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RESTRICTIONS AND PROTECTIVE COVENANTS
FOR ELLINGSWORTH COMMONS SUBDIVISION
A PLANNED DEVELOPMENT

SECTION ONE

ELLINGS PROPERTY DEVELOPMENT, LLC, an Indiana limited liability company, ("Developer") being the sole owner of all lots in **ELLINGSWORTH COMMONS SECTION ONE**, ("Lot") as the same appears of record in the Office of the Recorder of Clark County, Indiana, in Plat Book 17, Page 53, and as Instrument No. 201814970, containing Lots 101 through 156, does hereby impose the following Restrictions and Protective Covenants upon each Lot within the final plat of Ellingsworth Commons Section One, (the "Section") for the mutual benefit of all persons, firms, and corporations who may now or hereafter have any vested interest, legal or equitable, in any Lot within the Section and for the overall enhancement of Ellingsworth Commons Subdivision (the "Subdivision").

1. Primary Use Restrictions. No Lot shall be used except for private single family residential purposes, unless designated for Club House, recreational or park or as a Commons Area. No structure shall be erected, placed or altered or permitted to remain on any Lot except a single-family dwelling designed for the occupancy of one family (including any domestic servants living on the premises) ("Primary Structure"), not to exceed the maximum height contained in the Development Standards, and containing a private garage, either attached or detached, for the sole use of the owner and occupants of the Lot. Private professional in home business use is allowed, under the conditions and restrictions set forth herein and with the approval of the appropriate governmental authority or office, so long as the operation of such business, does not become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof a Primary Structure may be used by a builder thereof as a model home for display or the builder's own office, provided said use terminates within Eighteen months from completion of the home or upon such additional period of time as may be expressly agreed to in writing by Developer or the Developer's designee. The Developer may, in Developer's sole discretion, elect to convert any Lot or part of a Lot into a right-of-way, a public street, or an access easement.

2. Approved Development Standards for Ellingsworth Commons. Certain Provisions hereof are the subject of the Ellingsworth Commons Development Standards approved by the City of Jeffersonville, Indiana (the "Development Standards") which are incorporated herein by reference. And reference is made to the Development Standards for additional restrictions which may apply as to a particular Lot in the Section or in the Subdivision. Any provision hereof which is also included in the Development Standards, can not be amended without submission to and the approval of the

appropriate authority of the City of Jeffersonville, Indiana. Should there be any conflict between these Restrictions and Protective Covenants and the Development Standards, the Development Standards shall control, unless otherwise specifically stated herein. Capitalized terms contained herein are sometimes defined in the Development Standards.

3. Designee. References to "Developer" herein shall include any person, firm, Corporation or association to whom Developer may assign this right of approval.

4. Structure. References to "structure" in this Section shall include any Primary Structure or Accessory Structure and fences or walls.

5. Approval Of Construction And Landscape Plans.

A. Construction Plans. No structure may be erected, placed or altered on any Lot until plans are submitted showing the (a) location of improvements on the Lot; (b) the grade elevation (including rear, front, and side elevations); (c) the type of exterior material, and (d) the location and size of the driveway, which shall have been approved in writing by the Developer, or the Developer's designee.

B. Landscape Plans. Reference is hereby made to the Development Standards.

(i) A written and drawn landscape plan shall be submitted to the Developer, or the Developer's designee, for approval which shall show trees, shrubs and other plantings.

(ii) Landscaping is an essential part of the design and development of a site. Landscape plantings are a benefit to the environment, public health, air quality, safety, comfort, convenience and general welfare of the community. These standards will result in the reduction of storm water runoff, glare, and heat buildup. They may reduce energy costs in structures and will improve the aesthetics of the community. The following general standards apply.

A. Minimum Plantings Required: See the Development Standards.

B. Minimum Tree Sizes: See the Development Standards.

C. Maintenance of Plantings: See the Development Standards.

D. Wildlife Area: See the Development Standards.

E. Foundation Plantings: See the Development Standards.

F. Replacement of Landscape Element: See the Development Standards.

G. Prohibition of Pest Plants: See the Development Standards.

H. Suggested Species: See the Development Standards.

(iii) Landscaping, in accordance with the approved plan shall be fully completed within Twelve months from the date of occupancy of the Primary Structure.

(iv) Planting of trees and shrubs will be done after all utilities have been installed and no trees or shrubs shall be planted in any easement without the approval of the easement holder. The builder shall be responsible for obtaining the approval of any plantings in an easement.

(v) Trees in front of the Primary Structure shall be planted after construction of the Primary Structure.

6. Lot Types. Reference is hereby made to the Development Standards and the preliminary plat. There shall be five types of Lots in Ellingsworth Commons which are identified on the preliminary plat as Traditional Lots, Boulevard Lots, Cottage Lots, Park Estate Lots, and Estate View Lots. The type of lot may vary by section or phase. The materials for the construction of a Primary Structure on a Lot, the roof slope, landscaping, minimum square footage and whether a detached garage is allowed to be constructed on a Lot may vary with the type of Lot.

7. Building Materials, Roof, Builder. Reference is hereby made to the Development Standards.

A. Exterior Building Material. See the Development Standards.

B. Roof Pitch. See the Development Standards.

C. The general contractor constructing a structure on any Lot shall have been in the construction business for a period of not less than One year and must have supervised the construction of, or personally built, a minimum of Six homes. Developer makes this requirement to maintain high quality of construction within the Subdivision and this Section, and reserves the right to waive these standards of experience.

8. Setbacks. The provision for minimum setbacks shall be controlled by the final plat of the Section.

A. No structure shall be located on any Lot nearer to the front Lot line or the side street line than the minimum building setback lines shown on the final plat of the Section. Developer may vary the established building lines, in Developer's sole discretion. For purposes of this section, the Developer of the Subdivision shall remain the Developer, from the date that, these restrictions and protective covenants are executed by the Developer to the date of the sale of the last remaining Lot in the Section to any person, firm or corporation other than the Developer.

B. For the purposes of these Restrictions and Protective Covenants, all adjoining Lots or portions thereof used as a site for the construction of a Primary Structure shall be considered One (1) Lot, so that these Restrictions and Protective Covenants relative to side Lot lines shall mean the side lines of any one or more Lots or portion or portions of any Lot or Lots used as a Primary Structure building site.

C. For purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of the building, provided however, that this exception shall not be construed to permit any portion of a Primary Structure or any Accessory Structure to encroach upon another Lot. In no event shall any Primary Structure or any Accessory Structure be erected in violation of side yard requirement.

9. Floor Areas. Reference is hereby made to the Development Standards.

A. For Traditional, Boulevard and Cottage Lots: See the Development Standards.

B. For Park Estate Lots: See the Development Standards.

C. For Estate View Lots: See the Development Standards.

D. For all Lots: Finished basement areas, garages, and open porches shall not be included in computing total living area of any Primary Structure, except that finished area on the lower level of a Bi-level will be considered in computing total living area.

E. Altering the Square Footage: The Developer may, in the Developer's discretion, approve the construction of a Primary Structure on Lots with more square footage in living area than stated in this Section or in the Development Standards.

10. Garages and Accessory Structures. Reference is made to the Development Standards.

A. All Lots shall have a garage.

B. No carports shall be constructed on any Lot, without the approval of the Developer or the Developer's designee.

C. Any Accessory Structure to be constructed or placed on a Lot must be approved by the Developer or the Developer's designee and shall be placed no closer to the side Lot lines than that allowed for Primary Structures and shall be set back from the rear Lot lines as indicated on the final plat of the Section. Any accessory building shall be located to the rear of the rear line of the Primary Structure.

11. Pools. Any in-ground swimming pool constructed on any Lot must be pursuant to written and drawn swimming pool development plan approved by the Developer or the Developer's designee in advance. The swimming pool development plan must provide for the pool to be located in the rear of the Lot, be screened from the street, have landscaping deemed appropriate by the person or persons then designated to approve such plans, and have appropriate fencing as required by local and/or state laws. Above ground swimming pools are not allowed within the Subdivision.

12. Completion Time Requirements For Construction.

A. No portion of a structure shall be allowed to remain upon any Lot within this Section in a partial state of completion for substantially greater length of time than would normally be required for completion of such a structure, having regard only for general circumstances and conditions in the vicinity and not circumstances and conditions peculiar to the owner of other person or persons responsible for such construction, and in no event in excess of One year from date of first construction.

B. After occupancy of a Primary Structure, the Lot owner shall grade and seed or sod the Lot within Thirty days, in accordance with the Clark County Erosion Control guidelines.

C. All driveways shall be paved solidly of concrete or asphalt within Six months of completion of a single family structure.

D. Upon Owners failure to comply with the provisions of this Section, Developer or any person or association to whom it may assign the right, may take action as necessary to comply therewith, and the owner shall immediately upon demand, reimburse Developer or other performing party for all expenses incurred in so doing.

13. Driveways.

A. Prior to the start of construction of any Primary Structure, the contractor will install and gravel the driveway so that it can be used during construction of the Primary Structure.

B. Length and width of Driveways. Reference is made to the Development Standards and the preliminary plat for the specific Lot Type.

C. For Cottage Lots and Boulevard Lots the driveway shall not come off of the boulevard or front street but shall come off of the designated alley.

D. Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

14. Use Of Other Structures, Clothes Lines and Vehicles.

A. No structure of a temporary character shall be permitted on any Lot except temporary tool sheds or field offices used by a builder or Developer, which shall be removed when construction or development is completed.

B. No outbuildings, trailer, basement, tent, shack, garage, barn, or structure other than the Primary Structure, erected on a Lot shall at any time be used as a residence, temporarily or permanently.

C. No trailer, truck, motorcycle, commercial vehicle, camper trailer, camping vehicle or boat, shall be parked or kept on any Lot at any time unless housed in a garage or basement or parked to the rear of the improvements located on any Lot so that same shall, not be visible to the public from

any street located in this Section, or the Subdivision. No vehicle that is inoperable shall be habitually or repeatedly parked or kept on any Lot (except in the garage) or on any street. No trailer, boat, truck or other vehicle, shall be parked on any street in this Section or the Subdivision, for an aggregate total period in excess of Twenty-four (24) hours in any one calendar year.

D. No vehicles shall be continuously or habitually parked on any street or public right-of-way. There shall be no on street parking on Parkland Trail except in designated parking areas. For purposes of this paragraph, habitually or continuously parked on any street or public right-of-way shall mean any period in excess of Six hours. It is the intent of the Developer that residents park their vehicles in their driveways and/or garages.

E. No outside clothes lines shall be place or kept on any Lot.

15. Temporary Uses.

A. Temporary uses or structures that are intended to transition into a permanent use or structure must meet all standards for a permanent use or structure and such transition must occur within One year of the construction of the temporary structure.

B. All temporary uses or structures must be removed and the original site reverted to its original condition, and be completed within the duration of the permit.

C. The following temporary uses are permitted:

(i) Garage/yard sales are permitted for a total of Seven days per calendar year, per Lot.

(ii) Children's roadside stands are permitted for a total of Twenty-one days per calendar year, per Lot.

(iii) Tents for a private party or event are permitted for a total of Seven days per calendar year, per Lot. No permit is required for the permitted duration. If the duration is exceeded the appropriate permit must be obtained from the appropriate governmental authority.

(iv) Construction trailers are allowed for up to Twelve months upon obtaining an appropriate City temporary improvement location permit.

16. Home Occupation. Except as provided in paragraph M., below, home occupations are allowed so long as:

A. The equipment used for the business is limited to computers, fax machines, telephones, copy machines, and other small equipment.

B. The business does not require any exterior storage or display of products, equipment or materials used in connection with the home occupation.

C. No more than twenty-five percent (25%) of the total floor area of the Primary Structure may be used for the home occupation.

D. There is no exterior, structural or aesthetic alterations to the Primary Structure to accommodate the home occupation.

E. There are no room additions, structural or aesthetic alterations that change the residential character of the Primary Structure.

F. There are no additional entrances to the Primary Structure for the purpose of conducting business or to accommodate the business.

G. The home occupation does not generate any additional traffic.

H. The home occupation does not place any sign for the business on or off the property.

I. The home occupation does not create electrical interference, odors, noise, vibration, light, smoke, fumes, or any other offensive problems.

J. The home occupation does not demand increasing or enhancing the size, capacity, or flow of the water, gas, septic, sewer, or electrical systems beyond what is standard for a residence.

K. No additional parking is required to accommodate the home occupation.

L. The home occupation does not use commercial vehicles for pickup and deliveries other than from the U.S. Postal Service, UPS, and other express couriers.

M. The following types of business are not permitted as home occupations:

> any occupation which employs any person other than those residing at the location of the home occupation

> retail sales or manufacturing operations

> medical clinics of any kind,

> retail dress shops,

> funeral homes,

> tourist homes,

> animal hospitals,

> kennels,

> trailer rentals,

> automobile, motor vehicles, equipment repair of any kind,

> painting of automobiles, motor vehicles, or equipment of any kind,

> photo developing,

> television, radio or other electronics repair,

> tooling, welding, or machining of any kind,

> retail or manufacturing of any kind,

> tool or equipment rental of any kind,

- > restaurants or similar establishments,
- > salvage operations of any kind,
- > freight or trucking operations of any kind,
- > contractors business, and
- > landscaping/lawn care business.

17. Performance. No Lot may be used in a manner which shall:

A. Exhibit obnoxious characteristics to the extent that it constitutes a public nuisance or interferes with reasonable enjoyment of neighboring properties.

B. Release fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter or other air pollutants in such concentration as to be detrimental to human health, animals well-being, vegetation or property, or which conflicts with public air quality standards.

C. Cause electrical disturbance adversely affecting radio, television or other equipment in the vicinity.

D. Produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness, or vibration. Such noise shall be muffled or otherwise controlled so as not to become detrimental. Public safety sirens and related apparatus used solely for public purposes are exempt.

E. Emit across Lot lines any gas or matter with a bad odor in such quantity as to be readily detectable at any point along such lines.

F. Cause vibrations detectable beyond Lot lines without the aid of instruments.

G. Produce heat and glare in such a manner as to create a hazard to neighboring property. Nor shall any such heat or glare interfere with the reasonable enjoyment of neighboring property, or a transportation function.

H. Accumulate any waste within a Lot or discharge waste matter beyond the Lot lines.

I. Produce erosion or other pollutants in such a quantity as to be detrimental to adjacent properties or to conflict with public water quality standards.

18. Miscellaneous.

A. Storage or parking of recreational vehicles is subject to the following conditions:

(i) At no time may anyone occupy or use a parked or stored recreational vehicle for living, sleeping or housekeeping purposes, except for visitors of a Lot owner.

(ii) A property owner may allow a recreational vehicle to park on the owner's property for

up to Fifteen consecutive days, but not to exceed Thirty total days in any one calendar year to allow a visit by the recreational vehicle's occupant.

(iii) No more than One recreational vehicle may be stored or parked outdoors on a residential parcel at any one time. The parking area for such recreational vehicle must have a concrete or paved surface.

(iv) A recreational vehicle shall not be parked on a parcel which does not have a Primary Structure.

(v) The owner of a recreational vehicle may store or park the recreational vehicle behind or alongside the Primary Structure in such a manner that no part of the vehicle projects beyond the front of the Primary Structure, side yard setback, or rear yard setback.

(vi) A recreational vehicle shall not block a sidewalk or be used strictly for personal storage.

19. Environmental. Reference is made to the Development Standards.

20. Floodplain. Reference is made to the Development Standards.

21. Public Improvement. Reference is made to the Development Standards.

22. Parking. Reference is made to the Development Standards.

23. Telecommunication Facilities. Reference is made to the Development Standards.

24. Underground Utility Service, Fuel Tanks, Satellite Dishes, Antenna, and Towers.

A. Utility service lines serving each Lot shall be underground and shall be located only in those areas reserved on the preliminary or final plat for utility easements. The utility easements shown on the preliminary or final plat shall be maintained and preserved in their present condition and no encroachment therein, and no change in the grade or elevation thereof, shall be made by any person, firm, or corporation owning any legal or equitable interest in any Lot in this Section or the Subdivision without the expressed consent in writing of the utility service companies providing utility service to this Section or the Subdivision.

B. There shall be no tanks allowed, either above ground or buried shall be allowed on a Lot. Pool pumps and filtering system shall not be visible from the roadway nor from the windows or porches of a Primary Structure on adjacent properties.

C. No satellite dish or special radio-telephone transmitting antenna and/or receiving antenna/tower may be constructed or placed on any Lot which shall be visible from the street on the front of the Lot.

25. Sanitary Sewer Service. All Lots within the Section shall be connected to the sanitary

sewer collection and treatment system owned and operated by Jeffersonville Municipal Utilities for the City of Jeffersonville, Indiana (the "Sewer Utility"), its successors or assigns. All owners of Lots shall comply with all rules and regulations adopted by the Sewer Utility, subject only to the prior approval of the Indiana Utility Regulatory Commission, as applicable.

26. Animals. No animals, including reptiles, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets common in this geographic area in a total number not to exceed three or what is allowed by City of Jeffersonville, Indiana, ordinance, may be kept provided that they are not kept, bred or maintained for any commercial or breeding purposes. All household pets, including dogs and cats, shall at all times be confined to the Lot occupied by the owner of such pets, or kept on a leash if off of the pet owner's Lot.

27. Duty To Maintain Lot. Before the date of construction of a Primary Structure is started, it shall be the duty of each Lot owner to keep and maintain the grass at a level not to exceed Twelve inches in height. From and after the date construction on said Lots is started, it shall be the duty of each Lot owner to keep and maintain the grass on the Lot properly cut, to keep the Lot free and clear from all weeds and trash, (other than normal building materials used during construction) and to keep it otherwise neat and attractive in appearance. Should any owner fail to do so, the Developer, or the Developer's designee, may take such action as it deems appropriate, including mowing, in order to make the Lot neat and attractive and the owner shall immediately upon demand reimburse Developer, or its agents performing said services, the expense incurred in doing so. The Developer shall be entitled to place a lien on said Lot and the improvements thereon to secure the repayment of any such amounts not paid on demand. Such lien may be enforced by foreclosure against the Lot and the improvements thereon, with Developer being entitled to further recover its costs and reasonable attorney's fees incurred in such proceeding, but such lien shall be subordinate to any first mortgage lien previously recorded on such Lot. The lien for the foregoing assessments shall attach at such time as a notice thereof is filed in the office of the Recorder of Clark County, Indiana.

28. Erosion Control.

A. Each Lot owner, specifically including without limitation, a builder intending to construct and sell a Primary Structure on such Lot, shall comply with the erosion control plan filed for the Section pursuant to Rule 5, of 325 IAC 15, et seq., pertaining to Storm Water Runoff Associated with Construction Activity. All erosion control measures shall be performed by personnel trained in generally accepted erosion control practices, and shall comply with the design criteria, standards, and specifications for erosion control measures established by the Indiana Department of Environmental Management in guidance documents similar to or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas published by the Indiana Department of Natural Resources, Division of Soil and Water Conservation.

B. Prior to the construction of a Primary Structure or any Accessory Structure on each individual Lot, it shall be the responsibility of the Lot owner, or his assigns, to maintain erosion control on each Lot to prevent erosion of earth onto any road, curb improvements, adjoining Lot, or

adjacent property. After the transfer of ownership from the builder to a Lot owner, each individual Lot owner shall have a continuing duty to similarly prevent any erosion of earth onto road, curb improvements, adjoining Lot, or adjacent property. Should any Lot owner, or his agents, fail to take any steps deemed as reasonably required to prevent such erosion, the Developer and/or the Association, or any person to which they may assign such rights, may take such actions as they deem reasonably necessary and appropriate to halt or mitigate any such erosion within any such Lot. By acceptance of a deed to the Lot, each builder and Lot owner acknowledges that the builder and Lot owner impliedly grants a license to Developer, its agents or assigns, to enter the Lot at any and all reasonable times for purposes of taking such actions. Promptly after receipt of written demand, the builder or Lot owner shall reimburse the Developer or other performing parties for all expenses incurred in effecting such actions, including any reasonable attorney's fees incurred in effecting such actions or collecting such costs. Developer shall have lien rights with respect to any such costs not paid by the builder or Lot owner within Thirty (30) days after written demand.

C. Drainage of each Lot shall conform to the general drainage plans approved by the appropriate governmental authority. Under no circumstances shall a drainage ditch be filled, altered or piped without the prior written consent of Developer and the appropriate governmental authority. All storm water runoff, downspout drain lines, and sump pump drain lines shall be directed to the drainage collection ditch shown on the final plat of the Section and approved by the Developer unless an alternative discharge point is approved in writing by Developer or the appropriate governmental authority.

D. Surface drainage easements and Commons Areas, if any, as shown on the final plat, used for drainage purposes as shown on such final plat of a section of the Subdivision 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 across which such runoff is intended to flow shall be maintained in any unobstructed condition. The appropriate governmental authority or office having jurisdiction over storm water drainage, shall have the right to determine whether or not an inappropriate obstruction exists, and to repair and maintain, or require such repair or maintenance by the affected Lot owner, as such authority determines is reasonably necessary to keep such runoff conductors in an unobstructed condition.

E. The builder or Lot owner shall request inspection and approval by Developer of the finished grading on each Lot prior to it being seeded or sodded, and the grant or denial of such approval shall be subject to Developer's sole reasonable discretion. Developer shall have lien rights with respect to any such costs not paid by the builder or Lot owner within Thirty (30) days after written demand.

29. Drainage; Non-Disturbance of Natural Drains. Drainage of each Lot shall conform to the general drainage plans of Developer for the Section. The course and flow of the existing creek or other natural drains shall not be disturbed, changed or altered in any manner without the prior written consent of the appropriate governmental authority or office with jurisdiction over such proposed changes.

30. Signs, Fences, Home Numbers, and Mail Boxes. Reference is made to the

Development Standards. On those Lots where, per the Development Standards privacy fencing is allowed, the material and design of the privacy fence must be approved by the Developer or its designee. Except that as to yard signs on a Lot, rent or for rent signs, are not allowed on any Lot.

31. Nuisances, Disposal of Trash.

A. No noxious or offensive trade or activity shall be conducted on any Lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

B. No trash, garbage, or other waste or refuse shall be kept within the Section except in neat and sanitary containers. No incinerators shall be allowed on any Lot. No Lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage. Trash or garbage or other waste shall not be kept except in sanitary containers.

32. Sidewalks. The builder or Lot owner shall be responsible for installation of the initially improved sidewalk on the Lot. If the sidewalk is not installed prior to occupancy of the Primary Structure on the Lot, or upon Thirty days written notice by Developer requiring same, the Developer reserves the right to install the sidewalk and charge the owner twice the installation cost incurred, with such charge secured by a lien against the subject Lot. Developer shall have lien rights with respect to any such costs not paid by the builder or Lot owner within Thirty (30) days after written demand.

34. Commons Areas. As evidenced by the acceptance of a Deed, contract, or other means of conveyance for a Lot in the Section or in the Subdivision each owner covenants and agrees to pay annually a pro-rate share of the cost, among other things, of maintenance of the park, walkways, walkway easements, vegetative maintenance areas, and all other Commons Areas as shown on the final plat of the Section or as may subsequently be added at the consent of the Developer and/or the Ellingsworth Commons Homeowners Association, as applicable, in the future (collectively the "Commons Areas" or individually the "Commons Area"). The assessment for the Commons Areas maintenance and other expenses allowed to be paid from such assessments, shall be made and determined initially by the Developer, and subsequently said assessment determination may be assigned to the Ellingsworth Commons Homeowners' Association as contemplated under these covenants and restrictions. Failure to pay the annual assessment by any Lot owner shall operate as a lien against that owner's Lot, and also subject the owner to suspension of the right and/or privilege to use any of the recreational facilities or other common amenities located in the Commons Areas of the Section or the Subdivision while any such amount remains due and owing. Use of the Commons Areas, and any recreation facilities therein, unless otherwise stated in the Development Standards, is reserved exclusively for the Lot owners within the Subdivision and their guests. Developer reserves the right, and shall be authorized to adopt additional rules and regulations pertaining to the access, use, and maintenance of such Commons Areas and recreational facilities; provided that a copy of such rules and regulations are provided to each Lot owner prior to their taking effect.

35. Homeowner's Association: Membership and Voting Rights.

A. An association of Lot owners to be known as the "Ellingsworth Commons Homeowners Association, Inc." (the "Association") shall be incorporated as an Indiana not-for-profit corporation by the Developer not later than Sixty days after the sixty percent of the Lots in the Subdivision are sold to an unaffiliated or unrelated third party.

B. Every owner of a Lot in the Subdivision 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.

C. The Association shall have two classes of voting membership: Class A and Class B.

(i) Class A. Class A members shall be all of the Lot owners with the exception of the Developer and each Class A member shall be entitled to one vote for each Lot owned.

(ii) When more than one person owns an interest in any Lot, all such persons shall be members. The vote for such Lots shall be exercised as they among themselves agree, but in no event shall such vote be split into fractional votes nor shall more than one vote be cast with respect for any Lot. Each vote cast for a Lot shall be presumptively valid. But if such vote is questioned by any member holding any interest in such Lot, if any such members are not in agreement, the vote of such Lot which is questioned shall not be counted.

(iii) Class B. Class B members shall be the Developer, or the Developer's designee, and the Class B member shall be entitled to ten votes for each Lot owned in the Subdivision as determined by the number of lots identified on the preliminary plat. Class B membership shall cease and be converted to Class A membership when the total votes allowed to be cast by Class A members equals the total votes allowed to be cast by the Class B member.

D. The owner of any Lot within the Section, by acceptance of a Deed to any such Lot, whether or not it shall be expressed in such Deed, is deemed to covenant to agree to pay to the Association an assessment in the initial sum of \$450.00 per Lot beginning in the year of the first conveyance by the Developer to any person, firm or corporation. Thereafter the annual assessment shall be due on the 1st day of January of each year after such initial conveyance is made. The annual assessment, together with interest, cost and reasonable attorney's fees shall be charge on the land and shall be a continuing lien upon the property on which such assessment is made. Each assessment together the interest, cost and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of a Lot at the time the assessment was due. The personal obligations for delinquent assessments shall not pass to a Lot owner's successors in title unless expressly assumed by them in the Deed of such Lot. The annual assessment may be increased by the Developer or the board of directors of the Association by not more than 10% annually without the assent of a majority of the votes casts at a meeting of the members called for the purpose of voting on an increase in the assessment.

E. The purpose of the assessments levied by the Association shall be exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision and for the improvement and maintenance of those Commons Areas, lineal parks or pocket parks within the Subdivision

which are not dedicated to and/or maintained by the Parks Department of the City Jeffersonville, or maintained by the owner of a Lot which adjoins a Commons Area. The Association shall acquire and pay for out of the funds derived from the assessments the following:

(i) The maintenance of the Subdivision entrance or entrances, all entrance and other signs for the Subdivision, and landscaping islands in the roadways of the entrance(s), and landscaping along or within a boulevard, cul-de-sacs or other green space or recreational areas.

(ii) Taxes or assessments, if any, imposed upon any Commons Area, the clubhouse or other recreational facility within the Section.

(iii) Water, sewer, garbage, electrical lighting, telephone, gas, and other necessary utility service for the Commons Areas or the clubhouse.

(iv) Maintenance of the pool and clubhouse and the furnishing of the clubhouse.

(v) The initial acquisition of furnishings and equipment for the Commons Areas as may be determined by the Developer, including without limitation, all equipment, furnishings, and other property necessary for the use of the clubhouse, pool and other recreational facilities in the Subdivision, and thereafter the replacement or maintenance of such equipment, furnishings and other property as may be determined by the Association.

(vi) Liability insurance insuring the Association against any and all liability to the public, to any owner or owners, or to the invitees or tenants of any owner or owner arising out of their occupation and/or use of the Commons Areas. The policy limits shall initially be set by the Developer and thereafter by the Association. Policy limits shall be reviewed at least annually and increased or decreased in the discretion of the Developer or the Association.

(vii) Worker's compensation insurance to the extend necessary to comply with applicable law.

(viii) A standard fidelity bond covering all members of the board of directors of the Association and all employees, of any.

(ix) The payment of any debt or obligation of the Developer for the initial construction of the clubhouse, pool, and other recreational facilities in the Subdivision.

(x) Any other materials, supplies, furniture, labor services, maintenance, repairs, structural alterations, insurance, taxes or assessments that the Association is required to secure or pay pursuant to the terms hereof or by law, or which shall be necessary or proper in the opinion of the board of directors of the Association for the operation of the Commons Areas, for the benefit of Lot owners, or the enforcement of these restrictions.

F. The Association, by majority of the votes cast by members voting the number of votes allowed by a member, may increase or decrease the annual assessment by an amount greater than

10%.

G. Any assessments not paid within Thirty days after the due date shall bear interest from the due date at the rate of Fifteen percent per annum, and the Association shall have a lien in accordance with the laws of Indiana for such assessment and interest. The Association shall file a notice of lien and/or may bring an action of law against the Lot owner who is primarily responsible to pay the same or foreclose the lien against the property of that Lot owner. No Lot owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Commons Area or abandonment of the Lot owner's property.

H. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage in existence at the time that the assessment becomes a lien. The sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to any mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien of such assessments as to payments, prior to the date that a mortgage holder or other person acquiring the Lot in a foreclosure or other proceeds in lieu thereof. No sale or transfer shall relieve such Lot from liability for the assessment thereafter becoming due or from the lien thereof.

G. All properties dedicated to and accepted by a local public authority, the Commons Areas, and all properties or Lots owned by the Developer shall be exempt from the assessment created herein, except no land or improvements devoted to Primary Structure use shall be exempt from said assessments.

J. The Developer shall call the first meeting of the homeowner's association by giving Thirty day written notice to all members. Such meeting shall be called at the discretion of the Developer but not later than when 90% of the total Lots are sold.

K. Written notice of any meeting called for the purpose of taking any action shall be sent to all members not less than Thirty nor more than Sixty days in advance of the meeting. At the first meeting called, the presence of the members or all parties entitled to cast Fifty percent of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement. A required quorum at the subsequent meeting shall be One-half of the required quorum at the preceding meeting. A majority vote of the quorum shall be required to take any action.

L. The Association may take the action of appointing a board of directors at act on behalf of the Association, and set forth the by-laws to guide the Association and/or its directors.

M. Every owner shall have the right and easement of enjoyment in and to the Commons Areas, which right and easement shall be appurtenant to, and shall pass with, the title to every Lot subject to the following provision: The right of the Association to dedicate or transfer a Commons Area, or portion thereof, shall not be effective unless an instrument of agreement to such dedication or transfer is signed by Two-thirds of the members and is recorded.

N. The Association shall be responsible for all of the maintenance of the club house lot, the

recreational areas, the Commons Areas, and lineal park in the Section and in the Subdivision which are not dedicated to and/or maintained under an agreement by the Parks Department of the City of Jeffersonville.

O. The Developer shall have full authority on behalf of the Association, at a time determined by the Developer, to grant a mortgage on the lot or parcel upon which the clubhouse is to be located to secure a credit facility for the construction of the clubhouse and the pool, and the full authority to renew, extend, modify or refinance such credit facility until such time as such credit facility is paid in full out of the funds of the Association or the Association determines that it shall be assume direct responsibility for such credit facility or obtain refinancing of such credit facility.

P. 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 any construction, reconstruction, repair, or replacement of a capital improvement within the Commons Areas for a Commons Area, including fixtures and personal property related to a Commons Area. Any such special assessment must be approved by the assent of a majority of the votes casts at a meeting of the members called for the purpose of voting on such special assessment.

36. Obligation To Construct Or Re-convey. Each Lot owner shall, within one year after the date of conveyance of a Lot without a Primary Structure thereon, commence in good faith the construction of a Primary Structure approved as called for herein, upon each Lot conveyed; provided, however, that should said construction not commence within the specified period of time, and/or if the Lot owner has not complied with all of the restrictions herein or from this time faith does not comply with such restrictions as provided herein, then the Developer may elect to repurchase any and all Lots on which construction has not commenced for Eighty percent of the original purchase price of said Lot or Lots hereunder, in which event the Lot owner shall immediately reconvey and deliver possession of said Lot or Lots to the Developer by warranty deed. Failure of the Developer to elect to repurchase any Lot on which construction has not timely commenced under the terms of this provision shall not be deemed a waiver of the Developer's right to elect to repurchase in the future any or all of such Lots on which construction has not timely commenced.

37. Restrictions Run with Land. Unless altered or amended under the provisions of this Section, these covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of Twenty-five years from the date this document is first recorded, after which time such covenants shall automatically be extended for successive periods of Ten years, unless an agreement in writing changing or releasing said Covenants and Restrictions, in whole or in part, and signed by the then owners of not less than Fifty-one percent of said tract by area, exclusive of dedicated roadways, has been recorded in the Recorder's Office of Clark County, Indiana. Failure of any owner to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violation of any of these restrictions, shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

38. Enforcement. Enforcement of these restrictions shall be proceeding at law or in equity, brought by any owner of Lot or other real property in the Subdivision, or by the Developer, against

any party violating, or attempting to violate, any covenants or restrictions to either restrain violation, to direct restoration, or to recover damages. In the event that any building construction is done in violation of the plans, specifications, or material approved by the Developer or its assigns, then the building contractor and Lot owner(s) shall be jointly and severely liable to the Developer or its assigns for an enforcement fee of \$2,500.00 in addition to injunctive relief damages, and expenses of litigation, including reasonable attorney's fees. Such fee is payable within Thirty days of written notice.

39. Reservation by Developer to Alter or Amend Restrictions and Protective Covenants. The Developer, its successors and assigns, reserves the right to alter or amend these restrictions and protective covenants during the development period of the Subdivision, either through the direct action of the Developer or through the appropriate governmental authority if such restriction or protective covenant is contained in the Development Standards. For purposes of this section, the development period shall be from the date, that these restrictions and protective covenants are executed by the Developer and until the last Lot within the Subdivision is conveyed to a third party

40. Invalidation. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

[Signature page to follow.]

IN WITNESS WHEREOF, Ellings Property Development, LLC, by its duly authorized representative has subscribed its name this 15th day of August, 2018.

Ellings Property Development, LLC

By: Jeffery A. Corbett
Jeffery Corbett, sole member

STATE OF INDIANA COUNTY OF Floyd)

Before me, a Notary Public in and for said County and State, this 15th day of August, 2018, personally appeared Jeffery Corbett, sole member of Ellings Property Development, LLC, an Indiana limited liability company, and who swore to the truth of the representations contained herein and who acknowledged the free and voluntary execution hereof on behalf of said entity.

PATRICK HARRISON FIFER
NOTARY PUBLIC
SEAL
FLOYD COUNTY, STATE OF INDIANA
MY COMMISSION EXPIRES AUGUST 28, 2021
COMMISSION NO. 647037

Patrick H. Fifer
Notary Public
Printed Name: Patrick Harrison Fifer
My Commission Expires: August 28, 2021
Resident of Floyd County, Indiana
Commission Number: 647037

Prepared by Culler Law Office, LLC, Ronald D. Culler, Attorney, 2123 Veterans Parkway, Jeffersonville, Indiana 47130, phone 812-284-2685.

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, W. C. Fifer.
Person's name presenting for recording

ELLINGSWORTH COMMONS DEVELOPMENT STANDARDS

Planned Development – Residential

Ellingsworth Commons residential development is intended to provide a development of multiple lot sizes and various-sized single family detached homes.

The conscientious development of Ellingsworth Commons will promote this residential community, enhance the surrounding area and provide for future housing needs within the Jeffersonville, Indiana (the “City of Jeffersonville”) area.

SECTION 1: Residential Lot Standards

A. All Residential Lots shall be used for a single family dwelling.

B. There are Five different types of Lots in Ellingsworth Commons: Traditional Lots, Boulevard Lots, Cottage Lots, Park Estate Lots and Estate View Lots. The standards for each type of lot are as identified in Sections 1.1, 1.2, 1.3, 1.4, and 1.5.

C. The Lot sizes and setbacks, minimums and maximums stated herein are intended to reflect the data shown on the preliminary plat of Ellingsworth Commons. Should it be determined that there is a Lot or setback shown on a final plat which is in conflict with the provisions herein, the final plat shall be the controlling document and these Development Standards shall be thereby amended by the approval of a final plat by the City of Jeffersonville. Any changes in these Development Standards resulting from the approval of a final plat shall relate only to those Lots designated on such final plat.

D. In the development of Ellingsworth Commons, should certain standards not be addressed in this document, the standards of the City of Jeffersonville, for an R1 development shall be applicable.

SECTION 1.1:

TRADITIONAL LOTS

In accordance with the Preliminary Plat, Lots Numbered: 1-41, 57-64, 76-85, 131-135, 162, 163, 168-177, 196-298, 409-425, 488-496

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 6200 square feet

Minimum Lot Width: 60 feet

Maximum Lot Depth: 170 feet

Minimum Lot Frontage: 40 feet on a public street with access from said Public Street

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 60% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structures and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1100 and 2200 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1300 and 2500 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 1600 and 3000 square feet.

Garages.

> All Primary Structures shall have an attached Two car garage.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> The Garage shall be located no closer to the front Lot line than the building set back identified on the final plat.

Driveways.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minium Setbacks: Primary Structure:

> Front Yard Setback 25 feet

> Side Yard Setback 5 feet

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

5 feet

5 feet

SECTION 1.2:

BOULEVARD LOTS

In accordance with the Preliminary Plat, Lots Numbered: 98-118, 299-328, 351-379, 426-444, 457-482

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 4000 square feet

Minimum Lot Width: 40 feet

Maximum Lot Depth: 150 feet

Minimum Lot Frontage: 40 feet on a public street or Commons Area for trail adjacent to public street with access from rear alley

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 75% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structure and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1100 and 2200 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1300 and 2500 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 1600 and 3000 square feet.

Garages.

> May have an attached or detached One or Two car garage, which shall be accessed from the alley at the rear of the Lot.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> Detached garages shall be no closer to a side Lot line than that allowed for Primary Structures and shall be set back from the rear Lot line at least Twenty feet and shall be located behind the Primary Structure.

Driveways.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

> Driveway shall not come off of the boulevard or front street but shall come off of the designated alley.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minium Setbacks: **Primary Structure:**

> Front Yard Setback 10 feet

> Side Yard Setback 0 feet on one side,
10 feet on opposite side

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

0 feet on one side,

10 feet on opposite side

20 feet

SECTION 1.3:

COTTAGE LOTS

In accordance with the Preliminary Plat, Lots Numbered: 86-97, 119-130, 329-350, 380-408, 445-456, 483-487, 497-512

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 4000 square feet

Minimum Lot Width: 40 feet

Maximum Lot Depth: 150 feet

Minimum Lot Frontage: 40 feet on a public street with access from rear alley

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 75% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structure and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1100 and 2200 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1300 and 2500 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 1600 and 3000 square feet.

Garages.

> May have an attached or detached One or Two car garage, which shall be accessed from the alley at the rear of the Lot.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> Detached garages shall be no closer to a side Lot line than that allowed for Primary Structures and shall be set back from the rear Lot line at least Twenty feet and shall be located behind the Primary Structure.

Driveways.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

> Driveway shall not come off of the boulevard or front street but shall come off of the designated alley.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minium Setbacks: **Primary Structure:**

> Front Yard Setback 15 feet

> Side Yard Setback 0 feet on one side,
10 feet on opposite side

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

0 feet on one side,

10 feet on opposite side

20 feet

SECTION 1.4:

PARK ESTATE LOTS

In accordance with the Preliminary Plat, Lots Numbered: 42-56, 65-75

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 7700 square feet

Minimum Lot Width: 70 feet

Maximum Lot Depth: 260 feet

Minimum Lot Frontage: 50 feet on a public street with access from said Public Street

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 50% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structure and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1500 and 2800 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1800 and 3000 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 2000 and 3200 square feet.

Garages.

> All Primary Structures shall have an attached Two car garage.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> The Garage shall be located no closer to the front Lot line than the building set back identified on the final plat.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minium Setbacks: Primary Structure:

> Front Yard Setback 25 feet

> Side Yard Setback 5 feet

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

5 feet

5 feet

SECTION 1.5:

ESTATE VIEW LOTS

In accordance with the Preliminary Plat, Lots Numbered: 136-161, 164-167, 178-195

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 7200 square feet

Minimum Lot Width: 60 feet

Maximum Lot Depth: 200 feet

Minimum Lot Frontage: 50 feet on a public street with access from said Public Street

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 50% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structure and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1400 and 2700 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1700 and 2900 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 1900 and 3100 square feet.

Garages.

> All Primary Structures shall have an attached Two car garage.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> The Garage shall be located no closer to the front Lot line than the building set back identified on the final plat.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minium Setbacks: **Primary Structure:**

> Front Yard Setback 25 feet

> Side Yard Setback 5 feet

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

5 feet

5 feet

Section 1.6:

Setbacks Table

Traditional Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	25 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	5 feet	5 feet
> Rear Yard Setback	20 feet	5 feet

Boulevard Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	10 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	0 feet on one side, 10 feet on opposite side	0 feet on one side, 10 feet on opposite side
> Rear Yard Setback	20 feet	20 feet

Cottage Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	15 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	0 feet on one side, 10 feet on opposite side	0 feet on one side, 10 feet on opposite side
> Rear Yard Setback	20 feet	20 feet

Park Estate Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	25 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	5 feet	5 feet
> Rear Yard Setback	20 feet	5 feet

Estate View Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	25 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	5 feet	5 feet
> Rear Yard Setback	20 feet	5 feet

Clubhouse Lot:

Minium Setbacks:	
> Front Yard Setback	25 feet
> Side Yard Setback	5 feet
> Rear Yard Setback	20 feet

SECTION 2:

Facilities/Features

Section 2.1:

Clubhouse Lot:

Ellingsworth Commons shall have a Clubhouse Lot upon which shall be constructed by the developer a Clubhouse and swimming pool and other recreational facilities. There is no minimum square footage on the Clubhouse or any other structure on the Clubhouse Lot. The Clubhouse and pool will be, at completion of construction, the responsibility of the homeowner's association.

Section 2.2:

Pocket Parks:

Ellingsworth Commons shall have interspersed Pocket Parks, which shall, after establishment, be for the enjoyment of the general public and the residents of Ellingsworth Commons. The maintenance of the Pocket Parks shall, after establishment be the responsibility of the homeowner's association.

Section 2.3:

Grassed Small Commons Areas:

Ellingsworth Commons shall have interspersed small Commons Areas, which shall, after establishment, be for the enjoyment of the general public and the residents of Ellingsworth Commons. These areas shall be planted in grass. The maintenance of the grassed Commons Areas shall, after establishment, be the responsibility of the homeowner's association.

Section 2.4:

Large Park Areas and Lakes:

Ellingsworth Commons shall have Two large park areas and Three lakes, which, after the construction of the lakes by the developer, are proposed to be dedicated to the City of Jeffersonville, for the use as City Parks, but in the alternative used as a neighborhood park which after establishment, shall be maintained by the homeowner's association.

Section 2.5:

Trail and Greenspace:

A. Ellingsworth Commons shall have Trails and Greenspace areas, as identified on the preliminary plat, which shall include a bike and walking pathway and which after installation of the pathway and the establishment of grass and landscaping are proposed to be dedicated to the City of Jeffersonville, for the use as City Parks, but if such areas do not become used as City Parks, they shall become neighborhood parks, which after establishment, shall be maintained by the homeowner's association.

B. All paved trails, but not sidewalks, shall be a minimum of Eight feet in width.

Section 2.6:

Linear Parks/Commons Trail and Greenspace:

Ellingsworth Commons shall have linear parks, identified on the preliminary plat as Commons Trail & Greenspace, which shall, after establishment, be for the enjoyment of the general public and the

residents of Ellingsworth Commons. The maintenance of the linear parks and Commons Trail and Greenspace shall, after establishment, be the responsibility of the homeowner's association.

Section 2.7:

Maintenance

A. The Clubhouse Lot, the Pocket Parks, Linear Parks, and the median of the boulevard entrance shall be landscaped by the developer in accordance with the landscaping standards herein and, after establishment, maintenance shall be the responsibility of the homeowner's association.

B. If any area becomes a City Park, the developer shall warrant all new tree plantings located therein for a period of Two years from the date of the installation.

SECTION 3:

Development Standards

Section 3.1:

Height

A. No structure may be erected or changed so as to make its height greater than as stated below:

Maximum Structure Height:

> 35 feet for the Primary Structure and garage if detached,

> 18 feet for Accessory Structure.

B. The height measurement shall be from the ground level to the highest point of the roof of the structure with chimneys and mechanicals excluded from the measurement.

Section 3.2:

Accessory Structures

A. Accessory Structures must relate to the Primary Structure and its uses.

B. Accessory Structures may not encroach on any platted easement unless the owner of the easement gives written consent.

C. All Accessory Structure, except decks or covered porches attached to the Primary Structure, shall be located behind the Primary Structure, except in the case of corner Lots; in that instance, the Accessory Structures may be placed on the side of the Primary Structure.

D. Antennas or satellite dishes are only permitted to the rear of the Primary Structure.

E. No mobile home or manufactured home may be used as a Primary Structure or Accessory Structure within Ellingsworth Commons.

F. Accessory Structures are not permitted on a Residential Lot prior to any Primary Structure being constructed.

G. The following Accessory Structures are permitted, but must abide by all applicable City standards:

- antennas or satellite dishes
- bath houses or saunas
- decks, not attached to the Primary Structure
- garages, which are detached and only on Boulevard and Cottage Lots
- gazebos
- greenhouses, private
- hot tubs
- sport courts

- in ground swimming pools (swimming pools must abide by 675 IAC 20) – above ground pools excluded.

H. Accessory Structures are not deemed to include swing sets, doghouses, tree houses, playhouses, and other such incidentals.

I. No more than Four Accessory Structures are permitted on a Lot.

J. No Accessory Structure can exceed 500 square feet, except detached garages on Boulevard and Cottage Lots which shall not exceed 1,000 square feet.

K. The use of an Accessory Structures shall not create a nuisance.

L. Building materials used in the construction of bath houses, saunas, storage sheds and garages, must match the building materials used in the Primary Structure on the Lot.

M. Prior to the issuance of any permit for the construction of an Accessory Structure, the Lot owner must present to the City of Jeffersonville the written approval of the developer or an architectural control committee of the homeowner's association for Ellingsworth Commons.

Section 3.3:

Fences and Walls

A. No fence or wall of any nature may be extended toward the front or street side property lines beyond the rear or sidewall of the Primary Structure, except Boulevard Lots may have a decorative aluminum - wrought iron style - fence along their front property line separating the Lot from the trail along the parkland trail, not to exceed Three feet in height.

B. All fences shall properly maintained so as not to detract from any Primary Structure.

C. No wood fences are allowed to be constructed on any Residential Lot.

D. Chain link fences are allowed but must be black vinyl coated. Wrought iron style fences are allowed but must be black aluminum.

E. No privacy fences shall be allowed on any Residential Lot except on the rear property line of the following Lots as such Lots are identified on the preliminary plat: Lots Numbered: 4-6, 11, 12, 17, 23 - 41, 43 - 51, 201-212.

NOTE: Lot numbers will change on final plat of each section or phase of Ellingsworth Commons to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc.

F. The location, height, type, material and style of all fences must be in keeping with the overall plan for the Ellingsworth Commons.

G. All fences placed on a Lot must present the non-structural face outward or away from the Primary Structure on such Lot.

H. Where fences are permitted to be placed on a Lot such fences may be placed up to the property line, except for fences on corner lots which may not extend beyond the sidewall of the Primary Structure.

I. No fence may be greater in height than Six feet on the side yard and rear yard or greater than Three feet in height in the front yard, where such fences are allowed in the front yard.

J. No fence shall incorporate security wire or include sharpened top spikes.

Section 3.4: Public Improvement

The developer of Ellingsworth Commons has made diligent effort to confirm with the appropriate City departments and utility providers that the public improvement in the development meet the standards of such department.

Section 3.5: Environmental

A. Ellingsworth Commons is planned so as to preserve certain landmarks through a harmonious and careful design and uses existing topography in order to minimize storm water runoff, and conserve the natural cover and soil.

B. If the natural cover over any portion of the land within Ellingsworth Commons is removed, unless construction is planned on a Residential Lot or the Clubhouse Lot or other recreational areas, such land shall be appropriately graded and seeded within Thirty days after the removal or destruction of said natural cover to prevent erosion.

C. During the development a portion of the land in Ellingsworth Commons may be used for agricultural purposes and normal farming activities may be conducted on such land.

D. Ellingsworth Commons contains no regulated drains.

Section 3.6: Floodplain

No portion of the Ellingsworth Commons residential area is currently in a designated floodplain.

Section 3.7:**Lighting**

The following lighting standards apply:

A. All lighting on a Primary or Accessory Structure must be shielded with opaque material to prevent direct lighting on streets, alleys, and adjacent properties.

B. Lighting for parking areas must all be consistent in color, size, height, and design. Further, all parking area lights must have cutoff luminaires with less than a Ninety-degree angle (down lighting) and may be no more than Twenty feet in height.

C. All freestanding lights and lights mounted on walls or facades must have cutoff luminaires with less than a Ninety-degree angle.

D. All lights on Primary or Accessory Structures within Ellingsworth Commons must be consistent in style, design, height, size and color.

E. The style, placement and spacing of street lights shall meet the requirements of City of Jeffersonville Ordinances 2006-OR-25 and 2011-OR-22, or amendments thereto which are in affect as of the time of the installation of the street lights.

Section 3.8:**Signs**

A. Permanent ground entrance signs at primary entrances which display the name Ellingsworth Commons must be wrapped in a contiguous boundary of plantings around their base. All plantings must be within Four feet of the sign base and should consist of shrubs, ornamental shrubs, ornamental plants, flowering plants or other ornamental ground covers.

B. No ground entrance sign at primary entrances shall exceed Eight feet in height and shall be no wider than is appropriate to include the name Ellingsworth Commons.

C. Permanent ground entrance signs at adjacent neighborhood entrances shall not exceed Six feet in height and shall be no wider than Three feet in width.

D. The building material used in the construction of all entrance sign shall be masonry or other long durable material.

E. After installation by the developer, the maintenance of all entrance signs shall be the responsibility of the homeowner's association of Ellingsworth Commons.

Section 3.9:**Parking**

Two off-street paved parking spaces are required per each Residential Lot. Neither of the off-street parking spaces required may include spaces within car ports or garages. Further, off-street parking spaces may not fully or partially be in a public right-of-way or utility easement. Each space must be at least Eight feet wide and Eighteen feet long.

Section 3.10:**Telecommunication Facilities**

No commercial telecommunication or other electronic transmission facility shall be allowed in Ellingsworth Commons.

Section 3.11:**Home Numbering and Mail Boxes**

All Primary Structures shall display a home number in an appropriately placed position and all Primary Structures having a mail box shall maintain it in the same state of repair as that of the Primary Structure and that it shall, if lettered, be lettered in a professional manner or have attached thereto, an appropriate name plate. All mail boxes shall be of the same style/type.

Section 3.12:**Landscaping**

Landscaping is an essential part of the design and development of a site. Landscape plantings are a benefit to the environment, public health, air quality, safety, comfort, convenience and general welfare of the community. These standards will result in the reduction of storm water runoff, glare, and heat buildup. They may reduce energy costs in structures and will improve the aesthetics of the community. The following general standards apply.

A. Minimum Plantings Required:

> Each Residential Lot of less than 10,000 square feet shall have a minimum of Three deciduous trees or Two deciduous and One Evergreen trees and a minimum of Six shrubs. All Six shrubs shall be planted along the front of the Primary Structure in an ornamental fashion. Additional shrubs are encouraged to be place around the other sides of the Primary Structures foundation.

> Any Residential Lot in excess of 10,000 square feet shall have a minimum of Four deciduous or Three deciduous and Two Evergreen trees and Six shrubs. A minimum of One tree shall be planted, in front of the Primary Structure on the Residential Lot after construction of Primary Structure. All Six shrubs shall be planted along the front of the Primary Structure in an ornamental fashion. Additional shrubs are encouraged to be place around the other sides of the Primary Structures foundation.

> The Clubhouse Lot shall have a minimum of Six deciduous or Four deciduous and Two Evergreen trees and Eight shrubs. A minimum of Two trees shall be planted, in front of the Clubhouse after construction.

> The interspersed Pocket Parks and recreational areas of less than 0.5 of an acre shall have a minimum of Four deciduous or Three deciduous and Two Evergreen trees and Six shrubs. An interspersed Pocket Park or recreational area of greater than 0.5 of an acre shall have, at a minimum, perimeter trees planted on Forty foot centers.

> The plantings made during development of Ellingsworth Commons along streets and boulevards may not be counted toward this minimum landscaping requirement for a Residential Lot.

> All public streets are required to have street trees. All trees planted along streets and boulevards shall be no more than 40 feet on center and, along the boulevard walkway, may be located on alternate sides of such walkway.

B. Deciduous trees planted on a Residential Lot shall have a minimum Two inch caliper at DBH, and all Evergreen trees planted on a Residential Lot shall be at least Six feet tall.

C. Trees, vegetation, irrigation systems, fences, walls and other landscape elements are considered elements of Ellingsworth Commons. All landscaping shall be maintained free from disease, pests, weeds and litter. All landscape structures, such as fences and walls, shall be repaired and replaced periodically to maintain a structurally and aesthetically sound condition.

D. Nothing in these standards shall preclude the use and enjoyment of a wildlife area that is certified by a state or nationally recognized organization. Plantings within a certified wildlife area may be counted toward the minimum landscaping requirements if they meet or exceed the above size requirements.

E. All foundation plantings must be within Ten feet of the Primary or Accessory Structure's foundation and should consist of shrubs, ornamental shrubs, ornamental plants, or flowering plants.

F. Any landscape element required hereby that dies, or is otherwise removed, must be replaced within Sixty days of death or removal.

I. Under no circumstances may the species identified below as Pest Plants or any artificial plant or any plant identified by the State of Indiana as noxious be installed and/or counted as part of the minimum plantings required.

Pest Plants Include:

Scientific Name	Common Name
Acer ginnala	Amur maple

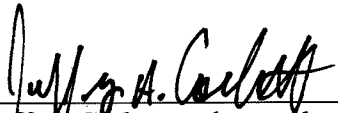
Acer plantanoides	Norway maple
Ailanthus altissima	Tree-of-heaven
Albizia julibrissin	Mimosa
Euonymus alata	Winged wahoo-burning bush
Euonymus fortunei	Winter creeper
Ligustrum spp.	Privets
Ligustrum vulgare	Privet
Lonicera japonica	Japanese honeysuckle
Lythrum salicaria	Purple loosestrife
Pinus nigra	Austrian pine
Polygonum cuspidatum	Japanese knotweed
Pueraria lobata	Kudzu vine
Rhamnus cathartica	Common buckthorn
Rhamnus davurica	Dahurian buckthorn
Rhamnus frangula	Alder buckthorn
Pyrus calleryana	Callery Pear
Pyrus calleryana 'Bradford'	Bradford Pear

J. The use of species included on Plantings Table are encouraged. The Table is provided to allow for the selection of appropriate species for planting in a variety of conditions and is broadly inclusive to encourage increased genetic diversity in the subdivision's urban forest. To make tree selection easier on those who prefer a shorter list, the most commonly planted tree species are listed in enlarged and bold typeface.

IN WITNESS WHEREOF, Ellings Property Development, LLC, by its duly authorized representative has subscribed its name this 15th day of August, 2018.

Ellings Property Development, LLC

By:


Jeffery Corbett, sole member

STATE OF INDIANA COUNTY OF Floyd)

Before me, a Notary Public in and for said County and State, this 15th day of August, 2018, personally appeared Jeffery Corbett, sole member of Ellings Property Development, LLC, an Indiana limited liability company, Developer of Ellingsworth Commons Subdivision, who swore to the truth of the representations contained herein and who acknowledged the free and voluntary execution hereof on behalf of said entity.

PATRICK HARRISON FIFER
NOTARY PUBLIC
SEAL
FLOYD COUNTY, STATE OF INDIANA
MY COMMISSION EXPIRES AUGUST 28, 2021
COMMISSION NO. 847037

Patrick Harrison Fifer
Notary Public
Printed Name: Patrick Harrison Fifer
My Commission Expires: August 28, 2021
Resident of Floyd County, Indiana
Commission Number: 647037

Prepared by Culler Law Office, LLC, Ronald D. Culler, Attorney, 2123 Veterans Parkway, Jeffersonville, Indiana 47130, phone 812-284-2685.

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, W.D. Fischer.
Person's name presenting for recording

Premier
18
\$25

201814973 MISC \$25.00
08/15/2018 02:57:49P 18 PGS
Zachary Payne
Clark County Recorder IN
Recorded as Presented



RESTRICTIONS AND PROTECTIVE COVENANTS
FOR ELLINGSWORTH COMMONS SUBDIVISION
A PLANNED DEVELOPMENT

SECTION 1-B

ELLINGS PROPERTY DEVELOPMENT, LLC, an Indiana limited liability company, ("Developer") being the sole owner of all lots in **ELLINGSWORTH COMMONS SECTION 1-B**, ("Lot") as the same appears of record in the Office of the Recorder of Clark County, Indiana, in Plat Book 17, Page 54, and as Instrument No. 201814972, containing Lots 157 through 178, does hereby impose the following Restrictions and Protective Covenants upon each Lot within the final plat of Ellingsworth Commons Section 1-B, (the "Section") for the mutual benefit of all persons, firms, and corporations who may now or hereafter have any vested interest, legal or equitable, in any Lot within the Section and for the overall enhancement of Ellingsworth Commons Subdivision (the "Subdivision").

1. Primary Use Restrictions. No Lot shall be used except for private single family residential purposes, unless designated for Club House, recreational or park or as a Commons Area. No structure shall be erected, placed or altered or permitted to remain on any Lot except a single-family dwelling designed for the occupancy of one family (including any domestic servants living on the premises) ("Primary Structure"), not to exceed the maximum height contained in the Development Standards, and containing a private garage, either attached or detached, for the sole use of the owner and occupants of the Lot. Private professional in home business use is allowed, under the conditions and restrictions set forth herein and with the approval of the appropriate governmental authority or office, so long as the operation of such business, does not become an annoyance or nuisance to the neighborhood. Notwithstanding the provisions hereof a Primary Structure may be used by a builder thereof as a model home for display or the builder's own office, provided said use terminates within Eighteen months from completion of the home or upon such additional period of time as may be expressly agreed to in writing by Developer or the Developer's designee. The Developer may, in Developer's sole discretion, elect to convert any Lot or part of a Lot into a right-of-way, a public street, or an access easement.

2. Approved Development Standards for Ellingsworth Commons. Certain Provisions hereof are the subject of the Ellingsworth Commons Development Standards approved by the City of Jeffersonville, Indiana (the "Development Standards") which are incorporated herein by reference. And reference is made to the Development Standards for additional restrictions which may apply as to a particular Lot in the Section or in the Subdivision. Any provision hereof which is also included in the Development Standards, can not be amended without submission to and the approval of the

appropriate authority of the City of Jeffersonville, Indiana. Should there be any conflict between these Restrictions and Protective Covenants and the Development Standards, the Development Standards shall control, unless otherwise specifically stated herein. Capitalized terms contained herein are sometimes defined in the Development Standards.

3. Designee. References to "Developer" herein shall include any person, firm, Corporation or association to whom Developer may assign this right of approval.

4. Structure. References to "structure" in this Section shall include any Primary Structure or Accessory Structure and fences or walls.

5. Approval Of Construction And Landscape Plans.

A. Construction Plans. No structure may be erected, placed or altered on any Lot until plans are submitted showing the (a) location of improvements on the Lot; (b) the grade elevation (including rear, front, and side elevations); (c) the type of exterior material, and (d) the location and size of the driveway, which shall have been approved in writing by the Developer, or the Developer's designee.

B. Landscape Plans. Reference is hereby made to the Development Standards.

(i) A written and drawn landscape plan shall be submitted to the Developer, or the Developer's designee, for approval which shall show trees, shrubs and other plantings.

(ii) Landscaping is an essential part of the design and development of a site. Landscape plantings are a benefit to the environment, public health, air quality, safety, comfort, convenience and general welfare of the community. These standards will result in the reduction of storm water runoff, glare, and heat buildup. They may reduce energy costs in structures and will improve the aesthetics of the community. The following general standards apply.

A. Minimum Plantings Required: See the Development Standards.

B. Minimum Tree Sizes: See the Development Standards.

C. Maintenance of Plantings: See the Development Standards.

D. Wildlife Area: See the Development Standards.

E. Foundation Plantings: See the Development Standards.

F. Replacement of Landscape Element: See the Development Standards.

G. Prohibition of Pest Plants: See the Development Standards.

H. Suggested Species: See the Development Standards.

(iii) Landscaping, in accordance with the approved plan shall be fully completed within Twelve months from the date of occupancy of the Primary Structure.

(iv) Planting of trees and shrubs will be done after all utilities have been installed and no trees or shrubs shall be planted in any easement without the approval of the easement holder. The builder shall be responsible for obtaining the approval of any plantings in an easement.

(v) Trees in front of the Primary Structure shall be planted after construction of the Primary Structure.

6. Lot Types. Reference is hereby made to the Development Standards and the preliminary plat. There shall be five types of Lots in Ellingsworth Commons which are identified on the preliminary plat as Traditional Lots, Boulevard Lots, Cottage Lots, Park Estate Lots, and Estate View Lots. The type of lot may vary by section or phase. The materials for the construction of a Primary Structure on a Lot, the roof slope, landscaping, minimum square footage and whether a detached garage is allowed to be constructed on a Lot may vary with the type of Lot.

7. Building Materials, Roof, Builder. Reference is hereby made to the Development Standards.

A. Exterior Building Material. See the Development Standards.

B. Roof Pitch. See the Development Standards.

C. The general contractor constructing a structure on any Lot shall have been in the construction business for a period of not less than One year and must have supervised the construction of, or personally built, a minimum of Six homes. Developer makes this requirement to maintain high quality of construction within the Subdivision and this Section, and reserves the right to waive these standards of experience.

8. Setbacks. The provision for minimum setbacks shall be controlled by the final plat of the Section.

A. No structure shall be located on any Lot nearer to the front Lot line or the side street line than the minimum building setback lines shown on the final plat of the Section. Developer may vary the established building lines, in Developer's sole discretion. For purposes of this section, the Developer of the Subdivision shall remain the Developer, from the date that, these restrictions and protective covenants are executed by the Developer to the date of the sale of the last remaining Lot in the Section to any person, firm or corporation other than the Developer.

B. For the purposes of these Restrictions and Protective Covenants, all adjoining Lots or portions thereof used as a site for the construction of a Primary Structure shall be considered One (1) Lot, so that these Restrictions and Protective Covenants relative to side Lot lines shall mean the side lines of any one or more Lots or portion or portions of any Lot or Lots used as a Primary Structure building site.

C. For purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of the building, provided however, that this exception shall not be construed to permit any portion of a Primary Structure or any Accessory Structure to encroach upon another Lot. In no event shall any Primary Structure or any Accessory Structure be erected in violation of side yard requirement.

9. Floor Areas. Reference is hereby made to the Development Standards.

A. For Traditional, Boulevard and Cottage Lots: See the Development Standards.

B. For Park Estate Lots: See the Development Standards.

C. For Estate View Lots: See the Development Standards.

D. For all Lots: Finished basement areas, garages, and open porches shall not be included in computing total living area of any Primary Structure, except that finished area on the lower level of a Bi-level will be considered in computing total living area.

E. Altering the Square Footage: The Developer may, in the Developer's discretion, approve the construction of a Primary Structure on Lots with more square footage in living area than stated in this section or in the Development Standards.

10. Garages and Accessory Structures. Reference is made to the Development Standards.

A. All Lots shall have a garage.

B. No carports shall be constructed on any Lot, without the approval of the Developer or the Developer's designee.

C. Any Accessory Structure to be constructed or placed on a Lot must be approved by the Developer or the Developer's designee and shall be placed no closer to the side Lot lines than that allowed for Primary Structures and shall be set back from the rear Lot lines as indicated on the final plat of the Section. Any accessory building shall be located to the rear of the rear line of the Primary Structure.

11. Pools. Any in-ground swimming pool constructed on any Lot must be pursuant to written and drawn swimming pool development plan approved by the Developer or the Developer's designee in advance. The swimming pool development plan must provide for the pool to be located in the rear of the Lot, be screened from the street, have landscaping deemed appropriate by the person or persons then designated to approve such plans, and have appropriate fencing as required by local and/or state laws. Above ground swimming pools are not allowed within the Subdivision.

12. Completion Time Requirements For Construction.

A. No portion of a structure shall be allowed to remain upon any Lot within this Section in a partial state of completion for substantially greater length of time than would normally be required for completion of such a structure, having regard only for general circumstances and conditions in the vicinity and not circumstances and conditions peculiar to the owner of other person or persons responsible for such construction, and in no event in excess of One year from date of first construction.

B. After occupancy of a Primary Structure, the Lot owner shall grade and seed or sod the Lot within Thirty days, in accordance with the Clark County Erosion Control guidelines.

C. All driveways shall be paved solidly of concrete or asphalt within Six months of completion of a single family structure.

D. Upon Owners failure to comply with the provisions of this section, Developer or any person or association to whom it may assign the right, may take action as necessary to comply therewith, and the owner shall immediately upon demand, reimburse Developer or other performing party for all expenses incurred in so doing.

13. Driveways.

A. Prior to the start of construction of any Primary Structure, the contractor will install and gravel the driveway so that it can be used during construction of the Primary Structure.

B. Length and width of Driveways. Reference is made to the Development Standards and the preliminary plat for the specific Lot Type.

C. For Cottage Lots and Boulevard Lots the driveway shall not come off of the boulevard or front street but shall come off of the designated alley.

D. Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

14. Use Of Other Structures, Clothes Lines and Vehicles.

A. No structure of a temporary character shall be permitted on any Lot except temporary tool sheds or field offices used by a builder or Developer, which shall be removed when construction or development is completed.

B. No outbuildings, trailer, basement, tent, shack, garage, barn, or structure other than the Primary Structure, erected on a Lot shall at any time be used as a residence, temporarily or permanently.

C. No trailer, truck, motorcycle, commercial vehicle, camper trailer, camping vehicle or boat, shall be parked or kept on any Lot at any time unless housed in a garage or basement or parked to the rear of the improvements located on any Lot so that same shall, not be visible to the public from

any street located in this Section, or the Subdivision. No vehicle that is inoperable shall be habitually or repeatedly parked or kept on any Lot (except in the garage) or on any street. No trailer, boat, truck or other vehicle, shall be parked on any street in this Section or the Subdivision, for an aggregate total period in excess of Twenty-four (24) hours in any one calendar year.

D. No vehicles shall be continuously or habitually parked on any street or public right-of-way. There shall be no on street parking on Parkland Trail except in designated parking areas. For purposes of this paragraph, habitually or continuously parked on any street or public right-of-way shall mean any period in excess of Six hours. It is the intent of the Developer that residents park their vehicles in their driveways and/or garages.

E. No outside clothes lines shall be place or kept on any Lot.

15. Temporary Uses.

A. Temporary uses or structures that are intended to transition into a permanent use or structure must meet all standards for a permanent use or structure and such transition must occur within One year of the construction of the temporary structure.

B. All temporary uses or structures must be removed and the original site reverted to its original condition, and be completed within the duration of the permit.

C. The following temporary uses are permitted:

(i) Garage/yard sales are permitted for a total of Seven days per calendar year, per Lot.

(ii) Children's roadside stands are permitted for a total of Twenty-one days per calendar year, per Lot.

(iii) Tents for a private party or event are permitted for a total of Seven days per calendar year, per Lot. No permit is required for the permitted duration. If the duration is exceeded the appropriate permit must be obtained from the appropriate governmental authority.

(iv) Construction trailers are allowed for up to Twelve months upon obtaining an appropriate City temporary improvement location permit.

16. Home Occupation. Except as provided in paragraph M., below, home occupations are allowed so long as:

A. The equipment used for the business is limited to computers, fax machines, telephones, copy machines, and other small equipment.

B. The business does not require any exterior storage or display of products, equipment or materials used in connection with the home occupation.

C. No more than twenty-five percent (25%) of the total floor area of the Primary Structure may be used for the home occupation.

D. There is no exterior, structural or aesthetic alterations to the Primary Structure to accommodate the home occupation.

E. There are no room additions, structural or aesthetic alterations that change the residential character of the Primary Structure.

F. There are no additional entrances to the Primary Structure for the purpose of conducting business or to accommodate the business.

G. The home occupation does not generate any additional traffic.

H. The home occupation does not place any sign for the business on or off the property.

I. The home occupation does not create electrical interference, odors, noise, vibration, light, smoke, fumes, or any other offensive problems.

J. The home occupation does not demand increasing or enhancing the size, capacity, or flow of the water, gas, septic, sewer, or electrical systems beyond what is standard for a residence.

K. No additional parking is required to accommodate the home occupation.

L. The home occupation does not use commercial vehicles for pickup and deliveries other than from the U.S. Postal Service, UPS, and other express couriers.

M. The following types of business are not permitted as home occupations:

> any occupation which employs any person other than those residing at the location of the home occupation

- > retail sales or manufacturing operations
- > medical clinics of any kind,
- > retail dress shops,
- > funeral homes,
- > tourist homes,
- > animal hospitals,
- > kennels,
- > trailer rentals,
- > automobile, motor vehicles, equipment repair of any kind,
- > painting of automobiles, motor vehicles, or equipment of any kind,
- > photo developing,
- > television, radio or other electronics repair,
- > tooling, welding, or machining of any kind,
- > retail or manufacturing of any kind,
- > tool or equipment rental of any kind,

- > restaurants or similar establishments,
- > salvage operations of any kind,
- > freight or trucking operations of any kind,
- > contractors business, and
- > landscaping/lawn care business.

17. Performance. No Lot may be used in a manner which shall:

A. Exhibit obnoxious characteristics to the extent that it constitutes a public nuisance or interferes with reasonable enjoyment of neighboring properties.

B. Release fly ash, dust, smoke, vapors, noxious, toxic or corrosive matter or other air pollutants in such concentration as to be detrimental to human health, animals well-being, vegetation or property, or which conflicts with public air quality standards.

C. Cause electrical disturbance adversely affecting radio, television or other equipment in the vicinity.

D. Produce noise in such a manner as to be objectionable because of volume, frequency, intermittence, beat, shrillness, or vibration. Such noise shall be muffled or otherwise controlled so as not to become detrimental. Public safety sirens and related apparatus used solely for public purposes are exempt.

E. Emit across Lot lines any gas or matter with a bad odor in such quantity as to be readily detectable at any point along such lines.

F. Cause vibrations detectable beyond Lot lines without the aid of instruments.

G. Produce heat and glare in such a manner as to create a hazard to neighboring property. Nor shall any such heat or glare interfere with the reasonable enjoyment of neighboring property, or a transportation function.

H. Accumulate any waste within a Lot or discharge waste matter beyond the Lot lines.

I. Produce erosion or other pollutants in such a quantity as to be detrimental to adjacent properties or to conflict with public water quality standards.

18. Miscellaneous.

A. Storage or parking of recreational vehicles is subject to the following conditions:

(i) At no time may anyone occupy or use a parked or stored recreational vehicle for living, sleeping or housekeeping purposes, except for visitors of a Lot owner.

(ii) A property owner may allow a recreational vehicle to park on the owner's property for

up to Fifteen consecutive days, but not to exceed Thirty total days in any one calendar year to allow a visit by the recreational vehicle's occupant.

(iii) No more than One recreational vehicle may be stored or parked outdoors on a residential parcel at any one time. The parking area for such recreational vehicle must have a concrete or paved surface.

(iv) A recreational vehicle shall not be parked on a parcel which does not have a Primary Structure.

(v) The owner of a recreational vehicle may store or park the recreational vehicle behind or alongside the Primary Structure in such a manner that no part of the vehicle projects beyond the front of the Primary Structure, side yard setback, or rear yard setback.

(vi) A recreational vehicle shall not block a sidewalk or be used strictly for personal storage.

19. Environmental. Reference is made to the Development Standards.

20. Floodplain. Reference is made to the Development Standards.

21. Public Improvement. Reference is made to the Development Standards.

22. Parking. Reference is made to the Development Standards.

23. Telecommunication Facilities. Reference is made to the Development Standards.

24. Underground Utility Service, Fuel Tanks, Satellite Dishes, Antenna, and Towers.

A. Utility service lines serving each Lot shall be underground and shall be located only in those areas reserved on the preliminary or final plat for utility easements. The utility easements shown on the preliminary or final plat shall be maintained and preserved in their present condition and no encroachment therein, and no change in the grade or elevation thereof, shall be made by any person, firm, or corporation owning any legal or equitable interest in any Lot in this Section or the Subdivision without the expressed consent in writing of the utility service companies providing utility service to this Section or the Subdivision.

B. There shall be no tanks allowed, either above ground or buried shall be allowed on a Lot. Pool pumps and filtering system shall not be visible from the roadway nor from the windows or porches of a Primary Structure on adjacent properties.

C. No satellite dish or special radio-telephone transmitting antenna and/or receiving antenna/tower may be constructed or placed on any Lot which shall be visible from the street on the front of the Lot.

25. Sanitary Sewer Service. All Lots within the Section shall be connected to the sanitary

sewer collection and treatment system owned and operated by Jeffersonville Municipal Utilities for the City of Jeffersonville, Indiana (the "Sewer Utility"), its successors or assigns. All owners of Lots shall comply with all rules and regulations adopted by the Sewer Utility, subject only to the prior approval of the Indiana Utility Regulatory Commission, as applicable.

26. Animals. No animals, including reptiles, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats, or other household pets common in this geographic area in a total number not to exceed three or what is allowed by City of Jeffersonville, Indiana, ordinance, may be kept provided that they are not kept, bred or maintained for any commercial or breeding purposes. All household pets, including dogs and cats, shall at all times be confined to the Lot occupied by the owner of such pets, or kept on a leash if off of the pet owner's Lot.

27. Duty To Maintain Lot. Before the date of construction of a Primary Structure is started, it shall be the duty of each Lot owner to keep and maintain the grass at a level not to exceed Twelve inches in height. From and after the date construction on said Lots is started, it shall be the duty of each Lot owner to keep and maintain the grass on the Lot properly cut, to keep the Lot free and clear from all weeds and trash, (other than normal building materials used during construction) and to keep it otherwise neat and attractive in appearance. Should any owner fail to do so, the Developer, or the Developer's designee, may take such action as it deems appropriate, including mowing, in order to make the Lot neat and attractive and the owner shall immediately upon demand reimburse Developer, or its agents performing said services, the expense incurred in doing so. The Developer shall be entitled to place a lien on said Lot and the improvements thereon to secure the repayment of any such amounts not paid on demand. Such lien may be enforced by foreclosure against the Lot and the improvements thereon, with Developer being entitled to further recover its costs and reasonable attorney's fees incurred in such proceeding, but such lien shall be subordinate to any first mortgage lien previously recorded on such Lot. The lien for the foregoing assessments shall attach at such time as a notice thereof is filed in the office of the Recorder of Clark County, Indiana.

28. Erosion Control.

A. Each Lot owner, specifically including without limitation, a builder intending to construct and sell a Primary Structure on such Lot, shall comply with the erosion control plan filed for the Section pursuant to Rule 5, of 325 IAC 15, et seq., pertaining to Storm Water Runoff Associated with Construction Activity. All erosion control measures shall be performed by personnel trained in generally accepted erosion control practices, and shall comply with the design criteria, standards, and specifications for erosion control measures established by the Indiana Department of Environmental Management in guidance documents similar to or as effective as, those outlined in the Indiana Handbook for Erosion Control in Developing Areas published by the Indiana Department of Natural Resources, Division of Soil and Water Conservation.

B. Prior to the construction of a Primary Structure or any Accessory Structure on each individual Lot, it shall be the responsibility of the Lot owner, or his assigns, to maintain erosion control on each Lot to prevent erosion of earth onto any road, curb improvements, adjoining Lot, or

adjacent property. After the transfer of ownership from the builder to a Lot owner, each individual Lot owner shall have a continuing duty to similarly prevent any erosion of earth onto road, curb improvements, adjoining Lot, or adjacent property. Should any Lot owner, or his agents, fail to take any steps deemed as reasonably required to prevent such erosion, the Developer and/or the Association, or any person to which they may assign such rights, may take such actions as they deem reasonably necessary and appropriate to halt or mitigate any such erosion within any such Lot. By acceptance of a deed to the Lot, each builder and Lot owner acknowledges that the builder and Lot owner impliedly grants a license to Developer, its agents or assigns, to enter the Lot at any and all reasonable times for purposes of taking such actions. Promptly after receipt of written demand, the builder or Lot owner shall reimburse the Developer or other performing parties for all expenses incurred in effecting such actions, including any reasonable attorney's fees incurred in effecting such actions or collecting such costs. Developer shall have lien rights with respect to any such costs not paid by the builder or Lot owner within Thirty (30) days after written demand.

C. Drainage of each Lot shall conform to the general drainage plans approved by the appropriate governmental authority. Under no circumstances shall a drainage ditch be filled, altered or piped without the prior written consent of Developer and the appropriate governmental authority. All storm water runoff, downspout drain lines, and sump pump drain lines shall be directed to the drainage collection ditch shown on the final plat of the Section and approved by the Developer unless an alternative discharge point is approved in writing by Developer or the appropriate governmental authority.

D. Surface drainage easements and Commons Areas, if any, as shown on the final plat, used for drainage purposes as shown on such final plat of a section of the Subdivision 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 across which such runoff is intended to flow shall be maintained in any unobstructed condition. The appropriate governmental authority or office having jurisdiction over storm water drainage, shall have the right to determine whether or not an inappropriate obstruction exists, and to repair and maintain, or require such repair or maintenance by the affected Lot owner, as such authority determines is reasonably necessary to keep such runoff conductors in an unobstructed condition.

E. The builder or Lot owner shall request inspection and approval by Developer of the finished grading on each Lot prior to it being seeded or sodded, and the grant or denial of such approval shall be subject to Developer's sole reasonable discretion. Developer shall have lien rights with respect to any such costs not paid by the builder or Lot owner within Thirty (30) days after written demand.

29. Drainage; Non-Disturbance of Natural Drains. Drainage of each Lot shall conform to the general drainage plans of Developer for the Section. The course and flow of the existing creek or other natural drains shall not be disturbed, changed or altered in any manner without the prior written consent of the appropriate governmental authority or office with jurisdiction over such proposed changes.

30. Signs, Fences, Home Numbers, and Mail Boxes. Reference is made to the

Development Standards. On those Lots where, per the Development Standards privacy fencing is allowed, the material and design of the privacy fence must be approved by the Developer or its designee. Except that as to yard signs on a Lot, rent or for rent signs, are not allowed on any Lot.

31. Nuisances, Disposal of Trash.

A. No noxious or offensive trade or activity shall be conducted on any Lot, nor shall anything be done which may be or become an annoyance or nuisance to the neighborhood.

B. No trash, garbage, or other waste or refuse shall be kept within the Section except in neat and sanitary containers. No incinerators shall be allowed on any Lot. No Lot shall be used or maintained as a dumping ground for rubbish, trash, or garbage. Trash or garbage or other waste shall not be kept except in sanitary containers.

32. Sidewalks. The builder or Lot owner shall be responsible for installation of the initially improved sidewalk on the Lot. If the sidewalk is not installed prior to occupancy of the Primary Structure on the Lot, or upon Thirty days written notice by Developer requiring same, the Developer reserves the right to install the sidewalk and charge the owner twice the installation cost incurred, with such charge secured by a lien against the subject Lot. Developer shall have lien rights with respect to any such costs not paid by the builder or Lot owner within Thirty (30) days after written demand.

34. Commons Areas. As evidenced by the acceptance of a Deed, contract, or other means of conveyance for a Lot in the Section or in the Subdivision each owner covenants and agrees to pay annually a pro-rate share of the cost, among other things, of maintenance of the park, walkways, walkway easements, vegetative maintenance areas, and all other Commons Areas as shown on the final plat of the Section or as may subsequently be added at the consent of the Developer and/or the Ellingsworth Commons Homeowners Association, as applicable, in the future (collectively the "Commons Areas" or individually the "Commons Area"). The assessment for the Commons Areas maintenance and other expenses allowed to be paid from such assessments, shall be made and determined initially by the Developer, and subsequently said assessment determination may be assigned to the Ellingsworth Commons Homeowners' Association as contemplated under these covenants and restrictions. Failure to pay the annual assessment by any Lot owner shall operate as a lien against that owner's Lot, and also subject the owner to suspension of the right and/or privilege to use any of the recreational facilities or other common amenities located in the Commons Areas of the Section or the Subdivision while any such amount remains due and owing. Use of the Commons Areas, and any recreation facilities therein, unless otherwise stated in the Development Standards, is reserved exclusively for the Lot owners within the Subdivision and their guests. Developer reserves the right, and shall be authorized to adopt additional rules and regulations pertaining to the access, use, and maintenance of such Commons Areas and recreational facilities; provided that a copy of such rules and regulations are provided to each Lot owner prior to their taking effect.

35. Homeowner's Association: Membership and Voting Rights.

A. An association of Lot owners to be known as the "Ellingsworth Commons Homeowners Association, Inc." (the "Association") shall be incorporated as an Indiana not-for-profit corporation by the Developer not later than Sixty days after the sixty percent of the Lots in the Subdivision are sold to an unaffiliated or unrelated third party.

B. Every owner of a Lot in the Subdivision 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.

C. The Association shall have two classes of voting membership: Class A and Class B.

(i) Class A. Class A members shall be all of the Lot owners with the exception of the Developer and each Class A member shall be entitled to one vote for each Lot owned.

(ii) When more than one person owns an interest in any Lot, all such persons shall be members. The vote for such Lots shall be exercised as they among themselves agree, but in no event shall such vote be split into fractional votes nor shall more than one vote be cast with respect for any Lot. Each vote cast for a Lot shall be presumptively valid. But if such vote is questioned by any member holding any interest in such Lot, if any such members are not in agreement, the vote of such Lot which is questioned shall not be counted.

(iii) Class B. Class B members shall be the Developer, or the Developer's designee, and the Class B member shall be entitled to ten votes for each Lot owned in the Subdivision as determined by the number of lots identified on the preliminary plat. Class B membership shall cease and be converted to Class A membership when the total votes allowed to be cast by Class A members equals the total votes allowed to be cast by the Class B member.

D. The owner of any Lot within the Section, by acceptance of a Deed to any such Lot, whether or not it shall be expressed in such Deed, is deemed to covenant to agree to pay to the Association an assessment in the initial sum of \$450.00 per Lot beginning in the year of the first conveyance by the Developer to any person, firm or corporation. Thereafter the annual assessment shall be due on the 1st day of January of each year after such initial conveyance is made. The annual assessment, together with interest, cost and reasonable attorney's fees shall be charge on the land and shall be a continuing lien upon the property on which such assessment is made. Each assessment together the interest, cost and reasonable attorney's fees shall also be the personal obligation of the person who was the owner of a Lot at the time the assessment was due. The personal obligations for delinquent assessments shall not pass to a Lot owner's successors in title unless expressly assumed by them in the Deed of such Lot. The annual assessment may be increased by the Developer or the board of directors of the Association by not more than 10% annually without the assent of a majority of the votes casts at a meeting of the members called for the purpose of voting on an increase in the assessment.

E. The purpose of the assessments levied by the Association shall be exclusively to promote the recreation, health, safety and welfare of the residents of the Subdivision and for the improvement and maintenance of those Commons Areas, lineal parks or pocket parks within the Subdivision

which are not dedicated to and/or maintained by the Parks Department of the City Jeffersonville, or maintained by the owner of a Lot which adjoins a Commons Area. The Association shall acquire and pay for out of the funds derived from the assessments the following:

(i) The maintenance of the Subdivision entrance or entrances, all entrance and other signs for the Subdivision, and landscaping islands in the roadways of the entrance(s), and landscaping along or within a boulevard, cul-de-sacs or other green space or recreational areas.

(ii) Taxes or assessments, if any, imposed upon any Commons Area, the clubhouse or other recreational facility within the Section.

(iii) Water, sewer, garbage, electrical lighting, telephone, gas, and other necessary utility service for the Commons Areas or the clubhouse.

(iv) Maintenance of the pool and clubhouse and the furnishing of the clubhouse.

(v) The initial acquisition of furnishings and equipment for the Commons Areas as may be determined by the Developer, including without limitation, all equipment, furnishings, and other property necessary for the use of the clubhouse, pool and other recreational facilities in the Subdivision, and thereafter the replacement or maintenance of such equipment, furnishings and other property as may be determined by the Association.

(vi) Liability insurance insuring the Association against any and all liability to the public, to any owner or owners, or to the invitees or tenants of any owner or owner arising out of their occupation and/or use of the Commons Areas. The policy limits shall initially be set by the Developer and thereafter by the Association. Policy limits shall be reviewed at least annually and increased or decreased in the discretion of the Developer or the Association.

(vii) Worker's compensation insurance to the extend necessary to comply with applicable law.

(viii) A standard fidelity bond covering all members of the board of directors of the Association and all employees, of any.

(ix) The payment of any debt or obligation of the Developer for the initial construction of the clubhouse, pool, and other recreational facilities in the Subdivision.

(x) Any other materials, supplies, furniture, labor services, maintenance, repairs, structural alterations, insurance, taxes or assessments that the Association is required to secure or pay pursuant to the terms hereof or by law, or which shall be necessary or proper in the opinion of the board of directors of the Association for the operation of the Commons Areas, for the benefit of Lot owners, or the enforcement of these restrictions.

F. The Association, by majority of the votes cast by members voting the number of votes allowed by a member, may increase or decrease the annual assessment by an amount greater than

recreational areas, the Commons Areas, and lineal park in the Section and in the Subdivision which are not dedicated to and/or maintained under an agreement by the Parks Department of the City of Jeffersonville.

O. The Developer shall have full authority on behalf of the Association, at a time determined by the Developer, to grant a mortgage on the lot or parcel upon which the clubhouse is to be located to secure a credit facility for the construction of the clubhouse and the pool, and the full authority to renew, extend, modify or refinance such credit facility until such time as such credit facility is paid in full out of the funds of the Association or the Association determines that it shall be assume direct responsibility for such credit facility or obtain refinancing of such credit facility.

P. 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 any construction, reconstruction, repair, or replacement of a capital improvement within the Commons Areas for a Commons Area, including fixtures and personal property related to a Commons Area. Any such special assessment must be approved by the assent of a majority of the votes casts at a meeting of the members called for the purpose of voting on such special assessment.

36. Obligation To Construct Or Re-convey. Each Lot owner shall, within one year after the date of conveyance of a Lot without a Primary Structure thereon, commence in good faith the construction of a Primary Structure approved as called for herein, upon each Lot conveyed; provided, however, that should said construction not commence within the specified period of time, and/or if the Lot owner has not complied with all of the restrictions herein or from this time faith does not comply with such restrictions as provided herein, then the Developer may elect to repurchase any and all Lots on which construction has not commenced for Eighty percent of the original purchase price of said Lot or Lots hereunder, in which event the Lot owner shall immediately reconvey and deliver possession of said Lot or Lots to the Developer by warranty deed. Failure of the Developer to elect to repurchase any Lot on which construction has not timely commenced under the terms of this provision shall not be deemed a waiver of the Developer's right to elect to repurchase in the future any or all of such Lots on which construction has not timely commenced.

37. Restrictions Run with Land. Unless altered or amended under the provisions of this section, these covenants and restrictions are to run with the land and shall be binding on all parties claiming under them for a period of Twenty-five years from the date this document is first recorded, after which time such covenants shall automatically be extended for successive periods of Ten years, unless an agreement in writing changing or releasing said Covenants and Restrictions, in whole or in part, and signed by the then owners of not less than Fifty-one percent of said tract by area, exclusive of dedicated roadways, has been recorded in the Recorder's Office of Clark County, Indiana. Failure of any owner to demand or insist upon observance of any of these restrictions, or to proceed for restraint of violation of any of these restrictions, shall not be deemed a waiver of the violation, or the right to seek enforcement of these restrictions.

38. Enforcement. Enforcement of these restrictions shall be proceeding at law or in equity, brought by any owner of Lot or other real property in the Subdivision, or by the Developer, against

any party violating, or attempting to violate, any covenants or restrictions to either restrain violation, to direct restoration, or to recover damages. In the event that any building construction is done in violation of the plans, specifications, or material approved by the Developer or its assigns, then the building contractor and Lot owner(s) shall be jointly and severally liable to the Developer or its assigns for an enforcement fee of \$2,500.00 in addition to injunctive relief damages, and expenses of litigation, including reasonable attorney's fees. Such fee is payable within Thirty days of written notice.

39. Reservation by Developer to Alter or Amend Restrictions and Protective Covenants. The Developer, its successors and assigns, reserves the right to alter or amend these restrictions and protective covenants during the development period of the Subdivision, either through the direct action of the Developer or through the appropriate governmental authority if such restriction or protective covenant is contained in the Development Standards. For purposes of this section, the development period shall be from the date, that these restrictions and protective covenants are executed by the Developer and until the last Lot within the Subdivision is conveyed to a third party

40. Invalidation. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

[Signature page to follow.]

IN WITNESS WHEREOF, Ellings Property Development, LLC, by its duly authorized representative has subscribed its name this 15th day of August, 2018.

Ellings Property Development, LLC

By:

Jeffery A. Corbett
Jeffery Corbett, sole member

STATE OF INDIANA COUNTY OF Floyd)

Before me, a Notary Public in and for said County and State, this 15th day of August, 2018, personally appeared Jeffery Corbett, sole member of Ellings Property Development, LLC, an Indiana limited liability company, and who swore to the truth of the representations contained herein and who acknowledged the free and voluntary execution hereof on behalf of said entity.

PATRICK HARRISON FIFER
NOTARY PUBLIC

SEAL

FLOYD COUNTY, STATE OF INDIANA
MY COMMISSION EXPIRES AUGUST 28, 2021
COMMISSION NO. 647037

Patrick Harrison Fifer
Notary Public


Printed Name: Patrick Harrison Fifer
My Commission Expires: August 28, 2021
Resident of Floyd County, Indiana
Commission Number: 647037

Prepared by Culler Law Office, LLC, Ronald D. Culler, Attorney, 2123 Veterans Parkway, Jeffersonville, Indiana 47130, phone 812-284-2685.

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,

R.D. Culler
Person's name presenting for recording

20
Premier
Homes

201816092 MOD2 \$25.00
09/04/2018 03:56:45P 20 PGS
Zachary Payne
Clark County Recorder IN
Recorded as Presented


**MODIFICATION APPROVAL AND
AMENDED AND RESTATED DEVELOPMENT STANDARDS
FOR ELLINGSWORTH COMMONS**

This Modification is made this 30th day of August, 2018, by Ellings Property Development, LLC, an Indiana limited liability company, the Developer of Ellingsworth Commons.

Whereas, the Developer caused the Development Standards of Ellingsworth Commons to be recorded with the Restrictions for Section One of Ellingsworth Commons on August 15, 2018, as Instrument Number 201814971, and with the Restrictions for Section 1-B, of Ellingsworth Commons on August 15, 2018, as Instrument Number 201814973, both in the Office of the Recorder of Clark County, Indiana; and

Whereas, the Developer caused the plat of Section 1-B, of Ellingsworth Commons to be recorded in Plat Book 17, at Page 54, in the Office of the Recorder of Clark County, Indiana; and

Whereas, Ellingsworth Commons is a Planned Unit Development the Development Standards of which were approved by the City of Jeffersonville Department of Planning & Zoning; and

Whereas, certain lots in Section 1-B, of Ellingsworth Commons are "Cottage Lots", as further described and defined in the Development Standards; and

Whereas, the Developer desires to change the front set-backs for homes on Cottage Lots, both in Section 1-B and any further section of Ellingsworth Commons which contains any Cottage Lots; and

Whereas, the Developer and the City of Jeffersonville Department of Planning & Zoning, have authority and have agreed to change the front set-backs on all Cottage Lots in Ellingsworth Commons;

Now Therefore, the Developer states as follows:

1. The front set-back lines on all of the Cottage Lots in Ellingsworth Commons is changed to 10 feet.
2. The Amended and Restated Development Standards of Ellingsworth Commons are attached hereto as Exhibit A.

3. The Approval of the City of Jeffersonville Department of Planning & Zoning, is attached hereto as Exhibit B.

In Witness Whereof, Ellings Property Development, LLC, has caused this Modification to be executed by its duly authorized member on the date first set forth above.

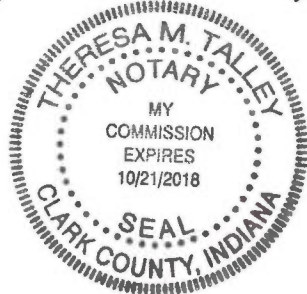
Ellings Property Development, LLC

By: _____

Jeffery A. Corbett
Jeffery A. Corbett, authorized member

STATE OF INDIANA COUNTY OF FLOYD)

Before me, a Notary Public in and for said County and State, this 30th day of August, 2018, personally appeared Jeffery A. Corbett, as Authorized Member of Ellings Development, LLC, an Indiana limited liability company, and who swore to the truth of the representations contained herein and who acknowledged the free and voluntary execution hereof on behalf of said entity.



Theresa M. Talley
Notary Public
Printed: Theresa M. Talley
Resident of Clark County, Indiana
My Commission Expires: 10/21/2018
My Commission Number: _____

Prepared by Culler Law Office, LLC, Ronald D. Culler, Attorney, 2123 Veterans Parkway, Jeffersonville, Indiana 47130, phone 812-284-2685.

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, William Fisher.
Person's name presenting for recording

ELLINGSWORTH COMMONS DEVELOPMENT STANDARD

Amended and Restated 8-30-18

Planned Development – Residential

Ellingsworth Commons residential development is intended to provide a development of multiple lot sizes and various-sized single family detached homes.

The conscientious development of Ellingsworth Commons will promote this residential community, enhance the surrounding area and provide for future housing needs within the Jeffersonville, Indiana (the “City of Jeffersonville”) area.

SECTION 1:

Residential Lot Standards

A. All Residential Lots shall be used for a single family dwelling.

B. There are Five different types of Lots in Ellingsworth Commons: Traditional Lots, Boulevard Lots, Cottage Lots, Park Estate Lots and Estate View Lots. The standards for each type of lot are as identified in Sections 1.1, 1.2, 1.3, 1.4, and 1.5.

C. The Lot sizes and setbacks, minimums and maximums stated herein are intended to reflect the data shown on the preliminary plat of Ellingsworth Commons. Should it be determined that there is a Lot or setback shown on a final plat which is in conflict with the provisions herein, the final plat shall be the controlling document and these Development Standards shall be thereby amended by the approval of a final plat by the City of Jeffersonville. Any changes in these Development Standards resulting from the approval of a final plat shall relate only to those Lots designated on such final plat.

D. In the development of Ellingsworth Commons, should certain standards not be addressed in this document, the standards of the City of Jeffersonville, for an R1 development shall be applicable.

SECTION 1.1:

TRADITIONAL LOTS

In accordance with the Preliminary Plat, Lots Numbered: 1-41, 57-64, 76-85, 131-135, 162, 163, 168-177, 196-298, 409-425, 488-496

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 6200 square feet

Minimum Lot Width: 60 feet

Maximum Lot Depth: 170 feet

Minimum Lot Frontage: 40 feet on a public street with access from said Public Street

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 60% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structures and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1100 and 2200 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1300 and 2500 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 1600 and 3000 square feet.

Garages.

> All Primary Structures shall have an attached Two car garage.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> The Garage shall be located no closer to the front Lot line than the building set back identified on the final plat.

Driveways.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minium Setbacks: **Primary Structure:**

> Front Yard Setback 25 feet

> Side Yard Setback 5 feet

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

5 feet

5 feet

SECTION 1.2:

BOULEVARD LOTS

In accordance with the Preliminary Plat, Lots Numbered: 98-118, 299-328, 351-379, 426-444, 457-482

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 4000 square feet

Minimum Lot Width: 40 feet

Maximum Lot Depth: 150 feet

Minimum Lot Frontage: 40 feet on a public street or Commons Area for trail adjacent to public street with access from rear alley

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 75% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structure and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1100 and 2200 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1300 and 2500 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 1600 and 3000 square feet.

Garages.

> May have an attached or detached One or Two car garage, which shall be accessed from the alley at the rear of the Lot.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> Detached garages shall be no closer to a side Lot line than that allowed for Primary Structures and shall be set back from the rear Lot line at least Twenty feet and shall be located behind the Primary Structure.

Driveways.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

> Driveway shall not come off of the boulevard or front street but shall come off of the designated alley.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minium Setbacks: **Primary Structure:**

> Front Yard Setback 10 feet

> Side Yard Setback 0 feet on one side,
10 feet on opposite side

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

0 feet on one side,
10 feet on opposite side

20 feet

SECTION 1.3:

COTTAGE LOTS

In accordance with the Preliminary Plat, Lots Numbered: 86-97, 119-130, 329-350, 380-408, 445-456, 483-487, 497-512

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 4000 square feet

Minimum Lot Width: 40 feet

Maximum Lot Depth: 150 feet

Minimum Lot Frontage: 40 feet on a public street with access from rear alley

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 75% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structure and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1100 and 2200 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1300 and 2500 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 1600 and 3000 square feet.

Garages.

> May have an attached or detached One or Two car garage, which shall be accessed from the alley at the rear of the Lot.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> Detached garages shall be no closer to a side Lot line than that allowed for Primary Structures and shall be set back from the rear Lot line at least Twenty feet and shall be located behind the Primary Structure.

Driveways.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

> Driveway shall not come off of the boulevard or front street but shall come off of the designated alley.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minimum Setbacks: Primary Structure:

> Front Yard Setback 10 feet

> Side Yard Setback 0 feet on one side,
10 feet on opposite side

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

0 feet on one side,
10 feet on opposite side

20 feet

SECTION 1.4:

PARK ESTATE LOTS

In accordance with the Preliminary Plat, Lots Numbered: 42-56, 65-75

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 7700 square feet

Minimum Lot Width: 70 feet

Maximum Lot Depth: 260 feet

Minimum Lot Frontage: 50 feet on a public street with access from said Public Street

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 50% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structure and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1500 and 2800 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1800 and 3000 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 2000 and 3200 square feet.

Garages.

> All Primary Structures shall have an attached Two car garage.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> The Garage shall be located no closer to the front Lot line than the building set back identified on the final plat.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minium Setbacks: **Primary Structure:**

> Front Yard Setback 25 feet

> Side Yard Setback 5 feet

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

5 feet

5 feet

SECTION 1.5:

ESTATE VIEW LOTS

In accordance with the Preliminary Plat, Lots Numbered: 136-161, 164-167, 178-195

NOTE: Lot numbers to change on final plat to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc. Restrictions for each section will specify the type of Lot and thus their setbacks based on the new Lot numbers at the time of final plat.

Minimum Lot Area: 7200 square feet

Minimum Lot Width: 60 feet

Maximum Lot Depth: 200 feet

Minimum Lot Frontage: 50 feet on a public street with access from said Public Street

Sewer and Water: Requires municipal water and sewer hookup

Maximum Lot Coverage: Square footage of all Primary and Accessory Structures, and impervious surface cannot exceed 50% of the Lot Area

Building Materials and Roof Pitch.

> The exterior building material of all Primary Structures and garages shall extend to within Six inches of ground level and shall be either: brick, stone, brick veneer, stone veneer, hardy board, cement siding, vinyl siding, or other material, or a combination of the same.

> The roof pitch of any Primary Structure and garage shall not be less than Five inches vertical of every Twelve inches horizontal.

Floor Areas.

All floor areas are calculated exclusive of porches, garages, and finished basements.

> The ground level living area of a One story Primary Structure shall be between 1400 and 2700 square feet.

> The total living area of a One and One-half story Primary Structure shall be between 1700 and 2900 square feet.

> The total living area of a Two story or Bi-level Primary Structure shall be between 1900 and 3100 square feet.

Garages.

> All Primary Structures shall have an attached Two car garage.

> Building materials, exterior finish materials and roof slope shall be in keeping with the Primary Structure on the Lot.

> The Garage shall be located no closer to the front Lot line than the building set back identified on the final plat.

> Driveways shorter than Forty feet shall be double width, and a minimum of Sixteen feet wide at its narrowest point. A turnaround or parking area may be substituted for the double width restrictions.

> Driveways shall be of sufficient length or width to accommodate the parking of Two vehicles outside of the garage.

Sidewalks.

> The builder or owner of each Lot shall be responsible for installation of the initially improved sidewalk on their Lot.

Minium Setbacks: Primary Structure:

> Front Yard Setback 25 feet

> Side Yard Setback 5 feet

> Rear Yard Setback 20 feet

Accessory Structure:

the rear of the rear line of the Primary Structure

5 feet

5 feet

Section 1.6:

Setbacks Table

Traditional Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	25 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	5 feet	5 feet
> Rear Yard Setback	20 feet	5 feet

Boulevard Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	10 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	0 feet on one side, 10 feet on opposite side	0 feet on one side, 10 feet on opposite side
> Rear Yard Setback	20 feet	20 feet

Cottage Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	10 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	0 feet on one side, 10 feet on opposite side	0 feet on one side, 10 feet on opposite side
> Rear Yard Setback	20 feet	20 feet

Park Estate Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	25 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	5 feet	5 feet
> Rear Yard Setback	20 feet	5 feet

Estate View Lots:

Minium Setbacks:	Primary Structure:	Accessory Structure:
> Front Yard Setback	25 feet	the rear of the rear line of the Primary Structure
> Side Yard Setback	5 feet	5 feet
> Rear Yard Setback	20 feet	5 feet

Clubhouse Lot:

Minium Setbacks:	
> Front Yard Setback	25 feet
> Side Yard Setback	5 feet
> Rear Yard Setback	20 feet

SECTION 2:**Facilities/Features****Section 2.1:****Clubhouse Lot:**

Ellingsworth Commons shall have a Clubhouse Lot upon which shall be constructed by the developer a Clubhouse and swimming pool and other recreational facilities. There is no minimum square footage on the Clubhouse or any other structure on the Clubhouse Lot. The Clubhouse and pool will be, at completion of construction, the responsibility of the homeowner's association.

Section 2.2:**Pocket Parks:**

Ellingsworth Commons shall have interspersed Pocket Parks, which shall, after establishment, be for the enjoyment of the general public and the residents of Ellingsworth Commons. The maintenance of the Pocket Parks shall, after establishment be the responsibility of the homeowner's association.

Section 2.3:**Grassed Small Commons Areas:**

Ellingsworth Commons shall have interspersed small Commons Areas, which shall, after establishment, be for the enjoyment of the general public and the residents of Ellingsworth Commons. These areas shall be planted in grass. The maintenance of the grassed Commons Areas shall, after establishment, be the responsibility of the homeowner's association.

Section 2.4:**Large Park Areas and Lakes:**

Ellingsworth Commons shall have Two large park areas and Three lakes, which, after the construction of the lakes by the developer, are proposed to be dedicated to the City of Jeffersonville, for the use as City Parks, but in the alternative used as a neighborhood park which after establishment, shall be maintained by the homeowner's association.

Section 2.5:**Trail and Greenspace:**

A. Ellingsworth Commons shall have Trails and Greenspace areas, as identified on the preliminary plat, which shall include a bike and walking pathway and which after installation of the pathway and the establishment of grass and landscaping are proposed to be dedicated to the City of Jeffersonville, for the use as City Parks, but if such areas do not become used as City Parks, they shall become neighborhood parks, which after establishment, shall be maintained by the homeowner's association.

B. All paved trails, but not sidewalks, shall be a minimum of Eight feet in width.

Section 2.6:**Linear Parks/Commons Trail and Greenspace:**

Ellingsworth Commons shall have linear parks, identified on the preliminary plat as Commons Trail & Greenspace, which shall, after establishment, be for the enjoyment of the general public and the

residents of Ellingsworth Commons. The maintenance of the linear parks and Commons Trail and Greenspace shall, after establishment, be the responsibility of the homeowner's association.

Section 2.7:

Maintenance

A. The Clubhouse Lot, the Pocket Parks, Linear Parks, and the median of the boulevard entrance shall be landscaped by the developer in accordance with the landscaping standards herein and, after establishment, maintenance shall be the responsibility of the homeowner's association.

B. If any area becomes a City Park, the developer shall warrant all new tree plantings located therein for a period of Two years from the date of the installation.

SECTION 3:

Development Standards

Section 3.1:

Height

A. No structure may be erected or changed so as to make its height greater than as stated below:

Maximum Structure Height:

> 35 feet for the Primary Structure and garage if detached,

> 18 feet for Accessory Structure.

B. The height measurement shall be from the ground level to the highest point of the roof of the structure with chimneys and mechanicals excluded from the measurement.

Section 3.2:

Accessory Structures

A. Accessory Structures must relate to the Primary Structure and its uses.

B. Accessory Structures may not encroach on any platted easement unless the owner of the easement gives written consent.

C. All Accessory Structure, except decks or covered porches attached to the Primary Structure, shall be located behind the Primary Structure, except in the case of corner Lots; in that instance, the Accessory Structures may be placed on the side of the Primary Structure.

D. Antennas or satellite dishes are only permitted to the rear of the Primary Structure.

E. No mobile home or manufactured home may be used as a Primary Structure or Accessory Structure within Ellingsworth Commons.

F. Accessory Structures are not permitted on a Residential Lot prior to any Primary Structure being constructed.

G. The following Accessory Structures are permitted, but must abide by all applicable City standards:

- antennas or satellite dishes
- bath houses or saunas
- decks, not attached to the Primary Structure
- garages, which are detached and only on Boulevard and Cottage Lots
- gazebos
- greenhouses, private
- hot tubs
- sport courts

- in ground swimming pools (swimming pools must abide by 675 IAC 20) – above ground pools excluded.

H. Accessory Structures are not deemed to include swing sets, doghouses, tree houses, playhouses, and other such incidentals.

I. No more than Four Accessory Structures are permitted on a Lot.

J. No Accessory Structure can exceed 500 square feet, except detached garages on Boulevard and Cottage Lots which shall not exceed 1,000 square feet.

K. The use of an Accessory Structures shall not create a nuisance.

L. Building materials used in the construction of bath houses, saunas, storage sheds and garages, must match the building materials used in the Primary Structure on the Lot.

M. Prior to the issuance of any permit for the construction of an Accessory Structure, the Lot owner must present to the City of Jeffersonville the written approval of the developer or an architectural control committee of the homeowner's association for Ellingsworth Commons.

Section 3.3:

Fences and Walls

A. No fence or wall of any nature may be extended toward the front or street side property lines beyond the rear or sidewall of the Primary Structure, except Boulevard Lots may have a decorative aluminum - wrought iron style - fence along their front property line separating the Lot from the trail along the parkland trail, not to exceed Three feet in height.

B. All fences shall properly maintained so as not to detract from any Primary Structure.

C. No wood fences are allowed to be constructed on any Residential Lot.

D. Chain link fences are allowed but must be black vinyl coated. Wrought iron style fences are allowed but must be black aluminum.

E. No privacy fences shall be allowed on any Residential Lot except on the rear property line of the following Lots as such Lots are identified on the preliminary plat: Lots Numbered: 4-6, 11, 12, 17, 23 - 41, 43 - 51, 201-212.

NOTE: Lot numbers will change on final plat of each section or phase of Ellingsworth Commons to meet City of Jeffersonville requirements such that the Lots will be renumbered starting at 101 in Section 1, starting at 201 in section 2, etc.

F. The location, height, type, material and style of all fences must be in keeping with the overall plan for the Ellingsworth Commons.

G. All fences placed on a Lot must present the non-structural face outward or away from the Primary Structure on such Lot.

H. Where fences are permitted to be placed on a Lot such fences may be placed up to the property line, except for fences on corner lots which may not extend beyond the sidewall of the Primary Structure.

I. No fence may be greater in height than Six feet on the side yard and rear yard or greater than Three feet in height in the front yard, where such fences are allowed in the front yard.

J. No fence shall incorporate security wire or include sharpened top spikes.

Section 3.4: Public Improvement

The developer of Ellingsworth Commons has made diligent effort to confirm with the appropriate City departments and utility providers that the public improvement in the development meet the standards of such department.

Section 3.5: Environmental

A. Ellingsworth Commons is planned so as to preserve certain landmarks through a harmonious and careful design and uses existing topography in order to minimize storm water runoff, and conserve the natural cover and soil.

B. If the natural cover over any portion of the land within Ellingsworth Commons is removed, unless construction is planned on a Residential Lot or the Clubhouse Lot or other recreational areas, such land shall be appropriately graded and seeded within Thirty days after the removal or destruction of said natural cover to prevent erosion.

C. During the development a portion of the land in Ellingsworth Commons may be used for agricultural purposes and normal farming activities may be conducted on such land.

D. Ellingsworth Commons contains no regulated drains.

Section 3.6: Floodplain

No portion of the Ellingsworth Commons residential area is currently in a designated floodplain.

Section 3.7:**Lighting**

The following lighting standards apply:

A. All lighting on a Primary or Accessory Structure must be shielded with opaque material to prevent direct lighting on streets, alleys, and adjacent properties.

B. Lighting for parking areas must all be consistent in color, size, height, and design. Further, all parking area lights must have cutoff luminaires with less than a Ninety-degree angle (down lighting) and may be no more than Twenty feet in height.

C. All freestanding lights and lights mounted on walls or facades must have cutoff luminaires with less than a Ninety-degree angle.

D. All lights on Primary or Accessory Structures within Ellingsworth Commons must be consistent in style, design, height, size and color.

E. The style, placement and spacing of street lights shall meet the requirements of City of Jeffersonville Ordinances 2006-OR-25 and 2011-OR-22, or amendments thereto which are in affect as of the time of the installation of the street lights.

Section 3.8:**Signs**

A. Permanent ground entrance signs at primary entrances which display the name Ellingsworth Commons must be wrapped in a contiguous boundary of plantings around their base. All plantings must be within Four feet of the sign base and should consist of shrubs, ornamental shrubs, ornamental plants, flowering plants or other ornamental ground covers.

B. No ground entrance sign at primary entrances shall exceed Eight feet in height and shall be no wider than is appropriate to include the name Ellingsworth Commons.

C. Permanent ground entrance signs at adjacent neighborhood entrances shall not exceed Six feet in height and shall be no wider than Three feet in width.

D. The building material used in the construction of all entrance sign shall be masonry or other long durable material.

E. After installation by the developer, the maintenance of all entrance signs shall be the responsibility of the homeowner's association of Ellingsworth Commons.

Section 3.9:**Parking**

Two off-street paved parking spaces are required per each Residential Lot. Neither of the off-street parking spaces required may include spaces within car ports or garages. Further, off-street parking spaces may not fully or partially be in a public right-of-way or utility easement. Each space must be at least Eight feet wide and Eighteen feet long.

Section 3.10:**Telecommunication Facilities**

No commercial telecommunication or other electronic transmission facility shall be allowed in Ellingsworth Commons.

Section 3.11:**Home Numbering and Mail Boxes**

All Primary Structures shall display a home number in an appropriately placed position and all Primary Structures having a mail box shall maintain it in the same state of repair as that of the Primary Structure and that it shall, if lettered, be lettered in a professional manner or have attached thereto, an appropriate name plate. All mail boxes shall be of the same style/type.

Section 3.12:**Landscaping**

Landscaping is an essential part of the design and development of a site. Landscape plantings are a benefit to the environment, public health, air quality, safety, comfort, convenience and general welfare of the community. These standards will result in the reduction of storm water runoff, glare, and heat buildup. They may reduce energy costs in structures and will improve the aesthetics of the community. The following general standards apply.

A. Minimum Plantings Required:

> Each Residential Lot of less than 10,000 square feet shall have a minimum of Three deciduous trees or Two deciduous and One Evergreen trees and a minimum of Six shrubs. All Six shrubs shall be planted along the front of the Primary Structure in an ornamental fashion. Additional shrubs are encouraged to be place around the other sides of the Primary Structures foundation.

> Any Residential Lot in excess of 10,000 square feet shall have a minimum of Four deciduous or Three deciduous and Two Evergreen trees and Six shrubs. A minimum of One tree shall be planted, in front of the Primary Structure on the Residential Lot after construction of Primary Structure. All Six shrubs shall be planted along the front of the Primary Structure in an ornamental fashion. Additional shrubs are encouraged to be place around the other sides of the Primary Structures foundation.

> The Clubhouse Lot shall have a minimum of Six deciduous or Four deciduous and Two Evergreen trees and Eight shrubs. A minimum of Two trees shall be planted, in front of the Clubhouse after construction.

> The interspersed Pocket Parks and recreational areas of less than 0.5 of an acre shall have a minimum of Four deciduous or Three deciduous and Two Evergreen trees and Six shrubs. An interspersed Pocket Park or recreational area of greater than 0.5 of an acre shall have, at a minimum, perimeter trees planted on Forty foot centers.

> The plantings made during development of Ellingsworth Commons along streets and boulevards may not be counted toward this minimum landscaping requirement for a Residential Lot.

> All public streets are required to have street trees. All trees planted along streets and boulevards shall be no more than 40 feet on center and, along the boulevard walkway, may be located on alternate sides of such walkway.

B. Deciduous trees planted on a Residential Lot shall have a minimum Two inch caliper at DBH, and all Evergreen trees planted on a Residential Lot shall be at least Six feet tall.

C. Trees, vegetation, irrigation systems, fences, walls and other landscape elements are considered elements of Ellingsworth Commons. All landscaping shall be maintained free from disease, pests, weeds and litter. All landscape structures, such as fences and walls, shall be repaired and replaced periodically to maintain a structurally and aesthetically sound condition.

D. Nothing in these standards shall preclude the use and enjoyment of a wildlife area that is certified by a state or nationally recognized organization. Plantings within a certified wildlife area may be counted toward the minimum landscaping requirements if they meet or exceed the above size requirements.

E. All foundation plantings must be within Ten feet of the Primary or Accessory Structure's foundation and should consist of shrubs, ornamental shrubs, ornamental plants, or flowering plants.

F. Any landscape element required hereby that dies, or is otherwise removed, must be replaced within Sixty days of death or removal.

I. Under no circumstances may the species identified below as Pest Plants or any artificial plant or any plant identified by the State of Indiana as noxious be installed and/or counted as part of the minimum plantings required.

Pest Plants Include:

Scientific Name	Common Name
Acer ginnala	Amur maple

Acer plantanoides	Norway maple
Ailanthus altissima	Tree-of-heaven
Albizia julibrissin	Mimosa
Euonymus alata	Winged wahoo-burning bush
Euonymus fortunei	Winter creeper
Ligustrum spp.	Privets
Ligustrum vulgare	Privet
Lonicera japonica	Japanese honeysuckle
Lythrum salicaria	Purple loosestrife
Pinus nigra	Austrian pine
Polygonum cuspidatum	Japanese knotweed
Pueraria lobata	Kudzu vine
Rhamnus cathartica	Common buckthorn
Rhamnus davurica	Dahurian buckthorn
Rhamnus frangula	Alder buckthorn
Pyrus calleryana	Callery Pear
Pyrus calleryana 'Bradford'	Bradford Pear

J. The use of species included on Plantings Table are encouraged. The Table is provided to allow for the selection of appropriate species for planting in a variety of conditions and is broadly inclusive to encourage increased genetic diversity in the subdivision's urban forest. To make tree selection easier on those who prefer a shorter list, the most commonly planted tree species are listed in enlarged and bold typeface.

IN WITNESS WHEREOF, Ellings Property Development, LLC, by its duly authorized representative has subscribed its name this 30 day of August, 2018.

Ellings Property Development, LLC

By:


Jeffery Corbett, sole member

STATE OF INDIANA COUNTY OF Floyd)

Before me, a Notary Public in and for said County and State, this 30 day of August, 2018, personally appeared Jeffery Corbett, sole member of Ellings Property Development, LLC, an Indiana limited liability company, Developer of Ellingsworth Commons Subdivision, who swore to the truth of the representations contained herein and who acknowledged the free and voluntary execution hereof on behalf of said entity.

PATRICK HARRISON FIFER
NOTARY PUBLIC

SEAL

FLOYD COUNTY, STATE OF INDIANA
COMMISSION EXPIRES AUGUST 28, 2021
COMMISSION NO. 647037

Patrick Harrison Fifer
Notary Public
Printed Name: Patrick Harrison Fifer
My Commission Expires: August 28, 2021
Resident of Floyd County, Indiana
Commission Number: 647037

Prepared by Culler Law Office, LLC, Ronald D. Culler, Attorney, 2123 Veterans Parkway, Jeffersonville, Indiana 47130, phone 812-284-2685.

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, William Fifer.
Person's name presenting for recording

August 28, 2018

Modification of building limit setback of the Cottage Lots in Ellingsworth Commons.

Upon review of the proposed building limit setback for the Cottage lots in Ellingsworth Commons Subdivision, it has been discovered that the building limits on lots 178 thru 168 on Lotus Loop were stated as 15 feet, when they should have been stated as 10 feet. This is the original intent as proposed by the Developer and agreed to by the City of Jeffersonville Planning Commission, on August 29, 2017.

To clarify this minor change, all current and future Cottage lots in Ellingsworth Commons, will have a uniform building limit set back of 10 feet. This will make the building limit setbacks consistent with the Boulevard lots, which was the original concept. This correction applies to the approved development plan, the recorded final Plat of Ellingsworth Commons Section 1-B, and the recorded development standards for Ellingsworth Commons, which are a part of the Restrictions and Protective Covenants, for Ellingsworth Commons Subdivision Section One.

This minor correction of the plat and the Development Standards are approved by the Developer, and the Jeffersonville Planning Department.

Ellings Development, LLC

Developer of Ellingsworth Commons

By Jeff Corbett, Managing Member

Jeff Corbett Date: 8/30/18

Jeffersonville Planning Department

Nathan Pruitt, Director

Nathan Pruitt Date 8/29/18

Ashley Woosley, Witness

Ashley Woosley Date 8/29/18