

**VILLAGE PRESIDENT**  
Seth Speiser

**VILLAGE CLERK**  
Jerry Menard

**VILLAGE TRUSTEES**  
Ray Matchett, Jr.  
Mike Blaies  
Denise Albers  
Dean Pruett  
Michael Heap  
Lisa Meehling

**VILLAGE TREASURER**  
Bryan A. Vogel

# **VILLAGE OF FREEBURG**

**FREEBURG MUNICIPAL CENTER**  
14 SOUTHGATE CENTER, FREEBURG, IL 62243  
PHONE: (618) 539-5545 • FAX: (618) 539-5590  
Web Site: [www.freeburg.com](http://www.freeburg.com)

**VILLAGE ADMINISTRATOR**  
Tony Funderburg

**PUBLIC WORKS DIRECTOR**  
John Tolan

**POLICE CHIEF**  
Michael J. Schutzenhofer

**ESDA COORDINATOR**  
Eugene Kramer

**ZONING ADMINISTRATOR**  
Matt Trout

**VILLAGE ATTORNEY**  
Weilmuenster & Keck, P.C.

December 6, 2018

## **NOTICE**

### **MEETING OF THE COMBINED PLANNING AND ZONING BOARD**

The Combined Planning and Zoning Board meeting has been scheduled for  
**Tuesday, December 11, 2018, at 6:00 p.m.**

- I. Items to be Reviewed
  - PLAN COMMISSION:**
    - A. Old Business
      - 1. Approval of October 9, 2018 Minutes
    - B. New Business:
      - 1. Meadow Pines Phase 1 Final Plat Review and Approval

#### **BOARD OF APPEALS:**

- A. Old Business:
- B. New Business:
- C. General Concerns:
- D. Public Participation
- E. Adjourn

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Combined Planning and Zoning Board  
Tuesday, October 9, 2018 at 6:00 p.m.

VILLAGE ADMINISTRATOR  
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The meeting of the Combined Planning and Zoning Board was called to order at 6:00 p.m. on Tuesday, October 9, 2018, in the Municipal Center by Chairperson Steve Woodward. Members present were Chairperson Steve Woodward, Dirk Downen, Rita Green, Kevin Groth, Gary Henning, Gary Mack, Lee Smith, Zoning Administrator Matt Trout and Office Manager Julie Polson. Guest present: Marlana Blomenkamp (6:06 p.m.).

## PLAN COMMISSION:

### A. Old Business:

1. Approval of September 11, 2018 Minutes: Gary Mack motioned to approve the September 11, 2018 minutes and Gary Henning seconded the motion. All voting yea, the motion carried.

### B. New Business:

1. Bryan and Mariana Blomenkamp Request to Rezone Their Property Located at 3695 Old Freeburg Road from SR-1 to A: Chairperson Woodward read the notice, and advised the committee the parcel came in as single-family residential because that is the way our code is written. Gary Henning asked if they meet the qualifications, and Zoning Administrator Matt Trout is not aware of any agreement that would have granted this parcel an agriculture designation. Gary doesn't see any issue with it. Matt advised it meets the acreage requirement. Rita Green asked if the property around it is zoned single-family residential, and Matt said yes, but there is agriculture back there as well. Lee Smith is concerned with the surrounding properties being zoned single family.

Marlana Blomenkamp was sworn in after she arrived. She stated her previous property was zoned agriculture and would like that zoning designation again. She said her current property is almost six acres and would like to have chickens and bonfires. Gary Mack asked if that is compatible with the surrounding single-family residential properties. Kevin Groth is also concerned that most of the surrounding properties are single-family residential, and this would be putting an agriculture use right in the middle. Marlana Blomenkamp said the property was already in the Village when they purchased in 2017.

Gary Mack advised he needs a compelling reason why to change to agriculture other than the kids liking it, and asked Mrs. Blomenkamp if she has another reason. She said she would like the zoning change for animals since her children are in 4-H and believes that is a good enough reason. Lee is concerned that if we change it to agriculture, and we have to think about how it can be changed since that is forever and not for when just they are just there. Dirk Downen said the thought of what might happen is the challenge. Steve's other issue is we don't have a rural residential designation. He further stated he has been at county meetings where they have had these discussions. One withdrew their application, and the other request was turned down.

Combined Planning and Zoning Board  
Tuesday, October 9, 2018  
Page 1 of 2

Gary Henning motioned to grant Bryan and Marlana Blumenkamp's Zoning Amendment Request from Single-Family Residence to Agriculture and Gary Mack seconded the motion. **ROLL CALL VOTE:** Gary Henning – yes; Gary Mack – no; Dirk Downen – no; Rita Green – no; Kevin Groth – no; Lee Smith – no; Steve Woodward – no. With 1 yes vote and 5 no votes, motion fails.

Steve explained this will be a recommendation to the Village Board and will be heard at Monday's meeting on October 15th.

Gary Mack motioned to close the hearing at 6:33 p.m. and Lee Smith seconded the motion. All voting yea, the motion carried.

Matt stated the zoning code has been sent to himself and the trustees for review and comment. After those suggestions have been incorporated into the code, it will be sent to this board to begin the review process. Steve would like to see a larger area in agriculture, maybe an A-1 and A-2 designation. Matt stated we are looking to bring back the SR-2 designation to the old section of town. Steve brought up the variance process and would like a checklist for the applicant to complete prior to scheduling a hearing. Lee questioned the change in use of the building that was the Lighthouse Learning Center, and said those situations need to be addressed with regard to occupancy inspections and/or building permits. Matt asked that any suggestions be sent to him, so he can start work on incorporating those into the proposed code for review.

**BOARD OF APPEALS:**

**A. Old Business:** None.

**B. New Business:** None.

**C. General Concerns:** None.

**D. Public Participation:** None.

**E. Adjourn:** Gary Mack motioned to adjourn the meeting at 6:54 p.m. and Kevin Groth seconded the motion. All voting yea, the motion carried.



Julie Polson  
Office Manager



# RHUTASEL and ASSOCIATES, INC.

CONSULTING ENGINEERS • LAND SURVEYORS  
4 INDUSTRIAL DRIVE  
P.O. BOX 97  
FREEBURG, IL 62243  
raai.freeburg@rhutasel.net

# LETTER OF TRANSMITTAL

To Village of Freeburg  
14 Southgate Center  
Freeburg, IL 62243

DATE	11-30-2018	Job No.	32417
ATTENTION:	Matt Trout		
RE:	Meadow Pines Estates Phase 1		
	Final Plat		

### GENTLEMEN:

WE ARE SENDING YOU  Attached  Under separate cover via \_\_\_\_\_ the following items:

Mylars  Prints  Specifications  Shop Drawings  Calculations

Other: \_\_\_\_\_

COPIES	DATE	NO.	DESCRIPTION
6	11-30-2018		Final Plat – Meadow Pines Phase 1
6	11-30-2018		Reduced scale (11x17) Meadow Pines Phase 1 Final Plat
1	11-30-2018		Completed "Checklist for Final Plat"

### THESE ARE TRANSMITTED as checked below:

For approval  Approved as submitted  Resubmit \_\_\_\_\_ copies for approval

For your use  Approved as noted  Submit \_\_\_\_\_ copies for distribution

As requested  Returned for corrections  Return \_\_\_\_\_ corrected prints

For review and comment  Prints returned after loan to us  \_\_\_\_\_

### REMARKS

Enclosed are copies of the Phase 1 Final Plat for review at the next scheduled meeting of the Combined Planning And Zoning Board.

COPY TO Mr. Alex Klemme via email

Sincerely

SIGNED: Greg Hahn, PLS

(C) **Checklist for Final Plat.**

Meadow Pines Estates Phase I (Name of Subdivision)  
11/30/2018 (Date of Submission)  
 \_\_\_\_\_ (Due Date of Recommendation - 30 days)

(NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- (A) Insert the required information.
- (B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
- (C) Denote those items which the subdivider considers "not applicable" to this particular subdivision by the abbreviation "N.A.").

- GSH 1. Plat has been submitted within six (6) months after the approval of the engineering plan.
- GSH 2. Plat has been submitted within three (3) years after the approval of the preliminary plan (unless an extension of time has been requested of and granted by the Village Board).
- GSH 3. One (1) original drawing of the final plat has been submitted.
- GSH 4. One (1) transparency print of the final plat has been submitted.
- GSH 5. Four (4) copies of the final plat have been submitted.
- GSH 6. Plat is drawn with black or blue ink on heavy linen tracing cloth or polyester film.
- GSH 7. North direction is shown.
- GSH 8. Scale is shown (minimum 1" equals 100').
- GSH 9. Section corners and section lines are accurately tied into subdivision by distances and angles.
- GSH 10. Official survey monuments are shown as required.
- GSH 11. All necessary easements are shown and dimensioned.
- GSH 12. Building setback lines are shown and dimensioned in accordance with the zoning code.
- GSH 13. Lot areas are in accordance with the applicable zoning regulations.
- GSH 14. Street names are shown.
- GSH 15. Areas to be dedicated or reserved for public use are shown and described and the purpose is designated.
- GSH 16. Protective covenants are lettered on the plat or are appropriately referenced.
- GSH 17. Required certificates are shown and signed:
  - GSH a. Surveyor's certificate (including legal description).
  - GSH b. Owner's certificate.
  - GSH c. Notary certificate.
  - GSH d. County Clerk certificate.
  - GSH e. Flood Hazard certificate.
  - GSH f. Combined Planning and Zoning Board certificate.
  - GSH g. Village Board certificate.
  - GSH h. Director of Services.
- GSH 18. The following items have been submitted with the final plat:
  - NA a. Detailed specifications for all required land improvements not previously submitted and approved with the engineering plans.
  - NA b. A copy of the state sanitary water board permit for the sanitary sewer installation.
  - NA c. A copy of the state department of public health approval of the water main installation.
  - NA d. An affidavit by the subdivider acknowledging responsibility for the proper installation of all required land improvements.
  - NA e. A certified estimate of cost of all required land improvements prepared by a registered engineer.
  - NA f. A description of the bond or guarantee collateral intended to be submitted after contingent approval is granted by the Village Board.

Signed originals provided at time of Final Approval after review comments

Propose 15' utility easement removed from rear of Lots 26-28 at request of Village.

Covenants provided by owner

Village of Freeburg has EPA permits on file to be provided by owner

Completed by: Greg Hahn / Rhutaset and Associates (Name)  
PO Box 97 Freeburg (Address)  
11/30/2016 (Date)

Reviewed by: \_\_\_\_\_ (Zoning Administrator)  
\_\_\_\_\_ (Date)

Considered by Combined Planning and Zoning Board on \_\_\_\_\_  
\_\_\_\_\_ (Date)  
\_\_\_\_\_ (Chairman)



## DECLARATION OF COVENANTS AND RESTRICTIONS

### MEADOW PINES ESTATES PHASE 1

Freeburg, Illinois

THIS DECLARATION is made as of \_\_\_\_\_, 2018 by **BK Property Development, Corp.**, as the owners of all the real estate contained in Phase 1 of Meadow Pines Subdivision, a subdivision in the County of St. Clair, as per plat(s) thereof recorded on \_\_\_\_\_, 2018 (“Plat”) in the Recorder’s Office of St. Clair County, Illinois, (herein referred to as “Subdivision”).

WHEREAS, BK Property Development, Corp., an Illinois corporation, (the, “Declarants”) own the real estate making up Phase 1 of the Subdivision.

WHEREAS, BK Property Development, Corp. (herein referred to as “Developer”) will be developing the Subdivision.

WHEREAS, the Subdivision will be divided into lots per the recorded Plat or Plats (herein referred to individually as a “Lot” and collectively as the “Lots”).

WHEREAS, the Declarants intend to subject said Subdivision to certain covenants and restrictions.

WHEREAS, the Subdivision may be developed in one or more phases, all of which are anticipated as being subject to the covenants and restrictions.

NOW THEREFORE, in consideration of the mutual advantages accruing to the current owners of the aforesaid Subdivision, as well as the mutual advantages which will accrue to the future owners of any Lots in the Subdivision (as delineated on the plat of the Subdivision), there is hereby imposed on each lot of the Subdivision the following:

1. **GENERAL DECLARATION:** Declarants hereby declare that all of the Subdivision is and shall be held, conveyed, hypothecated, encumbered, occupied, built upon and otherwise used, improved or transferred, in whole or in part, subject to this Declaration, as amended from time to time.
2. **LAND USE AND BUILDING TYPE:** No Lot shall be used except for residential purposes. No rental or leasing of any Lot or any improvement thereon shall be permitted. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling, not to exceed two stories in height, excluding the basement and attached garage. No separate detached buildings, storage shed, barns or other structures are to be placed on any Lot. All buildings, including the garage, shall be attached to the home constructed on the Lot. No Lot shall be resubdivided or otherwise divided so as to make it smaller, unless prior approval is obtained in writing from the Developer and other jurisdictional body. No commercial or industrial activity may be conducted or performed on any Lot. The home erected on a Lot shall be constructed of good quality, new materials suitable for use in the construction of residences and no old building or buildings shall be placed on or moved to the premises. No A-frame design, modular, pre-engineered or mobile homes, or underground homes are allowed. No shed, trailer, recreational vehicle, tent, shack, garage, barn, basement, or outbuilding erected on any Lot shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence. No garage shall be used for anything other than for vehicle parking and storage.

3. DWELLING SIZE AND SPECIFICATIONS:

- a) **Single Story.** Single story dwellings shall have no less than 1,300 square feet of above ground living area (not including the basement and attached garage).
- b) **Multi-Story.** One and one-half (1 1/2) story and two (2) story dwellings shall have no less than 1,600 square feet of above ground living area (not including the basement and attached garage). All one and one-half (1 1/2) story and two (2) story dwellings shall have no less than 900 square feet of living area on its first floor level.
- c) **Garages.** All dwellings must have at least a two (2) car garage attached to the main dwelling of not less than 380 square feet. No carport structure will be permitted or constructed.

4. ARCHITECTURAL CONTROL COMMITTEE:

- a) **Establishment.** An architectural control committee ("ACC") is hereby established, which shall initially be comprised of the officers of Developer until the happening of the earlier of the following events:
  - i. When one hundred (100%) percent or more of the Lots within the Subdivision have been sold by Developer; or
  - ii. At the discretion of Developer at which point all officers of Developer will resign and Developer will appoint as members of the ACC either the board of the Homeowners' Association (as defined below) or cause the Homeowners' Association to appoint three (3) or more representatives who are members of the Homeowners' Association.

After the earlier of these events, the ACC must at all times be composed of the board of the Homeowners' Association (as defined below) or by three (3) or more representatives appointed by the board of the Homeowners' Association who are members of the Homeowners' Association.

- b) **Construction Approval / Architectural Control.** The ACC shall review and approve or disapprove the construction of any structure, residence or addition to an existing structure or residence in the Subdivision pursuant to these Covenants and Restrictions. No construction or alteration of any kind or the placement of any structure, pool, fence, patio, deck, porch, drive way, or improvement upon any Lots shall be permitted until the construction plans, specifications and materials have been approved by the ACC in writing. A copy of the plans and specifications shall be delivered to the ACC a minimum of thirty (30) days prior to the beginning of such construction. The ACC shall render a written response regarding approval or disapproval of building plans within thirty (30) days of receiving a complete submittal. No changes or deviation from the approved plans and specifications shall be allowed without approval from the ACC in writing. Such approvals are intended to provide conformity and harmony of external design of all improvements and structures within the Subdivision. At a minimum, the following documents shall be submitted to the ACC for approval prior to the commencement of any site preparation or construction of a structure or residence on any Lot:
  - i. Floor Plans
  - ii. Front, sides, and rear elevations
  - iii. Exterior materials and color selections

- iv. Name of General Contractor or Construction Company
  - v. Plot plan showing front, side, and rear set back lines, driveways, parking areas, and location of all structures on the Lot
  - vi. Landscaping Plan
  - vii. Grading Plan
  - viii. Any other documentation reasonably requested by the ACC
- c) **Failure To Approve Or Disapprove Plans And Specifications.** In the event that the ACC or its designated representative fails either to approve or disapprove of any plans and specifications within thirty (30) days after submission, it will be conclusively presumed that the ACC has approved these plans and specifications. All improvement work approved by the ACC must be diligently completed
- d) **No Liability.** Neither Declarants, Developer, the Homeowners' Association, the ACC, or their members, will be liable in damages to anyone submitting plans or specifications to them for approval, or to any owner of Lots affected by these restrictions by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval, disapproval, failure to approve, or failure to disapprove of any plans or specifications. Every person who submits plans or specifications to the ACC for approval agrees, by submission of plans and specifications, and every owner, agrees not to bring any action or suit against Declarants, Developer, the Homeowners' Association, the ACC, or any of their members to recover any such damages.
- e) **Performance.** The ACC shall serve without pay and, in discharging the duties imposed upon them hereunder, is hereby granted as easement prior to, and during construction of any structure or residence to enter upon any Lot in discharging the duties hereunder, after providing a minimum 24 hour written notice to the Lot owner of their intent and purpose for entering the Lot.
- f) **Fees.** The ACC is authorized where is deems appropriate to charge a reasonable review fee for any submission to defray the costs of review it conducts or authorizes.
5. **CONSTRUCTION MATERIALS:** All roofs shall be covered with 220# shingles or better. Shingles shall have a "tab" design and appearance, and shall be constructed of fiberglass, asphalt shingle or wood material. Roofs must have a minimum of a 6/12 pitch, except by variance approved by the ACC, and all roof shingles shall carry a minimum 25-year warranty, be of an architectural type or shakes, and shall be approved by the ACC. No exterior walls shall be covered with exposed asbestos, asphalt, fiber or gypsum materials, or concrete blocks. Metal siding is not allowed. Driveways shall be constructed of concrete unless a variance is approved by the ACC. No asphalt driveways are permitted. ACC has the sole right, discretion and authority to approve exceptions or alterations to construction materials. Masonry requirement shall have a minimum of 30% brick, stone, or dri-vit type material on the first floor elevation of the front side of a home located on such lots. Vinyl siding must be at least 4 mml grade.
6. **MAILBOXES:** All Lot Owners will be required to install an aluminum mailbox on a wood post, aluminum pole, or such other post as approved by the ACC, at the corner of each Lot. Each mailbox shall be no bigger or smaller than 18 to 23 inches in length, 6 to 11 inches in width, 6 to 15 inches high and shall be one of the following colors: black, brown, bronze, gray or white (or off-white). If a mailbox must be replaced, the box installed in its place shall be of the same type and design as set for the in this Declaration or such designed as may be approved from time to time by the ACC.

Each Lot owner shall be responsible for the maintenance and replacement of his or her mailbox so as to keep it in a state of repair at all times.

7. COMPLETION REQUIREMENTS: Construction of a main residential home must be complete within six (6) months from the start of construction.
8. REPAIR OF BUILDINGS. Each building and structure shall at all times be kept in reasonably good condition and repair and adequately painted or otherwise finished. If any building or structure is damaged or destroyed, then, subject to the approvals required by this Declaration, such building or structure shall be repaired, rebuilt or demolished promptly.
9. EARTH REMOVAL / DRAINAGE: In the event the removal of earth from a Lot is necessary for the construction of any dwellings, such excess dirt shall be moved from the dwelling site and deposited at such site or sites on Developer's property or removed entirely from the Subdivision as Developer might direct, all at the sole cost and expense of the Lot owner. Nothing shall be done on said Lots to constitute an interference with water run-off or rain water from an adjacent lot so as to interfere with proper drainage of any part of the Subdivision without prior approval of the Developer and Village of Freeburg and/or the Homeowners' Association after it is established. During construction, the Lot owner shall erect or cause to be erected a silt fence around any drainage inlets to ensure proper drainage from the Lot and any adjacent lot during the construction process. All Lots shall be graded and sloped so that a drainage course shall be along the side and rear property lines, equally spaced on both adjoining lots where feasible or to other natural drainage areas as appropriate. Except as shall be designated or performed by the HOA, there shall be no change in the grading of a Lot after completion of the improvements, nor shall any established pattern of drainage of surface waters be altered without the approval of the HOA. In the event that any grade is disturbed or changed by a Lot owner or occupant, the Developer and ACC are herewith held harmless from any and all consequences to the affected or adjacent parcels. Subdivision streets must be cleaned if and when excess dirt is removed by builder or home owner.
10. BUILDING LINES: No building, or any part thereof, shall be erected or placed on any Lot in the Subdivision nearer to the roads than the building lines shown on the Plat of the said Subdivision. Set-back lines shall be in accordance with regulations of The Village of Freeburg and the State of Illinois. Notwithstanding the foregoing, the following minimum setbacks will be required of any structure constructed on any Lot:
  - a) 25 feet from front lot line
  - b) 25 total feet for both side yard line
  - c) 10 feet from either side lot line
  - d) 25 from rear lot line
  - e) 25 feet for any side yard abutting a street
11. EASEMENTS:
  - a) **General**. Easements as shown on the Plat are hereby set aside and reserved for poles, wire, water/gas mains, storm and sanitary sewers, drainage ways, telephone/cable/internet service and other subdivision utilities, landscaping, essentials and facilities. No building or structure, nor any part thereof, retaining wall, or other interfering obstructions may be erected, constructed, or maintained within, on or over any easement as shown on the Plat or which may hereafter be established. Furthermore, no structure, plantings or other material shall be placed or permitted to remain which may damage, interfere with, or alter the direction or volume of storm water flow. However, subject to the regulations of the

Village of Freeburg, and so long as storm water flow is not affected, any Lot owner may at his/her own risk and expense pave an easement, or erect a fence on an easement, understanding that any excavation or demolition necessary to install or service utilities within the said easement may damage or destroy such pavement or fence and the expense of restoring the pavement or fence shall be born solely by the owner of the Lot whose pavement or fence is damaged. All future owners of said Lot(s) shall properly care for the easement areas and keep them free from unsightly accumulation of weeds, debris and other waste matter. Failure to comply with this provision shall constitute a nuisance within the meaning of this document.

- b) **Sump Pump Drainage.** All sump pump discharge lines shall leave the foundation of the residence at an elevation that allows gravity to flow to a discharge point on the Lot. All discharge lines shall be directed towards the back of the Lot and remain fully within the boundary lines of the Lot. No sump pump discharge lines shall directed towards the front of any Lot, the side of a Lot or across a Lot boundary line.

- 12. **FENCING:** All fences must be approved by the ACC prior to installation. All fences must consist of iron or aluminum materials. Metal chain-link fences are not permitted. No fence or screening may be erected or maintained on any lot nearer to any street than the mid-point of the side- wall(s) of said dwellings unless approved by the ACC. On lots with two sides abutting a street, a fence placed on the side yard abutting one or more city streets shall be set back from the street right-of-way in accordance with the Village of Freeburg's code. Please refer to the Easements section of this document regarding fences within an easement. No fence shall exceed 6' in height as measured from ground level. All fences must be kept in good repair, i.e. painted and kept plumb. Failure to comply with this provision shall constitute a nuisance within the meaning of this document.

13. **LANDSCAPING:**

- a) After construction and prior to initial building occupancy, the front yard area and the side yard areas to the rear wall of the residential unit, shall be landscaped with grass sod. The balance of the yard area shall be seed and straw, or grass sod.
- b) All Dwellings shall be landscaped across the front elevation, which shall consist of ornamental shrubs, ground covers, mulch, ornamental rock and other materials which shall be approved by the Architectural Committee. A maximum of twenty-five percent (25%) of the front yard area may contain landscaping other than grass sod.
- c) Mowing and landscape maintenance of each individual Lot is the responsibility of each Lot Owner.
- d) No fence, tree, hedge or shrub planting shall be maintained in such a manner to obstruct sight lines for vehicular traffic.
- e) No hedge or mass planting that would create a barrier between Lots shall be erected, placed or altered on any Lot without the prior approval of the ACC.
- f) Garden plots shall be allowed in the rear yard of each Lot, not along any street, and at no other place. Garden plots may not exceed fifteen (15) feet by fifteen (15) feet.
- g) No garden or water ponds allowed in any front yards.
- h) No statue lawn ornaments, fountains, or bird baths may be placed in the front or side yards of any Lot.
- i) All lawns shall be kept property cut and trimmed, not to exceed six (6) inches in height.

14. DETENTION PONDS:

- a) **General.** Each Lot owner of a Lot on which a detention pond is located is responsible for mowing and trimming around the detention pond up the rip rap.
- b) **Repair and Maintenance.** The HOA is responsible for the maintenance and repair (other than mowing and trimming) of each detention pond in the Subdivision. The HOA, its successors, assigns, agents and employees, is granted a perpetual easement on any Lot on which a detention pond is located for the purpose of for accessing any detention pond for the maintenance, repair, care, rebuilding of a detention pond.
- c) **Assessment.** The HOA is authorized to make a separate annual assessment (to be assessed and collected as provided herein for annual assessments) upon and against each Lot for the purpose of maintaining or repairing the detention ponds in the Subdivision.

15. ACCESSORY BUILDINGS / TEMPORARY STRUCTURES: No structure of a temporary character, such as a trailer, tent, mobile home, recreational vehicle garage, shed accessory or other out-building shall be used on any Lot at any time as the residence, either temporary or permanent, or for storage.

16. FUEL/ PROPANE STORAGE TANK: Fuel/ Propane storage tanks are not permitted except for temporary heating purposes during the construction of a home and portable BBQ tanks.

17. SEPTIC TANKS / WELLS: Septic tanks and wells are not permitted on any Lot in the Subdivision.

18. NUISANCES: No loud, noxious or offensive activity shall be carried out on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or a nuisance to the occupant of the other Lots within the Subdivision, nor shall any Lot be used for storage of wrecked, junked or permanently disabled automobiles or trucks which are not currently licensed or for keeping and storing anything that make the property unsightly. No accumulation of trash, garbage or other debris will be permitted on any Lot. No trash, rubbish, refuse, debris, trash cans or trash receptacles of any type shall be stored in the open on any Lot, but shall be kept secured with the improvements located on each Lot (except that after sunrise on days designated as trash pick-up days, the trash cans or receptacles may be placed on the curb for pick up so long as they are moved back within the improvements prior to sundown on the same day). No weeds exceeding 10 inches in height will be permitted in any open areas. Garage doors should remain closed unless in use. No obnoxious, toxic or corrosive matter, smoke, fumes or gases shall be discharged into the air or across the boundaries of any Lot in such concentrations as to be detrimental to or endanger the public health, safety, comfort or welfare or to cause injury to or damage property. The owner of each Lot to which these covenants apply shall keep their property maintained in a clean and orderly manner as shall not allow debris to collect on the property.

19. ANIMALS: No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot. Any type of venomous or dangerous animals such as snakes, guard dogs, etc. are not allowed. Domesticated cats, dogs, birds, etc. are allowed provided they are not kept, bred nor maintained for any commercial purpose. Such pets shall not be permitted to run at large or to be a nuisance to other Lot owners in the Subdivision through the noise they cause or their excrements. No more than 3 cats, dogs, or combination thereof, per household. No doghouses, dog kennels, cages, sleeping quarters or any kind of outside housing for animals shall be allowed. All pet owners are required to pick up the waste from their animals out of respect of their neighbors.

20. **STORAGE**: One recreational vehicle, camper, trailer or boat will be allowed to be temporarily parked on the street or driveway for no more than five (5) consecutive days and in no event may such vehicle be parked on a street or driveway more than a total of thirty (30) days in any calendar year. Such vehicles shall not be permanently stored on a Lot for more than these timeframes. No cars, motorcycles or other types of vehicles of any kind whatsoever that are abandoned or in such a condition as to be unable to move under their own power may be stored or kept on any Lot.
21. **SIGNS**: No signs of any kind shall be displayed to the public view on any Lot.
22. **COMMERCIAL VEHICLES**: No commercial trucks, trailers or vehicles will be allowed to be park on any Lot or in the street, other than for making deliveries.
23. **SATELLITE DISHES/SOLAR PANELS / ANTENNAE**: No satellite dishes shall be allowed. No exterior television or radio antenna, towers or similar structures are permitted on any Lot. All electric service, telephone lines, cable TV lines and other utility lines shall be placed underground. No utility entrances shall be visible from street. No electrical power shall be run from any home to an RV or any other vehicle for more than 24 total consecutive hours in any given month. Lots owners are responsible for insuring that cable and telephone wire is run below the ground surface.
24. **POOLS / SPORTS EQUIPMENT**: Pools are permitted, but must be approved by the ACC before installation. No above ground, inflatable pools or pools constructed with P.V.C. piping will be allowed. Pools shall be in-ground, permanent structures of durable and attractive quality, all in the sole discretion of the ACC. All Pools must be entirely surrounded by a fence of at least four (4) feet height and in accordance to Village of Freeburg code. All Pools must have at least four (4) feet of concrete or other such decking material surrounding the entire pool. Pools are allowed in rear yards only. No sports equipment shall be permitted on streets or within 10' of a street. Pools, sports equipment, etc. must be kept in good repair. Failure to comply with this provision shall constitute a nuisance within the meaning of this document.
25. **LIGHTING CONTROLS**: Any lights used for illumination of signs, parking areas, swimming pools or for any other purposes, shall be arranged in such a manner that the main beam of light is directed away from neighboring residential properties. Holiday decorative lighting is permitted to the extent it does not become a nuisance as defined herein. Holiday decorative lighting may be installed no earlier than five weeks prior to a holiday and must be removed from all structures and property within four (4) weeks after a holiday. Streetlights shall be installed in accordance with City of Freeburg subdivision code and the recorded plat.
26. **GARAGE / YARD SALE**: No garage, yard, estate or other sales of personal items is permitted in the Subdivision, except that such sales are permissible during such time or times as a municipal event for the holding of such sales within the Village of Freeburg.
27. **REAL ESTATE AUCTION**: No Lot in the Subdivision may be sold by auction unless the Lot owner obtains prior written consent of the Homeowners' Association.
28. **HOMEOWNERS ASSOCIATION**:
  - a) **Formation**. An owner of any Lot is automatically a member of the Homeowners' Association ("HOA") when it is formed. The HOA is required to be formed upon the earlier of: (a) the sale of one hundred percent (100%) of the total Lots in the Subdivision, or (b) at the discretion of Developer at any time prior the sale of one hundred percent (100%) of

the total Lots in the Subdivision. The HOA will be filed as a not-for-profit corporation with the State of Illinois.

- b) **Bylaws.** The HOA shall adopt bylaws at the first meeting of the members. Bylaws shall be kept on file and recorded with St. Clair County. All amendments to either the bylaws or this document shall be recorded as well.
- c) **Members/Voting/Board.** Members of the HOA must be owners of Lots in the Subdivision. One owner of each single family residential Lot shall have one (1) vote in electing the board members or in special voting sessions called by the Board of Directors. The HOA's Board of Directors shall consist of either 3 or 5 members and will consist of at least a President, Vice President, and Secretary/Treasurer. The Board will be elected by the members annually in a formal meeting by majority vote of the HOA members. The Board will then determine how the HOA is to be governed deciding such issues as: Annual fee, responsibility for maintenance of entrance sign and detention ponds, insurance, continuity of protective covenants, amendments to bylaws, etc.
- d) **Responsibilities.** The Developer hereby grants the HOA and their successors with the rights, powers and authorities described in this instrument and with the following rights, powers and authorities:
  - i. To exercise control over any entrance signs or islands; to repair, maintain and improve any area surrounding any entrance signs or islands with shrubbery, vegetation, decorations, or lighting; and to repair, maintain and improve any storm water detention ponds and discharge structures which are to be maintained in accordance with improvement plans filed with the Village of Freeburg.
  - ii. To clean up rubbish/debris and remove grass/weeds from and to trim, cut back, remove, replace and maintain trees, shrubbery/flowers upon any vacant or neglected Lot(s). The owner of such Lot(s) may be charged with reasonable expenses so incurred. The HOA, their agents or employees shall not be deemed guilty or liable for any matter of trespass or any other act for any such injury, abatement or removal of planting.
  - iii. To purchase and maintain in force, liability insurance, protecting the HOA members/Lot owners from any and all claims for personal injuries and property damage arising from use of common areas and facilities.
  - iv. To assess appropriate dues and fees payable by the homeowners and to collect such from the homeowners for the purposes of covering the expenses of the items above. Fees and dues shall be held in a checking account in a local bank under the name of the HOA, as filed with the state, until such time that they are disbursed for the purpose of covering the costs of the HOA, or refunded to the members. Statements and financial records of the HOA shall be at all times accessible for review by the members of the HOA.
  - v. Notwithstanding any other condition herein, the HOA shall make suitable provisions for compliance with all subdivision ordinances, rules and regulations of The Village of Freeburg or any other jurisdictional body of which the subdivision may be or become a part thereof.
- e) **Assessments.** The initial annual fee of the HOA shall be Twenty-Five Dollars (\$25.00) and shall be collected upon the establishment of the HOA. Annual fees thereafter will be due on January 15 of each year. All assessments not timely paid shall bear interest at a rate of one percent (1%) over the floating, prime rate of interest charged by Bank of America, N.A., St. Louis, Illinois, as publically announced from time to time, from the time of delinquency, and such assessments, together with interest and costs of collection shall constitute a lien upon the Lot against which it is assessed until fully paid. Upon delinquency of an assessment, the Board of the HOA may execute, acknowledge and record an instrument reciting the levy of the assessment against the Lot in the St. Clair County,

Illinois Recorder's Office, and thereafter institute any appropriate legal action to enforce such lien. The lien of assessment provided for herein shall be subordinate to the lien of any institutional mortgage now or hereafter placed on any Lot. The sale or transfer of any Lot shall not relieve such lot from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. Notwithstanding the foregoing, all Lots owned by Developer shall be exempt from the payment of any HOA assessment until such time as the Lot is sold or transferred by Developer.

29. ENFORCEABILITY: The restrictions created by this Indenture benefit and encumber only the land within the Subdivision with no intention to benefit real estate lying outside the boundaries of the Subdivision. These restrictions do not confer upon anyone else any right whatsoever to enforce the restrictions hereby created. These restrictions are enforceable by the Developer and/or his assigns until such time that the Homeowners' Association is formed at which time the Homeowners' Association will assume that responsibility.
30. FAILURE TO COMPLY AND VALIDITY: Each and every grantee, by accepting any conveyance of, or interest in any said Lots within the Subdivision or any part thereof, thereby binds itself, himself/herself and all heirs, assigns, successors, and legal representatives of each and every grantee, to the observance of and the compliance with the covenants and restrictions of this Declaration. If any violation of the covenants and restrictions of this Declaration, or failure or observance thereof, or failure of compliance therewith, is not cured or corrected within ten (10) days after notice thereof has been mailed or delivered by the HOA, to the offending owner or owners, or person or persons, in possession thereof, it shall be lawful in order that such violation be cured or corrected, or to recover damages therefore, or party thereof, to institute and prosecute and proceedings at law or equity against any and all parties involved in such violation of failure of observance, or failure of compliance as aforesaid, including the owner or owners of the involved Lot or Lots, or any part or parts thereof. In the event of legal action, the prevailing party shall be entitled to an award of reasonable attorney fees for prosecution of this violation. It is hereby expressly declared and provided, however, that the Declarants, Developer or owners of the land comprising the Subdivision at the time of its recording, shall not, under any circumstances, be held responsible or liable for the enforcement of the covenants and restrictions of this Declaration against any person, or person who may hereafter own or control any one or more of the said Lots, or any part or parts thereof, which the Declarants or Developer shall not at the time own or fully control. The failure to promptly institute procedures for enforcement of these restrictions shall not operate as an estoppel against the enforcement of the violated portion of these restrictions or any portion thereof.
31. SEVERABILITY: In the event that it is found that one or more of the restrictions and provisions of this Indenture shall prove to be unenforceable, the validity or binding effect of the remaining restrictions and provisions of this Indenture shall in no way be affected thereby, and they shall, nevertheless, remain in force and effect.
32. DURATION: All of the restrictions, covenants and provisions herein contained shall continue and be in full force and effect for a period of twenty-five (25) years from the date of first recording of this Indenture, at which point they shall be automatically renewed for successive ten (10) year periods thereafter unless by written instrument signed by not less than two-thirds (2/3) of the owners of the Lots in said Subdivision, terminate, amend or alter said restrictions or a portion thereof.

33. EXCEPTIONS: The Declarants and/or the Developer and their assigns may use any house or houses constructed on any Lot the Subdivision for an office and display house until all Lots are built upon.
34. MODIFICATION, AMENDMENT OR ELIMINATION: These conditions, restrictions, reservations and limitations and all of the terms herein, may be modified, amended or eliminated by Declarants and Developer at any time while the Declarants and/or Developer have ownership of ninety percent (90%) of the Lots in Subdivision and then by the HOA after it is formed. If the HOA desires to modify, amend or eliminate any part of this document, such modification, amendment or elimination must first be approved by the Developer until the Developer has sold the last lot within any phase, current or future, of the Subdivision.
35. BINDING EFFECT. The provisions of this document shall be binding upon and shall inure to the benefit of heirs, successors and assigns of the Declarant and Developer and all present and future persons or parties owning and interest or having an interest in any portion of the Subdivision as platted.

Dated \_\_\_\_\_, 2018

BK PROPERTY DEVELOPMENT CORP.

By: \_\_\_\_\_  
Alexander R. Klemme, Officer

By: \_\_\_\_\_  
Nicholas E. Bauer, Officer