

Station 4  
BOOK 275 PAGE 309 X  
11599

AMENDED DECLARATION OF COVENANTS AND RESTRICTIONS  
OF  
FOXCLIFF ESTATES SUBDIVISION

This Amended Declaration is made this 21<sup>st</sup> day of July, 1980, by two thirds (2/3) of the Lot Owners of Foxcliff Estates Subdivision;

WITNESSETH:

WHEREAS, the following facts are true:

A. On August 21, 1968, Summit City Development Corporation, as original Declarant, recorded certain restrictions for Foxcliff Estates Subdivision at Deed Record 207, Page 503, which restrictions reserved in Summit City Development Corporation the right to amend the restrictions of Foxcliff Estates Subdivision for a period of five (5) years from the date of recording thereof.

B. On May 23, 1969, Summit City Development Corporation recorded certain amendments to the restrictions of Foxcliff Estates Subdivision at Deed Record 211, Page 140.

C. On October 17, 1969, Summit City Development Corporation recorded certain amendments to the restrictions of Foxcliff Estates Subdivision at Deed Record 213, Page 251.

D. On August 17, 1973, Summit City Development Corporation, recorded certain additional amendments to the restrictions of Foxcliff Estate Subdivision at Deed Record 234, Page 537.

E. On August 7, 1978, Foxcliff, Inc., as declarant and as successor to Summit City Development Corporation, recorded a Declaration of Amended Covenants and Restrictions of Foxcliff Estates Subdivision at Deed Record 264, Page 182,

F. The right to amend the covenants and restrictions are incorporated by reference in the plats of the following sections of Foxcliff Estates Subdivision:

- ✓✓ Section I Recorded in Deed Record 207, Page 503
- ✓✓ Section II Recorded in Deed Record 209, Page 164

- ✓✓ Section III Recorded in Deed Record 213, Page 86
- ✓✓ Section IV Recorded in Deed Record 207, Page 510
- ✓✓ Section V Recorded in Deed Record 209, Page 167
- ✓✓ Section VI Recorded in Deed Record 220, Page 408
- ✓✓ Section VII Recorded in Deed Record 212, Page 268
- ✓✓ Section VIII Recorded in Deed Record 210, Page 24
- ✓✓ Section IX Recorded in Deed Record 210, Page 593
- ✓✓ Section X Recorded in Deed Record 226, Page 554
- ✓✓ Section XI Recorded in Deed Record 213, Page 88
- ✓✓ Section XII Recorded in Deed Record 229, Page 286
- ✓✓ Section XIII Recorded in Deed Record 233, Page 307
- ✓✓ Section XIV Recorded in Deed Record 213, Page 535
- ✓✓ Section XV Recorded in Deed Record 220, Page 407
- ✓✓ Section XVI Recorded in Deed Record 220, Page 406
- ✓✓ Section XVII Recorded in Deed Record 238, Page 324
- ✓✓ Section XIX Recorded in Deed Record 226, Page 555
- ✓✓ Section XX Recorded in Deed Record 241, Page 136
- ✓✓ Section XXX Recorded in Deed Record 238, Page 322

G. The Owners of Lots in the Foxcliff Estates Subdivision, including Foxcliff, Inc. as Developer and as successor to Summit City Development Corporation, desire to provide for the preservation and enhancement of the property values, amenities and opportunities in the Foxcliff Estates Community and for the maintenance of the Tract and the improvements thereon, and to replace all prior amendments, and to this end desire to subject the Tract, together with such additions as may hereafter be made therein (as provided in Paragraph 3 hereof), to the amended restrictions, covenants, assessments, charges, and liens hereinafter set forth, each and all of which is and are for the benefit and complement of the lots and lands in the Tract and the present and future Owners thereof.

H. Foxcliff Estates Community Association, Inc., an Indiana not-for-profit corporation, has been delegated and assigned the powers of owning, maintaining, and administering the Common Area; administering and enforcing the restrictions; collecting and disbursing the assessments and charges hereinafter

set forth; and promoting the recreation, health, safety and welfare of the Owners and occupants of the Foxcliff Residential Community and has accepted such powers with respect to the Lots and Common Areas subjected to these Covenants and Restrictions by the existing recorded plats referenced herein.

NOW THEREFORE, the Owners of two-thirds (2/3) of the Lots of Foxcliff Estates Subdivision, including Foxcliff, Inc. as Developer and as an Owner, hereby amend the existing covenants and restrictions and declare that all of the lots and lands in the Tract and such additions thereto as may hereafter be made pursuant to Paragraph 3 hereof, as they are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, are and shall be, subject to this Amended Declaration, all of which is declared and agreed to be in furtherance of a plan for the improvement and sale of lots and lands in the Tract and is established for and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Tract as a whole and of each of said lots and lands situated therein. All of the covenants and restrictions shall run with the land and shall be binding upon any parties having or acquiring any right, title or interest, legal or equitable, in and to the Tract or any part or parts thereof subject to such covenants and restrictions, and shall inure to the benefit of the existing Owners and every one of their successors in title to the Tract or any part or parts thereof. This Declaration shall amend, replace and take precedence over any prior covenants and restrictions or amendments thereof.

**CHICAGO TITLE**

1. Definitions. The terms set forth below when used in this Amended Declaration, unless the context clearly requires otherwise, shall mean the following:

- a. "Articles" means the Articles of Incorporation of the Corporation, as amended from time to time.
- b. "Assessments" means and includes all sums lawfully assessed against the members of the Corporation as set forth by this Amended Declaration, any Supplementary Declaration, the Articles or the By-Laws.

- c. "Board of Directors" means the governing body of the Corporation elected by the Members in accordance with the Articles and the By-Laws.
- d. "Building Control Committee" means the entity established pursuant to Paragraph 6 of the Amended Declaration for the purposes stated therein.
- e. "By-Laws" means the Code of By-Laws of the Corporation, as amended from time to time.
- f. "Common Area" means those areas of land (1) shown on any recorded subdivision plat, (2) described in any recorded instrument, or (3) conveyed to or acquired by the Corporation, together with all improvements thereto, which are intended to be devoted or dedicated to the common use and enjoyment of all of the Members; and any drainage facilities or easements which are located on, over, across or through one or more parcels.
- g. "Community Sewer System" means the sewage collection and treatment system owned and operated by the Summit City Utility Corporation, its successors or assigns upon the Tract as the same may exist or be extended from time to time.
- h. "Community Water System" means the water treatment and distribution system owned and operated by Summit City Utility Corporation, its successors or assigns as the same may exist or be extended from time to time.
- i. "Condominium" means a common law condominium or a 'condominium unit' as defined in the Indiana Horizontal Property Act, Indiana code § 32-1-6-1, et seq. as the same may be hereinafter amended.
- j. "Corporation" means the Foxcliff Estates Community Association, Inc., an Indiana not-for-profit corporation, its successors and assigns.

k. "Declaration" means the original restrictions for Foxcliff Estates Subdivision recorded at Deed Record 207, Page 503, the May 23, 1969 Amendments recorded at Deed Record 211, Page 140, the October 17, 1969 Amendments recorded at Deed Record 213, Page 251, and the August 17, 1973 Amendments to the restrictions recorded at Deed Record 234, Page 537, and the August 7, 1978 Amendments recorded at Deed Record 264, page 182 in the Office of the Recorder of Morgan County, Indiana.

l. "Developer" means Foxcliff, Inc., successor to Summit City Development, Inc., the Original Declarant, and its successors and assigns to its interest in the Tract, other than Owners purchasing lots by deed from the original Declarant or the Developer.

m. "Development Area" means the real estate described in Exhibit "A" attached hereto and made a part hereof.

n. "Foxcliff Estates Subdivision" means the name by which the Tract is known.

o. "General Plan of Development" means that plan as publicly distributed and as approved by appropriate public agencies, including local planning and zoning authorities and governing bodies, which shall represent the total general scheme of development and general use of land in the Development Area as such may be amended from time to time, subject to at least ninety (90) days notice to the Corporation and approval of the public agencies involved and the Corporation. The General Plan of Development shall include a schematic drawing showing the approximate area, number and density of platted and unplatted lots, common areas, including roadways, lakes and recreational areas, and the general use category of each platted or unplatted area. The initial General Plan of Development schematic drawing is attached hereto as Exhibit "C"

p. "Improved Lot" means any lot upon which construction of a Living Unit or any appurtenant structure thereto has commenced.

q. "Living Unit" means any portion of a structure situated upon the Tract designed and intended for use and occupancy by a single family.

- r. "Lot" means (1) any plot of land shown on any recorded subdivision plat with the exception of Common Area, and (2) any Condominium.
- g. "Member" means a Class A, Class B or Class C member of the Corporation and "Members" means Class A, Class B and Class C members of the Corporation, all as designated in the Articles.
- t. "Occupant" means the occupant of a lot who shall be either the Owner or a lessee who holds a written lease having an initial term of at least twelve (12) months.
- u. "Owner" means a person, including Declarant, who at any time has or is acquiring any right, title or interest, legal or equitable, in or to a lot, including contract sellers, but excluding a person having such an interest merely as security for the performance of an obligation.
- v. "Parcel" means all platted subdivisions or Condominiums, as defined in the Indiana Horizontal Property Act, Indiana Code § 32-1-6-1, et seq. as the same may be hereinafter amended, consisting of one or more lots which are subject to the same Supplementary Declaration.
- w. "Part of Development Area" means any part of the Development Area which is not included in the Tract as the same may exist from time to time.
- x. "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.
- y. "Recreational Area" means the real estate designated as such on the General Plan of Development Schematic Drawings attached hereto as Exhibit "C" to this Amended Declaration and any recreational facilities that are built thereon which shall become Common Area and the property of the Corporation upon its conveyance to the Corporation by Developer.

z. "Restrictions" means the covenants, conditions, easements, charges, liens, and restrictions and all other provisions set forth in this Amended Declaration, as the same may from time to time be amended.

aa. "Register of Regulations" means the document containing rules, regulations, policies and procedures adopted by the Board of Directors or the Building Control Committee, as the same may from time to time be amended.

bb. "Supplementary Declaration" means any declaration of covenants, conditions, restrictions or Condominium which may be recorded and which extends the provisions of this Amended Declaration to a Parcel and contains such complementary provisions for such Parcel as are required by this Amended Declaration.

cc. "Tract" means the real estate described in Exhibit "g" to this Amended Declaration together with such other real estate as may from time to time be added thereto under the provisions of Paragraph 3 hereof.

dd. "Unimproved Lot" means any Lot which is not an Improved Lot.

2. Amendment. Pursuant to the power of amendment provided in the original Declaration, two thirds (2/3) of the Lot Owners of Foxcliff Estates Subdivision by the affirmative signature of Owners representing 270 of 404 Lots hereby declare that the tract and any additions thereto pursuant to Paragraph 3 hereof shall be held, transferred, sold, conveyed and occupied subject to this Amendment. The Owners of any Lot subject to these restrictions, by (1) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or any other present Owner of such Lot, their successors or assigns, or (1i) by the act of occupancy of any Lot, shall accept such deed, execute such contract or occupy such Lot subject to each and every Restriction and agreement herein contained. By acceptance of such deed, execution of such contract, or the act of occupancy the Owner acknowledges the right and powers of Developer and of the Corporation with respect to these Covenants and Restrictions, and also for themselves, their heirs, personal representatives, successors, and assigns, and such Owners covenant, agree and

consent to and with Developer, the Corporation and to and with the present Owners and subsequent Owners of each of the lots affected by these Covenants and Restrictions to keep, observe, comply with and perform such Covenants, Restrictions and agreements. By the execution of this Amended Declaration, the Present Owners; Foxcliff Estates Community Association, Inc.; and Foxcliff, Inc., individually and as successor to Summit City Development Corporation, agree and consent with each other to keep, observe, comply with and perform each and every Covenant, Restriction and agreement herein contained.

3. Additions to the Tract. Additional real estate may become subject to the Restrictions in the following manner:

a. Within the Development Area.

- (1) The Developer may bring within the scheme of this Amended Declaration and add to the Tract, an additional Parcel or Parcels of real estate which is a part of the Development Area, with the written consent and acceptance of the Corporation. Such consent and acceptance shall be given by the Board of Directors of the Corporation, and shall not be unreasonably withheld, provided that the proposal to add any such Parcel meets the following standards:
  - (a) The proposal complies with the general use and restrictions shown on the General Plan of Development.

(b) The proposal has the prior approval of the Morgan County Plan Commission and the other appropriate governmental agencies.

(c) The Supplementary Declaration of Covenants and Restrictions for such Parcel is compatible with this Amended Declaration and subjects the Parcel to the provisions of this Amended Declaration.

(d) Adequate provisions have been made to fund and guarantee the completion, within one year from the date of the acceptance of the Parcel by the Corporation, of the improvement of the Parcel with roadways; sewers; water, gas and electric services; and proper surface drainage, all to the same standards as may be established from time to time within Tract.



(e) The Developer transfers to the Corporation, by general warranty deed, free of all liens and encumbrances except the lien of current taxes, all of its right, title and interest in and to the roadways, common areas, including lakes and recreational areas, and drainage facilities or easements within the Parcel, and the Corporation accepts such transfer subject to the completion of the improvements described in Paragraph 3a (1) (d) herein, upon the acceptance of the Parcel into the Tract.

(2) In the event that a proposal by the Developer to add real estate to the Tract does not meet the standard described in Paragraph 3a (1) hereof or in the event that any other owner of real estate within the Development Area desires to bring such real estate within the scheme of the Amended Declaration, then any such real estate may be added to the Tract and accepted by the Corporation by a two-thirds (2/3) vote of the Board of Directors, provided that:

(a) It reviews and tentatively approves the proposed plat, the Supplementary Declaration, the General Plan of Development and any other terms and conditions it deems appropriate all at a regular or a special meeting of the board called for such purpose,

(b) It thereupon causes the Proposal to be mailed to all Class A and Class B members for their review and comment, and

(c) upon the expiration of at least thirty (30) but not more than ninety (90) days following the mailing of the Proposal to the members, it approves and accepts the Proposal at a regular or special meeting called for such purpose.

b. Other Real Estate. Notwithstanding the foregoing, additional real estate may be brought within the scheme of this Amended Declaration and added to the Tract with the written consent of the Corporation acting through its Board of Directors upon the authorization of twenty-five percent (25%) of the Owners.

c. The additions authorized under subparagraph (a) and (b) shall become effective upon the filing of record of one or more approved Supplementary Declarations and plats with respect to the additional real estate.

4. Foxcliff Estates Community Association, Inc.

a. Membership. Each Occupant shall automatically be a Member of the Corporation and shall enjoy the privileges and be bound by the obligations contained in the Articles and By-Laws. Any mortgagee or other lien holder who becomes an Owner of real estate which is subject to this Amended Declaration and which is security for his mortgage or lien shall upon becoming an Owner be subject to all the requirements and limitations imposed by this Amended Declaration, including those provisions with respect to the payment of assessments.

b. Powers. The Corporation shall have such powers as are set forth in this Amended Declaration and in the Articles as each may be amended from time to time, together with all other powers that belong to it by operation of law.

c. Classes of Members. The Corporation shall have Three (3) classes of members as follows:

Class A. Every person who is an Owner of an Improved Lot shall be a Class A member.

Class B. Every person who is an Owner of an Unimproved Lot shall be a Class B member.

Class C. Every person who is an Occupant but not an Owner shall be a Class C member.

d. Voting and Other Rights of Members. The voting and other rights of members shall be as specified in the Articles and By-Laws.

e. Mergers. Upon a merger or consolidation of another corporation with the Corporation, its properties, rights and obligations may, as provided in its Articles of Incorporation, by operation of law, be transferred to another surviving or consolidated corporation or, alternatively, the properties, rights and obligations of another corporation may be transferred to this

Corporation as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Amended Declaration within the Tract as hereinafter provided.

5. Assessments.

a. Creation of the Lien and Personal Obligation of

Assessments. Developer hereby covenants and agrees, and each Owner, and each subsequent Owner of any lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Corporation the following: (1) General Assessments, (2) Special Assessments, (3) Additional Special Assessments, and (4) Annual and Special Parcel Assessments, such assessments to be established and collected as hereinafter provided.

All assessments, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a continuing lien upon the lot against which each assessment is made until paid in full. Each Assessment together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who was the Owner of the lot at the time when the Assessment became due and payable.

b. General Assessment.

(1) Purpose of Assessment. The General Assessment levied by the Corporation shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and Occupants in the Foxcreek Estates Subdivision and in particular for the improvement, maintenance and repair of the Common Area and the operation of the Corporation.

(11) Basis for Assessment.

1. Improved Lots. Each Improved Lot shall be assessed at a uniform rate.
2. Unimproved Lots. Each Unimproved Lot shall be assessed at a uniform rate which may be equal to, greater than or less than the rate for Improved Lots.

Corporation as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established by this Amended Declaration within the Tract as hereinafter provided.

5. Assessments.

a. Creation of the Lien and Personal Obligation of

Assessments. Developer hereby covenants and agrees, and each Owner, and each subsequent Owner of any Lot by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Corporation the following: (1) General Assessments, (2) Special Assessments, (3) Additional Special Assessments, and (4) Annual and Special Parcel Assessments, such assessments to be established and collected as hereinafter provided.

All assessments, together with interest thereon and costs of collection thereof as hereinafter provided, shall be a continuing lien upon the Lot against which each assessment is made until paid in full. Each Assessment together with interest thereon and costs of collection thereof, shall also be the personal obligation of the Person who was the Owner of the Lot at the time when the Assessment became due and payable.

b. General Assessment.

(1) Purpose of Assessment. The General Assessment levied by the Corporation shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and Occupants in the Foxcliff Estates Subdivision and in particular for the improvement, maintenance and repair of the Common Area and the operation of the Corporation.

(11) Basis for Assessment.

1. Improved Lots. Each Improved Lot shall be assessed at a uniform rate.
2. Unimproved Lots. Each Unimproved Lot shall be assessed at a uniform rate which may be equal to, greater than or less than the rate for Improved Lots.

d. Additional Special Assessment. The Board of Directors of the Corporation may levy an Additional Special Assessment upon any Lot for the purpose of recovering the cost of damage or repairs to the Common Area caused in whole or in part by the Owner of such Lot or by any of his guests, tenants, licensees, agents, or members of his family.

e. Effect of Nonpayment of Assessment - Remedies of the Corporation. Any Assessment not paid within thirty (30) days after the due date may upon resolution of the Board of Directors bear interest from the due date at a percentage rate, no greater than the current statutory maximum annual interest rate, to be set by the Board of Directors for each assessment year. The Corporation shall be entitled to institute in any court of competent jurisdiction such procedure, at law or in equity, by foreclosure or otherwise to collect the delinquent Assessment plus any expenses or costs, including interest and attorneys' fees, incurred by the Corporation in collecting the same. If the Corporation has provided for the collection of any Assessment in installments, upon default in any payment, the Corporation may declare the entire balance of said Assessment due and payable in full. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot. The Board of Directors of the Corporation may accept title for the Corporation to any Lot, free and clear of any other liens or encumbrances, as payment in full for the outstanding balance of Assessments provided for herein and levied against that Lot.

f. Subordination of the Lien to Mortgages. The Lien of the Assessments provided for herein against a Lot shall be subordinate to the lien of any recorded first mortgage which is recorded following the date of recording hereof covering such Lot and which is for the construction or purchase of a residence thereon and to any valid tax or special assessment lien on such Lot in favor of any governmental taxing or assessing authority. The sale or transfer of any Lot shall not affect the assessment lien, unless the sale of or transfer of such Lot is pursuant to a foreclosure of the lien of a superior mortgage or any proceedings in lieu thereof, which shall extinguish the lien of such Assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve any Lot from liability for any Assessments thereafter becoming due or from the lien thereof.

g. Certificate. The Corporation shall, upon demand, at any time, furnish a certificate in writing signed by the Treasurer or Assistant Treasurer of the Corporation certifying that the Assessments on a Lot have been paid or that certain Assessments remain unpaid, as the case may be. A reasonable charge may be made by the Board of Directors for the issuance of such certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

h. Exempt Property. The following property subject to this Declaration shall be exempt from the Assessments, charges and liens created herein: (1) all properties to the extent of any easement or other interest therein dedicated and accepted by the a public authority and devoted to public use; (2) the Common Area; (3) all properties exempted from taxation by state or local governments upon the terms and to the extent of such legal exemption; (4) any Unimproved Lots where a non-discriminatory waiver of Assessments has been granted by the Board of Directors upon the recommendation of the Building Control Committee following the hearing and approval of a petition for the waiver as provided in the Register of Regulations; (5) prior to January 1, 1982 Foxcliff, Inc. shall not be subject to any Assessment or charge of any type for Lots owned by it within the area described in the existing recorded plats recited herein, exclusive of lots sold on contract or by agreement for deed in which Foxcliff, Inc. retains legal title, which lots shall be subject to Assessments and charges. From and after January 1, 1982 Foxcliff, Inc. shall pay all Assessments and charges made pursuant to this Paragraph 5. Notwithstanding any other provisions herein, no land or improvements devoted to dwelling use shall be exempt from said Assessments, charges or liens.

1. Annual Budget. The Board of Directors shall prepare, not later than sixty (60) days prior to the close of the prior Fiscal year, a proposed annual budget for the subsequent fiscal year, which shall provide for the budgeting and allocation of expenses in such a manner that the obligations imposed by the Amended Declaration and all Supplementary Declarations (except those with respect to Condominiums) will be met.

j. Adopting the Budget. Said budget shall be mailed to each Member for his review and comments within five (5) days following the meeting of the Board of Directors at which it was proposed. The Board of Directors shall, by a two-thirds (2/3) vote, adopt the budget, taking into account the comments of the Members, not later than fifteen (15) days prior to the close of the prior fiscal year.

6. Building Control.

a. The Building Control Committee. A Building Control Committee consisting of three (3) or more persons as provided in the by-laws shall be appointed by the Board of Directors.

b. Purpose. The Building Control Committee shall regulate the external design, appearance, use, location and maintenance of the Tract and of the improvements thereon in such manner as to preserve and enhance values and to maintain a harmonious relationship among structures, improvements and natural vegetation and topography.

c. Conditions. No improvements, alterations, repairs, excavations, changes in grade, or other work which in any way alters the exterior of any lot or the improvements located thereon from its natural or improved state existing on the date such lot was first conveyed in fee by the original Declarant or the Developer to any Owner or which exist as of the date of the recording of this Amended Declaration, shall be made or done without the prior written approval of the Building Control Committee, except as otherwise expressly provided in this Amended Declaration. No building, sign, fence, wall, residence, or other structure shall be commenced, erected, maintained, improved, repaired, altered, made or done without the prior written approval of the Building Control Committee.

d. Development Bond. No improvements, alterations, repairs, excavations, changes in grade or other work upon a lot may be commenced until and unless the Owner of such lot shall have first provided a bond as required by the Register of Regulations established by the Building Control Committee, to the Corporation, to insure that such work will be completed in compliance with the

restrictions contained in this Amended Declaration and the guidelines of the Building Control Committee and to protect the Corporation from any damages to the Community Area caused in whole or in part by such work.

e. Procedures. In the event that the Building Control Committee fails to approve, modify, or disapprove in writing an application within fifteen (15) days after notice of such application has been given to affected Owners in accordance with the Register of Regulations, approval will be deemed granted, provided that if such procedures authorize a continuance of the application upon the notion of the applicant, such a motion shall constitute a waiver by the applicant of the fifteen (15) day requirement. A decision of the Building Control Committee may be appealed to the Board of Directors which may reverse or modify such decision by a two-thirds (2/3) vote of the Directors.

7. Common Area.

a. Ownership. The Common Area shall remain private, and neither the original Declarant's nor The Developer's execution or recording of an instrument portraying the Common Area, nor the doing of any other act by the original Declarant or Developer is, or is intended to be, or shall be construed as, a dedication to the public of such Common Area; provided, that the Corporation may dedicate or transfer all or any part of its interest in the Common Area to any public agency, authority, or utility for use as roads, utilities, parks or other public purposes. The Corporation may sell its interest in the Common Area, except the Road and Lakes, provided that any such sale shall not be effective unless an instrument signed by two thirds (2/3) of the Class A and Class B Members agreeing to such transfer, has been recorded.

b. Obligations of the Corporation. The Corporation, subject to the rights of the Owners set forth in this Amended Declaration, shall be responsible for the exclusive management and control of the Common Area and all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, attractive and sanitary condition, order and repair.

116



c. Members' Easements of Enjoyment. Subject to the provisions herein, every Member shall have a right and easement of enjoyment in and to the Common Area, which right and easement shall be appurtenant to and shall pass with the title to every lot.

d. Extent of Members' Easements. The Members' easements of enjoyment created hereby shall be subject to the following:

(i) The right of the Corporation to establish reasonable rules and to charge reasonable admission and other fees for the use of the Common Area or the Recreation Area.

(ii) The right of the Corporation to suspend the right of an Owner to use the recreational facilities within the Common Area for any period during which any Assessments against his lot remain unpaid for more than thirty (30) days after notice; the right of the Corporation to suspend the right of a Member to use such recreational facilities for a period not to exceed sixty (60) days for any other infraction of this amended Declaration or of the Registrar of Regulations.

(iii) The right of the Corporation to mortgage any or all of the Common Area or the facilities thereon for the purposes of improvement to, or repair of, the Common Area or structures constructed thereon, pursuant to the approval of a majority of the Class A and Class B Members voting in person or by proxy at a regular or special meeting of the Corporation duly called for this purpose.

(iv) The right of the Corporation to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Owners. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of the Class A and Class B Members agreeing to such dedication or transfer, has been recorded.

e. Delegation of Use. Any Member may delegate his right of enjoyment to the Common Area and facilities to the members of his family and to his guests subject to such general regulations as may be established from time to time by the Corporation and included within the Register of Regulations.

f. Damage or Destruction by Owner. In the event the Common Area is damaged or destroyed by an Owner or any of his guests, tenants, lessees, licensees, agents or member of his family, such Owner does hereby authorize the Corporation to repair said damaged area. The Corporation shall repair said damaged area in a good and workmanlike manner in conformance with the original plans and specifications of the area involved, or as the area may have been modified or altered subsequently by the Corporation in the discretion of the Corporation. The amount necessary for such repairs shall become an additional Special Assessment upon the Lot of said Owner.

8. Use of Tract.

a. Protective Covenants.

(i) Residential Use. All Lots designated for residential use, shall be used, improved and devoted exclusively to residential use. Nothing herein shall be deemed to prevent an Owner from leasing a Living Unit to a single family, subject to the provisions of this Amended Declaration and any Supplementary Declaration. All Lots included in the plats referenced in Exhibit "g" hereto shall be designated for residential use only.

(ii) Nuisances. No Nuisance shall be permitted to exist or operate upon any Lot so as to be detrimental to any other Lot in the vicinity thereof or its occupants. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other domesticated household pets may be kept, provided that they are kept within the Owner's property.

(iii) Other Restrictions. At the first meeting of the Building Control Committee following the recording of this Amended Declaration, said Committee shall propose general rules to implement the purposes set forth in Paragraph 6 and interpret the covenants in this Paragraph 8. Upon or before the first conveyance of the first Lot in any Parcel added to or included in the

Tract, the Building Control Committee shall adopt general rules appropriate to that parcel which shall be consistent with the rules governing other parcels in the tract. Such general rules may be amended by a two-thirds (2/3) vote of the Building Control Committee, following an open meeting of the Members of which due notice has been provided. Such rules shall be deemed adopted upon the vote of two-thirds (2/3) of the Board of Directors. All such general rules and any subsequent amendments thereto shall be placed in the Register of Regulations.

(iv) Exceptions. The Building Control Committee may issue temporary or permanent permits to except or waive any prohibitions expressed or implied by this Paragraph 8, provided the Building Control Committee can show good cause and acts in accordance with adopted guidelines and procedures and such permits are on a lot-by-lot basis and are approved by a two-thirds (2/3) vote of the Board of Directors.

(v) Type, Size and Construction of Living Units.

Notwithstanding the authority granted herein to the Building Control Committee to regulate the improvement, alteration, or repair of the exterior of lots, no improvements, alterations or repairs shall be made on any of the lots in the Foxcliff Estates Subdivision which do not conform to the following minimum standards:

(1) Ground Floor Area. No Living Unit shall be erected or permitted on any lot, the ground floor area of which, exclusive of porches, terraces or garages, is less than fifteen hundred (1500) square feet, in the case of a one-story structure, or less than one thousand (1000) square feet in the case of a structure other than one-story structure, with a total area of not less than sixteen hundred (1600) square feet provided, however, that a smaller ground floor area may be allowed by the Building Control Committee if confirmed and approved by the Board of Directors for any lot where the topography renders such restrictions impracticable.

(2) All construction on said lots must be new. No building shall be moved onto said lots. No trailer, mobile home, tent, uncovered basement, shack, garage, barn or other structure shall be placed or constructed on any of said lots at any time for use as either a temporary or permanent residence or for any other purpose except incident to the construction and use of a Living Unit on such lot.

(3) All Living Units shall have inside bathroom facilities.

(4) All Living Units shall be completed on the exterior within six (6) months from the date of the commencement of construction as certified by the Building Control Committee. All Living Units shall be completed and the site graded and sodded, seeded or landscaped within one (1) year from the date of the start of construction as certified above. During the period of construction the lot shall be kept and maintained in a slightly and orderly manner.

(5) No improvements, alterations or repair to a lot shall be approved by the Building Control Committee and no construction shall commence on any lot unless and until complete plans and specifications for the installation of septic or other private sewage disposal systems on said lot have been submitted to and approved by the appropriate public authority of Morgan County having control over the approval thereof. No septic or other private sewage disposal system shall be approved for any lot for which the Community Sewer System is available as certified by the Building Control Committee. In the event that the Community Sewer System or the Community Water System is extended to any improved lot upon which an existing septic or other private sewer disposal system is located, the Owner of said lot shall tap onto such System(s) at his expense within one (1) year of the date of the completion of said extension as certified by the Building Control Committee and hereby agrees to pay such tap-on and service fees as are established by the Public Service Commission of Indiana for said System(s).

(6) No Living Unit shall be located on any lot nearer to the front line or the side line than the minimum setback lines shown on the recorded plat thereof. No projection of any Living Unit shall be permitted to extend into or encroach upon the space between said building line and the street adjacent thereto, except steps and platform in front of the main door may extend over said line, not to exceed five (5) feet. No boat docks, floats or other structures extending into any lake shall be constructed or placed into or on said lake without the prior approval of the Building Control Committee and the Board of Directors.

(7) Any tank for storage of fuel placed on or

maintained on any lot outside of any Living Unit shall be located at least two (2) feet below the surface of the ground. Outdoor receptacles for ash or garbage shall be underground and shall be located at least fifty (50) feet to the rear of the front line of the lot. No refuse pile or other unsightly or objectionable material or thing shall be allowed or maintained on any lot.

(8) Any Living Unit, garage or other structure on any lot which may in whole or in part, be destroyed by fire, windstorm or other natural cause must be restored to its original condition or otherwise rebuilt with the approval of the Building Control Committee, or the lot restored to a slightly and natural condition as approved by the Building Control Committee within a reasonable time.

**CHICAGO TITLE**  
b. Maintenance of tract. To the extent that exterior maintenance is not provided for in a Supplementary Declaration, an Owner shall keep all lots owned by him, and all improvements thereon, in good order and repair and free of debris all in a manner and with such frequency as is consistent with good property management.

c. Public Health & Safety Easements. An easement is hereby created for the benefit of and granted to, all police, fire protection, school, ambulance, postal service, delivery vehicles and all similar persons to enter upon the Common Area in the performance of their duties.

d. Utility and Drainage Easements. Easements for the installation and maintenance of public utilities and for the maintenance and correction of surface water drainage are reserved as shown on the recorded plats and run in favor of all public utilities, including Summit City Utilities Corporation and the Corporation. Such easements shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossing walkways or driveways as approved by the Building Control Committee.

9. Enforcement. The Corporation and any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, guidelines, rules or decisions of the Building Control Committee, and any charges or liens now or hereafter imposed by the provisions of this Amended Declaration and of Supplementary Declarations, but the Corporation shall not be liable for damages of any kind to any person for failure either to abide by, enforce or carry out any of the Restrictions. No delay or failure by any person to enforce any of these Restrictions or to invoke any available remedy with respect to a violation or violations thereof, shall under any circumstances be deemed or held to be a waiver by that person of the right to do so thereafter, or an estoppel of that person to enact any right available to him upon the occurrence, reoccurrence or continuation of any violation or violations of the Restrictions.

10. Amendment. This Amended Declaration may be amended at any time by an instrument signed by two-thirds (2/3) of the Owners. The Developer shall not have the power to amend this Amended Declaration other than the power to vote as an Owner in a vote of all Owners taken for the purpose of amending this Amended Declaration. Any such amendment shall become effective upon its recordation in the office of the Recorder of Morgan County, Indiana.

11. Interpretation. The underlined titles preceding the various paragraphs and subparagraphs of this Amended Declaration are for convenience of reference only, and none of them shall be used as an aid to the construction of any provision of this Amended Declaration. Whenever 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.

12. Duration. The foregoing Covenants and Restrictions are for the mutual benefit and protection of the present and future Owners, the Corporation, and the Developer, and shall run with the Land and shall be binding on all parties and all Persons claiming under them until July 25, 1988, at which time said Covenants and Restrictions shall be automatically extended for successive periods of ten (10) years, unless changed in whole or in part by vote of those persons who are then the Owners of a majority of the Lots in the Tract.

13. Severability. Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the Land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

14. Counterparts. This Amended Declaration and any amendments hereto may be executed in several counterparts and when so executed shall constitute one agreement binding upon all of the Owners hereunder, notwithstanding that all are not signatories to the original or the same counterpart.

IN TESTIMONY WHEREOF, we the undersigned, being the Corporation, the Developer and Owners of Lots in The Foxcliff Estates Subdivision, hereby ratify and accept the foregoing Amended Declaration by the execution hereof and by the execution of separate Signature Pages which shall, together with this Amended Declaration, constitute the entire agreement.

CHICAGO TITLE

WITNESSETH the execution hereby by the undersigned on behalf of Foxcliff Estates Community Association, Inc. (the "Corporation") and Foxcliff, Inc. (the "Developer"). Dated this 13<sup>th</sup> day of June, 1980.

Foxcliff Estates Community Association, Inc.

Witness:

By: Frank C. Sprunger  
President  
Frank E. Sprunger

Patrick K. Brown  
Secretary  
PATRICK K. BROWN

UNIT

State of Indiana )  
 ) SS: Merton  
 County of Marion )

On the 13<sup>th</sup> day of June, 1980 before me personally came  
Frank C. Sprague and Robert L. Brown who are known to me  
to be the President and <sup>Assistant</sup> Secretary of the Foxcliff Estates Community Association,  
Inc. and who acknowledged execution of the foregoing Amended Declaration and  
being duly sworn, stated that the statements set forth therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 13<sup>th</sup> day of  
June, 1980.

Shirley M. Little  
Notary Public Residing in Marion County  
Shirley Little  
Printed Signature

My Commission Expires:  
3-11-82



Foxcliff, Inc.  
By: John H. Fewell  
President  
John H. Fewell

Witness:  
Charles E. Delpha  
Secretary  
Charles E. Delpha

000



State of Indiana)

County of Marion ) SS:  
(Boegan)

BOOK 195 PAGE 333

On the 13<sup>th</sup> day of June, 1980 before me personally came  
John H. Fennell and Charles E. Dolph who are known to me  
to be the President and Secretary of the Foxcliff Inc. and who acknowledged the  
execution the foregoing Amended Declaration and being duly sworn stated that the  
statements set forth therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 13<sup>th</sup> day of  
June, 1980.

Henry Wilder  
Notary Public residing in Marion County

Silvia Mishkin  
Printed Signature

My Commission Expires:

3-11-82



CHICAGO TITLE

CHICAGO TITLE

EXHIBIT "A" TO  
AMENDED DECLARATION OF COVENANTS AND RESTRICTIONS  
OF  
FOXCLIFF ESTATES SUBDIVISION  
(THE DEVELOPMENT AREA)

The South half of the Southwest quarter of Section 11; The South half of the Southeast quarter of Section 11; The North half of the North quarter and the South half of the North quarter of Fraction Section 11, which lies South of White River, except that part on the West side thereof described as being 40 acres off of the West side of Lots 5 and 6 in said Fractional Section 11.

Also; all that part of the Northwest quarter of the Southeast quarter of Section 11, lying South of the present channel of White River now being a part of Lot No. 4 of said Fractional Section 11.

Also, all that part of the Northeast quarter of the Southeast quarter of Section 11, lying South of the present channel of White River.

Also, the Southwest fraction, West of White River, being otherwise described as the Southwest Fractional quarter of Section 12.

Also, all that part of the Northwest quarter of the Southwest quarter of Section 12, lying North of the above described 43.22 acres and South and East of the former channel of White River and West of 82.87 acre tract formerly owned by John Tackett, lying mostly in the Southwest quarter of said Section 12, and described in a deed dated June 7, 1917, and recorded in Deed Record No. 89, page 549.

Also, twenty-five (25) and 50/100 acres off of and across the entire North end of the West half of the Northwest quarter of Section 13.

Also, the Northwest quarter of Section 14.  
Also, the North half of the North half of the Southwest quarter of Section 14. The Northeast quarter of Section 14, except the following part thereof: Beginning at the Southeast corner of said tract and running thence West 8.50 chains, thence North 9 chains, thence East 4.50 chains, thence North 8 chains, thence North 34 degrees West 4.75 chains; thence North 24 degrees East 3 chains, thence North 38 degrees East 4.75 chains, thence East to the East line of said tract, thence South to the place of beginning.

Also, the North half of the Northwest quarter of the Southeast Quarter of Section 14.

All in Township 12 North, Range 1 East.

Also, parts of the East half of Section 14, Township 12 North, Range 1 East and the West half of Section 13, Township 12 North, Range 1 East, more particularly described as follows:

A part of the Northeast quarter of said Section 14, Township 12 North, Range 1 East, more particularly described as follows: Beginning at the Southeast corner of said quarter section, thence West on and along the South line of said quarter section for a distance of 270.70 feet; thence North parallel to the East line of said quarter section for a distance of 1125.40; thence North 34 degrees West for a distance of 313.50 feet; thence North 24 degrees East a distance of 198.00 feet; thence North 30 degrees East for a distance of 313.50 feet; thence East parallel to the North line of said quarter section for a distance of 200.0 feet to a point in the East line of said quarter section; thence South on and along said East line for a distance of 1798.50 feet to the point of beginning.

Also, a part of the West half of the Northwest quarter of Section 13, Township 12 North, Range 1 East, more particularly described as follows: Beginning at the Southwest corner of

said quarter section, thence North on and along the West line of said quarter section for a distance of 1798.50 feet; thence East parallel to the North line of said quarter section for a distance of 288.0 feet, said point lying in the center line of a creek approximately 40 feet in width; thence deflecting right on and along the center line of said creek in a southeasterly direction for a distance of 2232.00 feet to a point in the East line of said half quarter section; thence south on and along said East line of said half quarter section for a distance of 12.60 feet to the southeast corner of said half quarter section; thence west on and along the south line of said half quarter section for a distance of 1320.00 feet to the point of beginning;

Also, a part of the Northeast quarter of the Southeast quarter of said Section 14, Township 12 North, Range 1 East, more particularly described as follows: Beginning at the Northeast corner of said quarter-quarter section, thence South on and along the East line of said quarter-quarter section to a point lying in the center line of Maple Turn Road; thence in a Northwesterly direction on and along the center of said Maple Turn Road for a distance of 413.55 feet; thence North parallel to the East line of said quarter-quarter section for a distance of 907.67 feet to a point in the North line of said quarter-quarter section; thence East on and along said North line for a distance of 270.70 feet to the point of beginning.

Also, the Northwest quarter of the Southwest quarter of Section 13, Township 12 North, Range 1 East.

Also, a part of the East half of Section 14, Township 12 North, Range 1 East, more fully described as follows:

A part of the Northeast quarter of said Section 14, beginning on the Quarter Section line at an iron pipe 270.7 feet West from the East quarter post of said Section 14, thence continuing West on the Quarter Section line 95.0 feet; thence North 17 degrees 18 minutes West 622.05 feet to an iron pipe marking the Northwest corner of real estate owned by Williams; thence East parallel to the Quarter Section line 290.3 feet to an iron pipe; thence South one (1) degree zero (0) minutes West parallel to and 270.7 feet West of the East line of said Section 594.0 feet to the place of beginning, subject to Water flood rights for Lake construction.

Also, a part of the Southeast quarter of said Section 14, beginning on the Quarter Section line at an iron pipe 270.7 feet West from the East Quarter Post of said Section 14, thence South zero (0) degrees 42 minutes West parallel to the East line of said Section 255.15 feet to an iron pipe thence West parallel to the Quarter Section line 50.0 feet to an iron pipe; thence North nine (9) degrees zero (0) minutes West 258.98 feet to a point on the Quarter Section line 95.0 feet West of the place of beginning; thence East along the Quarter Section line 95.0 feet to the place of beginning, subject to Water flood rights for Lake Construction.

ALSO, The Northeast quarter of the Northeast quarter of Section 22; the Northwest quarter of the Northwest, the West half of the Northeast quarter, the East half of the Northwest quarter of Section 23, all in Township 12 North, Range 1 East; Ten (10) acres off of the South end of the East half of the Southwest quarter of Section 14, Township 12 North, Range 1 East, containing 250 acres, more or less.

ALSO, The Southwest quarter of the Northwest quarter of Section 23, and the Southeast quarter of the Northeast quarter of Section 22, all in Township 12 North, Range 1 East, containing 80 acres, more or less.

ALSO, sixty (60) acres off of the South end of the West half of the Southwest quarter of Section 14, Township 12 North, Range 1 East.

ALSO, The East half of the Southwest quarter of Section 14, Township 12 North, Range 1 East, except twenty (20) acres off of the North end thereof and except ten (10) acres off of the South end thereof, containing exclusive of said exceptions, fifty (50) acres, more or less.



CHICAGO TITLE

CT

The following described real estate in XIV, XI and XII, Township 12 North, Range 1 East:

*West*  
Beginning at the quarter west of said Section XIV; thence North 1 degree, 35 minutes West line of said along the Section 1,333.84 feet; thence North continuing over and along said Section line North 1 degree, 35 minutes West, 1,035.30 feet; thence East 5 feet to an iron pin in the Northwest corner of Lot 203, Section X, Foxcliff Estates as per plat thereof recorded in Deed Record 226, Page 554; thence South 79 degrees 11 minutes East 40.25 feet to the Southwestly, most corner of Lot 238, Section VIII, Foxcliff Estates as per plat thereof and recorded in Deed Record 210 Page 24; thence 28 degrees 37 minutes West 317.08 feet to an iron pin; thence North 4 degrees 33 minutes West 40 feet to an iron pin; thence South 80 degrees 27 minutes East 128.15 feet; thence South 71 degrees 25 minutes East 598.5 feet to the P. P. of a curve to the left having a radius of 200 feet; thence North thence along said curve 158.80 feet to a P. P. of said curve; thence North 62 degrees 19 minutes East 353.83 feet to the Southwest corner of Lot 234 Section III, Foxcliff Estates as per plat thereof and recorded in Deed Record 213, Page 86; thence North 16 degrees 56 minutes West 258 feet; thence North 80 degrees 56 minutes East 145 feet; thence North 77 degrees 53 minutes East 205.85 feet; thence South 76 degrees 13 minutes East 201.97 feet; thence North 37 degrees 31 minutes West 201.56 feet; thence South 79 degrees 50 minutes West 106.99 feet; thence North 3 degrees 58 minutes West 158.75 feet; thence South 86 degrees 2 minutes West 150 feet; thence North 16 degrees 47 minutes West 202 feet; thence South 87 degrees 17 minutes West 15.78 feet; thence North 9 degrees 3 minutes East 48 feet; thence North 1 degree 4 minutes East 40.39 feet; thence South 89 degrees 57 minutes East 477.46 feet; thence North 22 degrees 32 minutes West 444.69 feet to the Southeast corner of Lot 182 Section XIII of Foxcliff Estates as per plat thereof recorded in Deed Record 233, Page 307; thence North 60 degrees 40 minutes West 129.07 feet; thence North 47 degrees 31 minutes West 158.86 feet; thence North 34 degrees 18 minutes East 157.68 feet; thence Northly over and along a curve having a radius of 840 feet 857.06 feet (chord bearing North 17 degrees 41 minutes West 820.46 feet) to the P. P. of said curve; thence tangent to said curve North 11 degrees 33 minutes East 45.40 feet; thence North 66 degrees 49 minutes West 541.42 feet; thence North 3 degrees 4 minutes West 44.60 feet to an iron pin; thence North 23 degrees 11 minutes East 335 feet more or less to the South bank of White River; thence meandering with the bank of White River Easterly to the Southeast corner of lot 90 in Foxcliff Estates Section V as shown on the plat thereof recorded at Deed Record 209, Page 167 in the Office of the Recorder of Morgan County, Indiana; thence South 68 degrees 25 minutes East 205.0 feet to a P. C.; thence Southerly along a curve to the right having a radius of 1,450 feet 457.36 feet to the point of tangency; thence tangent to said curve 0 degrees 5 minutes East 523.48 feet; thence Southwestly over and along a roadway known as Somerset Drive or River Road to point of its intersection with Foxcliff Drive East; thence Southerly along the east right-of-way line of Foxcliff Drive East to the Northwest corner of lot 445 as shown on the plat of Foxcliff Estates Section XIX recorded Deed Record 226, Page 555 in the Office of the Recorder of Morgan County, Indiana; thence South 72 degrees 35 minutes East 249.87 feet to an iron pipe; thence North 85 degrees 2 minutes East 510 feet to an iron pipe; thence South 4 degrees 58 minutes East 244.43 feet to an iron pipe; thence South 67 degrees 11 minutes East 910.75 feet; thence South 22 degrees 49 minutes West 14 feet to the Northern most corner of lot 327 in the plat of Foxcliff Estates Section XVI; thence South 66 degrees 46 minutes 30 seconds East 227.51 feet to an iron pin which is 1,037.93 feet North of the East quarter post of Section 14; thence South on said Section line 117.97 feet; thence North 71 degrees 32 minutes East 156.21 feet; thence South 73 degrees 52 minutes East 30 seconds East 130; thence South 17 degrees 5 minutes East 228.32 feet; thence

South 38 degrees 7 minutes 30 seconds East 605.69 feet;  
 thence South 38 degrees 7 minutes 30 seconds East 354.06  
 feet; thence South 71 degrees 45 minutes East 200 feet;  
 thence South 24 degrees 1 minutes East 162.3 feet thence  
 South 5 degrees 7 minutes West 136.48 feet; thence South 13  
 feet 52 minutes 30 seconds West 331.34 feet; thence South 63  
 degrees 40 minutes West 296.40 feet; thence North 33 degrees  
 16 minutes 15 seconds West 165.35 feet; thence North 12  
 degrees 41 minutes 15 seconds West 156.63 feet; thence North  
 48 degrees 37 minutes 30 seconds West 321 feet; thence South  
 58 degrees 25 minutes West 379.45 feet; thence South 11  
 degrees 13 minutes 30 seconds East 350 feet; thence South 89  
 degrees 47 minutes 30 seconds West 200 feet; thence South 0  
 degrees 13 minutes 30 seconds East 25 feet to the P.C. of a  
 tangent curve to the right of 300 foot radius; thence along  
 said curve 189.80 feet to the P.T. thereof; thence tangent  
 to said curve 76.81 feet to the centerline of Maple Turn  
 Road; thence North 54 degrees 7 minutes 30 seconds West  
 0 degrees 16 minutes 30 seconds West 750.51 feet; thence  
 South 89 degrees 4 minutes 30 seconds West 50 feet; thence  
 North 9 degrees 55 minutes 30 seconds West 45 feet to an  
 iron pipe on contour elevation 644.0 being sea level; thence  
 meandering along said contour with the shoreline of Lake  
 Foxcliff East to a point at the Southeast corner of Lot 389,  
 Foxcliff Estates Section XV as shown on the plat thereof  
 recorded at Deed Record 126, Page 407 in the Office of the  
 Recorder of Morgan County, Indiana; thence South 88 degrees  
 15 minutes 30 seconds West 290.05 feet; thence South 0  
 degrees 11 minutes West 666.10 feet; thence South 0 degrees  
 11 seconds East 30 feet to the centerline of Maple Turn  
 Road; thence over and along said centerline 1,333.69 feet;  
 thence North 2 degrees 7 minutes West 667.07 feet; thence  
 North 15 degrees 0 minutes West 145 feet; thence North 2  
 degrees 24 minutes 30 seconds West 130 feet; thence North 10  
 degrees 18 minutes 30 seconds East 128 feet; thence North 49  
 degrees 56 minutes West 365.2 feet; thence over and along a  
 curve to the right of 550 foot radius a distance of 491.96  
 feet; thence South 57 degrees 30 minutes West 236.33 feet;  
 thence North 76 degrees 42 minutes West 480 feet; thence  
 South 80 degrees 2 minutes West 137.66 feet; thence South 64  
 degrees 48 minutes West 183.43 feet; thence North 25 degrees  
 12 minutes East 200 feet; thence South 64 degrees 48 minutes  
 West 314.57 feet; thence South 25 minutes 12 seconds East  
 200 feet; thence South 64 degrees 48 minutes West 254 feet;  
 thence South 34 degrees 45 minutes West 75.94 feet; thence  
 South 32 degrees 36 minutes West 100 feet; thence South 7  
 degrees 54 minutes East 472.53 feet thence South 1 degrees  
 46 minutes West 46.29 feet; thence South 1 degrees 46 minutes  
 West 476.29 feet; thence South 89 degrees 22 minutes West  
 390.18 feet to the West line of said Section XIV thence  
 North 0 degrees 38 minutes West over and along said line to  
 the place of beginning.

ALSO, a part of the Southwest Quarter of the Southeast Quarter of  
 Section 11, Township 12 North, Range 1 East, Morgan County, State of Indiana,  
 and more fully described as follows:

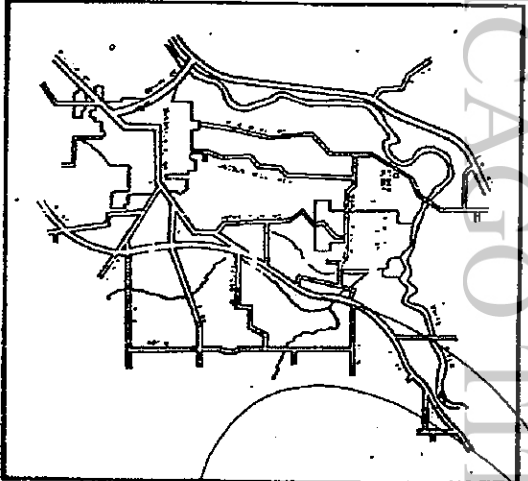
Beginning at an iron pin at the Southwest corner of Lot 127 in  
 "Foxcliff Estates - Section VII, Book 212, page 269 in the Morgan County  
 Recorder's Office; thence North 88 degrees 25 minutes East 338.8 feet along  
 the South line of said Lot 127 to an existing iron pipe at the Southeast  
 corner thereof; thence South 0 degrees 03 minutes East 65.0 feet along the  
 West line of Lot 126 in Foxcliff Estates - Section V to an existing iron pipe  
 at the Southwest corner thereof; thence South 75 degrees 33 minutes East 139.0  
 feet along the South line of said Lot 126 to an iron pipe at the South corner thereof  
 thence South 64 degrees 56 minutes West 277.13 feet to an iron pipe thence North  
 88 degrees 31 minutes West 180.77 feet to an iron pipe in the East right-of-way of  
 a platted road in aforementioned Section VII, thence along said East right-of-way,  
 North 12 degrees 56 minutes West 147.30 feet to an iron pipe at the P.C. of a curve  
 to the right with a radius of 900 feet; and then over and along said curve 60.0 feet  
 to the point of beginning and containing 1.629 acres, more or less.

ALSO: A part of the North Half of the Southwest Quarter of Section 11 in Township 12 North, Range 1 East, Morgan County, State of Indiana, and more fully described as follows:

Commencing in the West line of the plat of Foxcliff Estates, Section XIII, as it is recorded in Deed Record 233, page 307, of the Morgan County Recorder's Office, at a point South 3 degrees 04 minutes East 44.60 feet from the Southwest corner of Lot 175 in said plat; thence South 66 degrees 49 minutes East along the South right-of-way of Warwick Road 326.97 feet to the true point of beginning; thence South 66 degrees 49 minutes East over said right-of-way 169.05 feet; thence South 33 degrees 47 minutes 45 seconds West 190.0 feet; thence North 57 degrees 14 minutes West 151.62 feet to a proposed road right-of-way; thence North 19 degrees 07 minutes East along said proposed right-of-way 134.38 feet to the P.C. of a tangent 25 foot radius curve to the right; thence over and along said curve 41.04 feet to the true point of beginning and containing .689 acres, more or less, side thereto. The above described parcel to become Lot 179 and the plat of Foxcliff Estates, Section XVIII, when same is recorded.

ALSO, the real estate contained in the subdivision known as Foxcliff Estates South Section XXX which consists of lots 611 and 612, Lots 630 thru 650 inclusive and lots 663 thru 667 inclusive and the roadways and common areas described in the plat thereof recorded in Deed Record 238, Page 322 of the Morgan County Recorder's Office.

EXCERPT: Beginning at the Southwest corner of Lot 106 Foxcliff Estates Section V recorded in Deed Record 209 Page 167; thence South 75 degrees 20 minutes East 465 feet; thence South 48 degrees 55 minutes East 315 feet; thence South 40 degrees 20 minutes West 336.1 feet; thence South 21 degrees 35 minutes East 194.05 feet to an iron pipe in the Northeast corner of Lot 130 Foxcliff Estates Section VII recorded in Deed Record 212 Page 268; thence South 78 degrees 12 minutes West 197.2 feet; thence on a curve to the left having a radius of 150 feet 64.09 feet; thence tangent to said curve 37 degrees 46 minutes East 78 feet; thence over and along a curve to the right having a radius of 300 feet 135.42 feet; thence North 11 degrees 46 minutes West 170 feet; thence South 78 degrees 14 minutes West 50 feet; thence South 69 degrees 52 minutes West 203.61 feet; thence South 47 degrees 46 minutes West 130; thence South 27 degrees 37 minutes West 375 feet; thence South 85 degrees 7 minutes East 122.71 feet; thence North 5 degrees 33 minutes 30 seconds East 188.40 feet; thence North 4 degrees 37 minutes West 220.33 feet; thence over and along a curve having a radius of 840 feet to the left 102.44 feet to a P.P.; thence North 2 degrees 23 minutes West 163.14 feet; thence North 58 degrees 3 minutes East 50 feet; thence over and along a curve to the left having a radius of 800 feet for a length of 133.18 feet; thence North 26 degrees 17 minutes 30 seconds West 276.7 feet; thence over and along curve to the left having a radius of 800 feet for a length of 168.95 feet; thence to a P.P.; thence North 38 degrees 23 minutes 30 seconds West 192.58 feet; thence along a curve to the right having a radius of 510 feet 128.18 feet to a P.C.; thence North 20 degrees 59 minutes 30 seconds West 34.65 feet to a P.C.; thence over and along a curve to the right having a radius of 70 feet but a length of 108.75 feet to a P.C.; thence North 65 degrees 1 minutes 30 seconds East 348.67 feet to the place of beginning containing after said exception \_\_\_\_\_ acres more or less.



AERIAL, LOCATIONS MAP

RECEIVED  
 FOR RECORD  
 AUG 27 9 20 AM '80.  
 CLERK OF COURTS  
 MADISON COUNTY

CHICAGO FOXCLIFF

FOXCLIFF ESTATES

SUMMIT CITY DEVELOPMENT CORP.

PHILIP L. ROSENBERG, 1980



AMENDMENT TO COVENANTS AND RESTRICTIONS  
OF FOXCLIFF ESTATES SUBDIVISION

This Amendment to the Covenants and Restrictions of Foxcliff Estates Subdivision having been approved by two-thirds of the lot owners is as follows:

WHEREAS, the Covenants and Restrictions of Foxcliff Subdivision have been amended and modified from time to time, the last amendment being July 31, 1980, which was recorded in the Office of the Recorder of Morgan County, Indiana at Deed Record 275 page 309.

That the current and existing Covenants and Restrictions of Foxcliff Estates Subdivision are hereby amended and modified as follows:

1. Article 10, "Amendment" be modified as follows:

These Covenants and Restrictions may be amended at any time by seventy-five per cent (75%) vote of all lot owners voting. A meeting shall be called for such purpose with notice to all lot owners of the time, place and nature of the proposed change at least twenty (20) days prior to the meeting. Further vote may be taken thereafter upon solicitation of the lot owners. The total vote shall not be less than twenty-five per cent of the lot owners.

2. Article 5, subsection (b) (iii) "General Assessments" be modified to add a subsection (3) as follows:

3. Unbuildable lots. Each unbuildable lot be assessed at a uniform rate equal to fifty per cent (50%) of the assessment for unimproved lots. A committee of Foxcliff Estate Community Association, Inc. shall have the exclusive right to determine if a lot is buildable or unbuildable on a lot by lot basis.

3. That the other Covenants and Restrictions as adopted on July 31, 1980 shall remain in full force and effect except as modified herein.

CERTIFICATION

IN TESTIMONY WHEREOF, the undersigned being the Secretary of Foxcliff Estate Community Association, Inc. hereby certifies that the signatures and lots described appearing on the signature pages

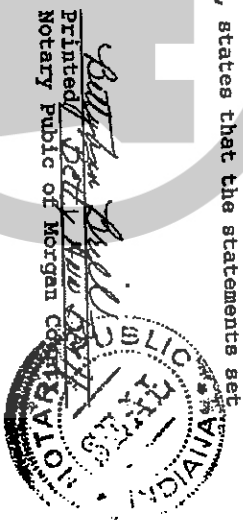
attached hereto are accurate and complete and represent at least two-thirds (2/3) of the lot owners of Foxcliff Estates Subdivision which are subject to the Covenants and Restrictions as heretofore adopted on July 31, 1980.

*Suzanne Campbell*  
Suzanne Campbell  
Secretary, Foxcliff Estates  
Community Association, Inc.

STATE OF INDIANA,  
                  ss:  
COUNTY OF MORGAN,

Personally appeared before me this 26<sup>th</sup> day of December, 1995  
*Suzanne Campbell* who is known to me to be the Secretary of

Foxcliff Estates Subdivision, Inc. who executed the foregoing .  
Certification and being duly sworn, states that the statements set forth therein are true.



My Commission Expires:  
July 19, 1998

This instrument prepared by Phillip R. Smith, Attorney at Law.

CHICAGO TITLE

We, the undersigned Foxcliff property owners, approve of the two proposed covenant revision described on the preceding page.

Name Sybil Meade Lot number (s) 389  
 Name Sybil Meade Lot number (s) 288  
 Name Karen R. Dring Lot number (s) 341  
 Name WARREN, GRAY Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_  
 Name \_\_\_\_\_ Lot number (s) \_\_\_\_\_

RECEIVED  
 FOR RECORD  
 95 DEC 28 PM 2:01  
 Marie Pruitt  
 MORGAN CO. RECORDER

STATE OF INDIANA, SS:

COUNTY OF MORGAN,  
 The undersigned, hereby represents that the persons whose names and signatures appear above and who are known to be individuals described and who executed the forgoing amended declaration, did so of their own free will and in my presence  
 IN WITNESS WHEREOF, I have hereunto set my hand this 26 day of December, 1995.

Michael A. Martley  
 Printed CHEVIE A. MARTLEY  
 Subscribed and sworn to before me this 26 day of December, 1995.

My Commission Expires:  
July 19, 1998

Printed Bette Ann Bell  
 Printed BETTE ANN BELL  
 Notary Public of Morgan County

