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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

3400

(2)

OF

DEER CREEK SUBDIVISION

THIS DECLARATION, made on the date hereinafter set forth by
TIMBER PARK DEVELOPMENT Corp., an Indiana corporation,
hereinafter referred to as "Declarant",

RECEIVED

WITNESSETH:

JUN 15 1998

PIKE TOWNSHIP
ASSESSOR

WHEREAS, Declarant is the fee simple owner of certain
property in Indianapolis, Marion County, Indiana, which is more
particularly described in Exhibit "A" attached hereto and by this
reference made a part hereof.

WHEREAS, Declarant intends to sell and convey the residential
lots situated within the platted areas of such properties and
before doing so desires to subject to and impose upon all real
estate within the platted areas of such properties mutual and
beneficial restrictions, covenants, conditions and charges
a general plan or scheme of improvement for the benefit and
complement of the lots and future home owners thereof.

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OFFICE OF CLERK
MARION COUNTY RECORDS

NOW, THEREFORE, Declarant hereby declares that all of the
properties described in Exhibit "A" shall hereafter be held,
and conveyed subject to the following easements, restrictions,
covenants, and conditions, which are for the purpose of
protecting the value and desirability of, and which shall run
with the real property and be binding on all parties having any
right, title or interest in the described properties or any part
thereof, their heirs, successors and assigns, and shall in
the benefit of each owner thereof.

NOTED FOR RECORD
JULY 15 1998
MARION COUNTY RECORDS
OFFICE OF CLERK

ARTICLE I

NAME

This subdivision shall be known and designated as Deer Creek
Subdivision, a subdivision located in Marion County, Indiana, the

plat of Section I of which was recorded as Instrument
No. 88- 70380 in the Office of the Recorder of Marion County,
Indiana.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Deer Creek Homeowners Association, Inc., an Indiana not-for-profit corporation, its successors and assigns.

Section 2. "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 3. "Common Area" shall mean and refer to any and all real estate and facilities and all personal property leased or owned by the Association for the benefit, use and enjoyment of its members.

Section 4. "Declarant" shall mean and refer to Timber Park Development Corp., its successors and assigns as a declarant or developer.

Section 5. "Expansion Parcel" shall mean and refer to the real estate described in Exhibit "B" attached hereto.

Section 6. "Federal Mortgage Agencies" shall mean and refer to those federal agencies who have or may come to have an interest in the Properties, or any portion thereof, such as the Federal Housing Administration, the Veterans Administration, the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or successors to their interests.

Section 7. "Landscape Easement" means any area within the Properties denoted as Landscape Easement or as "L.S.E." on the Plat.

Section 8. "Lot" shall mean and refer to any parcel of land shown upon the Plat other than areas designated as Common Area or parcels conveyed to the Association as Common Areas.

Section 9. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract

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sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. "Plat" shall mean and refer to the subdivision plat or plats of the Properties recorded in the Office of the Recorder of Marion County, Indiana, as the same may be hereafter amended or supplemented.

Section 11. "Properties" shall mean and refer to the real estate described in Exhibit "A" and such portions of the real estate described in Exhibit "B" attached hereto and may hereafter be subjected to the provisions of this Declaration pursuant to Article XIV hereof.

Section 12. "Regular Assessments" shall mean and refer to the regular monthly or annual assessments levied pursuant to Article VII hereof.

ARTICLE III

Common Areas

Section 1. Obligations of the Association. The Association, subject to the rights of the Owners as set forth in the Declaration, shall be responsible for the management and control, for the exclusive benefit of the Owners, of the Common Area conveyed or leased to it and all improvements thereon, and for the care and maintenance of Landscape Easements, and shall keep the same in good, clean, attractive and sanitary condition, order and repair in compliance with the standards of sound property management.

Section 2. Owners' Rights and Easements of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area which may be delegated to family members, lessees and guests of every such Owner (subject to any reasonable and nondiscriminatory rules and regulations which may be enacted by the Association) which shall be appurtenant to and

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shall pass with membership in the Association, subject to the following provisions:

- (a) The right of the Association to promulgate reasonable rules and regulations governing the use of the Common Area;
- (b) The rights of Declarant as provided in this Declaration;
- (c) All other rights, obligations and duties as set forth in this Declaration, as the same may be from time to time amended or supplemented;
- (d) The right of the Association to grant reasonable access, parking, utility and drainage easements across and through the Common Area for the benefit of its members.

ARTICLE IV

LOTS

Section 1. Land Use. All Lots shall be used exclusively for residential purposes (except that portions of Lots may be used for drainage, utility and access easements and other uses which are subordinate to or related with the primary residential use). Declarant shall have the right to subdivide, dedicate or otherwise convey or use a portion of any one or more Lots which it owns for recreational uses for the benefit of all Owners and other members of the Association. In the event any portion of any Lot or Lots is so used, reasonable rules and regulations shall be promulgated and enforced so that the use and enjoyment of adjacent Lots by the Owners thereof shall not be unreasonably disturbed.

Section 2. Subdivision of Lots. No Lot shall be subdivided to form units of less area, except as otherwise provided in Section 1 of this Article IV.

Section 3. Conveyance of Lots. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the covenants, conditions and restrictions contained herein.

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ARTICLE V

USE RESTRICTIONS

Section 1. Type, Size and Nature of Improvements. No dwelling, garage, wall or other structure, including without limitation, patios, porches, satellite dishes or receivers, or other structures shall be erected, placed or constructed on any Lot, other than original construction by or on behalf of Declarant or a builder, except in a manner approved in writing by Board of Directors or the architectural committee specified in Article XIV hereof prior to the commencement of construction as to the type of materials, exterior facade, design, layout, location, finished grade elevations and the like. Approval shall be considered based upon satisfactory plans and specifications providing such detail as may be reasonably required (which upon approval shall be strictly adhered to throughout construction unless modified or amended with further written approval); subject to the improvement of any Lot satisfying the following minimum standards:

- (a) No structure or building shall be erected, placed or constructed on any Lot other than one (1) single-family dwelling unit not to exceed two (2) stories in height and one (1) private garage for not more than two (2) cars. Each driveway shall be of concrete or asphalt material and such pavement shall not exceed in width the side boundaries of the garage.
- (b) No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be erected, placed or constructed on any Lot for use as a residence, either temporarily or permanently, or at any time be used for such purpose.
- (c) Every single-family dwelling unit erected, placed or constructed on any Lot shall have a minimum finished floor area, exclusive of open porches, stoops, attached garages or carports, of one thousand (1000) square feet.
- (d) Any tank for the storage of fuel erected, placed or constructed on any Lot outside of any structure or building permitted hereunder shall be concealed or otherwise located below the surface of the ground.
- (e) All metal or chain link fencing shall have a factory finish of brown or black vinyl. Fencing shall not exceed six (6) feet in height and shall not extend forward of the back corners of the house.

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In the event that written approval is not received as required hereunder within thirty-five (35) days from the date requested, the failure to issue such written approval shall be construed as the disapproval of the request made.

Section 2. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 3. Waste Disposal. No Lot shall be used or maintained as a dumping ground for rubbish, trash or garbage. Waste matter or materials shall be kept only in sanitary containers and all incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 4. Prohibited Activities. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 5. Water and Sewer Systems. No individual water supply system or sanitary sewer system shall be permitted on any Lot.

Section 6. Certain Vehicles Prohibited. Any motor vehicle which is inoperative and not being used for normal transportation shall not be permitted to remain on any Lot except within a closed garage and motor vehicles shall not be parked upon grassy or landscaped areas. Unless otherwise provided by the rules and regulations of the Board, motor homes, mobile homes, boats, campers, commercial trucks and the like shall not be parked or stored upon the Properties unless the same are parked within a closed garage.

Section 7. Exterior Antennae. Without prior written approval and authorization of the Board of Directors, no exterior television, radio or other type of antennae or satellite dish shall be placed, allowed or maintained upon any portion of the

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Properties nor upon any structure or improvement situated upon the Properties.

Section 8. Construction and Sale Period. Notwithstanding any provisions contained herein to the contrary, it shall be expressly permissible for Declarant or a builder to maintain, during the period of construction and sale of Lots, upon any portion of the Properties which Declarant or such builder owns, such facilities as in the sole opinion of Declarant may be reasonably required, or be convenient or incidental to the construction and sale of the Lots, including, but without limitation, storage areas, signs, model residences, construction offices, sales offices, sales trailers and business offices.

Section 9. Solar Heat Panels. No solar heat panels shall be allowed on roofs. All such panels must be enclosed within a fenced area within the specific Lot boundary and located to the rear of the dwelling.

Section 10. Maintenance of Lots and Improvements. The Owner of any Lot shall at all times maintain the Lot and any improvements situated thereon in such a manner as to prevent the Lot or improvements from becoming unsightly; and, specifically, such Owner shall:

(i) Mow the Lot at such times as may reasonably be required in order to prevent the unsightly growth of vegetation and noxious weeds.

(ii) Remove all debris or rubbish.

(iii) Cut down and remove dead trees.

(iv) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

ARTICLE VI

ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. Every owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

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Section 2 Classes of Membership. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and 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 event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned and the first Board of Directors during their respective terms, who shall have no voting rights. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) on January 1, 1995.

Section 3. Number of Lots. Section I of Deer Creek shall consist of 52 lots and it is contemplated that Deer Creek shall contain approximately 228 lots at such time as all of the Expansion Parcel is developed. For purposes of Section 2 above, the total number of lots shall be deemed to be 238 until such time as all of the Expansion Parcel has been platted.

Section 4. Board of Directors. The Owners 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.

Section 5. Professional Management. No contract or agreement for professional management of the Association nor any other contract with Declarant 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.

ARTICLE VII

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) Regular Assessments or charges; (2) special assessments for capital improvements and operating deficits; and (3) special assessments as provided in Article V, such assessments to be established and collected as hereinafter provided. The Regular Assessments and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and other areas of the Properties and other purposes as specifically provided herein.

Section 3. Maximum Regular Assessments.

(a) Until January 1, 1990, the maximum Regular Assessment on any Lot conveyed by Declarant shall be \$240.00 per Lot per year.

(b) From and after January 1, 1990, the maximum Regular Assessment may be increased effective January 1 of each year

without a vote of the membership by the greater of 15% or the increase, if any, of the Consumer Price Index for all urban consumers ("CPI-U") as published by the Bureau of Labor Statistics (or other comparable index in the event the CPI-U shall be discontinued) for the preceding month of September: as compared to said price index twelve (12) months prior thereto.

(c) From and after January 1, 1990, the maximum Regular Assessment may be increased by more than the amount specified in subsection (b) above by a vote of a majority of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

(d) The Board of Directors may fix the Regular Assessment at an amount not in excess of the maximum and may determine whether the Regular Assessment shall be payable annually or monthly.

(e) A portion of such Regular Assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Areas or of any capital improvement which the Association is required to maintain.

Section 4. Special Assessments for Capital Improvements and Operating Deficits. In addition to the Regular Assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement which the Association is required to maintain or for operating deficits which the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of the membership 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 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both Regular Assessments and special assessments for Common Area expenses, Common Area capital improvements and operating deficits must be fixed at a uniform rate for all Lots and may be collected on an annual or monthly basis.

Section 7. Date of Commencement of Monthly Assessments: Due Dates. The Regular Assessment provided for herein shall commence for any Lot on the first day of the first month following the date of conveyance by Declarant or a builder to an Owner of a Lot. The Board of Directors shall fix any increase in the amount of the Regular Assessment at least thirty (30) days in advance of the effective date of such increase. Written notice of special assessments and such other assessment notices as the Board of Directors shall deem appropriate shall be sent to every Owner subject thereto. The due dates for all assessments shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in recordable form signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments for any Lot shall be binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. If any assessment (or monthly installment of such assessment, if applicable) is not paid on the date when due (pursuant to Section 7 hereof), then the entire unpaid assessment shall become delinquent and shall become, together with such interest thereon and cost of collection thereof as hereinafter provided, a continuing lien on such Lot, binding upon the then

Owner, his heirs, devisees, successors and assigns. The personal obligation of the then Owner to pay such assessments, however, shall remain his personal obligation and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest from the date of delinquency at the rate of 12% per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or to foreclose the lien against the property, or both, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action; and in the event a judgment is obtained such judgment shall include interest on the assessment as above provided and a reasonable attorneys' fee to be fixed by the court, together with the costs of the action in favor of the prevailing party.

No Owner may waive or otherwise escape liability for the assessments provided for herein by abandonment of his Lot.

Section 9. 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.

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ARTICLE VIII

DECLARANT'S RIGHTS

Section 1. Use of Property. Declarant reserves the right to use, or to allow builders to use, any of the Lots as models and to sell, assign or conduct other businesses in connection with the construction and development of the project from any of such Lots. This reservation of right or privilege in Declarant includes, but is not limited to, the right to maintain a model, erect signs, maintain an office, staff the office with employees, and to show Lots then unsold. Declarant retains the right to be considered an Owner of any Lot that remains unsold. Declarant also reserves the right to make changes in the location or manner of construction of buildings and other improvements.

ARTICLE IX

MAINTENANCE

Maintenance Obligations of Association. The Association shall provide for trash removal and snow removal from the paved portions of streets (unless the Board of Directors determines that such functions are adequately provided by municipal authorities). The Association shall be responsible for the maintenance, repair and replacement of the Common Area and improvements thereon, if any, and for the maintenance, repair and replacement of the landscaping and improvements located within any Landscape Easements. The Landscape Easement and Lake Maintenance Easements as shown on any plat of a portion of the Properties shall run in favor of the Association, its agents, officers, employees and contractors as well as any governmental agencies having jurisdiction.

ARTICLE X

INSURANCE

Section 1. Casualty Insurance. The Association shall purchase such casualty insurance policy or policies insuring Common Areas as the Board of Directors deems appropriate. Such

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insurance coverage shall be for the benefit of the Association, each Owner, and, if applicable, the first Mortgagee of each Lot.

Such casualty insurance policy shall (to the extent the same are obtainable) contain provisions that the insurer (a) waives its right to subrogation as to any claim against the Association, its Board of Directors, its agents and employees, Owners, their respective agents and guests, and (b) waives any defense based on the invalidity arising from the acts of the insured.

Section 2. Liability Insurance. The Association shall also purchase public liability insurance policy in such amount or amounts as the Board of Directors shall deem appropriate from time to time. Such liability insurance policy shall cover the Association, its Board of Directors, any committee or organ of the Association or Board of Directors, all persons acting or who may come to act as agents or employees of any of the foregoing with respect to the Association, all Owners and all other persons entitled to occupy any Lot.

The Association shall also obtain any other insurance required by law to be maintained, including but not limited to workmen's compensation insurance, and such other insurance as the Board of Directors shall from time to time deem necessary, advisable or appropriate. Such insurance coverage shall also provide for and cover cross liability claims of one insured party against another insured party. Such insurance shall inure to the benefit of each Owner, the Association, its Board of Directors and any managing agent acting on behalf of the Association. Each Owner shall be deemed to have delegated to the Board of Directors his right to adjust with the insurance companies all losses under policies purchased by the Association.

Section 3. Assessment for Insurance. The premiums for all such insurance hereinabove described shall be paid by the Association and the cost thereof shall be a part of the Regular Assessment to which each Lot conveyed by Declarant shall be subject under the terms and provisions hereof.

Section 4. Casualty and Restoration. Damage to or destruction of the Common Area or any Building due to fire or any other casualty or disaster shall be promptly repaired and reconstructed by the Association and the proceeds of insurance, if any, shall be applied for that purpose.

Section 5. Insufficiency of Insurance Proceeds. If the insurance proceeds received by the Association as a result of any such fire or any other casualty or disaster are not adequate to cover the cost of repair and reconstruction, or in the event there are no insurance proceeds, the cost for restoring the damage and repairing and reconstructing the Common Area so damaged or destroyed (or the costs thereof in excess of insurance proceeds received, if any) shall be paid by the Association which shall then have the right to levy a special assessment against all Lots for such deficiency.

Section 6. Surplus of Insurance Proceeds. In the event that there is any surplus of insurance proceeds after the reconstruction or repair of the damage has been fully completed and all costs paid, such sums may be retained by the Association as a reserve or may be used in the maintenance and operation of the Properties, or, in the discretion of the Board of Directors, may be distributed to the Owners and their Mortgagees who are the beneficial owners of the fund. The action of the Board of Directors in proceeding to repair or reconstruct damage shall not constitute a waiver of any rights against another Owner for committing willful or malicious damage.

ARTICLE XI

EASEMENTS

Section 1. Drainage, Utility and Sewer Easements. As noted on the Plat, Declarant has reserved certain areas upon the Lots as utility and drainage easement (U. & D.E.), for the benefit of all Lots and Owners, to properly install and allow to be maintained all electrical, telephone, water, gas, sewer and other utility services (including all lines, pipes, wires, cables,

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ducts, etc., including cable television, lawn sprinkling systems and the like) to the living units constructed on the various Lots.

Declarant further reserves unto itself an easement and right of way in and to the Common Areas as is reasonably necessary or appropriate, to perform such actions as are required or are reasonably necessary or appropriate for the purpose of establishing and maintaining proper surface water drainage throughout the Properties. The easement hereby reserved shall terminate one (1) year after Declarant shall have conveyed the last lot on the Properties. Provided, however, the reservation of this easement and terms and provisions contained herein shall not be construed so as to impose upon Declarant any higher or different duty or obligation than is imposed by applicable law.

Section 2. Easement for Signs and Landscape Easements.

Declarant reserves unto itself for so long as it owns any Lot, and thereafter reserves and grants to the Owners by and through the Association, the right and easement to erect and maintain an entryway sign or signs, walls, landscape areas and the like within the Common Areas and within the Landscape Easements.

Declarant reserves unto itself for so long as it owns any Lot, and thereafter reserves and grants to the Association, the right and easement to erect and maintain directional signs upon the Common Areas. Such directional signs shall contain only directional information such as street addresses, shall comply with all applicable zoning requirements, shall not extend more than four (4) feet above grade and shall be maintained by the Association.

ARTICLE XII

ARCHITECTURAL CONTROL

No building, wall or other structure, except original construction of buildings by or on behalf of Declarant or an original builder shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or

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alteration therein, other than by the Board of Directors, be made un il the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Right of Enforcement. In the event of a violation, or threatened violation, of any of the covenants, conditions and restrictions herein enumerated, Declarant, the persons in ownership from time to time of the Lots and all parties claiming under them shall have the right to enforce the covenants, conditions and restrictions contained herein, and pursue any and all remedies, at law or in equity, available under applicable Indiana law, with or without proving any actual damages, including the right to secure injunctive relief or secure removal by due process of any structure not in compliance with the covenants, conditions and restrictions contained herein, and shall be entitled to recover reasonable attorneys' fees and the costs and expenses incurred as a result thereof.

Section 2. Amendment. This Declaration may be amended or changed at any time by an instrument recorded in the Office of the Recorder of Marion County, Indiana, signed or approved in writing by at least seventy-five per cent (75%) of the then Owners; provided, however, none of the rights or duties of Declarant reserved or set out hereunder may be amended or changed without Declarant's prior written approval. This Declaration may also be amended by Declarant, if it then has any ownership interest in the Properties, at any time within three (3) years after the recordation hereof in order to satisfy the requirements of any of the Federal Mortgage Agencies. Any such amendments

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shall be recorded and shall be subject to the prior written approval of any of the Federal Mortgage Agencies having an interest in the Properties or any portion thereof. This Declaration shall run with the land and shall be binding upon all parties claiming under them for a period of twenty-five (25) years from the date of recordation in the Office of the Recorder of Marion County, Indiana, and shall automatically extend for successive periods of ten (10) years each unless it is amended or changed in whole or in part as hereinabove provided. Provided, however, no amendment which materially and adversely affects the easement rights set forth herein shall be effective without the written consent of any Owner or other person affected thereby (unless substantially equivalent easement rights shall have been substituted in lieu thereof). Invalidation of any of the covenants, conditions and restrictions of this Declaration by judgment or decree shall in no way effect any of the other provisions hereof, but the same shall remain in full force and effect.

Section 3. Annexation. All or any part of the Expansion Parcel may be annexed to the Properties by the recording of a declaration applicable to such annexed real estate which incorporates the terms of the Declaration herein.

Section 4. Mortgagee Rights. Any lender or lenders holding a first mortgage or first mortgages upon any Lot or Lots may, jointly or singly, pay any real estate taxes or other taxes or charges which are in default and which may or have become a charge or lien against any Common Area or any property owned by the Association and such lender or lenders may pay any overdue premiums on any hazard, casualty, liability or other insurance policies or secure new insurance coverage on the lapse of any policies for any such Common Area or other property owned by the Association or covering any property for which the Association has an obligation to maintain insurance coverage. Any such lender or lenders making payments in accordance with this section shall be entitled to immediate reimbursement therefore from the

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MSE 287-149
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L. Ferrell
11-20-87
Rev. 7-7-88
L. Ferrell
Rev. 7-13-88
L. Ferrell

EXHIBIT "A"
CERTIFICATE OF SURVEY
DEER CREEK, SECTION I

I the undersigned do hereby certify the attached plat to be true and correct, representing a part of the Northwest Quarter of Section 7, Township 16 North, Range 3 East of the Second Principal Meridian in Marion County, Indiana, more particularly described as follows:

Commencing at the northwest corner of said Northwest Quarter; thence North 89°56'41" East along the north line of said Northwest Quarter 242.46 feet to the west line of a transmission line easement recorded in Deed Record 1782, page 486 as Instrument No. 88120 in the Office of the Recorder of Marion County, Indiana, said point being the Point of Beginning; thence North 89°56'41" East along said north line 1628.97 feet to the northeast corner of said Northwest Quarter; thence South 00°06'01" West along the east line of said Northwest Quarter 366.26 feet; thence North 89°52'59" West 214.92 feet to a point on a curve concave Southwesterly having a central angle of 08°57'12" and a radius of 375.00 feet; thence Southeasterly along said curve an arc distance of 58.60 feet (said arc being subtended by a chord having a bearing of South 30°58'46" East and a length of 58.54 feet); thence South 63°29'30" West 215.04 feet; thence South 43°43'34" East 53.39 feet; thence South 00°06'01" West 145.33 feet; thence South 44°44'33" West 149.46 feet; thence North 69°17'23" West 208.10 feet; thence North 35°20'43" West 156.30 feet; thence South 54°39'17" West 256.35 feet; thence North 35°20'43" West 60.00 feet to a point on a curve concave Southeasterly having a central angle of 04°52'02" and a radius of 420.00 feet; thence Southwesterly along said curve an arc distance 35.68 feet (said arc being subtended by a chord having a bearing of South 52°13'16" West and a length of 33.67 feet); thence North 89°35'15" West 588.85 feet to the west line of said transmission line easement; thence North 01°34'00" East along said west line 788.89 feet to the Point of Beginning, containing 25.94 acres, more or less; subject to all highways, rights-of-way and easements.

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EXHIBIT "B"
LAND DESCRIPTION

Land being part of the Northwest Quarter of Section 7, Township 16 North, Range 3 East of the Second Principal Meridian in Marion County, Indiana more particularly described as follows:

Beginning at the Northeast corner of said Northwest Quarter; thence South $00^{\circ}06'01''$ West along the East line of said Northwest Quarter a distance of 2671.33 feet to the Southeast corner of said Northwest Quarter; thence North $89^{\circ}43'11''$ West along the South line of said Northwest Quarter a distance of 385.39 feet; thence North $00^{\circ}00'00''$ East 14.00 feet; thence North $80^{\circ}32'20''$ West 161.27 feet; thence North $89^{\circ}43'11''$ West parallel with said South line 100.00 feet; thence North $77^{\circ}06'08''$ West 205.80 feet; thence North $79^{\circ}15'55''$ West 303.36 feet; thence North $89^{\circ}43'11''$ West parallel with said South line 237.38 feet; thence North $00^{\circ}22'47''$ East parallel with the West line of said Northwest Quarter a distance of 1174.19 feet; thence South $90^{\circ}00'00''$ West 363.00 feet to the West line of said Northwest Quarter; thence North $00^{\circ}22'47''$ East along said West line a distance of 1357.95 feet to the North line of said Northwest Quarter; thence North $89^{\circ}56'41''$ East along said North line a distance of 1871.42 feet to the Point of Beginning, containing 102.29 acres, more or less; subject to highways, rights-of-way and easements.

880070379

CROSS REFERENCE

880115247

Amended FIRST AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF DEER CREEK SUBDIVISION

CROSS REFERENCE
8/5/88
W

THIS AMENDMENT, made as of this 8th day of November, 1988,
by Timber Park Development Corp., an Indiana corporation

(hereinafter referred to as "Declarant") witnesses the following:

WHEREAS, Declarant recorded the Declaration of Covenants,
Conditions and Restrictions of Deer Creek Subdivision
("Declaration") on July 15, 1988 as Instrument No. 88-70379 in the
Office of the Recorder of Marion County, Indiana; and

WHEREAS, on July 15, 1988 Declarant recorded the Plat of Deer
Creek, Section I as Instrument No. 88-70380, as corrected by a
Surveyor's Certificate of Correction recorded as Instrument No.
88-105506 ("Correction") and Declarant re-recorded the Plat of Deer
Creek, Section I as Instrument No. 88-115246 ("Amended
Plat"), all in the Office of the Recorder of Marion County, Indiana.

WHEREAS, Declarant, as the owner of more than 75% of the lots in
Deer Creek Subdivision now desires to make certain amendments to the
Declaration.

NOW, THEREFORE, the Declaration is amended as follows:

1. Article IV is hereby amended by the addition of the
following Section 4:

Section 4. Dedication of Streets. The streets shown on
the Plat and Amended Plat are hereby dedicated to the public.

2. Subsection (a) of Section 1 of Article V is amended to
correct the first sentence of said subsection to read as follows:

No structure or building shall be erected, placed or
constructed on any Lot other than one (1) single family dwelling
it not to exceed two (2) stories in height and one (1) private
garage large enough to accommodate at least two (2) cars.

Article IX is hereby amended by the addition of the
following as the last sentence in said Article:

The Association shall be responsible for the maintenance of
the landscaping, if any, and the maintenance and repair of the
pavement within the right of way area adjacent to Lots 48-52,
which area is shown as "Area A" on the Correction and the

CURTIS L. GOOROD
MARION COUNTY RECORDER
NOV 11 1988 034054
DUTY ENTICED FOR
TAXATION
SUBJECT TO FINAL
ACCEPTANCE FOR TRANSFER

RECEIVED FOR RECORD
88 NOV 11 PH 2:36

BETH O'LAUGHLIN
MARION COUNTY RECORDER

RECEIVED

NOV 11 1988

PIKE TOWNSHIP
ASSESSOR

Amended Plat. If reasonably available, the insurance carried by the Association shall be sufficient to provide coverage for the use, repair and maintenance of Area A by the Association or any abutting Lot Owners. The Association shall also be responsible for any fees or costs for street lights within the Properties under an agreement with the City of Indianapolis or any utility company and the cost thereof shall be a part of the Regular Assessments.

IN WITNESS WHEREOF, Declarant has executed this Amendment as of the date written above.

TIMBER PARK DEVELOPMENT CORP.

By: [Signature]
Ronald K. Fisher, President

ATTEST: [Signature]
Larry Dunkerly, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for such County and State, personally appeared Ronald K. Fisher and Larry Dunkerly, the President and Secretary, respectively, of Timber Park Development Corp., who, having been duly sworn, acknowledged the execution of the foregoing Amendment to Declaration, and stated that the representations contained therein are true.

Witness my hand and Notarial Seal this 9 day of November, 1988.

[Signature]
Notary Public
[Hebber E. Shuler]

My Commission Expires:
August 29, 1992

My County of Residence is:
Hendricks

880115247

This Instrument was prepared by John W. Van Buskirk, Attorney.

CONSENT TO FIRST AMENDMENT

The undersigned, being the owner of Lots 36, 19, 27, 51
_____ in Deer Creek Subdivision,
Section 1, hereby consents to the foregoing First Amendment to
Declaration of Covenants, Conditions and Restrictions of Deer Creek
Subdivision and to the Correction and the Amended Plat.

THE JONATHAN GROUP, INC.

By: Thomas D. Rush
Thomas D. Rush, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for such County and State,
personally appeared Thomas D. Rush, President of The Jonathan Group,
Inc., who, having been duly sworn, acknowledged the execution of the
foregoing Consent to First Amendment to Declaration, and stated that
the representations contained therein are true.

Witness my hand and Notarial Seal this 26 day of October,
1988.

Marlyn I. Story
Marlyn I. Story) Notary Public

My Commission Expires:
August 13, 1992

My County of Residence is:
Hamilton

This Instrument was prepared by John W. Van Buskirk, Attorney.

880115217

CONSENT TO FIRST AMENDMENT

The undersigned, being the owner of Lots 35, 10, 14, 16, 18, 22,
30, 44 in Deer Creek Subdivision,
Section 1, hereby consents to the foregoing First Amendment to
Declaration of Covenants, Conditions and Restrictions of Deer Creek
Subdivision and to the Correction and the Amended Plat.

THE ESTRIDGE GROUP, INC.

By: 
Paul E. Estridge, Jr.
Executive Vice President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for such County and State,
personally appeared Paul E. Estridge, Jr., Executive Vice President
of The Estridge Group, Inc., who, having been duly sworn,
acknowledged the execution of the foregoing Consent to First
Amendment to Declaration, and stated that the representations
contained therein are true.

Witness my hand and Notarial Seal this 2nd day of November,
1988.


(PHYLIS N. UPDIKE) Notary Public

My Commission Expires:
4-18-92

My County of Residence is:
Shelton

This Instrument was prepared by John W. Van Buskirk, Attorney.

880115247

CURTIS L. COONROD
MARION COUNTY ADMINISTRATOR
Ms 1489 006290



Mid States Engineering

890023301

700
3

FULLY ENTERED FOR
SUBSCRIPTION
MID STATES ENGINEERING, INC.
Meridian Street • Indianapolis, Indiana 46204 • (317) 634-1000

DEER CREEK
MSE 111-0132
L. Ferrell
2-23-89

CROSS REFERENCE
RECEIVED

MAR 14 1989

PIKE TOWNSHIP
ASSESSOR

CROSS REFERENCE

CERTIFICATE OF CORRECTION

I, the undersigned, hereby certify that the plat of Deer Creek, Section I, recorded July 15, 1988 and Instrument Number 88-70380 in the Office of the Recorder of Marion County, Indiana, was prepared under my supervision and certified by me.

I further certify that said plat was inadvertently recorded with the incorrect Instrument Number for the Covenants and Restrictions, and without the date and Instrument Number of the first amendment to the Covenants, shown here as Exhibit A-1.

Said plat should be corrected to show proper designation of said areas, as shown on Exhibit B-1.

Certified this 28th day of February, 1989

MSE CORPORATION

**APPROVAL
OF
ENGINEER'S CORRECTION**

METROPOLITAN DEVELOPMENT
COMMISSION
DIVISION OF DEVELOPMENT SERVICES
PLAT COMMITTEE

3.2 1989

Frank E. Harman
DIVISION ADMINISTRATOR

RECEIVED FOR RECORD
89 MAR 14 PM 2:54

REC'D
MARION COUNTY RECORDER

Dennis M. Neldah
Dennis M. Neldah, P.E., L.S.
Registered Land Surveyor #80140

Witness my hand and seal this 28th day of February 1989

Hollie A. Wilson
Hollie A. Wilson

My Commission Expires: 10-6-91.

My County of Residence: Marion.

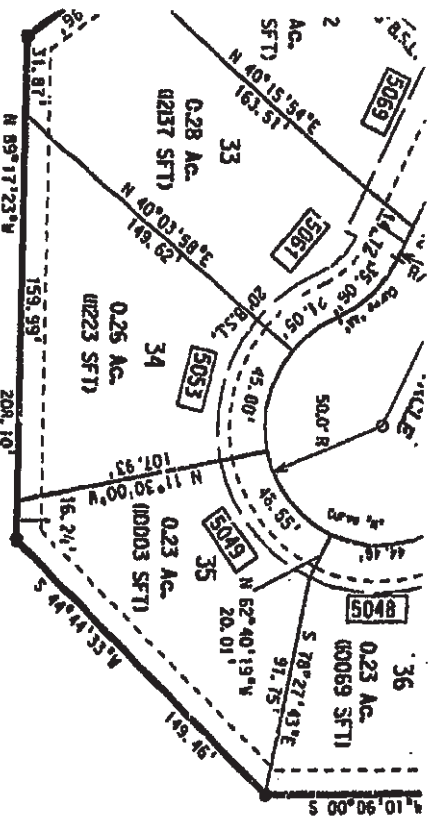


EXHIBIT A-1

The Deer Creek Final Plat previously Recorded as Instrument 88-70380 Dated July 15th, 1988, is now being re-recorded to reflect the signature of the owner, and incorporate the Surveyor's Certificate of Correction recorded as Instrument # 88-105506.

The portion of real estate included in this plat is also subject to covenants and restrictions contained in the first Amendment to the Declaration of Covenants, Conditions, & Restrictions of DEER CREEK SECTION 1.

Developed by: **TIMBER PARK DEVELOPMENT CORP.**
 recorded on this _____ day of _____, 1988 as Instrument No. _____



Commission Expires: 0-6-91

Hollie A. Wilcox
 Notary Public
Kelcie A. Willis
 County of Residence: Marion

No fence, wall, hedge, or shrub planting which obstructs site lines or elevations between two and six feet above the street shall be placed or permitted to remain within the triangular area formed by the street proper by lines and a line connecting points 25 feet from the intersection of said street lines. The same site line limitations shall apply to any lot within ten feet from the intersection of a street line with the edge of a driveway. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of site lines.

PREPARED BY
SOL C. MILLER

dedicated to the public for use as a public right-of-way

2. The Declaration of Covenants, Conditions and Restrictions of Timber Park Development Corp. dated July 15, 1988, and recorded as Instrument No. 88-70380 in the office of the Recorder of Marion County, Indiana (as the same may be amended or supplemented from time to time as herein provided), is hereby incorporated by reference and made a part thereof. Dated this 9th day of November, 1988, Timber Park Development Corp.

By: Larry Dauterby, Secretary
 STATE OF INDIANA)
) SS:
 COUNTY OF MARION)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Timber Park Development Corp. and acknowledged executing the foregoing record plat for and on behalf of said Corporation.
 Witness my hand and Notarial Seal this 9th day of November, 1988.

890023301

L.M.E. = LAKE MAINTENANCE EASEMENT
 BSL = BUILDING SETBACK LINE
 U & D.E. = UTILITY & DRAINAGE EASEMENT

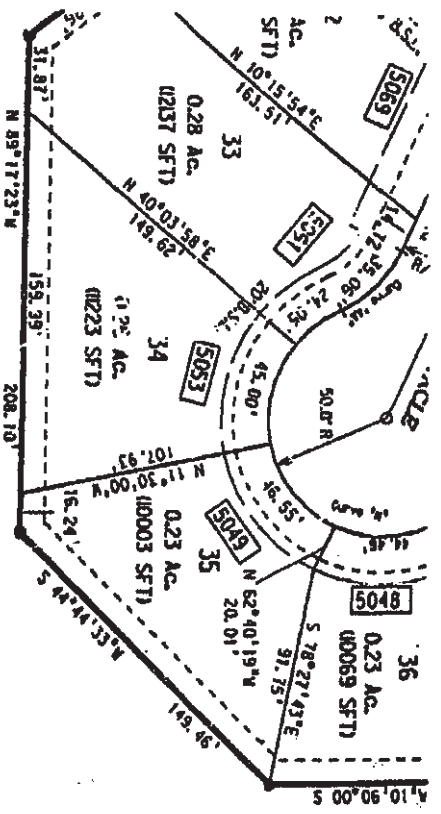


EXHIBIT B-1

The Deer Creek Final Plat previously recorded as Instrument 88-70390 Dated July 15th, 1988, is now being re-recorded to reflect the signature of the owner, and incorporate the Surveyor's Certificate of Correction recorded as Instrument # 88-105506.

The portion of real estate included in this plat is also subject to covenants and restrictions contained in the first Amendment to the Declaration of Covenants, Conditions, & Restrictions of DEER CREEK SECTION 1.

Developed by: **TIMBER PARK DEVELOPMENT CORP.**

recorded on this 11th day of NOV., 1988 as instrument No.

88-115247



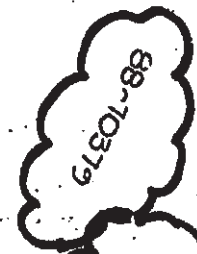
Commission Expires:

10-6-91

Helen A. Willson
Notary Public
Houie A. Willson
County of residence:
Marion

Before me, the undersigned Notary Public in and for said County and State, personally appeared Timber Park Development Corp and acknowledged executing the foregoing record plat for and on behalf of said Corporation.

Witness my hand and Notarial Seal this 9th day of November, 1988.



2. The Declaration of Covenants, Conditions and Restrictions of Timber Park Development Corp. dated July 15, 1988, and recorded as Instrument No. 88-70390 in the office of the Recorder of Marion County, Indiana (as the same may be amended or supplemented from time to time as herein provided), is hereby incorporated by reference and made a part thereof.

Dated this 9th day of November, 1988, Timber Park Development Corp.

By: *Larry Dukerly* Secretary
STATE OF INDIANA
COUNTY OF MARION) ss:

890023301

PREPARED BY
SOL C. MILLER

No fences, walls, hedges, or shrub planting which obstructs the lines of elevations between two and six feet above the street shall be placed or permitted to remain within the triangular area formed by the street property lines and a line connecting points 25 feet from the intersection of said street lines. The same site line limitations shall apply to any lot within ten feet from the intersection of a street line with the edge of a driveway. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of site lines.

L.M.E. = LAKE MAINTENANCE EASEMENT
BSL = BUILDING SETBACK LINE

11 E. N. E. = 10' 11" W. & 60' 11" N. FACEDMENT