

200700021977
Filed for Record in
HENDRICKS COUNTY IN
PAUL T HARDIN
08-21-2007 At 02:11 pm.
COVENANTS 19.00

**RESTRICTIVE COVENANTS
FOR
NEW ENGLAND WAY SOUTH**

Cross References

Instrument PG 1 OF 3
200700021977

Cross reference Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007, recorded February 21, 2007, as Instrument Number 200700004441, in the Office of the Recorder of Hendricks County, Indiana.

Cross reference Plat of New England Way South recorded July 20, 2007 in Plat Cabinet 7, Slide 10, pages 2 ABCDE, as Instrument Number 200700019002, in the Office of the Recorder of Hendricks County.

Encumbrance

WHEREAS, certain real estate in Hendricks County, Indiana known as The Village of Heritage Hill, is encumbered by restrictions, conditions and covenants recorded as set forth above; and

WHEREAS, New England Way South is a platted subdivision, recorded as set forth above, which is adjacent to The Village of Heritage Hill and the developer of New England Way South is the developer of The Village of Heritage Hill; and

WHEREAS, the developer of New England Way South desires to encumber said subdivision with the same restrictions, conditions and covenants as exist for The Village of Heritage Hill.

NOW THEREFORE, the undersigned, as owners of real estate now known as New England Way South, encumber said real estate known as New England Way South, being more particularly described on the attached Exhibit "A" and platted as set forth above, with the same restrictions, conditions and covenants as encumber The Village of Heritage Hill.

Rolling Hills, LLC
By:



Joseph Dorger, Member

Rookwood Custom Builders, LLC
By:



Joseph Dorger, Member

CHICAGO TITLE

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3+4

Drees Premier Homes, Inc.

By:

Harold R. Holen
Harold R. Holen, President
General Manager

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

Before me, a Notary Public, in and for said County and State, personally appeared Joseph Dorger, Member of Rolling Hills, LLC and Rookwood Custom Builders, LLC, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that any representations therein contained are true.

WITNESS my hand and seal this 17th day of August, 2007.

My Commission Expires:

Maria L. Kiger
Notary Public - Signature

Resident of



Notary Public - Printed Name

STATE OF INDIANA)
) SS:
COUNTY OF ~~MARION~~ Hendricks)

~~Sworn to~~ Before me, a Notary Public, in and for said County and State, ~~personally appeared Harold R. Holen, President of Drees Premier Homes, LLC, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that any representations therein contained are true.~~ ~~acknowledged and executed the foregoing document.~~ that Harold R. Holen, R. Holen, President of Drees Premier Homes, LLC, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that any representations therein contained are true.

WITNESS my hand and seal this 17th day of August, 2007.

My Commission Expires:



Amy C. Broderick
Notary Public - Signature

Resident of _____ County

Notary Public - Printed Name
Amy C. Broderick

I affirm, under penalties of perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law, Amy Come Broderick.

This instrument prepared by Amy Come Broderick, Attorney-at-Law, Comer Law Office, P.O. Box 207, Danville, IN 46122. (317) 745-4300.

EXHIBIT "A"

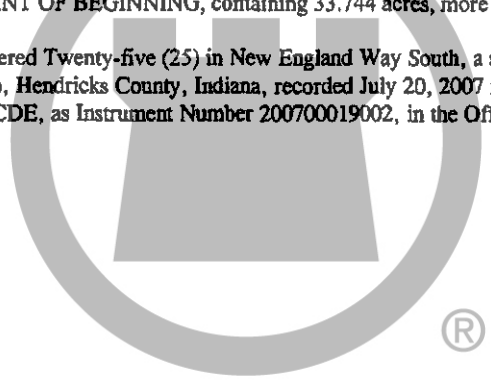
LAND DESCRIPTION

NEW ENGLAND WAY SOUTH

A part of the Southeast Quarter of Section 27, Township 16 North, Range 1 East, Washington Township, Hendricks County, Indiana being more particularly described as follows:

Commencing at a type "B" monument found marking the southeast corner of said Southeast Quarter; thence North 01 degree 23 minutes 56 seconds West along the east line thereof 1122.83 feet to a mag nail with "BANNING ENG FIRM #0060" cap (herein referred to as "mag nail") set at the **POINT OF BEGINNING**; thence South 88 degrees 19 minutes 15 seconds West 1,330.18 feet to a 5/8 inch rebar with "BANNING ENG FIRM #0060" cap (herein referred to as "rebar") set on the west line of the East Half of said Southeast Quarter; thence North 01 degrees 25 minutes 33 seconds West along said west line 1,549.14 feet to a 5/8 inch rebar with "LS29800001" cap found at the northwest corner of the East Half of said Southeast Quarter; thence North 88 degrees 10 minutes 28 seconds East along the north line of said Southeast Quarter 663.91 feet to a rebar set; thence South 01 degrees 23 minutes 56 seconds East 583.42 feet to a rebar set; thence North 88 degrees 51 minutes 18 seconds East 2.00 feet to a rebar set; thence South 01 degrees 23 minutes 56 seconds East 304.20 feet to a rebar set; thence North 88 degrees 43 minutes 04 seconds East 665.00 feet to a mag nail set on the east line of said Southeast Quarter; thence South 01 degrees 23 minutes 56 seconds East along said east line 658.57 feet to the **POINT OF BEGINNING**, containing 33.744 acres, more or less.

EXCEPT: Lot Numbered Twenty-five (25) in New England Way South, a subdivision in Washington Township, Hendricks County, Indiana, recorded July 20, 2007 in Plat Cabinet 7, Slide 10, pages 2 ABCDE, as Instrument Number 200700019002, in the Office of the Recorder of Hendricks County.



CHICAGO TITLE

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR
THE VILLAGE OF HERITAGE HILL**

20070004441
Filed for Record in
HENDRICKS COUNTY IN
PAUL T HARDIN
02-21-2007 At 02:04 pm.
DECLARATION 50.00

THIS DECLARATION is made this 15th day of February, 2007 by Rolling Hills, LLC, an Indiana limited liability company, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, the Declarant is the owner of that certain real property located in Lincoln and Washington Townships, Hendricks County, Indiana, which is more particularly described in Exhibit "A" attached hereto and referred to hereafter as The Village of Heritage Hill; and

WHEREAS, the Declarant desires to provide for the preservation of the values and amenities in The Village of Heritage Hill Property (hereinafter referred to as Subdivision) and for the maintenance of Common Areas and Community Facilities; and to this end, desires to subject the Subdivision to the covenants, conditions, restrictions, and all charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Subdivision and the subsequent owners thereof; and

WHEREAS, as hereinafter provided in this Declaration, Declarant has retained and reserved the right, privilege, and option to submit to the provisions of this Declaration at a later time and from time to time as a part of the community described herein, such other property as Declarant may acquire from time to time or wishes to subject to the terms of this Declaration; and

WHEREAS, the Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an association to which should be delegated and assigned the powers and duties of maintaining and administering the Common Areas and Community Facilities and administering and enforcing the within covenants and restrictions and collecting and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant has formed The Village of Heritage Hill Community Association, Inc., a non-profit Corporation (the "Association") for the purpose of carrying out the aforesaid powers and duties; and

NOW, THEREFORE, the Declarant hereby declares that the Subdivision and such other property as may be subjected to the provisions hereof pursuant to Article II, shall be held, sold and conveyed subject to the covenants, conditions, restrictions, charges and liens set forth in this Declaration, which are for the purpose of protecting the value and desirability of the community, and which shall run with the land comprising the Subdivision and be binding on all parties having any right, title, or interest in the Subdivision or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1. Definitions. The following words when used in this Declaration shall have the following meanings:

(a) "Articles" and "Articles of Incorporation" shall mean those Articles, filed with the Secretary of State of Indiana incorporating the Association as a not for profit corporation.

(b) "Association" shall mean and refer to The Village of Heritage Hill Community Association, Inc., and its successors and assigns.

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(c) "Board" and "Board of Trustees" shall mean the Board of Trustees of the Association as provided in the Articles of Incorporation and By-Laws of the Association.

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(d) "By-Laws" shall mean the By-Laws or Code of Regulations of the Association, as the same may be amended from time to time, pursuant to the laws of the State of Indiana.

(e) "Common Areas" and "Community Facilities" shall mean and refer to all real property, together with improvements located thereon, owned by or leased to the Association for the benefit, use and enjoyment of its Members including the property identified in any and all recorded plats of property within the Subdivision.

(f) "Declarant" shall mean and refer to Rolling Hills, LLC, an Indiana limited liability company, or its successors and assigns.

(g) "Design Review Committee" shall mean Joseph E. Dorger and Robert R. Carr and/or persons specifically appointed by them, during the Development Period. After the Development Period, the Board of Trustees shall appoint no fewer than three (3) Owners to comprise the committee.

(h) "Development" shall mean and refer to the The Village of Heritage Hill Subdivision and all improvements located or constructed thereon and any other property submitted to the provisions hereof pursuant to Article II.

(i) "Development Period" shall mean the period commencing on the date on which this Declaration is recorded and terminating on the earlier of (a) the day fifteen (15) years after such date, or (b) the day next following the day on which the Declarant owns no part of the Subdivision.

(j) "Living Unit" shall mean and refer to any portion of a building situated upon a Lot designated and intended for use and occupancy as a residence by a single family, including a house, townhouse, condominium unit, or patio or cluster home, whether detached or attached, located within the Development.

(k) "Lot" shall mean and refer to any separate parcel of land shown upon any recorded subdivision plat within the Development or recorded re-subdivision thereof with the exception of the Common Areas and Community Facilities.

(l) "Members" shall mean the Owners who are members of the Association as provided in Article IV hereof.

(m) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot or undeveloped tract which is a part of the Subdivision, including contract sellers and builders, but excluding those having such interest merely as security for the performance of an obligation.

(n) "Structure" shall mean and refer to anything built, placed upon or constructed upon a Lot, including but not limited to, a Living Unit.

(o) "Trustee" and "Trustees" shall mean that person or those persons serving, at the pertinent time, in the capacity of a member of the Board of Trustees of the Association.

CHICAGO TITLE

ARTICLE II
PROPERTY DEVELOPMENT

Section 1. Property Subject to Declaration. The real property which is, and shall be held, conveyed, encumbered, sold, leased, rented, used, occupied and improved subject to this Declaration is located in and is more particularly described in Exhibit "A" attached hereto.

Section 2. Additional Development: Annexation. During the Development Period, Declarant reserves the right to subject additional real property to the provisions of this Declaration. Notwithstanding the above, nothing contained in this Declaration or in the By-Laws shall obligate the Declarant to annex any additional property to the Subdivision and the remainder of The Village of Heritage Hill Property shall remain wholly free from any covenant or restriction herein contained until annexed as hereinafter provided. After the Development Period, additional property may be annexed only with the consent of fifty-one (51%) percent of each class of Members of the Association. Any additional property so annexed, however, must be adjacent to or in the immediate vicinity of The Village of Heritage Hill Property

Any annexations made pursuant to this Article II, or otherwise, shall be made by recording a supplement to this Declaration with the Recorder of Hendricks County, Indiana, which supplementary declaration shall extend the scheme of the within covenants and restrictions to such annexed property. Such supplementary declaration may contain such additional covenants, conditions, restrictions, charges and liens as the Declarant or Members shall deem appropriate.

ARTICLE III
ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Members. Every Owner shall be a Member of the Association, and such membership shall be appurtenant to and may not be separated from ownership of any Lot. During the Development Period, the Association shall have Class A Members (being all Owners except Declarant) and a Class B Member (Declarant). After the Class A Members are entitled to elect all of the Board, the Class B membership shall terminate and Declarant, if it is then an Owner, shall become a Class A Member and continue as such so long as it shall remain an Owner.

Section 2. Voting Members.

(a) With the exception of Declarant until Class B membership has lapsed, every person, group of persons or entity who is an Owner of a fee interest in any Lot and which is or becomes subject to assessment by the Association shall be a Class A Member of the Association. Class A Members shall be entitled to a total of one vote per Lot in which they hold the fee interest. If more than one person, group of persons, or entity is the record Owner of a fee interest in any Lot, then the vote for such Lot shall be exercised as they determine among themselves but in no event shall more than one vote be cast with respect to any Lot.

(b) The Class B Member shall be the Declarant and shall be a voting Member of the Association.

(c) At such time as Class B membership shall terminate, Declarant shall be deemed a Class A Member with reference to the Lot or Lots in which Declarant holds the fee interest and Declarant shall be entitled to the voting and all other rights of a Class A Member.

ARTICLE IV
ASSOCIATION AND ASSESSMENTS

Section 1. Covenant for Assessments. Each person, group of persons, or entity who becomes an Owner of a Lot whether or not it shall be expressed in any deed or other conveyance, shall be deemed to covenant and agree to pay to the

Association: (1) Annual Assessments; (2) Individual Assessments; and (3) Special Assessments (collectively the "Assessments"); the Assessments shall be fixed, established and collected from time to time as hereinafter provided. All Assessments, together with interest thereon as hereafter provided and costs of collection thereof (including court costs and reasonable attorney's fees) as hereinafter provided shall be a charge on the Lot of such Owner and shall be a continuing lien upon the Lot against which such Assessment is made.

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Section 2. Purpose of Annual Assessments. The Annual Assessments levied by the Association are for the purpose of promoting the recreation, scenic enjoyment, health, welfare and safety of the Owners and for protecting, advancing and promoting the environmental concept of the Subdivision and preserving the aesthetic and scenic qualities of the Hill Property. To carry out these purposes, an Annual Assessment shall be levied by the Association to be used currently, and to provide an adequate reserve fund for future use, for the improvement, expansion and maintenance of the Common Areas and Community Facilities, including, but not limited to, the payment of taxes and insurance and for repairs, replacements and additions, and for the cost of labor, equipment, and materials, management and supervision, and, in the discretion of the Association, the areas for which the Annual Assessment may be used may include any entrance roads or adjoining roads or areas, boundary walls, landscaping areas or other public amenities, whether public or private, which may affect the recreation, scenic enjoyment, health, welfare and safety of the residents even though not owned by the Association.

Section 3. Individual Assessments. In the event an Owner of any Lot shall fail to maintain the Lot and the improvements situated thereon in a manner satisfactory to the Board of Trustees and such maintenance is not that which is to be provided by the Association, then the Association, after approval by fifty-one percent (51%) vote of all Members of the Board shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the improvements thereon. The cost of such maintenance and repair (including charges incurred by the Association for attorney's fees, court costs, or other expenses incurred to obtain access to the subject Lot or unit) shall be added to and become part of the total Assessment to which such Lot is subject.

Section 4. Special Assessments. In addition to the Annual Assessments authorized by this Article, the Association may levy, in any assessment year, a Special Assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement located upon the Common Areas or Community Facilities, which cost has not otherwise been provided for in full as part of the Annual Assessment, including the necessary fixtures and personal property related thereto, provided that any such assessment affecting the Common Areas or Community Facilities shall have the approval of fifty-one percent (51%) of the total number of votes held by Class A Members and the vote of the Class B Member. Any Special Assessments levied by the Association pursuant to the provisions of this section shall be fixed at a uniform rate based upon the number of applicable Living Units. All monies received by the Association as a Special Assessment shall be held in trust by the Association for the benefit of the Members to be used solely for the purpose of the Special Assessment and any income derived therefrom shall be held as a separate fund and shall be accounted for separately from the other assets coming under the control of the Association. The Special Assessment may be billed in advance on a monthly, quarterly or annual basis.

Section 5. Determination, Commencement and Payment of Assessments. The Annual Assessments shall commence on the day of the conveyance of the particular Lot from the Declarant to an Owner. The initial Annual Assessment as determined by the Board shall become a lien on the Lot and due and payable at the time of closing of the conveyance. The Board may, from time to time, alter and determine the amount, manner and schedule of payments.

It shall be the duty of the Board of Trustees of the Association to periodically fix the amount of the Assessment against each Lot for such assessment period and the Board of Trustees shall make reasonable efforts to fix the amount of the Assessment against each Lot for each assessment period and shall prepare a roster of the Lots and Assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner upon reasonable notice to the Board. Written notice of the Assessments shall thereupon be sent to the Owner of any Lot subject thereto at least thirty (30) days in advance of the date due. Annual Assessments subsequent to the initial Annual Assessment shall become a lien on January 1 of each year; Individual and Special Assessments shall become a lien at the

time designated by the Board of Trustees. No notice of lien other than this Declaration need be recorded to establish the validity of any such lien, and this Declaration shall stand as notice of such validity.

Section 6. Assessment of Declarant. Any provision of this Declaration or of the Articles of Incorporation or By-Laws of the Association notwithstanding, the Declarant, while it is a Class B Member, shall not be required to pay Assessments.

Section 7. Assessment Certificates. The Association shall, upon demand, at any reasonable time, furnish to the Owner liable for the Assessments, a certificate in writing signed by an officer or other authorized agent of the Association, setting forth the status of the Assessments, i.e., whether the same are paid or unpaid. Such certificate shall be conclusive evidence of the payment of any Assessment therein stated to have been paid. A charge not to exceed Ten (\$10.00) Dollars may be levied in advance by the Association for each certificate so delivered.

Section 8. Non-Payment of Assessment. Any Assessment levied pursuant to this Declaration which is not paid on the date when due, together with interest thereon at the rate herein provided and cost of collection thereof, shall become a continuing lien upon the Lot, and shall be the personal obligation of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain the personal obligation of the Owner and shall not pass to his successors in title (except as a lien against the Lot) unless expressly assumed by such successors with the consent of the Association.

If the Assessments are not paid within fifteen (15) days after the due date, the Assessments shall bear interest at the rate of ten (10%) percent per annum, and the Association may bring an action against the Owner personally obligated to pay the same, or foreclose the lien against the Lot, in either of which events, interest, costs and reasonable attorney's fees shall be added to the amount of the Assessments. No Owner shall waive or otherwise escape liability for the Assessments by non-use of the Common Areas or Community Facilities or abandonment of his Lot or Living Unit.

In addition to the ten (10%) percent per annum interest provided above, the Board of Trustees in its discretion, may establish a reasonable late charge to be paid in the event of any Assessment that is not paid within fifteen (15) days after due date, provided that such late charge shall not exceed a sum equal to ten (10%) percent of the amount of the Assessment which is delinquent by fifteen (15) days.

Section 9. Subordination of Lien to Mortgage. The lien of the Assessments shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any tax lien foreclosure, or any proceeding in lieu thereof, shall extinguish the lien of such Assessment until such time the Lot is conveyed to an Owner who will utilize the Lot for residential purposes. Such lien shall become effective the day of the conveyance of the particular lot from the Declarant to the Owner.

Section 10. Right of Association to Remove or Correct Violations. The Association may, in the interest of the general welfare of the Owners, and after reasonable notice to the affected Owner, enter upon any Lot or the exterior of any Living Unit at reasonable hours for the purpose of removing or correcting any violation or any attempted violation of any of the covenants and restrictions contained in this Declaration, or for the purpose of abating anything herein defined as a prohibited use or nuisance, provided however, that no such action shall be taken without a resolution of the Board of Trustees. All charges incurred by the Association obtaining access to any Lot or Living Unit covered under this section and any charges incurred by the Association in correcting the violation (including court costs and reasonable attorney's fees) shall constitute an Individual Assessment.

Section 11. Public Assessments. The Village of Heritage Hill Property as a whole may be subject to certain assessments for public improvements made in and around The Village of Heritage Hill Property. Any such assessments will be contained within the tax bill from the Hendricks County Treasurer's Office. Each individual Lot Owner is responsible for the paying of any such public assessments directly to the Hendricks County Treasurer.

Section 12. Separately Assessed Sections. The Association, at its election, may declare that certain sections of The Village of Heritage Hill Property will be separately maintained and assessed with respect to all or a portion of the

maintenance, repair and replacement expenses related thereto (an "Assessment Section"). At the election of the Association, each such Assessment Section shall pay its own Annual Assessment attributable to the maintenance, repair and replacement costs and other services related exclusively to the facilities located on such Assessment Section. In addition, each Assessment Section shall pay a separate portion of any Annual Assessment attributable to any expense shared with other association sections or other portions of the Property as determined by the Association. The Association shall also have the right and authority to establish separate reserves for the use of each Assessment Section.

ARTICLE V

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INSURANCE

Section 1. Liability Insurance. The Association shall obtain and maintain a comprehensive policy of public liability insurance covering the Common Areas and Community Facilities, insuring the Association, Trustees, and Owners and members of their respective families, tenants and occupants in an amount of not less than five hundred thousand dollars (\$500,000.00), per occurrence for personal injury and/or property damage. This insurance shall include protection against such risks as are customarily covered with respect to a development similar in construction, location and use, as determined by the Board. The insurance shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of a residential Owner, tenant or occupant because of negligent acts of the Association, the Board, or other Owners, tenants or occupants.

Section 2. Other Insurance. In addition, the Association may obtain and maintain casualty insurance, Trustees' and Officers' liability insurance and such other insurance as the Board deems desirable from time to time.

Section 3. Insufficient Insurance. In the event the improvements forming a part of the Lots, Common Areas or Community Facilities or any portion thereof shall suffer damage or destruction from any cause or peril which is not insured against, or if insured against, the insurance proceeds from which shall not be sufficient to pay the cost of repair, restoration or reconstruction, then, the Association shall advance such costs in excess of available insurance proceeds. The amount so advanced by the Association shall become a Special Assessment against all of the Lots for which the amount was so advanced, and such Assessment shall have the same force and effect, and if not paid, may be enforced in the same manner as herein provided for the nonpayment of Assessments. The action required to be taken by the Association under this Section shall not require any vote of the Members of the Association.

ARTICLE VI

COMMITTEES

Section 1. Finance and Budget Committee. The Board of Trustees may appoint a Finance and Budget Committee composed of Members as set forth in the By-Laws of the Association. This Committee shall prepare the annual budget of the Association for submission to the Board of Trustees. The Committee shall also determine the needs, repairs and monetary requirements for the property subject to the Annual Assessment for the following year and make recommendations to the Board of Trustees as to the type of work to be performed by the Association for the following year consistent with the purposes of the Annual Assessment. The Committee shall further have such additional duties as may be assigned to it from time to time by the Board of Trustees.

Section 2. Design Review Committee. No building, fence, wall or other Structure shall be commenced, erected, or maintained upon Common Areas or Community Facilities or upon any Lot or property upon which is located all or part of a Living Unit, nor shall any exterior addition to or change or alteration in a Living Unit or Structure be made until the plans and specifications showing the nature, kind, shape, height, materials, color and location of the same shall have been

submitted to and approved in writing, as to harmony of external design, color and location in relation to surrounding Structures and topography, by the Design Review Committee.

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ARTICLE VII

DESIGN REVIEW

Section 1. Purpose; Variation in Front Setbacks. Declarant desires to provide a uniquely aesthetically pleasing development. Each Structure in the single family subdivisions of Ansdale, New England Way and The Hamptons shall be unique, and it is the purpose of the Design Review Committee to ensure unique qualities of each Structure as well as ensuring that each Structure is built to high quality standards. The Design Review Committee shall ensure that no Structure is the same color as any surrounding Structures. The Design Review Committee shall also ensure that Structures on abutting Lots are not constructed at the same front setback distance. The Design Review Committee shall require a variation of front setbacks of up to twenty-five (25) feet greater than the minimum front setback designated on the plat. The Design Review Committee can require variations in colors and features, including, but not limited to, dormers, gables, windows, etc). to ensure each Structure is unique.

Section 2. Design Review Guidelines. In order to facilitate initial development of the Subdivision, Design Review Guidelines have been adopted by the Declarant. The Design Review Guidelines may be amended, modified, revoked or replaced by the Declarant during the Development Period and by the Board of Trustees thereafter. In the event the lender or lenders who provide acquisition and development financing for The Village of Heritage Hill Property acquire title to the Property through foreclosure or deed in lieu of foreclosure, such lender shall be deemed the Declarant for purposes of the Design Review Guidelines.

Section 3. Submission of Plans and Specifications. No Structure on any Lot shall be remodeled or altered in any way which materially changes the exterior appearance thereof, involves the erection of a new Structure or otherwise increases the area under roof of any Structure (including garage area) unless detailed Plans and Specifications therefore shall have been submitted to and approved by the Design Review Committee as set forth in Article VI, §2. Such Plans and Specifications shall be in such form and shall contain such information as the Declarant and Association may reasonably require but shall, at minimum unless waived by the Declarant and Association, include:

- (a) a site plan showing the location of all proposed and existing Structures on the Lot, the approximate size in square footage of the first or ground floor of the Structure(s), the square footage of the entire Lot, and setbacks;
- (b) contours reflecting existing topography and a grading plan showing finished contours, existing environmental features and significant tree stands,
- (c) any proposed retaining walls;
- (d) proposed fencing;
- (e) proposed landscaping, including existing trees and shrubs, if any;
- (f) architectural plans including structural cross-section, floor plan, decks or balconies, and elevations clearly depicting the design and exterior appearance including specification of materials, color scheme, trim and other details affecting the exterior appearance of the proposed Structures.

Prior to submission of detailed Plans and Specifications for any Structure proposed for any Lot, the Design Review Committee may require, and any applicant may submit for tentative approval by the Design Review Committee, schematic or preliminary Plans and Specifications for any phase or stage thereof. The Design Review Committee shall either (i) approve the Plans and Specifications, (ii) disapprove them or (iii) approve them with conditions or qualifications.

Section 4. Approval of Plans and Specifications. The Design Review Committee shall approve any Plans and Specifications (whether schematic, preliminary, or detailed) submitted to it with respect to any Lot if it finds that they (a) comply with the requirements of this Declaration of Covenants, Conditions, Restrictions, (b) meet the approved plat of The Village of Heritage Hill by the Hendricks County Plan Commission, and (c) conform to the Design Review Guidelines then in effect and any additional standards or policies promulgated by Declarant or the Board. Upon final approval thereof, a written approval letter shall be given to the Owner or Owner's designated agent or representative. The copy of the detailed Plans and Specifications submitted for review as well as a final copy if any changes were made thereto shall be deposited and kept for permanent record with the Design Review Committee. After the receipt of final approval by the applicant, the Design Review Committee shall not revoke such approval. Approval by the Design Review Committee of detailed Plans and Specifications with respect to any Lot shall not impair the right of the Board or the Design Review Committee subsequently to approve a requested amendment of such Plans and Specifications relating to such Lot (subject to the requirements of this Article and the Design Review Guidelines then in effect).

Section 5. Disapproval of Plans and Specifications. If Plans and Specifications (whether schematic, preliminary or detailed) submitted to the Design Review Committee with respect to any Lot do not comply with the requirements of this Article as to the information required to be included in the Plans and Specifications, the Design Review Committee shall either disapprove such Plans and Specifications or approve them subject to such conditions and qualifications as the Design Review Committee may deem necessary to achieve compliance.

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Section 6. Failure of the Design Review Committee to Act. If the Design Review Committee shall fail to act upon any Plans and Specifications submitted to it within thirty (30) after submission thereof, such Plans and Specifications shall be deemed to have been disapproved.

Section 7. Time Limitation for Construction. A building permit shall be obtained and construction of the Structure(s) shall be commenced within one (1) year from the date of the conveyance of title (the dated date of the conveyance deed) to the Lot to the Owner. Owner shall submit plans to the Design Review Committee no later than ten (10) months after said conveyance. Within one (1) year from the date of issuance of the building permit, construction of the Structure(s) shall be completed, including, but not limited to landscaping as approved by the Design Review Committee; and the Owner shall have received an Occupancy Permit from the proper governmental officials.

Any structure that is externally damaged by fire, tornado or other disaster shall be repaired or removed within six (6) months of such occurrence.

Section 8. Rules, Regulations and Policy Statements. The Board may, from time to time, adopt, amend, and enforce reasonable rules and regulations pertaining to its and the Design Review Committee's authorized duties and activities under this Declaration, and may, from time to time, issue statements of policy with respect to Plans and Specifications (whether schematic, preliminary or detailed) and such other matters as it is authorized to act on. Upon the adoption of any such rule, regulation or policy statement, or any amendment thereof, the Board shall file in its records a copy thereof, and the same shall become effective on the date of such filing. No rule, regulation or policy statement, or any amendment thereof, shall operate to revoke any detailed Plans and Specifications previously approved by the Design Review Committee.

The Board shall maintain a copy of the rules, regulations and policy statements and of each amendment thereof as a permanent record and shall make copies thereof available to any interested person at a reasonable cost.

Section 9. Violations. If any Structure situated upon any Lot shall have been constructed, erected, placed, remodeled or altered other than in accordance with the approved detailed Plans and Specifications, the Board shall certify a default to the Owner of the Lot involved, provided, however, that the Board may, upon such conditions as it may determine, waive any such default if it finds that such default does not substantially conflict with the policies of the Board.

Section 10. Right of Entry. The Board through its authorized officers, employees, and agents, shall have the right to enter upon any Lot at all reasonable times for the purpose of ascertaining whether such Lot or the construction, erection, placement, remodeling, or alteration of any Structure thereon is in compliance with the provisions of this Article, without

the Board or such officers, employees or agents being deemed to have committed a trespass or wrongful act solely by reason of such action or actions.

Section 11. Fees. The Board may charge reasonable fees for the processing of Plans and Specifications. Such fees shall cover the cost of such processing, including inspection costs. Such fees shall be payable at the time of submission of the respective item for approval and shall be paid to the Association.

Section 12. Approval Not a Warranty or Guarantee. No approval of Plans and Specifications and no publication of standards shall be construed as representing or implying that such Plans, Specifications or standards will, if followed, result in properly designed improvements. Such approvals and standards shall not be construed as representing, warranting or guaranteeing that any Living Unit or other improvement built in accordance therewith will be built in a good and workmanlike manner. Neither Declarant, the Association, nor the Design Review Committee shall be responsible or liable for any defects in any Plans or Specifications submitted, revised or approved pursuant to the terms of this Article, any loss or damage to any person arising out of the approval or disapproval of any Plans or Specifications, any loss or damage arising from the non-compliance of such Plans and Specifications with any governmental ordinances and regulations, nor any defects in construction undertaken pursuant to such Plans and Specifications.

ARTICLE VIII

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RESTRICTIONS APPLICABLE TO ALL LOTS/LIVING UNITS

Section 1. Land Use. Lots shall be used only for single-family residential purposes. No structure of any kind on any Lot shall be used for the purpose of carrying on a business, trade or profession except as allowed by the Home Occupation guidelines of the Hendricks County Zoning Ordinance. Notwithstanding the foregoing, Declarant may and the builders of Living Units may allow the use of Living Units as models and as offices in connection with the marketing or sale of Lots or living Units.

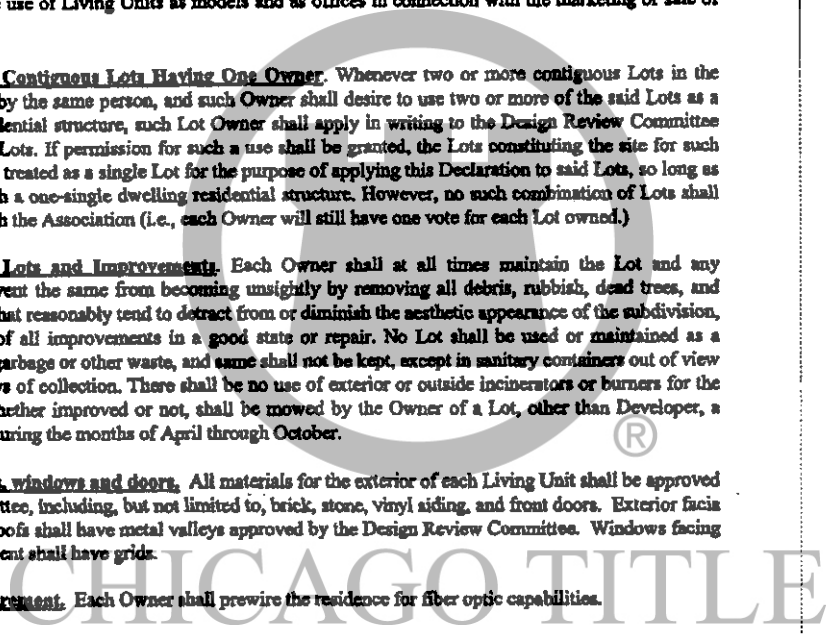
Section 2. Rules Governing Contiguous Lots Having One Owner. Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of the said Lots as a site for a single-dwelling residential structure, such Lot Owner shall apply in writing to the Design Review Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single-dwelling house shall be treated as a single Lot for the purpose of applying this Declaration to said Lots, so long as the Lots remain improved with a one-single dwelling residential structure. However, no such combination of Lots shall reduce any member's vote with the Association (i.e., each Owner will still have one vote for each Lot owned.)

Section 3. Maintenance of Lots and Improvements. Each Owner shall at all times maintain the Lot and any improvements thereon to prevent the same from becoming unsightly by removing all debris, rubbish, dead trees, and other materials or conditions that reasonably tend to detract from or diminish the aesthetic appearance of the subdivision, and by keeping the exterior of all improvements in a good state or repair. No Lot shall be used or maintained as a dumping ground for rubbish, garbage or other waste, and same shall not be kept, except in sanitary containers out of view from the Street, except on days of collection. There shall be no use of exterior or outside incinerators or burners for the burning of trash. All Lots, whether improved or not, shall be mowed by the Owner of a Lot, other than Developer, a minimum of once per month during the months of April through October.

Section 4. Exterior materials, windows and doors. All materials for the exterior of each Living Unit shall be approved by the Design Review Committee, including, but not limited to, brick, stone, vinyl siding, and front doors. Exterior facia shall have a smooth finish. Roofs shall have metal valleys approved by the Design Review Committee. Windows facing any road within the Development shall have grids.

Section 5. Fiber Optic Requirement. Each Owner shall prewire the residence for fiber optic capabilities.

Section 6. Animals. The maintenance, keeping, boarding and/or raising of animals, livestock or poultry of any kind, regardless of number, shall be and is hereby prohibited on any Lot or within any Living Unit located in the Subdivision.



except that this shall not prohibit the keeping of dogs, cats and/or caged birds and similar animals kept as domestic pets provided, they are not kept, bred or maintained for commercial purposes. Dogs and cats must be kept within the confines of the Owner's Living Unit or Lot, except when being held on hand leash by person attending animal. Owners and/or harborers of dogs and cats shall be liable for any damage caused by such animals. Subject only to the provisions of Article III, the Association acting through its Board of Trustees may suspend for reasonable length of time the voting rights and the rights to use the Common Areas and Community Facilities of any person who violates this subparagraph 4.

Section 7. Vehicles, Temporary Structures and Outbuildings. Except as otherwise provided herein, no structures of a temporary character, recreational vehicles, trailers, tents, shacks, barns or temporary or permanent outbuildings, excepting doghouses not maintained for commercial purposes, shall be kept or used upon the Lots or Common Areas. No car, boat, truck, motor home or trailer that is not in operational condition and bearing the current year's license plate shall be permitted to remain on any Lot unless kept within a garage nor shall the repair or extraordinary maintenance of automobiles or other vehicles be carried out thereon. No vehicle of any kind shall park on any road in this subdivision for more than twenty-four (24) hours. The Association may, in the discretion of its Board of Trustees provide and maintain a suitable area designated for the parking of such vehicles or the like. Notwithstanding the provisions hereof, Declarant, the builder of a Living Unit and their contractors may, for the purpose of business use in connection with the development of the Lots or construction of Living Units thereon, maintain trucks, equipment, temporary offices (including trailers) and structures in connection with such development and construction.

Section 8. Swimming Pools. No swimming pools where the water level is either partially or completely above ground level shall be permitted. Any in-ground swimming pool shall be properly fenced so as to protect the safety of others. Prior to erection, such fence shall be approved by the Design Review Committee.

Section 9. Fences. No fence or wall of any kind or for any purpose, except a retaining wall, shall be erected, placed or suffered to remain upon any Lot without the specific approval of the Design Review Committee.

Section 10. Play Equipment. Children's play equipment, including but not limited to sandboxes, temporary swimming pools having a depth of less than twenty-four (24) inches, swing and slide sets, playhouses and tents shall be permitted without prior approval of the Design Review Committee, provided, however, that such equipment shall not be more than ten (10) feet high, shall be in good repair (including paint) and every reasonable effort shall have been made to screen or shield such equipment from view. With respect to equipment higher than eight (8) feet, prior approval by the Design Review Committee of the design, location, color, material and use shall be required.

Section 11. Clothes Lines. Collapsible and removable clothes lines will be permitted by the Design Review Committee so long as they are screened or shielded from the view of neighbors and the street. Permanent clothes lines are not permitted.

Section 12. Gardens. No garden shall extend in front of the back of the house.

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Section 13. Gazebos. Gazebos are permitted if design and location is approved by the Design Review Committee.

Section 14. Garages. Garages shall be used only for the parking of vehicles and other customary uses and shall not be used for or converted into living area, (e.g., family room(s), bedroom(s), recreation room(s), etc.).

Section 15. Interference with Easements and Safety. No structure, planting or other material other than driveways, or sidewalks shall be placed or permitted to remain upon any Lot which may damage or interfere with any easement for the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any drainage channels. Any structure, planting or other material which represents a safety problem (e.g. sight restriction) shall be removed at Owner's expense.

Section 16. Common Areas. There shall be no violation of any rules for the use of the Common Areas or Community Facilities which may, from time to time, be adopted by the Board of Trustees and promulgated among the Members by

them in writing, and the Board of Trustees is hereby and elsewhere in this Declaration authorized to adopt or amend such rules.

Section 17. Mailboxes. Uniform mail boxes chosen by Declarant shall be installed by and at the expense of the Owner for each Lot and/or Living Unit.

Section 18. Signs. No signs, letters, numbers, symbols, markings or illustrations shall be erected, posted, attached, or displayed upon, or on any Lot or Living Unit except:

- (a) street and identification signs installed by the Association or the Declarant;
- (b) one temporary sign, approved by Declarant, informing the public that the real estate is for sale, lease or rent, provided that the sign must not exceed five square feet in area and must be erected upon the real estate to which it refers;
- (c) a post office house number for designation of home location.

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No sign, name plate or postal house number shall be animated or illuminated. This subsection shall not apply to Declarant as long as it is a Class B member, or at any time, to a sign, placed by or on behalf of Declarant, advertising or marketing Hill or any part therein.

Section 19. Antennas. No outside television or radio aerial or antenna, or other aerial or antenna for reception or transmission, or satellite dish shall be erected, placed on, maintained or allowed to remain on any Lot or Living Unit.

Section 20. Lawn Ornaments. A maximum of three (3) lawn ornaments shall be permitted on any Lot. No more than one (1) lawn ornament shall be a bold color, such as reds, blues, yellows, greens, purples, etc. All other lawn ornaments shall be neutral colors, such as browns and blacks. Lawn ornaments do not include shepherd's hooks which hold flower baskets and other plant baskets.

Section 21. Hunting and Trapping. Fishing and boating are permitted in the Common Areas as designated by posted signs and the promulgated policies of the Association. Trapping and hunting are prohibited in this subdivision for all persons.

Section 22. Driveways. Residential driveways shall be constructed of cement concrete. Pavements shall be a minimum of four inches (4") thick excluding sub-base material. The driveway shall be completed not later than the completion of the construction of the dwelling.

Section 23. Sidewalks. Concrete sidewalks with a minimum of four feet (4') shall be constructed on each side of the street. Owners shall be responsible for the cost of constructing and maintaining the sidewalks on their respective Lots. Sidewalks shall be installed prior to issuance of Certificate of Occupancy. Owners shall keep sidewalks on their respective Lots free of snow and cleared of debris.

Section 24. Crawl Space and Foundation Drains. No crawl spaces, eaves troughs, gutters, downspouts, or foundation drains shall be constructed so as to discharge water onto a street. Crawl space drains, foundation drains and basement drains intercepting and carrying only excess ground water may connect to subsurface.

Section 25. Building Lines. Subject to required variations in front setback lines pursuant to Article VII(1), building setback lines shall be as defined on the final recorded plat for each section of the Development which may be greater than the minimum setbacks required by Ordinance.

Section 26. Improvement Location Permit. In addition to the approval of the Committee prior to construction of a dwelling, lot Owners must obtain an Improvement Location Permit from the Hendricks County Plan Commission before any structure, improvement, or land use may be altered, changed, place, erected, or located in the Development.

Section 27. Nuisance. No noxious or offensive trade or activity shall be carried on upon any Lot or within any Living Unit located in the Subdivision, nor shall anything be done therein or thereon which may be or become an annoyance or nuisance to the neighborhood or the other Owners of any portion of the Hill Property.

ARTICLE IX

ARCHITECTURAL REQUIREMENTS

Section 1. Ansdale and New England Way

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The minimum architectural requirements shall be as follows:

1. All houses shall be constructed of wood, masonry, brick, stone and/or cultured stone materials. No vinyl or aluminum siding shall be permitted.
2. All houses shall have a minimum square footage of interior living area, excluding basements, of 2200 square feet for a single story home, and 2800 for a two-story home with a minimum of 1800 square feet on the ground floor.
3. All houses shall have the following features:
 - a) Dimensional shingle.
 - b) Roof pitches shall be 8/12 minimum, exclusive of porches, bump-outs, or dormers.
 - c) Houses shall have a 12 inch overhang
 - d) Houses shall be designed as much as practicable so as to obscure the view of equipment vents from the street.
 - e) Houses shall be designed as much as practicable to have a side load garage.
 - f) Soffits, gutter boards and windows shall be constructed with wood products.
 - g) Minimum attached three (3) car garage, except on lots with topography that allows only for two (2) car garage.
 - h) The garage door shall comprise no more than 40% of the front facade of the home without requiring the garage to be offset by a minimum of 12 inches.
 - i) Driveways shall be concrete.
 - j) Exterior chimneys shall be brick, masonry, stone or cultured stone.
4. Additionally, all houses shall have at least five (5) of the following features:
 - a) Dormers.
 - b) Reverse gable or hip roof.
 - c) Covered front porch (minimum 24 sq. ft.).
 - d) Decorative door surround, trim molding or header.
 - e) Decorative front door, sidelights or transom.
 - f) Side garage bump-out (minimum 2 feet).
 - g) Shutters on windows.
 - h) Bay or "boxed-out" window.
 - i) Decorative porch railing.
 - j) Decorative columna.
 - k) Decorative trim molding at gutter height.
 - l) Additional wall mounted exterior lights.
 - m) Post mounted decorative yard light as approved by the Design Review Committee.
5. All houses with the rear of the home facing Northfield Drive shall at least three (3) of the following features to the rear elevation:
 - a) Dormers.
 - b) Reverse gable or hip roof.
 - c) Covered porch (minimum 24 sq. ft.).
 - d) Decorative door surround, trim molding or header.
 - e) Shutters on windows.

- f) Bay or "boxed-out" window.
- g) Decorative porch railing.
- h) Decorative trim molding at gutter height

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Section 2. The Hamptons

The minimum architectural requirements shall be as follows:

1. All houses shall be constructed of wood, masonry, brick, stone and/or cultured stone materials. No vinyl or aluminum siding shall be permitted.
2. All houses shall have a minimum square footage of interior living area, excluding basements, of 2000 square feet for a single story home, and 2600 for a two-story home with a minimum of 1350 square feet on the ground floor.
3. All houses shall have the following features:
 - a) Dimensional shingle.
 - b) Roof pitches shall be 8/12 minimum, exclusive of porches, bump-outs, or dormers.
 - c) Houses shall have a 12 inch overhang.
 - d) Houses shall be designed as much as practicable so as to obscure the view of equipment vents from the street.
 - e) Soffits, gutter boards and windows shall be constructed with wood products.
 - f) Minimum attached two (2) car garage with a maximum of 40% of the front façade of the home comprising the garage door.
 - g) No houses shall have the same front elevation or exact color scheme within a 3-lot "snapshot" on the same side of the street, or of the home immediately across the street from the center home of the 3-lot "snapshot".
 - h) Driveways shall be concrete.
 - i) Exterior chimneys shall be brick, masonry, stone or cultured stone.
4. Additionally, all houses shall have at least five (5) of the following features:
 - a) Dormers.
 - b) Reverse gable or hip roof.
 - c) Covered front porch (minimum 16 sq. ft.).
 - d) Decorative door surround, trim molding or header.
 - e) Decorative front door, sidelights or transom.
 - f) Side garage bump-out (minimum 2 feet).
 - g) Shutters on windows.
 - h) Bay or "boxed-out" window.
 - i) Decorative porch railing.
 - j) Decorative columns.
 - k) Decorative trim molding at gutter height.
 - l) Additional wall mounted exterior lights.
 - m) Post mounted decorative yard light as approved by the Design Review Committee.
5. All houses with the rear of the home facing Northfield Drive shall at least three (3) of the following features on the rear elevation:
 - a) Dormers.
 - b) Reverse gable or hip roof.
 - c) Covered porch (minimum 16 sq. ft.).
 - d) Finished space "pop out".
 - e) Decorative door surround, trim molding or header.
 - f) Shutters on windows.
 - g) Bay or "boxed-out" window.
 - h) Decorative porch railing.
 - i) Decorative trim molding at gutter height

Section 3. Carmarzo Club

The minimum architectural requirements are as follows:

1. The condominium Structures shall consist of singles, doubles, triplexes, four-plexes, or 6 - unit buildings or a combination thereof.
2. All Structures shall be constructed of wood, masonry, brick, stone and/or cultured stone materials. No vinyl or aluminum siding shall be permitted.
3. All condominium Living Units shall have a minimum square footage of interior living area, excluding basements, of 1700 square feet for a single story home, and 2000 for a two-story home with a minimum of 1000 square feet on the ground floor.
4. All Structures shall have dimensional shingles.
5. All Structures shall have a roof pitch of no less than 6/12.
6. All Structures shall have a ten (10) inch overhang.
7. Soffits and gutter boards shall be constructed with wood products.
8. All drives shall be either concrete or asphalt.
9. The exterior chimneys on all Structures shall be brick, masonry, stone or cultured stone.

Section 4. Legacy Park

The minimum architectural requirements are as follows:

1. The first two (2) stories of all apartment Structures shall be constructed of ninety percent (90%) masonry materials, excluding upper gables and exterior hallways.
2. The minimum gage for vinyl covering shall be 0.42 dutch lap profile.
3. Each Living Unit shall be furnished with a washer and dryer hook up and there shall be a coin operated washer and dryer in the clubhouse.
4. Each Living Unit shall have either a patio, deck or balcony.
5. All Structures shall have a roof pitch of no less than 8/12 at the hip and 5/12 in the gables.
6. All Structures shall have a minimum of an eight (8) inch overhang.
7. There shall be no carports.
8. Garage units shall be constructed with masonry materials, excluding gables.
9. There shall be one (1) trash compactor constructed within the development.
10. At least two (2) school bus shelters shall be constructed within the development.
10. Exterior chimneys on all Structures shall be brick, masonry, stone or cultured stone.

ARTICLE X**REPURCHASE OPTION**

Declarant hereby reserves unto itself, its successors and assigns, the first right and option to purchase any unimproved Lot within The Village of Heritage Hill Property which is offered for sale by the Owner thereof, such option to be at the price and upon the terms and conditions of any bona fide offer for such Lot which is acceptable to such Owner and which is made to such Owner by a third party (or any offer made by such Owner that is acceptable to a third party). Upon the receipt (or making) of any such offer by an Owner, such Owner shall promptly submit a copy of the same to Declarant, and Declarant shall have a period of three (3) business days from and after Declarant's actual receipt of such copy from such Owner in which to exercise its purchase option by giving such Owner written notice of such exercise. If Declarant fails to respond or to exercise such purchase option within said three (3) business day period, Declarant shall be deemed to have waived such purchase option. If Declarant declines to exercise such option, Declarant shall execute an instrument evidencing its waiver of its repurchase option, which instrument shall be in recordable form. In the event that Declarant does not exercise its purchase option and a sale to a third party is not consummated on such terms within six (6) months of the date in which the offer is transmitted to Declarant, the terms and limitations of this Article shall again, be imposed upon any sale by such Owner. If Declarant shall elect to purchase such Lot the transaction shall be consummated within sixty (60) days following delivery of written notice by Declarant to such Owner of Declarant's decision to so purchase such Lot. This repurchase option shall terminate at the end of the Development Period.

ARTICLE XI**MISCELLANEOUS**

Section 1. Duration. The terms and provisions of this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association or by any of the Lot Owners, their respective legal representatives, heirs, successors and assigns, and except where permanent or perpetual assessments or other permanent rights are herein created, the term of the covenants, conditions and restrictions shall be for a term of twenty (20) years from the date of recordation of this Declaration, after which the Declaration shall be automatically extended for successive periods of ten (10) years in perpetuity, unless a recorded instrument agreeing to terminate the Declaration signed by the then Owners of two-thirds (2/3) of the Lots has been recorded.

Section 2. Amendment. The Declaration may be amended, from time to time as follows:

A. **By Declarant:** Declarant reserves the right and power to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution, without the approval of the Owners, or to the extent necessary to enable Declarant to meet any other reasonable need or requirement in order to complete the development of The Village of Heritage Hill Property. Any amendment must be recorded and shall take effect only upon recording. Each Owner, by acceptance of a deed to a Lot, consents to such right to amend the Declaration by Declarant.

B. **By Lot Owners.** Except as otherwise provided in this Declaration, this Declaration may be amended at any time by an instrument executed by seventy-five (75%) percent of the Class A Members and, in addition, the Class B Member. Any amendment must be recorded and shall take effect only upon recording.

Section 3. Declarant's Reservation of Entry Rights. The Declarant reserves the right for a period of five (5) years after the sale of a Lot by the Declarant to enter upon the Lot for purposes of correcting grade and drainage patterns for the benefit of The Village of Heritage Hill Property, provided that the Lot shall be restored to a like condition as to pavement, grass or sod which shall have been removed.

Section 4. Declarant's and Association's Right to Grant Easements. Notwithstanding any other provision of this Declaration, during the Development Period, the Declarant, and thereafter the Association, is authorized, without the consent of the Members, to grant easements across, through or under any Lot, Common Area, or Community Facility for utilities, public services, walks, trails, signage maintenance and for construction purposes, deemed by the granting party to be necessary or convenient for the enjoyment of The Village of Heritage Hill Property or any part thereof, provided that no easement shall be granted across, through, or under any Living Unit or Structure, which restricts ingress or egress to such Living Unit or Structure.

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Section 5. Personal Liability. Nothing in this Declaration, the Articles or the Regulations or By-Laws of the Association, or any rules or regulations enacted pursuant to any of the aforesaid, shall impose personal liability upon any member of the Board of Trustees or any officer of the Association acting in his capacity as such, for the maintenance, repair or replacement of any Living Unit or of any part of the Common Areas or give rise to a cause of action against any of them except for damages resulting from their own willful omissions or misconduct. Each person who becomes an Owner or Member hereby releases and discharges all persons now or hereafter serving as an officer or Trustee, or both, from any liability for injury or damages to such Member or Owner or to such Member's or Owner's property and covenants not to initiate any legal proceedings against any such person or persons unless such said person is covered by insurance and, in such event, the amount of recovery shall be limited to the amount of insurance.

Section 6. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postage prepaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing.

Section 7. Enforcement. Any Owner of any Lot or Lots in this subdivision may initiate any proceeding at law or equity against any person or persons violating or attempting to violate any covenant herein. The successful party to any such action shall recover attorney fees and costs incurred in such action. A violation of any restriction herein will not result in reversion or forfeiture of title.

If any Owner of a Lot in this subdivision shall fail to maintain his Lot and/or any improvements situated thereon, or to keep sight distances or to construct and/or maintain sidewalks in accordance with these restrictive covenants, the Committee shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said Lot and repair, mow, clean, or perform such other acts as may be reasonable or necessary to make said Lot, and/or any improvements situated thereon, conform to the requirements of these restrictions. The cost thereof to the Committee shall be collected in any reasonable manner from the Owner. Neither the Committee nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance or other work performed hereunder. Any fine so assessed against any Lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that Lot subordinate only to the lien of a first mortgage until paid in full, and shall also be a personal obligation of the Owner or Owners of that Lot. Such charge shall bear interest at the rate of eighteen percent (18%) per annum until paid in full. If, in the opinion of the committee, such charge has remained due and payable for an unreasonable long period of time, the committee may institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owed, in any court of competent jurisdiction. The Owner of the Lot or Lots subject to the charge shall, in addition to the amount of the charge due at the time legal action is instituted, be obligated to pay any expenses or costs, including attorney's fees, incurred by the committee in collecting the same. Every Owner of a Lot in this subdivision, and any person who may acquire any interest in such Lot, whether as an Owner or otherwise, is hereby notified, and by acquisition of such interest agrees, that any such liens which may exist upon said Lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an Owner of a Lot in this subdivision is hereby notified that by the act of acquiring, making such purchase, or acquiring such title, such person shall be conclusively held to have covenanted to pay all fines that shall be made pursuant to this paragraph.

Except as provided in Article VIII enforcement of this Declaration shall be by a proceeding at law or in equity against any person or persons violating or attempting to violate any provision of this Declaration, either to restrain or to enjoin violation or to recover damages, and against the land to enforce any lien created or allowed by this Declaration; and the failure or forbearance by the Association or any Owner to enforce any provision of this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Section 8. Arbitration. In the event of any dispute between Owners regarding the application of this Declaration or any rule or regulation, the party aggrieved shall submit a complaint in writing to the Board specifying the dispute. The Board shall set a time and place for a hearing thereon within thirty (30) days thereafter, and give written notice to each party hereof not less than five days in advance of such hearing. The Board shall act as arbitrator and, after hearing such evidence and arguments as it deems proper, shall render a written decision on the matter to each party within thirty (30) days after such hearing. No legal action may be instituted by either party on such a dispute unless the arbitration provided for herein has occurred, or unless both parties have waived the requirement for arbitration.

Section 9. Severability. Invalidation of any part of this Declaration by judgment, decree or order shall in no way effect any other provision hereof, each of which shall remain in full force and effect.

Section 10. Conflicts. In the case of any conflict between this Declaration and either the Articles of Incorporation or the By-Laws of the Association, the Declaration shall control.

Section 11. Condemnation.

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(a) In the event any Lot or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the net proceeds of any award or settlement shall be the property of the Lot Owner subject to the limitations of a mortgage, if any.

(b) In the event any Common Area or Community Facility or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, the proceeds of any award or settlement + shall be distributed to the Association for the common benefit of the appropriate Members.

Section 12. Professional Management Contracts. The Association may delegate all or any portion of its authority to discharge its responsibilities herein to a manager or managing agent. Any management agreement shall not exceed three (3) years and shall provide for termination by either party without cause or without payment of a termination fee with no less than ninety (90) days written notice.

Section 13. Non-Liability of Declarant. Neither Declarant nor its representatives, successors or assigns shall be liable for any claim whatsoever arising out of or by reason of any actions performed pursuant to any authority granted or delegated to it, by or pursuant to, this Declaration, the Articles or the By-Laws, whether or not such claims shall be asserted by an Owner, the Association, or by any person or entity claiming through any of them; or shall be on account of injury to person or damage to or loss of property wherever located and however caused. Without limiting the generality of the foregoing, the foregoing exemption includes all claims for, or arising by reason of, the Hill Property or any part thereof not being maintained or repaired by reason of any act or neglect of any Owner, the Association or their representative agents, employees, guests and invitees or by reason of any neighboring property or personal property located on or about the Hill Property, or by reason of the failure to furnish or disrepair of any utility services (heat, air conditioning, electricity, gas, water, sewage, etc.) except as provided by any written warranty provided to an Owner or the Association.

Section 14. Gender and Grammar. The singular, whenever used herein, shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other forms of business organizations, or individuals, men or women, shall in all cases be assumed as though in such case fully expressed.

CHICAGO TITLE

IN WITNESS WHEREOF, Rolling Hills, LLC, an Indiana limited liability company, by Joseph Dorger, Member, has executed this Declaration on the day and year first written above.

Joseph Dorger
Joseph Dorger, Member
Rolling Hills, LLC

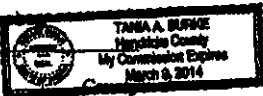
STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

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Before me, a Notary Public, in and for said County and State, personally appeared Joseph Dorger, Member of Rolling Hills, LLC, who acknowledged the execution of the foregoing to be his voluntary act and deed for the uses and purposes contained therein.

WITNESS my hand and seal this 15th day of February, 2007.

My Commission Expires

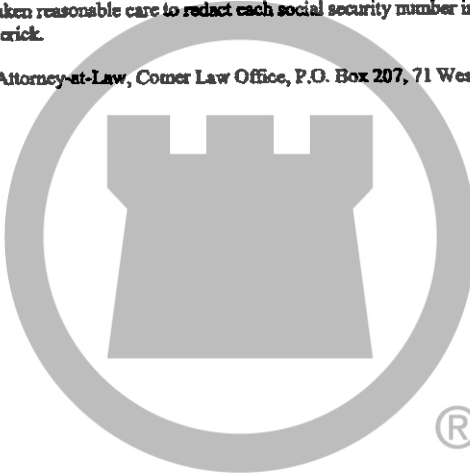


Resident of

Tania A. Burke
Notary Public - Signature
TANIA A. Burke
Notary Public - Printed Name

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law, Amy Comer Broderick.

This document prepared by Amy Comer Broderick, Attorney-at-Law, Comer Law Office, P.O. Box 207, 71 West Marion Street, Danville, Indiana 46122. (317) 745-4300.



CHICAGO TITLE

Exhibit "A"**Legal Description**

Part of Section 27, Township 16, Range 1 East, Hendricks County, Indiana, more particularly as described as follows:

Beginning at a PK nail 1334.90 feet South 00 degrees 00 minutes 00 seconds East (record and measured) of the County referenced Northeast corner of the Northeast quarter, Section 27, in the approximate center line of State Road 267, and running thence South 89 degrees 16 minutes 30 seconds West (record and measured) generally following a wire fence for a distance of 1335.80 feet (1820.0 feet, record) to a 5/8" reinforcing bar; thence North 00 degrees 00 minutes 00 seconds East generally following a wire fence line for a distance of 357.28 feet to a 5/8" reinforcing bar; thence South 89 degrees 48 minutes 22 seconds West generally following a wire fence line for a distance of 660.00 feet (record and measured) to a 5/8" reinforcing bar; thence North 00 degrees 00 minutes 00 seconds East generally following a wire fence line for a distance of 990.00 feet (record & Measured) to a 5/8" reinforcing bar on the northerly line of the northeast quarter; thence South 89 degrees 48 minutes 22 seconds West with said northerly line and generally following a wire fence line and the fence line projected for a distance of 675.70 feet to the calculated northwest corner of the northeast quarter of Section 27, (not monumented); thence South 89 degrees 06 minutes 44 seconds West with the north line of the east half of the northwest quarter, Section 27, and generally following a wire fence line for a distance of 1335.70 feet to a PK nail marking the calculated northwest corner of the east half of said northwest quarter; thence leaving said fence line and running South 00 degrees 00 minutes 00 seconds East for a distance of 2668.06 feet to the calculated southwest corner of the east half of said northwest quarter (not monumented), said point being 1335.80 feet North 89 degrees 06 minutes 44 seconds West of the County referenced southwest corner of the northwest quarter, Section 27; thence South 00 degrees 06 minutes 37 seconds East for a distance of 1105.50 feet to a 5/8" reinforcing bar; thence North 89 degrees 06 minutes 44 seconds East for a distance of 940.50 feet (record and measured) to a 5/8" reinforcing bar; thence North 00 degrees 06 minutes 37 seconds West for a distance of 379.50 feet to a 5/8" reinforcing bar; thence North 89 degrees 06 minutes 44 seconds East for a distance of 395.20 feet to a point on the east line of the east half of the southwest quarter Section 27, (not monumented); thence North 89 degrees 48 minutes 22 seconds East for a distance of 1335.70 feet to a 5/8" reinforcing bar; thence North 00 degrees 06 minutes 37 seconds West (North 00 degrees 10 minutes 24 seconds West, adjacent record bearing) for a distance of 726.00 feet to a 5/8" reinforcing bar at the calculated southwest corner of the east half of the northeast quarter, Section 27; thence North 89 degrees 48 minutes 22 seconds East generally following a wire fence line for a distance of 1335.70 feet (1333.27 feet record) to the County referenced southeast corner of the northeast quarter, said point being an iron pin in concrete in the approximate center line of State Road 267; thence generally following said center line North 00 degrees 00 minutes 00 seconds for a distance of 1333.16 feet to the place of beginning, containing 242.017 acres, more or less.

CHICAGO TITLE

200700021977
Filed for Record in
HENDRICKS COUNTY IN
PAUL T HARDIN
08-21-2007 At 02:11 pm.
COVENANTS 19.00

**RESTRICTIVE COVENANTS
FOR
NEW ENGLAND WAY SOUTH**

Instrument PG 1 OF 3
200700021977

Cross References

Cross reference Declaration of Covenants, Conditions and Restrictions for The Village of Heritage Hill dated February 15, 2007, recorded February 21, 2007, as Instrument Number 200700004441, in the Office of the Recorder of Hendricks County, Indiana.

Cross reference Plat of New England Way South recorded July 20, 2007 in Plat Cabinet 7, Slide 10, pages 2 ABCDE, as Instrument Number 200700019002, in the Office of the Recorder of Hendricks County.

Encumbrance

WHEREAS, certain real estate in Hendricks County, Indiana known as The Village of Heritage Hill, is encumbered by restrictions, conditions and covenants recorded as set forth above; and

WHEREAS, New England Way South is a platted subdivision, recorded as set forth above, which is adjacent to The Village of Heritage Hill and the developer of New England Way South is the developer of The Village of Heritage Hill; and

WHEREAS, the developer of New England Way South desires to encumber said subdivision with the same restrictions, conditions and covenants as exist for The Village of Heritage Hill.

NOW THEREFORE, the undersigned, as owners of real estate now known as New England Way South, encumber said real estate known as New England Way South, being more particularly described on the attached Exhibit "A" and platted as set forth above, with the same restrictions, conditions and covenants as encumber The Village of Heritage Hill.

Rolling Hills, LLC

By:


Joseph Dorger, Member

Rookwood Custom Builders, LLC

By:


Joseph Dorger, Member 

CHICAGO TITLE

18
3+4

Drees Premier Homes, Inc.

By:

Harold R. Holen
Harold R. Holen, ~~President~~
General Manager

STATE OF INDIANA)
) SS:
COUNTY OF HENDRICKS)

Before me, a Notary Public, in and for said County and State, personally appeared Joseph Dorger, Member of Rolling Hills, LLC and Rookwood Custom Builders, LLC, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that any representations therein contained are true.

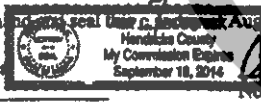
WITNESS my hand and seal this 13th day of August, 2007.

My Commission Expires: *Maria L. Kiger*
Notary Public - Signature

Resident of  Notary Public - Printed Name

STATE OF INDIANA)
) SS:
COUNTY OF ~~HENDRICKS~~
Hendricks)

~~Sworn to~~ Before me, a Notary Public, in and for said County and State, ~~personally appeared that Harold R. Holen, President of Drees Premier Homes, LLC, who acknowledged the execution of the foregoing instrument, and who, having been duly sworn, stated that any representations therein contained are true.~~ acknowledged and executed the foregoing document.

WITNESS my hand and seal this 13th day of August, 2007.
My Commission Expires:  *Amy C. Broderick*
Notary Public - Signature

Resident of _____ County Notary Public - Printed Name *Amy C. Broderick*

I affirm, under penalties of perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. Amy Come Broderick.

This instrument prepared by Amy Come Broderick, Attorney-at-Law, Come Law Office, P.O. Box 207, Danville, IN 46122. (317) 745-4300.

EXHIBIT "A"

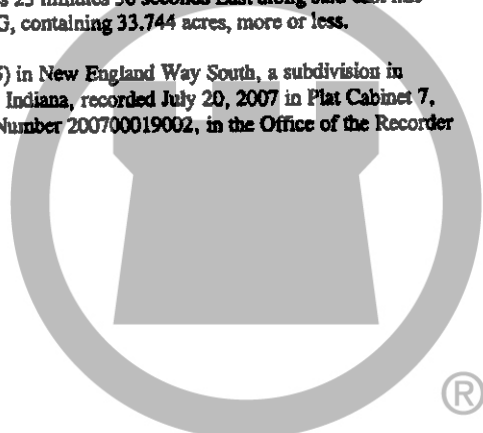
LAND DESCRIPTION

NEW ENGLAND WAY SOUTH

A part of the Southeast Quarter of Section 27, Township 16 North, Range 1 East, Washington Township, Hendricks County, Indiana being more particularly described as follows:

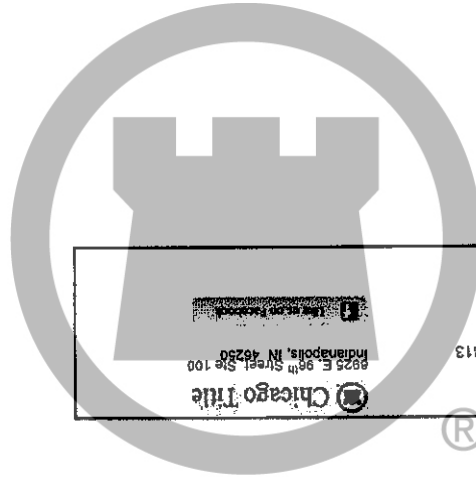
Commencing at a type "B" monument found marking the southeast corner of said Southeast Quarter; thence North 01 degree 23 minutes 56 seconds West along the east line thereof 1122.83 feet to a mag nail with "BANNING ENG FIRM #0060" cap (herein referred to as "mag nail") set at the POINT OF BEGINNING; thence South 88 degrees 19 minutes 15 seconds West 1,330.18 feet to a 5/8 inch rebar with "BANNING ENG FIRM #0060" cap (herein referred to as "rebar") set on the west line of the East Half of said Southeast Quarter; thence North 01 degrees 25 minutes 33 seconds West along said west line 1,549.14 feet to a 5/8 inch rebar with "LS29800001" cap found at the northwest corner of the East Half of said Southeast Quarter; thence North 88 degrees 10 minutes 28 seconds East along the north line of said Southeast Quarter 663.91 feet to a rebar set; thence South 01 degrees 23 minutes 56 seconds East 583.42 feet to a rebar set; thence North 88 degrees 51 minutes 18 seconds East 2.00 feet to a rebar set; thence South 01 degrees 23 minutes 56 seconds East 304.20 feet to a rebar set; thence North 88 degrees 43 minutes 04 seconds East 665.00 feet to a mag nail set on the east line of said Southeast Quarter; thence South 01 degrees 23 minutes 56 seconds East along said east line 658.57 feet to the POINT OF BEGINNING, containing 33.744 acres, more or less.

EXCEPT: Lot Numbered Twenty-five (25) in New England Way South, a subdivision in Washington Township, Hendricks County, Indiana, recorded July 20, 2007 in Plat Cabinet 7, Slide 10, pages 2 ABCDE, as Instrument Number 200700019002, in the Office of the Recorder of Hendricks County.



CHICAGO TITLE

1/6/2012



TODD MCGREEVY
 Residential Title Division
 PHONE: 317.644.3800 ext. 1813
 FAX: 317.644.8279
 todd.mcgreedy@ctt.com
 www.chicagoheritage.com

Chicago Title
 6225 E. 96th Street, Ste 100
 Indianapolis, IN 46250

THANK YOU!!!!

Please return to both myself and CC Jim.Collins@ctt.com

Plat was rec 7-20-07 in Plat Cabinet 6, Slide 10, pages 2A-2E
 This addition may also be known as Heritage Hills

From: Mcgreedy, Todd [mailto:McgreedyT@CTT.com]
Sent: Thursday, January 05, 2012 4:41 PM
To: IST Orders
Cc: Collins, Jim; Service Desk
Subject: HENDRICKS / RUSH PLEASE / Need Covenants - Restrictions (New England Way South - use sub name for billing
Importance: High

From: IST Orders
Sent: Thursday, January 05, 2012 4:36 PM
To: Christie Sanders
Cc: Daniel Christian
Subject: FW: HENDRICKS / RUSH PLEASE / Need Covenants - Restrictions (New England Way South - use sub name for billing
Importance: High

Christie Sanders