First American Title Insurance Company  
Indianapolis Downtown—Corporate  
251 E. Ohio Street, Suite 200  
Indianapolis, IN 46204  
Telephone (317) 684-7556

Subdivision Covenants and Restrictions

The information is provided as a public service only. The information on this site is general in nature, unofficial and is not a valid reference for any legal purposes. The user agrees to hold harmless, protect, indemnify, and forever release First American Title Insurance Company and its officers, directors, agents, and employees, from and against any and all liabilities, losses, damage, expenses and charges, including but not limited to attorneys’ fees and expenses of litigation, which may be sustained or incurred by the user under, or arising directly or indirectly out of the use of the information contained in this site.
Cross Reference – (1) Declaration of Covenants and Restrictions of Bay Creek at Geist printed on the Plat of Bay Creek at Geist, Section I, which was recorded with the Recorder of Hancock County, Indiana, on the 13th day of December, 2000, as Instrument Number 2000-13233, in Slide 34-36, Cabinet C, (2) the Plat of Bay Creek at Geist, Section I, which was recorded with the Recorder of Hancock County, Indiana, on December 13, 2000, as Instrument Number 2000-13233, Slides 34-36, Cabinet C, and (3) the Plat of Bay Creek at Geist, Section 2, which was recorded with the Recorder of Hancock County, Indiana, on the 13th day of December, 2000, as Instrument Number 2000-13252, Slide 37, Cabinet C.

FIRST
ADDITION TO THE DECLARATION OF COVENANTS CONDITIONS AND RESTRICTIONS OF BAY CREEK AT GEIST

This First Addition (the “Additional Declaration”) to the Declaration of Covenants, Conditions and Restrictions of Bay Creek at Geist is made and entered into this 4th day of November, 2002 by Crossmann Communities Partnership, an Indiana general partnership (hereinafter referred to as the “Developer”);

WITNESSETH:

WHEREAS, the Declaration of Covenants, Conditions, and Restrictions of Bay Creek at Geist (hereafter “Declaration”) is printed on the Plat of Bay Creek at Geist, Section I, which was recorded with the Recorder of Hancock County, Indiana, in Slide 34-36, Cabinet C, as Instrument Number 2000-13233 (the “Section 1 Plat”);

WHEREAS, the Declaration applies also to the Plat of Bay Creek at Geist, Section 2, which was recorded with the Recorder of Hancock County, Indiana, in Slide 37, Cabinet C, as Instrument Number 2000-13252 (the “Section 2 Plat”);

WHEREAS, the Developer is desirous of supplementing the Declaration by adding to the Declaration the provisions hereafter set forth;

WHEREAS, the Developer is the owner of all lots, common areas, and other land located within the Section 1 Plat and the Section 2 Plat (collectively, the “Real Estate”);

WHEREAS, the real estate more completely described by what is attached hereto and incorporated herein by reference as Exhibit “A” shall hereafter be referred to as the “Additional Real Estate”;
WHEREAS, the term “Development” shall 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 Additional Declaration.

NOW, THEREFORE, the Developer declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the restrictions shall run with the land and shall be binding upon the Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such restrictions, and shall inure to the benefit of the Developer and every one of the Developer’s successors in title to any real estate in the Development.

As of the date of execution hereof, the Development consists only of the Real Estate. Developer shall have, and hereby reserves the right, at any time, and from time to time, to add to the Development and subject to this Additional Declaration all or any part of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the Development, and therefore and thereby becomes a part of the Development and subject in all respects to this Additional Declaration and all rights, obligations, and privileges herein, when Developer places of record with the County in which the Development is located, an instrument so declaring the same to be part of the Development, 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 Additional Declaration. Such Supplementary 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. Upon recording of any such instrument, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Development 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 Development. No single exercise of Developer’s right and option to add and expand the Development as to any part or parts of the Additional Real Estate, shall preclude Developer from thereafter from time to time further expanding and adding to the Development to include other portions of the Additional Real Estate, and such right and option of expansion may be exercised by Developer from time to time as to all or any portions of the Additional Real Estate. Such expansion of the Development is entirely at the discretion of the Developer and nothing contained in this Additional Declaration or otherwise shall require Developer to expand the Development beyond the Real Estate, or to any portions of the Additional Real Estate which
Developer may voluntarily and in its sole discretion from time to time subject to this Additional Declaration.

ARTICLE I

Supplemental Provisions Pertaining to Technology Infrastructure

Section 1.1. "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 1.2. "Provider" shall mean and refer to the entity or entities which provides Provider Services.

Section 1.3. "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 1.4. "Technology Infrastructure" shall mean and refer to technological devices, hardware, co-axial or other cable, optic fibers, software, lines, wire, mains, ducts, pipe conduits, poles, antennas, microwaves, satellite dishes and/or other wired connections and wireless connections.

Section 1.5. Developer's General Network Easement. The following rights and easements reserved and retained in this Section 1.5 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 Developer hereby forever reserves, retains, and is granted a blanket, exclusive, perpetual easement over, above, across, under, upon, along, and through the Development 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 Developer, in the Developer'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 Developer, and its successors, designees and assigns, and is an appurtenant easement which runs with the Development and all lots, common areas, and streets therein. Only those Providers
which receive the Developer's explicit written permission shall be permitted within the General Network Easement. The Developer's right under this Section 1.5 shall survive and exist in perpetuity, and this General Network Easement shall be in addition to any easement identified or designated on a plat.

Section 1.6. Designated Network Easement. Any strips of ground identified on a plat as a Network Easement are hereby forever exclusively for the Developer, and the Developer'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 Developer or as expressly permitted by Developer in writing. Only those Providers which receive the Developer's explicit written permission shall be permitted within the Designated Network Easement. The Developer's rights under this Section 1.6 shall survive and exist in perpetuity, and may be conveyed, assigned, or transferred by the Developer, in the Developer's sole discretion, without notice to or consent of the association, owners, or any other person.

Section 1.7. Community Network. Developer, in Developer's sole and subjective discretion, may but shall not be obligated to install or cause to be installed within the Development the Community Network and Technology Infrastructure. Notwithstanding the conveyance by Developer 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 Developer or the entity to which the Developer assigns or conveys such ownership.

Section 1.8. Provider. In the event the Developer installs or causes to be installed in the Development the Community Network and Technology Infrastructure, the Developer 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 Developer 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 Development without the prior written consent of the Developer, or Developer's successors or assigns.
Section 1.9. 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 Development for any Technology Infrastructure
or Provider Services, or which will impair or limit the Developer's General Network Easement
or Designated Network Easement, absent the explicit written consent of the Developer, which
consent may be granted or withheld in Developer's sole discretion.

Section 1.10. Community Advisory Board. In the event the Community Network is
installed, the Community Advisory Board ("Advisory Board") will be established by the
Developer. The initial Advisory Board will consist of three (3) persons who shall be appointed
and replaced by the Developer until such time as the Developer, in writing, turns over to the
Association the control of the Advisory Board, at which time 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 Developer regarding the Community
Network, Provider Services and Technology Infrastructure.

Section 1.11. Developer's Rights. The Developer's rights under this Article I shall
survive and exist in perpetuity.

ARTICLE II

Provisions Pertaining to Common Areas and HUD Requirements

Section 2.1. Owners' Easements of Enjoyment of Common Area. Every lot owner
(hereinafter "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 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 sixty (60) 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 Developer as provided in this Additional 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 Additional 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 or 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 Developer to erect any signs (i) advertising the sale of any part of the Development or any lot and/or (ii) identifying the Development;

(j) The right of the Developer 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 2.2. 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 Additional 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 2.3. 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 Additional Declaration, as to whether or not such assessments have been paid.

Section 2.4. 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 Additional Declaration, Association articles, Association by-laws or any other document governing the development and administration of the Development 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 Development 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 2.5. Amendment. The Declaration and this Additional Declaration and the covenants, conditions and restrictions set forth in them, 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 Development and all parties closing under them. The Declaration and this Additional 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 Development is located, approved and signed by at least seventy-five percent (75%) of the then Owners, including Developer; provided, however, that none of the easements, rights, or duties of Developer reserved or set out hereunder may be amended or changed without Developer’s prior written approval. Any amendment must be recorded. Neither the Association, the owners or Developer shall effect any of the following changes without the prior written approval of two-thirds (2/3) of the owners of lots (excluding Developer or Builder):

(a) By act or omission seek to abandon, partition, subdivide, encumber, dedicate, 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.

The foregoing notwithstanding, Developer reserves the right and power, and each Owner by acceptance of a deed to a lot is deemed to and does give and grant to Developer a power of attorney, which right and power is coupled with an interest and runs with the title to a lot and is irrevocable (except by Developer), without the consent, approval or signature of each Owner, to (i) amend the Association organizational documents, to the extent necessary to conform to the requirements then governing the purchase or insurance of mortgages by the Association, Federal National Mortgages Association, Governmental National Mortgages Association, Federal Home Loan Mortgage Corporation, Mortgage Guaranty Insurance Corporation, Department of Housing and Urban Development, the Federal Housing Administration, the Veterans Administration, or any other similar agency or organization, and (ii) to correct typographical errors, surveyor errors in descriptions or otherwise or obvious factual errors the correction of which would not impair the interest of any Owner or mortgagee. Each deed,
mortgage, other evidence of obligation, or other instrument affecting a Lot and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and consent to the reservation of the power of Developer to vote in favor of, make, execute and record any of the foregoing amendments.

ARTICLE III

Miscellaneous

Section 3.1 Severability and Waiver. The Declaration and this Additional 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 the Declaration and this Additional 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.

Section 3.2 Assignment. Developer may at any time assign some or all of its rights and obligations under the Declaration and/or this Additional Declaration. Such assignment shall be effective after it is executed and recorded by Developer with the Recorder of the County in which the Development is located. After such assignment is recorded with the Recorder of the County in which the Development is located, Developer shall have no further obligations or liabilities under the Declaration and/or this Additional Declaration with respect to the rights or obligations assigned.

Section 3.3 Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Developer, 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 3.4 Amended Declaration. All provisions in this Additional Declaration shall be and hereby are added to the Declaration and the Declaration, as supplemented by this Additional Declaration, shall remain in full force and effect.
EXHIBIT "A"

A part of the West Half of the Southwest Quarter of Section 13, Township 17 North, Range 5 East and the East Half of the Southeast Quarter of Section 14, Township 17 North, Range 5 East, Vernon Township, Hancock County, Indiana, more particularly described as follows:

Beginning at the Southwest corner of the West Half of the Southwest Quarter of said Section 13; thence South 86 degrees 55 minutes 10 seconds West (assumed bearing) along the South line of said Section 13, a distance of 1,046.38 feet; thence North 06 degrees 47 minutes 33 seconds West, a distance of 201.18 feet; thence South 89 degrees 59 minutes 17 seconds West 270.83 feet to a point on the West line of said Section 13; thence North 00 degrees 00 minutes 02 seconds East along said West line, a distance of 637.91 feet; thence North 89 degrees 36 minutes 02 seconds East 120.00 feet; thence North 00 degrees 00 minutes 02 seconds East 75.00 feet; thence South 89 degrees 36 minutes 02 seconds West 120.00 feet to a point on the aforesaid West line; thence South 00 degrees 00 minutes 02 seconds West along said West line 48.64 feet; thence North 89 degrees 59 minutes 36 seconds West 466.92 feet; thence South 00 degrees 04 minutes 02 seconds West 541.99 feet; thence South 88 degrees 17 minutes 36 seconds West 370.28 feet; thence South 00 degrees 04 minutes 02 seconds West 342.28 feet to a point on the South line of aforesaid Section 14; thence South 88 degrees 54 minutes 27 seconds West along the South line of said Section 14, a distance of 499.80 feet to the Southwest corner of the East Half of the Southeast Quarter of said Section 14; thence North 00 degrees 03 minutes 28 seconds East along the West line of said Half Quarter Section 2624.44 feet to the Northwest corner thereof; thence North 89 degrees 55 minutes 32 seconds East along the North line of the said Half Quarter Section 1335.40 feet to the Northeast corner thereof, said point also being the Northwest corner of the aforesaid Southwest Quarter Section; thence North 86 degrees 19 minutes 49 seconds East along the North line of said West Half Quarter Section 1347.89 feet to the Northeast corner thereof; thence South 00 degrees 01 minutes 40 seconds East along the East line of said Half Quarter Section, 2637.78 feet to the place of beginning, containing 147.817 acres, more or less. Subject to all legal highways, rights-of-ways, easements, and restrictions of record.

Excepting therefrom (i) all lots, common areas and other lands within Bay Creek at Geist, Section 1, as per the Plat of Bay Creek at Geist, Section I, which was recorded with the Recorder of Hancock County, Indiana, on the 13th day of December, 2000, as Instrument Number 2000-13233, in Slide 34-36, Cabinet C, and (ii) all lots, common areas and other lands within Bay Creek at Geist, Section 2, as per the Plat of Bay Creek at Geist, Section 2, which was recorded with the Recorder of Hancock County, Indiana, on the 13th day of December, 2000, as Instrument Number 2000-13252, in Slide 37 Cabinet C.
Dated this 4th day of November, 2002.

CROSSMANN COMMUNITIES PARTNERSHIP,
an Indiana general partnership

By: BEAZER HOMES INVESTMENT CORP.,
A Delaware corporation, Member

By: Steven M. Dunn, Senior Regional President,
Mid West Region

STATE OF INDIANA

COUNTY OF MARION

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Steven M. Dunn, Senior Regional President, Mid West Region, of Beazer Homes Investment Corp., a Delaware corporation, a Member of Crossmann Communities Partnership, an Indiana general partnership, and acknowledged execution of this Additional Declaration.

Witness my hand and Notarial Seal this 4th day of November, 2002.

My Commission Expires: May 21, 2009

Residing in Madison County

Shirley J. White
Printed Name

Prepared By: Charles D. Frankenberger, NELSON & FRANKENBERGER, 3021 East 98th Street, Suite 220, Indianapolis, Indiana 46280, (317) 844-0106.
DECLARATION OF COVENANTS AND
RESTRICTIONS OF BAY CREEK AT GEIST

THIS DECLARATION (hereafter "Declaration") is made this 12th day of December, 2000, by
CROSS/CORD, LLC, an Indiana limited liability company (hereafter referred to as the "Developer").

WHEREAS, the Developer is the owner of the real estate comprising 26.569 acres, more or less, more
particularly described in this plat on which this Declaration is printed (hereafter "Real Estate");

WHEREAS, the real estate comprising 121.248 acres, more or less, more completely described in what is
titled hereto and incorporated herein by reference as Exhibit "A" shall hereafter be referred to as the
"Additional Real Estate";

WHEREAS, Developer 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 hereafter provided;

WHEREAS, the term "Development" 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 subject to and at anytime
subject to this Declaration; and

WHEREAS, the Developer is about to sell and convey the residential lots situated within the platted
areas of the Development and before doing so desires to subject and impose upon all real estate within
that platted areas of the Development mutual and beneficial restrictions, covenants, conditions, and charges
(hereafter referred to as the "Restrictions") under a general plan or scheme of improvement for the
benefit and complement of the lots and lands in the Development and the future thereof.

NOW THEREFORE, the Developer declares that all of the platted lots and lands located within the
Development as they become platted and held shall be held, conveyed, hypothecated or encumbered,
subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and agreed to be in
furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are
established and agreed upon as a means of enhancing and protecting the value, desirability and
attractiveness of the Development as a whole and of each of said lots and lands therein. All of
the Restrictions shall run with the land and be binding upon the Developer and upon the parties
having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts
thereof subject to such Restrictions, and shall inure to the benefit of the Developer and every one of the
Developer's successors in title to any real estate in the Development.

As of the date of execution hereof, the Development consists only of the Real Estate. Developer shall have,
and hereby reserves the right, at any time, and from time to time, to add to the Development 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 Development, and therefore and thereby becomes a part of the Development
and subject in all respects to this Declaration and all rights, obligations, and privileges herein, when
Developer shall record with the County in which the Development is located, an instrument so declaring
the same to be a part of the Development, 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
addendum or supplement to this Declaration. Such Supplementary 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.

Up on recording of any such instrument, the real estate described therein shall, for all purposes, thereafter
be deemed a part of the Development and the owners of any lots within such real estate shall be deemed
to have and be subject to all of the rights, duties, privileges, and obligations of owners of
lots within the Development. No exercise of Developer's right and option to add and expand the
Development to any part or parts of the Additional Real Estate, shall prejudice Developer from hereafter
time to time further expanding and adding to the Development to include other portions of the
time to time as to any or portions of the Additional Real Estate. Such expansion of the Development is
entirely at the discretion of the Developer and nothing contained in this Declaration or otherwise shall
require Developer to expand the Development beyond the Real Estate, or to any portions of the Additional
Declaration.

1. There shall be, and there is hereby created and established the "Development Control Committee"
(hereafter referred to as the "Committee") to perform the functions provided to be performed by it
hereunder or under the provisions of the within plat of the Development. Three (3) members appointed by
the Developer, or their duly authorized successors appointed by the Developer, shall constitute the
Committee. In the event of the death or resignation of any member of said Committee, the remaining
member or members shall have full authority to approve or disapprove the building plans, specifications,
and plat plans, or designate a successor with like authority. In the event the remaining members are
unable to designate a representative with like authority, then a new member of the Committee shall be
elected by a majority vote of the owners of the lots located in Bay Creek At Geist. When more than
one agree, but in no event shall such vote be split into fractional shares nor shall more than one vote be cast
with respect to any lot. The Committee shall consist of not more than three (3) people.

The duties and the responsibilities of the Committee are as follows:

A. The Committee shall regulate the external appearances, use, location and
maintenance of lands subject to these Restrictions, and improvements thereon, in
such a manner as to preserve and enhance values as a single family residential
subdivision, to maintain a harmonious relationship among the structures and the
natural vegetation and topography and to determine compliance with these
restrictions.

B. The Committee may establish forms and checklist for the presentation
information, review, and approval of building plans, specifications, plat plans,
landscaping plans, landscape plans or other pertinent information as it affects
the Committee's responsibilities.

C. The Committee shall approve or disapprove proposed improvements within thirty
(30) days after all required information shall have been submitted to it. One copy
of said material shall be retained by the Committee for its permanent files.
All notifications to applicants shall be in writing and, in the event that such
notification is one of disapproval, the Committee shall specify the reason or
to the applicant.

D. Neither the Committee nor any of its members shall be entitled to any
compensation for services performed pursuant to this covenant or in performing
any of its duties or obligations set forth in this Declaration.
Duly Enforced for Tax

27th day of December 2000 by
In the Office of the

City

Supervisor of Real Estate

expressing 26.59 acres, more or less, more is printed (hereafter "Real Estate").

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n, and more shall not more than one vote be cast

of more than three (3) people.

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E. Neither the Committee, nor any member thereof, nor any agent thereof, shall be

responsible in any way for any defects in any plans, specifications or other

materials or submitted to it, nor for any defects in any work done according thereto.

Further, the Committee does not make, and shall not be deemed by virtue of any

said approval or disapproval to have made any 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.

2. No construction shall be commenced nor any building or fence erected, placed or

alter in any lot in the Development until the building plans, specifications, plot plan, design plan, landscape

plan, showing the location of all the construction, structures, drives, walls, lots, landscaping, etc.;

preservation areas, and drainage have been approved as to the compatibility with existing structures or

compliance with the rules, regulations, and guidelines adopted by the Committee. If the Committee

fails to act upon any said application within a period of thirty (30) days from the submission date of the

said application, the Committee shall proceed with the building or construction as actually specified in the plans or submitted.

This provision shall not apply where the Committee has determined that there are defects in the plans submitted and

have advised the applicant of said defects.

3. No wall, fence, hedge or shrub planting which obstructs sight lines of elevations above two

(2) feet shall be permitted or required to remain between the front building line back except where

shrub planting is approved by the Committee. No fences shall be allowed except

where required by law and/or approved by the Committee.

4. A front yard depth shall be determined by measuring the distance from the front yard

of either gas or electric (of less than one hundred (100) watts) directed downward and away from

adjacent lots located on each lot in the Development or the front of the home on a lot by the lot

Owners thereof. Prior to the installation of said front yard light, drawings, diagrams and any other

documents requested by the Committee shall be submitted to the Committee for its approval.

Committee reserves the right to standardize all of the lights in the Development.

5. All lots in the Development shall be used solely for single family residential purposes

and shall not be used for any other or similar purposes.

6. All metal outbuildings shall be permitted on any lot. All outbuildings must be of the same
design and materials as the primary structure. The approval of the Committee must be obtained before

outbuilding is erected, placed or allowed on any lot. It is the intent of this restriction to prohibit

outbuildings such as storage sheds, storage barns, and similar structures.

7. All dwelling house constructed on any of the lots in the Development shall be occupied

and shall be accessible to the owner or his agent by a driveway or access road until it has been substantially

completed. Such house shall be substantially completed when an occupancy permit has been issued by the appropriate

governmental agency granting such permits.

8. Every building whose construction or placement on any lot is begun shall be completed

within thirty (30) days of the beginning of such construction or placement. No improvements

shall have partially or totally been destroyed by fire or otherwise, shall be permitted to remain in such state

more than three (3) months from the time of such destruction or damage. If any improvement has

developed by the owner or otherwise, a written request of repair or demolition shall be submitted to the Committee

within thirty (30) days.

9. All structures constructed or placed on any lot in the Development shall be constructed with

substantially all new material and no used structure shall be relocated or placed on any lot.

10. If any portion of the floor of the room must be

masonry, 

brickwork, 

porcelain tile, 

tile, 

sheet metal or

wood, 

the face of the masonry, brickwork, 

porcelain tile, 

tile, 

sheet metal or

wood, 

shall be of a material of the same color as the floor or wall

water, or other material, and the same construction as the floor or wall

water, or other material, and the same construction as the floor or wall.

11. All at least two (2) trees no less than two (2) inches in diameter shall be planted at the time the

house is completed and any other landscaping installed planted on the lot. Landscaping shall include at least

eight (8) shrubs in the front.

12. Every house in the Development shall have at least two (2) car attached garage, of the

same architectural design and materials as the house.

13. All driveways must be paved from their point of connection with the driving street or road

to a point of connection with the garage entry.

14. No temporary house, trailer, garage or other outbuilding shall be placed, erected or kept on

any lot in the Development.

15. Utility services shall be, to the greatest extent possible, be installed underground and in or

adjacent to public right-of-way to minimize removal of trees.

16. No owner of a lot shall burn or permit the burning outdoors of garbage or other refuse, nor

shall any such owner accumulate or permit the accumulation out-of-doors of such refuse on his lot

times when refuse collections are being made.

17. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed

underground or shall be so placed and kept as not to be visible from any street within or adjacent to

Development or from other lots in the Development.

18. The size, location, height, and composition of any mailbox must be approved by the

Committee, and the owner shall comply with County Ordinances. The Committee reserves the right to design and

standardize the design for mailboxes.

19. There shall be no fences permitted within the front yards. Fences in the side and rear yards

shall be permitted to a maximum of forty-two (42) inches in height and shall be of black vinyl clad or

the same, and shall be the same for all mailboxes in the Development.

20. No above ground pond shall be permitted.

21. No home, upon initial sale, shall be sold for the purpose of rental or lease.

22. Street numbers for homes shall be uniformly displayed on all homes.

23. Whenever two (2) or more contiguous lots shall be owned by the same person, and such

owner shall desire to use two (2) or more of such lots as a single dwelling unit, he shall submit a

written request to the Committee for permission to so use said lots. If permission for such use shall be granted,

the Committee shall designate the lot or lots constituting the site for such single dwelling unit shall be treated as a single lot for the purposes

of applying the restrictions to said lots, so long as, and, so long as the lots remain improved with

one single dwelling unit.

24. The owner of any lot in the Development shall at all times maintain the lot and any

improvements situated thereon in such a manner as to prevent the lot or improvements situated thereon

becoming unsightly and, specifically, such owner shall:
A. Mow the lot at such times as may be reasonably required in order to prevent the ungrtavishing growth of vegetation and noxious weeds.
B. Remove all debris or rubbish;
C. Prevent the existence of any condition that reasonably tends to detract from or diminish the aesthetic appearance of the real estate;
D. Cut down and remove unsightly dead trees;
E. Where applicable, prevent debris and foreign material from entering drainage areas;
F. Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly, and
G. within thirty (30) days following completion of a house on a lot, the owner shall landscape the lot, weather permitting.

25. The minimum square footage of any house constructed within the thirty-(30) acres which comprise the westwuse portion of the Development (not including the wooded area within the northwest portion of the Development which shall be retained as a common area), shall be a minimum of 2,000 square feet for a single house and 2,500 square feet for a two-story house and 2,400 square feet for a two-story house. 2,000 square feet for a two-story house. In determining square footage, the Committee shall exclude garages, porches, and balconies.

26. It shall be the duty of every owner of every lot in the Development on which any part of an open storm drainage ditch or sewer is situated to keep such portion thereof as may be situated upon his lot continuously unobstructed and in good repair.

27. Each lot owner and/or builder shall be responsible to prevent erosion and protect the natural environment. This shall be accomplished by designating areas on the landscape plan which are to remain undeveloped and to provide an erosion control plan for any areas which will be disturbed during construction. Said erosion control plan shall be submitted to the Committee for review and approval at such time that plans are submitted to the Committee pursuant to Paragraph 1 hereof.

28. Trees five (5) feet outside of the building, driveway, parking area or other approved construction areas shall not be removed unless the diameter of the tree is less than four (4) inches, the tree is dead, or approval is granted by the Committee.

29. The disposal of water from sump pumps, geothermal water systems, swimming pools, or other forced water discharges shall not be allowed unless approved by the Committee. Under no circumstances shall the above mentioned water sources be allowed to discharge onto adjacent lots except through established drainage easements. Approval by the Committee shall be granted only when adequate measures are submitted to protect the drainage away from erosion or other damaging effects.

30. The drainage plan required to be submitted to the Committee shall show the topography of the lot and the proposed method of drainage to ensure that drainage from the lot will not in any way adversely affect adjacent property owners, rights-of-way, easements, streets, or common property.

31. There will be no parking on the dedicated streets except when a lot owner has a social function where the invited guests will not be able to park on the Owner's lot. The provision to allow a lot owner to be able to park for social function only applies to automobiles and not to any other form of vehicle. Overnight parking is not allowed on any dedicated street.

32. Lots shall be subject to drainage easements, sewer easements, and utility easements, either separately or in combination of the three, as shown on the Development plat, which subject to Indiana Code § 36-2-27 et seq. are reserved for the use of the lot owners, public utility companies and governmental agencies as follows:

A. Drainage easements (D.E.) are created to provide paths for carrying sewer and local storm drainage, either over land or in an adequate underground conduit, to serve the needs of the Development and adjoining ground and public drainage systems; and it shall be the individual responsibility of the lot owner to maintain the drainage across his own lot. Under no circumstances shall said easement be blocked in any manner by the construction or reconstruction of any improvement, or shall any grading restrict the water flow in any manner. Said areas are subject to construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental or public utility company having jurisdiction over drainage or by the Developer.

B. Sewer easements (S.E.) are created for the use of the local governmental agency or private sanitary sewer provider having jurisdiction over the storm and sanitary waste disposal system of said city and/or county designated to serve the Development for the purpose of installation and maintenance of sewers that are part of said system. Each owner of a lot must connect to a public sanitary sewer and pay all applicable connection charges.

C. Utility easements (U.E.) are created for the use of public utility and cable television companies, not including transportation companies, for the installation of pipes, mains, ducts, and cables as well as the uses specified in the case of sewer easements.

D. The owners of all lots in the Development shall take title subject to the rights of public or private utilities, governmental agencies, and the rights of the other lot owners in this addition to said easements herein granted for ingress and egress in, along and through the streets of said lot for the purposes herein stated.

33. No construction vehicles, trucks or other vehicles shall be erected or situated on any lot within the Development, except with the written approval of the Committee and any such structure or equipment shall be promptly removed upon completion of the home.

34. During the construction period, the lot shall be maintained in a clean and orderly manner. Loose gravel, lumber, bricks, blocks, drywall, insulation, or other building materials shall not be scattered about or around the lot. Material which can blow onto adjacent lots shall be contained. Construction trash shall not be removed from the lot once per week by either removing the trash from the lot and disposing of the trash into a dumpster provided by a trash disposal service.

35. The lot owner shall be responsible for removal of dirt, mud, debris or other foreign material of any kind which may be deposited upon an adjoining street. If such deposits occur, then the lot owner shall make provisions to remove such deposits within one (1) day or the Committee may remove such deposits and charge the lot owner for such work.

36. All motor vehicles belonging to members of a household shall have permanent off-street parking spaces in garages or on driveways and no disabled vehicle shall be parked upon any lot. Further, no boat, trailer, camper, or other vehicle, snowmobile or other motor home of any kind (including, but not limited to, lawn mowers, house trailers, camper trailers, and boat trailers) shall be kept or parked upon any lot unless kept in view of neighboring residences and streets.

37. No advertising signs (except one per lot of not more than four (4) square feet, advertising the lot or home therein on site), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any lot, except lots used as a model by an Owner who then owns four (4) or more lots. This restriction shall not prevent the Developer from constructing informational signs at the entrance to the Development regarding the area of lots and homes. Such signs not to exceed sixty-four (64) square feet in size. This exception for the Developer shall expire upon the sale of all lots in the Development.
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feet of all lots in the Development.

38. All clothes lines, equipment, garbage cans, or storage piles shall be kept from
view of neighboring residences and streets. All rubbish, trash or garbage stored
outside any residence shall be regularly removed from the premises and shall not be
allowed to accumulate therein. Firewood piles shall be kept neat and unobstructive.

39. No outside toilets shall be permitted on any lot (except during a period of
construction and then only with the consent of the Committee), and no sanitary
waste or other wastes shall be permitted to be exposed.

40. No farm animals, fowls or domestic animals for commercial purposes shall be
kept or permitted on any lot or lots in this subdivision and in no case shall there be
allowed more than four (4) ordinary household pets per lot.

41. No nuisance, unlawful, or otherwise offensive activity shall be carried out on any
lot in the Development, nor shall anything be done therein which may be or may
become an annoyance or nuisance to owners of lots in the Development.

42. No high intensity lighting, outside television, radio, or other antennas or satellite
dishes or any visually obtrusive object shall be erected by any lot owner on the
exterior of a dwelling or anywhere on a lot unless approved by the Committee. No
satellite dishes shall be permitted in front yards.

43. If the parties hereto, or any owner, or their heirs or assigns shall violate or
attempt to violate any of these covenants, restrictions, provisions or conditions
herein, it shall be lawful for the Committee (as to matters for which it has
responsibility) or any other person owning any real property situated in the
Development to prosecute any proceedings at law or in equity against the person
or persons violating or attempting to violate any such covenant, restriction, provision
or condition, either to prevent him from doing so, or to recover damages or other
dues for such violation, or to require the removal of structures erected in violation hereof.
The prevailing party shall have the right to recover reasonable attorney's fees.

44. THE DAY CREEK AT GEIST HOMEOWNER'S ASSOCIATION, INC.

A. In general:

(1) There will be created, under the laws of the State of Indiana, a not-for-profit corporation to be known as "The Day Creek at Geist Homeowners Association, Inc.", hereinafter referred to as the "Association." Every owner of a residential lot in the
Development shall automatically be a member of the Association upon the purchase of a lot in the Development.

B. Purposes of the Association:

(1) The general purpose of the Association is to provide a means whereby
these areas within the Development designated as common areas, recreational facilities, landscape easements or
drainage easements on the plat or plats of the Development as
may be conveyed to or controlled by the Association or
established by, may be aerated, maintained, improved and
replaced by the Association. Specifically, the Association shall
maintain and improve areas, recreation facilities, street
entrance features, street rights, irrigation system or landscaping
located within landscape easements or a landscape island located
within the right-of-way, the Association may provide snow
removal from public streets within the Development should it
be deemed necessary or appropriate.

C. Power of Association to Levy and Collect Charges and Imposes Liens.

(1) The Association shall have all of the powers set forth in its
Articles of Incorporation, together with all other powers that
belong to it by law, including the power to levy an annual
charge or assessment against the lots within the Development.
Such charge shall be at least Two Hundred Fifty Dollars ($250.00) per year for each residential lot in the Development.
However, if the Board of Directors of the Association, acting in
accordance with the By-Laws of the Association, shall so
determine after consideration of the financial requirements of the
Association, such annual charge may be greater than Two Hundred
Fifty Dollars ($250.00). No charge shall ever be levied by the
Association against the Developer.

(2) Every such charge shall be paid by the members of the
Association before the first day of March of the year for which
the charge is made. The Board of Directors of the Association
shall fix the amount of the annual charge by the first day of
February of each year, and written notice of the charge so fixed
shall be sent to each member.

(3) Any charge levied or assessed against any lot, together with
interest and other charges as hereinbefore provided, shall
thereafter become a lien upon that lot until paid in full, and shall
be a personal obligation of the Owner or Owners of that lot
at the time the charge is due. Such charge shall bear interest at
the rate of ten percent (10%) per annum until paid in full. If, in
the opinion of the Board of Directors of the Association, such
charge has remained due and payable for an unreasonable
length of time, the Board, may, on behalf of the Association,
insure such procedures, either in law or in equity, by
foreclosure or otherwise, to collect the amount owing in any court
of competent jurisdiction. The Owner of the lot or lot subject to
the charge, shall, in addition to the amount of the charge at the
time legal action is instituted, be obliged to pay any expenses or
costs, including attorneys fees, incurred by the Association in
collecting the same. Every Owner of a lot in the Development and
any person who may acquire any interest in such lot, whether
as an Owner or otherwise, is hereby notified, and by acquisition
of such interest agrees, that any such liens which may exist
upon said lot at the time of the acquisition of such interest are
valid, binding, and shall be paid. Every person who shall become an Owner of a lot in the Development shall notify the City of
or acquiring, making such purchase or acquiring such title, such
person shall be conclusively held to have consented to pay the Association all charges that the Association shall make pursuant to this subparagraph of the Covenants and Restrictions.
(v) The Association, upon demand, at any time, furnish a certificate in writing signed by an officer of the Association that the assessments on any specified lot have been paid or that certain assessments against said lot remain unpaid, as the case may be. A reasonable time may be made by the Board of Directors of the Association for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

D. Purpose of Assessments.

(i) The charges or assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the members of the Association, and, in particular, for the improvement and maintenance of the properties owned, operated, controlled or maintained by the Association.

E. Suspension of Privileges of Membership.

(i) Notwithstanding any other provision contained herein, the Board of Directors of the Association shall have the right to suspend the voting rights, if any, and the right to use the facilities of the Association of any member:

(a) for any period during which any of the Association's charges or any fines assessed under these Covenants and Restrictions remain unpaid;

(b) during the period of any continuing violation of these Covenants and Restrictions commencing with notification of the existence of the violation by the Board of Directors of the Association;

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

44. The Developer may construct upon a common area a pool and a bath house (hereinafter collectively "the Pool"). For purposes of this paragraph 44, the term "Subject Area" shall mean and refer to the area outside of the Development but within (i) the Highland Springs Subdivision, (ii) the Cardinal Woods Subdivision, or (iii) the area which is both within a one mile radius of the Development and also within the corporate limits of the Town of McCarville. Further, for purposes of this paragraph 44, the term "Non-Resident Single Family" shall mean any single family residing within the Subject Area. On the terms and conditions which follow, up to one hundred (100) Non-Resident Single Families shall be permitted to use the Pool:

A. Any such Non-Resident Single Family desiring to use the Pool shall pay to the Association, in advance and on an annual basis, that portion of the uniform annual charge or assessment that is (a) paid or to be paid by the owner of a lot in the Development and (b) is allocable to the construction, maintenance, and repair of the Pool;

B. No more than one hundred (100) Non-Resident Single Families shall be permitted to use the Pool and all Non-Resident Single Families shall be required to abide by the Association's rules and regulations for use of the Pool which are applicable, as well, to the owners of lots in the Development; and

C. None of the Non-Resident Single Families which use the Pool shall (i) be members of the Association or (ii) have any rights under the Declaration; and

D. The availability of the Pool to up to one hundred (100) Non-Resident Single Families shall be on a first-come, first-served basis in a manner determined by the Association, in the sole and absolute discretion of the Association.

45. These Covenants are to run with the land, and shall be binding on all parties and all persons claiming under them until December 31, 2015, at which time said Covenants shall be automatically extended for successive periods of ten (10) years each, unless by a vote of seventy-five percent (75%) of the then owners of the lots it is agreed to amend said Covenants in whole or in part, provided, however, that no change or termination of said Covenants shall affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent thereto.

46. Invalidation of any of the foregoing Covenants, provisions, restrictions or conditions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
DRAINAGE COVENANTS

(a) "Open channel and tile drains within all drain easements shall be regulated drains subject to Indiana Code 36-9-27 and its amendments."

(b) "It shall be the responsibility of the owner of any lot or parcel of land within the area of the plat to comply at all times with the provisions of the drainage plan as approved for this plat by the Hancock County Drainage Board through its agents, the Hancock County Surveyor and the Hancock County Engineer, and the requirements of all drainage permits for this plat by said Hancock County Drainage Board."

(c) "The property shall be graded pursuant to the final construction plan and may not thereafter be changed without the written approval of the Hancock County Surveyor, whose decision may be appealed to the Hancock County Drainage Board."

(d) "No trees or shrubs shall be planted, nor any structures erected in any drainage easement, unless otherwise approved by the Hancock County Surveyor and the Hancock County Engineer."

(When requested in writing, the above covenant may be waived or modified by the Hancock County Drainage Board for good cause.)

(e) "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, tied, or otherwise changed without the written permission of the Hancock County Drainage Board (Commissioners). Property owners must maintain these swales as sodded grassways, or other non-erosion surfaces. Water from roofs or parking areas must be contained on the property long enough so that all drainage swales or ditches will not be damaged by such water. Driveways may be constructed or ditches only when appropriate sized culverts are installed as set out in Section 7.1-47 (5) of the Hancock County Subdivision Control Article."

(f) "Any property owner altering, changing, or damaging these 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 Hancock County Drainage Board (Commissioners) will cause said repairs to be accomplished, and the bill for said repairs will be sent to the affected property owner for immediate payment."

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DECLARATION OF COVENANTS AND
RESTRICTIONS OF BAY CREEK AT GEIST

THIS DECLARATION (hereafter "Declaration") is made this 12th day of DECEMBER, 2000, by CROSS/CORD, LLC, an Indiana limited liability company (hereafter referred to as the "Developer").

WHEREAS, the Developer is the owner of the real estate comprising 26.569 acres, more or less, more particularly described in this plat on which this Declaration is printed (hereafter "Real Estate");

WHEREAS, the real estate comprising 121.248 acres, more or less, more completely described in what is attached hereto and incorporated herein by reference as Exhibit "A" shall hereafter be referred to as the "Additional Real Estate";

WHEREAS, Developer desires to subordinate 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 "Development" 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 subject to and at anytime subject to this Declaration; and

WHEREAS, the Developer is about to sell and convey the residential lots situated in the platted areas of the Development and before doing so desires to subject and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions, and charges (hereinafter referred to as the "Restrictions") under a general plan or scheme of improvement for the benefit and complement of the lots and lands in the Development and the future owners thereof.

NOW, THEREFORE, the Developer declares that all of the platted lots and lands located within the Development as they become platted are and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and be binding upon the Developer and upon the parties having title to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of the Developer and every one of the Developer's successors in title to any real estate in the Development.

As of the date of execution hereof, the Development consists only of the Real Estate. Developer shall have, and hereby reserves the right, at any time, and from time to time, to add to the Development 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 Development, and therefore and thereby becomes a part of the Development and subject to the provisions of this Declaration and all rights, obligations, and privileges herein, when Developer places record of the County in which the Development is located, on an instrument so declaring the same to be part of the Development, which supplementary declaration hereinafter "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 herein 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.

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

1. There shall be, and there is hereby created and established the "Development Control Committee" (hereinafter referred to as the "Committee") to perform the functions provided to be performed by it hereunder or under the provisions of the within plats of the Development. Three (3) members appointed by the Developer, or their duly authorized successors appointed by the Developer, shall constitute the Committee. In the event of the death or resignation of any member of said Committee, the remaining members of said Committee, shall elect a successor to fill such vacancy. Such election shall be by majority vote of the remaining members of said Committee.

2. The Committee shall regulate the external appearance, use, location and maintenance of lands subject to these Restrictions, and improvements therein, in such a manner as to preserve and enhance values as a single family residential subdivision, to maintain a harmonious relationship among structures and the natural vegetation and topography and to determine compliance with these restrictions.

3. The Committee shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to it. One copy of submitted material shall be retained by the Committee for its permanent files. All notifications and approvals shall be in writing, and in the event that such notification is one of disapproval, the Committee shall specify the reason or reasons thereof.

4. Neither the Committee nor any of its members shall be entitled to any compensation for services performed pursuant to this covenant or in performing any of its duties or obligations set forth in this Declaration.
E. Neither the Committee, nor any member thereof, nor any agent thereof, shall be responsible in any way for any defects in any plans, specifications or other material submitted to it, nor for any defects in any work done according thereto.

2. No construction shall be commenced nor any building or fence be erected, placed or allowed on any lot in the Development until the building plans, specifications, plat, plot plans, and all plans or schemata for improvement for the improvement of the real estate and the future owners thereof, including all the buildings and improvements on the premises, are submitted to and approved by the Committee.

3. There shall be no fences permitted within the front yard. Fences in the side and rear yards shall be permitted to a maximum of forty-two (42) inches in height and shall be of such material as the Committee shall approve by order.

4. No building shall be constructed or placed on any lot in the Development until the building plans, specifications, plat, plot plans, and all plans or schemata for improvement for the improvement of the real estate and the future owners thereof, are submitted to and approved by the Committee.

5. All lots in the Development shall be used solely for single family residential purposes and no other use of the lots therein shall be permitted.

6. No clearance shall be permitted on any lot in the Development. All clearances shall be used for the improvement of the real estate and the future owners thereof, including all the buildings and improvements on the premises, are submitted to and approved by the Committee.

7. No building shall be constructed or placed on any lot in the Development until the building plans, specifications, plat, plot plans, and all plans or schemata for improvement for the improvement of the real estate and the future owners thereof, are submitted to and approved by the Committee.

8. No building shall be constructed or placed on any lot in the Development until the building plans, specifications, plat, plot plans, and all plans or schemata for improvement for the improvement of the real estate and the future owners thereof, are submitted to and approved by the Committee.

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21. No building shall be constructed or placed on any lot in the Development until the building plans, specifications, plat, plot plans, and all plans or schemata for improvement for the improvement of the real estate and the future owners thereof, are submitted to and approved by the Committee.
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;
C. prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the real estate;
D. cut down and remove unsightly dead trees;
E. where applicable, prevent debris and foreign material from entering drainage areas;
F. keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly and
G. within sixty (60) days following completion of a house on a lot, the owner shall landscape the lot, weather permitting.

25. The minimum square footage of any house constructed within the thirty (30) acres which comprise the northwest portion of the Development (not including the wooded area within the northwest portion of the Development which shall be retained as a common area), shall be a maximum of 2,000 square feet for a single story house and 2,400 square feet for a two-story house. The minimum square footage for lots located in any other portion of the Development shall be 1,800 square feet for a single story house and 2,700 square feet for a two-story house. In determining square footage, the Committee shall exclude garages, porches and basements.

26. It shall be the duty of every owner of every lot in the Development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his lot continuously unobstructed and in good repair.

27. Each lot owner and/or builder shall be responsible to prevent erosion and protect the natural environment. This shall be accomplished by designating areas on the landscape plan which are to remain undisturbed and to provide an erosion control plan for any areas which will be disturbed during construction. Said erosion control plan shall be submitted to the Committee for review and approval at such time that plans are submitted to the Committee pursuant to Paragraph 1 hereof.

28. Trees five (5) feet outside of the building, driveway, parking area or other approved construction area shall not be removed unless the diameter of the tree is less than four (4) inches, the tree is dead, or approval is granted by the Committee.

29. The discharge of water from sump pumps, geothermal water systems, swimming pools, or other forced water discharges shall be allowed unless approved by the Committee. Under no circumstances shall the above mentioned water sources be allowed to discharge onto adjacent lots except through established drainage easements. Approvals by the Committee shall be granted only when adequate measures are submitted to protect the drainage way from erosion or other damaging effects.

30. The drainage plans required to be submitted to the Committee shall show the topography of the lot and the proposed method of drainage to ensure that drainage from the lot will not in any way adversely affect adjacent property owners, Right-of-Way, owners, residents, or common property.

31. There will be no parking on the dedicated streets except where a lot owner has a social function where the invited guests will not be able to park on the Owner's lot. The prohibition to allow parking for social functions applies only to automobiles and not to any other form of vehicle. Overnight parking is not allowed on any dedicated street.

32. Lots shall be subject to drainage easements, sewer easements, and utility easements, either separately or in combination of the three, as shown on the plat or plans of the Development which subject to Indiana Code § 36-8-22 or equivalent, are reserved for the use of the lot owners, public utility companies and governmental agencies as follows:

A. Drainage easements (D.E.) are created to provide paths and courses for area and local storm drainage, either over land or in adequate underground conduit, to serve the needs of the Development and adjoining ground and/or public drainage system and shall be the individual responsibility of the lot owner to maintain the drainage across his own lot. Under no circumstances shall said easements be blocked in any manner by the construction or reconstruction of any improvements nor shall any grading restrict the water flow in any manner. Said areas are subject to construction or reconstruction to any extent necessary to obtain adequate drainage at any time by any governmental authority having jurisdiction over drainage by the Developer.

B. Sewer easements (S.E.) are created for the use of the local governmental agency or private sanitary sewer provider having jurisdiction over the storm and sanitary waste disposal system of said city and/or county designated to serve the Development for the purposes of installation and maintenance of sewers that are a part of said system. Each owner of a lot must connect to a public sanitary sewer and pay all applicable connection charges.

C. Utility easements (U.E.) are created for the use of public utility and cable television companies, not including transportation companies, for the installation of pipes, mains, ducts, and cables as well as for the uses specified in the case of sewer easements.

D. The owners of lots in the Development shall take title subject to the rights of public or private utilities, governmental agencies, and the rights of the other lot owners in this addition to said easements herein granted for ingress and egress in along and through the strips of ground for the purposes herein stated.

33. No construction vehicles, trucks or other vehicles shall be erected or situated on any lot within the Development, except with the written approval of the Committee and any such structure or equipment shall be promptly removed upon completion of the home.

34. During the construction period, the lot shall be maintained in a clean and orderly manner. Loose shingles, lumber, bricks, block, drywall, insulation, or other building materials shall not be scattered about or around the lot. Materials which can blow into adjacent lots shall be contained. Construction trash shall be removed from the lot once per week by either removing the trash from the lot or disposing of the trash into a dumpster provided by a trash disposal service.

35. The lot owner shall be responsible for removal of all debris, mud, or debris or other foreign material of any kind which may be deposited upon or adjacent street in the Development. If such deposits occur, then the lot owner shall make provisions to remove such deposits within one (1) day or the Committee may remove such deposits and charge the lot owner for such work.

36. All motor vehicles belonging to members of a household shall have permanent off-street parking spaces in garages or on driveways and no disposed vehicle shall be openly stored on any lot. Further, no boat, trailer, camper, all terrain vehicle, motorcycle, snowmobile or motor home of any kind (including, but not limited thereto, house trailers, camper trailers, or boat trailers) shall be kept or parked upon any lot unless kept from view of neighboring residences and streets.

37. No advertising signs (except one per lot of not more than four (4) square feet, advertising the lot or home thereof) are allowed. Billboards, unattractive objects or nuisances shall be erected, placed or permitted to remain on any lot. No advertising signs larger than sixty-four (64) square feet in size. This exception for the Developer must expire upon the sale of all lots in the Development.
35. All clothes lines, equipment, garbage cans, or storage piles shall be kept free from view of neighboring residences and streets. All rubbish, trash or garbage shall be disposed of in a manner so that outside any residence shall be regularly removed from the premises and shall not be allowed to accumulate therein. Firewood piles shall be kept neat and unobtrusive.

39. No outside toilets shall be permitted on any lot (except during a period of construction and then only with the consent of the Committee), and no sanitary waste or other waste shall be permitted to be exposed.

40. No farm animals, fowls or domestic animals for commercial purposes shall be kept or permitted on any lot or lots in this subdivision and in no case shall there be allowed more than four (4) ordinary household pets per lot.

41. No nuisance, unlawful, or otherwise offensive activity shall be conducted on any lot in the Development, nor shall anything be done therein which may or may become an annoyance or nuisance to owners of lots in the Development.

42. No high intensity lighting, outside television, radio, or other antennas or satellite dishes or any visually obtrusive object may be erected by any lot owner on the exterior of a dwelling or anywhere on a lot unless approved by the Committee. No satellite dishes shall be permitted in front yards.

43. If the parties hereto, or any owner, or their heirs or assigns shall violate or refuse to abide by any of these covenants, restrictions, provisions or conditions herein, it shall be lawful for the Committee (as to matters for which it has responsibility) or any other person owning or occupying the property in question shall be severally liable for all damages suffered by the Committee or by any person owning or occupying the property in question, and for all other damages suffered by any person owning or occupying the property in question in connection with such violation, or in connection with the enforcement of the provisions of the covenant, restriction, provision or condition thereby violated.

44. THE BAY CREEK AT GROST HOMEOWNER’S ASSOCIATION, INC.

A. In General:

(1) There will be created, under the laws of the State of Indiana, a not-for-profit corporation to be known as the "Bay Creek at Gost Homeowner’s Association, Inc.”, hereafter referred to as the “Association.” Every owner of a residential lot in the Development shall automatically be a member of the Association upon the purchase of a lot in the Development.

B. Purpose of the Association:

(1) The general purpose of the Association is to impose a means whereby those areas within the Development designated as common areas, recreational facilities, landscape easements and drainage easements on the plat or plans of the Development as may not be injured or damaged by the Association or any person owning or occupying the property in question shall be severally liable for all damages suffered and or or caused by the Association.

(2) The Association shall maintain all common areas, recreational facilities, landscape easements and drainage easements on the plat or plans of the Development as may be injured or damaged by the Association or any person owning or occupying the property in question shall be severally liable for all damages suffered or caused by the Association.

(3) The Association shall maintain all common areas, recreational facilities, landscape easements and drainage easements on the plat or plans of the Development as may be injured or damaged by the Association or any person owning or occupying the property in question shall be severally liable for all damages suffered or caused by the Association.

(4) The Association shall maintain all common areas, recreational facilities, landscape easements and drainage easements on the plat or plans of the Development as may be injured or damaged by the Association or any person owning or occupying the property in question shall be severally liable for all damages suffered or caused by the Association.

C. Power of Association to Levy and Collect Charges and Impose Liens:

(1) The Association shall have power to levy a uniform annual charge or assessment against the lots within the Development, which shall be used to pay for the maintenance of the Association and the payment of all expenses incurred in the operation of the Association. The annual charge or assessment shall be due and payable on or before the first day of each month.

(2) The Association shall have power to levy a uniform annual charge or assessment against the lots within the Development, which shall be used to pay for the maintenance of the Association and the payment of all expenses incurred in the operation of the Association. The annual charge or assessment shall be due and payable on or before the first day of each month.

(3) The Association shall have power to levy a uniform annual charge or assessment against the lots within the Development, which shall be used to pay for the maintenance of the Association and the payment of all expenses incurred in the operation of the Association. The annual charge or assessment shall be due and payable on or before the first day of each month.
(iv) The Association shall, upon demand, at any time, furnish a certificate, in writing signed by an officer of the Association, that the assessments on a specified lot have been paid or that certain assessments against said lot remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors of the Association for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

D. Purpose of Assessments.

(1) The charges or assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the members of the Association, and, in particular, for the improvement and maintenance of the properties owned, operated, controlled or maintained by the Association.

E. Suspension of Privileges of Membership.

(1) Notwithstanding any other provision contained herein, the Board of Directors of the Association shall have the right to suspend the voting rights, if any, and the right to use the facilities of the Association of any member:

(a) for any period during which any of the Association’s charges or any fines assessed under these Covenants and Restrictions owed by the member remains unpaid;

(b) during the period of any continuing violation of these Covenants and Restrictions commencing with notification of the existence of the violation by the Board of Directors of the Association; and/or

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

44. The Developer may construct upon a common area a pool and a bath house (hereafter collectively “the Pool”). For purposes of this paragraph, the term “Subject Area” shall mean and refer to the area outside of the Development, but within (i) the Highland Springs Subdivision, (ii) the Cardinal Woods Subdivision, or (iii) the area which is both within a one mile radius of the Development and also within the corporate limits of the Town of McCordsville. Further, for purposes of this paragraph 44, the term “Non-Resident Single Family” shall mean any single family residing within the Subject Area. On the terms and conditions which follow, up to one hundred (100) Non-Resident Single Families shall be permitted to use the Pool:

A. Any such Non-Resident Single Family desiring to use the Pool shall pay to the Association, in advance and on an annual basis, that portion of the uniform annual charge or assessment that is (i) paid or to be paid by the owner of a lot in the Development and (ii) is allocable to the construction, maintenance, and repair of the Pool; and

B. No more than one hundred (100) Non-Resident Single Families shall be permitted to use the Pool and all Non-Resident Single Families shall be required to abide by the Association’s rules and regulations for use of the Pool which are applicable, as well, to the owners of lots in the Development; and

C. None of the Non-Resident Single Families which use the Pool shall (i) be members of the Association or (ii) have any rights under the Declaration; and

D. The availability of the Pool to up to one hundred (100) Non-Resident Single Families shall be on a first-come, first-served basis in a manner determined by the Association, in the sole and absolute discretion of the Association.

45. These Covenants are to run with the land, and shall be binding on all parties and persons claiming under them until December 31, 2015, at which time said Covenants shall be automatically extended for successive periods of ten (10) years each, unless by a vote of seventy-five percent (75%) of the then owners of the lots it is agreed to amend said Covenants in whole or in part, provided, however, that no change or termination of said Covenants shall affect any easement hereby created or granted unless all persons entitled to the beneficial use of such easement shall consent thereto.

46. Invalidation of any of the foregoing Covenants, provisions, restrictions or conditions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.
DRAINAGE COVENANTS

(c) "Open channel and tile drains within all drain easements shall be regulated drains subject to Indiana Code 36-9-27 and its amendments."

(b) "It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the Hancock County Drainage Board through its agents, the Hancock County Surveyor and the Hancock County Engineer, and the requirements of all drainage permits for this plat by said Hancock County Drainage Board."

(c) "The property shall be graded pursuant to the final construction plan and may not thereafter be changed without the written approval of the Hancock County Surveyor, whose decision may be appealed to the Hancock County Drainage Board."

(d) "No trees or shrubs shall be planted, nor任何 structures erected in any drainage easement, unless otherwise approved by the Hancock County Surveyor and the Hancock County Engineer."

(When requested in writing, the above covenant may be waived or modified by the Hancock County Drainage Board for good cause.)

(e) "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, tied, or otherwise changed without the written permission of the Hancock County Drainage Board (Commissioners). Property owners must maintain these swales as sodded grassways, or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough so that the sold drainage swales or ditches will not be damaged by such water. Driveways may be constructed or ditches only when appropriate sized culverts are installed as set out in Section 7.1-47 (5) of the Hancock County Subdivision Control Article."

(f) "Any property owner altering, changing, or damaging these 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 Hancock County Drainage Board (Commissioners) will cause said repairs to be accomplished, and the bill for such repairs will be sent to the affected property owner for immediate payment."

S/Legal/DrawingCovenants

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DULLY ENTERED FOR TAXATION
DEC 15 2009

H. L. DeSoto, Auditor of Hancock County