

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

19-W-SUBD-13 PRIMARY PLAT APPROVAL
Tim and Joelene Papenbrock
Papenbrock Farms, 9330 E. 700 North

NOVEMBER 20, 2019
AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning:	AG, Agricultural		<u>Code Minimum</u>	<u>Proposed Minimum</u>
Area of plat:	8.86 acres	Lot size:	1.837 acres	8.66 acres
Number of lots:	1 lot	Lot width:	225'	236.5'±
Dedicated ROW:	0.20 acre	Lot frontage:	50'	221.98'

The petitioner, owner of the subject property, is requesting primary plat approval for Papenbrock Farms, a proposed one-lot subdivision located on the south side of CR 700 North, approximately ½ mile east of CR 900 East in Smith Township. The site is currently improved with a single-family dwelling and a detached garage.

Proposed are one lot and dedicated right-of-way for the county road. A split is requested to remove the house area from the remainder of the tillable and wooded acreage; platting is then required due to previous splits from the parent tract. This is the first lot platted from this parcel since 2018, so no rezoning is required.

The proposed plat appears to comply with the development standards of the zoning code as shown in the above table.

Comment letters received (as of date of staff report)

Electric	X	Health	X	Cable TV	
Gas	X	Co. Highway	X	Sanitary Sewer	NA
Telephone	X	SWCD	X	Water	NA

A 40' wide right-of-way for the county road would be dedicated. 10' drainage and/or utility easements are shown on the western, southern, and southern half of the eastern boundaries of the lot. A 40' utility, drainage, ingress, and egress easement is shown on the northern half of the eastern boundary, which would access a future dwelling to the east. A 75' legal drain easement is shown in the southeastern corner of the lot. At the time of this writing, the comment letters received have stated that the proposed plat is generally adequate.

Noble County has jurisdiction over CR 700 North/CR 600 South. The Noble County Highway Department stated that they typically require a driveway permit for existing unpermitted drives prior to a petition being heard by the Noble County Plan Commission. However, they could waive this requirement since Whitley County does not have a similar requirement.

Additionally, the Noble County Highway Department typically requires a shared driveway agreement when a driveway is to be shared by two or more property owners, as is planned here. They indicated that this could also be waived since Whitley County does not have a similar requirement.

The Parcel Committee had no comments.

Separate restrictive covenants have not yet been submitted.

WAIVER REQUESTS

There are no waiver requests.

REVIEW CRITERIA

Subdivision primary plats are reviewed for compliance with the standards of Subdivision Control Ordinance and the Zoning Code. Staff finds that the proposed primary plat appears consistent with the standards, with the following condition(s):

1. Clearly define front yard setback on plat.
2. Secondary plat approval delegated to the Plan Commission Staff.

Date report completed: 11/8/19, MC; reviewed NB.

PLAN COMMISSION ACTION

Motion:

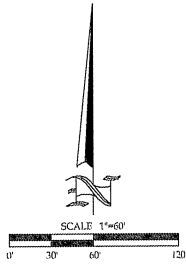
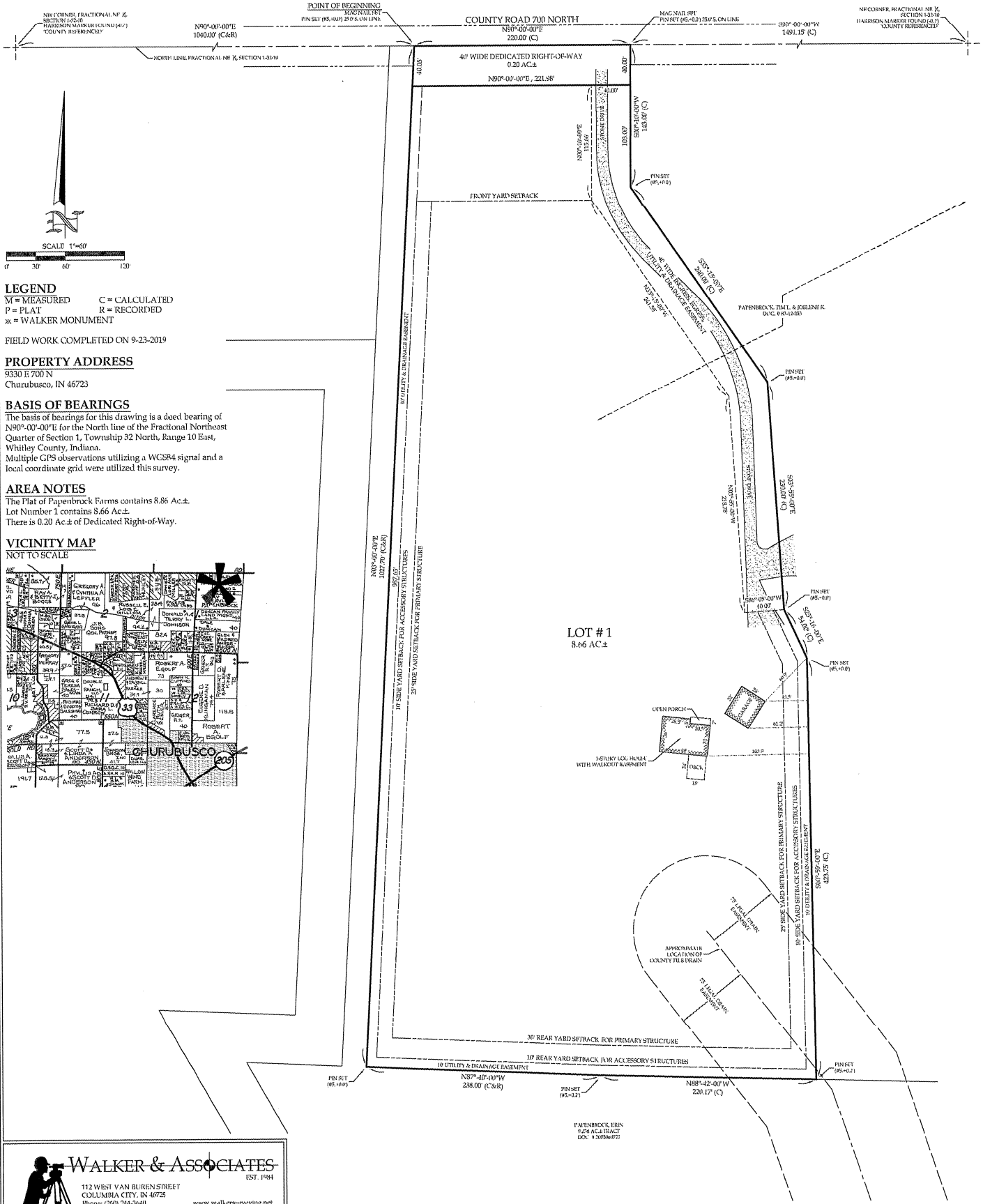
By:

Second by:

<i>Vote:</i>	Deckard	Hodges	Johnson	Mynhier	Western	J. Wolf	B. Wolfe	Woodmansee	Wright
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									

PAPENBROCK FARMS (PRELIMINARY)

SITUATED IN THE NORTHEAST FRACTIONAL QUARTER OF SECTION 1, TOWNSHIP 32 NORTH, RANGE 10 EAST, WHITLEY COUNTY, INDIANA



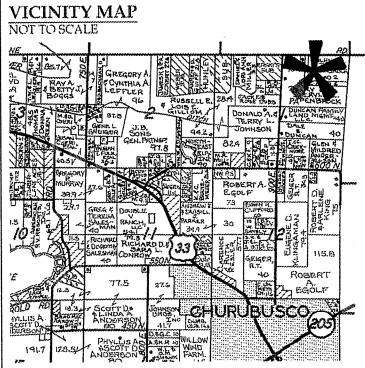
LEGEND
 M = MEASURED C = CALCULATED
 P = PLAT R = RECORDED
 * = WALKER MONUMENT

FIELD WORK COMPLETED ON 9-23-2019

PROPERTY ADDRESS
 9330 E 700 N
 Churubusco, IN 46723

BASIS OF BEARINGS
 The basis of bearings for this drawing is a deed bearing of N90°-00'-00\"/>

AREA NOTES
 The Plat of Papenbrock Farms contains 8.86 Ac±.
 Lot Number 1 contains 8.66 Ac±.
 There is 0.20 Ac± of Dedicated Right-of-Way.



WALKER & ASSOCIATES
 EST. 1984
 112 WEST VAN BUREN STREET
 COLUMBIA CITY, IN 46725
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LAND SURVEYING, CIVIL ENGINEERING,
 & LAND PLANNING

PAPENBROCK FARMS (PRELIMINARY)

SITUATED IN THE NORTHEAST FRACTIONAL QUARTER OF SECTION 1, TOWNSHIP 32 NORTH, RANGE 10 EAST, WHITLEY COUNTY, INDIANA

DESCRIPTION

(Part of Document Number 83-12-253)

Part of the Fractional Northeast Quarter of Section 1, Township 32 North, Range 10 East, Whitley County, Indiana (This description prepared by Kevin R. Michel, L50097006, as part of original Plat of Papenbrock Farms completed by J.K. Walker and Associates, P.C., dated October 8, 2019), being more particularly described as follows, to wit:

Commencing at a Harrison marker found at the Northwest corner of said Fractional Northeast Quarter; thence N90°-00'-00"E (deed bearing and used as the basis of bearings for this description), on and along the North line of said Fractional Northeast Quarter, a distance of 1040.00 feet to a Mag nail at a Northeast corner of a certain 9.238 acre tract of land as recorded in Document Number 2003060721 in the records of Whitley County, Indiana, said Mag nail also being at the POINT OF BEGINNING; thence continuing N90°-00'-00"E, on and along said North line, being within the right-of-way of County Road 700N, a distance of 220.00 feet to a Mag nail; thence S00°-10'-00"W, a distance of 143.00 feet to a 5/8-inch iron pin capped "Walker"; thence S35°-15'-00"E, a distance of 240.00 feet to a 5/8-inch iron pin capped "Walker"; thence S03°-55'-00"E, a distance of 230.00 feet to a 5/8-inch iron pin capped "Walker"; thence S25°-16'-00"E, a distance of 54.00 feet to a 5/8-inch iron pin capped "Walker"; thence S00°-59'-00"E, a distance of 423.75 feet to a 5/8-inch iron pin capped "Walker" on a North line of said 9.238 acre tract of land; thence N88°-42'-00"W, on and along said North line, a distance of 230.17 feet to a 5/8-inch iron pin capped "Walker" at a North corner of said 9.238 acre tract of land; thence N87°-40'-00"W, on and along a North line of said 9.238 acre tract of land, a distance of 238.00 feet to a 5/8-inch iron pin capped "Walker" at a Northeast corner of said 9.238 acre tract of land; thence N03°-40'-00"E, on and along an East line of said 9.238 acre tract of land, a distance of 1027.70 feet to the point of beginning, containing 8.86 acres of land, more or less, subject to legal right-of-way for County Road 700N, subject to all legal drain easements and all other easements of record.

SUBJECT TO an easement for ingress, egress, utility and drainage purposes, said easement being part of the Fractional Northeast Quarter of Section 1, Township 32 North, Range 10 East, Whitley County, Indiana, said easement being more particularly described as follows, to wit:

Commencing at a Harrison marker found at the Northwest corner of said Fractional Northeast Quarter; thence N90°-00'-00"E (deed bearing and used as the basis of bearings for this description), on and along the North line of said Fractional Northeast Quarter, a distance of 1040.00 feet to a Mag nail at a Northeast corner of a certain 9.238 acre tract of land as recorded in Document Number 2003060721 in the records of Whitley County, Indiana; thence continuing N90°-00'-00"E, on and along said North line, a distance of 220.00 feet to a Mag nail; thence S00°-10'-00"W, a distance of 143.00 feet to the POINT OF BEGINNING of said easement; thence continuing S00°-01'-00"W, a distance of 103.00 feet to a 5/8-inch iron pin capped "Walker"; thence S35°-15'-00"E, a distance of 240.00 feet to a 5/8-inch iron pin capped "Walker"; thence S03°-55'-00"E, a distance of 230.00 feet to a 5/8-inch iron pin capped "Walker"; thence S86°-05'-00"W, a distance of 40.00 feet; thence N03°-55'-00"W, a distance of 218.78 feet; thence N35°-15'-00"W, a distance of 241.55 feet; thence N00°-10'-00"E, a distance of 115.66 feet; thence N90°-00'-00"E, a distance of 40.00 feet to the point of beginning, subject to all legal right-of-way, subject to all legal drain easements and all other easements of record.

FLOOD HAZARD STATEMENT

The accuracy of any flood hazard data shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced Flood Insurance Rate Map. The surveyed tract appears to be situated in Zone "X", which is not in a flood plain, as said land plots by scale on Map Number IS183C0100C of the Flood Insurance Rate Maps for Whitley County, Indiana, dated May 4, 2015.

THEORY OF LOCATION

This is an original boundary survey of part of the Fractional Northeast Quarter of Section 1, Township 32 North, Range 10 East, Whitley County, Indiana, located at 9350E 700N, Churubusco, Indiana. The surveyed tract is part of a larger tract of land as recorded in Document Number 83-12-253 in the records of Whitley County, Indiana. The surveyed tract was created as directed by a representative of the owner.

Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.

The Northwest corner of said Fractional Northeast Quarter is county referenced. A Harrison marker was found at this corner and was held this survey.

The Northeast corner of said Fractional Northeast Quarter is county referenced. A Harrison marker was found at this corner and was held this survey.

The Northwest corner of the surveyed tract was established on the North line of said Fractional Northeast Quarter, a deeded distance of 1040.00 feet East of the Northwest corner of said Fractional Northeast Quarter. A Mag nail was set at this corner.

The Southwest corner and a South corner of the surveyed tract were established using recorded distances and bearings. A 5/8-inch iron pin capped "Walker" was set at each of these corners.

The Northeast corner of the surveyed tract was established on the North line of said Fractional Northeast Quarter as directed by a representative of the owner. A 5/8-inch iron pin capped "Walker" was set at this corner.

The Southeast corner of the surveyed tract was established on a North line of a certain 9.238 acre tract of land as recorded in Document Number 2003060721 in the records of Whitley County, Indiana, as directed by a representative of the owner. A 5/8-inch iron pin capped "Walker" was set at this corner.

The other Four (4) corners of the surveyed tract were established as directed by a representative of the owner. A 5/8-inch iron pin capped "Walker" was set at each of these corners.

See survey for other monuments found near the surveyed tract.

See survey for monuments found that are referenced.

SURVEYOR'S REPORT

In accordance with the Title 865 IAC 1-12 "Rule 12" of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various uncertainties of the location of the lines and corners established on this survey as a result of:

(A) Availability and condition of referenced monuments.

See comments above concerning monuments set or found and held this survey. The monuments found are in good condition unless otherwise noted. Certain monuments are referenced as shown.

(B) Occupation or possession lines.

Stone drive exists as shown on this survey.

(C) Clarity or ambiguity of the record description used and of adjoining descriptions and the relationship of the lines of the subject tract with adjoining lines.

None

(D) The relative positional accuracy of the measurements.

The Relative Positional Accuracy (due to random errors in measurements) of the corners of the subject tract established by this survey is within the specifications for Suburban surveys: 0.13 feet (40 millimeters) plus 100 parts per million as defined by IAC 865.

NOTES

- This survey is subject to any facts and /or easement that may be disclosed by a full and accurate title search. The undersigned should be notified of any additions or revision that are required. The undersigned was not provided with a current title commitment for use on this survey.
- For monuments found and set, see survey. All pins set are #5 Rebars with caps marked "Walker".
- Origin of monuments unknown unless noted on survey.
- Measurements of this survey are based on aforesaid G.P.S. and/or E.T.S. traverse measurements.
- Ownership research of the subject tract, and adjoining tracts, was obtained from current tax records on file in the Offices of the county Auditor and Recorder.
- The Whitley County Surveyor's Legal Drain Map shows a legal tile drain in the Southeast part of the surveyed tract. Per Indiana Code 36-9-27 legal tile drains have 75-foot wide drainage easements on each side of the tile. The approximate location of the legal tile drain is as shown on this survey. Prior to any construction of a permanent structure near the legal drain easement, the location of the centerline of the tile should be verified by the Whitley County Surveyor.
- Reference survey(s) by J.K. Walker & Associates, P.C., dated 08-31-87, 10-23-88, 10-24-88, 04-17-03, 03-19-15.

WETLAND NOTE

According to the National Wetlands Inventory, wetlands exist on portions of Lots within this Addition. The wetlands are under the jurisdiction of the U.S. Army Corps of Engineers. Any modifications (filling, draining, clearing, etc.) to said wetlands must be approved prior to construction by said Corps of Engineers.

PLAN COMMISSION CERTIFICATION OF APPROVAL

Primary approval granted on this _____ day of _____, 20____ by the Whitley County Advisory Plan Commission.

Douglas Wright, Plan Commission President

John Johnson, Plan Commission Secretary

COUNTY COMMISSIONERS CERTIFICATION OF APPROVAL AND ACCEPTANCE

Approved and accepted this _____ day of _____, 20____ by the Board of Commissioners of the County of Whitley, State of Indiana.

George Schrupf

Don Amber

Thomas Western

PLAN COMMISSION STAFF CERTIFICATION OF APPROVAL

Secondary approval granted this _____ day of _____, 20____ by the Staff of the Whitley County Advisory Plan Commission.

Nathan Bilger, Executive Director

REDACTION STATEMENT

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. - Kevin Michel

SURVEYOR'S CERTIFICATION

I, the undersigned Registered Land Surveyor licensed in compliance with the laws of the state of Indiana, hereby certify the herein Plat to correctly represent a Survey of the real estate described above as made under my direction, that all the monuments shown thereon actually exist, that lots and streets shown in the Plat have been established in accordance with true and established boundaries of said Survey, and that this Survey and accompanying report has been completed in accordance with Title 865-IAC 1-12 and all other amendments thereto.

I hereby certify that to the best of my knowledge the above Plat and Survey are correct.

Prepared by:

Kevin R. Michel, Professional Surveyor



DEED OF DEDICATION

We the undersigned, Tim L. Papenbrock and Joelene K. Papenbrock, owners of the real estate shown and described herein by virtue of a certain deed recorded as Document Number 83-12-253, do hereby certify that we have laid off, platted and subdivided, and hereby lay off, plat and subdivide, said real estate in accordance with this Plat.

This subdivision shall be known and designated as P APENBROCK FARMS, a subdivision in Whitley County, Indiana. All rights-of-way of public roads, streets, and alleys shown and not heretofore dedicated, are hereby dedicated to the public. Front yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure, except as in conformance with the requirements of the Whitley County Zoning Ordinance.

A perpetual easement is hereby granted to any private or public utility or municipal department, their successors and assigns, within the area shown on the plat and marked "Utility Easement," to install, lay, construct, renew, operate, maintain and remove conduits, cables, pipes, poles and wires, overhead and underground, with all necessary braces, guys, anchors and other equipment for the purpose of serving the subdivision or adjoining property with telecommunication, electric, gas, sewer, and water service as a part of the respective utility systems, and the right is hereby granted to enter upon the lots at all times for all of the purposes aforesaid.

The owners of land over which a Regulated Drain Easement right-of-way runs may use the land in any manner consistent with Indiana Code 36-9-27 and the proper operation of the drain. Permanent structures may not be placed on any right-of-way without the written consent of the Whitley County Drainage Board. Temporary structures may be placed upon or over the right-of-way without the written consent of the Board, but shall be removed immediately by the owner when so ordered by the Board or by the County Surveyor. Crops grown on a right-of-way are at the risk of the owner, and, if necessary, in the reconstruction or maintenance of the drain, may be damaged without liability on the part of the surveyor, the Board, or their representatives. Trees, shrubs, and woody vegetation may not be planted in the right-of-way without the written consent of the Board, and trees and shrubs may be removed by the surveyor if necessary, to ensure the proper operation or maintenance of the drain.

Areas designated on the plat as "Drainage Easement" are hereby reserved to the County, or subsequent governmental authority, for the purpose of constructing, maintaining, operating, removing, and replacing stormwater drainage facilities, be it surface or subsurface, in accordance with plans and specifications approved by the Whitley County Engineer, or comparable agent of a subsequent governmental authority. No plantings, structures, fill, or other materials shall be placed in the Drainage Easements so as to impede the flow of storm water. Drainage Easements shall not be disturbed in a manner as to interfere with the flow of storm water and all grades shall be maintained as constructed. Responsibility for the maintenance of Drainage Easement stormwater facilities, including but not limited to periodic removal and disposal of accumulated particulate material and debris and mowing of common stormwater detention areas, shall remain with the owner or owners of property within the plat, and such responsibility shall pass to any successive owner.

The removal of any obstructions located in any Utility Easement or Drainage Easement by an authorized person or persons performing maintenance or other work authorized herein shall in no way obligate the person in damages or to restore the obstruction to its original form.

No owner of any Lot or any other parcel within this Plat shall at any time remonstrate against or attempt to cause the cessation of any farming operation, whether now existing or existing in the near future which interferes with the residential use of the Lot or tract owned by the person or the tract owned by the person or persons remonstrating. Any person accepting title to a Lot or tract within this Plat, acknowledges that general agricultural areas exist adjacent to or near this Plat, and that activities on such agricultural areas may result in normal farm interference such as noise, odor, dust, agricultural implement traffic, unusual hours, and other normal agricultural uses.

In addition to the Lots, Rights-of-way, Easements, and Building Lines dedicated on the face of this plat, the property is also subject to additional "Protective Covenants and Restrictions" recorded together with this Plat.

The foregoing covenants, or restrictions, are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2044, at which time said covenants, or restrictions, shall be automatically renewed for successive periods of ten years unless amended through the Plan Commission. Invalidation of any one of the foregoing covenants, or restrictions, by judgment or court order shall in no way affect any of the other covenants or restrictions, which shall remain in full force and effect.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby dedicated to the public, and reserved to the owners of the lots in this subdivision and to their heirs and assigns.

Witness our hands and seals this _____ day of _____, 20____.

Tim L. Papenbrock

Joelene K. Papenbrock

State of Indiana)

County of Whitley)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Tim L. Papenbrock and Joelene K. Papenbrock, and each separately and severally acknowledge the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed. Witness my hand and notarial seal this _____ day of _____, 20____.

Notary Public

My Commission Expires

WALKER & ASSOCIATES
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Philip Lemper, Jr.

Philip Lemper, Jr.
& Tara Stoner-Lemper

Philip Lemper, Jr.

Edwin &
Angela Glick

Melissa Maldeney &
Angela Mynhier (ten in common)
Life Estate Kevin & Diane McCoy

Christopher Crance

Papenbrock,
Terry L &
Sheryll L

Bohde,
Michael L
& Ashley N

9180 9198 9330 E1700 N

Papenbrock,
Tim L &
Joelene K

Maloney Homestead, LLC

Papenbrock,
Erin

Papenbrock,
Dustin J
& Lindy S

6784

Leroy & Janette Mathewson

