

1389

CONDITIONS, RESTRICTIONS, RESERVATIONS AND PROTECTIVE COVENANTS

for

COPPER'S EDGE ESTATES SUBDIVISION

&

COPPER'S EDGE ESTATES P.U.D. AMENDED

LEGAL DESCRIPTION

FILED

DEC 04 2017

Richard W. Johnson
WARRICK CO. AUDITOR

THE UNDERSIGNED BARRINGTON CUSTOM HOMES, LLC, an Indiana limited liability company ("Developer"), is the owner and subdivider of that certain subdivision to be known as Copper's Edge Estates Subdivision located in a part of the Southwest Quarter of the Northwest Quarter of Section 34, Township 6 South Range 9 West, in Warrick County, Indiana, and more particularly described as follows ("Subdivision"):

Commencing at a 1-1/2 inch rod pipe at the Southwest corner of said Quarter Quarter Section, thence along the West line thereof, North 00 degrees 30 minutes 54 seconds East 482.63 feet to the Point of Beginning, thence continuing along the West line of said Quarter Quarter Section, North 00 degrees 30 minutes 54 seconds East 291.99 feet; thence South 89 degrees 51 minutes 43 seconds East 1310.27 feet to the East line of said Quarter Quarter Section; thence along the East line of said Quarter Quarter Section, South 00 degrees 36 minutes 54 seconds West 299.20 feet, thence North 89 degrees 59 minutes 55 seconds West 365.23 feet, thence North 00 degrees 38 minutes 46 seconds East 10.28 feet, thence North 89 degrees 59 minutes 38 seconds West 944.57 feet to the point of beginning, containing 8.82 acres, more or less.

Subject to the Right of Way of Frame Road to the west side thereof.

Also, Subject to all building and use restrictions of record and all existing easements, highways and right-of-ways.

The Developer does hereby make adopt and establish the following conditions, restrictions, reservations and protective covenants (collectively, the "Covenants") for the use and occupancy of the lots to be platted ("Lots") and currently situated within the boundaries of the Subdivision, which 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, garage and basement,) must contain not less than the following living area on the floor or floors indicated:

A one (1) story house must be at least two thousand three hundred (2,300) square feet;

A one and one-half (1-1/2) story or a two (2) story or a 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 two thousand and seven hundred, (2,700) square feet.

No dwelling shall be erected upon any Lot in the Subdivision except in the following manner: The exterior finish must be composed of brick, stone or stucco-like material. Aluminum, wood, concrete composite material or vinyl clad, cannot compose more than 30% 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 five (5) 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 from front elevation.

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 architectural committee (as defined in Section 4 below) may extend the time for completion of construction due

to causes beyond the reasonable control of the contractor, builder or owner. 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 Developer and/or a representative or representatives designated by Developer from time to time shall constitute the initial members of the Committee.

No building structure or appurtenance, including, but not limited to, any residence, garage, porch, breezeway, fence, driveway, wall, patio, 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. Outbuildings are allowed within the Subdivision, with the approval by the Developer or Committee.

In the event the Committee or its designated representative shall fail to approve or disapprove any such plans and specifications within fifteen (15) 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 fifteen (15) days, and in the event of the failure of the Committee so to act within said fifteen (15) 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 written resignation of the Developer, its successors and/or assigns, 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 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. Please refer to recorded plat of the Subdivision for all building line restrictions.

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 Developer or its 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 Developer, 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 Developer relinquishes its rights or shall no longer own any Lot in the Subdivision, the rights under these covenants and restrictions shall be exercised by the Committee and/or the Property Owners' Association.

8. NO TEMPORARY STRUCTURES. No temporary structure, such as a trailer, mobile home, tent, shack, barn, boat, recreational vehicle shall be placed upon any Lot.

9. SANITARY SEWER. The sewer system constructed in the Subdivision is a sanitary sewer only. 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 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 Committee will determine the type and style of all mail/newspaper boxes to be used within the Subdivision.

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 Committee. Fences, walls or hedges running parallel with or extending behind the rear wall of a dwelling 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.

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.

15. 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.

16. 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, unless approved by the Developer in writing.

17. ANIMALS. 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.

18. 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 or in any way violate the Town of Newburgh noise ordinance.

19. 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 Town of Newburgh, 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.

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

21. 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.

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

23. 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 "Copper's Edge Estates Property Owners' Association, Inc." The purpose of said Association shall be to maintain the entrance landscaping, entrance street lights, entrance and right-of-way along Frame Road 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.

24. MEMBERSHIP IN ASSOCIATION. 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.

The Developer shall also be a Member of the Association so long as the Developer owns one or more Lots within the Subdivision even though such Lots may be exempt from assessment. The foregoing is not intended to include persons or entities that hold an interest merely as security for performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

25. VOTING RIGHTS. There shall be two (2) classes of voting membership in the Association:

- A. Class A Members will be all those Members other than the Developer. Class A Members will 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 the persons holding such interest shall determine between themselves, provided that in no event shall more than one vote be cast with respect to any Lot.
- B. Class B Members shall be Developer, or its successors or assigns, and shall be entitled to ten votes for each Lot owned, provided that the Unit on the Lot owned by Developer is neither leased, rented nor otherwise occupied as a residence. Leasing, renting or allowing entry for residential occupancy shall terminate the Developer's weighted voting advantage in relation to any Lot on which a Unit is leased, rented or occupied as a residence, and will limit Developer in relation to any such Lots to the same voting rights as a Class A Member. The Class B membership shall cease and be converted to Class A membership on the occurrence of any of the following events, whichever happens earliest:

- (i) one hundred twenty (120) days after ninety (90%) of the Lots in the Subdivision have been conveyed to Lot purchasers; or
- (ii) December 31, 2027; or
- (iii) when voluntarily terminated by Developer by a writing delivered to the Secretary of the Association.

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.

26. COMMON MAINTENANCE EXPENSES AND ASSESSMENTS. Each owner of a Lot or Building Site in the Subdivision 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. Provided, however, the Developer shall only be considered to own one Lot when calculating the Developer's share of common area expenses except for any Lot owned by Developer with a completed dwelling which is leased by Developer for residential occupancy. Each Lot owned and leased by Developer shall count separately as part of Developer's liability for a portion of the common area expenses. For example: If Developer owns 12 total Lots and 3 of those Lots include a completed dwelling leased by the Developer, the Developer shall be deemed to own 4 Lots when determining the Developer's proportionate liability for common area expenses.

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, nature preserve and a proportionate share of the maintenance of "common area" within the Subdivision.

Wetland boundaries within the subdivision are described within the recorded plat of the Subdivision. The definition of a wetland as described as The Waters of the United States by the Corp of Engineers, Department of the Army, and the requirements of maintenance of those areas are the responsibility of the Copper's Edge Homeowners Association.

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 of whether such Association shall have yet been formed. Prior to the formation of the Property Owners' Association, Developer 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 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.

27. ENFORCEMENT OF RESTRICTIONS. These covenants shall inure to the benefit of the Developer, the 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, Developer, the 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.

28. 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.

29. DEVELOPER'S LIABILITY. Developer, its 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 common area in the Subdivision.

30. CURING AMBIGUITY IN RESTRICTIONS. The Developer reserves and shall have the sole right to amend the Covenants 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/or to release any residential Building Site from any part of the covenants and restrictions violated if Developer, in its sole and subjective judgment, determine such violation to be minimal in nature and not detrimental to the Subdivision and/or its residents.

31. SEVERABILITY OF COVENANTS. The severance, invalidity, abandonment or waiver of any one or more of the terms and conditions of the foregoing Covenants by judgment or order of a court shall in no way affect any of the other terms and conditions of the Covenants herein set forth, all of which shall remain in full force and effect.

32. TERMINATION AND AMENDMENT OF RESTRICTIONS. The conditions, restrictions, reservations and covenants herein contained shall run with the title to the land and 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. Any amendments to these Covenants shall be subject to the voting requirements set forth in Section 25 above. 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 Barrington Custom Homes LLC, represent and certify that they are duly elected Members or authorized representatives of the company and have been fully empowered, by proper resolution of the Members of the limited liability company, to execute and deliver this instrument; that said company has full capacity to enter into this declaration of covenants and restrictions; and all necessary company action has been taken and done.

IN WITNESS WHEREOF, Barrington Custom Homes, LLC., has set its hand and seal this 22ND day of NOVEMBER, 2017.

"Developer"

Barrington Custom Homes, LLC

By _____



Aaron M. Miller, Member

ATTEST:

STATE OF INDIANA:

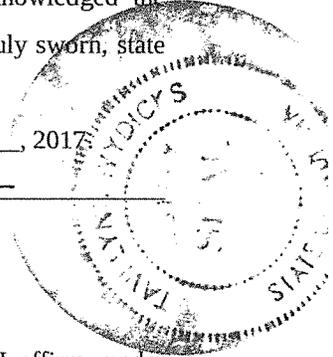
SS:

COUNTY OF WARRICK:

Before me, a Notary Public in and for said county and state, personally appeared Aaron M. Miller, Member, of Barrington Custom Homes, LLC, an Indiana limited liability company, who acknowledged the execution of the foregoing instrument for and on behalf of said company, and who, having been duly sworn, state that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 22nd day of November, 2017

Jasi Lynn Wyducks
Notary Public



My commission expires: 11/8/2020

This instrument prepared by Barrington Custom Homes, LLC. by Aaron M. Miller, Member. I affirm, under penalties of perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. [Aaron M. Miller]