



# PLAN COMMISSION STAFF REPORT

Meeting date: October 12, 2023

|                    |  |
|--------------------|--|
| APPLICATION NO:    | PLAT-2023-02   |
| SUBJECT:           | Waiver request for subdivision regulations   |
| LOCATION:          | 0 W 300 S (lot 4 in Brookside Acres minor subdivision)   |
| PROPERTY OWNER(S): | Nathaniel McKeon and Blane Trinkle   |
| PETITIONER(S):     | Nathaniel McKeon and Blane Trinkle   |
| SUMMARY:           | A waiver to permit the applicant to go through an Administrative subdivision procedure instead of the Major Subdivision procedure to split the lot into 2 lots for a total of 6 lots in a minor subdivision. |
| WAIVERS REQUESTED: | See above  |
| RECOMMENDATION:    | Recommend APPROVAL   |
| PREPARED BY        | Oksana Polhuy, Planning Administrator  |
| EXHIBITS           | Exhibit 1. Application<br>Exhibit 2. Brookside Acres Plat<br>Exhibit 3. Proposed plat  |



## **ABOUT PROJECT**

### **Location**

The subject site is located on the northwest side of Brookside Road and W 300 S Street and its legal description is lot 4, Brookside Acres.

### **Proposal**

The petitioners would like to split a 10.6-acre lot into two lots, 5.3-acre each. This subject lot was created by an Administrative Subdivision procedure of splitting an original Parent Tract into the maximum permitted number of 5 lots: 4 lots in a Brookside Acres subdivision and the parent tract called "lot 1, Boone Farm minor subdivision".

Lapel's UDO V 12.1.3.A.iv states that any further subdivision shall follow Major subdivision procedure. The petitioners are requesting a waiver to permit them to use an Administrative Subdivision process instead to replat this lot. The requests for waivers need to be reviewed by the Plan Commission at a public hearing.

## **PROCEDURE**

Per Lapel's UDO, V 12.1.2 Waivers of Subdivision regulations, *"General Provisions: Where the Plan Commission finds that extraordinary hardships or practical difficulties may result from the strict compliance with these regulations, or the purposes and intent of these regulations may be served to a greater extent by an alternative proposal, it may grant waivers of the subdivision regulations set forth in this Ordinance so that substantial justice may be done and the public interest served. No waiver shall be granted in relief of mere inconveniences or financial disadvantages of the subdivider."*

**Decision Criteria:** The Plan Commission shall not approve any waivers of the subdivision regulations unless it makes written findings based upon the evidence presented to it in each specific case, such that:

1. The granting of the waiver will not be detrimental to the public safety, health, or welfare;
2. The granting of the waiver will not be injurious to the reasonable use and development of other property;
3. The conditions upon which the request for waiver is based are unique to the property for which it is sought and are not applicable generally to other property;
4. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a hardship to the owner would result if the strict letter of these regulations were carried out; and
5. The waiver will not contradict the intent of the Lapel Zoning Ordinance or Comprehensive Plan.

## ANALYSIS

The subject site is located in the Agricultural zoning district and this area is proposed to be zoned Agricultural in the Comprehensive Plan as well for this lot and some lots in the area. Lots in this district are permitted to go through an Administrative Subdivision procedure.

Per V 12.1.3, the *“intent of the administrative subdivision process is to allow a simplified procedure for the creation of low-density development of rural lands consistent with the agricultural characteristics of Lapel”*. The smallest scale starts at permitting to split a 5-6-acre lot into up to 2 lots. The largest scale is splitting a lot over 10 acres into 5 lots.

The original lot that was split into Brookside Acres subdivision was about 50 acres, and 3 out of 5 lots are over 10 acres each, including the subject lot. Another 10 acre-lot elsewhere in Lapel’s zoning jurisdiction could be subdivided into 5 lots using an Administrative Procedure. The applicant is requesting to split a 10.6-acre lot only into 2 lots. The other lots in the vicinity are of the following sizes: lots to the north range between 0.8 and 7.3 acres, lots to the west along 300’s road range between 3-6 acres with the exception of one lot being around 22 acres. The area to the east is a cemetery and the area to the south is an agricultural field. The proposed lot split into 5.3-acre residential lots meets the intent of creating a low-density development and overall matches the character of other low-density residential lots created in this area.

The proposed lot sizes, width, width-to-depth ratio, and setbacks meets the zoning requirements in the Agricultural zoning district. Also, an additional dedication of a 5-ft-wide strip along Brookside Road per the newly adopted Thoroughfare Plan meets this updated policy requirement.

Per V 12.1.3.iv, *“Further Subdivision: Once all of the permitted lots have been split from the parent tract, any further subdivisions shall follow the major subdivision process established by this Ordinance in order for Lapel to ensure that land is improved in coordination with the Comprehensive Plan in the laying out of public ways, easements, structures, utilities, and other features; that regional drainage concerns are addressed; and established public policy is followed.”*

The proposed lots do not require any new or changed public ways, any additional or new utilities, or other improvements. Major subdivision review requires a sketch review, a preliminary plat review with a public hearing, a construction plan review, and a final plat review. This is a very involved process with a lot of requirements, documents, and parties involved, and staff doesn’t think that all of those requirements and reviews are needed for this application. The Administrative Subdivision procedure still requires a review by a plat committee (includes a building inspector, 2 Plan Commissioners, county surveyor and soil officer, possibly an engineer if needed) to ensure that the subdivision standards are adhered to, and staff thinks that this split doesn’t warrant the scale and the cost of the major subdivision review.

## RECOMMENDATION

Staff recommends APPROVAL of waiver request PLAT-2023-02 because:

1. The granting of the waiver will not be detrimental to the public safety, health, or welfare;
2. The granting of the waiver will not be injurious to the reasonable use and development of other property;
3. The conditions upon which the request for waiver is based are unique to the property for which it is sought and are not applicable generally to other property;
4. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a hardship to the owner would result if the strict letter of these regulations were carried out; and
5. The waiver will not contradict the intent of the Lapel Zoning Ordinance or Comprehensive Plan.

## MOTION OPTIONS (waiver)

1. Motion to *approve* the waiver as per submitted application PLAT-2023-02.
2. Motion to *deny* the waiver as per submitted application PLAT-2023-02 because... (**List reasons**)
3. Motion to *continue* the review of the application PLAT-2023-02 until the next regular meeting on November 9, 2023.

Next Plan Commission meeting date(s): November 9, 2023.



## SUBDIVISION APPLICATION

\* Required sections to fill out

### Application type\*:

- Preliminary Plat
- Final Plat
- Administrative Plat (Preliminary)
- Administrative Plat (Final)
- Plat Amendment (Replat)
- Plat Vacation
- Certificate of Correction

### For office use only:

App No: \_\_\_\_\_  
 Date received: \_\_\_\_\_  
 App fee: \_\_\_\_\_  
 Fee paid by:  Cash  Check  Credit Card  
 Check #: \_\_\_\_\_

### PROPERTY INFORMATION\*

Address/Location: 0 W 300 S, Lapel, IN 46051

Parcel(s)' ID(s): 48-10-28-304-003.005-032

Subdivision name: Brookside Acres Minor Subdivision

Current use: Agricultural Current zoning: Agricultural

Proposed use: Agricultural Proposed zoning: Agricultural

Project total size: 10.60 Acres Proposed open space: 10.60 Acres  
*(include the area of all parcels)*

Proposed No of Lots: 2 Lots

New public ways proposed?  Yes  No Length of proposed public way \_\_\_\_\_ Miles

If yes, please describe subdivision regulations that the waiver is requested for below. Cite the section that you are requesting to waive and a brief

Waiver(s) Requested?  Yes  No description. Attach additional sheets with more details if needed.

We are requesting a waiver of the following listed on page 16 of 80 of the Zone Lapel Ancillary Regulations .  
V12.1.3 Administrative Subdivisions, Section A. Minimum Standard for Administrative Subdivision, Subsection ii.  
Subdivisions Permitted, Item 4. "Parent tracks greater than ten (10) acres shall be permitted to be divided for the creation  
of four (4) additional lots (for a total of (5) lots including the remainder from the parent tract.) The split we are requesting  
approval for will be a dividing line running North and South that will split our property into two (2) equal 5.3 acre lots.

### PRIOR OR RELATED CASES Not applicable

Rezone/PUD Brookside Acres Minor Subdivision - Recorded 6/25/2019 Primary plat: \_\_\_\_\_

Variance(s): \_\_\_\_\_ Secondary plat: \_\_\_\_\_

**PROPERTY OWNER INFORMATION\***

Name: Nathaniel McKeon & Blane Trinkle  
Mailing address: 2905 S 950 W PO Box 1002  
City/Town: Lapel, IN Zip code: 46051  
Email: nmckeon@voldico.com, blane@mofabinc.com Phone #: (765) 621-9787

**APPLICANT INFORMATION\***  Same as owner

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Company name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City/Town: \_\_\_\_\_ Zip code: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone #: \_\_\_\_\_

**SURVEYOR/ENGINEER INFORMATION\***  Same as applicant

Name: Keith Van Wienen Title: Owner  
Company name: Precise Land Surveying  
Mailing address: 920 Main Street  
City/Town: Anderson, IN Zip code: 46016  
Email: vanwienenpls@yahoo.com Phone #: (765) 810-4580

**ATTORNEY INFORMATION**

Name: \_\_\_\_\_ Title: \_\_\_\_\_  
Company name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City/Town: \_\_\_\_\_ Zip code: \_\_\_\_\_  
Email: \_\_\_\_\_ Phone #: \_\_\_\_\_

APPLICANT AFFIDAVIT

STATE OF INDIANA

COUNTY OF MADISON S.S.

The undersigned, having been duly sworn on oath, states that the information in the Application is true and correct as they are informed and believe.

Applicant printed name: Nathaniel McKeon & Blane Trinkle

Applicant signature: *Nathaniel McKeon & Blane Trinkle*

Subscribed and sworn to before me this 7 day of AUGUST, 20 23.

Notary printed name: Selika Idlewine

Notary signature: *Selika Idlewine*

My commission expires: 06/28/2025



**OWNER AFFIDAVIT**

STATE OF Indiana  
COUNTY OF Madison S.S.

The undersigned, having been duly sworn on oath, states that they are the Owner of the Property involved in this application and that they hereby acknowledge and consent to the forgoing Application.

Owner printed name\*\*: Nathaniel McKeon & Blane Trinkle

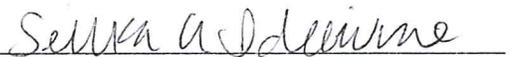
Owner signature\*\*: 

Before me the undersigned, a Notary Public in and for said County and State, personally appeared the Property Owner, who having been duly sworn acknowledged and consents to the execution of the foregoing Application.

Subscribed and sworn to before me this 7 day of August, 20 23.



Notary printed name: Selika Idlewine

Notary signature: 

My commission expires: 06/28/2025

\*\* A signature from each party having interest in the property involved in this application is required. If the Property Owner's signature cannot be obtained on the application, then a notarized statement by each Property Owner acknowledging and consenting to the filing of this application is required with the application.

Legal Description of Property to be Split – Trinkle/McKeon

Lot Number 4 in Brookside Acre Minor Subdivision, a part of the Southwest Quarter of Section 28, Township 10, Range 6 East, Stony Creek Township, Madison County, Indiana, as a per plat thereof recorded June 25, 2019 in Instrument No. 2019R008514, in the Office of the Recorder of Madison County, Indiana.

The address of such real estate is commonly know as 0 West 300 South, Lapel, IN 46051.

Duly Entered For Taxation  
Subject To Final Acceptance  
For Transfer  
Jul 06 2023  
*Rick Gardner*  
AUDITOR MADISON COUNTY

2023R009231  
07/06/2023 11:49:30 AM  
FEE: 25.00 PGS: 3  
ANGIE ABEL  
MADISON COUNTY RECORDER, IN  
RECORDED AS PRESENTED  
THIS DOCUMENT WAS eRECORDED

**LIMITED LIABILITY COMPANY WARRANTY DEED**

THIS INDENTURE WITNESSETH, That LAPEL ONE, LLC (Grantor), an Indiana limited liability company, CONVEYS AND WARRANTS to NATHANIEL MCKEON, an adult, and BLANE TRINKLE, an adult, each an undivided one-half (1/2) interest as tenants in common (Grantee), of Madison County, in the State of Indiana, for the sum of Ten and No/100---Dollars (\$10.00) and other valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the following described real estate in Madison County, in the State of Indiana:

Lot Number 4 in Brookside Acre Minor Subdivision, a part of the Southwest Quarter of Section 28, Township 19 North, Range 6 East, Stony Creek Township, Madison County, Indiana, as per plat thereof recorded June 25, 2019 in Instrument No. 2019R008514, in the Office of the Recorder of Madison County, Indiana.

Subject to current real estate property taxes and assessments not delinquent and subject to real estate property taxes and assessments payable thereafter.

Taxing Unit: Stoney Creek.  
Tax Identification No(s).: 48-10-28-304-003.005-032.

Subject to easements, restrictions, covenants, rights-of-way, and agreements of record.

The address of such real estate is commonly known as 0 West 300 South, Lapel, Indiana 46051.

Grantor and Grantee specifically understand and agree as follows, to-wit:

(1) this conveyance is subject to the splitting into equal parts of the above-described real estate (comprised of a total of 10.599 acres, more or less), one part to go to Grantee Nathaniel Mckeon, by subsequent deed (with a new legal description for such split) (the "Mckeon Split"), and the other part to go Grantee Blane Trinkle, by subsequent deed (with a new legal description for such split) (the "Trinkle Split"), once said split is approved by action of the appropriate governmental agency of the Town of Lapel, Indiana; and

(2) in order to begin the said splitting process, the Grantees, at their sole costs and expenses and immediately after being conveyed title the said real estate by this deed, covenant to expeditiously proceed to file for and prosecute such property split into the Mckeon Split and the Trinkle Split; and

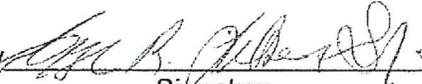
(3) once the above property split is successful and the resulting McKeon Split is conveyed, by deed, to Nathaniel Mckeon, and the resulting Trinkle Split is conveyed, by deed, to Blane Trinkle, the Grantees herein will immediately complete the purchase of above-described real estate (then comprised of the resulting Mckeon Split and the Trinkle Split) with the Grantor under the terms and conditions now agreed by and between the Grantor and the Grantee (which terms and conditions shall survive the conveyance of title to the above-described real estate from Grantor to Grantee hereof and as herein provided); and

(4) provided, however, that in any event the above-described real estate is not successfully split into the Mckeon Split and the Trinkle Split, as above provided, the Grantees herein will immediately convey title to the above-described real estate back to the Grantor by Warranty Deed subject only current real estate property taxes and assessments not delinquent and subject to real estate property taxes and assessments payable thereafter and subject to easements, restrictions, covenants, rights-of-way, and agreements of record and, additionally, the terms and conditions now agreed for the purchase of the above-described real estate by and between the Grantor and the Grantee shall terminate and be of no further force and effect whatsoever (which said agreement to such termination shall survive the conveyance of title, from Grantor to Grantee hereof to the above-described real estate as herein provided).

The undersigned person(s) executing this deed on behalf of Grantor represent(s) and certify(ies) that he/she/they has/have been fully empowered, by proper entity resolution of Grantor, to execute and deliver this Deed; that Grantor has full entity capacity to convey the real estate described herein; and that all necessary entity action for the making of such conveyance has been taken and done.

IN WITNESS WHEREOF, Grantor has executed this Deed this 28<sup>th</sup> day of June, 2023.

**GRANTOR:**  
**LAPEL ONE, LLC**

|  |        |
|--|--------|
| By  | Member |
| Signature  | Title  |
| <u>GEORGE R. LIKENS, SR.</u>   | Member |
| Printed Name   | Ti     |

STATE OF INDIANA )  
COUNTY OF Hamilton ) SS:

Before me, a Notary Public in and for said County and State, personally appeared **GEORGE R. LIKENS, SR.**, as Member, of and for and on behalf of **LAPEL ONE, LLC**, an Indiana limited liability company, who acknowledged the execution of the foregoing Deed for and on behalf of said Grantor, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 28 day of June, 2023.

My Commission Expires:

Signature

Gina Y. Keesling

Printed

Notary Public

Residing in \_\_\_\_\_ County, State of Indiana.



Grantee's Post Office mailing address is 2905 S. 950 W. Lapel, IN 46051

Send tax bills to Grantee at the address of 2905 S. 950 W. Lapel, IN 46051

Prepared for the benefit of ATA National Title Group of Indiana, LLC (and from information provided in its File 23872566-FSH) and the parties hereto and from information provided to the preparer.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Name: Jeffrey R. Slaughter, Attorney at Law, Declarant.

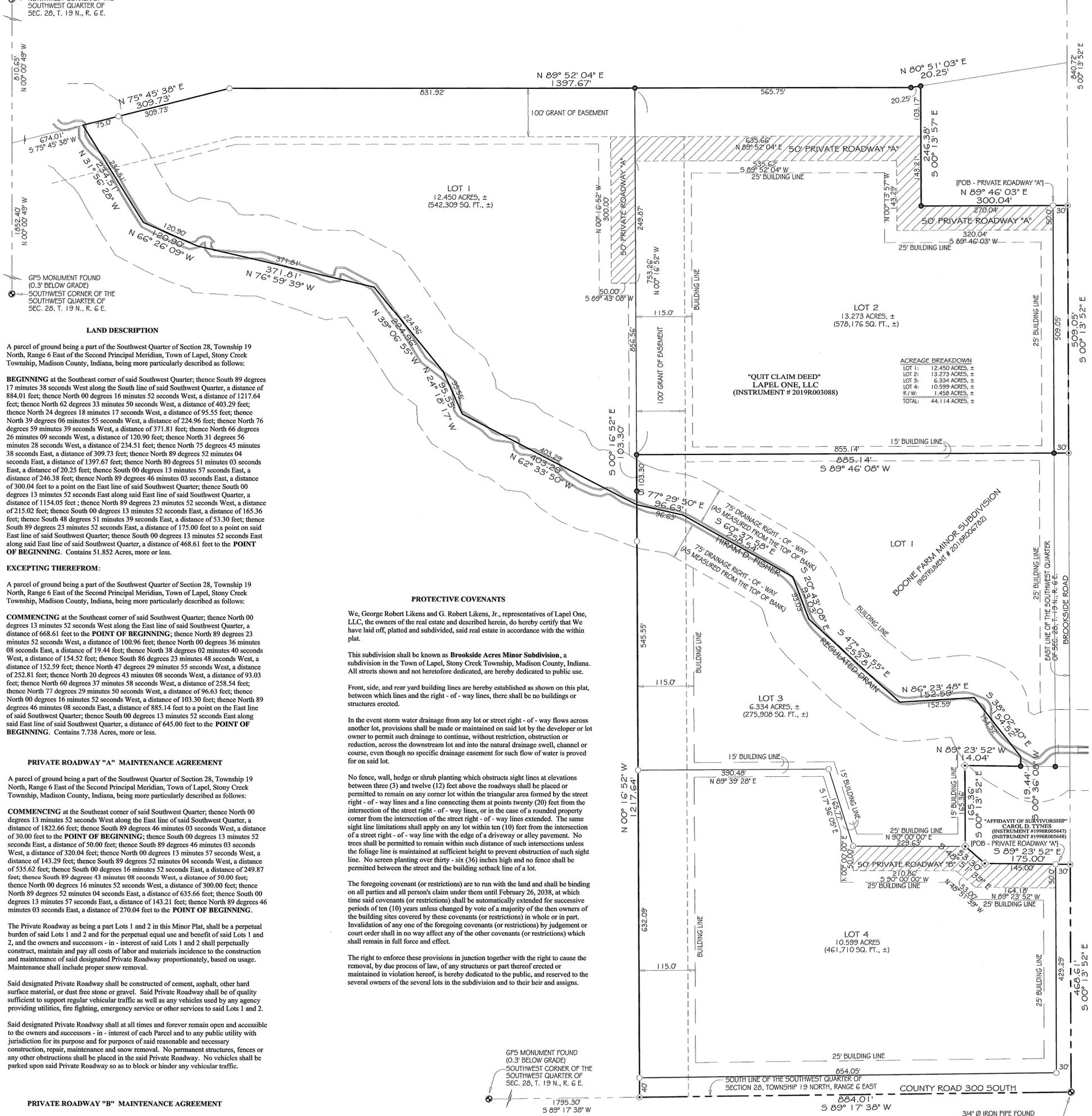
This instrument was prepared by Jeffrey R. Slaughter, Attorney at Law, 8310 Allison Pointe Boulevard, Suite 205, Indianapolis, Indiana 46250.

END OF DOCUMENT

**FINAL PLAT**  
**BROOKSIDE ACRES MINOR SUBDIVISION**  
 A PART OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 19 NORTH, RANGE 6 EAST,  
 TOWN OF LAPEL, STONY CREEK TOWNSHIP, MADISON COUNTY, INDIANA.

06/25/2019 02:15:51 PM  
 FEE: 25.00 PGS: 1  
 LINDA SMITH  
 MADISON COUNTY RECORDER, IN  
 RECORDING AS PRESENTED  
 3/4" Ø IRON PIPE FOUND  
 (0.3' BELOW GRADE)  
 NORTHWEST CORNER OF THE  
 SOUTHWEST QUARTER OF  
 SEC. 28, T. 19 N., R. 6 E.  
 GPS MONUMENT FOUND  
 (0.3' BELOW GRADE)  
 SOUTHWEST CORNER OF THE  
 SOUTHWEST QUARTER OF  
 SEC. 28, T. 19 N., R. 6 E.

PK NAIL FOUND  
 (0.3' BELOW GRADE)  
 NORTHEAST CORNER OF THE  
 SOUTHWEST QUARTER OF  
 SEC. 28, T. 19 N., R. 6 E.



**LAND DESCRIPTION**  
 A parcel of ground being a part of the Southwest Quarter of Section 28, Township 19 North, Range 6 East of the Second Principal Meridian, Town of Lapel, Stony Creek Township, Madison County, Indiana, being more particularly described as follows:

**BEGINNING** at the Southeast corner of said Southwest Quarter; thence South 89 degrees 17 minutes 38 seconds West along the South line of said Southwest Quarter, a distance of 884.01 feet; thence North 00 degrees 16 minutes 52 seconds West, a distance of 1217.64 feet; thence North 62 degrees 33 minutes 50 seconds West, a distance of 403.29 feet; thence North 24 degrees 18 minutes 17 seconds West, a distance of 95.55 feet; thence North 39 degrees 06 minutes 55 seconds West, a distance of 224.96 feet; thence North 76 degrees 59 minutes 39 seconds West, a distance of 371.81 feet; thence North 66 degrees 26 minutes 09 seconds West, a distance of 120.90 feet; thence North 31 degrees 56 minutes 28 seconds West, a distance of 234.51 feet; thence North 75 degrees 45 minutes 38 seconds East, a distance of 309.73 feet; thence North 89 degrees 52 minutes 04 seconds East, a distance of 1397.67 feet; thence North 80 degrees 51 minutes 03 seconds East, a distance of 20.25 feet; thence South 00 degrees 13 minutes 57 seconds East, a distance of 246.38 feet; thence North 89 degrees 46 minutes 03 seconds East, a distance of 300.04 feet to a point on the East line of said Southwest Quarter; thence South 00 degrees 13 minutes 52 seconds East along said East line of said Southwest Quarter, a distance of 1154.05 feet; thence North 89 degrees 23 minutes 52 seconds West, a distance of 215.02 feet; thence South 00 degrees 13 minutes 52 seconds East, a distance of 165.36 feet; thence South 48 degrees 51 minutes 39 seconds East, a distance of 53.30 feet; thence South 89 degrees 23 minutes 52 seconds East, a distance of 175.00 feet to a point on said East line of said Southwest Quarter; thence South 00 degrees 13 minutes 52 seconds East along said East line of said Southwest Quarter, a distance of 468.61 feet to the **POINT OF BEGINNING**. Contains 51.852 Acres, more or less.

**EXCEPTING THEREFROM:**  
 A parcel of ground being a part of the Southwest Quarter of Section 28, Township 19 North, Range 6 East of the Second Principal Meridian, Town of Lapel, Stony Creek Township, Madison County, Indiana, being more particularly described as follows:

**COMMENCING** at the Southeast corner of said Southwest Quarter; thence North 00 degrees 13 minutes 52 seconds West along the East line of said Southwest Quarter, a distance of 668.61 feet to the **POINT OF BEGINNING**; thence North 89 degrees 23 minutes 52 seconds West, a distance of 100.96 feet; thence North 00 degrees 36 minutes 08 seconds East, a distance of 19.44 feet; thence North 38 degrees 02 minutes 40 seconds West, a distance of 154.52 feet; thence South 86 degrees 23 minutes 48 seconds West, a distance of 152.59 feet; thence North 47 degrees 29 minutes 55 seconds West, a distance of 252.81 feet; thence North 20 degrees 43 minutes 08 seconds West, a distance of 93.03 feet; thence North 60 degrees 37 minutes 58 seconds West, a distance of 258.54 feet; thence North 77 degrees 29 minutes 50 seconds West, a distance of 96.63 feet; thence North 00 degrees 16 minutes 52 seconds West, a distance of 103.30 feet; thence North 89 degrees 46 minutes 08 seconds East, a distance of 885.14 feet to a point on the East line of said Southwest Quarter; thence South 00 degrees 13 minutes 52 seconds East along said East line of said Southwest Quarter, a distance of 645.00 feet to the **POINT OF BEGINNING**. Contains 7.738 Acres, more or less.

**PRIVATE ROADWAY "A" MAINTENANCE AGREEMENT**  
 A parcel of ground being a part of the Southwest Quarter of Section 28, Township 19 North, Range 6 East of the Second Principal Meridian, Town of Lapel, Stony Creek Township, Madison County, Indiana, being more particularly described as follows:

**COMMENCING** at the Southeast corner of said Southwest Quarter; thence North 00 degrees 13 minutes 52 seconds West along the East line of said Southwest Quarter, a distance of 1822.66 feet; thence South 89 degrees 46 minutes 03 seconds West, a distance of 30.00 feet to the **POINT OF BEGINNING**; thence South 00 degrees 13 minutes 52 seconds East, a distance of 50.00 feet; thence South 89 degrees 46 minutes 03 seconds West, a distance of 320.04 feet; thence North 00 degrees 13 minutes 57 seconds West, a distance of 143.29 feet; thence North 89 degrees 52 minutes 04 seconds West, a distance of 535.62 feet; thence South 00 degrees 16 minutes 52 seconds East, a distance of 249.87 feet; thence South 89 degrees 43 minutes 08 seconds West, a distance of 50.00 feet; thence North 00 degrees 16 minutes 52 seconds West, a distance of 300.00 feet; thence North 89 degrees 52 minutes 04 seconds East, a distance of 635.66 feet; thence South 00 degrees 13 minutes 57 seconds East, a distance of 143.21 feet; thence North 89 degrees 46 minutes 03 seconds East, a distance of 270.04 feet to the **POINT OF BEGINNING**.

The Private Roadway as being a part Lots 1 and 2 in this Minor Plat, shall be a perpetual burden of said Lots 1 and 2 and for the perpetual equal use and benefit of said Lots 1 and 2, and the owners and successors - in - interest of said Lots 1 and 2 shall perpetually construct, maintain and pay all costs of labor and materials incidence to the construction and maintenance of said designated Private Roadway proportionately, based on usage. Maintenance shall include proper snow removal.

Said designated Private Roadway shall be constructed of cement, asphalt, other hard surface material, or dust free stone or gravel. Said Private Roadway shall be of quality sufficient to support regular vehicular traffic as well as any vehicles used by any agency providing utilities, fire fighting, emergency service or other services to said Lots 1 and 2.

**PRIVATE ROADWAY "B" MAINTENANCE AGREEMENT**  
 A parcel of ground being a part of the Southwest Quarter of Section 28, Township 19 North, Range 6 East of the Second Principal Meridian, Town of Lapel, Stony Creek Township, Madison County, Indiana, being more particularly described as follows:

**COMMENCING** at the Southeast corner of said Southwest Quarter; thence North 00 degrees 13 minutes 52 seconds West along the East line of said Southwest Quarter, a distance of 468.61 feet; thence North 89 degrees 23 minutes 52 seconds West, a distance of 30.00 feet to the **POINT OF BEGINNING**; thence South 00 degrees 13 minutes 52 seconds East, a distance of 50.00 feet; thence North 89 degrees 23 minutes 52 seconds West, a distance of 164.18 feet; thence North 48 degrees 51 minutes 39 seconds West, a distance of 53.00 feet; thence South 90 degrees 00 minutes 00 seconds West, a distance of 210.86 feet; thence North 00 degrees 00 minutes 00 seconds East, a distance of 50.00 feet; thence North 90 degrees 00 minutes 00 seconds East, a distance of 229.63 feet; thence South 48 degrees 51 minutes 39 seconds East, a distance of 53.30 feet; thence South 89 degrees 23 minutes 52 seconds East, a distance of 145.00 feet to the **POINT OF BEGINNING**.

The Private Roadway as being a part Lot 4 in this Minor Plat, shall be a perpetual burden of said Lot 4 and for the perpetual equal use and benefit of Lots 3 and 4, and the owners and successors - in - interest of said Lots 3 and 4 shall perpetually construct, maintain and pay all costs of labor and materials incidence to the construction and maintenance of said designated Private Roadway proportionately, based on usage. Maintenance shall include proper snow removal.

Said designated Private Roadway shall be constructed of cement, asphalt, other hard surface material, or dust free stone or gravel. Said Private Roadway shall be of quality sufficient to support regular vehicular traffic as well as any vehicles used by any agency providing utilities, fire fighting, emergency service or other services to said Lots 3 and 4.

Said designated Private Roadway shall at all times and forever remain open and accessible to the owners and successors - in - interest of each Parcel and to any public utility with jurisdiction for its purpose and for purposes of said reasonable and necessary construction, repair, maintenance and snow removal. No permanent structures, fences or any other obstructions shall be placed in the said Private Roadway. No vehicles shall be parked upon said Private Roadway so as to block or hinder any vehicular traffic.

**LAND SURVEYOR CERTIFICATE**  
 I, Keith Van Wienen hereby certify that I am a Registered Land Surveyor, licensed in compliance with the laws of the State of Indiana; and that to the best of my knowledge and belief, the plat within represents a survey made under my supervision in accordance with Title 865, Article 1, Rule 12 of the Indiana Administrative Code. The field work for said survey was complete on May 15, 2019.

*Keith Van Wienen*  
 Keith Van Wienen, PLS  
 Indiana Reg. No. 20500018

**PROTECTIVE COVENANTS**

We, George Robert Likens and G. Robert Likens, Jr., representatives of Lapel One, LLC, the owners of the real estate and described herein, do hereby certify that We have laid off, platted and subdivided, said real estate in accordance with the within plat.

This subdivision shall be known as **Brookside Acres Minor Subdivision**, a subdivision in the Town of Lapel, Stony Creek Township, Madison County, Indiana. All streets shown and not heretofore dedicated, are hereby dedicated to public use.

Front, side, and rear yard building lines are hereby established as shown on this plat, between which lines and the right - of - way lines, there shall be no buildings or structures erected.

In the event storm water drainage from any lot or street right - of - way flows across another lot, provisions shall be made or maintained on said lot by the developer or lot owner to permit such drainage to continue, without restriction, obstruction or reduction, across the downstream lot and into the natural drainage swell, channel or course, even though no specific drainage easement for such flow of water is proved for on said lot.

No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between three (3) and twelve (12) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right - of - way lines and a line connecting them at points twenty (20) feet from the intersection of the street right - of - way lines, or in the case of a rounded property corner from the intersection of the street right - of - way lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street right - of - way line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line. No screen planting over thirty - six (36) inches high and no fence shall be permitted between the street and the building setback line of a lot.

The foregoing covenant (or restrictions) are to run with the land and shall be binding on all parties and all person's claim under them until February 26, 2038, at which time said covenants (or restrictions) shall be automatically extended for successive periods of ten (10) years unless changed by vote of a majority of the then owners of the building sites covered by these covenants (or restrictions) in whole or in part. Invalidation of any one of the foregoing covenants (or restrictions) by judgement or court order shall in no way affect any of the other covenants (or restrictions) which shall remain in full force and effect.

The right to enforce these provisions in junction together with the right to cause the removal, by due process of law, of any structures or part thereof erected or maintained in violation hereof, is hereby dedicated to the public, and reserved to the several owners of the several lots in the subdivision and to their heir and assigns.

**APPROVAL AND ACCEPTANCE OF DEDICATION BY THE LAPEL TOWN COUNCIL**

*Deb Wainscott*  
 Deb Wainscott  
 President

*Dennis Molina*  
 Dennis Molina  
 Clerk / Treasurer

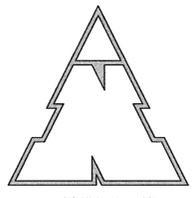
DATE APPROVED AND ACCEPTED: June 20, 2019.

DULY ENTERED FOR TAXATION THE 25<sup>th</sup> DAY OF June, 2019.

*Rick Gardner*  
 Rick Gardner  
 Madison County Auditor

**RECORDER**  
 Recorded this 25<sup>th</sup> day of June, 2019 at 2:15 P.M.

*Linda Smith*  
 Linda Smith  
 Madison County Recorder



- - 5/8" Ø X 24" Rebar Set with "VanWienen PLS # 20500018" I.D. Cap
- - Mag Nail Set
- ◆ - 5/8" Ø Rebar Found with "VanWienen" I.D. Cap
- ⊙ - Mag Nail Set
- ⊕ - Section corner (see plat)
- (M) - Measured Dimension
- (C) - Calculated Dimension
- (D) - Deeded Dimension

THIS DOCUMENT WAS PREPARED BY PRECISE LAND SURVEY, UNDER THE SUPERVISION OF KEITH VAN WIENEN.  
*Keith Van Wienen*  
 KEITH VAN WIENEN

I AFFIRM, UNDER THE PENALTIES FOR PERJURY, THAT I HAVE TAKEN REASONABLE CARE TO RECHECK EACH SOCIAL SECURITY NUMBER IN THIS DOCUMENT, UNLESS REQUIRED BY LAW.  
*Keith Van Wienen*

**CERTIFICATE OF OWNERSHIP**

We, George Robert Likens and G. Robert Likens, Jr., representatives of Lapel One, LLC, do hereby certify that We are the owners of the property described in the above captioned and that as such owners We have caused the said above described property to be surveyed and subdivided as shown on the herein drawn plat, as our own free and voluntary act and deed.

This the 21<sup>st</sup> day of June, 2019.

Lapel One, LLC  
*George Robert Likens*  
 George Robert Likens  
*G. Robert Likens, Jr.*  
 G. Robert Likens, Jr.

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF Grant )

*Heath P. Ray*  
 HEATH P. RAY  
 Notary Public, State of Indiana  
 Grant County  
 Commission # 04139  
 My Commission Expires  
 August 16, 2025

I, *Heath P. Ray*, a Notary Public in and for said County and State, do hereby certify that George Robert Likens and G. Robert Likens, Jr., personally known to me to be the same persons names who are subscribed to the above certification, appeared before me this day in person and acknowledge, they have signed the above certificate as their own free and voluntary act and deed for the uses and purposes therein set forth.

This the 21<sup>st</sup> day of June, 2019.

*Heath P. Ray*  
 NOTARY PUBLIC

MY COMMISSIONS EXPIRES: August 16, 2025.

**PRECISE LAND SURVEYING**  
 920 MAIN STREET  
 ANDERSON, INDIANA 46016  
 LAND DESCRIPTION EXHIBITS  
 SURVEYOR LOCATION REPORTS  
 SUBDIVISION & LAND PLANNING  
 ALTA / NSPS LAND TITLE SURVEYS  
 RETRACEMENT & ORIGINAL SURVEYS  
 PHONE: (765) 641-1997  
 WWW.PRECISELANDSURVEYING.NET

|   |          |      |       |                  |                      |
|---|----------|------|-------|------------------|----------------------|
| FINAL PLAT OF BROOKSIDE ACRES MINOR SUBDIVISION, BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 19 NORTH, RANGE 6 EAST, TOWN OF LAPEL, STONY CREEK TOWNSHIP, MADISON COUNTY, INDIANA |          |      |       | SCALE: 1" = 100' | JOB NUMBER: 2019-177 |
| DRAWN BY: KVB   |          |      |       | DATE: 5/15/2019  | SHEET NUMBER: 1      |
| NO.   | REVISION | DATE | AUTH. | CHECK BY:        | OF 1                 |
|   |          |      |       | KVB              |                      |

