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DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

11/23/88

THIS DECLARATION made this 14th day of December, 1987 by THE C.P. MORGAN CO., INC., an Indiana corporation, its successors or assigns (hereinafter referred to as "Developer"),

WITNESSETH:

WHEREAS, Developer is the Owner of all of the lands contained in the area shown on Exhibit "A", attached hereto and made a part hereof, which lands have been or will be subdivided for development of single family housing (hereinafter referred to as the "Development"), and will be more particularly described on the plats of the various sections thereof recorded and to be recorded in the Office of the Recorder of Marion County, Indiana; and

WHEREAS, Developer is about to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions") under a general plan or scheme of improvement for the benefit and complement of the lots and lands in the Development and future owners thereof:

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development. Developer specifically reserves unto itself the right and privilege, prior to the recording of the plat by Developer of a particular lot or tract within the Development as shown on Exhibit "A," to exclude any real estate so shown from the Development, or to include additional real estate.

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1. Definitions. The following are the definitions of the terms as they are used in this Declaration.

A. "Committee" shall mean the Development Control Committee composed of three (3) members appointed by Developer who shall be subject to removal by Developer at any time with or without cause. Any vacancies from time to time existing shall be filled by appointment of Developer until such time as the subdivision is completely developed, or at such earlier time as Developer may turn over its responsibilities, at which time the homeowners shall form an association comprised of the Owners who shall select from its membership not less than three (3) members to serve as this committee for the enforcement of these covenants, conditions and restrictions.

B. "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by one of the plats of the development which is recorded in the Office of the Recorder of Marion County, Indiana.

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C. "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a lot, but excluding those persons having such interest merely as security for the performance of an obligation.

D. "The Committee" shall be created and its membership shall consist of the persons appointed by the Developer or lot owners who pay mandatory assessments annually for liability insurance and maintenance costs for any lakes and other Common Areas.

E. "Common Area" shall mean those areas set aside for pedestrian walkways (if any), lake and recreation area, theme structures at street entrances, lights and street landscaping.

F. "Limited Common Area" appears upon the platted lots of the subdivision designated by block letter showing the quantity of acreage contained therein and further identified as a "cul-de-loop" which is created for the exclusive use and enjoyment of those particular lots having public street access therefrom. Each such owner shall have an easement for ingress and egress in common with the other adjacent owners to the public street across such area. Such cul-de-loop shall further have a mounded landscape island therein adjacent to the public right-of-way and such Limited Common Area shall be owned and maintained by equal undivided interests as tenants in common of the lots abutting thereon and using the cul-de-loop as a means of ingress and egress to the public right-of-way. Such maintenance and repair shall be undertaken by a determination in writing of a majority of the lots owners having an undivided interest in the Limited Common Area, and upon the failure of any such lot owner to pay his equal contributive share for such maintenance or repair, the remaining lot owners or any one of them may advance the defaulting lot owner's contributive share upon thirty (30) days' written notice and such advancement shall constitute a lien upon the lot of the defaulting lot owner enforceable in the same manner and under the same terms as made and provided under the provisions of the Mechanics Lien Laws of the State of Indiana, Chapter 116 of the Acts of the 1909 Indiana General Assembly as amended to date, I.C. 32-8-3-1 et seq. Any such lien shall be subordinate to the lien of any first mortgage and any first mortgagee taking title to a lot by foreclosure or deed in lieu thereof shall take title free and clear of any such assessments for work performed prior to such mortgagee's taking title.

G. "Association" shall mean the Sunset At Eagle Creek Assn., Inc., an Indiana not-for-profit corporation, formed or to be formed comprised of Owners of Lots within the plats of the subdivision known as Sunset At Eagle Creek whose powers, duties and general conduct of affairs of the Association shall be more particularly set out in its Articles of Incorporation and Bylaws.

2. Power of Committee.

A. In General. No dwelling, building structure, fencing or improvement of any type or kind (excluding landscaping) shall be constructed or placed on any lot in the Development without the prior approval of the Committee. Such approval shall be obtained only 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 in the manner and form prescribed from time to time by the Committee, and the Committee may require a set of plans and specifications for any such proposed construction or improvement. The Committee may require that such plans include plot plans showing the location of all improvements existing upon the lot and the location of the improvement proposed to be constructed or placed upon the lot, each properly and clearly designated, and that such plans and specifications set forth the color and composition of all exterior

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materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. Provided, however, approval will not be required for rear fences not exceeding four (4) feet in height and playground facilities or similar items.

B. Power of Disapproval. The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

(1) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions.

(2) The design or color scheme of a proposed improvement is not in harmony with the general surroundings of the lot or with adjacent buildings or structures, including trim, siding, roof and brick color;

(3) The proposed improvement or any part thereof would architecturally, in the reasonable judgment of the Committee, be contrary to the interests, welfare or rights of all or any part of other Owners.

3. Duties of Committee. The Committee shall approve or disapprove proposed improvements within fifteen (15) days after all required information shall have been submitted to it. A copy of submitted materials 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 specify the reason or reasons. The Committee shall further affix its signature of approval upon two (2) site plans for purposes of obtaining an Improvement Location Permit from the Permits Section of the Department of Metropolitan Development.

4. Liability of Committee. Neither the Committee nor any agent thereof, nor Developer, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

5. Inspection. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

6. Rules Governing Building on Several Contiguous Lots Having One Owner. Whenever two or more contiguous lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said lots. If permission for such a use shall be granted, the lots constituting the site shall be treated as a single lot for the purpose of applying these Restrictions to said lots, so long as the lots remain improved with a single dwelling.

7. Remedies.

A. In General. Any party to whose benefit these Restrictions inure, including Developer and the Association or, the Code Enforcement Division of the Department of Metropolitan Development may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but neither Developer nor the Association shall be liable for damages of any kind to any person for failing to enforce or carry out any of these Restrictions.

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3. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

C. Costs and Attorney's Fees. In the event the Committee or the Association is required to retain attorneys or engage in civil proceedings in order to enforce the terms and provisions of this Declaration, the Committee or Association shall be entitled to recover its costs, including reasonable attorneys' fees, and all such costs shall constitute a lien upon the Lot or Lots involved in the same manner as the assessments for common areas provided for herein.

8. Effect of Becoming an Owner and Lien of Assessment.

A. The Owners of any lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions and also for themselves, their heirs, personal representatives, successors and assigns. Such Owner covenants and agrees and consents to and with Developer and to and with the Owners and subsequent owners of each of the lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements. Each owner by acceptance of a deed shall automatically become a member of the Association and subject to the mandatory lien of assessment for maintenance of the Common Area.

B. Developer shall initially pay the costs of liability insurance and maintenance costs for any lakes and other common area maintenance and weed control. Upon completion of development or turn over of control of the Association to the homeowners, the homeowners shall elect from among its membership not less than three (3) nor more than five (5) homeowners or other persons who shall act as its board of managers or board of directors and Development Control Committee, and Developer shall convey any lakes, pedestrian walkways and other common areas to the Association. The Association shall fix annual assessments for the above-described costs and any necessary reserves and expenses which shall be equal as to each lot in the Development. The Association may also contract for snow removal from streets within the Development. Payment of such assessments shall be mandatory as to each homeowner, shall constitute a continuing lien upon the property of that homeowner, subordinated only to the lien of a first mortgage, and shall be collected in the same manner and be subject to the same terms and conditions as the assessments described in paragraph 1.F hereof.

9. Common Area Use. The Common Area designated on the various plats of Sunset At Eagle Creek are hereby created and reserved: (i) for the use of Developer during the Development Period for access to and the installation and replacement of foliage, landscaping, screening materials, lakes and other improvements and (ii) for the use of the Association for access to and the installation, maintenance, repair and replacement of foliage, landscaping, screening materials and other improvements. Except as installed and maintained by Developer or the Association, no permanent structure or improvement shall be erected or maintained in or upon said Common Area.

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10. Duration. The foregoing covenants, conditions and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2017, at which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years. Changes or amendments in these covenants, conditions and restrictions may be made by vote of those persons (including Developer) who are then the Owners of a majority of the numbered lots in the Development. Any such change shall not be effective until recorded in the Office of the Recorder of Marion County, Indiana. No change affecting the rights or obligations of Developer hereunder shall be effective without the written consent of Developer.

11. Severability. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions.

Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

IN TESTIMONY WHEREOF, Witness the signature of Declarant this 14 day of December, 1987.

THE C.P. MORGAN CO., INC.,

By: William B. Blake
William B. Blake, Vice President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for such County and State, personally appeared William B. Blake, Vice President of The C.P. Morgan Co., Inc., who, having been duly sworn, acknowledged the execution of the foregoing Declaration of Covenants, Conditions and Restrictions and who, having been duly sworn, stated that the representations contained therein are true.

Witness my hand and Notarial Seal this 14th day of December, 1987.

Leigh B. Miller
(Leigh B. Miller) Notary Public

My Commission Expires:

3/21/88

My County of Residence is:

Marion

This Instrument was prepared by Brian J. Tuchy, Attorney at Law.

Woolpert Consultants
MCR - 12/1/86

LAND DESCRIPTION

A PART OF THE NORTH HALF OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 2 EAST, IN MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

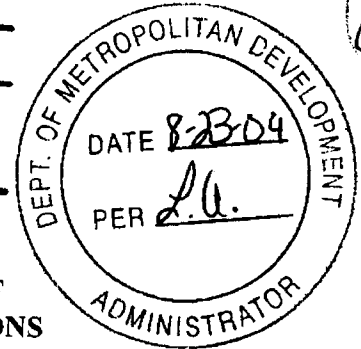
COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 14; THENCE NORTH 00°35'01" EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER 2669.17 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 14; THENCE SOUTH 89°55'50" EAST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER 35.00 FEET; THENCE NORTH 00°35'01" EAST 91.87 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED REAL ESTATE; THENCE NORTH 00°35'01" EAST 51.02 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY HAVING A CENTRAL ANGLE OF 24°29'13" AND A RADIUS OF 435.00 FEET; THENCE NORTHERLY AND NORTHWESTERLY ALONG SAID CURVE AN ARC DISTANCE OF 186.91 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF NORTH 11°39'36" WEST AND A LENGTH OF 184.50 FEET) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 23°54'12" WEST 138.83 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF INLAND DRIVE, SAID POINT BEING ON A CURVE CONCAVE NORTHWESTERLY HAVING A CENTRAL ANGLE OF 31°15'32" AND A RADIUS OF 415.00 FEET; THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE NORTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 226.41 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF NORTH 45°37'46" EAST AND A LENGTH OF 223.61 FEET) TO THE SOUTHWEST CORNER OF HIGHLANDS TRAIL SECTION I, THE PLAT OF WHICH IS RECORDED AS INSTRUMENT NO. 84-46011 IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA; THENCE SOUTH 90°00'00" EAST ALONG THE SOUTH LINE OF SAID HIGHLANDS TRAIL SECTION I A DISTANCE OF 954.66 FEET TO THE WEST RIGHT-OF-WAY LINE OF INTERSTATE 465 AS DESCRIBED IN INSTRUMENT NO. 37923 IN DEED RECORD 1751, PAGE 596, IN THE OFFICE OF SAID RECORDER; THENCE SOUTH 00°29'44" WEST ALONG SAID WEST RIGHT-OF-WAY LINE 548.13 FEET; THENCE NORTH 89°55'50" WEST PARALLEL TO THE SOUTH LINE OF SAID SOUTHEAST QUARTER 468.01 FEET; THENCE NORTH 00°29'44" EAST 32.54 FEET; THENCE NORTH 90°00'00" WEST 549.01 FEET TO THE POINT OF BEGINNING, CONTAINING 12.63 ACRES, MORE OR LESS; SUBJECT TO HIGHWAYS, RIGHTS-OF-WAY AND EASEMENTS.

EXHIBIT "A"

880000059

MARTHA A. WOKACKS
MARION COUNTY AUDITOR
548302 SEP-28
SUNSET AT EAGLE CREEK
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

APPROVED THIS 17th
DAY OF August 20 04
PIKE TOWNSHIP ASSESSOR
DRAFTSMAN SPO



Cross-Reference: 1988-59

**AMENDMENTS TO THE DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
OF SUNSET AT EAGLE CREEK**

These are amendments to the Declaration of Covenants, Conditions and Restrictions applicable to Sunset at Eagle Creek in Indianapolis, Marion County, Indiana.

WITNESSETH:

WHEREAS, the Sunset at Eagle Creek residential community located in Marion County was established by a certain "Declaration of Covenants, Conditions and Restrictions" which was recorded on January 4, 1988, as **Instrument No. 1988-59** in the Office of the Recorder of Marion County, Indiana ("Declaration"); and

WHEREAS, the Sunset at Eagle Creek residential community was further established upon the filing of certain Plats with the Office of the Recorder of Marion County, Indiana; and

WHEREAS, defined terms used herein, and not otherwise defined, shall have the meanings ascribed to them in the Declaration; and

WHEREAS, Paragraph 10 of the Declaration states that the Declaration may be changed or amended by approval by a vote of the owners of a majority of the seventy-five (75) Lots in Sunset at Eagle Creek; and

WHEREAS, the Board of Directors of Sunset at Eagle Creek Homeowners' Association, Inc. (the "Association" as defined and described in the Declaration) recommended that the Lot Owners approve the following amendments to the Declaration; and

WHEREAS, after notice was duly given, a Special Meeting of the Association and the Sunset at Eagle Creek Owners was held on May 18, 2004, at which the following was presented to, discussed by, and voted upon by the membership; and

WHEREAS, at said meeting and after adjournments thereof, the Owners of a majority of the Lots in Sunset at Eagle Creek voted to approve amendments to the Declaration pursuant to the terms and conditions set forth below.

NOW, THEREFORE, the Declaration is hereby amended for all Lots within Sunset at Eagle Creek. The restrictions contained herein shall run with the land and shall be binding upon the present and future Owners and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the Sunset at Eagle Creek properties.

1. There shall be a new Paragraph 12 (including Sections 12.1 through 12.9) added to the Declaration as follows:

Paragraph 12. Leasing of Lots (Dwellings) and Maximum Number of Lots Owned

Section 12.1. Limits on the Number of Leased Lots (“Rental Cap”). In order to insure that the residents within Sunset at Eagle Creek share the same proprietary interest in and respect of the Lots and the Common Areas, no more than seven (7) of the seventy-five (75) Lots may be leased or rented to non-owner occupants at any given time, except as may be otherwise provided in this Paragraph 12. The term “Lot” includes the single family dwelling situated on that Lot. If at any time such number of Lots are leased or rented, an Owner who wants to rent or lease his or her Lot which is not already rented shall be placed upon a waiting list by the Board of Directors. When an existing tenant moves out, the Owner of that Lot shall immediately notify the Board of Directors or Managing Agent of such fact and that Lot cannot be re-rented until all prior Owners on the waiting list, if any, have had a chance to rent their Lots. Prior to the execution of any lease, and in addition to the requirements set forth below, the Owner must notify the Board of Directors or the Managing Agent as to that Owner's intent to lease his or her Lot. After receiving such notice, the Board of Directors or the Managing Agent shall advise the Owner if Lots may be leased or whether the maximum number of Lots within Sunset at Eagle Creek is currently being leased. If the maximum number of Lots is being leased, the Board of Directors or the Managing Agent shall also notify the Owner of that Owner's position on the waiting list.

Notwithstanding the foregoing, the “rental cap” described above shall not apply to any Lot of an Owner in Sunset at Eagle Creek who, as of June 1, 2004, is renting or leasing said Lot and provides written proof thereof to the Association’s Managing Agent by that date. Such proof shall include a copy of each executed lease by such Owner which identifies the tenant (but which may have the rental amount deleted). The Owners of record of such currently-rented Lots shall not be subject to the provisions of this Section 12.1, but shall be subject to the remaining provisions of this Paragraph 12. However, when the legal owners of record of any of the above-described Lots sell, transfer or convey such Lot(s) to another Owner after June 1, 2004, such Lot(s) shall immediately become subject to this Section 12.1.

Section 12.2. Hardship Exceptions and Waiver. Notwithstanding Section 12.1 above, if an Owner wishes to rent or lease his or her Lot, but the maximum number of Lots is currently being leased, the Owner may request the Board of Directors to waive the

“rental cap” and approve a proposed lease if the Owner establishes to the Board’s satisfaction that the “rental cap” will cause undue hardship. If a majority of the entire Board of Directors approves in writing of the Owner’s request, the Board of Directors shall permit the Owner to rent or lease said Lot, subject to any further conditions or limitations imposed by the Board in the Board’s discretion, but only if the Owner satisfies all other requirements of this Paragraph 12. Such decision shall be at the sole discretion of the Board. Examples of an undue hardship include:

- (1) death, dissolution or liquidation of an Owner;
- (2) divorce or marriage of an Owner;
- (3) necessary relocation of the residence of an Owner to a point outside of a fifty (50) mile radius of the perimeter of Sunset at Eagle Creek due to a change of employment or retirement of at least one (1) of such Owners;
- (4) necessary relocation of the residence of an Owner due to mental or physical infirmity or disability of at least one (1) of such Owners;
- (5) other similar circumstances.

Section 12.3. General Lease Conditions. All leases, including renewals, shall be in writing, and no lease shall be entered into for a term of less than one (1) year without the prior written approval of the Board of Directors. No portion of any Lot other than the entire Lot shall be leased for any period. No subleasing shall be permitted. All leases shall be made expressly subject and subordinate in all respects to the terms of this Declaration, the By-Laws, Articles of Incorporation, and any rules and regulations promulgated by the Board of Directors, as amended, to the same extent as if the tenant were an Owner and a member of the Association; and shall provide for direct action by the Association and/or any Owner against the tenant with or without joinder of the Owner of such Lot. If such provision is not in the lease, it will be deemed to be in such lease. The Owner shall supply copies of such legal documents to the tenants prior to the effective date of the lease. In addition, the Board of Directors shall have the power to promulgate such additional rules and regulations as, in its discretion, may be necessary or appropriate concerning leasing. All Owners who do not reside in the home shall provide the Board of Directors with the name of the tenant(s) and any other residents living in the home.

Section 12.4. One Year Waiting Period. In addition to all other provisions of this Paragraph 12, for a period of at least one (1) year after an Owner’s acquisition of a Lot, said Owner cannot lease such Lot. After such time, said Lot will be eligible to be leased if all other conditions of this Paragraph 12 are satisfied and provided further that the Owner is not delinquent in the payment of any assessments or other charges to the Association.

Notwithstanding this Section 12.4, if an Owner wishes to lease a Lot prior to the end of the one year waiting period, the Owner may apply to the Board of Directors for a waiver. The Board may, in writing, approve an earlier lease if the Owner establishes to the Board's satisfaction that the waiting period will cause undue hardship in the manner as defined in Section 12.2 above.

Section 12.5. Owner is Still Liable. No lease shall provide, or be interpreted or construed to provide, for a release of the Owner from his or her responsibility to the Association and the other Owners for compliance with the provisions of this Declaration, the Articles of Incorporation, the By-Laws, and any rules and regulations promulgated by the Board of Directors, or from the Owner's liability to the Association for payments of assessments or any other charges.

Section 12.6. Association's Copy of Lease. A copy of each executed lease by an Owner which identifies the tenant (but which may have the rental amount deleted) shall be provided to the Managing Agent by the Owner within thirty (30) days after execution.

Section 12.7. Violations. Any lease or attempted lease of a Lot in violation of the provisions of this Paragraph 12 shall be voidable at the election of the Association's Board of Directors or any other Sunset at Eagle Creek Owner, except that neither party to such lease may assert this provision of this Paragraph 12 to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Sunset at Eagle Creek Owner, shall have the right to exercise any and all available remedies at law or equity.

Section 12.8. Maximum Number of Lots Owned by a Single Owner. In order to encourage Sunset at Eagle Creek being and remaining a community where the Owners reside on the property:

(a) No Owner may own more than two (2) Lots within Sunset at Eagle Creek at any time. This restriction shall not apply to any Owner who owns more than two (2) Lots which were purchased or with respect to which there was a binding purchase agreement prior to the recording of this restriction.

(b) If any Owner is the Owner of more than one (1) Lot, such Owner or the majority of the principals of such Owner shall and must reside in Sunset at Eagle Creek in at least one (1) of such Lots, unless otherwise approved in writing by the Board of Directors upon a showing by such Owner, satisfactory to the Board of Directors, of an undue hardship as defined in Section 12.2 above.

As defined in Paragraph 1.C of this Declaration, "Owner" means a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot. As used in this Section 12.8 above, "Owner" also means those persons or entities who comprise less than

all persons or entities who own in any form or manner the fee simple title or any part thereof to any Lot and those persons or entities who have any interest in any form or manner in the fee simple title or any part thereof to any Lot. As an example, if any person or entity owns or has any interest in the ownership of two (2) Lots, whether in his, her or its name only, as joint tenants, as life tenant or by or through any corporation, partnership, trust, limited liability company, or any other entity, that person cannot own a third Lot, whether in his, her or its name only, as joint tenants, as life tenant or by or through a corporation, partnership, trust, limited liability company, or any other entity.

Any purchase agreement, conveyance or lease or rental agreement executed subsequent to the recording of this restriction which violates any provision of this Section 12.8 shall be voidable at the election of the Association's Board of Directors or any Sunset at Eagle Creek Owner, except that neither party to such agreement, conveyance or lease may assert this provision of this Paragraph 12 to avoid its obligations thereunder. In the event of a violation, the Board of Directors, on behalf of the Association, or any Sunset at Eagle Creek Owner, shall have the right to exercise any and all available remedies at law or equity.

Section 12.9. Institutional Mortgagees. The provisions set forth in this Paragraph 12 shall not apply to any institutional mortgagee of any Lot which comes into possession of the Lot by reason of any remedies provided by law or in equity or in such mortgage or as a result of a foreclosure sale or other judicial sale or as a result of any proceeding, arrangement, or deed in lieu of foreclosure.

All other provisions of the Declaration shall remain in full force and effect.

2. **Acceptance and Ratification.** The ownership of any Lot or the acceptance of a deed of conveyance or the act of occupancy of any Lot shall constitute a ratification of these Amendments, together with the Declaration, and all such provisions shall be covenants running with the land and shall bind any person having at any time having any interest or estate in a Lot or Sunset at Eagle Creek as though such provisions were recited and stipulated at length in each and every deed, conveyance, mortgage or lease.

3. **Certification.** The undersigned persons hereby represent and certify that all requirements for and conditions precedent to the foregoing Amendments have been fulfilled and satisfied.

Executed this 2 day of August, 2004.

Sunset at Eagle Creek Homeowners Association, Inc.,

By: Kyle A. Gustin
Kyle A. Gustin, President

Attest:

Mae Duncan
Mae Duncan, Secretary

ACKNOWLEDGMENT

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a notary public, in and for said County and State, personally appeared Kyle A. Gustin and Mae Duncan, the President and Secretary, respectively, of Sunset at Eagle Creek Homeowners Association, Inc., an Indiana nonprofit corporation, who acknowledged execution of the within and foregoing for and on behalf of said corporation and its members and who, being duly sworn, stated that the certifications and representations made therein are true. Witness my hand and notarial seal this 2 day of August, 2004.

Margaret L. Smith
Notary Public - Signature

Margaret L. Smith
Printed

My Commission Expires:
3-5-09

Residence County: Harrison

This instrument prepared by, and should be returned to, P. Thomas Murray, Jr., Eads Murray & Pugh, P.C., Attorneys at Law, 7321 Shadeland Station, Suite 250, Indianapolis, IN 46256. (317) 842-8550.

CROSS REFERENCE

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6.50



WOOLPERT CONSULTANTS
5575 West 73rd Street
Indianapolis, Indiana 46268-2182

CROSS REFERENCE

APPROVAL OF ENGINEER'S CORRECTION
 METROPOLITAN DEVELOPMENT COMMISSION
 DIVISION OF DEVELOPMENT SERVICES
 PLAT COMMITTEE

7-11 1988

Frank G. H. [Signature]
 SUBDIVISION ADMINISTRATOR

RECEIVED

JUL 11 1988

Surveyors Certificate of Error
July 8, 1988

PIKE TOWNSHIP ASSESSOR

STATE OF INDIANA)
COUNTY OF MARION) SS:

APPROVED THIS 11th DAY OF July 1988
PIKE TOWNSHIP ASSESSOR
[Signature] DRAFTSMAN

John R. Heshelman, being duly sworn upon his oath, deposes and says:

That he is a Registered Land Surveyor in the State of Indiana, Registered No. S0386 and that scrivener's errors occurred in the Original Plat of Sunset at Eagle Creek Section IV, Marion County, Indiana, the plat of which is recorded as Instrument Number 88-0047901 in the records of the Recorder of Marion County, Indiana, and the corrections described on the attached sheet should be changed as indicated.

FURTHER AFFIANT SAYETH NOT:



RECEIVED FOR RECORD
88 JUL 11 AM 10:21
SETH O. LAUGHLIN
MARION COUNTY RECORDER

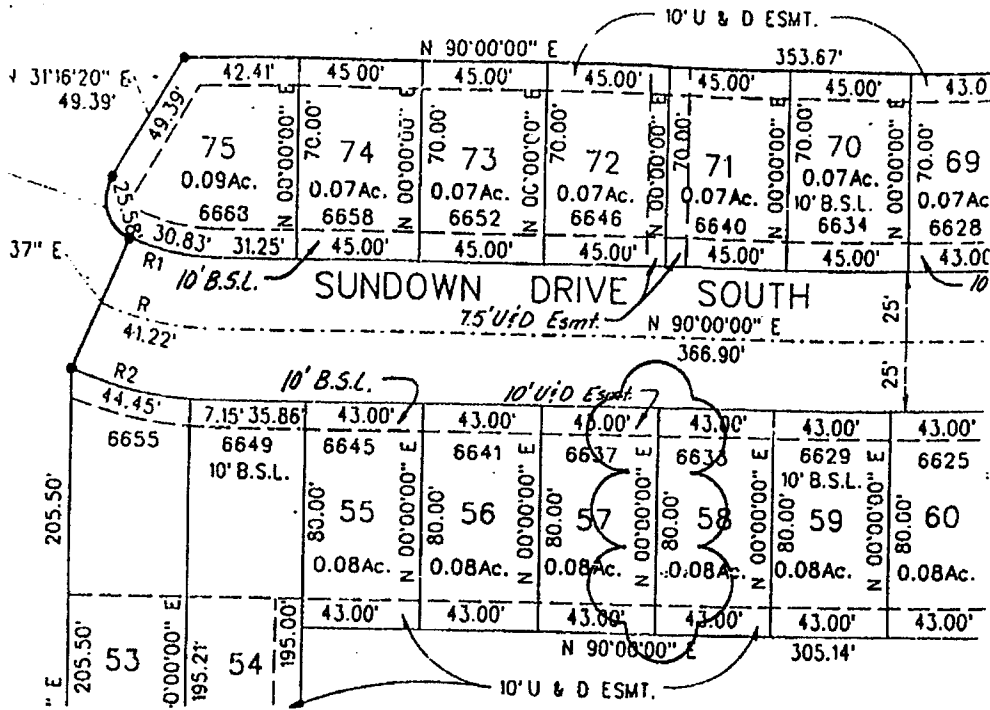
Subscribed and sworn to before me this 8th day of July, 1988.

CURTIS L. COCHRAN
MARION COUNTY CLERK
JUL 11 1988 10 15 578
DULY ENTERED FOR TAXATION
SUBJECT TO REGISTER
ACCEPTANCE FOR REGISTER

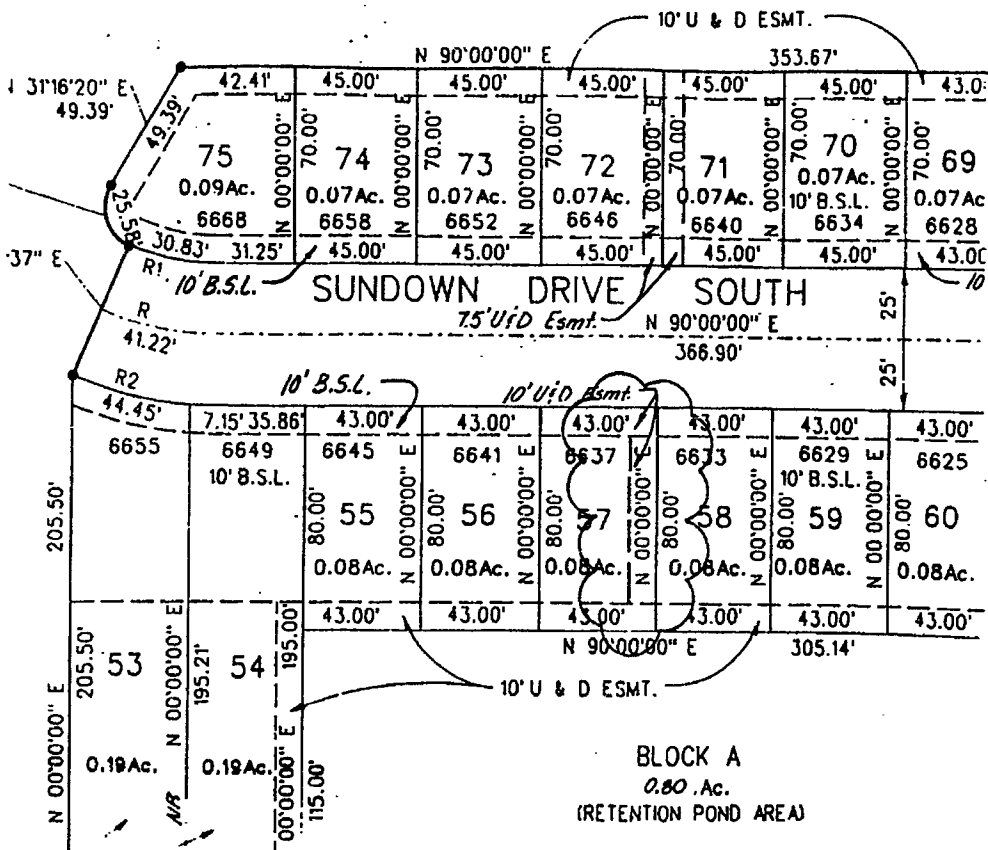
Linda C. Terwilliger
Notary Public
LINDA C. TERWILLIGER

My Commission Expires May 27 1989
My County of Residence is Wendick

This Instrument prepared by John R. Heshelman, Registered Land Surveyor, Indianapolis, Indiana.



AS RECORDED



AS CORRECTED

880067488

LAND DESCRIPTION

A PART OF THE NORTH HALF OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 2 EAST, IN MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 14; THENCE NORTH 00°35'01" EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER 2669.17 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 14; THENCE SOUTH 89°55'50" EAST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER 35.00 FEET; THENCE NORTH 00°35'01" EAST 91.87 FEET; THENCE NORTH 90°00'00" EAST 461.87 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°00'00" EAST 205.50 FEET; THENCE NORTH 23°47'37" EAST 50.00 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A CENTRAL ANGLE OF 97°14'54" AND A RADIUS OF 15.00 FEET; THENCE NORTHERLY AND NORTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 25.46 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF NORTH 17°19'20" WEST AND A LENGTH OF 22.51 FEET) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 31°16'20" EAST 49.39 FEET; THENCE NORTH 90°00'00" EAST 353.67 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A CENTRAL ANGLE OF 04°19'05" AND A RADIUS OF 75.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 5.65 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF SOUTH 01°39'48" EAST AND A LENGTH OF 5.65 FEET) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 00°29'44" WEST 17.92 FEET; THENCE SOUTH 89°30'16" EAST 165.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF INTERSTATE 465 AS DESCRIBED IN INSTRUMENT NO. 37923 IN DEED RECORD 1751, PAGE 596, IN THE OFFICE OF THE RECORDER OF MARION COUNTY; THENCE SOUTH 00°29'44" WEST ALONG SAID WEST RIGHT-OF-WAY LINE 290.02 FEET; THENCE NORTH 90°00'00" WEST 555.14 FEET TO THE POINT OF BEGINNING, CONTAINING 3.90 ACRES, MORE OR LESS; SUBJECT TO HIGHWAYS, RIGHTS-OF-WAY AND EASEMENTS.

THIS SUBDIVISION CONSISTS OF TWENTY-THREE (23) LOTS, NUMBERED FROM FIFTY-THREE (53) TO SEVENTY-NINE (79), BOTH INCLUSIVE, AND STREETS AND BLOCK A AS SHOWN HEREON. THE SIZE OF LOTS AND WIDTHS OF STREET RIGHT-OF-WAY ARE SHOWN ON THIS PLAT IN FIGURES DENOTING FEET AND DECIMAL PARTS THEREOF.

AS RECORDED

LAND DESCRIPTION

880072977

HIGHLAND VILLAGE - SECTION 14

A PART OF THE NORTH HALF OF SECTION 14, TOWNSHIP 16 NORTH, RANGE 2 EAST, IN MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 14; THENCE NORTH 00°35'01" EAST ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER 2669.17 FEET TO THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 14; THENCE SOUTH 89°55'50" EAST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER 35.00 FEET; THENCE NORTH 00°35'01" EAST 91.87 FEET; THENCE NORTH 90°00'00" EAST 461.87 FEET TO THE POINT OF BEGINNING; THENCE NORTH 00°00'00" EAST 205.50 FEET; THENCE NORTH 23°47'37" EAST 50.00 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE EASTERLY HAVING A CENTRAL ANGLE OF 97°43'03" AND A RADIUS OF 15.00 FEET; THENCE NORTHERLY AND NORTHEASTERLY ALONG SAID CURVE AN ARC DISTANCE OF 25.58 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF NORTH 17°35'11" WEST AND A LENGTH OF 22.59 FEET) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE NORTH 31°16'20" EAST 49.39 FEET; THENCE NORTH 90°00'00" EAST 353.67 FEET TO THE POINT OF CURVATURE OF A NON-TANGENT CURVE CONCAVE WESTERLY HAVING A CENTRAL ANGLE OF 04°19'05" AND A RADIUS OF 75.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE AN ARC DISTANCE OF 5.65 FEET (SAID ARC BEING SUBTENDED BY A CHORD HAVING A BEARING OF SOUTH 01°39'48" EAST AND A LENGTH OF 5.65 FEET) TO THE POINT OF TANGENCY OF SAID CURVE; THENCE SOUTH 00°29'44" WEST 17.92 FEET; THENCE SOUTH 89°30'16" EAST 165.00 FEET TO THE WEST RIGHT-OF-WAY LINE OF INTERSTATE 465 AS DESCRIBED IN INSTRUMENT NO. 37923 IN DEED RECORD 1751, PAGE 596, IN THE OFFICE OF THE RECORDER OF MARION COUNTY; THENCE SOUTH 00°29'44" WEST ALONG SAID WEST RIGHT-OF-WAY LINE 290.02 FEET; THENCE NORTH 90°00'00" WEST 555.14 FEET TO THE POINT OF BEGINNING, CONTAINING 3.90 ACRES, MORE OR LESS; SUBJECT TO HIGHWAYS, RIGHTS-OF-WAY, AND EASEMENTS.

THIS SUBDIVISION CONSISTS OF TWENTY-THREE (23) LOTS, NUMBERED FROM FIFTY-THREE (53) TO SEVENTY-NINE (79) BOTH INCLUSIVE, AND STREETS AND BLOCK A AS SHOWN HEREON. THE SIZE OF LOTS AND WIDTHS OF STREET RIGHT-OF-WAY ARE SHOWN ON THIS PLAT IN FIGURES DENOTING FEET AND DECIMAL PARTS THEREOF.

AS CORRECTED

880096403

1050
4

*

WOOLPERT
WOOLPERT
WOOLPERT
CONSULTANTS
5575 West 73rd Street
Indianapolis, Indiana 46288-2162

RECEIVED FOR RECORD
88 SEP 21 PM 2:56
BETH O'LAUGHLIN
MARION COUNTY RECORDER

Surveyors Certificate of Error
September 20, 1988

STATE OF INDIANA)
COUNTY OF MARION) SS:

John R. Heshelman, being duly sworn upon his oath, deposes and says:

That he is a Registered Land Surveyor in the State of Indiana, Registered No. S0386 and that scrivener errors occurred in the Original Plats of Sunset at Eagle Creek Section III and IV, Marion County, Indiana, the plats of which are recorded as Instrument Numbers 88-0047903 and 88-0047901 in the records of the Recorder of Marion County, Indiana, and the corrections described on the attached sheet should be changed as indicated.

FURTHER AFFIANT SAYETH NOT:



John R. Heshelman

Subscribed and sworn to before me this 20th day of September, 1988.

Linda C. Terwilliger
Notary Public
LINDA C. TERWILLIGER

My Commission Expires May 27, 1989
My County of Residence is Wendick

This Instrument prepared by John R. Heshelman, Registered Land Surveyor, Indianapolis, Indiana.

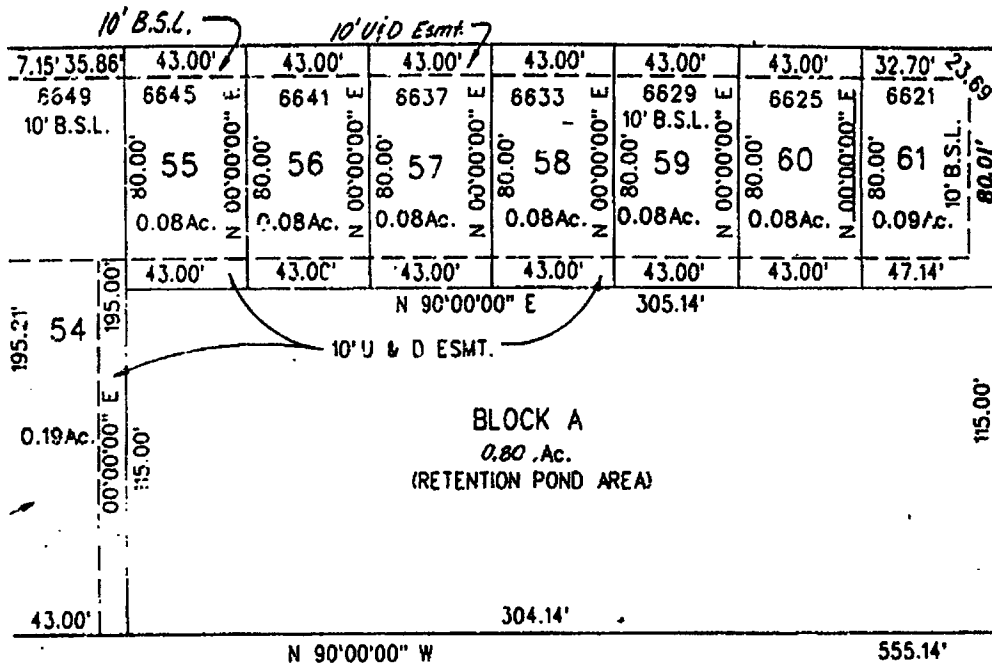
APPROVAL
OF
ENGINEER'S CORRECTION
METROPOLITAN DEVELOPMENT
COMMISSION
DIVISION OF DEVELOPMENT SERVICES
PLAT COMMITTEE
SEPT 21 1988
Wright
SUBDIVISION ADMINISTRATOR

RECEIVED

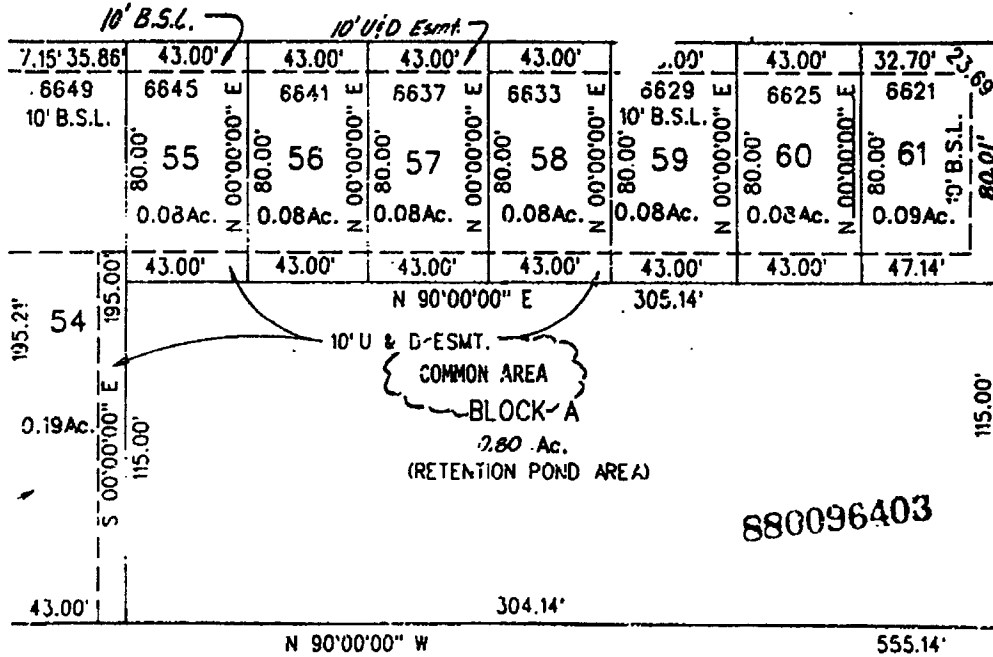
SEP 21 1988

PIKE TOWNSHIP
ASSESSOR

SEP 21 1988 028099
DUTY ENTERED
TAXATION
SUBDIVISION
ACCEPTANCE

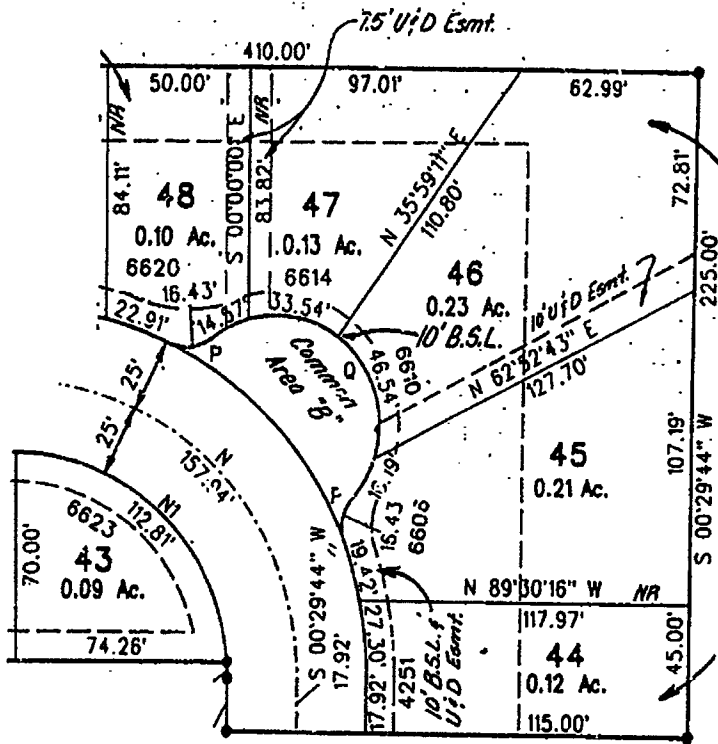


AS RECORDED
IN SECTION IV

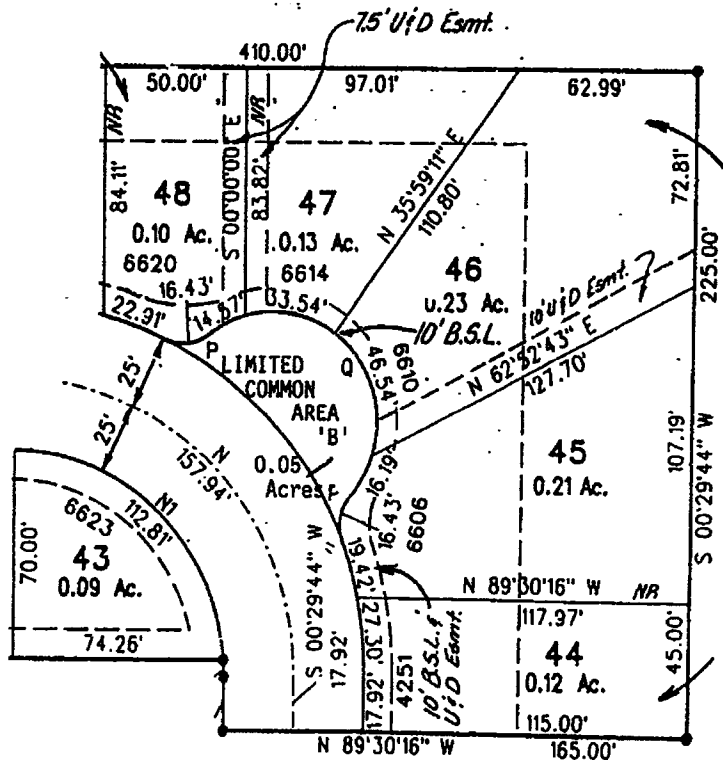


AS CORRECTED*

* THIS CORRECTION PERTAINS ONLY TO COMMON AREA BLOCK A



AS RECORDED
IN SECTION III



880096403

AS CORRECTED*

LIMITED COMMON AREA - SECTION III
ACREAGE -
0.05 ACRE

L.C. AREA
"B"

LOTS SERVED
45-46-47-48

* THIS CORRECTION PERTAINS ONLY TO LIMITED COMMON AREA 'B'

IN REFERENCE TO THE ENGINEERS CORRECTION, RECORDED AS INSTRUMENT # 88-67488
IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA, THE CORRECTIONS
SHOWN PERTAIN ONLY TO LOTS 57 & 58. ALL OTHER DATA SHOULD BE TAKEN FROM
THE RECORDED PLAT.

880096403