

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF

HUNTINGTON CREEK 'B' 2004R-010975

A Subdivision of a part of the West Half of the Northeast Quarter of Fractional Section 5, Township 7 South, Range 9 West and part of the Southwest Quarter of the Southeast Quarter of the Section 32, Township 6 South, Range 9 West (20.7819 acres more or less) in Ohio Township, Warrick County, Indiana :

THE UNDERSIGNED , NEWBURGH DEVELOPMENT GROUP, LLC. , hereafter referred to as "Developers" ,being the owners and subdividers of the above described subdivision, and located on Pollack Avenue , and lying in Warrick County, Indiana , designated as "Huntington Creek "B"," hereafter referred to as the "Subdivision," do hereby make , adopt and establish the following conditions, restrictions, reservations and protective covenants for the use and occupancy of the lots situated within the boundaries of the Subdivision, which restrictions, reservations, conditions and protective covenants shall run with the title to said real estate and shall be binding upon all owners of lots within the boundaries of the above-described Subdivision, to-wit:

1. RESIDENTIAL USE. All lots shall be known and described as and used only for residential purposes and shall not be used for any business, commercial or industrial purposes or utilized for vehicular access to adjoining property.
2. CONSTRUCTION OF BUILDING. Every dwelling (exclusive of porch, breezeway, and garage,) must contain not less than the following living area on the floor or floors indicated:

LOTS 1 THROUGH 16 - Huntington Creek 'A' 2004R-010974

This portion of Huntington Creek has been designated as a Planned Unit Development. The covenants and restrictions are a separate document, recorded at the time of the recording of the final "Secondary" plat of Huntington Creek "B".

LOTS 17 THROUGH 42

- A one (1) story house must be at least two thousand one hundred (2,100) square feet;
- A one and one-half (1-1/2) story or a two (2) story or two and one-half (2-1/2) story dwelling must be at least one thousand two hundred (1,200) square feet of living area on the first floor with a minimum total of two thousand six hundred (2,600) square feet.

LOTS 43 THROUGH 55

- A one (1) story house must be at least two thousand four hundred (2,400) square feet;
- A one and one-half (1-1/2) story or a two (2) story or two and one-half (2-1/2) story dwelling must be at least one thousand five hundred (1,500) square feet of living area on the first floor with a minimum total of three thousand two hundred (3,200) square feet.

LOTS 49 THROUGH 55

The topographic changes in these lots will require the lot owner to terrace a portion of the backyard. To provide uniformity in the locations of the terracing of each of the seven (7) lots the owner must submit a landscaping plan for approval to the Architectural Committee of the backyard before construction.

2004R-010975
 BETTY NIEMEYER
 WARRICK COUNTY RECORDER
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 09/01/2004 10:07:03AM
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No dwelling shall be erected upon any lot in the Subdivision except in the following manner:

The exterior finish must be composed of brick or stucco-like material. Aluminum wood or vinyl clad cannot compose more than 20% of the exterior finish. Any deviation from this restriction must be reviewed by the Architectural Committee.

Each residence shall include a garage of the "attached" type, constructed in such a manner as to be an integral part of the residential structure on the Building Site, unless otherwise approved in writing prior to construction by the Architectural Committee, and such garages shall be sufficient to accommodate not less than two (2), nor more than four (4) automobiles and/or recreational vehicles. All garages constructed in the Subdivision shall be of the "enclosed" type, in conformity with the foregoing requirements, and no carports shall be permitted to be constructed in the Subdivision.

The roof pitch of every dwelling must not be less than eight (8) inches vertical for every twelve (12) inches horizontal.

No completed structure shall have concrete blocks exposed on the exterior of said structure.

3. CONSTRUCTION PROCESS. The construction of the dwelling, together with landscaping, shall be completed within one (1) year from the date of commencement of such construction of said dwelling, provided that the building committee may extend the time for completion of construction due to causes beyond the reasonable control of the contractor, builder or owner.

Each owner shall require his builder or contractor to confine all building materials, equipment and excavated soil within the boundaries of the owner's lot and to exercise good erosion control practices. Straw bale dams for runoff control during construction shall be used, if necessary, and all streets shall be kept free of transported soil. The job site and street in front of the lot shall be kept clean and free of debris at all times.

Within a reasonable time after the completion of construction the lot shall be graded, seeded and mulched and a good turf shall be established and thereafter maintained.

4. ARCHITECTURAL COMMITTEE. All construction and related activity in the Subdivision shall be subject to the prior approval of the Architectural Committee, hereinafter referred to as the "Committee." The developers and/or a representative or representatives designated by Developers from time to time shall constitute the initial members of the Architectural Committee.

No building structure or appurtenance, including, but not limited to, any residence, garage, porch, breezeway, fence, driveway, wall, patio, satellite dish antenna, solar collector or other similar structure or appurtenance, shall be commenced, constructed, or erected, placed or altered on any Building Site in the Subdivision until complete construction plans and specifications for all such construction or alteration, which plans and specifications shall include, but shall not be limited to, an accurate architectural drawing of the exterior design of each proposed building or structure and a plot plan showing the proposed location of each building or structure; the topography with finished grade elevations are approved by the Committee. No outbuildings are allowed within the subdivision, with the exception of "pool houses" which must be approved by the Developer or Architectural Committee before construction begins.

The Committee shall have the right to refuse to approve any such plans and specifications which are not suitable or desirable, in its sole judgment and discretion, for aesthetic or other reasons, and in making such determination the Committee may consider, among other things, the harmony of the proposed exterior design with the intended architectural character of the Subdivision and with existing structures within the Subdivision; the location of each structure upon the Building Site; the proposed final topography; the elevation of each structure; the exterior materials to be used in construction; the general quality of construction and design; the approximate cost of the structure and improvements; and compliance with all applicable covenants

and restrictions. While the Committee shall have the right to apply such standards subjectively, approval of submitted plans and specifications shall not be arbitrarily or unreasonably withheld by the Committee.

In the event the Committee or its designated representative shall fail to approve or disapprove any such plans and specifications within forty-five (45) days after said plans and specifications have been submitted to the Committee and a written receipt therefore executed by a member of the Committee or its representative, such covenants shall be deemed to have been fully complied with and said plans and specifications approved. In the event any such plans and specifications are disapproved in whole or in part by the Committee, the Committee shall notify the submitting party in writing as to the reasons for such disapproval, and such plans and specifications, after modification, shall be resubmitted to the Committee for final approval, and the committee shall approve or disapprove such modified plans and specifications within thirty (30) days, and in the event of the failure of the Committee so to act within said thirty (30) -day period, said plans and specifications shall be deemed to have been approved as modified.

The Committee shall have the right to make on-site inspection of any and all structures during the construction period. If any construction or alteration is in any manner at variance with the plans and specifications as approved by the Committee, the Committee may, at its option, halt such construction or alteration until the same is brought into compliance with the approved plans and specifications.

In the event of the death of both of the undersigned Developers or in the event of their resignation in writing prior to the expiration of the period of existence of the Committee hereinafter specified, the Committee shall be composed of three (3) members who are owners of lots and/or building sites in the Subdivision and who are elected from time to time by a majority vote of the members of the Property Owners' Association. The Committee so elected may act by majority vote of its members and/or may act through a representative or representatives designated by a majority of the members of the Committee and authorized by said Committee to exercise some or all of the powers of the Committee herein set forth.

The powers and duties of the Committee and/or its designated successors or representatives shall cease twenty-five (25) years following the date of the recording of these restrictions and covenants, unless prior to said date a written instrument shall be executed by the then record owners of a majority of the lots and/or building sites in the Subdivision and duly recorded, extending the period of existence of the Committee and appointing a representative or representatives who shall thereafter exercise the same powers previously exercised by said Committee.

5. BUILDING LINES. No residence or other building structure shall be constructed nearer to the front property line than twenty-five (25) feet as shown on said plat nor nearer to any side lot line than six (6) feet provided, however, that if it is the intention of an owner to erect a residence upon more than one (1) lot, the side lot line shall be adjusted to a point six (6) feet from the boundary lines of said owner's land and any side lot building setback lines which would exist on the interior of said parcel shall thereupon be extinguished.

6. EASEMENTS. Public utility easements are reserved in the Subdivision for the erection, construction, maintenance and use of sewer, drain, gas, water, cable TV, telephone, electrical and any other similar or like utilities, and certain easements designated for surface water drainage. Such easements are located upon the lots at the location and are the widths as more particularly shown on the recorded plat of the Subdivision and marked as "Public Utility Easement" or "Public Utility and Drainage Easement." No building, structure, planting or other obstruction shall be placed on or within or be permitted to remain on or within any such easement, which may damage or interfere with the installation and maintenance of utility facilities or which may change the direction of or obstruct or retard the flow of surface water through the drainage channels in the easements. Each such easement area shall be kept clean and maintained continuously by the owner of each lot upon which any such easement is located.

7. APPEARANCE OF LOTS. Each lot shall be kept clean and free of weeds, high grass and other objectionable matter at all times by the owner thereof. In the event any lot is not kept and maintained in an orderly manner by the owner, the

Developers or their assigns, the Committee and/or the Property Owners' Association shall have the right to cause such maintenance to be performed at the expense of the owner of such lot, and such owner shall be required to reimburse Developers, the committee or the Property Owners' Association, as the case may be, for the costs incurred in connection with such maintenance within ten (10) days from the date such lot owner is presented with a statement for the cost of such work, which statement shall be payable with interest at the rate of fifteen percent (15%) per annum until paid and with attorneys' fees. In the event Developers relinquish their rights or shall no longer own any lot in the Subdivision, the rights under these covenants and restrictions shall be exercised by the Architectural Committee and/or the Property Owners' Association.

8. NO TEMPORARY STRUCTURES. No temporary structure, such as a trailer, mobile home, garage, tent, shack, barn or other building shall be built, erected or placed upon any lot for use as a residence, either temporarily or permanently. The initial structure to be constructed upon any Building Site shall be the principal residence and shall not be occupied or inhabited until such residential structure shall have been substantially completed in accordance with the plans and specifications as approved by the Committee.

9. SANITARY SEWER. The sewer system constructed in the Subdivision is a sanitary sewer only. No residence or other permitted structure may have any plumbing located in its basement or any below ground level floor connected by gravity to the sanitary sewer, unless the top of the nearest upstream manhole or cleanout with a pop-off cover on the sanitary sewer is a minimum of one (1) foot lower than the elevation of the basement or floor in question. All plumbing located in such basements or below ground level floors shall be connected to an appropriate pump to direct the discharge from such plumbing to the sewer. No surface water, wall perimeter tile drainage or down spout drainage may be directed to the sanitary sewer.

10. DRAINAGE the existing natural drainage courses and man-made drainage facilities in the Subdivision shall not be altered. It shall be the obligation of the owner of each lot or Building Site to keep and maintain a natural or man-made drainage course or facility located on such building lot or site clean, open and unobstructed.

11. DOWN SPOUT DRAINAGE. Any down spout or foundation drainage, if drained to the street, must be discharged at a level above the guttering and must not be discharged in a manner which could cause erosion under the gutter or street. All such water so discharged shall be rain or subterranean water only, and may not contain laundry water or overflow waste effluents.

12. POSTAL BOX. To ensure consistency, the developer and/or Architectural Committee will require the mail/newspaper boxes to be constructed of brick. Any deviation from this restriction must be reviewed by the Architectural Committee.

13. FENCES, WALLS, SHRUBS AND TREES. No fence or wall shall be erected on any Building Site nearer to the street than the rear wall of the dwelling, except retaining walls or decorative fencing which have received the prior written approval of the Architectural Committee. Fences, walls or hedges running parallel with or extending behind the rear wall of a dwelling shall not exceed six (6) feet in height and shall be in harmony with the architectural character of the Subdivision. No chain-link fences will be permitted. Trees, shrubs and other plantings shall be planted and maintained in such manner as not to create a traffic safety hazard or distract from the appearance of the Subdivision. Homeowners desiring to install a fence upon a building site will be required to have the fence specifications and the location of the fence, approved by the Developer. Fences constructed on corner lots which have the rear yard lying along the street, may not construct a fence closer than 15 feet from the back edge of the curb.

14. DRIVEWAYS. All driveways, walks and patios for their entire length and width shall be paved with poured concrete, or brick from the street right-of-way to the garage.

Driveways on lots 22, 31, 32, 37, 38, 46 and 47 cannot access onto Huntington Drive. The Buyer of these lots are encouraged to place the driveways on the side of the home that is farthest point from Huntington Drive.

15. AIR CONDITIONING UNITS. All air conditioning units, heat pumps or other similar facilities shall be located or screened so as not to be visible from the street.

16. PARKING OF VEHICLES. No vehicles shall be regularly or habitually parked upon any street in the Subdivision. Each Building Site shall have adequate facilities for off-street parking for all vehicles regularly kept upon the premises. No trucks or commercial-type vehicles nor more than two (2) automobiles shall be regularly or habitually parked in the driveway of any Building Site. No camper, boat, motor home, recreational vehicle, commercial truck, inoperative vehicles or other such vehicles shall be regularly or habitually parked upon any Building Site or premises in the Subdivision, unless parked within an enclosed garage.

17. SIGNS. No sign of any kind shall be displayed to the public view on any lot, except one (1) sign of not more than five (5) square feet in area when required for advertising the property for sale. Each lot or Building Site owner may display a marker marking only his name and address. Following the construction of the house, no sign or signs advertising products, services, professions or facilities shall be displayed on any lot at any time.

18. NO ANIMALS, livestock or poultry of any kind shall be raised, bred or kept upon any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for commercial purposes. Animal yards, quarters, or pens shall be screened from the view of adjacent yards and/or streets.

19. NUISANCES. No noxious or offensive activities shall be carried on upon any lot in the Subdivision, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the residents of the Subdivision. No lot shall be used for the storage of any property or thing that will cause the lot to appear unclean or untidy, nor shall any substance, thing or material be kept upon any lot that will emit fire or obnoxious odors or that will cause any noise or other effect which would disturb the peace, quiet, comfort or serenity of any resident of the Subdivision. No oil drilling or refining, mining, quarrying or similar operations of any kind shall be permitted upon any lot in the Subdivision.

20. SIDEWALKS. It shall be the responsibility of all building site owners to construct the sidewalks in a timely fashion. If sidewalks are not constructed in a timely fashion and upon formal request for the construction of the sidewalks by the Warrick Area Planning Commission and the Warrick County Commissioners, the Developer shall have the right to construct the sidewalks and require the owner to pay the construction cost thereof forthwith upon demand. The Developer shall have the right to file a lien on the building site upon which sidewalks were constructed for unpaid construction costs and expenses. Sidewalks must be four (4) feet wide, four (4) inches thick, with a one (1) inch slope toward the street and separated from the back of curb by four (4) feet.

21. FIREARMS. There shall be no hunting with firearms or other weapons within the Subdivision. No firearms shall be discharged within the Subdivision.

22. GARBAGE AND REFUSE DISPOSAL. Each lot owner shall keep the lot free of garbage, sewage, ashes, rubbish, bottles, cans, waste matter and other refuse. Accumulated trash, garbage or other waste or debris shall be kept in sanitary containers out of sight and shall be disposed of in a timely manner. All containers or other equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition and shall be kept in such a manner as to avoid an unsightly appearance within the Subdivision. All residential structures are required to tap into the Newburgh Municipal Sewage System.

23. PROHIBITED APPURTENANCES. Satellite dishes, antennas, solar collectors, and similar devices shall be prohibited, unless they are located and/or screened so as not to be visible from the street or from other lots and have been approved prior to construction or erection by the Architectural Committee. No clotheslines will be permitted.

24. PROPERTY OWNERS' ASSOCIATION. Not later than the date that Developers shall have sold a majority of the lots as initially platted in the Subdivision, the home owners/lot owners may choose to form an Indiana not-for-profit corporation, to be known as "Huntington Creek Property Owners' Association, Inc." If the home owners/lot owners choose not to form a not-for-profit corporation at that date, the home owners/lot owners will become responsible for the monitoring and enforcement of these covenants and restrictions. The home owners/lot owners are herein referred to as "Property Owners' Association" or

"Association." The purpose of said Association shall be to maintain the entry walls, entrance street lights, entrance and right-of-way along Pollack Avenue and any other common areas or facilities; for the enforcement of the terms and provisions of these covenants and restrictions; and for such other purposes as may be from time to time authorized by the by-laws of the Association and/or the members thereof. For the purposes hereof and for the purposes of assessment of so-called common area charges, the term "common area" shall mean any portion of the real estate lying within the boundaries of the Subdivision which does not lie within the boundaries of a lot as initially platted in said Subdivision. The care and maintenance of any public utility and/or drainage easement and any unpaved portion of the street right-of-way lying within the boundary lines (and the extensions thereof) of any lot or Building Site shall be the responsibility of the owner of such lot or Building Site, and shall not be deemed to be common areas.

All owners of lots or Building Sites in the Subdivision shall automatically be members of the Association and shall be subject to the terms and provisions of the Articles of Incorporation and by-laws of said Association and any rules, regulations, restrictions, obligations and assessments provided for therein and/or herein.

Initially, the owner of each lot as originally platted in the Subdivision shall be entitled to one (1) vote with respect to any required or permitted action of the Association; provided, however, that in the event one (1) or more lots or parts of one (1) or more lots in the Subdivision as originally platted are combined for use as a single building Site, the owner of such Building Site shall be entitled to one (1) vote in all matters pertaining to the Association, regardless of the fact that such Building Site consists of one (1) or more or parts of one or more lots as originally platted, it being the intent that the owner of each residential Building Site, as above defined, be entitled to one (1) vote in all matters pertaining to the Association.

25. COMMON MAINTENANCE EXPENSES AND ASSESSMENTS. Each owner of a lot or Building Site in the Subdivision, defined as Huntington Creek Sections "A" and "B" shall be obligated for and shall be responsible to pay his proportionate share of any right-of-ways, drainage easements or designated common area maintenance or other expenses in that proportion which such owner's voting rights with respect to Property Association matters bears to the total voting rights of all members of said Association, as herein above set forth, regardless of whether said Association shall yet have been formed. Such owner's liability or obligation for such common expenses shall commence upon the date that such owner acquires title to a lot or Building Site in the Subdivision, regardless of whether or when such owner shall commence construction upon such lot or Building Site.

Permissible common area costs and charges assessable against and payable by the owners of lots or Building Sites in the Subdivision shall include, but shall not be limited to, utility expenses, as well as maintenance and upkeep of the entrance area, right of ways, drainage easements.

The costs thereof to be payable by and assessable against the owner of each lot or Building Site in the Subdivision in proportion to such owner's voting rights in the Property Owners' Association, as herein above provided, regardless or whether such Association shall have yet been formed. Prior to the formation of the Property Owners' Association, Developers may pay the costs in connection with any such common charges and, in such event, shall be entitled to reimbursement from the owners of any lots or Building Sites in the Subdivision in the same manner as is herein provided with respect to the Association.

Any common costs or charges and assessments by the Property Owners' Association against any lot or Building Site in the Subdivision for such purposes shall constitute a lien upon said lot or Building Site, enforceable by the Association with interest thereon at the rate of fifteen percent (15%) per annum, with reasonable attorneys' fees; provided however, that any such lien of any bona fide recorded mortgage covering said lot or Building Site.

26. ENFORCEMENT OF RESTRICTIONS. These covenants shall inure to the benefit of the Developers, the Architectural Committee, the Association and all owners of lots or Building Sites in the Subdivision jointly and severally. Any of said parties or entities, jointly or severally, shall have the absolute right to enforce any or all of the restrictions, covenants and conditions set out herein and/or as the same may be from time to time changed or amended, as above provided, by proceeding in

any court of law or equity, by injunction or other appropriate remedy to enforce performance and/or restrain violation of any such covenant or restriction, or to pursue any other remedy to which they or any of them may be entitled, and said parties shall have the right to collect from the party or parties violating or threatening to violate any such condition, covenant or restriction, either jointly or severally, any and all damages, costs, expenses and reasonable attorneys' fees resulting from any such court action, said attorneys' fees to be fixed by the court hearing said matter. Notwithstanding the foregoing provisions hereof which might be construed to the contrary, Developers, the Architectural Committee, the Association and the owner of any lot or Building Site in the Subdivision shall have the right to enforce said covenants, conditions and restrictions without proof of pecuniary damage to his, its or their own property in the Subdivision.

27. ACCEPTANCE OF RESTRICTIONS. The acceptance of a deed or other contract or instruments of conveyance transferring title to any lot or Building Site in the Subdivision by any person or entity shall constitute an acceptance and affirmance by such person or entity of each and all of the conditions, covenants and restrictions herein set forth, regardless of whether the same be set out or specified in such instrument of conveyance.

28. DEVELOPERS' LIABILITY. Developers, their successors or assigns, shall not be liable to any lot or Building Site owner, their successors or assigns, their families, friends, guests or invitees, for injury or damages occurring because of the condition of any street, easement, right-of-way or other such area in the Subdivision.

29. CURING AMBIGUITY IN RESTRICTIONS. The Developers reserve and shall have the sole right to amend the covenants and restrictions herein set forth for the purpose of curing any ambiguity in or any inconsistency between the provisions hereof; to include in any contract or deed or other instrument hereafter made any additional covenants and restrictions applicable to the Subdivision which do not lower the standards of the covenants and restrictions contained herein; and/or to release any residential Building Site from any part of the covenants and restrictions violated if Developers, in their sole and subjective judgment, determine such violation to be minimal in nature and not detrimental to the Subdivision and/or its residents.

30. SEVERABILITY, Validity, abandonment or waiver of any one or more of the foregoing restrictions, reservations or protective covenants by judgment or order of a court shall in no way affect any of the other restrictions, reservations or protective covenants herein set forth, all of which shall remain in full force and effect.

31. TERMINATION AND AMENDMENT OF RESTRICTIONS. The conditions, restrictions, reservations and covenants herein contained shall run with the title to the land and, except as to the provisions of Paragraph 5 hereof, as therein set forth, shall be binding upon all parties owning or claiming any interest in any lot or Building Site in the Subdivision and upon all persons claiming under or through them for a period of twenty-five (25) years from the date of recording hereof, after which time said conditions, restrictions, reservations and covenants shall be automatically extended for successive periods of ten (10) years each, unless a written instrument, signed and acknowledged by the owners of a majority of all the lots and/or Building Sites in the Subdivision shall be recorded prior to the twenty-fifth (25th) anniversary date of said recording with the Recorder of Warrick County, Indiana, abrogating or modifying the same, in whole or in part, to the extent therein set forth. In determining a majority of said owners, each residential Building Site shall be entitled to one (1) vote, as is herein above provided with respect to the Property Owners' Association. For such purpose, a contract purchaser or life tenant shall be deemed to be the owner. In all other circumstances, ownership shall mean and refer to record ownership and legal title. After having been so extended to ten (10) successive periods, said covenants shall cease and terminate and no longer be of any force or effect.

Notwithstanding the foregoing, the conditions restrictions, reservations and covenants contained herein may be amended or waived at any time upon the written agreement of all of the owners of lots or Building Sites in the Subdivision, and such amendment or waiver shall be duly signed and acknowledged by such owners and placed of record in the Recorder's Office of Warrick County, Indiana.

The undersigned persons executing this instrument on behalf of Newburgh Development Group, LLC., represent and certify that they are duly elected officers of said corporation and have been fully empowered, by proper resolution of the Board of

Directors of said corporation, to execute and deliver this instrument; that said corporation has full corporate capacity to enter into this declaration of covenants and restrictions; and all necessary corporation action has been taken and done.

IN WITNESS WHEREOF, Newburgh Development Group, LLC. has set its hand and seal this 31 day of August, 2004.

NEWBURGH DEVELOPMENT GROUP, INC.

By Bruce A Miller

Bruce A. Miller, President

ATTEST:

[Signature]

Jack Tubbs, Secretary

STATE OF INDIANA :

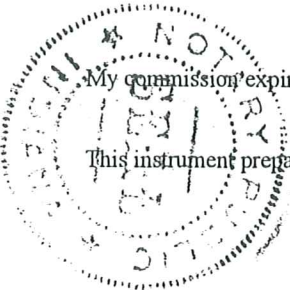
SS:

COUNTY OF WARRICK:

Before me, a Notary Public in and for said county and state, personally appeared Bruce A. Miller and Jack Tubbs, the President and Secretary, respectively, of Newburgh Development Group, Inc., who acknowledged the execution of the foregoing instrument for and on behalf of said Corporation, and who, having been duly sworn, state that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 31 day of August, 2004.

[Signature]
Notary Public



My commission expires: 9/13/10

This instrument prepared by Newburgh Development Group, LLC. by Bruce A. Miller, President.

2004R-010978

BETTY NIEMEYER
WARRICK COUNTY RECORDER

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