

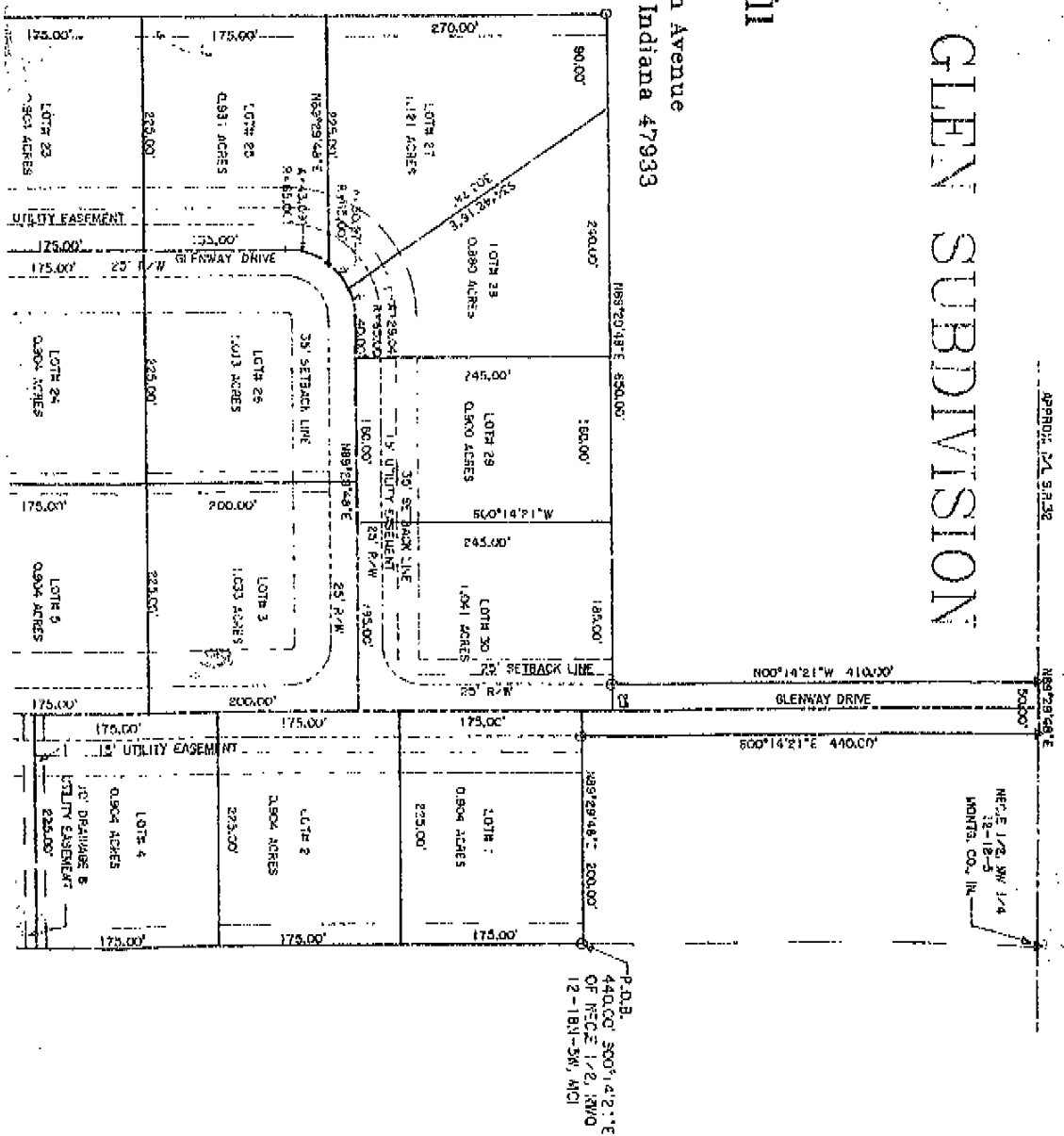
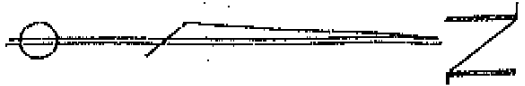
4550259

HUNTERS GLEN SUBDIVISION

OWNER:

Bill Woodall

Woodall Realty
1103 Darlington Avenue
Crawfordsville, Indiana 47933
317-364-0050



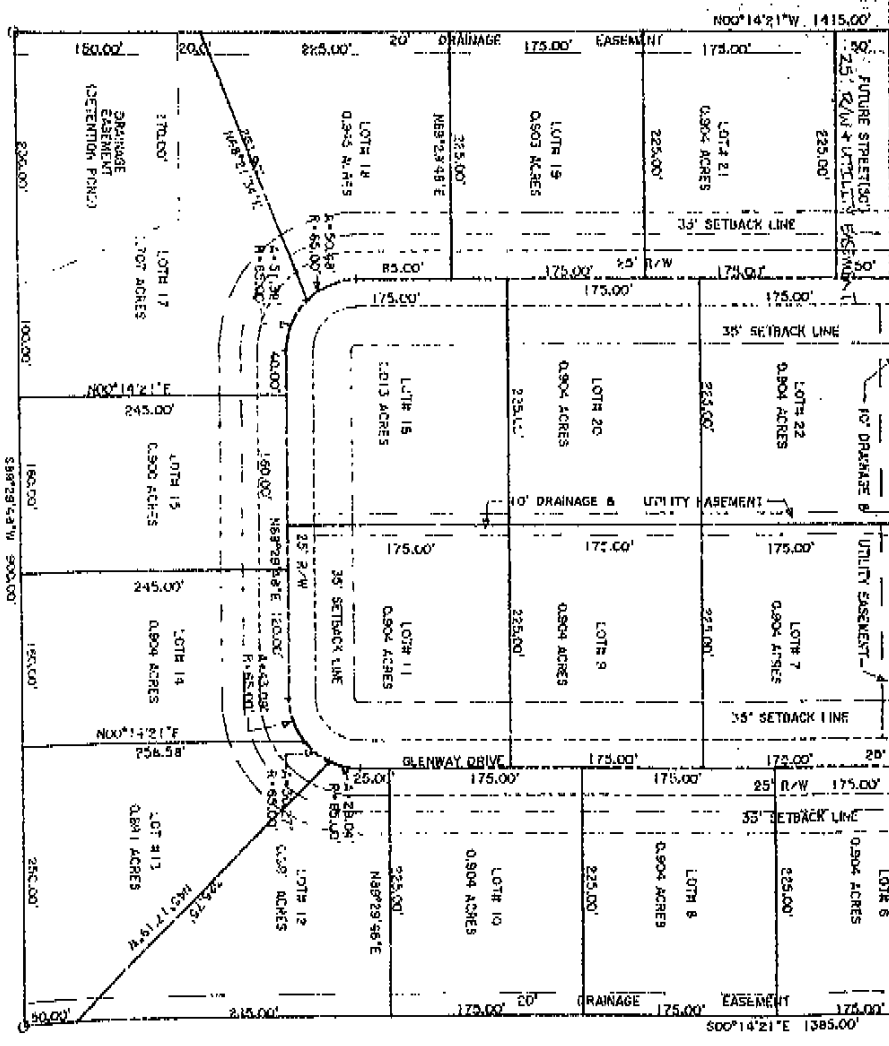
552

RECD AUG 17 1995

This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

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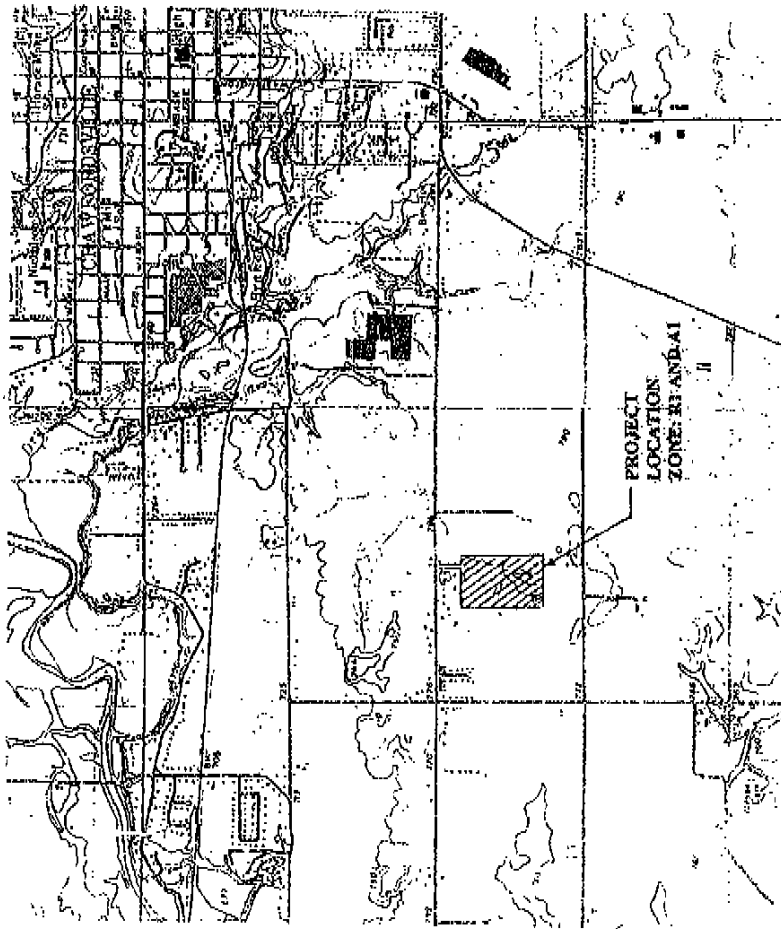
353



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VICINITY MAP

Scale: 1" = 2000'



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LAND DESCRIPTION-HUNTERS GLEN SUBDIVISION

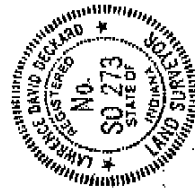
Part of the east half of the northwest quarter of Section twelve (12), Township eighteen (18) north, Range five (5) West, Montgomery County, Indiana, more particularly described as follows:

Beginning at a 5/8" rebar 440.00 feet South 00 degrees 14 minutes 21 seconds East of the northeast corner of the east half of said northwest quarter, section twelve (12), and running THENCE South 00 degrees 14 minutes 21 seconds East, generally following a wire fence line, for a distance of 1385.00 feet to a 5/8" rebar, THENCE leaving said fence line and running South 89 degrees 29 minutes 48 seconds West for a distance of 900.00 feet to a 5/8" rebar, THENCE North 00 degrees 14 minutes 21 seconds West for a distance of 1415.00 feet to a 5/8" rebar, THENCE North 89 degrees 29 minutes 48 seconds East for a distance of 650.00 feet to a 5/8" rebar, THENCE North 00 degrees 14 minutes 21 seconds West for a distance of 410.00 feet to a railroad spike set in the approximate center line of St. Rd. 32 West, THENCE North 89 degrees 29 minutes 48 seconds East along said center line for a distance of 50.00 feet to a railroad spike, THENCE leaving said center line and running South 00 degrees 14 minutes 21 seconds East for a distance of 440.00 feet to a 5/8" rebar, THENCE North 89 degrees 29 minutes 48 seconds East for a distance of 200.00 feet to the place of beginning, containing 29.5681 acres, more or less.

Subject to a right-of-way for St. Rd. 32 West and together with and subject to all other rights-of-way, covenants, easements, and restrictions of record
I, the undersigned registered land surveyor, hereby certify that the above plan and description correctly represents a survey performed under my supervision on December 5, 1994.

L. David Beckard

L. David Beckard
Lic. Reg. I.S. #50273



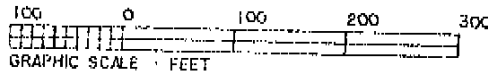
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Certificate of Approval:

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In accordance with the Subdivision Control Ordinance of the city of Crawfordsville and the contiguous unincorporated area, this plat was given primary approval as a Subdivision Plat by the Crawfordsville Plan Commission at a public meeting on the _____ day of _____ 1994.

President



LEGEND

○ - 5/8" REINFORCING BAR



FINAL

DECKARD ENGINEERING/SURVEYING INC.

PROJECT 1218SWOM Hunters Glen Subdivision S. R. 32N 12-18N-5W Montgomery Co., IN	REGISTERED PROFESSIONAL ENGINEER NO. 14018 * LAND SURVEYOR NO. 50273 (317) 361-1510 P. O. BOX 262, CRAWFORDSVILLE, IN 47933	SCALE: 1" = 100' DRAWN BY: BCD CHECKED BY: LOD DATED: 12-28-93 <i>Wab's</i> CERTIFIED BY: <i>T. Mack</i>
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DECLARATION OF COVENANTS, EASEMENTS, RESTRICTIONS AND
ASSESSMENTS OF HUNTERS GLEN
SECTION 1

THIS DECLARATION is made this 14 day of APRIL, 1995, by
William F. Woodall and Cindy L. Woodall.

WITNESSES:

WHEREAS, Developer is the owner of all of the lands contained in the area described in EXHIBIT "A", attached hereto and made a part hereof, which lands will be subdivided and known as Hunters Glen (together with any additions thereto as herein provided, hereinafter referred to as the "Development", and will be more particularly described on the plat recorded on the same date as the recording of these covenants in the Office of the Recorder of Montgomery County, Indiana and making reference hereto; and

WHEREAS, Developer intends to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject to and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (hereinafter referred to as the "Restrictions"), under a general plan or scheme of improvement for the benefit and complement of lots and lands in the Development and the future home owners thereof.

WHEREAS, Developer desires to provide for maintenance of the Common Areas, retention/detention ponds, and improvements located or to be located in the Development, and to share in insurance coverage and mutual enforcement of the Restrictions which are of common benefit to the Owners of the various lots within the Development, and to that end desires to establish certain obligations and said Owners and a system of assessments and charges upon said Owners for certain maintenance and other costs in connection with the operation of the Development.

NOW, THEREFORE, Developer hereby declares that all of the platted lots and lands located within the Development as they become platted are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Development as a whole and of each of said lots situated therein. All of the Restrictions shall run with the land and shall be binding upon Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof subject to such Restrictions, and shall inure to the benefit of Developer's successors in title to any real estate in the Development.

1. DEFINITIONS.

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

(i) "Assessment" means the share of the Common Expenses imposed upon each lot, as determined and levied pursuant to the provision of paragraph 17 herein.

(ii) "Association" shall mean Hunters Glen, Association, or an organization of similar name, its successors and assigns, and its membership shall consist of lot owners who pay mandatory assessments for detention pond maintenance, liability insurance, landscape easement maintenance, fertilizing and weed control, private street maintenance or other expenses as determined by the Owners.

(iii) "Builder" shall mean the person constructing the first residence on each lot (which may be the Developer for one or more Lots).

(iv) "Committee" shall mean the Hunters Glen Development control Committee, composed of three (3) members of the association appointed by Developer who shall be subject to removal by Developer at any time with or without cause. Any vacancies from time to time existing shall be filled by appointment of Developer until such time as the subdivision is completely developed or as provided under Clause 15E herein at which time the Association shall appoint from its membership this Committee.

(v) "Lot" shall mean any parcel of real estate, whether residential or otherwise, described by the recorded plat of the Development which is recorded in the Office of the Recorder of Montgomery County, Indiana. No lot may be subsequently subdivided for development purposes.

(vi) "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a Lot, but excluding those persons having such interest merely as security for the performance of an obligation.

(vii) "Common Area" shall mean those areas set aside for conveyance to the Association, as shown on the Plat and shall include drainage, street easements, and so ceta.

(viii) "Common Expense" means the actual and estimated cost to the Association for maintenance, management, operation, repair, improvement, and replacement of Common Property, maintenance of the detention ponds, roads, real estate taxes or personal property taxes assessed against any Common Property, and any other cost or expense incurred by the Association for the benefit of the Common Property, and shall also include the costs of insurance as required herein. Common Expenses shall not include any costs or expenses incurred in connection with the initial installation or completion of the streets, utility lines and mains, drainage system, or other improvements constructed by Developer.

(ix) "Common Property" means all real and personal property which is in the nature of common or public improvements or area, including the Common Area and which is located in, upon, or under the Common Area within the Development.

B. Approvals, determinations, permissions or consents required herein shall be deemed given if they are given in writing and signed, with respect to Developer by an authorized agent thereof, and with respect to the Committee by two members thereof.

2. CHARACTER OF THE DEVELOPMENT.

A. **In General.** Every numbered lot in the Development, unless it is otherwise designated by Developer, is a residential lot and shall be used exclusively for single family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots except a single family dwelling house. No business buildings shall be erected on said lots and no business may be conducted on any part thereof, other than the home occupations permitted by the Association.

B. **Occupancy for Residential Use of Partially completed Dwelling Houses Prohibited.** No dwelling house constructed on any of the residential lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed for occupancy in accordance with the approved building plan and local permit regulations. The determination of whether the house shall have been substantially completed in accordance with the approved building plan shall be made by the Committee and such decision shall be binding on all parties.

C. **Other Restrictions.** All tracts of ground in the Development shall be subject to the easements, restrictions and limitations of record, and to all governmental zoning authority and regulations affecting the Development, all of which are incorporated herein by reference.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

A. **Type, Size and Nature of Construction Permitted and Approvals Required.** No single family dwelling, greenhouse, porch, garage, swimming pool, basketball court, tennis court or other recreational facility shall be erected, placed or altered on any lot without the prior written approval of the Committee. Such approval shall be obtained prior to the commencement of construction and shall take into account restrictions as to the type of materials, exterior facade, design, layout, location, landscaping and finished grade elevations. Approvals will be considered upon the submission of satisfactory plans, including a plot plan, a building plan showing floor areas and elevations, specifications, and such other data or information as may be reasonably requested, all subject to the following minimum standards:

(i) Any single family dwelling erected, placed or altered shall have the following minimum areas, exclusive of open porches and garages:

- (a) The minimum floor area of a one story home shall be 1,390 square feet. The minimum main floor area for a home of more than one story shall be 890 square feet.
- (b) All roofs shall have a minimum pitch 5/12 and shall contain at some point a broken roof line unless otherwise approved by the Committee.
- (c) Each dwelling shall have a minimum of a two car garage. The drive will provide a minimum of two parking spaces.

(ii) All materials incorporated into the construction of any single family dwelling, garage or other approved out building shall be new, except that used brick, weathered barn siding, or the like, or interior design features utilizing other than new materials, may be approved by the Committee. No trailer, mobile home, tent, basement, shack, garage, motor home, barn or other structure shall be placed or constructed on any Lot at any time for use as either a temporary or permanent residence or for any other purpose, except as time for use as either a temporary or permanent residence or for any other purpose, except as reasonable required in connection with the construction of a single family dwelling on a Lot.

(iii) Every single family dwelling, garage, or other structure permitted to be constructed or to remain on any Lot shall be completed on the exterior within 3 months from the start of construction, including at least one coat of paint, stain or varnish on any exterior wood surfaces (not including surfaces normally left natural). All such structures must be completed within 6 months.

- (a) No Modular Homes shall be allowed without specific approval from the committee.
- (b) During the period of construction of any structure on any lot, the lot shall be kept and maintained in a tidy and orderly manner. No trash or other rubbish shall be permitted to accumulate unreasonably on any such lot.

(iv) Erosion Control. Upon completion of the building phase on each lot, all areas of bare ground must be seeded, mulched and watered if necessary, until grass has been established.

(v) Light Fixtures, and Mailboxes. In order to preserve the natural quality and aesthetic appearance of the existing geographic areas within the Development, outside light fixture, basketball goal or similar structure must be approved by the Committee as to size, location, height, composition, and color, before it may be installed.

(vi) Fences. All fences shall meet the following standards:

- (a) Maximum height of four (4) feet. No solid face construction will be allowed. Pool fences, where required, shall be of greater heights and shall be a decorative type. All fence types and construction shall be approved by the Committee.

(vii) All utility facilities in the Development shall be placed underground. When they are installed under finished streets they shall be installed by jacking or boring.

(viii) Each driveway in the Development shall be of limestone, concrete or asphalt material, or other materials approved by the Committee, and shall not exceed in width the side boundaries of the garage.

(ix) Wherever possible, all utility meters and HVAC units in the Development shall be located in places not seen from the street or screened, if located in the fronts of dwellings.

(x) No outside fuel storage tanks shall be permitted above ground, except propane tanks which are to be camouflaged by shrubs, fencing, or other suitable decorative materials. No gasoline storage shall be permitted above or below ground in the Development.

(xi) All gutters and downspouts in the Development shall be painted.

(xii) The type and location of swimming pools shall be approved by the committee.

(xiii) Outbuildings, storage sheds and similar type structures shall be approved by the committee. In general, all such structures shall be a minimum of 8 feet x 10 feet, and the exterior must coordinate with that of the dwelling.

D. Sight Obstructions. Front building lines or setback lines are established as shown on the recorded plat between which lines and the right-of-way lines of the street no structure shall be erected or maintained. No fence, wall hedge or shrub planting which obstructs sight lines at elevations two and six feet above streets, shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street line extended. The same sight line limitations shall apply to any lot within ten feet from the intersection of a street line with the edge of a driveway. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines. Underground septic absorption fields and above ground well casings, utility meters and HVAC units will be permitted in this area subject to the conditions of Sec. 3 A(b).

C. Damage Structures. No improvement which has partially or totally been destroyed by fire or otherwise damaged shall be allowed to remain in such state for more than thirty (30) days from the time of such destruction or damage.

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

(i) Mow the lot at such times as may reasonably be required in order to prevent the unsightly growth of grass and weeds. Including any common areas which maybe forested on owners property.

(ii) Remove any debris and rubbish, which may accumulate;

(iii) Prevent the existence of any other conditions which may detract from or diminish the aesthetic appearance of the development;

(iv) Remove dead trees; and

(v) Keep the exterior of all improvements in such a state of repair or maintenance to avoid an unsightly appearance.

4. PROPERTY RIGHTS.

A. Utility Easements. Easements are hereby reserved for the purpose of installing and maintaining public utility facilities and for such other purposes incidental to the development of the property. The easements shall be perpetual hereof from the date of this instrument by the Developer, its successors and assigns. Utility companies and other authorized agencies shall have full right and authority to lay, operate and maintain such drainage facilities, gas and electric lines, communication lines (which shall include cable television), and such other public service facilities as Developer may deem necessary in designated easement area as shown on the plat of the Development. Provided, however, that any area disturbed by installation of utility lines shall be constructed within an easement area. Drainage, street and utility easements of the Development are as shown on the recorded plat of the Development.

5. MISCELLANEOUS PROVISIONS AND PROHIBITIONS.

A. Nuisances. No outside toilets shall be permitted on any Lot in the Development (except during period of construction and then only with the consent of the Committee). No sanitary waste or other wastes shall be permitted to enter the storm or underground drainage systems. By purchase of a Lot, each Owner agrees that any violation of this paragraph constitutes a nuisance which may be abated by Developer, the Association, or any Owner in the Development in any manner provided at law or in equity. The cost or expense of abatement, including court costs and attorney's fees, shall become a charge or lien upon the Lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt. No noxious or offensive activities shall be carried on on any Lot in the Development, nor shall anything be done on any of said Lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another Lot in the Development. Neither Developer, any officer, agent, employee or contractor thereof, the Association, nor any Owner shall be liable for any damage which may result from enforcement of the provisions of this paragraph.

B. Signs. No signs or advertisements shall be displayed or placed on any Lot or structure in the Development without the prior written approval of the Committee, except for the sale of a Lot or residence. However, Developer and designated Builders may use for sale and advertising signs during the sale and development of the Subdivision.

C. **Animals.** No animals shall be kept or maintained on any Lot in the Development except usual household pets, namely dogs and cats, and, in such case, such household pets shall be kept reasonably quiet and contained, either on a leash or in a fenced area whenever outside, so as not to become a nuisance. Under no circumstances shall a household have more than two pets total. If a female were to have offspring, the offspring must be sold or removed in six (6) months from the date of birth.

D. **Vehicle Parking.** All passenger vehicles shall be parked in garages or in driveways, except for guest vehicles which may be parked on the street for a period not exceeding forty eight hours. Under no condition shall a vehicle be allowed to interrupt the normal flow of traffic on a road or street. No vehicles shall be put up on blocks or jacks to accommodate car repair on a lot except if such repairs are done in the garage. No disabled vehicles shall be permitted outside of garages for more than a thirty (30) day period.

E. **Garbage, Trash and Other Refuse.** No owner of a Lot in the Development shall burn or bury out-of-doors such refuse on his or her Lot.

F. **Ditches and Swales.** All Owners shall keep unobstructed and in good repair, all open storm water drainage ditches and swales which may be located on their respective lots, and to provide for the installation of such culverts upon said Lot as may be reasonably necessary to accomplish the purposes of this subsection.

6. DEVELOPMENT CONTROL COMMITTEE

A. Powers of Committee.

(i) **In General.** No dwelling, building structure or improvement of any type or kind shall be constructed or placed on any Lot in the Development, without prior approval of the committee. Such approval shall be obtained only after written application has been made to the Committee by the Owner of the Lot, requesting authorization from the committee. Such written application shall be in the manner and form prescribed from the time to time by Committee, and shall be accompanied by two complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plans showing all existing conditions upon the Lot and the location of the improvement proposed to be constructed or placed upon the Lot, each properly and clearly designated. Such plans and specifications shall set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale as the committee may require. There shall also be submitted, where applicable, the permits or plot plans which shall be prepared by either a registered land surveyor, engineer, architect, or licensed builder. Plot plans submitted for building Permits shall bear the stamp or signature of the Committee acknowledging the approval thereof.

(ii) **Power of Disapproval.** The Committee may refuse to grant permission to construct, place or make the requested improvement, when:

- (a) the plans, specifications, drawings or other material submitted are inadequate or incomplete, or show proposed improvements to be violation of these Restrictions;
- (b) the design or color scheme of a proposed improvement is not in harmony with the general surroundings of the Lot or with adjacent buildings or structures; or
- (c) the proposed improvement, or any part thereof, would, in the opinion of the Committee, be contrary to the interests, welfare or rights of all or any part of the other Owners.

(iii) **Developer Improvements.** The Committee shall have no powers with respect to any improvements or structures erected or constructed by the Developer (or any Builder, if Developer has approved the plans thereof).

B. **Duties of Committee.** The committee shall approve proposed improvements within fifteen (15) days after all required information is submitted and material shall be retained by the Committee for its permanent files. All notification is one of disapproval, it shall specify the reason or reasons for such disapproval. In the event that a written approval is not received from the Committee within fifteen (15) days from the date of receipt of the information required to be submitted by these Subdivision Restrictions, the failure to issue such written approval shall be construed as the disapproval of any such plans submitted.

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

D. Liability of Committee. Neither the committee nor any agency thereof, nor the Developer, shall be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto.

E. Inspections. The Committee may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

7. RULES GOVERNING BUILDING ON SEVERAL CONTIGUOUS LOTS HAVING ONE OWNER.

Whenever two or more contiguous Lots in the Development shall be owned by the same person, and such Owner shall desire to use two or more of said Lots as a site for a single dwelling, he shall apply in writing to the Committee for permission to so use said Lots. If permission for such a use shall be granted, the Lots constituting the site for such single dwelling shall be treated as a single Lot for the purpose of applying these restrictions to said Lots, so long as the Lots remain improved with one single dwelling. No double family houses shall be constructed in the development.

8. REMEDIES.

A. Remedies for Failure to Comply. In the event that any Owner fails to fully observe and perform the obligations set forth in paragraphs 2, 3 or 5 hereof, and in the further event that such failure is not remedied within thirty (30) days after written notice of the same is given by the Developer, the Association or any Owner, the Association the Developer and any Owner shall have the right to commence judicial proceedings to abate or enjoin such failure, and to take such further action as may be allowed at law or in equity to correct such failure after commencement of such proceedings. In the event that such failure causes or threatens to cause immediate and substantial harm to any property outside of defaulting Owner's Lot or to any person, the Developer or the Association shall have the right to enter upon such Lot for the purpose of correction such failure and any harm or damage caused thereby, without any liability whatsoever on the part of the Association. All costs incurred by the Association, the Developer or any Owner, in the connection with any act or proceeding undertaken to abate, enjoin, or correct such failure including attorney fees and court costs shall be payable by the defaulting owner upon demand by the Association, the Developer or any Owner, and shall immediately become a lien collectable by the Developer any Owner, or the Association. The rights of the Owner, the developer and the Association under this paragraph shall be in addition to all other enforcement rights hereunder or at law or in equity.

B. Government Enforcement. The Montgomery County Commissioners, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions, or other limitations contained in this document other than those covenants, commitments, restrictions, or limitations that expressly run in favor of The Montgomery County Subdivision Control Ordinance, dated November, 1967 as amended; provided further, that nothing herein shall be construed to prevent the Montgomery County Commissioners from enforcing any provisions of the Subdivision Control Ordinance, dated November 1967 as amended, or any conditions attached to approval of the plat of Hunter's Glen, Section 1, by the Committee.

The Indiana State Board of Health shall have the right to enforce the provisions of State Statute IAC 88H Rule 410-6-8-1 thru 16 and Bulletin S.E. 13 dated 1968, pertaining to the design and location of domestic wells and septic systems, as administered by the local board of health through their Health Officer and his authorized representative.

C. Delay or Failure to Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one or more of these Restrictions shall be held to be a waiver by that party (or any stoppage of that party to assert) of any right available to him upon the occurrence, recurrence or continuation of such violation or violations of these Restrictions.

9. EFFECT OF BECOMING AN OWNER.

The Owners of any Lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, not in default, whether from Developer or a subsequent Owner of such Lot, shall accept such deed and execute such contract subject to each and every Restriction and agreement herein contained. By acceptance of such deed or execution of such deed or execution of such contract, the Owner acknowledges the rights and powers of Developer with respect to these Restrictions, and also, for themselves, their heirs, personal representatives successors and assigns. Such Owners, covenant and agree and consent to with Developer and with the Owners and subsequent Owners of each of the Lots affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

10. TITLES.

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

11. DURATION AND AMENDMENT.

A. This Declaration shall be effective for an initial term of five (5) years from the date of filing this document with the Recorder's Office in Montgomery County, Indiana. Between five (5) and twenty (20) years, the owners of ninety-five percent (95%) of the Lots may vote to alter or terminate this Declaration. After twenty (20) years, this declaration shall automatically renew for additional terms of ten (10) years each, in perpetuity, unless at the end of any term, the Owners of seventy five percent (75%) of the Lots vote to alter or terminate this Declaration, in which case this Declaration shall be altered or terminated as of the end of the term during which such vote was taken. Notwithstanding the preceding sentence, all easements created or reserved by this Declaration shall be perpetual unless otherwise expressly indicated herein.

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

12. SEVERABILITY.

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

13. DEDICATED STREETS.

All streets shown and heretofore dedicated are hereby dedicated to the public.

14. HOMEOWNERS ASSOCIATION.

The Association shall be created as a not-for-profit corporation under the laws of the State of Indiana. The Association shall be incorporated and in accordance with paragraph 15 through 17 of these Subdivisions Restrictions.

15. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

A. Membership. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Additionally, the Association, and/or members therein, may be members

in any one or more umbrellas or joint homeowners associations, if any, composed of associations and/or members from surrounding areas.

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

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

D. Responsibilities of the Association. The Association is hereby authorized to act and shall act on behalf of, and in the name, place, and stead of, the individual Owners in all matters pertaining to the maintenance, repair, and replacement of the Common Areas, the determination of Common Expense, the collection of annual and special Assessments, and the granting of any approvals whenever and to the extent called for by the Declarations for the common benefit of all such Owners. The Association shall also have the right, but not the obligation, to act on behalf of any Owner or Owners in seeking enforcement of the terms, covenants, conditions and restrictions contained in the Declarations. Neither the Association nor its officers or authorized agents shall have any liability whatsoever to any Owner for any action taken under color of authority of the Declarations or any failure to take any action called for by the Declarations, unless such act or failure to act is in the nature of willful or reckless disregard of the rights of the Owners or in the nature of willful, intentional, fraudulent, or reckless misconduct. The Association shall procure and maintain casualty insurance for the Common Areas, liability insurance (including directors or officers' insurance) and such other insurance as it deems necessary or advisable. The Association may contract for management services and such other services as the Association deems necessary or advisable.

E. Transfer of Control of Association. The developer must transfer control of the Association to the Owners no later than the earlier of: a) four (4) months after three-fourths (3/4) of the Lots in the Development have been conveyed to Owners; or b) seven (7) years after the first Lot is conveyed to an Owner in the Development.

16. INSURANCE.

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

B. The Association also shall obtain comprehensive public liability insurance and such other liability insurance, with such coverages and limits, as the Board of Directors shall deem appropriate. All such policies of insurance shall contain an endorsement or clause whereby the insurer waives any right to be subrogated to any claim against the Association, its Officers, the Board of Directors, the Developer, any Managing Agent, their respective employees and agents, or the Owners, and shall further contain a clause whereby the insurer waives any defenses based on acts of individual Owners whose interests are insured thereunder, and shall cover claims of one or more insured parties against other insured parties. All such policies shall name the Association, for the use and benefit of the Owners, as the insured, shall provide that the coverage thereunder is primary even if an Owner has other insurance covering the same loss; shall show the Association as insurance trustee, in trust for each Owner and mortgagee, as the party to which proceeds shall be payable; shall contain a standard mortgage clause and shall name Mortgagees as insured; and shall prohibit any cancellation or substantial modification to coverage without at least thirty (30) days prior written notice to the Association and to the Mortgagees. Such insurance shall inure to the benefit of each individual Owner, the Association, the Board of Directors, and any managing agent or company acting on behalf of the Association. The individual Owners, as well as any lessee of any Owners, shall have the right to recover losses insured for their benefit.

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

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

17. COVENANT FOR MAINTENANCE ASSESSMENTS.

A. **Purpose of the Assessments.** The Assessments levied by the Association shall be used exclusively for the purpose of preserving the values of the Lots within the Development, as the same may be platted from time to time, and promoting the health, safety and welfare of the Owners, users, and occupants of the same and, in particular, for the improvement, repairing, operating, and maintenance of the Common Area, and any and all other Common Expenses. Each Owner covenants and agrees to pay the Association.

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

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

B. **Pro-rata Share.** The pro-rata share of each Owner for purposes of this paragraph shall be the percentage obtained by the fraction of one over the total lots (1/Total Lots).

C. **Liability for Assessments.** Each Assessment, together with any interest thereon at the rate of eight percent (8.0%) per annum and any costs of collection thereof, including attorneys' fees, shall be a charge on each Lot and shall constitute a lien upon each Lot from and after the due date thereof in favor of the Association. Each such Assessment, together with any interest thereon and any costs of collection thereof, including Attorneys' fees, shall also be the personal obligation of the Owner of each Lot at the time when the Assessment is due. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. The lien for any Assessment shall for all purposes be subordinate to the lien of any Mortgagee whose mortgage was recorded prior to the date such Assessment first became due and payable. No sale or transfer shall relieve such Lot from liability for any Assessments thereafter becoming due or from the lien thereof, nor shall any sale or transfer relieve any Owner of the personal liability hereby imposed. The personal obligation for delinquent Assessments shall not pass to any successor in title unless such obligation is expressly assumed by such successor.

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

E. **Basis of Special Assessments.** Should the Board of Directors of the Association at any time during the fiscal year determine that the Assessments levied for such year may be insufficient to pay the Common Expenses for such year, the Board of Directors shall call a special meeting of the Association to consider imposing such special Assessments as may be necessary for meeting the Common Expenses for such year. A special Assessment shall be imposed only with the approval of sixty percent (60%) of the Owners, and shall be due and payable on the date(s) determined by such Owners, or if not so determined, then as may be determined by the Board of Directors.

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

first assessment year shall be due and payable on the first day of each fiscal year of the Association. Annual Assessments shall be due and payable in full as of the above date, except that the Board of Directors may from time to time by resolution authorize the payment of such Assessments in monthly, quarterly, or semi-annual installments.

G. Duties of The Association.

(i) The Board of Directors of the Association shall cause proper books and records of the levy and collection of each annual and special Assessment to be kept and maintained, including a roster setting forth the identification of each and every Lot and each assessment applicable thereto, which books and records shall be kept by the Association and shall be available for the inspection and copying by each Owner (or duly authorized representative of any Owner) at all reasonable times. Except as may be otherwise provided in the Association's By-Laws, the Association shall cause financial statements to be prepared at least annually for each fiscal year of the Association, and shall furnish copies of the same to any Owner or Mortgagee upon request. The Board of Directors of the Association shall cause written notice of all Assessments levied by the Association upon the Lots and upon the Owners to be mailed to the Owners or their designated representatives. Notices of the amounts of the annual Assessments and the amounts of the installments thereof shall be sent annually within thirty (30) days following the determination thereof. Notices of the amounts of special Assessments shall be sent as promptly as practicable and in any event not less than thirty (30) days prior to the due date of such Assessment or any installment thereof. In the event such notice pertains, payment of such Assessment shall not be deemed past due for any purpose if paid by the Owner within thirty (30) days after the date of actual mailing of such notice.

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

(iii) The Association shall notify any Mortgagee from which it has received a request for notice:

- (a) of any default in their performance of any obligation under this Declaration by any Owner which is not remedied within sixty (60) days;
- (b) of any condemnation of casualty loss that affects either a material portion of the Development or the Lot securing its mortgage;
- (c) of any lapse, cancellation, or material modification of any insurance policy required to be maintained by the Association; and
- (d) any proposed action which requires the consent of the Mortgagees or a specified percentage thereof, as set forth in the Declarations.

H. Non-Payment of Assessments; Remedies of the Association.

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

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

I. Adjustments. In the event that the amounts actually expended by the Association for Common Expenses in any fiscal year exceed the amounts budgeted and assessed for common Expenses for what fiscal year, the amount of such deficit shall be carried over and become an additional basis for Assessments for the following year, except that so long as the Developer

controls the Association, Developer may, in its sole discretion, make up such deficit; provided, however that Developer shall be reimbursed by the Association for such funded deficits, together with interest at 18% per annum until so reimbursed, from available surpluses in later years or through a special assessment at the time of transfer of control of the Association to Owners.

J. Initial Assessments. During the first year following the date of recordation of the Declaration for the Development the total Assessments per Lot per year shall not exceed One Hundred Dollars (\$100.00).

K. Notice and Quorum for Any Action to Increase Assessments. Written notice of any meeting called for the purpose of increasing the regular or special Assessments of the Association shall be sent to all Owners not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Owners or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum.

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

IN WITNESS WHEREOF, witness the signature on behalf of the Developer this 14 day of APRIL 19 95.

By: William F. Woodall Signature
Cindy L. Woodall Signature

STATE OF INDIANA)
) SS:
COUNTY OF MONTGOMERY)

Before me, a Notary Public in and or said County and State, personally appeared William F and Cindy L. Woodall who acknowledged the execution of the foregoing Declaration of Covenants and Restrictions, and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this 14 day of April, 19 95
Signature Betty J. Watson
Printed Betty J. Watson

County of Residence: Montgomery
My commission expires 11-23-96



Recorded AUG 17 1996
Deorse Woodall Fee 557.00
Montgomery County Recorder