

WASHINGTON COUNTY RECORDS

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# DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS

## FOR THE

## STARPOINTE BUSINESS PARK BY WCCED



THIS DECLARATION, made the 7<sup>th</sup> day of March, 2005, by the Washington County Council on Economic Development, Inc. (hereinafter referred to as "WCCED"), which declares that the real property comprised of the lot parcels, and sites, platted or unplatted, more legally described in attached Exhibit "A" and incorporated herein by reference, to be known as "STARPOINTE", a 148-acre site which is currently owned by WCCED, is and shall be held, transferred, sold, conveyed, leased, and occupied subject to the covenants, restrictions, easements, charges, and liens hereinafter set forth.

### ARTICLE I – PURPOSE

The purpose of this Declaration is to insure the proper use and most appropriate development and improvement of each building site in STARPOINTE (hereinafter referred to as the "Park") through the imposition of uniform standards. It is the intent of this Declaration to provide conditions, covenants, etc. that insures that the Park will always be maintained as an attractive, quality-oriented non-congested business environment. These covenants are designed to protect the owners, lessees, and sub lessees of property. In essence, this Declaration is designed to protect the investments made by each Property Owner.

This Declaration is an addition to the subdivision and land development requirements and restrictions imposed by Washington County and Hanover or Smith Townships and/or any other authorities having jurisdiction. The Washington County Council on Economic Development, Inc. reserves the right to approve any variances and/or exceptions to this Declaration.

### ARTICLE II – CONSTRUCTION REGULATIONS

Section 2.1 General. No improvement shall be commenced, erected, constructed, altered, or maintained upon any Lot, nor shall any change or alteration thereon or thereof be made, nor any subdivision, plat or replat be made unless and until the plans, specifications, and location shall have been submitted to and approved in writing by the Engineering Review Committee (ERC) as more fully set forth in Article III of this Declaration.

Section 2.2 Compliance. Notwithstanding any provisions of this Declaration, construction and alteration of all improvements in the Park shall be performed in accordance and

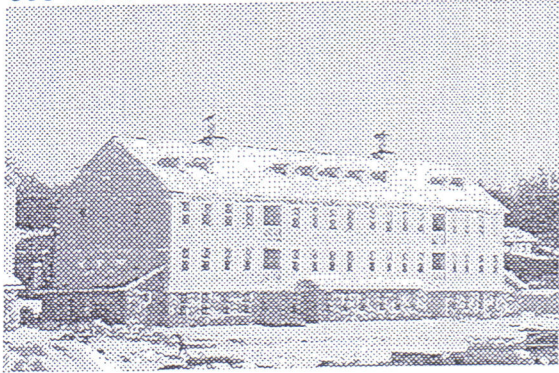
compliance with the applicable codes, regulations, and local laws issued by Washington County and Hanover/Smith Townships, Pennsylvania, or other applicable governing agencies.

Section 2.3 Commencement and Completion of the Construction. Construction of an accepted and approved building or other improvement upon a Lot must commence within one (1) year from the date of sale of any Lot within the Park to any Owner. If construction has not begun after one (1) year from the date of sale, WCCED, at its option, may require the Owner to reconvey the Lot to WCCED in accordance with the terms and conditions as set forth in Article VII hereof. After commencement of construction of any building or other improvement, the Owner of the Lot shall diligently execute the work thereon, and said construction shall be completed within eighteen (18) months after the issuance of a building permit unless such time period be extended, in writing, by WCCED for good cause shown. If Construction is not complete within 18 months and if an extension is not granted, WCCED may file injunctive action against Owner to compel Owner to complete construction.

Section 2.4 Design Concept: Use An Industrial/Rural Aesthetic

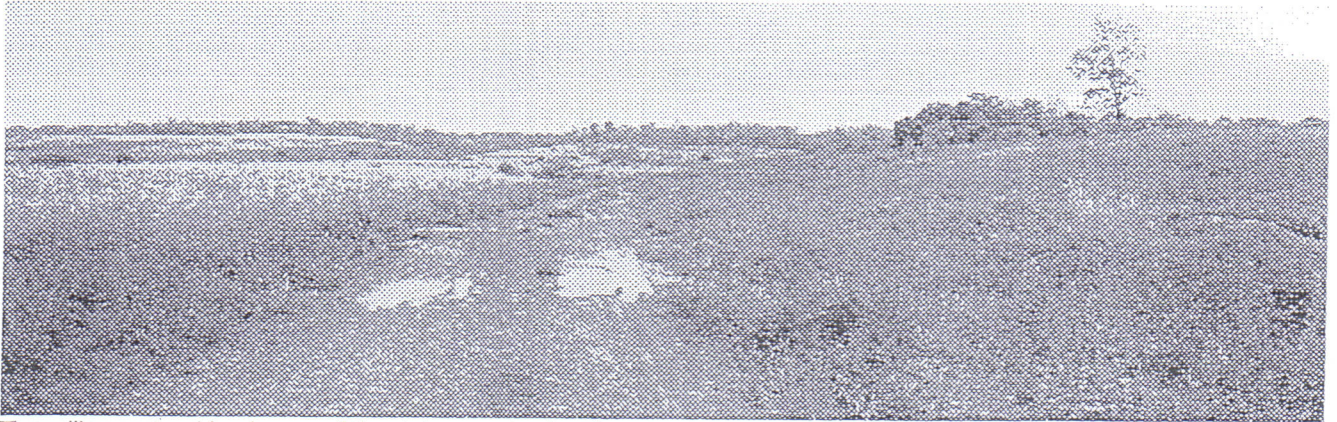
I. Design Concept: Use an Industrial/Rural Aesthetic

- A. Use industrial materials creatively for both the buildings and the landscape. The



overall aesthetic approach for Starpointe should draw on the vernacular heritage of the area in the development of farm and early industrial structures. Buildings should reflect the strong, simple geometries and utilitarian materials of sheds and mill buildings, but in contemporary versions.

- B. Use a native rural approach to landscape design. The landscape design for the project should similarly reflect the rural heritage of the area through the design of the a new building, designed to reflect a rural character roadways, and plant selections. Native plant materials and landscape types including allees of trees along roads, hedgerows, meadows and transitional old-field landscapes (former fields that are in the process of ecological transition towards woodlands) should be the model for the landscape treatments. Drainage ways and storm water systems should reflect a similar native character of wetland plants.



The rolling pastoral landscape of the state game lands adjacent to starpointe reflects the landscape character that should be preserved, emulated and restored in the new development.

- C. Define the views along the roads. Use the roads as the primary identity of the place to define a streetscape modeled on the farm road: trees, hedge, fence, meadow, and buildings assembled as a continuous whole. Use and define the views across the valleys. Design roadways to minimum, not maximum standards - reduce the size and impact of the road itself.

#### Section 2.5 Site Planning Principles

A. Building siting standards:

- Front yard build-to line should be 50 feet for single-user buildings. Multi-tenant and office buildings may be setback further.
- No parking is permitted in the front yard for single-user buildings, all parking should be located on the side, or rear of the building. For multi-tenant buildings, front yard parking shall be screened with berms, trees and hedges between the parking lot and the access road.
- Loading and service area of buildings should generally be located at the rear or side of the building and appropriately screened to protect views from adjacent properties and roads (see below).

- B. Loading, storage (including tanks and other structures), waste disposal, transformers and service areas should be located at the rear of the building and screened from the year-round view of adjacent properties, including the adjacent roadways of Rt. 22, Rt. 18 and Old Rt. 22 through landscaping, berming, walls and fences. Freestanding walls and fences should meet the following standards:

- Walls should be a minimum of 6' high and made of cast-in-place concrete, brick, high quality CMU or precast concrete.
- Screening fences should be a minimum 6' high and made of pressure-treated, or better wood. Security fences may be taller and constructed of vinyl-coated chain-link.
- Service and storage yards may be paved with crushed stone or gravel provided the following standards are met:

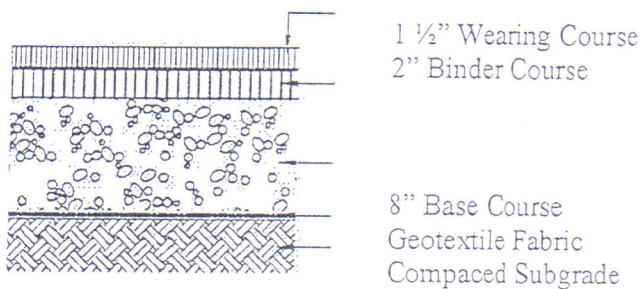
- i. contain the entire yard with a concrete curb up to the entering driveway.
- ii. provide a concrete paved pad at the loading doors.
- iii. plant the edges of the yard with a minimum of one tree per every 30 linear feet of curb and a continuous hedge - see landscaping standards for details.

C. Parking lot standards:

- Paved with a minimum of asphalt; porous materials, including crushed stone paving materials are encouraged.
- Concrete curbs minimum surround the entire parking lot up to the edges of the driveways.
- Minimum parking counts shall be: 4 per 1000sf for office, 2 per 1000sf for flex, 1/1000sf for storage, 1 per employee for industrial.
- Lighting and landscaping standards - see below.

D. Driveway standards:

- Mountable, concrete curb & gutter edging with asphalt paving to the minimum standard shown below:



E. Roadway standards:

- Asphalt paving with gravel shoulder and grass swale. Roads should be designed to minimum required widths, generally roads should not exceed 15' per travel lane in width. Turning radii should be designed to accommodate full-sized tractor-trailer trucks.
- Plant continuous shade tree rows every 30', both sides of the road - see landscaping standards for approved species and sizes.

F. Each lot shall retain a minimum of 25% as open space free of building or site development.

## Section 2.6 Encourage Green Development

### III. Encourage Green Development

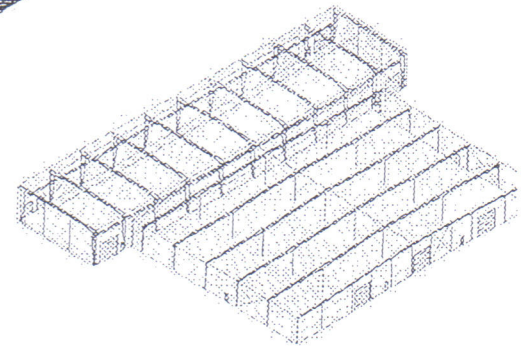
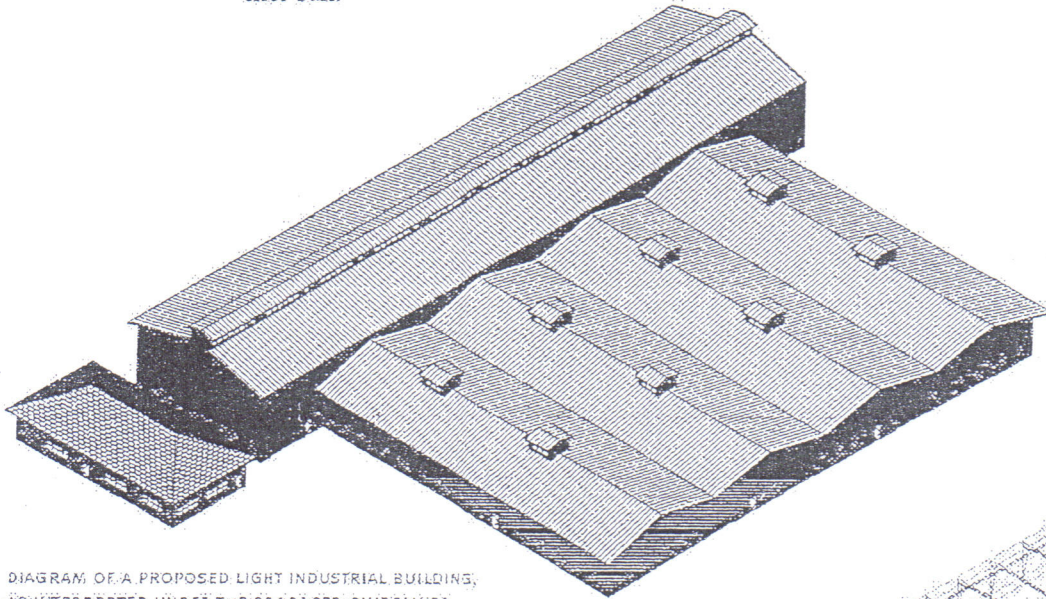
- A. Encourage porous pavement and Best Management Practices for storm water management.
- B. Connect downspouts to infiltration basins, perhaps under crushed stone service yards.
- C. Control lighting to promote "dark skies". See lighting standards.
- D. Use native plants, discourage lawns, encourage meadows, fields, hedgerows.
- E. Use natural daylighting and passive heating and cooling in buildings where possible – see building standards.

## Section 2.7 Light Industrial and Single-Use Flex Building Design Standards

- A. Buildings should reflect the industrial scale and materials of indigenous structures such as mill buildings and other utilitarian buildings. Shapes should be simple and strong where the volume is visible and with a prominent expression of the roof.

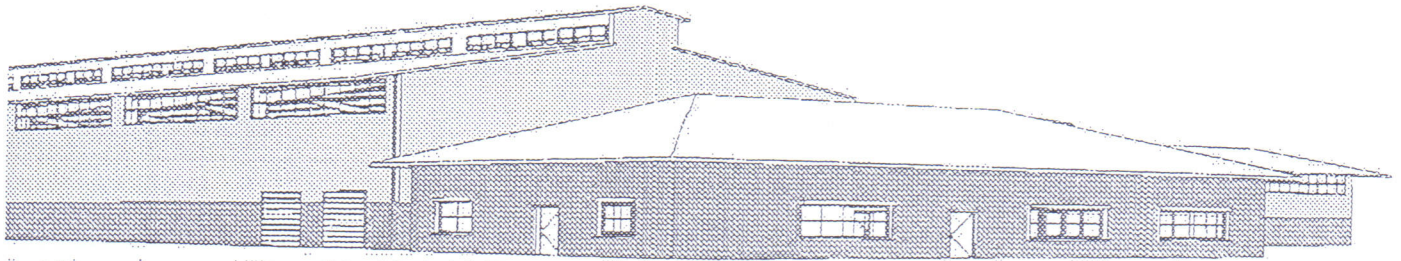
B. Roofs standards:

- They should pitch at a minimum of 3 in 12. Saw tooth roofs are acceptable for large span roofs. Mansard roofs masking a flat roof are not acceptable.
- They should express their dominant shape with color. Earth and sky tone colors are encouraged, extremely bright colors are not.
- Rooftop elements such as light monitors, skylights, and cupolas are strongly encouraged to bring natural light and air into the center of the building and add a visual element to the rooftop.
- Rooftop mechanical equipment should be screened and/or located on the rear of the building; it can also be located behind louvers inside light monitors or cupolas.
- Eave overhangs are encouraged to add definition and shade clerestory windows from summer sun.



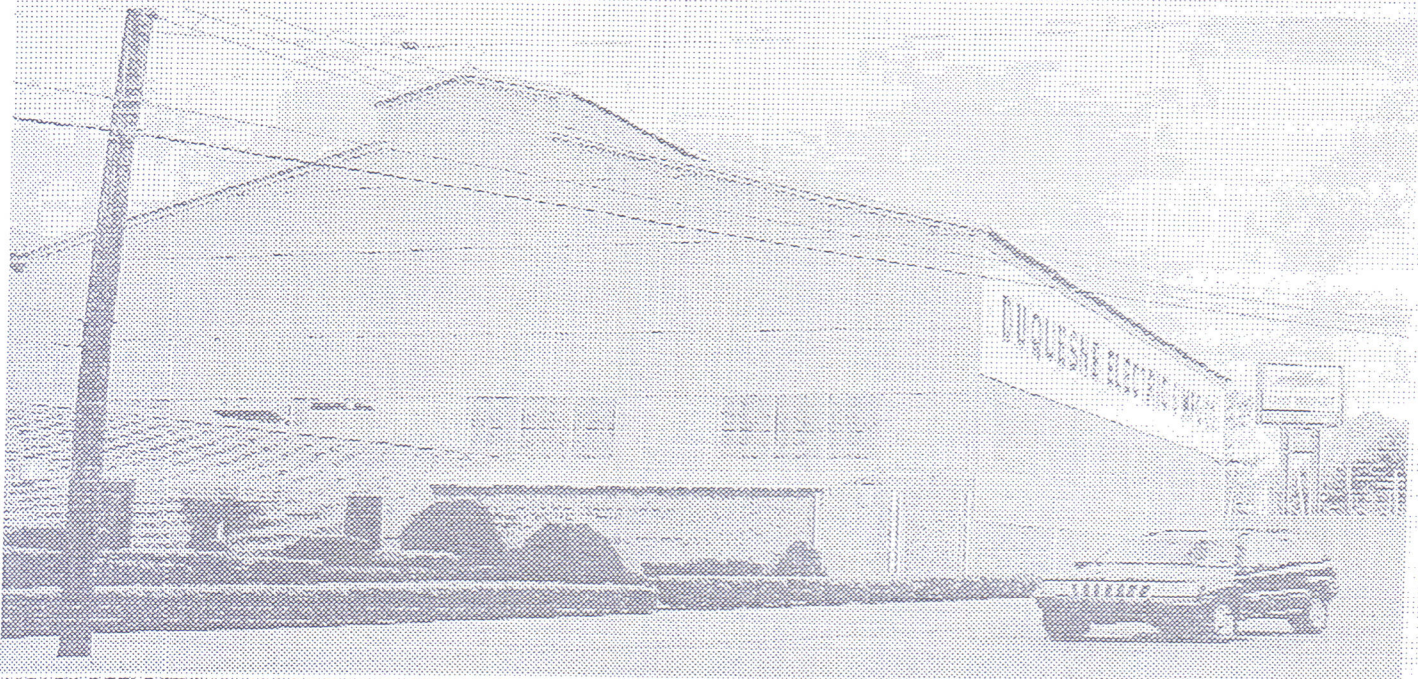
C. Material standards: generally use industrial materials that emphasize low maintenance and durability in a creative manner.

- These materials might include: brick, Fabcon, precast concrete panels, ground-faced CMU, Kalwall, high-quality metal siding, Hardiboard or wood.
- Low durability materials such as EIFS, vinyl siding and simple CMU should not be used.
- Roof should be metal.
- A typical wall section might include: an 8' high course of masonry, above which would be metal panels with clerestory or other windows inset.



WINDOW MATERIAL AND WINDOW POSSIBILITIES

Consideration should be given to organizing the office portions of the building as a building located to the side of the main structure and connected via a breeze-enclosed passage. This will allow the opportunity to increase window area and create shaded elements such as canopies and awnings at the entries. Office portions of the building can be constructed entirely of masonry.



COMPLEX REFLECTS MANY OF THE ELEMENTS OF THE DESIGN STANDARDS -- INCLUDING A SAWTOOTH ROOF WITH LIGHT TRANSLUCENT PANELS IN THE WALL, A BRICK BASE TO THE WALL AND THE OFFICES ADJACENT TO THE MILL, WITH LANDSCAPING.

THE DESIGN STANDARDS

### Section 2.8 Multi-Tenant Flex Building Standards

These should be the same as those for Single-User Light Industrial Buildings with the following exceptions:

- A. The masonry base to the building should extend up 4’.
- B. There should be a larger expanse of glass at the entry above the masonry base to bring light into the interior. Minimum area of glass should be 80 square feet. A canopy should shelter the entrance.
- C. Roofs can be either pitched or flat. If the roof is pitched it should conform to the standards previously delineated for the other building types, with eave overhands a minimum of 3’. Rooftop equipment should be located inside a cupola or monitor element, or mounted on the rear of the roof so that it is not visible from the front or sides of the building. If a flat roof is used, all roof mounted mechanical equipment should be screened with a parapet, metal louvered screen wall, or other elements so that it is not visible from the front, side or rear of the building. All screening devices should be treated as an integral part of the overall architectural design.
- D. Parking is permitted in the front yard with the required landscaping and hedge screening.

### Section 2.9 Office Building Standards

Office buildings are a substantially different use from the other building types and therefore should have a different set of standards, although establishing consistency throughout the project remains a goal.

- A. Office buildings should generally be multi-story in order to maximize the utilization of the site and allow for the required amount of parking.
- B. Similar materials are permitted for use in office buildings, although the primary materials should be either brick or high-quality metal siding. Other masonry types will be accepted upon review by the ERC.
- C. Roofs can be either pitched or flat. If the roof is pitched it should conform to the standards previously delineated for the other building types, with eave overhands a minimum of 3’. If a flat roof is used all roof mounted mechanical equipment should be screened with a parapet, metal louvered screen wall, or other element. All screening devices should be treated as an integral part of the overall architectural design.
- D. A canopy or other architectural element should mark and protect the primary entrance.
- E. Tenant parking is not permitted in the front of the building, only drop-offs and visitor parking are allowed in this area.
- F. A more manicured landscape including lawns is allowed immediately around the building, otherwise the other landscape standards shall apply.



### Section 2.10 General Building Requirements

All projects will require the construction of a field mock-up panel prior to final approval of the building design by the ERC. This mock-up panel should be construction on the construction site and include all visible elements of the facade, wall and roof including, masonry, walls, windows and trim.

### Section 2.11 Lighting Standards

- A. Excessive lighting of exterior areas including roadways, parking lots and service yards will not be allowed. Minimum light levels to insure safe conditions will be the standard, generally this will be .5 foot-candle for all roadways and parking lots unless local ordinances require greater.
- B. A 90¼ cutoff on all exterior light fixtures is required to insure compliance with "dark skies" goals. No light will be permitted to spill beyond the property lines.
- C. Exterior lighting can be focused in higher light areas for dramatic visual effect or functionality, such as walkways and building entries, but should not exceed 1 foot-candle in these areas. Industrial building exteriors should not be illuminated.

### Section 2.12 Signage Standards

- A. One monument sign, a maximum of 6 feet high with a maximum area of 36 total square feet will be allowed per main site entrance. The monument sign should use the same materials as the building; it may be illuminated, either backlit, internally or externally.
- B. Other directional signage for service entrances will be permitted - these should be pole mounted metal or other rigid material and not exceed 16 square feet in area.
- C. Building identification signs are permitted under the following conditions:
  - Maximum letter height is 24", maximum area of 80 sf.
  - The sign does not extend above the eave of the roof.
  - It will not be backlit or internally illuminated.
  - Sign illumination may only be by shielded downlights that provide 90-degree cutoffs, which conform to "dark skies" standards.
  - Signs are architecturally integrated with the building.

### Section 2.13 Create Recreational Opportunities

- A. Link outdoor spaces, with trails and walkways both on individual parcels and in common areas between them. Use trails to connect the parcels, the roads and the drainage-ways. Use the slopes and valleys for trails.
- B. Include outdoor amenities for building occupants such as outdoor patios or seating areas with picnic tables.

### Section 2.14 Landscaping Standards

- A. Roadway trees. A system of roadway trees will be planted along all common and private roads. These trees should be placed no more than 30' apart in groupings

of the same species along both sides of the road. Each road segment should use the same tree species, but each segment should be different from the other.

B. Screening of abutting properties and roads

- Preserve a minimum of 50' of existing hedgerows and tree plantings along Old Rt. 22 to screen new development. Supplement with new plantings of a similar nature to establish a visual screen.
- Rear yards of new development parcels should be screened from adjacent neighbors' view through the establishment of new hedgerows of locally occurring trees and shrubs. These new hedgerows should be located at the edge of the rear property line and be a minimum of 20' deep. Hedgerows should be a mixture of evergreen and deciduous species of both woody shrubs and trees to establish a thick visual screen from the ground to the tree crowns.

C. Screening of parking lots and service yards

- A similar system of canopy trees, hedgerows, berms and shrub borders should be used to visual screen parking and service areas from the view of adjacent properties.
- One 3" cal. trees should be planted for every 6 cars as a minimum.

D. Lawns & meadows

- In general, areas of manicured lawn should be kept to a minimum and strategically located at high use areas such as building entries, parking lots, outdoor recreation spaces and other areas of human use.
- Other unused open areas, should be planted with a mixture of trees, shrubs and meadow grasses and wildflowers. Meadow areas will need to be managed for the first few years to control weed growth; thereafter, a regime of annual mowing should be maintained to control the development of woody shrubs and keep the areas open.

E. Planting for microclimates

- Trees in particular should be planted strategically to create beneficial microclimates. For example, tall deciduous shade trees planted along the South and SW sides of the building will help to significantly reduce cooling loads. Spreading shade trees along parking lots will similarly cool cars from summer heat.

F. Planting on steep slopes

- The numerous steep slopes on the site have resulted from grading operations to create building pads, and typically lead down to the drainages. These slopes should be planted with a wide variety of shrubs and trees in order to control erosion and reestablish a naturalized woodland plant cover. Specific plants are listed below for these uses – typical erosion control plantings such as crown vetch are not permitted.

### Section 2.15 Recommended Plant List

These plants are a recommendation that reflects the design intent of the design standards only; final planting plans will be reviewed by the ERC for compatibility with the design intent and overall landscape goals for Starpointe.

#### Roadway trees (4" cal., min.)

Acer rubrum 'Franksred'	Red Sunset Red Maple
Fraxinus pennsylvanica 'Cimmzam'	Cimmaron Ash
Platanus x acerifolia 'Metzam'	Metroshade London Plane Tree
Pyrus calleryana 'Cleveland Select'	Cleveland Select Pear

#### Shade trees (2 1/2" - 3" cal. min.)

Acer x freemanii 'Celzam'	Celebration Maple
Acer Griseum	Paperbark Maple
Cercidiphyllum japonicum	Katsura-tree
Chionanthus virginicus	White Fringetree
Quercus rubra	Red Oak
Ulmus Americana 'Delaware'	Delware Elm

#### Evergreen trees (6' - 8' ht. min.)

Picea abies	Norway Spruce
Pinus nigra	Austrian Pine
Pinus strobus	Eastern White Pine
Thuja occidentalis	Arborvitae
Tsuga Canadensis	Canadian Hemlock

#### Ornamental trees (6' - 8' ht. or 1 1/2" cal. min.)

Amelanchier Canadensis 'Trazam'	Traditional Serviceberry
Betulus nigra 'Cully'	Heritage River Birch
Cercis canadensis	Eastern Redbud
Cornus florida	White Flowering Dogwood
Cornus kousa chinesis	Kousa Dogwood
Magnolia x 'Betty'	Betty Magnolia
Malus 'Sugar Tyme'	Sugar Tyme Crab

#### Shrubs (no. 2 cont. or 24" - 36" ht. min.)

Abelia grandiflora	Glossy Abelia
Azalea gable 'Boudoir'	Boudoir Azalea
Azalea kurume 'Delaware Valley'	Delaware Valley Azalea
Buxus sempervirens 'Vardar Valley'	Vardar Valley Boxwood
Clethra alnifolia	Summersweet
Cornua alba 'Elegantissima'	Silverblotch Dogwood
Cornus alba 'Sibirica Bloodgood'	Bloodgood Siberian Dogwood
Cornus serciea 'Cardinal'	Red Osier Dogwood
Ilex glabra 'Nordic'	Nordic Holly

Ilex x meserveae 'China Boy/Girl'	China Boy/Girl Holly
Kalmia latifolia	Mountain Laurel
Myrica pensylvanica	Northern Bayberry
Pinus mugo	Mugho Pine
Rhododendron chionoides	Chionoides Rhododendron
Rhododendron 'English Roseum'	English Roseum Rhododendron
Rhododendron 'P.J.M.'	PJM Rhododendron
Taxus x media 'Hicksii'	Hick's Yew
Viburnum carlesii	Koreanspice Viburnum
Viburnum opulus 'Nanum'	Dwarf European Cranberry bush
Viburnum plicatum 'Newzam'	Newport Viburnum
Viburnum plicatum tomentosum 'Mariesii'	Maries Doublefire Viburnum
Viburnum rhytidophyllum	Leatherleaf Viburnum

Ornamental grasses (no. 2 cont.)	
Panicum virgatum 'Haense Herms'	Red Switch Grass
Pennisetum alopecuroides	Fountain Grass
Pennisetum alopecuroides 'Hameln'	Dwarf Fountain Grass

Groundcovers (no. 2 cont. or 2 1/4" p.p.)	
Cotoneaster apiculata	Cranberry Cotoneaster
Cotoneaster dammeri	Royal Beauty Cotoneaster
Euonymus fortunei 'Colorata'	Purpleleaf Wintercreeper
Juniperus conferta 'Blue Pacific'	Blue Pacific Juniper
Juniperus horizontalis	Emerald Spreader Juniper
Liriope muscari 'Big Blue'	Big Blue Lily Turf
Vinca minor	Blue Myrtle

Perennials (no. 2 cont.)	
Astilbe 'Red Sentinel'	Astilbe
Chrysanthemum x superbum 'Snow Cap'	Snow Cap Shasta Daisy
Hemerocallis 'Apple Tart'	Apple Tart Daylily
Hemerocallis 'Stella D'oro'	Stella D'oro Daylily
Hosta sieboldiana 'Elegans'	Plaintain Lily
Iberis sempervirens	Candytuft
Rudbeckia fulgida speciosa 'Goldsturm'	Black Eyed Susan
Sedum x 'Autumn Joy'	Autumn Joy Stonecrop

Slope planting: trees (1 1/2" - 1 3/4" cal. and 3/4" - 1" cal.)	
Acer negundo	Boxelder
Acer saccharinum	Silver Maple
Alnus glutinosa	Common Elder
Fraxinus pennsylvanica	Green Ash
Gymnocladus dioicus	Kentucky Coffeetree
Juglans nigra	Black Walnut

Liriodendron tulipifera  
Platanus Acerifolia  
Populus x robusta  
Quercus robur  
Robinia pseudoacacia

Tulip Tree  
London Plane Tree  
Canadian Poplar  
English Oak  
Black Locust

Slope planting: seedlings – (12" - 18" seedling)

Quercus macrocarpa

Bur Oak

Quercus muehlenbergii

Chinkapin Oak

Slope planting: small deciduous/ornamental trees (5' - 6' ht. clump or 1 1/4" - 1 1/2" cal.)

Amelanchier Canadensis

Shadblow Serviceberry

Crataegus phaenopyrum

Washington Hawthorn

Slope planting: evergreen trees (3' - 4' ht. cal. and 12" - 18" seedling)

Juniperus virginiana

Eastern Red Cedar

Picea abies

Norway Spruce

Pinus rigida

Pitch Pine

Pinus strobus

Eastern White Pine

Tsuga Canadensis

Canadian Hemlock

Slope planting: shrubs (18" - 24" ht.)

Ceanothus americanus

New Jersey Tea

Hamamelis virginiana

Witch Hazel

Ilex glabra

Inkberry

Myrica pensylvanica

Northern Bayberry

Viburnum prunifolium

Blackhaw Viburnum

Slope planting - ornamental grasses (no. 2 cont.)

Pennisetum alopecuroides

Fountain Grass

### Section 2.16 Building Materials

See Exhibit C

### Section 2.17 Flagpoles

- A) Flagpoles should not be taller than twice the height of building that it fronts.
- B) Flagpoles should be located in the front yard of the lot, or at the corner of a corner lot.
- C) Maximum number of three flagpoles on any building lot.
- D) Flags cannot be illuminated, and the American flag can only be displayed between sunrise and sunset.

- E) All applicable rules and regulations for displaying the American flag must be followed, refer to [www.ushistory.org/betsy/flagetiq.html](http://www.ushistory.org/betsy/flagetiq.html) for a complete listing.
- F) Flags are not to be used as advertisements or signage for the business located on the property.

### ARTICLE III – ENGINEERING REVIEW COMMITTEE

#### Section 3.1 Necessity of Engineering Review and Approvals.

- A) No improvement of any kind shall be commenced, constructed, erected, placed, altered, or maintained upon any Lot, nor shall any addition, change, or alteration thereon or thereof be made, nor shall any subdivision platting or replatting of any Lot be made until plans and specifications with respect thereto, in manner and form satisfactory to the ERC showing the proposed improvements, plot layout and all exterior elevations, materials and colors, signs and landscaping, traffic engineering, number, size, and layout of parking spaces, grading, easements, stormwater management facilities, and utilities, proposed building use, size, and number of employees, and such other information as may be requested by the ERC have been submitted to and approved in writing by the ERC. Three (3) complete sets of all such plans, specifications, and stormwater runoff calculations along with a color rendering shall be submitted in writing over the signature of the Owner or the Owner's authorized agent to the address as set forth below:

Attn: Executive Director  
Washington County Council on Economic Development  
40 S. Main Street, Lower Level  
Washington, PA 15301

Each set of plans submitted will be accompanied by a review fee that will be set by the ERC and will be credited towards the sale price at the time of purchase. Only the first review fee will be credited toward Lot sale. Submitter(s) of plans will be expected to pay any extraordinary fees resulting in the review of their plans if expenses exceed the review fee.

- B) No Lot shall be subdivided or replatted and no portion thereof less than the entire Lot shall be conveyed without the prior written consent of the ERC and the Executive Committee of WCCED.

Section 3.2 Approval. Approval shall be based among other things upon, (1) the size and square footage of the Project; (2) the adequacy of building site dimensions; (3) the intended operations and uses; (4) the grade and finished ground elevation of the building site being improved; (5) proper facing of main elevation with respect to nearby streets; and (6) the conformity of the plans and specifications with these covenants. The ERC

shall not arbitrarily or unreasonably withhold its approval of such plans and specifications. If ERC has not responded to Owner within thirty (30) days of acknowledged receipt of plans and specifications by the ERC, said plans and specifications shall be deemed to have been approved by the ERC; a written request for further information will satisfy the ERC's obligation to respond.

Section 3.3 Powers and Duties. The ERC shall have the following powers and duties:

- A) To recommend from time to time to the Executive Committee of WCCED variances to these covenants which would be effective when the written consent of the Owners of 66.67% of the Property in the Park based on the number of acres owned as compared to the total number of acres in the Park. Notice of any modification or amendment to these Covenants, including a verbatim copy of such change or modification, shall be delivered to each occupant of the Park; provided that, the delivery to each occupant of the Park of the notice and a copy of any modification or amendment to these Covenants shall not constitute precedent to the effectiveness or validity of such change or modification.
- B) To require submission to the ERC of at least three (3) complete sets of all plans and specifications for any improvement, the construction or placement of which is proposed upon any Lot, and may require such additional information as reasonably may be necessary for the ERC to evaluate completely the proposed improvement in accordance with this Declaration. ERC's final approval of the plans will be contingent on any approvals required by Washington County and Hanover/Smith Townships or other governing bodies. Actual sale of any parcel is conditioned upon formal approval by the Washington County Commissioners.
- C) To approve or disapprove any improvement or change or modification thereto, the construction, erection, performance, or placement of which is proposed upon any Lot and to approve or disapprove any exterior additions, changes, modifications, or alterations therein or thereon. All decisions of the ERC shall be submitted in writing to the Owner and WCCED, and evidence thereof may, but need not, be made by a certificate, in recordable form. Any party aggrieved by a decision of the ERC shall have the right to make a written request to WCCED, within thirty (30) days of such decision, for a review thereof. The determination of WCCED upon reviewing any such decision shall in all events be final and dispositive upon all parties. WCCED will respond within thirty (30) days of receiving written request; this review period of WCCED's is in addition to the original ERC's thirty (30) days review.
- D) If any improvement is changed, modified, or altered without prior approval of the ERC, then the Owner shall upon demand cause the improvements to be restored and to comply with the plans and specifications originally approved by the ERC and shall bear all costs and expenses of such restoration, including the costs and reasonable attorney's fees of the ERC.

E) To recommend to WCCED's Executive Committee to retain professional advisors such as attorneys, architects, and engineers as may be necessary in the exercise of its power.

F) To perform such incidental acts as may be necessary in the exercise of its powers.

Section 3.4 Liability. Neither the ERC nor WCCED or their respective successors or assigns shall be liable in damages to anyone submitting plans to them for approval, or to any Owner affected by this Declaration, by reason of mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval, disapproval, or failure to approve any such plans and specifications. Every person or entity that submits plans to the ERC for approval agrees, by submission of such an interest therein, that he will not bring any action or suit against the ERC or WCCED to recover any such damages.

Section 3.5 Limitation of Action. Notwithstanding anything to the contrary herein contained, after the expiration of two (2) years from the completion of any improvement (evidenced by issuance of a Certificate of Occupancy by the appropriate governing agency), said improvement shall, in favor of purchasers and encumbrances, in good faith and for value, be deemed to be in compliance with all provisions of this Article, unless a party in interest or WCCED shall institute a proceeding in Court of Common Pleas of Washington County, Pennsylvania to enforce compliance or completion.

#### ARTICLE IV – MAINTENANCE

Section 4.1 Maintenance Responsibilities. Owners and Occupants of any Lot shall, jointly and severally, have the duty and responsibility, at their sole cost and expense, to keep that part of the Park so owned and occupied, including buildings, improvements, and grounds (whether or not located in a public right-of-way) in connection therewith, in a well maintained, safe, clean, and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

A) Removing promptly all litter, trash, refuse, and wastes;

B) Mowing of lawn no less often than when the grass is more than eight (8) inches high; until construction is completed, weeds must be cut below twenty-four (24) inches and grass within the landscaped buffer easement as well as in the right-of-way abutting the front of the Lot must be maintained to a height of no more than eight (8) inches;

C) Meadow management should be based on the following maintenance specifications:



#### First Year:

Perennial wildflowers and grasses grow slowly, and annual and biennial weeds will grow much faster in the first two years. Weeds can be controlled by keeping them mowed back to a height of 6 inches the first year. Mowing weeds on a regular basis in the first year of establishment is one of the most critical steps in the success of your prairie planting.

Weeds should be cut back in the first year when they have reached a height of 12 inches. Do not allow the weeds to get taller than 12 inches before cutting. Expect to mow weeds about once a month in the first year. The actual mowing frequency will depend upon rainfall in any given year, and the actual weed density and height.

At the end of the first season, do not mow down the year's growth. Leave it to help protect the young plants over the winter. The plant litter and the snow that it catches will insulate the soil, reducing the risk of plant losses due to frost heaving.

#### Second Year and Beyond:

In mid-spring of the second year, the planting should be mowed right down to the ground, and the cuttings raked off, if possible. If weeds are a problem in the second year, they will need to be mowed in late spring or early summer at a height of one foot

Prairie Nursery Inc., P. O. Box 306, Westfield, WI, 53964, 1-800-476-9453 (800-GRO WILD) Fax: 608-296-2741

- D) Pruning of trees and shrubbery except those trees and shrubs planted and maintained by WCCED;
- E) Watering and fertilizing;
- F) Keeping exterior lighting, signs, and mechanical facilities in working order except street lighting maintained by WCCED;
- G) Keeping lawn and landscaped areas alive, mowed, free of weeds and attractive, including areas in public rights-of-way abutting the Lot;
- H) Keeping parking areas, driveways, and roads in good repair;
- I) Complying with all governmental, health, police and fire requirements, statutes, and regulations;
- J) Striping and sealing of parking and driveway areas;

- K) During construction, it shall be the responsibility of each Owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks, and the like are kept in a neat and orderly manner;
- L) Keeping all site irrigation and drainage systems in good repair and working order;
- M) Repairing buildings and improvements so that no building or other improvement falls into disrepair, and each improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished in accordance with the plans and specifications; and
- N) Painting of all exterior painted surfaces shall be done at least every six (6) years, unless a waiver is obtained from the ERC.

Section 4.2 Enforcement. If, in the opinion of WCCED, any such Owner or Occupant has failed in any of the foregoing duties or responsibilities, then WCCED or its agents may give such person written notice of such failure and such person must, within ten (10) days after receiving such notice, perform the care and maintenance required. Should any such person fail to fulfill this duty and responsibility within such period, then WCCED, through its authorized agents, shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass, or otherwise to any person. The Owners and Occupants for which such work is performed shall jointly and severally be liable for the cost of such work and shall promptly reimburse WCCED for such cost. If such Owner or Occupant shall fail to reimburse WCCED within thirty (30) days after receipt of a statement for such work from WCCED, then said indebtedness shall be a debt of all of said persons jointly and severally and shall constitute a lien against the Lot on which said work was performed. Such lien shall have the same attributes as the lien for assessments and special assessments set forth in Article VI hereof, and WCCED shall have identical powers and rights in all respects including, but not limited to, the right of foreclosure.

Section 4.3 Access at Reasonable Hours. For the purpose of performing the maintenance authorized by this Article, WCCED, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot, Property, or the exterior of any improvements thereon at reasonable hours.

## ARTICLE V – PROPERTY RIGHTS

Section 5.1 Owners’ Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and shall pass with the title to each Lot, subject to the following:

- A) The right of WCCED to take such steps as are reasonably necessary to protect the Common Area against foreclosure;
- B) All provisions of this Declaration and plat of all or any part or parts of the Property;
- C) Rules and regulations governing use and enjoyment of the Common Area Adopted by WCCED;
- D) Restrictions contained on any and all plats of all or any part of the Common Area or filed separately with respect to all or any part of parts of the Property.

Section 5.2 Permitted Operations and Uses. These include office, warehousing, distribution, light manufacturing, research and development, and business of a similar nature including accessory or directly related services in compliance with all ordinances of Washington County and Hanover/Smith Townships and other governmental entities having jurisdiction. Certain areas, as designated by WCCED, shall be available for heavier types of manufacturing uses, of a non-nuisance character. All buildings and land use shall be for service and industrial/business purposes. No products will be sold from the premises as a retail trade unless such retail sales are incidental in nature to the function of the facility. No residential uses will be permitted. Unless otherwise specifically prohibited by the governing municipal and regulatory agencies or this Declaration, any operation and use, as described above, will be permitted if it is performed or carried out entirely within a building that is so designed and constructed that the enclosed operations and uses do not cause or produce a nuisance to adjacent sites such as, but not limited to, vibration, sound, electromechanical disturbance, radiation, air or water pollution, dust or emission of odorous, toxic or non-toxic matter. Further, no illegal, noxious or offensive trade, service, or activity shall be permitted which may be or become an annoyance or nuisance by reason of unsightliness or excessive emission of odors, noise, dust, vibration, fumes, heat, smoke, or unusual waste problems.

Section 5.3 Delegation of Use. Subject to such limitations as may be imposed by WCCED, each Owner may delegate his right of enjoyment in and to the Common Area and facilities to its tenants and invitees.

Section 5.4 Other Easements.

- A) Twenty-five (25) foot easements along every property line of each Lot for installation and maintenance of utilities and drainage facilities are hereby reserved by WCCED. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere with, or change the direction of flow of drainage facilities in the easements. The easement area of each Lot and any improvements therein shall be continuously maintained by the Owner, except for improvements, which are the responsibility of a public authority or utility company.

- B) No permanent improvement of any kind shall be built, erected, or maintained on any such easement, reservation, or right-of-way, and such easements, reservations, and rights-of-way shall at all times be open and accessible to public and quasi-public utility corporations, their employees and contractors, and shall also be open and accessible to WCCED all of whom shall have the right and privilege of doing whatever may be necessary in, on, under, and above such locations to carry out any of the purposes for which such easements, reservations, and rights-of-way are reserved.

Section 5.5 Right of Entry. WCCED, through its duly authorized employees and contractors, shall have the right, after reasonable notice to the Owner thereof, to enter any Lot or other Property subject to this Declaration at any reasonable hour on any day to perform such inspection and/or maintenance as may be authorized herein.

Section 5.6 No Partition. There shall be no judicial partition of the Common Area, nor shall WCCED or any Owner or any other person acquiring any interest in the Park or any part thereof seek judicial partition thereof.

## ARTICLE VI – MAINTENANCE ASSESSMENTS

Section 6.1 Creation of the Lien and Personal Obligation of Assessments. Each Owner (by acceptance of a deed for a Lot, whether or not it shall be so expressed in any such deed or other conveyance), including any purchaser at a judicial sale, shall be deemed to covenant and agree to pay to WCCED any annual assessments or charges, any special assessments to be fixed, established and collected from time to time as hereinafter provided. In the event of default, all such assessments, together with interest thereon and costs of collection thereof, as set forth in Section 6.9, shall be a charge on the Lot(s) and shall be a continuing lien upon the Lot(s) against which each such assessment is made and shall also be the personal obligation of the Owner. No Owner of a Lot may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or by abandonment. No portion of any Property, which does not constitute a Lot will be liable for any annual or special assessment under this Section.

Section 6.2 Purpose of Assessments. The annual and special assessments levied by WCCED shall be used exclusively for the purpose of promoting the health, beauty, safety, security, and welfare of the Owners and in particular for the improvements and maintenance of the Common Areas and of any easement in favor of WCCED and maintenance and beautification of public rights-of-way if not maintained by a public body, including, but not limited to, the cost of taxes, insurance, labor, equipment, materials, management, maintenance, and supervision thereof, as well as for such other purposes as are permissible activities of, and undertaken by, WCCED. WCCED is the administrator and shall retain 10% of the annual costs of maintenance as administration fees.

Section 6.3 Annual Assessments. Except as hereinafter provided, the annual assessment, excluding any special assessment, shall be set by WCCED on a per acreage ownership. The amount of the annual assessment shall be determined by WCCED in accordance with the projected financial needs of WCCED. The decision of WCCED or the Owner's Association as to such amount shall be final. The annual assessment will be set forth in each individual company's sales agreement and shall not be increased by more than 10% per year.

Section 6.4 Special Assessments. In addition to any annual assessments, WCCED may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of reconstruction, unexpected repair or replacement of a capital infrastructure improvement, including the necessary fixtures and personal property related thereto, or to make up the difference between actual operating costs and the annual assessment. This assessment will be calculated based on a pro ratio or land ownership (number of acres occupied by park occupants). All special assessments shall be at a uniform rate for each Owner's acres in the Park.

Section 6.5 Date of Commencement of Assessments and Due Date. The assessments for which provision is herein made shall commence January 1, 2005, and continue thereafter on a calendar year basis. The payment due date of any assessment shall be thirty (30) days from receipt of assessment and shall be fixed in the resolution authorizing such assessments.

Section 6.6 Duties of the Washington County Council on Economic Development, Inc. (WCCED). At least thirty (30) days prior to January 1 of each year, the Washington County Council on Economic Development, Inc. (WCCED) shall determine the amount of the assessment against each Lot. In addition, at such time WCCED shall prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of WCCED and shall be open to inspection by an Owner. Written notice of the assessment shall be sent to every Owner subject thereto no later than thirty (30) days prior to January 1 of each year. WCCED shall, upon demand, furnish to any Owner liable for said assessment a certificate in writing, signed by an officer of WCCED, setting forth whether said assessment has been paid.

Section 6.7 Repair Assessments. If, in the process of construction upon any Lot in the making of any improvement, the Owner, its employees, agents, or independent contractors cause damage to any other Lot, improvement, Common Area, dedicated roads, or to any other property owned by someone else within the Park, the Owner shall be responsible for such damage. If WCCED, either voluntarily or involuntarily, makes repairs or otherwise cure the damage caused by the Owner, its employees, agents, or independent contractor, the Owner shall be obligated to reimburse WCCED for all expenses WCCED incurred in curing the damage.

Section 6.8 Effect of Non-Payment of Assessment(s): The Lien, the Personal Obligation, Remedies of WCCED. If the assessment is not paid within thirty (30) days after the due date, which shall be set by WCCED, the assessment shall bear interest from the date due at the rate of fifteen (15%) percent per annum. The lien of WCCED upon a Lot shall be effective from and after recording in the Public Records of Washington County, Pennsylvania, a claim of lien stating the description of the Lot encumbered thereby, the name of the Owner, the amount, and the date when due. Such claim of lien shall include not only assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes, and prior encumbrances and interest thereon, but also such claim of lien shall include such additional assessments which accrue from the due date until the entry of a judgment in favor of WCCED with respect to such lien. Such claims of lien shall be signed and verified by an officer or agent of WCCED. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record. If the claim of lien is not satisfied, WCCED may at any time thereafter bring an action to foreclose the lien against the Lot(s) in like manner as a foreclosure of a mortgage on real property and/or a suit on the personal obligation against the Owner(s), and there shall be added to the amount of such assessment the cost of preparing and filing the complaint in such action including a reasonable attorney's fee, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court, together with the cost of the action.

Section 6.9 Subordination to Lien of Mortgages. The lien of the assessments for which provision is herein made, as well as in any other Article of this Declaration, shall be subordinate to the lien of any mortgage to a federal or state chartered bank, life insurance company, federal or state savings and loan association, real estate investment trust, retirement fund, or institutional mortgage company. Such subordination shall apply only to the assessments, which have become due and payable prior to a sale or transfer of such Lot pursuant to a decree of foreclosure of such mortgage or pursuant to a Deed or transfer in lieu of foreclosure. No sale or other transfer shall relieve any Lot from liability for any assessment thereafter becoming due, nor from the lien of any such subsequent assessment. The written opinion of WCCED that the lien is subordinate to a mortgage shall be dispositive of any questions of subordination.

Section 6.10 Exempt Property. WCCED shall have the right to exempt any Lot subject to this Declaration from the assessments, charge, and lien created herein provided that such part of the property exempted is used (and as long as it is used) for any of the following purposes:

- A) As an easement or other interest therein dedicated and accepted by the local public authority and devoted to public use;
- B) As common Area as defined in Article IX – Section 9.12 hereof;

refusal shall be deemed to have been waived, and WCCED shall furnish a certificate of waiver as herein provided in subsection (B).

- B) If WCCED shall elect to waive its right of first refusal or shall fail to exercise said right within thirty (30) days of receipt of the Proposed contract, WCCED's waiver shall be evidenced by a certificate executed by WCCED in recordable form which shall be delivered to the Proposed contract purchaser and may be recorded by the Owner in the Public Records of Washington County, Pennsylvania.
- C) This section shall not apply to any transfer to, or sale by, any national or state bank, life insurance company, federal or state savings and loan association, real estate investment trust, retirement fund, or institutional mortgage company which acquires its title as a result of owning a mortgage upon the Lot concerned, and this shall be so whether the title is acquired by deed from the mortgager or its successors in title or through foreclosure proceedings. This Section shall also not apply to any sale by any such institution, which so acquires title. Neither shall this Section require the waiver by WCCED as to any transfer of title to a Lot at a duly advertised public sale with open bidding which is provided by law such as, but not limited to, execution sale, foreclosure sale, judicial sale or tax sale, or any Lot upon which a building has been constructed and for which certificate of occupancy has been issued therefore.

#### ARTICLE VIII – WCCED'S RESERVED RIGHTS TO PROPERTY

##### Section 8.1 Extension of Covenants and Restrictions to Include Additional Property.

WCCED may at any time make subject to this Declaration other properties now or hereafter owned by WCCED by executing an instrument in writing applying this Declaration to such other properties and by recording the instrument in the Public Records of Washington County, Pennsylvania.

Section 8.2 Withdrawal of Land. WCCED may, but shall have no obligation to, withdraw at any time or from time to time portions of the land described in Exhibit "A" provided only that the withdrawal of lands as aforesaid shall not be performed, without the joinder or consent of a majority of the Property Owners. The withdrawal of lands as aforesaid shall be made and evidenced by filing in the Recorder of Deeds Office of Washington County, Pennsylvania, a supplementary Declaration with respect to the lands to be withdrawn.

Section 8.3 Platting and Subdivision Restrictions. WCCED shall be entitled at any time and from time to time to plat and/or replat all or any part of the Property, and to file subdivision restrictions with respect to any undeveloped portion or portions of the Property.

Section 8.4 Public Roads – Easements. WCCED reserves the right from time to time hereafter to delineate, plat, grant or reserve within the remainder of the Park not previously conveyed such public streets, roads, sidewalks, ways, and appurtenances

thereto, and such easements for drainage and public utilities, as it may deem necessary or desirable for the development of the Park (and from time to time to change the location of the same) free and clear of this Declaration and to dedicate the same to public use or to grant the same to any governing municipal or regulatory authority, including any appropriate public utility corporations.

## ARTICLE IX – MISCELLANEOUS

Section 9.1 Term. This Declaration, every provision hereof and every covenant, condition, restriction, and reservation contained herein shall continue in full force and effect for a period of thirty (30) years from the date hereof and shall thereafter be renewed automatically for successive five (5) year periods unless and until terminated as provided in Section 9.2 hereof.

Section 9.2 Termination and Modification. This Declaration, or any provision hereof, or any covenant, condition, or standard contained herein, may be terminated, extended, modified, or amended, as to the whole of said Property or any portion thereof, with the written consent of the Owners of sixty-six and two-thirds (66-2/3%) percent of the Property then subject to this Declaration (excluding mortgages and the holders of other security devices who are not in possession and lessees) based on the number of acres owned as compared to the total number of acres subject to this Declaration (excluding the Common Areas); provided, however, that so long as WCCED owns any part/portion of the Property subject to this Declaration, no such termination, extension, modification, or amendment shall be effective without the written approval of WCCED. No such termination, extension, modification, or amendment shall be effective until a proper instrument in writing has been executed and acknowledged and recorded in the Public Records of Washington County, Pennsylvania. No such termination, extension, modification, or amendment shall affect any plans, specifications, or use previously approved by WCCED or the ERC under Article III hereof or any improvements theretofore or thereafter made pursuant to such approval.

Section 9.3 Assignment of WCCED's Rights and Duties. Any and all of the rights, power, and reservations of WCCED herein contained may be assigned to any person, corporation, or association which will assume the duties of WCCED pertaining to the particular rights, powers and reservations assigned, and upon any such person, corporation, or association evidencing its consent in writing to accept such assignment and assume such duties, he, she, or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by WCCED herein. If at any time WCCED ceases to exist and has not made such an assignment, a successor may be appointed in the same manner as this Declaration may be terminated, extended, modified, or amended. WCCED may from time to time delegate any or all of its rights, powers, discretion, and duties hereunder to such agents as it may nominate. Any such assignment shall be in writing and recorded in the Public Records of Washington County, Pennsylvania. Such assignee shall thereupon have



the same rights, title, powers, obligations, discretion, and duties as are herein reserved to WCCED and WCCED shall automatically be released from such responsibility.

Section 9.4 Owners' Association.

- A) WCCED declares that in order to maintain the uniform standards of development quality required hereunder, it will, provide for the incorporation, when 85% (eighty-five percent) of saleable acreage is sold a nonprofit corporation known as the "STARPOINTE OWNERS' ASSOCIATION" (hereinafter referred to as the "Owners' Association") with a membership consisting of all the Owners. The Owners' Association will be governed by a Board of Directors (the "Board"), which will be responsible for enforcing these Covenants, for maintaining and improving common areas, and for administering the Association as provided in this Section.
- B) Powers of the Owners' Association.  
Upon creation of the Owners' Association, all rights and obligations of WCCED shall cease, and the Owners' Association will resume governing authority.
- C) Contemporaneous with the transfer of the Common Areas to the Owners' Association as aforesaid, WCCED shall assign to the Owners' Association WCCED's rights under the Oil and Gas Lease dated \_\_\_\_ 2003, by and between WCCED as lessor and Belden and Blake Corporation as lessee, provided however, that any rents or royalties payable under the Oil and Gas Lease with respect to the Common Areas shall be paid to WCCED and not to the Owners' Association.
- D) Membership and Voting Rights of the Owners' Association
1. Membership. Each Owner of one or more Sites or any portion of the Property, including WCCED at all times as long as it owns interest in all or part of the Development, shall be a member of the Owners' Association, provided that any such person or entity who holds such interest only as a security interest for the performance of an obligation shall not be a member, such as, but not limited to, WCCED. In the case of WCCED, the equitable Owner of the real estate shall be the member. Membership shall be appurtenant to, and may not be separated from, ownership of any portion of the Property.
  2. Voting Rights. Subject to the restrictions and limitations hereinafter set forth, each member shall be entitled to one (1) vote for up to five (5) acres per company and then another vote for each additional ten (10) acres (i.e. one vote for five to fourteen acres, two votes for fifteen acres to twenty-four, three votes for twenty five to thirty-four acres, etc.). When one or more persons hold such interest or interests in any site, all such persons shall be members and the vote or votes for such Site shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any acre. The

votes for any site cannot be divided for any issue and must be voted as a whole. Except where otherwise required herein or by law, the affirmative vote of the Owners of a majority of acres represented at any meeting of the members duly called and at which a quorum is present shall be binding upon the members.

3. Control of Board of Directors. The Board shall consist of at least five (5) persons, but no more than ten (10) persons. The Directors shall be elected by the Site Owners.

E) Board of Directors and Officers

1. Member and Qualifications of Directors. After the incorporation of the Association by WCCED, the affairs of the Association shall be managed by the Board consisting of at least five (5) members, but no more than ten (10) members. Once the Site Owners vote on the Directors, then the Directors shall be Owners or employees of Owners. Election by Site Owners shall be by majority vote. As long as WCCED owns property, WCCED shall be considered a Site Owner and shall retain a position on the Board.
2. Officers. The officers of the Association shall be President, Vice President, Secretary, and Treasurer, and such other officers as the Board may from time to time by resolution create. Officers shall be elected for one (1) year terms in accordance with the procedures to be set forth in the By-Laws to be established by the Association at the time of its creation.

Section 9.5 Mutuality, Reciprocity; Runs with Land. All covenants, restrictions, conditions, and agreements contained herein are made for the direct, mutual, and reciprocal benefit of each and every Lot and other Property in favor of every other Lot and other Property; shall create reciprocal rights and obligations between all grantees of said Lot and other Property, their heirs, successors, personal representatives and assigns; and, shall, as to the Owner of each Lot, his heirs, successors, personal representatives and assigns, operate as a covenant running with the land for the benefit of all other Lots. The terms and provisions contained in this Declaration shall bind and inure to the benefit of WCCED, each Owner of additional property made subject to this Declaration and their respective heirs, successors, personal representatives, and assigns.

Section 9.6 Notices. Any notice required or permitted herein shall be in writing and mailed, postage prepaid by registered or certified mail, return receipt requested and shall be directed as follows: If intended for a Lot Owner (A) to the address of the building Lot if improved; (B) if the Lot is not improved, to the address set forth in the purchase contract or purchase contract application; or (C) if none of the foregoing, to the last known address of the Owner. If intended for WCCED, to the address set forth below:

Attn: Executive Director  
Washington County Council on Economic Development  
40 S. Main Street, Lower Level  
Washington, PA 15301

Section 9.7 Singular and Plural. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context requires.

Section 9.8 Failure to Enforce Not a Waiver of Rights. Any waiver or failure to enforce any provision of this Declaration in a particular situation shall not be deemed a waiver or abandonment of such provision as it may apply in any other situation or to the same or a similar situation at any other location in the Park or of any other provision of this Declaration.

Section 9.9 Condominium. No restriction contained herein shall be construed to limit or prevent a Lot and the improvements thereon from being submitted to a plan of condominium ownership, and particularly the recordation of a plan of condominium ownership for any Lot shall not be construed as constituting a subdivision of the Lot.

Section 9.10 Constructive Notice and Acceptance. Every person who now or hereafter owns or acquires any right, title, or interest in or to any portion of said Property is and shall be conclusively deemed to have consented and agreed to every covenant, and restriction contained in the instrument by which such person obtained an interest in said Property.

Section 9.11 Severability. All of the conditions, covenants, restrictions, and reservations contained in this Declaration shall be construed together, but if it shall at any time be held that any one of said conditions, covenants, restrictions, and reservations, or any part thereof is invalid, or for any reason becomes unenforceable, no other conditions, covenants, restrictions, and reservations or any part thereof shall be thereby affected or impaired.

Section 9.12 Definitions. The following words, when used in this Declaration, shall have the following meanings:

- A) "Common Area" shall mean and refer to all real or personal property, or both, which the WCCED owns and has an interest in for the common use and enjoyment of the members of the Owners' Association. The use of the Common Area shall be restricted to park, wooded areas, walking trails, park landscape, streetscape, entry features, directional graphic system, drainage, landscape medians, roads and project lighting or any other use to which a majority of the Park's occupants may accede or membership of the Owners' Association may accede. WCCED will convey to the Owners' Association fee simple title to all of the Common Areas no later than one

hundred twenty (120) days after WCCED relinquishes control of the Board of Directors pursuant to Section 9.2 hereof.

- B) "Drainage" shall mean the removal of surface water or groundwater from land by drains, grading, or other means and includes control of runoff to minimize erosion and sedimentation during and after construction or development.
- C) "Drainage Facility" shall mean any ditch, gutter, culvert, storm sewer, or other structure designed, intended, or constructed for the purpose of carrying, diverting, or controlling surface water or groundwater.
- D) "Engineering Review Committee" (the "ERC") shall be composed of no less than three (3) or more than five (5) individuals so designated from time to time by the Washington County Council on Economic Development. The individuals comprising the ERC shall have the powers as set forth herein.
- E) "Improvements" shall mean and refer to any man-made changes in the natural condition of the land including, but not limited to, structures and construction of any kind, whether above or below the land surface such as any building, fence, wall, sign, addition, alteration, screen enclosure, sewer, drain, disposal, pond, waterway, road, paving, utilities, grading, landscaping, signs, and exterior illumination and shall not be limited to any changes in any exterior color or shape and any new exterior construction or exterior improvement.
- F) "Landscaping" shall mean all plants, vegetation, shrubbery, grass, and trees existing or planted on a Site by Owner.
- G) "Lot" shall mean and refer to any parcel of the property in the Park, together with any and all improvements thereon.
- H) "WCCED" shall mean and refer to the Washington County Council on Economic Development, Inc., its successors and assigns, and include any person or entity to which WCCED may assign its rights, privileges, duties, and obligations hereunder, which rights, privileges, duties, and obligations are and shall be assignable.
- I) "Occupant" shall mean and refer to any person or organization which has occupied, purchased, leased, rented, or is otherwise licensed or legally entitled to occupy and/or use any Lot(s) or improvement(s) in the Park (whether or not such right is exercised) as well as their heirs, assigns, and successors in interest.
- J) "Owner" shall mean and refer to the record owner, whether one or more partners, persons, trusts, corporations, or other entity, of the fee simple interest to a Lot or any other portion of the Property, including contract sellers (but not contract purchasers) their heirs, successors, personal representatives, or assigns. An Owner

may, upon written notice to WCCED, assign all or part of his rights, but not his duties hereunder, to the Owner's tenant.

- K) "Owners' Association" shall mean and refer to the nonprofit corporation to be called the Starpointe Owners' Association which will be incorporated by WCCED and to which all Owners, as defined herein, shall be members.
- L) "The Property" shall mean the STARPOINTE (hereinafter referred to as the "Park") and refers to all of the real property described in Exhibit "A" hereof and any portion thereof, and any and all improvements thereon and additions thereto, as are subject to this Declaration.
- M) "Site" shall mean one or more contiguous lots as shown on any recorded subdivision plan in same ownership. Site shall include any easement or right-of-way over any portion of the Lot or Lots and the area of such portion shall be included in computing the area of that site.
- N) "Stormwater Management Plan" shall mean the plan for managing stormwater runoff as required by WCCED subject to any necessary approvals and/or changes by any regulatory authorities of Washington County and Hanover, Smith Townships or other governing bodies.
- O) "Street" shall mean any publicly maintained roadway and any private roadway maintained for service to one or more Owners or Lots.

IN WITNESS WHEREOF, The Washington County Council on Economic Development, Inc. (WCCED), as Legal Titleholder, has hereunto caused this Declaration of Protective Covenants and Restrictions for STARPOINTE to be executed as required by law on the day and year first above written. The Washington County Council on Economic Development, Inc., by the authority of its Board of Directors has caused this instrument to be executed by its President, attested by its Secretary.

Attest:

Washington County Council  
On Economic Development

By: *Audrey M. Lombardi*  
Secretary

By: *[Signature]*  
Chairman

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF WASHINGTON

: SS:

:

EXHIBIT "A"

DECLARATION OF PROTECTIVE COVENANTS  
AND RESTRICTIONS FOR THE  
STARPOINTE BUSINESS PARK BY  
WASHINGTON COUNTY COUNCIL ON  
ECONOMIC DEVELOPMENT DATED  
MARCH 7, 2005

LOTS AND PARCEL NUMBERS

Lot 3A	340-036-01-00-0003-01
Lot 3B	340-036-01-00-0003-02
Lot 3C	340-036-01-00-0003-03
Lot 3D	340-036-01-00-0003-04
Lot 3E	340-036-01-00-0003-05
Lot 3F	340-036-01-00-0003-06

Lot 1	340-036-01-00-0001-00
Lot 2	340-036-01-00-0002-00
Lot 3	340-036-01-00-0003-00
Lot 4	340-036-01-00-0004-00
Lot 5	340-036-01-00-0005-00
Lot 6	340-036-01-00-0006-00
Lot 7	340-036-01-00-0007-00
Lot 8	340-036-01-00-0008-00
Lot 9	340-036-01-00-0009-00
Lot 10	340-036-01-00-0010-00
Lot 11	340-036-01-00-0011-00
Lot 12	340-036-01-00-0012-00
Lot 13	340-036-01-00-0013-00

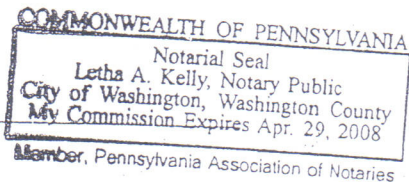
On this, the 7th day of March 2005, before me, a Notary Public personally appeared Richard L. White\*, known to me as (or satisfactorily proven) to be the person whose name is subscribed to the foregoing Declaration of Protective Covenants and Restrictions for STARPOINTE and acknowledged that he/she executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official stamp or seal

\* Chairman of the Washington County Council  
On Economic Development

Letha A. Kelly  
Notary Public

My commission expires:  
(SEAL)



(Seal)