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THE PRESERVE AT DEERPATH FARM

STATEMENT OF PROTECTIVE COVENANTS AND AMENDMENT AND RESTATEMENT OF CONSERVATION EASEMENT

This instrument prepared by (and after recording return to)
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500 North Western Avenue
Lake Forest, IL 60045

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**THE PRESERVE AT DEERPATH FARM
STATEMENT OF PROTECTIVE COVENANTS
AND
AMENDMENT AND RESTATEMENT OF CONSERVATION
EASEMENT**

THIS STATEMENT OF PROTECTIVE COVENANTS AND AMENDMENT AND RESTATEMENT OF GRANT OF CONSERVATION EASEMENT, made as of this 2nd day of April, 2004, by WAYNE HUMMER TRUST COMPANY, N.A. (SUCCESSOR TO WINTRUST ASSET MANAGEMENT COMPANY, N.A.), as trustee under a trust agreement dated September 19, 2001, and known as Trust No. 1618 (hereinafter referred to as "Grantor") to the VILLAGE OF METTAWA, an Illinois Municipal Corporation and home rule unit (hereinafter referred to as "Village") and LAKE FOREST OPEN LANDS ASSOCIATION, an Illinois not for profit Corporation (hereinafter referred to as "Open Lands") (Village and Open Lands being together referred to herein as "Grantee").

WITNESSETH:

WHEREAS, a Grant of Conservation Easement (the "Original Conservation Easement") was executed by Edward H. Bennett, Jr. and Katharine F. Bennett, as of December 15, 1990, recorded in Lake County, Illinois, as Document No. 2976685, which conveyed a conservation right pursuant to the Illinois Real Property Conservation Rights Act (765 ILCS 120/0.01-120/6) (the "Act") to the Village on certain real property ("Original Conservation Easement Premises");

WHEREAS, the Original Conservation Easement Premises are a part of a tract of land (the Property") described as follows:

THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4; AND THE EAST 1/2 OF THE SOUTHWEST 1/4; AND THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 44 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THAT PORTION WITHIN THE RIGHT-OF-WAY OF ILLINOIS ROUTE 60, LOCATED IN LAKE COUNTY, ILLINOIS.

WHEREAS, Grantor is the successor in interest to Edward H. Bennett, Jr. and Katharine F. Bennett, and is the owner in fee simple of the Property;

WHEREAS, Paragraph 20 of the Original Conservation Easement provided that the Village would agree to changes in the terms of the Original Conservation Easement that are reasonably necessary to conform its terms to a final plat approved by the Village,

and simultaneously with the execution of this Declaration the Village has approved the terms of a final plat, which requires amendment of the Original Conservation Easement as provided herein;

WHEREAS, Paragraph 21 of the Original Conservation Easement provided that upon approval of a final plat of subdivision by the Village, Grantor reserved the right (and expressly agreed) to add as additional grantees to the Original Conservation Easement, Mettawa Open Lands Association and the Town of Libertyville;

WHEREAS, the Village had not previously granted approval of a final plat of subdivision, Mettawa Open Lands Association and Town of Libertyville have not been made additional grantees, and Grantor is therefore not obligated to add them as additional grantees;

WHEREAS, the Original Conservation Easement included a parcel of land that was intended to be used as a spray irrigation field for sewage treatment and Grantor wishes to make such land available for conservation purposes; and

WHEREAS, the Parties have heretofore determined that the conservation purposes of the Original Conservation Easement will be better achieved by amending it as provided herein;

THEREFORE, in consideration of the covenants contained herein, Grantor and Village agree to amend and restate the Original Conservation Easement in its entirety (the Original Conservation Easement as amended and restated now or in the future being referred to herein as the "Conservation Easement");

RECITALS

A. Grantor owns in fee simple certain real property (the "Property"), the legal description of which is set forth above, which has been or will be subdivided as Deerpath Farm. The full legal description of the Property after such subdivision is set forth below:

LOTS 1 THROUGH 50, INCLUSIVE, OF DEERPATH FARM, BEING A SUBDIVISION OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4; AND THE EAST 1/2 OF THE SOUTHWEST 1/4; AND THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 35, TOWNSHIP 44 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, EXCEPTING THAT PORTION WITHIN THE RIGHT-OF-WAY OF ILLINOIS ROUTE 60, LOCATED IN LAKE COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED IN LAKE COUNTY, ILLNOIS, ON APRIL 2, 2004, AS DOCUMENT NO. 5528748.

Lots 44 through 50, inclusive of said Deerpath Farm are hereby referred to as the "Preserve." The portions of the Property not within the Preserve will be released from the Original Conservation Easement; and

B. The Preserve is visible from adjacent public roadways, and consists of

farm fields, savanna, woodlands, forest, and wetlands; and

C. The Preserve is comprised substantially of land with no structures located thereon and the Preserve possesses unique and important scenic and open space attributes which provide scenic enjoyment to members of the general public and will continue to yield a significant public benefit, if a conservation easement with respect thereto is granted to Grantee; and

D. Grantor desires to prevent further subdivision or development of the Preserve and to ensure the preservation and continuance of the Preserve in its present open state and condition; and

E. Development of the Preserve would impair the scenic character of the area, and maintenance of the Preserve in its natural and undeveloped state is crucial to maintaining the rural nature of the area surrounding the Preserve; and

F. Grantor desires and intends that the character of the Preserve be maintained by the prohibition of land uses or activities that will significantly interfere with or disrupt the visual enjoyment by the public of the Preserve; and

G. Grantor and Grantee, by the conveyance to Grantee of a conservation right on, over and across the Preserve and other property described herein, as contemplated under the terms of The Real Property Conservation Rights Act, approved and effective September 12, 1977, Public Act 80-584 (765 ILCS 120/0.0 1 *et seq.*), desire to conserve the visual and open space values thereof and prevent the use or development of the Preserve for any purpose or in any manner inconsistent with the terms of this Conservation Easement; and

H. Grantee by its acceptance hereof evidences its belief that the preservation of the Preserve predominantly as open space, savanna, woodlands, forest, and wetlands will serve important conservation purposes significantly benefiting the general public, and that the Preserve is worthy of protection for conservation purposes and Grantee is committed to the conservation of the Preserve; and

I. The acceptance by Grantee of the Conservation Easement, as provided herein, will advance Grantee's objectives of providing for open space and scenic enjoyment by the general public of unique real property such as the Preserve; and

J. Grantee is willing to accept this Conservation Easement and to perform the obligations contained herein and has authority to do so pursuant to the provisions of the Act, and Grantee is committed to protecting the Preserve and achieving the conservation purposes of this Conservation Easement; and

K. Grantee is willing to accept this Conservation Easement subject to the reservations and to the covenants, terms, conditions and restrictions set out herein and

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imposed hereby; and

L. Grantor intends to develop a residential community on Lots 1 through 43, inclusive, and the Preserve, if properly maintained, will provide particular aesthetic and recreational benefit to the Property; and

M. Grantor intends that the Owners of Lots 1 through 43, inclusive, shall provide the entire financial support of the restoration, maintenance, management, and supervision of the Preserve by the Preserve Manager, in accordance with the purposes, objectives, terms, and conditions of this Conservation Easement;

NOW, THEREFORE, for and in consideration of the premises and the foregoing recitations and other good and valuable considerations in hand paid, with the intention of making an absolute and unconditional gift and conveyance, Grantor does hereby grant, give, bargain, and sell unto Grantee, their successors and assigns, in perpetuity, from the date hereof, a Conservation Easement in, upon, and over the Preserve (as legally described herein), for the purpose of preserving, protecting, and maintaining the Preserve as open space so as to permit, continue, and foster the conservation of the open condition of land and to ensure protection of the amenities provided by such open vistas. Grantor further declares that the Entire Property shall be held subject to the following covenants, conditions, and restrictions, to the extent applicable, all of which are for the purpose of protecting and enhancing the value, desirability, and attractiveness of the Property and to provide a means of ensuring the maintenance of the Preserve in perpetuity. Grantor and Grantee hereby release from the Original Conservation Easement those portions of the Property not contained within the Preserve.

ARTICLE 1 DEFINITIONS

Act. The Illinois Real Property Conservation Rights Act (765 ILCS 120/0.0 1 — 120/6).

Annual Assessment. The uniform assessment on each Homesite that may be levied by the Preserve Manager in accordance with Section 4.4 hereof.

Assessments. Annual Assessments pursuant to Section 4.4 and Transfer Assessments pursuant to Section 4.3 hereof.

Conservancy Easement. Those portions of Homesites designated on the Plat as "conservancy easement," which are to be maintained in accordance with this Conservation Easement and Section 7.3 of the Declaration.

Conservation Easement. The Grant of Conservation Easement dated December 15, 1990, and recorded in Lake County, Illinois, as Document No. 2976685, as amended and restated by this Statement of Protective Covenants and Amendment and Restatement of Conservation Easement and any subsequent amendments properly authorized, executed and recorded.

Conservation Right. A conservation right as defined in the Illinois Real Property

Conservation Rights Act (765 ILCS 120/0.01 — 120/6).

Consumer Price Index. *The Consumer Price Index — All Urban Consumers — U.S. All Items — 1982-84 = 100* published by the United States Bureau of Labor Statistics, or such comparable index designated by Preserve Manager which may be developed as a successor thereto and in common use.

Declaration. The Declaration of Covenants, Conditions, and Restrictions executed by the Declarant and Deerpath Farm LLC of even date herewith.

Developer. Deerpath Farm LLC, an Illinois limited liability company.

Development Agreement. The Development Agreement entered into between the Village, and Grantor, Deerpath Farm LLC and Katharine Bennett, dated February 18, 2003.

Grantee. Collectively, the Village and Open Lands, and their respective successors and assigns, the relationship between the Village and Lake Forest Open Lands Association being further described in Section 7.4 hereof.

Grantor. The sole titleholder of the Property as of the date hereof, WAYNE HUMMER TRUST COMPANY, N.A. (SUCCESSOR TO WINTRUST ASSET MANAGEMENT COMPANY, N.A.), as trustee under a Trust Agreement dated September 19, 2001, and known as Trust No. 1618, and its successors and assigns, provided, however, that any rights specifically reserved to Grantor shall not inure to the benefit of its successors and assigns, unless specifically assigned in a recorded instrument or conveyed by operation of law.

Homeowners' Association. Deerpath Farm Homeowners' Association, an Illinois not-for-profit corporation, to be formed pursuant to the Declaration and the General Not-for-Profit Corporation Act of the State of Illinois.

Homesites. Lots 1 through 43, inclusive, as shown on the Plat, being the only portions of the Property on which Residences have been or are intended to be constructed and which are to be conveyed to Owners.

Improvements. All structures of any type or kind whatsoever, including, but not limited to, buildings, parking areas, roads, fences, walls, hedges, lighting fixtures, poles, signs, concrete or asphalt walkways, tennis courts, swimming pools, patios, gazebos, satellite dishes, antennas, and playground equipment such as swing sets, slides, and the like.

Indemnitees. Anyone required to be indemnified under this instrument pursuant to Section 6.15 hereof.

Lots. Those portions of the Property designated by number on the Plat as Lots 1 through 50, inclusive.

Management Plan. The plan attached to this Conservation Easement as Exhibit A for

the management of the Preserve and the Conservancy Easement, and as may be modified from time to time and approved by the Preserve Manager pursuant to the terms of this Conservation Easement.

Mettawa Trail. A path having a minimum width of eight feet (8') and a maximum width of twelve feet (12') constructed pursuant to Village specifications within a twenty foot (20') wide right-of-way easement dedicated to the Village for use by the public as and for an equestrian, pedestrian and bicycle trail in the location shown upon the Plat.

Natural Landscape Buffer. The unpaved portions of rights-of-way dedicated to the Village for public streets as well as those areas indicated on the Plat on which the trees and other plants are to be restored and maintained in a predominantly natural condition in accordance with Section 7.2 of the Declaration.

Notice. Any notice required to be given under the terms of this Conservation Easement.

Open Lands. Lake Forest Open Lands Association, an Illinois not-for-profit corporation.

Owner. The record owner, whether one or more persons or entities, of fee simple title (including all beneficial owners thereof) to any of the Homesites, provided that if title to any given Homesite is held by more than one person or entity or in trust, such persons, entities and beneficial owners are collectively referred to as the "Owner".

Plat. The Plat of subdivision of the Property, being "Deerpath Farm", recorded with the Recorder of Deeds of Lake County, Illinois, on APRIL 2, 2004, as Document No. 5528748, in Lake County, Illinois, a copy of which is attached hereto as Exhibit C.

Prefabricated Building or Factory Manufactured Building. Any building consisting wholly or in material part of a structural, load bearing or lateral load-resisting assemblage of materials assembled as a building or section thereof prior to arrival at the building construction site, provided that use of building components and pre-assembled materials produced in accordance with standard specifications referenced by the Village Building Code, such as rolled structural steel shapes, steel beams, steel reinforcing bars, masonry units, pre-cast wall and beam systems, pre-constructed roof trusses, and plywood sheets shall not cause a building to be considered a "Prefabricated Building" or "Factory Manufactured Building".

Preserve. Lots 44 through 50, inclusive, as shown on the Plat, being a common area within the meaning of 35 ILCS 200/10-35 and the Declaration, which is subject to this Conservation Easement and is dedicated in perpetuity as land to be free from development and to be maintained as open space and natural areas.

Preserve Manager. That person or organization designated pursuant to Section 2.5 hereof to manage the Preserve, being initially Open Lands.

Preserve Reserve. The separate account maintained by the Preserve Manager into which

all Assessments levied and collected shall be placed in accordance with Article 4 hereof.

Property. Lots 1 through 50 of Deerpath Farm, as shown on the Plat.

Residences. The single family detached dwelling units, in a maximum number of forty-three (43), constructed or to be constructed upon the Homesites, one on each of Lots 1 through 43, inclusive, as shown on the Plat.

Residents. Persons residing in the Residences.

Stormwater Management System. All storm sewer lines and their appurtenances, and stormwater detention and retention basins and their appurtenances.

Transfer Assessments. Those assessments that are due upon the sale of any Homesite, in accordance with Section 4.3 hereof.

Village. The Village of Mettawa, an Illinois municipal corporation and home rule unit, acting by and through its President and Board of Trustees.

ARTICLE 2 PRESERVE COVENANTS

2.1. **Purpose.** It is the purpose of this Conservation Easement to assure that the Preserve will be retained forever predominantly in its present agricultural, wooded, or natural open condition and that any natural plant and animal communities located on the Preserve which are indigenous to Lake County, Illinois, will be preserved to the extent feasible. Those areas of the Preserve presently in agricultural use shall be maintained in a predominantly open condition through the continued use of agriculture such as cultivation and harvesting of crops such as hay, or grazing of horses or livestock, or through restoring such areas to native prairie or savanna. Those areas that are not currently in agricultural use will be restored and maintained as wetland, forest, woodland, or savanna, as determined by the Preserve Manager in the Management Plan. The management practices and polices are described in the Management Plan prepared in accordance with Section 2.7.

2.2. **Rights of Grantee.** To accomplish the purpose of this Conservation Easement the following rights are conveyed to Grantee by this Conservation Easement:

(a) To preserve and protect, by all means available under the Act, the open space, scenic vistas, native flora and fauna, soils, water table and drainage patterns, and other conservation values of the Preserve;

(b) To view the Preserve in its scenic and open condition at ground level from adjacent publicly-accessible land;

(c) To enter upon the Preserve at reasonable times to monitor Grantor's compliance with and otherwise enforce the terms of this Conservation Easement;

(d) To enforce the terms of this Conservation Easement by appropriate legal proceedings so as to prevent any activity on or use of the Preserve that is inconsistent

with the purpose of this Conservation Easement, and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

2.3. Prohibited Uses. Any activity on or use of the Preserve inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities on and uses of the Preserve are expressly prohibited:

(a) The placement or construction of any buildings, whatsoever, or other above-ground structures or Improvements of any kind (including, without limitation, above ground utility lines and related facilities, lighting fixtures of any kind, roads, antennae, lawns, flag poles, decks, patios, swimming pools, driveways, playground equipment such as swing sets or jungle gyms, signs, billboards, parking lots and other man-made or impervious surfaces, and active recreational facilities such as tennis courts, golf courses, driving ranges, putting greens, baseball diamonds, and playing fields);

(b) Any alteration of the surface topography and hydrology of the land (including but not limited to grading or the excavation, removal or moving of soil, sand, gravel, peat, or vegetation), except as may be necessarily required in the course of building and maintaining the Stormwater Management System, restoring and maintaining wetlands and drainage ways, installing underground utilities and septic systems, farming, and any other activity expressly permitted hereunder;

(c) Any use or activity that causes or is likely to cause significant soil degradation or erosion, or significant siltation or pollution of any surface or subsurface waters (including but not limited to, any use or application of any pesticide or herbicide, except by the Preserve Manager or in accordance with a plan for such use or application approved in writing by Preserve Manager);

(d) The draining, filling, diking, dredging or digging of any wetlands, ponds, water course, floodplains, or other areas located on the Preserve (except as may be necessarily required in the course of building and maintaining the Stormwater Management System, restoring and maintaining wetlands and drainage ways, wetland mitigation projects approved by Federal, State or county authorities, and any other activity expressly permitted hereunder);

(e) The destruction or removal of the native flora located on the Preserve, except by the Preserve Manager or as may be expressly approved by the Preserve Manager;

(f) The dumping, placing or storing of trash, discarded equipment, appliances, automobiles or household items, compost, garbage, grass clippings and other landscape waste, or other waste material;

(g) The operation or permitting to be operated of snowmobiles, motorcycles, all-terrain vehicles or any other type of motorized vehicle (except for vehicles used only in connection with land management, agriculture, construction, or maintenance activities permitted hereunder, with the approval of the Preserve Manager, and emergency vehicles);

(h) The use, exercise, or transfer of development rights on or to the Preserve, or any portion thereof, including without limitation any and all rights, however designated, now or hereafter associated with the Preserve or any other property that may

be used, pursuant to applicable Village zoning laws or other governmental laws, ordinances, or regulations, to compute permitted size, height, bulk, or number of structures, density, lot yield, or any similar development variable on or pertaining to the Property or any other property; and

(i) The lighting of the Preserve by means of any lighting fixture located on the Property or by means of any flood or spotlight located off the Property but focused on the Property.

2.4. Reserved Rights. Grantor reserves to itself and to its his successors and assigns, all rights accruing from its ownership of the Preserve that are not expressly prohibited herein or in the Development Agreement and are not inconsistent with the purpose of this Conservation Easement, including the right to use the Preserve for recreational purposes not prohibited under the foregoing provisions and which do not interfere with the preservation of plant and animal communities on the Preserve. Without limiting the foregoing, such reserved rights shall specifically include the following:

(a) The right to construct trails in addition to the Mettawa Trail for pedestrian, equestrian, or bicycle use;

(b) The right to place small structures customarily used in farming operations on the Preserve, such as fences, but not including any building;

(c) The right to place benches, three-sided rain shelters, viewing platforms, and similar structures used to facilitate passive recreational use of the Preserve for such activities as walking and bird watching;

(d) The right (but not the obligation) to construct, landscape, and maintain berms on the Preserve and on the Conservancy Easement to provide a buffer for the Homesites from visual and sound impacts of street traffic and nearby development; and

(e) The right to conduct sound conservation management of the Preserve, as described in this Article.

2.5. Preserve Manager. Open Lands is designated the initial Preserve Manager. The Preserve Manager shall be responsible for restoring, maintaining and managing the Preserve. If at any time, Open Lands is unwilling or unable to act as Preserve Manager, and so notifies the Village and the Homeowners' Association (or Declarant if such Notice is before the first meeting of the Board of the Homeowners' Association), a successor Preserve Manager shall be appointed, which shall be such person or organization as the President of Open Lands shall designate, and if said President is unable or unwilling to make such designation, the authority to make such designation, shall pass, in turn, to the first of the following who is willing and able to act:

(a) The Executive Director of the Illinois Chapter of The Nature Conservancy, a corporation of the District of Columbia;

(b) The Executive Director of the Openlands Project, an Illinois not-for-profit corporation;

(c) The Executive Director of the Illinois Nature Preserves Commission;

(d) The presiding judge of the Nineteenth Judicial Circuit or such other court of first impression with jurisdiction over the Preserve.

The term "Executive Director" shall refer to that person who is acting as chief executive

officer, regardless of actual title. The Preserve Manager may, but need not, be a Grantee under this Conservation Easement and the appointment of such Preserve Manager shall not be effective until approved by the Village, which approval shall not be withheld unreasonably.

2.6. Management Practices. The Preserve Manager may use any and all methods and practices deemed necessary or appropriate by it for the sound conservation management of the Preserve. These methods and practices shall include but not be limited to: (i) Controlled burns in such frequency, scope, and duration as Preserve Manager deems appropriate, (ii) removal of non-native species or native invasive species of plants and animals, (iii) selective uses of herbicides, and (iv) removal of deer, geese, and other species of animals if, in the sole opinion of the Preserve Manager, the population of such species threatens native flora or fauna.

2.7. Duties of Preserve Manager. The Preserve Manager shall be responsible for planning and implementing the restoration and maintenance of the Preserve in accordance with the Management Plan attached hereto as Exhibit A. The Preserve shall be managed in accordance with the Management Plan. The Management Plan may be amended from time to time with the approval of Grantee, Preserve Manager, and Declarant (if the Declarant is then a titleholder of record of a portion of the Property). If the Declarant is no longer the owner of any portion of the Property, amendment of the Management Plan shall require approval of the Board of the Homeowners' Association, Grantee and the Village. The Preserve Manager shall be solely responsible for authorizing and determining the nature, extent, time, and conditions of access to the Preserve, provided that the access of Residents to the Preserve shall not be unreasonably limited or restricted. The Preserve Manager and its employees, representatives and contractors shall at all times have access to the Preserve, and shall not be required to provide any notification of any kind of their entry onto the Preserve.

ARTICLE 3

CONSERVANCY EASEMENT

It is intended that the portions of the Property identified in the Plat as being subject to the Conservancy Easement shall be a transition zone between the Preserve and Homesites. Each portion of each Homesite located within the Conservancy Easement shall be managed by the Preserve Manager, or, in the discretion of the Preserve Manager, by the appointment of the Owner of the respective Homesite in strict accordance with a plan approved by the Preserve Manager. The Preserve Manager may appoint the Homeowners' Association as its agent in approving, monitoring, and enforcing the provisions of this Article. Any such appointment shall be revocable at any time by the Preserve Manager. Notwithstanding anything to the contrary contained herein, no Improvement or structure of any kind whatsoever, except underground utilities (including underground electric dog control fences), may be constructed or placed upon any part of the Conservancy Easement, and Grantor grants and conveys to Grantee and its successors and assigns a Conservation Right as to the Conservancy Easement and all parts thereof,

on the terms and conditions set forth herein. Without limiting the foregoing, the following actions shall be prohibited in the Conservancy Easement: (i) Excavation of any kind except for installation of underground utilities, and then only if the installation is done in a manner permitted by Preserve Manager and if the surface is restored as prescribed by Preserve Manager; (ii) removal or cutting of native trees, shrubs or other plants, except in a manner expressly prescribed in writing by Preserve Manager; (iii) placement of trash, compost, earth or other materials (including construction of berms and similar earthworks), or landscaping not approved by Preserve Manager; (iv) installation of underground or above ground sprinkler or irrigation systems, (v) placement of recreational equipment such as swing sets, slides, sand boxes, trampolines, and the like; (vi) storage of any personal property of any kind, including firewood; and (vii) modification, alteration or obstruction of natural drainage or the final grade approved by the Village and Homeowners Association. The Declarant grants to Grantee the right to enter any portion of any Lot within the Conservancy Easement to verify compliance with the terms hereof. Grantor reserves the right (but not the obligation) to construct, landscape and maintain berms in order to provide a buffer from the visual and sound impacts of street traffic and nearby development.

ARTICLE 4

COVENANT FOR ASSESSMENTS

4.1. **Covenant for Assessments.** For each Homesite within the Property, Grantor hereby covenants, and each Owner, by acceptance of a deed to a Homesite, whether or not it shall be expressed in such deed or other conveyance, is deemed to covenant and agree to pay to Preserve Manager (i) the Transfer Assessments described in Section 4.3 below and (ii) the Annual Assessments described in Section 4.4 below. The Assessments, if not paid when due, together with interest thereon and the costs of collection thereof, shall be a charge upon each Homesite against which such Assessments were levied and shall be a continuing lien upon such Homesite. Each Assessment, together with interest thereon and the costs of collection, including reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of the respective Homesite at the time that the Assessment became due. Such personal obligation shall pass to said Owner's successors in title if not fully discharged by the transferor Owner prior to any transfer of said Homesite, but such transfer shall not relieve the former Owner of personal liability for any assessment levied while such Owner was in title.

4.2. **Purpose and Use of Assessments.** The Assessments shall be paid to Preserve Manager and in Preserve Manager's sole discretion shall be used and applied exclusively for the administration, care and maintenance of the Preserve and the Conservancy Easement. Such Assessments shall include a reasonable amount for administration and overhead expenses. The Preserve Manager shall prepare or cause to be prepared an annual report of revenues and expenditures, including but not limited to those relating to the Preserve and Conservancy Easement as well as the amounts in the

Preserve Reserve. Such report shall be submitted to the Homeowners' Association within three (3) months following the end of the Preserve Manager's fiscal year for its preceding fiscal year. While Grantor expects the Preserve to be classified as a common area for purposes of real estate taxation, the Assessments may be used for the payment of general real estate taxes and special assessments which may be levied on the Preserve by any governmental body. In the Preserve Manager's sole discretion, the Assessments may also be used and applied to services and facilities devoted to or serving the Preserve, including but not limited to, enforcing Grantee's rights under the Conservation Easement and reasonable overhead and administration expenses. All Assessments levied and collected by Preserve Manager shall be deposited and maintained in the Preserve Reserve. Funds may be withdrawn from the Preserve Reserve by Preserve Manager and expended for the purposes herein provided. No interest shall be paid to any Owner or the Homeowners' Association on any funds in the Preserve Reserve, and any interest paid on funds in the Preserve Reserve shall become part of the Preserve Reserve. The Preserve Reserve shall remain at all times the separate and sole property of Preserve Manager, as a common law trustee, and under Preserve Manager's exclusive control. Preserve Manager may assign its rights under this Section (including but not limited to the right to levy and collect assessments) to any of the following: (i) any Grantee or its successor, and (ii) any successor Preserve Manager properly appointed under this Conservation Easement. If assigned, such rights shall be subject to any limitations contained in the assignment and, if the assignment so provides, shall be further assignable by any assignee. Any such assignment shall be effective upon the execution of a written instrument of assignment and its recordation by the Lake County Recorder of Deeds.

4.3. Transfer Assessment. A Transfer Assessment shall be levied at the date upon which each Owner sells its respective Homesite (including the transfer of beneficial interest in a land trust holding title to the Homesite or any other transfer of beneficial ownership in the Homesite), the amount of which assessment shall be \$5.00 for each \$1,000.00 of full actual consideration paid by the buyer to or for the benefit of the Owner, including the amount of any lien or liens assumed by the buyer. The Transfer Assessment shall be levied and collected notwithstanding the fact that the Preserve Manager may have accumulated a substantial amount of money in the Preserve Reserve. Payment of the Transfer Assessment shall be the responsibility of the buyer.

4.4. Annual Assessments. In each calendar year, the Preserve Manager may levy and collect an Annual Assessment. The amount of the Annual Assessments shall not exceed a maximum of \$2,400 per Homesite and shall be the same for each Homesite, notwithstanding the size of the Homesite. Annual Assessments shall be due at such time as the Preserve Manager may determine, but in no event sooner than thirty (30) days after the date Notice thereof is sent to the Owners. The maximum amount of the Annual Assessment shall be adjusted annually in accordance with increases or decreases in the Consumer Price Index.

4.5. Delinquent Assessments. If any Assessment is not paid when due, such assessment shall bear interest from and after the due date at the rate of eighteen percent (18%) per annum or the highest applicable legal rate, if any, whichever is less. The

amount of any such delinquent assessment shall be a lien upon the Homesite of such Owner who has failed to pay such Assessment and the Preserve Manager may record a memorandum of such lien against such Homesite. In addition, the Preserve Manager may bring an action at law against such Owner or may foreclose its lien against such Homesite in the manner provided for the foreclosure of judgement liens. In all events, there shall be added to the amount of the delinquent Assessment, interest and all costs of collection, including reasonable attorney's fees and court costs, all of which shall be included as an additional lien of the Preserve Manager and such lien shall be effective from the time that such interest has accrued or such collection costs have been incurred, without Notice to the Owner of such Homesite.

4.6. Priority of Lien for Delinquent Assessments. A lien for Assessments shall be subordinate to the lien of any Mortgage now or hereafter recorded against a Homesite, provided that the Mortgage is recorded prior to the recordation of the lien for the amount of the delinquency.

4.7. Certificate of Payment. Within a reasonable time following written Notice, the Preserve Manager shall furnish to any Owner, a certificate signed by an officer or authorized agent of the Preserve Manager setting forth whether the Assessments on such Owner's Homesite have been paid or the amount of delinquency (including interest and collection expenses, if any), as the case may be. In all cases, no transfer of ownership of any given Homesite shall occur unless a certificate of Payment has been so furnished.

ARTICLE 5

CONSTRUCTION RESERVATION

5.1 Construction License. Notwithstanding the terms and conditions of this Conservation Easement, Grantor reserves to itself and its agents, employees, successors, assigns, and mortgagees the right to use a thirty (30) foot strip of land in the Preserve adjacent to Homesites for the purposes of the construction and erection of the foundations of a Residence on each such Homesite, installation of required landscaping, and/or construction of any required Improvements, provided that, within thirty (30) days after the completion of the construction of any such foundations, installation of such landscaping, or construction of any required Improvements, Grantor or its agents, employees, successors and assigns shall promptly restore the Preserve so utilized to substantially its condition prior to such use. Prior to any such use, the Preserve Manager shall be notified and all reasonable means shall be taken to minimize use of such strip of land and damage to trees and other plants thereon. The rights reserved to Grantor in this section shall accrue only to the benefit of Grantor, unless expressly assigned by Grantor with specific reference to this section.

5.2 Grantor 's Right of Development. Except as expressly limited herein, Grantor further reserves all rights as owner of the Preserve to use it in a manner not inconsistent with this Conservation Easement that will enable Grantor, its agents,

employees, successors, assigns, and mortgagees to develop the Property to the extent permitted in the Development Agreement.

ARTICLE 6 ADDITIONAL COVENANTS

6.1. **No Further Division.** Title to the Preserve shall only be conveyed or otherwise transferred, and the Preserve shall only be leased, as a single parcel, unless such other conveyance, transfer or lease shall not be detrimental to the preservation of the Preserve as open space. Any such conveyance, transfer or lease shall be subject to the terms of this Conservation Easement. In no event shall Title to the Preserve be conveyed, or otherwise transferred, or the Preserve leased, to a grantee or lessee that is a unit of local government or an agency of a unit of local government. If further platting, subdividing, or otherwise dividing, conveying, transferring or leasing into more than the Lots 44 through 50 as presently existing would constitute an act or acts detrimental to the preservation of the Preserve as open space, the Preserve shall not be further platted or subdivided, nor otherwise divided, conveyed transferred or leased as more than one single parcel.

6.2. **Real Estate Taxes.** Grantor and its successors and assigns shall pay any and all real estate taxes or assessments levied by law on the Preserve and agrees to relieve Grantee from any responsibility for maintaining the Preserve except in the event of damage thereto caused by Grantee or its agents.

6.3. **Control of Access.** Access to the Preserve shall be allowed, limited, and controlled by Preserve Manager, except that Grantee and Owners of Homesites shall at all times have access to the Preserve, subject to reasonable rules established by the Preserve Manager to protect fragile features of the Preserve or otherwise to achieve the conservation purposes of this Conservation Easement.

6.4. **Recording.** This Conservation Easement shall be recorded with the Lake County, Illinois, Recorder of Deeds.

6.5. **Notice of Conveyance.** There shall be no conveyance of the ownership of the Preserve other than to the Homeowners' Association without the prior written Notice to and approval of the Village as to each such conveyance and in no event shall Title to the Preserve be conveyed, or otherwise transferred, or the Preserve leased, to a grantee or lessee that is a unit of local government or an agency thereof. At least fifteen (15) days prior to each such conveyance or lease, whether contemplated to be made by deed or other legal instrument or by operation of law, Grantor shall send Notice to Grantee of such contemplated conveyance or lease.

6.6. **Assignment by Grantee.** No Grantee may assign or transfer its interests in this Conservation Easement, including its rights and obligations relating hereto, unless the transferor has obtained the prior written approval of all other current Grantees and

then only if: (i) such transfer requires that the conservation purposes set forth herein are carried out and that the transferee will otherwise comply with the terms of this Conservation Easement, and (ii) unless the transferee organization is a "qualified organization" and an "eligible donee" as set forth in Treasury Regulations § 1.170A-14(c) (or corresponding subsequent Treasury Regulations). In no event shall any Grantee or transferee seek to have the Preserve classified as exempt from taxation provided, however, that the Preserve may be classified as a "common area" within the meaning of 35 ILCS 200/10-35.

6.7. **No Merger.** Each Grantee agrees and covenants that should it acquire the fee simple interest in and to the Preserve no merger of such fee simple interest and the Conservation Easement shall occur, and this Conservation Easement shall continue in full force and effect, enforceable by all parties entitled to enforce a conservation right under the Act.

6.8 **Notices.**

(a) Any Notice required by this Conservation Easement shall be deemed to have been given when written and mailed *via* United States certified mail, return receipt requested, or personally delivered by commercial messenger or overnight courier service addressed as follows:

If to Grantor:

WAYNE HUMMER TRUST COMPANY, N.A. with a copy to: George M. Covington, Esq. c/o Frederick Phillips & Associates 1456 N. Dayton Street, Suite 200 Chicago, IL 60622	Suite 204 500 N. Western Avenue Lake Forest, IL 60045
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If to Grantee:

Village President	with a copy to: Village Clerk	and to: Village Attorney
Village of Mettawa 1000 Allanson Road Mundelein, IL 60060	Village of Mettawa 1000 Allanson Road Mundelein, IL 60060	John J. Zimmermann, Esq. Raysa & Zimmermann, Ltd. 22 S. Washington Avenue Park Ridge, IL 60068

and:

Lake Forest Open Lands Association
272 East Deerpath, Suite 318
Lake Forest, IL 60045
Attn.: Executive Director

(b) Any of the above hereto may change the place and/or person listed above and/or add persons to the above list for the giving of Notices by Notice given ten (10) days before the effective date of such change.

6.9. **Recovery of Expenses.** In any action or proceeding initiated by either Grantee against Grantor or any Owner or Homeowners' Association to enforce the terms hereof, Grantee shall have all remedies available under the Act. If Grantee prevails, Grantee shall be entitled to recover all reasonable costs, expenses and attorneys' fees that

may be incurred by Grantee in initiating or prosecuting or defending against such action or proceeding.

6.10. Successors and Assigns. The covenants, terms, conditions and restrictions set forth in this Conservation Easement shall be binding upon Grantor and Grantee and their respective agents, grantees, successors and assigns, and shall constitute servitudes running with the Preserve and the Property in perpetuity. All rights reserved herein to Grantor may be exercised by its successors, assigns and designated agents, provided, however, that rights specifically reserved to Grantor shall not inure to the benefit of its successors and assigns unless specifically assigned in a recorded instrument or conveyed by operation of law.

6.11. Prior Notice of Exercise of Certain Rights. Grantor shall send Notice to Grantee before exercising any reserved right as provided herein which could have an adverse effect with respect to the conservation of the Preserve as open space.

6.12. Eminent Domain. If ownership of the Preserve or any part thereof shall be taken by eminent domain proceedings, this Conservation Easement shall terminate automatically as to property so taken, and Grantee shall be entitled to a portion of the proceeds of any condemnation award in an amount equal to that proportionate value of this Conservation Easement, in accordance with Treasury Regulations § 1.170A-14(g) (6) (ii) (or any successor provision) and such proceeds shall be used in a manner consistent with the conservation purposes set forth herein. This Conservation Easement shall remain in full force and effect with respect to any portion of the Preserve not taken by such eminent domain proceedings.

6.13. Proceeds upon Extinguishment. Grantor and Grantee agree that the donation of this Conservation Easement gives rise to a property right, immediately vested in Grantee with a fair market value that is equal to the proportionate value that this Conservation Easement as of the date of grant bears to the value of the Preserve as a whole at that time. If due to a change in conditions, this Conservation Easement is extinguished pursuant to the terms hereof, Grantee (or their successors in interest) upon a subsequent sale, exchange, or involuntary conversion of the Preserve shall be entitled to a portion of the proceeds equal to that proportionate value of this Conservation Easement, in accordance with Treasury Regulations § 1.170A- 14(g) (6) (ii) (or any successor provision) and such proceeds shall be used in a manner consistent with the conservation purposes set forth herein.

6.14. Use of Proceeds. The Conservation Easement herein granted shall be a burden upon and shall run with the title to the Preserve as a binding servitude in perpetuity and cannot be abrogated except in an appropriate judicial proceeding upon a judicial determination that a subsequent unexpected change in conditions with respect to the Preserve makes the continued use of the Preserve for the preservation and conservation purposes set forth herein impossible or impractical. Upon the subsequent sale, exchange, or involuntary conversion of the Preserve, Grantor and Grantee shall act in full accord with the appropriate requirements of the Internal Revenue Code and

Treasury Regulations to the extent applicable with respect to termination or sale of a conservation easement (including the allocation of any sale or other disposition proceeds as provided in this Conservation Easement); and all proceeds of such sale, exchange or involuntary conversion of the Property, if any, allocable to Grantee shall be used by Grantee in a manner consistent with the preservation and conservation purposes set forth herein.

6.15. **Indemnity.** Grantor and, after title to the Preserve has been conveyed to it, the Homeowners' Association shall indemnify Grantee and the Preserve Manager, and hold Grantee and the Preserve Manager harmless from any liability, costs, attorneys' fees, judgments or expenses incurred by Grantee and/or any officer, director, employee, agent and/or independent contractor of Grantee (collectively, the "Indemnitees") resulting from actions or claims of any nature by third parties arising from under or by virtue of this Conservation Easement and/or arising out of the conveyance of, ownership, possession, or exercise of rights under this Conservation Easement (including any such costs and expenses incurred by Grantee in connection with preserving the validity or priority of this Conservation Easement) or arising out of the Original Conservation easement excepting any such matters arising solely from the negligence of any given Indemnitee who seeks indemnification hereunder) including but not limited to, (i) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any such Indemnitee; (ii) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation or requirement, including but not limited to, any federal or state law regarding taxation, hazardous substances by any person other than the Indemnitees, in any way affecting, involving, or relating to the Property, the Original Conservation Easement, or this Conservation Easement; (iii) the presence or release in, on from or about the Property, at any time, of any substance now or hereafter defined, listed or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement as hazardous, toxic, polluting, or otherwise contaminating the air, water, or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of such Indemnitees; and (iv) any breach or violation of any of the obligations, covenants, representations, and warranties of Grantor contained herein. When the Homeowners' Association or Grantor is obligated to indemnify Grantee, the amount of such indemnity, until satisfied, shall constitute a lien on the Property. If the action of any given Indemnitee relieves Grantor of its obligation to indemnify such Indemnitee, Grantor shall remain responsible to indemnify all other Indemnitees.

6.16. **Grantee's Discretion.** Enforcement of the terms of this Conservation Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach

by Grantor shall impair such right or remedy or be construed as a waiver thereof.

ARTICLE 7
MISCELLANEOUS

7.1. Grantor warrants that it is the sole owner of the Property at the date hereof.

7.2. The terms hereof shall be deemed to run with the land constituting the Property and be binding upon all successors and assigns of both Grantor and Grantee. Grantee shall have the right to file a claim pursuant to the Illinois Marketable Title Act, 735 ILCS 5/13-118, *et seq.* in order to exercise its rights thereunder but the filing of such claim shall not be required in order to continue or maintain the effectiveness of this Conservation Easement in perpetuity.

7.3. Grantor certifies hereby that it is not barred from contracting with any unit of state or local government as a result of violations of either section 33E-3 or Section 33E-4 of the Illinois Criminal Code.

7.4. All decisions and approvals of Grantee shall be made jointly by the Village and Open Lands, except such decisions as may be delegated by this Conservation Easement to the Preserve Manager, however, each Grantee may enforce the provisions of this Conservation Easement. Either the Village or Open Lands may resign as Grantee, provided, however, that no such resignation shall be effective without the appointment of a successor by the resigning Grantee and the acceptance of such appointment by such successor. Such resignation, appointment, and acceptance shall be by written instrument recorded with the Recorder of Deeds of Lake County, Illinois.

7.5. This Conservation Easement may be amended only with the consent of each Grantee, Declarant (provided that Declarant is the owner of a portion of the Property), and the Owners of at least eighty percent (80%) of the Lots. Any such amendment shall be recorded with the Recorder of Deeds of Lake County, Illinois.

7.6. The laws of the State of Illinois shall govern the interpretation and performance of this Conservation Easement.

7.7. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to effect the purpose of this Conservation Easement, the charitable and perpetual nature of this grant, and the policy and purpose of the Act. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

7.9. If any provision of this Conservation Easement, or the application thereof

to any person or circumstance, is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

7.10. The captions in this instrument have been inserted solely for convenience or reference and shall have no effect upon the construction or interpretation of this Conservation Easement.

7.11. It is expressly understood and agreed by and between Grantor and Grantee, anything herein to the contrary notwithstanding, that each and all of the representations, covenants, undertakings, warranties, indemnities and agreements herein made on the part of WAYNE HUMMER TRUST COMPANY, N.A. (SUCCESSOR TO WINTRUST ASSET MANAGEMENT COMPANY, N.A.), as trustee of the aforementioned trust, while in the form purporting to be representations, covenants, undertakings, warranties, indemnities and agreements of said trustee personally are nevertheless, each and every one of them, made and intended not as personal representations, covenants, undertakings, warranties and agreements by said trustee personally or for the purpose or with the intention of binding said trustee personally, but are made and intended for the purpose of binding only the trust property being the Property described herein and this instrument is executed and delivered by said trustee's not in their own right but solely in the exercise of the power conferred upon it as such trustee and that no personal liability or personal responsibility is assumed nor shall at any time be asserted or enforceable against the trustee under said trust agreement on account of this instrument or on account of any representations, covenants, undertakings, warranties, indemnities or agreements of the said trustee contained, either expressed or implied, all such personal liability, if any, being expressly waived and released by the parties to this instrument and by all parties claiming by, through, or under them.

IN WITNESS WHEREOF, Grantor has executed this instrument the day and year first above written.

GRANTOR:

WAYNE HUMMER TRUST COMPANY, N.A. (Successor to Wintrust Asset Management Company, N.A.), as Trustee aforesaid.

Attest:

(SEAL)

By: Maria Deo
Its Trust Officer
Asth-Vice President

Virginia A. Primack
Secretary and Trust Officer

ACCEPTANCE BY GRANTEE:

VILLAGE OF METTAWA, Illinois

Attest: (SEAL)
By: [Signature] Village President
[Signature] Village Clerk

LAKE FOREST OPEN LANDS ASSOCIATION

Attest: (SEAL)
By: [Signature] President
[Signature] Secretary

STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)

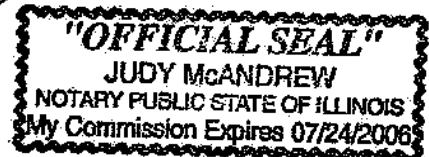
I, the undersigned, a notary public in and for said county, in the state aforesaid, do hereby certify that Maia Bora - Asst. Vice Pres and Virginia A. Primack, personally known to me to be the Asst. Trust Officer and the Asst. Trust Officer of WAYNE HUMMER TRUST COMPANY, N.A. (SUCCESSOR TO WINTRUST ASSET MANAGEMENT COMPANY, N.A.), as trustee under a trust agreement dated September 19, 2001, and known as Trust No. 1618, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Assistant Vice President and Asst. Trust Officer they signed and delivered the said instrument on, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 1st day of March, 2004.

(SEAL)

[Signature]
Notary Public

STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)



I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Barry MacLean personally known to me to be the Village President of the Village of Mettawa, an Illinois municipal corporation, and Joan L. Roy, personally known to me to be the Village Clerk thereof, and both personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such Village

President and Village Clerk, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as such Village President and Village Clerk and as their free and voluntary act and as the free and voluntary act of said corporation for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 26th day of October, 2004.

(SEAL)
STATE OF ILLINOIS)
) SS.
COUNTY OF LAKE)

Drenda Saylor
Notary Public


I, the undersigned, a notary public in and for said county, in the state aforesaid, do hereby certify that KATR SACKMAN and JANE A RICHTER, personally known to me to be the PRESIDENT and the VICE PRESIDENT of Lake Forest Open Lands Association and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such PRESIDENT and VICE PRESIDENT they signed and delivered the

said instrument on, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 8th day of October, 2004.



G M Covington
Notary Public

Exhibit A
MANAGEMENT PLAN

Scope

For the purposes of this submission, the following detailed description covers these portions of the Property.

- The Preserve (Lots 44-50), and including the Village of Mettawa 75' scenic easement and the Mettawa Trail (part of Lots 45-46), both along Route 60;
- The non-paved portion of the right-of-way of the public roads; Where applicable on the Plat, the Natural Landscape Buffer on all building sites facing the streets; and
- Where applicable on the Plat, the Conservancy Easements.

General

Deerpath Farm is not a standard subdivision. Every effort is being made in the planning and development process to preserve, restore, and integrate the native landscape into the proposed subdivision. Accordingly a description of these items will be given during the discussion of each of the four land areas referenced above.

Brief History of Property

This nearly-200-acre site was created by the last glacier about 12,000 years ago. Its gently rolling terrain slopes down to a central drainageway which goes through the Preserve from the southeast towards the northwest. There is considerable change in topography, ranging from well-drained clay soils down to peat and wetland areas. A unique feature left from the glacier are pockets of small wetlands, linked to each other by seasonal drainage. Some of these wetlands can be described as "perched," or "prairie potholes," since they are sometimes found in upland pockets and not necessarily the lowest parts of the site. The Preserve originally would have been a mix of mesic forest, oak woodland, savanna, prairie, and wetlands.

The current landscape suggests that the Property experienced the usual uses by early settlers of the area, probably dating back to the 1840's. Portions of the woodland/savanna areas were cut for agriculture. The remaining wooded area were periodically cut for timber. Extensive efforts were made to drain many of the wetlands with an elaborate tile system, and the central drainageway through the Preserve was ditched and straightened.

The Property has remained in the same family for over 70 years. The current owners continued past agricultural practices, though on a much-reduced and less-intensive level than evidence suggests was the previous norm. Existing fields were mowed, harvested for hay, or occasionally used for row crops. Some sheep were kept on portions of the site. The wooded areas, however, experience little logging or other disturbances, and no further efforts were made to drain any wetlands.

This "benign neglect" allowed the Preserve to regain many of its natural attributes in the form of native grasses, forbs, and wetland plants. Much of this landscape diversity would of course have been lost with the arrival and proliferation of European buckthorn in the

region in the 1960's. However the family began a vigorous program of buckthorn removal in the mid-1980's, followed by a systematic burning of the entire landscape to stimulate and improve the health of the natural areas. This action formed the basis for the current development plan. Currently all non-native and weedy native trees and shrubs are being removed from the site, and it is the overall intent of the development that the future homeowners will live in, and be active participants in, the care of a nature preserve which will essentially surround their homes.

I. The Preserve

Description:

Lot 44: This 40-acre block of savanna, upland and flatwood forest, and wetlands shall remain in its original state and condition, and be managed in the future using all accepted conservation practices such as the removal of all non-native vegetation, the thinning and/or removal of weedy native trees and brush, the periodic use of fire to regenerate and sustain the landscape, all as deemed necessary by the Preserve Manager. Trails may be constructed on this lot, but there shall be no alteration of the hydrology (except as necessary to build the trails), and no alteration of the overall drainage and wetlands. It is the intent of this document that this parcel shall be restored and remain undisturbed as a single block of healthy native landscape. Dead and dangerous trees may be left standing for the benefit of wildlife, except at the discretion of the Preserve Manager.

The only fencing in this area consists of hog-wire and barbed wire installations dating back at least 50 years, and all will be removed where encountered.

Due to the overall health of the existing native landscape, no additional landscaping is anticipated on this lot, with the exception of normal landscape restoration plantings (wetland and prairie seeds and plants, etc.) which the Preserve Manager may deem necessary to restore or improve areas.

Lots 45-46: This area should be considered as one parcel, but must be described as two lots for Plat recording purposes. It consists of a mosaic of agricultural fields (with attendant hedgerows), degraded savanna, riverine wetlands, and detention/wetland mitigation areas. It shall be managed as follows:

- **Agricultural Fields:** Portions of this Lot have been historically farmed. To the extent possible, these areas will be converted into warm-season hay (native grasses), and be cut and baled annually (at the discretion of the Preserve Manager), and all such profits therefrom will go into the Preserve Reserve. At the discretion of the Preserve Manager, all hedgerows will be cleared of non-native and weedy native trees and shrubs, or removed entirely.
- **Savanna:** This area will be cleared of all non-native and weedy native trees, brush, and ground cover, and be restored to native savanna and be managed as such, including the use of mowing, herbicides, and fire.
- **Riverine wetlands:** Due to the continuing failure of tiles installed circa 1900, and the development of the upstream watershed by the Grainger

Company, with attendant off-loading of water, much of this is reverting to the wetlands that would have existed nearly 200 years ago. These wetlands will expand in the future due to the above-described effects. The Preserve Manager intends to continue this wetland expansion, including the breaking of tiles, filling of ditches, and any other means necessary to restore these historical wetlands. All such existing or future wetlands will be managed through commonly-accepted conservation practices, including the water detention control structure, herbiciding, mowing, and fire.

— Detention/Wetland Mitigation Areas: The development of the Property requires the creation of these areas. Because of their newly-created nature, the land management practices referenced above will also be used for their care. In addition, Preserve Manager reserves the right to enter these areas to make any grading changes (with appropriate replanting of native species) to ensure their continuing health and proper water detention capabilities.

Several hog-wire fences traverse this area, all in dilapidated condition. All will be removed.

All native hardwood trees will be preserved. Smaller native hardwoods may be thinned and/or transplanted to improve their growing conditions. Weedy native trees, principally elm, green ash, box elder, and cottonwood, may be removed at the discretion of the Preserve Manager, particularly where they have over-run wetland areas. Trees may also be removed near houses, roads, or trails if, in the opinion of the Preserve Manager, they constitute a safety hazard. Otherwise, all dead trees will remain standing for wildlife habitat.

No traditional landscaping is anticipated on these Lots, with the exception of minor ornamental plantings at the entrance, and, possibly, additional screening in the form of a low berm with evergreens from Route 60 for the backs of lots 1-9 if necessary, all at the discretion of the Developer. The Preserve Manager may undertake normal plantings of prairie and wetland seeds and plants, as needed, and may also transplant native hardwood trees from other parts of the Property to improve views, sight lines, and screening, such areas to be determined after the Preserve has been cleared of all non-native and weedy native vegetation.

These two lots also contain the Mettawa Trail and the 75 foot Scenic Easement dedicated to the Village of Mettawa. The Developer intends to build the trail as specified, even if it does not connect to any Village trail at either end at the moment. Since trails from the interior of the proposed development will access the Mettawa Trail, the Preserve Manager will maintain the Mettawa Trail until such time as it is extended to the east and west for general public use. The Preserve Manager will also maintain the 75' Scenic Easement in an open condition, largely devoid of trees and shrubs, to preserve the view into the Preserve from Route 60. This management will include, but is not limited to, customary land care techniques for agricultural, wetland, and prairie areas.

Developer also reserves the right to erect a three-rail, split rail fence along portions of or all the length of these Lots bordering Route 60, for esthetic purposes.

Lots 47-50: This area (again divided in four lots for technical reasons) is the most sensitive and critical open space in the development, because of two reasons:

- it consists of an extraordinary quilt of glacial remnants, ranging from dry upland white oak savanna/woodland, bur oak savanna, and a chain of isolated wetlands, all linked together, and draining into lowlands in the center of the site; and
- the entire area, as proven by the above description and a tile survey dated July 7, 2001, by the Huddleston/McBride Co., has been extensively tiled in the last century in order to effectuate its conversion into productive land.

Due to the proposed intrusion of housing into this area, with the attendant excavation, construction, and runoff, very complicated land management practices will be needed. These are:

1. Management of proposed upland woodland/savanna open space areas: the Preserve Manager will keep all such areas free of non-native and native weedy brush and trees, and through the use of burning, herbicides, and seeding, restore them to their original state and condition. Due to increased runoff from the development, the removal of any trees, and the regarding and/or restoring of any areas impacted by increased water runoff, shall be at the discretion of the Preserve Manager.
2. Management of the existing wetland areas: Preserve Manager will use all accepted conservation methods to maintain these pristine areas as they are now, and in addition intends to remove any existing drain tiles and/or add new tiles in order to maintain proper water levels in these wetlands.
3. Management of new wetland mitigation/detention areas: These areas will require extensive care, both under U.S. Army Corps of Engineers' requirements and by others in the years to follow. Preserve Manager may use all accepted land management practices, and in addition have the right to alter topography if necessary to confine these landscapes, for the protection of the original wetlands, to the areas in which they were originally defined.
4. Management of prairie areas: As a result of the extensive alterations to the topography and hydrology in this Lot, certain areas may be planted to prairie to buffer the original and/or created wetlands. Preserve Manager intends to determine these areas, and plant and maintain them as such, as buffers to the existing and newly-created wetlands.

Some ancient farm fencing also exists on these Lots, all in dilapidated condition. All such fencing will be removed.

As with Lots 45-46, all native hardwoods will remain, though younger stands may be thinned and/or transplanted to improve their health. Weedy native trees (elm,

box elder, green ash, cottonwood, etc.) may be removed, particularly from wetland areas, at the discretion of the Preserve Manager, as well as dangerous trees; otherwise, all dead trees shall remain standing.

There will be extensive landscaping on these Lots, but not in the traditional sense. All such work will be conservation-oriented, with the planting of prairie and wetland seeds and plants as part of the overall land restoration and wetland mitigation work. Preserve Manager also expects to transplant a number of native hardwood trees from other parts of the Property to improve views, sight lines, and if necessary, some screening.

2. Non-Paved Portions of the Right-of-Way of Public Roads

These areas will be heavily-impacted by the construction of the roads themselves as well as the installation of attendant utilities such as gas, electricity, sewers, and the like. Every effort will be made to preserve significant trees in this right of way, using the services of a recognized tree care company to do fencing, root pruning, utility auguring, and the like. Where possible, areas of significant shrub and ground layer vegetation will be fenced off. However it is anticipated that there will still be additional tree loss, particularly because many of the species present on the site (white and red oak, in particular) are highly intolerant of any construction damage. Thus, the Developer may be replanting portions of the right-of-way with native hardwood and understory trees. The extent of this landscaping cannot be determined until final utility plans are prepared.

Roadway and utility construction causes an additional disruption to the soils themselves. These soils were deposited by the last glacier and have remained relatively undisturbed since then. Construction results in their excavation, the mixing of their profiles, and subsequent compaction when replaced. This seriously alters sub-surface hydrology as well as the ability of air and nutrients to enter the soil.

The usual route for restoring such disturbed soils is usually the planting, and subsequent permanent cutting, of lawn for parkway purposes. However the Developer plans no such parkway-like effects for the site. Accordingly, the Preserve Manager is preparing specifications for a mix of native and non-native grasses and flowers which should begin the long process of restoring these soils while providing cover and wildlife habitat — in short, attempting to get the woodland/savanna/prairie landscape “healed” as soon as possible. The Preserve Manager will maintain these rights-of-way.

3. Natural Landscape Buffer

Just as the Developer desires no parkway grass along the streets, so too the Developer wants to keep the front (street) side of Lots 1 – 41 in a native condition, devoid of lawn. It is expected that most of these 30 foot areas will see no damage from construction, except for slight disturbance along the road rights-of-way and driveway cuts. A mixture of grasses and flowers, similar to that described in Item 2 above, will be sowed to “heal” these disturbances. The individual homeowners will be responsible for keeping these areas healthy and native according to guidelines prepared by the Developer. (See article

7.2 of the "Deerpath Farm Subdivision — Declaration of Covenants, Conditions, and Restrictions.")

4. Conservancy Easements

Certain areas of Lots 1-41 have Conservancy Easements on their lots, adjacent to the Preserve itself. These Conservancy Easements are transition areas for the Preserve, and shall be managed so as to constitute functionally a part of the Preserve. (See Article 7.3 of the "Deerpath Farm Subdivision — Declaration of covenants, Conditions, and Restrictions.") the Preserve Manager will assume all management of these areas as its sole discretion, including:

- removal of weedy and non-native species, and replanting of native material;
- controlled burning, herbiciding, and other normal and customary land management activities; and
- grading and filling work, if necessary in the Preserve Manager's opinion, to the extent allowed by law and current wetlands regulations, to promote positive drainage on the homesites themselves.

The Preserve Manager may enter the Conservancy Easements at any time, without prior notice to the homeowner, to accomplish the above tasks. However the Preserve Manager will not place any trails, benches, or other structures on the Conservancy Easements.

No fencing of any kind will be allowed on the Conservancy Easements, except underground dog-control fencing.

No underground sprinkling systems will be allowed on the Conservancy Easements.