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CHERYL A. SCHENKEL  
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**STONEYBROOK HEIGHTS – SECTION 7  
DEDICATION, PROTECTIVE RESTRICTIONS,  
COVENANTS AND EASEMENTS**

**HUNTINGTON, INDIANA**

**DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS & EASEMENTS**  
**AS PART OF THE PLAT OF**  
**STONEYBROOK HEIGHTS - SECTION 7,**  
**AN ADDITION TO THE CITY OF HUNTINGTON,**  
**HUNTINGTON COUNTY, INDIANA**

THIS DEDICATION, made on the day hereinafter set forth by BIGGS INDIANA PROPERTIES, LLC, an Indiana corporation, as the owner in fee simple of Lots Numbered 169 through 178, consecutive and inclusive, in Stoneybrook Heights - Section 7, Huntington County, Indiana, according to the Plat thereof recorded on July 8, 2016, in the Office of the Recorder of Huntington County, Indiana, as Instrument Number 2016003029.

WHEREAS, Biggs Indiana Properties, LLC, desires to impose upon each and all of said Lots in Stoneybrook Heights - Section 7, Huntington County, Indiana, the protective restrictions, covenants and easements hereinafter set forth:

NOW THEREFORE, Biggs Indiana Properties, LLC, hereby declares that all of the aforesaid Lots Numbered 169 through 178, as originally platted and as may be further divided or replatted, in Stoneybrook Heights - Section 7, Huntington County, Indiana, shall be impressed with and shall be held, sold, and conveyed subject to all of the following protective restrictions, covenants and easements which shall run with said Lots and be binding on all parties now having or hereafter acquiring any right, title or interest in the same or any part thereof, their heirs, successors and assigns and shall inure to the benefit of and be enforceable by each Owner thereof and/or the Developer (as such term is hereinafter defined).

**ARTICLE I**

**DEFINITIONS**

Section 1. "Developer" shall mean Biggs Indiana Properties, LLC, an Indiana corporation, its successor(s) and assign(s).

Section 2. "Owner" and "Owners" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Plat" shall mean and refer to the Plat of Stoneybrook Heights - Section 7, including any and all amendments and/or re-plats thereof, as recorded in the Office of the Recorder of Huntington County, Indiana.

Section 4. "Lot" shall mean and refer to any of Lots 169 through 178, inclusive, as originally shown on the Plat.

Section 5. "Living Unit" and/or "Dwelling Unit" shall mean and refer to the portion of a building erected on any Lot which is constructed and intended for the use and occupancy as a residence by a single family.

Section 6. "Street" shall mean any street, avenue, roadway, cul-de-sac or boulevard of whatever name which is shown on the Plat and which has been heretofore and is dedicated to the public for use as a public street.

Section 7. Other capitalized terms shall have the meaning(s) assigned to them in the remainder of this Dedication.

## ARTICLE II

### PERMITTED LOT USE

Section 1. Permitted Lot Use. All Lots may only be used for single-family residential purposes.

Section 2. Driveways. All driveways from the Street to the garage of each Living Unit shall be poured concrete and not less than twenty (20) feet in width.

Section 3. Minimum Area. No Living Unit shall be erected or permitted on any Lot having a ground floor area, exclusive of open porches, breezeways or garage, of less than 1,200 square feet in the case of a one-story dwelling, nor less than 750 square feet for a dwelling of more than one story. All Living Units must have at least a 2 car garage attached to it.

Section 4. Building Lines. No Living Unit or garage of any kind (collectively "Building"), fence or wall of any type shall be erected, placed or located on any Lot nearer to the front lot line (or nearer to the side lot line on corner lots) than the minimum building set-back line as shown on the Plat. No Building shall be located nearer than six (6) feet to any side lot line. A Building may not be located closer than twenty (20) feet to the rear lot line. No tree, shrub, planting or other obstruction shall be permitted which obstructs a clear view at intersections.

Section 5. Yard Lights. Each Owner of a Living Unit shall install an automatically controlled (photo cell) post yard light or similar illumination device ("Yard Light") in the front yard fifteen (15) feet (plus or minus one foot) from the road right-of-way. The Yard Light shall be kept operational and illuminated during all non-daylight hours. The Yard Light design, wattage and location shall be submitted to, and approved by, the Architectural Control Committee pursuant to Article III hereof.

Section 6. Signs. No sign shall be erected or permitted on any Lot or in the common areas as shown on the Plat, except (i) subdivision designation and subdivision informational signs (owned by the Developer) located in the commons area, (ii) one professional sign of not more than one (1) foot square, (iii) one sign of not more than five (5) square feet advertising the property for sale or for rent, (iv) one security sign (such as ADT) of not more than one (1) foot square, and (v) signs used by a builder to advertise the property during the construction and sales period.

Section 7. Landscaping. Upon completion of the original construction of a Living Unit, the applicable Lot must be landscaped with a minimum of ten (10) shrubs and two (2) trees. These lots must be landscaped with one (1) tree in the front yard.

Section 8. Nuisance. No noxious or unreasonably offensive activity shall be carried on upon any Lot nor shall anything be done thereon which (i) creates a nuisance by reason of odor, fumes, dust, smoke, noise, or pollution, or any other means (ii) which is hazardous by reason of fire or explosion, or (iii) that is in violation of the laws of the State of Indiana or the County of Huntington.

Section 9. Animals. No Lot shall be used for the purpose of raising, breeding or keeping animals, livestock or poultry except that dogs, cats and other common domestic household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose.

Section 10. Storage Tanks. No fuel or oil storage tanks in excess of six (6) gallons may be maintained on any Lot. No underground tanks of any kind shall be permitted on a Lot.

Section 11. Antennas/Solar Panels. No radio or television antenna, satellite receiver dish, solar panel(s) or similar structure(s) (collectively "Antenna/Panels") that has more than four (4) feet of surface area on any one side or that attains a height of more than three (3) feet above the highest portion of the Living Unit on the Lot shall be allowed on any Lot or attached to any Living Unit, Building or structure of any kind. The location of all Antennas/Panels shall require the approval of the Architectural Control Committee.

Section 12. Pools and Hot Tubs. No above-ground pool, except for spas, hot tubs, whirlpools and similar structures, shall be commenced, erected or maintained on any Lot. All in-ground pools and hot tubs are subject to the Architectural Control Committee review process set forth in Article III of this Dedication.

Section 13. Motor Vehicles. No unlicensed or unregistered automobile or any other type of motorized vehicle ("Motor Vehicle") may be parked or maintained on any Lot except completely enclosed in a garage. No Motor Vehicle may be disassembled or be allowed to remain in a state of disassembly so that it is not legally "road worthy" on any Lot except when the vehicle is completely enclosed within a garage.

Section 14. No Temporary Structures. No structure of a temporary character, house trailer, basement, shack, un-attached garage, barn, tool shed, or other outbuilding shall be constructed, erected or located on a Lot and used as a residence, either temporarily or permanently; provided, however, that a basement may be constructed in connection with the construction of a Living Unit.

Section 15. Outside Storage. No trailer of any type, boat, camper, recreational vehicle, motor home, four- and three- wheeler, ATV, motorcycle, commercial vehicle, truck, or any other similar wheeled vehicle (excepting passenger cars and similar vehicles designed primarily for the non-commercial transportation of passengers) shall be permitted to be parked ungaraged on a Lot for a continuous period in excess of seventy-two (72) hours, or for a period of which is in the aggregate in excess of nine (9) days per calendar year. The term 'truck' as used in this Section

means every motor vehicle designed, used, or maintained primarily for the transportation of property, which is rated one (1) ton or more.

Section 16. Free-Standing Poles. No clothes line or clothes pole, or any other free-standing, semi-permanent or permanent pole, rig, or device shall be permitted on any Lot or attached to any Building or Structure (as defined in Section 18 below) or Living Unit, regardless of purpose, except that, subject to review and approval by the Architectural Control Committee, the following may be permitted: (i) a pole located behind the Living Unit that only supports bird or other animal feeder(s) or house(s), provided any feeder or house does not exceed two (2) cubic feet in size; (ii) a single flag pole not exceeding 25 feet in height; and (iii) a basketball goal.

Section 17. Dumping. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept except in sanitary containers. All sanitary containers must be kept inside the Building except for a twenty-four hour period each week when they may be placed outside for pick up. No incinerators shall be allowed on a Lot.

Section 18. Outbuildings. No free-standing sheds, garden house, un-attached garage or any other type of outbuilding that is not otherwise structurally attached to a Living Unit (collectively "Structure") shall be allowed on any Lot without the approval of the Architectural Control Committee. All Structures otherwise approved by the Architectural Control Committee must have the same style and color of siding and roof as the Living Unit on the Lot and cannot exceed 12' x 14'.

Section 19. Fencing. No fencing of any type shall be permitted on any Lot except that a wood, vinyl, or wrought iron fence shall be allowed provided it is approved by the Architectural Control Committee as to style, material, color, height and location.

Section 20. Individual Utilities. No individual water supply system or individual sewage disposal system shall be installed, maintained, or used on any Lot.

Section 21. Easements. Easements are hereby expressly reserved and dedicated with dimensions, boundaries and locations as designated on the Plat for the installation and maintenance of public utilities (including but not limited to, water, gas, telephone, electricity, cable T.V., and any other utilities of a public or quasi-public nature) and sewer and drainage facilities.

- a. Any utility company and the Developer, and each of their respective successors and assigns, will have the right to enter upon said easements for any lawful purpose. All easements shall be kept free at all times of any Building or other permanent structure except improvements installed by an authorized utility and removal of any obstruction by a utility company shall in no way obligate the company to restore the obstruction to its original form.
- b. No Living Unit, Building or other Structure shall be connected with distribution facilities provided by electrical, television or telephone services, except by means of wires, cables or conduits situated beneath the surface of the ground (except such poles and overhead facilities that may be required at

those places where distribution facilities enter and leave Stoneybrook Heights - Section 7 subdivision, and except for such housing, pedestals or facilities as may be appropriate for connection of utility services for a Lot). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables.

- c. No rain or storm water runoff from roofs, street pavements or otherwise, or any other surface water, shall at anytime be discharged into, or permitted to flow into, the sanitary sewer system, which shall be a separate sewer system from the storm water and surface water run-off system. No sanitary sewage shall at any time be discharged or permitted to flow into the storm water and surface water run-off sewer system.

Section 22. Mailboxes. Mailboxes will be located at the location(s) that the Developer along with the U.S. Postal Service designates. No individual mailboxes and/or newspaper boxes will be allowed without the approval of the Architectural Control Committee.

Section 23. Sidewalks. Each Owner shall provide and maintain a concrete public sidewalk across the front of each property (and along the side of each property for corner lots). Sidewalks shall be 5 feet in width.

Section 24. Front Exteriors. All front elevations may consist of vinyl siding, but must include at least 75 square feet of brick/stone to highlight or complement the vinyl siding.

### ARTICLE III

#### ARCHITECTURAL CONTROL COMMITTEE

Section 1. Composition. The Architectural Control Committee ("Committee") shall be composed of three members. During the time that the Developer owns any Lot, the Committee shall be appointed by the Developer. Once the Developer does not own any Lot in Stoneybrook Heights – Section 7, the Committee shall cease to exist and, thereafter, any provision of this Dedication that requires the approval of the Architectural Control Committee shall be void and no longer in effect.

Section 2. Authority. No Living Unit, Building, Structure, Antenna/Panel, fence, wall, pole, pool, trampoline, or other improvement or structure of any kind, temporary or permanent, ("Improvement") shall be constructed or placed on any Lot or attached in any manner to a Living Unit, Building or Structure, nor shall any exterior addition, change or alteration ("Alteration") be made to an existing Living Unit, Building, Structure or Improvement until plans and specifications ("Plans") for the Improvement and/or Alteration showing the nature, kind, shape, dimensions, height, materials, color and location (collectively "Specifications") are submitted to and approved by the Committee in writing as to the harmony of the Improvement's/Alteration's Specifications with Stoneybrook Heights - Section 7 subdivision, in general, and, more specifically, to the other Living Units therein. The Committee may not approve any Improvement or Alteration that is otherwise specifically prohibited by the terms of this Dedication without properly amending the Dedication according to the provisions of Article IV.

Section 3. Timing. Within thirty (30) days after receipt of written Specifications that clearly set forth all of the information required to be submitted under section 2 above, the Committee must approve or reject the Plans in writing delivered to the Owner requesting the approval. In the event that the Committee fails to act within the thirty (30) day time frame, no approval will thereafter be required for the exact Plans submitted provided the Owner that submitted the Plans has an appropriately dated delivery receipt signed by a current member of the Committee and a copy of such receipt is delivered to the Developer prior to beginning the Improvement or Alteration.

## ARTICLE IV

### GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, restrictions or other provisions set forth in this Dedication ("Covenants"), Developer and/or any Owner shall have the right to enforce the Covenants and pursue any and all remedies, at law or in equity, available under applicable Indiana Law, with or without proving any actual damages, including the right to secure injunctive relief. In any such successful legal proceeding, the Developer and/or the Owner bringing the successful action shall be entitled to recover reasonable attorney's fees and the costs and expenses incurred.

Section 2. Amendment. Except as hereinafter limited, this Declaration may be amended at any time by an instrument recorded in the Office of the Recorder of Huntington County, Indiana, signed by the Owners (as of the date of the recording) of at least two-thirds (2/3) of the Lots; provided, however, none of the rights, interests, benefits, obligations or any other provision relating to the Developer may be amended or changed in any manner without also having the Developer's written consent on the amending instrument that is recorded with the Recorder of Huntington County, Indiana. In addition, this Declaration may be amended at any time within thirty (30) months after the initial recordation thereof by the Developer - provided it has an ownership interest in any Lot at the time the amending instrument is recorded.

Section 3. Effective Period. This Declaration shall be effective and binding for a period of twenty (20) years from the date of recordation in the Office of the Recorder of Huntington County, Indiana, and shall automatically extend for successive periods of ten (10) years each unless prior to the expiration of any such ten-year period it is amended or changed in whole or in part as hereinabove provided. Invalidation of any of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way affect any of the other provisions hereof, but the same shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused this Declaration of Covenants to be executed on this 5<sup>th</sup> day of October 2016.

**BIGGS INDIANA PROPERTIES, LLC**

By: *[Signature]*

Its: MANAGING MEMBER.

STATE OF INDIANA )  
                                  )     SS  
COUNTY OF ADAMS )

Before me, the undersigned Notary Public, in and for said County and State, this 5<sup>th</sup> day of October, 2016, personally appeared Kevan B. Biggs, as Managing Member of Biggs Indiana Properties, LLC, over the age of eighteen (18) years, and acknowledged the execution of the foregoing Declaration of Covenants as his voluntary act and deed on behalf of said corporation for the uses and purposes set forth in this document.

Witness my hand and notarial seal this 5<sup>th</sup> day of October, 2016.

*Connie Kreigh*

Connie Kreigh  
Printed Name



My Commission Expires: 01/29/2020

**Pursuant to IC 36-2-11-15(d):** I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law, Kimberly Davis

**This Instrument Prepared by:** Kimberly Davis, Ideal Suburban Homes, Inc., 522 South 13<sup>th</sup> Street, Decatur, IN 46733