

(PLAT) EMERALD PLACE - SEC. ONE - P.C. I, SL. 526
 " " " " SEC. TWO - P.C. I, SL. 527
 9504247

42.00
 (17)

COVENANTS, CONDITIONS AND RESTRICTIONS
 OF
 EMERALD PLACE

95 FEB -7 AM 10:02

The undersigned, WEIHE DEVELOPMENT CORP., by *Mary B. Clark* Allan H. Weihe
 President, and Joyce M. Weihe, Secretary, of Hamilton County, RECORDER
 State of Indiana, being the owners of record of all the
 within described real estate (Exhibits "A" and "B"), do
 hereby lay off, plat and subdivide into lots and streets such
 real estate and do hereby dedicate for public use any of such
 streets not previously dedicated, in accordance with the
 within plat. The following restrictions, limitations and
 covenants are hereby imposed and shall run with the land
 contained in such plat.

The within plat shall be known and designated as EMERALD
 PLACE, Sections I & II, a subdivision in the Town of
 Westfield, Washington Township, Hamilton County, State of
 Indiana.

ARTICLE I

Use Restrictions, Architectural Control, Enforcement

Section 100. LOT USE

All lots in this subdivision are reserved for residential
 use, and no building other than a one-family residence or
 structure or facility accessory in use thereto shall be
 erected thereon.

Not more than one building shall be erected or used for
 residential purposes on any lot in this subdivision.

No trailer, tent, shack, attached shed, basement, garage or
 temporary building shall be used for temporary or permanent
 residence on any lot in this subdivision. An attached
 garage, tool shed or detached storage building erected or
 used as an accessory to a residence in this subdivision shall
 be of a permanent type of construction and conform to the
 general architecture and appearance of such residence.

Section 101. STRUCTURAL DIMENSIONS

The ground floor area of the main structure, exclusive of
 one-story open porches and garages, shall be not less than
 one thousand (1000) square feet in the case of a one-story
 structure, nor less than one thousand (1000) square feet in
 the case of a multiple story structure, provided no structure
 of more than one story shall have less than an aggregate of
 one thousand five hundred (1500) square feet of finished and
 liveable floor area. All garages shall be attached to the
 residence dwelling and be a minimum of two (2) car size.

No structure in this subdivision shall exceed two and one-
 half (2 1/2) stories or twenty-five (25) feet in height

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measured from finish grade to the under side of the eave line, and no structure other than an open porch shall be erected between the building lines and the right-of-way lines of the street as designated on the within plat.

Section 103. FENCES

No fences shall be erected in this subdivision between the building lines and the right-of-way lines of the streets as shown on the within plat, except with approval of the Architectural Control Committee, which fences shall not exceed 42 inches in height and shall be of a decorative nature.

Section 104. EASEMENTS

The utility easements shown on the within plat are reserved as an easement for use by the city or county in which this subdivision is located, owners in this subdivision and public utility companies for the installation, use, maintenance, repair and removal of sewers, water mains, utility poles, wires and other facilities and utilities necessary or incidental to the common welfare and use and occupancy for residential purposes of the houses to be erected in this subdivision. No building or other structure, except walks or driveways, shall be erected or maintained upon, over, under or across any such utility easement for any use except as set forth herein. The owners in this subdivision shall take their title to the land contained in such utility easement subject to the perpetual easement herein reserved.

The Access Easements shown on the within plat are reserved as an easement for use by the current residents of Emerald Place Subdivision to gain direct access to the Common/Detention Area. The owners in this subdivision shall take their title to the land contained in such access easement subject to the perpetual easement herein reserved.

The Cable Television Easements shown on the within plat reserved for the approved franchised "Company" and its successors and assigns, forever, the easement and right from time to time hereafter to erect, install, lay, use, maintain, replace, increase or decrease the size of and remove coaxial cable and other fixtures and appurtenances for the purpose of transmitting and distributing radio and television signals by way of said coaxial cable, on, over, under and across said easement. This also includes the right of ingress and egress of all purposes incidental to such easement, and the "Company" is hereby granted the express right to make clearances of brush and debris from said easement in order to successfully install and maintain said coaxial cable. The owners in this subdivision shall take their title to the land contained in such utility easement subject to the perpetual easement herein reserved.

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The drainage easements shown on the within plat are reserved for the drainage of storm water, whether by swale, ditch or storm water. No structure other than storm water drainage structures, retaining walls or elevated walks and driveways shall be erected in, on, over, under or across any such easement, except that a drainage easement may also be used as a utility easement and a access easement, and structures permitted in a utility easement may be erected therein, provided that they do not interfere with the flow of water. The owners in this subdivision shall take their title to the land contained in such drainage easements subject to the perpetual easement herein described.

Section 105. DRAINAGE OF STORM OR OTHER WATER

In the event storm water drainage from any lot or lots flows across another lot, provision shall be made to permit such drainage to continue without restriction or reduction, across the downstream lot and into the natural drainage channel or course, even though no specific drainage easement for such flow of water is provided on the within plat.

Section 106. EASEMENT MAINTENANCE

On drainage easements, the Town of Westfield shall be responsible for the care, maintenance, repair and/or replacement of actual structures in place, such as sewer pipes, manholes, castings, etc., and each property owner as it pertains to his lot or lots shall maintain surface drainage systems and open swales. The Town shall have access rights over and across said easements.

Section 107. USE AND MAINTENANCE OF LOTS

No lot in this subdivision shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste, and such items shall not be kept, except in sanitary containers.

It shall be the duty of the owner of each lot in this subdivision to keep the grass on the lot properly cut and to keep the lot free from weeds and trash and otherwise neat and attractive in appearance. Should any owner fail to do so, the Developer may take such action as it deems appropriate in order to make the lot neat and attractive, and the owner shall, upon demand, reimburse the Developer for the expense incurred in so doing.

Section 108. YARD, OTHER EQUIPMENT AND PLACEMENT OF VEHICLES

No campers, trailers, boats or similar vehicles shall be parked on any lot in this subdivision unless the same shall be parked in such a manner that it is not visible to the occupants of other lots in this subdivision or the users of any streets in this subdivision.

All lot owners will be required to install, or have installed, at least one gas or electric "dusk to dawn" yard light in the front yard.

Section 109. ANIMALS

No animals, livestock or poultry of any description 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 commercial purposes.

Section 110. SIGHT LINE LIMITATIONS

Front and side building lines are established as shown on this plat between which lines and the property lines of the street, no structure shall be erected or maintained. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street, property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the lines extended. The same sight line limitations shall apply to any lot within ten (10) feet from the intersection of a street line with the edge of a driveway, pavement or alley line. No trees shall be permitted to remain within such distance of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 111. SIDEWALKS

Plans and specifications for this subdivision, on file with the Westfield Planning Commission, require the installation of concrete sidewalks within the street right-of-way in front of lots 1 through 46 as shown on the approved plans. Installation of said sidewalks shall be the obligation of the owner of any such lot, exclusive of the Developer, and shall be completed in accordance with said plans and specification and the cost of said installation shall be a lien against any such lot enforceable by the Planning Commission or its successor agency.

Section 112. ARCHITECTURAL CONTROL COMMITTEE

No building, fence, wall or other structure shall be commenced, erected or maintained upon any lot, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, color, 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 Developer or by the Architectural Control Committee. Such Committee shall be composed of three (3) members. The first Committee members shall be Robert D. Moore, Larry G. Cowell and Allan H. Weihe.

A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. In the event said Architectural Control Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 113. ENFORCEMENT OF RESTRICTIONS AND CONDITIONS

The Developer, and any owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these covenants and restrictions. Failure by the Developer, or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

In the event the Developer shall be successful in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, condition, reservation, lien or charge now or hereinafter imposed by the provisions of the Restrictions, Covenants, Limitations, Easements and Approvals appended to and made a part of the Plat of the community, it shall be entitled to recover from the party against whom the proceeding was brought all of the attorneys' fees and related costs and expenses it incurred in such proceeding.

The Westfield-Washington Township Plan Commission, its successors and assigns, shall have the right, power and authority to enforce any covenants, commitments, restrictions or limitations contained in the plat which covenants, commitments, restrictions or limitations expressly run in favor of the Westfield-Washington Township Plan Commission; provided further, that nothing herein shall be construed to prevent the Westfield-Washington Township Plan Commission from enforcing any provisions of the subdivision control ordinance.

ARTICLE II

Emerald Place Homeowners Association

The homeowners' association shall be known and designated as EMERALD PLACE HOMEOWNERS ASSOCIATION.

SECTION 201. MEMBERSHIP IN ASSOCIATION

Each lot owner shall, automatically upon becoming an owner, be and become a member of the Association and shall

remain a member until such time as his ownership of a lot ceases. Membership in the Association shall terminate when such owner ceases to be an owner and will be transferred to the new owner of his lot; provided, however, that any person who holds the interest of an owner in a lot in this subdivision merely as security for the performance of an obligation shall not be a member until and unless he realizes upon his security, at which time he shall automatically be and become an owner and a member of the Association.

SECTION 202. VOTING RIGHTS

The Association shall have the following classes of membership, with the following voting rights:

- a. Class A. Class A members shall be all owners except Class B members. Each Class A member shall be entitled to one (1) vote for each lot of which such member is the owner with respect to each matter submitted to a vote of the members upon which the Class A members are entitled to vote. When more than one (1) person constitutes the owner of a particular lot, all such persons shall be members of the Association, but all of such persons shall have only one (1) vote for such lot, which vote shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any such lot.
- b. Class B. Class B members shall be the Developer and all successors and assigns of Developer designated by Developer as Class B members in a written notice mailed or delivered to the President of the Association. Each Class B member shall be entitled to five (5) votes for each Lot of which it is the owner and five (5) votes for each individually numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the subdivision, or any part thereof, of which it is the owner (either as to the entire numbered parcel or any part thereof) which is not a "lot" as defined in this declaration of Covenants, Conditions And Restrictions, on all matters requiring a vote of the members of the Association. The Class B membership shall cease and terminate upon the first to occur of (i) the date upon which the written resignation of the Class B members as such is delivered to the President of the Association, (ii) the date Developer no longer owns any Lots nor any portion of any individually numbered parcel of land shown upon and identified as a lot on, any recorded subdivision plat of the subdivision, or any part thereof, or (iii) *January 1, 2000*, (the "Applicable Date"). After the Applicable Date, Class B memberships shall be converted to Class A

memberships, and each former Class B member shall be entitled to one (1) Class A membership for each Lot owned and for each individually numbered parcel of land shown upon, and identified as a lot on, any recorded subdivision plat of the subdivision, or any part thereof, of which it is then the owner (either as to the entire numbered parcel or any part thereof) which is not a "Lot" as defined herein.

Special. Until the Applicable Date, there shall be three (3) additional Special members of the Association, being the persons from time to time appointed by Developer to serve on the Architectural Control Committee, pursuant to Section 116 of Article I hereof. Persons who are Special members shall not be deemed or considered members of the Association nor owners of lots for any purpose other than to qualify to act as members of the Architectural Control Committee. Special members shall have no voting rights on any matters submitted to a vote of the members [unless such Special member is also a Class A member, in which event his voting rights shall be governed by subsection (a) of this Section].

SECTION 203. FUNCTIONS

The Association has been (or will be) formed for the purpose of providing for the maintenance, repair, replacement, administration, operation and ownership of the Common Areas as and to the extent provided herein, to pay taxes assessed against and payable with respect to the Common Areas, to pay any other necessary expenses and costs in connection with the Common Areas, and to perform such other functions as may be designated for it to perform under this Declaration or under any recorded subdivision plat of the real estate, whether heretofore or hereafter recorded.

SECTION 204. MANAGEMENT OF BOARD OF DIRECTORS

The business and affairs of the Association shall be governed and managed by the Board of Directors. No person shall be eligible to serve as a member of the Board of Directors unless he is, or is deemed in accordance with this Declaration to be, an owner, including a person appointed by Declarant as provided in Section 102 of this Article II.

SECTION 205. INITIAL BOARD OF DIRECTORS

The initial Board of Directors shall be composed of the persons designated or to be designated by the Developer. Notwithstanding anything to the contrary contained in, or any other provisions of, this Declaration or these Articles, (a) the Initial Board shall hold office until the first meeting of the members of the Association occurring on or after the Applicable Date, and (b) in the event of any vacancy or vacancies occurring in the Initial Board for any reason or cause whatsoever prior to such first meeting occurring on or

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after the Applicable Date determined as provided above, every such vacancy shall be filled by a person appointed by Developer, who shall thereafter be deemed a member of the Initial Board. Each owner, by acceptance of a deed to a lot, or by acquisition of any interest in a dwelling house by any type of juridic acts inter vivos or causa mortis, or otherwise, shall be deemed to have appointed Developer as such owner's agent, attorney-in-fact and proxy, which shall be deemed coupled with an interest and irrevocable until the Applicable Date determined as provided above, to exercise all of said owner's right to vote, and to vote as Developer determines, on all matters as to which members of the Association are entitled to vote under the Declaration, these Articles or otherwise. This appointment of Developer as such owner's agent, attorney-in-fact and proxy shall not be affected by incompetence of the owner granting the same. Each person serving on the Initial Board, whether as an original member thereof or as a member thereof appointed by Developer to fill a vacancy, shall be deemed a Special member of the Corporation and an owner solely for the purpose of qualifying to act as a member of the Board of Directors and for no other purpose. No such person serving on the Initial Board shall be deemed or considered a member of the Association nor an owner of a lot for any other purpose (unless he is actually the owner of a lot and thereby a member of the Association).

SECTION 206. ADDITIONAL QUALIFICATIONS OF BOARD OF DIRECTORS

Where an owner consists of more than one person or is a partnership, corporation, trust or other legal entity, then one of the persons constituting the multiple owner, or a partner or an officer or trustee, shall be eligible to serve on the Board of Directors, except that no single lot or dwelling house may be represented on the Board of Directors by more than one person at a time.

SECTION 207. TERM OF OFFICE AND VACANCY OF BOARD OF DIRECTORS

Subject to the provisions of Section 105 of this Article II, the entire membership of the Board of Directors shall be elected at each annual meeting of the Association. The Initial Board shall be deemed to be elected and re-elected as the Board of Directors at each annual meeting until the first meeting of the members occurring on or after the Applicable Date provided herein. After the Applicable Date, each member of the Board of Directors shall be elected for a term of one (1) year. Each Director shall hold office throughout the term of this election and until his successor is elected and qualified. Subject to the provisions of Section 105 of this Article II as to the Initial Board, any vacancy or vacancies occurring in the Board shall be filled by a vote of a majority of the remaining members of the Board or by vote of the owners if a Director is removed in accordance with Section 108 of this Article II. The Director so filling a

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vacancy shall serve until the next annual meeting of the members and until his successor is elected and qualified.

SECTION 208. REMOVAL OF DIRECTORS

A Director or Directors, except the members of the Initial Board, may be removed with or without cause by vote of a majority of the votes entitled to be cast at a special meeting of the owners duly called and constituted for such purpose. In such case, his successor shall be elected at the same meeting from eligible owners nominated at the meeting. A Director so elected shall serve until the next annual meeting of the owners and until his successor is duly elected and qualified.

SECTION 209. DUTIES OF THE BOARD OF DIRECTORS

The Board of Directors shall be the governing body of the Association representing all of the owners and being responsible for the functions and duties of the Association, including but not limited to, providing for the administration of the Real Estate, the management, maintenance, repair, upkeep and replacement of the Common Areas (unless the same are otherwise the responsibility or duty of owners), and the collection and disbursement of the Common Expenses. After the Applicable Date, the Board may, on behalf of the Association, employ a reputable and recognized professional property management agent (herein called the "Managing Agent") upon such terms as the Board shall find, in its discretion, reasonable and customary. The Managing Agent, if one is employed, shall assist the Board in carrying out its duties, which include, but are not limited to:

- a. protection, surveillance and replacement of the Common Areas, unless the same are otherwise the responsibility or duty of owners of lots; provided, however, that this duty shall not include or be deemed or interpreted as a requirement that the Association, the Board or any Managing Agent must provide any on-site or roving guards, security service or security system for protection or surveillance, and the same need not be furnished;
- b. procuring of utilities used in connection with the lots, dwelling houses and Common Areas (to the extent the same are not provided and billed directly to owners of lots and dwelling houses by utility companies) and snow removal from the streets; streets within the subdivision (if the appropriate governmental authority exercising jurisdiction over such streets is unable or unwilling to provide such snow removal);
- c. landscaping, painting, decorating, furnishing, and maintenance and upkeep of, the Common Areas;

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- d. assessment and collection from the owners of the owners' respective shares of the Common Expenses;
- e. preparation of the proposed annual budget, a copy of which will be mailed or delivered to each owner at the same time as the notice of the annual or special meeting at which the same is to be acted upon is mailed or delivered;
- f. preparing and delivering annually to the owners a full accounting of all receipts and expenses incurred in the prior year; if possible, such accounting shall be delivered to each owner simultaneously with delivery of the proposed annual budget for the current year;
- g. keeping a current, accurate and detailed record of receipts and expenditures affecting the Common Areas and the business and affairs of the Association, specifying and itemizing the Common Expenses; all records and vouchers shall be available for examination by an owner at any time during normal business hours;
- h. procuring and maintaining for the benefit of the Association, the owners, any Managing Agent and the Board the insurance coverages required under this Declaration and such other insurance coverages as the Board, in its sole discretion, may deem necessary or advisable;
- i. paying taxes and assessments levied and assessed against, and payable with respect to, the Common Areas and paying any other necessary expenses and costs in connection with the Common Areas; and
- j. all duties and obligations imposed upon the Association or the Board under this Declaration, the Articles or any recorded subdivision plat of the Real Estate, whether heretofore or hereafter recorded.

SECTION 210. POWERS OF THE BOARD OF DIRECTORS

The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties. These powers include, but are not limited to, the power:

- a. to employ a Managing Agent to assist the Board in performing its duties;
- b. to purchase, lease or otherwise obtain for the Association, to enable it to perform its functions

and duties, such equipment, materials, labor and services as may be necessary in the judgment of the Board of Directors;

- c. to employ legal counsel, architects, contractors, accountants and others as in the judgment of the Board of Directors may be necessary or desirable in connection with the business and affairs of the Association;
- d. to employ, designate, discharge and remove such personnel as in the judgment of the Board of Directors may be necessary for the maintenance, upkeep, repair and replacement of the Common Areas and to perform all other maintenance, upkeep, repair and replacement duties of the Association and the Board;
- e. to include the costs of performing all of its functions, duties and obligations as Common Expenses and to pay all of such costs therefrom;
- f. to open and maintain a bank account or accounts in the name of the Association;
- g. to promulgate, adopt, revise, amend and alter from time to time such additional rules and regulations with respect to use, occupancy, operation and enjoyment of the Real Estate and the Common Areas (in addition to those set forth in this Declaration) as the Board, in its discretion, deems necessary or advisable; provided, however, that copies of any such additional rules and regulations so adopted by the Board shall be promptly delivered to all Owners; and
- h. to grant to such public or private companies, entities or bodies as the Board shall approve, such easements as may be necessary to provide the lots, dwelling houses and Common Areas with facilities for utility and similar services, including but not limited to cable television facilities and service; provided that such easements are located within or are co-extensive with any one or more easements or Common Areas shown upon, and identified as such on, or provided for in, any subdivision plat of the Real Estate, whether such plat is heretofore or hereafter recorded.

SECTION 211. LIMITATION OF BOARD ACTION

After the Applicable Date, the authority of the Board of Directors to enter into contracts shall be limited to contracts involving a total expenditure of less than \$2,500.00 without obtaining the prior approval of a majority

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of the cumulative vote of the owners, except that in the following cases such approval shall not be necessary:

- a. contracts for replacing or restoring portions of the Common Areas damaged or destroyed by fire or other casualty where the cost thereof is payable out of insurance proceeds actually received or for which the insurance carrier has acknowledged coverage;
- b. proposed contracts and proposed expenditures expressly set forth in the proposed annual budget as approved by the owners at the annual meeting; and
- c. expenditures necessary to deal with emergency conditions in which the Board of Directors reasonably believes there is insufficient time to call a meeting of the owners.

SECTION 212. COMPENSATION OF BOARD OF DIRECTORS

No Director shall receive any compensation for his services as such, except to such extent as may be expressly authorized by a majority vote of the owners. The Managing Agent, if any is employed, shall be entitled to reasonable compensation for its services, the cost of which shall be a Common Expense.

SECTION 213. NON-LIABILITY OF DIRECTORS AND OFFICERS

The Directors and officers of the Association shall not be liable to the owners or any other persons for any error or mistake of judgment exercised in carrying out their duties and responsibilities as Directors and officers, except for their own individual willful misconduct, bad faith or gross negligence. The Association shall indemnify and hold harmless and defend each of the Directors and officers against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Association, unless any such contract shall have been made in bad faith. It is intended that the Directors and officers shall have no personal liability with respect to any contract made by them on behalf of the Association.

SECTION 214. ADDITIONAL INDEMNITY OF DIRECTORS AND OFFICERS

The Association shall indemnify, hold harmless and defend any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director or officer of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein, except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such Director or officer is liable for gross negligence or misconduct in the performance of his

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duties. The Association shall also reimburse to any such Director or officer the reasonable costs of settlement or of judgment rendered in any action, suit or proceeding, if it shall be found by a majority vote of the owners that such Director or officer was not guilty of gross negligence of misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director or officer, no Director or officer shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director or officer relied on the books and records of the Association or statements of advice made by or prepared by the Managing Agent (if any) or any other officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director or officer had actual knowledge of the falsity or incorrectness thereof; nor shall a Director or officer be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

SECTION 215. BOND OF BOARD OF DIRECTORS

The Board of Directors may provide surety bonds and may require the Managing Agent (if any), the treasurer of the Association, and any other officers as the Board deems necessary, to provide surety bonds, indemnifying the Association against larceny, theft, embezzlement, forgery, misappropriation, wrongful abstraction, willful misapplication, and other acts of fraud or dishonesty, in such sums and with such sureties as may be approved by the Board of Directors and any such bond shall specifically include protection for any insurance proceeds received for any reason by the Board. The expense of any such bonds shall be a Common Expense.

SECTION 216. INITIAL MANAGEMENT

Notwithstanding anything to the contrary contained in this Declaration, Developer shall have, and Developer hereby reserves to itself, the exclusive right to manage or designate a Managing Agent for the Real Estate and Common Areas, and to perform all the functions of the Corporation, until the Applicable Date. Developer may, at its option, engage the services of a Managing Agent affiliated with it to perform all the functions of the Corporation, until the Applicable Date. Developer may, at its option, engage the services of a Managing Agent affiliated with it to perform such functions and, in either case, Developer or such Managing Agent shall be entitled to reasonable compensation for its services.

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ARTICLE III

These Covenants, Conditions and Restrictions shall be and continue in full force and effect for a period of twenty (20) years from the date of this plat, and for successive twenty (20) year terms thereafter unless and until by a vote of the then owners of a two-thirds majority of the total lots in this subdivision it is agreed to change any of these covenants in whole or in part. Invalidation of any one of these covenants by judgement or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

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Witness our signatures this 25th day of January 1995

Allan H. Weihe
Allan H. Weihe, President
10505 North College Avenue
Indianapolis, IN 46280

Joyce M. Weihe
Joyce M. Weihe, Secretary

STATE OF INDIANA)
COUNTY OF Hamilton) SS:

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared WEIHE DEVELOPMENT CORP., by Allan H. Weihe and Joyce M. Weihe, who acknowledged the execution to the foregoing instrument as their voluntary act and deed for the uses and purposes therein expressed.

Witness my Hand Notarial Seal this 25 day of January, 1995.

Michael K. Spurgeon
Notary Public

County of Residence: Marion

My Commission Expires: Oct 1-96

THE INSTRUMENT REFERRED TO BY ALLAN H. WEIHE

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Exhibit "A"
Emerald Place Subdivision - Section I

A parcel of land lying within the Southwest Quarter of Section 6, Township 18 North, Range 4 East of the Second Principal Meridian, Washington Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of the Southwest Quarter of Section 6, Township 18 North, Range 4 East of the Second Principal Meridian, Washington Township, Hamilton County, Indiana; thence South 00 degrees 37 minutes 23 seconds West (Basis of Bearing is South 89 degrees 44 minutes 06 seconds East on the North line of said Southwest Quarter) a distance of 527.72 feet on the West line of said Southwest Quarter to the POINT OF BEGINNING of this description; thence South 89 degrees 31 minutes 46 seconds East, 144.03 feet; thence North 53 degrees 18 minutes 36 seconds East, 89.09 feet; thence North 00 degrees 28 minutes 14 seconds West, 12.67 feet; thence South 89 degrees 44 minutes 06 seconds East, 115.14 feet to the East line of the real estate described in Deed Book 341, page 602 in the Office of the Recorder of Hamilton County, Indiana; thence North 00 degrees 37 minutes 23 seconds East, 302.00 feet on the East line of the real estate described in said Deed Book 341, page 602 and on the East line of the real estate described in Instrument #8813067 in said recorder's office to the Southwest corner of the real estate described in Instrument #8826002 in said recorder's office, said corner being common with the beginning point of a parcel of land described in Deed Book 186, page 258 in said recorder's office; the following two (2) courses are on the perimeter of the real estate described in said Deed Book 186, page 258; 1.) thence South 89 degrees 44 minutes 06 seconds East, 397.00 feet; 2.) thence South 00 degrees 37 minutes 23 seconds West, 158.00 feet; thence South 00 degrees 28 minutes 14 seconds West, 308.77 feet; thence South 85 degrees 31 minutes 46 seconds East, 21.18 feet; thence South 04 degrees 28 minutes 14 seconds East, 50.00 feet; thence South 00 degrees 26 minutes 14 seconds West, 114.69 feet to the North line of the real estate described in Deed Book 144, page 422 in said recorder's office; thence North 89 degrees 31 minutes 46 seconds West, 15.34 feet on the North line of the real estate described in said D.B. 144, page 422; then South 00 degrees 37 minutes 21 seconds East, 1.30 feet to the North line of the real estate described in Miscellaneous Book 131, page 252 in said recorder's office; thence North 89 degrees 34 minutes 50 seconds West, 730.59 feet on the North line of the real estate described in said Miscellaneous Book 131, page 252 to the West line of said Southwest Quarter; thence North 00 degrees 37 minutes 23 seconds East, 264.48 feet on the West line of said Southwest Quarter to the Point of Beginning, containing 8.07 acres, more or less.

Subject to the right-of-way for Union Street.

Subject to all legal easements and rights-of-way.

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Exhibit "B"
Emerald Place Subdivision - Section II

A parcel of land lying within the Southwest Quarter of Section 6, Township 18 North, Range 4 East of the Second Principal Meridian, Washington Township, Hamilton County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of the Southwest Quarter of Section 6, Township 18 North, Range 4 East of the Second Principal Meridian, Washington Township, Hamilton County, Indiana; thence South 00 degrees 37 minutes 23 seconds West (Basis of Bearing is South 89 degrees 44 minutes 06 seconds East on the North line of said Southwest Quarter) a distance of 527.72 feet on the West line of said Southwest Quarter; thence South 89 degrees 31 minutes 46 seconds East, 144.03 feet; thence North 53 degrees 18 minutes 36 seconds East, 89.09 feet; thence North 00 degrees 28 minutes 14 seconds West, 12.67 feet; thence South 89 degrees 44 minutes 06 seconds East, 115.14 feet to the East line of the real estate described in Deed Book 341, page 602 in the Office of the Recorder of Hamilton County, Indiana; thence North 00 degrees 37 minutes 23 seconds East, 302.00 feet on the East line of the real estate described in said Deed Book 341, page 602 and on the East line of the real estate described in Instrument #8813067 in said recorder's office to the Southwest corner of the real estate described in Instrument #8826002 in said recorder's office, said corner being common with the beginning point of a parcel of land described in Deed Book 186, page 258 in said recorder's office; the following five (5) courses are on the perimeter of the real estate described in said Deed Book 186, page 258; 1.) thence South 89 degrees 44 minutes 06 seconds East, 397.00 feet; 2.) thence South 00 degrees 37 minutes 23 seconds West, 158.00 feet to the POINT OF BEGINNING; 3.) thence South 89 degrees 44 minutes 06 seconds East, 148.00 feet; 4.) thence North 00 degrees 37 minutes 23 seconds East, 23.68 feet; 5.) thence South 89 degrees 44 minutes 06 seconds East, 421.75 feet to a 5/8 inch diameter rebar w/cap marked "Weihe Engr 0012" on the West line of the East half of said Southwest Quarter as established by 1934 court order; thence South 01 degree 09 minutes 31 seconds West, 499.15 feet on the West line of the East half of said Southwest Quarter to a 5/8 inch diameter rebar w/cap marked "Weihe Engr 0012" on the North line of the real estate described in Deed Book 144, page 422 in said recorder's office; thence North 89 degrees 31 minutes 46 seconds West, 546.16 feet on the North line of the real estate described in said Deed Book 144, page 422; thence North 00 degrees 28 minutes 14 seconds East, 114.69 feet; thence North 04 degrees 28 minutes 24 seconds East, 50.00 feet; thence North 85 degrees 31 minutes 46 seconds West, 21.18 feet; thence North 00 degrees 28 minutes 14 seconds East, 308.77 feet to the Point of Beginning, containing 6.34 acres, more or less.

Subject to all legal easements and rights-of-way.