MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF AVALON

THIS MASTER DECLARATION (hereafter "Master Declaration"), made this 2nd day of [February], 2004, by PULTE HOMES OF INDINA, LLC (hereafter "Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate, located in Hamilton County, Indiana, which is more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "X" (hereafter "Real Estate"), upon which a residential subdivision known as AVALON (hereafter "Development") will be developed;

WHEREAS, the real estate described in what is attached hereto and incorporated herein by reference as Exhibit "Y" shall hereafter be referred to as the "Additional Real Estate".

WHEREAS, Declarant desires to subdivide and develop the Real Estate and Declarant may, in the future, desire to subdivide and develop such portions (or all) of the Additional Real Estate as may be made subject to the terms of this Master Declaration, as hereinafter provided;

WHEREAS, the term "Property" shall hereafter mean and refer to the Real Estate together with such portions of the Additional Real Estate as have from time to time been subjected to this Master Declaration.

NOW, THEREFORE, the Declarant hereby declares that the Property and all of the Lots (hereafter defined) in the Property, as they are held and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied, and improved, are subject to the following restrictions, all of which are declared to be in furtherance of a plan of the improvement and sale of the Property and each Lot situated therein, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole and each of the Lots situated therein. This Master Declaration shall run with the Property and shall bind upon the Declarant, its successors and assigns, and upon the parties having or acquiring any interest in the Property or any part or parts thereof subject to these restrictions. The restrictions shall inure to the benefit of the Declarant and its successors in title to the Property or any part or parts thereof.

As of the date of execution hereof, the Property consists solely of the Real Estate. The Owner of any Lot subject to these restrictions, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant, a Builder, or a subsequent Owner of such Lot or (ii) the active occupancy of any Lot, shall accept such deed, execute such contract and/or actively occupy such Lot subject to such restriction and agreement herein contained.

Declarant shall have the right, and hereby reserves to itself the right, at any time, and from time to time, at any time prior to the expiration of the Development Period, to add to the Property and subject to this Master Declaration all or any part of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the Property, and therefore and thereby becomes a part of the Property and subject in all respects to this Master Declaration and all rights, obligations, and privileges herein, when Declarant places of record in Hamilton County, Indiana an instrument to declaring the same to be part of the Property, which supplementary Master Declaration (hereafter "Supplementary Master Declaration") may be as part of a subdivision plat for any portion of the Additional Real Estate, or by an
amendment or supplement to this Master Declaration. Such Supplementary Master Declaration may contain modifications hereto and additional terms, conditions, restrictions, maintenance obligations, and assessments as may be necessary to reflect the different character, if any, of the Additional Real Estate or improvements to be located thereon.

Upon recording of any such instrument on or before the expiration of the Development Period, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Property and the Owners of any Lots within such real estate shall be deemed for all purposes, to have and be subject to all of the rights, duties, privileges, and obligations of Owners of Lots within the Property. No single exercise of Declarant’s right and option to add and expand the Property as to any part or parts of the Additional Real Estate, shall preclude Declarant from thereafter from time to time further expanding and adding to the Property to include other portions of the Additional Real Estate, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Additional Real Estate so long as such expansion is accomplished on or before the expiration of the Development Period. Such expansion of the Property is entirely at the sole discretion of the Declarant and nothing contained in this Master Declaration or otherwise shall require Declarant to expand the Property beyond the Real Estate, or to any portions of the Additional Real Estate which Declarant may voluntarily and in its sole discretion from time to time subject to this Master Declaration.

ARTICLE I

DEFINITIONS

The following are the definitions of the terms as they are used in this Master Declaration:

Section 1.1 “Attached Residence” shall mean a residence which is physically attached to another residence. Examples of Attached Residences are condominiums, townhouses, quads, duplexes, or other multi-plexed dwellings.

Section 1.2 “Builder” means a person or entity engaged in the business of constructing single family residences for sale and engaged in and responsible for the original construction of a residence on a Lot.

Section 1.3 “Town” shall mean the Town of Fishers, Hamilton County, Indiana.

Section 1.4 “Commitments” shall mean and refer to (i) the commitments made in connection with the Property and recorded with the Recorder of Hamilton County, Indiana, on the 27th day of June, 2003, as Instrument No. 200300061910, as amended by the amendment recorded with the Recorder of Hamilton County, Indiana, on the 25th day of August, 2003, as Instrument No. 200300086147 and (ii) the Declaration of Covenants and Restrictions Concerning the Use and Development of Real Estate recorded with the Recorder of Hamilton County, Indiana, on September 24, 2003, as Instrument No. 20030099008.

Section 1.5 “Committee” shall mean the Development Standards and Architectural Control Committee, as more fully described in Article VI of this Master Declaration.

Section 1.6 “Common Area” shall mean any Common Area or Limited Common Area, whether a Master Common Area or a Neighborhood Common Area, (i) designated on current and future Plats as a “Block”, “Common Area”, “C.A.”, “Limited Common Area”, or “C.C.A.”, and (ii) the Pool.
Section 1.7 "Detached Residence" shall mean a residence not physically attached to another residence.

Section 1.8 "Development Period" means the period of time commencing with Declarant's acquisition of the Property and ending when Declarant has completed the development and sale of, and no longer owns, any Lot or any other portion of the Property. The Development Period shall recommence each time the Declarant acquires any part (or all) of the Additional Real Estate.

Section 1.9 "Drainage Board" means the Hamilton County Drainage Board.

Section 1.10 "Lake Area" means any Common Area on which a lake now exists or is later constructed by Declarant and "Lake" means a body of water which now exists or is later constructed by Declarant in a Lake Area.

Section 1.11 "Lot" shall mean and refer to (i) a discreet lot or building parcel for a Residence, as reflected on a Plat, or (ii) to a condominium unit within a condominium within the Property, together with the undivided share of the common elements that are appurtenant to the condominium unit. The term "Lot" shall not include any land that is Master Common Area or Neighborhood Common Area.

Section 1.12 "Master Association" shall mean and refer to the Avalon Master Association, Inc., an Indiana not for profit corporation, which has its principal place of business in Hamilton County, Indiana, and its successors and assigns. Any reference to the Master Association shall also be a reference to the Articles, Minutes, and Bylaws of the Master Association.

Section 1.13 "Master Board of Directors" or "Master Board" shall mean the Board of Directors of the Avalon Master Association, Inc.

Section 1.14 "Master Common Area" shall mean and refer to all real property, easements, rights-of-way, licenses, interest in real property, and private streets that are now, or in the future, designated by the Declarant as a Master Common Area and owned, contracted for, leased, or otherwise held by the Master Association for the common use and enjoyment of the members. Master Common Area may include, without limitation, entrance systems and features, toll systems, lakes, landscaping, signs, gate houses, the Pool, and any other recreational facilities located in a Master common Area.

Section 1.15 "Master Declaration" shall mean this document entitled the "Master Declaration of Covenants, Conditions, and Restrictions of Avalon."

Section 1.16 "Neighborhood" shall mean any portion of the Property which has been granted neighborhood status by the Declarant through the recording of a Neighborhood Declaration.

Section 1.17 "Neighborhood Association" shall mean any property owners association, condominium association, or other similar entity, their successors and assigns, which may be formed by the Declarant or the Master Association for any particular Neighborhood.

Section 1.18 "Neighborhood Common Area" shall mean any real property, including any improvements and fixtures thereon, designated by the Declarant as a Neighborhood Common Area and owned, leased, or the use of which has been granted to a Neighborhood Association for the common use and enjoyment of the members of the Neighborhood Association.
Section 1.19 "Neighborhood Declaration" shall mean and refer to any and declaration, covenants, conditions restrictions and other provisions that may be imposed by a recorded instrument applicable to any Neighborhood.

Section 1.20 "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but otherwise excluding those having such interest merely as security for the performance of an obligation. Unless specifically indicated to the contrary, the term "Owner" shall include the Declaratant and a Builder.

Section 1.21 "Person" shall mean an individual, firm, corporation, partnership, Master Association, trust or other legal entity or any combination thereof.

Section 1.22 "Plat" shall mean the subdivision plats of the Property which are recorded with the Recorder of Hamilton County, Indiana.

Section 1.23 "Pool" shall mean the recreational swimming pool and attached bath house which Declaratant, in its sole and absolute discretion, may construct on the Property.

Section 1.24 "PUD" shall collectively mean and refer to the PUD Ordinance enacted by the Town of Fishers, Indiana, on the 2nd day of June, 2003, as Ordinance No. 020303 and Ordinance No. 021803G.

Section 1.25 "Refuse Collection" shall mean the collection, from each Residence, of trash and garbage, for which the Association contracts.

Section 1.26 "Residence" shall mean an Attached Residence or a Detached Residence.

Section 1.27 "Special Use" shall mean any use defined or identified in any applicable zoning ordinance as a "Special Use".

Section 1.28 "Trail System" means paths or trails so designated by the Master Board and located in a Master Common Area and Neighborhood Common Area.

ARTICLE II

CHARACTER OF THE DEVELOPMENT

Section 2.1 In General. No structure shall be erected, placed or permitted to remain upon any Lot except a Residence. All Property located within a plat which has not been designated by numbering shall be used in a manner determined by the Declaratant. Lots may be used only for residential purposes and only one Residence may be constructed thereon. No portion of any Lot may be sold or subdivided such that there will be thereby a greater number of Residences in Avalon than the number of Lots depicted on a Plat. Notwithstanding any provision in the applicable zoning ordinance to the contrary, no Lot may be used for any "Special Use" that is not clearly incidental and necessary to single family dwellings.

Section 2.2 Other Restrictions. All Property shall be subject to the easements, restrictions, and limitations of record appearing on a Plat and amendments thereto, on recorded easements, and rights-of-
way, and also to all governmental zoning authority and regulation affecting the Property, all of which are incorporated herein by reference.

ARTICLE III

EASEMENTS

Section 3.1 Designated Easements. The following are easements designated or to be designated, in the Declarant's sole discretion, upon a plat:

(A) Designated Drainage, Utility, and Sewer Easements. There are strips of ground designated on the Plat as drainage easements, utility easements, sewer easements, sanitary sewer easements and storm sewer easements, or any combination thereof, which are hereby reserved to the appropriate governmental entities, public utilities, and private utilities for the installation and maintenance of swales, ditches, pipes, drains, sanitary sewers, manholes, detention and retention areas or other drainage facilities. Purchasers of Lots in this subdivision shall take title subject to such easements hereby created and subject at all times to the rights of proper authorities to service and maintain such drainage facilities and easements, and no permanent structure of any kind and no part thereof, except fences which do not retard or impede the flow of drainage water and which are approved by any entity to which the easement is dedicated and pursuant to Section 5.9 below, shall be built, erected or maintained on said drainage easements, except by the Declarant or its assigns. It shall be the responsibility of the Master Association and the Owners of the areas enclosed within such easements to maintain such areas in such conditions that the flow of storm drainage waters on, across and from said areas shall not be impeded, diverted or accelerated. Such use for storm water movement or retention or detention is hereby declared to be an easement and servitude upon said land for the benefit of the Owners of other land included within the Plat, upstream or downstream, affected by such use and for any proper governmental agency or department or any private or public utility. All proper governmental agencies or departments and public and private utilities are hereby given the right to obtain access to such areas to perform maintenance and to perform such maintenance as may be necessary to protect that easement and servitude rights. It shall be the responsibility of the Master Association and the Owner of any Lot or parcel of land within the Plat to comply at all times with the provisions of the drainage plan as approved for the applicable Plat by the appropriate governmental agency or department and the requirements of all drainage permits for such Plat issued by those agencies. Failure to so comply shall operate as a waiver and release of the Declarant, the developer, their engineers and agents from all liability as to damage caused by storm waters or storm drainage.

Further, there are easements and servitudes upon the land within the Plat in favor of surface water runoff along natural valleys and drainage channels running to Owners of other land contained within the Plat, upstream and downstream. It shall be the responsibility of the Master Association and the Owners of these natural valleys and channels to use their land and maintain said natural valleys and channels in such manner and condition that the flow of storm drainage waters on, across, from and to such areas shall not be impeded, diverted or accelerated.

(B) Designated Mounding, Landscaping, and Screening and Sign Easements. Any strips of grounds shown or designated on the Plat for landscaping including, but not limited to, landscape easements, landscape maintenance easements, and/or landscape maintenance access easements are hereby reserved unto Declarant, during the Development Period, and, thereafter, unto the Master Association, for the purposes of (i) providing signs which either advertise the
Property and the availability of Lots or identify the Property or, (ii) installing landscaping, mounding, and screening. Declarant reserves unto itself during the Development Period and thereafter unto the Master Association, the exclusive and sole right to erect signs and install landscaping, mounding, and screening within these strips of ground. Notwithstanding anything in this Master Declaration to the contrary, no planting shall be done, and no hedges, walls, fences or other improvements shall be erected or maintained in the area of such easements, except by the Declarant during the Development Period, and thereafter by the Master Association. Furthermore, notwithstanding anything in this Master Declaration to the contrary, no planting shall be done, and no hedges, walls, fences, structures, or other improvements shall be erected between (i) any landscape easement or landscape maintenance easement, and (ii) any perimeter roadway, public highway or right-of-way along the perimeter or boundary of the Property, except by the Declarant during the Development Period and thereafter by the Master Association.

(C) Easement Work. Notwithstanding any architectural approval under Article VII below, during the course of any maintenance, service, repair or work upon any easement, the Declarant, the Master Association, any private utility, any public utility, and/or any governmental entity shall have the right and the authority, without any obligation or liability whatsoever to any owner, to remove, damage, or destroy any fence or other structure or landscaping built, erected, maintained or planted in any easement described in Section 3.1 (A) above and without any obligation of replacement.

Section 3.2 General Drainage Utility Sewer and other Development Easements. The following rights reserved in this Section shall not be exercised, after the conveyance of any Lot, in a manner that (i) unreasonably and adversely affects any Residence or portion thereof located upon such Lot or the Owner’s use or enjoyment thereof, or (ii) unreasonably restricts the rights of ingress and egress to such Lot. The following rights and easements reserved by Declarant in this Section shall run with the land, and Declarant’s right to further alter or grant easements shall automatically terminate and pass to the Master Association one (1) year after Declarant shall have conveyed the last Lot within the Property.

(A) Declarant hereby reserves unto itself during the Development Period, and thereafter unto any public or private utility, a general easement ("Drainage, Utility and Sewer Easement") for drainage, utility and sewer purposes in, on and over all of the Common Area and any Lot, so as to permit Declarant to properly install and allow to be maintained all electrical, telephone, water, gas, sanitary and storm sewer, television (including but not limited to cable and/or satellite) transmission facilities, security systems and other utility services (including all necessary lines, pipes, wires, cables, ducts, antennae and other equipment and facilities) to serve any Residence. Any Drainage, Utility, Sewer and other Development Easement shall include all areas of the Property outside any Residence, with the exception of any areas covered by chimneys, or patios. Improvements or permanent structures installed within the Common Area are subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of the Declarant and any public or private utility to construct, maintain, repair or remove any necessary facilities. By virtue hereof, Declarant reserves the right to install a lake(s) or pond(s) on any Common Area. The rights hereunder and easements hereby reserved survive the conveyance, by the Declarant to the Master Association, of any Common Area. This easement shall be in addition to any easement defined upon a Plat as a drainage, sewer, utility, cable, landscape, sign, transmission, flowage or similar type easement.

(B) Declarant reserves unto itself during the Development Period, and thereafter unto the Master Association, an easement ("Lake Easement") and right-of-way in and to any Lake
Area (s) or areas now or hereafter shown on the Plat as a “Block”, “Common Area”, or “Lake” or any other Common Area within the Property used as a water retention or detention area, or on which a Lake now exists or is later constructed, for the purpose of fulfilling any maintenance obligations set forth in this Master Declaration and/or establishing and maintaining proper surface water drainage throughout the Property, including dewatering maintenance, and an easement of ingress and egress through so much of the remainder of the Property as is reasonably necessary or appropriate, to perform such actions as Declarant or the Master Association deem necessary or appropriate, for the purpose of establishing and maintaining proper surface water drainage throughout the Property, which such actions shall include the construction, repair and maintenance of retention and detention ponds or lakes in accordance with the requirements of applicable law and of all governmental agencies having jurisdiction (without undertaking any obligation or duty to exceed such requirements).

(C) Declarant reserves unto itself during the Development Period, and thereafter unto the Master Association, the right and the sign and facilities easement (“Sign and Facilities Easement”) to install, erect, construct and maintain an entryway sign or signs, directional signs, advertising signs advertising the Property or the Lots therein, lighting, walkways, pathways, fences, walls and any other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Property (except upon any Lot after the first conveyance thereof). Any such signs shall comply with any applicable zoning requirements and all such facilities shall be maintained by the Master Association as a part of its maintenance obligations.

(D) Declarant reserves unto itself during the Development Period, and thereafter unto the Master Association, the full right, title and authority to:

(i) Relocate, alter or otherwise change the location of any Drainage, Flowage, Utility, Sewer and Lake, Sign and Facilities Easement, or any facility at any time located therein or thereon;

(ii) Grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Property, for the benefit of the Property or any portion thereof; and,

(iii) Describe more specifically or to change the description of any Drainage, Flowage, Utility, Sewer, Lake, Sign and Facilities Easement or any other easement, license or right-of-way now or hereafter existing on the Property, by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Hamilton County, Indiana.

(E) The title of the Master Association as to any Master Common Area, of the Neighborhood Association as to any Neighborhood Common Area, and of any Owner of any Lot shall be subject to the rights and easements reserved herein.
ARTICLE IV

ADDITIONAL PROVISIONS RESPECTING
OF SANITARY SEWER UTILITY

Section 4.1  Sanitary sewer utility easements allow for the construction, extension, operation, inspection, maintenance, reconstruction, and removal of sanitary sewer facilities and give utility companies the right of ingress/egress.

Section 4.2  No trees shall be planted directly over building sewers (l laterals). Any landscaping placed within easements or right-of-ways is at risk of being removed, damaged, or destroyed by the applicable utilities without the obligation of replacement.

Section 4.3  No moundng, lighting, fencing, signs, retaining walls, landscaping walls, entrance walls, irrigation lines, or other improvements shall be placed within ten (10) feet of the center of the sanitary sewer infrastructure. Any of these which are placed within easements or right-of-ways is at risk of being removed by the applicable utilities without the obligation of replacement.

Section 4.4  All Owners not serviced by gravity sanitary sewer service are responsible for all maintenance, repair and replacement of all grinder/ejector pumps, force mains and gravity laterals from the residence to its connection to the sanitary sewer main.

Section 4.5  The discharge of clear water sources, including, but not limited to, foundation drains, sump pumps, and roof drains to the sanitary sewers is prohibited.

Section 4.6  Grade changes across sanitary sewer facilities must be approved in writing by the applicable utilities.

ARTICLE V

COVENANTS AND RESTRICTIONS

Section 5.1  Land Use. Lots may be used only for single-family residential purposes and only one Residence not to exceed the maximum height permitted by and measured pursuant to the Zoning Ordinance of the Town of Fishers, Indiana, may be constructed thereon. No portion of any Lot may be sold or subdivided such that there will be thereby a greater number of Residences in Summer Ridge than the number of Lots depicted on the Plat. Notwithstanding any provision in the applicable zoning ordinance to the contrary, no Lot may be used for any “Special Use” that is not clearly incidental and necessary to single family dwellings.

Section 5.2  Address Identification. The numbers representing the address of each Residence will be of a uniform appearance and will be displayed in a uniform location and manner, as determined by the Committee.

Section 5.3  Lighting. All homes will have two dusk to dawn lights located on the sides of the garage doors. Street lights may be installed by Declarant in the utility easements on Lots and in the Common Areas. Street lights shall be operated and maintained by the Association. The Association reserves the right to remove street lights deemed no longer necessary by the Board of Directors.
Section 5.4 Temporary Structures. No trailer, shack, tent, boat, garage or other outbuilding may be used at any time as a dwelling, temporary or permanent, nor may any structure of a temporary character be used as a dwelling.

Section 5.5 Driveways. All driveways shall be concrete in material.

Section 5.6 Water Systems. Each Owner shall connect to the water main maintained by a private or public water utility to provide water for domestic use on the Lot and shall pay all connection, availability, or other charges lawfully established with respect to connections thereto.

Section 5.7 Drainage. In the event storm water drainage from any Lot or Lots flows across another Lot, provision shall be made by the Owner of the downstream Lot to permit such drainage to continue, without restriction or reduction, across the downstream Lot and into the natural drainage channel or course, although no specific drainage easement for such flow of water is provided on the Plat. To the extent not maintained by the Drainage Board, "Drainage Basements" reserved as drainage swales shall be maintained by the Owner of the Lot upon which such easements are located such that water from any adjacent Lot shall have adequate drainage along such swale. Lots may be included in a legal drain established by the Drainage Board. In such event, each Lot will be subject to assessment by the Drainage Board for the costs of maintenance of the portion of the drainage system and the lake control structures included in such legal drain, which assessment will be a lien against the Lot. The elevation of a Lot shall not be changed so as to materially affect the surface elevation or grade of surrounding Lots. Perimeter foundation drains and sump pump drains shall be connected whenever feasible into a subsurface drainage tile. Down spouts and drains shall be designed to disperse run-off for overland flow to street or swale collection systems. Each Owner shall maintain the subsurface drain and tile located on his Lot and shall be liable for cost of all repairs thereto or replacements thereof.

Section 5.8 Signs. Except for such signs as Declarant may in its absolute discretion display in connection with the identification of development of Summer Ridge and the sale of Lots therein, no sign of any kind shall be displayed to the public view of any Lot except that one (1) sign of not more than four (4) square feet may be displayed at any time for the purpose of advertising the property for sale, or may be displayed by a builder to advertise the property during construction and sale.

Section 5.9 Fencing. This subsection is applicable to all Lots except those Lots which are used for sales office or model home by the Declarant or a Builder. No fence, wall, hedge, or shrub planting higher than eighteen (18) inches shall be permitted between the front property line and the front building set back line except where such planting is part of Residence landscaping approved by the Architectural Review Committee and the prime root thereof is within six (6) feet of the Residence. Corner Lots shall be deemed to have two (2) front property lines. Trees shall not be deemed "shrubs" unless planted in such a manner as to constitute a "hedge". All fencing shall be cedar, dog-eared shadow box on both sides of the fence, unless approved by the Committee. All fencing on a Lot shall be uniform in height, style, and color and substantially similar in material. No fence shall be erected or maintained on or within any Landscaping Easement except such as may be installed by Declarant and subsequently replaced by the Association in such manner as to preserve the uniformity of such fence. No fence may be erected on a Lot without prior approval of the Committee, which shall approve or disapprove the location of all fences; provided, however, that all fencing erected on a Lot must be erected either (i) within six (6) inches of the property line of such Lot, or (ii) more than ten (10) feet from the property line of such Lot. Owners of Lots adjoining Lots on which a fence is erected within six (6) inches of the property line shall have the right to connect a fence to the fence on the adjoining Lot if the new fence satisfies all of the criteria expressed herein and is approved by the Committee. The Committee may establish further restrictions
with respect to fences, including limitations on (or prohibition of) the installation of fences in the rear yard of a Lot abutting a Lake and design standards for fences. All fences shall be kept in good repair. No fence, wall, hedge, or shrub planting, or tree foliage which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the Lot lines at the streets and a line connecting points 25 feet from the intersection of said street Lot lines; and, the same rule shall apply to the intersection of a driveway with a street, in which case the edge of the driveway pavement shall be substituted for one of the street Lot lines.

Section 5.10 Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. Violation of any ordinance governing noise, building or lot maintenance, or any other public nuisance shall be deemed to be a nuisance creating rights in every affected Owner, the Declarant, and/or the Association, as the case may be, to enforce the provisions hereof against the offending Owner. Barking dogs shall constitute a nuisance. In the event of successful enforcement by an Owner, the Declarant, or an Owner of the provisions thereof, the offending Owner shall be liable to the prevailing party for attorneys’ fees, court costs, and all other costs and expenses of litigation and collection in connection therewith.

Section 5.11 Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage or other waste shall be kept in sanitary containers out of public view except not more than 24 hours prior to its removal thereof, when it may be placed at the curb of the Lot. All equipment for storage or disposal of such materials shall be kept clean and sanitary.

Section 5.12 Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. The owners of such permitted pets shall confine them to their respective Lots such that they will not be a nuisance. Owners of dogs shall so control or confine them so as to avoid barking which will annoy or disturb adjoining Owners. Unless permitted by the Board of Directors of the Association, no Owner shall maintain more than two (2) of the same type (dog, cat, bird) of pet nor more than four (4) total pets; provided, however, that fish which are located in indoor aquariums and which pose no risk to the public health shall not be considered pets for the purpose of this restriction. No dangerous or potentially dangerous pets, such as exotic animals (large wild cats, wolves, alligators, snakes which are poisonous or longer than two feet, poisonous spiders, etc.) shall be permitted to exist in a Residence or on a Lot without the unanimous consent of the Architectural Review Committee and the Board of Directors; provided, however, that the decision of the Board of Directors to permit such animal or animals may be overturned by a majority vote of the Members at any meeting.

Section 5.13 Outside Burning. No trash, leaves, or other materials shall be burned upon a Lot unless the smoke therefrom would not blow upon any other Lot. Owners shall use appropriate incinerators and shall at all times be in compliance with all applicable legal requirements for outside burning.

Section 5.14 Antennas and Receivers. No antenna, satellite dish, or other device for the transmission or reception of radio, television, or satellite signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors and above ground, whether attached to a building or otherwise, on any part of the Property, including Lots, without the written approval of the Architectural Review Committee, which approval shall not be unreasonably withheld; provided, however, that any such device may be installed and maintained on any Lot without the necessity of such written approval if: (a) it
is not visible from the neighboring Lots, streets or Common Area; or (b) the Owner, prior to installation, has received the written consent of the Owners of all Lots who would have views of the device from their Lots; or (c) the device is virtually indistinguishable from structures, devices, or improvements, such as heat pumps, air-conditioning units, barbecue grills, patio furniture, and garden equipment, which are not prohibited by these covenants or Bylaws, or (d) it is a satellite dish 1 meter or less in diameter and not affixed to the roof of a residence; or (e) if prohibition of the installation, use, and maintenance of such device is specifically preempted and superseded by applicable governmental authority.

Section 5.15 Exterior Lights. Except on Lots on which there is maintained a sales office or model home by the Declarant or a Builder, no exterior lights shall be erected or maintained between the building line and rear lot line so as to shine or reflect directly upon another Lot.

Section 5.16 Electric Bug Killers. Electric Bug Killers, "zappers", and other similar devices shall not be installed at a location or locations which result in the operation thereof becoming a nuisance or annoyance to other Owners, and shall be operated only when outside activities require the use thereof and not continuously.

Section 5.17 Vacant Lots. It shall be the duty and obligation of the Owner of a vacant Lot to maintain such Lot and mow the lawn thereof. Declarant and the Association shall have the right, but not the duty, to enter upon each vacant Lot and to maintain the appearance thereof by cutting weeds, mowing grass, trimming trees, removing debris, installing erosion control devices, and performing any other act reasonable under the circumstances. The Owner shall be responsible for payment of all such expenses upon demand and the Declarant or the Association, as the case may be, shall have a lien on such Lot for the payment of such expenses, together with attorneys' fees and all other costs and expenses of litigation and collection which may be incurred in connection therewith.

Section 5.18 Association's Right to Perform Certain Maintenance. In the event that the Owner of any Lot shall fail to maintain his or her Lot and any improvements situated thereon in accordance with the provisions of this Declaration, the Association shall have the right, but not the obligation, by and through its agents or employees or contractors, to enter upon said Lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these restrictions. The cost incurred by the Association shall be assessed to the Owner. The Owner shall reimburse the Association within thirty (30) days of the date on which the Owner is invoiced by the Association. The Association shall have the right to collect any outstanding maintenance assessments in the manner described in Article XI. Neither the Association nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance work performed hereunder.

Section 5.19 Awnings. Except on Lots on which there is maintained a sales office or model home by the Declarant or a Builder, or as approved by the Committee, no metal, wood, fabric, fiberglass or similar type material awnings or patio covers will be permitted anywhere on the Property.

Section 5.20 Diligence in Construction. Subject to inclement weather, every Residence 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 three (3) months from the time of such destruction or damage or, if approval of the applicable casualty insurance is pending, then within three (3) months after such approval is forthcoming.
Section 5.21 HVAC Units. No heat pumps, air conditioning units or gas meters will be installed in the front of the Residence.

Section 5.22 Lake and Lake Area(s). Except as otherwise provided, no individual using a Lake, if any, has the right to cross another Lot or trespass upon shoreline not within a Common Area owned by the Association, subject to the rights of the Declarant, the Association, their employees, heirs, successors and assigns as set forth in the Declaration. No one shall do or permit any action or activity which could result in: pollution of any Lake, diversion of water, elevation of any Lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper Lake management except as provided in the Declaration. A Lake may not be used for swimming, ice skating, boating, or for any other purpose, except for drainage of the Property, unless expressly and specifically approved by the Board of Directors in writing and allowed by law. Lakes and Lake Areas may or may not exist on the Property, and the reference throughout this Declaration to Lakes and Lake Areas is made in order to address Lakes and Lake Areas, if any, which now exist or are later constructed upon the Property. The installation on the Property of any Lake or Lake Area shall be within the sole discretion of the Declarant, and under no circumstances shall the Declarant be required or obligated to install any Lake or Lake Area. Only the Declarant and the Association shall have the right to store items or develop recreational facilities upon any Common Area owned by the Association adjacent to a Lake.

Section 5.23 Mailboxes. All mailboxes and posts must be approved by the Committee and, within each Section of the Development, shall be standard as to size, location, post, design, height, material, composition and colors. The builder upon the initial Lot closing to the homeowner shall install the initial mailbox for each Lot, which meets the above criteria. The Owner agrees to maintain and paint said mailbox and post in conformance with all other mailboxes.

Section 5.24 Maintenance of Lots and Improvements. Each Owner shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the lot or improvements from becoming unsightly and, specifically, such Owner shall:

(A) Mow the Lot at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds;

(B) Remove all debris or rubbish from the Lot;

(C) Prevent the existence of any other condition that tends to detract from or diminish the esthetic appearance of the Property;

(D) Cut down and remove dead trees from the Lot; and,

(E) Within sixty (60) days following completion of a Residence, the Owner shall landscape the lot in accordance with the provisions set forth in this Declaration, weather permitting.

Section 5.25 Miscellaneous. No clotheslines may be erected on any Lot.

Section 5.26 Outbuildings and Animal Quarters. Any and all forms of outbuildings, including but not limited to, sheds, storage sheds, animal quarters, and play houses, which are not directly connected to the main house on any Lot are prohibited, unless the same are necessary or incident to the
Declarant's, Builder's or Association's business or activities upon the Property. Animal quarters or kennels which are connected to the Residence must be approved by the Committee.

Section 5.27 Play Equipment. Children’s play equipment such as sandboxes, temporary swimming pools having a depth of eighteen (18) inches or less, swing and slide sets, and trampolines shall not require approval by the Committee, provided that (i) such equipment is not more than eight (8) feet high (to the highest point of the structure) and properly painted and maintained by the Owner in good repair, (ii) such equipment is located in the rear yard of the Lot between the parallel lines defined by extending the side lines of the residence into the rear yard of the Lot, and (iii) such swing and slide sets are constructed of wood. Metal swing and slide sets are prohibited. Equipment higher than eight (8) feet shall require approval of the design, location, color, material and use by the Committee, and aluminum or metal play equipment is prohibited.

Section 5.28 Plumbing. All plumbing vent stacks are to be located on the rear of the Residence.

Section 5.29 Sidewalks. Each Residence shall have a continuous 4-foot wide by a minimum of four (4) inches thick concrete sidewalk adjacent to all interior dedicated street frontage. Sidewalks shall be installed by the Builder and included in the purchase price of the Residence. If an approved asphalt biking trail is approved on the Property in place of the sidewalk, no additional concrete sidewalk will be required.

Section 5.30 Subsurface Drains and Sump Pump Discharge. Subsurface drains have been provided in certain areas within drainage easements as additional storm and ground water drainage sources and are part of the public storm drainage system. Subsurface drain laterals have been provided on specific Lots, and the Builder on such Lots shall connect all sump pump discharge lines to such laterals. All maintenance and repair of all sump pump discharge lines and subsurface drain laterals shall be the responsibility of each Lot Owner in accordance with the following:

(A) The limits of Owner responsibility include all sump pump lines and subsurface drain laterals between the connection at the sump pump within the home and the connection with the publicly maintained storm sewer or subsurface drain within the drainage easement.

(B) In cases where subsurface drain laterals are connected along a common property line before connecting to the storm sewer, maintenance and repair of the common lateral will be shared equally by the adjacent Owners unless an individual Owner caused the lateral to be damaged, changed or altered.

(C) Any Owner or Builder damaging, changing, or altering these subsurface drains and/or common subsurface drain laterals will be held responsible for such action and will be given ten (10) days notice, by registered mail, to repair said damage, after which time, if no action is taken, the appropriate jurisdictional agency, Declarant or the Association will cause said repairs to be accomplished and the invoice for such repairs will be sent to the responsible Owner(s) and/or Builder(s) for immediate payment. If immediate payment is not received, the Declarant and/or the Association shall have all the rights and remedies to collect any outstanding amounts as outlined hereafter in Article X of this Declaration.

(D) In no case will maintenance and repair of sump pump discharge lines and subsurface drain laterals be the responsibility of the Town.
Section 5.31 Swimming Pools and Hot Tubs. Only permanent, in-ground pools with professional construction, approved by the Committee, shall be permitted upon a Lot. All submittals to the Committee shall include landscape plans. All backyard pools should be oriented to minimize the potential effect on neighboring properties. All fencing shall conform to county or municipal regulations and shall be of harmonious design and subject to Committee approvals. Hot Tubs must also be approved by the Committee.

Section 5.32 Tennis Courts, Racquetball Courts, Paddleball Courts, etc. Tennis courts, racquetball courts, paddle ball courts, basketball courts, squash courts, and other recreational facilities or sporting facilities will not be permitted without approval from the Committee. All submittals to the Committee shall include landscape plans. Basketball goals may be installed on a lot adjacent to driveway without Committee approval provided that they have white fiberglass or translucent fiberglass or glass backboards. Independent basketball courts may not be constructed on a Lot without written Committee approval. No basketball goal or backboard shall be permitted to hang from or be affixed to the Residence or garage. Lighted courts of any kind are prohibited. Temporary or portable basketball courts will not be permitted to be located on streets or in cul-de-sacs.

Section 5.33 Vents. All metal and PVC roof or range vents will be painted to blend with roof color.

Section 5.34 Windows-Doors. If storm doors are installed, they must be painted to match exterior of the Residence. No unfinished aluminum doors or windows will be allowed.

Section 5.35 Street Signs. Decorative street signs that do not conform to Town of Fishers, Indiana, standards may be installed by Declarant in Avalon. Such decorative street signs shall be maintained by the Association, and shall be repaired or replaced by the Association if damaged in accordance with applicable rules and regulations of the Town of Fishers, Indiana. The Association assumes all liability in the installation, maintenance and repair of the decorative street signs and agrees to hold the Town of Fishers, Indiana, harmless related thereto.

Section 5.36 Fuel Tanks. All above or below ground storage tanks, with the exception of gas storage tanks used solely in connection with gas grills for the purpose of grilling or cooking food, shall be and hereby are prohibited.

Section 5.37 Garbage and Other Refuse. No Lot Owner in the Development shall burn or permit the burning out-of-doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out-of-doors of such refuse, including compost on his or her Lot.

Section 5.38 Home Occupations. No Lot or Lots shall be used by an Owner, other than a Builder or Declarant, for any purpose other than as a single-family residence, except that a home occupation, which satisfies the following definition as well as all requirements of the applicable zoning ordinance, may be permitted: any use conducted entirely within the Residence and participated in solely by a member of the immediate family residing in said Residence, which use is clearly incidental and secondary to the use of the Residence for dwelling purposes and does not change the character thereof and in connection with which there is: a) no sign or display that will indicate from the exterior that the Residence is being utilized in whole or in part for any purpose other than that of a dwelling; b) no commodity sold upon the premises; c) no person is employed other than a member of the immediate family residing in the Residence; and d) no manufacture or assembly operations are conducted. Provided however, that in no event shall the following or similar activities be conducted or considered to be a
permitted Home Occupation: child day care, barber shop, styling salon, animal hospital, or any form of animal care or treatment such as dog trimming, or any other similar activities. The foregoing notwithstanding, the Declarant and Builders shall be permitted to operate sales trailers, model homes, and sales offices.

Section 5.39 Open Drainage Ditches and Swales. The following shall apply to open ditches and swales:

(A) Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled, or otherwise changed, without the written permission of the appropriate jurisdictional agency and the Declarant. Property Owners must maintain these swales as grassways or other non-eroding surfaces. Any damage to swales or drainage structures must be repaired or replaced by the Lot Owner.

(B) Any Owner or Builder altering, changing, or damaging these drainage swales or ditches will be held responsible for such action and will be given ten (10) days notice, by registered mail, to repair said damage, after which time, if no action is taken, the appropriate jurisdictional agency. Declarant or the Association will cause said repairs to be accomplished and the invoice for such repairs will be sent to the responsible Owners for immediate payment. If immediate payment is not received by the Association, the Association shall have all the rights and remedies to collect any outstanding amounts as outlined hereafter in Article X of this Declaration.

Section 5.40 Roofing Materials. The roofing materials on all Residences within each Section of the Development shall be similar in color, and shall be of a quality, style and composition acceptable to the Declarant during the Development Period and, thereafter, the Committee.

Section 5.41 Signs. No signs or advertisements shall be displayed or placed on any Lot or other structures in the Property, except Residence or Lot sales signs and directional sales signs, except with the approval of the Committee.

Section 5.42 Solar Panels. No solar panels shall be permitted on any Residence.

Section 5.43 Temporary Structures. No temporary house, trailer, garage or other outbuilding shall be placed or erected on any Lot, except by Declarant or a Builder.

Section 5.44 Utility Services. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.

Section 5.45 Vehicles Parking. No trucks one (1) ton or larger in size, campers, trailer, motor homes, boats, snowmobiles, jet ski or similar vehicles shall be parked on any street in the Property. Any recreational vehicle or trailer, camper, snowmobile, jet ski, or boat shall not be permitted to remain on any driveway or Lot except within a closed garage and shall not be regularly parked upon unpaved areas. There shall be no outside storage of commercial trucks, trailers, boats, junk cars, or fuel tanks.

Section 5.46 Visual Obstructions. No fence, wall, gate, hedge, tree or shrub planting which obstructs sight lines and elevations between three (3) and twelve (12) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines.
and line connecting points twenty-five (25) feet from the intersection of said street lines or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line.

Section 5.47 Wells. Water wells shall not be drilled on any of the Lots except as required to irrigate common areas.

Section 5.48 Occupancy or Residential Use of Partially Completed Residence Prohibited. No Residence constructed on any Lot shall be occupied or used for residential purposes or human habitation until a certificate of occupancy has been issued.

Section 5.49 Streets, Sidewalks, and Street Landscaping.

(A) Maintenance. Declarant shall maintain all streets and curbs in good condition satisfactory for the purpose for which they were constructed until they have been accepted by the public.

(B) Landscaping. All landscaping within the street rights-of-way is subject to the approval of the appropriate governmental authority. Each Owner shall cut all grass and trim all other landscaping in the rights-of-way adjoining his Lot lines and shall maintain all sidewalks in the rights-of-way nearest his Lot lines. Each Owner shall immediately replace any street trees and lighting required by this Declaration, the Plat, or any other document controlling maintenance of Lots.

(C) Street Lights and Decorative Street Signs. All street lights and decorative street signs located within the right-of-way of any street shall be maintained by the Association.

Section 5.50 Construction and Landscaping; Time Requirements; Divestiture; Penalties. All construction upon, landscaping of, and other improvements to a Lot shall be completed strictly in accordance with a Lot development plan approved by the Committee.

Section 5.51 Septic Systems. No septic tank, absorption field, or any other on-site sewage disposal system (other than a lateral main connected to a sanitary sewage collection system operated by a public agency or public or private utility) shall be installed or maintained on any Lot.

Section 5.52 Notice of Commitments. Notice is hereby given of the Commitments.

ARTICLE VI

ARCHITECTURAL CONTROLS

Section 6.1 Approvals. Approvals, determination, permissions, or consents required herein shall be deemed given only if they are given in writing and signed, with respect to the Declarant or the Master Association, by an officer thereof; and with respect to the Committee, by one (1) member thereof.

Section 6.2 Committee: Development Standards and Committee. A Development Standards and Architectural Control Committee (the “Committee”), composed of at least three (3) members, shall exist and shall be appointed by the Declarant. Until after the Development Period, such members shall be
subject to removal by the Declarant at any time, with or without cause, and any vacancies from time to time shall be filled by appointment of the Declarant. The Declarant may, at its sole option, at any time hereafter, relinquish for a period of time to the Master Association the power to appoint and remove one or more members of the Committee; provided, however, that any such relinquishment must be in writing and shall be only on the terms and conditions expressed in such writing.

Section 6.3 Continuation of Committee. When the Declarant provides written notification to the Master Association of discontinuance of this Committee, then the Directors of the Master Association, or their designees, shall continue the actions of the Committee with like powers and duties.

Section 6.4 Duties of Committee. The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. The Committee for its permanent files shall retain one copy of submitted material. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, the requesting applicant may re-apply with changes. If however, approval has not been received by applicant in writing within thirty (30) days, then said request shall be considered DENIED.

Section 6.5 Exercise of Discretion. Declarant intends that the members of the Committee exercise discretion in the performance of their duties consistent with the provisions hereof, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members; in any judicial proceeding challenging a determination by the Committee and in any action initiated to enforce this Master Declaration in which an abuse of discretion by the Committee is raised is defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Committee, could only conclude that such determination constituted an abuse of discretion.

Section 6.6 Inspection. The Committee may inspect work being performed without the Owner’s permission to assure compliance with these restrictions and applicable regulations.

Section 6.7 Liability of Committee, Declarant, Developer. Neither the Committee nor any agent thereof, nor the Declarant, or Master Association shall be liable in any way for any costs, fees, damages, delays, or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it, nor shall the Committee, Master Association or Declarant be responsible in any way for any defects in any plans, specifications or other materials submitted to it, or for any defects in any work done according thereto. Further, the Committee, Master Association and/or Declarant make no representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used. All parties should seek professional construction advise, engineering, and inspections on each Lot prior to proposing construction.

Section 6.8 Common Areas, Entrances, Street Signs, and Landscape Easements. None of the following shall be installed or constructed without prior written approval thereof by the Committee: (i) any and all landscaping, fences, structures, lighting, walking trails, sidewalks, or other improvements located in any Common Area, landscape maintenance access easement, and/or sign landscape easement, (ii) any entrance monument or signage identifying the Development or any section thereof and/or (iii) street signage.

Section 6.9 Lot Improvements. No dwelling, building structure, fence, deck, driveway, swimming pool, rear yard tennis or basketball courts, or improvement of any type or kind (including significant landscaping or stacking of wood) shall be constructed or placed on any Lot without the prior
approval of the Committee. Such approval shall be obtained only after the Owner of the Lot requesting
authorization from the Committee has made written application to the Committee at least thirty (30) days
prior to the proposed construction. Such written application shall be in the manner and form prescribed
from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and
specifications for any such proposed construction or improvement. Such plans shall include plot plans
showing (i) the location of the improvements existing upon the Lot and the location of the improvement
proposed to be constructed or placed upon the Lot, each properly and clearly designated and (ii) all
easements, setback, and rights-of-way and (iii) any landscape plans required by the Committee. Such
plans and specifications shall further set forth the color and composition of all exterior materials proposed
to be used and any proposed landscaping, together with any other materials, photographs, or information,
which the Committee may require. All building plans and drawings required to be submitted to the
Committee shall be drawn to a scale of $\frac{1}{4}'' = 1'$ and all plot plans shall be drawn by a professional to a
scale of $1'' = 30'$, or to such other scale as the Committee shall deem appropriate. It is also recommended
that a certified survey be prepared to insure that a resident is not encroaching on an adjacent homeowner
or in a Common Area. If Owner has encroached on an adjacent Owner’s property or in a common area,
the encroaching Owner will, at his or her own expense, move any fence or other improvement(s) so as to
eliminate the encroachment. Notwithstanding anything to the contrary in the foregoing, upon receipt of
any written application which is in form and content acceptable to the Committee in the Committee’s sole
and absolute discretion, the Committee may pre-approve a Builder’s plans and specifications for the
original construction of a Residence and, in the event of such pre-approval, the Builder shall then be
authorized to construct the pre-approved Residence on different Lots without further approvals from the
Committee.

No fence or screen of any kind will be permitted if its installation will obstruct necessary site
lines for vehicular traffic. Undue obstruction of view of other amenities from adjoining properties shall
be considered by the Committee when reviewing applications for approval.

Section 6.10 Power of Disapproval. The Committee may refuse to grant permission to
construct, place or make the requested improvement with or without cause. Common grounds for denial
include, but are not limited to, a lack or absence of the following:

(A) The plans, specifications, drawings or other material submitted must themselves
be adequate and complete, show the proposed improvement, and not be in violation of this
Master Declaration; and

(B) The design or color scheme of a proposed improvement must be in harmony
with the general surroundings of the Lot or with adjacent buildings or structures.

Section 6.11 Power to Grant Variances. The Committee may allow reasonable variances or
adjustments of this Master Declaration where literal application would result in unnecessary hardship, but
any such variance or adjustment shall be granted in conformity with the general intent and purposes of
this Master Declaration, no variance or adjustment shall be granted which is materially detrimental or
injurious to other Lots in the Development, and any such variance granted shall not be considered as
precedent setting.

Section 6.12 Statement of Purposes and Powers. Subject to this Master Declaration and the
restrictions contained herein, the Committee shall regulate the external design, appearance, use, location
and maintenance of lands and improvements thereon in such a manner as to preserve and enhance values
and maintain a harmonious relationship among structures and the natural vegetation and topography, and in keeping with the intent of the Declarant.

ARTICLE VII

CONTIGUOUS LOTS

Section 7.1 Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single-dwelling house, such Owner must apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single-dwelling house shall be treated as a single Lot for the purpose of applying this Master Declaration to said Lots, so long as the Lots remain improved with one single-dwelling house. In addition, the Owner must obtain from the Town of Carmel all requisite and necessary permits and approvals.

ARTICLE VIII

USE AND OWNERSHIP OF COMMON AREA

Section 8.1 Ownership. A lease upon such terms, conditions, rules and regulations as the Declarant, and successor, assigns or licensees of the Declarant, shall from time to time grant, for the use and enjoyment of the Common Area, is granted to the persons who are from time to time members of the Master Association; provided, however, that no residential development shall occur in the Common Area. Every Owner shall have a nonexclusive right and easement of enjoyment in common with all other Owners, in and to the Common Areas which nonexclusive right and easement of enjoyment shall be appurtenant to and pass with the title to every Lot; provided, however, that any area identified on a Plat as a Limited Common Area shall be for the exclusive use and benefit of Owners whose Lots abut the Limited Common Area, subject to (i) the right of the Association to perform and undertake maintenance of the Limited Common Area and (ii) all covenants granted in this Declaration. The Common Area shall be conveyed by quitclaim deed to the Master Association. Such conveyance shall be deemed to have been accepted by the Master Association and those persons who, from time to time be members thereof upon the recording of a deed or deeds conveying such Common Area to the Master Association.

Section 8.2 Use. Common Area shall be used for such purposes as deemed appropriate by the Declarant until the end of the Development Period. Following the end the Development Period, the Common Area shall be used for such purposes as deemed appropriate by the Master Association. Any Common Area depicted on the recorded plans of the Development or designated by the Declarant as a Common Area shall remain for the exclusive use of the Owner(s), and their family members, guests, tenants, or contract purchasers who reside on the Lot(s). Neither the Declarant's execution or recording of the plans nor the doing of any other act by the Declarant is, or is intended to be, or shall be construed as, a dedication to the public of the Common Area.

ARTICLE IX

AVALON MASTER ASSOCIATION, INC.

Section 9.1 Master Association Duties. The duties of the Master Association shall include the following: (i) the promotion of the recreation, health, safety, and welfare of the residents in the property,
(ii) the maintenance and repair of the Master Common Areas including, but not limited to, any and all lighting, landscaping, pools, amenity areas, the Trail System, and sidewalks located thereon, (iii) the maintenance and repair of any and all entrance monuments and signage, and the landscaping surrounding such entrances monuments and signage, (iv) maintenance and repair of all street signage, street lighting, and all improvements and landscaping existing in any landscape maintenance access easement and/or any sign landscape easement, (v) the performance of any other obligations and duties of the Master Association specified herein.

Section 9.2 Board of Directors. The Owners shall elect a Board of Directors of the Master Association as prescribed by the Master Association’s Articles and Bylaws. The Board of Directors shall manage the affairs of the Master Association. Directors need not be members of the Master Association.

Section 9.3 Classes of Membership and Voting Rights. The Master Association shall have the following two classes of voting membership:

(A) Class A. Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.

(B) Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to five (5) votes for each Lot owned. For purposes of this calculation, it shall be assumed that Declarant owns all Lots, which number shall be reduced as Lots are conveyed by the Declarant to an Owner. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier (hereafter “Effective Date”):

(i) December 31, 2020; or

(ii) When the total number of votes outstanding in the Class A Membership is equal to the total number of votes outstanding in the Class B Membership, provided, however, that the Class B Membership shall recommence in the event that the Declarant records a plat of part of or all of the Additional Real Estate and, by virtue thereof, total number of votes outstanding in the Class A Membership is no longer equal to the total number of votes outstanding in the Class B Membership.

Section 9.4 Membership. Initially, the person(s) who serve as incorporator(s) of the Master Association shall be the member(s) (the “Initial Member(s)”). The Initial Member(s) shall remain member(s) of the Master Association until the Master Association Articles of Incorporation are accepted by the Indiana Secretary of State, at which time the Initial Member(s) shall cease to be member(s) unless they also qualify as Class A or Class B members. Every Owner of a Lot which is subject to assessment shall be a member of the Master Association. Apart from the Initial Member(s), a membership in the Master Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 9.5 Professional Management. The Association shall employ the services of a professional manager or management company to assist the Board of Directors in the management and administration of the Association. No contract or agreement for professional management of the Master Association, nor any other contract between Declarant and the Master Association, shall be for a term in
excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause and without payment of any termination fee upon written notice of ninety (90) days or less.

Section 9.6 Master Association Insurance. The Master Association shall purchase the following coverage:

(A) **Liability Insurance.** The Master Association shall purchase and pay the costs of the policy or policies of insurance in the form generally known as Public Liability and/or owners policies insuring the Master Association against any and all claims and demands made by any person or persons whomsoever for injuries received in connection with the fulfillment by the Master Association of its obligations specified in the Master Declaration, or for any other risk insured against by such policies which the Master Association, in its sole discretion, determines to insure against, including, without limitation, claims arising out of the Master Common Areas. Each policy purchased by the Master Association shall have limits of not less than One Million Dollars ($1,000,000.00) covering all claims for personal injury and One Hundred Thousand Dollars ($100,000.00) for property damage arising out of a single occurrence. The coverage of the liability insurance policies purchased by the Master Association shall include protection against liability for property damage, bodily injuries and deaths of persons in connection with the fulfillment by the Master Association of its obligations specified in the Master Declaration, liability for non-owned and hired automobiles, liability for property of others and liability arising out of the Master Common Areas. All such policies will name the Master Association as the insured under such policy or policies. The insurance purchased shall contain a "severability of interest endorsement," or equivalent coverage, which would preclude the insurer from (i) denying the claims of an Owner because of the negligent acts of either the Master Association, the Declarant or any other Owners or (ii) denying the claims of either the Declarant or the Master Association because of the negligent acts of an Owner.

(B) **Casualty Insurance.** The Master Association may purchase and pay the costs of a policy or policies of insurance to allow the Master Association to insure from the fulfillment by the Master Association of its obligations specified in the Master Declaration. Such casualty insurance may insure, without limitation, any improvements located within the Master Common Areas.

(C) **Fidelity Coverage.** The Master Association shall purchase adequate (i) errors and omissions insurance protecting and insuring the Master Association and its officers and directors against liability for negligence in the fulfillment of their obligations and duties, and (ii) fidelity coverage to protect against dishonest acts of the officers and employees of the Master Association and the Directors and all others who handle and are responsible for handling funds of the Master Association, such coverage to be in the form of fidelity bonds which meet the following requirements unless one or more of such requirements are waived by the Board of Directors.

(i) Such bonds shall name the Master Association as an obligee;

(ii) Such bonds shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual Master Association expense; and,
(iii) Such amounts shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 9.7 Limitations on Rights of the Master Association. As long as there is a Class B Member, the Master Association may not use its resources, nor take a public position in opposition to future phases of Avalon proposed by the Declarant or changes to current phases of Avalon proposed by the Declarant. Nothing in this paragraph shall be construed to limit the rights of the members acting as individuals or in affiliation with other members or groups as long as they do not employ the resources of the Master Association or identify themselves as acting in the name, or on the behalf of the Master Association.

ARTICLE X

ASSESSMENTS

Section 10.1 Creation of Lien and Personal Obligation of Assessments. Each Owner of any Lot, except the Declarant and any Builder, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Master Association the following:

(A) Annual Assessments (hereafter defined);
(B) One-Time Assessment (hereafter defined);
(C) Special Assessments (hereafter defined) for costs of enforcement of the Master Declaration, capital improvements and operating deficits, copies of Master Association documents if requested by a member, and such assessments to be established and collected as hereinafter provided or established by the Board;
(D) Violation Assessments (hereafter defined) levied for a violation of this Master Declaration; and
(E) Any additional assessments specified in a Neighborhood Declaration.

Section 10.2 Annual Budget. By majority vote of the Board of Directors, the Board of Directors shall adopt an annual budget for the subsequent fiscal year, which shall provide for the allocation of expenses in such a manner that the obligations imposed by the Master Declaration and all Supplemental Master Declarations can effectively be met.

Section 10.3 Annual Assessment.

(A) Amount. The Annual Assessment provided for herein shall be per calendar year and shall commence for each Lot on the date of closing of the sale of a Lot to an Owner other than Declarant or a Builder. The Annual Assessment, commencing during the calendar year in which the first Lot is conveyed to an Owner other than the Declarant or a Builder, shall be $360.00 per Lot per year. The Annual Assessment for the calendar year shall be prorated to year-end. The Board of Directors shall fix any increase in the amount of the Annual Assessment at least thirty (30) days in advance of the effective date of such increase. The initial due date for annual assessments shall be January 1st, and such assessment shall be subject to collection and late charges beginning on January 31st.

(B) Purpose of Assessments. The annual assessment levied by the Master Association shall be used in the reasonable discretion of the Board of Directors to fulfill the
duties and obligations of the Master Association specified in this Master Declaration, including, without limitation, the cost of maintaining and repairing Common Areas, as well as the cost of insurance, Refuse Collection and Professional Management.

(C) **Method of Assessment.** By a vote of a majority of the Board of Directors, the Board of Directors shall, on the basis specified in Section 11.7 below, fix the Annual Assessment for each assessment year at an amount sufficient to meet the obligations imposed by this Master Declaration upon the Master Association. The Board during any calendar year shall be entitled to increase the Annual Assessment for that year if it should determine that the estimate or current assessment is insufficient for that year, provided that the Board shall give at least thirty (30) days advance notice thereof to the Owners. The Board of Directors shall establish the date(s) the Annual Assessment shall become due, and the manner in which it shall be paid.

Section 10.4 One-time Assessment. Upon (i) the closing of the initial conveyance of each Lot by Declarant to an Owner other than a Builder, or (ii) the sale of each Lot by a Builder (either by deed or by installment sale, conditional sale or land-contract sale), the purchaser of such Lot shall pay to the Master Association, in addition to any other amounts then owed or due to the Master Association, as a contribution to its working capital and start-up fund, an amount of Fifty Dollars ($50.00) against such Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any assessment or other charge owed the Master Association with respect to such Lot. Such working capital and start-up fund shall be held and used by the Master Association for payment of, or reimbursement to Declarant for advances made to pay, expenses of the Master Association for its early period of operation of the Development, to enable the Master Association to have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary by the Board.

Section 10.5 Special Assessment. In addition to such other Special Assessments as may be authorized herein, the Board of Directors may levy in any year a Special Assessment(s) for the purpose of enforcing these covenants and restrictions, for legal expenses, for collection expenses, other activity that is the responsibility of an Owner hereunder but which such Owner has not undertaken as required hereunder, for defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Master Association is required to maintain and/or for operating deficits which the Master Association may from time to time incur, provided that any such assessment shall have the assent of a majority or the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 10.6 Violation Assessment. In addition to all other assessments as be authorized herein, the Board of Directors may levy a Violation Assessment to an Owner, (i) for a violation against this Master Declaration or (ii) for damages if any portion of the Common Area that the Master Association is obligated to maintain, repair and/or replace is damaged due to the willful or negligent act or omission of such Owner or Owner's guest or invitee. In the event of such damage, the Board shall have the right to undertake the necessary maintenance, repair or replacement. The choice between repair or replacement is in the sole discretion of the Board.

Section 10.7 Basis for Assessment.

(A) **Lots Generally.** Each Lot owned by a person other than Declarant or a Builder shall be assessed at a uniform rate without regard to whether a Residence has been constructed upon the Lot.
(B) Lots Owned by Declarant or Builder. Declarant and any Builder shall not pay the Annual Assessment and Special Assessment so long as any Residence constructed upon a Lot by Declarant or a Builder has not been either conveyed to an Owner intending to occupy or rent said Residence as a residence or leased to an individual or an entity for use as a Residence.

Section 10.8 Notice and Due Date. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be delivered to every Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors.

Section 10.9 Collection. All Assessments, together with interest thereon, attorneys' fees, and other costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made until paid in full. Each Assessment, together with interest thereon and costs of collection thereof, including reasonable attorney fees, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due.

Section 10.10 Effect of Nonpayment of Assessments; Remedies of the Master Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at twelve percent (12%) per annum plus a late charge not exceeding Fifty Dollars ($50.00). The Master Association shall be entitled to initiate any lawful action to collect delinquent assessments plus any expenses or costs, including attorneys' fees, incurred by the Master Association in collecting such assessment(s). If the Master Association has provided for collection of any assessment in installments, upon default in the payment of any one or more installments, the Master Association may accelerate payment and declare the entire balance of said assessment due and payable in full. No Owner may waive or otherwise avoid liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10.11 Suspension of Privileges of Membership. Notwithstanding any other provision contained herein, the Board of Directors shall have the right to suspend the voting rights, if any, and the services to be provided by the Master Association, together with the right to use the Common Areas of any member:

(A) for any period during which any of the assessments or any fines/fees assessed under this Master Declaration owed by such member remains unpaid;

(B) during the period of any continuing violation of this Master Declaration; and

(C) during the period of any violation of the Articles of Incorporation, By-Laws, or regulations of the Master Association.

Section 10.12 Certificates. The Master Association shall, upon reasonable request by an Owner, at any time, furnish a letter in writing signed by an officer of the Master Association, indicating the accounting status of assessments on a Lot showing the balance due the Master Association, if any.

Section 10.13 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein against a Lot shall be subordinate to the lien or any recorded first mortgage covering such Lot and to any valid tax or special assessment lien on such Lot in favor of any governmental taxing or assessing authority. Sale or transfer of any Lot shall not affect the lien of assessments levied under this Article XI. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall, however, extinguish the lien of such assessments which became due or are attributable to
the period of time prior to such sale or transfer. No sale transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE XI

NEIGHBORHOOD DECLARATION AND NEIGHBORHOOD ASSOCIATIONS

Section 11.1 Neighborhood. The Declarant reserves the right, in its sole discretion, to grant neighborhood status to any portion of the Property within the Property with ingress and egress to such community limited to Owners within such Neighborhood.

Section 11.2 Neighborhood Association. The Declarant reserves the right to form a property owner’s association, condominium association, or other such similar entity for a neighborhood granted such status by the Declarant and as permitted under this Master Declaration.

Section 11.3 Neighborhood Common Area. The Master Association may contract with a Neighborhood Association, if any, to provide for the operation and maintenance of its Neighborhood Common Area.

(A) The cost and expense of maintaining the Neighborhood Common Area shall not be a Common Expense, but shall be borne by the Owners of the Lots located in the Neighborhood as set forth in the Neighborhood Declaration.

(B) The Declarant reserves the right to cause portions of the Master Common Area(s) to become Neighborhood Common Area(s) by recording an instrument containing such provision with the Recorder of Hamilton County, Indiana. Upon recording such an instrument, the real property described in such instrument shall no longer be Master Common Area and, in lieu thereof, the use and easement rights and the obligations pertaining thereto, including, but not limited to, maintenance administration obligations, shall be those pertaining to such Neighborhood Common Area and not Master Common Area, and the expense for maintenance and administration shall no longer be a Common Expense, but shall be an expense of the Neighborhood Association.

Section 11.4 Neighborhood Declaration. The Declarant reserves the right to amend specific provisions of this Master Declaration as it may apply to one or more Neighborhoods without amending those provisions with respect to all Neighborhoods and to supplement this Master Declaration by recording separate covenants, conditions, restrictions and other provisions applying to any specific Neighborhood. Separate covenants, conditions and restrictions may be recorded as a supplement to this Master Declaration or as a Neighborhood Declaration. The Declarant also reserves the right to determine the consistency of all Neighborhood Declarations in comparison with the Master Declaration and the plan of development of the Property and to approve and consent to all Neighborhood Declarations prior to the same being recorded with the Recorder of Hamilton County, Indiana. So long as the Declarant Membership exists, Neighborhood Declarations shall not be effective until the Declarant approves and consents to the same in writing. Any Neighborhood Declaration shall be supplemental to this Master Declaration and in no way shall be construed to supersede or override the provisions of the Master Declaration. In the event of a conflict between this Master Declaration and any Neighborhood Declaration, the Master Declaration shall control.
ARTICLE XII

REMEDIES

Section 12.1 Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of covenants, conditions, and restrictions in this Master Declaration shall be held to be a waiver by that party or an estoppel of that party of any right available to such party upon the occurrence, reoccurrence or continuation of such violation or violations of this Master Declaration.

Section 12.2 Enforcement by the Town or the Town’s Plan Commission. These Restrictions may be enforced by the Town, the Town’s Plan Commission, or its successors or assigns, pursuant to whatever powers or procedures are statutorily available to it for such purposes.

Section 12.3 In General. The Master Association or any party to whose benefit this Master Declaration inures, including the Declarant and/or any Owner, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, or to compel compliance with these Restrictions and Covenants, and shall be entitled to recover costs of collection and reasonable attorney’s fees; however, neither the Declarant, nor the Master Association, shall be liable for damages of any kind to any person for failing either to abide by, enforce, or carry out any terms, conditions, or restrictions contained in this Master Declaration.

ARTICLE XIII

EFFECT ON BECOMING AN OWNER

Section 13.1 The Owner(s) of any Lot subject to this Master Declaration, by acceptance of a deed conveying title thereto, or by virtue of the execution of a contract for the purchase thereof, whether from Declarant, a Builder, or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every covenant, condition, and restrictions contained in this Master Declaration. By acceptance of such deed or execution of such contract each Owner acknowledges the rights and powers of the Declarant, Committee, and Master Association contained in this Master Declaration, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owner(s) covenant and agree and consent to and with the Declarant, Committee and the Master Association and to and with the other Owners and subsequent Owners of each of the Lots affected by this Master Declaration to keep, observe, comply with and perform such covenants, conditions, and restrictions contained in this Master Declaration.

ARTICLE XIV

TITLES

Section 14.1 The titles preceding the various paragraphs and subparagraphs of this Master Declaration are for convenience of reference only and none of them shall be used as an aid to the construction of any provisions of this Master 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 by taken to mean or apply to the feminine or to the neuter.
ARTICLE XV

SEVERABILITY

Section 15.1 Invalidation of any one of the covenants, restrictions or provisions contained in this Master 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. No delay or failure by any person to enforce any of the restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estopped of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the restrictions.

ARTICLE XVI

DECLARANT'S RIGHTS

Section 16.1 Any and all of the rights and obligations of the Declarant set forth in this Declaration may be transferred, in whole or in part, to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded with the Recorder of Hamilton County, Indiana.

Section 16.2 Nothing in this Declaration shall be construed in a manner that limits or restricts the Declarant and/or any Builders in their development of the Property and construction of residences therein. Therefore, notwithstanding anything herein to the contrary, the Declarant and/or any Builders authorized by Declarant may maintain and carry upon portion of the Common Area, and other portions of the Property owned by the Declarant, such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Residences including, but not limited to, business offices, signs, model units, sales offices, and sales trailers.

ARTICLE XVII

AMENDMENT TO THIS MASTER DECLARATION

Section 17.1 This Master Declaration and the covenants, conditions and restrictions set forth in this Master Declaration, as from time to time amended in the manner hereinafter set forth, shall run with the land and shall be binding upon the persons owning any portion of the Property and all parties coming under them. This Master Declaration may be amended or modified at any time by an instrument recorded in the Office of the Recorder of Hamilton County, Indiana, approved and signed by persons together holding seventy-five percent (75%) of all votes entitled to be cast by Class A Members and Class B Members, combined. Provided, however, that none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. This Master Declaration may also be amended by Declarant, if it then has any ownership interest in the Property, at any time within five (5) years after the recording hereof. Any amendment must be recorded.
IN TESTIMONY WHEREOF, witness the signature of the Declarant of this Master Declaration as of the date first above written.

DECLARANT:

PULTe HOMES OF INDIANA, LLC,
an Indiana limited liability company

By: ____________________________

[Signature]
Gregory Huff, Division President,
Indiana Division

STATE OF INDIANA )
COUNTY OF Hamilton ) SS:

Before me, a Notary Public, in and for said County and State, personally appeared Gregory Huff, Division President, Indiana Division, of Pulte Homes of Indiana, LLC, an Indiana limited liability company, as the Declarant herein, and acknowledged the execution of the foregoing Master Declaration of Covenants, Conditions, and Restrictions of Avalon this 2nd day of February, 2004.

My Commission Expires: ____________________________

[Signature]
Linda S. Kele
Notary Public

Resident of Hamilton County, Indiana

Printed: Linda S. Kele

This Instrument Prepared by: Charles D. Frankenberg, Nelson & Frankenberg, 3105 E. 98th Street, Suite 170, Indianapolis, IN 46280 - (317) 844-0106

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SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF AVALON

Pulte Homes of Indiana, LLC, an Indiana limited liability company, the Declarant in the Declaration of Covenants, Conditions and Restrictions of Avalon recorded with the Recorder of Hamilton County, Indiana, as Instrument No. 20040007258 (hereafter referred to as the "Master Declaration"), states that the capitalized terms set forth herein shall have the same meaning as specified in the Declaration and hereby declares that the real estate located in Hamilton County, Indiana; and more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "A" shall and hereby is made part of and annexed to the Property and is subject in all respects to the Master Declaration and all rights, obligations, and privileges specified therein.

PULTE HOMES OF INDIANA, LLC,
an Indiana limited liability company

By: Gregory Huff, Division President,
Indiana Division
STATE OF INDIANA  
)  SS:
COUNTY OF HAMILTON  

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Gregory Haff, Division President, Indiana Division, of Pulte Homes of Indiana, LLC, an Indiana limited liability company, and having been duly sworn, acknowledged execution of this Supplement to Declaration of Covenants, Conditions and Restrictions of Avalon.

Witness my hand and Notarial Seal this 13th day of February, 2004.

My Commission Expires: 
June 7, 2019

Residing in Hamilton County

Notary Public
Linda S. Kelch
Printed Name

Prepared By:

Charles D. Frankenberger
NELSON & FRANKENBERGER
3105 East 98th Street, Suite 170
Indianapolis, Indiana 46280
(317) 844-0196

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EXHIBIT A

SHAW TAKEDOWN TRACT A-2C

A part of the East Half of the Southwest Quarter of Section 25, Township 18 North, Range 5 East, Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of the said Half Quarter Section; thence North 00 degrees 18 minutes 02 seconds West (Assumed Bearing) along the West line of the said Half Quarter Section, 648.25 feet; thence North 09 degrees 24 minutes 55 seconds East 31.35 feet to the POINT OF BEGINNING of this description; thence continuing North 09 degrees 24 minutes 55 seconds East along said line, a distance of 661.15 feet; thence North 00 degrees 18 minutes 02 seconds West 110.20 feet to a point on a curve concave northerly, the radius point of said curve being North 18 degrees 36 minutes 01 seconds East 20.00 feet from said point; thence easterly along said curve 22.90 feet to a point on said curve, said point being North 18 degrees 36 minutes 01 seconds East 20.00 feet from the radius point of said curve; thence South 45 degrees 51 minutes 53 seconds East 50.00 feet; thence South 44 degrees 08 minutes 07 seconds West 64.55 feet; thence South 45 degrees 51 minutes 53 seconds East 120.00 feet; thence South 44 degrees 08 minutes 07 seconds West 53.26 feet; thence North 00 degrees 56 minutes 53 seconds West 24.80 feet; thence South 29 degrees 03 minutes 07 seconds West 121.82 feet; thence South 00 degrees 56 minutes 53 seconds East 34.80 feet; thence South 29 degrees 03 minutes 07 seconds West 170.00 feet; thence North 00 degrees 56 minutes 53 seconds West 69.00 feet; thence North 65 degrees 44 minutes 04 seconds West 50.41 feet; thence North 74 degrees 43 minutes 32 seconds West 307.75 feet; thence North 48 degrees 50 minutes 06 seconds West 165.50 feet; thence North 34 degrees 04 minutes 43 seconds West 121.99 feet to the place of beginning. Containing 3,700 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.
MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS OF AVALON

THIS MASTER DECLARATION (hereafter "Master Declaration"), made this 24th day of FEBRUARY, 2004, by PULTe HOMES OF INDINA, LLC (hereafter "Declarant");

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate, located in Hamilton County, Indiana, which is more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "X" (hereafter "Real Estate"), upon which a residential subdivision known as Avalon (hereafter "Development") will be developed;

WHEREAS, the real estate described in what is attached hereto and incorporated herein by reference as Exhibit "X" shall hereafter be referred to as the "Additional Real Estate";

WHEREAS, Declarant desires to subdivide and develop the Real Estate and Declarant may, in the future, desire to subdivide and develop such portions (or all) of the Additional Real Estate as may be made subject to the terms of this Master Declaration, as hereinafter provided;

WHEREAS, the term "Property" shall hereafter mean and refer to the Real Estate together with such portions of the Additional Real Estate as have from time to time been subjected to this Master Declaration;

NOW, THEREFORE, the Declarant hereby declares that the Property and all of the Lots (hereafter defined) in the Property, as they are hereinafter created, are subject to the following restrictions, all of which are declared to be in furtherance of the plan of the improvement and sale of the Property and such Lot situated therein, and are established, and agreed upon for the purpose of enhancing and protecting the desirability and attractiveness of the Property as a whole and each of the Lots situated therein. This Master Declaration shall run with the Property and shall be binding upon the Declarant, its successors and assigns, and upon the parties having or acquiring any interest in the Property or any part or parts thereof subject to these restrictions. The restrictions shall inure to the benefit of the Declarant and its successors in title to the Property or any part or parts thereof.

As of the date of execution hereof, the Property consists solely of the Real Estate. The Owner of any Lots subject to these restrictions, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant, a Builder, or a subsequent Owner of such Lot or (ii) the actual occupancy of any Lot, shall accept such deed, execute such contract and/or actively occupy said Lot subject to each restriction and agreement herein contained.

Declarant shall have the right, and hereby reserves on to itself the right, at any time, and from time to time, at any time prior to the expiration of the Development Period, to add to the Property and subject to this Master Declaration all or any part of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the Property, and therefore and hereby becomes a part of the Property and subject in all respects to this Master Declaration and all rights, obligations, and privileges herein, when Declarant places of record in Hamilton County, Indiana an instrument so declaring the same to be part of the Property, which supplementary Master Declaration (hereafter "Supplementary Master Declaration") may be as part of a subdivision plat for any portion of the Additional Real Estate, or by an
amendment or supplement to this Master Declaration. Such Supplementary Master Declaration may contain modifications hereto and additional terms, conditions, restrictions, maintenance obligations, and assessments as may be necessary to reflect the different character, if any, of the Additional Real Estate or improvements to be located thereon.

Upon recording of any such instrument on or before the expiration of the Development Period, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Property and the Owners of any Lots within such real estate shall be deemed for all purposes, to have and be subject to all of the rights, duties, privileges, and obligations of Owners of Lots within the Property. No single exercise of Declarant’s right and option to add and expand the Property as to any part or parts of the Additional Real Estate, shall preclude Declarant from thereafter from time to time further expanding and adding to the Property to include other portions of the Additional Real Estate, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Additional Real Estate so long as such expansion is accomplished on or before the expiration of the Development Period. Such expansion of the Property is entirely at the sole discretion of the Declarant and nothing contained in this Master Declaration or otherwise shall require Declarant to expand the Property beyond the Real Estate, or to any portions of the Additional Real Estate which Declarant may voluntarily and in its sole discretion from time to time subject to this Master Declaration.

ARTICLE I

DEFINITIONS

The following are the definitions of the terms as they are used in this Master Declaration:

Section 1.1 “Attached Residence” shall mean a residence which is physically attached to another residence. Examples of Attached Residences are condominiums, townhouses, quads, duplexes, or other multi-plexed dwellings.

Section 1.2 “Builder” means a person or entity engaged in the business of constructing single family residences for sale and engaged in and responsible for the original construction of a residence on a Lot.

Section 1.3 “Town” shall mean the Town of Fishers, Hamilton County, Indiana.

Section 1.4 “Commitments” shall mean and refer to (i) the commitments made in connection with the Property and recorded with the Recorder of Hamilton County, Indiana, on the 27th day of June, 2003, as Instrument No. 2003000610, as amended by the amendment recorded with the Recorder of Hamilton County, Indiana, on the 19th day of October, 2003, as Instrument No. 20030008417 and (ii) the Declaration of Covenants and Restrictions Concerning the Use and Development of Real Estate recorded with the Recorder of Hamilton County, Indiana, on September 24, 2003, as Instrument No. 20030009998.

Section 1.5 “Committee” shall mean the Development Standards and Architectural Control Committee, as more fully described in Article VI of this Master Declaration.

Section 1.6 “Common Area” shall mean any Common Area or Limited Common Area, whether a Master Common Area or a Neighborhood Common Area, (i) designated on current and future Plats as a “Block”, “Common Area”, “C.A.”, “Limited Common Area”, or “C.C.A.”, and (ii) the Pool.
Section 1.7 "Detached Residence" shall mean a residence not physically attached to another residence.

Section 1.8 "Development Period" means the period of time commencing with Declarant's acquisition of the Property and ending when Declarant has completed the development and sale of, and no longer owns, any Lot or any other portion of the Property. The Development Period shall recommence each time the Declarant acquires any part (or all) of the Additional Real Estate.

Section 1.9 "Drainage Board" means the Hamilton County Drainage Board.

Section 1.10 "Lake Area" means any Common Area on which a lake now exists or is later constructed by Declarant and "Lake" means a body of water which now exists or is later constructed by Declarant in a Lake Area.

Section 1.11 "Lot" shall mean and refer to (i) a discreet lot or building parcel for a Residence, as reflected on a Plat, or (ii) to a condominium unit within a condominium within the Property, together with the undivided share of the common elements that are appurtenant to the condominium unit. The term "Lot" shall not include any land that is Master Common Area or Neighborhood Common Area.

Section 1.12 "Master Association" shall mean and refer to the Avalon Master Association, Inc., an Indiana not for profit corporation, which has its principal place of business in Hamilton County, Indiana, and its successors and assigns. Any reference to the Master Association shall also be a reference to the Articles, Minutes, and Bylaws of the Master Association.

Section 1.13 "Master Board of Directors" or "Master Board" shall mean the Board of Directors of the Avalon Master Association, Inc.

Section 1.14 "Master Common Area" shall mean and refer to all real property, easements, rights-of-way, licenses, interest in real property, and private streets that are now, or in the future, designated by the Declarant as a Master Common Area and owned, contracted for, leased, or otherwise held by the Master Association for the common use and enjoyment of the members. Master Common Area may include, without limitation, entrance systems and fixtures, trail systems, lakes, landscaping, signs, gate houses, the Pool, and any other recreational facilities located in a Master Common Area.

Section 1.15 "Master Declaration" shall mean this document entitled the "Master Declaration of Covenants, Conditions, and Restrictions of Avalon."

Section 1.16 "Neighborhood" shall mean any portion of the Property which has been granted neighborhood status by the Declarant through the recording of a Neighborhood Declaration.

Section 1.17 "Neighborhood Association" shall mean any property owners association, condominium association, or other such similar entity, their successors and assigns, which may be formed by the Declarant or the Master Association for any particular Neighborhood.

Section 1.18 "Neighborhood Common Area" shall mean any real property, including any improvements and fixtures thereon, designated by the Declarant as a Neighborhood Common Area and owned, leased, or the use of which has been granted to a Neighborhood Association for the common use and enjoyment of the members of the Neighborhood Association.
Section 1.19 "Neighborhood Declaration" shall mean and refer to any and declaration, covenants, conditions, restrictions and other provisions that may be imposed by a recorded instrument applicable to any Neighborhood.

Section 1.20 "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but otherwise excluding those having such interest merely as security for the performance of an obligation. Unless specifically indicated to the contrary, the term "Owner" shall include the Declarant and a Builder.

Section 1.21 "Person" shall mean an individual, firm, corporation, partnership, Master Association, trust or other legal entity or any combination thereof.

Section 1.22 "Plat" shall mean the subdivision plat of the Property which are recorded with the Recorder of Hamilton County, Indiana.

Section 1.23 "Pool" shall mean the recreational swimming pool and attached bath house which Declarant, in its sole and absolute discretion, may construct on the Property.

Section 1.24 "PUD" shall collectively mean and refer to the PUD Ordinance enacted by the Town of Fishers, Indiana, on the 2nd day of June, 2003, as Ordinance No. 02C303 and Ordinance No. 021803G.

Section 1.25 "Refuse Collection" shall mean the collection, from each Residence, of trash and garbage, for which the Association contracts.

Section 1.26 "Residence" shall mean an Attached Residence or a Detached Residence.

Section 1.27 "Special Use" shall mean any use defined or identified in any applicable zoning ordinance as a "Special Use".

Section 1.28 "Trail System" means paths or trails so designated by the Master Board and located in a Master Common Area and Neighborhood Common Area.

ARTICLE II

CHARACTER OF THE DEVELOPMENT

Section 2.1 In General. No structure shall be erected, placed or permitted to remain upon any Lot except a Residence. All Property located within a plat which has not been designated by numbering shall be used in a manner determined by the Declarant. Lots may be used only for residential purposes and only one Residence may be constructed thereon. No portion of any Lot may be sold or subdivided such that there will be thereby a greater number of Residences in Avalon than the number of Lots depicted on a Plat. Notwithstanding any provision in the applicable zoning ordinance to the contrary, no Lot may be used for any "Special Use" that is not clearly incidental and necessary to single family dwellings.

Section 2.2 Other Restrictions. All Property shall be subject to the easements, restrictions, and limitations of record appearing on a Plat and amendments thereto, on recorded easements, and rights-of-
way, and also to all governmental zoning authority and regulation affecting the Property, all of which are incorporated herein by reference.

ARTICLE III

EASEMENTS

Section 3.1 Designated Easements. The following are easements designated or to be designated, in the Declarant’s sole discretion, upon a plat:

(A) Designated Drainage, Utility, and Sewer Easements. There are strips of ground designated on the Plat as drainage easements, utility easements, sewer easements, sanitary sewer easements and storm sewer easements, or any combination thereof, which are hereby reserved to the appropriate governmental entities, public utilities, and private utilities for the installation and maintenance of swales, ditches, pipes, drains, sanitary sewers, manholes, detention and retention areas or other drainage facilities. Purchasers of Lots in this subdivision shall take title subject to such easements hereby created and subject at all times to the rights of proper authorities to service and maintain such drainage facilities and easements, and no permanent structure of any kind and to part thereof, except fences which do not retard or impede the flow of drainage water and which are approved by any entity to which the easement is dedicated and pursuant to Section 5.9 below, shall be built, erected or maintained on said drainage easements, except by the Declarant or its assigns. It shall be the responsibility of the Master Association and the Owners of the areas enclosed within such easements to maintain such areas in such conditions that the flow of storm drainage waters on, across and from said areas shall not be impeded, diverted or accelerated. Such use for storm water movement or detention or detention is hereby declared to be an easement and servitude upon said land for the benefit of the Owners of other land included within the Plat, upstream or downstream, affected by such use and for any proper governmental agency or department or any private or public utility. All proper governmental agencies or departments and public and private utilities are hereby given the right to obtain access to such areas to perform maintenance and to perform such maintenance as may be necessary to protect that easement and servitude rights. It shall be the responsibility of the Master Association and the Owner of any Lot comprised of land within the Plat to comply at all times with the provisions of the drainage plan as approved by the applicable Plat by the appropriate governmental agency or department and the requirements of all drainage permits for such Plat issued by those agencies. Failure to so comply shall operate as a waiver and release of the Declarant, the developer, or their engineers and agents from all liability as to damage caused by storm waters or storm drainage.

Further, there are easements and servitudes upon the land within the Plat in favor of surface water runoff along natural valleys and drainage channels running to Owners of other land contained within the Plat, upstream and downstream. It shall be the responsibility of the Master Association and the Owners of the natural valleys and channels to use their land and maintain said natural valleys and channels in such manner and condition that the flow of storm drainage waters on, across, from and to such areas shall not be impeded, diverted or accelerated.

(B) Designated Mounding, Landscaping, and Screening and Sign Easements. Any strips of grounds shown or designated on the Plat for landscaping including, but not limited to, landscape easements, landscape maintenance easements, and/or landscape maintenance access easements are hereby reserved unto Declarant, during the Development Period, and, thereafter, unto the Master Association, for the purposes of (i) providing signs which either advertise the
Property and the availability of Lots or identify the Property or, (ii) installing landscaping, mounding, and screening. Declarant reserves unto itself during the Development Period and thereafter unto the Master Association, the exclusive and sole right to erect signs and install landscaping, mounding, and screening within these strips of ground. Notwithstanding anything in this Master Declaration to the contrary, no planting shall be done, and no hedges, walls, fences or other improvements shall be erected or maintained in the area of such easements, except by the Declarant during the Development Period, and thereafter by the Master Association. Furthermore, notwithstanding anything in this Master Declaration to the contrary, no planting shall be done, and no hedges, walls, fences, structures, or other improvements shall be erected between (i) any landscape easement or landscape maintenance easement, and (ii) any perimeter roadway, public highway or right-of-way along the perimeter or boundary of the Property, except by the Declarant during the Development Period and thereafter by the Master Association.

(C) Easement Work. Notwithstanding any architectural approval under Article VII below, during the course of any maintenance, service, repair or work upon any easement, the Declarant, the Master Association, any private utility, any public utility, and/or any governmental entity shall have the right and the authority, without any obligation or liability whatsoever to any owner, to remove, damage, or destroy any fence or other structure or landscaping built, erected, maintained or planted in any easement described in Section 3.1 (A) above and without any obligation of replacement.

Section 3.2 General Drainage Utility Sewer and other Development Easements. The following rights reserved in this Section shall not be exercised, after the conveyance of any Lot, in a manner that (i) unreasonably and adversely affects any Residence or portion thereof located upon such Lot or the Owner’s use or enjoyment thereof, or (ii) unreasonably restricts the rights of ingress and egress to such Lot. The following rights and easements reserved by Declarant in this Section shall run with the land, and Declarant’s right to further alter or grant easements shall automatically terminate and pass to the Master Association one (1) year after Declarant shall have conveyed the last Lot within the Property.

(A) Declarant hereby reserves unto itself during the Development Period, and thereafter unto any public or private utility, a general easement ("Drainage, Utility and Sewer Easement") for drainage, utility and sewer purposes in, on and over all of the Common Area and any Lot, so as to permit Declarant to properly install and allow to be maintained all electrical, telephone, water, gas, sanitary and storm sewer, television (including but not limited to cable and/or satellite) transmission facilities, security systems and other utility services (including all necessary lines, pipes, wires, cables, ducts, antennas and other equipment and facilities) to serve any Residence. Any Drainage, Utility, Sewer and other Development Easement shall include all areas of the Property outside any Residence, with the exception of any areas covered by driveways, or patios. Improvements or permanent structures installed within the Common Area are subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of the Declarant and any public or private utility to construct, maintain, repair or remove any necessary facilities. By virtue hereof, Declarant reserves the right to install a lake(s) or pond(s) on any Common Area. The rights hereunder and easements hereby reserved survive the conveyance, by the Declarant to the Master Association, of any Common Area. This easement shall be in addition to any easement defined upon a Plat as a drainage, sewer, utility, cable, landscape, sign, transmission, flowage or similar type easement.

(B) Declarant reserves unto itself during the Development Period, and thereafter unto the Master Association, an easement ("Lake Easement") and right-of-way in and to any Lake
Area(s) or areas now or hereafter shown on the Plat as a “Block”, “Common Area”, or “Lake” or any other Common Area within the Property used as a water retention or detention area, or on which a Lake now exists or is later constructed, for the purpose of fulfilling any maintenance obligations set forth in this Master Declaration and/or establishing and maintaining proper surface water drainage throughout the Property, including dewatering maintenance, and an easement of ingress and egress through so much of the remainder of the Property as is reasonably necessary or appropriate, to perform such actions as Declarant or the Master Association deems necessary or appropriate, for the purpose of establishing and maintaining proper surface water drainage throughout the Property, which such actions shall include the construction, repair and maintenance of retention and detention ponds or lakes in accordance with the requirements of applicable law and of all governmental agencies having jurisdiction (without undertaking any obligation or duty to exceed such requirements).

(C) Declarant reserves unto itself during the Development Period, and thereafter unto the Master Association, the right and the use and facilities easement (“Sign and Facilities Easement”) to install, erect, construct and maintain an entryway sign or signs, directional signs, advertising signs advertising the Property or the Lots therein, lighting, walkways, pathways, fences, walls and any other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Property (except upon any Lot after the first conveyances thereof). Any such signs shall comply with any applicable zoning requirements and all such facilities shall be maintained by the Master Association as a part of its maintenance obligations.

(D) Declarant reserves unto itself during the Development Period, and thereafter unto the Master Association, the full right, title and authority to:

(i) Relocate, alter or otherwise change the location of any Drainage, Flowage, Utility, Sewer and Lake, Sign and Facilities Easement, or any facility at any time located therein or thereon;

(ii) Grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Property, for the benefit of the Property or any portion thereof; and,

(iii) Describe more specifically or to change the description of any Drainage, Flowage, Utility, Sewer, Lake, Sign and Facilities Easement or any other easement, license or right-of-way now or hereafter existing on the Property, by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Hamilton County, Indiana.

(E) The title of the Master Association as to any Master Common Area, of the Neighborhood Association as to any Neighborhood Common Area, and of any Owner of any Lot shall be subject to the rights and easements reserved herein.
ARTICLE IV
ADDITIONAL PROVISIONS RESPECTING
OF SANITARY SEWER UTILITY

Section 4.1 Sanitary sewer utility easements allow for the construction, extension, operation, inspector, maintenance, reconstruction, and removal of sanitary sewer facilities and give utility companies the right of ingress/egress.

Section 4.2 No trees shall be planted directly over building sewers (lateral). Any landscaping placed within easements or right-of-ways is at risk of being removed, damaged, or destroyed by the applicable utilities without the obligation of replacement.

Section 4.3 No mounding, lighting, fencing, signs, retaining walls, landscaping walls, entrance walls, irrigation lines, or other improvements shall be placed within ten (10) feet of the center of the sanitary sewer infrastructure. Any of these which are placed within easements or right-of-ways is at risk of being removed by the applicable utilities without the obligation of replacement.

Section 4.4 All Owners not served by gravity sanitary sewer service are responsible for all maintenance, repair and replacement of all grinder/ejector pumps, force mains and gravity laterals from the residence to its connection to the sanitary sewer main.

Section 4.5 The discharge of clear water sources, including, but not limited to, foundation drains, sump pumps, and roof drains to the sanitary sewers is prohibited.

Section 4.6 Grade changes across sanitary sewer facilities must be approved in writing by the applicable utilities.

ARTICLE V
COVENANTS AND RESTRICTIONS

Section 5.1 Land Use. Lots may be used only for single-family residential purposes and only one Residence not to exceed the maximum height permitted by and measured pursuant to the Zoning Ordinance of the Town of Fishers, Indiana, may be constructed thereon. No portion of any Lot may be sold or subdivided such that there will be thereby a greater number of Residences in Summer Ridge than the number of Lots depicted on the Plat. Notwithstanding any provision in the applicable zoning ordinance to the contrary, no Lot may be used for any “Special Use” that is not clearly incidental and necessary to single family dwellings.

Section 5.2 Address Identification. The numbers representing the address of each Residence will be of a uniform appearance and will be displayed in a uniform location and manner, as determined by the Committee.

Section 5.3 Lighting. All homes will have two dusk to dawn lights located on the sides of the garage doors. Street lights may be installed by Declarant in the utility easements on Lots and in the Common Areas. Street lights shall be operated and maintained by the Association. The Association reserves the right to remove street lights deemed no longer necessary by the Board of Directors.
Section 5.4 Temporary Structures. No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a dwelling, temporary or permanent, nor may any structure of a temporary character be used as a dwelling.

Section 5.5 Driveways. All driveways shall be concrete in material.

Section 5.6 Water Systems. Each Owner shall connect to the water main maintained by a private or public water utility to provide water for domestic use on the Lot and shall pay all connection, availability, or other charges lawfully established with respect to connections thereto.

Section 5.7 Drainage. In the event storm water drainage from any Lot or Lots flows across another Lot, provision shall be made by the Owner of such downstream Lot to permit such drainage to continue, without restriction or reduction, across the downstream Lot and into the natural drainage channel or course, although no specific drainage easement for such flow of water is provided on the Plat. To the extent not maintained by the Drainage Board, "Drainage Easements" reserved as drainage swales shall be maintained by the Owner of the Lot upon which such easements are located such that water from any adjacent Lot shall have adequate drainage along such swale. Lots may be included in a legal drain established by the Drainage Board. In such event, each Lot will be subject to assessment by the Drainage Board for the costs of maintenance of the portion of the drainage system and the lake control structures included in such legal drain, which assessment will be a lien against the Lot. The elevation of a Lot shall not be changed so as to materially affect the surface elevation or grade of surrounding Lots. Perimeter foundation drains and sump pump drains shall be connected whenever feasible into a subsurface drainage tile. Down spouts and drains shall be designed to disperse run-off over free land or street or swale collection systems. Each Owner shall maintain the subsurface drains and tiles located on his Lots and shall be liable for the cost of all repairs thereto or replacements thereof.

Section 5.8 Signs. Except for such signs as Declarant may in his absolute discretion display in connection with the identification of development of Summer Ridge and the sale of Lots therein, no sign of any kind shall be displayed to the public view of any Lot except that one (1) sign of not more than four (4) square feet may be displayed at any time for the purpose of advertising the property for sale, or may be displayed by a builder to advertise the property during construction and sale.

Section 5.9 Fencing. This subsection is applicable to all Lots except those Lots which are used for a sales office or model home by the Declarant or a Builder. No fence, wall, hedge, or shrub planting higher than eighteen (18) inches shall be permitted between the front property line and the front building set back line except where such planting is part of Residence landscaping approved by the Architectural Review Committee and the prime root thereof is within six (6) feet of the Residence. Corner Lots shall be deemed to have two (2) front property lines. Trees shall not be deemed "shrubs" unless planted in such a manner as to constitute a "hedge". All fencing shall be cedar, dog-eared shadow box on both sides of the fence, unless approved by the Committee. All fencing on a Lot shall be uniform in height, style, and color and substantially similar in material. No fence shall be erected or maintained on or within any Landscaping Easement except such as may be installed by Declarant and subsequently replaced by the Association in such manner as to preserve the uniformity of such fence. No fence may be erected on a Lot without prior approval of the Committee, which shall approve or disapprove the location of all fences, provided, however, that all fencing erected on a Lot must be erected either (i) within six (6) inches of the property line of such Lot, or (ii) more than ten (10) feet from the property line of such Lot. Owners of Lots adjoining Lots on which a fence is erected within six (6) inches of the property line shall have the right to connect a fence to the fence on the adjoining Lot if the new fence satisfies all of the criteria expressed herein and is approved by the Committee. The Committee may establish further restrictions
with respect to fences, including limitations on (or prohibition of) the installation of fences in the rear yard of a Lot affecting a Lake and design standards for fences. All fences shall be kept in good repair. No fence, wall, hedge, or shrub planting, or tree foliage which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the Lot lines at the streets and a line connecting points 25 feet from the intersection of said streets to the said street Lot lines; and, the same rule shall apply to the intersection of a driveway with a street, in which case the edge of the driveway pavement shall be substituted for one of the street Lot lines.

Section 5.10 Nuisances. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood. Violation of any ordinance governing noise, building or lot maintenance, or any other public nuisance shall be deemed to be a nuisance creating rights in every affected Owner, the Declarant, and/or the Association, as the case may be, to enforce the provisions hereof against the offending Owner. Barking dogs shall constitute a nuisance. In the event of successful enforcement by an Owner, the Declarant, or the Association thereof, the offending Owner shall be liable to the prevailing party for attorneys' fees, court costs, and all other costs and expenses of litigation and collection in connection therewith.

Section 5.11 Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage or other waste shall be kept in sanitary containers out of public view except not more than 24 hours prior to its removal thereof, when it may be placed at the curb of the Lot. All equipment for storage or disposal of such materials shall be kept clean and sanitary.

Section 5.12 Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. The owners of such permitted pets shall confine them to their respective Lots such that they will not be a nuisance. Owners of dogs shall so control or confine them so as to avoid barking which will annoy or disturb adjoining Owners. Unless permitted by the Board of Directors of the Association, no Owner shall maintain more than two (2) of the same type (dog, cat, bird) of pet nor more than four (4) total pets. Provided, however, that fish which are located in indoor aquaria and which pose no risk to the public health shall not be considered pets for the purpose of this restriction. No dangerous or potentially dangerous pets, such as exotic animals (large wild cats, wolves, alligators, snakes which are poisonous or longer than two feet, poisonous spiders, etc.) shall be permitted to exist in a Residence or on a Lot without the unanimous consent of the Architectural Review Committee and the Board of Directors, provided, however, that the decision of the Board of Directors to permit such animal or animals may be overturned by a majority vote of the Members at any meeting.

Section 5.13 Outside Burning. No trash, leaves, or other materials shall be burned upon a Lot unless the smoke therefrom would not blow upon any other Lot. Owners shall use appropriate incinerators and shall at all times be in compliance with all applicable legal requirements for outside burning.

Section 5.14 Antennas and Receivers. No antenna, satellite dish, or other device for the transmission or reception of radio, television, or satellite signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors and above ground, whether attached to a building or otherwise, on any part of the Property, including Lots, without the written approval of the Architectural Review Committee, which approval shall not be unreasonably withheld; provided, however, that any such device may be installed and maintained on any Lot without the necessity of such written approval if: (a) it
is not visible from the neighboring Lots, streets or Common Area; or (b) the Owner, prior to installation, has received the written consent of the Owners of all Lots who would have views of the device from their Lots; or (c) the device is virtually indistinguishable from structures, devices, or improvements, such as heat pumps, air-conditioning units, barbecue grills, patio furniture, and garden equipment, which are not prohibited by these covenants or Bylaws, or (d) it is a satellite dish 1 meter or less in diameter and not affixed to the roof of a residence; or (e) if prohibition of the installation, use, and maintenance of such device is specifically preempted and superseded by applicable governmental authority.

Section 5.15 Exterior Lights. Except on Lots on which there is maintained a sales office or model home by the Declarant or a Builder, no exterior lights shall be erected or maintained between the building line and rear lot line so as to shine or reflect directly upon another Lot.

Section 5.16 Electric Bug Killers. Electric Bug Killers, "zappers", and other similar devices shall not be installed at a location or locations which result in the operation thereof becoming a nuisance or annoyance to other Owners, and shall be operated only when outside activities require the use thereof and not continuously.

Section 5.17 Vacant Lots. It shall be the duty and obligation of the Owner of a vacant Lot to maintain said Lot and mow the lawn thereof. Declarant and the Association shall have the right, but not the duty, to enter upon each vacant Lot and to maintain the appearance thereof by cutting weeds, mowing grass, trimming trees, removing debris, installing motion control devices, and performing any other act reasonable under the circumstances. The Owner shall be responsible for payment of all such expenses upon demand and the Declarant or the Association, as the case may be, shall have a lien on such Lot for the payment of such expenses, together with attorneys' fees and all other costs and expenses of litigation and collection which may be incurred in connection therewith.

Section 5.18 Association's Right to Perform Certain Maintenance. In the event that the Owner of any Lot shall fail to maintain his or her Lot and any improvements situated thereon in accordance with the provisions of this Declaration, the Association shall have the right, but not the obligation, by and through its agents or employees or contractors, to enter upon said Lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these restrictions. The cost incurred by the Association shall be assessed to the Owner. The Owner shall reimburse the Association within thirty (30) days of the date on which the Owner is invoiced by the Association. The Association shall have the right to collect any outstanding maintenance assessments in the manner described in Article XI. Neither the Association nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance work performed hereunder.

Section 5.19 Awnings. Except on Lots on which there is maintained a sales office or model home by the Declarant or a Builder, or as approved by the Committee, no metal, wood, fabric, fiberglass or similar type material awnings or patio covers will be permitted anywhere on the Property.

Section 5.20 Diligence in Construction. Subject to inclement weather, every Residence 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 three (3) months from the time of such destruction or damage or, if approval of the applicable casualty insurance is pending, then within three (3) months after such approval is forthcoming.
Section 5.21 HVAC Units. No heat pumps, air conditioning units or gas meters will be installed in the front of the Residence.

Section 5.22 Lake and Lake Area(s). Except as otherwise provided, no individual using a Lake, if any, has the right to cross another Lot or trespass upon shoreline not within a Common Area owned by the Association, subject to the rights of the Declarant, the Association, their employees, heirs, successors and assigns as set forth in the Declaration. No one shall do or permit any act or activity which could result in pollution of any Lake, diversion of water, elevation of any Lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper Lake management except as provided in the Declaration. A Lake may not be used for swimming, ice skating, boating, or for any other purpose, except for drainage of the Property, unless expressly and specifically approved by the Board of Directors in writing and allowed by law. Lakes and Lake Areas may or may not exist on the Property, and the reference throughout this Declaration to Lakes and Lake Areas is made in order to address Lake and Lake Areas, if any, which now exist or are later constructed upon the Property. The installation on the Property of any Lake or Lake Area shall be within the sole discretion of the Declarant, and under no circumstances shall the Declarant be required or obligated to install any Lake or Lake Area. Only the Declarant and the Association shall have the right to store items or develop recreational facilities upon any Common Area owned by the Association adjacent to a Lake.

Section 5.23 Mailboxes. All mailboxes and posts must be approved by the Committee and, within each Section of the Development, shall be standard in size, location, post, design, height, material, composition and colors. The builder upon the initial Lot closing to the homeowner shall install the initial mailbox for each Lot, which meets the above criteria. The Owner agrees to maintain and paint said mailbox and post in conformance with all other mailboxes.

Section 5.24 Maintenance of Lots and Improvements. Each Owner shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the lot or improvements from becoming unsightly and, specifically, such Owner shall:

(A) Mow the Lot at such times as may be reasonably required in order to prevent the unsightly growth of vegetation and noxious weeds;

(B) Remove all debris or rubbish from the Lot;

(C) Prevent the existence of any other condition that tends to detract from or diminish the aesthetic appearance of the Property;

(D) Cut down and remove dead trees from the Lot; and,

(E) Within sixty (60) days following completion of a Residence, the Owner shall landscape the lot in accordance with the provisions set forth in this Declaration, weather permitting.

Section 5.25 Miscellaneous. No contests may be erected on any Lot.

Section 5.26 Outbuildings and Animal Quarters. Any and all forms of outbuildings, including but not limited to, sheds, storage sheds, animal quarters, and play houses, which are not directly connected to the main house on any Lot are prohibited, unless the same are necessary or incident to the
Declaring's, Builder's or Association's business or activities upon the Property. Animal quarters or kennels which are connected to the Residence must be approved by the Committee.

Section 5.27 Play Equipment. Children's play equipment such as sandboxes, temporary swimming pools having a depth of eighteen (18) inches or less, swing and slide sets, and trampolines shall not require approval by the Committee, provided that (i) such equipment is not more than eight (8) feet high (to the highest point of the structure) and properly painted and maintained by the Owner in good repair, (ii) such equipment is located in the rear yard of the Lot between the parallel lines defined by extending the side lines of the residence into the rear yard of the Lot, and (iii) such swing and slide sets are constructed of wood. Metal swing and slide sets are prohibited. Equipment higher than eight (8) feet shall require approval of the design, location, color, material and use by the Committee, and aluminum or metal play equipment is prohibited.

Section 5.28 Plumbing. All plumbing vent stacks are to be located on the rear of the Residence.

Section 5.29 Sidewalks. Each Residence shall have a continuous 4-foot wide by a minimum of four (4) inches thick concrete sidewalk adjacent to all interior dedicated street frontage. Sidewalks shall be installed by the Builder and included in the purchase price of the Residence. If an approved asphalt bike/walking path is approved on the Property in place of the sidewalk, no additional concrete sidewalk will be required.

Section 5.30 Subsurface Drains and Sump Pump Discharge. Subsurface drains have been provided in certain areas within drainage easements as additional storm and ground water drainage sources and are part of the public storm drainage system. Subsurface drain laterals have been provided on specific Lots, and the Builder on such Lots shall connect all sump pump discharge lines to such laterals. All maintenance and repair of all sump pump discharge lines and subsurface drain laterals shall be the responsibility of each Lot Owner in accordance with the following:

(A) The limits of Owner responsibility include all sump pump lines and subsurface drain laterals between the connection at the sump pump within the home and the connection with the publicly maintained storm sewer or subsurface drain within the drainage easement.

(B) In cases where subsurface drain laterals are connected along a common property line before connecting to the storm sewer, maintenance and repair of the common lateral will be shared equally by the adjacent Owners unless an individual Owner caused the lateral to be damaged, changed or altered.

(C) Any Owner or Builder damaging, changing, or altering these subsurface drains and/or common subsurface drain laterals will be held responsible for such action and will be given ten (10) days notice, by registered mail, to repair said damage, after which time, if no action is taken, the appropriate jurisdictional agency, Declaring or the Association will cause said repair to be accomplished and the invoice for such repairs will be sent to the responsible Owner(s) and/or Builder(s) for immediate payment. If immediate payment is not received, the Declaring and/or the Association shall have all the rights and remedies to collect any outstanding amounts as outlined hereafter in Article X of this Declaration.

(D) In no case will maintenance and repair of sump pump discharge lines and subsurface drain laterals be the responsibility of the Town.
Section 5.31  Swimming Pools and Hot Tubs. Only permanent, in-ground pools with professional construction, approved by the Committee, shall be permitted upon a Lot. All submissions to the Committee shall include landscape plans. All backyard pools should be oriented to minimize the potential effect on neighboring properties. All fencing shall conform to county or municipal regulations and shall be of harmonious design and subject to Committee approvals. Hot Tubs must also be approved by the Committee.

Section 5.32  Tennis Courts, Racquetball Courts, Paddleball Courts, etc. Tennis courts, racquetball courts, paddle ball courts, basketball courts, squash courts, and other recreational facilities or sporting facilities will not be permitted without approval from the Committee. All submittals to the Committee shall include landscape plans. Basketball goals may be installed on a lot adjacent to driveway without Committee approval. All tennis courts, racquetball courts, and paddle ball courts shall be constructed on a Lot without written Committee approval. No basketball goal or backboard shall be permitted to hang from or be affixed to the Residence or garage. Lighted courts of any kind are prohibited. Temporary or portable basketball courts will not be permitted to be located on streets or in cul-de-sacs.

Section 5.33  Vents. All metal and PVC roof or range vents will be painted to blend with roof color.

Section 5.34  Windows-Doors. If storm doors are installed, they must be painted to match exterior of the Residence. No unfinished aluminum doors or windows will be allowed.

Section 5.35  Street Signs. Decorative street signs that do not conform to Town of Fishers, Indiana, standards may be installed by Declarant in Avalon. Such decorative street signs shall be maintained by the Association, and shall be repaired or replaced by the Association if damaged in accordance with applicable rules and regulations of the Town of Fishers, Indiana. The Association assumes all liability in the installation, maintenance, and repair of the decorative street signs and agrees to hold the Town of Fishers, Indiana harmless related thereto.

Section 5.36  Fuel Tanks. All above or below ground storage tanks, with the exception of gas storage tanks used solely in connection with gas grills for the purpose of grilling or cooking food, shall be and hereby are prohibited.

Section 5.37  Garbage and Other Refuse. No Lot Owner in the Development shall burn or permit the burning of odorless garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation of odorless refuse, including compost on his or her Lot.

Section 5.38  Home Occupations. No Lot or Lot shall be used by an Owner, other than a Builder or Declarant, for any purpose other than as a single-family residence, except that a home occupation, which satisfies the following definition as well as all requirements of the applicable zoning ordinance, may be permitted: any use conducted entirely within the Residence and participated in solely by a member of the immediate family residing in said Residence, which use is clearly incidental and secondary to the use of the Residence for dwelling purposes and does not change the character thereof and in connection with which there is: a) no sign or display that will indicate from the exterior that the Residence is being utilized in whole or in part for any purpose other than that of a dwelling; b) no commodity sold upon the premises; c) no person is employed other than a member of the immediate family residing in the Residence; and d) no manufacture or assembly operations are conducted. Provided however, that in no event shall the following or similar activities be conducted or considered to be a
permitted Home Occupation: child day care, barber shop, styling salon, animal hospital, or any form of animal care or treatment such as dog trimming, or any other similar activities. The foregoing notwithstanding, the Declarant and Builders shall be permitted to operate sales trailers, model homes, and sales offices.

Section 5.39 Open Drainage Ditches and Swales. The following shall apply to open ditches and swales:

(A) Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled, or otherwise changed, without the written permission of the appropriate jurisdictional agency and the Declarant. Property Owners must maintain these swales as grassways or other non-eroding surfaces. Any damage to swales or drainage structures must be repaired or replaced by the Lot Owner.

(B) Any Owner or Builder altering, changing, or damaging these drainage swales or ditches will be held responsible for such action and will be given ten (10) days notice, by registered mail, to repair said damage, after which time, if no action is taken, the appropriate jurisdictional agency, Declarant or the Association will cause said repairs to be accomplished and the invoice for such repairs will be sent to the responsible Owners for immediate payment. If immediate payment is not received by the Association, the Association shall have all the rights and remedies to collect any outstanding amounts as outlined hereafter in Article X of this Declaration.

Section 5.40 Roofing Materials. The roofing materials on all Residences within each Section of the Development shall be similar in color, and shall be of a quality, style and composition acceptable to the Declarant during the Development Period and, thereafter, the Committee.

Section 5.41 Signs. No signs or advertisements shall be displayed or placed on any Lot or other structures at the Property, except Residence or Lot sales signs and directional sales signs, except with the approval of the Committee.

Section 5.42 Solar Panels. No solar panels shall be permitted on any Residence.

Section 5.43 Temporary Structures. No temporary house, trailer, garage or other outbuilding shall be placed or erected on any Lot, except by Declarant or a Builder.

Section 5.44 Utility Services. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.

Section 5.45 Vehicles Parking. No trucks one (1) ton or larger in size, campers, trailer, motor homes, boats, snowmobiles, jet ski or similar vehicles shall be parked on any street in the Property. Any recreational vehicle or trailer, campers, snowmobiles, jet ski, or boat shall not be permitted to remain on any driveway or Lot except within a closed garage and shall not be regularly parked upon unpaved areas. There shall be no outside storage of commercial trucks, trailers, boats, junk cars, or fuel tanks.

Section 5.46 Visual Obstructions. No fence, wall, gate, hedge, tree or shrub planting which obstructs sight lines and elevations between three (3) and twelve (12) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street right-of-way lines.
and line connecting points twenty-five (25) feet from the intersection of said street lines or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended. The same sightline limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line.

Section 5.47 Wells. Water wells shall not be drilled on any of the Lots except as required to irrigate common areas.

Section 5.48 Occupancy or Residential Use of Partially Completed Residence Prohibited. No Residence constructed on any Lot shall be occupied or used for residential purposes or human habitation until a certificate of occupancy has been issued.

Section 5.49 Streets, Sidewalks, and Street Landscaping.

(A) Maintenance. Declarant shall maintain all streets and curbs in good condition satisfactory for the purpose for which they were constructed until they have been accepted by the public.

(B) Landscaping. All landscaping within the street rights-of-way is subject to the approval of the appropriate governmental authority. Each Owner shall cut all grass and trim all other landscaping in the rights-of-way adjoining his Lot lines and shall maintain all sidewalks in the rights-of-way nearest his Lot lines. Each Owner shall immediately replace any street trees and lighting required by this Declaration, the Plat, or any other document controlling maintenance of Lots.

(C) Street Lights and Decorative Street Signs. All street lights and decorative street signs located within the right-of-way of any street shall be maintained by the Association.

Section 5.50 Construction and Landscaping: Time Requirements; Deviations; Penalties. All construction upon, landscaping of, and other improvements to a Lot shall be completed strictly in accordance with a lot development plan approved by the Committee.

Section 5.51 Septic Systems. No septic tank, absorption field, or any other on-site sewage disposal system (other than a lateral main connected to a sanitary sewage collection system operated by a public agency or public or private utility) shall be installed or maintained on any Lot.

Section 5.52 Notice of Commitments. Notice is hereby given of the Commitments.

ARTICLE VI

ARCHITECTURAL CONTROLS

Section 6.1 Approvals. Approvals, determinations, permissions, or consents required herein shall be deemed given only if they are given in writing and signed, with respect to the Declarant or the Master Association, by an officer thereof, and with respect to the Committee, by one (1) member thereof.

Section 6.2 Committee: Development Standards and Committee. A Development Standards and Architectural Control Committee (the "Committee"), composed of at least three (3) members, shall exist and shall be appointed by the Declarant. Until after the Development Period, such members shall be
subject to removal by the Declarant at any time, with or without cause, and any vacancies from time to time shall be filled by appointment of the Declarant. The Declarant may, at its sole option, at any time hereafter, relinquish for a period of time to the Master Association the power to appoint and remove one or more members of the Committee; provided, however, that any such relinquishment must be in writing and shall be only on the terms and conditions expressed in such writing.

Section 6.3 Continuation of Committee. When the Declarant provides written notification to the Master Association of discontinuance of this Committee, then the Directors of the Master Association, or their designees, shall continue the actions of the Committee with like powers and duties.

Section 6.4 Duties of Committees. The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. The Committee for its permanent files shall retain one copy of submitted material. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, the requesting applicant may apply with changes. If, however, approval has not been received by applicant in writing within thirty (30) days, then said request shall be considered DENIED.

Section 6.5 Exercise of Discretion. Declarant intends that the members of the Committee exercise discretion in the performance of their duties consistent with the provisions hereof, and every Owner by the purchase of a Lot shall be conclusively presumed to have consented to the exercise of discretion by such members. In any judicial proceeding challenging a determination by the Committee and in any action initiated to enforce this Master Declaration in which an abuse of discretion by the Committee is raised as defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Committee, could only conclude that such determination constituted an abuse of discretion.

Section 6.6 Inspection. The Committee may inspect work being performed without the Owner’s permission to assure compliance with these restrictions and applicable regulations.

Section 6.7 Liability of Committee, Declarant, Developers. Neither the Committee nor any agent thereof, nor the Declarant, nor the Master Association shall be liable in any way for any costs, fees, damages, delays, or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it, nor shall the Committee, Master Association or Declarant be responsible in any way for any defects in any plans, specifications, or other materials submitted to it, or for any defects in any work done according thereto. Further, the Committee, Master Association and/or Declarant make no representation or warranty as to the suitability or desirability of the design, the engineering, the method of construction involved, or the materials to be used. All parties should seek professional construction advice, engineering, and inspections on each Lot prior to proposing construction.

Section 6.8 Common Areas, Entrance, Street Signs, and Landscape Easements. None of the following shall be installed or constructed without prior written approval thereof by the Committee: (i) any and all landscaping, fences, structures, lighting, walking trails, sidewalks, or other improvements located in any Common Area, landscape maintenance access easement, and/or sign landscape easement, (ii) any entrance monument or signage identifying the Development or any section thereof and/or (iii) street signage.

Section 6.9 Lot Improvements. No dwelling, building structure, fence, deck, driveway, swimming pool, rear yard tennis or basketball courts, or improvement of any type or kind (including significant landscaping or stacking of wood) shall be constructed or placed on any Lot without the prior
approval of the Committee. Such approval shall be obtained only after the Owner of the Lot requesting
authorization from the Committee has made written application to the Committee at least thirty (30) days
prior to the proposed construction. Such written application shall be in the manner and form prescribed
from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and
specifications for any such proposed construction or improvement. Such plans shall include plot plans
showing: (i) the location of the improvements existing upon the Lot and the location of the improvement
proposed to be constructed or placed upon the Lot, each properly and clearly designated and (ii) all
easements, set backs, and rights-of-way and (iii) any landscape plans required by the Committee. Such
plans and specifications shall further set forth the color and composition of all exterior materials proposed
to be used and any proposed landscaping, together with any other materials, photographs, or information,
which the Committee may require. All building plans and drawings required to be submitted to the
Committee shall be drawn to a scale of 1/4" = 1' and all plot plans shall be drawn by a professional to a
scale of 1" = 30', or to such other scale as the Committee shall deem appropriate. It is also recommended
that a certified survey be prepared to assure that a resident is not encroaching on an adjacent homeowner
or in a Common Area. If Owner has encroached on an adjacent Owner’s property or in a common area,
the encroaching Owner will, at his or her own expense, move any fence or other improvement(s) so as to
eliminate the encroachment. Notwithstanding anything to the contrary in the foregoing, upon receipt of
any written application which is in form and content acceptable to the Committee in the Committee’s sole
and absolute discretion, the Committee may pre-approve a Builder’s plans and specifications for the
original construction of a Residence and, in the event of such pre-approval, the Builder shall then be
authorized to construct the pre-approved Residence on different Lots without further approvals from the
Committee.

No fence or screen of any kind will be permitted if its installation will obstruct necessary site
lines for vehicular traffic. Undue obstruction of view of other amenities from adjoining properties shall
be considered by the Committee when reviewing applications for approval.

Section 6.10 Power of Disapproval. The Committee may refuse to grant permission to
construct, place or make the requested improvement with or without cause. Common grounds for denial
include, but are not limited to, a lack or absence of the following:

(A) The plans, specifications, drawings or other material submitted must themselves
be adequate and complete, show the proposed improvement, and not be in violation of this
Master Declaration; and

(B) The design or color scheme of a proposed improvement must be in harmony
with the general surroundings of the Lot or with adjacent buildings or structures.

Section 6.11 Power to Grant Variances. The Committee may allow reasonable variances or
adjustments of this Master Declaration where literal application would result in unnecessary hardship, but
any such variance or adjustment shall be granted in conformity with the general intent and purposes of
this Master Declaration, no variance or adjustment shall be granted which is materially detrimental or
injurious to other Lots in the Development, and any such variance granted shall not be considered as
precedent setting.

Section 6.12 Statement of Purposes and Powers. Subject to this Master Declaration and the
restrictions contained herein, the Committee shall regulate the external design, appearance, use, location
and maintenance of Lots and improvements thereon in such a manner as to preserve and enhance values
and maintain a harmonious relationship among structures and the natural vegetation and topography, and in keeping with the intent of the Declarant.

ARTICLE VII
CONTIGUOUS LOTS

Section 7.1 Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous Lots shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single-dwelling house, such Owner must apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single-dwelling house shall be treated as a single Lot for the purpose of applying this Master Declaration to said Lots, so long as the Lots remain improved with one single-dwelling house. In addition, the Owner must obtain from the Town of Carmel all requisite and necessary permits and approvals.

ARTICLE VIII
USE AND OWNERSHIP OF COMMON AREA

Section 8.1 Ownership. A license upon such terms, conditions, rules and regulations as the Declarant, and successor, assigns or licensees of the Declarant, shall from time to time grant, for the use and enjoyment of the Common Area, is granted to the persons who are from time to time members of the Master Association; provided, however, that no residential development shall occur in the Common Area. Every Owner shall have a nonexclusive right and easement of enjoyment in common with all other Owners, in and to the Common Areas which nonexclusive right and easement of enjoyment shall appurtenant to and pass with the title to every Lot; provided, however, that any area identified on a Plat as a Limited Common Area shall be for the exclusive use and benefit of Owners whose Lots abut the Limited Common Area, subject to (i) the right of the Association to perform and undertake maintenance of the Limited Common Area and (ii) all easements granted in this Declaration. The Common Areas shall be conveyed by quitclaim deed to the Master Association. Such conveyance shall be deemed to have been accepted by the Master Association and those persons who shall from time to time be members thereof upon the recording of a deed or deeds conveying such Common Area to the Master Association.

Section 8.2 Use. Common Area shall be used for such purposes as deemed appropriate by the Declarant until the end of the Development Period. Following the end of the Development Period, the Common Area shall be used for such purposes as deemed appropriate by the Master Association. Any Common Area depicted on the recorded plans of the Development or designated by the Declarant as a Common Area shall remain for the exclusive use of the Owner(s), and their family members, guests, tenants, or contract purchaser who reside on the Lot(s). Neither the Declarant’s execution or recording of the plans nor the doing of any other act by the Declarant is, or is intended to be, or shall be construed as, a dedication to the public of the Common Area.

ARTICLE IX
AVALON MASTER ASSOCIATION, INC.

Section 9.1 Master Association Duties. The duties of the Master Association shall include the following: (i) the promotion of the recreation, health, safety, and welfare of the residents in the property,
(ii) the maintenance and repair of the Master Common Areas including, but not limited to, any and all lighting, landscaping, pools, amenity areas, the Trail System, and sidewalks located thereon, (iii) the maintenance and repair of any and all entrance monuments and signage, and the landscaping surrounding such entrance monuments and signage, (iv) maintenance and repair of all street signage, street lighting, and all improvements and landscaping existing in any landscape maintenance access easement and/or any sign landscape easement, (v) the performance of any other obligations and duties of the Master Association specified herein.

Section 5.2 Board of Directors. The Owners shall elect a Board of Directors of the Master Association as prescribed by the Master Association's Articles and Bylaws. The Board of Directors shall manage the affairs of the Master Association. Directors need not be members of the Master Association.

Section 5.3 Classes of Membership and Voting Rights. The Master Association shall have the following two classes of voting membership:

(A) **Class A.** Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.

(B) **Class B.** The Class B member shall be the Declarant. The Declarant shall be entitled to five (5) votes for each Lot owned. For purposes of this calculation, it shall be assumed that Declarant owns all Lots, which number shall be reduced as Lots are conveyed by the Declarant to an Owner. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier (hereafter "Effective Date"):

(i) December 31, 2020; or

(ii) When the total number of votes outstanding in the Class A Membership is equal to the total number of votes outstanding in the Class B Membership; provided, however, that the Class B Membership shall recommence in the event that the Declarant records a plat of part of or all of the Additional Real Estate and, by virtue thereof, total number of votes outstanding in the Class A Membership is no longer equal to the total number of votes outstanding in the Class B Membership.

Section 5.4 Membership. Initially, the person(s) who serve as incorporator(s) of the Master Association shall be the member(s) (the "Initial Member(s)"). The Initial Member(s) shall remain member(s) of the Master Association until the Master Association Articles of Incorporation are accepted by the Indiana Secretary of State, at which time the Initial Member(s) shall cease to be member(s) unless they also qualify as Class A or Class B members. Every Owner of a Lot which is subject to assessment shall be a member of the Master Association. Apart from the Initial Member(s), a membership in the Master Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 5.5 Professional Management. The Association shall employ the services of a professional manager or management company to assist the Board of Directors in the management and administration of the Association. No contract or agreement for professional management of the Master Association, nor any other contract between Declarant and the Master Association, shall be for a term in
excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause and without payment of any termination fee upon written notice of ninety (90) days or less.

Section 9.6 Master Association Insurance. The Master Association shall purchase the following coverage:

(A) Liability Insurance. The Master Association shall purchase and pay the costs of the policy or policies of insurance in the form generally known as Public Liability and/or owners policies insuring the Master Association against any and all claims and demands made by any person or persons whatsoever for injuries received in connection with the fulfillment by the Master Association of its obligations specified in the Master Declaration, or for any other risk insured against by such policies which the Master Association, in its sole discretion, determines to insure against, including, without limitation, claims arising out of the Master common Areas. Such policy purchased by the Master Association shall have limits of not less than One Million Dollars ($1,000,000.00) covering all claims for personal injury and One Hundred Thousand Dollars ($100,000.00) for property damage arising out of a single occurrence. The coverage of the liability insurance policies purchased by the Master Association shall include protection against liability for property damage, bodily injuries and deaths of persons in connection with the fulfillment by the Master Association of its obligations specified in the Master Declaration, liability for non-owned and hired automobiles, liability for property of others and liability arising out of the Master Common Areas. All such policies will name the Master Association as the insured under such policy or policies. The insurance purchased shall contain a “severability of interest endorsement,” or equivalent coverage, which would preclude the insurer from (i) denying the claims of an Owner because of the negligent acts of either the Master Association, the Declarant or any other Owners or (ii) denying the claims of either the Declarant or the Master Association because of the negligent acts of an Owner.

(B) Casualty Insurance. The Master Association may purchase and pay the costs of a policy or policies of insurance to allow the Master Association to insure from the fulfillment by the Master Association of its obligations specified in the Master Declaration. Such casualty insurance may insure, without limitation, any improvements located within the Master Common Areas.

(C) Fidelity Coverage. The Master Association shall purchase adequate (i) errors and omissions insurance protecting and insuring the Master Association and its officers and directors against liability for negligence in the fulfillment of their obligations and duties, and (ii) fidelity coverage to protect against dishonest acts of the officers and employees of the Master Association and the Directors and all others who handle and are responsible for handling funds of the Master Association, such coverage to be in the form of fidelity bonds which meet the following requirements unless one or more of such requirements are waived by the Board of Directors.

(i) Such bonds shall name the Master Association as an obligee;

(ii) Such bonds shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual Master Association expenses; and,
(iii) Such amounts shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

Section 9.7 Limitations on Rights of the Master Association. As long as there is a Class B Member, the Master Association may not use its resources, nor take a public position in opposition to future phases of Avalon proposed by the Declarant or changes to current phases of Avalon proposed by the Declarant. Nothing in this paragraph shall be construed to limit the rights of the members acting as individuals or in affiliation with other members or groups as long as they do not employ the resources of the Master Association or identify themselves as acting in the name, or on the behalf of the Master Association.

ARTICLE X

ASSESSMENTS

Section 10.1 Creation of Lien and Personal Obligation of Assessments. Each Owner of any Lot, except the Declarant and any Builder, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Master Association the following:

(A) Annual Assessments (hereinafter defined);
(B) One-Time Assessment (hereinafter defined);
(C) Special Assessments (hereinafter defined) for costs of enforcement of the Master Declaration, capital improvements and operating deficits, copies of Master Association documents if requested by a member, and such assessments to be established and collected as hereinafter provided or established by the Board;
(D) Violation Assessments (hereinafter defined) levied for a violation of this Master Declaration; and
(E) Any additional assessments specified in a Neighborhood Declaration.

Section 10.2 Annual Budget. By majority vote of the Board of Directors, the Board of Directors shall adopt an annual budget for the subsequent fiscal year, which shall provide for the allocation of expenses in such a manner that the obligations imposed by the Master Declaration and all Supplemental Master Declarations can effectively be met.

Section 10.3 Annual Assessment.

(A) Amount. The Annual Assessment provided for herein shall be per calendar year and shall commence for each Lot on the date of closing of the sale of a Lot to an Owner other than Declarant or a Builder. The Annual Assessment, commencing during the calendar year in which the first Lot is conveyed to an Owner other than the Declarant or a Builder, shall be $300.00 per Lot per year. The Annual Assessment for the calendar year shall be prorated to yearend. The Board of Directors shall fix any increase in the amount of the Annual Assessment at least thirty (30) days in advance of the effective date of such increase. The initial due date for annual assessments shall be January 1st, and each assessment shall be subject to collection and late charges beginning on January 31st.

(B) Purpose of Assessments. The annual assessment levied by the Master Association shall be used in the reasonable discretion of the Board of Directors to fulfill the
dates and obligations of the Master Association specified in this Master Declaration, including, without limitation, the cost of maintaining and repairing Common Areas, as well as the cost of insurance, Refuse Collection and Professional Management.

(C) **Method of Assessment.** By a vote of a majority of the Board of Directors, the Board of Directors shall, in the manner specified in Section 11.7 below, fix the Annual Assessment for each assessment year at an amount sufficient to meet the obligations imposed by this Master Declaration upon the Master Association. The Board during any calendar year shall be entitled to increase the Annual Assessment for that year if it should determine that the estimate or current assessment is insufficient for that year, provided that the Board shall give at least thirty (30) days advance notice thereof to the Owners. The Board of Directors shall establish the date(s) the Annual Assessment shall become due, and the manner in which it shall be paid.

Section 10.4 **One-time Assessment.** Upon (i) the closing of the initial conveyance of each Lot by Declarant to an Owner other than a Builder, or (ii) the sale of each Lot by a Builder (either by deed or by installment sale, conditional sale or land-contract sale), the purchaser of such Lot shall pay to the Master Association, in addition to any other amounts then owed or due to the Master Association, as a contribution to its working capital and start-up fund, an amount of Fifty Dollars ($50.00) against such Lot, which payment shall be non-refundable and shall not be considered as an advance payment of any assessment or other charge owed the Master Association with respect to such Lot. Such working capital and start-up fund shall be held and used by the Master Association for payment of, or reimbursement to Declarant for, advances made to pay, expenses of the Master Association for its early period of operation of the Development, to enable the Master Association to have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary by the Board.

Section 10.5 **Special Assessment.** In addition to such other Special Assessments as may be authorized herein, the Board of Directors may levy in any year a Special Assessment(s) for the purpose of enforcing these covenants and restrictions, for legal expenses, for collection expenses, other activity that is the responsibility of an Owner hereunder but which such Owner has not undertaken as required hereunder, for defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Master Association is required to maintain and/or for operating deficits which the Master Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 10.6 **Violation Assessment.** In addition to all other assessments as be authorized herein, the Board of Directors may levy a Violation Assessment to an Owner, (i) for a violation against this Master Declaration or (ii) for damages if any portion of the Common Area that the Master Association is obligated to maintain, repair and/or replace is damaged due to the willful or negligent act or omission of such Owner or Owner's guest or invitee. In the event of such damage, the Board shall have the right to undertake the necessary maintenance, repair or replacement. The choice between repair or replacement is in the sole discretion of the Board.

Section 10.7 **Basis for Assessment.**

(A) **Lots Generally.** Each Lot owned by a person other than Declarant or a Builder shall be assessed at a uniform rate without regard to whether a Residence has been constructed upon the Lot.
(B) Lots Owned by Declarant or Builder. Declarant and any Builder shall not pay the Annual Assessment and Special Assessment so long as any Residence constructed upon a Lot by Declarant or a Builder has not been either conveyed to an Owner intending to occupy or rent into Residence as a residence or leased to an individual or an entity for use as a Residence.

Section 10.8 Notice and Due Date. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be delivered to every Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors.

Section 10.9 Collection. All Assessments, together with interest thereon, attorneys fees, and other costs of collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot against which each Assessment is made until paid in full. Each Assessment, together with interest thereon and costs of collection thereof, including reasonable attorney fees, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due.

Section 10.10 Effect of Nonpayment of Assessments; Remedies of the Master Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at twelve percent (12%) per annum plus a late charge not exceeding Fifty Dollars ($50.00). The Master Association shall be entitled to initiate any lawful action to collect delinquent assessments plus any expenses or costs, including attorneys' fees, incurred by the Master Association in collecting such assessment(s). If the Master Association has provided for collection of any assessment in installments, upon default in the payment of any one or more installments, the Master Association may accelerate payment and declare the entire balance of said assessment due and payable in full. No Owner may waive or otherwise avoid liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10.11 Suspension of Privileges of Membership. Notwithstanding any other provision contained herein, the Board of Directors shall have the right to suspend the voting rights, if any, and the services to be provided by the Master Association, together with the right to use the Common Areas of any member:

(A) for any period during which any of the assessments or any fines/fees assessed under this Master Declaration owed by such member remains unpaid;

(B) during the period of any continuing violation of this Master Declaration; and

(C) during the period of any violation of the Articles of Incorporation, By-Laws, or regulations of the Master Association.

Section 10.12 Certificates. The Master Association shall, upon reasonable request by an Owner, at any time, furnish a letter in writing signed by an officer of the Master Association, indicating the accounting status of assessments on a Lot showing the balance due the Master Association, if any.

Section 10.13 Subordination of the Lien to Mortgages. The lien of the assessments provided for herein against a Lot shall be subordinate to the lien of any recorded first mortgage covering such Lot and to any valid tax or special assessment lien on such Lot in favor of any governmental taxing or assessing authority. Sale or transfer of any Lot shall not affect the lien of assessments levied under this Article XI. The sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall, however, extinguish the lien of such assessments which became due or are attributable to
the period of time prior to such sale or transfer. No sale transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE XI
NEIGHBORHOOD DECLARATION AND
NEIGHBORHOOD ASSOCIATIONS

Section 11.1 Neighborhood. The Declarant reserves the right, in its sole discretion, to grant neighborhood status to any portion of the Property Declarant may in the future elect to subject to this Master Declaration. The Declarant may designate a Neighborhood as a separate community within the Property with ingress and egress to such community limited to Owners within such Neighborhood.

Section 11.2 Neighborhood Association. The Declarant reserves the right to form a property owner’s association, condominium association, or other such similar entity for a neighborhood granted such status by the Declarant and as permitted under this Master Declaration.

Section 11.3 Neighborhood Common Area. The Master Association may contract with a Neighborhood Association, if any, to provide for the operation and maintenance of its Neighborhood Common Area.

(A) The cost and expense of maintaining the Neighborhood Common Area shall not be a Common Expense, but shall be borne by the Owners of the Plots located in the Neighborhood as set forth in the Neighborhood Declaration.

(B) The Declarant reserves the right to cause portions of the Master common Areas to become Neighborhood Common Area(s) by recording an instrument containing such provision with the Recorder of Hamilton County, Indiana. Upon recording such an instrument, the real property described in such instrument shall no longer be Master Common Area and, in lieu thereof, the use and easement rights and the obligations pertaining thereto, including, but not limited to, maintenance administration obligations, shall be those pertaining to such Neighborhood Common Area and not Master Common Area, and the expense for maintenance and administration shall no longer be a Common Expense, but shall be an expense of the Neighborhood Association.

Section 11.4 Neighborhood Declaration. The Declarant reserves the right to amend specific provisions of this Master Declaration as it may apply to one or more Neighborhoods without amending those provisions with respect to all Neighborhoods and to supplement this Master Declaration by recording separate covenants, conditions, restrictions and other provisions applying to any specific Neighborhood. Separate covenants, conditions and restrictions may be recorded as a supplement to this Master Declaration or as a Neighborhood Declaration. The Declarant also reserves the right to determine the consistency of all Neighborhood Declarations in comparison with the Master Declaration and the plan of development of the Property and to approve and consent to all Neighborhood Declarations prior to the same being recorded with the Recorder of Hamilton County, Indiana. So long as the Declarant Membership exists, Neighborhood Declarations shall not be effective until the Declarant approves and consents to the same in writing. Any Neighborhood Declaration shall be supplemental to this Master Declaration and in no way shall be construed to supersede or override the provisions of the Master Declaration. In the event of a conflict between this Master Declaration and any Neighborhood Declaration, the Master Declaration shall control.
ARTICLE XII

REMEDIES

Section 12.1 Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of covenants, conditions, and restrictions in this Master Declaration shall be held to be a waiver by that party or an estoppel of that party of any right available to such party upon the occurrence, reoccurrence or continuation of such violation or violations of this Master Declaration.

Section 12.2 Enforcement by the Town or the Town’s Plan Commission. Those Restrictions may be enforced by the Town, the Town’s Plan Commission, or its successors or assigns, pursuant to whatever powers or procedures are statutorily available to it for such purposes.

Section 12.3 In General. The Master Association or any party to whose benefit this Master Declaration inures, including the Declarant and/or any Owner, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, or to compel compliance with these Restrictions and Covenants, and shall be entitled to recover costs of collection and reasonable attorney’s fees; however, neither the Declarant, nor the Master Association, shall be liable for damages of any kind to any person for failing either to abide by, enforce, or carry out any terms, conditions, or restrictions contained in this Master Declaration.

ARTICLE XIII

EFFECT ON BECOMING AN OWNER

Section 13.1 The Owner(s) of any Lot subject to this Master Declaration, by acceptance of a deed conveying title thereto, or by virtue of the execution of a contract for the purchase thereof, whether from Declarant, a Builder, or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every covenant, condition, and restrictions contained in this Master Declaration. By acceptance of such deed or execution of such contract each Owner acknowledges the rights and powers of the Declarant, Committees, and Master Association contained in this Master Declaration, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owner(s) covenant and agree and consent to and with the Declarant, Committees and the Master Associations and to and with the other Owners and subsequent Owners of each of the Lots affected by this Master Declaration to keep, observe, comply with and perform such covenants, conditions, and restrictions contained in this Master Declaration.

ARTICLE XIV

TITLES

Section 14.1 The titles preceding the various paragraphs and subparagraphs of this Master Declaration are for convenience of reference only and none of them shall be used as an aid to the construction of any provisions of this Master 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.
ARTICLE XV

SEVERABILITY

Section 15.1 Invalidation of any one of the covenants, restrictions or provisions contained in this Master 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. No delay or failure by any person to enforce any of the restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estoppel of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the restrictions.

ARTICLE XVI

DECLARANT'S RIGHTS

Section 16.1 Any and all of the rights and obligations of the Declarant set forth in this Declaration may be transferred, in whole or in part, to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained in this Declaration. No such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded with the Recorder of Hendricks County, Indiana.

Section 16.2 Nothing in this Declaration shall be construed in a manner that limits or restricts the Declarant and/or any Builders in their development of the Property and construction of residences therein. Therefore, notwithstanding anything herein to the contrary, the Declarant and/or any Builders authorized by Declarant may maintain and carry upon portion of the Common Area, and other portions of the Property owned by the Declarant, such facilities and activities as, in the sole opinion of the Declarant, may be reasonably required, convenient, or incidental to the construction or sale of Residences including, but not limited to, business offices, signs, model units, sales offices, and sales trailers.

ARTICLE XVII

AMENDMENT TO THIS MASTER DECLARATION

Section 17.1 This Master Declaration and the covenants, conditions and restrictions set forth in this Master Declaration, as from time to time amended in the manner hereafter set forth, shall run with the land and shall be binding upon the persons owning any portion of the Property and all parties closing under them. This Master Declaration may be amended or modified at any time by an instrument recorded in the Office of the Recorder of Hamilton County, Indiana, approved and signed by persons together holding seventy-five percent (75%) of all votes entitled to be cast by Class A Members and Class B Members combined. Provided, however, that none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. This Master Declaration may also be amended by Declarant, if it then has any ownership interest in the Property, at any time within five (5) years after the recordation hereof. Any amendment must be recorded.
IN TESTIMONY WHEREOF, witness the signature of the Declarant of this Master Declaration as of the date first above written.

DECLARANT:

PULTe HOMES OF INDIANA, LLC,
an Indiana limited liability company

By: [Signature]

Gregory Huff, Division President,
Indiana Division

STATE OF INDIANA

COUNTY OF Hamilton

Before me, a Notary Public, in and for said County and State, personally appeared Gregory Huff, Division President, Indiana Division, of Pulte Homes of Indiana, LLC, an Indiana limited liability company, as the Declarant herein, and acknowledged the execution of the foregoing Master Declaration of Covenants, Conditions, and Restrictions of Avalon this 2nd day of February, 2004.

My Commission Expires: [Signature]

Notary Public

Resident of Hamilton County, Indiana

Printed: Linda S. Kelce

This Instrument Prepared by: Charles D. Frankenberger, Nelson & Frankenberger, 3103 E. 99th Street, Suite 170, Indianapolis, IN 46280 - (317) 844-0106

[Redacted]
EXHIBIT "X" – Page 1 of 10

Parcel 1

A part of the West Half of the Southwest Quarter of Section 23, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence North 89 degrees 24 minutes 55 seconds East along the North line thereof 37.68 feet to the eastern right-of-way line of Ohio Road as described in Instrument No. 88-0984529 recorded in the Office of the Recorder of Hamilton County, Indiana; thence continue North 89 degrees 24 minutes 24 seconds East along said North line 1,283.99 feet to the Northeast corner of said Half Quarter Section; thence South 00 degrees 18 minutes 02 seconds East along the East line of said Half Quarter Section 1,737.55 feet to the POINT OF BEGINNING of this description; thence continuing South 00 degrees 18 minutes 02 seconds East along the East line 900.82 feet to the Southeast corner thereof; thence South 89 degrees 15 minutes 10 seconds West along the South line of said Half Quarter Section 110.98 feet; thence North 00 degrees 44 minutes 06 seconds West 39.81 feet to the northern right-of-way line of 125th Street as described in Instrument No. 90-0984529; thence along said right-of-way line by the next twelve (12) calls; 1) South 89 degrees 15 minutes 54 seconds West 328.08 feet; 2) North 09 degrees 01 minutes 28 seconds West 362.69 feet; 3) North 89 degrees 10 minutes 22 seconds West 361.02 feet; 4) North 79 degrees 25 minutes 39 seconds West 50.19 feet; 5) North 20 degrees 53 minutes 02 seconds West 34.93 feet; 6) North 01 degrees 03 minutes 13 seconds West 362.32 feet; 7) North 00 degrees 33 minutes 26 seconds West 147.54 feet; 8) North 05 degrees 02 minutes 02 seconds West 180.71 feet; 9) North 01 degrees 54 minutes 42 seconds West 524.93 feet; 10) North 00 degrees 37 minutes 02 seconds East 65.70 feet; 11) North 01 degrees 54 minutes 42 seconds East 98.42 feet; 12) North 03 degrees 07 minutes 27 seconds East 164.07 feet; thence North 87 degrees 50 minutes 11 seconds East 200.00 feet; thence South 01 degrees 54 minutes 42 seconds East 444.77 feet; thence North 89 degrees 46 minutes 08 seconds East 544.92 feet; thence South 00 degrees 13 minutes 52 seconds East 213.86 feet; thence South 52 degrees 07 minutes 47 seconds East 180.30 feet; thence North 89 degrees 13 minutes 52 seconds East 369.28 feet to the place of beginning, containing 31.631 acres, more or less.

Parcel 2

A part of the West Half of the Southwest Quarter of Section 23, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence North 89 degrees 24 minutes 55 seconds East along the North line thereof 37.68 feet to the eastern right-of-way line of Ohio Road as described in Instrument No. 90-0984529 recorded in the Office of the Recorder of Hamilton County, Indiana; and the POINT OF BEGINNING of this description; thence continuing North 89 degrees 24 minutes 55 seconds East along said North line 1,283.99 feet to the Northeast corner of said Half Quarter Section; thence South 00 degrees 18 minutes 02 seconds East along the East line of said Half Quarter Section 1,737.55 feet; thence South 89 degrees 15 minutes 55 seconds West 369.28 feet; thence North 52 degrees 07 minutes 47
EXHIBIT "X" - Page 2 of 10

seconds West 180.30 feet; thence North 00 degrees 13 minutes 55 seconds West 213.86 feet; thence South 89 degrees 45 minutes 08 seconds West 544.32 feet; thence North 01 degrees 54 minutes 42 seconds West 444.77 feet; thence South 87 degrees 20 minutes 11 seconds West 200.06 feet to the easterly right-of-way line of Ollo Road as described in said Instrument No. 96-0884022; thence along said easterly right-of-way line by the next five (5) calls; 1) North 20 degrees 22 minutes 16 seconds East 177.93 feet; 2) North 32 degrees 52 minutes 32 seconds West 37.59 feet; 3) North 10 degrees 02 minutes 31 seconds West 115.59 feet; 4) North 04 degrees 21 minutes 57 seconds West 458.74 feet; 5) North 00 degrees 21 minutes 33 seconds East 262.78 feet to the place of beginning, containing 43.052 acres, more or less.

Parcel 3

A part of the East Half of the Southwest Quarter of Section 25, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of said Half Quarter Section; thence South 89 degrees 15 minutes 10 seconds West along the South line of said Half Quarter Section 1,324.68 feet to the Southwest corner of said Half Quarter Section; thence North 00 degrees 18 minutes 02 seconds West along the West line of said Half Quarter Section 1,340.76 feet to the POINT OF BEGINNING of this description; thence continuing North 00 degrees 18 minutes 02 seconds West along said West line 1,317.62 feet to the Northwest corner of said Half Quarter Section; thence North 89 degrees 24 minutes 53 seconds East along the North line of said Half Quarter Section 1,321.57 feet to the Northeast corner of said Half Quarter Section; thence South 00 degrees 21 minutes 54 seconds East along the East line of said Half Quarter Section 1,317.61 feet; thence South 89 degrees 24 minutes 53 seconds West parallel with the North line of said Half Quarter Section 1,323.15 feet to the place of beginning, containing 40.000 acres, more or less.

Parcel 4

A part of the East Half of the Northwest Quarter of Section 25, Township 18 North, Range 05 East, and being a part of land described in Deed Book 243, Page 31 recorded in the Office of the Recorder of Hamilton County, Indiana, more particularly described as follows:

Beginning at a point on the west line of said Half Quarter Section South 00 degrees 12 minutes 49 seconds East a distance of 100.19 feet from the northwest corner of said Half Quarter Section, being a point on the southwestern boundary of Sims Road 239 as described in said Deed Book 243, Page 31 recorded in the Office of the Recorder of Hamilton County, Indiana; thence continuing South 00 degrees 12 minutes 49 seconds East along said West line a distance of 1,864.60 feet; thence North 83 degrees 50 minutes 37 seconds East a distance of 33.94 feet; thence South 66 degrees 12 minutes 04 seconds East a distance of 73.50 feet; thence North 57 degrees 21 minutes 17 seconds East a distance of 39.19 feet; thence North 13 degrees 42 minutes 54 seconds East a distance of 107.97 feet; thence North 28 degrees 34 minutes 21 seconds East a distance of 139.38 feet; thence North 03 degrees 41 minutes 44 seconds East a distance of 43.89 feet; thence South 49 degrees 04 minutes 00 seconds East a distance of 67.76 feet; thence North
EXHIBIT "X" – Page 3 of 10

75 degrees 23 minutes 47 seconds East a distance of 126.95 feet; thence North 86 degrees 00 minutes 02 seconds East a distance of 206.12 feet; thence North 63 degrees 46 minutes 59 seconds East a distance of 260.57 feet; thence North 88 degrees 31 minutes 04 seconds East a distance of 168.54 feet; thence North 68 degrees 59 minutes 43 seconds East a distance of 160.43 feet; thence North 16 degrees 54 minutes 59 seconds West a distance of 90.16 feet; thence North 47 degrees 08 minutes 18 seconds East a distance of 32.32 feet; thence South 42 degrees 35 minutes 52 seconds East a distance of 42.51 feet; thence North 55 degrees 01 minute 27 seconds East a distance of 41.31 feet; thence North 07 degrees 40 minutes 17 seconds West a distance of 44.37 feet; thence North 69 degrees 54 minutes 32 seconds East a distance of 43.92 feet; thence South 65 degrees 10 minutes 09 seconds East a distance of 31.02 feet to the east line of the aforesaid Half Quarter Section; thence North 00 degrees 12 minutes 26 seconds West along said East line a distance of 546.39 feet to the centerline of State Road 238, the following two (2) courses are along said centerline: (1) North 60 degrees 60 minutes 43 seconds West a distance of 1,057.61 feet to a point of curvature of a curve to the right having a radius of 4,971.02 feet; the radius point of which bears North 29 degrees 59 minutes 17 seconds East; (2) northwesterly along said curve an arc distance 147.42 feet to a point that bears South 31 degrees 41 minutes 13 seconds West from said radius point; thence South 31 degrees 48 minutes 55 seconds West a distance of 17.03 feet to the aforesaid southwestern boundary of State Road 238; the following two (2) courses are along said southwestern boundary: (1) North 71 degrees 09 minutes 40 seconds West a distance of 31.31 feet; (2) North 38 degrees 11 minutes 03 seconds West a distance of 223.64 feet to the Point of Beginning, containing 37.11 acres, more or less.

Parcel E

Part of the Northeast Quarter and all of the Northwest Quarter of the Southeast Quarter of Section 25, Township 18 North, Range 5 East in Hamilton County, Indiana as described as follows:

Beginning at the southwest corner of said Northeast Quarter, thence North 00 degrees 12 minutes 26 seconds West (assumed bearing) along the west line of said Northeast Quarter 1615.05 feet; thence North 89 degrees 34 minutes 23 seconds East parallel with the north line of said Quarter Section 214.75 feet to the centerline of State Road 238 (the next 5 courses following said centerline); (1) thence South 57 degrees 58 minutes 16 seconds East 402.64 feet to the point of curvature of a curve to the right having a radius 535.00 feet, the radius point of which bears South 52 degrees 01 minute 44 seconds West; (2) thence southerly along said curve an arc distance of 198.19 feet to a point which bears North 51 degrees 58 minutes 08 seconds East from said radius point; (3) thence South 58 degrees 01 minute 28 seconds East 567.98 feet to the point of curvature of a curve to the left having a radius of 1290.00 feet, the radius point which bears North 51 degrees 58 minutes 08 seconds East; (4) thence southeasterly along said curve an arc distance of 391.53 feet to a point which bears South 34 degrees 01 minute 21 seconds West from said radius point; (5) thence South 55 degrees 58 minutes 39 seconds East 111.05 feet; thence South 00 degrees 25 minutes 35 seconds East parallel with the east line of the Southwest Quarter of said Northeast Quarter a distance of 273.95 feet to a point 214.50 feet north of the south line of said Quarter Section; thence South 89 degrees 22 minutes 45 seconds West parallel with the south line of said Northeast Quarter a distance of 196.30 feet to a point on said east line; thence South 00 degrees 25 minutes 35 seconds East along said east line 214.50 feet to the Northeast
corner of the Northwest Quarter of said Southeast Quarter; thence South 00 degrees 21 minutes 45 seconds East along the east line of said Northwest Quarter Section 1325.33 feet to the southwest corner thereof; thence South 89 degrees 19 minutes 40 seconds West along the south line of said Northwest Quarter Section 1322.00 feet to the southwest corner thereof; thence North 00 degrees 21 minutes 03 seconds West along the west line of said Northwest Quarter Section 1326.80 feet to the northeast corner thereof and the Point of Beginning, containing 80.315 acres, more or less. EXCEPTING THEREFROM THE FOLLOWING part of the Southeast Quarter of the Northeast Quarter of Section 25, Township 18 North, Range 5 East, in Hamilton County, Indiana, as conveyed to James E. and Kremlin L. Peters by deed recorded January 20, 1953 as Instrument No. 51643 in the Office of the Recorder of Hamilton County, Indiana, described as follows: Commencing at the Southwest corner of said Quarter Quarter; thence North 00 degrees 25 minutes 35 seconds West along the West line of said Quarter Quarter a distance of 214.50 feet to the Point Of Beginning; thence continuing North 00 degrees 25 minutes 35 seconds West on end along the West line a distance of 417.66 feet to the centerline of State Road 338 and North line a of tract of land as described in Instrument No. 91-11643 in the Office of the Recorder of Hamilton County, Indiana, and a non-tangent curve to the left having a radius of 1,259.00 feet, the radius point of which bears North 40 degrees 04 minutes 34 seconds East; thence Southeasterly along said line an arc distance of 132.01 feet to a point which bears South 34 degrees 01 minutes 21 seconds West from said radius point; thence South 55 degrees 38 minutes 39 seconds East a distance of 111.05 feet to the East line of said tract of land; thence South 00 degrees 25 minutes 35 seconds East along said line parallel with the West line of said Quarter Quarter a distance of 275.95 feet to a 5/8 inch rebar with yellow cap stamped "Schneider Pots #0001"; thence South 39 degrees 23 minutes 45 seconds West parallel with the South line of said Quarter Quarter to the Point Of Beginning, containing 1.55 acres, more or less.
Parcel 6

Part of the Northeast Quarter of the Southeast Quarter of Section 25, Township 18 North, Range 5 East, in Fall Creek Township, Hamilton County, Indiana, described as follows: Beginning at the Southeast corner of said Quarter-Quarter Section, said Southeast corner being North 00 degrees 00 minutes 09 seconds East (assumed bearing) 1323.81 feet from the Southeast corner of said Section 25; thence South 89 degrees 42 minutes 07 seconds West along the South line of said Quarter-Quarter Section 1323.01 feet to an iron pin at the Southwest corner of said Quarter-Quarter Section; thence North 00 degrees 00 minutes 33 seconds East along the West line of said Quarter-Quarter Section 741.21 feet to a 5/8 inch rebar with red cap; thence North 89 degrees 46 minutes 13 seconds East 1322.92 feet to the intersection of the East line of said Quarter-Quarter Section with the centerline of State Road 238; thence South 00 degrees 00 minutes 09 seconds West 739.63 feet to the Point of Beginning. Containing 22.487 acres, more or less.

Parcel 7

Part of the West Half of the Southwest Quarter of Section 30, Township 18 North, Range 6 East, in Fall Creek Township, Hamilton County, Indiana, described as follows: Commencing at the Southwest corner of said Quarter Section; thence North 00 degrees 09 minutes 09 seconds East (assumed bearing) on said along the West line of said Quarter Section, 1235.44 feet to the Point of Beginning; thence continues North 00 degrees 00 minutes 09 seconds East along said West line, 719.63 feet to the centerline of State Road 238; thence South 34 degrees 22 minutes 38 seconds East along said centerline, 780.04 feet; thence South 77 degrees 49 minutes 33 seconds West 430.78 feet to the Point of Beginning. Containing 3.740 acres, more or less.
Parcel 8

A part of the Northwest Quarter of Section 23, Township 18 North, Range 5 East, Hamilton County, Indiana, being more particularly described as follows:

Commencing at the southwest corner of said Northwest Quarter Section; thence North 89 degrees 25 minutes 34 seconds East (assumed bearing) along the south line thereof a distance of 355.10 feet to the Point of Beginning; thence continuing North 89 degrees 28 minutes 34 seconds East along said line a distance of 968.84 feet to the southeast corner of the Southwest Quarter of said Northwest Quarter; thence North 07 degrees 12 minutes 49 seconds West along the east line of said Quarter Section a distance of 695.45 feet; thence South 72 degrees 40 minutes 35 seconds West a distance of 110.89 feet; thence North 67 degrees 32 minutes 10 seconds West a distance of 135.16 feet; thence North 34 degrees 48 minutes 52 seconds West a distance of 27.19 feet; thence North 71 degrees 50 minutes 30 seconds West a distance of 34.32 feet; thence North 81 degrees 22 minutes 00 seconds West a distance of 56.78 feet; thence South 42 degrees 35 minutes 33 seconds West a distance of 49.87 feet; thence North 82 degrees 44 minutes 37 seconds West a distance of 61.23 feet; thence South 77 degrees 03 minutes 56 seconds West a distance of 157.14 feet; thence North 43 degrees 11 minutes 29 seconds West a distance of 30.88 feet; thence South 34 degrees 00 minutes 44 seconds West a distance of 124.77 feet; thence South 76 degrees 38 minutes 56 seconds West a distance of 30.15 feet; thence South 18 degrees 13 minutes 16 seconds West a distance of 59.91 feet; thence South 68 degrees 10 minutes 44 seconds West a distance of 45.64 feet; thence North 65 degrees 37 minutes 11 seconds West a distance of 54.71 feet; thence South 25 degrees 22 minutes 03 seconds West a distance of 33.20 feet; thence South 28 degrees 15 minutes 13 seconds East a distance of 100.05 feet; thence South 28 degrees 24 minutes 40 seconds East a distance of 75.00 feet; thence South 14 degrees 13 minutes 49 seconds West a distance of 60.21 feet; thence South 46 degrees 03 minutes 25 seconds West a distance of 34.77 feet; thence South 02 degrees 11 minutes 14 seconds West a distance of 43.65 feet; thence South 14 degrees 50 minutes 16 seconds West a distance of 53.52 feet; thence South 31 degrees 47 minutes 00 seconds West a distance of 42.20 feet; thence South 45 degrees 43 minutes 29 seconds West a distance of 82.13 feet; thence South 59 degrees 29 minutes 12 seconds West a distance of 41.32 feet; thence South 26 degrees 47 minutes 53 seconds West a distance of 36.51 feet; thence South 00 degrees 50 minutes 37 seconds East a distance of 34.54 feet; thence South 22 degrees 60 minutes 38 seconds East a distance of 59.17 feet to the south line of said Quarter and the Point of Beginning, containing 13.66 acres, more or less.
EXHIBIT "X" – Page 7 of 10

Parcel 9

A part of the Southeast Quarter of Section 26, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of said Southeast Quarter Section; thence South 89 degrees 18 minutes 36 seconds West along the South line of said Quarter Section 713.13 feet thence North 00 degrees 44 minutes 44 seconds West parallel to said South line 500.00 feet; thence North 49 degrees 44 minutes 36 seconds West 46.56 feet; thence North 00 degrees 44 minutes 46 seconds West 323.41 feet to the point of the center of a curve concave westwardly, the radius point of said curve being South 69 degrees 18 minutes 22 seconds West 325.00 feet from said point; thence northerly along said curve 109.08 feet to the point of tangency of said curve, said point being North 25 degrees 59 minutes 55 seconds East 325.00 feet from the radius point of said curve; thence North 44 degrees 17 minutes 56 seconds East 413.41 feet; thence North 74 degrees 14 minutes 35 seconds East 56.49 feet; thence North 00 degrees 16 minutes 23 seconds East 700.20 feet to the East line of said Quarter Section; thence South 00 degrees 25 minutes 55 seconds East along said East line 912.46 feet to the place of beginning.

Parcel 10

A part of the Southeast Quarter of Section 26, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of said Southwest Quarter Section; thence South 89 degrees 18 minutes 18 seconds West along the South line of said Quarter Section 1,864.29 feet to the Southwest corner of the East Half of said Quarter Section; thence North 00 degrees 18 minutes 18 seconds West along the West line of said Half Quarter Section 1,864.29 feet to the POINT OF BEGINNING of this description; thence continuing North 00 degrees 18 minutes 18 seconds West along said West line 952.61 feet; thence North 09 degrees 24 minutes 55 seconds East parallel to the North line of said Half Quarter Section 952.61 feet; thence South 00 degrees 18 minutes 18 seconds East parallel to the West line of said Half Quarter Section 952.61 feet; thence South 00 degrees 18 minutes 18 seconds East parallel to the North line of said Half Quarter Section 952.61 feet to the place of beginning.
Parcel 11

The East One Half of the Northwest Quarter of Section 25, Township 18 North, Range 5 East, in Hamilton County, Indiana, containing 80.65 acres, more or less.

EXCEPT:

A part of the East Half of the Northwest Quarter of Section 25, Township 18 North, Range 5 East, in Hamilton County, Indiana, described as follows:

Commencing at the Northwest corner of Section 25, thence 80 degrees 08 minutes 38 seconds East 1,211.91 feet along the North line of said Section to the centerline of S.R. 238; thence South 58 degrees 39 minutes 01 second East 418.04 feet along said line of said Section to the centerline of S.R. 238; thence North 31 degrees 20 minutes 59 seconds East 16.50 feet to the Northeastern boundary of S.R. 238 and point of beginning of this description; thence North 58 degrees 15 minutes 55 seconds West 292.60 feet along said Northeastern boundary to the West line of the Owner's land; thence North 3 degrees 34 minutes 13 seconds West 32.33 feet along said West line to the South boundary of 136th Street; thence North 89 degrees 08 minutes 38 seconds East 22.52 feet along said South boundary; thence South 17 degrees 51 minutes 44 seconds West 30.85 feet; thence South 58 degrees 39 minutes 01 second East 235.00 feet; thence South 45 degrees 46 minutes 50 seconds West 50.94 feet to the point of beginning and containing 0.069 acres, more or less.

Also Except, a part of the East half of the Northeast Quarter of Section 25, Township 18 North, Range 5 East, in Hamilton County, Indiana, described as follows:

Commencing at the Northwest corner of Section 25, thence North 89 degrees 08 minutes 38 seconds East 1,211.91 feet along the North line of said Section to the centerline of S.R. 238; thence South 58 degrees 39 minutes 01 seconds East 418.04 feet along said centerline; thence South 31 degrees 20 minutes 59 seconds West 16.50 to the Southwestern Boundary of S.R. 238 and point of beginning of this description; thence North 71 degrees 37 minutes 36 seconds West 51.31 feet; thence North 58 degrees 39 minutes 01 second West 223.12 feet to the West line of the Owner's Land; thence North 4 degrees 54 minutes 56 seconds West 16.65 feet along said West line to the Southwestern Boundary of S.R. 238; thence South 58 degrees 15 minutes 55
EXHIBIT "X" – Page 9 of 10

seconds East 282.97 feet along said Southwestern Boundary to the point of beginning and containing 0.073 acres, more or less.

Also Except, a part of the East half of the Northwest Quarter of Section 25, Township 18 North Range 5 East in Hamilton County, Indiana and being more particularly described as follows:

Beginning at the Northwest corner of the said Half Quarter; thence on and along the East line thereof, South 00 degrees 08 minutes 48 seconds West (assumed bearing) 852.63 feet to the centerline of State Road 238; thence on and along the said centerline North 59 degrees 39 minutes 29 seconds West 1,097.61 feet; thence continuing on and along the said centerline, Northwesterly 147.47 feet on a curve to the right (concave to the Northeast) said curve having a radius of 4,971.02 feet and being subtended by a long chord having a bearing of North 58 degrees 41 minutes 30 seconds West and a length of 147.46 feet; thence leaving the said centerline, North 32 degrees 02 minutes 30 seconds East 16.50 feet to the Northwesterly R/W line - of State Road 238 as conveyed to the State of Indiana in D.R. Book 202, Pages 159-161 in the Office of the Recorder of Hamilton County; thence on and along said R/W line, North 45 degrees 51 minutes 28 seconds West 50.94 feet; thence continuing on and along the said R/W line, North 57 degrees 57 minutes 30 seconds West 235.00 feet; thence continuing on and along the said R/W line, North 18 degrees 43 minutes 06 seconds East 32.93 feet to the South R/W line of 136th Street; thence North 00 degrees 00 minutes 00 seconds East 16.50 feet to a point on the North line of the said Half Quarter, said point being 30.12 feet East of the Northwest corner thereof; thence on and along the said North line, North 90 degrees 00 minutes 00 seconds East 1,292.00 feet to the point of beginning. Contains 13.900 acres, more or less.

AND ALSO EXCEPT that part conveyed to Crossman Communities Partnership by deed recorded February 19, 2003 as Instrument No. 2003-17581 in the Office of the Recorder of Hamilton County, Indiana, to-wit:

Part of the East Half of the Northwest Quarter of Section 25, Township 18 North, Range 05 East, and being a part of land described in Deed Book 243, Page 31 recorded in the Office of the Recorder of Hamilton County, Indiana being more particularly described as follows:

Beginning at a point on the west line of said Half Quarter Section South 00 degrees 12 minutes 49 seconds East a distance of 1,00.19 feet from the northwest corner of said Half Quarter Section, being a point on the southwestern boundary of State Road 238 as described in said Deed Book 243, Page 31 recorded in the Office of the Recorder of Hamilton County, Indiana; thence
continuing South 00 degrees 12 minutes 49 seconds East along said West line a distance of 1,864.50 feet; thence North 83 degrees 50 minutes 37 seconds East a distance of 33.94 feet; thence South 66 degrees 15 minutes 04 seconds East a distance of 73.50 feet; thence North 57 degrees 21 minutes 17 seconds East a distance of 39.19 feet; thence North 13 degrees 42 minutes 54 seconds East a distance of 107.37 feet; thence North 28 degrees 34 minutes 21 seconds East a distance of 139.38 feet; thence North 63 degrees 41 minutes 44 seconds East a distance of 43.89 feet; thence South 49 degrees 04 minutes 00 seconds East a distance of 67.76 feet; thence North 75 degrees 22 minutes 47 seconds East a distance of 126.95 feet; thence North 86 degrees 00 minutes 12 seconds East a distance of 206.12 feet; thence North 63 degrees 46 minutes 59 seconds East a distance of 260.67 feet; thence North 88 degrees 31 minutes 04 seconds East a distance of 168.84 feet; thence North 68 degrees 59 minutes 45 seconds East a distance of 160.43 feet; thence North 16 degrees 54 minutes 53 seconds West a distance of 90.16 feet; thence North 47 degrees 08 minutes 18 seconds East a distance of 32.32 feet; thence South 42 degrees 35 minutes 52 seconds East a distance of 42.51 feet; thence North 55 degrees 01 minute 27 seconds East a distance of 41.31 feet; thence North 07 degrees 40 minutes 17 seconds West a distance of 44.37 feet; thence North 60 degrees 54 minutes 32 seconds East a distance of 45.93 feet; thence South 65 degrees 10 minutes 09 seconds East a distance of 31.02 feet to the east line of the aforesaid Half Quarter Section; thence North 00 degrees 12 minutes 26 seconds West along said East line a distance of 546.39 feet to the centerline of State Road 238, the following two (2) courses are along said centerline; (1) North 60 degrees 00 minutes 43 seconds West a distance of 1,097.61 feet to a point of curvature of a curve to the right having a radius of 4,971.02 feet, the radius point of which bears North 29 degrees 59 minutes 17 seconds East; (2) northwesterly along said curve on arc distance 147.42 feet to a point that bears South 31 degrees 41 minutes 18 seconds West from said radius point; thence South 31 degrees 48 minutes 55 seconds West a distance of 17.05 feet to the aforesaid southwestern boundary of State Road 238; the following two (2) courses are along said southwestern boundary; (1) North 71 degrees 09 minutes 40 seconds West a distance of 51.31 feet; (2) North 58 degrees 11 minutes 05 seconds West a distance of 223.64 feet to the Point of Beginning.

Excluding, however, the real estate described on page 1 of Exhibit "Y", from all of the real estate described above (Parcel 1 through Parcel 11) in this Exhibit "X".
EXHIBIT “Y” – Page 1 of 5

Legal Description

Parcel 1

A part of the West Half of the Southwest Quarter of Section 25, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence North 89 Degrees 24 minutes 55 seconds East along the North line thereof 37.68 feet to the Eastern right-of-way line of Olio Road as described in Instrument No. 9809840529; Recorded in the Office of the Recorder of Hamilton County, Indiana; thence along said Right-of-way line by the next five (5) calls; 1) thence South 00 degrees 21 minutes 55 seconds West 202.78 feet; 2) south 04 degrees 21 minutes 57 seconds East 459.74 feet; 3) South 10 degrees 02 minutes 31 seconds East 115.99 feet; 4) South 32 degrees 52 minutes 32 seconds East 57.52 feet; 5) South 20 degrees 52 minutes 14 seconds West 177.92 feet to the POINT OF BEGINNING of this description; thence North 87 degrees 50 minutes 11 seconds East 200.00 feet; thence South 01 degrees 54 minutes 42 seconds East 400.00 feet; thence South 87 degrees 50 minutes 11 seconds West 200.00 feet to the eastern right-of-way line of said Olio Road; thence along said right-of-way line by the next four (4) calls; 1) North 01 degrees 34 minutes 42 seconds West 71.92 feet; 2) North 00 degrees 57 minutes 02 seconds East 65.70 feet; north 01 degrees 54 minutes 42 seconds West 98.42 feet; 4) North 03 degrees 03 minutes 27 seconds West 164.07 feet to the point of beginning, containing 1.820 acres, more or less.
Parcel 2

A parcel of real estate, not to exceed 30 acres in size, which is contiguous to and located in the southwest corner of the real estate described on pages 3, 4, and 5 of this Exhibit "Y".
EXHIBIT "V" – Page 3 of 5

Parcel:

A part of Section 25, Township 18 North, Range 5 East, in Fall Creek Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of the Southwest Quarter of said Section 25; thence South 89 degrees 15 minutes 10 seconds West along the South line thereof 1,435.66 feet; thence North 00 degrees 14 minutes 06 seconds West 39.81 feet; thence South 89 degrees 15 minutes 54 seconds West 321.08 feet; thence North 85 degrees 01 minutes 28 seconds West 362.69 feet; thence North 85 degrees 10 minutes 22 seconds West 301.02 feet; thence North 79 degrees 25 minutes 30 seconds West 50.19 feet; thence North 20 degrees 58 minutes 02 seconds West 34.93 feet; thence North 01 degrees 13 seconds West 362.32 feet; thence North 00 degrees 35 minutes 26 seconds West 147.34 feet; thence North 05 degrees 02 minutes 02 seconds West 180.71 feet; thence North 01 degrees 54 minutes 42 seconds West 524.93 feet; thence North 00 degrees 37 minutes 02 seconds East 65.70 feet; thence North 01 degrees 54 minutes 42 seconds West 95.42 feet; thence North 03 degrees 03 minutes 27 seconds West 164.07 feet; thence North 20 degrees 52 minutes 14 seconds East 177.92 feet; thence North 32 degrees 32 minutes 32 seconds West 57.39 feet; thence North 10 degrees 02 minutes 31 seconds West 115.99 feet; thence North 04 degrees 21 minutes 57 seconds West 459.74 feet; thence North 00 degrees 21 minutes 35 seconds East 202.78 feet to the Northwest corner of said Southwest Quarter; thence North 89 degrees 24 minutes 55 seconds East along the North line thereof 311.21 feet to a point on the thread of Mud Creek; thence along said thread of Mud Creek by the next 12 calls; (1) North 01 degrees 55 minutes 21 seconds East 89.60 feet; (2) North 46 degrees 57 minutes 19 seconds East 141.43 feet; (3) North 19 degrees 35 minutes 06 seconds East 199.77 feet; (4) North 22 degrees 31 minutes 09 seconds West 208.14 feet; (5) South 88 degrees 51 minutes 19 seconds East 102.43 feet; (6) North 24 degrees 55 minutes 52 seconds East 82.64 feet; (7) South 75 degrees 30 minutes 08 seconds East 89.91 feet; (8) North 26 degrees 18 minutes 12 seconds East 78.93 feet; (9) North 81 degrees 36 minutes 21 seconds East 210.32 feet; (10) North 66 degrees 46 minutes 59 seconds East 111.54 feet; (11) South 66 degrees 46 minutes 41 seconds East 212.34 feet; (12) North 77 degrees 54 minutes 03 seconds East 1.41 feet to the East line of the aforesaid Quarter, Quarter Section; thence North 00 degrees 12 minutes 43 seconds West along the West line of the East Half of the Northwest Quarter of said Section 25 a distance of 1,865.46 feet to the South right-of-way line of State Road 238; thence South 58 degrees 11 minutes 55 seconds East 57.15 feet; thence South 71 degrees 09 minutes 40 seconds East along said right-of-way line 51.31 feet; thence North 31 degrees 48 minutes 55 seconds East 17.05 feet to a point on the centerline of State Road 238, said point being on a curve concave northeasterly, the radius point of said curve being North 31 degrees 41 minutes 07 seconds East 4,971.02 feet from said point; thence southeasterly along said curve and
along said centerline 147.52 feet to the point of tangency of said curve, said point being South 29
degrees 59 minutes 06 seconds West, 4,971.02 feet from the radius point of said curve; thence
South 66 degrees 00 minutes 37 seconds East along the centerline of State Road 238 a distance
of 1,097.46 feet to a point on the East line of the Northwest Quarter of said Section 25; thence
South 06 degrees 12 minutes 00 seconds East along said East line 186.28 feet; thence North 89
degrees 03 minutes 25 seconds East 315.17 feet to the centerline of State Road 238; thence along
said centerline by the next four (4) courses; (1) South 57 degrees 58 minutes 16 seconds East
402.64 feet to the point of curvature of a curve concave southwesterly, the radius point of said
curve being South 32 degrees 01 minutes 44 seconds West, 535.00 feet from said point; (2)
southwesterly along said curve 180.19 feet to the point of tangency of said curve, said point being
North 51 degrees 58 minutes 08 seconds East, 535.00 feet from the radius point of said curve; (3)
South 38 degrees 01 minutes 52 seconds East, 567.98 feet to the point of curvature of a curve
concave northeasterly, the radius point of said curve being North 51 degrees 58 minutes 08
seconds East, 1,250.00 feet from said point; (4) southeasterly along said curve 259.58 feet to a
point on said curve, said point being South 40 degrees 04 minutes 14 seconds West, 1,250.00 feet
from the radius point of said curve; thence South 00 degrees 25 minutes 27 seconds East, 631.78
feet to the Northwest corner of the Northeast Quarter of the Southeast Quarter of said Section 25;
thence South 00 degrees 21 minutes 37 seconds East along the East line of said Half Quarter
Section 1,525.52 feet to the Southeast corner said Quarter, Quarter Section; thence North 89
degrees 20 minutes 30 seconds East along the North line of the Southeast Quarter of the
Southeast Quarter of said Section 25 a distance of 1,323.01 feet to a point on the East line of said
Quarter, Quarter Section; thence South 00 degrees 22 minutes 01 seconds East along said East
line, 1,323.39 feet to the Southeast corner thereof; thence South 89 degrees 15 minutes 25
seconds West along the South line of said Quarter, Quarter Section, 2,646.13 feet to place of
beginning, containing 394.996 acres, more or less.
Parcel 4

Part of the Northeast Quarter of the Southeast Quarter of Section 25, Township 18 North, Range 5 East, in Fall Creek Township, Hamilton County, Indiana, described as follows:

Beginning at the Southeast corner of said Quarter-Quarter Section, said Southeast corner being North 00 degrees 00 minutes 00 seconds East (assumed bearing) 1323.81 feet from the Southeast corner of said Section 25; hence South 89 degrees 42 minutes 07 seconds West along the South line of said Quarter-Quarter Section 1323.01 feet to an iron pin at the Southwest corner of said Quarter Quarter Section; hence North 00 degrees 00 minutes 33 seconds East along the West line of said Quarter-Quarter Section 741.21 feet to a 5/8" rebar with red cap; hence North 89 degrees 46 minutes 13 seconds East 1322.92 feet to the intersection of the East line of said Quarter Quarter Section with the centerline of State Road 238; hence South 00 degrees 00 minutes 09 seconds West 739.63 feet to the point of beginning and containing 22.487 acres, more or less.

Parcel 5

Part of the West Half of the Southwest Quarter of Section 30, Township 18 North, Range 6 East, in Fall Creek Township, Hamilton County, Indiana, described as follows:

Commencing at the Southwest corner of said Quarter Section; hence North 00 degrees 00 minutes 00 seconds East (assumed bearing), on and along the West line of said Quarter Section, 1295.44 feet to the Point of Beginning; hence continue North 00 degrees 00 minutes 09 seconds East, along said West line, 739.63 feet to the centerline of State Road 238; hence South 34 degrees 22 minutes 38 seconds East, along said centerline, 780.04 feet; hence South 77 degrees 43 minutes 33 seconds West 456.78 feet to the point of beginning and containing 3.740 acres, more or less.

Excluding, however, the real estate described in Exhibit "X", from all of the real estate described above in this Exhibit "Y".
SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF AVALON

Pulte Homes of Indiana, LLC, an Indiana limited liability company, the Declarant in the Declaration of Covenants, Conditions and Restrictions of Avalon recorded with the Recorder of Hamilton County, Indiana, as Instrument No. 200400007258 (hereafter referred to as the "Master Declaration"), states that the capitalized terms set forth herein shall have the same meaning as specified in the Declaration and hereby declares that the real estate located in Hamilton County, Indiana; and more particularly described in what is attached hereto and incorporated herein by reference as Exhibit "A" shall and hereby is made part of and annexed to the Property and is subject in all respects to the Master Declaration and all rights, obligations, and privileges specified therein.

PULTE HOMES OF INDIANA, LLC,
an Indiana limited liability company

By: Gregory Huff, Division President,
    Indiana Division
STATE OF INDIANA
COUNTY OF HAMILTON

Before me the undersigned, a Notary Public in and for said County and State, personally appeared Gregory Huff, Division President, Indiana Division, of Pulte Homes of Indiana, I.L.C., an Indiana limited liability company, and having been duly sworn, acknowledged execution of this Supplement to Declaration of Covenants, Conditions and Restrictions of Avalon.

Witness my hand and Notarial Seal this 13th day of February, 2004.

My Commission Expires: June 2, 2010
Residing in Hamilton County

Linda Kellner
Notary Public
Printed Name

Prepared By:
Charles D. Frankenberger
NELSON & FRANKENBERGER
3105 East 99th Street, Suite 170
Indianapolis, Indiana 46220
(317) 844-0196
EXHIBIT A

SHAW TAKEDOWN TRACT A-2C

A part of the East Half of the Southwest Quarter of Section 25, Township 18 North, Range 5 East, Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of the said Half Quarter Section; thence North 00 degrees 18 minutes 02 seconds West (Assumed Bearing) along the West line of the said Half Quarter Section, 648.25 feet; thence North 89 degrees 24 minutes 55 seconds East 31.35 feet to the POINT OF BEGINNING of this description; thence continuing North 89 degrees 24 minutes 55 seconds East along said line, a distance of 561.15 feet; thence North 00 degrees 18 minutes 02 seconds West 110.20 feet to a point on a curve conserve northerly, the radius point of said curve being North 18 degrees 36 minutes 01 seconds East 20.00 feet from said point; thence easterly along said curve 22.50 feet to a point on said curve, said point being North 18 degrees 36 minutes 01 seconds East 20.00 feet from the radius point of said curve; thence South 45 degrees 51 minutes 53 seconds East 50.00 feet; thence South 44 degrees 08 minutes 07 seconds East 64.55 feet; thence South 45 degrees 51 minutes 53 seconds East 120.80 feet; thence South 44 degrees 08 minutes 07 seconds West 53.26 feet; thence North 60 degrees 56 minutes 53 seconds West 24.80 feet; thence South 29 degrees 03 minutes 07 seconds West 121.82 feet; thence South 60 degrees 56 minutes 53 seconds East 34.80 feet; thence South 29 degrees 03 minutes 07 seconds West 170.00 feet; thence North 60 degrees 56 minutes 53 seconds West 60.00 feet; thence North 65 degrees 44 minutes 04 seconds West 50.41 feet; thence North 74 degrees 43 minutes 32 seconds West 307.79 feet; thence North 48 degrees 50 minutes 06 seconds West 165.50 feet; thence North 34 degrees 04 minutes 43 seconds West 121.99 feet to the place of beginning. Containing 3.700 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.
DEVELOPMENT OF COVENANTS AND RESTRICTIONS CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE

PULTE HOMES OF INDIANA, LLC, the owner or contract purchaser of the real estate located in Hamilton County, Indiana, and described in "Exhibit A" attached hereto and made a part hereof (the "Real Estate") on behalf of itself and its successors in right, title or interest in all or any part of the Real Estate (collectively, the "Owner"), makes, grants and creates the following covenants and restrictions with respect to the use and development of the Real Estate (collectively, the "Covenants") to and for the benefit of the owners of the real estate more particularly described on "Exhibit B" (the "Adjacent Real Estate") attached hereto:

1. **Statement of Covenants.** As set forth herein, the Covenants shall impose development standards with respect to the entire residential development, including each subdivision thereof, on the Real Estate, and are not in lieu of or subject to, any commitments or covenants Owner may have made, did or will make to the Fishers Advisory Plan Commission and Town Council of the Town of Fishers, Indiana, in connection with Owner's petition to change the zoning classification of the Real Estate. The Owner intends that the Covenants run with the land and bind all future owners of any portion of the Real Estate.

2. **Development Standards for Improvements on the Real Estate.**

A. **Landscaping of Adjacent Real Estate.** Prior to the conveyance of any platted lots or housing units on the Real Estate, subject to reasonable delays for adverse weather conditions or plant material availability, Owner shall provide and install, at its expense, evergreen trees of such variety, size and number and at such locations as the owner of the Adjacent Real Estate reasonably deem necessary to provide a barrier between Plaintiff's residence and the lights of vehicles entering the Real Estate to Olio Road, and Owner shall replace any such trees that do not survive for twelve (12) months from the date of planting or assign to Plaintiffs a one (1) year replacement warranty from the supplier of such trees. Owner shall incur the costs of installing said evergreen trees, including but not limited to the removals of existing trees on the Adjacent Real Estate necessary to plant the evergreen trees in such a manner as to create the agreed upon barrier. Notwithstanding anything in these Covenants to the contrary, the actual cost to Owner of constructing such barrier, including but not limited to the cost of the evergreen trees, installation and any necessary removal of existing trees, shall not exceed the sum of Ten Thousand Dollars ($10,000).

B. **Olio Road Curb Cut.** Owner shall use its best efforts to cause the Hamilton County Highway Department or other agency or agencies having jurisdiction (herein, the "Agencies") to approve and thereafter locate any curb cut on Olio Road for vehicular access to the Real Estate such that the north curb line extended of the access/interior road at the point of intersection with the right-of-way line of Olio Road is less than forty (40) feet south of the south line of the existing curb cut that provides ingress to and egress from the Adjacent Real Estate. If Owner is unable to obtain a permit to so locate the curb cut, then the owners of the Adjacent

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Filed for Record in
HAMILTON COUNTY, INDIANA
JENNIFER J. MAYDEN
03-24-2002 AT 08:10 AM
DEC CDV 165 57 00
Real Estate, at their option, may seek approval to move the existing curb cut on the Adjacent Real Estate, and if such approval is obtained, Owner shall, at its cost, relocate and reconstruct such curb cut and any related structures and landscaping in the same style and quality as that which it replaces.

C. Use. Owner shall not use, cause or permit the Real Estate to be used for any purpose other than the development and operation of a residential subdivision, or cause or permit any part of the Real Estate to be developed, constructed, used or maintained as or for commercial, commercial/retail, office building or industrial purposes regardless of the type of uses that may be permitted by the current or any future zoning classification of the Real Estate, or variance therefrom or exception thereto.

D. Permitted Landscaping. Prior to the conveyance of any platted lots or housing units on the Real Estate, subject to reasonable delays for adverse weather conditions or plant material availability, Owner shall:

i. Construct or cause to be constructed (a) a continuous earthen berm not less than seven (7) feet in height above the proposed finished grade of the portion of the Real Estate on which such earthen berm will be located (except as otherwise provided below) along the entire west property line of the Real Estate situated south of Mud Creek and north of the northern right-of-way of 126th Street (herein, the "Ohio Berm") in substantial compliance with the landscape buffer plan attached hereto as "Exhibit C", and (b) an earthen berm in substantial compliance with the landscape buffer plan attached hereto as "Exhibit D", which may be constructed in phases to match the eastward development of the Real Estate (herein the "126th Street Berm") (the Ohio Bem and the 126th Street Berm may hereinafter be referred to jointly as the "Berms", and the landscape and buffer plans attached as Exhibits C and D may hereinafter be referred to jointly as the "Landscape and Buffer Plans";

ii. Except for any portion of the Real Estate adjacent to 126th Street that is conveyed to and used by the Hamilton Southeastern School Corporation or its successor as shown on the Site Plan, provide a landscape buffer of not less than fifty (50) feet in width along the entire south and west property lines of the Real Estate contiguous to the east right-of-way line of Ohio Road and the north right-of-way line of 126th Street, respectively (the "Landscape Setback Areas");

iii. Cause each of the Berms to be landscaped with grass and mulch and viable evergreen trees, which shall be (a) not less than ten (10) feet in height at planting on the Ohio Bem only, (b) Norwegian Spruce, Austrian Pine or other type or variety of evergreen tree reasonably acceptable to Owner and the owner of the Adjacent Real Estate, (c) not less frequently than twelve (12) trees every one hundred (100) linear feet for the Ohio Bem only, and (d) consistent with the Landscape and Buffer Plan attached hereto as Exhibit D for the 126th Street Bem;
iv. Except for the portion of the Landscape Setback Area already covered with woods and located in the western portion of subdistrict A as shown on the Site Plan and provided that such area remains covered with such woods, cause the Landscape Setback Area to be landscaped with evergreen, deciduous and flowering trees and shrubs, grass and mulch in substantial compliance with the Landscape and Buffer Plans;

v. Not construct, or permit to be constructed, in the Landscape Setback Area any above ground structures or buildings except as otherwise provided below; and

vi. Maintain, or cause the homeowner's association of all or each subdistrict on the Real Estate contiguous or adjacent to any part of the Landscape Setback Areas or Berms to maintain and agree to maintain at all times the Berms and the Landscape Setback Areas and the trees, grass and mulch thereon, including the timely replacement thereof of all trees and grass which are or reasonably appear to be dead of the same size, variety and species, and the replenishment of the mulch not less frequently than annually between the months of March through June.

Notwithstanding anything in this paragraph to the contrary, (A) the Ohio Berm may be broken or interrupted to the extent necessary for one (1) access drive on Olio Road; (B) the 126th Street Berm may be broken or interrupted for two (2) access drives on 126th Street; and (C) the Ohio Berm may be tapered diagonally to a height less than seven (7) feet for purposes of (a) one (1) access drive onto the Real Estate from Olio Road, and (b) otherwise not more than once every fifty (50) feet provided that Owner's engineers have reasonably determined such taper is necessary for the structural integrity or drainage of the Ohio Berm, and that the sides of each such taper overlap in such a manner as to make the Ohio Berm appear to be continuous from the adjacent public right-of-way.

Notwithstanding anything in this paragraph to the contrary, the perimeter landscaping requirements, including all landscaping, mounding and buffering, shall not apply to the approximately 1.8 acre portion of the Real Estate, which is more particularly described on "Exhibit K" attached hereto ("Tract C2"), that is subject to a lease (the "Lease") between the Owner and Ralph E. McCord for the remainder of Ralph E. McCord's life or until voluntarily terminated by Ralph E. McCord. Upon the termination or expiration of the Lease for any reason, all landscaping requirements contained in the Covenants shall apply to Tract C2, and Owner shall promptly install all required landscaping, mounding and buffering on Tract C2, subject to delays for adverse weather conditions or plant material availability.

B. Construction Conditions. During the period of construction of any structure or improvement on the Real Estate, Owner (i) shall not permit or acquiesce to, the occupancy or any other use, other than during actual construction activity for construction purposes only, of any such structure or improvement by any person other than the legal owner or the immediate family of the legal owner, and (ii) shall remove promptly, in compliance with all applicable laws, from the Real Estate all persons other than said owner or his or her immediate family, including, but not limited to, any employee or agent of Owner or any general, prime or sub contractor.
working on the Real Estate (individually and collectively referred to herein as the "Contractor") who may at any time use or attempt to use any such structure or improvement for any purpose prior to the completion of construction thereof; provided, however, the foregoing shall not prohibit employees of Owner or of any Contractor to occupy a structure or improvement on the Real Estate solely for actual construction work while it is being constructed; and (iii) shall (a) provide for and cause as needed, but no less than weekly, which may require daily collection and removal, the collection and removal of all trash and other debris in the public right-of-way along both the east and west sides of Ohio Road from 126th Street to Med Creek, (b) use and cause the Contractor and its employees and agents to use reasonable procedures to minimize construction noise, dust, dirt, trash, lighting and other debris, and (c) not perform or cause the Contractor to perform construction work in subdistrict A and the portion of subdistrict C of the Real Estate identified on "Exhibit II" attached hereto on Sunday or Saturday; provided, however, that construction work shall be permitted in subdistricts A and C on Saturdays and Sundays from time to time as necessary to meet bona fide deadlines imposed by contracts with unrelated third parties.

F. Units. Owner (i) shall construct, or shall cause others to construct, the structures and improvements on the Real Estate in substantial accordance with the Site Plan of the Real Estate attached hereto as "Exhibit F" (the "Site Plan") and the Avalon Development Standards Matrix attached hereto as "Exhibit F" (the "Development Matrix"); (ii) shall ensure that the number of housing units on the Real Estate shall not exceed 1,250; (iii) subject to F(iii) hereof, shall not permit the number of units constructed in subdistricts B, C1, and C2 shown on the Site Plan to exceed the respective number of units shown on the Development Matrix by more than 10% for an individual subdistrict; (iv) subject to F(iii) hereof, shall not permit the number of units constructed in subdistricts A and F shown on the Site Plan to exceed the respective number of units shown on the Development Matrix by more than 3% for an individual subdistrict; and (v) shall not sell newly constructed housing units or homes in any subdistrict of the Real Estate except in compliance with all requirements of these Covenants, the Site Plan, the Development Matrix, and the Development Standards attached hereto as "Exhibit G" (the "Development Standards"). Owner shall only permit the number of units in subdistricts A and F to increase above the number of units specified in the Development Matrix if necessary to compensate Owner for the loss of planted lots elsewhere on the Real Estate due to issues and problems created during platting or as a result of adverse soil conditions, the existence of wetlands or archaeological sites, or other site or engineering conditions or limitations. The additional housing units that might be added to a subdistrict shall comply with all requirements of such subdistrict per the Site Plan, Development Matrix and the Development Standards.

G. Lighting. Owner shall not construct, acquire, to, cause or permit (i) any street lights or street signs to be installed on the Real Estate other than uniform and consistent black or bronze colored metal standards in substantial accordance with "Exhibit F" attached hereto and made a part hereof; (ii) any street light to be installed on the Real Estate that (a) exceeds fifteen (15) feet in height above
finished grade. (b) emits more foot candles than a 100 watt high pressure sodium bulb for any street light located on the Real Estate, and (c) does not have a full top reflector with house sides; and (iii) the lighting on the Real Estate (a) to exceed .05 foot candle at any point along the west property line of the Real Estate, and (b) to be arranged to reflect light towards Olio Road or any property.

H. Model Homes. Owner shall not install model homes except on those lots designated as model home lots on the Site Plan attached as "Exhibit H"; provided, however, that Owner may construct a model home on any other lot that is closer to Olio Road than the model home lots designated on Exhibit H.

I. Monuments. Owner shall not construct, acquiesce in, or cause or permit others to construct, any monument signage on the Real Estate except for (i) a monument sign on the southwest corner of the Real Estate at the intersection of 126th Street and Olio Road substantially in accordance with the Plans attached hereto, made a part hereof and marked "Exhibit I", (ii) entrance signage at the curb cut on Olio Road substantially in accordance with "Exhibit I" attached hereto, and (iii) entrance signage at no more than two (2) curb cuts onto 126th Street. Lighting of all monument signage (a) shall be arranged to reflect light away from any street or adjacent property, (b) shall not be colored-up lights; provided, however, that this provision shall not be interpreted to prohibit the temporary placement of seasonal holiday decorations and lights not intended to specifically illuminate signage or entrance monumentation, and (c) shall not exceed .05 foot candle at any point along the west property line of the Real Estate. For purposes of this paragraph, the placement of seasonal holiday lights and decorations shall be considered temporary only if the placement of such lights and decorations occurs not more than thirty (30) days prior to or seven (7) days after the applicable holiday date.

3. Term of Covenants. The Covenants shall automatically terminate after (i) thirty (30) years after the date of execution hereof, and (ii) no lineal decedent of Plaintiff resides on any portion of the Adjacent Real Estate. Notwithstanding the foregoing, the Covenants shall automatically terminate when any portion of the Adjacent Real Estate is zoned and used for commercial or industrial purposes.

4. Miscellaneous. These Covenants may be amended only upon the prior written consent of both (i) the owners of the Adjacent Real Estate and (ii) either Pulte Homes of Indiana, LLC or the homeowner's association for the development constructed upon the Real Estate.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, Owner has caused these Covenants to be executed by its duly authorized representative as of this 1st day of August 2003.

PULTE HOMES OF INDIANA, LLC

By: [Signature]
Mark Thomas, President

STATE OF INDIANA

COUNTY OF HAMILTON

On this 1st day of August 2003, personally appeared before me, Mark Thomas, who, being by me duly sworn did say that he is the President of Pulte Homes of Indiana, LLC, an Indiana limited liability company, and that as such officer he has the authority to execute the foregoing instrument on behalf of each of said entity and acknowledged that he executed the same as his free act and deed and as the free act and deed of each of said entity.

[Signature]
Michelle C. Coats
Notary Public
Resident of Hamilton County


This instrument prepared by Richard M. Blaiklock, Attorney at Law, Lewis & Wagner, 500 Place, 501 Indiana Avenue, Suite 200, Indianapolis, IN 46202-5199.
EXHIBIT A

Legal Description

A part of Section 25, Township 18 North, Range 5 East, in Fall Creek Township,
Hamilton County, Indiana, more particularly described as follows:

Beginning at the Southeast corner of the Southwest Quarter of said Section 25; thence
South 89 degrees 15 minutes 10 seconds West along the South line thereof 1,435.66 feet;
thence North 00 degrees 44 minutes 06 seconds West 39.81 feet; thence South 89 degrees
15 minutes 54 seconds West 328.08 feet; thence North 85 degrees 01 minutes 28 seconds
West 362.69 feet; thence North 89 degrees 10 minutes 22 seconds West 361.02 feet;
thence North 79 degrees 25 minutes 30 seconds West 59.19 feet; thence North 20 degrees
58 minutes 02 seconds West 34.93 feet; thence North 01 degrees 03 minutes 13 seconds
West 362.32 feet; thence North 00 degrees 35 minutes 26 seconds West 147.94 feet;
thence North 05 degrees 02 minutes 02 seconds West 180.71 feet; thence North 01
degrees 54 minutes 42 seconds West 524.93 feet; thence North 00 degrees 57 minutes 02
seconds East 65.70 feet; thence North 01 degrees 54 minutes 42 seconds West 98.42 feet;
thence North 03 degrees 03 minutes 27 seconds West 164.07 feet; thence North 20
degrees 32 minutes 14 seconds East 177.92 feet; thence North 32 degrees 52 minutes 32
seconds West 57.39 feet; thence North 10 degrees 32 minutes 31 seconds West 115.99
feet; thence North 04 degrees 21 minutes 57 seconds West 459.74 feet; thence North 00
degrees 21 minutes 55 seconds East 202.78 feet to the Northwest corner of said
Southwest Quarter; thence North 89 degrees 24 minutes 55 seconds East along the North
line thereof 311.21 feet to a point on the thread of Mud Creek; thence along said thread
of Mud Creek by the next 12 calls; (1) North 01 degrees 55 minutes 21 seconds East
89.60 feet; (2) North 46 degrees 57 minutes 19 seconds East 141.43 feet; (3) North 19
degrees 35 minutes 06 seconds East 195.77 feet; (4) North 22 degrees 31 minutes 09
seconds West 208.14 feet; (5) South 58 degrees 51 minutes 19 seconds East 102.43 feet;
(6) North 24 degrees 55 minutes 52 seconds East 82.64 feet; (7) South 75 degrees 30
minutes 08 seconds East 89.91 feet; (8) North 26 degrees 18 minutes 12 seconds East
78.93 feet; (9) North 81 degrees 36 minutes 21 seconds East 210.32 feet; (10) North 66
degrees 46 minutes 59 seconds East 111.54 feet; (11) South 66 degrees 46 minutes 41
seconds East 212.34 feet; (12) North 77 degrees 54 minutes 03 seconds East 114.11 feet
to the East line of the aforesaid Quarter, Quarter Section; thence North 00 degrees 12
minutes 43 seconds West along the West line of the East Half of the Northwest Quarter
of said Section 25 a distance of 1,865.46 feet to the South right-of-way line of State Road
238, thence South 58 degrees 11 minutes 05 seconds East along said right-of-way line
223.64 feet; thence South 71 degrees 09 minutes 40 seconds East along said right-of-way
line 51.31 feet; thence North 31 degrees 48 minutes 55 seconds East 17.05 feet to a point
on the centerline of State Road 238, said point being on a curve concave northeasterly,
the radius point of said curve being North 31 degrees 41 minutes 07 seconds East
4,971.02 feet from said point; thence southeasterly along said curve and along said
centerline 147.52 feet to the point of tangency of said curve, said point being South 29
degrees 59 minutes 06 seconds West 4,971.02 feet from the radius point of said curve;
thence South 60 degrees 00 minutes 37 seconds East along the centerline of State Road
238 a distance of 1,097.46 feet to a point on the East line of the Northwest Quarter of said
Section 25; thence South 00 degrees 12 minutes 00 seconds East along said East line
186.28 feet; thence North 89 degrees 34 minutes 25 seconds East 315.17 feet to the centerline of State Road 238; thence along said centerline by the next four (4) courses; (1) South 57 degrees 58 minutes 16 seconds East 402.64 feet to the point of curvature of a curve concave southwesterly, the radius point of said curve being South 32 degrees 01 minutes 44 seconds West 535.00 feet from said point; (2) southeasterly along said curve 186.19 feet to the point of tangency of said curve, said point being North 51 degrees 58 minutes 08 seconds East 535.00 feet from the radius point of said curve; (3) South 38 degrees 01 minutes 52 seconds East 567.98 feet to the point of curvature of a curve concave northeasterly, the radius point of said curve being North 51 degrees 58 minutes 08 seconds East 1,250.00 feet from said point; (4) southeasterly along said curve 259.58 feet to a point on said curve, said point being South 40 degrees 04 minutes 14 seconds West 1,250.00 feet from the radius point of said curve; thence South 00 degrees 25 minutes 27 seconds East 631.78 feet to the Northwest corner of the Northeast Quarter of the Southeast Quarter of said section 25; thence South 00 degrees 21 minutes 37 seconds East along the East line of said Half Quarter Section 1,325.52 feet to the Southeast corner of said Quarter, Quarter Section; thence North 89 degrees 29 minutes 30 seconds East along the North line of the Southeast Quarter of the Southeast Quarter of said Section 25 a distance of 1,323.01 feet to a point on the East line of said Quarter, Quarter Section; thence South 00 degrees 22 minutes 01 seconds East along said East line 1,323.39 feet to the Southeast corner thereof; thence South 89 degrees 15 minutes 25 seconds West along the South line of said Quarter, Quarter Section 2,646.13 feet to place of beginning, containing 394.996 acres, more or less.
EXHIBIT B – LEGAL DESCRIPTION

A PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 18 NORTH, RANGE 5 EAST IN FALL CREEK TOWNSHIP, HAMILTON COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 18 NORTH, RANGE 5 EAST, SAID POINT BEING NORTH 00 DEGREES 00 MINUTES 06 SECONDS EAST (ASSUMED BEARING) 577.00 FEET FROM THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 89 DEGREES 33 MINUTES 02 SECONDS WEST 896.09 FEET TO A POINT ON AN EXISTING FENCE LINE; THENCE NORTH 32 DEGREES 15 MINUTES 10 SECONDS EAST ALONG SAID FENCE LINE 147.27 FEET; THENCE NORTH 36 DEGREES 49 MINUTES 27 SECONDS EAST ALONG SAID FENCE LINE 70.26 FEET; THENCE NORTH 24 DEGREES 23 MINUTES 27 SECONDS EAST ALONG SAID FENCE LINE 101.15 FEET; THENCE NORTH 16 DEGREES, 42 MINUTES 23 SECONDS EAST ALONG SAID FENCE LINE 209.36 FEET; THENCE NORTH 02 DEGREES 41 MINUTES 43 SECONDS EAST 147.58 FEET TO A POINT; THENCE SOUTH 51 DEGREES 04 MINUTES 50 SECONDS EAST 275.643 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS (ASSUMED BEARING) 210.684 FEET TO A POINT; THENCE NORTH 89 DEGREES 27 MINUTES 32 SECONDS EAST 305.798 FEET TO THE EAST LINE OF SAID QUARTER SECTION; THENCE SOUTH 00 DEGREES 00 MINUTES (ASSUMED BEARING) 100 FEET TO THE POINT OF BEGINNING, CONTAINING 5.245 ACRES, MORE OR LESS.

NOTE: THE ACREAGE INDICATED IN THIS LEGAL DESCRIPTION IS SOLELY FOR THE PURPOSE OF IDENTIFYING THE SAID TRACT AND SHOULD NOT BE CONSTRUED AS INSURING THE QUANTITY OF LAND.
### Avila Development Standards Matrix

<table>
<thead>
<tr>
<th>Code</th>
<th>Land Use Type</th>
<th>Lot Size (Acres)</th>
<th>Average Gross Space (sq. ft.)</th>
<th>Dwelling Units (Max.)</th>
<th>Density</th>
<th>Square Feet Per Dwelling (sq. ft.)</th>
<th>Lot Size Minimum (Min.)</th>
<th>Lot Size Maximum (Max.)</th>
<th>Gross Height (ft)</th>
<th>Gross Setback (ft)</th>
<th>Side Setback (ft)</th>
<th>Height (ft)</th>
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</tr>
</tbody>
</table>

**Notes:**

1. The average and units within each column are approximate and vary by final engineering.
2. The minimum and maximum set-in or building setbacks vary by building size.
3. See Code D-2, D-2, and D-3 for buildings built on less than 4 units, buildings must be separated by 30 ft; for buildings with more than 4 units, building setback must be separated by 30 ft.
EXHIBIT G

To Declaration of Covenants and Restrictions Concerning
the Use and Development of Real Estate

"Development Standards"

The development standards applicable to the Real Estate are as follows, which standards are identical to Section 4 of Ordinance No. 020303 and 021803G, an Ordinance Amending the Zoning Ordinance of Fishers, Indiana – 1990, adopted by the Town Council of Fishers, Hamilton County, Indiana on June 2, 2003 (the "Avalon PUD"). Capitalized terms used below shall have the same meaning as such term in defined in the Avalon PUD, unless clearly indicated otherwise below. The following standards are meant to be read and interpreted along with the Site Plan and the Development Standards Matrix.

A. Residential Standards:

(1) Streets shall have sidewalks and street trees on both sides of the street. All street trees shall be placed approximately forty (40) feet to sixty (60) feet, on center, in a planting strip between the street and sidewalks. Street trees shall be placed in a manner whereby they are outside the corner vision clearance, and do not obstruct views of any required signage. The planting strip shall be a minimum of four feet
wide. All street trees shall be a minimum two-inch caliper, as measured twelve inches from the ground. All street trees shall be deciduous and selected from the Town of Fishers approved List of Recommended Species.

(2) Cul-de-sac islands shall be landscaped with live plant material.

(3) Any lots shutting 126th Street, Oio Road or State Road 238 shall have twenty (20) feet of common area, adjacent to the thoroughfare or right-of-way. This common area shall be exclusive of any utility easements. This common area shall contain either a wall or fence of ornamental block, brick, metal or wood, or an earthen berm, averaging six (6) feet in height along 126th Street and S.R. 238 and a minimum of seven (7) feet along Oio Road, in combination with landscape plant material. A minimum of fifty percent of the trees shall be evergreen. Evergreen or deciduous trees shall be planted at a minimum rate of twelve (12) trees per 100 lineal feet and may be evenly spaced or clustered. The deciduous trees shall be of at least two inch caliper as measured twelve (12) inches above the ground and the evergreens will be at least seven (7) feet of height at planting. This tree requirement is in addition to the street tree requirement. These improvements shall be provided by the developer and maintained by the Homeowners Association.

(4) All detached single-family residences shall have a minimum two-car garage.

(5) The height of accessory structures shall be limited to fifteen (15) feet.

(6) Lot coverage shall not exceed 40 percent and shall include buildings, parking areas and all other impervious surfaces, such as sidewalks, driveways, and other walkways.

(7) All detached single-family lots shall have a minimum depth of 110 feet.

(8) Corner lots shall be deemed to have two (2) front yards; therefore, the front yard landscaping and fencing requirements apply to both street frontages on corner lots.

(9) A standard landscaping package shall be included with each home sold. This landscape package shall provide for trees and shrubs around the building. In addition to the street tree requirement, lots greater than 65 feet in width at the setback line shall be planted with at least two (2) trees either deciduous and/or evergreen and a minimum of twenty (20) shrubs. The deciduous tree shall be of at least two-inch caliper as measured twelve inches from the ground and the evergreen at least six feet in height. Lots with street frontage less than sixty-five (65) feet shall require one (1) deciduous or evergreen lawn tree of the same dimensions as stated above and a minimum of eleven (11) shrubs shall be planted at the foundation of the structure.

(10) Side load or courtyard entry garages shall have two (2) windows located on the front elevation of the garage. Front loading garages protruding more than eight (8) feet shall also contain a window facing the entry. If the garage protrudes more than twelve (12) feet, it shall contain two windows on the side facing the entry.

(11) A third car garage may be added to residences. The third car garage entrance must be recessed a minimum of 2 feet from the 2-car garage entrance. Any three-car driveway must taper to a maximum of 16 wide at the property line. On lots more than 65 feet in width, residences with a front-loading garage that protrudes in front of the first floor façade, shall have a front façade including garage equal to or greater than 40 feet wide.
Like model elevations shall be separated by at least one (1) lot and no like model elevations shall be directly across the street from one another. No two (2) adjacent residences shall have the same exterior siding color.

Residential in character streetlights shall not exceed fifteen (15) feet in height, and shall be located at major intersections throughout the subdivision. The height of such lights shall be measured from the adjacent ground. Each light shall have shielding to direct light downward in order to minimize light pollution.

A maximum of two (2) residences may be served by each any private access drives in order to accomplish any of the following:
- Remove garage entrances from the street
- Provide distinctive open space opportunities
- Take advantage of unique topography

Homes with a 50 percent brick front (windows, doors, garage doors, accompanying frames and any other opening are excluded from calculations of the total area) or a covered front porch with railings (of at least eight feet in width and four feet in depth, and a minimum of 32 square feet) shall have at least two (2) of the following significant architectural design features. Homes with less than a 50 percent brick front or without a front porch of the preceding dimensions shall have a combination of four (4) or more of the following features:
- Reverse gable peak
- Covered front porch with railings on front and side (of at least eight feet in width and four feet in depth or a minimum of 32 square feet)
- 32 inch brick or stone plinth with water table on all sides
- Architectural treatment on gable ends
- A separate overhead door per car for each garage
- Covered front stoop/steps with pathway leading from sidewalk and driveway
- Bay-window on front elevation
- Architecturally treated entranceways (for homes without a front porch)
- Garage doors containing windows of high standard and quality
- Overhang or soffit of at least 8 inches from exterior wall
- Transom windows
- Veranda/balcony
- Two or more roof planes
- Brick accent area of at least 25 percent of the front elevation, windows, doors, garage doors, accompanying frames and any other openings are excluded from calculations of the total area.
- Dormers (at least two)
- At least 2 feet of relief at two or more points along the front facade elevation, excluding relief for doors and windows and garage.
- Decorative shutters
- Architecturally-enhanced articulated trim moldings, i.e. sips above windows

B. Multi-Family Standards:

(1) In the parcels containing Multi-family units, coverage shall not exceed 50 percent,
which shall include buildings, parking areas and all other impervious surfaces. A minimum separation between structures of twenty (20) feet is required.

(2) The predominant building material on the multi-family buildings shall feature natural tones/hues and shall be permitted to be accented with brighter, more intense complementary or contrasting tones. Decorative pre-cast panels, wood, composite lap, high quality grade vinyl or shingle siding shall also be used. Buildings of two stories or less shall use brick, wood, composite lap or shingle siding as the predominant building material.

(3) Any lots abutting 126th Street, Ohio Road or State Road 238 shall have twenty (20) feet of common area, adjacent to the thoroughfare or right-of-way. This common area shall be exclusive of any utility easements. This common area shall contain either a wall or fence of ornamental block, brick, metal or wood, or an earthen berm, averaging six (6) feet in height along 126th Street and S.R. 238 and a minimum of seven (7) feet along Ohio Road, in combination with landscape plant material. A minimum of fifty percent of the trees shall be evergreen. Evergreen or deciduous trees shall be planted at a minimum rate of twelve (12) trees per 100 lineal feet and may be evenly spaced or clustered. The deciduous trees shall be of at least two inch caliper as measured twelve (12) inches above the ground and the evergreens will be at least seven (7) feet of height at planting. This tree requirement is in addition to the street tree requirement. These improvements shall be provided by the developer and maintained by the Homeowners Association.

(4) The height of accessory structures shall be limited to fifteen (15) feet.

(5) Residences may be served by private access drives in order to accomplish any of the following:
   a. Remove garage entrances from the street
   b. Provide distinctive open space opportunities
   c. Take advantage of unique topography

(6) Each townhouse unit shall be architecturally compliment to the adjacent unit. Variations shall be approved by the Exit 10 PUD Committee.

(7) Residential in character streetlights shall not exceed 15 feet in height and shall have shields, and shall be located at major intersections throughout the subdivision.

(8) A landscaping area shall be required on the perimeter of the development between any adjacent public street and parking area. The perimeter shall be landscaped with a buffer screen of either a wall or fence of ornamental block, brick, metal or wood, or an earthen berm. These shall be in combination with a hedge of evergreen and/or deciduous shrubs and trees. Evergreen or deciduous trees shall be planted at a rate six (6) trees per 100 lineal feet and may be evenly spaced or clustered. This tree requirement is in addition to the street tree requirement.

(9) A standard landscaping package shall be included with each unit sold. This landscape package shall provide for trees and shrubs on the front and in the case of end units, also on the side. In addition to the street tree requirement, one (1) deciduous or evergreen lawn tree of the same dimensions as stated above shall be planted for every two units and with a minimum of four (4) shrubs per unit shall be planted at the foundation of the structure.

(10) Townhouse structures shall have a minimum two-car garage. Rear-loaded garages on
townhouses are permitted but not required. Townhouse garages shall not protrude more than four feet from the front façade. Multi-family structures with front-loading garages shall have no more than two garage entrances next to one another. The Exit 10 PUD Committee shall approve variations.

(11) All public streets shall have sidewalks and street trees on both sides of the street. All street trees shall be placed approximately forty (40) feet to sixty (60) feet on center in a planting strip between the street and sidewalks. Street trees shall be placed in a manner whereby they are outside the corner vision clearance and do not obstruct views of any required signage. The planting strip shall be a minimum of four feet wide. All trees shall be a minimum two-inch caliper, as measured twelve inches from the ground. All trees shall be deciduous and selected from the Town of Fishers approved List of Recommended Species.

(12) Pedestrian crossings shall be clearly identified by color or texture change, through the use of stamped asphalt or concrete, pavers or Thermoplastic.

(13) Final review of multi-family plans shall be subject to approval by the Exit 10 PUD Committee and the Department of Development.

(14) Any requirements not specified by this PUD Ordinance shall be subject to Chapters 151.070 R6 and 151.071 R7 Residential Districts of the Town of Fishers Code of Land Use Ordinances.

(15) Any dumpsters shall be screened from view and shall not be placed in required parking spaces.
EXHIBIT K

Legal Description for McCord Lease Area

A part of the West Half of the Southwest Quarter of Section 25, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence North 89 degrees 24 minutes 55 seconds East along the North line thereof 37.68 feet to the eastern right-of-way line of Olio Road as described in Instrument No. 9809840529 recorded in the Office of the Recorder of Hamilton County, Indiana; thence along said right-of-way line by the next five (5) calls: 1) thence South 00 degrees 21 minutes 55 seconds West 203.78 feet; 2) South 04 degrees 21 minutes 57 seconds West 459.74 feet; 3) South 10 degrees 02 minutes 31 seconds West 115.99 feet; 4) South 32 degrees 52 minutes 32 seconds West 57.39 feet; 5) South 20 degrees 52 minutes 14 seconds West 177.92 feet to the POINT OF BEGINNING of this description; thence North 87 degrees 50 minutes 11 seconds East 200.00 feet; thence South 01 degrees 54 minutes 42 seconds East 400.00 feet; thence South 87 degrees 50 minutes 11 seconds West 200.00 feet to the eastern right-of-way of said Olio Road; thence along said right-of-way line by the next four (4) calls: 1) North 01 degrees 54 minutes 42 seconds West 71.92 feet; 2) North 00 degrees 57 minutes 02 seconds East 65.70 feet; 3) North 01 degrees 54 minutes 42 seconds West 98.42 feet; 4) North 03 degrees 03 minutes 27 seconds West 164.07 feet to the point of beginning, containing 1.820 acres, more or less.
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SOUTH AVALON ESTATES

BEST POSSIBLE IMAGE
ALL PAGES

BY: CROSSMAN COMMUNITIES PARTNERSHIP

SCHEDULE 1 – USE RESTRICTIONS AND ARCHITECTURAL GUIDELINES
EXHIBIT A – PROPERTY
EXHIBIT B – CONCEPT PLAN

DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer
14th day of November, 2004
Robin M. Nelder Auditor of Hamilton County
Parcel #_________
DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SOUTH AVALON ESTATES

THIS DECLARATION is made on the 10th day of November, 2004, by
CROSSMAN COMMUNITIES PARTNERSHIP, an Indiana general partnership ("Declarant")

WITNESSETH:

WHEREAS, Declarant is the owner of certain real estate, located in Hamilton County,
Indiana, which is more particularly described in Exhibit "A" (hereafter "Property") attached
hereto and by this reference made a part hereof, upon which Declarant intends to develop a
residential subdivision.

NOW, THEREFORE, Declarant hereby declares that all the Property shall be held, sold
and conveyed subject to the following covenants, restrictions, limitations, covenants and
conditions, which are for the purpose of protecting the value and desirability of, and which shall
run with the Property and be binding on all parties having any right, title or interest in the
Property, or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of
each owner thereof.

ARTICLE I

Name

The subdivision of the Property created by this Declaration shall be known and
designated as South Avalon Estates (hereafter "Subdivision").

ARTICLE II

Definitions

The following terms, when used throughout this Declaration, shall have the following
meanings and definitions:

Section 2.1 "Articles" means the Articles of Incorporation of the Association (as
hereinafter defined) filed, or to be filed, with the Office of the Secretary of State of Indiana, as
the same are or hereafter may be amended from time to time.

Section 2.2 "Association" means the SOUTH AVALON ESTATES HOMEOWNERS
ASSOCIATION, INC., an Indiana non-profit corporation, its successors and assigns.
Section 2.3 “Board of Directors” means the Board of Directors of the Association.

Section 2.4 “Builder” means a person or entity engaged in and responsible for the original construction of a residence on a Lot.

Section 2.6 “Class B Control Period” means the period of time until the Class B Membership shall cease and be converted to a Class A Membership pursuant to Section 4.2 hereof.

Section 2.7 “Common Area” means: (1) those portions of the Property, including improvements thereto, facilities and personal property owned, to-be-owned, leased or to-be-leased by the Association from time to time for the common use, benefit and enjoyment of the Owners (as hereinafter defined), (2) a Lake Area, as defined below, and (3) items (if any) deemed Common Area for maintenance purposes only. Unless expressly stated to the contrary, the term Common Area as used herein (whether or not so expressed) shall include all portions of the Property designated on the Plat (as hereinafter defined) as a “Block”, “Common Area”, “C.A.”, or such other areas within the Property that are not otherwise identified on the Plat (as hereinafter defined) as a lot or Street. The Common Area to be conveyed to the Association at the time of conveyance of the first Lot to an Owner is described in the Plat (as hereinafter defined).

Section 2.8 “Common Expenses” shall mean and refer to expenses of administration of the Association, and expenses for the upkeep, maintenance, repair and replacement of all Common Area, and all sums lawfully assessed against the Owners by the Association, and all sums, costs and expenses declared by this Declaration to be Common Expenses.

Section 2.9 “Community Network” shall mean a system of communication and internet connectivity which may include some or all of the Provider Services, and which is achieved through the Technology Infrastructure.

Section 2.10 “Declarant” means CROSSMAN COMMUNITIES PARTNERSHIP, an Indiana general partnership, and its successors and assigns.

Section 2.11 “Development Period” means the period of time commencing with Declarant’s acquisition of the Property and ending when Declarant has completed the development and sale of, and no longer owns, any Lot or any other portion of the Property.

Section 2.12 “Dwelling Unit” means any single-family residence situated upon a Lot (as hereinafter defined).

Section 2.13 “Lake Area(s)” means any Common Area on which a lake now exists or is later constructed by Declarant and “Lake” means a body of water which now exists or is later constructed by Declarant in a Lake Area.

Section 2.14 “Lot” or “Lots” means, as the context requires, any parcel or parcels of land designated as such upon the Plat (as hereinafter defined) or, after construction, that parcel of land upon which there is constructed a Dwelling Unit that is conveyed to an Owner (as hereinafter defined) by the Declarant. Subject to any necessary approval of the appropriate governmental authority, a “Lot” may contain portions of real estate greater or less than its
originally platted dimensions should the Declarant deem it advisable in order to accommodate the construction of a Dwelling Unit.

**Section 2.15** "Owner" means the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but otherwise excluding those having such interest merely as security for the performance of an obligation. Unless specifically indicated to the contrary, the term "Owner" shall include the Declarant.

**Section 2.16** "Plan" means the subdivision plats of the Property, which are recorded with the Recorder of Hamilton County, as the same may be hereafter amended or supplemented pursuant to this Declaration.

**Section 2.17** "Provider" shall mean and refer to the entity or entities which provides Provider Services.

**Section 2.18** "Provider Services" shall mean, without limitation, television, cable, computer connection and/or internet connection by line, wire, cable, fiber optic, main, duct, pipe conduit, pole, antenna, microwave, satellite dish, or wire or wireless technology.

**Section 2.19** "Technology Infrastructure" shall mean and refer to technological devices, hardware, co-axial or other cable, optic fibers, software, lines, wires, mains, ducts, pipe conduits, poles, antennas, microwave, satellite dishes and/or other wired connections and wireless connections.

**ARTICLE III**

**Property Rights, Easements, and Encroachments**

**Section 3.1 Owners' Easements of Enjoyment of Common Area.** Every Owner shall have a nonexclusive right and easement of enjoyment, in common with all Owners, in and to any Common Area, which nonexclusive right and easement of enjoyment shall be appurtenant to and shall pass with title to every Lot (in the form of a right to membership in the Association), subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities, if any, situated upon the Common Area owned by the Association;

(b) The right of the Association to suspend the voting rights and right to use of any recreational facilities, if any, by any Owner (i) for any period during which any assessment remains unpaid and (ii) for a period not to exceed thirty (30) days for any violation of its published rules and regulations;

(c) The right of the Association to promulgate reasonable rules and regulations governing the use of the Common Area owned by the Association including, without limitation, parking, swimming, boating, fishing, (including the denial thereof of any such rights) and upon improvements, additions or alterations to the Lots and the Common Area owned by the Association;
(d) The rights of Declarant as provided in this Declaration as the same may be amended from time to time;

(e) The right of the Association to mortgage any or all of the Common Area owned by the Association, upon the approval of two-thirds (2/3) of the membership of each class of members of the Association;

(f) The easements reserved elsewhere in this Declaration and the right of the Association to grant further reasonable utility easements across and through the Common Area owned by the Association for the benefit of its members;

(g) The right of the Association to dedicate or transfer all or any part of the Common Area owned by the Association to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members otherwise allowed pursuant to this Declaration, as amended. No such dedication or transfer, except as allowed pursuant to this Declaration, shall be effective unless there is recorded an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the membership of each class of members of the Association;

(h) If ingress or egress to any Lot is through the Common Area, any conveyance or encumbrance of such Common Area is subject to such Lot Owner's easement for ingress and egress;

(i) The right of the Declarant to erect any signs (i) advertising the sale of the Property or any Lot and/or (ii) identifying the Subdivision;

(j) The right of the Declarant to install, or cause to be installed, Technology Infrastructure in Common Areas; and

(k) All other rights, obligations and duties as set forth in this Declaration, as the same may be from time to time amended or supplemented.

Section 3.2 Delegation of Use. In accordance with the By-Laws and any reasonable and nondiscriminatory rules and regulations promulgated from time to time by the Association, and subject to the rights of others as set forth in this Declaration, any owner may assign his or her right of enjoyment of the Common Area owned by the Association, to family members, guests, tenants or contract purchasers who reside on the Lot.

Section 3.3 Certain Obligations and Access Rights to the Common Area.

(a) Except as otherwise set forth in this Declaration, the Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the management and control, for the exclusive benefit of the Owners as provided herein, of the Common Area owned by the Association and for the maintenance of the same in good, clean, attractive, safe and sanitary condition, order and repair.

(b) The Association shall have and is hereby granted, a general right of access and easement to all of the Common Area owned by the Association and across the Lots, at reasonable times and at any time in case of emergency, as reasonably required by its officers, directors, employees and their agents and independent contractors to the full extent necessary or
appropriate to perform its obligations and duties as set forth in this Declaration. The easements and rights specified herein also are reserved for the benefit of Declarant so long as Declarant owns any portion of the Property and for so long as Declarant may be liable under any builder's warranty.

Section 3.4 General Drainage, Utility, Sewer and Other Development Easements - The following rights and easements reserved in this Section 3.4 shall not be exercised with respect to a Lot, after the conveyance of such Lot, in a manner that (i) unreasonably and adversely affects any Dwelling Unit or portion thereof located upon such Lot or the Owner's use or enjoyment thereof, or (ii) unreasonably restricts the rights of ingress and egress to such Lot. The following rights and easements reserved by Declarant in this Section 3.4 shall run with the land, and Declarant's right to further alter or grant easements shall automatically terminate and pass to the Association one (1) year after Declarant shall have conveyed the last Lot within the Property. The following rights and easements reserved in this Section 3.4 are not intended to permit, and shall not be construed to permit, (i) any Provider to enter any easement reserved in this Section 3.4, or (ii) the Association to install or authorize to be installed, in any easement reserved in this Section 3.4, any Technology Infrastructure or any other equipment, facilities, or installations of any type for the purpose of bringing Provider Services to any Lot, Dwelling Unit, and/or any improvements on a Common Area.

(a) Declarant hereby reserves unto itself, and unto any public or private utility, a general easement ("General Drainage, Utility, and Sewer Easement") for drainage, utility and sewer purposes in, on and over all of the Common Area and any Lot, so as to permit Declarant to properly install and allow to be installed and maintained all electrical, telephone, water, gas, and sanitary and storm sewer, to serve any Dwelling Unit constructed on the Property. This General Drainage, Utility, and Sewer Easement shall include all areas of the Property outside any Dwelling Units, with the exception of any areas covered by chimneys, or patios. Improvements or permanent structures installed within the Common Area are subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of the Declarant and any public or private utility to construct, maintain, repair or remove any necessary structures. By virtue hereof, Declarant reserves the right to install a lake(s) or pond(s) on any Common Area. The rights heretofore and easements hereby reserved survive the conveyance, by the Declarant to the Association, of any Common Area. This easement shall be in addition to any easement identified or designated upon a Plat as a drainage, sewer, utility, cable, landscape, sign, transmission, flowage or similar type easement.

(b) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, an easement ("Lake Easement") and right-of-way in and to any Lake Area (or areas now or hereafter shown on a Plat as a "Block", "Common Area", or "Lake" or any other Common Area within the Property used as a water retention or detention area, or on which a Lake now exists or is later constructed, for the purpose of fulfilling any maintenance obligations set forth in this Declaration and/or establishing and maintaining proper surface water drainage throughout the Property, and an easement of ingress and egress through so much of the remainder of the Property as is reasonably necessary or appropriate, to perform such actions as Declarant or the Association deem necessary or appropriate, for the purpose of establishing and maintaining proper surface water drainage throughout the Property, which such actions shall include the construction, repair and maintenance of retention and detention ponds or lakes in accordance with the requirements of applicable law and of all governmental agencies having jurisdiction (without underracing any obligation or duty to exceed such requirements).
(c) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the right and an undefined sign and facilities easement ("Sign and Facilities Easement") to install, erect, construct and maintain an entryway sign or signs, directional signs, advertising signs advertising the Property or the Lots therein, lighting, walkways, pathways, fences, walls and any other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Property (except upon any Lot after the first conveyance thereof). Any such signs shall comply with any applicable zoning requirements and all such facilities shall be maintained by the Association as a part of its Common Area maintenance obligations.

(d) Declarant reserves unto itself during the Development Period, and thereafter unto the Association, the full right, title and authority to:

(i) Relocate, alter or otherwise change the location of any Drainage, Flowage, Utility, Sewer and Lake, Sign and Facilities Easement, or any facility at any time located therein or thereon;

(ii) Grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Property, for the benefit of the Property or any portion thereof; and

(iii) Describe more specifically or to change the description of any Drainage, Flowage, Utility, Sewer, Lake, Sign and Facilities Easement or any other easement, license or right-of-way now or hereafter existing on the Property, by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Hamilton County, Indiana.

(e) The title of the Association (as to the Common Area owned by the Association during the Development Period) and of any Owner of any Lot shall be subject to the rights and easements reserved herein.

Section 3.5 Declarant's General Network Easement. The following rights and easements reserved and retained in this Section 3.5 shall not be exercised with respect to a Lot, after the conveyance of such Lot in a manner that (i) unreasonably and absolutely affects any Dwelling Unit or portion thereof located upon such Lot or the Owners use or enjoyment thereof or (ii) unreasonably affects the rights of ingress and egress to such Lot. The Declarant hereby forever reserves, retains, and is granted a blanket, exclusive, perpetual easement over, above, across, under, upon, along, and through the Property and all Lots, Common Areas, and streets located therein (i) for the purpose of owning, installing, maintaining, repairing, replacing, relocating, removing, improving, expanding and otherwise servicing the Community Network and Technology Infrastructure, and any other equipment, facilities, and installations of any type bringing Provider Services to any Lot, Dwelling Unit, and/or any improvements on the Common Area. This General Network Easement may be conveyed, assigned, and transferred by the Declarant, in the Declarant's sole discretion, without notice or consent of the Association, the Owners, or any other person. The General Network Easement is for the exclusive benefit of the Declarant, and its successors, designees and assigns, and is an appurtenant easement which runs with the Property and all Lots, Common Areas, and streets therein. Only those Providers which receive the Declarant's explicit written permission shall be permitted within the General Network Easement. The Declarant's right under this Section 3.5 shall survive beyond the Development...
Period and exist in perpetuity, and this General Network Easement shall be in addition to any easement identified or designated on a plat.

Section 3.6 Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars and ambulances and emergency personnel, public and private, over and upon the Common Area.

Section 3.7 Fee Title to Lot. The fee title to any Lot described as bounded by any street, lane, walkway, park, pond, lake, or any other common property which has not been dedicated or accepted by the public and the fee title to any Lot shown on any Plat as abutting upon any such common property shall not extend upon such common property and the fee title to such common property is reserved to the grantee to be conveyed to the Association for the common enjoyment of all residents in the Subdivision.

Section 3.8 Designated Drainage, Utility and Sewer Easements. There are strips of ground designated on the Plat as drainage easements, utility easements, sewer easements, sanitary sewer easements and storm sewer easements, or any combination thereof (hereafter collectively "DU&E Easements"), which are hereby reserved to the appropriate governmental entities, public utilities, private utilities and Provider(s) for the installation and maintenance of swales, ditches, pipes, drains, sanitary sewers, manholes, detention and retention areas or other drainage facilities, the Community, Network and Technology Infrastructure; provided, however, that the only Providers which receive the Declarant's explicit written permission shall be permitted to be within the DU&E Easements. Purchasers of Lots in this Subdivision shall "take title subject to such easements hereby created and subject at all times to the rights of proper authorities to service and maintain such drainage facilities and easements, and no permanent structure of any kind and no part thereof except fences which do not retard or impede the flow of drainage water and which are approved pursuant to this Declaration, shall be built, created or maintained on said drainage easements, except by the Declarant or its assigns. It shall be the responsibility of the Association and the Owners of the areas enclosed within such easements to maintain such areas in such conditions that the flow of storm drainage waters on, across and from said areas shall not be impeded, diverted or accelerated. Such use for storm water movement or retention or detention is hereby declared to be an easement and servitude upon said land for the benefit of the Owners of other land included within the Plat, upstream or downstream, affected by such use and for any proper governmental agency or department or any private or public utility. All proper governmental agencies or departments and public and private utilities are hereby given the right to obtain access to such areas to perform maintenance and to perform such maintenance as may be necessary to protect that easement and servitude rights. It shall be the responsibility of the Association and the Owner of any Lot or parcel of land within the Plat to comply at all times with the provisions of the drainage plan as approved for the applicable Plat by the appropriate governmental agency or department and the requirements of all drainage permits for such Plat issued by those agencies. Failure to so comply shall operate as a waiver and release of the Declarant, the developer, or their engineers and agents from all liability as to damage caused by storm waters or storm drainage.

Further, there are easements and servitudes upon the land within the Plat in favor of surface water runoff along natural valleys and drainage channels running to Owners of other land contained within the Plat upstream and downstream. It shall be the responsibility of the
Association and the Owners of these natural valleys and channels to use their land and maintain
said natural valleys and channels in such manner and condition that the flow of storm drainage
waters on, across, from and to such areas shall not be impeded, diverted or accelerated.

Section 3.9 Designated Easements or Landscape in Mounding Screening and Signature
Within any strip of ground shown or designated on a Plat as a landscape easement, landscape
maintenance easement, landscape maintenance access easement, or by any similar language
indicating a landscaping purpose, Declarant hereby reserves unto itself during the Development
Period and thereafter unto the Association, the exclusive and sole right to (i) erect signs which
advertise the Property or availability of lots, and/or identify the Subdivision and (ii) install
landscaping, mounding, walls, and screening. Notwithstanding anything in this Declaration to
the contrary, no planting shall be done, and no hedges, walls, signs, fences or other
improvements shall be erected or maintained in the area of such easements, except by the
Declarant during the Development Period and thereafter by the Association. Furthermore,
notwithstanding anything in this Declaration to the contrary, no planting shall be done, and no
hedges, walls, fences, structures, signs, or other improvements shall be erected between (i) the
area of any such easements and (ii) any perimeter roadway, public highway or right-of-way
along the perimeter or boundary of the Property, except by the Declarant.

Section 3.10 Designated Network Easement. Any strips of ground identified on a Plat as a
Network Easement are hereby forever exclusively for the Declarant, and the Declarant's
successors, designees and assigns, for the purpose of installing, maintaining, repairing, replacing,
improving, relocating, expanding, removing or otherwise servicing the Technology Infrastructure
and Community Network and any other equipment, facilities, and installations of any type
bringing Provider Services to any Lot, Dwelling Unit, and/or any improvements on the Common
Areas. Notwithstanding anything in the Declaration to the contrary, no planting, hedges, walls,
structures, signs, fences, or any other improvements shall be constructed, placed, or erected
within such Designated Network Easement, except by Declarant or as expressly permitted by
Declarant in writing. Only those Providers which receive the Declarant's explicit written
permission shall be permitted within the Designated Network Easement. The Declarant's rights
under this Section 3.10 shall survive beyond the Development Period and exist in perpetuity, and
may be conveyed, assigned or transferred by the Declarant, in the Declarant's sole discretion,
without notice to or consent of the Association, Owners, or any other person.

Section 3.11 Street Dedication. All streets now or hereafter located upon the Property are
hereby dedicated to the public.

Section 3.12 Easement Work. Notwithstanding any architectural approval required by this
Declaration, during the course of any maintenance, service, repair or work upon any easement,
the Declarant, the Association, any private utility, any public utility and/or any governmental
entity shall have the right and the authority, without any obligation or liability whatsoever
planted, to any owner, to remove, damage, or destroy any fences or other structure or landscaping
built, erected, maintained or planted in any easement described in Section 3.7 and Section 3.8
above.

Section 3.13 No Access. There may be strips of ground designated on the Plat as “no
access strips”, “no access”, “no access easement”, “no access easement”, or by other similar
language. Vehicular ingress, egress, and traveling and the construction of improvements for
such ingress, egress and/or traveling, is prohibited on, over, or across any such strips or areas.
Section 3.14 Reservation of Right to Grant Easement The Declarant hereby reserves the right, in its discretion, to (i) grant easements upon, under, over and across the Property for the benefit of land which is adjacent to the Property and/or (ii) to obtain, for the benefit of the Property, easements upon, under, over and across the real estate which is adjacent to the Property.

ARTICLE IV

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

Section 4.1 Membership Initially, the person(s) who serve as incorporator(s) of the Association shall be the member(s) (the "Initial Member(s)"). The Initial Member(s) shall remain member(s) of the Association until the Association Articles of Incorporation are accepted by the Indiana Secretary of State, at which time the Initial Member(s) shall cease to be member(s) unless they also qualify as Class A or Class B members. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Apart from the Initial Member(s), a membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.2 Classes of Membership and Voting Rights The Association shall have the following two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned. For purposes of this calculation, it shall be assumed that the Declarant owns all Lots, which number shall be reduced as Lots are conveyed by the Declarant to an Owner. The Class B Membership shall cease and be converted to a Class A Membership on the happening of either of the following events, whichever occurs earlier:

(i) December 31, 2014; or
(ii) When the total number of votes outstanding in the Class A Membership is equal to the total number of votes outstanding in the Class B Membership; provided, however, that the Class B Membership shall recommence in the event that the Declarant subsequently records a plat of part of or all of the Property and, by virtue thereof, total number of votes outstanding in the Class A Membership is no longer equal to or greater than the total number of votes outstanding in the Class B Membership; or
(iii) The date on which the Class B member agrees in writing to the cessation and conversion of the Class B membership (the time period until the first date to occur of (i), (ii) or (iii), the "Class B Control Period").
Section 4.3 Board of Directors. The Board of Directors of the Association shall be appointed and/or elected as prescribed by the Association’s Articles and By-Laws and shall manage the affairs of the Association.

Section 4.4 Professional Management. Upon conversion or cessation of the Class B member per the terms of paragraph 4.2 above, the Association shall engage and employ a professional manager or management company, possessing experience in the management of homeowners associations, to assist the Board of Directors in the management and administration of the Association. No contract or agreement for professional management of the Association, nor any other contract between 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 and without payment of any termination fee upon written notice of ninety (90) days or less.

Section 4.5 Fulfillment of Commitments. Notwithstanding the cessation of the Class B membership and the turnover of the Association, and notwithstanding the conveyance of any Common Area by the Declarant to the Association, the Declarant reserves the right to enter upon any Lots and/or Common Areas for the purpose of complying with any written or unwritten commitments extended to any municipality or zoning jurisdiction in connection with any zoning approvals, plat approvals, variance approvals, special use or exception approvals, and/or any other approvals granted by such municipality or zoning jurisdiction.

ARTICLE V

Covenant for Maintenance Assessments

Section 5.1 Creation of the Liens and Personal Obligation of Assessments. Declarant, for each Lot now or hereafter owned by it within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(a) Regular Yearly Assessments (for maintenance, repairs and ordinary operating expenses, including Common Expenses and for the costs of professional management);

(b) Special Assessments for capital improvements and operating deficits and for special maintenance or repairs as provided in this Declaration; and

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

Such assessments shall be established, shall commence upon such dates and shall be collected as hereinafter provided. All such assessments, together with prejudgment interest at eight percent (8%) per annum, costs and reasonable attorneys’ fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys’ fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner’s successors in title unless expressly assumed by them.
Section 5.2 Purpose of Regular Yearly Assessments. The Regular Yearly Assessments levied by the Association shall be used exclusively, in the reasonable discretion of the Board of Directors of the Association, for the promotion of the recreation, health, safety and welfare of the residents in the Property, for the improvement, maintenance and repair of the Common Area, for the performance of the obligations and duties of the Association and for other purposes only as specifically provided herein. As and if necessary, a portion of the Regular Yearly Assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Area, and other capital improvements which the Association is required to maintain.

Section 5.3 Maximum Regular Yearly Assessments.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Regular Yearly Assessment on any Lot shall be Four Hundred and 00/100 Dollars ($400.00) per Lot per year.

(b) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year not more than twenty percent (20%) above the maximum Regular Yearly Assessment for the previous year, without a vote of the membership. In addition, upon the cessation and conversion of the Class B member per the terms of paragraph 4.2 above, there shall immediately and automatically, without a vote of membership, be added to the regular Annual Assessment the cost of professional management to assist the Board of Directors in the management and administration of the Association.

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

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

Section 5.4 Special Assessments for Capital Improvements and Operating Deficits. In addition to the Regular Yearly Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain, or to recover any operating deficits which the Association may from time to time incur, provided that any such assessment shall have the approval of two-thirds (2/3) of the votes entitled to be cast by those members who cast votes in person or by proxy at a meeting duly called for this purpose.

Section 5.5 One-time Assessment. Upon the closing of the initial conveyance of each Lot by Declarant, the purchase of such Lot shall pay to the Association, in addition to any other amounts then owed or due to the Association, as a contribution to its working capital and start-up fund, an amount of One Hundred Dollars ($100.00), which payment shall be non-refundable and shall not be considered as an advance payment of any assessment or other charge owed the Association with respect to such Lot. Such working capital and start-up fund shall be held and used by the Association for payment of, or reimbursement to Declarant for advances made to pay, expenses of the Association for its early period of operation of the Association and the
Property, to enable the Association to have cash available to meet unforeseen expenditures, or to acquire additional equipment or services deemed necessary by the Board of Directors.

Section 5.6 Quorum. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total number of votes entitled to be cast (Class A and Class B votes combined) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.7 Uniform Rate of Assessment. Regular Yearly Assessments and Special Assessments for capital improvements and for recovery of operating deficits must be fixed at a uniform rate for all Lots, except that Declarant and any individual or entity purchasing a Lot or Lots solely for the purpose of construction of a for-sale Dwelling Unit thereon (a "Builder") shall pay only twenty-five percent (25%) of the Regular Yearly Assessments and Special Assessments so long as any Dwelling Unit constructed upon a Lot by Declarant or Builder has not been conveyed to an Owner intending to occupy or rent said Dwelling Unit as a residence or leased to an individual or entity for use as a residence.

Section 5.8 Date of Commencement of Yearly Assessments Due Dates. The Regular Yearly Assessment provided for herein shall commence as to each Lot within a recorded Plat on the first day of the first month following the recording of such Plat. The Board of Directors shall fix any increase in the amount of the yearly assessments at least thirty (30) days in advance of the effective date of such increase. Written notice of any increase in the Regular Yearly Assessment, and written notice of any Special Assessment and such other assessment notices as the Board of Directors shall deem appropriate, shall be sent to every Owner subject thereto. The due dates for all assessments, and the assessment and collection period (i.e., annual, monthly, lump-sum or otherwise) for any Special Assessments, shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association, regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance.

Section 5.9 Effect of Nonpayment of Assessments: Remedies of the Association. If any assessment (or periodic installment of such assessment, if applicable) is not paid on the due date established therefore pursuant to this Declaration, then the entire unpaid assessment (together with interest thereon, costs and reasonable attorneys’ fees as provided in this Declaration) shall become delinquent and shall constitute a continuing lien on the Lot to which such assessment relates, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall not pass to such Owner’s successors in title unless expressly assumed by them. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, or both. In such event, there shall be added to the amount of such assessment the costs and reasonable
attorney's fees of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided, costs of the action and reasonable attorneys' fees to be fixed by the court. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area owned by the Association or abandonment of his Lot.

Section 5.10 Subordination of the Lien to Mortgages, Sale or Transfer. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. No sale or transfer of any Lot (whether voluntary or pursuant to foreclosure or otherwise) shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof; and, except as hereinabove provided, the sale or transfer of any Lot shall not affect the lien of assessments becoming due prior to the date of such sale or transfer except to the extent that a purchaser may be protected against the lien for prior assessments by a binding certificate from the Association, issued pursuant to this Declaration, as to whether or not such assessments have been paid.

ARTICLE VI

Use Restrictions, and Architectural Control

See Schedule 1, attached hereto and made a part hereof, for all use restrictions and architectural guidelines.

ARTICLE VII

Maintenance, Repairs and Replacements

Section 7.1 By Owners. Except as specifically provided in this Declaration, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot. All fixtures and equipment installed within or as part of the Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Common Area owned by the Association. Such maintenance and repairs include, but are not limited to, all exterior surface, siding, roof, gutters, internal water lines, plumbing, electric lines gas lines, appliances, and all other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 7.2 Common Properties and Laws by the Association:

(a) The Association, as part of its duties, and as part of the Common Expenses, shall provide for:

(i) Maintenance of the Common Area. Maintenance of the Common Area shall include, but shall not be limited to, fertilizing, treating any Lakes, mowing and replanting
when necessary of the grass and trees and maintenance of any other improvement within
the Common Area;

(ii) Maintenance of the entry signs, permanent subdivision identification sign,
fences and landscaping installed by the Declarant in any Common Area, or any
Landscape Easement, Landscape Maintenance Easement, Landscape Maintenance
Access Easement or similar easement upon a Lot;

(iii) The maintenance of any Street lights which are installed by Declarant and
which are not located upon any Lot; and

(iv) The maintenance of any brick surface or stamped concrete installed by
Declarant on any internal Street or entryway.

The Board of Directors may adopt such other rules and regulations concerning
maintenance, repair, use and enjoyment of the Common Area owned by the Association (or any
items deemed Common Area for purposes of maintenance only) as it deems necessary.

(b) Notwithstanding any obligation or duty of the Association to repair or maintain any of
the Common Area owned by the Association (or any items deemed Common Area for purposes
of maintenance only), if due to the willful, intentional or negligent acts or omissions of an Owner
or 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 Area owned by the Association (or any items
deemed as such for purposes of maintenance only), or if maintenance, repairs or replacements
shall be required thereby which would otherwise be at the 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 with such policy
having a waiver of subrogation clause. If not paid by such Owner upon demand by the
Association, the cost of repairing such damage shall be added to and become a part of the
assessment to which such Owner's Lot is subject.

(c) The authorized representatives of the Association, the Board of Directors and the
Managing Agent for the Association (if any) are hereby granted an easement for access upon and
to any Lot as may be required in connection with maintenance only, repair or replacements of or
to the Common Area owned by the Association or any items deemed as Common Area for
purposes of maintenance only, including, but not limited to, access to any easements reserved by
any Plat of any portion of the Property for such purposes.

ARTICLE VIII

Community Network

Section 8.1 Community Network  Declarant, in Declarant's sole and subjective discretion,
may but shall not be obligated to install or cause to be installed within the Subdivision the
Community Network and Technology Infrastructure. Notwithstanding the conveyance by
Declarant of any Lot or Common Area, the Technology Infrastructure, whether located upon,
above, under, or within a Lot, Common Area, right of way, or easement shall forever remain the
property of and be owned by the Declarant or the entity to which the Declarant assigns or
conveys such ownership.

Section 8.2 Providing  In the event the Declarant installs or causes to be installed in the
Subdivision the Community Network and Technology Infrastructure, the Declarant shall have
the sole and exclusive right to select the Provider(s) of the Provider Services. To the extent permitted by law, the Provider(s) selected by the Declarant shall be the sole and exclusive provider(s) of the Provider Services, so long as such services are generally available to the Owners for subscription. The Association may not contract with others to provide Provider Services within the Subdivision without the prior written consent of the Declarant, or Declarant’s successors or assigns.

**Section 8.3 Prohibition Against Further Permits, Licenses, and Easements** The Association and each Owner shall be prohibited from granting permits, licenses, and easements over any Lot, Common Area, or street within the Subdivision for any Technology Infrastructure or Provider Services, or which will impair or limit the Declarant’s General Network Easement or Designated Network Easement, absent the explicit written consent of the Declarant, which consent may be granted or withheld in Declarant’s sole discretion.

**Section 8.4 Community Advisory Board** In the event the Community Network is installed, the Community Advisory Board (“Advisory Board”) will be established by the Declarant. The initial Advisory Board will consist of three (3) persons who shall be appointed and replaced by the Declarant during the Development Period. Following the end of the Development Period, the Advisory Board shall be comprised of three (3) Owners appointed by the Board of Directors. The Advisory Board shall act only in an advisory role, and shall consult with the Declarant regarding the Community Network, Provider Services and Technology Infrastructure.

**Section 8.5 Declarant’s Rights** The Declarant’s rights under this Article VIII shall survive beyond the Development Period and exist in perpetuity.

**ARTICLE IX**

**Insurance**

**Section 9.1 Liability Insurance** The Association shall purchase a master comprehensive general liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive general liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or 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 Association. It shall also cover all Common Area owned by the Associations, public ways and any other areas under the Association’s control or supervision. The premiums for all such liability policies shall be a Common Expense.

**Section 9.2 Fidelity Bonds** The Association shall have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The Association bonds shall name the Association as the obligee and the premium shall be paid as a Common Expense by the Association. Any management agent that handles funds for the Association shall be covered by its own fidelity bond, which must provide the same coverage required of the Association. The Association shall be named as an additional obligee in the management agent’s bond. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in force. In addition, the fidelity bond coverage must at least equal one (1) years’ assessments on all Dwelling Units in the Property, plus the
Association's reserve funds. If available, the fidelity bonds must include a provision that calls for
ten (10) days' written notice to the Association or insurance trustee before the bond can be
canceled or substantially modified for any reason.

**Section 9.3. Miscellaneous Insurance Provisions.** The Association shall obtain any other
insurance required, by law to be maintained, including but not limited to workmen's
compensation insurance, and such other insurance as the Board of Directors shall from time to
time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for
and cover cross liability claims of one insured party against another insured party. Such
insurance shall accrue to the benefit of the Association, its Board of Directors and any managing
agent acting on behalf of the Association. The premiums for all such insurance coverage shall be
a Common Expense.

**Section 9.4. Casualty and Restoration.** Damage to or destruction of any Common Area
actually owned by the Association due to fire or any other casualty or disaster shall be promptly
repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be
applied for that purpose. The same obligation shall apply to an Owner, and not the Association,
for damage or destruction to the Owner's Dwelling Unit. For purposes of this Section, repair,
reconstruction and restoration shall mean construction or rebuilding of the damaged property to
as near as possible the same condition as it existed immediately prior to the damage or
destruction, with the same or a similar type of architecture.

**Section 9.5. Insufficiency of Insurance Proceeds.** If the insurance proceeds received by the
Association as a result of any such fire or any other casualty or disaster are not adequate to cover
the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for
restoring the damage and repairing and reconstructing the Common Area actually owned by the
Association or any improvements damaged or destroyed (or the costs thereof in excess of
insurance proceeds received, if any) shall be paid by the Association which shall then have the
right to levy a Special Assessment against all Lots for such deficiency.

**Section 9.6. Surplus of Insurance Proceeds.** In the event that there is any surplus of
insurance proceeds after the reconstruction or repair of the damage has been fully completed and
all costs paid, such sums may be retained by the Association as a reserve or may be used in the
maintenance and operation of the Property. The action of the Board of Directors in proceeding to
repair or reconstruct damage shall not constitute a waiver of any rights against any Owner for
committing willful or malicious damage.

**ARTICLE X**

**Mortgages**

**Section 10.1. Mortgage Rights.** In addition to any other rights provided elsewhere in this
Declaration to mortgages, any lender or lenders holding a first mortgage or first mortgages upon
any Lot or Lots, jointly or singly, may pay any real estate taxes or other taxes or charges which
are in default and which may have become a charge or lien against any Common Area owned
by the Association or any other property owned by the Association, and may pay any overdue
premiums on any hazard, casualty, liability or other insurance policies or secure new insurance
coverage on the lapse of any policies for any such property owned by the Association or
covering any property for which the Association has an obligation to maintain insurance
coverage. Any such lender or lenders making payments in accordance with this Section shall be
entitled to immediate reimbursement therefrom from the Association along with any costs incurred including reasonable attorneys' fees.

Section 10.2 Notice to Mortgages. The Association, upon request, shall provide to any lender holding a first mortgage upon any Lot, a written certificate or notice specifying unpaid assessments and other defaults of the Owner of such Lot, if any, for the performance of such Owner's obligations under this Declaration, the Articles of Incorporation of the Association, its By-Laws or any other applicable documents, which default has not been cured within sixty (60) days. A reasonable charge may be made by the Association for the issuance of any such certificate or notice, and any such certificate properly executed by an officer of the Association shall be binding upon the Association, as provided in this Declaration.

Section 10.3 Condemnation and Insurance Awards. No provisions of this Declaration, or any amendment thereto, shall give an Owner, or any other party, priority over any rights of the first mortgagee of a Lot pursuant to its mortgage in the event of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Area property.

Section 10.4 Right of First Refusal. The Association DOES NOT have the "right of first refusal" to purchase any Dwelling Unit. Any right of "right of first refusal" subsequently granted to the Association through amendment of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property must receive the prior written approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development. Any "right of first refusal" subsequently added in the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property must not impair the rights of a first mortgagee to:

(a) Foreclose or take title to a Dwelling Unit, and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage;

(b) Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagee;

(c) Sell or lease a unit acquired by the mortgagee.

Section 10.5 Unpaid Dues or Charges. Any first mortgagee who obtains title to a Dwelling Unit, and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage or through foreclosure, will not be liable for the Dwelling Unit's unpaid dues or charges accrued before the acquisition of the title to the Dwelling Unit by the mortgagee.

ARTICLE XI

General Provisions

Section 11.1 Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the Association or any Owner and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including...
the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys’ fees and the costs and expenses incurred as a result thereof.

Section 11.2 Severability and Waiver. The Declaration shall be enforceable to the fullest extent permitted at law or in equity. Invalidation of any one 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 thereof, which shall remain in full force and effect. No delay or failure by any person to enforce any of the restrictions or to invoke any available remedy with respect to a violation or violations thereof shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or as estopped of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the restrictions.

Section 11.3 Assignment. Declarant may at any time assign some or all of its rights and obligations under this Declaration. Such assignment shall be effective after it is executed and recorded by Declarant with the Recorder of the County in which the Property is located. After such assignment is recorded with the Recorder of the County in which the Property is located, Declarant shall have no further obligations or liabilities under the Declaration with respect to the rights or obligations assigned.

Section 11.4 Amendments. This Declaration and the covenants, conditions and restrictions set forth in this Declaration, as from time to time amended in the manner hereinafter set forth, shall run with the land and shall be binding upon the persons owning any portion of the Property and all parties closing under them. This Declaration may be amended or modified at any time by an instrument recorded in the Office of the Recorder of the County in which the Property is located, approved and signed by at least seventy-five percent (75%) of the then Owners. Provided, however, that none of the covenants, rights, or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant’s prior written approval. Except as prohibited in the paragraph immediately below, the Declarant reserves the right and power to amend this Declaration without the approval of the Owners: (i) to correct or clarify the legal description of the Property; (ii) to correct clerical or typographical errors; (iii) to make nominal changes in the Declaration; (iv) to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution (including the U.S. Department of Housing and Urban Development, the U.S. Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar agency); or (v) to the extent necessary to enable the Declarant to meet any other reasonable need or requirement, including those associated with the completion of the development of the Property and to facilitate the making or marketing of first mortgages upon any lots. Any amendment must be recorded.

Neither the Association, the Owners or Declarant shall effect any of the following changes without the prior written approval of two-thirds (2/3) of the Owners of Lots (excluding Declarant or Builder):

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the Owners of the Dwelling Units. The granting of easements for public utilities or other public purposes
consistent with the intended use of the Common Area owned by the Association by the Dwelling Unit Owners is not a transfer in the meaning of this clause;

(b) Fail to maintain fire and extended coverage on insurable Common Area owned by the Association on a current replacement cost basis in an amount at least one hundred percent (100%) of the insurable value (based on current replacement costs);

(c) Use hazard insurance proceeds for losses to any Common Area owned by the Association for other than the repair, replacement, or reconstruction of the Common Area owned by the Association.

Section 11.5 HUD Amendment Approval. All other provisions of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property notwithstanding, so long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development:

(a) Annexation of additional properties;
(b) Dedication or Mortgaging of Common Area; and
(c) Amendment of the Declaration of Covenants, Conditions and Restrictions.

Section 11.6 Condemnation, Destruction or Liquidation. The Association shall be designated to represent the Owners in any proceedings, negotiations, settlements or agreements for the handling of any losses or proceeds from condemnation, destruction or liquidation of all or a part of the Common Area owned by the Association, or from the termination of the development. Each Dwelling Unit Owner, by his acceptance of a deed, appoints the Association as his attorney-in-fact for this purpose. Proceeds from the settlement will be payable to the Association for the benefit of the Dwelling Unit Owners and their mortgage holders. Any distribution of funds in connection with the termination of this development shall be made on a reasonable and an equitable basis.
IN WITNESS WHEREOF, CROSSMAN COMMUNITIES PARTNERSHIP, an Indiana general partnership, has caused this Declaration to be executed as of the date first written above.

CROSSMAN COMMUNITIES PARTNERSHIP, an Indiana general partnership

By: BEAZER HOMES INVESTMENT CORP., its General Partner

By: [Signature]
Printed: Steve W. Cook
Title: Land Development Manager

STATE OF INDIANA
COUNTY OF Hamilton

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared [Signature] as the General Partner of Beazer Homes Investment Corp., the General Partner of Crossman Communities Partnership, an Indiana general partnership and having been duly sworn, acknowledged execution of this Declaration of Covenants, Conditions and Restrictions of South Avalon Estates.

Witness my hand and Notarial Seal this 10th day of November, 2004.

My Commission Expires: [Signature]
Residing in Hamilton County

Notary Public
Printed Name

Prepared By: Kyle A. Schmutzer, Esq., BINGHAM McHALE LLP, 970 Logan Street, Noblesville, Indiana 46060 (317) 776-8650.
SCHEDULE I TO DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF SOUTH AVALON ESTATES

USE RESTRICTIONS AND ARCHITECTURAL GUIDELINES

Lot Use and Convenience. All Lots shall be used exclusively for single family detached residential purposes, except that Declarant, during the Development Period, reserves (a) the rights provided in this Declaration respecting the Property generally, and (b) the right to subdivide, dedicate or otherwise convey or designate all or any portion of any one or more Lots which it may own from time to time for recreational or other common uses and benefit of all Owners and other members of the Association. Any Lot or portion thereof so designated for common use shall become part of the Common Area owned by the Association, and reasonable rules and regulations shall be promulgated and enforced with respect thereto so that the use and enjoyment of adjacent Lots by the Owners thereof shall not be unreasonably disturbed. Except as provided in the Declaration, no Lot shall be subdivided to form units of less area. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the covenants, conditions and restrictions contained herein.

Architectural Control. No building, outbuilding, mailbox, fence, satellite dish, wall or other structure, except original construction of Dwelling Units by or on behalf of the Declarant, shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein, other than by the Declarant, be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant until the end of the Development Period, and thereafter by the Board of Directors of the Association. After the Development Period, the Board of Directors may appoint three (3) or more representatives to an Architectural Control Committee. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereof and shall require the approval therefore as above provided. In the event that written approval is not received as required hereunder within thirty (30) days after complete plans and specifications have been submitted, then the request for approval shall be deemed denied.

Every Owner, by the purchase of a Lot, shall be conclusively presumed to have consented to the exercise of discretion by the Declarant, the Board of Directors, and/or the Architectural Control Committee. In any judicial proceeding challenging a determination by the Declarant, Board of Directors, and/or Architectural Control Committee and in any action initiated to enforce this Declaration in which an abuse of discretion by the Declarant Board of Directors, and/or Architectural Control Committee is raised as defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Declarant, Board of Directors, and/or Architectural Control Committee, could only conclude that such determination constituted an abuse of discretion.

The Declarant, during the Development Period, and thereafter the Board of Directors and/or the Architectural Control Committee, may in its discretion inspect work being performed without the Owner's permission to assure compliance with these restrictions and applicable regulations. All improvements must be constructed as approved and, therefore, must be constructed per the approved plans and in the approved location. If construction of an improvement is not completed
within thirty (30) days after approval, then the Declarant, during the Development Period, and thereafter the Board of Directors or the Architectural Control Committee may, in its discretion, withdraw and revoke the approval.

Under no circumstances shall the Declarant, the Board of Directors, and/or the Architectural Control Committee be liable in any way for costs, fees, damages, delays, or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it. Under no circumstances shall the Declarant, the Board of Directors, and/or the Architectural Control Committee be responsible in any way for any defects in any plans, specifications or other materials submitted to it, or for any defects in any work done according thereto. Further, the Declarant, the Board of Directors, and/or the Architectural Control Committee makes no comment, representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, other materials to be used and/or (ii) the compliance of any intended improvements with applicable laws, statutes, zoning ordinances, and/or municipal regulations. All parties should seek professional advice, engineering, and inspections on each lot prior to proposing construction.

Antennas and Receivers. No antenna, satellite dish, or other device for the transmission of reception of radio, television, or satellite signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors and above ground, whether attached to a building or otherwise, on any residential Lot without the written approval of the Board of Directors or the Architectural Control Committee, which approval shall not be unreasonably withheld; provided, however, that any such device may be installed and maintained on any Lot without the necessity of such written approval if: (a) it is not visible from neighboring Lots, streets or common area; or (b) the Owner, prior to installation, has received the written consent of the Owners of all Lots who would have views of the device from their Lots; or (c) the device is virtually indistinguishable from structures, devices or improvements, such as heat pumps, air conditioning units, barbecue grills, patio furniture, and garden equipment, which are not prohibited by these covenants or by-laws, or (d) it is a satellite dish two (2) feet or less in diameter and not affixed to the roof of the residence.

Leasing. Any Lot may be leased by its Owner.

Animals. No animals shall be kept or maintained on any lot except domestic, household pets traditionally kept in individual residences throughout the state of Indiana. All such pets shall be kept reasonably confined so as not to become a nuisance. Excessive barking of dogs or vicious animals shall constitute a nuisance and may be ordered by the Association to be removed from the property.

Outside Storage. All clotheslines, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept from view of neighboring homes and streets. All rubbish, trash or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate thereon. Trash must be stored in enclosed containers.

Setback Lines. Front Building lines are hereby established as shown on the Plat. Between such Front Building lines and the right-of-way lines there shall be erected, placed or altered no structure or part thereof, except fences in keeping with architectural style as specifically approved by the Declarant until the end of the Development Period, and thereafter by the Board of Directors and/or Architectural Control Committee; provided, however, except that in no case will such fences be permitted on the public right-of-way. The building lines which are from
public right-of-way lines are parallel to and measured perpendicularly from these public right-of-
way lines.

**Side Setbacks.** The minimum side yard and minimum rear yard requirements shall be
those established by the applicable zoning and subdivision control ordinances.

**Temporary Structures and Outbuildings.** No structure of a temporary character, tent,
shack, basement, garage, barn or other outbuilding shall be erected, placed, or altered upon any
Lot for use as a residence either temporarily or permanently, or at any time be used for such
purpose. Outbuildings and mini barns are prohibited and shall not be constructed or installed
upon the Property or any Common Area or Lot located therein.

**Motor Vehicle Repair.** The repair of inoperative motor vehicles or material alteration
of motor vehicles shall not be permitted on any Lot unless entirely within a garage permitted to be
constructed per the terms of the Declaration.

**Nuisances.** No noxious or offensive activities shall be carried on or be permitted to exist
on any Lot; nor shall anything be done thereon which may be or become an annoyance or
nuisance. Any structure or building permitted to be constructed on any Lot by this Declaration
which may be all or in part destroyed by fire, wind, storm or any other reason, shall be rebuilt
and restored to its previous condition within a reasonable length of time, and all debris
accumulated in connection therewith shall be removed within a reasonable time after any such
occurrence.

**Permitted Uses.** No use shall be made of any Lot except as permitted by the applicable
zoning and subdivision control ordinances under which this Property is developed.

**Drains.** No house footing drain or roof water drain shall be discharged into the sanitary
sewers.

**Residential Use.** Lots may be used only for residential purposes and only for one single-
family dwelling, a private garage, and other such outbuildings as are usual and incidental to the
use of a residential lot. All lots in this subdivision shall be designated as residential Lots, and no
home shall exceed two and one half (2 1/2) stories or thirty-five (35) feet in height.

**Size.** Subject to any further restrictions imposed by any recorded commitment, every
single-family dwelling erected, placed, altered or maintained on any Lot within shall have a
minimum living area, exclusive of open porches, unfinished basements and attached garages, of
not less than what is required by the applicable zoning and subdivision control ordinances.

**Unsightly Growth.** In order to maintain the standards of the Property, no weeds,
underbrush or other unsightly growths shall be permitted to grow or remain upon any Property,
and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain
anywhere thereon. Failure to comply shall warrant the Declarant or the Association to cut weeds
or clear the refuse from the Property at the expense of the Owner, and there shall be a lien
against said Property for the expense thereof, which lien shall be due and payable immediately.
If such lien is not promptly paid, the Association or the Declarant may file suit and recover such
amount together with reasonable attorneys fees and costs of collection.
Site Visibility: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) feet and nine (9) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner from the intersection of the street lines extended. The same sightline limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway, pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. No fences shall be permitted to be constructed between the front set back line and the street curb.

Semi-tractor trucks, Trailers, etc: No semi-tractor trucks, semi-trucks, semi-tractor trailers, boats, campers, mobile homes, disabled vehicles, and/or trailers shall be permitted to park on the Property or a Lot unless fully enclosed in a garage, or unless the same is necessary and incident to the Declarant's, builder's or Association's business on the Property.

Sign Limitations: No sign of any kind, other than those installed by Declarant, the Association, or a Builder, may be displayed to public view on any Lot, except that one sign with an area of not more than six (6) feet may be displayed with the purpose of advertising the Lot for sale.

Lakes, Lake Areas: Except as otherwise provided, no individual using a Lake, if any, has the right to cross another Lot or trespass upon shoreline not within a Common Area owned by the Association, subject to the rights of the Declarant, the Association, their employees, heirs, successors and assigns as set forth in the Declaration. No one shall do or permit any action or activity which could result in pollution of any Lake, diversion of water, elevation of any Lake level, earth disturbance resulting in settling or any other conduct which could result in an adverse effect upon water quality, drainage or proper Lake management except as provided in the Declaration. A Lake may not be used for swimming, ice skating, boating, or for any other purpose, except for drainage of the Property, unless expressly and specifically approved by the Board of Directors in writing and allowed by law. Lakes and Lake Areas may not exist on the Property, and the reference throughout this Declaration to Lakes and Lake Areas is made in order to address Lakes and Lake Areas, if any, which now exist or are later constructed upon the Property. The installation on the Property of any Lake or Lake Area shall be within the sole discretion of the Declarant, and under no circumstances shall the Declarant be required or obligated to install any Lake or Lake Area. Only the Declarant and the Association shall have the right to store items or develop recreational facilities upon any Common Area owned by the Association adjacent to a Lake.

Rules and Regulations: The Board of Directors from time to time may promulgate further rules and regulations concerning the use of Lots and the Common Area owned by the Association. A majority of those Owners voting at a meeting called for the purpose may rescind or modify any rule or regulation adopted by the Board of Directors. Copies of all rules and regulations shall be furnished by the Board to all Owners, at the Owner's last known address, prior to the time when the same shall become effective. The Association shall have current copies of the Declaration, Articles and By-Laws, and other rules concerning the Property as well as its own books, records and financial statements available for inspection by Dwelling Unit Owners or by holders, insurers and guarantors of first mortgages, that are secured by Dwelling
Units in the Property. These documents shall be available during normal business hours or under other reasonable circumstances.

**Development and Sale Period.** Nothing contained in this Declaration shall be construed or interpreted to restrict the activities of Declarant or a Builder in connection with the development of the Property and sale of Lots. During the Development Period, Declarant or a Builder shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities upon any portion of the Property at any time owned or leased by Declarant or a Builder, as in the sole opinion of Declarant or a Builder may be reasonably required, or convenient or incidental to, the development of the Property and sale of the Lots; such facilities may include, without limitation, storage areas, signs, parking areas, model residences, construction offices, sales offices and business offices.

**Outside Use of Lot.** Except in an individual patio area appurtenant to a Dwelling Unit, no planting or gardening shall be done, and no fences, hedges, walls or other improvements shall be erected or maintained upon the Property except such as installed in accordance with the initial construction of the buildings located thereon or as approved by the Declarant, during the Development Period, and thereafter by the Board of Directors and/or the Architectural Control Committee. Above ground swimming pools are prohibited on the Property.

**Mailboxes.** All mailboxes installed upon Lots shall be uniform and shall be of a type, color and manufacture approved by the Declarant during the Development Period and, thereafter, by the Board of Directors and/or the Architectural Control Committee.

**Notice of Zoning Commitments.** Notice is hereby given that certain written commitments were made in connection with the zoning of the Property to the Town of Fishers, Indiana, Town Council and the Town of Fishers, Indiana, Plan Commission.

**Home Occupations.** No Lot or Dwelling Unit located thereon shall be used for any purpose other than as a single family residence, except a home occupation which is both permitted under the applicable zoning ordinance and which also complies with the following guidelines:

(a) Any home occupation must be conducted entirely within the residence and conducted solely by a member of the immediate family residing in said Dwelling Unit;

(b) Any home occupation must be clearly incidental and secondary to the use of the Dwelling Unit for residential purposes;

(c) There can be no sign or display that will indicate from the exterior of the Dwelling Unit that the Dwelling Unit is being used, in whole or in part, for any purpose other than that of a residential dwelling;

(d) No commodity can be sold from the Lot or Dwelling Unit located thereon.

(e) No person can be employed other than a member of the immediate family residing in the Dwelling Unit;

(f) No manufacturer or assembly operations can be conducted; and
(g) Customers cannot enter upon the Lot or Dwelling Unit for the purpose of conducting business.

In no event shall the following activities be conducted: child care, barber shop, styling salon, animal hospital, kennel, any form of animal care or treatment such as dog trimming, or any similar activities.

\[Exxpt\] No fencing, landscape screening, or walls may be constructed or installed until after architectural approval is obtained from the Declarant, during the Development Period, and thereafter the Board of Directors and/or the Architectural Control Committee. It is the goal to keep all fencing or screening harmonious with the architectural character of the community. No fence or screen will be approved which obstructs necessary sight lines for vehicular traffic. Undue obstruction of views from adjoining properties and amenity areas will be taken into consideration when reviewing fences for approval. No front yard fencing is permitted, except on a Lot on which there is maintained a sales office or model home by Declarant or Builder. If approved by the Declarant, during the Development Period, and thereafter by the Board of Directors and/or the Architectural Control Committee, fences may be privately installed but must be constructed to professional levels of quality, design, material, composition, and color as determined by the Declarant, during the Development Period, and thereafter by the Board of Directors and/or the Architectural Control Committee. Non-professionally installed fences may be inspected by the Declarant, during the Development Period, and thereafter by the Board of Directors and/or the Architectural Control Committee after completion in order to ensure that the fence is of a professional quality, and final approval of such fence shall be deemed withheld until completion of this final review. All fences shall be kept in good repair by the Owner. In general, fences shall be located on the property line, one foot within the property line, or three feet within the property line; provided, however, that no fence shall be located any closer to the front of a residence than the rear foundation line of the dwelling unit, not counting patios, terraces, entry ways, or steps.

Fences are to be vinyl coated chain link, wrought iron or cedar. Further, all cedar fences are to be dog-eared, flat-top or shadow box style with 1" x 6" vertical boards, and are to remain unpainted. No fence shall be constructed until its materials, design, and location are first approved by the Declarant, during the Development Period, and thereafter by the Board of Directors and/or the Architectural Control Committee.

The exact location, material, color and height of the fence and rendering or photograph thereof shall be submitted to the Declarant, during the Development Period, and thereafter to the Board of Directors and/or the Architectural Control Committee for written approval at least thirty (30) days prior to proposed construction. If however, approval has not been received by applicant in writing within thirty (30) days after submitted, then said request shall be considered DENIED.

\[Animal\ Kennels\] Animal kennels or quarters which are not connected to a Dwelling Unit are prohibited. Animal quarters or kennels which are to be connected to the Dwelling Unit cannot be constructed until after they are approved by the Declarant, during the Development Period, and thereafter by the Board of Directors and/or the Architectural Control Committee.

\[Playground/Recreational\ Equipment\] No playground or recreational equipment shall be placed or constructed upon a Lot until after it is approved by the Declarant, during the Development Period, and thereafter by the Board of Directors and/or the Architectural Control
Committee. All such playground or recreational equipment shall be constructed of wood and not metal.

Corner Lots. Corner lots shall be deemed to have two (2) front yards; therefore, the front yard landscaping and fencing requirements apply to both street frontages on corner lots.

Chain Link Fences. All chain link fences shall be vinyl-coated and limited to forty-two (42") inches in height and are prohibited in front yards, with corner lots deemed to have two front yards. Staked fences are prohibited. All fences shall be subject to review and approval by the Architectural Control Committee of the Homeowners' Association.

Street Landscaping. A standard landscaping package shall be included with each home sold. This landscape package shall provide for trees and shrubs around the building. In addition to the street tree requirements:

a. Lots greater than 65 feet in width at the setback line shall be planted with at least two (2) trees either deciduous and/or evergreen and a minimum of eight (8) shrubs. The deciduous tree should be of at least two-inch caliper as measured twelve inches from the ground and the evergreen at least six feet in height.

b. Lots with street frontage less than sixty-five (65) feet shall require one (1) deciduous or evergreen lawn tree of the same dimensions as stated above and a minimum of four (4) shrubs shall be planted at the foundation of the structure.

District A. All homes in District A, as shown on the concept plan attached hereto as Exhibit B, shall have garages that are courtyard-, side-, or rear-loaded.

Garages. All homes shall have a minimum two-car attached garage. For lots less than 65 feet wide with a garage equal to or exceeding fifty (50) percent of the width of the residence, the garage shall be side-loading or recessed a minimum of four feet behind the front façade. If the garage is less than 50 percent of the width of the residence, the garage may be front-loading, but shall not protrude more than fourteen (14) feet from the first floor façade. Front-loading garages protruding more than eight (8) feet shall also contain a window on the side facing the entry. If the front-loaded garage protrudes more than twelve (12) feet, it shall contain two windows on the side facing the entry. Garages that protrude more than fourteen (14) feet shall have a side-loaded or court entry and shall have two (2) windows located on the front elevation of the garage.

Third Car Garage. A third car garage may be added to residences with front-load garages if the front elevation is over 50 feet in width and if a minimum of 23 feet of residential façade is indicated in the front elevation. The third car garage entrance must be recessed 4 feet from the 2-car garage entrance. Any three-car driveway must taper to a maximum of 16 wide at the property line. On lots more than 65 feet in width, residences with a front-loading garage that protrudes in front of the first floor façade shall be equal to or greater than 40 feet wide.

Lights. All homes shall have a light beside the front door, and two "dusk-to-dawn" type lights on the garage.

Like Model Elevations. Like model elevations shall be separated by at least one (1) lot and no like model elevations shall be directly across the street from one another. No two (2)
adjacent residences shall have the same exterior siding color.

**Colors.** The colors utilized for the non-brick or non-stone areas should feature a base color with natural tones, subtle hues and may be accented with brighter, more intense complementary or contrasting tones.

120th Street. Those new homes adjacent to 120th Street that are not accessed by a frontage road and/or positioned with a front facing 120th Street shall contain "Hardi-Plank" siding as the predominate building material, or masonry on the first floor. At least one window shall be provided on each side with shutters on all windows on all sides.

**Homeowners Association.** There shall be a mandatory Homeowners Association established with the following requirements included: an initiation fee, a budget requirement to fund general reserves, establishment of an architectural control committee to oversee improvements after the initial home construction, and a provision for professional management upon turnover.

**Mini-barns.** Mini-barns are prohibited.

**Satellite Dishes.** Satellite dishes shall not exceed 30 inches in diameter and shall meet FCC standards.

**Minimum Standard.** All new homes shall be a minimum standard of Trinity Classic product, or equivalent.

**Architectural Design.** Homes with a 50% brick front (windows, doors, garage doors, accompanying frames and any other opening are excluded from calculations of the total area), or a covered front porch with railings (of at least eight feet in width and four feet in depth or a minimum of 32 square feet) shall have at least two (2) of the following significant architectural design features. Homes with less than a 50% brick front and without a front porch of the preceding dimensions shall have a combination of four (4) or more of the following features:

a. Reverse gable peak
b. Covered front porch with railings on front and side (of at least eight feet in width and four feet in depth or a minimum of 32 square feet)
c. 32 inch brick or stone plinth with water table on all sides
d. Architectural treatment on gable ends
e. A separate overhead door per car for each garage
f. Covered front stoop/steeps with pathway leading from sidewalk or driveway
g. Bay-window on front elevation
h. Architecturally treated entranceways (for homes without a front porch)
i. Garage doors containing windows of high standard and quality
j. Overhang(s) soffit of at least 15 inches from exterior wall
k. Transom windows
l. Veranda/balcony
m. Two or more roof planes
n. Brick accent area of at least 25 percent of the front elevation
o. Dormers (at least two)
p. At least 2 feet of relief at two or more points along the front facade elevation, excluding relief for doors and windows and garage.
q. Decorative shutters
r. Arch/separately-enhanced articulated trim mouldings, i.e. sponsons above windows
LAND DESCRIPTION

The West Half of the Northeast Quarter of Section 36, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of said Half Quarter Section; thence North 89 degrees 15 minutes 25 seconds East along the North line of said Half Quarter Section 1,223.66 feet to the Northeast corner of said Half Quarter Section; thence South 00 degrees 17 minutes 26 seconds East along the East line of said Half Quarter Section 2,666.44 feet to the Southeast corner of said Half Quarter Section; thence South 89 degrees 03 minutes 05 seconds West along the South line of said Half Quarter Section 1,328.52 feet to the Southwest corner of said Half Quarter Section; thence North 00 degrees 10 minutes 29 seconds West along the West line of said Half Quarter Section 2,671.25 feet to the place of beginning, containing 81.224 acres, more or less, subject to all legal highways, right-of-ways, easements, and restrictions of record.
ASSIGNMENT AND ASSUMPTION OF DECLARANT'S INTEREST

THIS ASSIGNMENT AND ASSUMPTION OF DECLARANT'S INTEREST (the "Assignment"), is made and entered into this 15th day of January, 2006, by and between Beazer Homes Indiana LLP, and Indiana limited liability partnership (the successor by name change to Crossmann Communities Partnership, an Indiana general partnership ("Assignor") and TRINITY HOMES, LLC, an Indiana limited liability company ("Assignee") and for good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties agree as follows:

1. Assignment. The Assignor hereby conveys, assigns, transfers and sets over to the Assignee all of its right, title and interest as Declarant under that certain Declaration of Covenants, Conditions and Restrictions of South Avlen Estates dated November 10, 2004, and recorded on November 10, 2004 as Instrument No. 2004-00076918 in the Office of the Recorder of Hamilton County, Indiana (the "Declaration").

2. Assumption. Assignee hereby accepts the conveyance, transfer and assignment of the Declaration and assumes, from and after the date hereof, the obligations of the Assignor as Declarant under the Declaration.

IN WITNESS WHEREOF, the Assignor and Assignee have caused this Assignment to be executed on the day first above written.
TRINITY HOMES, LLC
By: Beazer Homes Investments, LLC, its Managing Member
By: Beazer Homes Corp., its Managing Member
By: Mike Mansfield, Division President

BEAZER HOMES INDIANA LLP
By: Beazer Homes Investments, LLC, its Managing Partner
By: Beazer Homes Corp., its Managing Member
By: Mike Mansfield, Division President

STATE OF INDIANA
COUNTY OF MARION

Before me, a Notary Public in and for said County and State, personally appeared Mike Mansfield, the Division President of Beazer Homes Corp., the Managing Member of Beazer Homes Investments, LLC, and as both the Managing Partner of Beazer Homes Indiana LLP, an Indiana limited liability partnership and the Managing Member of Trinity Homes, LLC, who acknowledged the execution of the foregoing document for and on behalf of said entities and stated that the facts contained therein are true and correct.

Witness my hand and Notarial Seal this 10th day of January, 2006.

Sharon J. Storey-Brown Notary Public
residing in Hamilton County, Indiana

My Commission Expires: 3-10-08

This instrument prepared by Donald E. Williams
Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204
DECLARATION

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7.5-3(p).

I, the undersigned preparer of the attached document, in accordance with IC 36-2-7.5, do hereby affirm under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, reducing all Social Security numbers; and

2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, the undersigned, affirm under the penalties of perjury, that the foregoing declarations are true.

[Signature]

Donald E. Williams

COPY
AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SOUTH AVALON ESTATES

SCHEDULE 1 - USE RESTRICTIONS AND ARCHITECTURAL
GUIDELINES
EXHIBIT A - PROPERTY
EXHIBIT B - CONCEPT PLAN
AMENDED AND RESTATE DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF
SOUTH AVALON ESTATES

THIS AMENDED AND RESTATE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS is made on the _____ day of January, 2006, by TRINITY HOMES, LLC, an
Indiana limited liability company ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of the six (6) parcels of real estate, located in Hamilton
County, Indiana, which is more particularly described in Exhibit A (hereinafter: "Real Estate") attached
hereto and by this reference made a part hereof, upon which Declarant intends to develop a residential
subdivision.

WHEREAS, Crossman Communities Partnership, Declarant's predecessor in title to a portion
of the Real Estate, executed an agreement to Declarant pursuant to the assignment and
assumption of Declarant's interest in the deed recorded contemporaneously herewith, and Declarant further owns
one hundred percent (100%) of the Real Estate.

WHEREAS, Declarant now wishes to amend and restate the Original Covenants to more fully
set forth herein to correct certain errors and inaccuracies in the Original Covenants.

WHEREAS, Declarant may in the future acquire additional real estate (the "Additional Real
Estate") which is contiguous to the Property which it intends to subject to this Declaration.

WHEREAS, Declarant desires to subdivide and develop the Real Estate and may in the future
desire to subdivide and develop such portions (or all) of the Additional Real Estate as may be made
subject to the terms of this Declaration, as hereinafter provided;

WHEREAS, the term "Property" shall hereafter mean and refer to the Real Estate together with
such portions of the Additional Real Estate as have from time to time been subjected to, and at anytime
subject to, this Declaration.

NOW, THEREFORE, the Declarant hereby declares that the Original Covenants are superseded
and replaced hereby in its entirety, and that all the Property shall be held, conveyed, hypothecated, or
encumbered, leased, rented, used, occupied, and improved, subject to the following easements,
restrictions, limitations, covenants, conditions and restrictions, all of which are declared to be in
furtherance of a plan of the improvement and sale of the Property and each Lot situated therein, and are
established and agreed upon for the purposes of enhancing and protecting the value, desirability and
attractiveness of the Property as a whole and each of the Lots situated therein. The easements,
restrictions, limitations, covenants, conditions and restrictions set forth herein shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, their heirs, successors and assigns and shall inure to the benefit of each Owner and the Declarant and their respective successors entitled to the Property or any part or parts thereof.

As of the date of execution hereof, the Property consists solely of the Real Estate. The Owner of any Lots subject to these restrictions, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase hereof, whether from Declarant or a subsequent Owner of such Lot or (ii) the active occupancy of any Lot, shall accept such deed, execute such contract and/or actively occupy such Lot subject to each restriction and agreement herein contained. By acceptance of such deed, execution of such contract, and/or actively occupying such Lot, each Owner acknowledges the rights and powers of Declarant and of the Association with respect to these restrictions and also for itself, its heirs, personal representatives, successors, and assigns covenants and agrees and consents to and with Declarant, the Association, and the Owners of each of the Lots hereby affected to keep, observe, and comply with the terms and conditions hereof.

Declarant shall have, and hereby reserves the right, at any time, and from time to time, at any time prior to the expiration of the Development Period, to add to the Property and subject to this declaration all or any part of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the Property, and therefore and hereby becomes a part of the Property and subject to all restrictions to this Declaration and all rights, obligations, and privileges herein, when Declarant files of record in of the County in which the Property is located, an instrument so declaring the same to be part of the Property, which supplementary declaration (hereafter "Supplementary Declaration") may be as part of a subdivision plat for any portion of the Additional Real Estate, or by an amendment or supplement to this Declaration. Such Supplementary Declaration may contain modifications hereto and additional terms, conditions, restrictions, maintenance obligations, and assessments applicable to the Additional Real Estate and/or the Dwelling Units constructed thereon as may be necessary to reflect the different character, if any, of the added Dwelling Units or Additional Real Estate.

Upon recording of any such instrument on or before the expiration of the Development Period, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Property and the Owners of any Lots within such real estate shall be deemed for all purposes, to have and be subject to all of the rights, duties, privileges, and obligations of Owners of Lots within the Property. No single exercise of Declarant's right and option to add and expand the Property as to any part or parts of the Additional Real Estate, shall preclude Declarant from thereafter from time to time further expanding and adding to the Property to include other portions of the Additional Real Estate, and such right and option of expansion may be exercised by Declarant from time to time as to all or any portions of the Additional Real Estate so long as such expansion is accomplished on or before the expiration of the Development Period. Such expansion of the Property is entirely at the discretion of the Declarant and nothing contained in this Declaration or otherwise shall require Declarant to expand the Property beyond the Real Estate, or to any portions of the Additional Real Estate which Declarant may voluntarily and in its sole discretion from time to time subject to this Declaration.

ARTICLE I

Name

The subdivision of the Property created by this Declaration shall be known and designated as South Avalon Estates (hereafter "Subdivision").
ARTICLE II

Definitions

The following terms, when used throughout this Declaration, shall have the following meanings and definitions:

Section 2.1  "Articles" means the Articles of Incorporation of the Association (as hereinafter defined) filed or to be filed, with the Office of the Secretary of State of Indiana, as the same are or hereafter may be amended from time to time.

Section 2.2  "Association" means the SOUTH AVALON ESTATES HOMEOWNERS ASSOCIATION, INC., an Indiana non-profit corporation, its successors and assigns.

Section 2.3  "Board of Directors" means the Board of Directors of the Association.

Section 2.4  "Builder" means a person or entity engaged in and responsible for the original construction of a residence on a Lot.

Section 2.5  "Class B Control Period" means the period of time until the Class B Membership shall cease and be converted to a Class A Membership pursuant to Section 4.2 hereof.

Section 2.6  "Common Area" means: (1) those portions of the Property, including improvements thereto, facilities and personal property owned, to-be-owned, leased or to-be-leased by the Association from time to time for the common use, benefit and enjoyment of the Owners (as hereinafter defined), (2) Lake Area, as defined below and (3) items (if any) deemed Common Area for maintenance purposes only. Unless expressly stated to the contrary, the term Common Area as used herein (whether or not so expressed) shall include all portions of the Property designated on the Plat (as hereinafter defined) as a "Block", "Common Area", "C.A." or such other areas within the Property that are not otherwise identified on the Plat (as hereafter defined) as a lot or Street. The Common Area to be conveyed to the Association at the time of conveyance of the first Lot to an Owner is described in the Plat (as hereinafter defined).

Section 2.7  "Common Expenses" shall mean and refer to expenses of administration of the Association and expenses for the upkeep, maintenance, repair and replacement of all Common Area and all sums lawfully assessed against the Owners by the Association and all sums, costs and expenses declared by this Declaration to be Common Expenses.

Section 2.8  "Community Network" shall mean a system of communication and internet connectivity which may include some or all of the Provider Services and which is accomplished through the Technology Infrastructure.

Section 2.9  "Declaratant" means TRINITY HOMES, LLC, an Indiana limited liability company and its successors and assigns.

Section 2.10  "Development Period" means the period of time commencing with Declarant's acquisition of the Property and ending when Declarant has completed the development and sale of and no longer owns, any Lot or any other portion of the Property.

Section 2.11  " Dwelling Unit" means any single-family residence situated upon a Lot (as hereinafter defined).
Section 2.12 “Lake Area(s)” means any Common Area on which a lake now exists or is later constructed by Declarant and “Lake” means a body of water which now exists or is later constructed by Declarant in a Lake Area.

Section 2.13 “Lot” or “Lots” means, as the context requires, any parcel or parcels of land designated as such upon the Plat (as hereinafter defined) or, after construction, that parcel of land upon which there is constructed a Dwelling Unit that is conveyed to an Owner (as hereinafter defined) by the Declarant. Subject to any necessary approval of the appropriate governmental authority, a “Lot” may contain portions of real estate greater or less than its originally platted dimensions should the Declarant deem it advisable in order to accommodate the construction of a Dwelling Unit.

Section 2.14 “Owner” means the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but otherwise excluding those having such interest merely as security for the performance of an obligation. Unless specifically indicated to the contrary, the term “Owner” shall include the Declarant.

Section 2.15 “Plan” means the subdivision plat of the Property, which are recorded with the Recorder of Hamilton County, as the same may be hereafter amended or supplemented pursuant to this Declaration.

Section 2.16 “Provider” shall mean and refer to the entity or entities which provides Provider Services.

Section 2.17 “Provider Services” shall mean, without limitation, television, cable, computer connection a/or internet connection by line, wire, cable, fiber optic, main, duct, pipe conduit, pole, antenna, microwave, satellite dish or wire or wireless technology.

Section 2.18 “Technology Infrastructure” shall mean and refer to technological devices, hardware, co-axial or other cable, optic fibers, software, lines, wires, mains, ducts, pipe conduits, poles, antennas, microwave, satellite dishes and/or other wired connections and wireless connections.

ARTICLE III

Property Rights, Easements and Encroachments

Section 3.1 Owners’ Easements of Enjoyment of Common Area. Every Owner shall have a non-exclusive right and easement of enjoyment, in common with all Owners, in and to any Common Area, which nonexclusive right and easement or enjoyment shall be appurtenant to and shall pass with title to every Lot (in the form of a right to membership in the Association), subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of recreational facilities, if any, situated upon the Common Area owned by the Association;

(b) The right of the Association to suspend the voting rights and right to use of any recreational facilities, if any, by any Owner (i) for any period during which any assessment remains unpaid and (ii) for a period not to exceed thirty (30) days for any infraction of its published rules and regulations;

(c) The right of the Association to promulgate reasonable rules and regulations governing the use of the Common Area owned by the Association including, without limitation, parking, swimming,
boating, fishing, (including the denial thereof of any such rights) and upon improvements, additions or alterations to the Lots and the Common Area owned by the Association;

(d) The rights of Declarant as provided in this Declaration as the same may be amended from time to time;

(e) The right of the Association to mortgage any or all of the Common Area owned by the Association, upon the approval of two-thirds (2/3) of the membership of each class of members of the Association;

(f) The easements reserved elsewhere in this Declaration and the right of the Association to grant further reasonable utility easements across and through the Common Area owned by the Association for the benefit of its members;

(g) The right of the Association to dedicate or transfer all or any part of the Common Area owned by the Association to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members otherwise allowed pursuant to this Declaration, as amended. No such dedication or transfer, except as allowed pursuant to this Declaration, shall be effective unless there is recorded an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of the membership of each class of members of the Association;

(h) If ingress or egress to any Lot is through the Common Area, any conveyance or encumbrance of such Common Area is subject to such Lot Owner's easement for ingress and egress;

(i) The right of the Declarant to erect any signs or advertising the sale of the Property or any Lot and/or (ii) identifying the subdivision;

(j) The right of the Declarant to install or cause to be installed, Technology Infrastructure in Common Areas; and

(k) All other rights, obligations and duties as set forth in this Declaration, as the same may be from time to time amended or supplemented.

Section 3.3 Delegation of Use. In accordance with the By-Laws and any reasonable and nondiscriminatory rules and regulations promulgated from time to time by the Association and subject to the rights of others as set forth in this Declaration, any owner may assign his or her right of enjoyment of the Common Area owned by the Association, to family members, guests, tenants or contract purchasers who reside on the Lot.

Section 3.3 Certain Obligations and Access Rights to the Common Area

(a) Except as otherwise set forth in this Declaration, the Association, subject to the rights of the Owners as set forth in this Declaration, shall be responsible for the management and control, for the exclusive benefit of the Owners as provided herein, of the Common Area owned by the Association and for the maintenance of the same in good, clean, attractive, safe and sanitary condition order and repair.

(b) The Association shall have and is hereby granted, a general right of access and easement to all of the Common Area owned by the Association and across the Lots, at reasonable times and at any time in case of emergency, at reasonably required by its officers, directors, employees and their agents and independent contractors to the full extent necessary or appropriate to perform its obligations and duties as set forth in this Declaration. The easements and rights specified herein also are reserved for the
benefit of Declarant so long as Declarant owns any portion of the Property and for so long as Declarant may be liable under any builder’s warranty.

Section 3.4 General Drainage, Utility, Sewer and Other Development Easements. The following rights and easements reserved in this Section 3.4 shall not be exercised with respect to a Lot, after the conveyance of such Lot, in a manner that: (i) unreasonably and adversely affects any Dwelling Unit or portion thereof located upon such Lot or the Owner’s use or enjoyment thereof or (ii) unreasonably restricts the rights of ingress and egress to such Lot. The following rights and easements reserved by Declarant in this Section 3.4 shall run with the land and Declarant’s right to further alter or grant easements shall automatically terminate and pass to the Association one (1) year after Declarant shall have conveyed the last Lot within the Property. The following rights and easements reserved in this Section 3.4 are not intended to permit and shall not be construed to permit, (i) any Provider to enter any easement reserved in this Section 3.4 or (ii) the Association to install or authorize to be installed, in any easement reserved in this Section 3.4, any Technology Infrastructure or any other equipment, facilities or installations of any type for the purpose of bringing Provider Services to any Lot, Dwelling Unit and/or any improvements on a Common Area.

(a) Declarant hereby reserves unto itself and unto any public or private utility, a general easement (“General Drainage, Utility and Sewer Easement”) for drainage, utility and sewer purposes in, on and over all of the Common Area and any Lot, so as to permit Declarant to properly install and allow to be installed and maintained all electrical, telephone, water, gas and sanitary and storm sewer, to serve any Dwelling Unit constructed on the Property. This General Drainage, Utility and Sewer Easement shall include all areas of the Property outside any Dwelling Units, with the exception of any areas covered by chimneys or attics. Improvements or permanent structures installed within the Common Area are subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of the Declarant and any public or private utility to construct, maintain, repair or remove any necessary facilities. By virtue hereof, Declarant reserves the right to install a lake(s) or pond(s) on any Common Area. The right heretofore and easements hereby reserved survive the conveyance by the Declarant to the Association, of any Common Area. This easement shall be in addition to any easement identified or designated upon a Plat as a drainage, sewer, utility, cable, landscape, sign, transmission, airflow or similar type easement.

(b) Declarant reserves unto itself during the Development Period and thereafter unto the Association, an easement (“Lake Easement”) and right-of-way in and to any Lake Area (as hereinafter defined) shown on the Plat as a “Block”, “Common Area” or “Lake” or any other Common Area within the Property used as a water retention or detention area or on which a Lake now exists or is later constructed, for the purpose of fulfilling any maintenance obligations set forth in this Declaration and/or establishing and maintaining proper surface water drainage throughout the Property and an easement of any Lake Easement shall include the construction, repair and maintenance of retention and detention ponds or lakes in accordance with the requirements of State law and of all governmental agencies having jurisdiction (without undertaking any obligation or duty to exceed such requirements).

(c) Declarant reserves unto itself during the Development Period and thereafter unto the Association, the right and an undefined sign and facilities easement (“Sign and Facilities Easement”) to install, erect, construct and maintain an entryway sign or signs, directional signs, advertising signs advertising the Property or the Lots therein, lighting, walkways, pathways, fences, walls and any other landscaping, architectural and recreational features or facilities considered necessary, appropriate, useful or convenient, anywhere upon the Property (except upon any Lot after the first conveyance thereof). Any
such signs shall comply with any applicable zoning requirements and all such facilities shall be maintained by the Association as a part of its Common Area maintenance obligations.

(d) Declarant reserves unto itself during the Development Period and thereafter unto the Association, the full right, title and authority to:

(i) Relocate, alter or otherwise change the location of any Drainage, Flowage, Utility, Sewer and Lake, Sign and Facilities Easement or any facility at any time located therein or thereon;

(ii) Grant such further easements, licenses and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress and egress, utility and similar purposes on or within any portion of the Property, for the benefit of the Property or any portion thereof; and,

(iii) Describe more specifically or to change the description of any Drainage, Flowage, Utility, Sewer, Lake, Sign and Facilities Easement or any other easement, license or right-of-way now or hereafter existing on the Property, by written instrument, amended Plat or amendment to the Plat recorded in the Office of the Recorder of Hamilton County, Indiana.

(c) The title of the Association (as to the Common Area owned by the Association during the Development Period) and of any Owner of any Lot shall be subject to the rights and easements reserved herein.

Section 3.5 Declarant's General Network Easement. The following rights and easements reserved and retained in this Section 3.5 shall not be exercised with respect to a Lot, after the conveyance of such Lot in a manner that (i) unreasonably and absolutely affects any Dwelling Unit or portion thereof located upon such Lot or the Owners use or enjoyment thereof or (ii) unreasonably affects the rights of ingress and egress to such Lot. The Declarant hereby forever reserves, retains and is granted a blanket, exclusive, perpetual easement over, above, across, under, upon, along and through the Property and all Lots, Common Areas and streets located therein (i) for the purpose of owning, installing, maintaining, repairing, replacing, relocating, removing, improving, expanding and otherwise servicing the Community Network and Technology Infrastructure and any other equipment, facilities and installations of any type bringing Provider Services to any Lot, Dwelling Unit and/or any improvements on the Common Area. This General Network Easement may be conveyed, assigned and transferred by the Declarant, in the Declarant’s sole discretion, without notice or consent of the Association, the Owners or any other person. The General Network Easement is for the exclusive benefit of the Declarant and its successors, designees and assigns and is an appurtenant easement which runs with the Property and all Lots, Common Areas and streets therein. Only those Providers which receive the Declarant’s explicit written permission shall be permitted within the General Network Easement. The Declarant’s right under this Section 3.5 shall survive beyond the Development Period and exist in perpetuity and this General Network Easement shall be in addition to any easements identified or designated on a plat.

Section 3.6 Easement for Emergency Purposes. An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars and ambulances and emergency personnel, public and private, over and upon the Common Area.

Section 3.7 Fee Title to Lot. The fee title to any Lot described as bounded by any street, lane, walkway, park, pond, lake or any other common property which has not been dedicated or accepted by the public and the fee title to any Lot shown on any Plat as abutting upon any such common property
shall not extend upon such common property and the fee title to such common property is reserved to the
grantor to be conveyed to the Association for the common enjoyment of all residents in the Subdivision.

Section 3.8 Designated Drainage, Utility and Sewer Easements. There are strips of ground
designated on the Plat as drainage easements, utility easements, service easements, sanitary sewer
 easements and storm sewer easements or any combination thereof (hereafter collectively “D & U & E
Easements”), which are hereby reserved to the appropriate governmental entities, public utilities, private
 utilities and Provider(s) for the installation and maintenance of sewers, ditches, pipes, drains, sanitary
 sewers, manholes, detention and retention areas or other drainage facilities, the Community Network
and Technology Infrastructure; provided, however, that the only Provider which receives the Declarant’s
explicit written permission shall be permitted to be within the D & U & E Easements. Purchasers of Lots in
this Subdivision shall take title subject to such easements hereby created and subject at all times to the
rights of proper authorities to service and maintain such drainage facilities and easements and no
permanent structure of any kind and no part thereof except fences which do not retard or impede the flow
of drainage water and which are approved pursuant to this Declaration, shall be built, erected or
maintained on said drainage easements, except by the Declarant or its assigns. It shall be the
responsibility of the Association and the Owners of the areas enclosed within such easements to maintain
such areas in such conditions that the flow of storm drainage waters on, across and from said areas shall
not be impeded, diverted or accelerated. Such use for storm water movement or retention or detention is
hereby declared to be an easement and servitude upon said land for the benefit of the Owners of other
land included within the Plat, upstream or downstream, affected by such use and for any proper
governmental agency or department or any private or public utility. All proper governmental agencies or
departments and public and private utilities are hereby given the right to obtain access to such areas to
perform maintenance and to perform such maintenance as may be necessary to protect that easement and
servitude rights. It shall be the responsibility of the Association and the Owners of any Lot or parcel of
land within the Plat to comply at all times with the provisions of the drainage plan as approved for the
applicable Plat by the appropriate governmental agency or department and the requirements of all
drainage permits for such Plat issued by those agencies. Failure to so comply shall operate as a waiver
and release of the Declarant, the developer or their engineers and agents from all liability as to damage
caused by storm waters or storm drainage.

Further, there are easements and servitudes upon the land within the Plat in favor of surface water
runoff along natural valleys and drainage channels running to Owners of other land contained within the
Plat, upstream and downstream. It shall be the responsibility of the Association and the Owners of those
natural valleys and channels to use their land and maintain said natural valleys and channels in such
manner and condition that the flow of storm drainage waters on, across, from and to such areas shall not
be impeded, diverted or accelerated.

Section 3.9 Designated Easements or Landscape in Mounding, Screening and Signage
Within any strips of ground shown or designated on a Plat as a landscape easement, landscape
maintenance easement, landscape maintenance access easement or by any similar language indicating a
landscaping purpose, Declarant hereby reserves unto itself during the Development Period and thereafter
unto the Association, the exclusive and sole right to (i) erect signs which advertise the Property or
availability of Lots and/or identify the Subdivision and (ii) install landscaping, mounding, walls and
screening. Notwithstanding anything in this Declaration to the contrary, no planting shall be done and no
hedges, walls, signs, fences or other improvements shall be erected or maintained in the area of such
easements, except by the Declarant during the Development Period and there after by the Association.
Furthermore, notwithstanding anything in this Declaration to the contrary, no planting shall be done and
no hedges, walls, fences, structures, signs or other improvements shall be erected between (i) the area of
any such easements and (ii) any perimeter roadway, public highway or right-of-way along the perimeter
or boundary of the Property, except by the Declarant.
Section 3.10 Designated Network Easement. Any strips of ground identified on a Plat as a Network Easement are hereby forever exclusively for the Declarant and the Declarant’s successors, designees and assigns, for the purpose of installing, maintaining, repairing, replacing, improving, relocating, expanding, removing or otherwise servicing the Technology Infrastructure and Community Network and any other equipment, facilities and installations of any type bringing Provider Services to any Lot, Dwelling Unit and/or any improvements on the Common Areas. Notwithstanding anything in the Declaration to the contrary, no planting, hedges, walls, structures, signs, fences or any other improvements shall be constructed, placed or erected within such Designated Network Easement, except by Declarant or as expressly permitted by Declarant in writing. Only those Providers which receive the Declarant’s explicit written permission shall be permitted within the Designated Network Easement. The Declarant’s rights under this Section 3.10 shall survive beyond the Development Period and exist in perpetuity and may be conveyed, assigned or transferred by the Declarant, in the Declarant’s sole discretion, without notice to or accord of the Association, Owners or any other person.

Section 3.11 Street Dedication. All streets now or hereafter located upon the Property are hereby dedicated to the public.

Section 3.12 Basement Work. Notwithstanding any architectural approval required by this Declaration, during the course of any maintenance, service, repair or work upon any easement, the Declarant, the Association, any private utility, any public utility and/or any governmental entity shall have the right and the authority, without any obligation or liability whatsoever, planted, to any owner, to remove, damage or destroy any fence or other structure or landscaping built, erected, maintained or planted in any easement described in Section 3.7 and Section 3.8 above.

Section 3.13 No Access. There may be strips of ground designated on the Plat as “no access strips”, “no access”, “no access easement”, “no access easement” or by other similar language. Vehicular ingress, egress and traveling under the construction of improvements for such ingress, egress and/or traveling, is prohibited on, over or across any such strips or areas.

Section 3.14 Reservation of Right to Grant Easement. The Declarant hereby reserves the right, in its discretion, to (i) grant easements upon, under, over and across the Property for the benefit of land which is adjacent to the Property and/or (ii) to obtain, for the benefit of the Property, easements upon, under, over and across the real estate which is adjacent to the Property.

ARTICLE IV

Association Membership, Voting Rights,

Board of Directors and Professional Management

Section 4.1 Membership. Initially, the person(s) who serve as incorporator(s) of the Association shall be the member(s) (the “Initial Member(s)”). The Initial Member(s) shall remain member(s) of the Association until the Association Articles of Incorporation are accepted by the Indiana Secretary of State, at which time the Initial Member(s) shall cease to be member(s) unless they also qualify as Class A or Class B members. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Apart from the Initial Member(s), a membership in the Association shall be appurtenant to and may not be separated from ownership of any Lot.

Section 4.2 Classes of Membership and Voting Rights. The Association shall have the following two classes of voting membership:

9
Class A. Class A members shall be all Owners with the exception of the Declarant. Class A members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as the members holding an interest in such Lot determine among themselves, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Declarant shall be entitled to three (3) votes for each Lot owned. For purposes of this calculation, it shall be assumed that Declarant owns all Lots, which number shall be reduced as Lots are conveyed by the Declarant to an Owner. The Class B Membership shall cease and be converted to a Class A Membership on the happening of either of the following events, whichever occurs earlier:

(i) December 31, 2014, or

(ii) When the total number of votes outstanding in the Class A Membership is equal to the total number of votes outstanding in the Class B Membership; provided, however, that the Class B Membership shall recommence in the event that the Declarant subsequently records a plat of part of or all of the Property and, by virtue thereof, total number of votes outstanding in the Class A Membership is no longer equal to or greater than the total number of votes outstanding in the Class B Membership; or

(iii) The date on which the Class B member agrees in writing to the cessation and conversion of the Class B membership (the time period until the first date to occur of (i), (ii) or (iii), the “Class B Control Period”).

Section 4.3 Board of Directors. The Board of Directors of the Association shall be appointed and/or elected as prescribed by the Association’s Articles and By-Laws and shall manage the affairs of the Association.

Section 4.4 Professional Management. Upon conversion or cessation of the Class B member per the terms of Section 4.2 above, the Association shall engage and employ a professional manager or management company, possessing experience in the management of homeowners associations, to assist the Board of Directors in the management and administration of the Association. No contract or agreement for professional management of the Association, nor any other contract between 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 and without payment of any termination fee upon written notice of ninety (90) days or less.

Section 4.5 Fulfillment of Commitments. Notwithstanding the cessation of the Class B membership and the turnover of the Association and notwithstanding the conveyance of any Common Area by the Declarant to the Association, the Declarant reserves the right to enter upon any Lots and/or Common Areas for the purpose of complying with any written or unwritten commitments extended to any municipality or zoning jurisdiction in connection with any zoning approvals, plat approvals, variance approvals, special use or exception approvals and/or any other approvals granted by such municipality or zoning jurisdiction.

ARTICLE V

Covenant for Maintenance Assessments
Section 5.1 Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot now or hereafter owned by it within the Property, hereby covenants and each Owner of any 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:

(a) Regular Yearly Assessments (for maintenance, repairs and ordinary operating expenses, including Common Expenses and for the costs of professional management);

(b) Special Assessments for capital improvements and operating deficits and for special maintenance or repairs as provided in this Declaration; and

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

Such assessments shall be established, shall commence upon such dates and shall be collected as hereinafter provided. All such assessments, together with prejudgment interest at eight percent (8%) per annum, costs and reasonable attorneys' fees, shall be a charge on the Land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title unless expressly assumed by them.

Section 5.2 Purpose of Regular Yearly Assessments. The Regular Yearly Assessments levied by the Association shall be used exclusively, in the reasonable discretion of the Board of Directors of the Association, for the promotion of the recreation, health, safety and welfare of the residents in the Property, for the improvement, maintenance and repair of the Common Area, for the performance of the obligations and duties of the Association and for other purposes only as specifically provided herein. As and if necessary, a portion of the Regular Yearly Assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Area and other capital improvements which the Association is required to maintain.

Section 5.3 Maximum Regular Yearly Assessments.

(a) Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum Regular Yearly Assessment on any Lot shall be Four Hundred and 00/100 Dollars ($400.00) per Lot per year.

(b) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year not more than twenty percent (20%) above the maximum Regular Yearly Assessment for the previous year, without a vote of the membership. In addition, upon the expiration and conversion of the Class B member per the terms of Section 4.2 above, there shall immediately and automatically, without a vote of the membership, be added to the regular Annual Assessment the cost of professional management to assist the Board of Directors in the management and administration of the Association.

(c) From and after January 1 of such year, the maximum Regular Yearly Assessment may be increased each calendar year by more than twenty percent (20%) above the maximum Regular Yearly Assessment for the previous year by a vote of two-thirds (2/3) of the votes entitled to be cast by members who cast votes in person or by proxy at a meeting duly called for this purpose.
Section 5.4 Special Assessments for Capital Improvements and Operating Deficits. In addition to the Regular Yearly Assessments authorized above, the Association may levy a Special Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain or to recover any operating deficits which the Association may from time to time incur, provided that any such assessment shall have the approval of two-thirds (2/3) of the votes entitled to be cast by those members who cast votes in person or by proxy at a meeting duly called for this purpose.

Section 5.5 Quorum. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of the total number of votes entitled to be cast (Class A and Class B votes combined) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5.6 Uniform Rate of Assessment. Regular Yearly Assessments and Special Assessments for capital improvements and to recover operating deficits must be fixed at a uniform rate for all Lots, except that Declaration and any individual or entity purchasing a Lot or Lots solely for the purpose of construction of a for-sale Dwelling Unit thereon (a "Builder") shall pay only twenty-five percent (25%) of the Regular Yearly Assessments and Special Assessments so long as any Dwelling Unit constructed upon a Lot by the Declaration or Builder has not been conveyed to an Owner intending to occupy or rent said Dwelling Unit as a residence or leased to an individual or entity for use as a residence.

Section 5.7 Date of Commencement of Yearly Assessments; Due Dates. The Regular Yearly Assessment, provided for herein shall commence as to each Lot within a recorded Plat on the first day of the first month following the recording of such Plat. The Board of Directors shall fix any increase in the amount of the yearly assessments at least thirty (30) days in advance of the effective date of such increase. Written notice of any increases in the Regular Yearly Assessment and written notice of any Special Assessment and such other assessment notices as the Board of Directors shall deem appropriate, shall be sent to every Owner subject thereto. The due dates for all assessments and the assessment and collection period (i.e., annual, monthly, lump-sum or otherwise) for any Special Assessments, shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate in recordable form signed by an Officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association.
regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance.

Section 5.9 Effect of Nonpayment of Assessments; Remedies of the Association. If any assessment (or periodic installment of such assessment, if applicable) is not paid on the due date established therefore pursuant to this Declaration, then the entire unpaid assessment (together with interest thereon, costs and reasonable attorneys' fees as provided in this Declaration) shall become delinquent and shall constitute a continuing lien on the Lot to which such assessment relates, binding upon the then Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall not pass to such Owner's successors in title unless expressly assumed by them. If any assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property or both. In such event, there shall be added to the amount of such assessment the costs and reasonable attorney's fees of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided, costs of the action and reasonable attorneys' fees to be fixed by the court. No Owner may waive or otherwise escape liability for the assessments provided for herein by reason of the Common Area owned by the Association or abandonment of his Lot.

Section 5.10 Subordination of the Lien to Mortgages, Sale or Transfer. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. The sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of any assessments becoming due prior to the date of such sale or transfer. No sale or transfer of any Lot (whether voluntary or pursuant to foreclosure or otherwise) shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof; and, except as hereinabove provided, the sale or transfer of any Lot shall not affect the lien of assessments becoming due prior to the date of such sale or transfer except to the extent that a purchaser may be protected against the lien for prior assessments by a binding certificate from the Association, issued pursuant to this Declaration, as to whether or not such assessments have been paid.

ARTICLE VI

Use Restrictions and Architectural Control

See Schedule 1, attached hereto and made a part hereof, for all use restrictions and architectural guidelines.

ARTICLE VII

Maintenance, Repairs and Replacements

Section 7.1 By Owners. Except as specifically provided in this Declaration or in any Supplementary Declaration, each Owner shall furnish and be responsible for the maintenance of all portions of his Lot. All fixtures and equipment installed within or as a part of the Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling Unit or any part of the Common Area owned by the Association. Such maintenance and repairs include, but are not limited to, all exterior surface,
Siding, roof, gutters, internal water lines, plumbing, electric lines, gas lines, appliances and all other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his Dwelling Unit or Lot.

Section 7.2 Common Properties and Lawns by the Association.

(a) The Association, as part of its duties and as part of the Common Expenses, shall provide for:

(i) Maintenance of the Common Area. Maintenance of the Common Area shall include, but shall not be limited to, fertilizing, treating any bricks, mowing and replanting when necessary of the grass and trees and maintenance of any other improvement within the Common Area.

(ii) Maintenance of the entry signs, permanent subdivision identification sign, fences and landscaping installed by the Declarant in any Common Area or any Landscape Easement, Landscape Maintenance Easement, Landscape Maintenance Access Easement or similar easement upon a Lot;

(iii) The maintenance of any Street lights which are installed by Declarant and which are not located upon any Lot; and

(iv) The maintenance of any brick surface or stamped concrete installed by Declarant on any internal Street or entryway.

The Board of Directors may adopt such other rules and regulations concerning maintenance, repair, use and enjoyment of the Common Area owned by the Association (or any items deemed Common Area for purposes of maintenance only) as it deems necessary.

(b) Notwithstanding any obligation or duty of the Association to repair or maintain any of the Common Area owned by the Association (or any items deemed Common Area for purposes of maintenance only), if due to the willful, intentional or negligent acts or omissions of an Owner or 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 Area owned by the Association (or any items deemed as such for purposes of maintenance only), or if maintenance, repairs or replacements shall be required thereby which would otherwise be at the 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 with such policy having a waiver of subrogation clause. If not paid by such Owner upon demand by the Association, the cost of repairing such damage shall be added to and become a part of the assessment to which such Owner's Lot is subject.

(c) The authorized representatives of the Association, the Board of Directors and the Managing Agent for the Association (if any) are hereby granted an easement for access upon and to any Lot as may be required in connection with maintenance only, repair or replacements of or to the Common Area owned by the Association or any items deemed as Common Area for purposes of maintenance only, including, but not limited to, access to any easements reserved by any Plat of any portion of the Property for such purposes.

ARTICLE VIII
Community Network

14
Section 8.1  Community Network. Declarant, in Declarant’s sole and subjective discretion, may but shall not be obligated to install or cause to be installed within the Subdivision the Community Network and Technology Infrastructure. Notwithstanding the conveyance by Declarant of any Lot or Common Area, the Technology Infrastructure, whether located upon, above, under or within a Lot, Common Area, right of way or easement shall forever remain the property of and be owned by the Declarant or the entity to which the Declarant assigns or conveys such ownership.

Section 8.2  Provider. In the event the Declarant installs or causes to be installed in the Subdivision the Community Network and Technology Infrastructure, the Declarant shall have the sole and exclusive right to select the Provider(s) of the Provider Services. To the extent permitted by law, the Provider(s) selected by the Declarant shall be the sole and exclusive provider(s) of the Provider Services, so long as such services are generally available to the Owners for subscription. The Association may not contract with others to provide Provider Services within the Subdivision without the prior written consent of the Declarant or Declarant’s successors or assigns.

Section 8.3  Prohibition Against Further Permits, Licenses and Easements. The Association and each Owner shall be prohibited from granting permits, licenses and easements over any Lot, Common Area or street within the Subdivision for any Technology Infrastructure or Provider Services or which will impair or limit the Declarant’s General Network Easement or Designated Network Easement, absent the explicit written consent of the Declarant, which consent may be granted or withheld in Declarant’s sole discretion.

Section 8.4  Community Advisory Board. In the event the Community Network is installed, the Community Advisory Board ("Advisory Board") will be established by the Declarant. The initial Advisory Board will consist of three (3) persons who shall be appointed and replaced by the Declarant during the Development Period. Following the end of the Development Period, the Advisory Board shall be comprised of three (3) Owners appointed by the Board of Directors. The Advisory Board shall act only in an advisory role and shall advise and consult with the Declarant regarding the Community Network, Provider Services and Technology Infrastructure.

Section 8.5  Declarant’s Rights. The Declarant’s rights under this Article VIII shall survive beyond the Development Period and exist in perpetuity.

ARTICLE IX

Insurance

Section 9.1  Liability Insurance. The Association shall purchase a master comprehensive general liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive general liability insurance policy shall cover the Association, its Board of Directors, any committee or agent of the Association or 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 Association. It shall also cover all Common Areas owned by the Association, public ways and any other areas under the Association’s control or supervision. The premiums for all such liability policies shall be a Common Expense.

Section 9.2  Fidelity Bonds. The Association shall have blanket fidelity bonds for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services. The Association shall have the Association as the obligee and the premium shall be paid as a Common Expense by the Association. Any management agent that handles funds for the Association shall be covered by its own fidelity bond, which must provide the same
coverage required of the Association. The Association shall be named as an additional obligee in the management agent’s bond. The fidelity bond shall cover the maximum funds that will be in the custody of the Association or its management agent at any time while the bond is in force. In addition, the fidelity bond coverage must at least equal one (1) years’ assessments on all Dwelling Units in the Property, plus the Association’s reserve funds. If available, the fidelity bonds must include a provision that calls for ten (10) days’ written notice to the Association or insurance trustee before the bond can be canceled or substantially modified for any reason.

Section 9.3 Miscellaneous Insurance Provisions The Association shall obtain any other insurance required, by law to be maintained, including but not limited to workmen’s compensation insurance and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall be to the benefit of the Association, its Board of Directors and any managing agent acting on behalf of the Association. The premiums for all such insurance coverage shall be a Common Expense.

Section 9.4 Casualty and Restoration Damage to or destruction of any Common Area actually owned by the Association due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose. Except as provided in any Supplementary Declaration, the same obligation shall apply to an Owner and not the Association, for damage or destruction to the Owner’s Dwelling Unit. For purposes of this Section, repair, reconstruction and restoration shall mean construction or rebuilding of the damaged property to as near as possible the same condition as it existed immediately prior to the damage or destruction, with the same or a similar type of architecture.

Section 9.5 Insufficiency of Insurance Proceeds If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area actually owned by the Association or any improvements damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association which shall then have the right to levy a Special Assessment against all Lots for such deficiency.

Section 9.6 Surplus of Insurance Proceeds In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Property. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against any Owner for committing willful or malicious damage.

ARTICLE X

Mortgages

Section 10.1 Mortgage Rights In addition to any other rights provided elsewhere in this Declaration to mortgagees, any lender or lenders holding a first mortgage or first mortgages upon any Lot or Lots, jointly or singly, may pay any real estate taxes or other taxes or charges which are in default and which may or have become a charge or lien against any Common Area owned by the Association or any other property owned by the Association and may pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any such property owned by the Association or covering any property for which the Association has an obligation to maintain insurance coverage. Any such lender or lenders making payments in accordance
with this Section shall be entitled to immediate reimbursement therefore from the Association along with any costs incurred including reasonable attorneys’ fees.

Section 10.2 Notice to Mortgages: The Association, upon request, shall provide to any lender holding a first mortgage upon any Lot, a written certificate or notice specifying unpaid assessments and other defaults of the Owner of such Lot, if any, in the performance of such Owner’s obligations under this Declaration, the Articles of Incorporation of the Association, its By-Laws or any other applicable documents, which default has not been cured within sixty (60) days. A reasonable charge may be made by the Association for the issuance of any such certificate or notice and any such certificate properly executed by an officer of the Association shall be binding upon the Association, as provided in this Declaration.

Section 10.3 Condemnation and Insurance Awards: No provision of this Declaration or any amendment thereto, shall give an Owner or any other party, priority over any rights of the first mortgagee of a Lot pursuant to its mortgage in the case of a distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of Common Area property.

Section 10.4 Right of First Refusal: The Association DOES NOT have the “right of first refusal” to purchase any Dwelling Unit. Any right of “right of first refusal” subsequently granted to the Association through amendment of the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property must receive the prior written approval of the Federal Housing Administration or Secretary of the Department of Housing and Urban Development. Any “right of first refusal” subsequently added to the Declaration, Association Articles, Association By-Laws or any other document governing the development and administration of the Property must not impair the rights of a first mortgagee to:

(a) Foreclose or take title to a Dwelling Unit and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage;

(b) Accept a deed or assignment in lieu of foreclosure in the event of default by a mortgagor;

or

(c) Sell or lease a unit acquired by the mortgagee.

Section 10.5 Unpaid Dues or Charges: Any first mortgagee who obtains title to a Dwelling Unit and the Lot upon which the Dwelling Unit is situated, pursuant to the remedies in the mortgage or through foreclosure, will not be liable for the Dwelling Unit’s unpaid dues or charges accrued before the acquisition of the title to the Dwelling Unit by the mortgagee.

ARTICLE XI

General Provisions

Section 11.1 Right of Enforcement: in the event of a violation or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the Association or any Owner and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein and shall be entitled to recover reasonable attorneys’ fees and the costs and expenses incurred as a result thereof.
Section 11.2 Severability and Waiver. The Declaration shall be enforceable to the fullest extent permitted by law or in equity. 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. No delay or failure by any person to enforce any of the restrictions or to invoke any available remedy with respect to a violation or violations thereof shall render any person to be deemed or held to be a waiver by that person of the right to do so thereafter or as extrope of that person to assert any right available to him upon the occurrence, recurrence or continuation of any violation or violations of the restrictions.

Section 11.3 Assignment. Declarant may at any time assign some or all of its rights and obligations under this Declaration. Such assignment shall be effective after it is executed and recorded by Declarant with the Recorder of the County in which the Property is located. After such assignment is recorded with the Recorder of the County in which the Property is located, Declarant shall have no further obligations or liabilities under the Declaration with respect to the rights or obligations assigned.

Section 11.4 Amendment. This Declaration and the covenants, conditions and restrictions set forth in this Declaration, as from time to time amended in the manner hereafter set forth, shall run with the land and shall be binding upon the persons owning any portion of the Property and all parties dealing under them. This Declaration may be amended or modified at any time by an instrument recorded in the office of the Recorder of the County in which the Property is located, approved and signed by at least seventy-five percent (75%) of the then Owners. Provided, however, that none of the easements, rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. Except as prohibited in the Section immediately below, the Declarant reserves the right and power to amend this Declaration without the approval of the Owners: (i) to correct or clarify the legal description of the Property; (ii) to correct clerical or typographical errors; (iii) to make nominal changes in the Declaration; (iv) to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution (including the U.S. Department of Housing and Urban Development, the U.S. Veterans Administration, Federal Housing Mortgage Corporation or similar agency); or (v) to the extent necessary to enable the Declarant to meet any other reasonable need or requirement, including those associated with the completion of the development of the Property and to facilitate the making or marketing of first mortgages upon any lot. Notwithstanding anything herein to the contrary, the Declarant may unilaterally record any Supplementary Declaration. Any amendment must be recorded.

Neither the Association, the Owners or Declarant shall effect any of the following changes without the prior written approval of two-thirds (2/3) of the Owners of Lots (excluding Declarant or Builder):

(a) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area owned directly or indirectly by the Association for the benefit of the Owners of the Dwelling Units. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Area owned by the Association by the Dwelling Unit Owners is not a transfer in the meaning of this clause;

(b) Fail to maintain fire and extended coverage on insurable Common Area owned by the Association on a current replacement cost basis in an amount at least one hundred percent (100%) of the insurable value (based on current replacement costs);

(c) Use hazard insurance proceeds for losses to any Common Area owned by the Association for other than the repair, replacement or reconstruction of the Common Area owned by the Association.
Section 11.5 Condemnation, Destruction or Liquidation. The Association shall be designated to represent the Owners in any proceedings, negotiations, settlements or agreements for the handling of any losses or proceeds from condemnation, destruction or liquidation of all or a part of the Common Area owned by the Association or from the termination of the development. Each Dwelling Unit Owner, by his acceptance of a deed, appoints the Association as his attorney-in-fact for this purpose. Proceeds from the settlement will be payable to the Association for the benefit of the Dwelling Unit Owners and their mortgage holders. Any distribution of funds in connection with the termination of this development shall be made on a reasonable and an equitable basis.

IN WITNESS WHEREOF, CROSSMAN COMMUNITIES PARTNERSHIP, an Indiana general partnership, has caused this Declaration to be executed as of the date first written above.

TRINITY HOMES, LLC

By: Beazer Homes Investments, LLC, its Managing Member

By: Beazer Homes Corp., its Managing Member

By: [Signature]

Mike Mansfield, Division President

STATE OF INDIANA

SS:

COUNTY OF MARION

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Mike Mansfield, Division President of Beazer Homes Corp., the Managing Member of Beazer Homes Investments, LLC, the Managing Member of Trinity Homes, LLC, an Indiana limited liability company, and having been duly sworn, acknowledged execution of this Amended and Restated Declaration of Covenants, Conditions and Restrictions of South Avalon Estates.

Witness my hand and Notarial Seal this 10th day of January, 2006.

My Commission Expires: 2-01-08

Notary Public Residing in Hendricks County, Indiana

(Printed Signature)

This instrument prepared by Donald E. Williams, Attorney-at-Law,
Barnes & Thornburg LLP, 11 South Meridian Street, Indianapolis, Indiana 46204.
SCHEDULE I TO AMENDED AND RESTATE
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF SOUTH AVALON ESTATES

USE RESTRICTIONS AND ARCHITECTURAL GUIDELINES

Lot Use and Conveyance. All Lots shall be used exclusively for single family detached residential purposes, except that the Declarant, during the Development Period, reserves (a) the rights provided in this Declaration respecting the Property generally and (b) the right to subdivide, dedicate or otherwise convey or designate all or any portion of any one or more Lots which it may own from time to time for recreational or other common use and benefit of all Owners and other members of the Association. Any Lot or portion thereof so designated for common use shall become part of the Common Area owned by the Association and reasonable rules and regulations shall be promulgated and enforced with respect thereto so that the use and enjoyment of adjacent Lots by the Owners thereof shall not be unreasonably disturbed. Except as provided in the Declaration, no Lot shall be subdivided to form units of less area. Each Lot shall be conveyed as a separately designated and legally described feesimple estate subject to the covenants, conditions and restrictions contained herein.

Architectural Control. No building, outbuilding, mailbox, fence, satellite dish, wall or other structure, except original construction of Dwelling Units by or on behalf of the Declarant shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein, other than by the Declarant, be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant until the end of the Development Period and thereafter by the Board of Directors of the Association. After the Development Period, the Board of Directors may appoint three (3) or more representatives to an Architectural Control Committee. Any change in the appearance or the color of any part of the exterior of a residence shall be deemed a change thereto and shall require the approval therefore as above provided. In the event that written approval is not received as required hereunder within thirty (30) days after complete plans and specifications have been submitted, then the request for approval shall be deemed denied.

Every Owner, by the purchase of a Lot, shall be conclusively presumed to have consented to the exercise of discretion by the Declarant, the Board of Directors and/or the Architectural Control Committee. In any judicial proceeding challenging a determination by the Declarant, Board of Directors and/or Architectural Control Committee and in any action initiated to enforce this Declaration in which an abuse of discretion by the Declarant Board of Directors and/or Architectural Control Committee is raised as defense, abuse of discretion may be established only if a reasonable person, weighing the evidence and drawing all inferences in favor of the Declarant, Board of Directors and/or Architectural Control Committee, could only conclude that such determination constituted an abuse of discretion.

The Declarant, during the Development Period and thereafter the Board of Directors and/or the Architectural Control Committee, may in its discretion inspect work being performed without the Owner’s permission to assure compliance with these restrictions and applicable regulations. All improvements must be constructed as approved and, therefore, must be constructed per the approved plans and in the approved location. If construction of an improvement is not completed within thirty (30) days after approval, then the Declarant, during the Development Period and thereafter the Board of Directors or the Architectural Control Committee may, in its discretion, withdraw and revoke the approval.
Under no circumstances shall the Declarant, the Board of Directors and/or the Architectural Control Committee be liable in any way for costs, fees, damages, delays or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it. Under no circumstances shall the Declarant, the Board of Directors and/or the Architectural Control Committee be responsible in any way for any defects in any other materials or plans submitted to it or for any defects in the work done according thereto. Further, the Declarant, the Board of Directors and/or the Architectural Control Committee makes no warranty or representation as to the suitability or usability of the design, the engineering, the method of construction involved, other materials to be used and/or the compliance of any intended improvements with applicable laws, statutes, zoning ordinances and/or municipal regulations. As paries should seek professional advice, engineering and inspections on each lot prior to proposing construction.

Antennas and Receivers. No antenna, satellite dish or other device for the transmission of radio, television or satellite signals or any other form of electromagnetic radiation shall be erected, used or maintained outdoors and above ground, whether attached to a building or otherwise, on any residential Lot without the written approval of the Board of Directors or the Architectural Control Committee, which approval shall not be unreasonably withheld; provided, however, that any such device may be installed and maintained on any Lot without the necessity of such written approval if: (a) it is not visible from neighboring Lots or streets; or (b) the Owner, prior to installation, has received the written consent of the Owners of all Lots who would have views of the device from their Lots; or (c) the device is virtually indistinguishable from structures, devices or improvements, such as heat pumps, air conditioning units, barbecue grills, patio furniture and garden equipment, which are not prohibited by these covenants or by-laws or (d) it is a satellite dish two (2) feet or less in diameter and not affixed to the roof of the residence.

Leasing. Any Lot may be leased by its Owner.

Animals. No animals shall be kept or maintained on any Lot except domestic, household pets traditionally kept in individual residences throughout the state of Indiana. All such pets shall be kept reasonably confined so as not to become a nuisance. Excessive barking of dogs or vicious animals shall constitute a nuisance and may be ordered by the Association to be removed from the property.

Outside Storage. All clotheslines, equipment, garbage cans, service yards, woodpiles or storage piles shall be kept from view of neighboring homes and streets. All rubbish, trash or garbage shall be regularly removed from the premises and shall not be allowed to accumulate thereon. Trash must be stored in enclosed containers.

Setback Lines. Front Building lines are hereby established as shown on the Plat. Between such Front Building lines and the right-of-way lines there shall be erected, placed or altered no structure or part thereof, except fences in keeping with architectural style as specifically approved by the Declarant until the end of the Development Period and thereafter by the Board of Directors and/or Architectural Control Committee, provided, however, except that in no case will such fences be permitted on the public right-of-way. The building lines which are from public right-of-way lines are parallel to and measured perpendicularly from these public right-of-way lines.

Side Setbacks. The minimum side yard and minimum rear yard requirements shall be those established by the applicable zoning and subdivision control ordinances.

Temporary Structures and Outbuildings. No structure of a temporary character, tent, shack, basement, garage, barn or other outbuilding shall be erected, placed or altered upon any Lot for use as a residence either temporarily or permanently or at any time be used for such purpose. Outbuildings and
mini barns are prohibited and shall not be constructed or installed upon the Property or any Common
Area or Lot located therein.

**Motor Vehicle Repair.** The repair of inoperative motor vehicles or material alteration of motor
vehicles shall not be permitted on any Lot unless entirely within a garage permitted to be constructed per
the terms of the Declaration.

**Nuisances.** No noxious or offensive activities shall be carried on or be permitted to exist on any
Lot; nor shall anything be done thereon which may be or become an annoyance or nuisance. Any
structure or building permitted to be constructed on any Lot by this Declaration which may be all or in
part destroyed by fire, wind, storm or any other reason, shall be rebuilt and restored to its previous
condition within a reasonable length of time and all debris accumulated in connection therewith shall be
removed within a reasonable time after any such occurrence.

**Permitted Uses.** No use shall be made of any Lot except as permitted by the applicable zoning
and subdivision control ordinances under which this Property is developed.

**Drains.** No house footing drain or roof water drain shall be discharged into the sanitary sewers.

**Residential Use.** Lots may be used only for residential purposes and only for one single-family
dwelling, a private garage and other such outbuildings as are usual and incidental to the use of a
residential lot. All lots in this subdivision shall be designated as residential Lots and no home shall exceed
two and one half (21/2) stories or thirty-five (35) feet in height.

**Size.** Subject to any further restrictions imposed by any recorded commitment, every single-
family dwelling erected, placed, altered or maintained on any Lot within shall have a minimum living
area, exclusive of open porches, unfinished basements and attched garages, of not less than what is
required by the applicable zoning and subdivision control ordinances.

**Unsuitable Growth.** In order to maintain the standards of the Property, no weeds, underbrush
or other unsightly growths shall be permitted to grow or remain upon any Property and no refuse pile or
unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. Failure to comply
shall warrant the Declarant or the Association to cut weeds or clear the refuse from the Property at the
expense of the Owner and there shall be a lien against said Property for the expense thereof, which lien
shall be due and payable immediately. If such lien is not promptly paid, the Association or the Declarant
may file suit and recover such amount together with reasonable attorneys' fees and cost of collection.

**Site Visibility.** No fence, wall, hedge or shrub planting which obstructs sight lines at elevations
between two (2) feet and nine (9) feet above the street shall be placed or permitted to remain on any
corner Lot within the triangular area formed by the street property lines and a line connecting points
twenty-five (25) feet from the intersection of said street lines or in the case of a rounded property corner
from the intersection of the street lines extended. The same sightline limitations shall apply to any Lot
within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley
line. No tree shall be permitted to remain within such distances of such intersections unless the foliage
line is maintained at sufficient height to prevent obstruction of such sight lines. No fences shall be
permitted to be constructed between the front set back line and the street curb.

**Semi-tractor Trucks, Trailers, etc.** No semi-tractor trucks, semi-trucks, semi-trailer trucks, boats,
campers, mobile homes, disabled vehicles and/or trailers shall be permitted to park on the Property or a
Lot unless fully enclosed in a garage or unless the same is necessary and incident to the Declarant's,
builder's or Association's business on the Property.
Sign Limitations. No sign of any kind, other than those installed by Declarant, the Association or a Builder, may be displayed to public view on any Lot, except that one sign with an area of not more than six (6) feet may be displayed with the purpose of advertising the Lot for sale.

Lakes: Lake Area(s). Except as otherwise provided, no individual using a Lake, if any, has the right to cross another Lot or trespass upon shoreline not within a Common Area owned by the Association, subject to the rights of the Declarant, the Association, their employees, heirs, successors and assigns as set forth in the Declaration. No one shall do or permit any action or activity which could result in pollution of any Lake, diversion of water, elevation of any lake level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage or proper Lake management except as provided in the Declaration. A Lake may not be used for swimming, ice skating, boating or any other purpose, except for drainage of the Property, unless expressly and specifically approved by the Board of Directors in writing and allowed by law. Lakes and Lake Areas may or may not exist on the Property and the reference throughout this Declaration to Lakes and Lake Areas is made in order to address Lakes and Lake Areas, if any, which now exist or are later constructed upon the Property. The installation on the Property of any Lake or Lake Area shall be within the sole discretion of the Declarant and under no circumstances shall the Declarant be required or obligated to install any Lake or Lake Area. Only the Declarant and the Association shall have the right to store items or develop recreational facilities upon any Common Area owned by the Association adjacent to a Lake.

Rules and Regulations. The Board of Directors from time to time may promulgate further rules and regulations concerning the use of Lots and the Common Area owned by the Association. A majority of those Owners voting at a meeting held for the purpose may rescind or modify any rule or regulation adopted by the Board of Directors. Copies of all rules and regulations shall be furnished by the Board to all Owners, at the Owner’s last known address, prior to the time when the same shall become effective. The Association shall have current copies of the Declaration, Articles and By-Laws and other rules concerning the Property as well as its own books, records and financial statements available for inspection by Dwelling Unit Owners or by holders, insurers and guarantors of first mortgages, that are secured by Dwelling Units in the Property. These documents shall be available during normal business hours or under other reasonable circumstances.

Development and Sale Period. Nothing contained in this Declaration shall be construed or interpreted to restrict the activities of Declarant or a Builder in connection with the development of the Property and sale of Lots. During the Development Period, Declarant or a Builder shall be entitled to engage in such activities and to construct, install, erect and maintain such facilities, upon any portion of the Property at any time owned or leased by Declarant or a Builder, as in the sole opinion of Declarant or a Builder may be reasonably required or convenient or incidental to, the development of the Property and sale of the Lots; such facilities may include, without limitation, storage areas, signs, parking areas, model residences, construction offices, sales offices and business offices.

Outside Use of Lots. Except in an individual patio area appurtenant to a Dwelling Unit, no planting or gardening shall be done and no fences, hedges, walls or other improvements shall be erected or maintained upon the Property except such as installed in accordance with the initial construction of the buildings located thereon or as approved by the Declarant, during the Development Period and thereafter by the Board of Directors and/or the Architectural Control Committee. Above ground swimming pools are prohibited on the Property.

Mailboxes. All mailboxes installed upon Lots shall be uniform and shall be of a type, color and manufacture approved by the Declarant during the Development Period and, thereafter, by the Board of Directors and/or the Architectural Control Committee.
Notice of Zoning Commitments. Notice is hereby given that certain written commitments were made in connection with the zoning of the Property to the Town of Fishers, Indiana, Town Council and the Town of Fishers, Indiana, Plan Commission.

Home Occupations. No Lot or Dwelling Unit located thereon shall be used for any purpose other than as a single family residence, except a home occupation which is both permitted under the applicable zoning ordinance and which also complies with the following guidelines:

(a) Any home occupation must be conducted entirely within the residence and conducted solely by a member of the immediate family residing in said Dwelling Unit;

(b) Any home occupation must be clearly incidental and secondary to the use of the Dwelling Unit for residential purposes;

(c) There can be no sign or display that will indicate from the exterior of the Dwelling Unit that the Dwelling Unit is being used, in whole or in part, for any purpose other than that of a residential dwelling;

(d) No commodity can be sold from the Lot or Dwelling Unit located thereon.

(e) No person can be employed other than a member of the immediate family residing in the Dwelling Unit;

(f) No manufacturer or assembly operations can be conducted; and

(g) Customers cannot enter upon the Lot or Dwelling Unit for the purpose of conducting business.

In no event shall the following activities be conducted: child care, barber shop, styling salon, animal hospital, kennel, any form of animal care or treatment such as dog trimming or any similar activities.

Fences. No fencing, landscape screening or walls may be constructed or installed until after architectural approval is obtained from the Declarant, during the Development Period and thereafter the Board of Directors and/or the Architectural Control Committee. It is the goal to keep all fencing or screening harmonious with the architectural character of the community. No fence or screen will be approved which obstructs necessary sight lines for vehicular traffic. Undue obstruction of views from adjoining properties and amenity areas will be taken into consideration when reviewing fences for approval. No front yard fencing is permitted, except on a Lot on which there is maintained a sales office or model home by Declarant or Builder. If approved by the Declarant, during the Development Period and thereafter by the Board of Directors and/or the Architectural Control Committee. Fences may be privately installed but must be constructed to professional levels of quality, design, material, composition and color as determined by the Declarant, during the Development Period and thereafter by the Board of Directors and/or the Architectural Control Committee. All professionally installed fences may be inspected by the Declarant, during the Development Period and thereafter by the Board of Directors and/or the Architectural Control Committee after completion in order to ensure that the fence is of a professional quality and final approval of such fence shall be deemed withheld until completion of this final review. All fences shall be kept in good repair by the Owner. In general, fences shall be located on the property line, one foot within the property line or three feet within the property line; provided, however, that no fence shall be located any closer to the front of a residence than the rear foundation line of the dwelling unit, nor counting patios, terraces, entry ways or steps.
Fences are to be vinyl coated chain link, wrought iron or cedar. Further, all cedar fences are to be dog-eared, flattop or shadow box style with 1" x 6" vertical boards and are to remain unpainted. No fence shall be constructed until all materials, design and location are first approved by the Declarant, during the Development Period and thereafter by the Board of Directors and/or the Architectural Control Committee.

The exact location, material, color and height of the fence and rendering or photograph thereof shall be submitted to the Declarant, during the Development Period and thereafter by the Board of Directors and/or the Architectural Control Committee for written approval at least thirty (30) days prior to proposed construction. If, however, approval has not been received by applicant in writing within thirty (30) days after submission, then said request shall be considered DENIED.

Animal Kennels. Animal kennels or quarters which are not connected to a Dwelling Unit are prohibited. Animal quarters or kennels which are to be connected to the Dwelling Unit cannot be constructed until after they are approved by the Declarant, during the Development Period and thereafter by the Board of Directors and/or the Architectural Control Committee.

Playground/Recreational Equipment. No playground or recreational equipment shall be placed or constructed upon a Lot until after it is approved by the Declarant, during the Development Period and thereafter by the Board of Directors and/or the Architectural Control Committee. All such playground or recreational equipment shall be constructed of wood and not metal.

Corner Lots. Corner lots shall be deemed to have two (2) front yards; therefore, the front yard landscaping and fencing requirements apply to both street frontages on corner lots.

Chain Link Fences. All chain link fences shall be vinyl-coated and limited to forty-two (42") inches in height and are prohibited in front yards, with corner lots deemed to have two front yards. Stockade fences are prohibited. All fences shall be subject to review and approval by the Architectural Control Committee of the Homeowners' Association.

Street Landscaping. A standard landscaping package shall be included with each home sold. This landscape package shall provide for trees and shrubs around the building. In addition to the street tree requirement:

(a) Lots greater than 65 feet in width at the setback line shall be planted with at least two (2) trees either deciduous and/or evergreen and a minimum of eight (8) shrubs. The deciduous tree should be of at least two-inch caliper as measured twelve inches from the ground and the evergreen at least six feet in height

(b) Lots with street frontage less than sixty-five (65) feet shall require one (1) deciduous or evergreen lawn tree of the same dimensions as stated above and a minimum of four (4) shrubs shall be planted at the foundation of the structure.

District A. All homes in District A, as shown on the concept plan attached hereto as Exhibit B, shall have garages that are courtyard, side- or rear-loaded.

Garages. All homes shall have a minimum two-car attached garage. For lots less than 65 feet wide with a garage equal to or exceeding fifty (50) percent of the width of the residence, the garage shall be side-loading or recessed a minimum of four feet behind the front facade. If the garage is less than 50 percent of the width of the residence, the garage may be front-loading, but shall not protrude more than fourteen (14) feet from the first floor facade. Side-loading garages protruding more than eight (8) feet shall also contain a window on the side facing the entry. If the front-loaded garage protrudes more than
twelve (12) feet, it shall contain two windows on the side facing the entry. Garages that protrude more than fourteen (14) feet shall have a side-loaded or court entry and shall have two (2) windows located on the front elevation of the garage.

**Third Car Garage.** A third car garage may be added to residences with front-load garages if the front elevation is over 50 feet in width and if a minimum of 23 feet of residential façade is indicated in the front elevation. The third car garage entrance must be recessed 4 feet from the 2-car garage entrance. Any three-car driveway must appear to a maximum of 16 feet wide at the property line. On lots more than 65 feet in width, residences with a front-loading garage that protrudes in front of the first floor façade shall be equal to or greater than 40 feet wide.

**Lights.** All homes shall have a light beside the front door and two "dusk-to-dawn" type lights on the garage.

**Like Model Elevations.** Like model elevations shall be separated by at least one (1) lot and no like model elevations shall be directly across the street from one another. No two (2) adjacent residences shall have the same exterior siding color.

**Colors.** The colors utilized for the non-brick or non-stone areas should feature a base color with natural tones, subtle hues and may be accented with brighter, more intense complementary or contrasting tones.

**126th Street.** Those new homes adjacent to 126th Street that are not accessed by a frontage road and/or positioned with a front facing 126th Street shall contain "Hardi-Plank" siding as the predominate building material or masonry on the first floor. At least one window shall be provided on each side with shutters on all windows on all sides.

**Homeowners Association.** There shall be a mandatory Homeowners Association established with the following requirements included: an initiation fee, a budget requirement to fund general reserves, establishment of an architectural control committee to oversee improvements after the initial home construction and a provision for professional management upon turnover.

**Mini-barns.** Mini-barns are prohibited.

**Satellite Dishes.** Satellite dishes shall not exceed 30 inches in diameter and shall meet FCC standards.

**Minimum Standard.** All new homes shall be a minimum standard of Trinity Classic product or equivalent.

**Architectural Design.** Homes with a 50% brick front (windows, doors, garage doors, accompanying frames and any other opening are excluded from calculations of the total area) or a covered front porch with railings (of at least eight feet in width and four feet in depth or a minimum of 32 square feet) shall have at least two (2) of the following significant architectural design features. Homes with less than a 50% brick front and without a front porch of the preceding dimensions shall have a combination of four (4) or more of the following features:

(a) Reverse gable peak

(b) Covered front porch with railings on front and side (of at least eight feet in width and four feet in depth or a minimum of 32 square feet)
(c) 32 inch brick or stone plinth with water table on all sides
(d) Architectural treatment on gable ends
(e) A separate overhead door per car for each garage
(f) Covered front stoop/steps with pathway leading from sidewalk or driveway
(g) Bay-window on front elevation
(h) Architecturally treated entranceways (for homes without a front porch)
(i) Garage doors maintaining windows of high standard and quality
(j) Overhang or soffit of at least 15 inches from exterior wall
(k) Transom windows
(l) Veranda/balcony
(m) Two or more roof planes
(n) Brick accent area of at least 25 percent of the front elevation
(o) Dormers (at least two)
(p) At least 2 feet of relief at two or more points along the front facade elevation, excluding relief for doors and windows and garage
(q) Decorative shutters
(r) Architecturally-enhanced articulated trim mouldings, i.e. fipons above windows
EXHIBIT A
PROPERTY

PARCEL 1

TRACT B-1

A part of the West Half of the Northeast Quarter of Section 35, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence North 89 degrees 15 minutes 23 seconds East along the North line of said Half Section 208.93 feet to the Point of Beginning of this description; thence continuing North 89 degrees 15 minutes 23 seconds East along said North line 208.93 feet; thence South 00 degrees 17 minutes 08 seconds East parallel with the East line of said Half Quarter Section 223.00 feet; thence North 89 degrees 15 minutes 23 seconds East parallel with the North line of said Half Quarter Section 223.00 feet to the East line of said Half Quarter Section; thence South 00 degrees 17 minutes 08 seconds East along said East line 721.59 feet; thence South 89 degrees 07 minutes 01 seconds West 228.94 feet; thence South 89 degrees 49 minutes 31 seconds West 225.09 feet; thence North 00 degrees 10 minutes 29 seconds West 425.71 feet; thence North 89 degrees 15 minutes 23 seconds West 225.10 feet; thence North 89 degrees 27 minutes 00 seconds West 473.73 feet; thence North 00 degrees 10 minutes 29 seconds East 408.59 feet; thence North 89 degrees 15 minutes 23 seconds West parallel with the North line of said Half Quarter Section 723.86 feet; thence North 89 degrees 27 minutes 00 seconds West 447.17 feet to the Point of Beginning of this description; containing 20.000 acres, more or less.
PARCEL 2

A part of the West Half of the Northeast Quarter of Section 36, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence South 09 degrees 10 minutes 29 seconds East along the West line of said Half Quarter Section 363.13 feet to the POINT OF BEGINNING of this description; thence North 89 degrees 15 minutes 25 seconds East parallel with the North line of said Half Quarter Section 480.05 feet; thence South 10 degrees 10 minutes 20 seconds West 369.55 feet; thence South 36 degrees 27 minutes 00 seconds East 473.73 feet; thence South 33 degrees 33 minutes 00 seconds West 233.10 feet; thence South 32 degrees 01 minutes 02 seconds West 41.54 feet; thence South 00 degrees 10 minutes 29 seconds East 260.18 feet; thence South 89 degrees 15 minutes 25 seconds West 593.49 feet to the West line of said Half Quarter Section; thence North 00 degrees 10 minutes 29 seconds West along said West line 1,119.81 feet to the place of beginning, containing 18.000 acres, more or less.
PARCEL 3

A part of the Northeast Quarter of Section 36, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of said Northeast Quarter; thence North 00 degrees 10 minutes 39 seconds West along the West line of said Northeast Quarter 672.00 feet to the POINT OF BEGINNING of this description; thence continuing North 00 degrees 10 minutes 39 seconds West 517.36 feet; thence North 89 degrees 15 minutes 23 seconds East 712.49 feet; thence South 00 degrees 10 minutes 39 seconds East parallel to the West line of said Northeast Quarter 125.67 feet; thence North 89 degrees 49 minutes 31 seconds East 305.00 feet; thence North 00 degrees 10 minutes 39 seconds West parallel to the said West line 592.44 feet; thence North 89 degrees 07 minutes 31 seconds East 394.60 feet to the East line of the West Half of said Northeast Quarter Section; thence South 00 degrees 17 minutes 36 seconds East along said East line 797.45 feet; thence South 89 degrees 49 minutes 39 seconds West 36.41 feet; thence North 00 degrees 18 minutes 31 seconds West 130.00 feet; thence South 89 degrees 41 minutes 29 seconds West 213.00 feet; thence North 00 degrees 18 minutes 31 seconds West 3.53 feet; thence South 89 degrees 41 minutes 29 seconds West 170.00 feet; thence South 00 degrees 18 minutes 31 seconds East 92.65 feet; thence South 89 degrees 41 minutes 29 seconds West 182.56 feet; thence North 89 degrees 41 minutes 06 seconds West 3.40 feet; thence South 52 degrees 13 minutes 54 seconds West 170.00 feet; thence South 13 degrees 31 minutes 18 seconds East 520.41 feet; thence South 00 degrees 18 minutes 31 seconds East 68.79 feet; thence South 89 degrees 07 minutes 34 seconds West 977.78 feet to the place of beginning, containing 33.953 acres, more or less. Subject to all legal highways, rights-of-ways, assessments, and restrictions of record.
PARCEL 4

A part of the West Half of the Northeast Quarter of Section 36, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence North 89 degrees 15 minutes 25 seconds East along the North line of said Half Quarter Section 898.06 feet to the POINT OF BEGINNING of this description; thence continuing North 89 degrees 15 minutes 25 seconds East along said North line 425.00 feet to the Northwest corner of said Half Quarter Section; thence South 80 degrees 17 minutes 25 seconds East along the East line of said Half Quarter Section 335.00 feet; thence South 89 degrees 15 minutes 25 seconds West parallel with the North line of said Half Quarter Section 425.00 feet; thence North 00 degrees 17 minutes 25 seconds West parallel with the East line of said Half Quarter Section 335.00 feet to the place of beginning, containing 3.170 acres, more or less.
PARCEL 5

A part of the Northeast Quarter of Section 36, Township 18 North, Range 5 East, Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of said Quarter Section; thence North 03 degree 10 minutes 29 seconds West along the West line of said Quarter Section 630.84 feet to the POINT OF BEGINNING of this description; thence North 89 degrees 03 minutes 03 seconds East parallel with the South line of said Quarter Section 405.90 feet; thence South 00 degrees 10 minutes 29 seconds East parallel with the West line of said Quarter Section 353.35 feet; thence North 89 degrees 03 minutes 03 seconds East parallel with the aforesaid South line 434.23 feet; thence South 00 degrees 10 minutes 29 seconds East parallel with the aforesaid West line 277.89 feet to the South line of said Quarter Section; thence North 89 degrees 03 minutes 03 seconds East along said South line 488.20 feet to the Southeast corner of the West half of said Northeast Quarter Section; thence North 00 degree 17 minutes 25 seconds West along the East line of said Half Quarter Section 832.40 feet; thence South 89 degrees 41 minutes 29 seconds West 36.41 feet; thence North 00 degrees 18 minutes 31 seconds West 128.00 feet; thence South 89 degrees 41 minutes 29 seconds West 213.00 feet; thence North 00 degrees 18 minutes 11 seconds West 3.53 feet; thence South 89 degrees 41 minutes 29 seconds West 170.00 feet; thence South 00 degrees 18 minutes 31 seconds East 92.09 feet; thence South 89 degrees 41 minutes 29 seconds West 162.30 feet; thence North 17 degrees 41 minutes 05 seconds West 9.40 feet; thence South 52 degrees 18 minutes 11 seconds West 170.00 feet; thence South 13 degrees 31 minutes 12 seconds East 58.61 feet; thence South 00 degrees 18 minutes 31 seconds East 68.79 feet; thence South 89 degrees 07 minutes 34 seconds West 617.75 feet to the West line of said Quarter Section; thence South 00 degrees 10 minutes 29 seconds East along said West line 60.15 feet to the place of beginning, containing 16.000 acres, more or less, subject to all legal highways, rights-of-ways, assessments, and restrictions of record.
Parcel Nos.
13-11-36-00-00-004.001
13-11-36-00-00-004.000
13-11-36-00-12-001.000
13-11-36-00-12-012.000
13-11-36-00-12-002.000
13-11-36-00-12-003.000
13-11-36-00-12-004.000
13-11-36-00-12-013.000
13-11-36-00-12-014.000
13-11-36-00-12-015.000
13-11-36-00-12-016.000
13-11-36-00-12-017.000
13-11-36-00-12-018.000
13-11-36-00-12-019.000
EXHIBIT A

TRACT B-1

A part of the West Half of the Northeast Quarter of Section 35, Township 10 North, Range 8 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence North 86 degrees 15 minutes 25 seconds East along the North line of said Half Section 390.94 feet to the Point of Beginning of this description; thence continuing North 66 degrees 15 minutes 25 seconds East along said North line 936.10 feet; thence South 00 degrees 17 minutes 28 seconds East parallel to the East line of said Half Quarter Section 125.82 feet; thence North 86 degrees 15 minutes 25 seconds East parallel with the North line of said Half Quarter Section 425.02 feet to the East line of said Half Quarter Section; thence South 00 degrees 17 minutes 28 seconds East along said East line 723.95 feet; thence South 00 degrees 17 minutes 01 seconds West 890.86 feet; thence South 00 degrees 10 minutes 59 seconds East 392.84 feet; thence South 00 degrees 43 minutes 49 seconds West 617.71 feet; thence South 00 degrees 03 minutes 41 seconds West 396.00 feet; thence North 00 degrees 10 minutes 59 seconds West 436.71 feet; thence North 00 degrees 03 minutes 41 seconds East 396.00 feet; thence North 00 degrees 03 minutes 21 seconds East parallel with the North line of said Half Quarter Section 425.02 feet; thence North 00 degrees 17 minutes 01 seconds West 890.86 feet; thence North 00 degrees 17 minutes 28 seconds East parallel with the North line of said Half Quarter Section 125.82 feet; thence North 86 degrees 15 minutes 25 seconds East along the North line 936.10 feet to the Point of Beginning of this description; containing 20.00 acres, more or less.

The foregoing was acquired by deed dated July 9, 2003, and recorded July 11, 2003, as Instrument No. 2003-00057K49 in the Office of the Recorder of Hamilton County, Indiana.
A part of the West Half of the Northeast Quarter of Section 36, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence South 00 degrees 10 minutes 29 seconds East along the West line of said Half Quarter Section 365.13 feet to the POINT OF BEGINNING of this description; thence North 89 degrees 15 minutes 25 seconds East parallel with the North line of said Half Quarter Section 380.85 feet; thence South 89 degrees 10 minutes 20 seconds West 365.55 feet; thence South 36 degrees 27 minutes 00 seconds East 473.73 feet; thence South 53 degrees 33 minutes 00 seconds West 233.10 feet; thence South 32 degrees 01 minutes 02 seconds West 41.54 feet; thence South 60 degrees 10 minutes 29 seconds East 260.18 feet; thence South 89 degrees 15 minutes 25 seconds West 535.49 feet to the West line of said Half Quarter Section; thence North 00 degrees 10 minutes 29 seconds West along said West line 1,119.81 feet to the place of beginning, containing 16.00 acres, more or less.

The foregoing was acquired by deed dated July 9, 2003, and recorded July 23, 2003, as Instrument No. 2003-00071176 in the Office of the Recorder of Hamilton County, Indiana.
A part of the Northeast Quarter of Section 96, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of said Northeast Quarter; thence North 00 degrees 10 minutes 29 seconds West along the West line of said Northeast Quarter 671.01 feet to the POINT OF BEGINNING of this description; thence continuing North 00 degrees 10 minutes 29 seconds West 537.36 feet; thence North 89 degrees 15 minutes 55 seconds East 926.49 feet; thence South 00 degrees 10 minutes 29 seconds East parallel to the West line of said Northeast quarter 165.53 feet; thence North 89 degrees 20 minutes 31 seconds East 305.60 feet; thence North 00 degrees 10 minutes 29 seconds West parallel to the said West line 192.64 feet; thence North 89 degrees 20 minutes 31 seconds East 223.60 feet to the East line of the West Half of said Northeast Quarter Section; thence South 00 degrees 17 minutes 14 seconds East along said East line 267.45 feet; thence South 89 degrees 41 minutes 29 seconds West 38.91 feet; thence North 00 degrees 18 minutes 31 seconds West 100.00 feet; thence South 89 degrees 41 minutes 29 seconds West 89 seconds West 213.00 feet; thence South 00 degrees 18 minutes 31 seconds West 323.53 feet; thence South 89 degrees 41 minutes 29 seconds West 170.00 feet; thence South 00 degrees 18 minutes 31 seconds East 92.09 feet; thence South 89 degrees 41 minutes 29 seconds West 162.39 feet; thence North 00 degrees 18 minutes 31 seconds West 92.30 feet; thence South 89 degrees 41 minutes 29 seconds West 170.00 feet; thence South 00 degrees 18 minutes 31 seconds East 52.51 feet; thence South 00 degrees 18 minutes 31 seconds East 63.79 feet; thence South 89 degrees 20 minutes 31 seconds East 627.75 feet to the place of beginning containing 12.05 acres, more or less. Subject to all legal highways, rights-of-ways, easements, and restrictions of record.

The foregoing was acquired by deed dated April 7, 2004, and recorded May 19, 2004, as Instrument No. 2004-00034134 in the Office of the Recorder of Hamilton County, Indiana.
A part of the West Half of the Northeast Quarter of Section 36, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of said Half Quarter Section; thence North 89 degrees 15 minutes 25 seconds East along the North line of said Half Quarter Section 698.95 feet to the POINT OF BEGINNING of this description; thence continuing North 89 degrees 15 minutes 25 seconds East along said North line 425.00 feet to the Northwest corner of said Half Quarter Section; thence South 00 degrees 17 minutes 25 seconds East along the East line of said Half Quarter Section 225.00 feet; thence South 89 degrees 15 minutes 25 seconds West parallel with the North line of said Half Quarter Section 425.00 feet; thence North 00 degrees 17 minutes 25 seconds West parallel with the East line of said Half Quarter Section 225.00 feet to the place of beginning, containing 3.170 acres, more or less.

A part of the Northeast Quarter of Section 36, Township 18 North, Range 5 East, Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Southwest corner of said Quarter Section; thence North 00 degrees 10 minutes 29 seconds West along the West line of said Quarter Section 630.85 feet to the POINT OF BEGINNING of this description; thence North 89 degrees 00 minutes 05 seconds East parallel with the South line of said Quarter Section 405.98 feet; thence South 00 degrees 10 minutes 29 seconds East parallel with the West line of said Quarter Section 383.35 feet; thence North 89 degrees 00 minutes 05 seconds East parallel with the aforesaid South line 434.23 feet; thence South 00 degrees 10 minutes 29 seconds East parallel with the aforesaid West line 277.49 feet to the South line of said Quarter Section; thence North 89 degrees 00 minutes 05 seconds East along said South line 488.29 feet to the Southeast corner of the West Half of said Northeast Quarter Section; thence North 00 degrees 17 minutes 25 seconds West along the East line of said Half Quarter Section 852.48 feet; thence South 89 degrees 41 minutes 29 seconds West 36.41 feet; thence North 89 degrees 00 degrees 18 minutes 31 seconds West 12.00 feet; thence South 89 degrees 00 degrees 41 minutes 29 seconds West 213.50 feet; thence North 00 degrees 18 minutes 31 seconds West 3.55 feet; thence South 89 degrees 00 degrees 41 minutes 29 seconds West 170.00 feet; thence South 00 degrees 18 minutes 31 seconds East 93.09 feet; thence South 89 degrees 41 minutes 29 seconds West 162.39 feet; thence North 00 degrees 18 minutes 31 seconds West 56.00 feet; thence South 89 degrees 13 degrees 31 minutes 12 seconds East 58.61 feet; thence South 00 degrees 18 minutes 31 seconds East 68.76 feet; thence South 89 degrees 00 degrees 67 minutes 54 seconds West 617.75 feet to the West line of said Quarter Section; thence South 00 degrees 10 minutes 29 seconds East along said West line 40.16 feet to the place of beginning, containing 16.000 acres, more or less, subject to all legal highways, rights-of-ways, easements, and restrictions of record.

The foregoing was acquired by deed dated March 31, 2005, and recorded April 18, 2005, as Instrument No. 2005-08022774 in the Office of the Recorder of Hamilton County, Indiana.
DECLARATION

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7.5-5(a).

I, the undersigned preparer of the attached document, in accordance with IC 36-2-7.5, do hereby affirm under the penalties of perjury:

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers; and

2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

I, the undersigned, affirm under the penalties of perjury, that the foregoing declarations are true.

[Signature]

Donald E. Williams

COPY
The page contains a page with text, but the content is not legible or clear enough to transcribe accurately. It appears to be a page from a document, possibly a legal or official type of text, but the text is not legible in the provided image.
No text is visible in the image.