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SUPPLEMENTAL DECLARATION ESTABLISHING A
HOMEOWNERS ASSOCIATION FOR WINDJAMMER BAY

THIS SUPPLEMENTAL DECLARATION (the "Supplemental Declaration") is made this 5th day of May, 1989, by Richard A. Lewis, et al, Richard Allen Corporation, as Incorporator of Windjammer Bay Homeowners Association, Inc. (hereinafter collectively referred to as "Developer"), and

WITNESSES:

WHEREAS, Developer and/or Lot owners own in fee simple the lands contained in the area described in Exhibit A, attached hereto and made a part hereof, (the "Real Estate"); and

WHEREAS, Developer is developing the Real Estate upon which Developer or its assigns may, but is not obligated to, construct residential facilities, which shall be known as Windjammer Bay ("Windjammer Bay" or the "Development") and which has been or shall be platted by Developer; and

WHEREAS, the Real Estate has been platted by Developer as the Windjammer Bay Subdivision, recorded on June 2, 1986 as Instrument No. 86-10090 in the Office of the Recorder of Hamilton County, Indiana along with the Plat and the Declaration of Covenants, Easements & Restrictions which run with the land comprising Windjammer Bay (both of which, by this reference, are incorporated herein and collectively referred to as the "Plat Declaration"); and

WHEREAS, Developer desires to subject the Development (consisting of the Real Estate) to certain covenants and restrictions (the "Restrictions") in addition to those set forth in the Plat Declaration in order to further insure that the development and use of the various lots in Windjammer Bay are harmonious and do not adversely affect the value of surrounding Lots on the Development; and

WHEREAS, Developer desires to provide for maintenance of the Easement Areas, which includes any entrance signage, and improvements located or to be located in Windjammer Bay, which are of common benefit to the Owners of the various Lots within said subdivision, and to that end desires to establish certain obligations on said Owners and a system of assessments and charges upon said Owners for certain maintenance and other costs in connection with the operation of Windjammer Bay; and

WHEREAS, a majority of Windjammer Bay lot owners, as Owners, consent to the establishment of the Windjammer Bay Homeowners Association and this Supplemental Declaration, with each Owner's consent attached hereto and incorporated herein as Exhibit B.

NOW, THEREFORE, Developer and Owners hereby declare that all of the platted lots and lands located within the Development 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 of parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to the Development, or any part thereof.

This Instrument Recorded 5-4 1989
Sharon K. Cherry, Recorder, Hamilton County, IN

1. DEFINITIONS.

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

- (i) "Assessment" means the share of the Common Expenses imposed upon each Lot, as determined and levied pursuant to the provisions of paragraph 7 herein.

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SHARON K. CHERRY
RECORDER
HAMILTON COUNTY, IN

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(ii) "Association" shall mean the "Windjammer Bay Homeowners Association, Inc.," or an organization of similar name, its successors and assigns which has been or shall be created as an Indiana not-for-profit corporation and its membership shall consist of lot owners who pay mandatory assessments for Common Expenses and the cost of such other services as may be desired for the common benefit of all Owners.

(iii) "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Easement Area (including entry signage and excluding Drainage, Utility or Sewer easements), snow removal and trash removal (to the extent, if any, provided by the Association), personal property taxes assessed against any Easement Area, and any other cost or expense incurred by the Association for the benefit of the Easement Area, and shall also include the costs of insurance as required herein. Common Expenses shall not include any costs or expenses incurred in connection with the initial installation or completion of the streets, utility lines and mains, drainage system, street lights, or other improvements constructed by Developer.

(iv) "Easement Area" shall mean those areas owned by the Association or on which Association property is located or dedicated to the public for whatever purpose and also includes any areas of easement set forth on the various plats of the Development.

(v) "Declarations" means this Supplemental Declaration and the Plat Declaration, collectively.

(vi) "Developer" or "Declarant" means Richard A. Lewis, President of Richard Allen Corporation, as agent developer for Jonathan Group, Inc. as developer of Windjammer Bay.

(vii) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by the plat of the Development which is recorded in the Office of the Recorder of Hamilton County, Indiana.

(viii) "Mortgage" shall mean any holder, insurer or guarantor of any first mortgage on any Lot.

(ix) "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; provided, however, that the Declarant shall be deemed for all purposes hereof relating to payment of Assessments not to be an Owner with respect to any Lot during the period of initial construction of a residence thereon, the period prior to the initial sale thereof during which the residence is not being used for residential purposes and during the period such residence is being used for model/sales purposes.

2. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS.

A. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Additionally, the Association, and/or members therein, may be members in any one or more umbrella or joint homeowner's associations, if any, composed of associations and/or members from surrounding areas.

B. Classes of Membership. The Association shall have one class of voting membership which shall be comprised of all Owners who shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no such event shall more than one vote be cast with respect to any Lot.

C. Board of Directors. The members shall elect a Board of Directors of the Association as prescribed by the Association's By-Laws. The Board of Directors shall manage the affairs of the Association. The initial Board of Directors shall be appointed by Developer and shall manage the affairs of the Association until Developer transfers control of the Association to the Owners as required herein.

D. Professional Management. No contract or agreement of the Association for professional management of the Association nor any contract of the Association with Developer shall be for a term in excess of three (3) years. Any such agreement or contract shall provide for termination by either party with or without cause without any termination fee by written notice of ninety (90) days or less.

E. Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement of the Easement Areas, the determination of Common Expenses, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by the Declarations for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in the Declarations. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Declarations or for any failure to take any action called for by the Declarations, unless such act or failure to act is in the nature of a willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall, to the extent deemed necessary by the Board of Directors, procure and maintain casualty insurance for the Easement Areas, liability insurance (including directors' and officers' insurance) and such other insurance as it deems necessary or advisable. The Association may contract for such services as management, snow removal, security control, trash removal, and such other services as the Association deems necessary or advisable. In the event the Association enters into any contracts while Declarant controls the Association or prior to the sale by Declarant of the last Lot it owns in the Development, the Association shall indemnify and hold Declarant harmless from all liability and obligations with respect thereto.

F. Transfer of Control of Association. Developer agrees transfer control of the Association to the Owners no later than January 31, 1989, unless otherwise agreed.

G. Mortgagees' Rights. The Mortgagees have the right, but not the obligation, to pay any overdue premiums on hazard insurance policies required to be maintained by the Association or to secure new hazard insurance coverage in the event of a lapse of any such policies. Any Mortgagee or Mortgagees making any payment pursuant to this paragraph shall be entitled to reimbursement from the Association promptly upon written demand therefor to the Association.

H. Snow Removal. The Association shall not be required to provide snow removal services. The Developer and Owners anticipates that this service for the Development will be provided by local government and this permissive right of the Association to contract for the private provision of such services may only be exercised in the event a majority of the Board of Directors have approved the same. The cost of snow removal in excess of amounts budgeted therefor shall be paid by the Owners on a pro-rata share basis by a Special Assessment. In the event the Association enters into contracts for snow removal, the Association shall indemnify and hold Declarant and the Board of Directors harmless from all liability and obligations with respect thereto.

I. Trash Removal. In order to preserve the value of Lots in the Development and to promote the health and safety of the Owners, the Association may designate a trash collection day and/or designate a trash collection service to be used by the Owners at any time after Declarant turns over control of the Association in accordance herewith. The Board of Directors may agree to a master contract for such service by the Association with the cost thereof to be paid for through regular assessments.

J. The Association shall be primarily responsible for the maintenance of the landscaping Easement Areas and retention/detention pond or lake Easement Area in a clean, orderly and well groomed condition (including curb side property) and the Association and its agents shall have the right to enter upon such Easement Areas at all reasonable times in order to fulfill this primary responsibility.

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3. INSURANCE.

A. The Association shall maintain in force adequate public liability insurance protecting the Association against liability for property damage and personal injury occurring on or in connection with any and all of the Easement Area, as the Board of Directors deem appropriate.

B. The Association also shall obtain comprehensive public liability insurance together with Workmen's Compensation Insurance, employers liability insurance, and such other liability insurance, with such coverages and limits, as the Board of Directors deems appropriate. All such policies of insurance, if any, shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its officers, the Board of Directors, the Developer, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies, if any, shall name the Association, for the use and benefit of the Owners, as the insured; shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association or insurance trustee, in trust for each Owner and Mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and name FHLMC and all Mortgagees as mortgagee; and shall prohibit any cancellation or substantial modification to coverage without at least ten (10) days' prior written notice to the Association and to the Mortgagees. Such insurance shall inure to the benefit of each of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessees of any Owners, shall have the right to recover losses insured for their benefit.

C. A professional management firm must provide insurance to the same extent as the Association would be required to provide if it were managing its own operation and must submit evidence of such coverage to the Association.

D. Each Owner shall be solely responsible for loss of or damage to the improvements and his personal property located on his Lot, however caused. Each Owner shall be solely responsible for obtaining his own insurance to cover any such loss and risk.

E. Neither the Developer, Declarant, the Association, the Board of Directors nor any officer, shareholder, employee or agent of any of the foregoing shall be held liable or otherwise subject to any claims for damages in the event the discretion to obtain insurance permitted by the Declarations is exercised or not exercised.

4. COVENANT FOR MAINTENANCE ASSESSMENTS.

A. Purpose of the Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within Windjammer Bay, as the same may be platted from time to time, and promoting the health, safety, and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, fencing, repairing, operating, and maintenance of the Easement Area required to be maintained by the Association, including, but not limited to, the payment of taxes and insurance thereon, if any, for the cost of labor, equipment, material, and management furnished with respect to the Easement Area, and any and all other Common Expenses. Each Owner hereby covenants and agrees to pay to the Association:

(i) A Pro-rata Share (as hereinafter defined) of the annual Assessments fixed, established, and determined from time to time as hereinafter provided.

(ii) A Pro-rata Share (as hereinafter defined) of any special Assessments fixed, established, and determined from time to time, as hereinafter provided.

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B. Pro-rata Share. The pro-rata share of each Owner for purposes of this paragraph shall be the percentage obtained by dividing one by the total number of Lots shown on the plat or plats of Windjammer Bay, as the same may be recorded from time to time.

C. Liability for Assessments. Each Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien upon each Lot from and after the due date thereof in favor of the Association. Each such Assessment, together with any interest thereon and any costs of collection thereof, including attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgage whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

D. Basis of Annual Assessments. The Board of Directors of the Association shall establish an annual budget prior to the beginning of each fiscal year, setting forth all anticipated Common Expenses for the coming fiscal year, together with a reasonable allowance for contingencies and reserves for periodic repair and replacement of the Common Area. A copy of this budget shall be delivered to each Owner within thirty (30) days prior to the beginning of each fiscal year of the Association.

E. Basis of Special Assessments. Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of two-thirds (2/3) of the Owners, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.

F. Fiscal Year; Date of Commencement of Assessments; Due Dates. The fiscal year of the Association shall be the calendar year and may be changed from time to time by action of the Association. The annual Assessments on each Lot in Windjammer Bay shall commence on the first day of the first month following the month in which Declarant first conveys ownership of any Lot to an Owner; provided, that if any Lot is first occupied for residential purposes prior to being conveyed by Declarant, full Assessments shall be payable with respect to such Lot commencing on the first day of the first month following the date of such occupancy. The Declarant shall have the right, but not the obligation, to make up any deficit in the budget for the Common Expenses for any year in which Declarant controls the Association, subject to its right to be reimbursed therefor as provided herein. The first annual Assessment shall be made for the balance of the fiscal year of the Association in which such Assessment is made and with respect to particular Lots shall become due and payable on the date of initial transfer of title to a Lot to the Owner thereof. The annual Assessment for each year after the first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Board of Directors may from time to time by resolution authorize the payment of such Assessments in monthly, quarterly, or semi-annual installments.

G. Duties of the Association.

(i) The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special Assessment to be kept and maintained, including a roster setting forth the identification of each and every Lot and each Assessment applicable thereto, which books and records shall be kept in the office of the Association and shall be available for the inspection and copying by each Owner (or duly

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authorized representative of any Owner) at all reasonable times during regular business hours of the Association. Except as may be otherwise provided in the Association's By-Laws, the Association shall cause financial statements to be prepared at least annually for each fiscal year of the Association, and shall furnish copies of the same to any Owner or Mortgagee upon request. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives. Notices of the amounts of the annual Assessments and the amounts of the installments thereof shall be sent annually within thirty (30) days following the determination thereof. Notices of the amounts of special Assessments shall be sent as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice is mailed less than thirty (30) days prior to the due date of the Assessment to which such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

(ii) The Association shall promptly furnish upon request to any Owner, prospective purchaser, title insurance company, or Mortgagee a certificate in writing signed by an officer of the Association, setting forth the extent to which Assessments have been levied and paid with respect to any Lot in which the requesting party has a legitimate interest. As to any person relying thereon, such certificate shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

(iii) The Association shall notify any Mortgagee from which it has received a request for notice: (a) of any default in the performance of any obligation under this Declaration by any Owner which is not cured within sixty (60) days; (b) of any condemnation or casualty loss that affects either a material portion of Windjammer Bay or the Lot securing its mortgage; (c) of any lapse, cancellation, or material modification of any insurance policy or fidelity bond required to be maintained by the Association; and (d) and proposed action which requires the consent of the Mortgagees or a specified percentage thereof, as set forth in the Declarations.

H. Non-payment of Assessments; Remedies of Association.

(i) If any Assessment is not paid on the date when due, then such Assessment shall be deemed delinquent and shall, together with any interest thereon and any cost of collection thereof, including attorneys' fees, become a continuing lien on the Lot against which such Assessment was made, and such lien shall be binding upon and enforceable as a personal liability of the Owner of such Lot as of the date of levy of such Assessment, and shall be enforceable against the interest of such Owner and all future successors and assignees of such Owner in such Lot; provided, however, that such lien shall be subordinate to any mortgage on such Lot recorded prior to the date on which such Assessment becomes due.

(ii) If any Assessment upon any Lot is not paid within thirty (30) days after the due date, such Assessment and all costs of collection thereof, including attorneys' fees, shall bear interest from the date of delinquency until paid at a rate of eighteen percent (18%) per annum and the Association may bring an action in any court having jurisdiction against the delinquent Owner to enforce payment of the same and/or to foreclose the lien against said Owner's Lot, and there shall be added to the amount of such Assessment all costs of such action, including the Association's attorneys' fees, and in the event a judgment is obtained, such judgment shall include such interest, costs, and attorneys' fees.

I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for Common Expenses for that fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following fiscal year, except that so long as the Declarant controls the Association, Declarant may, in its sole discretion, make up such deficit; provided, however that Declarant shall be reimbursed by the Association for such funded deficits, together with interest at 10% per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the

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Association to Owners. Thereafter, such deficit may be recouped either by inclusion in the budget for annual Assessments or by the making of one or more special Assessments for such purpose, at the option of the Association. After Declarant turns over control of the Association as required herein, in the event that the amounts budgeted and assessed for Common Expenses in any fiscal year exceed the amount actually expended by the Association for Common Expenses for that fiscal year, a Pro-rata Share of such excess shall be a credit against the Assessment(s) due from each Owner for the next fiscal year(s); provided, that Declarant shall first be reimbursed for deficits previously paid as required above before such excess shall be so credited to Owners.

J. Initial Assessments. During the first year of Windjammer Bay, the total Assessments per Lot per year shall not exceed Two Hundred Dollars (\$200.00). In each year thereafter, the total Assessments per Lot per year shall not be increased by more than the twelve percent (12%) over the prior year, until such time as the Declarant relinquishes control of the Association. In no event shall the annual Assessments exceed Three Hundred Dollars (\$300.00) per year per Lot without the approval of a majority of the Owners; provided, however, that said maximum amount may be increased by no more than twelve percent (12%) per year by the Board of Directors without such consent. The above limits on the assessments shall not include the actual costs incurred by the Association for the purchase of director officer liability insurance or the payment of director officer indemnification as allowed under law.

K. Notice and Quorum for Any Action to Increase Assessments. Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Associations shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. Nothing contained in this paragraph shall be construed to limit the ability of the Developer or the Board of Directors to increase Assessments up to the amounts permitted by paragraph 4(j) hereof.

L. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer.

5. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including Developer, Association and any Owner within Windjammer Bay, may proceed at law or in equity to prevent the occurrence of continuation of any violation of these Restrictions, but neither Developer nor Association shall be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions.

B. Government Enforcement. The Plan Commission having jurisdiction of the Real Estate ("Commission"), its successors and assigns, shall have no right, power, or authority, to enforce any covenants, commitments, restrictions, or other limitations contained herein other than those covenants, commitments, restrictions, or limitations that expressly run in favor of the Commission; provided further, that nothing herein shall be construed to prevent the Commission from enforcing any provisions of the applicable Subdivision Control Ordinance, as amended, or any conditions attached to approval of the plats of Windjammer Bay by the Commission.

C. 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.

6. EFFECT OF BECOMING AN OWNER. 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 the 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 Owners covenant and agree and consent 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.

7. TITLES. The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provisions of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

8. DURATION AND AMENDMENT. This Supplemental Declaration shall be effective for an initial term of twenty (20) years and shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless as of the end of any term both the Owners of ninety percent (90%) of the Lots and the Mortgagees of at least ninety percent (90%) of the Lots vote to terminate this Supplemental Declaration, in which case this Supplemental Declaration shall terminate as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Supplemental Declaration shall be perpetual unless otherwise expressly indicated herein.

A. The Association shall have the right to amend this Supplemental Declaration at any time, and from time to time, upon the recommendation of an amendment to the Association by its Board of Directors, and the subsequent approval of such amendment by both the Owners of at least seventy-five percent (75%) of the Lots and ninety percent (90%) of the Mortgagees; provided, however, that any such amendment of this Declaration shall require prior written approval of the Developer so long as Developer owns any Lots within Windjammer Bay. Each such amendment must be evidenced by a written instrument, signed and acknowledged by duly authorized officers of the Association, and by Developer when their approval is required, setting forth facts sufficient to indicate compliance with this paragraph, including as an exhibit or addendum thereto a certified copy of the minutes of the Association meeting at which the necessary actions were taken, and such amendment shall not be effective until recorded in the office of the Recorder of Marion County.

B. Developer hereby reserves the right to make such amendments to this Supplemental Declaration as may be deemed necessary or appropriate by Developer without the approval of any other person or entity, in order to bring this Supplemental Declaration of Windjammer Bay into compliance with the requirements of any public agency having jurisdiction thereof or of any agency guaranteeing, insuring, or approving mortgages, so long as Developer owns any Lots within Windjammer Bay; provided that Developer shall not be entitled to make any amendment which has a materially adverse effect on the rights of any Mortgagee, nor which substantially impairs the benefits of this Supplemental Declaration to any Owner or substantially increases the obligations imposed by this Supplemental Declaration on any Owner.

C. Subject to the other requirements of this paragraph 16, unless at least two-thirds (2/3) of the Mortgagees (based upon one vote for each first mortgage owned) or Owners (other than the Developer) of the Lots have given their prior written approval, the Association shall not be entitled to:

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(i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Easement Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Easement Area by the Association shall not be deemed a transfer within the meaning of this clause);

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(iii) by act or omission change, waiver or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design or the exterior appearance of the residences, the exterior maintenance of the residences, the maintenance of the Easement Area, or the upkeep of lawns and plantings in the Development;

(iv) use hazard insurance proceeds for losses to any of the Easement Area other than for the repair, replacement or reconstruction of the Easement Area.

9. **RIGHTS OF MORTGAGEES.** Except to the extent otherwise provided in Paragraph 3(L), no breach of this Supplemental Declaration shall defeat or render invalid the lien of any mortgage now existing or hereafter executed upon any portion of the Development; provided, however, that if all or any portion of said Development is sold under a foreclosure of any mortgage, any purchaser at such sale and his successors and assigns shall hold any and all land so purchased subject to this Supplemental Declaration. Notwithstanding any other provision of this Supplemental Declaration, neither the Owners nor the Association shall have any right to make any amendment to the Declarations or Articles and By-Laws of the Association which materially impairs the rights of any Mortgagee holding, insuring, or guaranteeing any mortgage on all or any portion of the Development at the time of such amendment.

10. **SEVERABILITY.** Every provision of this Supplemental Declaration is hereby declared to be independent of, and severable from, the other provisions hereof and of and from every combination of the provisions hereof. Therefore, if any of the provisions hereof 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 provisions hereof.

IN WITNESS WHEREOF, witness the signature of Developer this 1 day of May, 1989.

Richard Allen Corporation

By: Richard A. Lewis
(signature)

Richard A. Lewis
(printed name)

Its: President

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STATE OF INDIANA)
) SS:
COUNTY OF HAMILTON)

Before me, a Notary Public in and for said County and State, personally appeared Edward A. Sewer, who acknowledged execution of the foregoing Supplemental Declaration and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 1st day of May, 1988.

Nancy J. Phillips
Signature
Nancy J. Phillips
Printed Name
NOTARY PUBLIC

My County of Residence:

Marion

My Commission Expires:

3-30-90

NANCY J. PHILLIPS
NOTARY PUBLIC STATE OF INDIANA
MARION COUNTY
MY COMMISSION EXP. MAR 13, 1990
ISSUED THRU INDIANA NOTARY ASSOC.

This Instrument was prepared by Jonathan R. West, Esq.

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I, RICHARD A LEWIS, HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA; THAT THIS PLAT CORRECTLY REPRESENTS A SURVEY CONDUCTED BY ME IN MAY, 1986; THE ATTACHED PLAT REPRESENTS A SUBDIVISION BEING A PART OF THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 17 NORTH, RANGE 5 EAST OF THE SECOND PRINCIPAL MERIDIAN IN HAMILTON COUNTY, INDIANA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: 20-1411

BEGINNING AT A POINT ON THE CENTER LINE OF FALL CREEK ROAD, WHICH SAID POINT IS THE SOUTHEAST CORNER OF CARLEZZE ESTATES-SECTION ONE, THE PLAT OF WHICH WAS RECORDED NOVEMBER 17, 1976 IN PLAT BOOK 6 ON PAGES 62 AND 63 AS INSTRUMENT NO. 4086 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA, WHICH SAID POINT LIES SOUTH 64 DEGREES 34 MINUTES 45 SECONDS WEST ALONG SAID CENTER LINE 232.50 FEET FROM THE NORTHEAST CORNER OF WASTREND SECTION EIGHT, THE PLAT OF WHICH WAS RECORDED AUGUST 27, 1962 IN PLAT BOOK 9 ON PAGES 98 THRU 161 AS INSTRUMENT NO. 37336 IN SAID RECORDER'S OFFICE; THENCE FROM SAID POINT OF BEGINNING ALONG THE CENTER LINE OF SAID FALL CREEK ROAD NORTH 66 DEGREES 36 MINUTES BEARS SOUTH 25 DEGREES 05 MINUTES 15 SECONDS EAST; THENCE ALONG THE CENTER LINE OF SAID FALL CREEK ROAD AN ARC DISTANCE OF 674.28 FEET TO A POINT WHICH BEARS NORTH 09 DEGREES 33 MINUTES 01 SECONDS EAST FROM SAID RADIUS POINT; SAID POINT BEARS SOUTH 00 DEGREES 01 MINUTE 14 SECONDS WEST 474.48 FEET FROM THE NORTHEAST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 9; THENCE NORTH 00 DEGREES 01 MINUTE 14 SECONDS EAST 474.40 FEET TO SAID NORTHEAST CORNER, WHICH SAID NORTHEAST CORNER LIES SOUTH 00 DEGREES 01 MINUTE 14 SECONDS WEST 2832.48 FEET FROM THE NORTHEAST CORNER OF THE WEST HALF OF SAID SOUTHWEST QUARTER; THENCE ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER SOUTH 89 DEGREES 13 MINUTES 54 SECONDS WEST 1337.43 FEET TO THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER SOUTH 89 DEGREES 23 MINUTES 23 SECONDS WEST 621.38 FEET TO A POINT WHICH BEARS NORTH 89 DEGREES 23 MINUTES 35 SECONDS EAST 2050.00 FEET FROM THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER; THENCE SOUTH 44 DEGREES 40 MINUTES 24 SECONDS WEST 515.83 FEET TO THE NORTHEAST CORNER OF SAID CARLEZZE ESTATES SECTION-ONE, WHICH CORNER LIES ON A CONTOUR LINE OF 825.0 FEET ABOVE MEAN SEA LEVEL; UNITED STATES COASTAL AND GEODETIC SURVEY 11, 29 DATUM; THENCE SOUTHEASTERLY FOLLOWING SAID CONTOUR LINE WHICH LIES 825.0 FEET ABOVE MEAN SEA LEVEL TO A POINT WHICH LIES NORTH 25 DEGREES 05 MINUTES 15 SECONDS WEST 19.57 FEET FROM THE POINT OF BEGINNING; THENCE SOUTH 25 DEGREES 05 MINUTES 15 SECONDS EAST 19.57 FEET TO THE POINT OF BEGINNING, CONTAINING 35 ACRES MORE OR LESS AND SUBJECT TO ALL LEGAL HIGHWAYS, RIGHTS-OF-WAY AND EASEMENTS OF RECORD.

THIS SUBDIVISION CONSISTS OF 54 LOTS, NUMBERED 1 THRU 55 INCLUSIVE, BLOCK A, AND BLOCK B. THE SIZE OF THE LOTS, THE SIZE OF BLOCK A AND BLOCK B, AND THE WIDTH OF STREETS ARE SHOWN IN FIGURES DENOTING FEET AND DECIMAL POINTS THEREOF.

WITNESS MY SIGNATURE THIS 18/14 DAY OF April, 1986

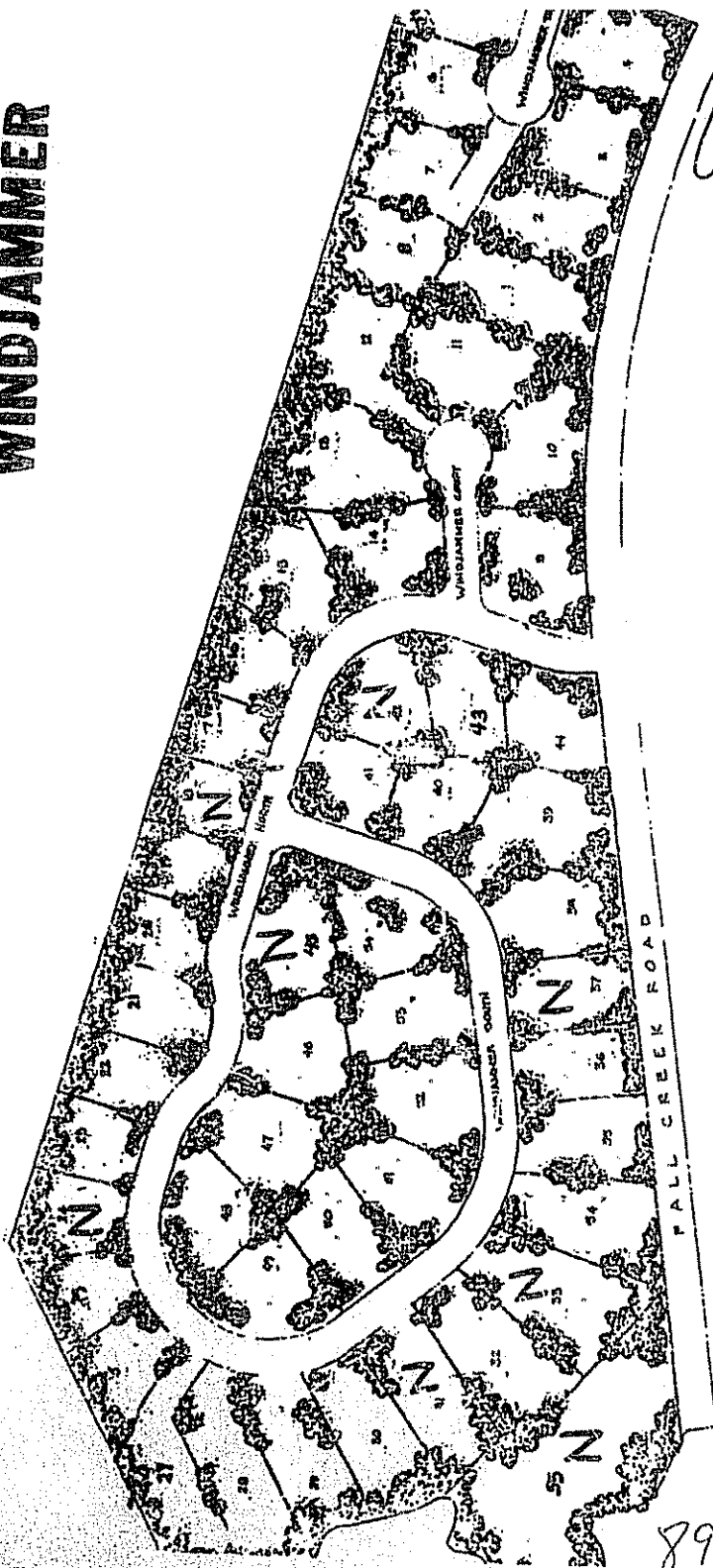
Richard A Lewis
RICHARD A LEWIS
REGISTERED LAND SURVEYOR #0001

Exhibit A

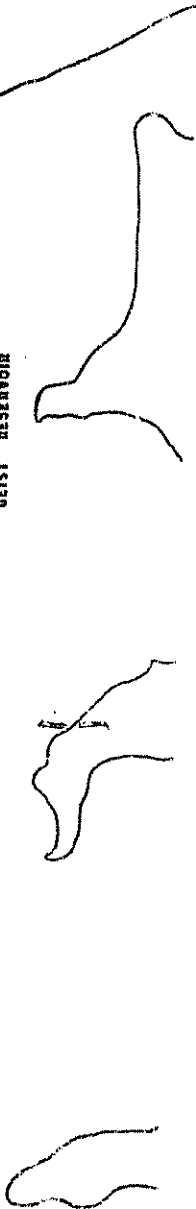


8908894

WINDJAMMER



GEIST RESERVOIR



8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 1 in the Windjammer Bay Subdivision, I (we) hereby consent to the establishment of the Windjammer Bay Property Owners' Association, Inc. In consideration of becoming a member of the Property Owners' Association, and as owner of the above-described lot(s), I (we) covenant and agree to be bound by the obligations, conditions and restrictions contained in the Articles of Incorporation and the Declaration of Covenants, as amended by the establishment of this Property Owners' Association. This includes the payment of an annual assessment against each lot which may become a lien upon the property if unpaid. The amount of the annual assessment will be determined by the duly elected board of directors of the Property Owners' Association.

Sign Joseph W. Plessman
Printed Signature Joseph W. Plessman
Date Feb. 14 1989

Sign _____
Printed Signature _____
Date _____

Sign _____
Printed Signature _____
Date _____

This Authorization is approved subject to NO assessment being paid until a home is constructed and a occupancy permit issued by the Noblesville Plan Commission.

Exhibit B

Please make sure all legal title owners of record execute this form. Return executed copy to Jon West, 10946 Windjammer North, Tel. 577-9079

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) a in the Windjammer Bay Subdivision, I (we) hereby consent to the establishment of the Windjammer Bay Property Owners' Association, Inc. In consideration of becoming a member of the Property Owners' Association, and as owner of the above-described lot(s), I (we) covenant and agree to be bound by the obligations, conditions and restrictions contained in the Articles of Incorporation and the Declaration of Covenants, as amended by the establishment of this Property Owners' Association. This includes the payment of an annual assessment against each lot which may become a lien upon the property if unpaid. The amount of the annual assessment will be determined by the duly elected board of directors of the Property Owners' Association.

Sign Steve Manka
Printed Signature Steve Manka
Date 1-31-89

Sign James Manka
Printed Signature Tamera Manka
Date 1-31-89

Sign _____
Printed Signature _____
Date _____

Please make sure all legal title owners of record execute this form. Return
executed copy to Jon West, 10946 Windjammer North, Tel. 577-9079

(to provide copy
owner)

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 14, 14, 14, 13 in the Windjammer Bay Subdivision, I (we) hereby consent to the establishment of the Windjammer Bay Property Owners' Association, Inc. In consideration of becoming a member of the Property Owners' Association, and as owner of the above-described lot(s), I (we) covenant and agree to be bound by the obligations, conditions and restrictions contained in the Articles of Incorporation and the Declaration of Covenants, as amended by the establishment of this Property Owners' Association. This includes the payment of an annual assessment against each lot which may become a lien upon the property if unpaid. The amount of the annual assessment will be determined by the duly elected board of directors of the Property Owners' Association.

Sign [Signature]
Printed Signature FELIX A. HOFFMAN
Date 11-20-88

Sign _____
Printed Signature _____
Date _____

Sign _____
Printed Signature _____
Date _____

Please make sure all legal title owners of record execute this form. Return executed copy to Jon West, 10946 Windjammer North, Tel. 577-9079

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 7
Bay Subdivision, I (we) hereby consent to the
Windjammer Bay Property Owners' Association, Inc.
becoming a member of the Property Owners' Association, Inc.
above-described lot(s), I (we) covenant and agree
obligations, conditions and restrictions contain
incorporation and the Declaration of Covenant
establishment of this Property Owners' Association
payment of an annual assessment against each lot
upon the property if unpaid. The amount of the assessment
determined by the duly elected board of directors
Association.

Sign [Signature]
Printed Signature _____
Date August 26

Sign [Signature]
Printed Signature SHOBHNA K
Date 8/26/1988

Sign _____
Printed Signature _____
Date _____

10999 Windjammer TRACE
INDPLS. IN. 46256

Please make sure all legal title owners of record
executed copy to Jon West, 10946 Windjammer North,

Phone: 577 9777

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 5 in the Windjammer Bay Subdivision, I (we) hereby consent to the establishment of the Windjammer Bay Property Owners' Association, Inc. In consideration of becoming a member of the Property Owners' Association, and as owner of the above-described lot(s), I (we) covenant and agree to be bound by the obligations, conditions and restrictions contained in the Articles of Incorporation and the Declaration of Covenants, as amended by the establishment of this Property Owners' Association. This includes the payment of an annual assessment against each lot which may become a lien upon the property if unpaid. The amount of the annual assessment will be determined by the duly elected board of directors of the Property Owners' Association.

Sign John M. Marod Jr.
Printed Signature John Marod Jr.
Date 9/22/88

Sign Janet Marod
Printed Signature Janet Marod
Date 9/22/88

Sign _____
Printed Signature _____
Date _____

Please make sure all legal title owners of record execute this form. Return executed copy to Jon West, 10946 Windjammer North, Tel. 577-9079

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 6 in the Windjammer Bay Subdivision, I (we) hereby consent to the establishment of the Windjammer Bay Property Owners' Association, Inc. In consideration of becoming a member of the Property Owners' Association, and as owner of the above-described lot(s), I (we) covenant and agree to be bound by the obligations, conditions and restrictions contained in the Articles of Incorporation and the Declaration of Covenants, as amended by the establishment of this Property Owners' Association. This includes the payment of an annual assessment against each lot which may become a lien upon the property if unpaid. The amount of the annual assessment will be determined by the duly selected board of directors of the Property Owners' Association.

Sign Charles E. Blessing, Jr.
Printed Signature Blessing Peglow INC
Date 2-9-89

Sign John A. Paul, Pres
Printed Signature Thomas P. Paul, President
Date The Jonathan Group Inc

Sign _____
Printed Signature _____
Date _____

This authorization is approved subject to NO assessment being paid until a home is constructed and an occupancy permit issued by the Noblesville Plan Commission.

Please make sure all legal title owners of record execute this form. Return executed copy to Jon West, 10946 Windjammer North, Tel. 577-9079

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 7 in the Windjammer Bay Subdivision, I (we) hereby consent to the establishment of the Windjammer Bay Property Owners' Association, Inc. In consideration of becoming a member of the Property Owners' Association, and as owner of the above-described lot(s), I (we) covenant and agree to be bound by the obligations, conditions and restrictions contained in the Articles of Incorporation and the Declaration of Covenants, as amended by the establishment of this Property Owners' Association. This includes the payment of an annual assessment against each lot which may become a lien upon the property if unpaid. The amount of the annual assessment will be determined by the duly elected board of directors of the Property Owners' Association.

Sign Raymond L. Sokola
Printed Signature RAYMOND L. SOKOLA
Date 9/2/88

Sign Mary Ann E. Sokola
Printed Signature Mary Ann E. Sokola
Date 9/1/88


Sign _____
Printed Signature _____
Date _____


Please make sure all legal title owners of record execute this form. Return executed copy to Jon West, 10946 Windjammer North, Tel. 577-9079

8908894

OWNER AUTHORIZATION TO ESTABLISH:
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 3
Bay Subdivision, I (we) hereby consent to the
Windjammer Bay Property Owners' Association, Inc.
becoming a member of the Property Owners' Association
above-described lot(s), I (we) covenant and agree
obligations, conditions and restrictions contained
incorporation and the Declaration of Covenant
establishment of this Property Owners' Association
payment of an annual assessment against each lot
upon the property if unpaid. The amount of the assessment
determined by the duly elected board of directors
Association.

Sign 
Printed Signature Pam C Francis
Date August 25, 1988

Sign 
Printed Signature JEE FRANCIS
Date 8/25/88

Sign _____
Printed Signature _____
Date _____

Please make sure all legal title owners of record
executed copy to Jon West, 10946 Windjammer North,

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title ~~(owners)~~ of (lot Number(s)) 9 in the Windjammer Bay Subdivision, I (we) hereby consent to the establishment of the Windjammer Bay Property Owners' Association, Inc. In consideration of becoming a member of the Property Owners' Association, and as owner of the above-described lot(s), I (we) covenant and agree to be bound by the obligations, conditions and restrictions contained in the Articles of Incorporation and the Declaration of Covenants, as amended by the establishment of this Property Owners' Association. This includes the payment of an annual assessment against each lot which may become a lien upon the property if unpaid. The amount of the annual assessment will be determined by the duly elected board of directors of the Property Owners' Association.

Sign [Signature]
Printed Signature Sharon Kiltz
Date 10-3-88

Sign _____
Printed Signature _____
Date _____

Sign _____
Printed Signature _____
Date _____

Please make sure all legal title owners of record execute this form. Return executed copy to Jon West, 10946 Windjammer North, Tel. 577-9079

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 1C
Bay Subdivision, I (we) hereby consent to the
Windjammer Bay Property Owners' Association, Inc.
becoming a member of the Property Owners' Association, Inc.
above-described lot(s), I (we) covenant and agree to
obligations, conditions and restrictions contained in the
Incorporation and the Declaration of Covenants and
establishment of this Property Owners' Association, Inc.
payment of an annual assessment against each lot
upon the property if unpaid. The amount of the assessment
determined by the duly elected board of directors of the
Association.

Sign David K. Ellsworth
Printed Signature DAVID K ELLSWORTH
Date 8-21-88

Sign Louis A. Ellsworth
Printed Signature LOUIS A. ELLSWORTH
Date 8-21-88

Sign _____
Printed Signature _____
Date _____

Please make sure all legal title owners of record
executed copy to Jon West, 10946 Windjammer North,

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 11 in the Windjammer Bay Subdivision, I (we) hereby consent to the establishment of the Windjammer Bay Property Owners' Association, Inc. In consideration of becoming a member of the Property Owners' Association, and as owner of the above-described lot(s), I (we) covenant and agree to be bound by the obligations, conditions and restrictions contained in the Articles of Incorporation and the Declaration of Covenants, as amended by the establishment of this Property Owners' Association. This includes the payment of an annual assessment against each lot which may become a lien upon the property if unpaid. The amount of the annual assessment will be determined by the duly elected board of directors of the Property Owners' Association.

Sign J. Michael Cunningham
Printed Signature J. Michael Cunningham
Date 3-22-89

Sign Barbara Cunningham
Printed Signature Barbara G. Cunningham
Date 3-22-89

Sign _____
Printed Signature _____
Date _____

Please make sure all legal title owners of record execute this form. Return
executed copy to Jon West, 10946 Windjammer North, Tel. 577-9079

8908894

OWNER AUTHORIZATION TO ESTABLISH
WINDJAMMER BAY PROPERTY OWNERS' ASSOCIATION

As legal title owner(s) of Lot Number(s) 12 in the Windjammer Bay Subdivision, I (we) hereby consent to the establishment of the Windjammer Bay Property Owners' Association, Inc. In consideration of becoming a member of the Property Owners' Association, and as owner of the above-described lot(s), I (we) covenant and agree to be bound by the obligations, conditions and restrictions contained in the Articles of Incorporation and the Declaration of Covenants, as amended by the establishment of this Property Owners' Association. This includes the payment of an annual assessment against each lot which may become a lien upon the property if unpaid. The amount of the annual assessment will be determined by the duly elected board of directors of the Property Owners' Association.

Sign Don M. Scoffen

Printed Signature Don M. Scoffen

Date _____

Sign Christine Scoffen

Printed Signature Christine Scoffen

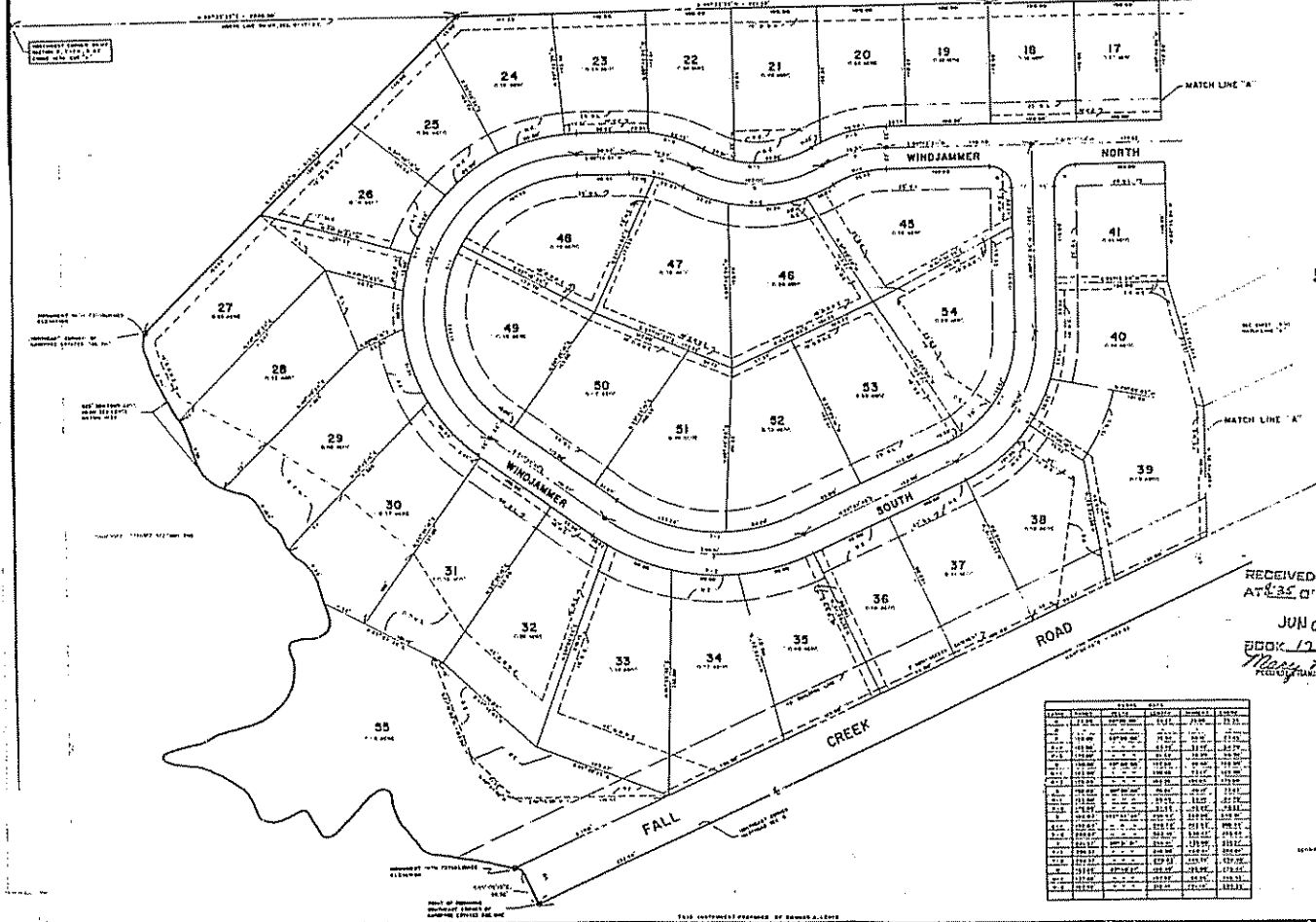
Date 4/8/89

This authorization is approved subject to NO assessment being paid until a home is constructed and an occupancy permit issued by the Noblesville Plan Commission.

Please make sure all legal title owners of record execute this form. Return executed copy to Jon West, 10946 Windjammer North, Tel. 577-9079

8908894

WINDJAMMER



RECEIVED FOR RECORD
 AT 3:35 O'CLOCK P. M.
 JUN 02 1935
 BOOK 17 PAGE 180
Mary F. Clark
 REC'D OF HAMILTON COUNTY, TENNESSEE

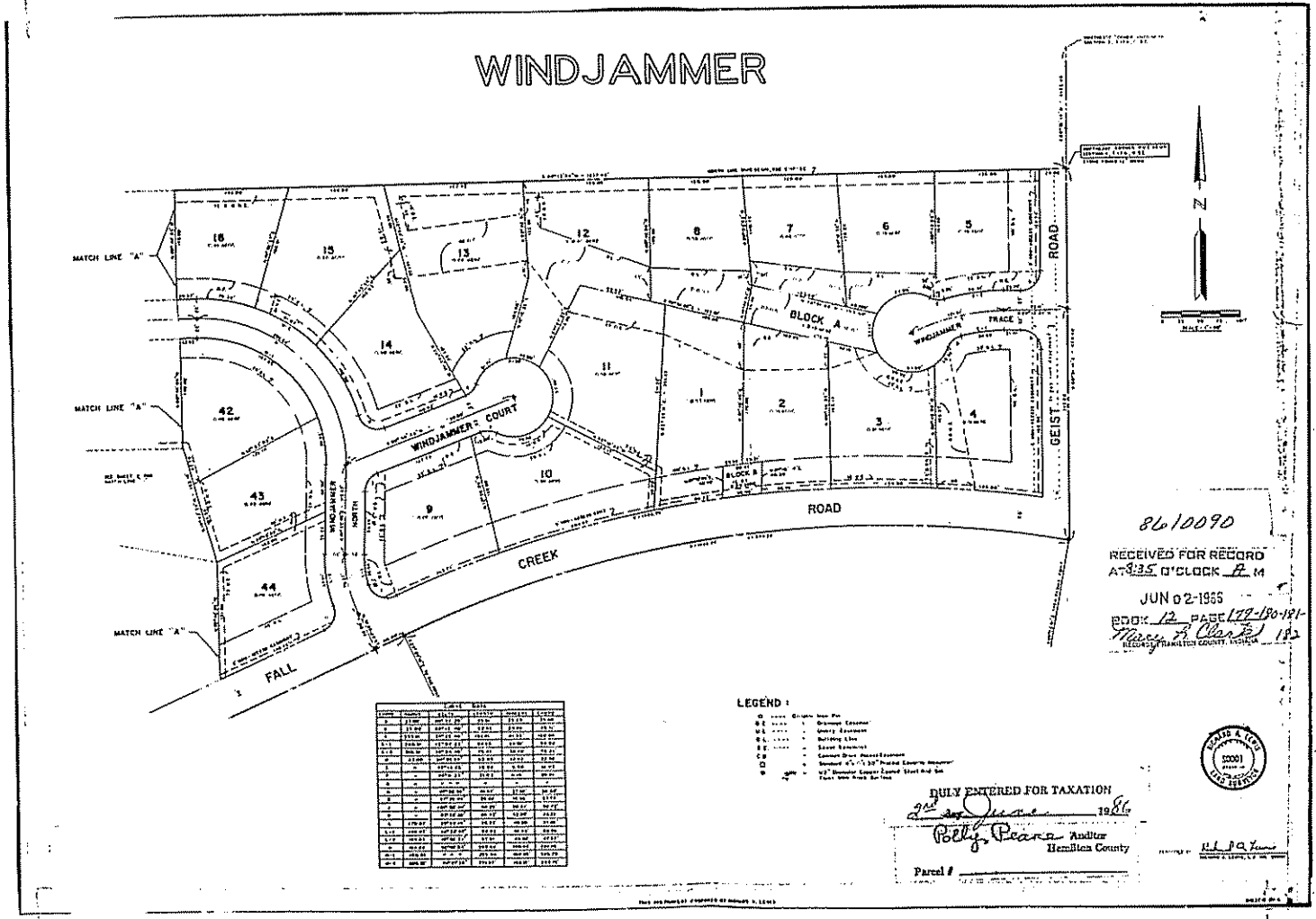
LOT	AREA	PERCENTAGE	ADDITIONAL	TOTAL
20	1.25	100		1.25
21	1.25	100		1.25
22	1.25	100		1.25
23	1.25	100		1.25
24	1.25	100		1.25
25	1.25	100		1.25
26	1.25	100		1.25
27	1.25	100		1.25
28	1.25	100		1.25
29	1.25	100		1.25
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49	1.25	100		1.25
50	1.25	100		1.25
51	1.25	100		1.25
52	1.25	100		1.25
53	1.25	100		1.25
54	1.25	100		1.25
55	1.25	100		1.25



M. F. Clark
 Recorder

For Consent to Record Plat
 See Misc. Bk 187 pages 520-521
 Recorded 6-2-86

For Declaration of Easement See Easement Bk 4 179
 Pgs 486-488 Recorded 10-2-86
 For Declaration of Easement See 8816477-8816478 Rec. 887-88



For Supplemental Declaration Establishing a Homeowners Association See 8908894 Rec. 5-4-89
 For Declaration of Sign & Landscape Easement See: 8925940 Rec. 11-15-89
 " " " " " " " " 8925941 " " " "

