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Will County Recorder Page 1 of 49

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF:**

**WHISPER CREEK NORTH SINGLE FAMILY RESIDENCES**

**SINGLE FAMILY RESIDENCES LOTS 1-70**

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DATE OF CURRENT COVENANTS: December 28, 2007

Fullin DT 11205711 / 48226022

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**WHISPER CREEK NORTH SINGLE FAMILY  
RESIDENCES DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

DECLARATION made on the date hereafter set forth by First Midwest Bank, not personally, but as Trustee under Trust Agreement dated March 11, 1985 and known as Trust No. 2658

WHEREAS, First Midwest Bank, not personally, but as Trustee under Trust Agreement dated March 11, 1985 and known as Trust No. 2658, (Title Holder of Lots 1-29, 32-46 and 58-70) (hereafter Declarant), and Wayne Hummer Trust Company, not personally, but as Trustee under Trust Agreement Dated May 26, 2005, and known as Trust Number HBT-2060, (Title Holder of Lots 30, 31 and 47-57) (hereafter Hummer Trust) are title holders, of that certain real property in Mokena, Will County, Illinois, more particularly described on Exhibit "A" attached hereto and made a part hereof ("Subject Property"); and

WHEREAS, McNaughton Development, Inc. (hereafter McNaughton) is the beneficiary with 100% interest of the trust known as First Midwest Bank, not personally, but as Trustee under Trust Agreement dated March 11, 1985 and known as Trust No. 2658 and Hartz Construction Co., Inc. (hereafter Hartz) is the beneficiary with 100% interest of the trust known as Wayne Hummer Trust Company, not personally, but as Trustee under Trust Agreement Dated May 26, 2005, and known as Trust Number HBT-2060; and

WHEREAS, these covenants, conditions and restrictions affect Whisper Creek Single Family Lots 1-70 also set forth on the "Plat" attached as Exhibit "B" hereto and made a part hereof; and

WHEREAS, the subject property consists of single family residential lots 1-70 as set forth on Exhibit "B" to be conveyed to individuals some of whom will be purchasing residential units constructed thereon,

WHEREAS, Developer (hereinafter defined) intends to convey Common Areas (hereinafter defined) to the Village (hereinafter defined) as required in the Annexation Agreement; and

WHEREAS, Declarant intends to subject the Subject Property to certain covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which are for the benefit of the Association; and

WHEREAS, Declarant deems it desirable for the efficient preservation of the values and amenities of the subject development to create the Association to administer

and enforce the covenants, conditions and restrictions; and to collect and disburse the assessments and charges hereinafter created.

NOW THEREFORE, Declarant hereby declares that the Property (hereinafter defined) shall be held, sold and conveyed subject to the following covenants, conditions, restrictions, easements, charges and liens which are to protect the value and desirability of Lots 1-70 in the Whisper Creek Subdivision and which shall run with the Property submitted thereto and be binding on and insure to the benefit of all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns.

#### ARTICLE 1—Definitions

Article 1. Section 1: "Association" shall mean and refer to Whisper Creek North Single Family Homeowners Association, its successors and assigns, a corporation to be formed under the General Not-For-Profit Corporation Act of Illinois. Members shall be Owners, McNaughton and Hartz as hereinafter defined.

Article 1. Section 2: "Builder" shall mean a purchaser of a lot and its successors and assigns, whose intention is to construct a single family dwelling for resale and not his own occupancy.

Article 1. Section 3: "Committee" shall mean and refer to The Architectural Review Committee (ARC).

Article 1. Section 4: "Common Areas (Lots 135-137)" shall mean all real property and improvements whether now constructed, or to be constructed, thereon including entrance medians and all monuments, all water retention and water detention facilities and other improvements as described on the approved final plat of subdivision as recorded on the final plat of subdivision for Whisper Creek in the County of Will as document number R2006106466 on the 28<sup>th</sup> day of June, 2006, legal title to which is owned by the Developer and will ultimately be owned by the Village and intended for the use and benefit of all Owners.

Article 1. Section 5: "Declarant" shall mean and refer to First Midwest Bank, not personally, but as Trustee under Trust Agreement dated March 11, 1985 and known as Trust No. 2658, its successors and assigns who consent in writing to assume the duties and obligations connected therewith.

Article 1. Section 6. "Hummer Trust" shall mean and refer to Wayne Hummer Trust Company, not personally, but as Trustee under Trust Agreement Dated May 26, 2005, and known as Trust Number HBT-2060, its successors and assigns who consent in writing to assume the duties and obligations connected therewith.

Article 1. Section 7: "Declaration" shall mean this instrument together with the exhibits attached and made a part hereof and shall include such amendments, if any, to this instrument as may from time to time be adopted pursuant to the terms hereof. This Declaration may be referred to in any other document as Whisper Creek North Single Family Residences Lots 1-70 Declaration of Covenants, Conditions and Restrictions.

Article 1. Section 8: "Developer": shall mean Regan Road Farm 1 Development, LLC, an Illinois Limited Liability Corporation, its successors and assigns.

Article 1. Section 9: "Lot" shall mean and refer to a portion of the Subject Property shown on the Plat that is improved or intended to be improved with one single-family residence. The "Lots" are those portions of the Subject Property that are designated on the Plat as Lots 1 through and including 70.

Article 1. Section 10: "Owner" shall mean and refer to the recorded owner after transfer from either McNaughton or Hartz, whether one or more persons or entities, of fee simple title to any residential lot which is a part of the Property. For purposes of this Section, holders of beneficial interest under land trust holding title to any residential lot which is a part of the Property shall be considered Owner.

Article 1. Section 11: "Subject Property" shall mean and refer to the subject property as more fully described in Exhibit "A".

Article 1. Section 12: "Village" shall mean the Village of Mokena.

Article 1. Section 13: "Plat" The Plat of Subdivision for Whisper Creek Subdivision recorded in Will County, Illinois, on June 28, 2006, as Document number R2006106466.

Article 1. Section 14: "Hartz" shall mean and refer to Hartz Construction Co., Inc., an Illinois Corporation, its successors and assigns.

Article 1. Section 15: "McNaughton" shall mean and refer to McNaughton Development, Inc., an Illinois Corporation, its successors and assigns.

## ARTICLE 2—Servitude for Owners

Article 2. Section 1: "Utility Easement" The Lots are subject to utility easements for sanitary sewer, storm sewer, water, gas, electricity, telephone and any other necessary utilities. Said easements shall be (or may have been) created by and described on the plat of subdivision affecting the property.

Article 2. Section 2: "Title to Outlots: Retention and Detention (Lots 135-137)" Upon acceptance of the public improvements by the Village of Mokena, or upon any other agreed to date between the Developer and Village, the Developer will convey to the Village fee simple title to the Common Areas and facilities located thereon. The Owners

within the Whisper Creek North Single Family Residence Homeowners Association shall pay all costs relative to the maintenance and repair of the Common Areas within the Whisper Creek Subdivision which are north of the middle of the bridge.

Article 2. Section 3: "Servitude for Association" There is hereby reserved a general right and servitude for the benefit of the Association, its directors, officer, agents and employees, including but not limited to any manager employed by the Association and any employees of such manager, to enter upon any Lot in the performance of their respective duties. Except in the event of emergencies, this servitude is to be exercised whenever practicable only upon advance notice to the Owner of the Lot directly affected thereby or a member of the Association Board of Directors.

Article 2. Section 4: "Servitude for Declarant and Developer" During the period that McNaughton or Hartz owns any Lot or dwelling McNaughton, Hartz and Developer shall have an alienable and transferable real right and servitude on, over, through, under and across the Lots for installing, maintaining, repairing and replacing any improvements to the Property or as are contemplated by this Declaration.

Article 2. Section 5: "Sales and Construction Offices" Notwithstanding any provisions or restrictions herein to the contrary, there is hereby reserved for the benefit of McNaughton, and Hartz, as to its 13 lots, and their successors and assigns the alienable and transferable right and servitude in and to the Property for the operation and/or maintenance of signs, sales offices, construction offices, business offices and model dwellings, together with such other facilities as in the sole opinion of McNaughton may be required, convenient, or incidental to the completion, improvement and/or sale of Lots for so long as McNaughton owns any Lot primarily for the purpose of sale or owns any part of the property.

Article 2. Section 6: "Maintenance Servitude" There is hereby reserved for the benefit of McNaughton, the Association, and their respective agents, employees, successors and assigns an alienable, transferable and perpetual right and servitude to enter upon any Lot for the purpose of removing, cutting or pruning underbrush, weeds, stumps or other unsightly growth, mowing of grass and removing trash and debris, so as to maintain a reasonable standard of health, fire safety and appearance within the Property, provided that such servitude is not in violation of any Codes or Ordinances, does not violate terms stated in the Declaration of Covenants, Conditions and Restrictions with regard to such servitude conducted upon any easement and does not impose any duty or obligation upon McNaughton or the Association to perform any such actions.

Article 2. Section 7: "Insurance and Restoration"

- (A) Insurance. Prior to the commencement of any work permitted pursuant to this Article 2, the party performing such work shall provide to the Owner or Owners of the Property, or any portion thereof on which such work is to be performed, reasonable evidence of workers compensation and general liability insurance insuring such Owner or Owners and any of its



*mortgages against claims for death, personal injury and property damage in reasonable coverage and amounts.*

- (B). *Restoration. In the event any party performs any work pursuant to the rights granted under this Article 2, said party shall upon completion thereof restore the Property or any portion thereof upon which such work was performed on a Lot to its condition prior to the commencement of such work. All parties performing such work shall do so in a manner which is least disruptive to the Owners of the Property or portions thereof upon which such work is being performed.*

### ARTICLE 3—Membership and Voting Rights

Article 3. Section 1: “Membership” Every Owner of any Lot in whole or in part, shall automatically be a member of the Association and shall remain one so long as they remain an Owner of Lots or subject hereto. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Upon termination of an Owner’s interest in the Subject Property, such membership shall thereupon automatically terminate and transfer and inure to the new Owner succeeding in interest.

Article 3. Section 2: “Classes of Voting Membership” The Association shall have two classes of voting membership.

- (A) Class A. Class A members shall be Hartz and all Owners except McNaughton and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members.

The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot. Provided, however, until such time as the Class B membership terminates, the Class B member shall have the sole vote, provided the Class B members cannot materially alter the rights and obligations of the Class A members to their detriment. After the Class B membership terminates, a majority of the Class A vote will be required on all matters covered in this Declaration.

- (B) Class B. The Class B member shall be McNaughton and shall have the sole vote, provided the Class B member cannot materially alter the rights and obligations of the Owners to their substantial detriment. McNaughton shall be entitled to one vote per Lot owned by McNaughton and retain the same rights as a Class A member upon the termination of the Class B membership. The Class B membership will be considered terminated upon the

happening of any of the following events, whichever occurs earliest:

- (1) Ten (10) years after the date the first Lot is conveyed by McNaughton to another Owner; or
- (2) Upon the date of written notice by McNaughton to the Association, electing to terminate the Class B membership

McNaughton shall control the architectural committee (See Article 5 below) until the termination of the Class B membership as stated above.

#### ARTICLE 4—Covenants for Property Assessments

Article 4. Section 1: "Creation of Liens and Personal Obligation for Assessments" Each Class A member (except as otherwise specifically provided by the provisions of Article 4, Section 7 hereof), by acceptance of a deed therefore or otherwise, whether or not it shall be so expressed in such deed or other conveyance, hereby covenants and agrees and shall be deemed to covenant and agree to pay to the Association for each Lot owned (or to a management company or other collection agency designated by the Association): (1) assessments or charges to be paid on the first day of January each year (hereinafter called "Operating Assessment") or in such other installments as the Board of Directors of the Association (hereinafter referred to as "Board"), shall elect and (2) assessments to be paid once at closing and from time to time thereafter as may be determined appropriated by the Association (hereinafter called "Special Assessments"). Special Assessments shall be established and collected by the Association. The Operating and Special Assessments shall be established and collected by the Association.

The Operating and Special Assessments, together with such interest thereon and costs of collection thereof, including, but not limited to reasonable attorneys' fees, as hereinafter provided, shall also be the continuing personal obligation of the person who was the Owner of such Lot at the time when the said Assessment fell due.

#### Article 4. Section 2: "Purpose of Assessments"

- (A) Owners' Operating Assessments. The Operating Assessment represents each Owner's proportionate share of the expenses of maintenance, repair, replacement, administration and operation of the Common Areas. This includes but is not limited to maintenance and repair to all common areas and all related structures and facilities until they are deeded to the Village including, but not limited to, electricity costs, upkeep and replacement of Common Area landscaping; electricity costs for site lighting, taxes, insurance, and management fees. Said expenses

shall be known as "Operating Expenses". Operating Assessments will be levied by the Association and used exclusively to promote the health, safety and welfare of the Owners and for the purposes of the Association as provided by this Declaration. To the extent, if at all, that any Operating Assessments for any fiscal year are not expended by the Association, any such savings shall be applied by the Association in reduction of its budget and the annual assessments to the Owners for the following year.

- (B) Reserve Fund. All Owners shall at the time of closing be assessed for six (6) months of Assessments which sum shall be set aside in the Reserve Fund. Said Reserve Fund shall be drawn on by the Association in the event there is a shortcoming of Operating Assessments to reasonable cover the Operating Expenses or there is a need to finance any unexpected expenses not covered by the Operating Assessments. If such Reserve Fund is depleted or, in the opinion of the Board, significantly reduced, then any supplemental budget, or the next Operating Assessment requirements, shall provide for re-establishment of such Reserve Fund as the Board shall deem reasonably appropriate. Any such assessment for the Reserve Fund shall be levied equally per Lot against each Owner. Any interest of any Owner in and to such Reserve Fund shall automatically transfer and inure to such Owner's successor in interest.
- (C) Owners' Special Assessments. Special Assessments shall be collected from all Owners from time to time as the Association may find necessary. The Special Assessment as levied by the Association is only for the purpose of defraying, in whole or in part, any unexpected expenses not covered by the Operating Assessments in that given year.

Special Assessments in excess of a total of One Thousand Dollars (\$1,000.00) per lot, annually in any assessment year shall require the consent of two-thirds (2/3) of the vote of each class of members who are voting in person or by proxy at a meeting duly called for such purpose. Failure of an owner to vote shall not constitute consent to such increase. The Owner as of the date of any levy of a Special Assessment shall be personally liable for such Assessment.

Article 4. Section 3: "Computation of Assessments" Payments of assessments shall be in such amounts and at such times as provided below:

- (A) The Operating Assessment shall be \$250.00 per annum per Lot, unless otherwise stated herein.

- (B) On or before each November 1<sup>st</sup>, the Board shall estimate that total amount necessary to pay the cost of taxes, wages, materials, insurance, services and supplies for maintenance and operation and such other items as provided for herein and in the Bylaws of the Association which will be required during the ensuing calendar year for the rendering of all services, together with a reasonable amount necessary for Reserve Fund for contingencies and replacements, and shall on or before December 1<sup>st</sup> of each year notify each Owner in writing as to the amount of such estimate with reasonable itemization thereof. McNaughton shall have the right to reasonably increase the Operating Assessments as may be necessary to properly finance the Operating Expense, as long as said increase is for the benefit of the Owners and the promotion of the health, safety and welfare of the Owners.

All obligation of the Owners hereunder, including but not limited to the Operating Assessment, Special Assessments or other levies by the Association pursuant to this Declaration or the Bylaws of the Association shall be determined according to the calculations shown as follows: The percentage of the total annual assessment levied by the Association which is payable by each Owner shall be divided by the 70 lots which comprise this Association. If said estimated cash requirement proves inadequate, for any reason, to defray the Operating Expenses during any given year, then the Board of Directors shall be authorized to adopt a supplemental budget or budgets and shall adjust the assessment accordingly.

The Board of Directors shall serve notice of such further or adjusted assessments on all Owners by a statement in writing, giving the amount and reasons therefore, and such further or adjusted assessment shall become effective with the next maintenance payment. Any increase in the Operating Assessment in excess of seven (7) percent of the approved assessments must be approved by two-thirds (2/3) of each class of members voting in person or by proxy at a meeting duly called for such purposes.

- (C) With regard to any Lot owned by McNaughton or Hartz and Lots upon which homes are being constructed or have been completed and title has not been conveyed by McNaughton or Hartz, no Operating Assessments, Reserve Fund Fee or Special Assessment shall be required or collected. However, in the event McNaughton or Hartz enters into a lease or installment contract for any Lot, then McNaughton or Hartz shall be responsible for the payment of the Operating Assessment on those Lots on the same basis as any other Owner as provided in this Article 4.
- (D) The failure or delay of the Board to prepare or serve the annual or adjusted estimate or the itemized accounting or other document on the Owner shall

not constitute a waiver or release in any manner of such Owner's obligation to pay the maintenance cost, necessary reserves or adjusted assessments as herein provided whenever the same shall be determined, and in the absence of any annual estimate of adjusted estimate, the Owner shall continue to pay the maintenance charge at the then existing biannual rate established for the previous period until notice of the next maintenance payment which is due more than thirty (30) days after such annual or adjusted estimate shall have been mailed or delivered.

- (E) The Board shall keep full and correct books of account in chronological order of the receipts and expenditures affecting the Property, specifying and itemizing the maintenance and repair expenses of the Property and any other expenses incurred. Such records shall be available for inspection by any Owner or first mortgagee of record, at such reasonable time or times during normal business hours as may be requested by the Owner or mortgagee.
- (F) No Owner may waive or otherwise escape liability for the Operating or Special Assessments provided for herein.

Article 4. Section 4: "Date of Commencement of Annual Assessments" ("Due Dates")  
Operating Assessments provided for herein shall commence for all Lots on the first day of the month following the conveyance to a third party from McNaughton or Hartz. The first annual assessment of Two Hundred Fifty and 00/100ths (\$250.00) Dollars per Lot shall be adjusted according to the number of months remaining in the calendar year after the date of conveyance.

Except otherwise provided in this document, an Owner on the first day of January shall be personally liable for the annual Operating Assessment (hereinafter referred to as Due Date). The Association shall, upon demand at any time, furnish a certificate in writing signed by an Officer of the Association setting forth whether the Operating and Special Assessments on a specified Lot have been paid. A reasonable charge may be made by the Board of Directors for the issuance of these certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Article 4. Section 5: "Effect of Nonpayment of Assessments-Remedies of the Association" Any Assessments which are not paid by Owner when due shall be delinquent. If the Assessment is not paid within thirty (30) days after the Due Date, a late charge of 50% of the monthly assessment per month will be collected for each month following the Due Date in which the Operating Assessments go unpaid, and the Association may proceed in equity to foreclose the assessment lien (which foreclosure shall follow mortgage proceedings then in force and effect and selected by the Association) and/or bring an action at law against the Owners of the Lot and interest costs and reasonable attorney's fee for any such action(s) shall be added to the amount of such Operating Assessment and judgment.

Article 4. Section 6: "Subordination of the Lien to First Mortgage" The Lien of any Assessment provided for herein shall be subordinate to the lien of any institutional first mortgage on a lot recorded prior to the date upon which such Assessment became due, and a decree of foreclosure under such mortgage or any proceeding or conveyance in lieu of foreclosure thereof shall not extinguish the lien of all such Assessments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

Article 4. Section 7: "Exempt Property" The following property subject to this Declaration shall be exempt from the Assessments created herein:

- (A) Lots or any other portions of the Subject Property dedicated to and accepted by a local public authority.
- (B) Lots and any portions of the Subject Property owned by McNaughton or Hartz.

Once an exemption is created pursuant to this Article 4. Section 7, it shall continue until such time as a conveyance is made to an Owner, at which time the exemption created hereunder shall cease and said Lot shall be subject to all terms and conditions of this Declaration.

Article 4. Section 8: "Payment to The Whisper Creek Multi-Family Homeowners Association" On each (15<sup>th</sup>) day of January, the Board shall receive a bill in the amount of 48% of the previous year's operating expenses from The Whisper Creek Multi Family Homeowners Association or if it is not yet established, then from the Developer. The operating expenses to be reimbursed shall include all expenses with the exception of any and all costs associated with Common Area lot numbers 130 and 132, and Common Area lot number 131 outside of the sign, fence and landscape easement along Regan Road. The Board shall also receive reasonable information to support aforementioned billing. If at anytime the current year's budget exceeds 110% of the previous year's budget, a meeting shall take place between the Board of Directors of each Homeowners Association and the expenses must be agreed upon. This percentage is based on the (70) lots which make up the Whisper Creek North Single Family Homeowners Association, divided by the 146 home sites of the entire Whisper Creek Subdivision. This fee is to cover The Whisper Creek North Single Family Homeowners Associations portion of the improvements in the common areas that benefit the entire subdivision which includes but is not limited to entry monuments, landscaping with the 25 foot landscape easement located on lot 131, fencing (including that portion within the sign, fence and landscape easement on Lot 133), sprinklers and lighting. Payment shall be made to The Whisper Creek Multi Family Homeowners Association or to the Developer, as the case may be, by each (15<sup>th</sup>) day of February. Non-payment of this Assessment shall be remedied in the same manner as outlined above in Article 4. Section 5.

## ARTICLE 5—Architectural Review Committee

Article 5. Section 1: "Purpose" The purpose of the Architectural Review Committee ("Committee") is to maintain the high quality and desirability of the Lots 1-70 within the Whisper Creek Subdivision, to aid in the preservation of its natural beauty and to protect the harmony of the development and value of the area.

Article 5. Section 2: "Committee" McNaughton will create the Committee for the purposes of administering the controlling the matters set forth in this Declaration. Should the Class B members elect to turn the Committee over to Class A members before the expiration of the Class B membership, then the Class A members, prior to their empowerment, agree that all homes built or to be built by McNaughton or Hartz shall be exempt from Committee approval. No members of the Committee shall be entitled to any salary for serving thereon, but reasonable fees may be paid to any consultants for services rendered to the Committee.

No building, sign, fence, wall, or any other structure or facility shall be erected, placed or permitted to remain upon any Lot, including but not limited to swimming pools, outbuildings, decks, gazebos, etc., nor any change or alteration thereon, including but not limited to tree clearing, change in Lot grade, etc., shall commence, be erected or maintained upon any of the Lots until the required security deposit, applicable application fees, design, drawings, construction plans and specifications showing the nature, kind, shape, height, dimensions, materials, color, elevation, location and grade of the same have been submitted and approved in writing by the Committee, at the Association's direction, shall issue written consent to said Owner giving said Owner permission to connect to the sewer and water systems. Such written permission will be required by the Village prior to issuance of any building permit and/or utility connections.

At closing, Owner shall deposit with McNaughton the sum of \$350.00 per parkway tree on the lot to be held as security to ensure that the required parkway trees are installed, a \$1,000.00 per lot maintenance deposit and Owner shall also deposit either \$2,500.00 or \$5,000.00 per lot to be held as security to ensure that the required public sidewalks are installed. A \$2,500.00 deposit will be held for interior lots and \$5,000.00 for corner lots. Owner hereby agrees that McNaughton may use the deposit to pay the cost to install said items if owner fails to do so and that if such funds are insufficient, then Owner agrees to promptly pay for any costs in excess of the deposit upon demand. The deposit (less any funds used) shall be returned to Owner as follows; 75% upon a walk-thru with a representative of McNaughton following the certificate of occupancy being issued and all landscaping being completed. The remainder will be returned within (60) days after the Village of Mokena releases all Letters of Credit or maintenance bonds relevant to the public improvements. In the event that the Village has accepted all Public improvements required under McNaughton's Letter of Credit, and the Owner has not installed the required parkway trees and / or walks, or there is damage to public walks requiring repair or trees need to be replaced, McNaughton shall give the Owner notice that the uncompleted items must be installed within thirty (30) days, weather permitting, or the

escrowed funds may be used by McNaughton for the installation of the trees and sidewalk.

No deposits shall be required for lots owned by the McNaughton or Hartz until such time as conveyance to an Owner.

Article 5. Section 3: "Review Process" The following application information and fees shall be submitted to the Committee and, until Class A members control the Committee submittals, will be made to McNaughton or as otherwise directed by the Class B member. The information will then be distributed to the various Committee members for their review. The Committee shall have five (5) business days in which to respond. The application for architectural review shall include two copies of each of the following items:

- (A) Cover Letter-addressed to the Architectural Committee requesting final approval of house plans, identifying lot location, number and street address and providing any other pertinent information relevant to assisting the Committee in their review. A sample form is included as (Exhibit "C.")
- (B) Lot Layout Drawing-shall identify the location and dimensions of the structure, access; front, side and back setbacks from exterior lot lines; grading contours; driveway location and dimensions and materials; location and dimensions of all utility easements or lines.
- (C) Exterior Design Working Elevation Drawings-shall include elevations and complete dimensions of all sides of the proposed structure. Elevations shall be traditional in design. Plans shall be submitted in the size of 8-1/2" x 11".
- (D) Floor Plan Working Drawings-shall include all levels of the structure with dimensions.
- (E) Building Size Calculations-shall outline building heights, exterior building dimensions of outside walls, total building square footage (see Article 6, Section 2), and dimension and square footage of garage (include number of vehicles accommodated).
- (F) Explanation of exterior color scheme, or samples if required.
- (G) Application Fee shall be in the amount of \$200.00 per application and made payable to McNaughton Development, Inc. No fee shall be required for homes being built by McNaughton or Hartz.
- (H) The architectural committee shall not review the plan unless all assessments currently due for the lot are paid in full.



- (I) The review by architectural committee is intended to insure compliance with the declaration of covenants and restrictions of the subdivision. In no way does approval by the committee verify compliance to any local or state building, zoning or engineering codes.

Once final approval of the application information has been granted by the Committee and the applicable reviews completed by other consultants, a letter of approval will be provided to the applicant and the applicant shall make the necessary submittals to The Village of Mokena for their review prior to the issuance of a building permit. Contact the Village hall for complete information as to their submittal and time requirements and time frames.

Article 5. Section 4: "Exempt Property" The following property subject to this Declaration shall be exempt from the Architectural Review Standards of this Article 5 created herein:

- (A) Lots and any portions of the Property owned by McNaughton or Hartz.

Once an exemption is created pursuant to this Article 5. Section 4, it shall continue until such time as a conveyance is made to an Owner, at which time the exemption created hereunder shall cease and said Lot shall be subject to all terms and conditions of this Declaration.

#### ARTICLE 6—Architectural Standards

Article 6. Section 1: "Exterior Architectural Design" The architectural style of all residential structures constructed upon any Lot shall be of a traditional style in exterior design (i.e. Georgian, Colonial, Victorian, French Country and Country) Contemporary or Modern designs are not desirable. It is recommended to have a preliminary review of any questionable plans. Sketch plans for these styles are subject to preliminary review.

Article 6. Section 2: "Calculation of Allowable Floor Area". The allowable floor area shall be calculated as follows:

- (A) *Minimum Floor Area Calculations.*

##### **WHISPER CREEK – SINGLE FAMILY LOTS 1-70**

Minimum floor area shall be defined and calculated as habitable space excluding basements and garages. No dwelling shall be erected or maintained on the Property unless the floor area of the residential dwelling is at least 2,500 square feet for a Ranch (one story) and 2,800 square feet for two-story, all multi-level floor plans shall also have a minimum floor area of 1,400 square feet on the first floor. Each dwelling shall consist of a minimum three bedrooms, with at least two full baths and at least a partial basement.

Article 6. Section 3: "Exterior Wall Area Materials"

- (A) First Floor: The first floor of all residences must be all face brick or stone on all 4 sides except as hereafter stated. Dryvit, cedar siding or cement board may be permitted subject to approval of the Committee, and the Village.
- (B) Second Floor: Second Floor exterior wall areas may be constructed of cedar, dryvit, cement board siding or face brick. Aluminum soffits and gutters will be allowed.
- (C) Masonry: Use of masonry on the exterior wall area must be constructed of stone, cultured stone or brick or other acceptable masonry materials, which comply with the Village of Mokena Code.
- (D) Siding: No aluminum siding shall be permitted. All siding must be cedar, dryvit or cement siding. Aluminum fascia and soffits will be permitted.

Article 6. Section 4: "Roof Material" Roofs may only be constructed of architectural grade (i.e. Oak Ridge II, Timberline, Hallmark, etc.) shingles or other as approved by the architectural committee.

Article 6. Section 5: "Roof Pitch" The minimum roof pitch of each house is as follows:

- (A) One Story House- 6/12
- (B) Two or More Stories- 6/12

However, roof pitch may be less than those prescribed if in the sole and absolute discretion of the Committee a lower pitch enhances the architectural and aesthetic integrity of the house.

Article 6. Section 6: "Skylights" All skylights or like structures shall be placed in such a way that they are not visible from the street in front of the house. At no time shall skylights or like structures be placed on the front roof line.

Article 6. Section 7: "Windows" Windows on the front elevation of all houses shall be placed in a symmetrical pattern and shall be at least 54 inches in height on the first floor and 42 inches in height on the second floor or balanced in a traditional style. Windows and patio / sliding doors used for each dwelling shall be of the wood or wood clad type.

Article 6. Section 8: "Garages" All houses shall have attached garages of a minimum three car capacity and the doors shall face the side or the front of the Lot unless otherwise approved by the Committee. All front loaded three car garages must have a break in the roof line by stepping one stall back a minimum of one foot.

Article 6. Section 9: "Chimneys" Chimneys located on exterior walls must be of dryvit, face brick or natural stone. Chimneys which are not located on exterior walls shall be encased in a decorative enclosure in conformity with the architectural style of the house.

Article 6. Section 10: "Plumbing and Heating Stacks" All stacks, including but not limited to, plumbing; heating and ventilation stacks shall be located on the rear portion of the roof. Furnace exhausts located on sidewalls must be located on the rear of any dwelling. All other vents or exhausts may not be located on the front of the Dwelling.

Article 6. Section 11: "Monotony Clause" Approval shall be withheld of the design, exterior and interior size, exterior shape and materials or color scheme of the proposed building is not in harmony with adjacent building; in no event shall a particular front elevation be duplicated within two hundred forty (240) feet adjoining on a common line. A different elevation would incorporate a significant change i.e. a gable roof would be modified to a hip roof. Brick color shall be varied. Samples may be required to be submitted if similar colors are within 240 feet.

Article 6. Section 12: "Exempt Property" The following property subject to this Declaration shall be exempt from the Architectural Standards of this Article 6 created herein with the exception of Article 6. Section 8:

- (A) Lots 30, 31, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56 and 57 owned by Hartz.

Once an exemption is created pursuant to this Article 6. Section 12, it shall continue until such time as a conveyance is made to an Owner, at which time the exemption created hereunder shall cease (except as to any improvements constructed by or through Hartz prior to the conveyance to an Owner) and said Lot shall be subject to all terms and conditions of this Declaration.

#### ARTICLE 7—Site Development Restrictions

Article 7. Section 1: "Mailboxes" Each house shall have a designated mailbox located within the parkways. All lots in the Subdivision shall have the same mailbox, address plaque and post (per Exhibit "D") which shall be selected by McNaughton and paid for and installed by the Lot Owner. All mailboxes and posts shall be black in color and can be purchased from T.K. Industries, 10040 Lancaster, Mokena, Illinois 60448 – (708) 535-1900. All other mailboxes are prohibited. In the event the selected mailbox is no longer manufactured a substitute will be selected by McNaughton or by the board.

Article 7. Section 2: "Site Lighting" Each house shall be allowed site lighting. Such lighting must be done in contained moderation and in accordance with all applicable ordinances of the Village.

Article 7. Section 3: "Swimming Pools" These structures will require a special building permit from the Village and be approved by the Architectural Committee. No above

ground pools will be permitted. Swimming Pools cannot be located within a front or side yard, but can be located in the rear yard area provided they are not visible from the street.

Article 7. Section 4: "Fences" Fencing shall be 5' in height and constructed of wrought iron or equivalent material (see exhibit "E") in the color of black, bronze or white and may not extend into the side yard or front yard of the lot and when applicable, subject to the Ordinances of the Village of Mokena. Solid fences will not be allowed.

Swimming pools and dog runs must be visually screened from view of any adjoining properties within the development, with plantings on the outside of the fence. Said plans are subject to review and approval by the Committee and must be in accordance with all applicable Village Ordinances.

Article 7. Section 5: "Signs" No permanent signs of any kind shall be displayed on any residential Lot. Signs which advertise the construction or sales of any Lot shall be allowed only during the time of construction conducted by that particular builder or for the sale of said Lot. All such signs must be presented to the Village of Mokena and be in compliance with the applicable ordinances of the Village of Mokena. All signs shall be kept in good condition, remain upright and be placed in the center of the lot. Bent or mangled signs will be removed from the site. Only one sign per lot may be installed.

No more than one such sign shall be allowed on a Lot at one time. All signs must be removed within fifteen (15) days from the date of builder closing. All signs on any Lot must be properly maintained. Such maintenance includes but is not limited to being kept clean of major dirt build-up, kept in a slightly state, kept painted, and kept firmly installed and upright at all times. The Association will give notice to any Lot Owner violating this Section. Said Lot Owner has seven (7) days in which to correct such violation. If said violation is not corrected, the Association has the right to enter onto any Lot to reinstall or remove any signs found in violation at the Lot Owner's expense.

Article 7. Section 6: "Temporary Structures" No structure except as otherwise herein provided of a temporary character, including, without limiting the generality thereof, trailer, tent, shed, garage, barn, or other outbuilding, shall be erected or placed on any Lot at any time or for any period of time. McNaughton and Hartz shall be allowed temporary structures only for construction purposes and special events and only for the duration of said construction or event and for a period of time no more than a reasonable and necessary time before and after these activities. These structures are required to be maintained in good condition.

Article 7. Section 7: "Detached Buildings" No detached accessory buildings, including but not limited to detached garages and storage buildings, shall be erected, placed or constructed upon any Lot. This section shall not apply to accessory buildings for swimming pools, which may be located only in the rear yard requirements and subject to approval by the Committee as established in these declarations.

Article 7, Section 8: "Landscaping" All sod must be completed within ninety (90) days of the substantial exterior completion of the house under construction defined as the completion of all brick, siding and flatwork, weather permitting. Foundation plantings must be completed within 150 days of the exterior completion of the house. To the extent that any Owner shall fail to perform the maintenance of his own Lot(s) at reasonable times and in a reasonable manner, the Association may but shall not be required to perform such maintenance, repair or upkeep and in such event, the cost thereof shall be added to such Owner's annual assessments and such amount shall be immediately due and payable and the Association shall have such rights and remedies with respect to annual assessments.

Article 7, Section 9: "Basketball Backboards" Basketball backboards attached to the residence are prohibited. See-through basketball backboards on a fixed or moveable post shall be permitted.

Article 7, Section 10: "Driveways" Access driveways, garages and other paved areas for vehicular use on a lot shall have a wearing surface of concrete, brick pavers or other equivalent thereof upon completion. Stamped concrete or similar materials may be allowed only after submittal and approval by the Architectural Review Committee. Any request for stamped concrete must be in earth tone colors.

Article 7, Section 11: "Parkway Trees and Sod" Each home site shall have at least two trees of a hardwood variety (in diameter and size as required by the Village of Mokena, with a minimum of two and one-half inches (2 ½" in diameter), planted in the parkway, per Village approved landscape plan.

THE INSTALLATION AND MAINTENANCE OF PARKWAY TREES IS THE RESPONSIBILITY OF EACH INDIVIDUAL BUILDER UPON COMPLETION OF THE RESIDENCE. THE PARKWAY TREES MUST BE IN GOOD CONDITION AT THE TIME OF VILLAGE ACCEPTANCE. Parkway trees are required to be planted by the builder per approved landscape plan.

Owner/Builder shall comply with Village of Mokena ordinances regarding tree planting.

The species of any trees planted by McNaughton shall be at the sole discretion of the McNaughton, and McNaughton shall not be responsible for the maintenance of the trees, makes no warranty regarding said trees, and is not responsible for any restoration or repair.

Trees, shrubbery and other vegetation shall not be situated so as to obstruct the field of vision at vehicular intersections.

Front and side yards must be landscaped and grassed with sod. Rear yards may be seeded.

Article 7. Section 12: "Conservation Easements"

Developer shall provide conservation easements as shown on "Exhibit B" (Final Plat of PUD) to preserve the open space and to preserve trees located in the rear of many lots, with said conservation easements to include open space. Conservation easements shall be shown on the Preliminary and Final Plats adjacent to all adjoining properties, and Village shall have authority to enforce the provisions identified in this Agreement and all Conservation Easements. Said grant of easement shall be subject to approval of the Village Attorney.

Developer shall provide conservation easements to protect trees and provide permanent markers to denote the boundaries of the conservation easements. Developer shall provide adequate tree preservation measures, such as snow fencing, during construction, such that trees will not be killed, damaged, or removed without the prior approval of the Village Engineer.

Conditions – No permanent structures, impervious surfaces, fences, sheds other accessory structures or fill are to be placed in these easements. No changes of grade will be permitted within the Conservation Easements without the permissions of the Village Engineer. Property owners shall maintain all easements free of obstructions. The Village of Mokena shall have the right to access the Conservation Easement for emergency maintenance or any other practical purposes.

Penalties – Any person found to be in violation of the above noted conditions of this Article 7. Section 12 shall be subject to a fine pursuant to Village Code for each offense and any other remedy available at law or at equity. Each day any violation exists shall constitute a separate offense.

Representation on Plats – The above-noted Conservation Easement shall be clearly illustrated along with the language pertaining to conditions and penalties, noted in this Exhibit on both the Final Plat(s) of Subdivision for each phase as well as individual plats of survey for each lot. It shall be further noted on the Final Plat that the Conservation Easement be indicated on individual plats of surveys for individual lots.

Covenants – The Covenants for the subject property shall include the language regarding the conditions and penalties as noted in this subsection. These covenants shall be recorded against all lots within this subdivision.

Article 7. Section 13: "Reports from Arborist"

Developer shall provide periodic reports from a certified arborist during the entire duration of the construction of the public improvements or the homes to confirm continuing compliance with the tree preservation plan. Such reports shall be presented to Village: a) Prior to the commencement of earthwork certifying that the boundaries of the conservation easements have been properly located, marked, and secured to prevent damage or encroachments to same: b) After the completion of rough grading to certify that there have been no encroachments into the conservation easement: c) Prior to the

issuance of a building permit to certify that there have been no encroachments into the conservation easements: and d) Prior to the issuance of a Certificate of Occupancy to certify that there have been no encroachments into the conservation easements. The reports shall address the adequacy of and compliance with the tree preservation measures. Village acknowledges that upon the sale of lots to a third party, the primary responsibility for compliance with c) and d) above will transfer to said third party: however, original Developer and subsequent Owners shall inform the purchaser of any property within the development about these provisions and require, as part of any sales agreement, that said purchaser shall conform to the obligations.

#### ARTICLE 8—Community Control

Article 8. Section 1: “Nuisances” No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Article 8. Section 2: “Development Activity” Notwithstanding any other provision herein, any Owner, including McNaughton and Hartz shall be entitled to conduct on the Property all activities normally associated with and convenient to the development of the Property and construction and sale of single-family residential units.

Article 8. Section 3: “Parking or Keeping of Vehicles” No vehicles are to be parked on any part of any Lot, except upon driveways or within attached garages and no campers, boats, trailers, jet ski, snow mobiles, recreational vehicles and commercial vehicles and accessories may be kept on any Lot unless the same are fully enclosed within the garage located on such Lot.

Article 8. Section 4: “Garbage and Refuse Disposal” No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition, and there must be a dumpster on site once construction begins.

Article 8. Section 5: “Manufacturing” No part of the Property, or any Lot, and no building erected or maintained on any part of the Property shall be used for manufacturing, industrial or business purposes.

Article 8. Section 6: “Utilities” All electric service, telephone service and other utilities shall be supplied by underground service and no poles shall be permitted except for temporary structures used by McNaughton or Hartz.

Article 8. Section 7: “Miscellaneous Controls” When applicable all Village Ordinances shall be complied with and approval shall be obtained prior to installation of any of the following on any Lot unless expressly prohibited or restricted herein:

- (A) Flagpoles greater than 25' in height are prohibited.
- (B) Trees, shrubs and other vegetation may not be planted on corner lots in a manner which will obstruct the vision of a vehicle.
- (C) Awnings or canopies may not project more than three feet from the building and may only be placed in the rear yard.
- (D) Open air laundry facilities are prohibited.
- (E) Exterior television and radio antennas and satellite disks larger than 18" in diameter are prohibited.
- (F) Above ground swimming pools are prohibited.
- (G) Dog runs are to be screened from visual observation along any interior street and are restricted to comply with all Village Ordinances, but shall not exceed 10' x 15' in size.
- (H) There shall be no alteration or removal of natural existing boundary hedgerows, shrubs, trees or other vegetation within any conservation easements without written consent from the Village of Mokena.

#### ARTICLE 9—Variation and Departures

McNaughton hereby reserves the absolute unqualified right to enter into agreements with the owner or owners of any lot or lots, without the consent of the owner or owners of other lot or lots, to depart from vary any and all of the covenants set forth above, provided there are practical difficulties or particular hardships or other good and sufficient reasons by the owner making the request; and any such departure or variation, which shall be manifested by an agreement in writing, shall not constitute a waiver of any such covenant as to the other lots in the Subdivision, provided that any such departure or variation shall not result in harm or diminution in value of the Subdivision as a whole.

#### ARTICLE 10—Exterior Maintenance

Article 10. Section 1: "Drainage" Owner shall at all times maintain the elevations, contours and drainage patterns which have been established by the Village and by Developer's civil engineering plans, or which occur naturally, unless variations or modifications are specifically permitted by the Village.

To the extent, if at all, that any Owner shall alter the elevations, contours or drainage patterns, whether the Lot is vacant or improved, the Association may, but shall not be required to correct said elevations, contours and drainage patters; and in such event, the



cost thereof shall be added to such Owner's Assessment (at the rate of three (3) times the actual cost incurred) and such amount shall be immediately due and payable and the Association shall have such rights and remedies with respect to collections of them as are herein provided for Operating Assessments.

Article 10. Section 2: "Maintenance of Lots" The exterior surfaces of all structures located on any Lot shall be kept in good repair and shall be cleaned and painted as required to avoid any unsightly appearance. Vacant lots must be kept mowed from May through September of each year so that the weeds are never more than twelve inches in height. Owners of such vacant Lots must also keep them free of debris and other unsightly clutter. All vacant lots must be graded to prevent ponding of water. It is the responsibility of the Owner to properly maintain all public utilities within their property, to include but not limited to: water services, B-Boxes, sanitary services, storm sewers, curbs, etc. It is also the responsibility of the Owner to repair and replace all erosion control protection.

The Lot owner shall remove excess clay lots at the time the foundation is backfilled. Black dirt shall be spread upon the lot at the time of backfill. Prior to excavation erosion control protection shall be installed and maintained if necessary. Owner shall keep lots, including the construction area and all setback and Conservancy Easement Areas, free of all debris including but not limited to sand, gravel, dirt, and all other construction debris. The builder shall be required to keep the entire site clean at all times. Debris or materials which drift or are windblown onto the roadway or adjacent Lots shall be collected by the builder and removed from the site.

Earth, mud or other materials that are windblown or washed onto the roadway or adjacent Lots shall be immediately cleaned up, and the silt fence repaired or the base of such fence re-buried so as to prevent further such occurrences. The builder and the Owner shall be jointly and severally responsible for payment to the Association (at the rate of three (3) times the actual cost incurred) the cost of power rodding or repairing any storm sewers which shall become clogged in large part due to run-off from any Lot as a result of an improperly installed or maintained silt fence.

The builder is required to provide dumpsters and portable toilet facilities at the site. All debris and refuse shall be deposited into the dumpster. Debris is not to be allowed to accumulate on the site. The dumpster shall not be allowed to fill to the point of overflowing. Portable toilet facilities shall be serviced regularly to be maintained in a sanitary condition and shall not be removed from the site until plumbing installed within the home shall be operable. If the Owner/Builder has multiple lots there shall be at least one (1) portable toilet facility for each three (3) homes under construction.

Construction workers are prohibited from eating meals anywhere except on the site at which they are employed. All food debris must be deposited into the dumpster.

Material that may spill or fall from vehicles (whether they are delivery, equipment, or construction personnel vehicles) on any roadway, shall immediately be removed and the road cleaned.

The burning of construction debris or of removed landscape material is prohibited.

Any cleanup work or maintenance required within this Section 10, which is necessitated by the builder's failure to maintain the site and/or roadways clean, may be performed by McNaughton's personnel or contractors, after proper notice, at the builder's expense (at the rate of three (3) times the actual cost incurred).

All excess excavation spoils and debris not removed by the builder may, in the discretion of the Board, be removed by such contractors or agents hired by the Association. The Owner shall be billed for the cost of such services (or such amount deducted from the Owner's performance deposit) at the rate of three (3) times the actual cost incurred.

Construction machinery and materials of any kind shall be placed on a Lot only on an as needed basis (i.e., no storage of lumber, stones, crates, sand, cement mixers, etc., for an extended period of time on a Lot). Building materials and lumber must be stacked NEATLY and placed in ORDERLY "SQUARED OFF" patterns on a Lot. All items must be used in a timely manner and be removed immediately on completion of the work.

Part of and in addition to the maintenance requirements stated herein all contractors are to follow and agree to the Notice to Contractors attached hereto as (Exhibit "F").

If the owner fails to comply with these provisions McNaughton or Association may order the necessary facilities and place a lien on the lot at the rate of three (3) times the actual cost incurred.

Article 10. Section 3: "Construction" Any and all construction on Lots once commenced shall be diligently pursued and shall not remain in partly finished condition for more than nine (9) months from the date permits are issued. The Owner of any Lots upon which improvements are being constructed shall take the necessary measures to keep public streets being utilized by such Owner in connection with said construction free from any dirt, mud, garbage, trash, or other debris, as well as the real estate of such Owner free from any garbage, trash, or other debris which might be occasioned by such construction and/or improvements, and shall keep a dumpster on site during construction. Owner must keep curbs clean, and maintain all erosion control protection and storm water management items installed on the lots.

All access driveways, garages and other paved areas for vehicular use on a lot shall have a base of 5 inches of compacted gravel, crushed stone or other approved base material, in place before carpentry work begins.

Article 10. Section 4: "Maintenance Deposit" At closing, Owner shall deposit with McNaughton the sum of \$1,000.00 per lot to be held as security to ensure that the public improvement remain in proper condition to include but not limited to street, curbs, water facilities, sewer facilities, street lights, landscaping and any common area property and that the lot is free from debris and high weeds. It is the responsibility of the Owner to properly maintain all public utilities within their property, to include but not limited to: water services, B-Boxes, sanitary services, storm sewers, curbs, etc. It is also the responsibility of the Owner to repair and replace all erosion control protection. Owner hereby agrees that McNaughton may use the deposit to pay the cost to repair said improvements or clean streets at a rate of three (3) times the actual cost of the

improvement if owner fails to do so and that if such funds are insufficient, then Owner agrees to promptly pay for any costs in excess of the deposit upon demand. McNaughton may also from time to time hire a street cleaner which said expense shall be split between all builders which have homes under construction at the time of cleaning. Builders will be charged for this service based on the number of homes under construction at the time of cleaning. The deposit (less any funds used) shall be returned to Owner as follows; 75% upon a walk-thru with a representative of McNaughton following the certificate of occupancy being issued and all landscaping being completed. The remainder will be returned within (60) days after the Village of Mokena releases all Letters of Credit or maintenance bonds relevant to the public improvements.

No deposits shall be required for lots owned by McNaughton or Hartz until such time as conveyance to an Owner.

Article 10. Section 5: "Exempt Property" The following property subject to this Declaration shall be exempt from the Association taking action under the terms of this Article 10 along with the maintenance deposit required under Article 10. Section 4 created herein:

- (A) Lots and any portions of the Property owned by Hartz.

Once an exemption is created pursuant to this Article 10. Section 5, it shall continue until such time as a conveyance is made to an Owner, at which time the exemption created hereunder shall cease and said Lot shall be subject to all terms and conditions of this Declaration.

#### ARTICLE 11—Lot Improvements

Purchaser or nominee agree that if no construction activity has occurred on a lot at the two year anniversary of the first lot closing from McNaughton or Hartz to an Owner, that the Owner or nominee will install the public sidewalks and parkway trees. McNaughton will notify the Owner or nominee in writing that the public sidewalks and parkway trees will be required to be installed within thirty days weather permitting. After thirty days, McNaughton will use the appropriate deposits to complete the improvements. If the deposits are insufficient, the Owner or nominee agrees to promptly pay for any costs in excess of the deposits upon demand.

Public sidewalks shall be installed per the approved grading plan and along the entire street frontage of the lot. The walks shall be properly backfilled on both sides. The areas between the walks and curb shall have black dirt and grass seed. Parkway trees shall be installed per the Village approved landscape plan by the Village of Mokena. Trees should meet required size and species requirements.

## ARTICLE 12—General Provisions

Article 12. Section 1: "Insurance" The Board shall have the authority to and may obtain comprehensive liability insurance in such limits as it shall deem desirable, and workmen's compensation insurance and other liability insurance as it may deem desirable, insuring the Association, Board, manager, managing agent. The premiums for all insurance purchased pursuant to the provisions of this Section shall be paid at least thirty (30) days prior to the expiration date of any policy. Except as hereinabove provided, each Owner shall be responsible for obtaining fire and casualty and other types of insurance as such Owner shall deem necessary on his own Lot and the contents of his own Lot, and his additions and improvements thereto, as well as his personal liability.

Article 12. Section 2: "Management" The Association, through its Board, and McNaughton prior to its turning over the directorship to the Owners, shall have the power to employ a manager (managing agent), an independent contractor, or such other employees as it deems necessary, and to prescribe their duties and fix their compensation, and/or enter into a contract with a management company which contract shall be for a period of not more than one (1) year, renewable by agreement of the parties for successive period of not more than one (1) year each, and shall provide for the Association's right to cancel said agreement for cause upon the Association written thirty (30) day notice to the management company of its intent to do so. The Board will be elected by the Class A members once the Class B membership has been terminated as stated in Article 3. Section 2B, and will consist of three Owners in Whisper Creek North Single Family Residences Lots 1-70. The Board will be elected at a meeting called with 30 days advance notice. The three persons receiving the highest number of votes, in person or by proxy will be elected for a term of three (3) years. Board members may succeed themselves.

McNaughton shall serve as the managing agent and receive a fee of \$5.00 per lot per month to operate the homeowners association until such time as it is turned over to the Owners. McNaughton reserves the right to reasonably increase this fee as may be necessary to properly operate the association for the future benefit of the Owners. This fee shall not apply to Lots owned by McNaughton or Hartz until such time as conveyance to an Owner.

Article 12. Section 3: "Remedies" In the event of a default by any Owner under the provisions of the Declaration, Bylaw or rules and regulations of the Association, the Board shall have each and all the rights and remedies which may be provided for in this Declaration, the Bylaw and said rules and regulations and those which may be available at law or in equity, and may prosecute any action or other proceedings against such defaulting Owner and/or others for enforcement of any lien, statutory or otherwise, including foreclosure of such lien and the appointment of a receiver for the Lot and ownership interest of such Owner, or for damages or injunction, or specific performance, or for judgment for payment of money and collection thereof, or for any combination of remedies, or for any other relief. No remedies herein provided or available at law or in equity shall be deemed exclusive of any other remedy.

All expenses of the Association in connection with any such actions or proceedings, including court cost and attorney's fees and other fees and expenses, and all damages, liquidated or otherwise, together with interest thereon at the maximum rate permitted by law, from the due date until paid, shall be charged to and assessed against such defaulting Owner and shall be added to and deemed part of his respective share of the Operating Expenses (to the same extent as the lien provided herein for unpaid assessments), upon the Lot and upon all of his additions and improvements thereto, and upon all of his personal property upon the Lot. Any and all of such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or the Board. All the provisions of this instrument and those in the Articles of Incorporation and Bylaws of the Association are mutually enforceable by and among the members of the Association. Any member who feels that a provision is being violated may petition the Association to investigate the situation. Should the Association determine that this allegation is true and that corrective action should be taken, the Association shall take whatever action is necessary to end the violation. Should the Association deem the allegation of violation within thirty (30) days of notice, then the complaining member can prosecute his claim in whatever legal manner is best suited to the situation. McNaughton or the Association shall have the right, but not the obligation, to enforce any and all provisions of this Declaration inuring to its benefit by any appropriate action in law or in equity, and shall be entitled to recover therein all expenses incurred including court costs and reasonable attorney fees.

Whenever there shall have been built (or whenever there is being built) on any Lot any Improvement or other act or inaction which is and remains in violation of the covenants above set forth, or any of them, for a minimum period of three (3) days after delivery of written notice thereof to the Owner of any such Lot, then McNaughton or the Association shall have, in addition to the foregoing rights, the right to enter upon the property where such violation exists and summarily to abate or remove it at the expense of the Owner, at a rate three (3) times the actual cost and such entry and abatement or removal shall not be deemed a trespass. In addition, McNaughton or the Association may assess fines up to \$500.00 against any Owner for the breach of the covenants and obligations set forth above. Each day a violation exists shall be considered a separate offense. In no event shall the failure of McNaughton, the Association or the Owners to enforce any of the covenants or obligations herein provided due to a particular violation be deemed to be waiver of the right to do so respecting any such violation or any subsequent violation.

Article 12. Section 4: "Land Trusts" In the event title to any Lot should be conveyed to a land title-holding trust, under which all powers of management, operation and control of the premises remain vested in the Trust beneficiary or beneficiaries, then the trust estate under such trust, and the beneficiaries thereunder, from time to time, shall be liable for payment of any obligation, lien or indebtedness chargeable or created under this Declaration against such Lot. No claim shall be made against any such title holding trustee personally for payment of any claim, lien, or obligation hereby created, and the trustee shall not be obligated to sequester funds or trust property to apply in whole or in part against any such lien or obligation, but the amount thereof shall continue to be a charge or lien upon the premises notwithstanding any transfers of beneficial interest in

the title to such real estate. Nothing in this Section shall be deemed to alter or diminish the rights or remedies of the Association under Article 4. Section 5, relating to the failure to pay maintenance assessments as such rights or remedies apply to the trust estate under such trust and the beneficiaries thereunder.

Article 12, Section 5: "Amendments" The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive period of ten (10) years, unless seventy-five percent (75%) of the votes outstanding shall have been voted to terminate the covenants and restrictions of this Declaration upon the expiration of the initial twenty-year period or any extension thereof, which termination shall be written instrument signed by seventy-five percent (75%) of the Owners and the Village and properly recorded in Will County, Illinois. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than fifty percent (50%) of the Owners and by McNaughton if the Class B membership has not theretofore terminated, and thereafter by an instrument signed by not less that fifty percent (50%) of the Owners. Any amendment must be recorded.

Notwithstanding any provisions hereof to the contrary, McNaughton may, at its sole discretion and without consent being required of anyone modify, amend, or repeal this Declaration at any time prior to the closing of the sale of all Lots, provided said amendment, modification, or repeal is in writing and properly recorded in Will County, Illinois. Not withstanding the foregoing no modification may be made without the advance written consent of Hartz as long as Hartz owns any lot covered by this declaration. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting title and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power of McNaughton to make, execute and record an amendment.

Article 12, Section 6: "Notices" Notices provided for in the Declaration or Bylaws shall be in writing and shall be addressed to the Association or to any Owner at their respective addresses. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, return receipt requested, or when delivered in person with written acknowledgment of the receipt thereof. During the time McNaughton is managing the Association, notices should be sent to: McNaughton Development, Inc., 11900 Southwest Highway, Suite 101, Palos Park, Illinois 60464. During the time Hartz owns any of its 13 lots any notices relative to its 13 lots shall be sent to: Hartz Construction Co., Inc., 9026 Heritage Parkway, Woodridge, IL 60517, Attn: Michael Gembara.

Article 12, Section 7: "Severability" Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Article 12. Section 8: "Rights and Obligation" The provisions of this Declaration and the Bylaws and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives successors, assigns, purchasers, grantees and mortgages.

By the recording or the acceptance of a deed conveying a Lot or any interest therein, or any ownership interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the Bylaws, whether or not mention thereof is made in said deed.

Article 12. Section 9: "Notice of Sale" Owner shall notify the Association of any transfer of ownership. Such notice shall be in writing and include the names of the new Owner and proof of delivery of Declaration of Covenants and Restrictions. (See attached Exhibit "G").

Owner and/or subsequent owners hereby agree that upon transfer of title they will contact McNaughton Development, Inc., 11900 Southwest Highway, Suite 101, Palos Park, Illinois 60464 with proof of transfer and assignment of all deposits held by McNaughton per ARTICLE 5. SECTION 2: "COMMITTEE" – (Parkway trees, Maintenance and Sidewalks). If McNaughton is not notified McNaughton will hold Owner and/or subsequent owners, whichever the case may be, responsible for compliance of items under ARTICLE 5. SECTION 2: "COMMITTEE".

Article 12. Section 10: "Headlines" The headings contained in this Declaration are for reference purposes only and shall not in any way affect the meaning or interpretation of this Declaration. All personal pronouns used in this Declaration, whether used in the masculine, feminine or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa.

Title of Articles and Sections are for convenience only, and neither limit nor amplify the provisions of the Declaration unless specified reference is made to such Articles, Section or subdivisions of another document or instrument.

Article 12. Section 11: "Conflicts" In the event of any conflict between this Declaration and the Bylaws or Articles of Incorporation, the Declaration shall control. In the event of a conflict between the terms and conditions of these covenants and restrictions and those of the building codes of the Village of Mokena, the more stringent shall prevail, unless addressed by the applicable Annexation Agreement.

Article 12. Section 12: "Perpetuities and Restraints on Alienation" If any option, privileges, covenants or rights created by this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision; (b) the rule restricting restraints on alienation; or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until

twenty-one (21) years after the death of the now living lawful descendants of Rod Blagojevich, Governor of the State of Illinois and George W. Bush, President of the United States of America.

#### ARTICLE 13-Notice of Declaration

Each lot owner who owns a lot for the purpose of constructing and selling a residence on the lot shall provide a copy of these declarations to a prospective Purchaser at the time of or before a contract is signed with a prospective Purchaser and shall receive a receipt and acknowledgement thereof satisfying the form attached as Exhibit G.

#### ARTICLE 14-Declarant Disclosure

Each Seller of a Lot shall disclose to the Purchaser the following:

Article 14. Section 1: Subdivision Zoning: Village of Mokena P.U.D. with R-3, R-4 single family residential and R-6 multiple family residential.

Article 14. Section 2: Contiguous Zoning:

**North** – Will County R-2 single family residential

**East** – Village of Mokena R-3 single-family residential and R-6 multiple family residential

**South** – Will County R-2 single family residential

**West** – Will County A-1 agricultural.

Article 14. Section 3: Homeowners Association: An association will be established and dues will be collected to maintain common areas.

Article 14. Section 4: Mokena Park District Land Dedication: Lot 133, located on the land north of Regan Road, south of Palmira Court and east of Whisper Creek Drive will be dedicated to the Mokena Park District.

Article 14. Section 5: Expedition of Disclosure: Owner has received a copy of the Annexation Agreement and the Declaration of Covenants, Conditions & Restrictions of Whisper Creek. Owner has read and agrees to comply with all of the requirements. Owner understands that the Village of Mokena will require proof that this disclosure was signed and a copy of the Annexation Agreement was provided to future resident as a condition of receiving building permit. If a model or speculative home is being built, proof will be required prior to issuance of Certificate of Occupancy. In the event of any conflict between the terms of this Declaration and the Annexation Agreement, the Annexation Agreement shall supersede the Declaration.

Article 14. Section 6: Conservation Easements: There are various conservation easements throughout the subdivision. These conservation easements are addressed in



the covenants, on the individual plats, on the final plat and in the annexation agreement. It is the responsibility of all owners to read and understand the language on the conservation easement and follow them as written.

Developer shall provide conservation easements as shown on "Exhibit B" (Final Plat of PUD) to preserve the open space and to preserve trees located in the rear of many lots, with said conservation easements to include open space. Conservation easements shall be shown on the Preliminary and Final Plats adjacent to all adjoining properties, and Village shall have authority to enforce the provisions identified in this Agreement and all Conservation Easements. Said grant of easement shall be subject to approval of the Village Attorney.

Developer shall provide conservation easements to protect trees and provide permanent markers to denote the boundaries of the conservation easements. Developer shall provide adequate tree preservation measures, such as snow fencing, during construction, such that trees will not be killed, damaged, or removed without the prior approval of the Village Engineer.

Conditions – No permanent structures, impervious surfaces, fences, sheds, other accessory structures or fill are to be placed in these easements. No changes of grade will be permitted within the Conservation Easements without the permission of the Village Engineer. Property owners shall maintain all easements free of obstructions. The Village of Mokena shall have the right to access the Conservation Easement for emergency maintenance or any other practical purposes.

Penalties – Any person found to be in violation of the above noted provisions of conditions shall be subject to a fine pursuant to Village Code for each offense and any other remedy available at law or at equity. Each day any violation exists shall constitute a separate offense.

Representation on Plats – The above-noted Conservation Easement shall be clearly illustrated along with the language pertaining to conditions and penalties, noted in this Exhibit on both the Final Plat(s) of Subdivision for each phase as well as individual plats of survey for each lot. It shall be further noted on the Final Plat that the Conservation Easement be indicated on individual plats of surveys for individual lots.

Covenants – The Covenants for the subject property shall include the language regarding the conditions and penalties as noted in this subsection. These covenants shall be recorded against all lots within this subdivision.

Article 14, Section 7: Reports from Arborist: Developer shall provide periodic reports from certified arborist during the entire duration of the construction of the public improvements or the homes to confirm continuing compliance with the tree preservation plan. Such reports shall be presented to Village; a) Prior to the commencement of earthwork certifying that the boundaries of the conservation easements have been properly located, marked, and secured to prevent damage or encroachments to same; b)

After the completion of rough grading to certify that there have been no encroachments into the conservation easement; c) Prior to the issuance of a building permit to certify that there have been no encroachments into the conservation easements; and d) Prior to the issuance of a Certificate of Occupancy to certify that there have been no encroachments into the conservation easements. The reports shall address the adequacy of and compliance with the tree preservation measures. Village acknowledges that upon the sale of lots to a third party, the primary responsibility for compliance with c) and d) above will transfer to said third party; however, original Developer and subsequent owners shall inform the purchaser of any property within the development about these provisions and require, as part of any sales agreement, that said purchaser shall conform to these obligations. Failure to so inform and require may result in continuing liability by original Developer or subsequent owners.

Article 14. Section 8: Tree Removal: Tree removal within the conservation easements and within the right-of-way south of the centerline of Regan Road shall be subject to approval by the Village prior to the removal of any tree. Failure to obtain approval from the Village prior to the removal of or damage to a preserved tree within the conservation easements and within the right-of-way south of the centerline of Regan Road shall result in the replacement of the killed or damaged tree at a one-inch to one-inch ratio. Replacement of trees approved for removal by the Village shall be replaced at a one-tree to one-tree ratio except that dead trees and certain "undesirable" trees need not be replaced at the sole discretion of Village.

Article 14. Section 9: Hartz Lots: Hartz and the Hummer Trust are the owners of Lots 30, 31 and 47-57 and they are not subject to many of the requirements of this Declaration as outlined herein until such time as each lot is transferred to an Owner.

Article 14. Section 10: School Districts: Lots 1-70 of the Whisper Creek Subdivision are located in Mokena Elementary School District #159 and New Lenox High School District # 122.

Purchaser acknowledges receipt of this disclosure and knowingly agrees to accept the property subject to all of the terms and conditions set forth herein. Acceptance by one owner shall be binding on all owners.

IN WITNESS WHEREOF, First Midwest Bank, not personally, but as Trustee under Trust Agreement dated March 11, 1985 and known as Trust No. 2658, Wayne Hummer Trust Company, not personally, but as Trustee under Trust Agreement Dated May 26, 2005, and known as Trust Number HBT-2060, McNaughton Development, Inc., and Hartz Construction Co., Inc. have caused their corporate seals to be affixed hereunto and have caused their names to be signed hereto by their duly authorized officers this 28<sup>th</sup> day of December 2007.

FIRST MIDWEST BANK, as  
Trustee as aforesaid and not  
personally as to Trust 2658:

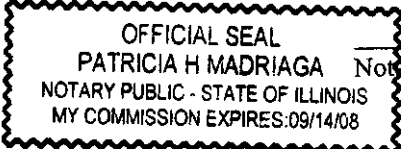
BY: Matthew Kinney  
Its: Authorized Signer

ATTEST: Judy Marsden  
By: Judy Marsden  
Its: Authorized Signer

STATE OF ILLINOIS )  
COUNTY OF Cook ) SS:

I, Matthew Kinney a Notary Public in and for the County and State aforesaid, DO  
HEREBY CERTIFY that Matthew Kinney Authorized Signer as Assistant Trust Officer of the FIRST MIDWEST  
BANK, and Judy Marsden Authorized Signer as Trust Officer thereof, personally known to me to be the  
same persons whose names are subscribed to the foregoing instrument as such Assistant Trust Officer and  
Trust Officer respectively appeared before me this day in person and acknowledged that they signed and  
delivered the said instrument as their own free and voluntary act, and as the free and voluntary act, and as  
the free and voluntary act of said Bank, as Trustee, for the uses and purposes therein set forth; and that the  
said Trust Officer did also then and there acknowledge that he/she, as custodian of the corporate seal of  
said Bank, did affix the said corporate seal of said Bank to said instrument as his/her own free and  
voluntary act, and as the free and voluntary act of the said Bank, as Trustee, for the uses and purposes  
therein set forth.

GIVEN under my hand and notarial seal this 28 day of December, 2007



Patricia H. Madriaga  
Notary Public

This instrument is executed by FIRST MIDWEST BANK, not personally but solely as Trustee under trust No. 2658, in the exercise of the power and authority conferred upon and vested in it as such Trustee. All the terms, provisions, stipulations, covenants and conditions to be performed by FIRST MIDWEST BANK, are undertaken by it solely as Trustee, as aforesaid, and not individually, and all statements herein made are made on information and belief and are to be construed accordingly, and no personal liability shall be asserted or be enforceable against FIRST MIDWEST BANK, by reason of any of the terms, provisions, stipulations, covenants and/or statements contained in this instrument.

WAYNE HUMMER TRUST COMPANY NOT  
PERSONALLY, BUT AS TRUSTEE UNDER  
TRUST AGREEMENT DATED MAY 26, 2005  
AND KNOWN AS TRUST NUMBER HBT-  
20062060

BY: [Signature]

Its: Assistant Vice President

ATTEST:

By: [Signature]

Its: Executive Vice President

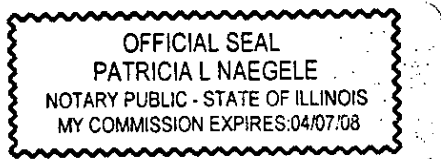
RIDER ATTACHED HERETO IS EXPRESSLY  
MADE A PART HEREOF

STATE OF ILLINOIS                    )  
  )SS:  
COUNTY OF Cook                    )

I, Undersigned a Notary Public in and for the County and State aforesaid, DO  
HEREBY CERTIFY that Linda J. Pitrowski as Asst.V.P. and William Salamone as  
Exec. V.P. of Wayne Hummer Trust Company both personally known to me to be the same persons  
whose name are subscribed to the foregoing instrument and respectively appeared before me this day in  
person and acknowledged that they signed and delivered the said instrument as his own free and voluntary  
act, for the uses and purposes therein set forth applied their signatures to said instrument as their own free  
and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 3rd day of January, 2008.

[Signature]  
Notary Public



McNaughton Development, Inc.

*[Handwritten signature]*  
BY: *[Signature]* 12/24/07

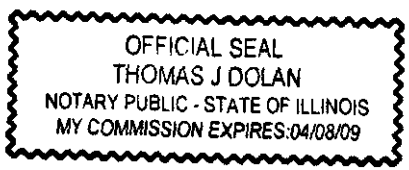
Its: President

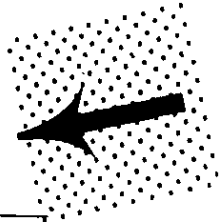
STATE OF ILLINOIS        )  
  )SS:  
COUNTY OF COOK        )

I, Thomas J Dolan a Notary Public in and for the County and State aforesaid, DO  
HEREBY CERTIFY that Paul McNaughton is President of McNaughton Development, Inc. is  
personally known to me to be the same person whose name is subscribed to the foregoing instrument and  
respectively appeared before me this day in person and acknowledged that he signed and delivered the said  
instrument as his own free and voluntary act, for the uses and purposes therein set forth applied his signature  
to said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 26<sup>th</sup> December day of ~~July~~, 2007.

*[Handwritten signature]*  
\_\_\_\_\_  
Notary Public





SIGN  
HERE

Hartz Construction Co., Inc.

BY: [Signature]

DONALD L. HARTZ

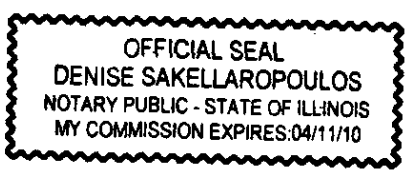
Its: President

STATE OF ILLINOIS )  
 )SS:  
COUNTY OF DuPage )

I, Denise Sakellariopoulos a Notary Public in and for the County and State aforesaid, DO  
HEREBY CERTIFY that Donald L. Hartz as President of Hartz Construction Co., Inc. is  
personally known to me to be the same person whose name is subscribed to the foregoing instrument and  
respectively appeared before me this day in person and acknowledged that he signed and delivered the said  
instrument as his own free and voluntary act, for the uses and purposes therein set forth applied his signature  
to said instrument as his own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 3<sup>rd</sup> day of January, 2008.

Denise Sakellariopoulos  
Notary Public



**(EXHIBIT "A") LEGAL DESCRIPTION**

**(EXHIBIT "B") PLAT OF SUBDIVISION**

**(EXHIBIT "C") ARCHITECTURAL REVIEW FORM**

**(EXHIBIT "D") MAILBOXES**

**(EXHIBIT "E") FENCES**

**(EXHIBIT "F") NOTICE TO CONTRACTORS**

**(EXHIBIT "G") TRANSFER OF OWNERS LETTER**

**EXHIBIT A – LEGAL DESCRIPTION**

LOTS 1 THROUGH 70 AS SHOWN ON THE FINAL PLAT OF  
SUBDIVISION OF THE WHISPER CREEK SUBDIVISION RECORDED ON  
JUNE 28, 2006 AS DOCUMENT NUMBER R2006106466 IN WILL COUNTY,  
ILLINOIS BEING A SUBDIVISION IN PART OF THE SOUTHWEST  
QUARTER OF SECTION 1 AND THE NORTHWEST QUARTER OF  
SECTION 12, ALL IN TOWNSHIP 35 NORTH, RANGE 11 EAST OF THE  
THIRD PRINCIPAL MERIDIAN IN WILL COUNTY, ILLINOIS.

08-12-100-028-0010

08-12-100-028-0020



**EXHIBIT B – PLAT OF SUBDIVISION**

PC2 Date 06/28/2006 Time 13:35:37  
Recording Fees: 65.75  
IL Rental Hsg Support Prog: 10.00

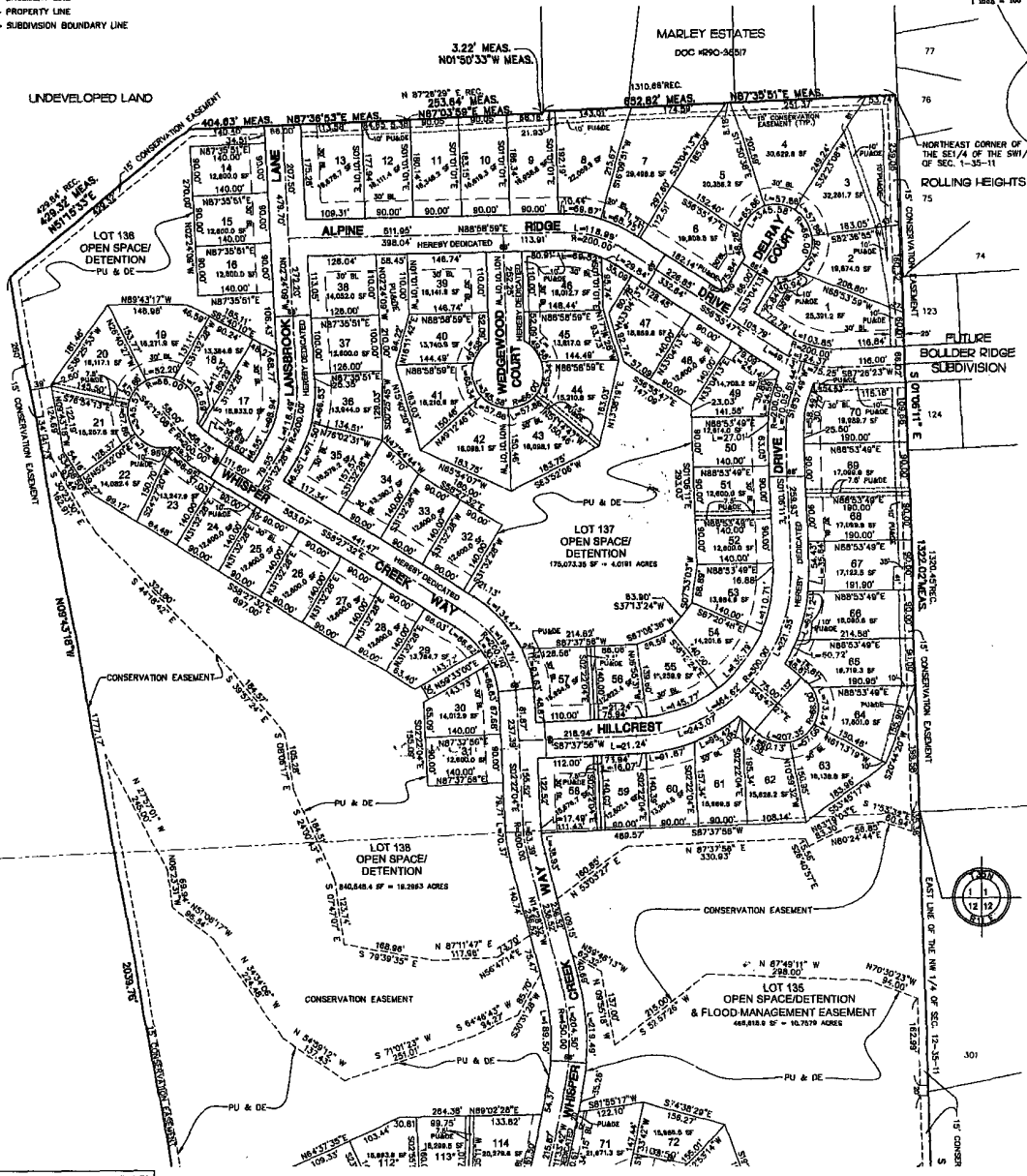
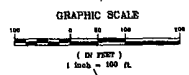
MSB Date 01/11/2008 Time 12:57:00  
Recording Fees: 69.75  
IL Rental Hsg Support Prog: 10.00

# FINAL SUBDIVISION PLAT FOR WHISPER CREEK

PART OF THE SOUTHWEST QUARTER OF SECTION 1 AND THE SOUTHWEST QUARTER OF SECTION 12, ALL IN TOWNSHIP 33 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN IN WILL COUNTY, ILLINOIS

EXHIBIT "B"  
FINAL PLAT OF SUBDIVISION

- ABBREVIATIONS**
- N - NORTH
  - S - SOUTH
  - E - EAST
  - W - WEST
  - R - RADIIUS
  - CB - CHORD BEARING
  - CL - CHORD
  - BL - BUILDING LINE
- LEGEND**
- CONCRETE MONUMENT SET
  - BUILDING LINE
  - EASEMENT LINE
  - PROPERTY LINE
  - SUBDIVISION BOUNDARY LINE



NOTE: THERE SHALL BE NO VEHICULAR ACCESS TO OR WITHIN 50 FEET OF WHISPER CREEK WAY FROM LOTS 57, 58, 71, 75, 77, 86, 88, 97, 103 AND 114.

**EASEMENT PROVISIONS FOR DETENTION AREA (LOTS 135, 137 AND 138)**  
 ALL EASEMENTS INDICATED AS "EASEMENT FOR DETENTION PURPOSES" ON THIS PLAT ARE RESERVED FOR AND GRANTED TO THE VILLAGE OF WOKENA, ILLINOIS AND TO ITS SUCCESSORS AND ASSIGNS. NO BUILDINGS SHALL BE PLACED ON SAID DETENTION EASEMENT AREAS, BUT THE SAME MAY BE USED FOR OTHER PURPOSES THAT DO NOT ADVERSELY AFFECT THE STORAGE/FREE FLOW OF STORM WATER. EACH OWNER OR SUBSEQUENT PURCHASER SHALL BE EQUALLY RESPONSIBLE FOR MAINTAINING THE DETENTION EASEMENT AREAS AND SHALL NOT DESTROY OR MODIFY GRADES OR SLOPES WITHOUT HAVING FIRST RECEIVED PRIOR WRITTEN APPROVAL OF THE VILLAGE OF WOKENA.

IN THE EVENT ANY OWNER OR SUBSEQUENT PURCHASER FAILS TO PROPERLY MAINTAIN THE EASEMENT AREAS, THE VILLAGE OF WOKENA, ILLINOIS, OR ANY OTHER UNIT OF LOCAL GOVERNMENT HAVING JURISDICTION OVER DRAINAGE, SHALL UPON TEN (10) DAYS PRIOR WRITTEN NOTICE, RESERVE THE RIGHT TO PERFORM, OR HAVE PERFORMED ON ITS BEHALF, ANY MAINTENANCE WORK TO OR UPON THE WATER DETENTION AREA REASONABLY NECESSARY TO INSURE ADEQUATE STORM WATER STORAGE AND FREE FLOW OF STORM WATER THROUGH THE DETENTION EASEMENT AREAS.

**CONSERVATION EASEMENT PROVISIONS**  
 CONSERVATION EASEMENTS TO PRESERVE THE OPEN SPACE AND TO PRESERVE TREES IS HEREBY GRANTED TO THE VILLAGE OF WOKENA, ILLINOIS AND SAID VILLAGE SHALL HAVE AUTHORITY TO ENFORCE THE PROVISIONS IDENTIFIED HEREIN TO THE OWNERS SHALL PROTECT TREES AND PROVIDE PERMANENT MARKERS TO DENOTE THE BOUNDARIES OF THE CONSERVATION EASEMENTS. SUCH AS SHOWN HEREON, DURING CONSTRUCTION, SUCH THAT TREES WILL NOT BE KILLED, DAMAGED OR REMOVED WITHOUT THE PRIOR APPROVAL OF THE VILLAGE ENGINEER. NO PERMANENT STRUCTURES, IMPROVED SURFACES, FENCES, SHEEDS, OTHER ACCESSORY STRUCTURES OR FILL ARE TO BE PLACED IN THE CONSERVATION EASEMENT AREA. NO CHANGES OF GRADE WILL BE PERMITTED WITHIN THE CONSERVATION EASEMENTS WITHOUT THE PERMISSION OF THE VILLAGE ENGINEER. PROPERTY OWNERS SHALL MAINTAIN ALL EASEMENTS FREE OF OBSTRUCTIONS. THE VILLAGE OF WOKENA SHALL HAVE THE RIGHT TO ACCESS THE CONSERVATION EASEMENT FOR EMERGENCY MAINTENANCE OR ANY OTHER PRACTICAL PURPOSES. ANY PERSON OR ENTITY DESIRING TO BE IN POSSESSION OF THE ABOVE NOTED PROVISIONS OF CONDITIONS SHALL BE SUBJECT TO A FINE PURSUANT TO VILLAGE CODE FOR EACH OFFENSE AND ANY OTHER REMEDY AVAILABLE AT LAW OR AT EQUITY. EACH DAY ANY VIOLATION EXISTS SHALL CONSTITUTE A SEPARATE OFFENSE. REPRESENTATION ON PLATS - THE ABOVE - NOTED CONSERVATION EASEMENT SHALL BE CLEARLY ILLUSTRATED ALONG WITH THE LANGUAGE PERTAINING TO CONDITIONS AND PENALTIES, NOTED IN THIS EXHIBIT ON BOTH THE FINAL PLATS OF SUBDIVISION FOR EACH PHASE AS WELL AS INDIVIDUAL PLATS OF SURVEY FOR EACH LOT. IT SHALL BE FURTHER NOTED ON THE FINAL PLAT THAT THE CONSERVATION EASEMENT BE INDICATED ON INDIVIDUAL PLATS OF SURVEY FOR INDIVIDUAL LOTS. THE COVENANTS SET FORTH IN THESE PROVISIONS SHALL BE RECORDED AGAINST ALL LOTS WITHIN THIS SUBDIVISION.

**EASEMENT PROVISIONS FOR DETENTION AREA (LOT 139)**  
 THE EASEMENT INDICATED AS "EASEMENT FOR DETENTION PURPOSES" ON THIS PLAT IS RESERVED FOR AND GRANTED TO THE WHISPER CREEK HOME OWNERS ASSOCIATION AND TO ITS SUCCESSORS AND ASSIGNS. NO BUILDINGS SHALL BE PLACED ON SAID DETENTION EASEMENT AREA, BUT THE SAME MAY BE USED FOR OTHER PURPOSES THAT DO NOT ADVERSELY AFFECT THE STORAGE/FREE FLOW OF STORM WATER. EACH OWNER OR SUBSEQUENT PURCHASER SHALL BE EQUALLY RESPONSIBLE FOR MAINTAINING THE DETENTION EASEMENT AREA AND SHALL NOT DESTROY OR MODIFY GRADES OR SLOPES WITHOUT HAVING FIRST RECEIVED PRIOR WRITTEN APPROVAL OF THE VILLAGE OF WOKENA.

IN THE EVENT ANY OWNER OR SUBSEQUENT PURCHASER FAILS TO PROPERLY MAINTAIN THE EASEMENT AREA, THE VILLAGE OF WOKENA, ILLINOIS, OR ANY OTHER UNIT OF LOCAL GOVERNMENT HAVING JURISDICTION OVER DRAINAGE, SHALL UPON TEN (10) DAYS PRIOR WRITTEN NOTICE, RESERVE THE RIGHT TO PERFORM, OR HAVE PERFORMED ON ITS BEHALF, ANY MAINTENANCE WORK TO OR UPON THE WATER DETENTION AREA REASONABLY NECESSARY TO INSURE ADEQUATE STORM WATER STORAGE AND FREE FLOW OF STORM WATER THROUGH THE DETENTION EASEMENT AREA.

*Thomas E. Edmondson*  
116 295-2116



REVISED: 5-29-06 (CHANGE ST. NAME)  
 REVISED: 4-17-06  
 REVISED: 3-7-06  
 REVISED: 2-7-06  
 REVISED: 9-28-05  
 PREPARED: MAY 19, 2005

**INTECH CONSULTANTS, INC.**  
 ENGINEERS / SURVEYORS  
 8413 WALTON AVE. DOWNERS GROVE, IL (630) 884-8884

**EXHIBIT C – ARCHITECTURAL REVIEW FORM**

**ARCHITECTURAL REVIEW  
WHISPER CREEK NORTH**

Date: \_\_\_\_\_

Builder / Owner: \_\_\_\_\_

Lot #: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Architect: \_\_\_\_\_

Plan #: \_\_\_\_\_

Brick Name: \_\_\_\_\_

Mortar Color: \_\_\_\_\_

Roof Color: \_\_\_\_\_

Window Color: \_\_\_\_\_

Siding Color: \_\_\_\_\_

Approved \_\_\_\_\_

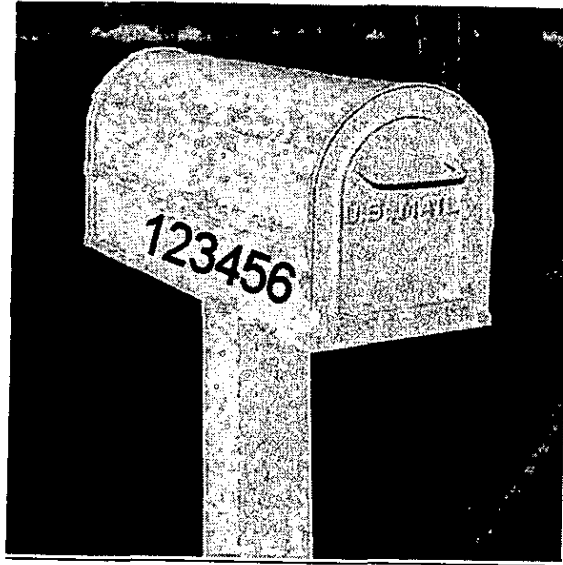
McNaughton Development Inc

Date: \_\_\_\_\_

*(Office use only)*

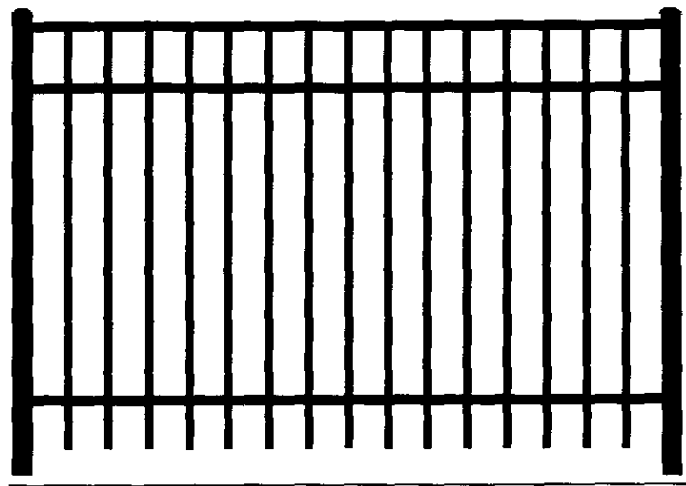
<input type="checkbox"/> Lot Layout	<input type="checkbox"/> Landscape Plans	<input type="checkbox"/> Assmts. Paid
<input type="checkbox"/> Plans	<input type="checkbox"/> Exterior Colors	<input type="checkbox"/> Fee(s)

**EXHIBIT D - MAILBOXES**



***Sample Mailbox, Post (Black) and Address Plaque (exclusively)***

**EXHIBIT E - FENCES**



***Sample Fence – Exclusive Style***

**EXHIBIT F – NOTICE TO CONTRACTORS****NOTICE TO CONTRACTORS**

- ALL CONCRETE WASHOUTS-ONLY ON LOT POURED
- ALL MUD-DIRT-DEBRIS PUT ON ROADS-YOU CLEAN IMMEDIATELY
- ALL LOTS TO BE CLEANED PRIOR TO LEAVING-EVERY DAY
- ALL GARBAGE-PAPER-DEBRIS-TO BE PUT IN DUMPSTERS DAILY
- ALL GARBAGE-PAPER-DEBRIS ON ADJACENT LOTS-CLEANED DAILY
- ALL NON RUBBER TIRE VEHICLES-MUST USE PROPER CURB PROTECTION
- 15 M.P.H. MANDATORY

***FAILURE TO COMPLY COULD RESULT IN A STOP WORK ORDER  
FAILURE TO COMPLY IS SUBJECT UP TO A \$500.00 PER DAY FINE***

**McNaughton Development, Inc.**

**EXHIBIT G – TRANSFER OF OWNERSHIP**

**NOTICE OF TRANSFER OF OWNERSHIP**

Date: \_\_\_\_\_

Purchaser: \_\_\_\_\_

Lot #: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

\_\_\_\_\_

DECLARATION: Seller has delivered to Purchaser and Purchaser acknowledges receipt of the Declaration of Covenants, Conditions and Restrictions (The Declaration). Purchaser agrees to comply with the terms thereof including but not limited to, those provisions relating to architectural review authority of Seller, The Architectural Review Committee (The ARC), or the Homeowner’s Association; and those provisions relating to payment of assessments to the Homeowner’s Association for maintenance and repair of common areas in the Subdivision pursuant to the formula set forth in the Declaration, and for other specified purposes. Purchaser acknowledges that compliance with the terms of such Declaration will be mandatory and not voluntary.

\_\_\_\_\_  
Purchaser(s)

McNaughton Development, Inc.  
11900 Southwest Highway, Suite 101  
Palos Park, Illinois 60464  
(708) 361-8300 · (815) 485-8500  
Architectural Review - ARC · (708) 361-8300  
Homeowners Association · (708) 361-8300



This document is executed by **WAYNE HUMMER TRUST COMPANY, N.A.**, not personally but as Trustee under Trust No. HBT-2060 aforesaid, in the exercise of power and authority conferred upon and vested in as said Trustee as such, and it is expressly understood and agreed that nothing in said document contained shall be construed as creating any liability on said Trustee personally to pay any indebtedness accruing thereunder, or to perform any covenants, either expressed or implied including but not limited to warranties, indemnifications and hold harmless representations in said document (all such liability, if any, being expressly waived by the parties hereto and their respective successors and assigns) and that so far as said Trustee is concerned, the owner of any indebtedness or right accruing under said document shall look solely to the premises described therein for the payment or enforcement thereof, it being understood that said Trustee merely holds legal title to the premises described therein and has no control over the management thereof or the income therefrom, and as no knowledge respecting any factual matter with respect to said premises, except as represented to it by the beneficiary or beneficiaries of said trust. In event of conflict between the terms of this rider and of the agreement to which is it attached, on any questions of apparent liability or obligation resting upon said Trustee, the provisions of this rider shall be controlling.

WAYNE HUMMER TRUST COMPANY  
N.A. not individually, but As Trustee under Trust  
Agreement dated 05/26/2005 known as Trust  
number HBT-2060

By:   
Assistant Vice President