

37
AM

●
Cross Reference Missing
At Time Of Recording. MCR

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

MYRON PLACE

03/20/06 04:00PM HANNA MARTIN MARION CTY RECORDER AMH 03.00 PAGES: 37

Inst # 2006-0038494

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
MYRON PLACE**

THIS DECLARATION, made as of the 14th day of March, 2006, by BROADWAY & 11TH, LLC, an Indiana limited liability company ("Declarant"), WITNESSES THAT:

WHEREAS, Declarant is the sole owner in fee simple title of certain real estate located generally on the north side of 11th Street between Park Avenue and Broadway Street in Marion County, Indiana, more particularly described in the attached Exhibit A, which is incorporated herein by reference (hereinafter referred to as the "Tract" or "Myron Place").

WHEREAS, Declarant by execution of this Declaration assures that all properties that are conveyed that are a part of the Tract shall be conveyed subject to the terms and conditions of this Declaration, which shall run with the Tract and be binding upon all parties having any right, title or interest in the Tract, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner (as hereinafter defined).

NOW, THEREFORE, in consideration of these premises and the covenants set forth herein, Declarant hereby makes this Declaration and grants, establishes and conveys to each Owner of each Lot (as hereinafter defined), mutual, nonexclusive rights, privileges and easements of enjoyment on equal terms in common with all other Owners of Lots in and to the use of any common areas and facilities, as follows:

1. **Definitions.** The following terms as used in this Declaration, unless the context clearly requires otherwise, shall mean the following:

(a) "Applicable Date" means the date determined pursuant to Section 10 of this Declaration.

(b) "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, as hereinafter defined, filed, or to be filed, with the Office of the Secretary of State of Indiana, as the same are or hereafter may be amended from time to time. The Articles of Incorporation are incorporated herein by reference.

(c) "Association" means Myron Place Homeowners Association, Inc., a formed or to be formed Indiana nonprofit corporation, its successors and assigns, whose members shall be the Owners of Lots, or appointees as provided in Section 10 of this Declaration, such Association being more particularly described in Section 10 of this Declaration.

(d) "Board of Directors" or "Board" means the governing body of the Association elected by the Members in accordance with the By-Laws of the Association.

(e) "Myron Place" means the name by which the Tract, which is the subject of this Declaration, and which the Association manages, shall be known.

(f) "Building" means any one of the separated structures that has one Dwelling Unit or two or more attached Dwelling Units.

(g) "By-Laws" shall mean the By-Laws of the Association and shall provide for the election of directors and officers and other governing officials of the Association. A copy of the By-Laws is incorporated herein by reference.

(h) "Common Area" means those portions of the Tract other than the Lots, including but not limited to sidewalks, driveways and areas designated on the Final Plat as Common Area and that are for the use, benefit and enjoyment of all Owners.

(i) "Common Expense" means expenses for administration of the Association and expenses for the upkeep, maintenance, repair and replacement of the Common Area, the insurance for the Common Area and the Buildings as described in Section 20, as may be assessed from time to time against the Members of the Association.

(j) "Declarant" shall mean and refer to Broadway & 11th, LLC, an Indiana limited liability company, and its successors and assigns as a Declarant.

(k) "Dwelling Unit" means one of the living units located upon a Lot, including but not limited to the balcony, if any, originally constructed as part of such living unit.

(l) "Final Plat" means the plat of the Tract prepared by Woolpert, Inc., and recorded in the Office of the Recorder of Marion County, Indiana, as referenced in Section 31 below, which is incorporated herein by reference and which consists of eight (8) lots numbered 1 to 8 inclusive.

(m) "Lot" means any plot of ground designated as such upon the recorded Final Plat of Myron Place or any part thereof and upon which one (1) Dwelling Unit is constructed, is to be constructed or has existed. When Lot is used it shall be deemed to include the Dwelling Unit, if any, located thereon.

(n) "Member" means a member of the Association.

(o) "Mortgagee" means the holder of a first mortgage lien on a Lot.

(p) "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns the fee simple title to a Lot.

(q) "Tract" means the real estate described in Exhibit A attached hereto and any additions annexed thereto for which a Final Plat has been or will be recorded in the Office of the Recorder of Marion County, Indiana, pursuant to this Declaration, as amended or supplemented.

2. Declaration - Declarant hereby expressly declares that the Tract shall be held, conveyed, sold, transferred and occupied subject to the provisions of this Declaration and the covenants, conditions, restrictions, reservations, easements, charges and liens set forth herein, which are for the purpose of protecting the value and desirability of, and shall run with, the Tract and be binding on all parties having any right, title or interest in the Tract or any part thereof, their respective successors and assigns, and shall inure to the benefit of each Owner thereof.

3. Description of Myron Place - Myron Place consists of eight (8) lots numbered 1 through 8 inclusive and the Common Area as designated on the Final Plat. The Common Area and the size of the Lots are as designated on the Final Plat. The legal description for each Lot in Myron Place shall be as follows:

Lot ____ in Myron Place, Section ____, a subdivision in Marion County, Indiana, as per the plat thereof, which plat was recorded _____, 2006, as Instrument Number _____, in the Office of the Recorder of Marion County, Indiana.

4. Lots and Easements - The boundaries of each Lot in Myron Place shall be as shown on the Final Plat; provided, however, in the event any vertical boundary line of any Dwelling Unit, including the balcony originally constructed as a part thereof, does not coincide with the actual Lot line because of inexactness of construction, settling after construction or for any other reasons, whether from the initial construction or subsequent reconstruction, the boundary lines shall be deemed to be treated for purposes of occupancy, possession, maintenance, use and enjoyment, as in accordance with the actual existing construction. In such case, permanent easements for exclusive use shall exist in favor of the Owner of each Lot in and to such base line outside the actual boundary line of the Lot.

5. Common Area - The Common Area shall be for the common use and enjoyment of the Members, as provided herein, but not for use by the general public.

6. Owners' Easements of Enjoyment of Common Area - Every Owner shall have a non-exclusive right and easement of enjoyment, in common with all Owners, in and to the Common Area, which right and easement shall be appurtenant to and shall pass with title to every Lot.

7. Delegation of Use of the Common Area - Any Member may delegate, in accordance with the By-Laws and any reasonable and non-discriminatory rules and regulations promulgated from time to time by the Association, such Member's right of enjoyment and use of the Common Area to family members, guests, tenants or contract purchasers who reside on any Lot.

8. Easements in Common - Each Owner shall have an easement in common with each other Owner to use all pipes, wires, ducts, cables, conduits, utility lines and other common facilities, if any, located in any other Dwelling Units or in the Common Area and serving such Owner's Dwelling Unit.

9. Easement for Utilities - An easement is granted to all utilities (including cable companies and the Department of Public Works) and their agents for ingress, egress, installation, replacement, repair and maintenance of such utilities, including but not limited to water, sewers, drainage, gas, telephone, electricity and cable equipment on the Tract; provided, however, nothing herein shall permit the installation of sewers, drainage facilities, electric lines, gas lines, water lines or other utilities, except as initially designed and approved by Declarant on the Final Plat or as thereafter may be approved by Declarant or by the Board of Directors. By virtue of this easement the electrical and telephone utilities and the cable companies are expressly permitted to erect and maintain the necessary equipment on the Tract and to affix and maintain electrical, telephone and cable equipment, wires, circuits and conduits on, above, across and under the roofs and exterior walls of the Dwelling Units and over, across or under any Lot. In the event any utility furnishing service should request a specific easement by a separate recordable document, Declarant reserves the right to grant such easement on the Tract, without conflicting with the terms of this Section 9. The easements granted herein shall in no way affect any other recorded easement on the Tract.

10. Association; Membership; Voting; Functions

(a) Membership in Association - Declarant and each Owner of a Lot that is subject to assessment shall, automatically upon becoming an Owner, be and become a Member of the Association and shall remain a Member until such time as such Owner's ownership of a Lot ceases. Membership shall terminate when any Owner ceases to be an Owner, and membership will transfer to the new Owner of the Lot; provided, however, that any person or entity who holds the interest of an Owner in a Lot merely as security for the performance of an obligation shall not be a Member. No Owner shall have more than one (1) membership in the Association for each Lot that such Owner owns.

(b) Voting Rights - The Association shall have two (2) classes of membership, with the following voting rights:

(i) Class A - Class A Members shall be all Owners except Class B Members. Each Class A Member shall be entitled to one (1) vote for each Lot of which such Member is the Owner with respect to each matter submitted to a vote of Members upon which the Class A Members are entitled to vote. When more than one (1) person constitutes the Owner of a particular Lot, all such persons shall be Members of the Association, but all such persons shall have only one (1) vote for such Lot, which vote shall be exercised as such persons among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(ii) Class B - Class B Members shall be Declarant and all successors and assigns of Declarant designated by Declarant as Class B Members in a written notice mailed or delivered to the registered agent of the Association. Each Class B Member shall be entitled to three (3) votes for each Lot of which it is the Owner on each matter submitted to a vote of the Members of the Association. The Class B membership shall cease and terminate upon the Applicable Date, which shall be the first to occur of (i) the date upon which the written

resignation of the Class B Members as such is delivered to the registered agent of the Association, (ii) when the total number of votes outstanding in the Class A membership is equal to or exceeds the total number of votes outstanding in the Class B membership, or (iii) December 31, 2008.

(c) Functions - The Association has been formed for the purpose of providing for the maintenance, repair, upkeep, replacement, administration, operation and ownership of the Common Area, if any, and for the maintenance, repair and replacement of the exterior portions of the Dwelling Units and Lots designated in this Declaration.

11. Board of Directors

(a) Management - The business and affairs of the Association shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless such person is, or is deemed in accordance with this Declaration to be, an Owner, including a person appointed by Declarant as provided in subparagraph (b) of this Section 11.

(b) Initial Board of Directors - The Initial Board of Directors shall be composed of three (3) persons designated in the Articles (herein referred to as the "Initial Board"), all of whom have been or shall be appointed by Declarant. Notwithstanding anything to the contrary contained in this Section 11 or any other provisions of this Declaration, the Articles or the By-Laws (i) the Initial Board shall hold office until the Applicable Date, and (ii) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to the Applicable Date, determined as provided above, every such vacancy shall be filled by a person appointed by Declarant, who shall thereafter be deemed a member of the Initial Board. Each Owner, by acceptance of a deed to a Lot, or by acquisition of any interest in a Dwelling Unit by any type of juridical acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Declarant as such Owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date, determined as provided above, to exercise all of said Owner's right to vote, and to vote as Declarant determines, on all matters as to which Members of the Association are entitled to vote under the Declaration, the Articles, the By-Laws or otherwise; provided, however, this right to vote granted to Declarant shall not extend to votes of Members (if a vote is required) on matters of Special Assessments, mortgaging Common Area or merger/consolidation of the Association with another corporation. This appointment of Declarant as such Owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the Owner granting the same. Each person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Declarant to fill a vacancy, shall be deemed a Member of the Association and an Owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered either a Member of the Association or an Owner of a Lot for any other purpose (unless such person is actually the Owner of a Lot and thereby a Member of the Association).

(c) Additional Qualifications - If an Owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple Owner, or a partner, an officer or trustee, respectively, shall be eligible to serve on the Board of Directors, except that no single Lot or Dwelling Unit may be represented on the Board of Directors by more than one person at a time.

(d) Term of Office and Vacancy - Subject to the provisions of subparagraph (b) of this Section 11, one (1) member of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of three (3) years, except that at the first election after the Applicable Date one member of the Board of Directors shall be elected for a three (3)-year term, one for a two (2) year-term and one for a one (1) year-term so that the terms of one-third (1/3) of the members of the Board shall expire annually. There shall be separate nominations for the office of each member of the Board to be elected at such first election after the Applicable Date. Each Director shall hold office throughout the elected term and until a successor is elected and qualified. Subject to the provisions of subparagraph (b) of this Section 11 as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the Owners if a Director is removed in accordance with subparagraph (e) of this Section 11. The Director so filling a vacancy shall serve until the next annual meeting of the members and until such Director's successor is elected and qualified. At the first annual meeting following any such vacancy, a Director shall be elected for the balance of the term of the Director so removed or in respect to which there has otherwise been a vacancy.

(e) Removal of Directors - A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the Owners duly called and constituted for such purpose. In such case, a successor or successors shall be elected at the same meeting from eligible Owners nominated at the meeting. The Director or Directors so elected shall serve until the next annual meeting of the Owners and until a successor or successors is duly elected and qualified.

(f) Duties of the Board of Directors - The Board of Directors shall be the governing body of the Association representing all of the Owners and be responsible for the functions and duties of the Association, including, but not limited to, providing for the administration of the Tract, the management, maintenance, repair, upkeep and replacement of the Common Area (unless the same are otherwise the responsibility or duty of Owners), and the maintenance, repair, upkeep and replacement of the balconies and other exterior portions of the Dwelling Units designated in this Declaration, and the collection and disbursement of the Common Expenses. The Board may, on behalf of the Association, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary, provided any such management agreement shall be for a term of three (3) years or less and shall provide that any such agreement may be terminated by either party upon ninety (90) days written notice to the other party. The Managing

Agent, if one is employed, shall assist the Board in carrying out its duties, which include but are not limited to:

- (i) Protection and surveillance of the Common Area, provided, however, this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security systems for protection or surveillance, and the same need not be furnished;
 - (ii) Removal of garbage and waste, and snow removal;
 - (iii) Landscaping, painting, maintenance and upkeep of exterior portions of the Dwelling Units and Lots designated in this Declaration;
 - (iv) Assessment and collection from the Owners of each Owner's respective share of the Common Expenses;
 - (v) Preparation of the proposed annual budget, a copy of which will be mailed or delivered to each Owner at the same time as the notice of annual meeting is mailed or delivered;
 - (vi) Preparing and delivering annually to the Owners a full accounting of all receipts and expenses incurred in the prior year; such accounting shall be delivered to each Owner simultaneously with delivery of the proposed annual budget for the current year;
 - (vii) Keeping a current, accurate and detailed record of receipts and expenditures affecting the business and affairs of the Association, specifying and itemizing the Common Expenses; all records and vouchers (including current copies of the Declaration, Articles of Incorporation, By-Laws and Rules) shall be available for examination by an Owner, Mortgagee, insurer or guarantor of a first mortgage at any time during normal business hours;
 - (viii) Procuring and maintaining for the benefit of the Association and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable; and
 - (ix) Furnishing, upon request of any Mortgagee, insurer or guarantor of first mortgage, an audited financial statement for the immediately preceding fiscal year.
- (g) Powers of the Board of Directors - The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:
- (i) To employ a Managing Agent to assist the Board in performing its duties;

- (ii) To purchase, lease or otherwise obtain for the Association, to enable it to perform its functions and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;
- (iii) To employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;
- (iv) To employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the Board of Directors to perform its duties;
- (v) To include the costs of all of the above and foregoing as Common Expenses and to pay all of such costs therefrom;
- (vi) To open and maintain a bank account or accounts in the name of the Association;
- (vii) To promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Tract and the Common Area (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered or mailed to all Owners;
- (viii) To enter the Dwelling Unit of any Owner in case of any emergency whether the Owner is present at the time or not and in the case of non-emergency repairs to enter the Dwelling Unit provided the request is made in advance and is at a time reasonably convenient to the Owner;
- (ix) To create, grant and convey easements and licenses upon, across, over and under the Common Area, or any part thereof, including but not limited to easements for the installation, replacement, repair and maintenance of utility lines serving the Tract; and
- (x) To declare the office of a member of the Board of Directors vacant in the event such member shall be absent from three (3) consecutive, regular meetings of the Board of Directors.
- (h) Limitation on Board Action - After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$2,500.00 without the Board amending the budget, after notice to (but not approval of) the Owners, except that in the following cases such amendment and notice shall not be necessary:

(i) Proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the Owners at the annual meeting; and

(ii) Expenditures necessary to deal with emergency conditions in which the Board reasonably believes there is insufficient time to call a meeting of the Owners.

(i) Compensation - No Director shall receive any compensation for such person's services as such except to such extent as may be expressly authorized by a majority vote of the Owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

(j) Non-Liability of Directors - The Directors shall not be liable to the Owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Association.

(k) Additional Indemnity of Directors - The Association shall indemnify, hold harmless and defend any person, and that person's heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that such person is or was a Director of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by that person in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director is liable for bad faith, gross negligence or misconduct in the performance of that person's duties. The Association shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the Owners that such Director was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, no Director shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of the Director's duties where, acting in good faith, such Director relied on the books and records of the Association or statements or advice made by or prepared by the Managing Agent (if any) or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Association to render advice or service unless such Director had actual knowledge of the falsity or incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that the Director failed or neglected to attend a meeting or meetings of the Board of Directors.

(l) Bond - The Board of Directors shall provide blanket fidelity bonds for the Managing Agent (if any), the treasurer of the Association, and such other officers or directors of the Association that handle or are responsible for funds indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful

misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors (provided, however, in no event shall the aggregate amount of the bond be less than a sum equal to three [3] months' aggregate assessments on all Dwelling Units) and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. Fidelity bonds shall name the Association as an obligee and shall contain waivers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. Such bonds shall provide that they may not be cancelled or substantially modified for any reason without at least ten (10) days prior written notice to the Association. The expense of any such bonds shall be a Common Expense.

12. Initial Management - The Board of Directors has entered or will hereafter enter into a management agreement with Declarant or with a corporation or other entity affiliated with Declarant or designated by Declarant for a term not to exceed three (3) years with either party having the right to terminate upon ninety (90) days notice under which Declarant (or such other corporation or entity as appropriate) will provide supervision, management and maintenance of the Common Area, and to the extent the same is not otherwise the responsibility of Owners of individual Dwelling Units, the maintenance of Dwelling Units and in general perform all of the duties and obligations of the Association. The parties may renew such management agreement for additional terms of three (3) or fewer years or a new management agreement with different parties may be executed under similar terms and conditions. Any management agreement is or will be subject to termination by Declarant (or such other corporation or entity as appropriate) at any time prior to expiration of its term, in which event the Association shall thereupon and thereafter resume performance of all of its duties and obligations. Notwithstanding anything to the contrary contained herein, so long as a management agreement between the Association and Declarant (or such other corporation or entity as appropriate) is in effect, Declarant (or such other corporation or entity as appropriate) shall have and Declarant hereby reserves to itself (or such other corporation or entity as appropriate), the exclusive right to manage the Tract and perform all the functions of the Association.

13. Real Estate Taxes - Real estate taxes are to be separately assessed and taxed to each Lot. In the event that for any year the real estate taxes are not separately assessed and taxed to each Lot but are assessed and taxed on the Tract or part thereof as a whole, without a breakdown for each Lot, then each Owner shall pay such Owner's proportionate share of the real estate taxes assessed to the land comprising the Tract or that part thereof that is assessed as a whole, which shall be the ratio that the square footage in such Owner's Lot bears to the total square footage of all the land comprising the Tract or part thereof assessed as a whole, and shall pay such Owner's proportionate share of the real estate taxes assessed on the improvements on the Tract or part thereof assessed as a whole based upon the ratio that the square footage of the Owner's Dwelling Unit bears to the total square footage of all Dwelling Units. Any real estate taxes or other assessments, which are chargeable against the Common Area, shall be paid by the Association and treated as a Common Expense.

14. Utilities - Each Owner shall pay for the utilities of such Owner that are separately metered. Utilities that are not separately metered shall be treated as and paid as part of the Common Expense unless otherwise determined by the Association.

15. Maintenance, Repairs and Replacements - Maintenance, repairs, replacements and upkeep of the Common Area, including but not limited to the private street designated "Broadway Place" on the Final Plat, shall be furnished by the Association, as a part of its duties, and the cost thereof shall constitute a part of the Common Expenses. The Association as part of its duties shall furnish maintenance of any drainage facilities or pipes located in the Common Area or in the drainage or utility easements and the costs thereof shall constitute part of the Common Expenses.

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot that is subject to Assessment hereunder as follows: paint, repair, replacement and care of roofs, gutters, downspouts, and exterior building surfaces; mowing, landscaping and maintenance of all Lots, and repair and maintenance of all lateral sanitary sewer lines if such is not the responsibility of the City of Indianapolis, Department of Public Works. Such exterior maintenance shall not include any utility lines (other than lateral sanitary sewer lines), glass surfaces, exterior light fixtures, screens and screen doors, door and window fixtures and other hardware, overhead garage doors, patios and decks, and other such items as the Board may so designate (unless specifically designated in this Declaration as the Association's obligation) so long as such items of exception shall apply to all Dwelling Units equally. However, the Association shall be responsible for staining or painting the exteriors of exterior doors, and it shall also be responsible for painting or staining the outside or exterior surfaces of patio fences, if any. Each Owner shall be responsible for maintaining and keeping such Owner's Lot and all improvements thereon in a good, clean and sanitary condition and shall do all work thereon that is not required hereunder to be performed by the Association, including the interiors of patio areas and patio fences. The Association shall not be responsible for repairing and maintaining any patio fences other than painting or staining the exterior, unless the Board of Directors shall otherwise provide.

If any Owner shall fail to maintain and keep such Owner's Lot or any part thereof in a good, clean and sanitary condition, the Association may perform any work necessary to do so and charge the Owner thereof for such cost, which cost shall be added to and become a part of the Owner's assessment, and such cost shall become immediately due, and shall be secured by the Association's lien on the Owner's Lot; provided, however, the Association shall only exercise this right after giving the Owner written notice of its intent at least fourteen (14) days prior to commencing such work.

So long as the Tract is subject to this Declaration each Owner, by such owner's acceptance of a deed to any Lot, irrevocably grants to the Association, its agents and employees, the right to enter upon, across and over the Lot owned by such Owner under such conditions as are reasonably necessary to effect the maintenance, cleaning, repair or other work contemplated herein.

16. Architectural Control

(a) The Architectural Review Board - As a standing committee of the Association, there shall be, and hereby is, established an Architectural Review Board consisting of three (3) persons or such greater number, if any, as may, from time to time, be provided in the By-Laws. Until the Applicable Date, the Architectural Review Board shall be the Initial Board of Directors. After the Applicable Date, the Architectural Review Board shall be appointed by the Board of Directors or if not so appointed the Architectural Review Board shall be the same as the Board of Directors.

(b) Purposes - The Architectural Review Board shall regulate the external design, appearance, use, location and maintenance of the Tract and of improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and the natural vegetation and topography. The Architectural Review Board, in carrying out such regulatory authority, and each Owner shall recognize that, in accordance with the Notice of Indianapolis Historic Preservation Commission Jurisdiction recorded on February 10, 2003, in the office of the Recorder of Marion County, Indiana, as Instrument No. 2003-0030475, (i) the Tract, the Lots and the Dwelling Units are subject to the jurisdiction and requirements of the Indianapolis Historic Preservation Commission with regard to any construction, reconstruction, alteration or demolition of a structure or feature, (ii) approval of such commission must be obtained before certain types of work are undertaken and (iii) the process for approval begins with the application for a Certificate of Appropriateness and the payment of any applicable fees.

(c) Conditions - No improvements, alterations, repairs, change of colors, excavation, changes in grade or other work that in any way alters the exterior of any Lot or the improvements located thereon from its natural or improved state existing on the date such Lot was first conveyed in fee by the Declarant to an Owner, including but not limited to a change in the color or kind of mailbox or color or kind of roof, shall be made or done without the prior approval of the Architectural Review Board, except as otherwise expressly provided in this Declaration. No building, fence, wall, Dwelling Unit or other structure shall be commenced, erected, maintained, improved, altered, made or done on any Lot without the prior written approval of the Architectural Review Board.

(d) Procedures - In the event the Architectural Review Board fails to approve, modify or disapprove in writing an application within thirty (30) days after delivery of such application (and all plans, drawings, specifications and other items required to be submitted to it in accordance with such rules as it may adopt), approval will be deemed granted by the Architectural Review Board. A decision of the Architectural Review Board (if a different board than the Board of Directors) may be appealed to the Board of Directors, which may reverse or modify such decision by at least two-thirds (2/3) vote of the Directors then serving. The Architectural Review Board may establish committees consisting of two (2) or more of its members, which committees shall exercise such powers of the Board as may be delegated to them.

(e) Maintenance of Architectural Control - The Association may not waive or abandon the procedure for regulating and enforcing the architectural design or exterior appearance of the Dwelling Units nor for maintaining the exterior of the Dwelling Units or the Common Area (including the upkeep of common fences, driveways, lawns and plantings) without the prior written approval of all Owners and all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

17. Party Walls

(a) General Rules of Law to Apply - Each wall that is built as a part of the original construction of any Dwelling Unit upon the Tract and that connects two Dwelling Units shall constitute a party wall and, to the extent not inconsistent with the provisions of this Section 17, the general rules of law regarding party walls and liability for property damage due to negligent or intentional or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance - The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall, proportionately.

(c) Destruction by Fire or Other Casualty - If any party wall is destroyed or damaged by fire or other casualty, then the Association shall repair same as provided in Section 21, below.

(d) Negligent or Willful Acts - Notwithstanding any other provision of this Declaration to the contrary, an Owner who by such Owner's negligent or willful act causes damage to a party wall shall indemnify and hold the Owners and the Association harmless from such damage.

(e) Arbitration - In the event of any dispute arising or concerning a party wall, or under the provisions of this Section 17, and if such dispute cannot be resolved by the Association within thirty (30) days from the date notice of such dispute is received by the Association, then each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. (Should any party refuse to appoint an arbitrator within ten [10] days after written request therefor from another party, the Board of Directors of the Association shall select an arbitrator for the refusing party). The cost of the arbitrators shall be borne equally by the parties to the dispute.

18. Assessments

(a) Annual Accounting - Annually, after the close of each fiscal year of the Association and prior to the date of the annual meeting of the Association next following the end of such fiscal year, the Board shall cause to be prepared and furnished to each Owner a financial statement prepared by a certified public accountant or firm of certified public accountants then

servicing the Association, which statement shall show all receipts and expenses received, incurred and paid during the preceding fiscal year.

(b) Proposed Annual Budget - Annually, before the date of the annual meeting of the Association, the Board of Directors shall cause to be prepared a proposed annual budget for the next fiscal year estimating the total amount of the Common Expenses for the next fiscal year and shall furnish a copy of such proposed budget to each Owner at or prior to the time the notice of such annual meeting is mailed or delivered to such Owners. The annual budget shall be submitted to the Owners at the annual meeting of the Association for adoption and, if so adopted, shall be the basis for the Regular Assessments (hereinafter defined) for the next fiscal year. At the annual meeting of the Association, the budget may be approved in whole or in part or may be amended in whole or in part by a vote of the Owners of a majority of the Lots; provided, however, that in no event shall the annual meeting of the Association be adjourned until an annual budget, either the proposed annual budget or the proposed annual budget as amended, is approved and adopted at such meeting. The annual budget, the Regular Assessments and all sums assessed by the Association shall be established by using generally accepted accounting principles applied on a consistent basis.

The annual budget and the Regular Assessments shall, in addition, be established to include the creation and maintenance of a replacement reserve fund for capital expenditures and replacement and repair of the Common Area and such exterior portion of the Dwelling Units as designated in this Declaration, which replacement reserve fund shall be used for those purposes and not for usual and ordinary repair expenses. Such replacement reserve fund for capital expenditures and replacement and repair of the Common Area and such exterior portion of the Dwelling Units as designated in this Declaration shall be maintained by the Association in a separate interest bearing account or accounts with one or more banks or savings and loan associations authorized to conduct business in Marion County, Indiana selected from time to time by the Board.

The failure or delay of the Board of Directors to prepare a proposed annual budget and to furnish a copy thereof to the Owners shall not constitute a waiver or release in any manner of the obligations of the Owners to pay the Common Expenses as herein provided, whenever determined. Whenever, whether before or after the annual meeting of the Association, there is no annual budget approved by the Owners as herein provided for such next fiscal year, the Owners shall continue to pay Regular Assessments based upon the last approved budget or, at the option of the Board, based upon one hundred and ten percent (110%) of such last approved budget, as a temporary budget.

(c) Regular Assessments - The annual budget as adopted by the Owners shall, based on the estimated cash requirement for the Common Expenses in the next fiscal year as set forth in said budget, contain a proposed assessment against each Lot, which shall be the same amount for each Lot. Immediately following the adoption of the annual budget, each Owner shall be given written notice of such assessment against such Owner's Lot (herein called the "Regular Assessment"). In the event the Regular Assessment for a particular fiscal year is initially based upon a temporary budget, such Regular Assessment shall be revised, within fifteen (15) days

following adoption of the final annual budget by the Owners, to reflect the assessment against each Lot based upon such annual budget as finally adopted by the Owners. The aggregate amount of the Regular Assessments shall be equal to the total amount of expenses provided and included in the final annual budget, including reserve funds as hereinabove provided. The Regular Assessment against each Lot shall be paid in advance in equal monthly installments commencing on the first day of the first month of each fiscal year and monthly thereafter through and including the first day of the last month of such fiscal year. Payment of the monthly installments of the Regular Assessment shall be made to the Board of Directors or the Managing Agent, as directed by the Board of Directors; provided, however, Owners may elect to pay assessments quarterly, semi-annually or annually in advance. In the event the Regular Assessment for a particular fiscal year of the Association was initially based upon a temporary budget, then the following shall apply:

(i) If the Regular Assessment based upon the final annual budget adopted by the Owners exceeds the amount of the Regular Assessment based upon the temporary budget, that portion of such excess applicable to the period from the first day of the fiscal year to which such temporary budget was applicable to the date of the next payment of the Regular Assessment that is due shall be paid with such next payment, and all payments thereafter during such fiscal year shall be increased so that the Regular Assessment as finally determined shall be paid in full by the remaining payments due in such fiscal year, or

(ii) If the Regular Assessment based upon the temporary budget exceeds the Regular Assessment based upon the final annual budget adopted by the Owners, such excess shall be credited against the next payment or payments of the Regular Assessment coming due, until the entire amount of such excess has been so credited; provided, however, that if an Owner had paid such Owner's Regular Assessment either quarterly, semi-annually or annually in advance, then the adjustments set forth under (i) or (ii) above shall be made by a cash payment by, or refund to, the Owner on the first day of the second month following the determination of the Regular Assessment based upon the annual budget finally adopted by the Owners.

The Regular Assessment for the current fiscal year of the Association shall become a lien on each separate Lot as of the first day of each fiscal year of the Association, even though the final determination of the amount of such Regular Assessment may not have been made by that date. The fact that an Owner has paid such Owner's Regular Assessment for the current fiscal year in whole or in part based upon a temporary budget and thereafter, before the annual budget and Regular Assessment are finally determined, approved and adjusted as herein provided, sells, conveys or transfers such Owner's Lot or any interest therein, shall not relieve or release such Owner or such Owner's successor as Owner of such Lot from payment of the Regular Assessment for such Lot as finally determined, and such Owner and such Owner's successor as Owner of such Lot shall be jointly and severally liable for the Regular Assessment as finally determined. Any statement of unpaid assessments furnished by the Association pursuant to Section 19 hereof prior to the final determination and adoption of the annual budget and Regular Assessment for the year in which such statement is made shall state that the matters set forth therein are subject to adjustment upon determination and adoption of the final budget and Regular Assessment for such year, and all parties to whom any such statement may be delivered

or who may rely thereon shall be bound by such final determinations. Monthly installments of Regular Assessments shall be due and payable automatically on their respective due dates without any notice from the Board or Association, and neither the Board nor the Association shall be responsible for providing any notice or statements to Owners for the same.

(d) Special Assessments - From time to time Common Expenses of an unusual or extraordinary nature or not otherwise anticipated may arise. At such time and provided that any such assessment shall have the assent of two-thirds (2/3rd) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, and further provided that the Declarant shall not be any Owner's agent, attorney-in-fact or proxy in this vote pursuant to the third sentence of Section 11(b) of this Declaration, the Board of Directors shall have the full right, power and authority to make special assessments which, upon resolution of the Board, shall become a lien on each Lot, prorated in equal shares (herein called "Special Assessment"). Without limiting the generality of the foregoing provisions, Special Assessments may be made by the Board of Directors from time to time to pay for capital expenditures and to pay for the cost of any repair or reconstruction of damage caused by fire or other casualty or disaster to the extent insurance proceeds are insufficient therefor under the circumstances described in this Declaration.

(e) Regular Assessments Prior to the Applicable Date - During the period that Declarant is constructing Dwelling Units within the Tract, it is difficult to accurately allocate the Common Expenses to the individual Lots. The purpose of this section is to provide the method for the payment of the Common Expenses during the period prior to the Applicable Date to enable the Association to perform its duties and functions. Accordingly and notwithstanding any other provision contained in the Declaration, the Articles or the By-Laws or otherwise, prior to the Applicable Date, the annual budget and all Regular Assessments and Special Assessments shall be established by the Initial Board without any meeting or concurrence of the Owners; provided, however, the Regular Assessments shall be determined in accordance with the provisions contained in this Section 18.

The Association will enter into a management agreement (the "Management Agreement") with Declarant (or a corporation or other entity designated by Declarant) (hereinafter referred to as "Management Agent" or "Managing Agent") in accordance with the provisions of Section 12 of this Declaration. So long as such management agreement (or similar agreement) remains in effect, Owners shall pay the Common Expenses or Regular Assessments to Management Agent. Declarant shall guarantee that until the earlier of (1) the termination of said Management Agreement or (2) one (1) year from the commencement of the Management Agreement, the monthly Regular Assessment (excluding any amount assessed by the Association) shall not exceed One Hundred Fifty and no/100 Dollars (\$150.00) per month (the "Guaranteed Charge"). After one (1) year from the commencement of the Management Agreement (assuming that said Management Agreement or similar agreement is still in effect) and so long thereafter as said Management Agreement (or similar agreement) remains in effect and Management Agent continues to perform such functions, Declarant guarantees that the monthly Regular Assessment shall not exceed the amount of the Guaranteed Charge plus a maximum of a ten percent (10%) increase in the Guaranteed Charge for each year. Such adjustment to the Guaranteed Charge (up

to a 10% increase as determined by the Board) shall be made annually on January 1 of each year so long as said Management Agreement remains in effect and Management Agent continues to perform such functions. Such monthly charge during such guaranteed period shall entirely defray the Owner's obligation for such Owner's share of Common Expenses, or shall be the Owner's entire Regular Assessment. Declarant shall be responsible for any deficit during such guaranteed period; provided, however, that this guarantee is not intended to include, and does not include, major physical alterations or other unusual expenditures not ordinarily anticipated in normal maintenance operations. Such expenditures would be covered through Special Assessments or, if sufficient, the Replacement Reserve Fund.

At least ten percent (10%) of the Regular Assessment (excluding any amount assessed by the Association) shall be designated as a reserve fund for maintenance, repairs or replacement of Common Areas and of those portions of the Dwelling Units that are the obligation of the Association to maintain, that must be repaired and replaced on a periodic basis.

That portion of the Regular Assessment collected by Declarant prior to the Applicable Date applicable to the replacement reserve shall be held by the Initial Board and if required, applied to the replacement of Common Areas or those portions of Dwelling Units obligated to be repaired and replaced by the Association. To the extent that such replacement reserve is not so applied, the Association at the Applicable Date thereof shall retain the balance.

Payment of the Regular Assessment prior to the Applicable Date with respect to each Dwelling Unit (that is not owned by Declarant) shall commence on the date of conveyance by Declarant to such new owner. The first payment shall be payable on the date of conveyance prorated to the first day of the calendar month next ensuing. Thereafter, payment of the Regular Assessment shall be paid the first day of each calendar month during the period prior to the Applicable Date.

Each Owner hereby authorizes the Association and the Board of Directors and its officers to enter into the aforesaid Management Agreement described in Section 12 of this Declaration and to adhere to and abide by the same.

(f) Failure of Owner to Pay Assessments - No Owner may exempt itself from paying Regular Assessments or Special Assessments or from contributing toward the Common Expenses or toward any other expense lawfully agreed upon by waiver of the use or enjoyment of the Common Area or by abandonment of such Owner's Lot. Each Owner shall be personally liable for the payment of all Regular and Special Assessments. If an Owner constitutes more than one person, the liability of such persons shall be joint and several. If any Owner shall fail, refuse or neglect to make any payment of any Regular Assessment or Special Assessment when due, the lien for such assessment on the Owner's Lot and Dwelling Unit may be filed and foreclosed by the Board of Directors for and on behalf of the Association as a mortgage on real property or as otherwise provided by law. Upon the failure of the Owner to make timely payments of any Regular Assessment or Special Assessment when due, the Board may in its discretion accelerate the entire balance of unpaid assessments and declare the same immediately due and payable, notwithstanding any other provisions hereof to the contrary. In

any action to foreclose the lien for any assessments the Owner and any occupant of the Lot and Dwelling Unit shall be jointly and severally liable for the payment to the Association of reasonable rental for such Lot and Dwelling Unit and the Board shall be entitled to the appointment of a receiver for the purpose of preserving the Lot and Dwelling Unit and to collect the rentals and other profits therefrom for the benefit of the Association to be applied to the unpaid Regular Assessments or Special Assessments. The Board may at its option bring suit to recover a money judgment for any unpaid Regular Assessment or Special Assessment without foreclosing or waiving the lien securing the same. In any action to recover a Regular Assessment or Special Assessment, whether by foreclosure or otherwise, the Board for and on behalf of the Association shall be entitled to recover from the Owner of the respective Lot and Dwelling Unit costs and expenses of such action incurred (including but not limited to reasonable attorneys' fees) and interest from the date such assessments were due until paid at the rate equal to the Indiana statutory interest rate on judgments. The lien of the Assessments provided for herein shall be subordinate to the lien of any first mortgage.

(g) Subordination of Assessment Lien to Mortgage - Notwithstanding anything to the contrary contained in this Declaration, the Articles or the By-Laws, any sale or transfer of a Lot to a mortgagee pursuant to a foreclosure of its mortgage or conveyance in lieu thereof, or a conveyance to any person at a public sale in a manner provided by law with respect to mortgage foreclosures shall extinguish the lien of any unpaid installment of any Regular Assessment or Special Assessment as to such installment that became due prior to such sale, transfer or conveyance; provided, however, the extinguishment of such lien cannot relieve the prior Owner from personal liability therefor. No such sale, transfer or conveyance shall relieve the Lot and Dwelling Unit or the purchaser at such foreclosure sale or grantee in the event of conveyance in lieu thereof, from liability for any installments of Regular Assessments or Special Assessments thereafter becoming due or from the lien therefor. Such unpaid share of any Regular Assessments or Special Assessments, the lien for which has been divested as aforesaid, shall be deemed to be a Common Expense collectible from all Owners (including the party acquiring the subject Lot from which it arose).

19. Mortgages

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

The Association shall, upon request of a Mortgagee who has furnished the Association with its name and address as hereinabove provided, furnish such Mortgagee with written notice of any default in the performance by its borrower of any obligations of such borrower under this Declaration or the By-Laws that is not cured within sixty (60) days.

(b) Notice of Unpaid Assessments - The Association shall, upon request of a Mortgagee, a proposed mortgagee, or a proposed purchaser who has a contractual right to purchase a Lot, furnish to such Mortgagee or purchaser a statement setting forth the amount of the unpaid Regular Assessments, Special Assessments or other charges against the Lot, which statement shall be binding upon the Association and the Owners, and any Mortgagee or grantee of the Lot shall not be liable for nor shall the Lot conveyed be subject to a lien for any unpaid assessments or charges in excess of the amounts set forth in such statement or as such assessments may be adjusted upon adoption of the final annual budget, as referred to in Section 18 hereof.

(c) Right of Mortgagee to Pay Real Estate Taxes or Insurance Premiums - Mortgagees shall have the right, but not the obligation, (1) to pay any taxes or other charges against the Common Area that are in default and (2) to pay any overdue premiums on hazard insurance for the Common Area or to secure new hazard insurance for the Common Area on the lapse of a policy. Any Mortgagee making such payment shall be immediately reimbursed by the Association.

(d) Notice of Condemnation or Casualty Loss - Mortgagees shall be timely notified of any condemnation loss or casualty loss that affects a material portion of Myron Place or any Dwelling Unit. Mortgagees shall also be timely notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond held by the Association.

(e) Notice to Insurers and Guarantors - Any guarantor of a first mortgage or any insurer shall, upon notification and request to the Association, receive the same notices as are required to be given to Mortgagees.

(f) Freddie Mac - Assuming that Mortgagees may securitize pools of mortgages, including mortgages on Lots and/or Dwelling Units, with the Federal Home Loan Mortgage Corporation (a/k/a "Freddie Mac"), the following requirements shall apply to all Lots and Dwelling Units:

(i) Unless at least two-thirds (2/3) of the first Mortgagees (based on one vote for each first mortgage owned) or two-thirds of the Class A Members have given their prior written approval, the Association shall not take any of the following actions:

(A) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. The re-subdivision and/or adjustment of boundary lines of the Common Area and the granting of easements by the Association shall not be deemed a transfer or subdivision within the meaning of this clause.

(B) change the method of determining the obligations, assessments, dues, or other charges that may be levied against an Owner.

(C) by act or omission waive or abandon any scheme of regulations or their enforcement pertaining to the architectural design or the exterior appearance of Dwelling Units and their appurtenances, the exterior maintenance of Dwelling Units and their appurtenances, the maintenance of the Common Area, common fences and driveways, and the upkeep of lawns and plantings in the Tract.

(D) fail to maintain fire and extended coverage insurance on insurable parts of the Common Area or other Association property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value, based on current replacement costs, not including land value.

(E) use hazard insurance proceeds for losses to the Common Area or other Association property for other than the repair, replacement or reconstruction of such property.

(ii) A Mortgagee shall be given written notification from the Association of any default in the performance of any obligation under this Declaration or related Association documents by the Owner of a Lot that is the security for the indebtedness due the Mortgagee which is not cured within sixty (60) days after the Owner's receipt of notice of the default.

(iii) A Mortgagee may, jointly or singly, pay taxes or other charges that are in default and that may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage upon the lapse of a policy for such Common Area. The Mortgagee making such payments shall be owed immediate reimbursement therefor from the Association.

(iv) The assessments imposed by the Association shall include an adequate reserve fund for maintenance, repairs and replacements for those parts of the Common Area that may be replaced or require maintenance on a periodic basis. Such reserves shall be payable in regular installments rather than by Special Assessment.

(g) Fannie Mae – Assuming that Mortgagees may secure funding for mortgage loans by selling mortgage loans, including mortgages on Lots and/or Dwelling Units, to the Federal National Mortgage Association (a/k/a “Fannie Mae”), the following requirements shall apply to all Lots and Dwelling Units:

(i) A Mortgagee shall be given written notification from the Association of the following:

(A) any condemnation or casualty loss that affects either a material portion of the Common Area or the Lot that is the security for the indebtedness due the Mortgagee;

(B) any default in the performance of any obligation under this Declaration or related Association documents by the Owner of a Lot that is the security for the indebtedness due the Mortgagee which is not cured within sixty (60) days after the Owner's receipt of notice of default;

(C) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

(D) any proposed action that would require the consent of a specified percentage of Mortgagees.

(ii) Provided that improvements have been constructed in the Common Area and provided that a Mortgagee gives written notice to the Association that it has relied on the value of the improvements in making a loan on a portion or all of the Tract, unless at least sixty-seven percent (67%) of the Members and Mortgagees representing at least fifty-one percent (51%) of those Lots that are subject to mortgages or deeds of trust have given their prior written approval, the Association shall not add or amend any material provision of the Declaration or related Association documents concerning the following:

(A) voting rights of any Member;

(B) assessments, assessment liens, or subordination of such liens;

(C) reserves for maintenance, repair and replacement of those parts of the Common Area that may be replaced or require maintenance on a periodic basis;

(D) responsibility for maintenance and repair of the Tract;

(E) reallocation of interests in the Common Area or rights to its use;

(F) converting Lots into Common Area or vice versa;

(G) annexation or withdrawal of property to or from the Tract;

(H) insurance or fidelity bonds;

(I) leasing of Dwelling Units;

(J) imposition of any right of first refusal or similar restriction on the right of an Owner to sell, transfer or otherwise convey its property;

(K) a decision by the Association to establish self-management when professional management has been required previously by a Mortgage;

- condemnation;
- (L) restoration or repair of the Tract after a hazard damage or partial
 - (M) any provisions that are for the express benefit of Mortgagees; and
 - (N) termination of the legal status of the Association after substantial destruction or condemnation of the subdivision occurs.

An addition or amendment to the Declaration or related Association documents shall not be considered material if it is for the purpose of clarification or correcting errors. A Mortgagee who receives a written request to approve additions or amendments who does not deliver or post to the requesting party a negative response within thirty (30) days of receipt of such request shall be deemed to have approved such request.

20. Insurance

(a) Casualty Insurance. The Association shall purchase a master casualty insurance policy affording fire and extended coverage insurance insuring each Building, Dwelling Unit and the Common Areas (collectively, the "Property") in an amount consonant with the full replacement value of the improvements that, in whole or in part, comprise the Property. If the Association can obtain such coverage for reasonable amounts, it shall also obtain "all risk" coverage. The Board of Directors shall be responsible for reviewing at least annually the amount and type of such insurance and shall purchase such additional insurance as is necessary to provide the insurance required above. If deemed advisable by the Board of Directors, the Association may cause such full replacement value to be determined by a qualified appraiser. The cost of any such appraisal shall be a Common Expense. Such insurance coverage shall be for the benefit of each Owner, and, if applicable, the mortgagees of each Dwelling Unit upon the terms and conditions contained in this section.

All proceeds payable as a result of casualty losses sustained that are covered by insurance purchased by the Association as hereinabove set forth shall be paid to the Association, and the Association shall act as the insurance trustee and hold such proceeds for the benefit of the insured parties. In the event that the Association has not posted surety bonds for the faithful performance of its duties or if such bonds do not exceed the funds that will come into its hands, and there is damage to a part or all of the Property resulting in a loss, the Association shall obtain and post a bond for the faithful performance of its duties as insurance trustee in an amount to be determined by a majority vote of a meeting of the Owners but not to exceed 125% of the loss, before the Association shall be entitled to receive the proceeds of the insurance payable as a result of such loss. The sole duty of the insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein, and for the benefit of the Owners and the respective mortgagees. The proceeds shall be used or disbursed by the Association only in accordance with the provisions of this Declaration.

The interest of each damaged Owner in the trust fund of insurance proceeds shall be the ratio of the direct damage of each damaged Owner to the damages of all Owners directly damaged by any event insured under the said master casualty insurance policy.

Such master casualty insurance policy, and 'all risk' coverage if obtained, shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, its agents and employees, owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured, and providing further, if the Association is able to obtain such insurance upon reasonable terms, (i) that the insurer shall not be entitled to contribution against casualty insurance that may be purchased by individual Owners as hereinafter permitted, and (ii) that notwithstanding any provision thereof giving the insurer an election to restore damage in lieu of a cash settlement, such option shall not be exercisable in the event the Owners do not elect to restore pursuant to Section 21 hereunder.

(b) Public Liability Insurance. The Association shall also purchase a master comprehensive public liability insurance policy in such amount or amounts as the Association shall deem appropriate from time to time, but not less than \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Such comprehensive public liability insurance policy shall cover the Association, any committee or organ of the Association, any managing agent appointed or employed by the Association, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to Myron Place, all Owners of Dwelling Units and all other persons entitled to occupy any Dwelling Unit or other portions of Myron Place. Such public liability insurance policy shall contain a "severability of interest" clause or endorsement that shall preclude the insurer from denying the claim of an Owner because of negligent acts of the Association or other Owners. Such public liability insurance policy shall contain a provision that such policy shall not be cancelled or substantially modified without at least ten (10) days' written notice to the Association.

(c) Other Insurance. The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Association shall from time to time deem necessary, advisable or appropriate, including but not limited to liability insurance on vehicles owned by the Association and officers' and directors' liability policies. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Association such Owner's right to adjust with the insurance companies all losses under policies purchased by the Association.

(d) General Provisions. The premiums for all such insurance hereinabove described shall be paid by the Association as part of the Common Expenses. When any such policy of insurance hereinabove described has been obtained by or on behalf of the Association, written notice of the obtainment thereof and of any subsequent changes therein or termination

thereof shall be promptly furnished to each Owner or mortgagee whose interest may be affected thereby, which notice shall be furnished by the officer of the Association who is required to send notices of meetings of the Association.

In no event shall any distribution of proceeds be made by the Association directly to an Owner where there is a mortgagee endorsement on the certificate of insurance. In such event any remittances shall be to the Owner and such Owner's mortgagee jointly.

(e) Insurance by Owners. Each Owner shall be solely responsible for and may obtain such additional insurance as such Owner deems necessary or desirable at such Owner's own expense affording coverage upon such Owner's personal property, the contents of such Owner's Dwelling Unit (including, but not limited to, all floor, ceiling and wall coverings and fixtures, betterments and improvements installed by such Owner) and such Owner's personal property stored elsewhere on the Property, and for such Owner's personal liability, but all such insurance shall contain the same provisions for waiver of subrogation as referred to in the foregoing provisions for the master casualty insurance policy to be obtained by the Association. Each Owner may obtain casualty insurance at such Owner's own expense upon such Owner's Dwelling Unit but such insurance shall provide that it shall be without contribution as against the casualty insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of the proceeds that would otherwise be payable on the insurance purchased by the Association pursuant to this paragraph due to proration of insurance purchased by an Owner under this paragraph, the Owner agrees to assign the proceeds of this latter insurance, to the extent of the amount of such reduction, to the Association to be distributed as herein provided.

(f) Surety Bond. The Association shall also obtain insurance or a surety bond covering each member of the Board of Directors of the Association, the officers of the Association and such other persons as the Association shall determine to indemnify the Association against acts of fraud or dishonesty by such persons. Such insurance shall, if reasonably possible, contain coverage for any insurance proceeds received. The expenses of such insurance or surety bond shall be a Common Expense.

21. Casualty and Restoration.

(a) Restoration of Dwelling Units. Except as hereinafter provided, damage to or destruction of any portion of the Property due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance if any, shall be applied for that purpose; provided, however, that repair and reconstruction shall not be compulsory in the event of "complete destruction of all of the Buildings" (hereinafter defined) and shall only be done in accordance with the provisions hereinafter set forth. As used herein, the term "complete destruction of all of the Buildings" means a determination, made by a vote of the Owners of two-thirds (2/3) of all Dwelling Units at a special meeting of the Association called for the purpose of making such determination, that total destruction of all of the Buildings has occurred. A special meeting of the Association shall be called and held within ninety (90) days after any fire or any other casualty or disaster damaging or destroying any of the Buildings for the purpose of making the determination of whether or not there has been a complete

destruction of all of the Buildings. If such a special meeting is not called and held within such ninety (90) day period, or if the determination of whether or not there has been a complete destruction of all the Buildings has not been made within such ninety (90) day period, then it shall be conclusively presumed that the Owners determined that there was not a complete destruction of all of the Buildings, and the Association shall proceed with repair and reconstruction as herein provided.

(b) Insufficient Proceeds. If the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Building or Buildings so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by all of the Owners of Dwelling Units that were damaged or destroyed in proportion to the ratio that the cost of repair and reconstruction of each such Dwelling Unit bears to the total cost of repair and reconstruction of all Dwelling Units that were damaged or destroyed. Any such amounts payable by the Owners shall be assessed as part of the Common Expenses due from such Owners and shall constitute a lien from the time of assessment as provided herein and in the Act. In the event the insurance proceeds, if any, received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction of the Common Areas, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Areas so damaged or destroyed (or the cost thereof in excess of insurance proceeds, if any) shall be assessed by the Association against all of the Owners in equal shares. Any such amounts assessed against the Owners shall be assessed as part of the Common Expenses and shall constitute a lien from the time of assessment as provided herein.

(c) Standard for Reconstruction. For purposes of subparagraph (a) and (b) above, repair, reconstruction and restoration shall mean construction or rebuilding of the Property to as near as possible the same condition as it existed immediately prior to the damage or destruction and with the same type of architecture.

(d) Complete Destruction – Reconstruction. If, under subparagraph (a) above, it is determined by the Owners at the special meeting of the Association referred to therein that there has been a complete destruction of all of the Buildings, the Owners shall, at said same special meeting, vote to determine whether or not such complete destruction of the Buildings shall be repaired and reconstructed. The Buildings shall not be reconstructed or repaired if it is the determination of the Owners at said special meeting that there has been a complete destruction of all of the Buildings unless by a vote of the Owners of two-thirds (2/3) of all of the Lots a decision is made to rebuild, reconstruct and repair the Buildings. If the Owners of two-thirds (2/3) of all of the Lots vote and decide that the Buildings are to be rebuilt, reconstructed and repaired, the insurance proceeds, if any, received by the Association shall be applied and any excess of construction costs over insurance proceeds, if any, received by the Association shall be contributed and paid as hereinabove provided in subparagraphs (a) and (b).

(e) Complete Destruction – Removal from Provisions. If, in any case of the complete destruction of all of the Buildings, the Owners of less than two-thirds (2/3) of all of the Lots vote in favor of the rebuilding, reconstruction and repair of the Buildings, the Buildings shall not be rebuilt, reconstructed or repaired and, in such event, the Property shall be deemed and considered as to be removed from the provisions of this Declaration:

Owners; (i) the Property shall be deemed to be owned in common by the

in the Property; (ii) the Owner of each Lot shall have an equal undivided interest

(iii) any liens affecting any Lot shall be deemed to be transferred in accordance with the existing priorities to the undivided interest in the Property of the Owner of such Lot; and

(iv) the Property shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the Property, if any, shall be considered as one (1) fund and shall be divided equally among all the Lots, after first paying out of the respective shares of the Lots, to the extent sufficient for the purpose, all liens on the undivided interest in the Property owned by the Owner of each Lot.

(f) Estimates for Repairs. Immediately after a fire or other casualty or disaster causing damage to any property for which the Association has the responsibility of maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Association desires.

(g) Proceeds of Insurance. The proceeds of insurance collected on account of any such casualty, and the sums received by the Association from collections of assessments against Owners on account of such casualty, shall constitute a construction fund that shall be disbursed, if the Building or Buildings are to be reconstructed and repaired, in payment of the costs of reconstruction and repair in the following manner:

(i) If the amount of the estimated cost of reconstruction and repair is less than Five Thousand Dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs upon order of the Association; provided, however, that upon request of a Mortgagee that is a beneficiary of an insurance policy, the proceeds of which are included in the construction fund, such fund shall be disbursed in the manner hereinafter provided in the following paragraph (ii).

(ii) If the estimated cost of reconstruction and repair of the Building or other improvement is more than Five Thousand Dollars (\$5,000.00), then the construction fund shall be disbursed in payment of such costs upon approval of an

architect or engineer qualified to practice in Indiana and employed by the Association to supervise such work, payment to be made from time to time as the work progresses. The architect or engineer shall be required to furnish a certificate giving a brief description of the services and materials furnished by various contractors, subcontractors, materialmen, the architect, or other persons who have rendered services or furnished materials in connection with the work, (1) that the sums requested by them in payment are justly due and owing and that said sums do not exceed the value of the services and materials furnished; (2) that there is no other outstanding indebtedness known to the architect or engineer for the services and materials described; and (3) that the costs as estimated by said architect or engineer for the work remaining to be done subsequent to the date of such certificate, does not exceed the amount of the construction fund remaining after payment of the sum so requested.

(iii) Encroachments upon or in favor of Dwelling Units that may be created as a result of such reconstruction or repair shall not constitute a claim or basis of a proceeding or action by the Owner upon whose property such encroachment exists, provided that such reconstruction was either substantially in accordance with the plans and specifications or as the Buildings were originally constructed. Such encroachments shall be allowed to continue in existence for so long as the Buildings stand.

(iv) In the event that there is any surplus of monies in the construction fund after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Common Areas, or, in the discretion of the Association it may be distributed to the Owners in the Buildings affected and their Mortgagees who are the beneficial owners of the fund. The action of the Association in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

22. Covenants and Restrictions - The following covenants and restrictions on the use and enjoyment of the Lots, Dwelling Units and Common Area shall be in addition to any other covenants or restrictions contained herein and in the Final Plat, and all such covenants and restrictions are for the mutual benefit and protection of the present and future Owners and shall run with the land and inure to the benefit of and be enforceable by any Owner, or by the Association. Present or future Owners or the Association shall be entitled to injunctive relief against any violation or attempted violation of any such covenants and restrictions, and shall, in addition, be entitled to damages for any injuries or losses resulting from any violations thereof, but there shall be no right of reversion or forfeiture resulting from such violation. These covenants and restrictions are as follows:

(a) A single family shall use exclusively for residential purposes and for occupancy all Lots and Dwelling Units.

(b) Nothing shall be done or kept in any Dwelling Unit, or on any Lot that will cause an increase in the rate of insurance on any Dwelling Unit or the contents thereof. No

Owner shall permit anything to be done or kept in such Owner's Dwelling Unit or on such Owner's Lot that will result in a cancellation of insurance on any Dwelling Unit, or that would be in violation of any law or ordinance or the requirements of any insurance underwriting or rating bureau.

(c) No nuisance shall be permitted, and no waste shall be committed in any Dwelling Unit or on any Lot.

(d) No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of such Owner's Dwelling Unit or placed on the outside walls of any building, and no sign, awning, canopy, shutter or radio or television antenna or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Architectural Review Board.

(e) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Dwelling Unit or on any Lot or any of the Common Area, except that pet dogs, cats or customary household pets may be kept in a Dwelling Unit, provided that such pet is not kept, bred or maintained for any commercial purpose, and does not create a nuisance. The Board may adopt such other rules and regulations regarding pets as it may deem necessary from time to time. Any pet that, in the judgment of the Board, is causing or creating a nuisance or unreasonable disturbance or noise, shall be permanently removed from the Tract within ten (10) days after written notice from the Board to the respective Owner to do so.

(f) All rubbish, trash or garbage shall be stored in closed sanitary containers in areas designated by the Association, shall be regularly removed from the premises, and shall not be allowed to accumulate on any part of the Tract. Trash may be stored in enclosed containers provided by the Association for that purpose. No clothes, sheets, blankets, rugs, laundry or other things shall be hung out or exposed on, or so as to be visible from, any part of the Common Area.

(g) No industry, trade, or other commercial or religious activity, educational or otherwise, designed for profit, altruism or otherwise, shall be conducted, practiced or permitted on the Tract.

(h) No "for sale," "for rent" or "for lease" signs, or other signs, or other window or advertising display shall be maintained or permitted on any part of the Tract, any Lot or any Dwelling Unit without the prior consent of the Board; provided, however, that the right is reserved by the Declarant and the Board to place or allow to be placed "for sale" or "for lease" signs on or about the Tract in connection with any unsold or unoccupied Lots and Dwelling Units.

(i) All Owners and members of their families, their guests, or invitees, and all occupants of any Dwelling Unit or other persons entitled to use the same, shall observe and be governed by such rules and regulations as may from time to time be promulgated and issued by the Board.

(j) No boats, campers, trailers of any kind, buses, mobile homes, recreational vehicles, trucks (larger than 3/4 ton), motorcycles, mini bikes or mopeds shall be permitted, parked or stored anywhere within the Tract except as otherwise specifically permitted by the Board. No repair work shall be done on the Tract on any vehicles, including passenger automobiles.

(k) No Owner may rent or lease such Owner's Dwelling Unit for transient or hotel purposes.

(l) Any Owner who leases a Dwelling Unit shall lease the entire Dwelling Unit and shall have a written lease for a term approved by the Association, which lease shall provide that the lease is subject to the provisions of the Declaration and any failure of the lessee to comply with the terms of the Declaration, shall be a default under the lease.

(m) Each Owner shall maintain the dusk to dawn coach light located on the garage of such Owner's Dwelling Unit.

(n) The development of the Tract and the use of the Tract shall be subject to the terms and provisions of the Final Proposed Preliminary Plan for Myron Place presented and adopted as part of Rezoning Petition No. 04-ZON-166 and Variance Petition No. 2004-WHP-042.

Notwithstanding anything to the contrary contained herein or in the Articles or By-Laws, including but not limited to any covenants and restrictions set forth herein or otherwise, Declarant shall have the right to use and maintain any Lots and Dwelling Units owned by Declarant and other portions of the Tract (other than individual Dwelling Units and Lots owned by Owners other than Declarant), all of such number and size and at such locations as Declarant in its sole discretion may determine, as Declarant may deem advisable or necessary in its sole discretion to aid in the construction of Dwelling Units and the sale of Lots and Dwelling Units for the conducting of any business or activity attendant thereto, including but not limited to model Dwelling Units, storage areas, construction yards, signs, construction offices, sales offices, management offices and business offices. Declarant shall have the right to relocate any or all such facilities so used or maintained by Declarant and such facilities shall not be or become part of the Common Area, unless so designated by Declarant, and Declarant shall have the right to remove the same from the Tract at any time.

23. Amendment of Declaration

(a) Generally - Except as otherwise provided in this Declaration, amendments to this Declaration shall be proposed and adopted in the following manner:

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

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

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

(iv) Adoption - Any proposed amendment to this Declaration must be approved by a vote of not less than seventy-five percent (75%) in the aggregate of the votes of all Owners. In the event any Lot or Dwelling Unit is subject to a first mortgage, the Mortgagee shall be notified of the meeting and the proposed amendment in the same manner as an Owner if the Mortgagee has given prior notice of its mortgage interest to the Board of Directors in accordance with the provisions hereof.

(v) Special Amendments - No amendment to this Declaration shall be adopted that changes (1) except in connection with additions to the Tract under Section 23(b)(v) below, the applicable share of an Owner's liability for the Common Expenses, or the method of determining the same, or (2) the provisions of Section 20 above with respect to casualty insurance or fidelity bonds to be maintained by the Association, or (3) the provisions of Section 21 with respect to reconstruction or repair of the Common Area or Dwelling Units in the event of fire or any other casualty or disaster, or (4) the provisions of Section 16 establishing the Architectural Review Board and providing for its functions, or (5) the provisions of Section 18 with respect to the commencement of assessments on any Lot, without, in each and any of such circumstances, the unanimous approval of all Owners and of all Mortgagees whose mortgage interests have been made known to the Board of Directors in accordance with the provisions of this Declaration.

(vi) Additional Special Amendments - No amendment to this Declaration shall be adopted that imposes a right of first refusal or similar restriction or that changes (1) the method of voting, or (2) reserves for and responsibility for maintenance, repair and replacement of the Common Area and Dwelling Units, or (3) rights to use the Common Area, or (4) the boundaries of any Dwelling Unit, or (5) the leasing of Dwelling Units, or (6) termination of the applicability of this Declaration, or (7) any provisions that are for the express benefit of Mortgagees without the consent of at least ninety percent (90%) of the votes of the Owners for the first twenty (20) years after the recording of this Declaration and thereafter at least seventy-five percent (75%) of the votes of Owners and the consent of Mortgagees holding mortgages on fifty percent (50%) of the Dwelling Units subject to mortgages.

(vii) Recording - Each amendment to the Declaration shall be executed by the Declarant or by the President and Secretary of the Association and shall be recorded in the office of the Recorder of Marion County, Indiana, and such amendment shall not become effective until so recorded.

(viii) Failure of Mortgagee to Respond - Any Mortgagee that receives a written request to approve an amendment and fails to give a negative response within thirty (30) days after receiving such request shall be deemed to have approved such request.

(b) Amendments by Declarant Only - Notwithstanding the foregoing or anything elsewhere contained herein or in any other documents, the Declarant shall have and hereby reserves the right and power acting alone and without the consent or approval of the Owners, the Association, the Board of Directors, any Mortgagees or any other person to amend or supplement this Declaration at any time and from time to time if such amendment or supplement is made (i) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Association, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity that performs (or may in the future perform) functions similar to those currently performed by such entities, (ii) to induce any of such agencies or entities to make, purchase, sell, insure or guarantee first mortgages covering Lots and Dwelling Units, (iii) to bring this Declaration into compliance with any statutory requirements, (iv) to correct clerical or typographical errors in this Declaration or any Exhibit hereto or any supplement or amendment thereto or (v) to add to the Tract all or part of the following areas shown on the Final Plat: (i) the lots designated 9 and 10, and the land surrounding such lots, that are north of and adjacent to Section 1A of Myron Place as depicted on the Final Plat, and (ii) the lots designated 1 through 10 inclusive, in Section Two, and the land surrounding such lots, that are east of Section 1A of Myron Place, between Myron Street and Broadway Street as depicted on the Final Plat. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to vote in favor of, make, or consent to any amendments described in this Section 23 on behalf of each Owner as proxy or attorney-in-fact, as the case may be. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Lot or Dwelling Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to vote in favor of, make, execute and record any such amendments. The right of the Declarant to act pursuant to rights reserved or granted under this Section 23 shall terminate at such time as the Declarant no longer holds or controls title to any part or portion of the Tract.

(c) Amendment Prior to the Applicable Date - Notwithstanding anything to the contrary contained herein or in the By-Laws, there shall be no amendment of the Declaration prior to the Applicable Date without the consent and approval of Declarant.

24. Acceptance and Ratification - All present and future Owners, Mortgagees, tenants and occupants of the Lots shall be subject to and shall comply with the provisions of this Declaration, the Articles of Incorporation, and the By-Laws incorporated herein by reference, and the rules and regulations as adopted by the Board of Directors, as each may be amended from time to time. The acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and rules and regulations, as each may be amended or supplemented from time to time, are accepted and ratified by such Owner, tenant or occupant, and all such provisions shall be

covenants running with the land and shall be binding on any person having at any time any interest or estate in a Lot or the Tract as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease thereof. All persons, corporations, partnerships, trusts, associations, or other legal entities who may occupy, use, enjoy or control a Lot or Lots or any part of the Tract in any manner shall be subject to the Declaration, the Articles of Incorporation, the By-Laws, and the rules and regulations applicable thereto as each may be amended or supplemented from time to time.

25. Negligence - Each Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by such Owner's negligence or by that of any member of such Owner's family or guests, employees, agents or lessees to the extent that such expense is not covered by the proceeds of insurance carried by the Association. Each Owner shall pay the amount of any increase in insurance premiums occasioned by such Owner's use, misuse, occupancy or abandonment of such Owner's Lot or its appurtenances or of the Common Area.

26. Costs and Attorneys' Fees - In any proceeding arising because of failure of an Owner to make any payments required or to comply with any provision of this Declaration, the Articles of Incorporation, the By-Laws, or the rules and regulations adopted pursuant thereto, as each may be amended from time to time, the Association shall be entitled to recover its reasonable attorneys' fees incurred in connection with such default or failure.

27. Waiver - No Owner may exempt itself from liability for such Owner's contribution toward the Common Expenses by waiver of the use or enjoyment of any of the Common Area or by abandonment of such Owner's Lot.

28. Severability Clause - The invalidity of any covenant, restriction, condition, limitation or other provision of this Declaration, the Articles or the By-Laws, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, the Articles, or the By-Laws, and each shall be enforced to the greatest extent permitted by law.

29. Pronouns - Any reference to the masculine, feminine or neuter gender herein shall, unless the context clearly requires to the contrary, be deemed to refer to and include all genders. And the singular shall include and refer to the plural and vice versa as appropriate.

30. Interpretation - The captions and titles of the various articles, sections, subsections, paragraphs and subparagraphs of this Declaration are inserted herein for ease and convenience of reference only and shall not be used as an aid in interpreting or construing this Declaration or any provision hereof.


31. The Plat - The Final Plat of Myron Place is incorporated into this Declaration by reference and has been filed in the office of the Recorder of Marion County, Indiana, as of the ____ day of _____, 2006, as Instrument No. _____.

MARTHA A. WOMACKS
MARION COUNTY AUDITOR

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed
the day and year first above written.

5 2 2 8 3 2 MAR 20 06
DULY ENTERED FOR REGISTRATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

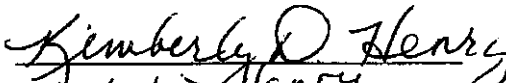
BROADWAY & 11TH, LLC

By: 
Max R. Kendall, Member

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Max R. Kendall, a Member of Broadway & 11th, LLC, an Indiana limited liability company, who acknowledged his execution of the foregoing Declaration for and on behalf of said company.

Witness my hand and Notarial Seal this 14th day of March, 2006.

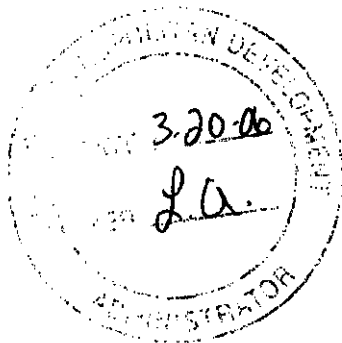

(Kimberly D. Henry) Notary Public

My Commission Expires:
2/6/07

My County of Residence is:
Marion

This Instrument was prepared by Richard W. Dyar, Attorney, Stark Doninger & Smith, 50 South Meridian Street, Suite 700, Indianapolis, Indiana 46204.

WAG07B7001-1B7002sp.doc




3/10/06


Exhibit A

LAND DESCRIPTION

Myron Place Section 1A

Land being part of the Vacation and Utility easement as vacated under Declaration Resolution 77-VAC-11 as set out in transcript recorded July 7, 1977 as Instrument number 77-41998, along with Parcel Number 1008472 recorded as Lot 1, Lot 2 also 8 ft off the South side of Lot 3 and one-half of the vacated Park Avenue of Young's Sub Butlers College Corner Addition recorded as Instrument Number 2004-152307 in the Office of the Recorder of Marion County, Indiana, more particularly described as follows:

Beginning at the Southwest corner of said Vacation said point also being on the centerline of Park Avenue; thence North 03 degrees 53 minutes 15 seconds East on and along said centerline 73.00 feet; thence South 86 degrees 20 minutes 42 seconds East 197.84 feet to a point on the West right-of-way line of Myron Street; thence South 03 degrees 53 minutes 15 seconds West on and along said West right-of-way line 73.00 feet to the North right-of-way line of 11th Street; thence North 86 degrees 20 minutes 42 seconds West on and along said North right-of-way 197.84 feet to the POINT OF BEGINNING, containing 0.332 acres, more or less, subject to all rights-of-way, easements and restrictions.

The size for the lots and common area, and widths of the streets are shown on this plat by figures denoting feet and decimal parts thereof.

Exhibit A

LAND DESCRIPTION

Myron Place Section 1B

Land being part of the Vacation and Utility easement as vacated under Declaration Resolution 77-VAC-11 as set out in transcript recorded July 7, 1977 as Instrument number 77-41998, along with Parcel Number 1008472 recorded as Lot 1, Lot 2 also 8 ft off the South side of Lot 3 and one-half of the vacated Park Avenue of Young's Sub Butlers College Corner Addition recorded as Instrument Number 2004-152307 in the Office of the Recorder of Marion County, Indiana, more particularly described as follows:

Commencing at the Southwest corner of said Vacation said point also being on the centerline of Park Avenue; thence North 03 degrees 53 minutes 15 seconds East on and along said centerline 73.00 feet to the POINT OF BEGINNING; thence continuing North 03 degrees 53 minutes 15 seconds on and along said centerline 30.54 feet; thence South 87 degrees 13 minutes 45 seconds East 30.01 feet; thence South 86 degrees 20 minutes 42 seconds East 167.84 feet to a point on the West right-of-way line of Myron Street; thence South 03 degrees 53 minutes 15 seconds West on and along said West right-of-way line 31.00 feet; thence North 86 degrees 20 minutes 42 seconds West 197.84 feet to the POINT OF BEGINNING, containing 0.141 acres, more or less, subject to all rights-of-way, easements and restrictions.

The size for the lots and common area, and widths of the streets are shown on this plat by figures denoting feet and decimal parts thereof.

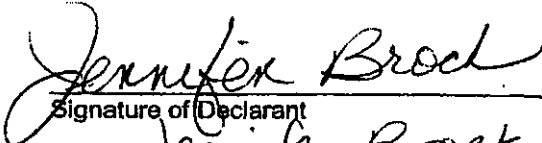

Declaration

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7.5-5(a).

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

1. I have reviewed the attached document for the purpose of identifying and, to the extent permitted by law, redacting all Social Security numbers;
2. I have redacted, to the extent permitted by law, each Social Security number in the attached document.

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


Signature of Declarant

Printed Name of Declarant

FINAL PLAN FOR
MYRON PLACE
SECTION 1A

SECTION 36, TOWNSHIP 16 NORTH, RANGE 03 EAST
 CITY OF INDIANAPOLIS
 MARION COUNTY, INDIANA

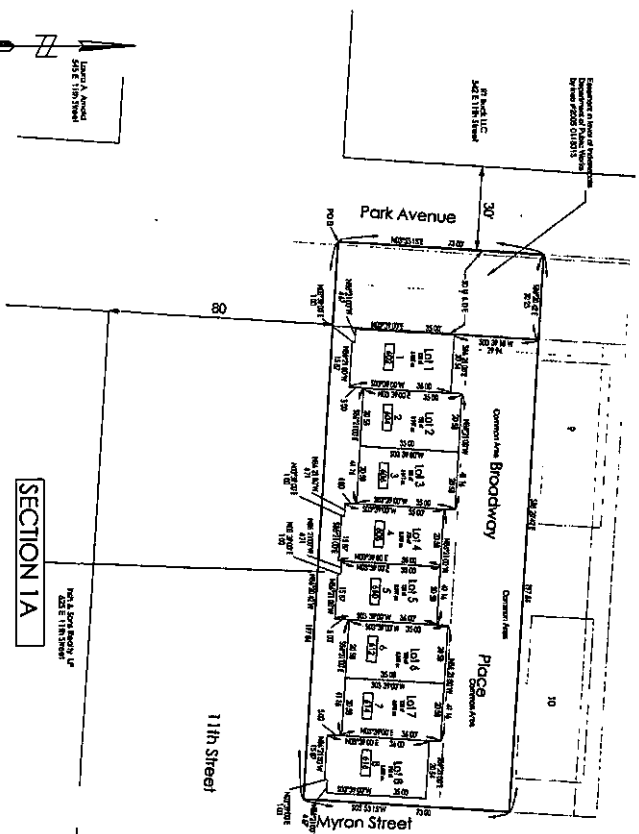
ZONING **D-2, M-2**

INST # 2004-003492

APPROVED
 REGISTERED PLAT
 MARION COUNTY CLERK

SECTION TWO

I-65



SECTION 1A

11th Street

11th Street

Broadway Street

Broadway

Place

Myron Street

ROOM # 2007-14, LINDSEY ST
 202 E. 11th Street



PLAT
 RECEIVED
 MAR 10 2004 11:30 AM
 MARION COUNTY CLERK



MARION A. ROYACKS
 MARION COUNTY CLERK
 623831 MAR 2004

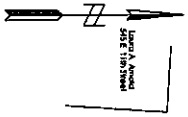
PREPARED BY



WOODFELT, INC.
 7740 Walden Lane
 Indianapolis, IN 46228
 317.229.7300
 Fax: 317.281.0045

Marion County Clerk of Auditors
 430 E. 11th Street
 Indianapolis, IN 46202

SCALE 1" = 20'



80% COVERAGE REQUIREMENT
 Minimum 80% coverage of the area shown on the plat must be covered by the proposed plat. The minimum coverage shall be 80% of the area shown on the plat. The minimum coverage shall be 80% of the area shown on the plat. The minimum coverage shall be 80% of the area shown on the plat.

SECTION 1A
 11th Street
 704. West of Highway

1A

Indianapolis
Works
313

Park Avenue

30'

POB

N03°53'15"E 73'00"

S86°20'42"E
30'23"

80

N03°39'00"E
1'00"

N03°39'00"E 35'00"

30' y & d E

S03°39'18"W
29'94"

Lot 1
602
726 sq ft
1,817 sq ft

S86°21'00"E
20'54"

S03°39'00"W 36'00"

Lot 2
604
726 sq ft
1,817 sq ft

N86°21'00"E
41'16"

N03°39'00"E 35'00"

Common Area
Broadway

9

5'00"

S03°39'00"W 35'00"

Lot 3
606
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

Common Area

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 4
608
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

Common Area
Place

N03°39'00"E
1'00"

S03°39'00"W 35'00"

Lot 5
610
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

197'84"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 6
612
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

10

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 7
614
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°20'42"W
197'84"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

N03°39'00"E 35'00"

N86°21'00"W
4'71"

S03°39'00"W 35'00"

Lot 8
616
726 sq ft
1,817 sq ft

N86°21'00"W
41'16"

Myron Street

11th Street

Prescribed by the
State Board of Accounts
(2005)

County Form 170

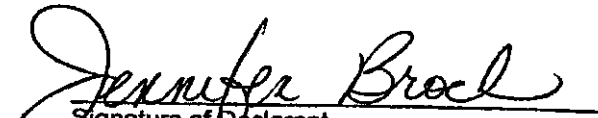

Declaration

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36-2-7-5(a)

I the undersigned preparer of the attached document in accordance with IC 36-2-7-5 do hereby affirm under the penalties of perjury

- 1 I have reviewed the attached document for the purpose of identifying and to the extent permitted by law redacting all Social Security numbers
- 2 I have redacted to the extent permitted by law each Social Security number in the attached document

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

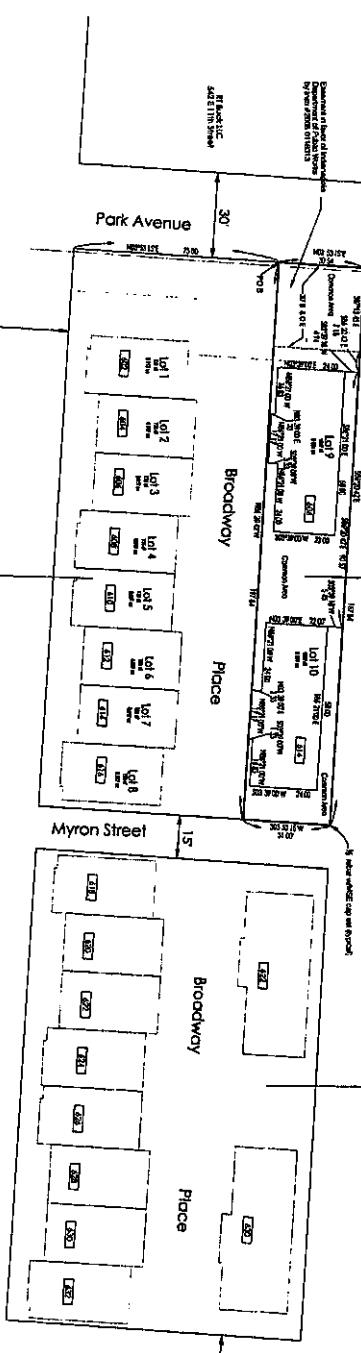

Signature of Declarant

Printed Name of Declarant

FINAL PLAT FOR MYRON PLACE SECTION 1B

SECTION 36, TOWNSHIP 16 NORTH, RANGE 03 EAST
CITY OF INDIANAPOLIS
CLAY COUNTY, INDIANA
MAYORAL COUNTY, INDIANA
JANUARY 12, 1853

INST # 2006-0039493

APPROVED FOR
RECORDING
BY THE CLERK OF CLAY COUNTY, INDIANA
ON 03/15/06



SECTION 1A

SECTION 1B

SECTION TWO

RESPONDING JURISDICTION:
This map is filed for record with the City of Indianapolis, Indiana, and the County of Clay, Indiana, for the purpose of recording the same. The City of Indianapolis, Indiana, and the County of Clay, Indiana, are hereby notified that the City of Indianapolis, Indiana, and the County of Clay, Indiana, are not responsible for the correctness of the information contained herein. This plat is subject to the provisions of the City of Indianapolis, Indiana, and the County of Clay, Indiana, relating to the same. Dated: 3/15/06

JAMES
1101 S. ...
201 ...

SHEET 1 OF 2

APPROVED BY

RECORDED

623832 MAY 2006

MARSHA A. ...
CITY CLERK

SCALE 1" = 20'

N

SEAL

...
CLAY COUNTY, INDIANA
...
...

Prescribed by the
State Board of Accounts
(2005)

County Form 170


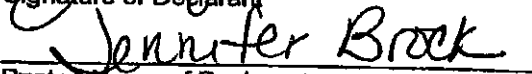
Declaration

This form is to be signed by the preparer of a document and recorded with each document in accordance with IC 36 2 7 5 (a)

I the undersigned preparer of the attached document in accordance with IC 36 2 7 5 do hereby affirm under the penalties of perjury

- 1 I have reviewed the attached document for the purpose of identifying and to the extent permitted by law redacting all Social Security numbers
- 2 I have redacted to the extent permitted by law each Social Security number in the attached document

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


Signature of Declarant

Printed Name of Declarant

1B

Park Avenue

30'

of Indianapolis
lic Works
8313

N03°53'15"E 73.00

N03°53'15"E 30.54

Common Area
7.18
S03°39'18"W 4.94

POB

30' U & D E

30.01

S87°13'45"E

S86°20'42"E

N03°39'00"E 24.00

N86°21'00"W 16.83

N03°39'00"E 3.33

N86°21'00"W 3.33

N86°21'00"W 24.00

S03°39'00"W 22.00

N86°20'42"W 197.84

Broadway

S86°20'42"E

58.00

S86°20'42"E 90.57

S03°39'18"W 5.45

N03°39'00"E 22.00

N86°21'00"W 24.00

N03°39'00"E 3.33

N86°21'00"W 17.17

N86°21'00"W 16.83

S03°39'00"W 24.00

S03°53'15"W 31.00

Place

Common Area

Common Area

602

Lot 1
729 sq ft
0.617 ac

604

Lot 2
729 sq ft
0.617 ac

606

Lot 3
729 sq ft
0.617 ac

608

Lot 4
729 sq ft
0.617 ac

610

Lot 5
729 sq ft
0.617 ac

612

Lot 6
729 sq ft
0.617 ac

614

Lot 7
729 sq ft
0.617 ac

616

Lot 8
729 sq ft
0.617 ac

606

Lot 9
1811 sq ft
0.417 ac

614

Lot 10
9011 sq ft
0.207 ac

Myron Street

15'

1-65