

PART OF
PLAT
Recorded in
Plat Cabinet "C"
Slide 124

DEDICATION CERTIFICATE

We, the undersigned, owners of real estate shown and described herein, do hereby lay off, plat and subdivide said real estate in accordance with the plat herein.

This subdivision shall be known and designated as HONEY CREEK PARK, an addition to White River Township, Johnson County, State of Indiana.

Front and side yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street there shall be erected or maintained no building or structure.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in easements. The easement area of each lot and all improvements thereon shall be maintained continuously by the owner of the lots, except for those improvements for which a public authority or utility is responsible.

There are strips of ground marked "Drainage Easement" which are hereby reserved for the installation and maintenance of drainage improvements. Purchasers of lots in this subdivision shall take their title subject to the easement hereby created and subject at all times to the proper authorities and the easements hereby created, and no permanent structure of any kind shall be built, erected, or maintained on said Drainage Easement.

There are strips of ground marked "Utility and Drainage Strip" and "Utility Easement" shown on the plat which are hereby reserved for public utilities, not including transportation companies, for the installation and maintenance of poles, mains, sewers, drains, ducts, lines and wires. Purchasers of lots in this subdivision shall take their title subject to the easements hereby created, and subject at all times to the rights of proper authorities to service the utilities and easements hereby created, and no permanent structure of any kind, fence, shrubbery, planting, etc., will be placed or permitted to remain within the Utility and Drainage Strip.

There are areas within this plat labeled "Common Area" the ownership, maintenance and use of which are detailed in full in the "Declaration of Covenants, Conditions, and Restrictions" relative to this real estate recorded in the Johnson County Recorder's Office, as now existing or as hereafter amended.

The foregoing covenants and restrictions are to run with the land and shall be binding on all parties and persons claiming under them until January 1, 2005, at which time said covenants and restrictions shall be automatically extended for successive ten year periods, unless by a majority vote of the then current owners of the sites, it is agreed to change such covenants and restrictions in whole or part.

Invalidation of any of the foregoing covenants and restrictions by judgement or court order shall in no way affect remaining portions not so affected.

The right to enforce these provisions by injunction, together with the right to cause the removal by due process of law of any structure or part thereof erected or maintained in violation hereof, is hereby dedicated to the public and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns.

Witness our hands and seals this 31 day of October, 1985.

Lewis B. Watkins
Lewis B. Watkins

Dale D. Donoho
Dale D. Donoho

Donna Watkins
Donna Watkins

Betsy Donoho
Betsy Donoho

11404

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR
HONEY CREEK PARK

THIS DECLARATION (hereinafter called "the Declaration" or "this Declaration") made this 31st day of October, 1985, by DALE D. DONGHO and BETSY DONGHO, Husband and Wife and LEWIS B. WATKINS and DONNA WATKINS, Husband and Wife (hereinafter called "Declarant"),

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real estate in Johnson County, Indiana, more particularly described in Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Original Real Estate"); and

WHEREAS, Declarant is also the owner of the real estate in Johnson County, State of Indiana, more particularly described in Exhibit "B" attached hereto and incorporated herein by reference (hereinafter referred to as the "Additional Real Estate"); and

WHEREAS, Declarant intends to create on the Original Real Estate [and may in the future desire to create on all of the Additional Real Estate as may be made subject to the terms of this Declaration, as hereinafter provided] a commercial community with parking spaces and open spaces, and which community may include common facilities and amenities, for the benefit of

Declarant may in the future desire to create an additional Real Estate as may be made subject to the terms of this Declaration, as hereinafter provided] a commercial community which includes parking spaces and open spaces, and which community may include such common facilities and amenities, for the benefit of such commercial community, to be known as Honey Creek Park; and

WHEREAS, Declarant desires to provide for the preservation and enhancement of the values and amenities in such community, and the common facilities therein contained, and to this end, Declarant desires to subject the Original Real Estate [together with all of the Additional Real Estate as may hereafter be made subject to the terms of this Declaration, as hereinafter provided] to certain rights, privileges, covenants, restrictions, easements, assessments, charges and liens, each and all to the extent herein provided, for the benefit of the Original Real Estate [and all of the Additional Real Estate as may be hereafter made subject to the terms of this Declaration, as hereinafter provided] and each owner of all or part thereof; and

WHEREAS, Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which shall be delegated and assigned the powers of owning, maintaining and administering any common facilities located on the

Property (hereinafter defined), administering and enforcing the covenants and restrictions contained in this Declaration collecting and disbursing the assessments and changes imposed and created hereby and hereunder or by and under any other agreement to which the Property may at any time be subject, and promoting the health, safety and welfare of the owners of the Property, and all parts thereof; and

WHEREAS, Declarant has caused, or will cause, to be incorporated under the laws of the State of Indiana a not-for-profit corporation under the name "Honey Creek Ass'n. Inc.", or a similar name, as such agency for the purpose of exercising such functions;

NOW, THEREFORE, Declarant hereby declares that the Property is and shall be held, transferred, sold, conveyed, hypothecated, encumbered, leased, rented, used, improved and occupied subject to the provisions, agreements, conditions, covenants, restrictions, easements, assessments, charges and liens hereinafter set forth, all of which are declared to be in furtherance of a plan for preservation and enhancement of the Property, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole and of each of the Lots situated therein, and which shall run with the property and be binding upon all parties having any right, title or interest in the Property, their heirs, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this

the purpose of enhancing and protecting the value, desirability and attractiveness of the Property as a whole and of each separate parcel situated therein, and which shall run with the property and be binding upon all parties having any right, title or interest in the Property, their heirs, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. The following words when used in this Declaration, or any supplemental declaration (unless the context shall prohibit) shall have the following meanings:

A. "Additional Real Estate" shall mean the parcel of real estate in Johnson County, Indiana, described in Exhibit "B" attached to and incorporated in this Declaration.

B. "Applicable Date" shall mean the "Applicable Date" as defined in Section 3.B. of Article III hereof.

C. "Association" shall mean Honey Creek Ass'n. Inc., an Indiana not-for-profit corporation which Declarant has caused, or will cause, to be incorporated under said name or a similar name, its successors and assigns.

D. "Common Areas" shall mean (i) all portions of the Property shown upon any recorded subdivision plat of the property, or any part thereof, which are not Lots, other than portions thereof (such as streets) which are dedicated to the public, whether such plat is heretofore or hereafter recorded, including all improvements and

structures constructed or to be constructed thereon, (ii) to the extent hereinafter established, such portions of the Property as are herein declared to be Common Area even though located on or constituting part of one or more lots, (iii) to the extent hereinafter established, such improvements located, installed or established entirely or partially on Lots, or portions of the property which are not Lots, or on any combination of the foregoing, (iv) and all streets and roadways at any time constructed or installed therein.

E. "Declarant" and any successors and assigns of it whom it designates in one or more written recorded instruments to have the rights of Declarant hereunder, including, but not limited to, any mortgages acquiring title to any portion of the property pursuant to the exercise of rights under, or foreclosure (or deed in lieu of foreclosure) of, a mortgage executed by Declarant; provided, however, that any such mortgagee so acquiring title by virtue of foreclosure against (or deed in lieu of foreclosure from) the Declarant shall not be deemed to have assumed any prior obligations or liabilities of the Declarant hereunder.

F. "Plat" shall mean each and the subdivision plat of the original Real Estate and the Additional Real Estate which has heretofore been approved by the Johnson County Commissioners, and which has been or hereafter may be recorded in the office of the Register of Johnson County, Indiana;

G. "Limited Common Area" shall mean such portion of the

F. "Plat" shall mean each and every subdivision of the original Real Estate and the Additional Real Estate which has heretofore been approved by the Johnson County Commissioners, and which has been or hereafter may be recorded in the office of the Recorder of Johnson County, Indiana;

G. "Limited Common Area" shall mean such portions of the Common Areas as to which the use thereof is preferentially given in accordance with the terms hereof or by any subdivision plat of the property to the Owner or Owners of one or more but less than all of the Lots, namely parking space facilities not located on Lots, but which are clearly identifiable by extending the property lines of a Lot into the parking area and thus isolating certain parking spaces with the property lines so extended, for the preferential use by the Owner of the Lot whose property lines have been so extended.

H. "Commercial Unit" shall mean a single commercial building consisting of a group of rooms and hallways which are designed or intended for use by the owner and/or a single or multiple owner leased facility. Except as herein otherwise provided, for the purpose of determining membership in the Association, each Commercial Unit as constructed on a Lot shall be considered as a separate and individual unit. While portions of this Commercial Unit may be leased no portion may be partitioned in ownership.

I. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision plat of the Property, or any part thereof, with the exception of Common Area, designed and intended for use as a building site for, or developed and improved for use as, a Commercial Unit; within the confines of the Lot and substantially upon the Pad Elevation as shown on the Plat so that no Commercial Unit goes beyond its Lot property lines and further that separation distance exists between Commercial Units.

J. "Member" shall mean any person or entity holding membership in the Association as provided in Article III hereof.

K. "Mortgage" shall mean any mortgage or other security instrument by which a Lot or any part thereof or any structure thereon is encumbered.

L. "Mortgagee" shall mean any person or entity named as the Mortgagee under any such Mortgage or any successors or assigns to the interest of such person or entity under such Mortgage prior to acquisition of the fee simple title to the property encumbered by such Mortgage.

M. "Original Real Estate" shall mean the parcel of real estate in Johnson County, Indiana, described in Exhibit "A" attached to and incorporated in this Declaration.

N. "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of

M. "Original Real Estate" shall mean the property described in Exhibit "A" to and incorporated in this Declaration.

N. "Owner" shall mean the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

O. "person", whether appearing in upper case or lower case form, shall mean an individual, firm, corporation, partnership, association, trust, or other legal entity, or any combination thereof.

P. "Property" shall mean and refer to the Original Real Estate together with the Additional Real Estate as has been subjected to, and is, at any time, subject to this Declaration.

Section 2. Other terms and words defined elsewhere in this Declaration shall have the meanings herein attributed to them.

ARTICLE II.

PROPERTY SUBJECT TO THIS DECLARATION;

DECLARANT'S RIGHT TO SUBJECT ADDITIONAL

REAL-ESTATE TO THIS DECLARATION

Section 1. Declaration. Declarant hereby expressly declares that the property shall be held, transferred, sold, conveyed and occupied subject to all the terms, covenants, conditions,

restrictions and provisions of this Declaration. As of the date of execution of this Declaration, the Property consists solely of the Original Real Estate. The Owner of any Lot subject to this Declaration, by (i) acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent Owner of such Lot, or (ii) by the act of occupancy of any Lot, shall accept such deed, execute such contract and undertake such occupancy subject to all of the terms, covenants, conditions, restrictions and provisions of this Declaration. By acceptance of such deed, execution of such contract or undertaking such occupancy, each Owner acknowledges the rights and powers of Declarant and of the Association with respect to or under this Declaration, and, for himself, his heirs, personal representatives, successors and assigns, covenants, agrees and consents to and with Declarant, the Association, and the Owners and subsequent Owners of each of the Lots affected by this Declaration, to keep, observe, perform and comply with this Declaration.

Section 2. Declarant's Right of Expansion. Declarant shall have, and hereby reserves, the right, at any time, on or before the "Applicable Date" (hereinafter defined) to add to the Property and subject to this Declaration all of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the Property and therefore and thereby becomes a part of the Property and subject to this Declaration, when Declarant shall so declare.

perform and comply with this Declaration.

Section 2. Declarant's Right of Expansion. Declarant shall have, and hereby reserves, the right, at any time, on or before the "Applicable Date" (hereinafter defined) to add to the Property and subject to this Declaration all of the Additional Real Estate. Any portion of the Additional Real Estate shall be added to the Property, and therefore and thereby becomes a part of the Property and subject in all respects to this Declaration, when Declarant places of record in Johnson County, Indiana an instrument so declaring the same to be a part of the Property, which declaration may be made as part of the subdivision plat of the Additional Real Estate, or by an amendment or supplement to this Declaration, or otherwise. Upon the recording of any such instrument on or before the Applicable Date, the real estate described therein shall, for all purposes, thereafter be deemed a part of the Property and the Owners of any Lots within such real estate shall be deemed for all purposes to have and be subject to all the rights, duties, privileges and obligations of Owners of Lots within the property. Such right and option of expansion may be exercised by Declarant as to the Additional Real Estate so long as such expansion is accomplished on or before the Applicable Date. Such expansion on the Property is entirely at the discretion of Declarant and nothing contained in this Declaration or otherwise shall require Declarant to expand the Property beyond the Original Estate, or of the Additional Real Estate which Declarant may

voluntarily and in its sole discretion from time to time subject to this Declaration.

ARTICLE III.

MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

Section 1. Membership. Every Owner of a Lot subject to assessment, except as herein provided to the contrary, shall be entitled and required to be a member of the Association. If title to a Lot is held by more than one person, each of such persons shall be a member. An Owner of more than one Lot shall be entitled to, and there shall be required, one membership for each such Lot. Each such membership or memberships shall be appurtenant to the Lot upon which it is based and shall transfer automatically by voluntary or involuntary conveyance of the title of that Lot. Except as herein otherwise expressly provided, no person or entity other than an Owner or Declarant may be a member of the Association, and a membership in the Association may not be transferred except in connection with the transfer of title to a Lot.

Section 2. Transfer. Memberships in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of the record title of a Lot and then only to such transferee by assignment, intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. It shall be the responsibility of each Owner, upon becoming entitled to membership, to notify the Association in writing, and

Section 2. Transfer. Memberships in the Association shall not be transferred, pledged or alienated in any way, except upon the transfer of the record title of a Lot and then only to such transferee, by assignment, intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. It shall be the responsibility of each Owner, upon becoming entitled to membership, to so notify the Association in writing, and until so notified, the Association may continue to carry the name of the former Owner as a member, in its sole discretion. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Owner of any Lot should fail or refuse to transfer the memberships registered in his name to the transferee title of such Lot, the Association shall have the right to recover the transfer upon the books of the Association and issue new memberships to the transferee, and thereupon the old memberships outstanding in the name of the transferor shall be null and void as though the same had been surrendered.

Section 3. Voting. The Association shall have two (2) classes of voting membership, as follows:

A. Class A. Class A members shall be all Owners of Lots, with the exception of the Declarant prior to termination of Class B membership, and shall be entitled to one (1) vote for each Lot owned with respect to each matter submitted to a vote. Members upon which the Class A members are entitled to

vote. When more than one person holds title to any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot. There can be no split vote. Prior to or at the time of any meeting at which a vote is to be taken, each co-Owner or other person entitled to a vote at such meeting shall file with the Secretary of the Association the name of the voting co-Owner or other person entitled to a vote at such meeting, unless such co-Owner or other persons have filed a general voting authority with the Secretary applicable to all votes until rescinded.

b. Class B. Class B members shall be the Declarant and all successors and assigns of Declarant designated by Declarant as Class B members in a written notice mailed or delivered to the resident agent of the Association. Each Class B member shall be entitled, on all matters requiring a vote of the membership of the Association, to two (2) votes for each Lot owned by it. The Class B membership shall cease and terminate upon the first to occur of (a) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Association; (b) one hundred twenty (120) days after sixty percent (60%) of the Lots in the property have been conveyed to Owners other than Declarant or its successors; (c) two (2) years after the date of recording of this Declaration.

membership of the Association, to two (2) votes for each Lot owned by it. The Class B membership shall cease and terminate upon the first to occur of (a) the date upon which the written resignation of the Class B members as such is delivered to the resident agent of the Association; (b) one hundred twenty (120) days after sixty percent (60%) of the Lots in the Property have been conveyed to Owners other than Declarant; (c) three (3) years after the date of recording of the first conveyance of a Lot to an Owner other than Declarant; whether or not the Additional Real Estate is added to the Property by Declarant pursuant to its right and option to expand the Property as hereinbefore reserved; (d) Four (4) years after the date of recording of this Declaration (the applicable date being herein referred to as the "Applicable Date"). Declarant shall be entitled to Class A membership for all Lots of which it is the Owner on or after the termination of Class B membership.

Section 4. Suspension of Voting Rights. In the event any

Owner shall be in arrears in the payment of any amount due under any of the provisions of this Declaration for a period of thirty (30) days, such Owner shall be in default in the performance of any of the terms of this Declaration for a period of thirty (30) days, such Owner's membership in the Association shall be suspended and

shall remain suspended until all payments are brought current and all defaults remedied.

ARTICLE IV

PROPERTY RIGHTS

Section 1. General Provisions.

A. All easements described in this Declaration are permanent easements appurtenant, running with the land. They shall at all times inure to the benefit of and be binding on the Owner and the Mortgagee from time to time of any Lots and the Owner and mortgagee, in any, from time to time, of the Common Area, and their respective heirs, successors, personal representatives or assigns.

B. The covenants and restrictions contained in this Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Declarant, the Association or the Owner of any Lot subject to this Declaration, their respective personal representatives, heirs, successors and assigns, for an initial term commencing on the date this Declaration is recorded and ending twenty five (25) years, after which time the covenants and restrictions shall be automatically renewed for successive periods of ten (10) years.

Except as hereinafter provided, this Declaration may be amended during the initial term provided above by an instrument signed by at least sixty percent (60%) of the Owners and thereafter by at least sixty percent (60%) of the Owners and thereafter by at least sixty percent (60%) of the Owners and thereafter by at least sixty percent (60%) of the Owners.

Except as hereinafter provided, this Declaration may be amended during the initial term provided above by an instrument signed by not less than eighty percent (80%) of the Owners and thereafter by an instrument signed by not less than sixty percent (60%) of the Owners. Certain amendments also require additional approval as specified in Article XI hereof.

Section 2. Right of Enjoyment. Every Owner shall have a non-exclusive right and easement of enjoyment in and to the Common Area (except for such portions thereof as are Limited Common Area), which right and easement shall include, but not be limited to, easements for ingress and egress to his lot for himself and his invitees, for lateral support, utility, water and sewer easements, vehicular parking (when and where permitted by the Association), pedestrian ingress and egress, and use and enjoyment of open spaces and all other parts of the Common Area. Such right an easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- A. The right of the Association to pass reasonable ... with respect to the Common Area, for the health, safety and welfare of persons using the same (including, but not limited to, rules restricting or limiting parking

of vehicles to designated portions of the Common Area or prohibiting the parking of vehicles thereon while recognizing the preferential position of Lot owners to Limited Common Areas).

B. The right of the Association to suspend the voting rights and right to the use of recreational facilities, if any, situated upon the Common Area (but not rights of access to Lots) by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed sixty (60) days for an infraction of its published rules and regulations;

C. The right of the Association to levy assessments as provided in this Declaration;

D. The right of the Owner of each Lot to an exclusive easement on the Common Area for entrances to the Commercial Unit on such Lot; and to a reciprocal easement for access where necessary over adjoining Lots for the maintenance and upkeep of the walls, fences or other improvements; and

E. The rights of the Association and Declarant reserved under Sections 4 and 5 of this Article IV or elsewhere in this Declaration.

Delegation of Enjoyment. Any Owner may delegate

the rights of the Association, his

Section 3. Delegation of Enjoyment. Any Owner may delegate, in accordance with the By-Laws of the Association, his right of enjoyment to the Common Areas to occupants of his Lot, including the members and employees of his entity, his tenants, or contract purchasers.

Section 4. Association's Rights.

A. The Association shall have the right to manage, build, reconstruct, repair, maintain, improve and operate (including by way of example, but not limited to, landscape, provide sanitation service to and provide snow removal for) the Common Area.

B. The Association shall have the right to mortgage all or any portion of the Common Area for the purpose of securing a loan of money to be used for any of the purposes specified in subsection 4.A. next hereinabove, provided that the rights of such mortgagee in the Common Area shall be subordinate to the rights of the Owners under this Declaration, and provided, further, that the mortgage shall have received the prior written approval specified in Article X hereinbelow.

C. The Association shall have the right to dedicate or transfer all or any part of the Common Area to any government

mental subdivision or public agency or utility and to grant permits, licenses, and easements over the Common Area for utilities, roads, and other purposes necessary or useful for the proper maintenance or operation of the project, subject to any prior written approval required by Article X hereinbelow.

D. The property shall be subject to easements of record on the date hereof, any easements in the Common Areas granted to adjoining property owners by Declarant or the Association for access or extension of utility services and any easements in the Common Area which may hereafter be granted by Declarant or the Association (subject to the approval referred to in the preceding paragraph) to any public or private utilities or governmental bodies for the installation and maintenance of electrical and telephone conduit and lines, gas pipes, sewers or water pipes, coaxial cable, or any other utility services serving any Lots or the Common Area. Lots shall also be subject to easements for the maintenance of unintentional encroachments of the Common Area improvements thereon.

E. Anything herein apparently to the contrary notwithstanding, except as otherwise expressly provided for, no abandonment, partition, subdivision, encumbrance, sale or other conveyance of the Common Area or other common property shall be effective unless it shall be specifically approved in writing by the Association. This shall be effective unless it shall be specifically approved in writing by the Association.

no abandonment, partition, subdivision, encumbrance, sale or transfer of the Common Area or other common property or any part thereof shall be effective unless it shall have received the prior written approval specified in Article X hereinafter.

Section 5. Declarant's Rights. Declarant shall have the same rights as any other Owner as to Lots owned by it from time to time, except as otherwise specified herein. In addition, until the last Lot is conveyed to an Owner other than Declarant, or until the Applicable Date (whichever event shall first occur), Declarant shall have the right and easement over the Common Area for the completion of improvements and making repairs to improvements (whether on the Common Area, or upon unsold Lots, or upon the Additional Real Estate) and the right to maintain and use facilities (including, but not limited to model Commercial Units) and signs upon the Common Area and any Lots (other than Lots owned by an Owner other than Declarant) for the purpose of marketing units, and to invite and escort the public thereon for such purpose.

Section 6. Non-Dedication to Public Uses. Nothing contained in this Declaration or in any subdivision plat of any part of the property shall be construed or be deemed to constitute a dedication, or to be implied, of any part of the Common Area to the public use

any public use or purpose whatsoever, all of such Common Areas being reserved to the Owners and the Association as provided in this Declaration, but subject, however, to the rights of the Association and the Declarant to thereafter dedicate portions of such Common Area to the public or to or for public uses or purposes but only to the extent, and upon all of the conditions, set forth in this Declaration.

Section 7. Parking Rights. Each Lot contains or will contain parking areas for the preferential use of its Owner. The Association may maintain additional parking spaces on the Common Area for the use of Owners, guests and invitees, subject to reasonable regulation by rule of the Association.

Section 8. Title to Common Area. Declarant hereby covenants that it shall convey and transfer the Common Area included in and constituting a part of the Original Real Estate to the Association prior to the first conveyance of a Lot within the original Real Estate to an Owner other than Declarant. The Common Area so conveyed by Declarant to the Association shall, at the time of such conveyance, be subject to all easements, covenants, conditions, limitations and restrictions then of record, but shall be free and clear of all financial encumbrances other than the lien of the taxes and assessments thereon, and shall be free and clear of all other liens thereon, and shall be free and clear of all other liens thereon, which shall be the responsibility of the Association.

... and financial encumbrances other than the lien of the then
... non-delinquent installment of real estate taxes and assess-
... and subsequent installments thereof, which shall thereafter be
paid when due by the Association.

ARTICLE V.

ASSESSMENTS

Section 1. Personal Obligations. Declarant, for each Lot owned by it within the Property hereby covenants, and each Owner of a Lot by acceptance of a deed, or other conveyance therefor, whether or not it shall be so expressed there'n, shall be and is deemed to covenant and hereby agrees to pay to the Association: (a) annual assessments or charges, which shall be payable in regular installments, for the payment or provision of all expenses of administration of the Association, expenses for the upkeep, maintenance, repair and replacement of the Common Areas (including, but not limited to, any and all streets and roadways constructed or located thereon) and all other expenses incurred or to be incurred by the Association for or in connection with the performance by the Association of its duties, obligations and responsibilities under this Declaration, which expenses may include, but not be limited to, the expenses and costs of liability insurance for Common Areas and any other common

property, snow removal, trash removal (excluding, however, any landscaping, Lot maintenance, exterior maintenance of Commercial Units and any septic or water well maintenance associated with a given Lot), outside lighting, and an adequate reserve fund for the periodic maintenance, repair and replacement of those improvements and elements of the Common Area and any other common property that must be replaced on a periodic basis and which the Association may be obligated to maintain, and (b) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any assessments authorized herein, together with interest, costs and reasonable attorneys' fees, shall be a continuing lien from the first day of January (for annual assessments) and from the date the first installment is payable (for special assessments) against the Lot assessed. Such annual assessments shall be due and payable in advance in twelve equal monthly installments on the first day of each and every month or, if so determined by the Association, in such other periodic installments as may be specified by the Association. Each assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such Lot on the date said assessment became due and payable. Said personal obligation of the person who was the Owner of such Lot on the date said assessment became due and payable shall survive the death of the person who was the Owner of such Lot on the date said assessment became due and payable, and shall be the obligation of his successors in title or interest unless otherwise provided. Said personal obligation of the person who was the Owner of such Lot on the date said assessment became due and payable, prior to such transfer, shall survive the death of such person, and such assessments shall have priority over all other liens and encumbrances on the Lot.

attorneys fees, shall also be the personal obligation of the person who was the Owner of such Lot on the date said assessment became due and payable. Said personal obligation of an Owner shall not pass to his successors in title or interest unless expressly assumed by them or unless, prior to such transfer, a written notice of the lien for such assessments shall have been recorded in the office of the Recorder of Johnson County, Indiana. No owner shall escape liability for the assessments which fell due while he was the Owner by reason of non-use of the Common Areas or non-use, transfer or abandonment of his Lot or Commercial Unit.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the Owners and residents of the property, to pay for any utility services rendered to the Property which are not separately metered to the Owners of Lots, to construct, manage, improve, maintain, repair and administer the Common Areas (including, but not limited to, any and all streets and roadways constructed or located thereon) and all pipes, wires, or other conduits of water or energy located upon the Common Areas. An adequate reserve fund shall be maintained for working capital and for the maintenance, repair and replacement of those improvements of the Common Areas and any other common property.

must be replaced on a periodic basis. Such fund shall be maintained out of the regular assessments.

Section 3. Annual Assessments. Until June 30, 1986, the maximum annual assessment shall be at the monthly rate of One Hundred Dollars (\$100.00) per Lot for each Lot.

A. From and after June 30, 1986, the maximum annual assessments may be increased each year not more than 10% above the maximum assessments for the previous year without a vote of the membership.

B. From and after June 30, 1986, the maximum annual assessments may be increased above 10% above the maximum assessments for the previous year by a vote of 60% of the total votes of the Members who are voting in person or by proxy, at a meeting called for this purpose.

C. The Board of Directors may fix the annual assessments at an amount not in excess of the maximum permitted hereby.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any reconstruction, reconstruction, repair or replacement of a capital asset within the Common Area, including fixtures and improvements, provided that any such assessments shall not exceed one-third of the total annual assessments for that year.

assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of not less than two-thirds (2/3) of the total votes of the Members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum. Written notice of any meeting of Members called for the purpose of taking any action authorized under Article V, Section 3 or 4, shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the opening of such meeting, the presence in person or by proxy of Members entitled to cast sixty percent (60%) of the total votes of the membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots. Annual assessments shall be collected on a monthly (or other periodic, or

determined by the Board) basis and special assessments shall be collected as the Board determines. The provisions of this Section 6 are subject to the provisions of Section 13 of this Article V as to all Lots owned by Decalantar.

Section 7. Commencement of Initial Annual Assessments. The annual assessments provided for herein shall commence as to all Lots subjected to this Declaration on the first day of the month following the month of recording of the instrument by which such Lots became a part of the property. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year for which such assessment is imposed.

Section 8 Commencement of Annual Assessments. By November 1 of each year the Board shall fix the amount of annual assessments against each Lot for the following calendar year and shall send written notice thereof to each Owner. The due date for payment of annual assessments shall be as set by the Board. At the time the Board fixes the amount of annual assessments it shall adopt a budget for the following calendar year and cause a copy of such budget in reasonable detail to be furnished to each Owner.

Section 9. Proof of Payment. Upon written demand of an Owner or Mortgagee, at any time and for a reasonable charge, the Association shall furnish a written certificate signed by an officer of the Association setting forth whether there are any then unpaid annual assessments or taxes levied against such Owner's or Mortgagee's property. All such certificates shall be conclusive evidence of the facts stated therein.

of the following calendar year and cause a copy of such budget in reasonable detail to be furnished to each Owner.

Section 9. Proof of Payment. Upon written demand of an Owner or Mortgagee, at any time and for a reasonable charge, the Association shall furnish a written certificate signed by an officer of the Association setting forth whether there are any then unpaid annual or special assessments levied against such Owner's or Mortgagee's Lot. Such certificate shall be conclusive evidence of payment of any annual or special assessments not stated therein as unpaid.

Section 10. Nonpayment of Assessments. Any assessments which are not paid when due shall be deemed delinquent. If an assessment is not paid within thirty (30) days after the delinquency date, it shall bear interest from the delinquency date at the rate ~~PER~~ annum that judicial judgments bear in Indiana and shall become a continuing lien in favor of the Association on the Lot against which assessed and the improvements thereon and the Association may bring an action at law or in equity against the person personally obligated to pay the same, including interest, costs and reasonable attorneys' fees for any such action, which shall be added to the amount of such assessment and included in any judgment rendered in such action, and the Association may also enforce and foreclose any lien it has or which may exist for its benefit.

Section 11. Recording and Enforcement of Liens. To evidence

for sums assessed pursuant to this Article, the Association

may prepare a written notice of lien setting forth the amount of the assessment, the date due, the amount remaining unpaid, the name of the Owner of the Lot, the name of the person personally obligated to pay the same and a description of the Lot. Such a notice shall be signed by an officer of the Association and it or a notice of lien or adverse claim thereof may be recorded in the office of the Recorder of Johnson County, Indiana. No notice of lien shall be recorded until there is a delinquency in payment of the assessment for thirty (30) days. Upon such a delinquency for thirty (30) days, the Association shall proceed promptly to enforce the lien or, in its discretion, to sue the person personally liable to pay the lien for the delinquency. Such lien shall be enforced by action in the same manner in which mortgages on real property may be foreclosed in Indiana. In any such foreclosure, the person personally obligated to pay the lien shall be required to pay all costs of foreclosure including reasonable attorneys' fees. All such costs and expenses shall be secured by the lien being foreclosed. The person personally obligated to pay the lien shall also be required to pay to the Association any assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale of the Lot, and to acquire, hold, convey, lease, rent, encumber, use and otherwise dispose of the foreclosed interest in the Lot.

Association any assessments against the Lot which shall become due during the period of foreclosure. The Association shall have the right and power to bid at the foreclosure sale or other legal sale and to acquire, hold, convey, lease, rent, encumber, use and otherwise deal with the foreclosed interest in the Lot as the Owner thereof.

The Association shall, upon written request, report to any Mortgagee of a Lot any assessments remaining unpaid for longer than thirty (30) days after the same shall have become due, provided, however, that such Mortgagee first shall have furnished to the Association written notice of the Mortgage under which it claims and its notice address.

Section 12. Subordination of Lien. The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage ("First Mortgage") and to tax liens and liens for special assessments in favor of any taxing and assessing unit of government. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or remedies provided in a First Mortgage, or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to charges which were payable prior to such sale or transfer. No such sale or transfer shall relieve a Lot or Storage Space of its liability for any assessments thereafter becoming due or payable.

the lien thereof or shall relieve the person personally obligated to pay the same from personal liability for assessments payable prior to such sale or transfer or acquisition. Any delinquent assessments the lien for which is extinguished by reason of this provision may be reallocated and assessed to all Lots as a common expense.

Section 13. Limitations on Assessments Owed by Declarant.

Notwithstanding anything to the contrary contained herein, Declarant shall be obligated to pay, as to any and all Lots owned by it from time to time, only 100% of the assessments (whether regular annual assessments or special assessments) payable hereunder by Owners (other than Declarant) of Lots, and all such Lots owned by Declarant shall be subject to a lien hereunder only for amounts determined under this Section 13.

ARTICLE VI.

ARCHITECTURAL CONTROLS

Section 1. Architectural Control Committee Authority. No

initial building construction of Commercial Units, septic system or water well installation, exterior additions, removals or alterations (including changes in color or appearance) to any building on the property, additional fences, or changes in existing fences, landscaping, walls, walkways and other structure shall be commenced, erected or installed on any Lot except such as are installed or approved in writing by the Architectural Control Committee, until the written plans and specifications showing the nature, kind, shape, height material and approximate cost of such construction are approved by the Architectural Control Committee.

Section 1. Architectural Control Committee Authority. No

After well installation, exterior additions, removals or alterations (including changes in color or appearance) to any building on the property, additional fences, or changes in existing fences, landscape, walls, walkways and other structure shall be commenced, erected or maintained on any Lot except such as are installed or approved by the Declarant, until the written plans and specifications showing in reasonable detail the nature, kind, shape, height materials (including color), location and approximate cost of same shall have been submitted to and approved in writing as to harmony of the external design and location in relation to surrounding buildings in the property by an Architectural Committee composed of the Board of Directors of the Association or three (3) or more representatives appointed by the Board of Directors. In the event said Board, or its designated Committee, fails to approve or disapprove such design and location within thirty (30) days after said written plans and specifications have been submitted to it, or if no suit to enjoin the making of such additions, alterations or changes or to force the cessation thereof has been commenced within sixty (60) days of such submission, such approval will be deemed to have been given. If no such submission has been made to the Architectural Committee, suit to enjoin or force the completion of such initial construction, additions, alterations or changes may be instituted at any time by the Association or any member thereof. If at the time which the Association has a Class B

the decision of the Architectural Committee must have the written approval of the Declarant.

Section 2. Restoration in Accordance with Original Plans.

Any restoration or repair of the Common Areas after a partial condemnation or damage due to fire or other casualty, shall be performed substantially in accordance with this Declaration and the original plans and specifications for the same, unless other action is approved by eligible holders holding First Mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to eligible holders of First Mortgages.

ARTICLE VII.

OTHER RIGHTS AND OBLIGATIONS OF THE ASSOCIATION

Section 1. The Common Area. The Association, subject to the rights and obligations of the Owners as set forth in this Declaration, shall be responsible for, and be vested with, 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. Such responsibility (to the extent the same is not otherwise herein declared or stated to be the obligation or responsibility of Owners of Lots) shall include, but not be limited to, the collection of the maintenance and repair of the Common Area (improvements) as the recreational facilities (if any), sidewalks, walkways, exterior ornamental lighting, and other improvements located within or adjacent to the Common Area, including the

keep the same in good, clean, attractive and sanitary condition, order and repair. Such responsibility (to the extent the same is not otherwise herein declared or stated to be the obligation or responsibility of Owners of Lots) shall include, but not be limited to, the following: the maintenance and repair of the Common Area improvements, such as the recreational facilities (if any), driveways, parking areas, walkways, exterior ornamental lighting, and all other improvements or material located within or used in connection with the Common Area. Without limiting the generality of the foregoing, all streets, curbs and other improvements located in the "private drive easement" shown, or to be shown, on the Plat shall be a part of the Common Area to be operated, managed, controlled, repaired and maintained by the Association. Under no circumstances shall any obligation for the maintenance or repair of any streets, curbs or other improvements located in any such "private drive easement" be imposed upon, or implied as an obligation of, any governmental agency, unless such obligation is specifically and expressly assumed or accepted by any such governmental agency. As part of its management and control of the Common Areas, the Association shall snow plow the streets, driveways, parking areas and walkways on the Common Area. All maintenance and repair of the exterior of individual Condominium Units, septic system and water wells on Lots shall be the obligation of and shall be performed at the sole cost of the appropriate individual owner. This responsibility

shall include, but not be limited to, the following: including, without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, the maintenance and repair of roofs, gutters, downspouts and overhangs, the maintenance and repair of exterior windows and doors. The Owner shall mow, trim, water and otherwise care for grass, trees, or other plants and landscaping located on the Owners Lot. In the event that the need for maintenance or repair to the Common Areas is caused through the willful or negligent act of an Owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

Section 2. Services. The Association may obtain and pay for the services of any persons or entities, to manage its affairs, or any part thereof, to the extent it deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of the Property whether such personnel are furnished or employed directly by the Association or by any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property, the enforcement of this Declaration or any proceedings or controversy in which the Board determines it is necessary or advisable to hire professional advice. The Association may arrange with other persons or entities for the collection and other common services to be provided to the Property, including professional management of the property, and may hire or contract for such services by Declaration.

any person or entity with whom or which it contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property, the enforcement of this Declaration or any proceedings or controversy in which the Board determines it is necessary or advisable to have professional advice. The Association may arrange with others to furnish trash collection and other common services to each Lot. Any agreement for professional management of the property, or any other contract providing for services by Declarant or an entity owned or controlled by the same persons as Declarant, must provide for termination by either party without cause or payment of a termination fee on ninety (90) days or less written notice and by either party for cause upon thirty (30) days or less written notice and shall have a maximum contract term of one (1) year, but may be renewable by agreement of the parties for successive one-year terms.

Section 3. Personal Property for Common Use. The Association

may acquire and hold for the use and benefit of all of the Owners tangible and intangible personal property and may dispose of the same by sale or otherwise. Such beneficial interest shall not be transferable except with the transfer of title to a Lot, provided that an Owner may delegate his right of enjoyment of such personal property to residents of his Lot. A transfer of title to a Lot shall transfer to the transferee ownership of the transferor's beneficial interest in the property in accordance with the purpose for which it

intended, without hindering or encroaching upon the lawful rights of other Owners. The transfer of title to a Lot under foreclosure shall entitle the purchaser to the beneficial interest in such personal property associated with the foreclosed Lot.

Section 4. Utilities. The Association shall pay as a common expense all charges for water, sewer, electricity and other utilities used upon the Common Area.

Section 5. Hazard and Liability Insurance for Common Property
The Association shall procure fire and extended coverage insurance on insurable Common Areas and other common property on a current replacement cost basis in an amount not less than 100% of the insurable value (based on current replacement only); and shall use the proceeds of such hazard insurance solely for the repair, replacement or reconstruction of such insurable Common Areas and other common property, including insured improvements. The cost of such insurance shall be assessed as provided in Article V above. Holders of First Mortgages ("First Mortgagees") on Commercial Units, jointly or singly, may pay overdue premiums on hazard insurance policies, or may purchase new hazard insurance coverage on the lapse of a policy, or may purchase and pay for other common property, and first mortgagees shall be deemed immediately responsible for the same.

new hazard insurance coverage on the lapse of a policy, for the Common Areas and other common property, and First Mortgagees shall such payments shall be owed immediate reimbursement therefor from the Association. The Association is authorized to enter into an agreement in favor of all First Mortgagees of Commercial Units establishing entitlement to such reimbursement.

ARTICLE VIII.

OWNERS' CONSTRUCTION AND MAINTENANCE RESPONSIBILITY

Section 1. Upkeep and Maintenance. Each Owner shall be responsible for the upkeep and maintenance of his Commercial Unit, as detailed in Article VII, and also to any extent not otherwise maintained by the Association. An Owner shall do no act nor any work that will impair the structural soundness or integrity of any structure, adjoining Commercial Unit or other building or improvement, or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the Commercial Units, or building on the Property or their Owners.

Section 2. Initial Construction By Owners. Each Owner shall be responsible to construct his own Commercial Unit along with the septic system and water well to serve such Commercial Unit. The Owner shall also install the parking spaces with its Limited Common with maintenance of said parking spaces thereafter to be in the

ARTICLE IX

GENERAL RESTRICTIONS, OBLIGATIONS AND

RIGHTS APPLICABLE TO PROPERTY

Section 1. Commercial Unit and Lot Restrictions. No more than one Commercial Unit shall be erected or maintained on each Lot. No Commercial Unit shall be used for any business purpose that violates any applicable ordinances.

Section 2. Common Area Restrictions. No industry, business, trade, occupation or profession of any kind shall be conducted, maintained or permitted on any part of the Common Area, nor shall any "for sale" or "for rent" signs or any window display advertising be maintained or permitted on any part thereof, except that Declarant reserves the right for itself or its agents to maintain a model Commercial Unit, business and sales offices, storage areas and construction offices on the Common Area during the construction and sales period until the last Lot existing as part of the Property on the Applicable Date is conveyed to an Owner other than Declarant, and to place "for sale", "for rent" or any other signs on any part of the Common Area and to use any part of the Common Area for sale or construction during such period. No Commercial Unit, or other structure, shall be erected on the Common Area during the construction and sales period.

... "for rent" or any other signs on any part of the
... and to use any part of the Common Area for sale or
... during such period. No Commercial Unit, or other
... shall be constructed on the Common Area; provided, however,
... that this restriction shall not apply to buildings which are designed
... and intended to be a part of the Common Area.

Section 3. Obstructions. There shall be no obstruction of
the Common Area, nor shall anything be kept or stored on any part of
the Common Area without the prior written consent of the Association
except construction materials and equipment during the construction
period or except as specifically provided herein. Nothing shall be
altered on, constructed in, or removed from the Common Area except
upon the prior written consent of the Association.

Section 4. Prohibition of Damage and Certain Activities.
Nothing shall be done or kept on any Lot, or in any Commercial Unit,
or other building, or on or in any Common Area or any part thereof
which would increase the rate of insurance on the property or any
part thereof over what the Association, but for such activity, would
pay, without the prior written consent of the Association. Nothing
shall be done or kept on any Lot or in any Commercial Unit, or other
building or on or in any Common Area or any part thereof, which would
constitute a violation of any statute, rules, ordinance, regulation, permit
or other regulatory requirement of any governmental body.

invited by any Owner or any invitee of tenant of any Owner and each Owner shall indemnify and hold the Association and the other Owners harmless against all loss resulting from any such damage or waste caused by him or his invitees or tenants, to the Association and other Owners. No noxious, destructive or offensive activity shall be allowed on any Lots or in the Common Area or any part thereof, nor shall anything be done thereon which may be or may become a nuisance to any other Owner or to any person at any time lawfully in occupancy on the Property; provided, however, that no act, conduct, activity or operation which Declarant is authorized or permitted to do hereunder shall ever be deemed to be noxious, destructive, offensive nor a nuisance for purposes of this Section 4.

Section 5. Fences, Walls and Patios. No Owner shall relocate, heighten, lower or otherwise move or change any fence, wall or patio upon the Property except as provided in Article VI hereinabove.

Section 6. No Unsightly Uses. The Common Area shall be kept free and clear of all rubbish, debris and other unsightly materials.

Section 7. Prohibited Structures. No structure of a temporary character, trailer, boat, camper-bus, tent, or shack shall be situated on any Lot nor shall any Commercial Unit be used as a structure or sleeping quarters, either temporarily or permanently.

Outside Storage. Outside storage of trash and garbage shall not be allowed unless screened from view and effectively screened from view.

Section 7. Prohibited Structures. No structure of a temporary character, trailer, boat, camper-bus, tent, or shack shall be maintained on any Lot nor shall any Commercial Unit be used as a residence or sleeping quarters, either temporarily or permanently.

Section 8. Storage. Outside storage of trash and garbage containers, shall not be allowed unless screened from view by enclosures so as to be effectively screened from view outside of the Lot upon which the same are located. The design of such screened enclosure must be approved by the Association in accordance with the architectural control provisions hereof. The storage or collection of rubbish of any character whatsoever, any material that emits foul or obnoxious odors, the growing or any noxious or illegal weed or other natural substance, and the harboring of the source of any noise or activity which disturbs the peace, comfort or serenity of other occupants is prohibited. Boats, snowmobiles, recreational vehicles, jeep-type vehicles, mini-trucks, trailers, camping vehicles, buses, mobile homes, vans, bicycles, tractor/trailers, trucks, motorcycles, mini bikes, mopeds, unlicensed or inoperable vehicles, or any other vehicles of any description other than normal passenger automobiles or vehicles associated with the operation of the business on a Lot, shall not at any time be stored or parked on any Lot, Common Area or Unimproved Common Area, either permanently or temporarily unless written permission is secured in advance from the Board of Directors.

Section 9. Signs. No sign of any kind (other than designations, in such styles and materials as the Association shall by rule or regulation approve, of street addresses and names of occupants) shall be displayed to the public view on any Lot or Common Area, except that a "For Sale" sign may be displayed provided that it is in such form, style and location as the Board may require, and except that Declarant shall be permitted to erect and maintain upon the property such signs as it deems appropriate to advertise the development during the construction and sale periods.

Section 10. Antennae. Except with the prior written approval and authorization of the Board, no exterior television or radio antennae of any sort shall be placed, allowed or maintained upon any portion of the improvements or structures to be located upon the Property, or on the Property itself.

Section 11. Rentals. Any lease between an Owner and a lessee shall provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration and the Articles of Incorporation and By-Laws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a breach of the lease. All leases shall be in writing.

Section 12. Electricity. Any electrical wiring, conduits, meters, or other electrical equipment, may be leased from the Association to the lessee of any unit in the development.

the lessee to comply with the terms of such documents shall be in
accordance with the lease. All leases shall be in writing. No Commercial
Unit, or portion thereof, may be leased for a period of less
than thirty (30) days. Other than the foregoing, there shall be no
restrictions on the right of any Owner to lease all or a portion of
his Commercial Unit.

Section 12. Rules and Regulations. The Board may, adopt, and
may amend, modify, rescind and cancel, such other rules and regula-
tions from time to time governing the use and enjoyment of the Common
Area and the Property as the Board in its sole discretion deems
appropriate or necessary.

ARTICLE X.

RIGHTS FOR THE PROTECTION OF FIRST MORTGAGES

Section 1. Precedence. The provisions of this Article take
precedence over any other conflicting provisions of this Declaration.

Section 2. Notice of Action. Upon written request to the
Association, identifying the name and address of the holder, insurer
or guarantor of a First Mortgage on a Lot or Commercial Unit and the
address of such party (a holder of a First mortgage on a Lot or
Commercial Unit who has so requested such notice shall be referred to
herein as an "eligible mortgage holder" and an insurer or guarantor
of a First Mortgage on a Lot or Commercial Unit shall be referred to
as so requested such notice shall be referred to herein as

eligible insurer or guarantor"), any such eligible mortgage holder or eligible insurer or guarantor will be entitled to timely written notice of:

- A. Any condemnation loss or any casualty loss which affects a material portion of the project or any Lot or Commercial Unit on which there is a First Mortgage held, insured, or guaranteed by such eligible mortgage holder or eligible insurer or guarantor, as applicable;
- B. Any delinquency in the payment of assessments or charges owed, or any other default in the performance of any obligation under the Declaration, By-Laws or Articles of Incorporation by an Owner of a Lot or Commercial Unit subject to a First Mortgage held, insured, or guaranteed by such holder or insurer or guarantor, which remains uncured for a period of sixty (60) days;
- C. Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association;
- D. Any proposed action which would require the consent of a specified percentage of mortgage holders as specified in this Article I; and

in addition to the performance by the owner of any obligations under the Declaration or By-Laws or Articles of Incorporation.

Proposed action which would require the consent of a specified percentage of mortgage holders as specified in this Article X; and

Z. Any default in the performance by the owner of any obligation under the Declaration or By-Laws which is not cured within sixty (60) days.

Section 3. Discontinuance of Professional Management. When professional management has been previously required by an eligible mortgage holder or eligible insurer or guarantor, whether such entity became an eligible mortgage holder or eligible insurer or guarantor at that time or later, any decision to establish self-management by the Association shall require the prior consent of Owners of Lots to which at least sixty percent (60%) of the votes in the Association are allocated and the approval of eligible holder holding mortgages on Lots or Commercial Units which have a least fifty-one percent (51%) of the votes of Lots or Commercial Units subject to eligible holder mortgages.

Section 4. Termination; Reallocation. Any election to terminate the legal status of the project after substantial destruction or substantial taking in condemnation of the project property must have the written approval of eligible holders holding mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots or Commercial Units holding mortgages. No reallocation of votes

the Common Area or the Association resulting from a partial condemnation or partial destruction of the project may be effected without the prior written approval of eligible holders holding mortgages on all remaining Lots whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Lots subject to eligible holder mortgages.

Section 5. Right of First Refusal. The right of an Owner to sell, transfer, or otherwise convey his Lot or Commercial Unit will be subject to a right of first refusal in favor of the Association or other Owners.

Section 5.A. Transfer of Lots

(A) In the event that any person, firm or corporation who owns a Lot shall desire to sell such Lot, then the Lot which such Owner shall desire to sell shall first be offered for sale to the Board of Directors at the same price and on the same terms under which the highest acceptable bona fide offer has been made to the Owner of the said Lot. The Owner desiring to sell a Lot shall give the Board of Directors written notice by registered or certified mail, return receipt requested, of the Owner's desire to sell such Lot or by delivering such notice in person to the President of the Association and shall further advise the board in said offer of the name and address of the person, firm or corporation to whom the offer is made and an acceptable bona fide offer to sell.

the said Lot. The Owner desiring to sell a Lot shall give the Board of Directors written notice by registered or certified mail, return receipt requested, of the Owner's desire to sell such Lot or by delivering such notice in person to the President of the Association and shall further advise the Board in said offer of the name and address of the person, firm or corporation making said highest acceptable bona fide offer as well as the amount and terms of said offer and such other information concerning said offeree as the Board shall reasonably request. The giving of such notice shall constitute a warranty or representation by such Owner to the Board that said Owner believes the offer to be bona fide in all respects. The Board of Directors shall have a period of fourteen (14) days after receipt of said written notice within which to exercise its option to purchase such Lot at the same price and on the same terms as the highest acceptable bona fide offer and shall have an additional period of not less than thirty (30) days within which to close the said transaction. The Board of Directors may elect to purchase such Lot on behalf of all of the remaining Lot Owners as a group or, if the remaining Lot Owners as a group do not wish to purchase such Lot, then on behalf of any one or more individual Lot Owners. In

the event the Board of Directors shall elect to offer a Lot offered for sale on behalf of all of the remaining Lot Owners, the cost thereof shall be shared by all of the remaining Lot Owners in the same proportion as Common Area Expenses, adjusted, however, to reflect the exclusion of the Lot purchased; and any profit or loss realized upon the sale by the Board of a Lot so acquired shall likewise be shared by all of the remaining Lot Owners.

In the event that the Board of Directors shall elect to purchase or lease a Lot offered for sale on behalf of any one or more individual Lot Owners, then the cost and Common Expenses thereof shall be shared by such purchasing Lot Owners in such proportion as they shall agree upon.

In the event that the Board shall elect not to purchase such Lot within the time provided herein, the Lot Owner may, at the expiration of said 14-day period and at any time within ninety (90) days after the expiration of said period, contract to sell such Lot to the proposed purchaser named in such notice upon the terms specified therein. In the event that such Owner shall fail to so sell such Lot to such purchaser within such 90-day period, or if during such 90 day period such Owner shall offer such Lot for sale on terms more favorable to purchaser than those set forth in such notice,

purchase such Lot within the time specified in the offer and at any time within ninety (90) days after the expiration of said period and at any time within ninety (90) days after the expiration of said period, contract to sell such Lot to the proposed purchaser named in such notice upon the terms specified therein. In the event that such Owner shall fail to so sell such Lot to such purchaser within such 90-day period, or if during such 90 day period such Owner shall offer such Lot for sale on terms more favorable to purchaser than those set forth in such notice, then the right of first refusal to the Board shall again become effective.

The Board of Directors, upon the request of a Lot Owner who has offered his Lot for sale to the Board, shall execute in recordable form an instrument indicating compliance with the terms and provisions of this Declaration by such Owner. In the event that the Board shall elect not to purchase the Lot so offered to it, the Lot Owner shall notify the Board in writing immediately upon the closing of the sale, giving the name and address of the purchaser. Such Lot Owner shall likewise notify the Board of his failure to sell such Lot within the time specified herein.

(2) Approval by the Board of the sale shall constitute a waiver of the right to any subsequent sale, or assignment by the purchaser of any interest in the property.

(C) The following conveyances are specifically excluded from the provisions of this Article X, Section 5.

- (1) Conveyances of gift or such that are made without consideration;
- (2) Conveyances by Declarant;
- (3) Transfers or conveyances upon death; and
- (4) Conveyances wherein the Association has, in writing, waived its right under this Article X, Section 5.

In addition, the right of first refusal of the Board of Directors provided for in this paragraph shall not apply to transfers, sales or conveyances involving a foreclosure sale or other judicial sale or transfer to a mortgagee in lieu of foreclosure, or any transfer by a mortgagee following foreclosure or any proceeding or arrangement in lieu thereof.

Section 6. Liability for Unpaid Assessments. Any First Mortgagee who obtains title to or comes into possession of a Lot pursuant to the remedies provided in its First Mortgage or by foreclosure of the First Mortgage or by deed or assignment in lieu of foreclosure and any purchaser at a foreclosure sale in connection with such First Mortgage shall not be liable for the unpaid assessments on such Lot which were payable prior to the acquisition of possession of such Lot by the First Mortgagee.

Section 6. Liability for Unpaid Assessments.

Owner who obtains title to or comes into possession of a Lot subject to the remedies provided in its First Mortgage or by the terms of the First Mortgage or by deed or assignment in lieu of foreclosure, and any purchaser at a foreclosure sale in connection with any such First Mortgage shall not be liable for the unpaid assessments of the Lot which were payable prior to the acquisition of title to or possession of such Lot by the First Mortgagee.

Section 7.A. Certain Amendments. In addition to other requirements set forth herein, unless at least sixty-five percent (65%) (or such higher percentage as is required by law or this Declaration) of the First Mortgagees of the Lots or their assigns (based upon one vote for each First Mortgage owned), and at least sixty-five percent (65%) (or such higher percentage as is required by law or this Declaration) of the Owners (other than any sponsor, developer, or builder including the Declarant) of the Lots (based upon one vote for each Lot owned) have given their prior written approval, neither the Association nor the Owners shall be entitled to:

- (A) terminate the legal status of the project (except in accordance with procedures set forth in this Declaration and the By-Laws in the event of amendment or termination made as a result of destruction, damage or condemnation);
- (B) by act or omission, seek to abandon, petition, substitute

encumber, sell or transfer the Common Area; provided, however, that the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not be deemed such a transfer;

(C) use hazard insurance proceeds for losses to any Common Area or other common property for other than the repair, replacement or reconstruction of such common property;

(D) add or amend any material provisions of this Declaration which establish, provide for, govern or regulate any of the following:

- (1) Voting;
- (2) Assessments, assessment liens or subordination of such liens;
- (3) Reserves for maintenance, repair and replacement of the Common Area;
- (4) Insurance or Fidelity Bonds;
- (5) Rights to use of the Common Area;
- (6) The interests in the general Common Area;
- (7) Convertibility of Lots into Common Area or of Common Area into Lots;
- (8) Any provisions which are for the express benefit of First Mortgage holders, eligible mortgage holders, eligible insurers or guarantors of First Mortgages on Lots,

(except in accordance with procedures set forth in the Declaration and the By-Laws in the event of a foreclosure).

(7) Convertibility of Lots into Common Area or
Area into Lots;

(8) Any provisions which are for the express benefit of First Mortgage holders, eligible mortgage holders, eligible insurers or guarantors of First Mortgages on Lots,
(except in accordance with procedures set forth in this Declaration and the By-Laws in the event of amendment or termination made as a result of destruction, damage or condemnation or with respect to a reallocation of interests in the Common Areas which might occur pursuant to any plan of expansion or phased development contained in the original constituent documents);

(E) By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of Commercial Units, and other buildings, the exterior maintenance of Commercial Units, and other buildings, the maintenance of the Common Area or other common property, or common fences and driveways, or the upkeep of lawns and plantings.

For purposes of this section, an addition or amendment to such documents shall not be considered material if it is made (I) for the purpose of correcting clerical, typographical or technical errors.

(II) for clarification only, (III) to comply with requirements of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Department of Housing and Urban Development, or any other governmental agency or any other public, quasi-public or private entity which performs (or any in the future perform) functions similar to those currently performed by such entities, (IV) to induce any of the agencies or entities mentioned or referred to in subsection (III) hereinabove to make, purchase, sell, insure or guarantee First Mortgages covering Lots and Commercial Units, or (V) to bring such documents into compliance with any statutory requirements, and any such addition or amendment to such documents which is so considered not to be material may be made by Declarant acting alone and without the consent, approval or joinder of the owners, the Association, any First Mortgagees, any other mortgagees or any other person.

An eligible mortgage holder who receives a written request to approve additions or amendments who does not deliver or mail to the requesting party a negative response within thirty (30) days shall be deemed to have approved such request.

Section 7.B. FHA/VA Approval. As long as there is a Class Membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration:

- (A) the annexation to the Property of any property in the Additional Real Estate; provided, however, that any and all events such approval is not

requesting party a negative response within thirty days of the date of the request. If the request is deemed to have approved such request.

Section 7.B. FHA/VA Approval. As long as there is no objection from the Member, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration:

- (A) the annexation to the Property of any property other than the Additional Real Estate; provided, however, that in any and all events such approval is not and shall not be required for annexation to the Property of the Additional Real Estate;
- (B) dedication to the public or to or for any public use or purpose of any part of the Common Area; provided, however, that such approval is not and shall not be required for the granting of easements to utility companies, public or private, for the installation, maintenance, repair, replacement and servicing of equipment and facilities necessary to provide all utility services to the Property; and
- (C) amendment of this Declaration; provided, however, that such approval is not and shall not be required for any amendment or supplement to this Declaration made by the Declarant for the purpose of exercising its reserved right to expand the property within the limits, and

accordance with the procedures, contained in the By-Laws of the Association, concerning the recording of a Declaration.

Section 8. Declarant's Joinder. In addition to the requirements for amendment of this Declaration and the By-Laws contained herein, the written joinder and consent of the Declarant shall be required for any amendment of either this Declaration or the By-Laws until the conveyance by Declarant of the last Lot existing as part of the Property on the Applicable Date to an Owner other than Declarant. This right may be waived at any time by recording a written waiver executed and acknowledged by Declarant.

Section 9. Examination of Books and Records. First Mortgagees and eligible holders, insurers and guarantors of First Mortgages shall have the right to examine the books and records of the Association, as set forth more fully in the By-Laws.

Section 10. Payment of Taxes and Insurance. First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Area or other common property and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area or other common property, and First Mortgagees making such payments shall be owed immediate reimbursement therefore from the Association.

Section 11. Designation of Representative. Any holder of a First Mortgage on a Lot or Commercial Unit may designate a representative to attend meetings of members.

insurance policies or secure new hazard insurance in the event of a lapse of a policy for the Common Area or other common areas. First Mortgagees making such payments shall be owed reimbursement therefrom by the Association.

Section 11. Designation of Representative. Any holder of a First Mortgage on a Lot or Commercial Unit may designate a representative to attend meetings of members.

Section 12. Distribution of Insurance Proceeds and Condemnation Awards. No provision of this Declaration or the By-Laws shall be construed as giving to the Owner or to any other party priority over any rights of First Mortgagees of Lots pursuant to their First Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area or other common property.

ARTICLE XI INSURANCE

Section 1. Maintenance of Insurance. Commencing not later than the time of the first conveyance of a Lot to an Owner other than Declarant, the Association shall maintain, to the extent reasonably available, the following insurance:

- (A) Master or blanket type policy of fire insurance with extended coverage endorsement (including vandalism, sprinkler leakage (if appropriate), debris removal, etc.)

of demolition, malicious mischief, windstorm damage) insuring the building located in the Common (including all of the fixtures installed therein as of the date thereof, which are to be financed by a First Mortgage to be made, purchased, sold, insured or guaranteed by an agency or entity mentioned or referred to in Subparagraph (III) of Section 7 of Article X of this Declaration, and including also common personal property, supplies, and building service equipment, and also not including land, foundations, excavation and other items normally excluded from coverage) and covering the interests of the Association, the Board of Directors and all Owners and their mortgagees, as their interests may appear, for full insurable replacement cost, as determined annually by the Board of Directors. Said policy shall afford, as a minimum, protection against the following:

- (1) loss or damage by fire and other perils normally covered by the standard extended coverage endorsement;
- (2) all other perils which are customarily covered with respect to projects similar in construction, location and use, including all perils normally covered by the standard "all risk" endorsement, where such is available. The name of the insured under such policies must be set forth therein substantially as follows:

(2) all other perils which are customarily covered in respect to projects similar in construction and use, including all perils normally covered by the standard "all risk" endorsement, where such is available. The name of the insured under such policies must be set forth therein substantially as follows:

HONEY CREEK ASS'N INC. for the use and benefit of the individual Owners

The policies may also be issued in the name of an authorized representative of the Association, including any Insurance Trustee with whom the Association has entered into an Insurance Trust Agreement, or any successor to such trustee, for the use and benefit of the individual Owners. Loss payable shall be in favor of the Association (or Insurance Trustee), as a trustee for each Owner (or each such Owner's First Mortgagee. Each Owner and each such Owner's First Mortgagee, if any, shall be beneficiaries of the policy with respect to the Common Area equally with each other Lot. Evidence of insurance shall be issued to each Owner and First Mortgagee upon request. Policies must provide for the recognition of any Insurance Trust Agreement.

If reasonably available, such policies shall include:

- (1) Agreed Amount Endorsement (or like endorsement);
- (2) Inflation Guard Endorsement
- (3) Construction Code Endorsements (such as a Demolition Cost Endorsement, a Contingent Liability from Operation of Building Laws Endorsement and an Increased Cost of Construction Endorsement) if the project is subject to a construction code provision which requires

become operative and require changes to portions of the improvements, thereby imposing significant costs in the event of partial destruction of the project by an insured peril; and

(4) Steam Boiler Coverage (if applicable) for loss or damage resulting from steam boiler equipment accidents in an amount not less than \$50,000 per accident per location.

(5) All such policies must provide for the following: recognition of any Insurance Trust Agreement; a waiver of the right of subrogation against Owners individually; that the insurance is not prejudiced by any act or neglect of individual Owners which is not in the control of such Owners collectively; and that the policy is primary in the event the Owner has other insurance covering the same loss.

(B) Workmen's compensation, occupational disease and like insurance (if the Association has eligible employees);

(C) Comprehensive public liability insurance in such amounts and with such coverage as the Board of Directors shall from time to time determine, but at least:

(1) covering events occurring anywhere on the Common Area (and public ways, if any) or arising out of or in connection with the use, ownership or maintenance of the Common Area;

(2) covering without limitation, legal liability of insureds for property damage, bodily injuries, deaths of persons in connection with the operation, maintenance or use of the Common area, and liability arising out of lawsuits related to management contracts of the Association, and other coverages as are customarily covered with such

covering without limitation, legal liability of insureds for property damage, bodily injury and deaths of persons in connection with the maintenance or use of the Common area, and liability arising out of lawsuits related to management contracts of the Association, and such coverages as are customarily covered with respect to projects similar in construction, location, and use;

(3) insuring each officer and member of the Board of Directors, the managing agent and each Owner and with cross liability endorsement to cover liabilities of the Owners as a group to an Owner and with a "Severability of Interest Endorsement" which would preclude the insurer from denying the claim of an Owner for the negligent act of another Owner, occupant or the Association; and

(4) in amounts generally required by private institutional mortgage investors for projects similar in construction, location and use. (However, such coverage shall be for at least \$1,000,000 for bodily injury, including deaths of persons and property damage arising out of a single occurrence.)

(D) Such other insurance as the Board of Directors may determine.

(E) All such policies must provide that they may not be cancelled or substantially modified by any party without at least 10 days' prior written notice to the Association and to each holder of a First Mortgage which is listed as a scheduled holder of a First Mortgage in the insurance policy.

Section 2. Owners' Individual Policies. Each

shall carry, and shall be responsible for carrying his own fire and theft insurance policy, and shall also insure his personal property, and shall be responsible for carrying his own liability insurance policy. Each Owner shall also be responsible to insure his personal effects, including furniture, furnishings, and other personal property, and fixtures and other property supplied or installed by him or a previous Owner or tenant, provided that all such policies must, if obtained, contain coverages of subrogation and further provided that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Owner.

Section 3. Additional Coverages. In addition and supplement to the foregoing powers, and not in limitation thereof, the Board of

Directors shall have the authority at all times without action by the Owners to obtain and maintain in force all coverages and endorsements required by any agency or entity mentioned or referred to in subparagraph (III) of Section 7 of Article X of this Declaration, for the acceptance of mortgages on Commercial Units, as such requirements are amended from time to time.

Section 4. Insurance Premiums. Insurance premiums for

blanket property insurance coverage and the other insurance coverages purchased by the Association, shall be common expenses to be levied by assessments levied by the Association, and such assessments

Section 4. Insurance Premiums.

Blanket property insurance coverage and the other insurance purchased by the Association, shall be common expenses to be assessed by the Association, and such assessments shall be held in a separate escrow account of the Association and used solely for the payment of the blanket property insurance premiums and other insurance premiums as such premiums become due.

ARTICLE XII
EMINENT DOMAIN

Section 1. The Association shall represent the Owners in any condemnation proceedings and in any negotiations, settlements and agreements with the condemning authority for acquisition of the Common Area, or part thereof, and by acceptance of a deed for his, her or its unit, each Owner appoints the Association as such Owner's agent and attorney-in-fact for such purposes. In the event of a taking or acquisition of part or all of the Common Area by a condemning authority, the award or proceeds of settlement shall be payable to the Association, or other trustee (such as a bank or title insurance company appointed as such by the Association), for the use and benefit of the Owners and their Mortgagees as their interests may appear.

Section 2. Reconstruction. In the event of a partial reconstruction of the Common Area (or conveyance in lieu thereof) the Association shall promptly cause the remaining portions of the Common Area to be restored functionally and aesthetically or reasonably the same condition as before the taking, using so much of the proceeds of such taking for such purpose as shall be reasonably necessary. In the event of a total taking of the Common Area (or conveyance in lieu thereof), and the project is terminated by the election hereinabove required, the proceeds shall be allocated equally among each Lot, payable jointly to the Owners and mortgage holders thereof.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. Enforcement of these covenants and restrictions and of the provisions contained in the Articles of Incorporation and By-Laws of the Association may be by any proceeding at law or in equity instituted by the Association or by any Owner against any person (including the Association) violating or attempting to violate any covenant or restriction, either to restrain violation, to compel compliance, or to recover damages, and against the land, to enforce any lien created by these covenants; and failure of the Association 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. Attorneys' fees and costs in such actions to restrain violation or to recover damages shall be paid by the

to enforce any lien created by these covenants in the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of right to do so thereafter. Attorneys' fees and costs of any such actions to restrain violation or to recover damages as determined by the Court shall be assessable against and payable by any persons violating the terms contained herein.

Section 2. Mergers. Upon a merger or consolidation of the Association with another corporation as provided in its Articles and By-Laws, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or corporation, or, alternatively, the properties, rights and obligations of another corporation may, by operation of law, be added to the properties, rights, and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated corporation may administer the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or additions to the covenants established by this Declaration within the property, except as hereinabove provided.

Section 3. Access. For the purpose solely of performing the repairs and maintenance authorized by this Declaration,

Association, through its duly authorized agents, agents, contractors, shall have the right, after reasonable notice to the Owner (except in an emergency, in which case no notice shall be required), to enter upon and into any Lot.

Section 4. Severability. Invalidation of any one or more of these covenants or restrictions by legislation, judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 5. Notices. Any notice required to be sent to any Member of the Association under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of such Member appearing on the records of the Association at the time of such mailing.

Section 6. Captions. The Article and Section headings herein are intended for convenience of reference only and shall not be given any substantive effect.

Section 7. Construction. In the event of an apparent conflict between this Declaration and the By-Laws, the provisions of this Declaration shall govern.

IN WITNESS WHEREOF, the said Declarant, has caused this instrument to be executed as of the day and year first above written.


DALE D. DONOHO

LEWIS S. WILLIAMS

...between this Declaration and the By-Laws, the
...Declaration shall govern.

IN WITNESS WHEREOF, the said Declarant, has caused this
document to be executed as of the day and year first above written.

Dale D. Donoho
DALE D. DONOHO

Betsy Donoho
BETSY DONOHO

Lewis B. Watkins
LEWIS B. WATKINS
Donna Watkins
DONNA WATKINS

STATE OF INDIANA)
COUNTY OF *Johnson*) SS:

Before me, a Notary Public in and for said County and State,
personally appeared Dale D. Donoho and Betsy Donoho, husband and
wife, who acknowledged the execution of the foregoing Declaration of
Covenants, Conditions, Restrictions and Easements for Honey Creek
Park, and who having been duly sworn, stated that any representations
therein contained are true.

WITNESS my hand and Notarial Seal this 31 day of October,
1985.

Signature: *W.L. Whitely*

Printed: W.L. WHITELY
NOTARY PUBLIC

My commission expires:
4-29-89

County of Residence: JOHNSON

STATE OF INDIANA)
COUNTY OF Jackson)

SS:

Before me, a Notary Public in and for said County and State, personally appeared Lewis B. Watkins and Donna Watkins, husband and wife, who acknowledged the execution of the foregoing Declaration of Covenants, Conditions, Restrictions and Easements for Honey Creek Park, and who having been duly sworn, stated that any representations therein contained are true.

WITNESS my hand and Notarial Seal this 31 day of October, 1985.

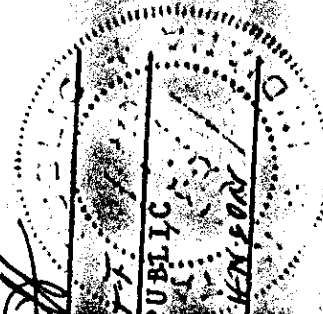
Signature: *W. L. Whitely*

Printed: W. L. WHITELY
NOTARY PUBLIC

County of Residence: JACKSON

My commission expires:

4-29-89



Nov 22 4 27 PM '85

RECEIVED FOR RECORD
BOOK 58 PAGE 87
S. KATHRYN PITTS
JOHNSON COUNTY RECORDER

- 35 -

This Instrument prepared by:
Raymond Good, Attorney-at-Law
JOHNSON & WEAVER
144 N. Delaware Street
Indianapolis, Indiana 46204-2551
(317) 636-6451
A/8-A/9

0516

A F F I D A V I T

COME NOW Lewis B. Watkins and Donna Watkins, husband and wife, and Dale D. Donoho and Betsy Donoho, husband and wife, and being first duly sworn upon their oaths, depose and say:

1. They are one and the same Lewis B. Watkins, Donna Watkins, Dale D. Donoho and Betsy Donoho who executed a certain Declaration of Covenants, Conditions, Restrictions and Easements for Honey Creek Park ("Declaration"), which Declaration was duly recorded in the Office of the Recorder of Johnson County, Indiana, on November 22, 1985 in Book 58, page 87, as Instrument #11494.
2. The Declaration was to have had attached two legal descriptions denominated Exhibits "A" and "B".
3. Through mistake and inadvertence these exhibits were not attached when the Declaration was recorded.
4. Affiants attach hereto as Exhibit "A" the legal description of the real estate constituting Exhibit A in the Declaration. Affiants attach hereto as Exhibit "B" the legal description of the real estate constituting Exhibit B in the Declaration.
5. The Declaration shall be deemed admitted by the addition of

Description of the real estate constituting Exhibit B in the Declaration.

5. The Declaration shall be deemed admitted by the addition of the omitted legal description for Exhibit A and Exhibit B, which are attached hereto, which shall be considered to have been attached to the original Declaration on its initial recordation.

Further affiants saith not.

Donna Watkins
Donna Watkins

Lewis B. Watkins
Lewis B. Watkins

Betsy Donoho
Betsy Donoho

Dale D. Donoho
Dale D. Donoho

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said county and State, personally appeared Lewis B. Watkins and Donna Watkins, husband and wife, who acknowledged the execution of the foregoing Affidavit, and who having been duly sworn, stated that any representations therein contained are true.

WITNESS my hand and Notarial Seal this 13th day of January, 1986.

Merrill D. LaFaber
KERRIE L. DEFABIS Notary Public
Resident of Marion County,
Indiana

My Commission Expires:

2-14-89
STATE OF INDIANA)
COUNTY OF MARION) SS:

Before me, a Notary Public in and for said county and State, personally appeared Dale D. Donoho and Betsy Donoho, husband and wife, who acknowledged the execution of the foregoing Affidavit, and who having been duly sworn, stated that any representations therein contained are true.

WITNESS my hand and Notarial Seal this 13th day of January, 1986.

Merrill D. LaFaber
KERRIE L. DEFABIS Notary Public
Resident of Marion County,
Indiana

My Commission Expires:

2-14-89
THIS INSTRUMENT was prepared by Merrill Moores, Attorney at Law.

EXHIBIT "A"

LEGAL DESCRIPTION OF TRACT TO BE SUBDIVIDED

Part of the Southeast Quarter of Section 32, Township 14 North, Range 14 East of the Second Principal Meridian, Johnson County, Indiana, also being a part of Tract #3 formerly granted to Fortress Service Corporation of Maricopa County, Arizona (Book 228, Page 503 in the Office of the Recorder), more particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of Section 32, T-14-N, R-3-E, marked by an iron pin found in place; thence South $88^{\circ} 54'$ West a distance of 1,384.80 feet to a point in the North line of said quarter section 46.20 feet West of the East line of the West Half of said quarter section, being marked by an iron pin found in place; thence South $00^{\circ} 04' 05''$ East parallel to said East line a distance of 1,559.82 feet to the point of beginning, being marked by an iron pin set this survey; thence North $88^{\circ} 40' 25''$ East a distance of 390.77 feet; thence North $00^{\circ} 04' 05''$ West a distance of 659.00 feet to an iron pin set this survey; thence North $88^{\circ} 40' 25''$ East a distance of 321.65 feet to a point in the centerline of Honey Creek; thence following the centerline of said creek, South $53^{\circ} 07'$ East a distance of 161.42 feet; thence South $17^{\circ} 47'$ East a distance of 175.00 feet; thence South $50^{\circ} 12'$ East a distance of 48.70 feet to a point in the Westerly right-of-way line of State Road #37; thence leaving the centerline of Honey Creek and following said Westerly right-of-way line, South $29^{\circ} 44'$ West a distance of 580.30 feet to a point 961.62 feet North of the South line of said quarter section, marked by an iron pin set this survey; thence South $28^{\circ} 40' 25''$ West parallel with the South line of said quarter section a distance of 642.35 feet to a point 46.20 feet West of the East line of the West half of said quarter section, being marked by an iron corner post; thence North $00^{\circ} 04' 05''$ West parallel to said East line a distance of 138.00 feet to the point of beginning containing 8.875 acres more or less, subject to all legal easements and right-of-ways of record including an access easement to the adjoining parcel on the North, more particularly described as follows:

Beginning at the Northwest corner of the Owner's land, also being the beginning point of the above described legal description; thence North $88^{\circ} 40' 25''$ East a distance of 50.01 feet; thence South $00^{\circ} 04' 05''$ East a distance of 138.00 feet; thence South $88^{\circ} 40' 25''$ West a distance of 50.01 feet; thence North $00^{\circ} 04' 05''$ West a distance of 138.00 feet to the point of beginning containing 0.148 acres more or less.

EXHIBIT "B"

LEGAL DESCRIPTION OF TRACT TO BE SUBDIVIDED

Part of the Southeast Quarter of Section 32, Township 14 North, Range 3 East of the Second Principal Meridian, Johnson County, Indiana, also being part of Tract #3 formerly granted to Fortress Service Corporation of Marion County, Indiana (Book 228, Page 503 in the Office of the Recorder), more particularly described as follows:

Commencing at the Northeast corner of the Southeast Quarter of Section 32, Township 14-N, Range 3-E, marked by an iron pin found in place; thence South $88^{\circ} 40' 25''$ East a distance of 1,384.80 feet to a point in the North line of said quarter section; thence 46.20 feet West of the East line of the West Half of said quarter section, point marked by an iron pin found in place; thence South $00^{\circ} 04' 05''$ East parallel to said East line a distance of 1,559.82 feet to an iron pin set this survey; thence North $88^{\circ} 40' 25''$ East a distance of 315.00 feet to the point of beginning containing an iron pin set this survey; thence North $00^{\circ} 04' 05''$ West a distance of 584.00 feet to an iron pin set this survey; thence North $88^{\circ} 40' 25''$ East a distance of 75.00 feet to iron pin set this survey; thence North $00^{\circ} 04' 05''$ West a distance of 75.00 feet to an iron pin set this survey; thence South $0^{\circ} 04' 05''$ East a distance of 584.00 feet; thence South $88^{\circ} 40' 25''$ East a distance of 75.00 feet to the point of beginning containing 1.006 acres more or less, subject to all legal easements and right-of-ways of record.

JAN 14 9 48 AM '86
9:47

RECEIVED FOR RECORD
BOOK 58 PAGE 179
S. KATHRYN PITTS
JOHNSON COUNTY RECORDER