



# MISTY WOODS -

## FRANKLIN TOWNSHIP, MA.

I, PAUL MAURER, HEREBY CERTIFY THAT I AM A REGISTERED PROFESSIONAL LAND SURVEYOR LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA, AND I DO HEREBY FURTHER CERTIFY THAT I HAVE SUBDIVIDED THE SAME INTO LOTS AS SHOWN ON THE HEREON DRAWN PLAT. THIS PLAT CORRECTLY REPRESENTS SAID SURVEY AND SUBDIVISION.

THIS SUBDIVISION CONSISTS OF TWENTY-EIGHT (28) LOTS NUMBERED ONE (1) THROUGH TWENTY-EIGHT (28), INCLUSIVE, TOGETHER WITH STREETS, RIGHTS-OF-WAY AND EASEMENTS AS SHOWN ON THE PLAT HEREWITH.

### DESCRIPTION

A part of the East Half of the East Half of the West Half of the Northeast Quarter of Section 15, Township 14 North, Range 4 East of the Second Principal Meridian, located in Franklin Township, Marion County, Indiana more particularly described as follows:

Commencing at the Northeast Corner of said Half Half Quarter Section; thence South 88 degrees 02 minutes 05 seconds West along the North line of said Northeast Quarter Section (bearings based upon survey completed by The Schnelder Corporation recorded as Instrument Number 0101175860 in the Office of the Marion County Recorder) 104.00 feet to the northwest corner of the land of Hendricks recorded as Deed Book 988 Page 536 in the Office of the Marion County Recorder also marking the Point of Beginning of the herein described parcel; the next two courses follow the westerly and southerly boundary of said Hendricks; 1) thence South 00 degrees 00 minutes 44 seconds East parallel with the East line of said Half Half Quarter Section 475.00 feet; 2) thence North 88 degrees 03 minutes 37 seconds East 104.00 feet to said East line; thence South 00 degrees 00 minutes 44 seconds East along said East line 1160.53 feet; thence South 89 degrees 58 minutes 29 seconds West 444.61 feet; thence South 82 degrees 14 minutes 36 seconds West 50.46 feet; thence South 89 degrees 58 minutes 29 seconds West 170.00 feet to the East line of Sycamore Run Section Two recorded as Instrument Number 2000-88704 in said Recorder's Office, the next course follows the eastern boundary of said Sycamore Run Section Two and Sycamore Run Section One recorded as Instrument Number 1999-24814 in said Recorder's Office; thence North 00 degrees 01 minutes 31 seconds West 1319.83 feet to the southwest corner of the land of Schaler recorded as Instrument Number 90-111233 in said Recorder's Office, the next two courses follow the southern and eastern boundary of said Schaler; 1) thence North 88 degrees 02 minutes 05 seconds East 95.30 feet; 2) thence North 00 degrees 01 minutes 31 seconds West 300.01 feet to the aforesaid North line; thence North 88 degrees 02 minutes 05 seconds East along said North line 466.07 feet to the Point of Beginning containing 23.03 Acres more or less.

Subject to all easements, restrictions and rights-of-way.

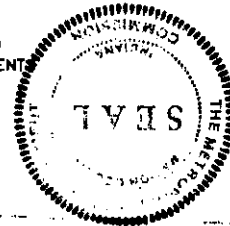
The real estate included in this plat is also subject to the Declaration of Covenants, Conditions and Restrictions for Misty Woods. Recorded as Instrument Number 2003-0055579 in the Office of the Marion County Recorder.

ALL MONUMENTATION SHOWN HEREON WILL EXIST, AND THAT THEIR LOCATION IS ACCURATELY SHOWN; AND THAT THIS PLAT COMPLIES WITH PROVISIONS OF THE SUBDIVISION ORDINANCE. THE SIZE OF LOTS AND WIDTH OF STREETS AND EASEMENTS ARE SHOWN IN FIGURES DENOTING FEET AND DECIMAL PARTS THEREOF.

Certified this 8th day of April, 2003.

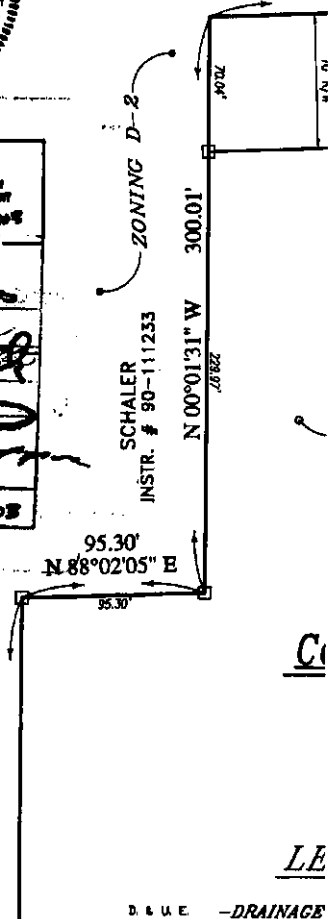
*Paul Maurer*  
 Paul Maurer  
 Registered Land Surveyor  
 Indiana No. 880006

03062071



FINAL APPROVAL PLAT COMMITTEE METROPOLITAN DEVELOPMENT COMMISSION DEPARTMENT OF METROPOLITAN DEVELOPMENT MARION COUNTY, INDIANA
April 21 2003
PROPER PUBLIC NOTICE OF THE HEARING HAS BEEN FURNISHED <i>Cheryl W. Johnson</i>
<i>John J. Schaler</i>
VOID IF THESE RECORDS REPORT DATE: APRIL 29, 2003

*Zone 2A*



CHICAGO TELE

ON ONE

D & E - DRAINAGE

C

LE

THIS SUBDIVISION SHALL BE KNOWN AND DESIGNATED AS "MISTY WOODS - SECTION

*Paul Maurer*  
 Paul Maurer  
 Registered Land Surveyor  
 Indiana No. 880006

030680074



THIS SUBDIVISION SHALL BE KNOWN AND DESIGNATED AS "MISTY WOODS - SECTION ONE", AN ADDITION TO THE CITY OF INDIANAPOLIS, MARION COUNTY, STATE OF INDIANA, ALL STREETS AND ALLEYS SHOWN AND NOT HERETOFORE DEDICATED ARE HEREBY DEDICATED TO THE CITY OF INDIANAPOLIS FOR PUBLIC USE.

**MISTY WOODS - SECTION ONE**

The undersigned, Realco Development Corp., owner of the above described real estate, hereby make, plat and subdivide, layoff and dedicate said described real estate into lots and streets in accordance with this plat, which addition shall be known as "Misty Woods - Section One". That the streets as shown on the attached plat are hereby dedicated to public use and that all of the lots contained in the above plat or any portion thereof shall be subject to the following restrictions, which restrictions shall be considered and hereby declared to be covenants running with the land, which said restrictive covenants are as follows, to-wit:

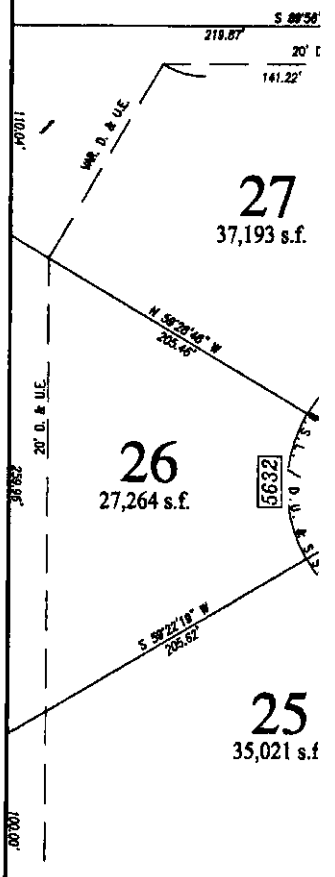
- 1) The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions or other limitations contained in this plat other than those covenants, commitments, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided further, that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the subdivision control ordinance, 59-AD-3, as amended or any conditions attached to approval of this plat.
- 2) The within covenants, limitations and restrictions shall run with the land and shall be binding on all parties and persons claiming under them. Such provisions shall be in full force and effect until January 1, 2020, at which time said covenants shall be automatically extended for successive periods of ten (10) years unless by vote of the majority of the then owners of the lots it is agreed to change the covenants in whole or in part, with the exception of the grants of easements or rights-of-way, which cannot be amended without the written consent of the Indianapolis Department of Capital Asset Management and the property owner(s) benefitting therefrom.
- 3) No fence, well, hedge or shrub planting which obstructs the sight lines at elevations between two (2) and nine (9) feet above the street, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sightline limitations shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.
- 4) It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the sanitary sewer construction approved by the Department of Capital Asset Management and the requirements of all sanitary sewer construction permits for this plan issued by said Department. All Owners further covenant that no building, structure, tree or other obstruction shall be erected, maintained, or allowed to continue on the portion of the owners' real estate in which the easement and right-of-way is granted without express written permission, which, when duly recorded, shall run with the real estate. The Department, and its agents, shall have the right to ingress and egress, for temporary periods only, over the owners' real estate adjoining said easement and right-of-way, when necessary to construct, repair or maintain sanitary sewer facilities.
- 5) Storm Drainage Covenant:  
 It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the Department of Capital Asset Management of the City of Indianapolis and the requirements of all drainage permits for this plat issued by said Department.
- 6) Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.
- 7) This subdivision has been designed to include a stormwater quality best management practice (BMP(s)) that must be maintained by the BMP(s) owner. Said BMP(s) is currently maintained by the developer; however, upon the activation of the homeowners association, the Operations and Maintenance Manual for such BMP(s), which has been recorded will become the responsibility of said association subject to all fees and other city requirements.

IN TESTIMONY WHEREOF, witness the signature of Declarant this 8th day of April, 2019.

SYCAMORE RUN - SECTION ONE  
 INSTR. # 1999-24814

LE

- D. & U. E. - DRAINAGE
- D. U. & S. S. E. - DRAINAGE, L
- 30' B.S.L. - BUILDING
- 99 - LOT NUM
- 12,345 sf - LOT NUM
- - 5/8" REE
- - 5/8" REE
- 3676 - LOT ADDR



CHICAGO TITLE

ON TWO

IN TESTIMONY WHEREOF, witness the signature of Declarant this 8th  
 day of April, 2003.

Reading Development Corp.  
 BY: [Signature] P.R.O.  
 Amarjeet S. Luthra, President

STATE OF INDIANA )  
 ) SS:  
 COUNTY OF MARION )

Before me, a Notary Public in and for said County and State, personally appeared  
 Reading Development, Corp., by Amarjeet S. Luthra, as President  
 who acknowledged the execution of the foregoing Plat Covenants, and who, having been duly sworn,  
 stated that any representations contained therein are true.

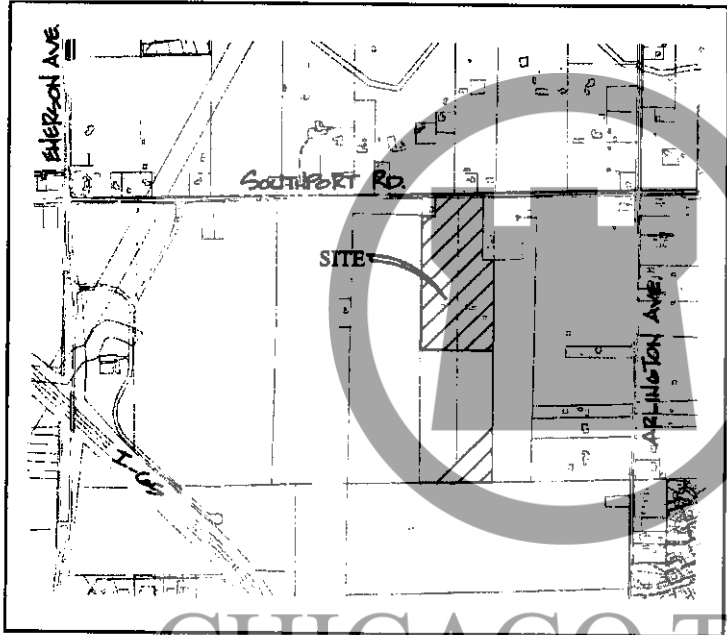
Witness my hand and Notary Seal this 8th day of April, 2003.  
 My Commission Expires: 2-17-08  
Johnson  
 County of Residence

Angelika E. Dake  
 Notary Public, Signature  
Angelika E. Dakes  
 Notary Public, Printed



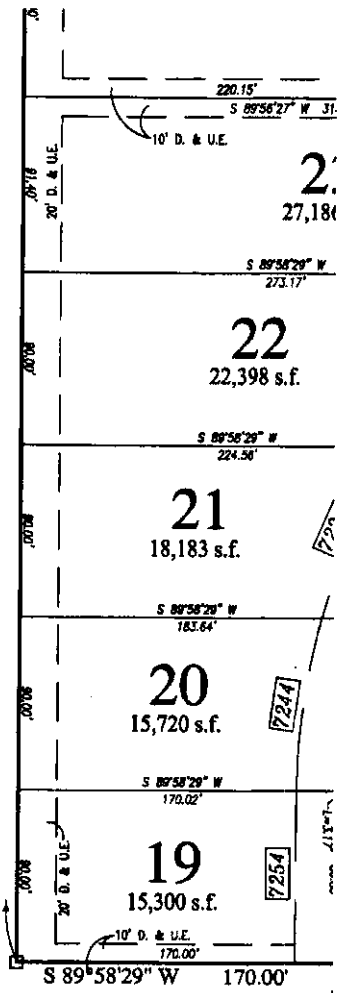
**FILED**  
 APR 21 2003  
 FRANKLIN TOWNSHIP  
 ASSESSOR

APPROVED THIS 21st  
 DAY OF April, 2003  
 FRANKLIN TOWNSHIP ASSESSOR  
[Signature] DRAFTSMAN



CHICAGO TITLE

SYCAMORE RUN - SECTION T  
 INSTR. # 2000-88704



ZONING D-2

030052071

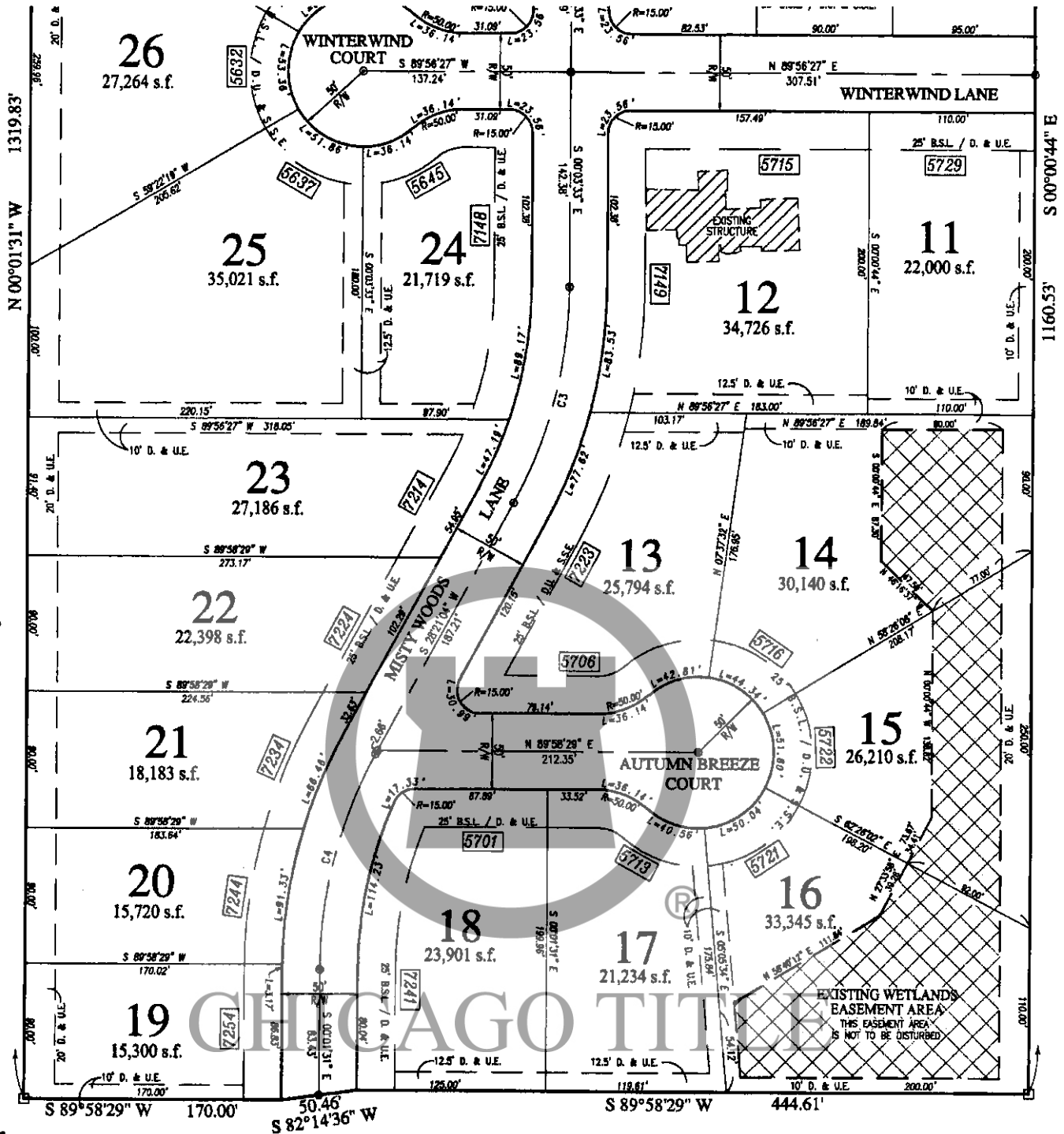
CURVE DATA

NUMBER	DELTA	CHORD DIRECTION	TANGENT
C1	03°58'23"	S 01°58'28" W	10.41
C2	04°01'12"	S 01°57'03" W	10.53
C3	28°24'37"	S 14°08'46" W	75.94
C4	28°22'35"	S 14°09'47" W	75.85

ZONING COMMITMENTS PER  
 Plat Docket Number = 2001-PLT-853

SYCAMORE RUN - SECTION TWO  
INSTR. # 2000-88704

ZONING D-2



ZONING D-2

ZONING D-2

SYCAMORE RUN - SECTION ONE  
INSTR. # 1999-24814

196,227 s.f.  
4.504 Acres

GRAPHIC



( IN FEET  
1 inch = 80

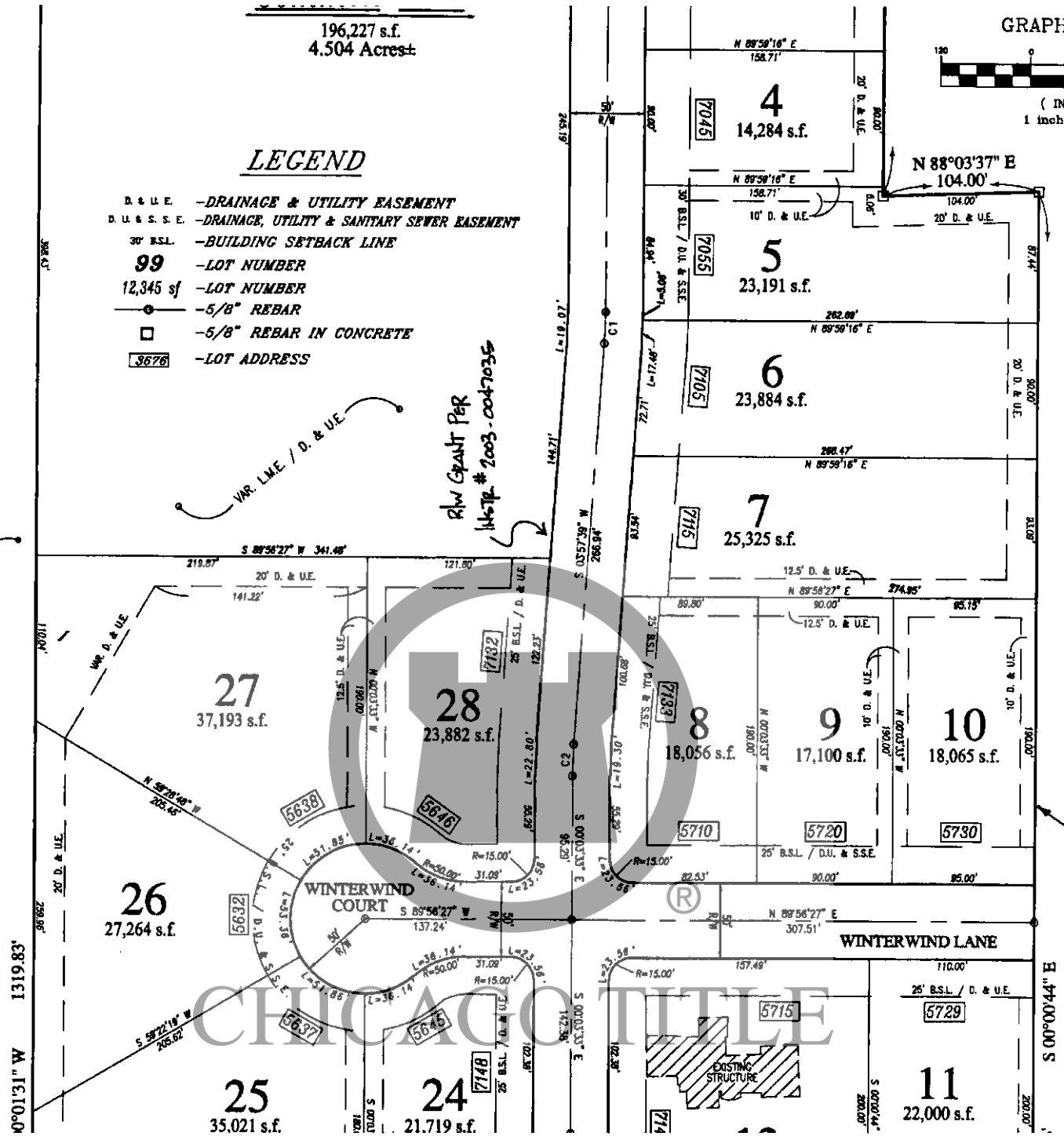
### LEGEND

- D & U.E. - DRAINAGE & UTILITY EASEMENT
- D.U. & S.S.E. - DRAINAGE, UTILITY & SANITARY SEWER EASEMENT
- 30' B.S.L. - BUILDING SETBACK LINE
- 99** - LOT NUMBER
- 12,345 sf - LOT NUMBER
- - 5/8" REBAR
- - 5/8" REBAR IN CONCRETE
- 3678** - LOT ADDRESS

VAR. L.M.E. / D. & U.E.

R/W GRANT PER  
LIT # 2003-0047035

ZONING D-2





FINAL APPROVAL  
PLAT COMMITTEE  
ILLINOIS DEPARTMENT OF TRANSPORTATION  
OFFICE OF METROPOLITAN DEVELOPMENT  
MADISON COUNTY, ILLINOIS

21 2008

FOR PUBLIC NOTICE OF THE  
THIS HAS BEEN FURNISHED

FILED RECORDS DEPT  
29, 2008

North Line N.E. 1/4  
Sec. 15, T-14-N, R-4-E

**SOUTHPORT ROAD**

N.E. COR. E1/2, E1/2, W1/2, N.E.1/4  
Sec. 15, T-14-N, R-4-E,

N 88°02'05" E

466.07'

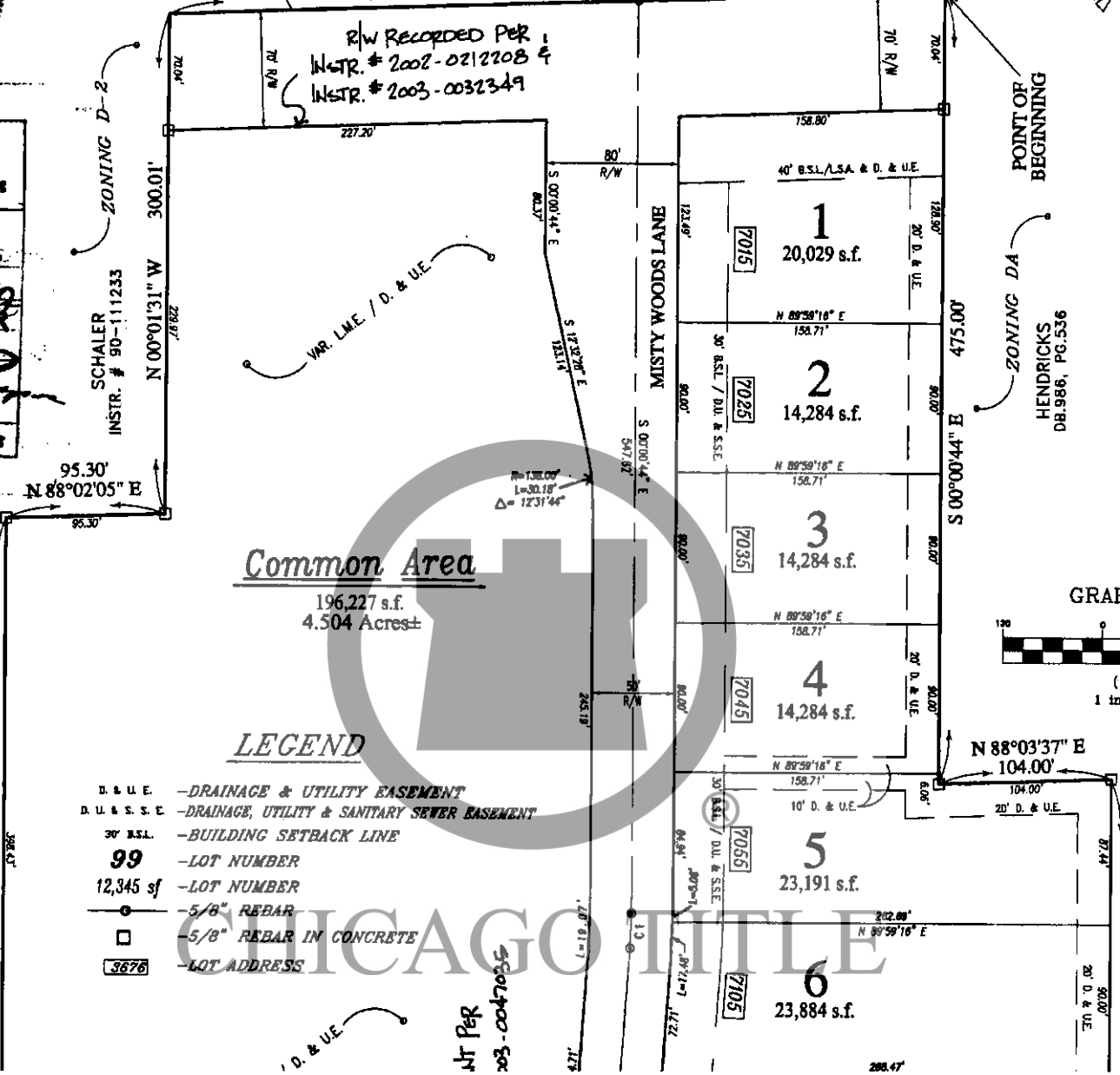
104.00'  
S 88°02'05" W

ZONING D-2  
SCHALER  
INSTR. # 90-111233

R/W RECORDED PER:  
INSTR. # 2002-0212208 &  
INSTR. # 2003-0032349

POINT OF BEGINNING

ZONING DA  
HENDRICKS  
DB.986, PG.536



Common Area  
196,227 s.f.  
4.504 Acres

**LEGEND**

- D & U.E. - DRAINAGE & UTILITY EASEMENT
- D.U. & S.F.C. - DRAINAGE, UTILITY & SANITARY SEWER EASEMENT
- 30' B.S.L. - BUILDING SETBACK LINE
- 99 - LOT NUMBER
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- - 5/8" REBAR
- - 5/8" REBAR IN CONCRETE
- 3676 - LOT ADDRESS

SYCAMORE RUN - SECTION ONE  
INSTR. # 1999-24814

NT PER  
203-0047095

D. & U.E.

20  
[Signature]

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
MISTY WOODS

THIS DECLARATION OF COVENANTS AND RESTRICTIONS FOR MISTY WOODS ("Declaration"), made this 27<sup>th</sup> day of February, 2003, by Rainco Development Corporation, an Indiana Corporation (hereinafter referred to as ("Declarant").

WITNESSETH THAT:

WHEREAS, Declarant Rainco Development Corporation is the owner of certain real estate located in Marion County, Indiana, more particularly described in the Plat for Misty Woods Subdivision, and/or the Legal Description attached hereto as Exhibit A, (if recorded separate from the Plat), and any amendments to same (the "Real Estate"); and

WHEREAS, Declarant intends to sell and convey the residential facilities and lots within Misty Woods and desires to subject the Real Estate to certain covenants, conditions, and restrictions (the "Covenants") in order to insure that the development and use of the various lots on the Real Estate are harmonious and do not adversely affect the value of surrounding lots on the Real Estate; and

WHEREAS, Declarant desires and intends to create on the Real Estate a residential community with public streets, lakes, landscaped areas, open spaces, walls, fences and other common areas and amenities for the benefit of such residential community, to be known as "Misty Woods Subdivision; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community and the common areas therein contained, and, to this end, Declarant desires to subject the Real Estate and any additional property which is hereafter made subject to this Declaration by Supplemental Declaration to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Real Estate and each Owner of all or part thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency/entity to which shall be delegated and assigned the powers of supervising, maintaining and administering any common areas located on the Real Estate, administering and enforcing the covenants and restrictions contained in this Declaration, collecting and disbursing the assessments and charges imposed and created hereby and hereunder, and promoting the health, safety and welfare of the Owners of the Real Estate, and all parts thereof; and

WHEREAS, Declarant has caused, or will cause, such agency /entity to be incorporated under the Indiana Code 23-17-1, et seq. under the name "Misty Woods Homeowners Association, Inc.;"

03/17/03 02:23PM HANNA MARTIN MARION CITY RECORDER  
Inst # 2003-0055579

JMC 67.00 PAGES: 20

**FILED**  
MAR 14 2003  
FRANKLIN TOWNSHIP  
ASSESSOR



NOW, THEREFORE, Declarant hereby declares that all of the Real Estate as it is now held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, is subject to the following Covenants. All of the covenants shall run with the Real Estate and shall be binding upon the Declarant and upon the parties having or acquiring any right, title, or interest, legal or equitable, in and to the Real Estate or any part or parts thereof and shall inure to the benefit of the Declarant and every one of the Declarant's successors in title to the Real Estate or any part of parts thereof.

## ARTICLE I

### General Purpose of This Declaration

The Real Estate is hereby subjected to the Covenants herein declared to preserve the value of the Real Estate, to ensure proper use and appropriate improvement of the Real Estate, to encourage the construction of attractive structures and other attractive improvements at appropriate locations on the Real Estate, to prevent haphazard development thereof which may be inharmonious with other improvements on the Real Estate to preserve and maintain proper setbacks from streets and adequate free space between structures, to provide for adequate and proper maintenance of the Real Estate so as to ensure a high quality appearance and condition of the Real Estate and so as to meet the requirements of certain governmental agencies, all for the purpose of preserving the values of all lots within Misty Woods and to ensure desired high standards of maintenance of the Real Estate, to the benefit of all Owners within Misty Woods.

## ARTICLE II

### Common Areas and Rights Therein

**SECTION 1. DECLARATION.** Declarant hereby expressly declares that the Properties shall be held, transferred and occupied subject to the Restrictions. The Owners of any Lot subject to these Restrictions, and all other Persons, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall conclusively be deemed to have accepted such deed, executed such contract and undertaken such occupancy subject to each Restriction and agreement herein contained. By acceptance of such deed, or execution of such contract or undertaking such occupancy, each Owners and all other Persons acknowledge the rights and powers of Declarant, the Architectural Review Committee (the "Committee") and the Misty Woods Homeowner's Association (the "Association") with respect to these Restrictions, and also for itself, its heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant, the Committee, the Association, and the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreement.

**SECTION 2. COMMON AREAS.** Declarant hereby grants a non-exclusive easement in favor of each Owner for the use, enjoyment and benefit of the Common

Areas (except for such portions of the Common Areas, if any, as to which, in accordance with other provisions hereof, the use, enjoyment and benefit is limited to the Owners of certain designated Lots to the exclusion of other Lots) subject to all of the Restrictions of this Declaration, and such easement shall be an easement running with and appurtenant to each Lot.

### ARTICLE III

#### Obligations of Declarant as to Common Areas

Declarant has constructed or provided for, or will prior to the Applicable Date construct or provide for, Common Areas consisting of the following items:

- (a) a storm drainage system for the Real Estate, which may include lakes, inlet pipes, open ditches, swales, pipes and other structures and drainage courses;
- (b) the installation, in common areas or landscape easements of landscaping and other screening materials;
- (c) the installation of entrance walls and other masonry fences in common areas or landscape easements;
- (d) the installation, within the street rights-of-way, of street lighting, street directories and street signs in common areas or in landscape easements.

Upon final construction or provision of the Common Areas described in this Section I, Declarant covenants to convey by quitclaim deed all of its right, title and interest in and to said Common Areas to the Association and all such right, title and interest in and to said items (whether owned in fee, by leasehold, by contract or in the nature of an easement or license) shall then be the property of the Association, whether or not the same may be located entirely or partially on any one or more of the Lots. As to any of such items of and constituting the Common Areas located entirely or partially on any one or more of the Lots, the Owners of such Lots shall have only non-exclusive easement rights therein as described in Article II of this Declaration.

### ARTICLE IV

#### General Restrictions

**SECTION 1. FIELD TILE.** Any field tile or underground drainage which is encountered in construction or any improvement within this subdivision shall be perpetuated, and all owners of Lots in this subdivision and their successors shall comply with all applicable drainage codes.

**SECTION 2. DRAINAGE SWALES.** Drainage swales (ditches) along dedicated roadways and within the right-of-way, or on dedicated easements, are not to be

altered, dug out, filled in, tiled or otherwise changed without the written permission of the Marion County Department of Public Works or its successor ("DPW"). Property owners must maintain these swales as sodded grassways, or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough before being out-letted into the ditch so that it will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts or other approved structures have been permitted by the DPW.

**SECTION 3. MAINTAINING DRAINAGE SWALES.** Any property owner altering, changing, damaging, or failing to maintain these drainage swales or ditches will be held responsible for such action and will be given ten (10) days notice by certified mail to repair said damage, after which time if no action is taken, DPW will cause said repairs to be accomplished and the bill for said repairs will be sent to the affected property owner for immediate payment. Failure to pay will result in a lien against the property. The maintenance of the storm drainage system for this subdivision by the Homeowners Association shall, to the extent not maintained by DPW, include but not be limited to, the maintenance of all inlet pipes, open ditches, pipes and swales. The costs and expenses of such maintenance which is not provided by the DPW shall be assessed as part of the general assessment against the owners of all lots in this subdivision as provided in the Declaration and shall be secured by a lien against all lots in this subdivision. Sump pumps, gravity drains and other drains serving individual residences on lots shall outfall only into drainage swales or storm structures included in the storm drainage system for the subdivision. It shall be the Lot Owner's responsibility to maintain and comply with all building and site finish ground elevations and erosion control as finally required and approved by the DPW and the Department of Metropolitan Development ("DMD") as evidenced upon the final construction plans for the development of this subdivision

**SECTION 4. DRAINAGE AND UTILITY EASEMENTS.** Areas designated as utility easements on the Plat are dedicated as easements for the installation and maintenance of public utilities reasonably and conveniently required, such as lines, ducts, gas or water mains or sewer mains and laterals, electric lines, telephone lines and cable television lines, fiber-optic lines, or the like, but not including transportation facilities or any overhead or underground electrical transmission lines intended to serve properties other than the Platted property and/or the immediate surrounding properties. No structures shall be erected on or maintained within such areas. Maintenance of the easement area itself is the responsibility of the lot owner.

**SECTION 5. MAINTENANCE OF PREMISES.** In order to maintain the standards of the property, no weeds, underbrush or other unsightly growth shall be permitted to grow or remain upon any lot, and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. All Lot Owners, for the good of the community, will maintain their lots in good condition to the curb line of the street.

It shall be the responsibility of each Owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her Lot. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the forgoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be pursued or undertaken on any part of the Properties. No waste shall be committed in or about any Dwelling or on any Lot. Each Owner shall:

- (i) Mow the Lot at such times as may be reasonably required in order to keep the grass no longer than five inches and prevent the unsightly growth of vegetation and noxious weeds;
- (ii) Remove all debris or rubbish;
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Real Estate;
- (iv) Cut down and remove dead trees;
- (v) Where applicable, prevent debris and foreign material from entering drainage areas; and
- (vi) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

Each Owner shall be responsible for, if the need therefore arises, all maintenance, repairs, decoration and replacement of his/her own Dwelling Unit, both interior and exterior. In addition, each Owner shall furnish and be responsible for the maintenance of all portions of his/her Lot, except for such portions thereof as may, in accordance with the terms of this Declaration, be designated as a part of the Common Areas for purposes of maintenance only. All fixtures and equipment installed within or as part of a Dwelling Unit, commencing at the points where the utility lines, pipes, wires, conduits or systems enter the Lot upon which said Dwelling Unit is located, shall be maintained and kept in repair by the Owner thereof. Each Owner shall promptly perform all maintenance and repair of his Lot and Dwelling Unit which, if neglected, might adversely affect any other Lot or Dwelling or any part of the Common Areas. Such maintenance and repairs include but are not limited to internal water lines, plumbing, electric lines, gas lines, appliances and other fixtures, equipment and accessories belonging to the Owner and a part of or appurtenant to his/her Dwelling Unit or Lot.

In the event that any Owner of a Lot shall fail to maintain his/her Lot and any improvement, or remove any unauthorized item or structure, situated thereon in accordance with the provisions of these Restrictions and the provision of any recorded plat of the Real Estate, the Declarant, until the Applicable Date, and, thereafter, the Association through its agents and employees or contractors, should have the right to enter upon said Lot and repair, mow, clean, remove or perform such other acts as may be

reasonably necessary to make such Lot and improvements situated thereon, if any, conform to the requirements of these Restrictions and the provisions contained in any such plat. The cost thereof to the Declarant or the Association shall be collected as a special assessment against such Owner and/or his/her Lot in the manner provided for herein for the collections of Common Expenses. Neither the Declarant nor the Association, nor any of its agents, employees or contractors, shall be liable for any damage which may result from any maintenance work performed hereunder.

**SECTION 6. MODEL HOMES.** No Owner of any Lot shall build or permit the building upon his Lot or any dwelling house that is to be used as a model home or exhibit house without permission to do so from the Declarant.

**SECTION 7. SALES OFFICE.** To the extent deemed necessary or desirable by Developer, Developer and/or a builder approved by Developer, may place sales office(s) and place construction and storage facilities for uses attributable to the construction, development, marketing and maintenance of the subdivision on any unsold lot or on any Common Area in the subdivision until 210 days following the sale, closing and deed transfer to a lot owner other than Developer of the last lot in the subdivision.

**SECTION 8. PROHIBITION OF USED STRUCTURES.** All structures constructed or placed on any Lot shall be constructed with substantially all new materials, and no used structures shall be relocated or placed on any such Lot.

**SECTION 9. QUIET ENJOYMENT.** No portion of the Properties shall be used, in whole or in part, for the storage or any property or thing that will cause it to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any portion of the Properties that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious illegal, or offensive activity shall be carried on upon any portion of the Properties. For greater clarification, no Owner shall knowingly or willfully make or create any unnecessary, excessive or offensive noise or disturbance which destroys the peace, quiet and/or comfort of any other Owner, or allow any such unnecessary, excessive or offensive noise or disturbance to be made on his/her Lot, including but not limited to any noise by the use of musical instruments, radio, television, loud speakers, electrical equipment, amplifiers, other machines or equipment, animals, or pets. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence is in any way obnoxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Properties. No outside burning of wood, leaves, trash, garbage or household refuse shall be permitted within the Properties.

**SECTION 10. RESIDENTIAL PURPOSES.** No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted on any lot other than a dwelling. Each dwelling shall have an attached garage of a size to accommodate at least two (2) cars.

**SECTION 11. EXTERIOR.** The exterior facing of dwellings placed on lots in Misty Woods shall be comprised of brick, stone, masonry, cedar, redwood or comparable wood of the same quality, concrete board product (such as "Hardi-Plank") or drivet. However, the soffits may be constructed of vinyl in addition to wood.

**SECTION 12. MASONRY REQUIREMENTS.** The entire ground floor, excluding the doors, windows, and garage door opening, of the homes in Misty Woods must be comprised of brick, stone or masonry.

**SECTION 13. PARKING.** With the exception of occasional events where an Owner has a social event and the invited guests cannot reasonably be expected to park on the Owner's driveway, or unless approved in advance in writing by the Association, parking on the public street(s) is prohibited. No overnight parking shall be permitted on any public street. No unlicensed or inoperative vehicle shall be permitted to be parked or stored on any Lot, easement or Common Area unless kept entirely within a garage. Any vehicle parked in violation of this Section or any parking rules promulgated by the Association may be towed, with the costs assessed to the Owner, or otherwise in accordance with the By-Laws.

**SECTION 14. TRUCKS, BOATS, RECREATIONAL VEHICLES.** Commercial vehicles, vehicles with commercial advertising and/or company names or similar commercial lettering or pictures on their exteriors, vehicles primarily used or designed for commercial purposes, large machinery or equipment, tractors, mobile homes, recreations vehicles, trucks rated in excess of a ton, trailers (either with or without wheels), campers, camper trailers, boats and other watercraft and boat trailers, may not be parked anywhere on the Properties unless parked in an enclosed garage. Notwithstanding the foregoing, service and delivery vehicles may be parked on the Properties for such period of time as is reasonably necessary to provide service or to make a delivery to a Lot. Any vehicle parked in violation of this Section or any parking rules promulgated by the Association may be towed, with the costs assessed to the Owner, or otherwise in accordance with the By-Laws.

**SECTION 15. NUISANCES.** No noxious, obnoxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. This provision may be construed to prohibit extremely audible music or activities. No outside toilets shall be permitted on any Lot (except during a period of construction and then only with the consent of the Association or the Committee, as applicable); and in such case no sanitary waste or other wastes shall be permitted to be exposed.

**SECTION 16. SIGNS.** No sign of any kind shall be displayed to the public view on any Lot, except one (1) professionally manufactured sign of not more than five square feet advertising the property for sale, subject to the prior written approval of the Declarant, until the Applicable Date, and, thereafter, the Association, as to the size, color (s), lettering and placement of such sign. Any sign advertising any residence for rent are specifically prohibited. Violation of the foregoing sign restriction will result in the

Owner being responsible for paying One Hundred Dollars (\$100.00) per day in liquidated damages to the Declarant, until the Applicable Date, and, thereafter, the Association. Notwithstanding the foregoing, the Declarant, until the Applicable Date, and, thereafter, the Association, shall have the right to erect signs as each, in their discretion, deem appropriate.

**SECTION 17. FUEL TANKS.** Above and/or below ground fuel storage tanks, including but not limited to oil, propane, diesel fuel, gasoline, and the like, are prohibited, with the exception that propane tanks not exceeding 20 lbs. in capacity, used for outdoor grills, shall be permitted.

**SECTION 18. ANIMALS AND PETS.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any portion of the Properties, except that dogs, cats or other usual and common household pets not to exceed a total of two (2) may be permitted on a Lot. However, those pets which are permitted to freely roam outside the boundaries of the Owner's Lot, or, in the sole discretion of the Association, endanger the health, make objectionable noise, or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any portion of the Properties, shall be removed from the Properties upon request of the Association. If the owner fails to honor such request, the Association, at the expense of the pet's owner, may remove the pet. No pets shall be kept, bred, or maintained for any commercial purpose. Pets shall at all times, whenever they are outside the boundaries of a Lot, be confined on a leash held by a responsible person. All solid waste from any Pet shall be cleaned up and collected by the pet owner, and properly and regularly disposed of by the pet owner.

**SECTION 19. RUBBISH, TRASH AND GARAGE.** All rubbish, trash, garbage or any other waste shall be stored in appropriate containers subject to the approval of the Committee or Association as applicable, and shall regularly be removed from the Properties and shall not be allowed to accumulate thereon. No Owner shall burn or permit burning out-of-doors of garage or other refuse. Garbage and trash shall be kept in appropriate containers which are not visible from the street, except on collection day. All clothes, sheets, blankets, rugs, laundry, clotheslines, garbage cans, mechanical equipment, and other similar items on Lots shall be located or screened so as to be concealed from view of neighboring Lots, streets, and any property located adjacent to the Lot.

**SECTION 20. CORNER LOT.** No fence, wall, hedge, tree or shrub planting or other similar item which obstructs sight lines at elevation between two and one-half (2 ½) feet and twelve (12) feet above the street, shall be permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points 25 feet from the intersection of said street lines (25 feet for minor streets and 50 feet for arterial streets), or in the case of a rounded property corner, from the intersection of the street right-of-way lines extended.

The same sightline limitations shall apply to any lot within 10 feet from the intersection of a street right-of-way line with the edge of a driveway pavement or alley

line. No driveway on a corner lot shall be located within 70 feet of the intersection of two street centerlines.

**SECTION 21. MINIMUM LIVABLE SPACE.** Each Dwelling Unit in Misty Woods shall contain livable space, not including porches, garages or basements, of not less than

- (a) 2,000 square feet for single story dwellings; and
- (b) 3,000 square feet for dwellings that exceed a single story.

**SECTION 22. FOUNDATION REQUIREMENTS.** With the exception of porch(es) and garage(s), each Dwelling Unit shall use as a foundation a crawl space and/or basement.

**SECTION 23. ADDRESS BLOCKS.** Each Dwelling Unit shall have the street number of its address permanently affixed to the front of the home in a prominent place, utilizing numbers at least three (3) inches in height.

**SECTION 24. CUTSOM HOMES.** Each Dwelling Unit constructed shall be a "custom home", as that term is generally used in the industry.

**SECTION 25. OUTBUILDINGS.** Except as may be permitted by the Declarant or the Committee during initial construction within the Properties, no tent, utility shed, shack, trailer, detached garage or other structure of a temporary nature shall be placed upon a Lot or the Common Areas. Notwithstanding the above, party tents or similar temporary structures may be erected for special events for a period not longer than 48 hours, and similar temporary structures may be permitted if approved in advance in writing by the Declarant, until the Applicable Date, and, thereafter, the Association.

**SECTION 26. EXTERIOR ATTACHMENTS.** No Owner shall cause or permit anything to be hung or displayed on the outside of the windows of his or her Dwelling Unit or placed on the outside walls of any building, and no awning, canopy, shutter or other attachment or thing shall be affixed to or placed upon the exterior walls or roofs or any other parts of any building without the prior consent of the Committee unless otherwise expressly authorized herein, or in any recorded subdivision plat, or by the rules, regulations and guidelines of the Committee.

**SECTION 27. DRIVEWAYS AND CARPORTS.** All driveways must be paved with concrete or an acceptable alternate approved by the Committee. No gravel or stone driveway will be permitted. All driveways serving each single-family dwelling shall be hard surfaced; and the driveway shall be a minimum of sixteen feet (16') wide for the entire length of the driveway. No carports will be permitted.

**SECTION 28. COMMUNICATION DEVICES.** Satellite dish/disc exceeding two feet in diameter, free standing antennas, or any other such visible communication



receiving or transmitting devices are prohibited, excepting antennas attached to the dwelling which do not rise above the peak of the roof. A satellite disk/disc less than two feet in diameter is permitted on the Properties so long as it is mounted on the side or rear of a Dwelling Unit, or is screened from street view.

**SECTION 29. MAILBOXES.** All mailboxes in Misty Woods shall be uniform in appearance. The Committee shall determine the style, type and location.

**SECTION 30. TREE PRESERVATION.** With the exception of trees which must be removed in order to develop the property as proposed in the conceptual site plan, any specimen trees greater than six (6) inches caliper shall be preserved to the greatest extent possible. Appropriate protection measures to protect any such specimen trees which are to be preserved will be taken during construction.

**SECTION 31. LANDSCAPING AND LIGHTING.** Two (2) trees (Four (4) trees on a corner Lot), each not less than two (2) caliper inches in size as measured 6 inches above the ground, will be planted on each Lot as a part of the initial landscaping of the Dwelling Unit. The trees planted to satisfy this Covenant must be of a species approved by the Committee. No Owner shall be allowed to plant trees, landscape or do any gardening in any of the Common Areas, except with express prior written permission from the Association. Each Lot Owner shall provide reasonable landscaping on his Lot including, at a minimum, suitable foundation landscaping along the entire front of the Dwelling Unit. All landscaping plans are subject to Committee approval in accordance with the guidelines and procedures promulgated by the Committee. The Committee may, in its discretion, modify such plans to promote the integrity and the aesthetic appearances of this subdivision. Finished grading of all yards must be completed within 15 days after the exterior of the Dwelling Unit is substantially complete, weather permitting, and all yards must be seeded or sodded with grass within ten days after the completion of the finish grading, weather permitting. Owner will protect any trees provided by the builder or the Declarant, if any, during construction; and will replace any tree provided by the Declarant or the builder, or which is planted to satisfy the above minimum tree covenant, within thirty (30) days of the such damage or death of the tree, weather permitting. Except for seasonal Christmas decorative lights, which may be displayed between December 1 and January 15 only, all exterior lighting shall be subject to the review/approval in advance of the Committee.

**SECTION 32. SIDEWALKS.** The Builder/Lot Owner must construct a four-foot (4') concrete sidewalk along the entire street frontage of each lot, in compliance with the approved construction plans for the subdivision, all applicable laws and codes, and the sidewalk plan approved by DPW. Any Common Area sidewalks shall be constructed by the Developer, as designated on the final development/sidewalk plan. All sidewalks to be constructed by the Builder/Lot Owner shall be completed at such times as the driveway to service the Dwelling Unit on the lot is constructed. All sidewalks shall be poured concrete, with expansion joints; and such sidewalk construction shall be perpetual and continuous along the street frontages and across the driveway of each Lot. The sidewalk shall be substantially level across the Lot, and especially as it crosses the

driveway. Any curb cuts on corner lots, and the connecting sidewalks from the curb to the sidewalk to allow for crossings, shall also be installed by the applicable Builder/Lot Owner.

**SECTION 33. REPAIRS.** All owners and their builder and/or contractors shall be responsible for and repair or restore any damage to any real or personal property during construction, whether or not inadvertent or unavoidable, including but not limited to curbs, sidewalks, gutters, street, storm drainage area, utilities, mailboxes, yards, Common Areas, landscaping, or other improvements.

**SECTION 34. WELLS AND SEPTIC TANKS.** No water wells shall be drilled on any lot. Septic tanks shall be prohibited.

**SECTION 35. SWIMMING POOLS.** Only in-ground pools with a concrete patio shall be permitted. Swimming pools must have the prior written approval of the Committee before any work is undertaken. Above-ground pools are prohibited. The Committee will approve permanent backyard pools only after careful consideration of the potential effect of such a pool upon neighboring properties.

**SECTION 36. PLAYGROUND.** No permanently installed playground equipment, tree houses, or similar structures shall be erected on any Lot without prior approval of the Committee; provided, however, children's play equipment such as sandboxes, swing and slide sets, and tents shall not require approval by the Committee provided such equipment is not more than eight (8) feet high, is maintained by the lot owner in good repair (including painting as necessary) and every reasonable effort has been made by the lot owner to screen or shield such equipment from view of adjacent lot owners.

**SECTION 37. TENNIS COURTS, RACQUETBALL COURTS, PADDLE BALL COURTS, BASKETBALL GOALS, ETC.** Tennis courts, racquetball courts, paddle ball courts, squash courts, and other recreational or sporting facilities shall not be built without prior written approval of the Committee. The Committee may approve such improvements only after thorough consideration of the potential effect of such a structure or use upon neighboring properties. The Committee will not approve non-baffled lighted courts or facilities.

All basketball backboards or any other fixed games and play structures shall be located behind the front foundation line of the main structure and within Lot set-back lines unless otherwise approved by the Committee. The Committee reserves the right to approve or disapprove the location and type of basketball goals.

**SECTION 38. CONSTRUCTION.** No construction, significant earth moving, or excavation work of any nature may be conducted on any Lot after completion of the initial Dwelling Unit, without the prior approval of the Committee. No construction shacks or outhouses shall be erected or situated on any Lot herein. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall

be permitted to remain on any Lot or used on any Lot at any time as a residence, either temporarily or permanently. All job sites, and abutting public streets and Common Areas, must remain neat and clean during construction. If the Declarant or the Association is not satisfied with the appearance of a construction site or abutting areas, after ten (10) days notice thereof to the Owner of the respective Lot, the Declarant or the Association may cause the site, affected streets, abutting areas to be cleaned, and may assess such charges specifically against the Owner.

**SECTION 39. FENCES, WALL, BARRIERS.** No fences, walls, barriers or like structures may be constructed without prior written approval of the Committee. Only wrought iron fences will be permitted. No such structures shall exceed six (6') feet in height. Any fence which is constructed on any platted Lot shall be constructed only in the rear yard; and shall not extend any closer to the public street in front of the dwelling than the applicable rear corner of the dwelling. No fences of any kind will be allowed in certain areas of Misty Woods. No hedges, walls, pet runs, animal pens, or kennels of any kind shall be permitted on any Lot except as approved in advance in writing by the Committee.

**SECTION 40. PROSECUTION OF VIOLATIONS.** It shall be lawful for the Declarant, until the Applicable Date, and, thereafter, the Association, the Committee (as to matters for which it has responsibilities) or any other person owning any real property situated in this subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any covenant, conditions, provisions, or restrictions contained herein either to prevent such person or persons from doing, or to recover damages or other dues for such violation, or to require the removal of structures erected in violation hereof. All costs of litigation and attorneys' fees resulting from violation of these covenants and restrictions shall be the financial responsibility of the lot owner or owners found to be in violation.

**SECTION 41. COMPLETION OF CONSTRUCTION.** All construction commenced on any lot within the development shall be completed within one hundred eighty (180) days, unless circumstances beyond the reasonable control of the builder and/or owner prevent completion. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage. The Declarant and/or Homeowners Association shall have standing and authority to seek an injunction or order for the removal of any materials and partially completed structures in violation of this covenant.

## **ARTICLE V**

### **Common Areas**

There are portions of ground marked "Common Areas" or "Blocks") on the Plat which, upon final construction or provision therefor, shall be conveyed by the Declarant to the Homeowners Association. All Common Areas, including additional Common

Areas at the Declarant's option, shall be subject to the applicable covenants and restrictions contained in the Declaration.

"Common Areas" shall mean and refer to (i) all portions of the Real Estate shown on any recorded subdivision plat of the Real Estate which are not dedicated to the public, which are not Lakes and which are not identified as Lots on any such plat, whether such plat is heretofore or hereafter recorded, (ii) such portions of Real Estate as are herein declared to be Common Areas on the plat of the Real Estate even though located on or constituting part of one or more such Lots shown on any such plat, (iii) to the extent hereinafter established, such improvements located, installed or established in, to, on, under, across or through the Real Estate as are herein declared to be Common Areas whether located, installed or established entirely or partially on Lots (as herein defined) or portions of the Real Estate which are not Lots, or both.

## **ARTICLE VI**

### **Lake/Lake Areas**

**SECTION 1. OWNERSHIP OF LAKES.** Each Lake area as shown of the plats of the subdivision shall be owned and controlled as tenants in common by the Owners of Lots proposed to abut the Lake subject to the restrictions set forth herein and on the Site Plan or Plat applicable to the Real Estate.

**SECTION 2. RIGHTS TO USE LAKES.** Subject to the easement rights with respect to the Lakes described in the Plat or Site Plan applicable to the Real Estate, the Owners of said Lake Lots together with guests in their presence, shall have the exclusive rights to use and enjoy such Lake(s), subject to the provisions of Section 4 of this Article.

**SECTION 3. TEMPORARY MAINTENANCE BY DECLARANT.** Until all Lots abutting each of the Lakes are sold, it shall be the responsibility of the Declarant and/or the Association, for the maintenance, repair and upkeep of each Lake(s). At any point in time thereafter, the Declarant shall have the right to elect at its discretion to surrender all or any portion of the responsibility for maintaining, repairing, and keeping up each of the lake(s) to the Lot Owners of the Lots abutting each such Lake, as applicable, as described in Section 5 of this Article.

**SECTION 4. LIMITATION ON USE OF LAKE(S).** No person shall do or permit to be done any action or activity which could result in pollution of the Lake(s), diversion of water from the Lake(s), elevation of Lake level(s), earth disturbance resulting in silting, or any conduct which could result in an adverse affect upon water quality, drainage of the subdivision or proper management of the Lake(s).

The Lakes are and will be an integral part of the storm water drainage system serving the Real Estate; and are intended to be used for such purpose. A secondary purpose for the Lakes shall be as visual and aesthetic amenities. However, the lakes are not intended as active recreational amenities, unless the Declarant, until the Applicable

Date, and, thereafter, the Association, approves in advance any proposed active recreational use of same. In any case, no use shall be made of any of the Lakes which in any way interferes with their proper functioning as part of such storm water drainage system.

The Lakes shall be kept free and clean of rubbish, debris and other unsightly materials. No structure of any kind shall be placed in the Lakes or on the Lake property without the prior written approval of the Committee.

No boating, swimming, diving, skiing or ice-skating shall be permitted in or on said Lakes except as permitted by the Declarant, until the Applicable Date, and, thereafter, the Association.

No sewage, garbage, refuse or other solid, liquid, gaseous or other materials or items (other than storm and surface water drainage) shall be put into said lakes, except the Declarant, until the Applicable Date, and, thereafter, the Association, may take steps to clear and purify the waters thereof by the addition of chemicals or other substances commonly used for such purposes or by providing therein structures and equipment to aerate the same.

Fishing from the shores of such lakes adjacent to an Owner's Lot by the Owner thereof and his invited guests and family shall be permitted subject to obedience and compliance with all applicable fishing and game laws, ordinances, rules and regulations; and/or any rules and regulations established by the Declarant, until the Applicable Date, and, thereafter, the Association.

In any case, neither the Declarant nor the Association shall be liable in any fashion for any injury or damage of any type resulting from the use of the Lake(s).

**SECTION 5. COSTS OF MAINTENANCE.** Estimated costs of maintenance and repair of the Lake property related to the storm water drainage system shall be included in the Common Expenses subject to general assessment for all Lots in Misty Woods. Any other expenses for maintenance, upkeep and repair of the Lake property including the easement adjacent thereto shall be shared pro rata by each Lake Lot Owner based either on the either the lineal footage of actual lake frontage on the respective lake which is owned by each respective Lake Lot Owner, or equally between all the Lake Lot Owners for each Lake, as determined reasonably in each case by the Declarant, until the Applicable Date, and, thereafter, the Association.

## **ARTICLE VII**

### **Misty Woods Architectural Control Committee**

Nothing, including but not limited to any home, home addition, fence, deck, porch, dock, pool, recreational equipment (including but not limited to basketball goals), structure, storage shed, doghouse, pet run, or any other improvement or structure

described in any portion of these Covenants or any document incorporated herein, shall be erected on any Lot; and no construction (which term shall include within its definition staking, clearing, excavation, grading, and other site work), no exterior alteration or modification of existing improvements, and no plantings or removal of plants, trees, or shrubs shall take place except in strict compliance with this Article, until the requirements below have been fully met, and until the approval of the Committee has been obtained pursuant to Section 2 below.

This Article shall not apply to the activities of the Declarant, nor to construction or improvements or modifications to the Common Area by or on behalf of the Association.

This Article may not be amended without the Declarant's written consent so long as the Declarant owns any land subject to this Declaration.

**SECTION 1. APPOINTMENT OF ARCHITECTURAL CONTROL COMMITTEE.** Declarant shall appoint an Architectural Control Committee to be composed of three (3) members at the discretion of the Declarant. There shall be, and hereby is, created and established the "Misty Woods Architectural Control Committee" ("Committee") which shall have exclusive jurisdiction over all construction on any portion of the Properties. Until 100% of the Properties have been developed and conveyed to purchasers in the normal course of development and sale, the Declarant, or not more than three, nor less than two, persons designated by it, shall constitute the Committee, and they shall serve at the discretion of the Declarant. There shall be no surrender of this right prior to that time except in a written instrument in recordable form executed by the Declarant. After the sale of 100% of the Properties, the Committee shall be a standing committee of the Association, consisting of not more than five, nor less than two, persons as may, from time to time, be provided in the Bylaws. If the Bylaws do not at any time provide for the Committee, then the Association Board of Directors shall be and constitute the Committee.

**SECTION 2. CONSTRUCTION APPROVALS.** Prior to any construction on any Lot, the approval of the Committee must be obtained after written application has been made to the Committee by the Owner of the Lot requesting authorization from the Committee. Such written application shall be made in the manner and form prescribed from time to time by the Committee in its guidelines and procedures which will contain requirements to promote the standard of quality of workmanship and design and harmony of external design with existing structures, location in relation to surrounding structures, topography and finish grade elevation as determined by the Committee. The plans and specifications of and location of all construction submitted by applicant to the shall be verified by the applicant as already being in compliance with all applicable regulatory codes, including those relating to building, plumbing, and electrical requirements, and shall also in compliance with all zoning covenants and restrictions which are applicable to the Real Estate. Any approval by the Committee shall be subject to such compliance; and the subsequent discovery of any such lack of compliance shall be grounds for the Committee to void its prior approval. The Committee's refusal to approve any proposal,

plans and specifications, location and/or plot plan submitted may be based on any reason, including purely aesthetic grounds, in the sole and absolute discretion of the Committee.

The plans and specifications submitted to the Committee for approval shall include at a minimum a plot plan to scale (showing any and all existing and proposed structures, and distances of all such structures from the Lot lines), existing and proposed landscaping, renderings or pictures of any proposed structure, a list of proposed exterior materials, identification of the colors of any painted or stained areas, colors of exterior siding and roofing and any other information reasonably necessary to evaluate the proposal. The decision as to whether to approve, deny, request additional or supplemental information or verifications, and the like, shall be at the sole discretion of the Committee. In addition, the Committee may place any conditions or requirements on its approval, including but not limited to changes to the proposed improvement, time frames for construction and completion of all or portions of the project, protective measures for other improvements and/or surrounding property, and the like

**SECTION 3. DUTIES OF COMMITTEE.** The Committee shall approve, disapprove, or request additional or supplemental information, on any proposed improvement, within fifteen (15) days after all required information shall have been submitted to it. One copy of all submitted material shall be retained by the Committee for its permanent files. All notifications to applicants shall be in writing, and, in the event that such notification is one of disapproval, it shall reasonably specify the reason or reasons therefore. The typical grounds upon which the Committee may refuse to grant permission to construct, place or make the requested improvement, when:

(a) the plans, specifications, drawings or other material submitted are, themselves, inadequate or incomplete, or show the proposed improvement to be in violation of these Declarations, the plat restrictions, or any rules, regulations or guidelines adopted by the Committee;

(b) the design or color scheme of a proposed improvement or the materials proposed to be used are not in harmony with the general surroundings of the Lot or with adjacent buildings or structures in the sole opinion of the Committee; or

(c) the proposed improvement, or any part thereof, would, in the sole opinion of the Committee, be contrary to the interest, welfare or rights of all or part of other Owners.

However, the foregoing shall not act to limit to discretion of the Committee to make decisions on any other basis.

**SECTION 4. LIABILITY OF COMMITTEE.** Neither the Committee nor any agent thereof, nor Declarant, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, for any defects in any work done, or for any injury or damage to any person or property related in any way thereto.

**SECTION 5. INSPECTION.** The Committee and the Declarant or its agent may inspect work being performed to assure compliance with the approved plans and this Declaration. However, to emphasize again the full and broad release described in Section

4 of this article, neither the Committee, nor any member thereof, nor the Declarant, nor any agent or contractor employed or engaged by the Committee or the Declarant, shall be liable or responsible for defects, nonconformity or deficiencies in any work inspected or approved by it or them, or on its or their behalf. Further, no such inspection or approval given by or on behalf of the Committee or the Declarant shall be taken or deemed to be or constitute a warranty or guaranty of the work so inspected or approved.

**SECTION 6. NO COMPENSATION.** Neither the Committee nor any of its members shall be entitled to any compensation for performing its duties or obligations set forth in this Declaration.

## **ARTICLE VIII**

### **Homeowner's Association**

The Declarant shall establish a Homeowner's Association ("Association"), created and controlled by the Declarant or its designee until the subdivision is substantially built out, and thereafter turned over to the homeowners, which shall be responsible for mandatory membership, mandatory lien enforced assessments and the collection of said assessments upon improved Lots to support the Association in, among other things, the expense of maintenance and taxes of the common areas such as retention ponds, open space, perimeter landscaping, snow removal from subdivision streets to supplement city snow removal, and payment of utility expenses for interior and entry lights. The Declarant will provide the Franklin Township Civic League with the name, address and telephone number of the initial contact for the homeowner's association, at the time control of the subdivision is turned over to the homeowners.

The planned Association of homeowners shall have appointed from among its members (being the Declarant until after the initial build out period has occurred), an Architectural Control Committee which shall have the power to approve or disapprove all house designs, additions or alterations thereto, together with any permitted accessory structure and or appurtenances.

## **ARTICLE IX**

### **Miscellaneous**

**SECTION 1. INCORPORATION OF ZONING COMMITMENTS.** The zoning commitments approved in the rezoning case No. 2001-ZON- 863, which were recorded as Instrument No. \_\_\_\_\_ in the Office of the Recorder of Marion County, Indiana, are hereby incorporated herein by this reference. In the case of any conflict between the terms of said zoning commitments and these Covenants, the zoning commitments shall control

**SECTION 2. RULES GOVERNING BUILDING AND LOTS HAVING ONE OWNER.** Whenever the same Person shall own two or more contiguous Lots, and



such Owner shall desire to use two or more of said Lots as a site for a single Dwelling Unit, he shall apply in writing to the Committee for permission to do so. If permission for such a use shall be granted, the Lots constituting the site for such single Dwelling Unit shall be treated as a single Lot for the purpose of applying these Restrictions to said Lots, so long as, and only so long as, the Lots remain improved with one single Dwelling Unit; **provided, however**, that any dues fees or other charges shall be assessed against each Lot individually.

**SECTION 3. COVENANTS RUN WITH THE LAND.** The right to enforce these provisions by injunction, together with the right to cause the removal by due process of law of any structure or part thereof, is hereby dedicated to the public and also specifically reserved to the Declarant, until the Applicable Date, and, thereafter, the Association, the owner(s) of any abutting Lot(s) (if the Association determines not to proceed or is not in existence at the time) and the several owners of the several lots in this subdivision and to their heirs and assigns.

The foregoing covenants and restrictions are to run with the land and shall be binding on all parties and persons claiming them until January 1, 2024, at which time said covenants and restrictions shall be automatically extended for successive ten year periods, unless by a majority vote of the then current owners of the Lots, it is agreed to change such covenants and restrictions in whole or in part.

Invalidation of any one of these covenants or restrictions by judgment on a Court Order shall in no way affect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, Rainco Development Corporation, by its President Amarjeet S. Luthra, has caused the execution of the foregoing covenants on this 27<sup>th</sup> day of February, 2003.

CHICAGO TITLE

Rainco Development Corporation

  
By: Amarjeet S. Luthra, President

STATE OF INDIANA     )  
  )SS:  
COUNTY OF JOHNSON    )

Personally appeared before me, the undersigned, a notary public in and for said county and state, Amarjeet S. Luthra, as President of Reainco Development Corporation who acknowledged the execution of the above and foregoing certificate as its voluntary act and deed for the use and purposes therein expressed.

My Commission Expires:

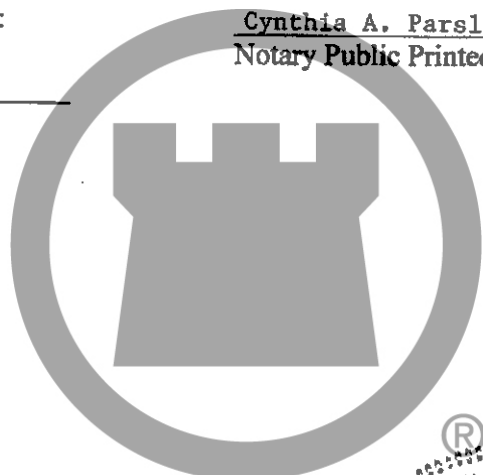
April 13, 2009

  
Notary Public Signature

My County of Residence:

Marion

Cynthia A. Parsley  
Notary Public Printed Name



CHICAGO TITLE



This document was prepared by: David A. Retherford, Attorney at Law  
3416 S. Post Road  
Indianapolis, Indiana 46239  
(317) 862-5744

# Exhibit "A"

## DESCRIPTION

A part of the Northeast Quarter of Section 15, Township 14 North, Range 4 East of the Second Principal Meridian, located in Franklin Township, Marion County, Indiana being more particularly described as follows:

Commencing at the Northeast Corner of said Quarter Section; thence South 88 degrees 02 minutes 05 seconds West (bearings based upon survey completed by The Schneider Corporation recorded as Instrument Number 010117560 in the Office of the Marion County Recorder) along the north line of said Quarter Section 1434.73 feet to the Point of Beginning of the herein described parcel, said point also being the northwest corner of the land of Hendricks recorded as Instrument Number 99-105920 in said Recorders Office; thence South 00 degrees 00 minutes 44 seconds East along the west line of the land of Hendricks 475.00 feet to the southwest corner of the land of Hendricks; thence North 88 degrees 03 minutes 37 seconds East along the south line of Hendricks 104.00 feet to the southeast corner of Hendricks also being the west line of Gibson recorded as Instrument Number 99-105920 in said Recorders Office; thence South 00 degrees 00 minutes 44 seconds East along the west line of Gibson 2208.85 feet to the south line of said Quarter Section; thence South 87 degrees 49 minutes 07 seconds West along said south line 664.84 feet to the southeast corner of Sycamore Run Section Two recorded as Instrument Number 2000-000088704 in said Recorders Office; thence North 00 degrees 01 minutes 31 seconds West along the east line of said Sycamore Run 2386.37 feet to the southwest corner of the land of Schaler recorded as Instrument Number 90-111233 in said Recorders Office; thence North 88 degrees 02 minutes 05 seconds East 95.30 feet to the southeast corner of Schaler; thence North 00 degrees 01 minutes 31 seconds West along the east line of Shaler 300.00 feet to said North line; thence North 88 degrees 02 minutes 05 seconds East 466.07 feet to the Point of Beginning containing 39.18 acres more or less.

Subject to all easements, restrictions and rights-of-way.

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# AMENDMENT


## To the DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS for

### MISTY WOODS

The following language shall be added to the Declaration of Covenants, Conditions and Restrictions for Misty Woods, which is recorded as Instrument Number 2003-0055579 in the Office of the Marion County Recorder.

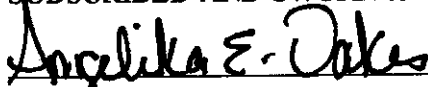
This subdivision has been designed to include a Stormwater quality best management practice (BMP(s)) that must be maintained by the BMP (s) owner. Said BMP(s) is currently maintained by the developer; however, upon the activation of the homeowners association, the Operations and Maintenance Manual for such BMP(s), which has been recorded will become the responsibility of said association subject to all fees and other city requirements.

I, Amarjeet S. Luthra, President, Reainco Development Corp., have requested the language listed above to be added to the Declaration of Covenants, Conditions and Restrictions for Misty Woods.

  
Amarjeet S. Luthra, President  
Reainco Development Corp.

Before me, a Notary Public in and for said County and State, personally appeared Amarjeet S. Luthra as President of Reainco Development, Corp. who acknowledge the execution of this Amendment, and who, having been duly sworn, stated that any representations contained therein are true.

SUBSCRIBED AND SWORN to before me on this 8 day of April, 2003

  
Notary Public Angelika E Dakes

My Commission Expires : 2-17-08  
Residing County: Johnson



CHICAGO TITLE

Inst # 2003-0079789

04/15/03 09:34AM MARION COUNTY RECORDER

6AM 11:00 PAGES: 1

167280 APR 15 2003  
SUBJECT TO FIRST PRIORITY MORTGAGE  
FOR TRANSFER

MARTHA A WOMACKS  
NOTARY PUBLIC  
MARION COUNTY, INDIANA