

Secondary Plat of:

MERCATO, SECTION I

A subdivision of part of the Southeast Quarter of Section 8, together with part of the Southwest Quarter of Section 9, all in Township 30 North, Range 11 East, Allen County, Indiana.

Developer:
Mercato Development, LLC
9601 Coldwater Road
Fort Wayne, IN 46825
Tel: 260/489-2000

Surveyor - Planner:
Sauer Land Surveying, Inc.
14033 Illinois Road, Suite C
Fort Wayne, IN 46814
Tel: 260/469-3300

Part of the Southeast Quarter of Section 8, together with part of the Southwest Quarter of Section 9, all in Township 30 North, Range 11 East, Allen County, Indiana, being more particularly described as follows, to-wit:

Commencing at the Southeast corner of said Section 8, being marked by a cast iron monument; thence South 89 degrees 05 minutes 24 seconds West (GPS grid bearing and basis of all bearings in this description), on and along the South line of the Southeast Quarter of said Section 8, being within the right-of-way of Covington Road, a distance of 1980.39 feet to the point of intersection of said South line with the centerline of West Hamilton Road South; thence North 04 degrees 34 minutes 01 seconds East, on and along said centerline, a distance of 1331.52 feet to a survey nail at the Northwest corner of a 24.494 acre tract of real estate described in a deed to The Chapel, Inc., in Document Number 960051006 in the Office of the Recorder of Allen County, Indiana, this being the true point of beginning; thence North 04 degrees 34 minutes 01 seconds East, continuing on and along said centerline, a distance of 712.75 feet; thence North 04 degrees 13 minutes 32 seconds East, continuing on and along said centerline, a distance of 387.53 feet to a survey nail; thence South 89 degrees 37 minutes 42 seconds East, a distance of 197.25 feet to a #5 rebar; thence South 45 degrees 17 minutes 39 seconds East, a distance of 64.27 feet to a #5 rebar; thence South 63 degrees 30 seconds East, a distance of 192.18 feet to a #5 rebar; thence South 36 degrees 50 minutes 48 seconds East, a distance of 67.09 feet to a #5 rebar; thence South 02 degrees 50 minutes 56 seconds West, a distance of 33.78 feet to a #5 rebar; thence South 68 degrees 13 minutes 47 seconds East, a distance of 225.82 feet to a #5 rebar; thence South 78 degrees 35 minutes 27 seconds East, a distance of 66.27 feet to a #5 rebar; thence South 59 degrees 04 minutes 01 seconds East, a distance of 51.04 feet to a #5 rebar; thence North 46 degrees 56 minutes 51 seconds West, a distance of 101.85 feet to a #5 rebar; thence North 10 degrees 08 minutes 19 seconds West, a distance of 135.82 feet to a #5 rebar; thence North 36 degrees 32 minutes 34 seconds West, a distance of 139.06 feet to a #5 rebar; thence North 06 degrees 30 minutes 21 seconds East, a distance of 25.00 feet to a #5 rebar; thence South 89 degrees 37 minutes 42 seconds East, a distance of 131.97 feet to a #5 rebar; thence South 42 degrees 02 minutes 46 seconds East, a distance of 455.46 feet to a #5 rebar; thence North 76 degrees 31 minutes 52 seconds East, a distance of 308.57 feet to a #5 rebar; thence South 13 degrees 28 minutes 08 seconds East, a distance of 190.00 feet to a #5 rebar; thence South 76 degrees 31 minutes 52 seconds East, a distance of 5.00 feet to a #5 rebar; thence South 13 degrees 28 minutes 08 seconds East, a distance of 140.00 feet to a #5 rebar; thence North 76 degrees 31 minutes 52 seconds East, a distance of 87.08 feet to a #5 rebar; thence South 83 degrees 42 minutes 58 seconds East, a distance of 180.68 feet to a #5 rebar; thence South 00 degrees 50 minutes 38 seconds West, a distance of 132.42 feet to a #5 rebar; thence South 17 degrees 11 minutes 06 seconds East, a distance of 79.38 feet to a #5 rebar; thence South 31 degrees 39 minutes 45 seconds East, a distance of 79.38 feet to a #5 rebar; thence South 35 degrees 00 minutes 52 seconds East, a distance of 115.27 feet to a #5 rebar; thence South 44 degrees 19 minutes 00 seconds East, a distance of 83.17 feet to a #5 rebar; thence South 66 degrees 55 minutes 36 seconds East, a distance of 65.77 feet to a #5 rebar; thence South 01 degrees 43 minutes 16 seconds East, a distance of 35.47 feet to a #5 rebar on the North line of an 18.196 acre tract of real estate described in a deed to Robert Eddy and Lori Eddy in Document Number 2009047835 in the Office of said Recorder; thence South 88 degrees 16 minutes 44 seconds West, on and along said North line, a distance of 131.03 feet to a #5 rebar at the Northwest corner thereof, being a point on the West line of the Southwest Quarter of said Section 9; thence North 00 degrees 09 minutes 16 seconds West, on and along said West line, a distance of 1.33 feet to a #5 rebar at the Northeast corner of a 16.352 acre tract of real estate described in a deed to The Chapel, Inc., in Document Number 201064361 in the Office of said Recorder; thence South 89 degrees 32 minutes 30 seconds West, on and along the North line of said 16.352 acre tract and the North line of said 24.494 acre tract, a distance of 1445.01 feet to a #5 rebar at the Southeast corner of a 0.763 acre tract of real estate described in a deed to The Board of Commissioners of the County of Allen, Indiana, in Document Number 2019057713 in the Office of said Recorder; thence Northwesterly, on and along an East line of said 0.763 acre tract, as defined by the arc of a non-tangent circular curve to the left having a radius of 142.00 feet, an arc distance of 102.84 feet, being subtended by a long chord having a length of 100.61 feet and a bearing of North 26 degrees 37 minutes 20 seconds West to a #5 rebar; thence South 43 degrees 27 minutes 14 seconds West, on and along a Northwesterly line of said 0.763 acre tract, a distance of 9.23 feet to a #5 rebar; thence North 44 degrees 43 minutes 51 seconds West, on and along a Northwesterly line of said 0.763 acre tract, a distance of 68.51 feet to a #5 rebar; thence South 63 degrees 14 minutes 17 seconds West, on and along a North line of said 0.763 acre tract, a distance of 83.17 feet to a #5 rebar at the point of curvature of a non-tangent circular curve to the right having a radius of 203.73 feet; thence Westerly, continuing on and along said North line, as defined by the arc of said curve, an arc distance of 80.90 feet, being subtended by a long chord having a length of 80.37 feet and a bearing of South 78 degrees 09 minutes 57 seconds West to a #5 rebar at the point of tangency; thence South 89 degrees 32 minutes 30 seconds West, continuing on and along said North line and tangent to said curve, a distance of 116.90 feet to a #5 rebar at the Northwest corner of said 0.763 acre tract; thence South 04 degrees 34 minutes 01 seconds West, on and along the West line of said 0.763 acre tract, a distance of 80.32 feet to a #5 rebar at the Southwest corner thereof, being a point on the North line of said 24.494 acre tract; thence South 89 degrees 32 minutes 30 seconds West, on and along said North line, a distance of 50.20 feet to the true point of beginning, containing 33.613 acres of land, subject to legal right-of-way for West Hamilton Road South, and subject to all easements of record.

Mercato Development, LLC, owner by virtue of that certain deed shown in Document Number 2019058371 in the Office of the Recorder of Allen County, Indiana, of the real estate shown described herein, does hereby lay off, plat, dedicate and subdivide said real estate into lots, streets and easements in accordance with the information shown on the plat. Further, Mercato Development, LLC, hereby subjects and impresses all of said land in said addition with the limitations and easements attached hereto and made a part thereof by reference. This subdivision shall be known and designated as MERCATO, SECTION I.

IN WITNESS THEREOF, Jeffrey M. Thomas, known to me to be the person and a member of Mercato Development, LLC, organized and existing under the laws of the State of Indiana, has herunto, on behalf of said Mercato Development, LLC, set his hand and seal, this 14 day of November, 2019.

Mercato Development, LLC

By: Jeffrey M. Thomas
Jeffrey M. Thomas, Member

Consent for permanent structures issued by the Allen County Drainage Board on June 27, 2019 in accordance with Indiana Code 36-9-27-72, on file at the Allen County Surveyor's Office as Drainage Board Rec. Doc. #19-099 reference - Mercato, Section I Regulated Drain and Doc. #19-100 reference - Turner Title Drain.

This plat lies entirely within a Rule 12 - IAC 865 boundary survey certified by Joseph R. Herendeen, Indiana Land Surveyor, and duly recorded under Document Number 2019030981 in the Office of the Recorder of Allen County, Indiana.

NOV 21 2019

BOARD OF COMMISSIONERS
DATE: 11-28-19

Richard E. Beck, Jr.
Richard E. Beck, Jr., Secretary

ATTEST:
NICHOLAS D. JORDAN, CPA, AUDITOR

ALLEN COUNTY SURVEYOR
DATE: 11-14-19

Jeffrey M. Thomas
Jeffrey M. Thomas, Allen County Surveyor

ZONING ADMINISTRATOR
DATE: 11-20

Kimberly Bowman
Kimberly Bowman, Zoning Administrator

APPROVALS

ALLEN COUNTY PLAN COMMISSION
DATE: 11-20-19

Susan L. Hood
Susan L. Hood, President

David Bailey
David Bailey, Vice President

REGULATED DRAINAGE EASEMENT NOTE:

A petition addressed to the Allen County Drainage Board has been filed in duplicate with the County Surveyor, requesting that the subdivisions storm drainage system and its easements be accepted into the County's regulated drainage system. The storm drainage system and its easements that are accepted into the County's regulated drainage system are delineated on the plat as Regulated Drainage Easements (RDE's). Regulated Drainage Easements are stormwater easements and drainage right-of-ways that are hereby dedicated to the public and to the Allen County, Indiana, Drainage Board for the sole and exclusive purpose of controlling surface water and/or for the installation, operation, and maintenance of storm sewers and tile drains as defined in Allen County Stormwater Management Ordinance. These drainage easements are established under authority of the Indiana Drainage Code and the said Board may exercise powers and duties as provided in said code (e.g., annual drainage assessment per lot). All other storm drainage easements have not been accepted into the County's system. All drainage improvements performed relative to the conveyance of Stormwater runoff and the perpetual maintenance thereof, with the latter easements, shall be the responsibility of the owner or homeowner association. The Allen County Drainage Board assumes no responsibility relative to said improvements or the maintenance thereof.

DRAINAGE SYSTEM TABLE

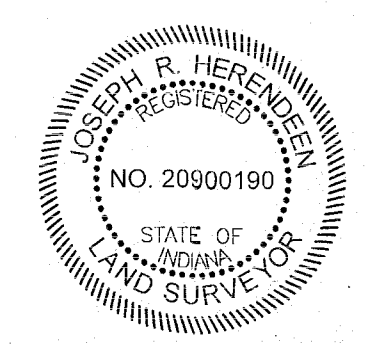
Storm Sewer Drainage.....2407.0 feet

CERTIFICATE OF SURVEYOR

I, Joseph R. Herendeen, hereby certify that I am a Land Surveyor registered in compliance with the laws of the State of Indiana; that based on my knowledge, experience and belief this plat and accompanying legal description accurately depicts a subdivision of real estate described in Document Number 2019058371 in the Office of the Recorder of Allen County, Indiana; that following the completion of construction and grading, all corners will be marked with 24 inch long #5 rebars bearing plastic caps imprinted "Sauer S0364"; and that there has been no change from the matters of survey revealed by the survey referenced hereon or any prior subdivision plats contained therein, on any lines that are common with this new subdivision.

I, Joseph R. Herendeen, certify the above statements to be correct to the best of my information, knowledge, and belief. 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.

Joseph R. Herendeen
Joseph R. Herendeen, Indiana Land Surveyor
Date: 11/14/2019



PLAT LEGEND

- Plat Boundary Line
- Interior Street and Road Right-of-Way Line
- Interior Lot Line
- Building Set-back Line
- Easement Line
- Adjoining Plat Interior Lot Line
- Street Address Number
- Lot Number and Block Designation
- Street Centerline Curve Data
- Minimum Flood Protection Grade

NOTES:

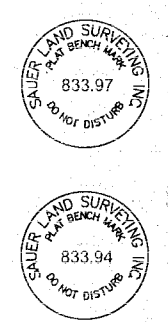
- All buried utilities shall allow for the proposed swale grades all shown on the approved engineering plans.
- U.A.S.D.C. indicates utility and surface drainage easement.
- All right-of-way intersection radii are 20 feet.
- Boxed elevation indicates minimum flood protection grade (NAVD 88 DATUM).
- All common areas to be blanket utility, surface drainage, and regulated drainage easements.

BENCHMARKS:

Beginning Benchmark: F-129 B.M. tablet set in the NW corner of S.R. 14 bridge over Beal Taylor Ditch, located 0.17 miles East of West Hamilton Road South, Sec. 5, T. 30 N., R. 11 E., Adobe Tap. ELEVATION = 822.28

Plat Benchmark #1:
Top of Bronze Disk installed in the East end of the Pond 4, Overflow West (grade beam) Block "A", Mercato, Section I, with the elevation 833.91 feet stamped in the disk. ELEVATION = 833.91 feet (NAVD 88)

Plat Benchmark #2:
Top of Bronze Disk installed in the North end of the Pond 3, Overflow West (grade beam) Block "B", Mercato, Section I, with the elevation 833.94 feet stamped in the disk. ELEVATION = 833.94 feet (NAVD 88)



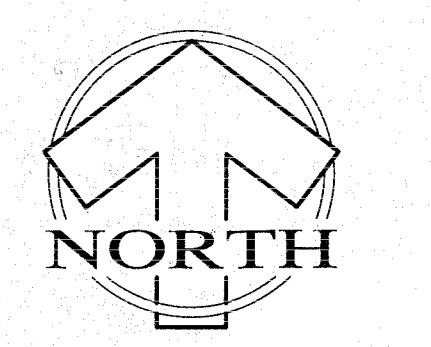
LOT CURVE DATA

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	125.00	57.39	56.88	N 76°21'23" E	26°18'13"
C2	175.00	9.47	9.47	S 87°59'31" W	3°05'58"
C3	175.00	23.19	23.17	S 87°38'48" W	7°35'28"
C4	50.00	24.64	24.39	S 87°01'51" E	28°14'11"
C5	50.00	11.50	11.47	N 66°19'33" W	13°10'23"
C6	50.00	78.76	70.87	S 75°08'01" W	90°15'15"
C7	50.00	56.46	53.51	N 02°20'27" W	64°41'42"
C8	50.00	55.26	52.49	S 66°21'02" E	63°19'28"
C9	50.00	38.87	37.90	N 59°42'51" E	44°32'45"
C10	50.00	36.14	35.36	S 58°08'48" W	41°24'35"
C11	125.00	23.32	23.29	N 84°11'42" E	10°41'26"
C12	125.00	167.97	155.61	N 38°02'11" E	76°59'22"
C13	275.00	19.03	19.03	N 15°27'05" W	3°57'54"
C14	225.00	19.04	19.03	N 15°53'39" W	4°50'53"
C15	175.00	28.64	28.61	S 71°50'52" W	9°22'39"
C16	175.00	84.70	83.87	N 53°17'18" E	27°43'50"
C17	175.00	84.22	83.41	N 25°34'09" E	27°34'29"
C18	175.00	37.59	37.52	N 05°41'42" E	12°18'24"
C19	175.00	80.34	79.64	S 76°23'23" W	26°18'13"
C20	125.00	51.87	51.50	N 14°52'28" W	23°46'32"
C21	125.00	16.48	16.47	S 00°47'25" W	7°33'13"
C22	50.00	52.36	50.00	S 34°34'01" W	60°00'00"
C23	50.00	9.45	9.46	S 59°08'15" W	10°51'33"
C24	50.00	78.28	70.52	S 08°51'31" W	89°41'55"
C25	50.00	56.46	53.51	S 68°20'18" E	64°41'42"
C26	50.00	49.38	47.40	N 51°01'18" E	56°35'11"
C27	50.00	15.85	15.78	N 13°38'51" E	18°09'39"
C28	175.00	44.39	44.27	S 02°41'58" E	14°31'59"
C29	175.00	51.30	51.12	N 18°21'51" W	16°47'45"
C30	142.00	92.76	91.12	N 28°59'27" W	37°25'40"

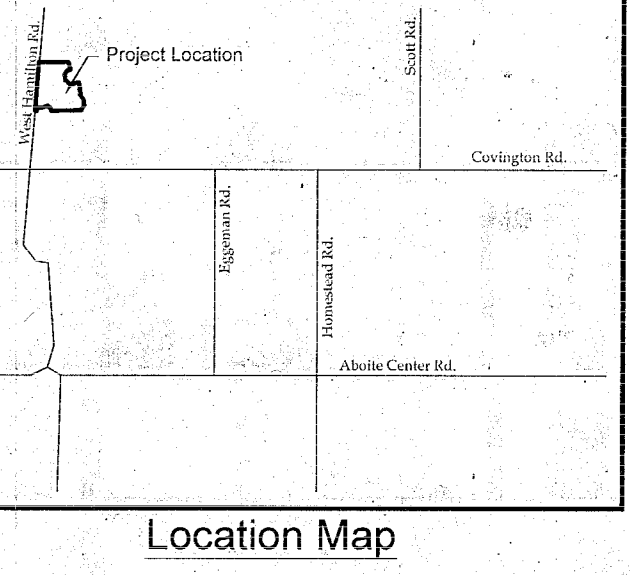
AREA TABLE

LOT#	Area (sq. ft.)
1	15807
2	14000
3	14000
4	14001
5	16092
6	14000
7	14000
8	14000
9	14000
10	14864
11	19555
12	17904
13	19557
14	16381
15	15871
16	15466
17	15061
18	14856
19	14251
20	16048
21	19851
22	14000
23	14000
24	14000
25	14000
26	14000
27	14700
28	16718
29	15980
30	14000
31	14000
32	14000
33	15669
34	15804
35	15805
36	14533
37	15518
38	16789
39	13341
40	13870
41	14262
42	14364
43	14000
44	16781
45	17736
46	16460
47	14075
48	14009
49	14000
50	14000
51	14294
52	20560
53	21337

Entity	Area (sq. ft.)
Block A	178100
Block B	249755
Street	216877



SCALE IN FEET:
0 80 160



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**DEDICATION, PROTECTIVE RESTRICTIONS,
COVENANTS, LIMITATIONS, EASEMENTS AND
APPROVALS APPENDED TO AND AS PART OF THE
DEDICATION AND PLAT OF MERCATO, SECTION I,
A SUBDIVISION IN ABOITE TOWNSHIP, ALLEN COUNTY, INDIANA**

Mercato Development, LLC, an Indiana limited liability company, hereby declares that it is the owner and developer of the real estate shown and described in the Plat, as defined herein, and does hereby lay off, plat and subdivide said real estate in accordance with the information shown on the final Plat, being the certified plat appended hereto and incorporated herein. The Subdivision shall be known and designated as Mercato, Section I, a Subdivision in Aboite Township, Allen County, Indiana.

The Lots are numbered from 1 to 53, inclusive, and all dimensions are shown in feet and decimals of a foot on the Plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use for their usual and intended purposes.

**ARTICLE I
DEFINITIONS**

Section 1. "Association" shall mean and refer to the Mercato Community Association, Inc., its successors and assigns.

Section 2. "Mercato" shall mean and refer to the multiple-section community concept of Mercato developed by the Developer, including all sections added to Mercato by Developer pursuant to Article VII hereof.

Section 3. "Mercato, Section I" shall mean and refer to the name by which the real estate which is the subject of this Declaration shall be known.

Section 4. "Bylaws" shall mean the Bylaws initially adopted by the Association and all amendments and additions thereto.

Section 5. "Committee" shall mean the Architectural Control Committee, composed of three (3) members appointed by the Developer and who shall be subject to removal by the Developer at any time with or without cause. Any vacancies from time to time shall be filled by appointment of the Developer.

As shown on file
Duly entered for taxation, Subject
to final acceptance for transfer.

NOV 21 2019

2019
AUDITOR - ALLEN COUNTY

21
Twin Eagles OFFICE BY

Prior to the appointment of the members of the Committee by the Developer, the Developer shall possess the authority of the Committee as set forth herein.

Section 6. "Common Areas" shall mean all real property owned by the Association for the common use and enjoyment of the Owners.

Section 7. "Developer" shall mean and refer to Mercato Development, LLC, its successors and assigns.

Section 8. "Dwelling Unit" shall mean and refer to the structure used as a residential living unit located upon a Lot, including the garage and any appurtenances.

Section 9. "Lot" shall mean either any of said Lots 1-53, inclusive, as platted or any tract or tracts of land as conveyed originally or by subsequent Owners, which may consist of one or more Lots or parts of one or more Lots as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance.

Section 10. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 11. "Pond Area" shall mean the area designated to maintain ponds within the Common Areas of the Plat of Mercato, Section I, and shall be limited to an approximate water level at a normal pool.

Section 12. "Properties" shall mean and refer to that certain real property hereinbefore described, any additions made thereto, or any sections developed and added to Mercato by the Developer in the future.

Section 13. "Restrictions" or, in the alternative, "Declaration" shall mean and refer to these Dedication, Protective Restrictions, Covenants, Limitations, Easements and Approvals appended to and made a part of the Dedication and Plat of Mercato, Section I.

Section 14. "Subdivision" shall mean Mercato, Section I, a subdivision located in Aboite Township, Allen County, Indiana.

ARTICLE II PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Areas which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Areas;
- (b) the right of the Association to suspend the voting rights and right to the use of the recreational facilities by an Owner for any period during which any assessments against his Lot remains unpaid; and for a period not to exceed 30 days for any infraction of its published rules and regulations after hearing by the Board of Directors of the Association;
- (c) the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Class B members. At such time as the Class B membership ceases

in accordance with Section 2 of Article III hereof, no further dedication or transfer by the Association of any part of the Common Areas to any public agency, authority or utility shall be effective unless an instrument signed by two-thirds (2/3) of the Class A members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants or contract purchasers who reside on the property.

Section 3. Additions to Common Areas. The Developer reserves the right, so long as Class B members of the Association exist, to convey and transfer to the Association such additional real and/or personal property as the Developer within its sole discretion deems appropriate, and the Association shall accept such transfer and shall hold such property as part of the Common Areas of the Subdivision.

Section 4. Title to and Maintenance of the Common Areas; Cooperation with The Villas of Mercato Community Association, Inc. The Developer may retain the legal title to the Common Areas until such time as it has completed such improvements thereon as it may elect to make and until such time as, in the opinion of the Developer, the Association is able to maintain the same but, notwithstanding any provision herein, the Developer hereby covenants, for itself, its successors and assigns, that it shall convey the Common Areas to the Association not sooner than January 1, 2029. Upon receipt of title to the Common Areas from the Developer hereunder, the Association shall become and remain responsible for the regular and ongoing care, preservation, supervision, improvements and maintenance of the Common Areas, unless and until the Association shall dedicate or transfer all or any part of the Common Areas pursuant to Article II, Section 1(c) of these Restrictions.

Section 5. Use of Common Area Ponds. No motorized vehicle or vessel shall access or use at any time any Pond, as shown and described on the Plat and contained in the Common Areas (the "Ponds"), except the Developer or the Association for the purpose of maintenance, upkeep and/or repair of said Ponds. No Owner shall place, construct or otherwise locate any pier, dock or other similar structure on, in or around any Pond, nor make, construct or otherwise add any improvements contiguous to any Pond, including, without limitation, the laying of rocks or landscaping, without receiving the approval of the Developer and/or the Architectural Control Committee pursuant to Article V prior to the commencement of any construction of said pier, dock, structure or improvements.

ARTICLE III ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting memberships:

Class A. Class A members shall be all Owners of Lots in Mercato, Section I (except Mercato Development, LLC), and such members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.

Class B. Class B member(s) shall be Mercato Development, LLC, and such member(s) shall be entitled to fifty-three votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when title to all Lots in Mercato, Section I, have been conveyed, or
- (b) on December 31, 2035.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, excepting Mercato Development, LLC, by and immediately upon acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Annual Assessments, as defined herein, or charges, (2) Special Assessments, as defined herein, for capital improvements, (3) Tax Recoupment Assessments, as defined herein, and (4) any assessment for Pond maintenance pursuant to Article VIII hereof (collectively, the "Assessments"); such assessments to be established and collected as hereinafter provided. Any assessments or any installments thereof which are not paid when due shall bear interest at a fluctuating rate equal to the maximum rate of interest which may be charged under the laws of the State of Indiana for consumer loans, adjusted on the first day of each calendar year. If any Owner shall fail, refuse or neglect to make any payment of any Assessment when due, the Board of Directors of the Association, or the Developer, where appropriate, may, in its discretion, declare the entire balance of unpaid Assessments to be due and payable, with interest as aforesaid, and file a written Notice of Lien against said Owner's Lot in the office of the Recorder of Allen County, Indiana, which Notice of Lien shall perfect the lien of the Association and have the same force and effect as, and be enforced in the same manner as, a mortgage lien under Indiana law, and shall include attorney fees, title expenses, interest and any costs of collection.

Section 2. Purpose of Annual Assessments. The Annual Assessments levied by the Association hereunder shall be exclusively for the regular and ongoing care, preservation, supervision, improvement, and maintenance of the Common Areas and the improvements situated thereon, including, without limitation: (i) the payment of taxes on and insurance in connection with the Common Areas and the repair, replacement and making of additions thereto; (ii) paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management, supervision, maintenance and repair of, the Common Areas; (iii) carrying out the duties of the Board of Directors of the Association as set forth in Article VI hereof; and (iv) carrying out the purposes of the Association as stated in its Articles of Incorporation.

Section 3. Basis and Amount of Annual Assessments.

- (a) Commencing with the year beginning January 1, 2019, and each year thereafter, the Board of Directors, at its annual meeting immediately following the aforementioned January 1, 2019, or the Developer prior to the formation of the Association, and each January 1 thereafter, shall set the amount of the Annual Assessment for the following year for each improved Lot (the "Annual Assessments"), taking into consideration the current maintenance costs and future needs of the Association.
- (b) Commencing with the year beginning January 1, 2019, and each year thereafter, the minimum Annual Assessment shall be \$400.00 per unimproved Lot. Upon receiving title to Owner's Lot(s), Owner shall immediately cause the grading and planting of grass seed on said Lot(s), subject to the approval of the Developer or its representative. Once the Owner has graded and seeded the Lot(s) hereunder and until such time as construction has begun on said Lot(s), the Owner shall maintain the grass on the subject Lot(s) to the standard of neighborhood aesthetics. The provisions regarding the assessment of Owners of unimproved Lots and the grading and grass seed requirements set forth herein shall remain subject to the provisions of Section 12(e) of this Article IV and shall not apply to any Lots owned by any residential contractors as described therein.
- (c) The Annual Assessment may be increased each year not more than 15% above the Annual Assessment for the previous year without a vote of the membership. Any increase of the

Annual Assessment above 15% from the previous assessment year shall be subject to the affirmative vote or written assent of a minimum of 51% of all members.

Section 4. Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, 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 construction, repair or replacement of a capital improvement upon the Common Areas, including fixtures and personal property related thereto, provided that any such Assessment shall have the vote or written assent of a minimum of 51% of all members (each a "Special Assessment").

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Any action authorized under Section 3 or 4 and requiring a vote or written assent of a certain percentage of the Association membership shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite 51% of all members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than 30 days from the date of such meeting.

Section 6. Uniform Rate of Assessment. Assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or yearly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. Each Owner, immediately upon acceptance of a deed to said Owner's Lot, shall be subject to the Annual Assessments. The Assessments provided for herein shall commence as to all Lots on the first day of the month following the month in which the Annual Assessments have been set by the Association or the Developer pursuant to Section 3 above. The first Annual Assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors, or the Developer, if appropriate, shall fix the amount of the Annual Assessment, or any other Assessment, against each Lot at least 30 days in advance of each Assessment period. Written notice of an Assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, or the Developer, if appropriate. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association, or the Developer, if appropriate, setting forth whether the Assessments on a specified Lot have been paid.

Section 8. Tax Recoupment Assessments. In addition to all other Assessments provided for in this Article IV, the Association, or the Developer, if appropriate, may levy in any assessment year an assessment applicable to that year only for the purpose of defraying, in whole or in part, any cost or expense incurred by the Association or the Developer in the form of a tax and/or penalty and/or interest on a tax imposed upon, assumed by, or assessed against the Association, the Developer, or the Properties, and arising out of or in any way related to the acceptance of title to, the ownership of, and/or operation or maintenance of any plant or equipment (including utility lines, lifting stations and other property) for the transmission, delivery or furnishing of water, or for the collection, transmission and disposal of liquid and solid waste and sewage, and/or the ownership of any real estate or easements or other rights with respect to real estate owned and/or possessed in connection with such plant or equipment (each a "Tax Recoupment Assessment").

Section 9. Improvement and Maintenance of Other Common Areas Prior to Conveyance to the Association. Until such time as the Developer has conveyed all of the Common Areas to the Association (and thereafter as additional Common Areas are added hereunder and not conveyed to the Association) and/or dedicated all the streets to the appropriate public agency, authority or utility, the Developer shall have, at its election, the sole responsibility and duty of improving and maintaining the Common Areas (or such portion thereof that has not been conveyed to the Association), including, without limitation, the payment of taxes on and insurance in connection with the Common Areas (or such portion thereof that has not been conveyed to the Association) and the cost of repairs, replacements and additions thereto, and for paying the cost of labor, equipment (including the expense of leasing any equipment) and materials required for, and management and supervision of, the Common Areas. In this regard and during this period, should

an association not have been formed by the Developer, all Assessments, both Annual and Special, shall be collected by the Developer to the extent such Assessments are required by the Developer to improve and maintain the Common Areas as set forth in this Article. Should an association have been formed by the Developer during or prior to this period, all Assessments, Annual and Special, collected by the Association shall be paid by the Association to the Developer to the extent such Assessments are required by the Developer to improve and maintain the Common Areas as set forth in this Article. The Association shall rely upon a certificate executed and delivered by the Developer with respect to the amount required by the Developer to improve and maintain the Common Areas hereunder. Any sums required by the Developer to improve and maintain the Common Areas, in excess of the Assessments collected by the Association, shall be borne and paid exclusively by the Developer.

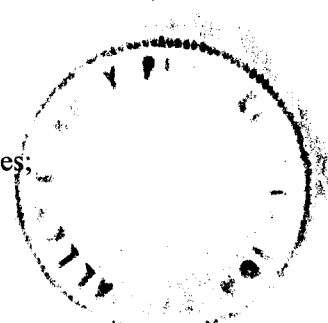
Section 10. Effect of Nonpayment of Assessments; Personal Obligation of Owner; the Lien; Remedies of the Association.

- (a) If any Assessment or any part thereof is not paid on the date(s) when due (being the dates specified in Section 7 of this Article IV), then the unpaid amount of such Assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot of the non-paying Owner which shall bind such Lot in the hands of the then Owner, his heirs, executors, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such Assessment, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them. The lien for unpaid Assessments shall be unaffected by any sale or assignment of a Lot and shall continue in full force and effect. No Owner may waive or otherwise escape liability for the Assessments provided herein by non-use of the Common Areas or abandonment of his Lot.
- (b) If any Assessment or any part thereof is not paid within 30 days after the delinquency date, the unpaid amount of such Assessment shall bear interest from the date of delinquency at the maximum legal rate of interest, and the Association may, at its election, bring an action at law against the Owner personally obligated to pay the same in order to enforce payment and/or to foreclose the lien against the property subject thereto, and there shall be added to the amount of such Assessment the costs of preparing and filing the complaint (including reasonable attorneys' fees) in such action and, in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action.

Section 11. Subordination of the Lien to Mortgages. The lien of the Assessments provided for herein 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 a judgment and court order on a foreclosure of any first mortgage shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Section 12. Exempt Property. The following property subject to this Declaration shall be exempted from the Assessments, charges and liens created herein:

- (a) all properties dedicated and accepted by the local public authority and devoted to public use;
- (b) all Common Areas as defined in Article I hereof;
- (c) all areas reserved by the Developer on the recorded Plat of the Properties;



- (d) all Lots owned by the Developer;
- (e) all Lots owned by a residential contractor licensed in Allen County, Indiana as such and who holds title to a Lot for the purpose of constructing a Dwelling Unit on said Lot but not residing thereon.

ARTICLE V ARCHITECTURAL CONTROL

Section 1. Architectural Control.

Section 1.1. New Construction. Notwithstanding any provisions to the contrary set forth in this section, until such time as Developer has conveyed title to all Lots and is no longer a Member of the Association, the following shall apply:

- (a) No Owner shall construct, or cause the construction of, a single-family residence on any Lot prior to obtaining Developer's written approval of the licensed residential contractor the Owner intends to engage to construct said residence; and
- (b) All plans and specifications for the construction of a new single-family residence on any Lot shall be submitted to and approved or disapproved by Developer pursuant to Section 1.2 below.

Section 1.2. Other Construction. No building, outbuilding, fence, wall, swimming pool or spa, or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration therein be made until two (2) sets of plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by Developer. Developer's approval or disapproval as required in these Covenants shall be in writing. No structure of any kind which does not comply fully with such approved plans shall be erected, constructed, placed or maintained upon any Lot, and no changes or deviations in or from such plans as approved shall be made without Developer's prior written consent. In the event Developer fails to approve or disapprove such improvements or other matters within ninety (90) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the erection, addition, alteration, or change has been commenced prior to the completion thereof, written approval will not be required, and this Section 1.2 will be deemed to have been duly complied with by the Lot Owner. Neither Developer nor any heirs, personal representatives, successors or assigns thereof, shall be liable to anyone by reason of any mistake in judgment, negligence, or nonfeasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted, nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any building or structure erected according to such plans or any drainage problems resulting therefrom. Every person and entity who submits plans to Developer agrees, by submission of such plans, that he or it will not bring any action or suit against Developer to recover any damages or to require Developer to take, or refrain from taking, any action whatever in regard to such plans or in regard to any building or structure erected in accordance therewith. Neither the submission of any complete sets of plans to Developer's office for review thereby, nor the approval thereof by Developer, shall be deemed to guarantee or require the actual construction of the building or structure therein described, and no adjacent Lot Owner may claim any reliance upon the submission and/or approval of any such plans or the buildings or structures described therein.

Once Developer, or the Board, as appropriate, has appointed the Committee, as defined below, any plans and specifications for construction not considered new construction of a residence under Section 1.1 above shall be submitted to and approved or disapproved by the Committee pursuant to the requirements set forth in this Section 1.2.

Section 1.3. Appointment of Committee. Developer shall designate the initial representatives to serve on the Architectural Control Committee (the "Committee"). The Committee shall consist of at least three (3) and no more than five (5) members appointed by Developer, or by the Board subject to the Association's Bylaws. Once the Committee is established and provided its authority by Developer, the Committee shall assume the rights and obligations of Developer under Section 1.2 above.

**ARTICLE VI
GENERAL POWERS AND DUTIES OF BOARD
OF DIRECTORS OF THE ASSOCIATION**

Section 1. Powers and Duties. The Board of Directors, for the benefit of the Properties and the Owner, shall provide, and shall pay for out of the Annual Assessment fund provided for in Article IV, Sections 1 and 2 above, the following:

- (a) taxes and Assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas rather than against the individual Owners;
- (b) care and preservation of the Common Areas and full maintenance of a utility service for the Common Areas, including the furnishing and upkeep of any desired personal property for use in the Common Areas;
- (c) care and preservation of any bike lanes and the striping associated therewith upon and after the dedication of the streets located in and servicing the Subdivision by the Developer to the appropriate public agency, authority or utility;
- (d) the services of a person or firm to manage the Association or any separate portion thereof, to the extent deemed advisable by the Board of Directors, and the services of such other personnel as the Board of Directors shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board of Directors or by the manager;
- (e) legal and accounting services;
- (f) a policy or policies of insurance insuring the Association against any liability to the public or to the Owners (and/or invitees or tenants), incident to the operation of the Association, in an amount not less than \$100,000.00 to indemnify against the claim of one person, \$300,000.00 against the claim of two or more persons in any one occurrence, and property damage insurance in an amount not less than \$100,000.00 per occurrence; which policy or policies shall contain an endorsement providing that the rights of the named insureds shall not be prejudiced with respect to actions against other named insureds;
- (g) workers' compensation insurance to the extent necessary to comply with any applicable laws;
- (h) such fidelity bonds as the Board of Directors may determine to be advisable;
- (i) any other materials, supplies, insurance, furniture, labor, services, maintenance, repairs, structural alterations, taxes or Assessments (including taxes or Assessments assessed against an individual Owner) which the Board of Directors is required to obtain or pay for pursuant to the terms of this Declaration or by law or which in its opinion shall be necessary or proper for the operation or protection of the Association or for the enforcement of this Declaration.

The Board of Directors shall have the following additional rights, powers, and duties:

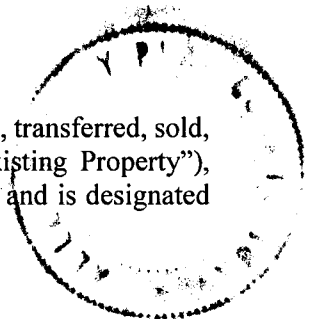
- (j) to execute all declarations of ownership for tax assessment purposes with regard to the Common Areas on behalf of all Owners;
- (k) to borrow funds to pay costs of operation, secured by assignment or pledge of rights against delinquent Owners, if the Board of Directors sees fit;
- (l) to enter into contracts, maintain one or more bank accounts (granting authority as the Board of Directors shall desire to one or more persons to sign checks) and, generally, to have all the powers necessary or incidental to the operation and management of the Association;
- (m) to protect or defend the Common Areas from loss or damage by suit or otherwise, and to provide adequate reserves for replacements;
- (n) to make reasonable rules and regulations for the operation of the Common Areas and to amend them from time to time, provided that any rule or regulation may be amended or repealed by an instrument in writing signed by a majority of the Members (without limiting the generality of the foregoing language, the rules and regulations may provide for limitations on use of any swimming pools or other common recreational areas during certain periods by youthful persons, visitors or otherwise);
- (o) to make available to each Owner within 60 days after the end of each year an annual report and, upon the written request of 1/10 of the members, to have such report audited by an independent, certified public accountant, which audited report shall be made available to each member within 30 days after completion;
- (p) to adjust the amount, collect, and use any insurance proceeds to repair damage or replace lost property; and if proceeds are insufficient to repair damage or replace lost property, to assess the members in proportionate amounts to cover the deficiency;
- (q) to enforce the provisions of this Declaration and any rules made hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.

Section 2. Board Powers, Exclusive. The Board of Directors shall have the exclusive right to contract for all goods, services and insurance, payment for which is to be made by the Association, and the exclusive right and obligation to perform the functions of the Board of Directors, except as otherwise provided herein.

Section 3. Owner's Obligations to Repair. Each Owner shall, at his sole cost and expense, maintain and repair his Lot and the improvements situated thereon, keeping the same in good condition and repair. In the event that any Owner shall fail to maintain and repair his Lot and the improvements thereon as required hereunder, the Association, in addition to all other remedies available to it hereunder or by law, and without waiving any of said alternative remedies, shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and exterior of the buildings and any other improvements erected thereon; and each Owner (by acceptance of a deed for his Lot) hereby covenants and agrees to repay to the Association the cost thereof immediately upon demand, and the failure of any such Owner to pay the same shall carry with it the same consequences as the failure to pay any Assessment hereunder when due.

ARTICLE VII PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be, held, transferred, sold, conveyed, and occupied subject to this Declaration (hereinafter defined as the "Existing Property"), located in Allen County, State of Indiana, is described on Exhibit "A" attached hereto, and is designated



Mercato, Section I, and more particularly described on a subdivision Plat (the "Plat") thereof recorded at Plat Record 2019060365, Cabinet H, page 56, in the Office of the Recorder of Allen County, Indiana.

Section 2. Additions to Existing Property. If the Developer is the owner of any property which it desires to add to the community of Mercato, including future Properties to be added as additional sections of Mercato, it may do so by filing of record a Supplementary Declaration of Covenants, Conditions and Restrictions, which shall extend the concept of the covenants, conditions and restrictions of these Restrictions to such property, PROVIDED, HOWEVER, that (i) such additional property shall be contiguous (as hereafter defined) to the Properties subject to these Restrictions at the time, and (ii) such Supplementary Declaration may contain such complimentary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the concept of these Restrictions. In no event, however, shall such Supplemental Declaration modify or add to the covenants established by this Declaration for the Existing Property. Any additions made and sections added to Mercato pursuant to this Section 2, when made, shall automatically become part of the Association, thereby extending the jurisdiction, functions, duties and membership of the Association to the sections and properties added. For the purposes hereof, the term "contiguous" shall mean adjoining; provided, that any tracts or parcels of land which are separated by a street, road, sidewalk, right-of-way, easement or other thoroughfare shall be deemed to be contiguous.

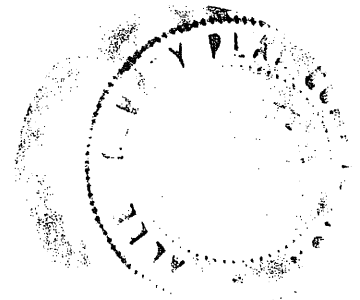
ARTICLE VIII STORM WATER DETENTION SYSTEM AND POND MAINTENANCE ASSESSMENT

Section 1. Maintenance Obligation. The Association shall be obligated to maintain, repair and/or replace, as necessary, the storm water drainage system and the storm water detention system contained in the Common Areas and shown on the Plat, together with outlets and water control structures, the cost of which shall be borne by all of the Owners in Mercato, Section I, and subsequent Owners of Lots in any and all additional Properties.

Section 2. Right to Enforce. The Owner of any Lot in Mercato, Section I, or any future sections of Mercato, and/or the Allen County Drainage Board, shall have the right to order the Association to carry out its obligation to maintain, repair and/or replace the Ponds and storm water detention system improvements, as above provided, and to assess the Owners of all Lots in Mercato, Section I, and future sections of Mercato with the cost thereof.

Section 3. Part of the Annual Assessment. Commencing with the year beginning January 1, 2006, and each year thereafter, the Developer, if appropriate, or the Board of Directors of the Association, at its annual meeting next preceding, and each January 1 thereafter, shall set the amount of the portion of the Annual Assessment attributable to maintenance of the Ponds as part of setting the Annual Assessment each year pursuant to Article IV, Section 3 hereof; provided that said portion of the Annual Assessment for the Ponds under this Article VIII shall never be less than \$25.00.

Section 4. Amendment. Notwithstanding any provision to the contrary contained in this Article VIII, any alteration or amendment of this Article VIII must be made with the prior approval of the Allen County Plan Commission, and further that the Restrictions and Covenants contained in this Article VIII, and only as they relate to the storm water detention system and the maintenance and repair thereof, shall be in continuous effect for an indefinite period, except as amended with the prior approval of the Allen County Drainage Board and the Office of the Surveyor of Allen County.



**ARTICLE IX
GENERAL PROVISIONS**

A. Lots.

Section 1. Residential Purposes. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Dwelling Unit not to exceed two and one-half stories in height. Each Dwelling Unit shall include not less than an end-loading three-car garage, which shall be built as part of said structure and attached thereto.

Section 2. Home Occupations. No Lot shall be used for any purpose other than as a single-family residence, except that a home occupation, defined as follows, may be permitted: any use conducted entirely within the Dwelling Unit and participated in solely by a member of the immediate family residing in said Dwelling Unit, which use is clearly incidental and secondary to the use of the Dwelling Unit for dwelling purposes and does not change the character thereof and in connection with which there is: (a) no sign or display that indicates from the exterior that the Dwelling Unit is being utilized in whole or in part for any purpose other than that of a Dwelling Unit; (b) no commodity is sold upon the Lot; (c) no person is employed in such home occupation other than a member of the immediate family residing in the Dwelling Unit; and (d) no mechanical or electrical equipment is used; provided that, in no event shall a barber shop, styling salon, beauty parlor, tea room, fortune-telling parlor, licensed child care center or other licensed or regulated babysitting service, animal hospital, or any form of animal care or treatment such as dog trimming be construed as a home occupation.

Section 3. Building Sizes. No Dwelling Unit shall be built on any Lot having the living area of the main structure, exclusive of one-story open porches, breezeways or garages of less than 2,000 square feet for a one-story Dwelling Unit, not less than 2,400 square feet for a Dwelling Unit of more than one story.

Section 4. Side Line and Front Line Set Back Restrictions. No building shall be located on any Lot nearer the front line or the side street line than the minimum building setback lines as shown on the Plat. No projection of any building shall be permitted to extend into or encroach upon the space between said building line and the street. No building shall be located nearer than a distance of five (5) feet to an interior Lot line; provided, however, that the aggregate total distance of both side yard setback lines shall be no less than twelve (12) feet. No building shall be located on any Lot nearer than twenty-five (25) feet to the rear Lot line; provided, however, should any rear Lot line run adjacent to Common Area, no building on such a Lot shall be located nearer than fifteen (15) feet to the rear Lot line.

Section 5. Garages. All Dwelling Units must have a full-size, attached, three (3) car garage of at least 600 square feet, with all but a maximum of 200 square feet thereof, or the square footage equivalent of a one (1) bay garage, whichever is smaller, being end-loading. However, the Architectural Control Committee shall have the authority to approve any garage not in compliance with the restrictions set forth in this Section 5, subject to and in accordance with Article V hereof.

Section 6. Utility and Drainage Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Plat. No Owner of any Lot shall erect or grant to any person, firm or corporation the right, license or privilege to erect or use or permit the use of overhead wires, poles or overhead facilities of any kind for electrical, telephone or television service (except such poles and overhead facilities enter and leave at those places where distribution facilities enter and leave the subdivision). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables. Electrical service entrance facilities installed for any Dwelling Unit or other structure connecting the same to the electrical distribution system of any electric public utility shall be provided by the Owners of all Lots and shall carry not less than three wires and have a capacity of not less than 200 amperes. Any electric public utility charged with the maintenance of any underground installation shall have access to all easements in which said underground installations are located for operation, maintenance and replacement of service connections. Any such electric public utility

shall not be liable for damage to walks, driveways, lawn or landscaping which may result from installation, repair or maintenance of such service.

Section 7. Surface Drainage. Surface Drainage Easements and Common Areas used for drainage purposes as shown on the Plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 8. Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 9. Temporary Structures and Storage. No structure of a temporary character, trailer, boat trailer, truck, commercial vehicle, recreational vehicle (RV) camper shell, all terrain vehicle (ATV), camper or camping trailer, basement, tent, shack, garage, barn or other outbuilding shall be either used or located on any Lot, or adjacent to any Lot, public street or right-of-way within the Subdivision at any time, or used as a residence, either temporarily or permanently.

Section 10. Clotheslines. No clothes, linens, or the like shall be hung in any manner outside a Dwelling Unit. No clotheslines or poles shall be permitted on any Lot.

Section 11. Storage Sheds and Other Structures. No storage sheds of any type shall be allowed on any Lot, subject to the provisions of Section 36 of this Article IX.

Section 12. Signs. No sign of any kind shall be displayed to the public view on any Lot except one sign used by a realtor of not more than five square feet advertising the property for sale, and one sign used by a builder to advertise the property during the construction and sales period which shall be not more than five square feet.

Section 13. Radio and Television Antennas. No radio or television antenna with more than 30 square feet of grid area or which attains a height of six feet above the highest point of the roof shall be attached to any Dwelling Unit. No freestanding radio or television antenna or receiving disk or dish shall be permitted on any Lot. No solar panels attached or detached shall be permitted.

Section 14. Drilling, Refining, Quarrying and Mining Operations. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 15. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose. Any such pet kept by an Owner hereunder shall be kept primarily indoors and within the confines of the Dwelling Unit a majority of the time. Further, should any pet kept hereunder cross the boundary lines of its Owner's Lot for any reason, said Owner shall keep the pet on a leash, or like harness, maintain control over said pet at all times, and immediately tend to the cleanup of any bodily or other waste left by said pet outside the boundary of said Owner's Lot.

Section 16. Waste. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers which are not visible from the front of any residence. No outside incinerators shall be kept or allowed on any Lot.

Section 17. Building Materials. All Dwelling Units and other permitted structures shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos siding or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any Dwelling Unit or other permitted structure on any Lots of said Subdivision and no roll roofing of any description or character shall be used on the roof of any Dwelling Unit or other permitted structure on any of said Lots. All house fronts shall be of natural material, except soffits, and all other sides shall be of natural material, vinyl, or wood grain siding.

Section 18. Driveways. All driveways from the street to the garage shall be poured concrete and not less than 16 feet in width but not exceed 16 feet in width at the curb.

Section 19. Individual Water and Sewage Systems Servicing Dwelling Unit. Except for any Lot or Lots owned by the Developer, or for purposes of servicing a model or speculative home with the consent of the Developer, no individual sewage disposal system shall be installed, maintained or used to service a Dwelling Unit on any Lots in this Subdivision. In addition, except for any Lot or Lots owned by the Developer, any Common Area, and as provided in Section 20, no individual water supply system shall be installed, maintained or used on any Lots in this Subdivision.

Section 20. Individual Water Supply Systems for Irrigation. Any Lot Owner may install, maintain or use an individual water supply system for the sole and exclusive purpose of supplying irrigation to and for said Owner's Lot or Lots. Two (2) sets of the plans and specifications showing the nature, materials and location of the individual water supply system and the source of the water supply shall be submitted to and approved in writing by the Architectural Control Committee prior to construction. No deviations or changes in or from said plans and specifications as approved shall be made without prior written consent from the Architectural Control Committee.

Section 21. Use of Public Easements. In addition to the utility easements herein designated, easements in the streets, as shown on this Plat, are hereby reserved and granted to the Developer, the Association, and any public or quasi-public utility company engaged in supplying one or more of the utility services contemplated in Sections 6 and 7 or this Section 21 of Article IX, and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintenance and repair of said streets. All such easements dedicated on the face of the Plat shall be kept free of shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the entities for which such easements are intended to benefit, to install, repair, maintain or place their utility or sewage facilities, and that the removal of any such obstructions by utilities or sewage treatment works shall in no way obligate them either in damages or to restore the obstruction to its original form, subject to Allen County Subdivision Control Ordinance 4-2-3-4(p)(4).

Section 22. Sanitary Sewer Restrictions. No rain and storm water runoff or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the Sanitary Sewage System, which shall be a separate sewer system from Storm Water and Surface Water Runoff Sewer System. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned Storm Water and Surface Water Runoff Sewer System.

Section 23. Improvements. Before any Dwelling Unit on any Lot in this Subdivision shall be used and occupied as a dwelling or otherwise, the Developer or any subsequent Owner of such Lot shall install improvements serving such Lot provided in said plans and specifications for such improvements filed with the appropriate governmental authorities, together with any amendments or additions thereto which said governmental authorities may authorize or require. This covenant shall run with the land and be enforceable by any governmental authority having jurisdiction over the Subdivision, or by any aggrieved Lot Owner in this Subdivision.

Section 24. Permits and Certificates. Before any Dwelling Unit on any Lot may be used or occupied, such user or occupier shall first obtain from the Allen County Zoning Administrator an

Improvement Location Permit and a Certificate of Occupancy as required by the Allen County Zoning Ordinance.

Section 25. Fencing. The plans, specifications and locations for any fencing to be constructed on any Lot shall be submitted to the Developer, or to the Committee at any time after the appointment of the members of the Committee by the Developer, for approval prior to construction in accordance with Section 21 of this Article III. In addition to approval from the Developer or the Committee, any fencing shall also meet the requirements of the pertinent provisions of the Allen County Zoning Ordinance. All fences shall be of wood, vinyl, or ornate aluminum. In addition, all fences must be a split-rail or picket-type fence. No fence shall exceed four (4) feet in height on any Lot. No other types of fences will be allowed. Any Lot with any portion of its boundary lines running adjacent to the Common Area containing any pond or lake (each, a "Lake Lot") must have a picket-type fence and not exceed four (4) feet in height. No fence shall extend toward the front yard of any Lot beyond the rear corners of the residence located on any Lot. All fences constructed on a corner Lot shall not extend into or encroach upon the space between said building line and the street on the street side of said corner Lot. No Owner shall construct any fence to contain said Owner's entire Lot.

Section 26. Mailboxes. The initial type of mailboxes shall be the Mercato Design and the location and installation of mailboxes shall be the responsibility of the Developer.

Section 27. Time for Building Completion and Restoration.

- (a) Every Dwelling Unit on any Lot in the Subdivision shall be completed within 12 months after the beginning of such construction. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.
- (b) Should the Owner of a Lot fail to commence the construction of a Dwelling Unit on said Lot within 12 months after the close of the purchase of the Lot, the Owner, within 30 days of the end of said 12-month period, shall seed the entire Lot for grass growth and maintain the same consistent with the general requirements for lot maintenance set forth within these Restrictions. Should said Owner fail to comply with the requirements hereunder, the Developer shall have the right to enter onto said Owner's Lot, seed the Lot for grass growth and maintain the same, and charge said Owner for all costs and expenses incurred in doing so. All costs and expenses incurred by the Developer and charged to the Owner hereunder shall be considered part of and added to the amounts assessed and collected under Article IV hereof.

Section 28. Single Owner Continuous or Multiple Lots. Whenever two (2) or more Lots in the Subdivision shall be owned by the same person, contiguously situated or otherwise, such Owner shall be subject to and agree to pay to the Association for each Lot owned by said Owner all assessments and other charges collectible by the Association pursuant to Article IV of these Restrictions. The Owner of any Lot or Lots in addition to that Lot upon which said Owner's Dwelling Unit shall be constructed shall be responsible for providing yard-quality grass seeding, for the appropriate maintenance thereof, and for the payment of the assessments for each additional unimproved Lot pursuant to Article IV, Section 3(b) hereof. Any proposed use of said additional Lot or Lots shall be consistent with and not violate the provisions of Article IX, Section 1 and Section 9 hereof. Any proposed temporary or other use of any additional Lot or Lots inconsistent with or in violation of Article IX, Section 1 and/or Section 9 hereof, shall be approved by the Committee pursuant to Article V.

Section 29. Flood Protection Grades. In order to minimize potential damages from surface water, flood protection grades are established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of a first floor or the minimum sill elevation of any opening below the first floor of any dwelling. The flood protection grades shall be per North American Vertical Datum 1988, and shall be specifically set forth in the secondary plat of Mercato, Section I, as approved by the Allen County Plan Commission.

(a) General Flood Protection Grades.

The flood protection grades for Mercato, Section I, are as follows, inclusive:

Lot #	Front	Rear
5-8, inclusive		835.8
9-10, inclusive	838.9	835.8
11-13, inclusive		835.8
30-31, inclusive	836.6	829.7
32		829.7
33-35, inclusive		835.5
36-37, inclusive	841.1	835.5
38		835.5
39-40, inclusive	842.8	835.5
41-42, inclusive		835.5
43	839.1	835.5
44	839.1	829.7
45-46, inclusive		829.7

- (b) Detailed Flood Protection Grades. The detailed flood protection grades for certain Lots in Mercato, Section I are more specifically set forth on page _____ of the Plat recorded at Plat Cabinet H, page 56, in the Office of the Recorder of Allen County, Indiana.
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To ensure that the requirements with regard to construction of a Dwelling Unit at or above the minimum elevation of the detailed flood protection grades referenced above are fulfilled on the Lots referenced on page 2 of the Plat, any Owner of such Lot, or said Owner's builder, shall provide to the Allen County Department of Planning for an interim administrative review a survey certified by a licensed surveyor detailing the location and elevation of the minimum elevation of a first floor, or the minimum sill elevation of any opening below the first floor of any Dwelling Unit relative to the detailed flood protection grade governing said Lot. Said survey shall be submitted to and said minimum elevation or minimum sill elevation approved by the Allen County Department of Planning prior to any further construction of said Dwelling Unit.

Section 30. Subdivision of Lots. No Lot or combination of Lots may be further subdivided subject to the Allen County Subdivision Control Ordinance 4-2-3-4(p)(1), as may be amended from time to time.

Section 31. Exterior Building Surfaces. All exterior building surfaces, materials and colors shall be approved by the Committee, or the Developer if appropriate.

Section 32. Landscaping and Lawn.

- (a) All Owners shall landscape, or cause to be landscaped, their Lot, at a minimum, in a manner so as to maintain and remain consistent with the aesthetic integrity of the landscaping contained on the Properties, as defined by Developer. Said landscaping shall be completed, or caused to be completed, by each Owner within one (1) year after the date of said Owner's certificate of occupancy, as issued by the Allen County Building Department, authorizing

the Owner's occupancy of the house. The foregoing landscaping requirements shall not apply to Developer nor to any Common Area or Lot owned by Developer.

- (b) All Owners, as soon as reasonably possible upon completion of construction of their house, but in no event later than one (1) year after the issuance of the certificate of occupancy by the Allen County Building Department for the subject house, shall properly grass seed or sod their Lot and maintain their yard in a condition consistent with the aesthetic integrity of the yards contained on other Lots and the Properties, as defined by Developer. Should said Owner fail to comply with the requirements hereunder, Developer, or the Board, as appropriate, shall have the right to enter onto the Owner's Lot, seed the Lot for grass growth and maintain the same, and charge said Owner for all costs and expenses incurred in doing so. All costs and expenses incurred by Developer, or the Board, as appropriate, and charged to the Owner hereunder shall be considered part of and added to the amounts assessed and collected under Article VI hereof.
- (c) The Owners of Lots 6-13, 30, 31, and 33-45, inclusive, each a Lake Lot, shall each be responsible for mowing and grass and other maintenance of that portion of Common Area located between such Owner's rear Lot line and the edge of any lake located in the block of Common Area that lies adjacent to such Owner's Lot. Such mowing and other maintenance shall be completed at each such Owner's expense and in a manner so that such area shall be and remain consistent with the aesthetic integrity of the lawns and Common Area in and around Rolling Oaks. Each Owner designated above shall remain obligated hereunder until such time as the Association shall expressly assume such Owner's obligations under this Subsection (c).

Section 33. Yard Light. Each dwelling located on a Lot will cause a yard light or other illuminating device to be installed in the front yard fifteen (15) feet (plus or minus one (1) foot) from the street curb. Such yard light or illuminating device will be of such design and construction as shall be approved by the Committee, as defined herein; the Committee shall also have the authority to approve a change in the location of said yard light or illuminating device. Said yard light shall be installed within thirty (30) days of the issuance of a Certificate of Occupancy. Said yard light or other illuminating device shall be illuminated at all times other than daylight hours. Owner, other than Developer, will supply at his expense said lights and equip same with sun electric cells.

Section 34. Fires. No outdoor fires for the purpose of burning leaves, grass or other forms of trash shall be permitted to burn upon any street roadway or Lot in this Subdivision, other than that as related to the construction of a Dwelling Unit.

Section 35. Chimneys. All fireplace chimneys shall be of natural material construction, if located on the front of the house. If on sides or rear, the chimney may be vinyl wood grain siding.

Section 36. Pools and Hot Tubs. No above-ground pool which requires a filtration system or other above-ground pool which is more than six (6) feet in diameter and 18 inches deep shall be placed or maintained on any Lot. No in-ground swimming pool, hot tub or spa, or any fence proposed to contain said pool, hot tub or spa, may be placed or maintained on any Lot without the prior written approval of the Committee, or the Developer, at any time prior to the appointment of the members of the Committee by the Developer, in accordance with Article V and shall be subject to the pertinent portions of the Allen County Zoning Ordinance. Any Owner of a Lot containing a swimming pool, hot tub or spa must cover said swimming pool, hot tub or spa with a cover that, at a minimum, will supersede any fencing required under the pertinent portions of the Allen County Zoning Ordinance. Notwithstanding the prohibition of storage sheds under Section 11 of this Article IX, sheds, buildings, or other structures may be constructed for the sole purpose of containing all mechanical equipment and other apparatus necessary to operate an in-ground swimming pool, hot tub or spa allowed hereunder. However, the construction of any shed, building, or other structure hereunder shall not be commenced without the prior written approval of the Committee, or the Developer, if appropriate, in accordance with Article V, and shall be subject to the pertinent portions of the Allen County Zoning Ordinance.

Section 37. Sidewalks. Each Owner shall provide and maintain a concrete public sidewalk across the entire front of each Lot prior to and throughout occupancy. All concrete sidewalks required hereunder shall be five (5) feet in width.

Section 38. Front Exteriors. The front elevation of the residence constructed on a Lot must be of natural material, i.e., wood, brick or stone, except for soffits and the use of hardi plank or vinyl siding, on a limited basis, to highlight or complement the natural material required to cover the majority of all front elevations hereunder.

B. General.

Section 1. Enforceability. The Association, the Developer, and any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictions. Failure by the Association, the Committee, the Developer, or by any Owner to enforce any Covenant or Restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Partial Invalidation. Invalidation of any one of these Restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Duration. The Covenants, Conditions and Restrictions of this Declaration shall run with and bind the land subject to this Declaration, and shall inure to the benefit of and be enforceable by the Association and/or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty (30) years from the date that this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the Members entitled to cast a majority of the votes of the Association has been recorded, agreeing to abolish said Covenants, Conditions and Restrictions or to change said Covenants, Conditions and Restrictions in whole or in part; provided, however, that no such agreements to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change; provided further, that no such agreements to change shall be applicable to existing buildings on the Properties.

Section 4. Termination or Amendment by Developer. For a period of five (5) years following the date of the recording of this Declaration with the Office of the Recorder of Allen County, Indiana, Developer, at its discretion, may abolish, amend or otherwise modify the Covenants, Conditions and Restrictions of this Declaration, in whole or in part, subject, however, to approval of the Allen County Plan Commission. Developer's rights under this Section 4, for the duration of the aforementioned five (5) year period, shall supersede the rights to modify the Covenants, Conditions and Restrictions of this Declaration provided in Section 3 and/or Section 5 of this Section B of Article IX.

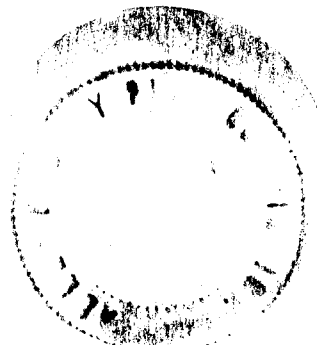
Section 5. Consent of Members. Except as provided in Section 3 and Section 4 of this Section B of Article IX, the Covenants, Conditions and Restrictions of this Declaration may be abolished, amended and/or changed in whole or in part, only with the consent of the Members of each class of membership entitled to cast fifty-one percent (51%) of the votes of each such class of Association, evidenced by a document in writing bearing each of their signatures; provided, that (i) no amendment whatsoever shall be made without the written consent of the Developer prior to January 1, 2025, notwithstanding that Developer has no interest in the Properties at the time, (ii) Developer shall have the right to amend this Declaration at any time from time to time, without the consent of any Member, to the extent that such amendments are required by the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association, or other governmental authority involved in financing the improvement purchase or sale of any of the Lots or the improvements to be constructed thereon, and (iii) no amendment shall be made eliminating any of the covenants of Articles V and IX or adversely affecting or reducing the assessments provided in Article IV without the prior written approval of the Allen County Plan Commission or its successor, and further, however, that the restrictions and covenants herein contained as they relate to the storm water detention system and the maintenance and repair thereof shall be for an indefinite period except as amended with the prior approval of the Allen County Drainage Board.

EXHIBIT "A"

In consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the following described real estate located in Allen County in the State of Indiana:

Part of the Southeast Quarter of Section 8, together with part of the Southwest Quarter of Section 9, all in Township 30 North, Range 11 East, Allen County, Indiana, being more particularly described as follows, to-wit:

Commencing at the Southeast corner of said Section 8, being marked by a cast iron monument; thence South 89 degrees 05 minutes 24 seconds West (GPS grid bearing and basis of all bearings in this description), on and along the South the line of the Southeast Quarter of said Section 8, being within the right-of-way of Covington Road, a distance of 1980.39 feet to the point of intersection of said South line with the centerline of West Hamilton Road South; thence North 04 degrees 34 minutes 01 seconds East, on and along said centerline, a distance of 1331.52 feet to a survey nail at the Northwest corner of a 24.494 acre tract of real estate described in a deed to The Chapel, Inc., in Document Number 960051006 in the Office of the Recorder of Allen County, Indiana, this being the true point of beginning; thence North 04 degrees 34 minutes 01 seconds East, continuing on and along said centerline, a distance of 712.75 feet; thence North 04 degrees 13 minutes 32 seconds East, continuing on and along said centerline, a distance of 387.53 feet to a survey nail; thence South 89 degrees 57 minutes 42 seconds East, a distance of 197.25 feet to a #5 rebar; thence South 45 degrees 17 minutes 39 seconds East, a distance of 64.27 feet to a #5 rebar; thence South 63 degrees 58 minutes 30 seconds East, a distance of 192.18 feet to a #5 rebar; thence South 36 degrees 50 minutes 48 seconds East, a distance of 67.09 feet to a #5 rebar; thence South 02 degrees 50 minutes 56 seconds West, a distance of 33.78 feet to a #5 rebar; thence South 68 degrees 13 minutes 47 seconds East, a distance of 225.82 feet to a #5 rebar; thence South 78 degrees 35 minutes 27 seconds East, a distance of 66.27 feet to a #5 rebar; thence South 59 degrees 04 minutes 01 seconds East, a distance of 51.04 feet to a #5 rebar; thence North 46 degrees 56 minutes 51 seconds West, a distance of 101.85 feet to a #5 rebar; thence North 10 degrees 08 minutes 19 seconds West, a distance of 135.82 feet to a #5 rebar; thence North 36 degrees 32 minutes 34 seconds West, a distance of 139.06 feet to a #5 rebar; thence North 06 degrees 30 minutes 21 seconds East, a distance of 27.44 feet to a #5 rebar; thence South 89 degrees 57 minutes 42 seconds East, a distance of 131.97 feet to a #5 rebar; thence South 42 degrees 02 minutes 46 seconds East, a distance of 455.46 feet to a #5 rebar; thence North 76 degrees 31 minutes 52 seconds East, a distance of 308.57 feet to a #5 rebar; thence South 13 degrees 28 minutes 08 seconds East, a distance of 190.00 feet to a #5 rebar; thence South 76 degrees 31 minutes 52 seconds West, a distance of 5.00 feet to a #5 rebar; thence South 13 degrees 28 minutes 08 seconds East, a distance of 140.00 feet to a #5 rebar; thence North 76 degrees 31 minutes 52 seconds East, a distance of 87.08 feet to a #5 rebar; thence South 83 degrees 42 minutes 58 seconds East, a distance of 180.68 feet to a #5 rebar; thence South 00 degrees 50 minutes 38 seconds West, a distance of 132.42 feet to a #5 rebar; thence South 17 degrees 11 minutes 06



seconds East, a distance of 79.38 feet to a #5 rebar; thence South 31 degrees 39 minutes 45 seconds East, a distance of 79.38 feet to a #5 rebar; thence South 35 degrees 00 minutes 52 seconds East, a distance of 115.27 feet to a #5 rebar; thence South 44 degrees 19 minutes 00 seconds East, a distance of 83.17 feet to a #5 rebar; thence South 66 degrees 55 minutes 36 seconds East, a distance of 65.77 feet to a #5 rebar; thence South 01 degrees 43 minutes 16 seconds East, a distance of 35.47 feet to a #5 rebar on the North line of an 18.196 acre tract of real estate described in a deed to Robert Eddy and Lori Eddy in Document Number 2009047835 in the Office of said Recorder; thence South 88 degrees 16 minutes 44 seconds West, on and along said North line, a distance of 131.03 feet to a #5 rebar at the Northwest corner thereof, being a point on the West line of the Southwest Quarter of said Section 9; thence North 00 degrees 09 minutes 16 seconds West, on and along said West line, a distance of 1.33 feet to a #5 rebar at the Northeast corner of a 16.352 acre tract of real estate described in a deed to The Chapel, Inc., in Document Number 201064361 in the Office of said Recorder; thence South 89 degrees 32 minutes 30 seconds West, on and along the North line of said 16.352 acre tract and the North line of said 24.494 acre tract, a distance of 1445.01 feet to a #5 rebar at the Southeast corner of a 0.760 acre tract of real estate described in a deed to The Chapel, Inc., in Document Number 203012850 in the Office of said Recorder; thence Northwesterly, on and along an East line of said 0.760 acre tract, as defined by the arc of a non-tangent circular curve to the left having a radius of 142.00 feet, an arc distance of 102.84 feet, being subtended by a long chord having a length of 100.61 feet and a bearing of North 26 degrees 37 minutes 20 seconds West to a #5 rebar; thence South 43 degrees 27 minutes 14 seconds West, on and along a Northwesterly line of said 0.760 acre tract, a distance of 9.23 feet to a #5 rebar; thence North 44 degrees 43 minutes 51 seconds West, on and along a Northeasterly line of said 0.760 acre tract, a distance of 68.51 feet to a #5 rebar; thence South 63 degrees 14 minutes 17 seconds West, on and along a North line of said 0.760 acre tract, a distance of 83.17 feet to a #5 rebar at the point of curvature of a non-tangent circular curve to the right having a radius of 203.73 feet; thence Westerly, continuing on and along said North line, as defined by the arc of said curve, an arc distance of 80.90 feet, being subtended by a long chord having a length of 80.37 feet and a bearing of South 78 degrees 09 minutes 57 seconds West to a #5 rebar at the point of tangency; thence South 89 degrees 32 minutes 30 seconds West, continuing on and along said North line and tangent to said curve, a distance of 116.90 feet to a #5 rebar at the Northwest corner of said 0.760 acre tract; thence South 04 degrees 34 minutes 01 seconds West, on and along the West line of said 0.760 acre tract, a distance of 80.32 feet to a #5 rebar at the Southwest corner thereof, being a point on the North line of said 24.494 acre tract; thence South 89 degrees 32 minutes 30 seconds West, on and along said North line, a distance of 50.20 feet to the true point of beginning, containing 33.613 acres of land, subject to legal right-of-way for West Hamilton Road South, and subject to all easements of record.

