.

Section 5.2. Regular Assessments. The Board of Directors shall have the right, power and authority, without any vote of the members of the Association, to fix, from time to time, the Regular Assessments against each Lot at any amount not in excess of the maximum Regular Assessment hereinafter provided:

(i) Until December 31, 1995, the maximum Regular Assessment for a calendar year on any Lot shall not exceed One Hundred Twenty-Five Dollars (\$125.00).

(ii) From and after January 1, 1996, the maximum Regular Assessment on a Lot for any calendar year may be increased by not more than ten percent (10%) above the Regular Assessment for the previous calendar year, except as provided in the following subparagraph (iii).

(iii) From and after the Applicable Date, the Board of Directors may fix the Regular Assessment at an amount in excess of the maximum amount specified in subparagraph (ii) above with the approval of a majority of the members of the Association who are voting in person or by proxy at a meeting of the members of the Association duly called for such purpose.

Section 5.3. Special Assessments. The Board of Directors may make Special Assessments against each Lot for the purpose of defraying, in whole or in part, the cost of constructing, reconstructing, repairing or replacing any capital improvement which the Association is required to maintain or the cost of special maintenance and repairs or to recover any operating deficits which the Association may from time to time incur after the Applicable Date only with the approval of a majority in the aggregate of both classes of members of the Association who are voting in person or by proxy at a meeting of the members of the Association duly called for such purpose.

Section 5.4. Uniform Rate of Assessment. The Regular Assessments and Special Assessments levied by the Association shall be uniform for all Lots.

Section 5.5. Date of Commencement of Regular Assessments; Due Dates. The Regular Assessments shall commence for each Lot on the first day of the first calendar month following the conveyance of such Lot by Declarant; provided, however, that Declarant may in its sole and absolute discretion delay the starting date for Regular Assessments for any Lot for as long as Declarant deems appropriate, but Regular Assessments shall in all events be payable commencing on the first day of the first calendar month following the date the Lot is occupied for residential purposes. Such first annual Regular Assessment for such Lot shall be prorated based on the number of calendar months then remaining in the annual assessment period. Until the Applicable Date, and notwithstanding anything else contained herein, no Regular Assessments or Special Assessments shall be owed or payable by Declarant with respect to any Lot or shall become a lien on any Lot while such Lot is owned by Declarant, but Declarant shall be obligated to pay any operating deficits the Association may incur prior to the Applicable Date. The Board of Directors of the Association shall fix the amount of the Regular Assessment at least thirty (30) days in advance of the annual assessment period. Written notice of the Regular Assessment, any Special Assessments, and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to each Owner subject thereto. All assessments shall be due and payable in such manner and on such schedule as the Board of Directors may provide. The Board of Directors may provide for reasonable interest and late charges on past due assessments.

Section 5.6. Failure of Owner to Pay Assessments.

(i) If any Owner shall fail to pay any assessment (or periodic installment of an assessment, if applicable) when due, the lien for such assessment on the Owner's Lot may be foreclosed by the Board of Directors for and on behalf of the Association as a mortgage on real property or as otherwise provided by law. Upon the failure of an Owner to

pay any assessment (or a periodic installment of an assessment, if applicable) when due, the Board of Directors may in its discretion accelerate the entire balance of any unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. The Board of Directors may, at its option, bring a suit to recover a money judgment for any unpaid assessment without foreclosing or waiving the lien securing the same.

(ii) Notwithstanding anything contained in this Section 5.6 or elsewhere in this Declaration, any sale or transfer of a Lot to a Mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in the manner provided by law with respect to mortgage foreclosures, shall extinguish the lien of any unpaid assessments (or periodic installments, if applicable) which became due prior to such sale, transfer or conveyance; provided, however, that the extinguishment of such lien shall not relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot or the purchaser at such foreclosure sale, or grantee in the event of conveyance in lieu thereof, from liability for any assessments (or periodic installments of such assessments, if applicable) thereafter becoming due or from the lien therefor. Such unpaid share of any assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense, collectible from all Owners (including the party acquiring the subject Lot from which it arose).

ARTICLE VI

INSURANCE

Section 6.1. Casualty Insurance. The Association shall purchase and maintain fire and extended coverage insurance in an amount equal to the full replacement cost of all improvements, if any, owned by the Association or which the Association is required to maintain hereunder. If the Association can obtain such coverage for a reasonable amount, it shall also obtain "all risk coverage." Such insurance policy shall name the Association as the insured. Such insurance policy or policies shall contain provisions that (i) the insurer waives its rights to subrogation as to any claim against the Association, its Board of Directors, officers, agents and employees, any committee of the Association or of the Board of Directors, and all Owners and their respective agents and guests and (ii) waives any defense based on invalidity arising from the acts of the insured. Insurance proceeds shall be used by the Association for repair or replacement of the property for which the insurance was carried.

Section 6.2. Liability Insurance. The Association shall also purchase and maintain a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any

event with a minimum combined limit of One Million Dollars (\$1,000,000) per occurrence. Such comprehensive public liability insurance shall cover all of the Common Areas and easement areas and shall insure the Association, its Board of Directors, officers, agents and employees, any committee of the Association or of the Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate, all Owners and all other persons entitled to occupy any Lot. Such public liability insurance policy shall include a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners.

Section 6.3. Other Insurance. The Association shall also purchase and maintain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate, including but not limited to officers' and directors' liability insurance.

Section 6.4. Miscellaneous. The premiums for the insurance described above shall be paid by the Association as a Common Expense.

ARTICLE VII

DAMAGE TO COMMON AREAS

In the event of damage to or destruction of any part of the Common Areas, the Association shall repair or replace the same from the insurance proceeds available. If such insurance proceeds are insufficient to cover the costs of repair or replacement of the property damaged or destroyed, the Association may make a Special Assessment to cover the additional cost of repair or replacement not covered by the insurance proceeds. Notwithstanding any obligation or duty of the Association hereunder to repair or maintain the Common Areas or any easement area or improvements, equipment or facilities located therein or thereon installed by Declarant or the Association, if, due to the willful, intentional or negligent acts or omissions of an Owner or of a member of his family or of a guest, tenant, invitee or other occupant or visitor of such Owner, damage shall be caused to the Common Areas (or such easement areas) or if maintenance, repairs or replacements shall be required thereby which would otherwise be a Common Expense, then such Owner shall pay for such damage and such maintenance, repairs and replacements, as may be determined by the Association, unless such loss is covered by the Association's insurance. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and constitute a special assessment against such Owner and his Lot to be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general.

ARTICLE VIII

MORTGAGES

Section 8.1. Notice to Association. Any Mortgagee who places a first mortgage lien upon a Lot may notify the Secretary of the Association of the existence of such mortgage and provide the name and address of such Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary of the Association and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, as herein provided, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required, and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

Section 8.2. Notice to Mortgagees. The Association, upon request, shall provide to any Mortgagee a written certificate specifying unpaid assessments and any other defaults of the Owner of such Lot under this Declaration or any other applicable documents known to the Association.

ARTICLE IX

AMENDMENT

Section 9.1. By the Association. Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

(i) **Notice.** Notice of the subject matter of any proposed amendment shall be included in the notice of the meeting at which the proposed amendment is to be considered.

(ii) **Resolution.** A resolution to adopt a proposed amendment may be proposed by the Board of Directors or Owners having in the aggregate at least a majority of the votes of all Owners.

(iii) **Meeting.** The resolution concerning a proposed amendment must be adopted by the designated vote at a meeting of the members of the Association duly called and held in accordance with the provisions of the By-Laws.

(iv) Adoption. Any proposed amendment to this Declaration must be approved by a vote of not less than two-thirds (2/3) in the aggregate of both classes of members of the Association; provided, however, that any such amendment shall require the prior written approval of Declarant so long as Declarant owns any Lots within and upon the Real Estate. In the event any Lot is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors of the Association in accordance with the provisions of the foregoing Section 8.1.

(v) Amendments of a Material Nature. No amendment to this Declaration shall be adopted pursuant to this Section 9.1 which constitutes an Amendment of a Material Nature (as such term is hereinafter defined) unless approved by a vote of two-thirds (2/3) in the aggregate of both classes of members of the Association and fifty-one percent (51%) of all Mortgagees who have given prior notice of its mortgage interest to the Board of Directors of the Association in accordance with the provisions of the foregoing Section 8.1. For purposes of this Section 9.1(v), the term "Amendment of a Material Nature" means any amendment to this Declaration that:

- (a) changes or reduces the voting rights of the Class A members;
- (b) allows the Board of Directors to increase the maximum Regular Assessment on a Lot for any calendar year prior to the calendar year in which the Applicable Date occurs by more than twenty-five percent (25%) above the Regular Assessment for the previous calendar year;
- (c) changes the procedure for making Special Assessments;
- (d) releases the Association from its obligations to maintain and repair the Common areas;
- (e) terminates the rights of the Owners to use any of the Common Areas;
- (f) changes the boundaries of any Lot;
- (g) permits the convertibility of Lots into Common Areas;

(h) allows the Declarant to withdraw property from the Real Estate;

(i) changes hazard insurance requirements;

(j) imposes any new restrictions on an Owner's right to sell or lease its Lot; or

(k) permits the repair or restoration of any improvements to the Common Area other than to their original condition.

Any Mortgagee which has been duly notified of the nature of any proposed amendment shall be deemed to have approved the same if said Mortgagee or a representative thereof fails to appear in person or by proxy at the meeting in which such amendment is to be considered (if proper notice of such meeting was timely given to such Mortgagee).

Section 9.2. By Declarant. Declarant hereby reserves the right so long as Declarant, or any entity related to Declarant, owns any Lot to make such amendments to this Declaration as may be deemed necessary or appropriate by Declarant, without the approval of any other person or entity, in order to bring Declarant into compliance with the requirements of any statute, ordinance, regulation or order of any public agency having jurisdiction thereof, or to comply with the requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration or any other governmental agency to induce any of such agencies to make, purchase, sell, ensure or guarantee first mortgages, or to correct clerical or typographical errors in this Declaration or any amendment or supplement hereto; provided, that Declarant shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of this Declaration to any Owner or substantially increases the obligations imposed by this Declaration on any Owner.

Section 9.3. Recording. Each amendment to this Declaration shall be executed by Declarant only in any case where Declarant has the right to amend this Declaration without any further consent or approval, and otherwise by the President or Vice President and Secretary of the Association; provided, that any amendment requiring the consent of Declarant shall contain Declarant's signed consent. All amendments shall be recorded in the office of the Recorder of Hendricks County, Indiana, and no amendment shall become effective until so recorded.

ARTICLE X

GENERAL PROVISIONS

Section 10.1. Right of Enforcement. Violation or threatened violation of any of the covenants or restrictions enumerated in this Declaration shall be grounds for an action by Declarant, the Association, any Owner, and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief and the recovery of costs and attorneys' fees incurred by any party successfully enforcing such covenants and restrictions; provided, however, that neither Declarant nor the Association shall be liable for damages of any kind to any person for failing to enforce or carry out any such covenants or restrictions.

Section 10.2. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to any violation or threatened violation of any covenants or restrictions enumerated in this Declaration shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuance of such violation or violations of such covenants or restrictions.

Section 10.3. Duration. The covenants and restrictions and all other provisions of this Declaration (as the same may be amended from time to time as herein provided) shall run with the land and shall be binding on all persons and entities from time to time having any right, title or interest in the Real Estate, or any part thereof, and on all persons claiming under them, until January 1, 2040, and thereafter shall be automatically extended for successive periods of ten (10) years each, unless prior to the commencement of any such extension period, by a vote of three-fourths ($\frac{3}{4}$) of the then Owners, it is agreed that this Declaration shall terminate in its entirety; provided, however, that no termination of the Declaration shall affect any easement hereby declared, created, granted or reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

Section 10.4. Severability. Invalidation of any of the covenants, restrictions or provisions contained in this Declaration by judgment or court order shall not in any way affect any of the other provisions hereof, which shall remain in full force and effect.

Section 10.5. Titles. The underlined titles preceding the various sections of this Declaration are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of this Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

Exhibit A

Saratoga Woodlands - Legal Description

A part of the Southwest Quarter of Section 28, Township 15 North, Range 1 East, Hendricks County, Indiana, described as follows: Commencing at the northeast corner of the Southwest quarter of said section, said corner being the center of said Section 28 as referenced in a survey by Parsons & Shurtle Engineers, Inc. for Castle Farms, Inc., dated October 13, 1992; thence South 88 degrees 54 minutes 29 seconds West 927.08 feet along the north line of the Southwest Quarter of said section to a point on the centerline of Saratoga Parkway; thence South 1 degree 05 minutes 52 seconds East 142.35 feet along the centerline of said Saratoga Parkway to the beginning of a non-tangent curve concave to the east having a radius of 1,375.00 feet and to which beginning a radial line bears South 88 degrees 54 minutes 29 seconds West; thence continuing along the centerline of said Saratoga Parkway southerly 262.87 feet along said curve through a central angle of 10 degrees 57 minutes 13 seconds to the POINT OF BEGINNING of this description; thence North 77 degrees 57 minutes 15 seconds East 40.00 feet to the eastern right-of-way line of said Saratoga Parkway and the beginning of a non-tangent curve concave to the northeast having a radius of 1,335.00 feet and to which beginning a radial line bears South 77 degrees 57 minutes 15 seconds West; thence along the eastern right-of-way line of said Saratoga Parkway, southerly, and southeasterly 870.62 feet along said curve through a central angle of 37 degrees 21 minutes 56 seconds to the point of intersection with a non-tangent line; thence South 40 degrees 35 minutes 19 seconds West 80.00 feet to the western right-of-way line of said Saratoga Parkway and the beginning of a non-tangent curve concave to the south having a radius of 19.00 feet and to which beginning a radial line bears North 40 degrees 35 minutes 19 seconds East; thence northwesterly, westerly, and southwesterly 29.26 feet along said curve through a central angle of 88 degrees 14 minutes 30 seconds; thence South 42 degrees 20 minutes 49 seconds West 158.03 feet to the beginning of a curve concave to the northwest having a radius of 860.00 feet; thence southwesterly, and westerly 713.88 feet along said curve through a central angle of 47 degrees 33 minutes 40 seconds; thence South 89 degrees 54 minutes 29 seconds West 37.72 feet; thence North 00 degrees 05 minutes 31 seconds West 136.72 feet; thence North 47 degrees 11 minutes 33 seconds West 206.47 feet; thence North 25 degrees 52 minutes 02 seconds West 125.22 feet; thence North 47 degrees 26 minutes 33 seconds West 55.74 feet; thence North 6 degrees 30 minutes 03 seconds West 424.27 feet; thence North 21 degrees 35 minutes 31 seconds West 140.00 feet; thence North 68 degrees 24 minutes 29 seconds East 240.53 feet to the beginning of a curve concave to the south having a radius of 625.00 feet; thence easterly 200.94 feet along said curve through a central angle of 18 degrees 25 minutes 15 seconds to the beginning of a reverse curve concave to the north having a radius of 475.00 feet; thence easterly 42.72 feet along said

8906

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS
OF
SARATOGA IN THE TOWN OF PLAINFIELD

ENTERED FOR RECORD
BOOK JUN 6 1995 AT 3.00
147 *Jay Bradley* PAGE 667-702
HENDRICKS COUNTY RECORDER

BOOK 147 PAGE 667

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**DECLARATION OF EASEMENTS, COVENANTS
AND RESTRICTIONS OF
SARATOGA IN THE TOWN OF PLAINFIELD**

This Declaration of Easements, Covenants and Restrictions of Saratoga in the Town of Plainfield ("Declaration") is made this 5th day of June, 1995, by Saratoga Associates, LLC, an Indiana limited liability company ("Declarant").

Recitals

1. Declarant owns the real estate described in Exhibit A attached hereto and made a part hereof (the "Real Estate"), which Declarant intends (but is not obligated) to develop into a planned community known as Saratoga in the Town of Plainfield ("Saratoga") containing single family and multi-family residential areas, office, commercial, institutional and retail areas and parks and greenway areas. The deed conveying the Real Estate to Declarant was recorded in Book 339, page 755, as Instrument No. 2511 in the office of the Recorder of Hendricks County, Indiana.

2. Declarant intends by this Declaration to impose on the Real Estate certain easements, covenants, restrictions, assessments and liens as provided herein to facilitate the development, improvement, maintenance and management of the Real Estate.

NOW, THEREFORE, Declarant hereby declares that the Real Estate shall be held, sold and conveyed upon and subject to the following easements, covenants and restrictions, which shall run with the land and shall be binding on, and inure to the benefit of, all persons or entities now or hereafter having any right, title or interest in the Real Estate or any part thereof, and their heirs, successors, successors-in-title and assigns.

**ARTICLE I
DEFINITIONS**

The following terms when used in this Declaration with initial capital letters shall have the following respective meanings:

1.1 "Annual Estimated Expenses" has the meaning set forth in paragraph 6.2.

1.2 "Architectural Review Committee" means the committee established pursuant to paragraph 4.1 of this Declaration to exercise architectural review authority with respect to the Real Estate as provided in this Declaration.

1.3 "Association" means Saratoga Property Owners Association, Inc., or an organization of similar name, formed or to be formed as an Indiana nonprofit corporation, its successors and assigns.

1.4 "Board of Directors" means the board of directors of the Association as constituted from time to time.

1.5 "Commercial Parcel Assessments" has the meaning set forth in paragraph 6.1.

1.6 "Community Park" means any park-like or open space area within and upon the Real Estate, including all improvements thereon, hereafter conveyed by Declarant to the Association and designated as a Community Park (i) on any Plat of the Real Estate (or any part thereof) hereafter executed by Declarant or (ii) in any other instrument hereafter executed by Declarant and recorded in the office of the Recorder of Hendricks County, Indiana.

1.7 "Connector Road" means the right-of-way hereafter conveyed or dedicated by Declarant to the public for use as a public right-of-way, providing vehicular and pedestrian access over and across the Real Estate between County Road 500 East and Saratoga Parkway.

1.8 "Declarant" means Saratoga Associates, LLC, an Indiana limited liability company, its successors and any assigns of it whom its designates in one or more recorded instruments to have the rights and obligations of Declarant hereunder.

1.9 "Declarant Control Period" means the period of time commencing on the date hereof and ending on (i) the date the undeveloped acreage owned by Declarant constituting a part of the Real Estate comprises less than ten percent (10%) of the total acreage of the Real Estate (in both instances, excluding any public rights-of-way) or (ii) the date Declarant advises the Association in writing that it is relinquishing its Class A membership, whichever first occurs.

1.10 "Declaration" means this Declaration of Easements, Covenants and Restrictions of Saratoga in the Town of Plainfield, as the same may be amended or supplemented from time to time as herein provided.

1.11 "Development Period" means the period of time commencing with the date of recordation of this Declaration and ending on the later of the following (i) the date Declarant no longer owns any part of the Real Estate or (ii) the date which is three (3) years after the date on which all improvements and installations required by Section 5.3 of the Plainfield Subdivision Regulations, as amended, for the development of the entirety of the Real Estate have been completed and, if applicable, accepted for public maintenance by any appropriate governmental unit or agency thereof.

1.12 "Drainage Easements" means those areas designated as a Drainage Easement (i) on any Plat of the Real Estate (or any part thereof) hereafter executed by Declarant or (ii) in any other instrument hereafter executed by Declarant and recorded in the office of the Recorder of Hendricks County, Indiana.

1.13 "Drainage Facilities" means the outlet control structures, pipes and tiles, ditches, swales and other drainage facilities, equipment and improvements installed

by Declarant within and upon any Drainage Easement and designed for the purpose of providing storm water drainage for the Real Estate.

1.14 "Entryway Appurtenances" means any landscape islands and/or entry signs or structures identifying Saratoga and the landscaping associated therewith installed by Declarant or the Association in the right-of-way for Saratoga Parkway or any Connector Road or in a Thoroughfare Landscape Easement. Entryway Appurtenances shall not include any entry signs or structures identifying individual Neighborhoods. The Association shall maintain all Entryway Appurtenances, including Entryway Appurtenances installed in the right-of-way for Saratoga Parkway or any Connector Road, it being expressly understood and agreed that the Town of Plainfield, Indiana, shall have no responsibility for maintaining and repairing the Entryway Appurtenances.

1.15 "Expenses" means (i) all expenses incurred by the Association in the performance of its duties and responsibilities as provided in this Declaration, (ii) all expenses of the administration, operation and management of the Association, including (without limitation) fees for management services and professional fees for accountants, attorneys, architects and engineers, (iii) real estate and/or personal property taxes payable with respect to any real or personal property owned by the Association, (iv) all expenses declared by this Declaration to be an Expense, (v) all expenses of maintaining, repairing and replacing facilities and improvements which, by the terms of this Declaration or any other document or instrument, all Owners are entitled to use, and (vi) such other costs and expenses incurred by the Association as the Association deems necessary or appropriate for the promotion of the best interests of Saratoga, including any reasonable reserve. The term "Expenses" shall not include any costs and expenses incurred during the Development Period for initial development, original construction or installation of infrastructure.

1.16 "Greenway/Utility/Drainage Easement" means the area designated as a Greenway/Utility/Drainage Easement (i) on any Plat of the Real Estate (or any part thereof) hereafter executed by Declarant or (ii) in any other instrument hereafter executed by Declarant and recorded in the office of the Recorder of Hendricks County, Indiana.

1.17 "Lake" means the retention/detention pond within and upon the Real Estate, including all improvements therein or thereon, hereafter conveyed by Declarant to the Association and designated by Declarant as a Lake (i) on any Plat of the Real Estate (or any part thereof) hereafter executed by Declarant or (ii) in any other instrument hereafter executed by Declarant and recorded in the office of the Recorder of Hendricks County, Indiana.

1.18 "Lake Maintenance Easement" means the area designated as a Lake Maintenance Easement (i) on any Plat of the Real Estate (or any part thereof) hereafter executed by Declarant or (ii) in any other instrument hereafter executed by Declarant and recorded in the office of the Recorder of Hendricks County, Indiana.

1.19 "Landscape improvements" means any lighting structures, benches, arbors, fences, walls or other landscape structures installed by Declarant or the Association in a Pathway Easement, the Greenway/Utility/Drainage Easement, or a Thoroughfare Landscape Easement.

1.20 "Mortgagee" means the holder of a recorded first mortgage lien on any Parcel.

1.21 "Neighborhood" means a separate residential development, whether or not governed by a Neighborhood Association, in which the Owners of Parcels have common interests such as a common entry or entries, a common name by which the development is known (even though such Neighborhood may be developed in several phases), or common areas or facilities available for use only by the Owners of Parcels within such Neighborhood and/or are subject to a common covenants (other than this Declaration). For example, each condominium development, town home development, zero lot line development or single family detached housing development shall constitute a separate Neighborhood.

1.22 "Neighborhood Assessments" has the meaning set forth in paragraph 6.1.

1.23 "Neighborhood Association" means an owners association (other than the Association contemplated by this Declaration) established pursuant to the terms of any separate covenants encumbering a portion of the Real Estate which constitutes a Neighborhood.

1.24 "Owner" means the record owner from time to time, whether one or more persons or entities, of fee simple title to any Parcel. The term "Owner" shall be deemed to include Declarant so long as Declarant is the Owner of a Parcel. If a Parcel is sold under a recorded contract for sale and the contract specifically so provides, the contract purchaser rather than the fee simple owner will be considered the Owner.

1.25 "Parcel" means (i) any parcel or tract of land shown or identified as a lot on any recorded Plat of all or any part of the Real Estate, (ii) any unit designated as such in any condominium instruments recorded with respect to any part of the Real Estate (if condominium instruments are recorded with respect to a tract of land identified as a lot on a recorded Plat, each unit (and not the lot identified on such Plat) shall constitute a Parcel for purposes of this Declaration), and (iii) any other parcel or tract of land that is developed as a site of an apartment complex or an office, commercial, institutional or retail facility or is owned by a person or entity other than Declarant; provided, however, that the Community Parks, the Lake, any parcel or tract of land owned by the Association or a Neighborhood Association, any parcel or tract of land designated as a common area (or otherwise designated for common use of the Owners within a Neighborhood) on any Plat, or any parcel or tract of land conveyed or dedicated

to a political subdivision or governmental authority for public right-of-way purposes shall not be Parcels for purposes of this Declaration.

1.26 "Path" means any sidewalk, bike path or hiking path and the improvements associated therewith (including, without limitation, any improvements installed to illuminate such Path) hereafter installed by Declarant or the Association in the Pathway Easements.

1.27 "Pathway Easements" means those areas designated as a Pathway Easement (i) on any Plat of the Real Estate (or any part thereof) hereafter executed by Declarant or (ii) in any other instrument hereafter executed by Declarant and recorded in the office of the Recorder of Hendricks County, Indiana.

1.28 "Plans" has the meaning set forth in paragraph 4.3.

1.29 "Plat" means a subdivision plat of the Real Estate or any part thereof hereafter recorded in the office of the Recorder of Hendricks County, Indiana (as the same may be amended or supplemented from time to time).

1.30 "Real Estate" has the meaning set forth in the Recitals.

1.31 "Saratoga" has the meaning set forth in the Recitals.

1.32 "Saratoga Parkway" means the right-of-way conveyed to the Town of Plainfield, an Indiana municipal corporation, for use as a public right-of-way by deed recorded in Book _____, page _____, as instrument No. _____ in the office of the Recorder of Hendricks County, Indiana.

1.33 "Sidewalk Easements" means those areas designated as a Sidewalk Easement (i) on any Plat of the Real Estate (or any part thereof) hereafter executed by Declarant or (ii) in any other instrument hereafter executed by Declarant and recorded in the Office of the Recorder of Hendricks County, Indiana.

1.34 "Thoroughfare Landscape Easements" means those areas designated as a Thoroughfare Landscape Easement (i) on any Plat of the Real Estate (or any part thereof) hereafter executed by Declarant or (ii) in any other instrument hereafter executed by Declarant and recorded in the office of the Recorder of Hendricks County, Indiana.

1.35 "Utility Easements" means those areas designed as a "Utility Easement" (i) on any Plat of the Real Estate (or any part thereof) hereafter executed by Declarant or (ii) in any other instrument hereafter executed by Declarant and recorded in the office of the Recorder of Hendricks County, Indiana.

ARTICLE II**EASEMENTS**

2.1 Thoroughfare Landscape Easements. Declarant hereby declares, creates, grants and reserves the Thoroughfare Landscape Easements as nonexclusive easements for the use of Declarant during the Development Period and as nonexclusive, perpetual (except as otherwise provided in this paragraph 2.1) easements for the use of the Association for installation, maintenance and removal of trees, shrubbery, flowers and other plantings, Entryway Appurtenances and Landscape Improvements. Declarant further reserves unto itself and grants to any Neighborhood Association the right and easement to install and maintain (including rights of access as may be necessary for such installation and maintenance) within and upon a Thoroughfare Landscape Easement an entry sign or structure identifying the Neighborhood; provided, however, that the design, appearance and location of any such entry sign or structure shall be subject to the prior written approval of the Architectural Review Committee and provided further that any such entry sign or structure shall be maintained by the Neighborhood Association for the Neighborhood identified thereby in a sightly condition and good repair at the sole cost and expense of such Neighborhood Association, it being expressly understood and agreed that neither the Association nor the Town of Plainfield, Indiana, shall have any responsibility for maintaining and repairing any such Neighborhood entry sign or identification structure. Except as installed by Declarant or the Association (including improvements installed by Declarant or the Association in that portion of a Thoroughfare Landscape Easement also designated as a Pathway Easement), except for any entry sign or identification structure installed by a Neighborhood Association, and except for utility facilities or Drainage Facilities installed in any Utility or Drainage Easement that may now or hereafter be declared, created, granted or reserved in and upon any portion of the Real Estate designated as a Thoroughfare Landscape Easement, no structures or other improvements shall be installed or maintained in or upon the Thoroughfare Landscape Easements. Notwithstanding the foregoing provisions of this paragraph 2.1 and the provisions of any Plat or other recorded instrument executed by Declarant designating a Thoroughfare Landscape Easement, a Thoroughfare Landscape Easement shall automatically terminate as to that portion of such easement area that is located within or upon any public right-of-way hereafter dedicated to the public upon the recording of a Plat or other instrument creating such public right-of-way or within or upon any driveway or roadway providing access to a Parcel from a public right-of-way for which a curb cut permit has been issued by the governmental authority having jurisdiction of such public right-of-way.

2.2 Pathway Easements. Declarant hereby declares, creates, grants and reserves the Pathway Easements as nonexclusive easements (i) for the use of Declarant during the Development Period and as nonexclusive, perpetual (except as otherwise provided in this paragraph 2.2) easements for the use of the Association for the installation, maintenance and repair of Paths, trees, shrubbery, other plantings and Landscape Improvements and (ii) for use by the public of the Paths. Except as installed by Declarant or the Association, except for any entry sign or identification structure

installed by a Neighborhood Association in any Thoroughfare Landscape Easement that may now or hereafter be declared, created, granted or reserved in or upon any portion of the Real Estate designated as a Pathway Easement, and except for utility facilities or Drainage Facilities installed in any Utility or Drainage Easement that may now or hereafter be declared, created, granted or reserved in or upon any portion of the Real Estate designated as a Pathway Easement, no structures or other improvements shall be installed or maintained in or upon the Pathway Easements. Notwithstanding the foregoing provisions of this paragraph 2.2 and the provisions of any Plat or other recorded instrument executed by Declarant designating a Pathway Easement, a Pathway Easement shall automatically terminate as to that portion of such easement area that is located within or upon any public right-of-way hereafter dedicated to the public upon the recording of a Plat or other instrument creating such public right-of-way or within or upon any driveway or roadway providing access to a Parcel from a public right-of-way for which a curb cut permit has been issued by the governmental authority having jurisdiction of such public right-of-way.

2.3 Greenway/Utility/Drainage Easement. Declarant hereby declares, creates, grants and reserves the Greenway/Utility/Drainage Easement (i) as a nonexclusive, perpetual easement for the preservation, to the extent deemed appropriate by Declarant during the Development Period and thereafter to the extent deemed appropriate by the Association, of the existing topography and natural vegetation within and upon the Greenway/Utility/Drainage Easement area, subject to the rights of Declarant, the Association and public utility companies (not including transportation companies), political subdivisions and governmental authorities as hereafter provided in this paragraph 2.3, (ii) as a nonexclusive easement for the use of Declarant during the Development Period and as a nonexclusive, perpetual easement for the use of the Association for the installation, maintenance and removal of trees, shrubbery, landscaping and Landscape Improvements, and (iii) as a nonexclusive easement for the use of Declarant during the Development Period and as a nonexclusive, perpetual easement for the use of public utility companies (not including transportation companies), political subdivisions and governmental authorities for the installation, maintenance, repair and removal of mains, pipes, drains, lines, manholes, hydrants, poles, wires, cables and other equipment and facilities for the purpose of providing electrical, general water, fire protection water, sanitary sewer, natural gas, telephone, cable television and other communication services to the Real Estate and for the purpose of providing storm water drainage for the Real Estate. Except as installed by Declarant or the Association (including improvements installed by Declarant or the Association in that portion of the Greenway/Utility/Drainage Easement also designated as a Pathway Easement) and except for any utility facilities or Drainage Facilities installed in the Greenway/Utility/Drainage Easement, no structures or other improvements shall be installed or maintained in or upon the Greenway/Utility/Drainage Easement. The topography of the Greenway/Utility/Drainage Easement areas shall not be altered, nor shall any trees, shrubbery or other vegetation (other than dead or diseased trees, shrubbery or vegetation) be removed except (i) by Declarant, the Association or public utility companies, political subdivisions or governmental authorities in the exercise of the

rights granted to such parties pursuant to this paragraph 2.3 or (ii) with the prior written approval of the Architectural Review Committee.

2.4 Lake Maintenance Easement. Declarant hereby declares, creates, grants and reserves the Lake Maintenance Easement as a nonexclusive easement for the use of Declarant during the Development Period and as a nonexclusive, perpetual easement for the use of the Association for access to and management, maintenance and control of the Lake and for the installation, maintenance, repair and removal of improvements therein or thereon. Except as installed by Declarant or the Association or with the prior written approval of the Architectural Review Committee and except for any utility facilities or Drainage Facilities installed in any Utility or Drainage Easement that may now or hereafter be declared, created, granted or reserved in or upon any portion of the Real Estate designated as a Lake Maintenance Easement, no structures or other improvements shall be installed or maintained in or upon the Lake Maintenance Easement.

2.5 Drainage Easements. Declarant hereby declares, creates, grants and reserves the Drainage Easements (i) as nonexclusive easements for the use of Declarant during the Development Period for access to and installation, repair, removal or replacement of Drainage Facilities for the purpose of providing storm water drainage for the Real Estate, (ii) as nonexclusive perpetual easements in favor of each Owner for the use of the Drainage Facilities located therein or thereon for the purpose of providing storm water drainage for such Owner's Parcel and (iii) as nonexclusive perpetual easements for the use of the applicable political subdivisions or governmental authorities for access to and maintenance, repair or replacement of such drainage system; provided, however, that each Owner of a Parcel subject to a Drainage Easement shall keep the portion of said Drainage Easement on his Parcel free from obstructions (including providing for the installation of culverts as may be necessary to accomplish such purpose) so that the surface water drainage will be unimpeded. Except as installed by Declarant or the Association or with the prior written approval of the Architectural Review Committee and except for any entry sign or identification structure installed by a Neighborhood Association, no structures or fences shall be erected or maintained upon said Drainage Easements.

2.6 Utility Easements. Declarant hereby declares, creates, grants and reserves the Utility Easements (i) as nonexclusive easements for the use of Declarant during the Development Period for access to and installation, repair or removal of mains, pipes, drains, lines, manholes, hydrants, poles, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services and (ii) as nonexclusive perpetual easements for the use of all public utility companies (not including transportation companies), political subdivisions, and governmental authorities for access to and installation, maintenance, repair or removal of mains, pipes, drains, lines, manholes, hydrants, poles, wires, cables and other equipment and facilities for the furnishing of such utility services. Except as installed by Declarant or the Association or with the prior approval of the Architectural Review Committee and except for any entry sign or identification structure installed by a Neighborhood Association, no structures or

fences shall be erected or maintained upon said Utility Easements. Any trees, landscaping or other landscaping improvements installed in a Utility Easement shall be installed at the Owner's risk, and the parties for whose benefit the Utility Easements are hereby created, granted and reserved shall have no obligation to replace any trees, landscaping or other landscaping improvements that may be damaged or destroyed by such parties in the exercise of the rights granted to them pursuant to this paragraph 2.6.

2.7 Sidewalk Easements. Declarant hereby declares, creates, grants and reserves the Sidewalk Easements as nonexclusive easements (i) for the use of the Town of Plainfield, Indiana, for access to and maintenance and repair of any sidewalks installed by the Owners as provided in paragraph 3.23 within and upon the Sidewalk Easements and (ii) for the use of such sidewalks by the public. Except as installed by Declarant or the Association or with the prior written approval of the Architectural Review Committee and except for any entry sign or identification structure installed by a Neighborhood Association, no structures or fences shall be erected or maintained upon said Sidewalk Easements.

2.8 Easement for Enjoyment of the Lake and Community Parks. Declarant hereby declares, creates, grants and reserves a nonexclusive, perpetual easement in favor of each Owner and such Owner's tenants and contract purchasers and the respective family members and guests of any of the foregoing for the recreational use and enjoyment of the Lake and Community Parks, subject to the following:

(i) the right of Declarant (prior to the conveyance of the Lake or Community Parks to the Association) to grant nonexclusive easements in and to the Lake and Community Parks (or any part thereof) to any public utility company (not including transportation companies), political subdivision or governmental authority;

(ii) the right of the Association (after conveyance of the Lake or the Community Parks to the Association), without the requirement of any consent of the Owners, to dedicate or transfer all or any part of the Lake or Community Parks to any political subdivision or governmental authority for such purposes and subject to such conditions as may be set forth in the instrument of dedication or transfer; and

(iii) the terms and provisions of this Declaration.

Neither Declarant nor the Association shall be responsible for any loss, damage or injury to property or injury or death to persons arising out of the use of the Lake or Community Parks and any equipment and facilities installed by Declarant or the Association therein or thereon. The Lake and Community Parks and all such equipment and facilities shall be used at the sole risk of the user.

ARTICLE III**COVENANTS AND RESTRICTIONS REGARDING USE**

3.1 **Maintenance.** Each Parcel, including all improvements on any Parcel, shall be kept and maintained by the Owner thereof in a clean, safe, attractive and sightly condition and in good repair.

3.2 **Nuisance.** No noxious or offensive activity shall be carried on upon any Parcel; nor shall anything be done or placed on any Parcel which is or may become a nuisance.

3.3 **Damage to Improvements.** If the buildings or other improvements located on a Parcel are damaged or destroyed in whole or in part by fire or other casualty, the Owner of such Parcel shall, within ninety (90) days after the date of such damage or destruction, (i) commence repairs necessary to restore such buildings and improvements to their condition immediately prior to such damage or destruction or (ii) commence demolition of such buildings and improvements. Upon commencement of such repairs or demolition, the Owner shall thereafter diligently prosecute the same to completion and, in the case of demolition, shall grade and landscape the Parcel following such demolition in accordance with plans approved in writing by the Architectural Review Committee.

3.4 **Compliance with Laws, Rules.** Each Owner shall at all times comply with all applicable laws, statutes, ordinances and governmental rules, regulations and orders relating to or affecting such Owner's Parcel or the use thereof (including, but not limited to, zoning ordinances, building and fire codes and environmental laws) and all rules and regulations promulgated by the Association from time to time as permitted herein; provided that an Owner may achieve compliance with applicable laws, statutes, ordinances or governmental rules or regulations by being "grandfathered" or having vested rights as a pre-existing user on the date a new or amended law, statute, ordinance or governmental rule or regulation becomes effective.

3.5 **Signs.** No signs shall be constructed or installed on any Parcel without the prior written approval of the Architectural Review Committee, other than signs provided by Declarant or the Association and/or one sign of not more than six (6) square feet for the purpose of advertising a Parcel for sale.

3.6 **Fuel Storage Tanks.** No fuel, chemical or other storage tanks shall be installed on any Parcel without the prior written approval of the Architectural Review Committee.

3.7 **Communication Devices: Solar Heat Panels.** No satellite dishes exceeding eighteen (18) inches in diameter, exposed antennas or other visible communication receiving or transmitting devices or solar heat panels shall be installed on any Parcel without the prior written approval of the Architectural Review Committee.

3.8 Access to Saratoga Parkway or the Connector Road. No single family residential Parcel shall have direct access to Saratoga Parkway or the Connector Road.

3.9 Fences. No fences shall be installed on a Parcel abutting Saratoga Parkway or the Connector Road closer than thirty (30) feet to the right of way line for Saratoga Parkway or the Connector Road. Any fence not prohibited by the foregoing provisions of this paragraph 3.9 shall be installed only with the prior written approval of the Architectural Review Committee.

3.10 Construction Debris. Each Owner shall conduct all site work and construction on such Owner's Parcel in a manner that prevents dirt and debris from accumulating beyond the boundary lines of the Parcel. During construction, each Owner shall cause his contractor to clean the public rights-of-way and other roadways as needed (but not less frequently than every two weeks) to remove dirt thereon from such construction operations.

3.11 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Parcel, except that normal household pets may be kept in reasonable numbers subject to rules and regulations established by the Board of Directors.

3.12 Cessation of Construction. Upon commencement of construction of buildings and improvements on a Parcel, the Owner shall thereafter diligently prosecute the same to completion. If construction of the buildings and/or improvements stops for more than thirty (30) days, the Owner of such Parcel, upon written demand of the Board of Directors, shall remove from the Parcel all construction materials, debris, trailers, equipment and construction related facilities, shall restore the Parcel to an attractive condition and shall grade and seed the Parcel in accordance with plans approved in writing by the Architectural Review Committee. If construction remains stopped for more than sixty (60) days and a building on the Parcel is not completely enclosed (i.e., roof, walls, windows and doors), the Owner of such Parcel, upon written demand of the Board of Directors, shall demolish such building and shall grade and landscape the Parcel in accordance with plans approved in writing by the Architectural Review Committee.

3.13 Temporary Structures. No trailers or temporary structures shall be situated or placed on any Parcel, other than construction trailers or temporary structures used by contractors during the construction of the building and other improvements on the Parcel, which construction trailers and temporary structures shall be removed within thirty (30) days after substantial completion of the buildings constructed on the Parcel.

3.14 Drainage. Without the prior written approval of the Architectural Review Committee, an Owner shall not relocate or otherwise alter any Drainage Facilities located on such Owner's Parcel.

3.15 Tree Preservation. No trees, other than dead or diseased trees, shall be removed from a Parcel without the prior written approval of the Architectural Review Committee.

3.16 No Easements. Without the prior written approval of the Architectural Review Committee, an Owner shall not grant any easements to any third party, including public utility companies, political subdivisions or governmental authorities, for the purpose of providing water or sanitary sewer services or storm water drainage for a property other than such Owner's Parcel.

3.17 Restriction Regarding the Lake. No swimming or boating shall be permitted in the Lake without the prior approval of the Board of Directors. Except as installed by Declarant or the Association or with the prior written approval of the Architectural Review Committee, no docks, piers, walls or other structures may be extended into the Lake. No Owner shall do, or permit another to do, any act which would pollute the Lake, raise the elevation of the water, significantly disturb the bank of the Lake or any other conduct which could have an adverse effect upon the water quality, drainage, the embankment or adjacent property.

3.18 Rules and Regulations. The Board of Directors may promulgate reasonable rules and regulations (not inconsistent with the provisions of this Declaration) concerning the use of the Community Parks and Lake and the enforcement of this Declaration. Such rules and regulations may include the imposition of reasonable monetary fines and other sanctions for any violation of such rules and regulations. Any monetary fine shall constitute a special assessment against the Owner against whom it is imposed and his Parcel to be collected and enforced in the manner provided in this Declaration for the collection and enforcement of assessments in general. Copies of such rules and regulations shall be furnished by the Association to all Owners prior to the effective date of any such rules and regulations. Each Owner shall observe and comply with, and cause his tenants and contract purchasers and the respective family members and guests of any of the foregoing, to observe and comply with all rules and regulations promulgated by the Board of Directors.

3.19 Refuse Disposal. All trash receptacles on a Parcel developed as an apartment complex or an office, commercial, retail or institutional facility shall be screened from the view of neighboring property and public rights-of-way by screening (including landscaping) approved by the Architectural Review Committee. Garbage, trash and debris shall be removed from such Parcel at least once weekly.

3.20 Hazardous Materials. No Parcel shall be used for the manufacture, treatment, disposal or distribution of radioactive or explosive substances or hazardous or toxic wastes, substances, materials, constituents, pollutants or contaminants (as defined by federal, state or local laws, statutes, ordinances, rules or regulations) ("Hazardous Materials"). No Hazardous Materials shall be placed, stored or used on any Parcel, other than Hazardous Materials of a nature and in amounts normally present in or on or used in connection with the operation of the business being operated on the Parcel. To the

extent any Hazardous Materials so permitted to be placed, stored or used on a Parcel are regulated by any federal, state or local law or regulation now or hereafter in effect, such Hazardous Materials shall be held, stored and used in compliance with such laws and regulations.

3.21 Zoning Changes. No Owner (other than Declarant) shall seek to change the zoning classification of its Parcel or to secure a variance of use, a special use exception, a variance of development standards or a variance or exception from any similar restrictions or the requirements of the Plainfield Subdivision Regulations with respect to such Parcel, unless the same has been first approved in writing by the Architectural Review Committee.

3.22 Loading Docks. All loading docks on a Parcel shall be located at the rear or side of the principal building(s) located on such Parcel and shall be screened from the view of Saratoga Parkway or the Connector Road by screening (including landscaping) approved by the Architectural Review Committee.

3.23 Sidewalks. Prior to occupancy of any building constructed on a Parcel, the Owner of such Parcel shall cause a five (5) foot wide concrete sidewalk to be installed on such Parcel at such location as shall be approved by the Architectural Review Committee (or the architectural review authority established pursuant to the terms of any separate covenants (i.e., other than this Declaration) encumbering any portion of the Real Estate which constitutes the Neighborhood in which such Parcel is located, if approval of the Architectural Review Committee is not required pursuant to paragraph 4.2 of this Declaration). The Owner shall maintain said sidewalk in good condition for three (3) years after said initial installation. Thereafter, such maintenance shall be the responsibility of the Town of Plainfield, Indiana.

ARTICLE IV

ARCHITECTURAL REVIEW

4.1 Creation. There shall be, and hereby is, created and established the Architectural Review Committee to perform the functions provided for herein. Until the expiration of the Declarant Control Period, the Architectural Review Committee shall consist of three (3) members appointed from time to time by Declarant and who shall be subject to removal by Declarant at any time with or without cause. After the expiration of the Declarant Control Period, the Architectural Review Committee shall be a standing committee of the Association, consisting of three (3) persons appointed from time to time by the Board of Directors of the Association, one of whom shall be an architect licensed by the State of Indiana. The architect serving as a member of the Architectural Review Committee may be compensated by the Association for his services as a member of the Architectural Review Committee.

4.2 Nonapplication in Certain Circumstances. Notwithstanding the following provisions of this Article IV or any other provisions of this Declaration requiring the approval of the Architectural Review Committee, (i) the Declarant or any entity related to Declarant shall not be required to apply for or secure the approval of the Architectural Review Committee in connection with any construction, installation, placement or alteration of any improvements on the Real Estate or any alterations to the land itself by Declarant or any entity related to Declarant, and (ii) approval of the Architectural Review Committee shall not be required for the construction, installation, placement or alteration of improvements on any Parcel developed or to be developed as a detached, single family residence, if such construction, installation, placement or alteration is subject to the approval of any architectural review authority established pursuant to the terms of any separate covenants (i.e., other than this Declaration) encumbering a portion of the Real Estate which constitutes the Neighborhood in which such Parcel is located; provided, however, the developer or declarant under such separate covenants shall submit a grading and drainage plan for the Neighborhood and a plan for the entrance areas to the Neighborhood from Saratoga Parkway or the Connector Road (including a site plan showing the point of connection of the private streets or public rights-of-way within such Neighborhood to Saratoga Parkway or the Connector Road) to the Architectural Review Committee for its approval in accordance with and subject to the provisions of this Article IV.

4.3 Approval of Plans Required. No improvements, including (without limitation) buildings, driveways, sidewalks, parking areas, outside storage areas, loading areas, exterior lighting, landscaping and signage, shall be constructed, installed or placed on any Parcel, nor shall any alterations be made to the land itself or any external alterations (including a change of exterior color or exterior building materials, but excluding routine maintenance or replacement with substantially the same color or material) or additions be made to any existing improvements on a Parcel, until plans therefore have been approved in writing by the Architectural Review Committee. Such plans shall be submitted in duplicate and, in the case of new construction, shall consist of the following:

- (a) a site plan showing the location of the building(s) and all other improvements, including trash disposal areas, loading areas, outside storage areas, satellite dishes or other visible communication devices, sidewalks, driveways, parking areas, and exterior signage, to be constructed, installed or placed on the Parcel and their relationship to existing improvements on the Parcel and improvements on adjoining property;
- (b) exterior elevations of the building(s);
- (c) a finish schedule for all exterior surfaces (with samples);
- (d) a grading and drainage plan for the Parcel (including locations for connections to Drainage Facilities);

- (e) an exterior lighting plan;
- (f) a landscaping plan and, if applicable, a tree removal plan showing existing trees which will be required to be removed in connection with the proposed construction;
- (g) signage drawings showing location, elevations, materials, and graphics for all exterior signage; and
- (h) locations for connections to the facilities of any public utility company, political subdivision or governmental authority.

In the case of alterations of (including a change of exterior color or exterior building materials, but excluding routine maintenance or replacement with substantially the same color or material), or additions to, existing improvements on a Parcel, the plans to be submitted shall consist of such of the foregoing plans as shall be required in order to fully depict the alterations or additions. The plans to be submitted as required by the preceding provisions of this paragraph 4.3 are hereinafter referred to as the "Plans."

The Architectural Review Committee shall approve such Plans in writing or furnish the Owner with a written disapproval stating specifically the reason for such disapproval. In the event the Architectural Review Committee fails to furnish such written approval or disapproval to the Owner within thirty (30) days after its receipt of all Plans from the Owner, the Owner may make a written request to the Architectural Review Committee for approval or disapproval, in which case the Architectural Review Committee shall render its written approval or disapproval no later than ten (10) days after the receipt of such written request. Failure of the Architectural Review Committee to respond within such ten (10) day period shall be deemed approval. One copy of the approved Plans shall be retained by the Architectural Review Committee for its files.

4.4 Basis for Approval. Approval will be based upon the Architectural Review Committee's determination, in its sole discretion, that:

- (a) the exterior design and appearance (including, without limitation, height and other dimensions and architectural style) and location and orientation on the Parcel of the building(s) are compatible with adjacent improvements and the general plan for development of Saratoga;
- (b) the grading and drainage plan is compatible with the general storm water drainage plan for Saratoga and appropriate for the Parcel and provides for the connection of drainage facilities on the Parcel to the Drainage Facilities at acceptable locations;
- (c) utility connections are at acceptable locations;

(d) walkways, driveways and parking areas are adequate for the contemplated use of the Parcel and their design and location (including the connection of any driveway with the public rights-of-way) are compatible with the location of improvements on surrounding Parcels and the general plan for development of Saratoga;

(e) the location of mechanical installations, trash disposal areas and loading docks and areas are appropriate and compatible with the location of improvements on surrounding Parcels and such installations and areas are adequately screened from the view of neighboring property and public rights-of-way;

(f) the landscaping and exterior lighting is appropriate and sufficient; and

(g) the design and location of any signage is appropriate and compatible with existing signage in Saratoga and the general plan for development of Saratoga.

4.5 Completion of Development. Upon approval of the Plans by the Architectural Review Committee, the Owner shall thereafter construct all improvements on the Parcel in accordance with such approved Plans (as the same may thereafter be modified with the prior written approval of the Architectural Review Committee). After completion of such improvements, the Owner shall not make any exterior alterations to such improvements, including (without limitation) any signs, driveway and parking layout, landscaping, lighting, a change of the exterior color or exterior building materials (but excluding routine maintenance or replacement with substantially the same color or materials), or construct or install any additional improvements, without the prior written approval of the Architectural Review Committee. In the event construction of the improvements contemplated by approved Plans is not commenced within one (1) year from the date of approval of the Plans, such approval shall be deemed revoked unless the Architectural Review Committee shall extend the period of time for which such approval shall remain in effect. Construction shall be deemed to have commenced if the Owner has obtained all necessary licenses, permits and approvals required for the construction of the improvements and actually commenced the performance of the site work on the Parcel. The Architectural Review Committee may inspect work being performed to assure compliance with the approved Plans.

4.6 Development Guidelines. The Architectural Review Committee may promulgate and modify from time to time specific design standards and guidelines for the construction and installation of improvements on any Parcel and additional rules or regulations concerning the submission and approval of Plans pursuant to this Article IV, so long as the same are not inconsistent with the provisions of this Declaration, any Plat or any separate covenants (i.e., other than this Declaration) applicable to any Neighborhood.

4.7 Payment of Costs. All costs and expenses incurred by the Architectural Review Committee in the performance of its duties under this Article IV, including any compensation paid to the architect serving as a member of the Architectural Review Committee as required by the foregoing paragraph 4.1 and the fees of any other architect, engineer or other professional employed by the Architectural Review Committee, shall be paid by the Association as an Expense.

4.8 Liability of Committee. The Architectural Review Committee or any member thereof or Declarant, the Association or any officer, director, agent or employee of any of the foregoing shall not be liable in any way for (i) any defects in the Plans submitted to it, (ii) any defects in any work done according thereto, or (iii) any damages arising out of or in connection with the approval or disapproval of any matter by the Architectural Review Committee.

ARTICLE V

ASSOCIATION

5.1 Membership. The membership of the Association shall consist of the following classes of membership:

(a) **Class A Membership.** The Declarant shall constitute the entire Class A membership until the expiration of the Declarant Control Period, at which time the Class A membership shall cease and terminate.

(b) **Class B Membership.** The Class B members shall consist of (i) the representative duly appointed from time to time by the board of directors of each Neighborhood Association (if a Neighborhood has a Neighborhood Association) to represent the interests of the Owners of Parcels in such Neighborhood and (ii) the representative duly elected from time to time by the majority of the Owners of Parcels within a Neighborhood that does not have a Neighborhood Association to represent the interest of the Owners of Parcels in such Neighborhood. There shall be one Class B member for each Neighborhood.

(c) **Class C Membership.** The Class C members shall consist of each Owner of a Parcel not located within a Neighborhood. Where more than one person or entity constitutes the Owner of a Parcel referred to in this subparagraph (c), all such co-owners shall be Class C members of the Association, but the voting rights with respect to the Parcel owned by such co-owners shall be exercised as a unit in such manner as the co-owners shall determine among themselves.

5.2 Voting Rights. Each class of membership shall have the following voting rights:

(a) Until the expiration of the Declarant Control Period, the Class A member shall exercise all voting rights with respect to any matters submitted to a vote of the membership of the Association, and no other class of membership shall have any voting rights.

(b) Following the expiration of the Declarant Control Period, each Class B member and Class C member shall be entitled to one vote with respect to any matters submitted to a vote of the membership of the Association; provided, that in order to guarantee fair and proportionate representation on the Board of Directors, Declarant may, prior to the expiration of the Declarant Control Period, amend this Declaration and the Articles of Incorporation and/or By-Laws (as applicable) of the Association to establish voting groups of Class B and/or Class C members for election of directors to the Board of Directors.

5.3 Board of Directors. The Board of Directors shall manage the affairs of the Association. The Articles of Incorporation or By-Laws (as applicable) of the Association shall in all events provide that the Town Council of the Town of Plainfield may (but shall not be required to) appoint a representative to serve as an ex officio member of the Board of Directors. Such ex officio member shall not have any rights to vote on any matters submitted to the Board of Directors.

5.4 Responsibilities of the Association. The responsibilities of the Association included, but shall not be limited to:

(a) Administration and enforcement of the covenants and restrictions contained in this Declaration.

(b) Maintenance and upkeep of the Community Parks, the Lake and the Thoroughfare Landscape Easement, Pathway Easement and Greenway/Utility/Drainage Easement areas and the repair and replacement as the Association deems necessary or appropriate of the Paths, the Entryway Appurtenances and the Landscape Improvements and the Improvements installed by Declarant or the Association within and upon the Community Parks and Lake.

(c) Maintenance and replacement of trees, shrubbery, flowers, and other plantings planted in the right-of-way for Saratoga Parkway or the Connector Road as the Association deems necessary or appropriate.

(d) Installation and replacement of trees, shrubbery, flowers, plantings and/or Landscape Improvements in the Thoroughfare Landscape Easements, Pathway Easements and Greenway/Utility/Drainage Easement as the Association deems necessary or appropriate.

(e) Procurement and maintenance of the insurance coverages required by this Declaration and any other insurance the Association deems necessary or advisable.

(f) Assessments and collection of the Expenses as provided in Article VI.

(g) Contracting for services such as management, snow removal, security or other services as the Association deems necessary or advisable. Nothing herein shall be construed to require the Association to provide such services.

(h) Establishment of the Architectural Review Committee and appointment of members thereto.

5.5 Non-liability of Officers and Directors. Neither the officers or directors of the Association nor any members of any committee thereof shall be liable to the Owners or any other person for any error or mistake in judgment in carrying out their duties and responsibilities as said officers, directors or committee members, except for their own individual willful misconduct or gross negligence.

ARTICLE VI

ASSESSMENTS FOR EXPENSES

6.1 Creation of Assessments. There are hereby created assessments for Expenses, which assessments shall be levied by the Association as hereinafter provided. There shall be two types of assessments (i) "Neighborhood Assessments," which shall be assessed against each Neighborhood Association and prorata (equally) against each Parcel within such Neighborhood and the Owner thereof and (ii) "Commercial Parcel Assessments," which shall be assessed against each Parcel not described in (i) above and the Owner thereof. Each Owner, by acceptance of (or succession to) title to a Parcel, is deemed to covenant and agree to pay the assessments levied by the Association (or the prorata portion thereof, in case of a Neighborhood Assessment) applicable to such Owner's Parcel that become due and payable during the period of time in which such Owner owns the Parcel. Such assessments (or in the case of a Neighborhood Assessment, the prorata portion of the Neighborhood Assessment allocable to each Parcel within the Neighborhood), together with interest thereon and costs of collection thereof (including reasonable attorneys' fees), shall be the personal obligation of the Owner of the Parcel at the time such assessments become due and payable and shall also constitute a continuing lien on such Owner's Parcel, subordinate only to the lien of real estate taxes and governmental assessments and the lien of any first mortgage of record. When the Owner of a Parcel constitutes more than one person or entity, the liability of such co-owners with respect to the assessments applicable to such Parcel shall be joint and several.

6.2 Determination of Assessments. Promptly following the incorporation of the Association, the Board of Directors of the Association shall establish an estimated budget for Expenses for the period through December 31 of the year in which the Association is incorporated. Thereafter, on or before November 1 of each calendar year, the Board of Directors of the Association shall establish an estimated budget for Expenses for the ensuing calendar year. The budget for Expenses so established for each such period is hereafter referred to as the "Annual Estimated Expenses". Such Annual Estimated Expenses may include reasonable reserves for the repair and replacement of capital improvements which the Association is required to maintain and for delinquent accounts. The Annual Estimated Expenses shall be used as the basis for computing the Neighborhood Assessments and the Commercial Parcel Assessments for the ensuing calendar year (or part thereof) as hereinafter provided.

The Neighborhood Assessment for each Neighborhood shall be determined by the following formula:

$$\frac{\text{Total acreage of the Neighborhood}}{\text{Total acreage of all Neighborhoods and all Parcels not located within a Neighborhood}} \times \text{Annual Estimated Expenses} = \text{Neighborhood Assessment}$$

The Commercial Parcel Assessment for each Parcel that is not located within a Neighborhood shall be determined by the following formula:

$$\frac{\text{Total acreage of the Parcel}}{\text{Total acreage of all Neighborhoods and all Parcels not located within a Neighborhood}} \times \text{Annual Estimated Expenses} = \text{Commercial Parcel Assessment}$$

In the event the Neighborhood Assessments and Commercial Parcel Assessments for any calendar year or part thereof are inadequate to defray Expenses actually incurred or anticipated by the Association during such calendar year, the Board of Directors of the Association may levy supplemental Neighborhood Assessments and Commercial Parcel Assessments for such additional Expenses, which supplemental assessments shall be determined in the same manner as provided above.

If Declarant determines that in the initial stages of development the Neighborhood Assessments and Commercial Parcel Assessments resulting from the application of the foregoing formulas are inequitable, Declarant may elect (but shall not be obligated) on an annual basis to reduce such Assessments by payment of a subsidy to the Association in respect of the Annual Estimated Expenses. The fact of the proposed payment of such subsidy shall be disclosed in the notice of assessment hereinafter provided for. The payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in any subsequent year.

Written notice of the Neighborhood Assessments and the Commercial Parcel Assessments shall be sent to each Neighborhood Association (in the case of the

Neighborhood Assessment) and each Owner (in the case of the Commercial Parcel Assessment) subject thereto. Assessments shall be due and payable within thirty (30) days after receipt of such notice; provided, however, that with respect to the Neighborhood Assessments, the Board of Directors may permit payment of the Neighborhood Assessments in installments on dates designated by the Board of Directors in order to facilitate the collection of such Assessments by the Neighborhood Association. If a Neighborhood Association fails to pay its Neighborhood Assessment (or any installment thereof, if the Association has permitted the Neighborhood Association to pay its Neighborhood Assessment in installments) assessed against it within thirty (30) days after the same is due, the Board of Directors may accelerate the entire balance of the unpaid Neighborhood Assessment and proceed to collect from each Owner of a Parcel within such Neighborhood the prorata share of such Neighborhood Assessment allocable to such Owner's Parcel (as provided in paragraph 6.1), together with accrued interest thereon and costs of collection (including reasonable attorneys' fees), as provided in the following paragraph 6.3.

The failure by the Association to establish the Annual Estimated Expenses on or before the applicable date specified in this paragraph 6.2 shall not relieve a Neighborhood Association or Owner of its obligation to pay its proportionate share of Expenses when assessed.

6.3 Delinquent Assessments. Assessments for Expenses payable pursuant to this Article VI shall be deemed to be delinquent if not paid when due. Delinquent assessments shall bear interest at the rate of four percent (4%) above the rate of interest announced or published by NBD Bank, N.A. (or any successor thereof) from time to time as its prime rate from the date such Assessment is due until the date of payment. The Association may collect delinquent Assessments and the accrued interest thereon, together with costs of collection (including reasonable attorneys' fees), by an action to recover a money judgment for such amount against the Neighborhood Association (in the case of a delinquent Neighborhood Assessment) and against the Owner obligated for the payment of a delinquent Commercial Parcel Assessment or a prorata portion of a delinquent Neighborhood Assessment and/or by foreclosure of the lien therefore in the same manner as a mortgage on real property or as otherwise provided by law. Assessments shall be due and payable without relief from valuation and appraisal laws and with costs of collection (including reasonable attorneys' fees).

6.4 Certificate Regarding Unpaid Assessments. Upon request by an Owner or mortgagee of a Parcel, the Association shall provide such Owner or mortgagee with a certificate stating the amount, if any, of any unpaid Assessments for Expenses constituting a lien against such Parcel. Such statement shall be binding on the Association as of the date of such statement.

ARTICLE VII**INSURANCE**

7.1 **Liability Insurance.** The Association shall purchase and maintain a master comprehensive public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time, but in any event with a minimum combined limit of One Million Dollars (\$1,000,000) per occurrence. Such comprehensive public liability insurance shall cover the Community Parks, the Lake and all easement areas created by this Declaration and shall insure the Association, its Board of Directors, officers, agents and employees, any committee of the Association, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Real Estate and all Owners. Such public liability insurance policy shall include a "severability of interest" clause or endorsement which shall preclude the insurer from denying the claim of an Owner because of the negligent acts of the Association or other Owners.

7.2 **Other Insurance.** The Association shall also purchase and maintain any other insurance required by law to be maintained, including but not limited to workmen's compensation and occupational disease insurance, and such other insurance as the Board of Directors shall from time to time deem necessary or advisable, including but not limited to officers' and directors' liability insurance.

7.3 **Miscellaneous.** The premiums for the insurance described above shall be paid by the Association as an Expense.

ARTICLE VIII**MORTGAGES**

8.1 **Notice to Association.** Any Mortgagee who places a first mortgage lien upon a Parcel may notify the Secretary of the Association of the existence of such mortgage and provide the name and address of such Mortgagee. A record of such Mortgagee and name and address shall be maintained by the Secretary of the Association and any notice required to be given to the Mortgagee pursuant to the terms of this Declaration, the By-Laws or otherwise shall be deemed effectively given if mailed to such Mortgagee at the address shown in such record in the time provided. Unless notification of any such mortgage and the name and address of Mortgagee are furnished to the Secretary, as herein provided, no notice to any Mortgagee as may be otherwise required by this Declaration, the By-Laws or otherwise shall be required, and no Mortgagee shall be entitled to vote on any matter to which it otherwise may be entitled by virtue of this Declaration, the By-Laws, a proxy granted to such Mortgagee in connection with the mortgage, or otherwise.

8.2 Notice to Mortgagees. The Association, upon request, shall provide to any Mortgagee a written certificate specifying unpaid assessments and any other defaults of the Owner of such Parcel under this Declaration.

ARTICLE IX

AMENDMENT

9.1 By Declarant. Declarant hereby reserves the right from time to time until the expiration of the Declarant Control Period to modify or amend this Declaration without the consent of the Association or any Owner for one or more of the following purposes:

- (a) to correct clerical or typographical errors in this Declaration or any amendment or supplement thereto;
- (b) to clarify one or more covenants, restrictions or provisions of this Declaration without materially changing the substance of said covenant, restriction or provision;
- (c) in the exercise of any rights reserved by Declarant in paragraph 5.2 of this Declaration; or
- (d) to comply with the requirements of any applicable laws, ordinances, regulations or orders of any court, governmental agency or authority having jurisdiction.

Any such amendment shall become effective upon Declarant's executing and recording of the same in the office of the Recorder of Hendricks County, Indiana.

9.2 By the Owners. This Declaration may be amended at any time by an affirmative vote of seventy-five percent (75%) of the members of the Association. Any such amendment shall become effective when duly executed on behalf of the Association by the President thereof and recorded in the office of the Recorder of Hendricks County, Indiana.

ARTICLE X

GENERAL PROVISIONS

10.1 Right of Enforcement. Violation or threatened violation of any of the covenants or restrictions contained in this Declaration (including any approval granted by the Architectural Review Committee) shall be grounds for an action by Declarant, the Association, any Owner, and all persons or entities claiming under them, against the

person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief and the recovery of costs and attorneys' fees incurred by any party successfully enforcing such covenants and restrictions; provided, however, that neither Declarant nor the Association shall be liable for damages of any kind to any person for failing to enforce or carry out any such covenants or restrictions.

10.2 Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to any violation or threatened violation of any covenants or restrictions contained in this Declaration shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuance of such violation or violations of such covenants or restrictions.

10.3 Duration. The covenants and restrictions and all other provisions of this Declaration shall run with the land and shall be binding on all persons and entities from time to time having any right, title or interest in the Real Estate, or any part thereof, and on all persons claiming under them, until January 1, 2040, and thereafter shall be automatically extended for successive periods of ten (10) years each, unless prior to the commencement of any such extension period, by a vote of three-fourths ($\frac{3}{4}$) of the members of the Association, it is agreed that this Declaration shall terminate in its entirety; provided, however, that no termination of the Declaration shall affect any easement hereby declared, created, granted or reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

10.4 Severability. Invalidation of any of the covenants, restrictions or other provisions contained in this Declaration by judgment or court order shall not in any way affect any of the other provisions hereof, which shall remain in full force and effect.

10.5 Titles. The underlined titles preceding the various paragraphs of this Declaration are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of this Declaration. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

10.6 Applicable Law. This Declaration shall be governed, interpreted, construed and regulated by the laws of the State of Indiana.

10.7 Notices. Any notice, statement for assessments, demands or communication provided for under this Declaration shall be written and shall be deemed sufficiently given if delivered personally or mailed by United States first class mail, postage prepaid, to an Owner at the property address for such Owner's Parcel or to the registered office of a Neighborhood Association (as the case may be).

IN WITNESS WHEREOF, this Declaration has been executed by Declarant as of the date first above written.

SARATOGA ASSOCIATES, LLC

By: Harry F. McNaught, Jr.
Harry F. McNaught, Jr., President

STATE OF INDIANA)
COUNTY OF MARION) SS:

Before me, a Notary Public in and for the State of Indiana, personally appeared Harry F. McNaught, Jr., the President of Saratoga Associates, LLC, an Indiana limited liability company, who, having been first duly sworn, acknowledged the execution of the foregoing Declaration of Easements, Covenants and Restrictions of Saratoga in the Town of Plainfield on behalf of said company.

Witness my hand and Notarial Seal this 5th day of June, 1995.

(SEAL)

Debbie F. Workman
Printed Name: Debbie F. Workman
Notary Public

I am a resident of Johnson County, Indiana.

My commission expires: 12-3-96

This instrument prepared by Mary K. Lisher, Attorney At Law, Baker & Daniels, 300 North Meridian Street, Suite 2700, Indianapolis, Indiana 46204.

Exhibit A

BOOK 339 PAGE 756

BOOK 147 PAGE 696

A part of the East Half of the Northeast Quarter of Section 33, Township 15 North, Range 1 East, Hendricks County, Indiana, described as follows: Commencing at a cross on a stone at the southeast corner of said half-quarter section; thence North 0 degrees 17 minutes 42 seconds West (assumed bearing) along the east line of said section 357.47 feet (21½ rods by that certain decree in partition dated March 27, 1879, and spread upon Order Book 21, page 161 et seq., in the office of the Clerk of the Hendricks Circuit Court) to the center of the so-called National Road (Cumberland Road by statute); thence South 66 degrees 14 minutes 00 seconds West along the center of said road (not coincident with the center line of the westbound lane of U. S. 40) 138.60 feet to the southwest corner of the 72-acre parcel of land assigned and set apart to Esther Blair by virtue of said decree in partition; thence North 7 degrees 04 minutes 06 seconds West along the west line of said 72-acre parcel 41.76 feet to the point of beginning of this description, which point is on the northwestern boundary of said National Road: FROM SAID BEGINNING POINT South 66 degrees 14 minutes 00 seconds West along said northwestern boundary 177.55 feet (172.11 feet by Deed Record 297, page 418, in the office of the Recorder of the aforesaid county) to the southeast corner of that certain 1-acre parcel of land described in Deed Record 166, pages 98-99, in said Recorder's office, which southeast corner is North 66 degrees 14 minutes 00 seconds East 80.686 feet, measured along said northwestern boundary, from the east line of that certain 6.99-acre parcel of land described in Deed Record 162, page 185, in said Recorder's office; thence North 7 degrees 08 minutes 00 seconds West parallel with the east line of said 6.99-acre parcel 563.25 feet (555 feet by said Deed Record 297, page 418) to the southeastern line of that certain 40.07-acre parcel of land described in Deed Record 159, page 5, in said Recorder's office; thence North 38 degrees 14 minutes 00 seconds East along said southeastern line 178.21 feet (172.11 feet by said Deed Record 297, page 418) to the west line of the aforesaid 72-acre parcel; thence South 7 degrees 04 minutes 06 seconds East along said west line 563.44 feet (555 feet by said Deed Record 297, page 418) to the point of beginning; containing 2.204 acres, more or less, together with all rights in the National Road and U. S. 40 that are appurtenant and peculiar to the premises above described as well as those that are in common with the public. Subject to zoning, restrictions, encumbrances and easements of record.

A part of the Southwest Quarter of Section 27, a part of the Southeast Quarter of Section 28, a part of the Northeast Quarter of Section 33, and a part of the Northwest Quarter of Section 34, all in Township 15 North, Range 1 East, Hendricks County, Indiana, described as follows: Beginning at a point on the west line of said Section 34 that is North 0 degrees 17 minutes 42 seconds West (assumed bearing) 357.47 feet (21 1/2 rods by that certain decree in partition dated March 27, 1879, and spread upon Order Book 21, page 161 et seq., in the office of the Clerk of the Hendricks Circuit Court), measured along said section line, from a cross on a stone at the southwest corner of the Northwest Quarter of said Section 34, which point of beginning is in the center of the so-called National Road (Cumberland Road by statute); thence North 66 degrees 14 minutes 00 seconds East along the center of said road (not coincident with the center line of the westbound lane of U.S. 40) 500.37 feet; thence North 66 degrees 20 minutes 07 seconds East along the center of said National Road 524.74 feet to the southeast corner of the 72-acre parcel of land assigned and set apart to Esther Blair by virtue of said decree in partition; thence North 10 degrees 57 minutes 12 seconds West along the east line of said 72-acre parcel 1,949.62 feet to a point on the south line of said Section 27 that is North 88 degrees 57 minutes 24 seconds East 580.13 feet, measured along said south line, from the southwest corner of said Section 27, and which is South 88 degrees 57 minutes 24 seconds West 2,124.25 feet, measured along said south line, from an iron pin set in concrete (formerly a stone) at the southeast corner of the Southwest Quarter of said Section 27; thence North 10 degrees 57 minutes 12 seconds West along the east line of said 72-acre parcel (and said east line prolonged) 994.21 feet to the center line of the former railroad of The Consolidated Rail Corporation; thence South 75 degrees 26 minutes 42 seconds West along said center line 410.61 feet to a point on the east line of said Section 28 that is North 0 degrees 24 minutes 33 seconds West 883.49 feet, measured along said east line, from the southeast corner of said Section 28, and which is South 0 degrees 24 minutes 33 seconds East 1,789.82 feet, measured along said east line, from a stone at the northeast corner of the Southeast Quarter of said Section 28; thence South 75 degrees 26 minutes 42 seconds West along said center line 2,773.27 feet to the west line of the Southeast Quarter of said Section 28; thence South 0 degrees 30 minutes 55 seconds East along said west line 241.78 feet to a cross on a stone at the southwest corner of said quarter section; thence North 88 degrees 49 minutes 22 seconds East along the south line of said Section 28 a distance of 1,014.92 feet; thence South 0 degrees 14 minutes 07 seconds East parallel with the west line of the Northeast Quarter of said Section 33 a distance of 2,079.10 feet to the northwest corner of that certain 10.19-acre parcel of land described in a warranty deed dated October 12, 1859, and entered for record in Deed Record 23, page 363, in the office of the Recorder of the aforesaid county; thence North 88 degrees 42 minutes 17 seconds East along the north line of said 10.19-acre parcel 725.38 feet (10.88 chains by said deed) to the northeast corner of said parcel; thence South 7 degrees 08 minutes 00 seconds East along the east line of said 10.19-acre parcel 599.26 feet (9 chains by said deed) to the southeast corner of said parcel; thence North 88 degrees 48 minutes 00 seconds East along the south line of the East Half of the Northeast Quarter of said Section 33 a distance of 25.08 feet to the center of the aforesaid National Road at the southeast corner of that certain 57.26-acre parcel of land described in a warranty deed dated March 15, 1858, and entered for record in Deed Record 21, page 536, in said Recorder's office, which corner is North 88 degrees 48 minutes 00 seconds East 488.90 feet (incorrectly said in certain old deeds to be 7.31 chains), measured along said south line, from where a stone once marked the southwest corner of said half-quarter section, and which corner of said parcel is also South 88 degrees 48 minutes 00 seconds West 854.43 feet, measured along said south line, from a cross on a stone at the southeast corner of said half-quarter section; thence North 7 degrees 08 minutes 00 seconds West along the east line of said 57.26-acre parcel 605.00 feet; thence North 66 degrees 14 minutes 00 seconds East parallel with the center of said National Road 793.50 feet to the west line of the aforesaid 72-acre parcel; thence South 7 degrees 04 minutes 06 seconds East along said west line 605.21 feet to the center of said National Road; thence North 66 degrees 14 minutes 00 seconds East along said center line 138.60 feet to the point of beginning; containing 10.560 acres, more or less, in said Section 27, containing 34.733 acres, more or less, in said Section 28; containing 78.356 acres, more or less, in said Section 33, and containing 37.788 acres, more or less, in said Section 34. Containing in all 161.437 acres, more or less, which area includes rights of way for the National Road and U.S. 40. The portion of the above-described real estate which is not embraced by said rights of way contains 160.258 acres, more or less. Subject to zoning, restrictions, encumbrances, highways and easements of record.

A part of the Southwest Quarter of Section 28, a part of the East Half of the Southeast Quarter of Section 29, and a part of the Northwest Quarter of Section 33, all in Township 15 North, Range 1 East, Hendricks County, Indiana, described as follows: Beginning at an iron pin topped with an aluminum disk at the northwest corner of the Southwest Quarter of said Section 28; thence South 0 degrees 32 minutes 32 seconds East (assumed bearing) along the west line of said Section 28 a distance of 600.153 feet; thence North 88 degrees 57 minutes 19 seconds East 677.194 feet; thence North 0 degrees 37 minutes 55 seconds West 423.60 feet; thence South 76 degrees 23 minutes 35 seconds East 231.13 feet; thence South 87 degrees 47 minutes 07 seconds East 14.71 feet to the southwest corner of that certain 1.03-acre parcel of land described in Deed Record 301, page 204, in the office of the Recorder of the aforesaid county; thence South 77 degrees 09 minutes 52 seconds East along the south line of said parcel 178.85 feet; thence North 0 degrees 12 minutes 33 seconds West along the east line of said parcel 279.78 feet to the north line of the West Half of the Southwest Quarter of said Section 28; thence North 88 degrees 54 minutes 08 seconds East along said north line 259.46 feet to a stone at the northeast corner of said half-quarter section; thence North 88 degrees 54 minutes 29 seconds East along the north line of the East Half of the Southwest Quarter of said Section 28 a distance of 4.17 feet; thence South 0 degrees 17 minutes 27 seconds East 1,338.12 feet; thence South 88 degrees 54 minutes 33 seconds West 187.23 feet; thence South 0 degrees 31 minutes 07 seconds East 1,338.39 feet to a point on the north line of said Section 33 that is North 88 degrees 56 minutes 01 second East 1,159.96 feet, measured along said section line, from a stone at the northwest corner of said Section 33; thence South 0 degrees 31 minutes 07 seconds East 76.14 feet to the northwestern boundary of the right of way of the former railroad of The Consolidated Rail Corporation; thence South 75 degrees 20 minutes 08 seconds West along said northwestern boundary 1,198.64 feet to the west line of said Section 33; thence North 0 degrees 08 minutes 08 seconds West along said west line 358.00 feet to a stone at the northwest corner of said Section 33, the same being the southwest corner of said Section 28 and the southeast corner of said Section 29; thence North 0 degrees 32 minutes 32 seconds West along the line between said Sections 28 and 29 a distance of 494.00 feet to a corner of Andrews' Liberty Meadows, Amended, as entered for record in Plat Book 9, page 63, in said Recorder's office; thence South 88 degrees 32 minutes 55 seconds West along a north line of said Andrews' Liberty Meadows 859.14 feet (859.29 feet by said Plat Book 9, page 63) to a corner of said Andrews' Liberty Meadows; thence North 0 degrees 33 minutes 49 seconds West along an east line of said Andrews' Liberty Meadows 2,181.96 feet (2,181.89 feet by said Plat Book 9, page 63) to the north line of the East Half of the Southeast Quarter of said Section 29; thence North 88 degrees 33 minutes 40 seconds East along said north line 859.95 feet to the point of beginning; containing 65.618 acres, more or less, in said Section 28, containing 43,048 acres, more or less, in said Section 29; and containing 5.782 acres, more or less, in said Section 33. Containing in all 114.448 acres, more or less. Subject to zoning, restrictions, encumbrances, highways, and easements.

Given under my hand and seal this 7th day of October 1992:

339

759

BOOK 147 PAGE 63

Part of the Southeast quarter of the Northeast quarter AND a part of the Northeast quarter of the Southeast quarter in Section 33, Township 15 North of Range 1 East, in Guilford Township, Hendricks county, Indiana, described as follows, to-wit:

Beginning 854.5 feet West of the stone at the East half mile corner of said Section 33, which point is the intersection of the East and West half section line with the center line of the East and West bound land of U.S. Highway 40; thence deflecting left 22 degrees 23 minutes and running southwesterly on said center line 202.1 feet; thence deflecting right 106 degrees 29 minutes and running Northwesterly 677.6 feet; thence deflecting right 95 degrees 50 minutes and running Easterly 194.9 feet to the East line of a lane; thence deflecting right 84 degrees 10 minutes and running Southeasterly along said East line 599.5 feet to the place of beginning, containing 2.84 acres, more or less. Subject to all legal highways, rights of way and easements of record.

A part of Sections 27, 28 and 33 situated in Guilford Township, Hendricks County, Indiana, and being more particularly described as:

The north half of a former Consolidated Rail Corporation railroad corridor and/or right of way between County Road 500 East on the east and a point on the west being the common boundary of the former Castle Farms, Inc., parcel (described in Instrument #20005, Book 323, page 412) and the Bauer parcel (D.R. 215, page 97), the same also being described as all of the right, title and interest previously owned by The Consolidated Rail Corporation, and predecessor railroads, which was conveyed from and off of the predecessors in title to the former Castle Farms, Inc., parcel and to the former Henley parcel (Instrument #19189, Book 323, pages 231-233).

SARATOGA - PART OF LOT 23, PLAINFIELD MANOR, SECTION TWO
LEGAL DESCRIPTION
Amended February 9, 1995

BOOK 14 PAGE 700

A part of Lot 23 in Plainfield Manor, Section Two, an addition to the Town of Plainfield, Indiana, the plat of which addition is recorded in Plat Book 9, page 48, in the Office of the Recorder of Hendricks County, described as follows: Commencing at the west corner of said lot; thence South 34 degrees 34 minutes 02 seconds East 102.43 feet along the southwestern line of said lot to the POINT OF BEGINNING of this description: thence South 71 degrees 20 minutes 21 seconds East 133.17 feet along a line coincident with the west corner of Lot 40 in said addition to the southeastern line of said Lot 23 and the beginning of a non-tangent curve concave to the northwest having a radius of 297.05 feet and to which beginning a radial line bears South 50 degrees 08 minutes 03 seconds East; thence along said southeastern line Southwesterly 80.71 feet along said curve through a central angle of 15 degrees 34 minutes 00 seconds to the south corner of said lot; thence North 34 degrees 34 minutes 02 seconds West 117.57 feet along the southwestern line of said lot to the POINT OF BEGINNING and containing 4,833 square feet, more or less. The bearings in this description are based upon the southwestern line of said Lot 23 having an assumed bearing of South 34 degrees 34 minutes 02 seconds East. Subject to all easements, restrictions, and rights-of-way of legal record.

VCADD\19173\LEGAL\PTLOT23.DES

A part of the Southwest Quarter of Section 27, a part of the South Half of Section 28, and a part of the Northwest Quarter of Section 33, all in Township 15 North, Range 1 East, Hendricks County, Indiana, described as follows: Commencing at an iron pin topped with an aluminum cap at the northwest corner of the West Half of the Southwest Quarter of said Section 28; thence North 88 degrees 54 minutes 08 seconds East (assumed bearing) along the north line of said half-quarter section 1,349.45 feet to a stone at the northeast corner of said half-quarter section; thence North 88 degrees 54 minutes 29 seconds East along the north line of the East Half of the Southwest Quarter of said Section 28 a distance of 4.17 feet to the point of beginning of this description: FROM SAID BEGINNING POINT North 88 degrees 54 minutes 29 seconds East along the north line of said half-quarter section 1,333.93 feet to a point on the west line (prolonged northward) of Plainfield Manor, Section 1, (the plat of which is entered for record in Plat Book 8, page 70, in the office of the Recorder of the aforesaid county), which point is South 88 degrees 54 minutes 29 seconds West 0.63 feet, measured along said north line, from the center of said Section 28; thence South 0 degrees 25 minutes 27 seconds East along said prolonged west line 2.17 feet to the northwest corner of said Plainfield Manor, Section 1; thence South 0 degrees 25 minutes 27 seconds East along said west line 240.002 feet to the southwest corner of Lot 1 in said Plainfield Manor, Section 1; thence North 88 degrees 55 minutes 58 seconds East along the south line of said Plainfield Manor, Section 1, a distance of 1.020 feet to the west line of the Southeast Quarter of said Section 28; thence North 88 degrees 55 minutes 58 seconds East along said south line 824.159 feet to the northwest corner of Lot 22 in said Plainfield Manor, Section 1; thence South 1 degree 04 minutes 02 seconds East 160.000 feet to the southwest corner of said Lot 22; thence South 37 degrees 56 minutes 06 seconds East 353.222 feet to the westernmost corner of Lot 19 in said Plainfield Manor, Section 1; thence South 24 degrees 04 minutes 02 seconds East 405.000 feet to the southernmost corner of Lot 17 in said Plainfield Manor, Section 1; thence North 56 degrees 25 minutes 58 seconds East 115.000 feet to the westernmost corner of Lot 23 in Plainfield Manor, Section 2, (the plat of which is entered for record in Plat Book 9, page 48, in said Recorder's office); thence South 34 degrees 34 minutes 02 seconds East 220.000 feet to the southernmost corner of said Lot 23; thence along the southeastern line of said lot Northeasterly 178.867 feet on an arc to the left having a radius of 297.053 feet and subtended by a long chord having a bearing and length of North 38 degrees 10 minutes 58 seconds East 176.177 feet; thence North 20 degrees 55 minutes 58 seconds East along said southeastern line 31.487 feet; thence South 55 degrees 37 minutes 50 seconds East 51.408 feet to the northwestern line of Lot 40 in said Plainfield Manor, Section 2; thence South 20 degrees 55 minutes 58 seconds West along said northwestern line 19.544 feet; thence along said northwestern line Southwesterly 95.477 feet on an arc to the right having a radius of 347.055 feet (347.053 feet by said Plat Book 9, page 48) and subtended by a long chord having a bearing and length of South 28 degrees 48 minutes 52 seconds West 95.176 feet to the westernmost corner of said lot; thence South 29 degrees 56 minutes 57 seconds East 309.141 feet to the southernmost corner of said lot; thence North 58 degrees 00 minutes 11 seconds East 195.744 feet to southwest corner of Lot 88 in said Plainfield Manor, Section 2; thence North 85 degrees 42 minutes 53 seconds East 359.238 feet to the southeast corner of Lot 36 in said Plainfield Manor, Section 2; thence South 4 degrees 52 minutes 31 seconds East 40.000 feet to the southwest corner of Lot 34 in said Plainfield Manor, Section 2; thence South 89 degrees 14 minutes 16 seconds East 206.428 feet to the southeast corner of said Lot 34; thence North 85 degrees 07 minutes 29 seconds East 50.000 feet to the southeast corner of Lisa Lane; thence North 4 degrees 52 minutes 31 seconds West along the east line of said Lisa Lane 20.000 feet to the southwest corner of Lot 33 in said Plainfield Manor, Section 2; thence North 85 degrees 07 minutes 29 seconds East along the south line of said lot 209.01 feet to the west line of that certain 35.2-acre parcel of land described in Deed Record 215, page 97, in said Recorder's office; thence South 4 degrees 45 minutes 42 seconds East along said west line 211.93 feet to the west line of said Section 27; thence South 4 degrees 45 minutes 42 seconds East along the west line of said 35.2-acre parcel 116.75 feet to the northwestern boundary of the right of way of the former railroad of The Consolidated Rail Corporation as described in Deed Record 136, page 272, in said Recorder's office; thence South 73 degrees 36 minutes 05 seconds West along said northwestern boundary 9.22 feet to a point on the east line of said Section 28 that is South 0 degrees 24 minutes 33 seconds East 1,635.13 feet, measured along said east line, from a stone at the northeast corner of the Southeast Quarter of said Section 28; thence South 73 degrees 36 minutes 05 seconds West along said northwestern boundary 2,797.52 feet to the east line of the Southwest Quarter of said Section 28 at a point thereon that is 60.00 feet northwesterly, measured at right angles, from the center line of said former railroad; thence South 0 degrees 30 minutes 55 seconds East along said east line and along said railroad boundary 10.31 feet to a point 60.00 feet northwesterly, measured at right angles, from said center line; thence South 75 degrees 26 minutes 42 seconds West along said northwestern boundary parallel with said center line 386.01 feet; thence South 75 degrees 20 minutes 08 seconds West along said northwestern boundary parallel with said center line 864.60 feet to the north line of said Section 33 at a point thereon that is North 88 degrees 56 minutes 01 second East 1,474.00 feet, measured along said north line, from a stone at the northwest corner of said Section 33; thence South 75 degrees 20 minutes 08 seconds West along said northwestern boundary parallel with said center line 323.85 feet; thence North 0 degrees 31 minutes 07 seconds West 76.14 feet to the south line of said Section 28 at a point thereon that is North 88 degrees 56 minutes 01 second East 1,159.96 feet, measured along said south line, from a stone at the southwest corner of said section; thence North 0 degrees 31 minutes 07 seconds West 1,338.39 feet; thence North 88 degrees 54 minutes 33 seconds East 187.23 feet; thence North 0 degrees 17 minutes 27 seconds West 1,338.12 feet to the point of beginning; containing 0.012 acres, more or less, in said Section 27, containing 153.956 acres, more or less, in said Section 28; and containing 0.274 acres, more or less, in said Section 33. Containing in all 154.242 acres, more or less. Subject to zoning, restrictions, encumbrances, highways, and easements.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:

SARATOGA - UNDEVELOPED STREET
LEGAL DESCRIPTION
Amended February 9, 1995

BOOK 147 ^{A-7} PAGE 702

A part of the Southeast Quarter of Section 28, Township 15 North, Range 1 East, Hendricks County, Indiana, being a strip of land lying between Lots 23 and 40 in Plainfield Manor, Section Two, an addition to the Town of Plainfield, Indiana, the plat of which addition is recorded in Plat Book 9, page 48, in the Office of the Recorder of Hendricks County, said strip being more completely described as follows: Commencing at the west corner of said Lot 23; thence South 34 degrees 34 minutes 02 seconds East 102.43 feet along the southwestern line of said lot; thence South 71 degrees 20 minutes 21 seconds East 133.17 feet along a line coincident with the west corner of said Lot 40 to the southeastern line of said Lot 23 and the POINT OF BEGINNING of this description, said point being the point of intersection with a non-tangent curve concave to the northwest having a radius of 297.05 feet and to which beginning a radial line bears South 50 degrees 08 minutes 03 seconds East; thence along said southeastern line Northeasterly 98.16 feet along said curve through a central angle of 18 degrees 56 minutes 00 seconds; thence North 20 degrees 55 minutes 58 seconds East 31.49 feet along said southeastern line to the southwestern boundary of Lisa Lane as platted in said addition; thence South 55 degrees 37 minutes 50 seconds East 51.41 feet along the boundary of said Lisa Lane to the northwestern line of said Lot 40; thence South 20 degrees 55 minutes 58 seconds West 19.54 feet along said northwestern line to the beginning of a curve concave to the northwest having a radius of 347.05 feet; thence along said northwestern line Southwesterly 95.48 feet along said curve through a central angle of 15 degrees 45 minutes 45 seconds to the west corner of said Lot 40; thence North 71 degrees 20 minutes 21 seconds West 53.06 feet to the POINT OF BEGINNING and containing 6,115 square feet, more or less. The bearings in this description are based upon the southwestern line of said Lot 23 having an assumed bearing of South 34 degrees 34 minutes 02 seconds East. Subject to all easements, restrictions, and rights-of-way of legal record.