

2009074792 ORDINANCE \$22.00
12/30/2009 11:10:13A 5 PGS
Jennifer J Hayden
HAMILTON County Recorder IN
Recorded as Presented

ORDINANCE NO. 53-11-09, As Amended

**AN ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE,
A PART OF THE COMPREHENSIVE PLAN OF THE CITY OF NOBLESVILLE,
HAMILTON COUNTY, INDIANA**

Document Cross Reference No. 200300027955, 2008058205

An ordinance to amend the Unified Development Ordinance and adopted Planned Development Ordinance No. 11-02-03 (the "Brighton Knoll PD Ordinance") previously approved pursuant to the Unified Development Ordinance for the City of Noblesville, Hamilton County, Indiana (the "UDO"), enacted by the City of Noblesville under authority of Chapter 174 of the Acts of the Indiana General Assembly 1947, as amended.

WHEREAS, the Plan Commission of the City of Noblesville has conducted a public hearing on Application Docket No. 09N-15-1244 as required by law in regard to the application filed by Timberstone Development, LLC, (the "Developer") to amend the Brighton Knoll PD Ordinance regarding the subject real estate containing approximately thirty-nine acres, more particularly described in Exhibit A attached hereto (the "Real Estate"); and,

WHEREAS, the Plan Commission at its November 16, 2009, meeting sent a favorable recommendation to the Noblesville Common Council by a vote of eleven (11) in favor and zero (0) opposed;

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Noblesville, Hamilton County, Indiana, meeting in regular session, that the Brighton Knoll PD Ordinance is hereby amended as follows:

Section 1. Applicability of Amendment Ordinance.

- 1.1 This ordinance shall hereafter be referred to as the Brighton Knoll PD Amendment Ordinance (the "Amendment Ordinance").
- 1.2 This Amendment Ordinance only applies to the Real Estate.
- 1.3 All other provisions of the Brighton Knoll PD Ordinance shall remain in effect with the adoption of this Amendment Ordinance.
- 1.4 All provisions and representations of the Brighton Knoll PD Ordinance or UDO that conflict with the provisions of this Amendment Ordinance are hereby rescinded as applied to the Real Estate and shall be superseded by the terms of this Amendment Ordinance.

Section 2. **Preliminary Development Plan.** The amended preliminary development plan, attached hereto as Exhibit B, is hereby approved. The preliminary development plan is intended to establish conceptual goals for the development.

Section 3. **Development Guidelines.**

- 3.1 **West Perimeter Buffering.** The Real Estate's west property line shall be buffered as shown on the Preliminary Development Plan.
- 3.2 **Corner Lots.** The following lots, as shown on the preliminary development plan, shall be subject to the Brighton Knoll PD Ordinance's Special Requirements for Corner Lots: 138, 140, 163, 166, 167, 173, 183, 184, 197, 225, 226, 265, 276, 287, 294, 307 and 308. This list replaces the Real Estate's lots identified in the Brighton Knoll PD Ordinance.

Section 4. **Immediate Right-of-Way Dedication.**

- 4.1 **Howe Road Right-of-Way.** Within sixty (60) days of the adoption of this Amendment Ordinance, the Developer shall submit to the Department of Planning and Development an executed and recorded copy of the Limited Warranty Deed, attached hereto as Exhibit C.




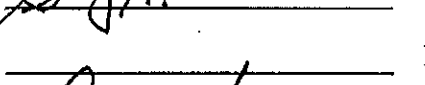
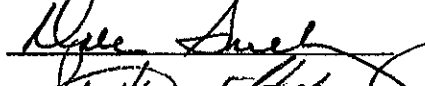
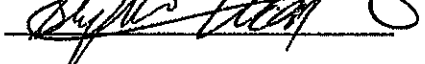
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Section 5. **Approval.** Upon motion duly made and seconded, this Ordinance was fully passed by the members of the Common Council this Twenty-Ninth day of December, Two Thousand and Nine.

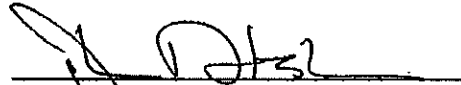
COMMON COUNCIL OF THE CITY OF NOBLESVILLE

AYE

NAY

	Brian Ayer	_____
	Mark Boice	_____
	Roy Johnson	_____
	Greg O'Conner	_____
_____	Mary Sue Rowland	_____
	Dale Snelling	_____
	Stephen C. Wood	_____

Approved and signed by the Mayor of the City of Noblesville, Hamilton County, Indiana, this 29th day of Dec, 2009.


John Dittlear, Mayor
City of Noblesville, IN

ATTEST:


Janet S. Jaros, Clerk-Treasurer

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: Steven D. Hardin.

This Instrument Prepared by:

Steven D. Hardin, Attorney-At-Law, Baker & Daniels, LLP
Jesse M. Pohlman, Land Use Consultant, Baker & Daniels, LLP
23 South Eighth Street, Suite 3000, Noblesville, Indiana 46060 | 317.569.9600

EXHIBIT A
REAL ESTATE

Legal Description

A part of the Northeast Quarter and the Southeast Quarter of Section 17, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northeast Corner of the Northeast Quarter of said Section 17; thence South 00 degrees 04 minutes 49 seconds East along the East line of said Quarter Section a distance of 1094.94 feet to the POINT OF BEGINNING of this description, said point also being the Southeast corner of Brighton Knoll, Section 1 as recorded in Instrument No. 200600026939 in Plat Cabinet 4, Slide 57 in the Office of the Recorder of Hamilton County, Indiana; thence continuing South 00 degrees 04 minutes 49 seconds East along said East line a distance of 1,569.12 feet to the Northeast Corner of the Southeast Quarter of said Section 17; thence South 00 degrees 19 minutes 33 seconds East along the East line of said Quarter Section a distance of 165.00 feet; thence South 89 degrees 55 minutes 14 seconds West 1,308.37 feet to the West line of the East Half of the Southeast Quarter of said Section 17; thence North 00 degrees 31 minutes 18 seconds West along said West line a distance of 165.00 feet to the Southwest Corner of the East Half of the Northeast Quarter of said Section 17; thence North 00 degrees 17 minutes 00 seconds West along the West line of said Half-Quarter Section a distance of 931.24 feet to the Southwest corner of said Brighton Knoll, Section 1; thence along the South line of said Brighton Knoll Section 1 by the following seven (7) calls; (1) North 89 degrees 43 minutes 00 seconds East 587.36 feet; (2) North 46 degrees 23 minutes 05 seconds East 666.79 feet; (3) North 89 degrees 43 minutes 00 seconds East 57.66 feet; (4) North 00 degrees 17 minutes 00 seconds West 96.90 feet to the point of curvature of a curve concave westerly, the radius point of said curve being South 89 degrees 43 minutes 00 seconds West 123.00 feet from said point; (5) northerly along said curve 56.71 feet to the point of tangency of said curve, said point being North 63 degrees 17 minutes 52 seconds East 123.00 feet from the radius point of said curve; (6) North 63 degrees 17 minutes 52 seconds East 54.00 feet; (7) North 89 degrees 43 minutes 00 seconds East 148.95 feet to the place of beginning, containing 38.862 acres, more or less, subject to all legal highways, rights-of-way, easements, and restrictions of record.

ALSO:

A part of Common Area No. 3 of Brighton Knoll, Section 1 as recorded in Instrument No. 200600026939 in Plat Cabinet 4, Slide 57 in the Office of the Recorder of Hamilton County, Indiana, being more particularly described as follows:

Beginning at the Southwest corner of said Common Area No. 3; thence along the West and North lines of said Common Area by the following four (4) calls; (1) North 00 degrees 17 minutes 00 seconds West 15.92 feet to the point of curvature of a curve concave easterly, the radius point of said curve being North 89 degrees 43 minutes 00 seconds East 123.00 feet from said point; (2) northerly along said curve 9.65 feet to the point of tangency of said curve, said point being North 85 degrees 47 minutes 13

seconds West 123.00 feet from the radius point of said curve to a point on a curve concave southeasterly, the radius point of said curve being South 85 degrees 47 minutes 14 seconds East 20.00 feet from said point; (3) northeasterly along said curve 28.10 feet to the point of tangency of said curve, said point being North 05 degrees 16 minutes 53 seconds West 20.00 feet from the radius point of said curve to a point on a curve concave northerly, the radius point of said curve being North 05 degrees 16 minutes 54 seconds West 172.00 feet from said point; (4) easterly along said curve 43.49 feet to the point of tangency of said curve, said point being South 19 degrees 46 minutes 09 seconds East 172.00 feet from the radius point of said curve; thence South 64 degrees 20 minutes 26 seconds East 121.41 feet to a point on the South line of said Common Area No. 3; thence South 89 degrees 43 minutes 00 seconds West along the South line a distance of 170.14 feet to the place of beginning, containing 0.129 acres, more or less, subject to all legal highways, rights-of-way, easements, and restrictions of record.

ALSO:

A part of Common Area No. 3 of Brighton Knoll, Section 1 as recorded in Instrument No. 200600026939 in Plat Cabinet 4, Slide 57 in the Office of the Recorder of Hamilton County, Indiana, being more particularly described as follows:

Commencing at the Southeast corner of said Common Area No. 3, said point also being the Southwest corner of Lot 38 of said Brighton Knoll, Section 1; thence South 46 degrees 23 minutes 04 seconds West along the South line of said Common Area No. 3 a distance of 18.14 feet to the POINT OF BEGINNING of this description; thence continuing along said South line by the following two (2) calls; (1) South 46 degrees 23 minutes 05 seconds West 31.14 feet; (2) South 89 degrees 43 minutes 00 seconds West 16.21 feet; thence North 60 degrees 54 minutes 48 seconds East 44.36 feet to the place of beginning, containing 0.004 acres, more or less, subject to all legal highways, rights-of-way, easements, and restrictions of record.

EXHIBIT B

PRELIMINARY DEVELOPMENT PLAN

*The full size preliminary development plan may be viewed in the City of Noblesville Planning and Development Department's Office.

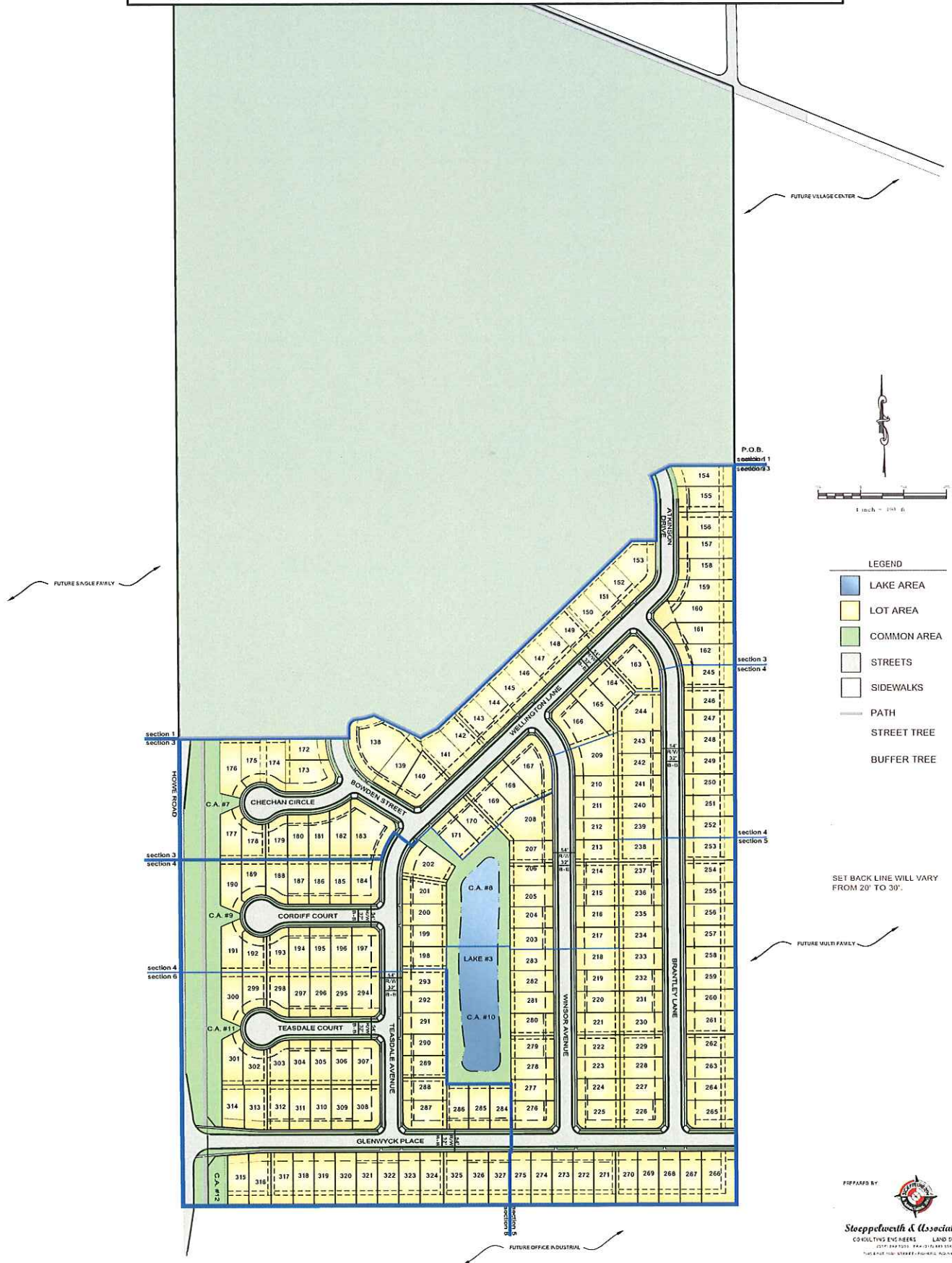


EXHIBIT B

PRELIMINARY DEVELOPMENT PLAN

LANDSCAPE PLAN

*The full size preliminary development plan may be viewed in the City of Noblesville Planning and Development Department's Office.

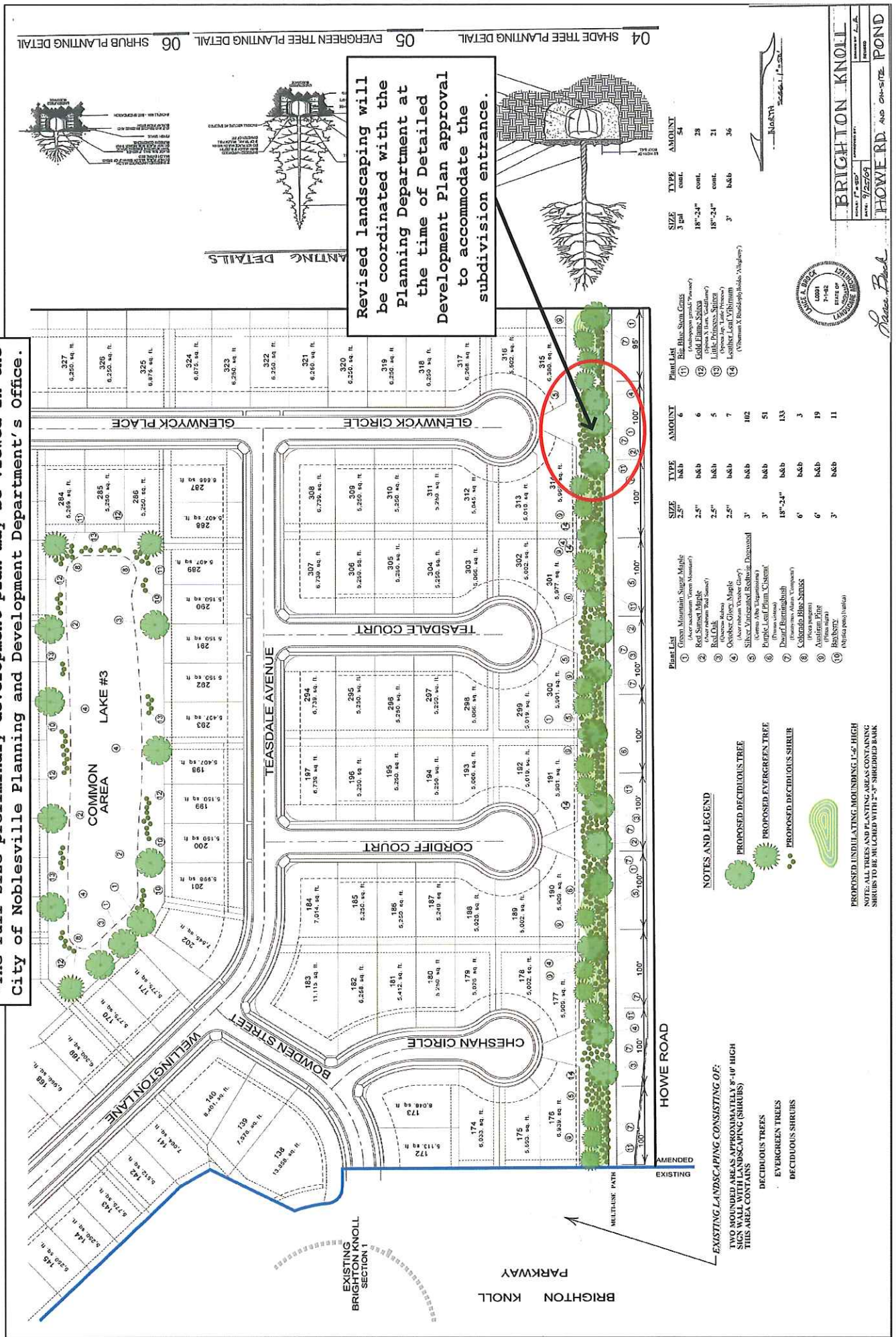


EXHIBIT C

COPY

2010004288 WARR DEED \$20.00
01/28/2010 08:32:30A 3 PGS
Jennifer J Hayden
HAMILTON County Recorder IN
Recorded as Presented

LIMITED WARRANTY DEED

THIS INDENTURE WITNESSETH that Timberstone Development, LLC ("Grantor"), CONVEYS and SPECIALLY WARRANTS to the City of Noblesville ("Grantee"), for the sum of Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, the following described real estate in Hamilton County, Indiana (the "Real Estate"):

See Exhibit A attached
hereto and made a part hereof.

This conveyance is subject to:

The lien of real property taxes payable in May, 2010 and thereafter which Grantee has agreed to pay;

All general and special assessments and all other governmental, municipal and public dues, charges and impositions not delinquent;

All easements, covenants, conditions and restrictions of record; and

All applicable zoning, building, land use and other governmental restrictions, laws, ordinances, rules and regulations.

By the acceptance of this Limited Warranty Deed, Grantee acknowledges and agrees for and on behalf of itself, and its successors, heirs, assigns and grantees as owners of all or any portion of the Real Estate, that the Real Covenants run with the Real Estate and bind Grantee and its successors, heirs, assigns and grantees as owners of all or any portion of the Real Estate.

Grantor, as its sole warranty herein, specially warrants to Grantee, its successors and assigns, that it will forever defend title to the Real Estate (subject to all matters to which this conveyance is hereinabove made subject) against only those claims of persons claiming to title to or asserting claims affecting title to the Real Estate, or any part thereof, by, through or under Grantor, but not otherwise.

Grantor hereby certifies that no Indiana gross income tax is due at this time as a result of this conveyance.

Send tax statements to Grantee at: c/o Clerk/Treasurer's Office, 16 S. 10th Street, Noblesville, Indiana 46060.

January, 2010. IN WITNESS WHEREOF, Grantor has caused this deed to be executed this 18th day of

TIMBERSTONE DEVELOPMENT, LLC

By: 

Name: John B. Scheumann

Title: President

STATE OF INDIANA)

COUNTY OF Tippecanoe) SS:

Before me, a Notary Public in and for said County and State, personally appeared John B. Scheumann the President of Timberstone Development, LLC, who acknowledged the execution of the foregoing Limited Warranty Deed.

Witness my hand and Notarial Seal this 18th day of January 2010.

(SEAL)



TERRY L. KING
Resident of Carroll County, IN
My commission Expires
January 17, 2017

Printed Name: Terry L. King

Notary Public

I am a resident of _____ County, _____.

My commission expires: _____

Return following recording to: c/o Mayor's Office, 16 S. 10th Street, Noblesville, Indiana 46060.

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: Steven D. Hardin

This instrument was prepared by Steven D. Hardin, Baker & Daniels, 23 South 8th Street, Suite 3000, Noblesville, IN 46060

RIGHT OF WAY GRANT EXHIBIT
PREPARED FOR: TIMBERSTONE DEVELOPMENT, LLC
HOWE ROAD — BRIGHTON KNOLL

DESCRIPTION:

A part of the East Half of the Southeast Quarter and a part of the East Half of the Northeast Quarter both of Section 17, Township 18 North, Range 5 East, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Northwest Corner of the East Half of the Southeast Quarter of said Section 17; thence North 00 degrees 17 minutes 00 seconds West along the West line of the East Half of the Northwest Quarter of said Section 17 a distance of 931.24 feet to the Southwest Corner of Brighton Knoll, Section 1, the Secondary Plat of which is recorded in Instrument No. 2006-26939 in Plat Cabinet 4, Slide 57 in the Office of the Recorder of Hamilton County, Indiana; thence North 89 degrees 43 minutes 00 seconds East along the South line of said Brighton Knoll, Section 1 a distance of 60.00 feet; thence South 00 degrees 17 minutes 00 seconds East parallel with the West line of said Half-Quarter Section a distance of 931.45 feet to the South line of said Half-Quarter Section; thence South 00 degrees 31 minutes 20 seconds East parallel with the West line of the East Half of the Southeast Quarter of said Section 17 a distance of 165.00 feet; thence South 89 degrees 55 minutes 14 seconds West 60.00 feet to the West line of said Half Quarter Section; thence North 00 degrees 31 minutes 18 seconds West along said West line a distance of 165.00 feet to the place of beginning, containing 1.510 acres, more or less, subject to all legal highways, rights-of-way, easements, and restrictions of record.

Curtis C. Huff
 Curtis C. Huff
 Registered Land Surveyor
 No. 80040348

S:\43400\Legal\43400 RIGHT OF WAY GRANT DESC.rtf
 October 20, 2009, dlb



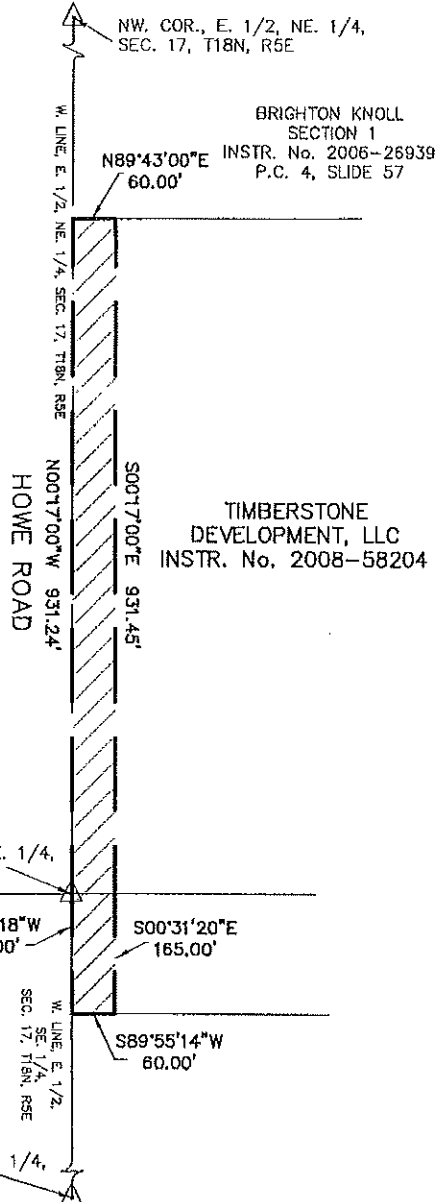
P.O.B.
 NW. COR., E. 1/2, SE. 1/4,
 SEC. 17, T18N, R5E

N00°31'18"W
 165.00'

S00°31'20"E
 165.00'

S89°55'14"W
 60.00'

SW. COR., E. 1/2, SE. 1/4,
 SEC. 17, T18N, R5E



GRAPHIC SCALE



(IN FEET)
 1 inch = 200 ft.

NOTE: This document is not intended to be represented as a retracement or original boundary survey, a route survey, or a Surveyor Location Report.



STOEPPELWERTH & ASSOCIATES, INC.
 CONSULTING ENGINEERS & LAND SURVEYORS
 7965 East 106th Street, Fishers, IN 46038
 (317) 849-5935 FAX: (317) 849-5942

DRAWN BY: TLB
 CHECKED BY:
 SCALE: 1" = 200'
 DATE: 10/20/2009
 JOB NO. 43400TRT

PAGE

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OF 1 SHEETS



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steven.hardin@bakerd.com

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Noblesville Office
23 South 8th Street, Suite 3000
Noblesville, Indiana 46060
Carmel Office
600 East 96th Street, Suite 600
Indianapolis, Indiana 46240
www.bakerdaniels.com

December 21, 2009

VIA HAND DELIVERY

Common Council Members
City of Noblesville
16 South Tenth Street
Noblesville, Indiana 46060

Re: Brighton Knoll PD Amendment Ordinance No. 53-11-09

Dear Common Council members:

At the December 15th second reading for Brighton Knoll's proposed development plan amendment, Timberstone Development, LLC was asked whether it could agree to construct a second subdivision entrance onto Howe Road from Glenwycke Circle (located at the south west corner of the neighborhood). At that time, Timberstone could not review and consider "on the spot" the request's engineering and design impacts. Following the meeting, however, Timberstone met with the City's planning and engineering departments to review and consider those issues. Following that additional work, Timberstone has determined that it can include the requested second entrance, and it has revised its development plan consistent with its discussion with the City's engineering and planning departments.

As a result, the attached PD Amendment Ordinance has been revised to delete the previous provision regarding emergency access and to include the new preliminary development plan exhibit, which includes the new entrance. The updated full size preliminary development plan also has been submitted to the planning department.

Please let me know if you have any additional questions or concerns. Thank you for your consideration.

Respectfully Submitted,

Steven D. Hardin

Attachment