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JOHN P. VON ARX
RECORDER
088434 JUN 12 5
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

1997-81906

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
MALLARD GREEN SECTION ONE**

**A SINGLE FAMILY RESIDENTIAL DEVELOPMENT
IN WAYNE TOWNSHIP, MARION COUNTY, INDIANA**

The undersigned WEST 21st STREET LLC, an Indiana Limited Liability Company (hereinafter referred to as "Developer"), as owner and developer of real property described in Exhibit A attached hereto, to be known as Mallard Green Section One (comprising lots 1 through 31, inclusive, and referred to herein as the "Subdivision"), imposes the following plat restrictions and covenants on the Subdivision for the benefit of all present and future owners of any lot in the Subdivision.

DECLARATIONS

All lots within the Subdivision shall be subject to the following development standards, restrictions, covenants, conditions and assessments, which are for the benefit of all lot owners and occupants within the Subdivision and which shall run with the property and shall be binding on all owners and all persons claiming under them until December 31, 2007, at which time said covenants, conditions, restrictions and assessments shall be automatically extended for successive periods of ten (10) years, unless by a majority vote of the then owners of the lots in the Subdivision it is agreed to change said covenants, conditions, restrictions and assessments in whole or in part:

Article 1. Use Restrictions

1.01 Each lot within the Subdivision (hereinafter "Building Lot") shall be used for single-family residential purposes only. However, the Developer, its agents or assigns, may use the Building Lots for construction and sales purposes during any building and sales period.

1.02 No residence, building, shed, fence, flagpole, mailbox, light pole or fixture, swimming pool, tennis court, pavement, driveway, awning, wall or structure of any kind shall be erected, placed or altered on any Building Lot without first obtaining the written consent of the Architectural Control Committee subsequently described herein. All requests for written approvals from the Architectural Control Committee shall be in writing, shall be dated, shall specifically request approval of the contemplated improvement(s) and shall be accompanied by detailed plans and specifications for the proposed improvements showing, where applicable, the size, location, type, architectural design, spacing, quality, use, construction materials, color scheme, grading plan and finish grade elevation for said improvements.

1.03 Each two (2) story single-family dwelling constructed on any Building Lot shall have a minimum of 1,400 square feet of living area and each single story single-family dwelling shall have a minimum living area of 1,200 square feet, exclusive of basements, open porches, garages and other unheated areas. Each dwelling shall have an attached garage with space for not less than two (2) automobiles.

1.04 All structures or improvements commenced by an owner of any Building Lot within the Subdivision must be completed within nine (9) months from the date of commencement.

1.05 A walk light on a pole with photo electric cell (or other darkness sensing technology) that automatically illuminates at darkness is to be installed in the front yard of each Building Lot at the time of construction of a dwelling thereon. The Building Lot owner shall maintain the light in operating condition at all times.

1.06 No detached storage buildings shall be permitted on any building lot.

1.07 No towers of any description or satellite dish antennas greater than thirty-nine (39) inches in diameter will be permitted on any Building Lot without the written approval of the Architectural Control Committee. Said Committee may deny any such request in its sole and absolute discretion or may attach such conditions as it deems necessary or appropriate. Any satellite dish antenna less than thirty-nine (39) inches in diameter shall require Architectural Control Committee approval as to location, color and other aesthetic considerations.

1.08 No residence shall have a sump pump which discharges directly into the street through a curb.

1.09 No building shall be located nearer to any street than the building setback line shown on the recorded plat of the Subdivision. The setback areas designated on the recorded plat shall be for lawn purposes only. This covenant shall not be construed to prevent the use of the setback areas for walks, drives, trees, shrubbery, flowers, or ornamental plants used for the purpose of beautification.

1.10 No structures or materials shall be placed or permitted within the utility or drainage easement areas as designated on the recorded plat of the Subdivision. Plantings within said utility or drainage easement areas are at the Building Lot owner's sole risk of loss if such plantings, as determined solely by the applicable utility authority or the Architectural Control Committee, would damage or interfere with the installation or maintenance of utilities or would change or retard the flow of surface water from its proper course. Each Building Lot owner shall maintain such portion of any utility or drainage easement area as is located upon such owner's Building Lot.

1.11 No business activities of any kind shall be conducted on any Building Lot or open space in the Subdivision without the approval of the Homeowners' Association; provided, however, that the foregoing shall not apply to the business activities of Developer or the construction, sale or maintenance of Building Lots and residences by authorized builders or by Developer, its agents or assigns, during the construction and sales period.

1.12 No clothesline shall be located on any Building Lot except one removable, folding, umbrella-like clothesline. Folding umbrella-like clothesline shall be permitted in the rear patio area only. No laundry articles shall be left outdoors overnight or any time on Saturdays or Sundays.

1.13 No buses, campers, motor homes, trailers, boats, or other similar recreational vehicles shall be stored on any Building Lot unless housed within a garage building. All automobiles, trucks, motorcycles, vans, jet skis, snowmobiles or other such vehicles shall be housed within a garage building. No inoperable vehicles shall be stored on any Building Lot.

1.14 No exterior portion of any Building Lot shall be used as a dumping ground or storage area for rubbish, machinery, scrap, paper, glass or other such materials. Garbage or other waste shall be kept in trash containers. All containers used for the storage or disposal of trash or recyclable materials shall be kept in a clean and sanitary condition and screened from public view. Building materials to be used in the construction of approved structures may be stored on a Building Lot, provided such building materials are incorporated into the approved improvement within ninety (90) days after their delivery to such Building Lot.

1.15 No sod, dirt or gravel, other than incidental to the construction of an approved structure or the normal maintenance of lawn areas, shall be removed from any Building Lot without the written approval of the Architectural Control Committee.

1.16 No weeds, underbrush or unsightly growths or objects of any kind shall be permitted to remain on any Building Lot within the Subdivision. All lawn areas shall be maintained in a neat and orderly manner and shall be mowed on a regular basis. The Homeowners' Association may regulate and control the maintenance of lawn areas by publishing rules and regulations as it deems necessary from time to time.

1.17 No geothermal or solar heating system shall be installed on any Building Lot or on any dwelling thereon without the prior approval of all applicable agencies and the Architectural Control Committee.

1.18 No animals, livestock or poultry of any kind shall be raised, bred or kept on any Building Lot, except that dogs, cats or other usual household pets may be kept on a Building Lot, so long as such pets are not kept, bred or maintained for any commercial purpose. No animal shall be permitted to run loose or become a nuisance to any owner of any Building Lot in the Subdivision. The Homeowners' Association may regulate and control the maintenance of such household pets by publishing such rules and regulations as it deems necessary from time to time.

1.19 No sign or billboard shall be erected or displayed on any Building Lot except (a) one (1) sign of no more than five (5) square feet advertising the property for sale; (b) signs used by Developer, its successors and/or assigns, to advertise lots or residences for sale during the construction and sales period; and (c) signs approved by the Architectural Control Committee.

1.20 All tanks for the storage of propane gas, fuel or oil shall be located beneath ground level, except that propane tanks for service to the entire Subdivision or, on a temporary basis, for construction of an approved structure may be located above ground.

1.21 No well for the production of gas, water or oil, whether intended for temporary or permanent purposes, shall be drilled or maintained on any Building Lot without the written consent of the Architectural Control Committee.

1.22 No chain link fence will be permitted on any Building Lot in the Subdivision.

1.23 No above ground swimming pools in place for more than forty-eight (48) consecutive hours will be permitted on any Building Lot in the Subdivision.

1.24 Nothing shall be done, placed or stored on any Building Lot which may endanger the health or unreasonably disturb the occupants of the dwellings on neighboring Building Lots.

1.25 The owner of each Building Lot within the Subdivision, upon acquisition of title to such lot, shall automatically become a member of the Homeowners' Association created in accordance with Article 3.01 hereof. Such membership shall be an appurtenance to and shall not be separated from ownership of the Building Lot and such membership shall terminate upon the sale or other disposition by such member of such lot ownership.

1.26 Invalidation of any of these covenants and restrictions by judgment or court order shall in no way affect any other provision hereof, all of which shall remain in full force and effect.

It shall be lawful for the Developer, Marion County, the Homeowners' Association or any person or persons owning any real property within the Subdivision to prosecute any proceedings at law or in equity against a person or persons violating or attempting to violate any covenant or restriction contained herein. The proceeding may seek to prevent such person or persons from violating or continuing to violate the restrictions or to recover damages for such violation together with the costs incurred in enforcement of the restrictions.

Article 2. Additional Drainage Easement Restrictions

Drainage easements shown on the recorded plat of the Subdivision may include storm water detention or retention areas designed to direct, detain or retain water. The following covenants and restrictions are for the benefit of all Building Lot owners in the Subdivision and are to run with the land and shall be binding on all parties, on all owners, and all persons claiming under them forever, as follows:

2.01 No owner of any Building Lot in the Subdivision shall do or permit to be done any action or activity which would result in (a) the pollution of any retained water, (b) the diversion of water, (c) a change in the elevation of the water level, (d) silting or (e) an adverse effect on water quality, drainage or proper water management, or which would otherwise impair or interfere with the use of such areas for drainage and related purposes for the benefit of all Building Lot owners.

2.02 No boating, fishing, swimming, ice skating or other recreational activity shall be conducted in, on or above said drainage easement areas.

2.03 The Homeowners' Association shall have the right to establish rules regarding the use of any drainage easement areas, provided such rules are not in conflict with any other provision contained herein, and are reasonably established to protect the safety and welfare of the residents of the Subdivision and their guests, or are established to assure the continued service of the areas for the purposes for which they were designed.

2.04 The Developer, Marion County, the Homeowners' Association or any person or persons owning any Building Lot within the Subdivision may prosecute proceedings at law or in equity against any person or persons violating or attempting to violate any of the above covenants and restrictions or seek restraining orders or other mandatory relief for the correction of any interference with or damage to the drainage and detention or retention system, and to recover compensation for any damages incurred by the complaining party together with the costs incurred in enforcement of the restrictions.

Article 3. Homeowners' Association

3.01 After the recording of this Declaration, Developer shall form and incorporate a Homeowners' Association (the "Association") to promote the common interest of all Building Lot owners, to handle maintenance of certain areas within the Subdivision as set forth below and to promote compliance with the covenants, conditions and use restrictions set forth in this Declaration. The Association shall be comprised of the owners of all the Building Lots in the Subdivision. Developer reserves the right to expand the membership and duties of the Association to include other real property to be developed in the future. Attached hereto as Exhibit B is a description of real property which may be developed by Developer (the "Expansion Property"), the lot owners of which may, at the option of Developer, be required to become members of the Association. If the Developer elects to develop all or a portion of the Expansion Property and elects to include the owners of lots in such portion of the Expansion Property as members in the Association and to expand the Association's responsibilities to include similar duties for such portion of the Expansion Property, Developer may do so by filing an amendment to this Declaration to include such portion of the Expansion Property within ten (10) years from the date hereof, explicitly setting forth that the lot owners within such portion of the Expansion Property shall become members of the Association and detailing the additional rights and obligations of the Association.

3.02 The management and control of the affairs of the Association shall be vested in its board of directors. The board of directors shall be composed of three (3) members. The three (3) initial members of the board of directors shall be selected by Developer. The three (3) initial members of the board of directors shall serve until (a) that date which is ninety (90) days after 100% of all Building Lots within the Subdivision and 100% of all lots within the Expansion Property have been developed, sold and the lot owners of which have become members of the Association as set forth above in Article 3.01, or (b) Developer elects to turn over control of the Association to the Building Lot owners, whichever shall first occur. Upon the incapacity, resignation or death of any initial director, a successor, who shall serve the remaining term of the departed director, shall be appointed by the remaining members of the board of directors within three (3) months after the incapacity, resignation or death of the departed director. Subsequent board members shall be elected by a majority of the Building Lot owners as more fully set forth in the Articles of Incorporation and By-Laws for the Association.

3.03 The Association, or its agents or assigns, shall have the right to enter onto any common area, open space, public right-of-way or landscape easement area as shown on the recorded plat of the Subdivision, if any, or other easement area as it from time to time deems necessary for the purpose of maintaining the same. Such maintenance may include, but shall not be limited to:

- (a) regular mowing, trimming and fertilizing of grassy areas;
- (b) periodic mulching of flower beds within the Subdivision;
- (c) regular weeding of flower beds;
- (d) flower planting within the Subdivision;
- (e) maintenance of street lighting, if any, and associated electric service billings;
- (f) repair of any permanent signs;
- (g) repair of any stone wall, wing wall or fencing;
- (h) maintenance and repair of any common area amenities;
- (i) treatment of water in any detention or retention areas to limit algae and grassy growth; and
- (j) trimming, pruning, removal and replacement of trees and bushes, as necessary.

3.04 For the purpose of providing funds to carry out the responsibilities of the Association hereunder, the Association shall be empowered to levy, assess and collect from the owner of each and every Building Lot in the Subdivision, excepting those Building Lots owned by the Developer, an amount up to One Hundred Fifty Dollars (\$150.00) per year, irrespective of whether the Subdivision has been completed. Provided, however, that such limit of One Hundred Fifty Dollars (\$150.00) per Building Lot per year may be increased in proportion to any increase in the Consumer Price Index of the U.S. Bureau of Labor Statistics from the base period of December, 1997. Any fees assessed by the Association in excess of One Hundred Fifty Dollars (\$150.00) per Building Lot per year, or its adjusted equivalent, must be approved by a majority of the Building Lot owners in the Subdivision.

3.05 Any amount assessed or levied hereunder by the Association against a Building Lot owner shall become a lien on each Building Lot until paid. Any assessments which are not paid within thirty (30) days of the due date shall be delinquent. As long as an assessment remains delinquent a late fee of ten dollars (\$10.00) will be charged per month until the assessment is paid in full. In the event any amount so assessed or levied is not paid when due and remains in arrears for more than sixty (60) days, the Association may file with the Marion County Recorder a Notice of Lien. The Notice of Lien shall contain a description of the Building Lot against which the lien exists, the name or names of the record owner or owners thereof, and the amount of the unpaid portion of the assessment or assessments. The lien provided for herein shall remain valid for a period of five (5) years from the date a Notice of Lien is duly filed, unless sooner released or satisfied in the same manner provided for by law in the State of Indiana for the release and satisfaction of mortgages on real property or until discharged by the final judgment or order of the Court in an

action brought to discharge the lien. The lien shall secure not only the amount of the unpaid assessments and late fees, but also the costs incurred in collection, including, but not limited to interest, attorney's fees and court costs. The lien of the assessment provided for herein shall be subject and subordinate to the lien of any duly executed mortgage on any Building Lot recorded prior to the recording of the Notice of Lien. The holder of any such mortgage which comes into possession of a Building Lot pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed or assignment in lieu of foreclosure shall take the property free of claims for unpaid installments of assessments or charges against the Building Lot which become due and payable prior to the time such holder or purchaser takes title to the Building Lot.

3.07 Any and all of the rights, powers, duties and obligations assumed by, reserved to, created in or given to the Association may be exercised by Developer until such time as the Association is formed and control thereof transferred to the Building Lot owners. At such time as control of the Association is transferred to the Building Lot owners, Developer may reserve the exclusive right to approve the plot plan, construction plans, color scheme and landscape plan associated with any structure on any Building Lot on which a dwelling unit has not yet been completed and occupied, so long as Developer clearly identifies the Building Lots for which it is retaining such right at the time of the turnover. Developer shall maintain said right of approval for each Building Lot until such time as a dwelling unit has been completed on that Building Lot and occupied by the homebuyer.

Article 4. Architectural Control Committee

An Architectural Control Committee (the "Committee") is hereby established as a standing committee of the Association to carry out the functions set forth for it in this Declaration. The Architectural Control Committee's procedures and duties shall be as follows:

4.01 The Committee shall be composed of three (3) members. The Developer shall appoint each of the three (3) initial members of the Committee.

4.02 The three (3) initial members of the Committee shall serve until such time as the Developer turns over control of the Homeowners' Association to the Building Lot owners, as set forth in Article 3.02 hereof. Any subsequent members shall be appointed by the Association and shall serve for terms of three (3) years, except that the first appointed members of the Committee shall serve for staggered terms of one (1), two (2) and three (3) years as directed by the board of directors of the Association. All members of said Committee shall serve until the expiration of their terms or until their incapacity, resignation or death. Upon the incapacity, resignation or death of a member of the Committee, a successor, who shall serve the remaining term of the departed Committee member, shall be appointed by the board of directors of the Association within three (3) months after the incapacity, death or resignation of the departed member.

4.03 The Use Restrictions require the submission of detailed plans and specifications to the Committee prior to the erection of, placement on, or alteration of any structure or improvement on any Building Lot. The intent is to achieve an architecturally harmonious, artistic and desirable residential subdivision. Therefore, while considering the approval or disapproval of any plans and specifications submitted, the Committee is directed to consider the appropriateness of the improvement contemplated in relation to the improvements on contiguous or adjacent lots, the artistic and architectural merits of the proposed improvement, the adaptability of the proposed improvement to the Building Lot on which it is proposed to be made, and such other matters as may be deemed by the

Committee members to be in the interest and benefit of the owners of the Building Lots in the Subdivision as a whole.

4.04 To assist it in making its determinations, the Committee may require that any plans and specifications submitted to the Committee be prepared by a registered architect or civil engineer. The Committee shall also have the right to require any other reasonable data including, but not limited to, grading or elevation plans, material lists, landscape plans and color scheme designations.

4.05 The Committee's decisions shall be in writing and shall be binding upon all parties in interest. The Committee shall approve, disapprove or request additional information with respect to any submitted request for approval within thirty (30) days after said request shall have been properly submitted to the Committee for approval. A properly submitted request shall be in writing and shall comply with the provisions of Article 1.02 hereto. The failure of the Committee to approve, disapprove or request additional information within said time period shall be deemed an approval of any properly submitted request.

4.06 The approval of any plans and specifications by the Committee shall not constitute a representation or warranty by it as to the quality of the workmanship, materials or architectural or engineering design covered thereunder, or the proposed work's feasibility or compliance with any applicable laws.

4.07 If, in the opinion of the Committee, the enforcement of these restrictions would constitute a hardship due to the shape, dimension or topography of a particular Building Lot in the Subdivision, the Committee may permit a variation which will, in its judgment, be in keeping with the maintenance of the standards of the Subdivision.

Article 5. Other Conditions

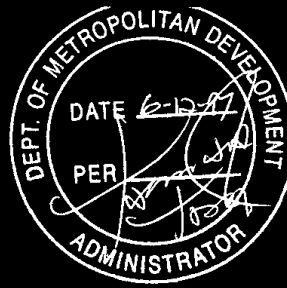
5.01 All transfers and conveyances of each and every Building Lot in the Subdivision shall be made subject to these covenants and restrictions.

5.02 Any failure to enforce these restrictions shall not be deemed a waiver thereof or an acquiescence in, or consent to, any continuing, further or succeeding violation hereof.

5.03 If any covenant, condition or restriction hereinabove contained, or any portion thereof, is invalid, such invalidity shall in no way affect any other covenant, condition or restriction.

5.04 All costs of litigation and attorney's fees resulting from violation of this Declaration shall be the financial responsibility of the Building Lot owner or owners found to be in violation.

5.05 So long as Developer maintains control of the Association as set forth in Article 3 hereof, Developer reserves the right to amend this Declaration to the extent necessary to conform to any requirements imposed or requested by any governmental agency, public authority or financial institution (including, but not limited to, the U.S. Department of Housing and Urban Development, the U.S. Veterans Administration, Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, or similar entity) or to the extent necessary to enable the Developer to meet any other reasonable need or requirement in order to complete the Subdivision, all without the approval of the



Building Lot owners, and each Building Lot owner, by the acceptance of a deed to a Building Lot within the Subdivision, consents to this reserved right.

5.06 Only the Building Lots contained in the Subdivision shall be subject to and bound by the restrictions, covenants and conditions set out in this Declaration and none of said provisions shall in any manner affect or be operative in respect to any other land of the owner or its successors or assigns.

IN WITNESS WHEREOF, said West 21st Street LLC has caused this instrument to be executed by its duly authorized representative this 11th day of June, 1997.

Signed and acknowledged
in the presence of:

WEST 21st STREET LLC,
an Indiana limited liability company
BY: REPUBLIC DEVELOPMENT
CORPORATION, an Ohio corporation,
managing member

By: Richard L. Arnos
Richard L. Arnos
Vice President

Cheryl L. Miller
Cheryl L. Miller

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

The foregoing instrument was acknowledged before me this 11th day of June, 1997, by Richard L. Arnos, Vice President of REPUBLIC DEVELOPMENT CORPORATION, an Ohio corporation, managing member of WEST 21st STREET LLC, an Indiana limited liability company, on behalf of the limited liability company.

WAYNE TOWNSHIP
ASSESSOR
PLAT APPROVED
Date: June 12, 1997
By: Charles R. Spears
CHARLES R. SPEARS
ASSESSOR

Cheryl L. Miller
Notary Public
9
CHERYL L. MILLER
Notary Public, State of Ohio
Commission Expires 3-13-99



Exhibit A**Land Description
Mallard Green Section 1
Zoning D-3/D-A Cluster**

Part of the Northwest Quarter of Section 28, Township 16 North, Range 2 East in Marion County, Indiana, being more particularly described as follows:

Commencing at a Stone found at the Southeast corner of the said Northwest Quarter Section; thence North 00 degrees 14 minutes 41 seconds East (Assumed Bearing) along the East line of said Quarter Section a distance of 135.72 feet to the BEGINNING POINT; thence North 87 degrees 01 minutes 41 seconds West a distance of 394.38 feet; thence North 72 degrees 16 minutes 16 seconds West a distance of 81.96 feet; thence North 89 degrees 00 minutes 00 seconds West a distance of 81.00 feet; thence North 87 degrees 27 minutes 07 seconds West a distance of 50.02 feet; thence South 89 degrees 53 minutes 41 seconds West a distance of 99.20 feet; thence South 55 degrees 22 minutes 58 seconds West a distance of 71.44 feet; thence South 29 degrees 56 minutes 22 seconds East a distance of 94.35 feet; thence South 68 degrees 00 minutes 00 seconds West a distance of 132.09 feet; thence South 73 degrees 28 minutes 21 seconds West a distance of 50.73 feet to the South Line of the said Northwest Quarter Section; thence South 89 degrees 53 minutes 29 seconds West along the said South Line a distance of 222.17 feet to a point distant North 89 degrees 53 minutes 29 seconds East 225.00 feet from the Southwest Corner of the Southeast Quarter of the said Northwest Quarter Section (said point also being the Southeast Corner of a tract of land described in Instrument Number 83-80226 in the office of the recorder of Marion County, Indiana)(the next two (2) described courses being along the East and North Lines of said tract of land); thence North 00 degrees 07 minutes 54 seconds East, parallel with the West Line of the Southeast Quarter of the said Northwest Quarter Section, a distance of 173.00 feet; thence South 89 degrees 53 minutes 29 seconds West, parallel with the said South Line, a distance of 225.00 feet to the West Line of the Southeast Quarter of the said Northwest Quarter Section; thence North 00 degrees 07 minutes 54 seconds East along the said West Line a distance of 75.00 feet; thence North 89 degrees 53 minutes 29 seconds East, parallel with the said South Line, a distance of 225.00 feet; thence North 00 degrees 07 minutes 54 seconds East, parallel with the said West Line, a distance of 219.24 feet to a 5/8 inch x 30 inch rebar with yellow cap stamped "Schneider Eng. Firm #0001" hereinafter referred to as a "capped rebar"; thence North 89 degrees 53 minutes 29 seconds East, parallel with the South Line of the said Northwest Quarter Section, a distance of 1107.40 feet to a "capped rebar" on the East Line of the said Northwest Quarter Section; thence South 00 degrees 14 minutes 41 seconds West along the said East Line a distance of 331.52 feet to the BEGINNING POINT, containing 9.431 acres, more or less.

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7/3/1996

Revised 7/19/96

Expansion Property
Mallard Green
Remaining Acreage

Part of the Northwest and Southwest Quarter of Section 28, Township 16 North, Range 2 East in Marion County, Indiana, being more particularly described as follows:

BEGINNING at a Stone found at the Southeast corner of the said Northwest Quarter Section; thence North 00 degrees 14 minutes 41 seconds East (Assumed Bearing) along the East line of said Northwest Quarter Section a distance of 135.72 feet; thence North 87 degrees 01 minutes 41 seconds West a distance of 394.38 feet; thence North 72 degrees 16 minutes 16 seconds West a distance of 81.96 feet; thence North 89 degrees 00 minutes 00 seconds West a distance of 81.00 feet; thence North 87 degrees 27 minutes 07 seconds West a distance of 50.02 feet; thence South 89 degrees 53 minutes 41 seconds West a distance of 99.20 feet; thence South 55 degrees 22 minutes 58 seconds West a distance of 71.44 feet; thence South 29 degrees 56 minutes 33 seconds East a distance of 94.35 feet; thence South 68 degrees 00 minutes 00 seconds West a distance of 132.09 feet; thence South 73 degrees 28 minutes 21 seconds West a distance of 50.73 feet to the South Line of the said Northwest Quarter Section; thence South 89 degrees 53 minutes 29 seconds West along the said South Line a distance of 97.65 feet (1/2 inch rebar 0.5 feet south and 0.2 feet west) said point being distant 1681.00 feet east of the west line of the said Southwest Quarter Section; thence South 00 degrees 01 minutes 31 seconds West, parallel with the said West Line, a distance of 469.61 feet; thence South 85 degrees 10 minutes 30 seconds East a distance of 119.75 feet; thence South 86 degrees 43 minutes 02 seconds East a distance of 50.03 feet; thence South 78 degrees 34 minutes 10 seconds East a distance of 101.51 feet; thence South 47 degrees 45 minutes 01 seconds East a distance of 56.96 feet; thence South 60 degrees 00 minutes 04 seconds East a distance of 67.96 feet; thence South 66 degrees 30 minutes 24 seconds East a distance of 69.80 feet; thence South 63 degrees 57 minutes 16 seconds East a distance of 70.18 feet; thence South 43 degrees 32 minutes 05 seconds East a distance of 168.92 feet; thence South 16 degrees 31 minutes 18 seconds East a distance of 92.33 feet; thence South 09 degrees 21 minutes 13 seconds East a distance of 83.84 feet to the north line of The Villages at Drake Landing Drake Hill Section 2, a subdivision in Marion County, Indiana, the plat of which is recorded as instrument number 96-0118123 in the office of the recorder of Marion County, Indiana (the next three (3) described courses being along the said north line); thence North 67 degrees 41 minutes 13 seconds East a distance of 79.85 feet; thence North 75 degrees 43 minutes 20 seconds East a distance of 139.83 feet; thence South 81 degrees 22 minutes 26 seconds East a distance of 65.20 feet; thence North 31 degrees 17 minutes 51 seconds West a distance of 70.58 feet; thence North 38 degrees 10 minutes 48 seconds East a distance of 25.06 feet; thence North 03 degrees 48 minutes 59 seconds West a distance of 137.74 feet; thence North 33 degrees 01 minutes 18 seconds

West a distance of 57.18 feet; thence North 18 degrees 38 minutes 29 seconds East a distance of 148.57 feet; thence North 38 degrees 50 minutes 00 seconds East a distance of 60.38 feet; thence North 04 degrees 40 minutes 20 seconds West a distance of 50.74 feet; thence North 03 degrees 03 minutes 36 seconds East a distance of 229.50 feet; thence North 11 degrees 25 minutes 56 seconds East a distance of 106.49 feet; thence North 03 degrees 23 minutes 11 seconds East a distance of 36.88 feet to the BEGINNING POINT, containing 17.047 acres, more or less.

NOTE

This land description was prepared based exclusively upon record deed information and/or prior surveys of the subject premises or its parent. For purposes of the preparation of this description, no survey of the described real estate was performed and no monuments were set.

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5/16/1997

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FIRST AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MALLARD GREEN SECTION ONE
TO PROVIDE FOR THE ADDITION OF
MALLARD GREEN SECTION TWO

The undersigned, WEST 21ST STREET LLC, an Indiana limited liability company (hereinafter referred to as "Developer"), was the developer of a certain residential development in the City of Indianapolis, Marion County, Indiana, known as Mallard Green Section One as delineated on a plat thereof recorded as Instrument No. 1997-0081906 Marion County, Indiana ("Development").

WHEREAS, Developer imposed certain restrictions, covenants and conditions upon the Development pursuant to the terms and conditions of a certain Declaration of Covenants, Conditions and Restrictions for Mallard Green Section One, dated June 11, 1997 (the "Declaration"), which Declaration was recorded as Instrument No. 1997-0081905, Marion County, Indiana;

WHEREAS, Developer, pursuant to Article 3.01 of the Declaration, retained the right to add additional real estate to the Development from the Expansion Property as described in Exhibit "B" of the Declaration;

WHEREAS, Developer is developing Mallard Green Section Two, a subdivision in Indianapolis, Marion County, Indiana consisting of lots 32 through 63 comprising the "Subdivision", which Subdivision is contiguous to the Development and which is a part of the Expansion Property described in the Declaration;

WHEREAS, the real estate upon which the Subdivision is being developed is described in Exhibit A attached hereto; and

WHEREAS, Developer desires to amend the Declaration to add the Subdivision to the Development and to subject the Subdivision to the terms, conditions and restrictions contained in the original Declaration.

NOW THEREFORE, the Developer hereby subjects the Subdivision to, and imposes upon the Subdivision, all of the restrictions, covenants and conditions and benefits contained in the Declaration as if the Subdivision had been included in the Declaration and described in Exhibit "A" of the Declaration. All owners of Lots within the Subdivision shall become members of the Association created pursuant to Article 3 of the Declaration.

WAYNE TOWNSHIP
ASSESSOR
PLAT APPROVED
Date: 7-23-98
By: *Charles R. Spears*
CHARLES R. SPEARS
ASSESSOR

07/23/98 11:06AM JOHN H. ROBERTL HANCOCK CITY RECORDER CAN 14.00 PAGES: 3
Inst # 1998-0126412

IN WITNESS WHEREOF, West 21st Street LLC has caused this instrument to be executed by its duly authorized representative this 17th day of July, 1998.

Signed and acknowledged
in the presence of:

WEST 21ST STREET LLC, an Indiana
limited liability company

BY: REPUBLIC DEVELOPMENT CORPORATION,
managing member

Cheryl L. Miller
[Signature]

By: *[Signature]*
Richard L. Arnos
Vice President

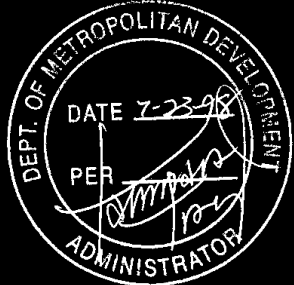
STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

The foregoing instrument was acknowledged before me this 17th day of July, 1998, by RICHARD L. ARNOS, Vice President of REPUBLIC DEVELOPMENT CORPORATION, an Ohio corporation, managing member of WEST 21ST STREET LLC, an Indiana limited liability company, on behalf of the company.

Cheryl L. Miller
Notary Public



CHERYL L. MILLER
Notary Public, State of Ohio
Commission Expires 3-13-99



Land Description
MALLARD GREEN SECTION 2

Part of the Southwest and Northwest Quarter of Section 28, Township 16 North, Range 2 East in Marion County, Indiana, being more particularly described as follows:

Commencing at a P.K. nail at the Northwest corner of the said Southwest Quarter Section; thence North 89 degrees 53 minutes 29 seconds East along the North line of said Quarter Section a distance of 1018.39 feet to the centerline of Tansel Road and being distant south 1.56 feet from a stone; thence South 00 degrees 01 minutes 11 seconds East along the centerline of Tansel Road a distance of 704.00 feet to the Northwest Corner of The Villages at Drake Landing Drake Landing Section 2, a subdivision in Marion County, Indiana, the plat of which is recorded as instrument number 97-0096390 in the office of the recorder of Marion County, Indiana (the next three described courses being along the North Line of said Drake Landing Section 2); thence North 89 degrees 53 minutes 29 seconds East a distance of 248.80 feet; thence North 00 degrees 01 minutes 11 seconds West a distance of 150.00 feet; thence North 89 degrees 53 minutes 29 seconds East a distance of 413.38 feet to the West Line of The Villages at Drake Landing Drake Landing Section 3, a subdivision in Marion County, Indiana, the plat of which is recorded as instrument number 9700096391 in the office of the recorder of Marion County, Indiana; thence North 00 degrees 01 minutes 31 seconds East along the said West Line of Drake Landing Section 3 a distance of 84.39 feet to the BEGINNING POINT; thence continue North 00 degrees 01 minutes 31 seconds East, parallel with the West Line of the said Southwest Quarter Section, a distance of 469.62 feet to the South Line of Mallard Green Section 1 a subdivision in Marion County, Indiana, the plat of which is recorded as instrument number 1997-0081906 in the office of the recorder of Marion County, Indiana (the next nine (9) described courses being along the said South Line); thence North 89 degrees 53 minutes 29 seconds East a distance of 97.65 feet; thence North 73 degrees 28 minutes 21 seconds East a distance of 50.73 feet; thence North 68 degrees 00 minutes 00 seconds East a distance of 132.09 feet; thence North 29 degrees 56 minutes 33 seconds West a distance of 94.35 feet; thence North 55 degrees 22 minutes 58 seconds East a distance of 71.44 feet; thence North 89 degrees 53 minutes 41 seconds East a distance of 99.20 feet; thence South 87 degrees 27 minutes 07 seconds East a distance of 50.02 feet; thence South 89 degrees 00 minutes 00 seconds East a distance of 81.00 feet; thence South 72 degrees 16 minutes 16 seconds East a distance of 81.96 feet; thence South 10 degrees 58 minutes 41 seconds East a distance of 241.02 feet; thence South 02 degrees 14 minutes 48 seconds East a distance of 117.45 feet; thence South 03 degrees 56 minutes 38 seconds West a distance of 122.98 feet; thence South 37 degrees 01 minutes 19 seconds West a distance of 122.79 feet; thence South 30 degrees 30 minutes 56 seconds West a distance of 50.07 feet; thence South 33 degrees 08 minutes 04 seconds West a distance of 114.14 feet; thence South 26 degrees 02 minutes 44 seconds West a distance of 58.13 feet to the North Line of said The Villages at Drake Landing Drake Landing Section 3 (the next seven (7) described courses being along the said North Line); thence North 63 degrees 57 minutes 16 seconds West a distance of 11.00 feet; thence North 66 degrees 30 minutes 24 seconds West a distance of 69.80 feet; thence North 60 degrees 00 minutes 04 seconds West a distance of 67.96 feet; thence North 47 degrees 45 minutes 01 seconds West a distance of 56.96 feet; thence North 78 degrees 34 minutes 10 seconds West a distance of 101.51 feet; thence North 86 degrees 43 minutes 02 seconds West a distance of 50.03 feet; thence North 85 degrees 10 minutes 30 seconds West a distance of 119.75 feet to the BEGINNING POINT, containing 8.777 acres, more or less.

MARTHA A. WOMACKS
NETT AUDITOR

186125 JUL 23 8

(B)

JULY 23 1999 11:05AM
SUBJECT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR TRANSFER FOR MALLARD GREEN SECTION ONE

SECOND AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MALLARD GREEN SECTION ONE

TO PROVIDE FOR THE ADDITION OF
MALLARD GREEN SECTION THREE

The undersigned, WEST 21ST STREET LLC, an Indiana limited liability company (hereinafter referred to as "Developer"), was the developer of a certain residential development in the City of Indianapolis, Marion County, Indiana, known as Mallard Green Section One as delineated on a plat thereof recorded as Instrument No. 1997-0081906 Marion County, Indiana ("Development").

WHEREAS, Developer imposed certain restrictions, covenants and conditions upon the Development pursuant to the terms and conditions of a certain Declaration of Covenants, Conditions and Restrictions for Mallard Green Section One, dated June 11, 1997 (the "Declaration"), which Declaration was recorded as Instrument No. 1997-0081905, Marion County, Indiana;

WHEREAS, Developer, pursuant to Article 3.01 of the Declaration, retained the right to add additional real estate to the Development from the Expansion Property as described in Exhibit "B" of the Declaration;

WHEREAS, Developer is developing Mallard Green Section Three, a subdivision in Indianapolis, Marion County, Indiana consisting of lots 64 through 91 comprising the "Subdivision", which Subdivision is contiguous to the Development and which is a part of the Expansion Property described in the Declaration;

WHEREAS, the real estate upon which the Subdivision is being developed is described in Exhibit A attached hereto; and

WHEREAS, Developer desires to amend the Declaration to add the Subdivision to the Development and to subject the Subdivision to the terms, conditions and restrictions contained in the original Declaration.

NOW THEREFORE, the Developer hereby subjects the Subdivision to, and imposes upon the Subdivision, all of the restrictions, covenants and conditions and benefits contained in the Declaration as if the Subdivision had been included in the Declaration and described in Exhibit "A" of the Declaration. All owners of Lots within the Subdivision shall become members of the Association created pursuant to Article 3 of the Declaration.

IN WITNESS WHEREOF, West 21st Street LLC has caused this instrument to be executed by its duly authorized representative this 12 day of July, 1999.

Signed and acknowledged
in the presence of:

WEST 21ST STREET LLC, an Indiana
limited liability company

BY: REPUBLIC DEVELOPMENT CORPORATION,
managing member

Ceryl L Miller
Richard L Arnos

By: *Richard L Arnos*
Richard L. Arnos
President

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

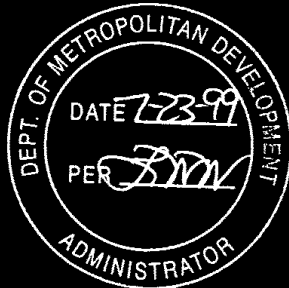
The foregoing instrument was acknowledged before me this 12th day of July, 1999, by RICHARD L. ARNOS, President of REPUBLIC DEVELOPMENT CORPORATION, an Ohio corporation, managing member of WEST 21ST STREET LLC, an Indiana limited liability company, on behalf of the company.

Ceryl L Miller
Notary Public



CHERYL L. MILLER
Notary Public, State of Ohio
Commission Expires 3-25-04

WAYNE TOWNSHIP
ASSESSOR
PLAT APPROVED
Date: July 19, 1999
By: Charles R. Spears
CHARLES R. SPEARS
ASSESSOR



Land Description
MALLARD GREEN SECTION 3

Part of the Southwest and Northwest Quarter of Section 28, Township 16 North, Range 2 East, in Marion County, Indiana, being more particularly described as follows:

BEGINNING at a stone marking the Southeast Corner of the said Northwest Quarter Section; thence North 00 degrees 14 minutes 41 seconds East (Assumed Bearing) along the East Line of the said Northwest Quarter Section a distance of 135.72 feet to the Southeast Corner of Mallard Green Section 1, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument number 97-0081906 in the office of the recorder of Marion County, Indiana; thence North 87 degrees 01 minutes 41 seconds West along the South Line of said Mallard Green Section 1 a distance of 394.38 feet to the East Line of Mallard Green Section 2, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument number 980126413 in the office of the recorder of Marion County, Indiana (the next seven (7) described courses being along the said East Line); thence South 10 degrees 58 minutes 41 seconds East a distance of 241.02 feet; thence South 02 degrees 14 minutes 48 seconds East a distance of 117.45 feet; thence South 03 degrees 58 minutes 38 seconds West a distance of 122.98 feet; thence South 37 degrees 01 minutes 19 seconds West a distance of 122.79 feet; thence South 30 degrees 30 minutes 56 seconds West a distance of 50.07 feet; thence South 33 degrees 08 minutes 04 seconds West a distance of 114.14 feet; thence South 26 degrees 02 minutes 44 seconds West a distance of 58.13 feet to the Northeast Line of Drake Landing Section 3, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument number 970096391 in the office of the recorder of Marion County, Indiana (the next four (4) described courses being along the said Northeast Line); thence South 63 degrees 57 minutes 18 seconds East a distance of 59.18 feet; thence South 43 degrees 32 minutes 05 seconds East a distance of 168.92 feet; thence South 16 degrees 31 minutes 18 seconds East a distance of 92.33 feet; thence South 09 degrees 21 minutes 13 seconds East a distance of 83.84 feet to the North Line of Drake Hill Section 2, a subdivision in Marion County, Indiana, the plat of which is recorded as Instrument number 9600118123 in the office of the recorder of Marion County, Indiana (then next three (3) described courses being along the North Line of Drake Hill Section 2); thence North 67 degrees 41 minutes 13 seconds East a distance of 79.85 feet; thence North 75 degrees 43 minutes 20 seconds East a distance of 139.83 feet; thence South 81 degrees 22 minutes 26 seconds East a distance of 65.20 feet; thence North 31 degrees 17 minutes 51 seconds West a distance of 70.58 feet; thence North 38 degrees 10 minutes 48 seconds East a distance of 25.06 feet; thence North 03 degrees 48 minutes 59 seconds West a distance of 137.74 feet; thence North 33 degrees 01 minutes 18 seconds West a distance of 57.18 feet; thence North 18 degrees 38 minutes 29 seconds East a distance of 148.57 feet; thence North 38 degrees 50 minutes 00 seconds East a distance of 60.38 feet; thence North 04 degrees 40 minutes 20 seconds West a distance of 50.74 feet; thence North 03 degrees 03 minutes 36 seconds East a distance of 229.50 feet; thence North 11 degrees 25 minutes 58 seconds East a distance of 106.49 feet; thence North 03 degrees 23 minutes 11 seconds East a distance of 36.88 feet to the BEGINNING POINT, containing 8.270 acres, more or less.

Mallard Green Section 3
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**THIRD AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR MALLARD GREEN SECTION ONE**

**TO PROVIDE FOR THE MODIFICATION OF THE EXPANSION PROPERTY
AND THE ADDITION OF MALLARD GREEN SECTION FOUR**

WEST 21ST STREET LLC, an Indiana limited liability company (hereinafter referred to as "Developer"), was the developer of a certain residential development in the City of Indianapolis, Marion County, Indiana, known as Mallard Green Section One, Two and Three as delineated on a plat thereof recorded as Instrument Nos. 1997-0081906, 1998-0126413 and 1999-0141489, respectively, Marion County, Indiana ("Development").

WHEREAS, Developer imposed certain restrictions, covenants and conditions upon the Development pursuant to the terms and conditions of a certain Declaration of Covenants, Conditions and Restrictions for Mallard Green Section One, dated June 11, 1997 (the "Declaration"), which Declaration was recorded as Instrument No. 1997-0081905, Marion County, Indiana;

WHEREAS, the Developer has turned over control of the Mallard Green Homeowners Association (hereinafter referred to as "Association") to the homeowners in Mallard Green Sections One, Two and Three;

WHEREAS, Developer, pursuant to Article 3.01 of the Declaration, retained the right to add additional real estate to the Development from the Expansion Property as described in Exhibit "B" of the Declaration;

WHEREAS, the Developer and the Association desire to change and redefine the configuration of the Expansion property to add additional Expansion Property (hereinafter referred to as "Additional Expansion Property");

WHEREAS, Developer owns and is developing Mallard Green Section Four, a subdivision in Indianapolis, Marion County, Indiana consisting of lots 1 and 2 comprising the "Subdivision", which Subdivision is contiguous to the Development and which is a part of the Additional Expansion Property;

WHEREAS, the real estate upon which the Subdivision is being developed is described in Exhibit A attached hereto; and

WHEREAS, Developer and the Association desire to amend the Declaration to add the Subdivision to the Development and to subject the Subdivision to the terms, conditions and restrictions contained in the original Declaration.

NOW THEREFORE, the Developer and the Association hereby amend the declaration and declares the covenants as follows:

11/02/00 02:20PM WANDA MARTIN MARION CITY RECORDER
Inst # 2000-0175975
HJK 22.00 PAGES: 5

5

MARTHA A. WOMACKS
MARION COUNTY CLERK
317597 NOV-28 00
FOR RECORDER

1. The Expansion Property set forth in Section 3.01 of the Declaration is hereby defined to include the Additional Expansion Property which will be comprised of Mallard Green Sections Four and Five as more specifically described on Exhibit "B-1" attached hereto and made a part hereof.

2. Developer hereby subjects the Subdivision to, and imposes upon the Subdivision, all of the restrictions, covenants and conditions and benefits contained in the Declaration as if the Subdivision had been included in the Declaration and described in Exhibit "A" of the Declaration. All owners of Lots within the Subdivision shall become members of the Association created pursuant to Article 3 of the Declaration.

3. Developer hereby reserves the exclusive right of architectural approval for each lot developed in the Additional Expansion Property until a home has been constructed thereon.

4. Each lot within the Additional Expansion Property is hereby exempt from all Homeowners Association assessments and dues until such time as said lot is sold to a homeowner.

5. Developer shall be responsible for maintenance of the common areas within the Additional Expansion Property as delineated on the Subdivision plats of Mallard Green Sections 4 and 5 until such time as 75% of the lots in said Additional Expansion Property have been sold by Developer.

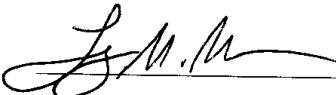
6. This Amendment is entered into by the Developer and the Mallard Green Homeowners Association as authorized by a majority vote of the owners of the lots in the Development pursuant to a meeting of the Mallard Green Homeowners Association held on September 20, 2000. All capitalized terms used in this Amendment shall have the meanings ascribed to them in the Declaration. Except as may be expressly provided herein, the Declaration continues in full force and effect.

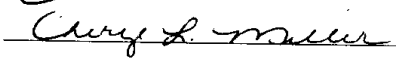
IN WITNESS WHEREOF, West 21st Street LLC and Mallard Green Homeowners Association have caused this instrument to be executed by their duly authorized representative this 11th day of October, 2000.

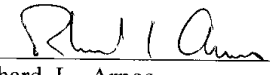
Signed and acknowledged
in the presence of:

DEVELOPER:
WEST 21ST STREET LLC, an Indiana
limited liability company

BY: REPUBLIC DEVELOPMENT CORPORATION,
managing member





By: 

Richard L. Arnos
President

Exhibit A
"Subdivision"
Mallard Green Section 4

Part of the Southeast Quarter of the Northwest Quarter of Section 28, Township 16 North, Range 2 East in Marion County, Indiana, being more particularly described as follows:

Commencing at the Northeast Corner of Mallard Green Section 1, a subdivision in Marion County, Indiana, the plat of which is recorded as instrument number 1997-0081906 in the office of the Recorder of Marion County, Indiana; thence North 00°01'01" East (assumed bearing) along the East line of said Northwest Quarter Section a distance of 573.84 feet to the Southeast corner of Sunningdale Commons Subdivision - Section 3, a subdivision in Marion County, Indiana, the plat of which is recorded as instrument number 1993-0145795 in the office of the Recorder of Marion County, Indiana; thence South 89°47'10" West along the South line of said Sunningdale Commons Subdivision - Section 3 and said south line extended westerly a distance of 1332.62 feet to the West line of the Southeast Quarter of said Northwest Quarter Section; thence South 00°00'00" West along said West line a distance of 644.76 feet to the Point of Beginning; thence continuing South 00°00'00" West along said West line 150.00 feet to the Northwest corner of said Mallard Green Section 1 (the next two (2) described courses being along the North line of said Mallard Green Section 1); (1) North 89°42'50" East a distance of 225.24 feet; (2) North 00°02'45" West a distance of 150.00 feet; thence South 89°42'50" West parallel with the North line of said Mallard Green Section 1 a distance of 225.12 feet to the Point of Beginning, containing 0.775 acres, more or less; subject to easements, rights-of-way, and restrictions.

This plat consists of 2 lots, numbered 1 and 2 as shown hereon. The size of lots and widths of streets are shown on this plat by figures denoting feet and decimal parts thereof.

Exhibit B-1
"Additional Expansion
Property"

14 August 2000
121-4739 BAF

LAND DESCRIPTION

Mallard Green Sections 4 & 5 - Overall Perimeter

Part of the Southeast Quarter of the Northwest Quarter of Section 28, Township 16 North, Range 2 East in Marion County, Indiana, being more particularly described as follows:

Beginning at the Northeast Corner of Mallard Green Section 1, a subdivision in Marion County, Indiana, the plat of which is recorded as instrument number 1997-0081906 in the office of the recorder of Marion County, Indiana; thence N 00°01'01" E (assumed bearing) along the East line of said Northwest Quarter Section a distance of 573.84 feet to the Southeast Corner of Sunningdale Commons Subdivision - Section 3, a subdivision in Marion County, Indiana, the plat of which is recorded as instrument number 1993-0145795 in the office of the recorder of Marion County, Indiana; thence S 89°47'10" W along the South line of said Sunningdale Commons Subdivision - Section 3 and said South Line extended westerly a distance of 1332.62 feet to the West Line of the Southeast Quarter of said Northwest Quarter Section; thence S 00°00'00" W along said West Line a distance of 794.76 feet to the Northwest corner of Mallard Green Section 1 (the next three (3) described courses being along the north line of said Mallard Green Section 1); (1) N 89°42'50"E 225.24 feet; (2) N 00°02'45"W 219.24; (3) N 89°42'50"E 1107.40 feet to the Point of Beginning, containing 18.713 acres, more or less, subject to easements, rights-of-way, and restrictions.

STATE OF OHIO)
) SS:
COUNTY OF LUCAS)

The foregoing instrument was acknowledged before me this 11th day of October, 2000, by RICHARD L. ARNOS, President of REPUBLIC DEVELOPMENT CORPORATION, an Ohio corporation, managing member of WEST 21ST STREET LLC, an Indiana limited liability company, on behalf of the company.

Cheryl L. Miller
Notary Public



CHERYL L. MILLER
Notary Public, State of Ohio
Commission Expires 3-25-04

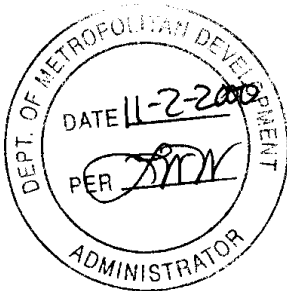
MALLARD GREEN HOMEOWNERS ASSOCIATION

By: Mike Yerke
MIKE YERKE PRES.

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

The foregoing instrument was acknowledged before me this 26th day of October, 2000, by Teresa Willard, Mike Yerke of MALLARD GREEN HOMEOWNERS ASSOCIATION, on behalf of the association.

Teresa Willard
Notary Public TERESA WILLARD
AUG. 8, 2008



WAYNE TOWNSHIP
ASSESSOR
PLAT APPROVED
Date: 11/02/2000
By: Charles R. Spears
CHARLES R. SPEARS
ASSESSOR

**FIFTH AMENDMENT TO THE
DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS
OF MALLARD GREEN**

This Fifth Amendment to the Declaration of Covenants, Conditions and Restrictions of Mallard Green ("Fifth Amendment") is made this 7TH day of JUNE, 2001, by Mallard Green Home Owners Association, Inc. ("Association").

WHEREAS, Declarant recorded the Declaration of Covenants, Conditions and Restrictions of Mallard Green ("Covenants") on June 12, 1997, as Instrument No. 1997-0081905, in the Marion County Recorder's Office; and

WHEREAS, the real estate and improvements contained on Exhibit "A" of the Covenants are subject to the terms, conditions, and restrictions of the Covenants; and

WHEREAS, the Declarant recorded the First Amendment to the Declaration of Covenants, Conditions, and Restrictions of Mallard Green on July 23, 1998, as Instrument No. 98-0126412, in the Marion County Recorder's Office; and

WHEREAS, the Declarant recorded the Second Amendment to the Declaration of Covenants, Conditions, and Restrictions of Mallard Green on July 23, 1999, as Instrument No. 99-0141490, in the Marion County Recorder's Office; and

WHEREAS, the Declarant recorded the Third Amendment to the Declaration of Covenants, Conditions, and Restrictions of Mallard Green on October 11, 2000, as Instrument No. 00-0175975, in the Marion County Recorder's Office; and

WHEREAS, the Declarant recorded the Fourth Amendment to the Declaration of Covenants, Conditions, and Restrictions of Mallard Green on April 12, 2001, as Instrument No. 01-0057885, in the Marion County Recorder's Office; and

08/02/01 01:09PM HANDA MARTIN MARION CTY RECORDER HJK 14.00 PAGES: 3

Inst # 2001-0135182

PLAT FOR SEC 5

WHEREAS, pursuant to the terms and conditions of Article III, Section 1 of the Covenants, Declarant formed Mallard Green Home Owners Association, Inc., an Indiana not-for-profit corporation (the "Association"); and

WHEREAS, pursuant to Article III, Section 2 of the Covenants, Declarant has turned over management of Mallard Green, and enforcement of the Covenants to the Association; and

WHEREAS, the Association desires to amend the Covenants, and,

WHEREAS, the Association has obtained the Declarant's written approval of this Amendment to the Covenants, which written approval is attached hereto as Exhibit "A"; and

WHEREAS, the Association has obtained approval of the Owners of at least fifty-one percent of the lots, and the mortgagees of at least fifty-one percent of the mortgagees requesting such action.

NOW, THEREFORE, the Association, hereby declares that the Covenants shall be amended as follows:

Article I - Use Restrictions. Article I, paragraph 1.06 is hereby deleted, and replaced with the following language:

1.06 Detached storage buildings shall be permitted only in locations approved by the Architectural Control Committee. No more than one (1) detached storage building shall be constructed on any building lot, and each and every detached storage building must first be submitted for approval and approved by the Architectural Control Committee prior to commencement of construction.

Article 1 - Use Restrictions. Article I, paragraph 1.22 shall be amended to read as follows:

1.22 No fences shall be permitted on any building lot in the subdivision which exceed six feet (6') in height. Any fence which is constructed on any building lot in the subdivision, must first be submitted and approved by the architectural control committee prior to the commencement of construction.

IN WITNESS WHEREOF, Mallard Green Home Owners Association, Inc., has caused this Amendment to be executed this 7th day of June, 2001.

MALLARD GREEN HOME OWNERS ASSOCIATION, INC.

By: [Signature]
President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said State and County, personally appeared Mike Herke, who acknowledged the execution of the foregoing.

WITNESS my hand and Notarial Seal this 7th day of June, 2001.

[Signature: Susan K. Dowden]

Printed: SUSAN K. DOWDEN

My Commission Expires: 06-16-01

Notary Public, whose residence is Madison County, Indiana

This instrument prepared by C. Warren Nerz, Esq., Attorney at Law, McCrosson & Nerz, 7855 South Emerson Avenue, Indianapolis, Indiana 46237, (317) 885-7500.

GAREMALLARD.AMD
CWNkam FOR TRANSFER

68 AUG-25
WOMACKS
AUDITOR



WAYNE TOWNSHIP
ASSESSOR
PLAT APPROVED
Date: 08/02/2001
By: [Signature]
CHARLES R. SPEARS
ASSESSOR