

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
WEST CREEK SUBDIVISION
A SINGLE FAMILY RESIDENTIAL DEVELOPMENT
IN MARION COUNTY, INDIANA

11

The undersigned, MELODY COMMUNITIES, INC., (sometimes referred to herein as "Owner" or "Developer"), for and as Owner and Developer of the real property described in Exhibit "A" attached, to be known as West Creek Subdivision, and for the benefit of all present and future owners of any lot or lots in, or occupants of West Creek Subdivision, does hereby impose the within described Covenants, Conditions and Restrictions on the land described in said Exhibit "A".

Article 1. Use Restrictions

All lots in this subdivision and all present and future owners or occupants thereof shall be subject to the following development standards, conditions and restrictions, which shall run with the land:

1.01 The lots located within West Creek Subdivision, shall be used for detached single family dwellings in accordance with the present zoning of West Creek Subdivision, by Marion County. No lot shall be used for any purpose not presently permitted by the zoning of Marion County without approval of the West Creek Subdivision Homeowners Association, a not-for-profit corporation, hereinafter more specifically defined and established. This provision is intended to, and shall prohibit, a change of presently permitted use by change of zoning without approval of said Corporation.

1.02. Single story dwellings shall have a minimum of 900 square feet of living area exclusive of open porches, garages and other unheated areas. Split level and/or two-story dwellings shall have a minimum of 660 square feet on the ground level floor, but shall have a minimum of 900 total square feet of living area. Each dwelling shall have a minimum of a one car attached garage. All driveways and vehicle parking areas shall be hard-surfaced. No gravel or stone driveways shall be permitted on any lot.

1.03. No building, basement, swimming pool, tennis court, fence, basketball goal, wall, hedge, or other enclosure, or any utility meter, mailbox, or other structure of any sort shall be erected, placed or maintained on any lot in said subdivision, nor shall any change, addition to or alteration thereof affecting the outward appearance thereof be made unless the same shall be in accordance with detailed plans and specifications therefor showing the size, location, type architectural design, quality, use and material of construction thereof, the color scheme, therefore, the grading plan of the lot, and the finished grade elevation thereof, which detailed plans and specifications have first been approved in writing by the Corporation.

1.04. No structure or any part thereof, other than a fence, hedge, wall, or other enclosure which shall first have been approved as provided in paragraph 1.03. above, shall be erected, placed or maintained on any lot nearer to the front or street line or lines than the building setback line or lines shown on the recorded plat. No structure of any sort shall be erected, placed or maintained on any lot nearer to any side lot line or rear lot line than is permitted by the appropriate zoning and building requirements of Marion County.

1.05. No portion of any residential lot or structure thereon shall be used or permitted to be used for any business purpose whatsoever; provided, however, the foregoing shall not apply to the various activities, or the construction and maintenance of buildings, if any, of Owner, its agents or assigns, during the construction and sale period. In addition, no noxious, offensive, or unreasonably disturbing activity shall be carried on upon any part of said subdivision, nor shall anything be done thereon which may be or become an annoyance or nuisance in said subdivision.

1.06. No trailer, tent, shack, garage, barn, car, or other temporary shelter or housing device shall be maintained or used as a residence, temporarily or permanently, in said subdivision.

1.07. No clotheslines shall be located on any lot.

1.08. Any truck, motorcycle, boat, bus, tent, car, camper, trailer or other similar housing or recreational device, if stored on any said lot, shall be housed within a garage building.

1.09. No portion of any residential lot, except the interior of the residential dwelling located thereon and appurtenant garage, shall be used for the storage of automobiles, trailers, motorcycles or other vehicles, whether operative or not, scrap, scrap iron, water, paper, or glass, or any reclamation products, parts or materials, except that during the period an improvement is being erected upon any such lot, building materials to be used in the construction of such improvement may be stored thereon; provided, however, any building material not incorporated in said improvement within ninety (90) days after its delivery to such lot shall be removed therefrom. All improvements must be completed by an owner within one (1) year from the date of the beginning of the construction thereof. No sod, dirt or gravel other than incidental to construction of approved improvements, shall be removed from said lots without the written approval of the Corporation or its successors and assigns.

1.10. No portion of any lot nearer to any street than the building setback line or lines shown upon the recorded plat of said subdivision shall be used for any purpose other than that of a lawn; provided, however, this covenant shall not be construed to prevent the use of such portion of said lot for walks, drives, trees, shrubbery, flowers, flower beds, ornamental plants, fence, hedge, wall or other enclosure which shall first have been approved as provided in paragraph 1.03 above for the purpose of beautifying said lot, but shall be construed to prohibit the planting or maintaining of vegetables and grains thereon except upon terms and conditions acceptable to and approved by the West Creek Subdivision Homeowners Association.

1.11. No weeds, underbrush, or other unsightly growths or objects of any kind shall be placed, be permitted to grow, or suffered to remain on any part of said premises. All lawn areas shall be maintained in a neat and orderly manner and shall be mowed not less than is needed to maintain the lawn equal to or better in appearance than the surrounding neighborhood in general.

1.12. Television antennas shall be no higher than 5' above the peak of the roof. No towers of any kind including, but not limited to, radio and/or microwave towers, or dish-type antennas, shall be erected, placed or

maintained on any lot in said subdivision.

1.13. Any tanks for the storage of propane gas or fuel oil or for construction operations shall be located on the ground level.

1.14. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose, that they are limited in number so as not to become a nuisance or disturbance to others, and that they are not permitted to run loose.

1.15. No sign or billboard of any kind shall be erected or maintained on any lot except (i) signs approved by the Corporation; and (ii) signs used by Owner, its successors and/or assigns, to advertise lots in residences for sale during the construction and initial sales period.

1.16. No lot owner shall alter, impair or change any easement without first obtaining the written consents of the Corporation and the lot owner or owners for whose benefit such easement exists.

1.17. All rubbish and debris, combustible and non-combustible, and all garbage shall be stored and maintained in containers entirely within the garage or basement. Additional regulations for the storage, maintenance and disposal of rubbish, debris, leaves and garbage may from time to time be established by the Corporation or their successors and assigns.

1.18. No well for the production of gas, water, oil or otherwise, whether intended for temporary or permanent purposes, shall be drilled or maintained on any lot, nor shall such premises be otherwise used in any way which may endanger the health or unreasonably disturb the peaceable use of adjoining premises.

1.19. No individual water supply system or sewage disposal system shall be permitted on any lot without prior written approval by the Corporation and Marion County, and, if approved, will be located and constructed in accordance with requirements, standards, and recommendations of the Indiana State Board of Health. No geothermal system shall be installed without prior approval by all applicable agencies. Solar heating systems of any nature must be approved by the Corporation as to design and aesthetic quality prior to construction. Lot owners are hereby advised that solar heating systems will not be approved unless their design blends aesthetically with the structure and adjacent properties.

1.20. Drainage swales (ditches) or drainage retention areas along dedicated roadways and within the right-of-way, or on dedicated easements, are not to be altered, dug out, filled in, tiled, or otherwise changed without the written permission of the Department of Public Works of the City of Indianapolis, Indiana. Property owners must maintain these swales as sodded grassways, or other non-eroding surfaces. Water from roofs or parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts or other approved structures have been permitted by the Department of Public Works of the City of Indianapolis, Indiana. Any property owner altering, changing, or damaging these drainage swales or ditches will be

held responsible for such action!

1.21. The offsite drainage easement, as shown in Exhibit "B", which runs from the retention pond to the gulvert under Highland Circle, shall be maintained by the West Creek Homeowner's Association, as necessary.

ARTICLE 2. Pond and Common Area Covenants and Restrictions

2.01. The areas marked D. & U. E. and Common Area, as shown on the plat drawings of West Creek Subdivision, are protected areas and include storm water detention areas designed so as generally to retain water and have the appearance of ponds. Any such storm water detention (pond) areas may extend into areas of the West Creek Subdivision.

2.02. No owner of any lot in West Creek Subdivision, shall do or permit to be done any action or activity which could result in the pollution of the ponds, diversion of water, change in elevation of the water level, earth disturbance resulting in silting or any other conduct which could result in an adverse effect upon water quality, drainage, or proper pond management, or otherwise impair or interfere with the use of the ponds for drainage and related purposes for the benefit of West Creek Subdivision.

2.03. No swimming or motorized boating activity shall be conducted in, on or above said pond areas.

2.04. The Corporation may from time to time establish rules regarding the use of the Ponds and related drainage and utility easement areas and the Common Areas, provided such rules are not in conflict with the rules contained herein, are reasonably established to protect the safety and welfare of the residents of West Creek Subdivision, and their guests as well as any other person or property in the vicinity of the Ponds and the Common Areas and related drainage and utility easement areas and/or are established to assure the continued service of the area for the purpose for which it was designed.

2.05. The Corporation or the Department of Public Works of the City of Indianapolis, Indiana, shall have the authority to institute an action for injunction to abate any activity in violation of these plat restrictions and covenants or any rules and regulations regarding the use and maintenance of the Ponds and the Common Areas and related drainage and utility easement areas that have been established pursuant to the provisions hereof, or to seek mandatory relief for the correction of any damage caused to the ponds, the Common Areas, or interference with the drainage system, together with any damages incurred, and upon recovery of judgment shall be entitled to costs of the action together with reasonable attorney's fees.

ARTICLE 3. Homeowners Association

A not-for-profit corporation to be known as West Creek Homeowners Association, Inc., (herein sometimes referred to as the "Corporation"), shall be established to carry out the functions set forth for it in these Plat Restrictions and Covenants.

3.01. The West Creek Homeowners Association, Inc., shall initially be guided by three (3) directors, being the undersigned at incorporation. Each lot owner of a lot in West Creek Subdivision, shall become a shareholder of said Corporation upon purchase of said lot.

3.02. The directors of said Corporation shall serve until their successors are elected. Upon the incapacity, resignation or death of a director of the Corporation, his successor shall be appointed by the remaining directors of the Corporation within six (6) months of the incapacity, death or resignation of a director. In the event of the incapacity, resignation or death of a director of the Corporation, and his successor is not appointed within six (6) months thereafter, the successor director shall be elected by the owners of a majority of the lots in said subdivision.

3.03. The Corporation and the City of Indianapolis, Department of Public Works shall have the sole and exclusive right to establish grades and slopes on all lots in said subdivision and to fix the grade at which any residence shall hereafter be erected or placed thereon so that the same may conform to the general plan of development. All such grades and slopes shall be established on the engineering plans submitted to and approved by the Corporation and the City of Indianapolis, Department of Public Works.

3.04. In requiring the submission of detailed plans and specifications as herein set forth, the parties hereto have in mind the development of said subdivision as an architecturally harmonious, artistic and desirable residential subdivision, and in approving or withholding its approval of any detailed plans and specifications so submitted, the Corporation, or its successors and assigns, may consider the appropriateness of the improvement contemplated with relation to improvements on contiguous or adjacent lots, its artistic and architectural merits, its adaptability to the lot on which it is proposed to be made, and such other matters as may be deemed to be in the interest and benefit of the owners of the lots in said subdivision as a whole.

3.05. All plans and specifications submitted to the Corporation for consideration must be prepared by a registered architect or civil engineer, or by an experienced draftsman in form generally used by architects and engineers, except that proposals for exterior changes that generally would be made without the need for detailed plans and specifications, such as repainting a building with a different color plan or replacing a mailbox and post may be made without the submission of professionally prepared plans and specifications provided, however, that the Corporation reserves the right to require the proposer to provide the opinion of a professional architect, surveyor or engineer in support of any proposal before giving its approval.

3.06. The corporate approval or disapproval as required in these Covenants shall be in writing, and any determination made by the Corporation in good faith shall be binding on all parties in interest. If the Corporation shall fail to approve or disapprove, or request additional information with respect to any proposed plans and specifications within thirty (30) days after the same shall have been submitted to it for approval, such plans and specifications shall be deemed to have received the approval of said Corporation.

3.07. Notwithstanding compliance with the foregoing minimum living area requirements, the Department of Metropolitan Development of Marion County, Indiana shall not issue an Improvement Location permit for any

dwelling upon any lot in this development.

3.08. The Corporation, in addition to those remedies granted to it by law, such as the pursuit of court-ordered injunctions and other judicial relief, shall have the right in the event of any action or condition which the Corporation or their successors and assigns determine to be in violation of these restrictions, to enter the property upon which violation is deemed by it to be in violation hereof, and said Corporation or their successors and assigns shall not by reason thereof be guilty in any manner of trespass for such entry, abatement or removal, or liable for damages by reason thereof, to any person whomsoever. Any failure to enforce these restrictions shall not be deemed a waiver thereof or any acquiescence in, or consent to, any continuing, further or succeeding violation hereof. If, in the opinion of the Corporation, by reason of the shape, dimensions or topography of a particular lot in the subdivision, enforcement of these restrictions with respect to size of structure would constitute a hardship, the Corporation and appropriate board of zoning appeals may permit a variation which will, in its judgment, be in keeping with the maintenance of this subdivision as a desirable subdivision.

3.09. West Creek Subdivision, contains certain Common Areas lying within the plat and certain landscaped areas lying within the adjacent public rights-of-way. In addition, landscape easement areas may be imposed on a portion of certain lots. The Corporation shall have the right to enter onto such open space, public rights-of-way and landscape easement areas from time to time as it deems necessary for purposes of maintaining all common areas, landscaped areas and landscape easement areas described above which are located in West Creek Subdivision and may participate in the reasonable and proper maintenance of all other open spaces, landscaped areas and landscape easement areas located in West Creek Subdivision. In addition, the Corporation shall provide weekly trash collection service if same is not provided by the municipality and, upon the approval of a majority of the lot owners in West Creek Subdivision, may provide other services such as snow removal if they are not adequately provided by the appropriate municipal government.

The plat drawing of West Creek Subdivision, contains areas marked D. & U. E., Ponds and Common Area (Drainage Utility Easement and Common Area). The Corporation and the City of Indianapolis, Department of Public Works shall have the right to enter onto any D. & U. E. and Common Area as it deems necessary or desirable for the purpose of maintaining same or otherwise clearing obstructions that impede or might impede the designed flow of storm water across such areas.

In order to provide the funds necessary to pay for the services described in this paragraph, as well as other provisions of these Restrictions and Covenants, the Corporation shall be empowered to levy, assess and collect from each and every lot owner in said West Creek Subdivision. Such sums as may be approved by a vote of not less than 75% of the owner occupants of residences in West Creek Subdivision. Any amount so assessed or levied shall become a lien on each lot. In the event any amount so assessed or levied is not paid when due and remains in arrears for more than sixty (60) days, the Corporation may cause to be filed with

the Marion County Recorder a Notice of Lien describing the lot and the amount due and executed in accordance with the formalities then required to record a lien against real estate. The lien of the assessment 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. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessment as to the payments which became due prior to such sale or transfer period. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

3.10. The Corporation has the power to expend its money on the reasonable care and proper maintenance of the Common Areas, Ponds, landscaped areas and "easement areas", including drainage, utility and sewer easement areas in any section of the West Creek Subdivision and such other community services approved by a majority of the lot owners in West Creek Subdivision. The Corporation herein established shall act as the Homeowners Association West Creek Subdivision for purposes of establishing a budget for the maintenance of Common Areas, Ponds, landscaped areas and "easement areas" and the provision of other approved services as described above, and divide the cost of same among the lot owners in West Creek Subdivision.

3.11. Any and all of the rights, powers, duties and obligations which, in this instrument are assumed by, reserved to or given to the Corporation may be assigned or transferred to any one or more corporations or associations which will agree to assume said rights, powers, duties and obligations and carry out and perform the same. Any such assignment or transfer shall be made by appropriate instrument in writing in which the assignee or transferee shall join for the purpose of evidencing its acceptance of such rights, powers, duties and obligations, which instrument shall be recorded and such assignee or transferee shall thereupon have the same rights and powers and be subject to the same obligations and duties as are herein given to and assumed by said Corporation. In the event of such assignment or transfer, the assignor or transferor and its successors and assigns of said Corporation, shall thereupon be released from all the rights, powers, duties and obligations in this instrument reserved to or given to and assumed by said Corporation. The right of assignment hereby reserved to the Corporation is so reserved to the end that the rights, powers, duties and obligations reserved or given to it may be assigned to an association or corporation formed by the owners of lots in said subdivision or in said subdivision together with contiguous subdivisions, for the purpose of accepting said assignment; and such assignment may be made at such time as the Corporation may determine. Whenever in this instrument reference shall be deemed to include the successors and assigns of said Corporation.

ARTICLE 4. Other Conditions

4.01. These covenants and restrictions shall be taken to be real covenants running with the land and shall be binding upon all parties, persons and corporations owning or acquiring land in said subdivision, and their heirs, executors, administrative successors and assigns until

January 1 20 14, and these restrictions shall be automatically extended in their entirety for successive periods of ten (10) years unless by appropriate instrument and writing, and consenting to their termination in whole or in part, shall be filed for record, executed and acknowledged by the owners of not less than a majority of the lots.

4.02. Any violation or attempt to violate any of the covenants or restrictions herein while the same are in force shall be sufficient reason for any other person or persons owning any lot in said subdivision to initiate proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions and to prevent him or them from so doing, or to cause the removal of any violation and to recover damages or other dues for such violation or attempted violation.

4.03. All transfers and conveyances of each and every lot of said subdivision shall be made subject to these covenants and restrictions.

4.04. It is expressly agreed that if any covenant or condition or restriction hereinabove contained, or any portion thereof, is invalid or void, such invalidity or voidness shall in no way affect any other covenant, condition or restriction.

4.05. All costs of litigation and attorney's fees resulting from violation of these Covenants shall be the financial responsibility of the lot owner or owners found to be in violation.

4.06. Any corporation or association which may be the transferee or assignee as provided in paragraph 3.11 hereof shall have the same power to levy, assess and collect funds from lot owners and to expend such funds as are set forth in paragraphs 3.09 and 3.10 hereof for the West Creek Homeowners Association.

In addition, any transferee or assignee that is a non-profit association in which the owners of lots in West Creek Subdivision have the right to elect the directors of the Association on a one-vote-per-lot basis shall have the right to levy, assess and collect an amount not to exceed Fifty Dollars (\$50.00) per year from each and every lot owner in said West Creek Subdivision for purposes of carrying out its responsibility to the lot owners, provided such power shall not be effective unless persons making up a majority of the Board of Directors are owner-occupants of West Creek Subdivision and provided further that such limit of Fifty Dollars (\$50.00) per year may be increased in proportion to any increase in the Consumer Price Index of the U.S. Bureau of Labor Statistics.

4.07. Any homeowner's association formed for the purpose of maintaining and caring for all common areas, ponds, landscaped areas and easement areas in any section of West Creek Subdivision and otherwise to protect the interests of the owners of lots in any section of West Creek Subdivision shall include in its membership the owners of all lots in West Creek Subdivision and subject each of them to this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, THE SAID MELODY COMMUNITIES, INC., an Indiana Corporation, has caused this instrument to be executed by its respective duly authorized representative this 16th day of JUNE, 1994.

MELODY COMMUNITIES, INC.

BY: E. Thomas Stafford
E. THOMAS STAFFORD, PRESIDENT

BY: Cindy J. Hoskinson
CINDY J. HOSKINSON

MELODY BUILDERS WEST, INC.
BY: John C. Mason
JOHN C. MASON, PRESIDENT

JOHN R. VONARY
NOTARY PUBLIC
JUN 16 05 05 05
NOTARY PUBLIC
SINCE 1988
1001 W. WASHINGTON ST. #100
MARIETTA, GA 30067

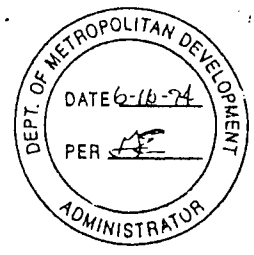
STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

Before me, a Notary Public in and for said County and State personally appeared E. THOMAS STAFFORD, CINDY J. HOSKINSON & JOHN C. MASON, who acknowledged the execution of the foregoing instrument to be their voluntary act and free will.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed my official seal this 16th day of June, 1994.

My Commission Expires:
2-26-98

Vicki J. Lanham
Notary Public
VICKI J. LANHAM
County of Residence: Johnson



THIS DOCUMENT PREPARED BY E. THOMAS STAFFORD

EXHIBIT "A"

LAND DESCRIPTION
(INSTRUMENT #83-72055 - WARRANTY DEED)

A PART OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 29, AND PART OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 32, ALL IN TOWNSHIP 15 NORTH, RANGE 3 EAST, IN MARION COUNTY, INDIANA DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 32; THENCE ALONG THE EAST LINE OF SAID WEST HALF, SOUTH 00 DEGREES 07 MINUTES 53 SECONDS EAST 169.95 FEET; THENCE SOUTH 89 DEGREES 52 MINUTES 07 SECONDS WEST 876.00 FEET; THENCE NORTH 00 DEGREES 07 MINUTES 53 SECONDS WEST 550.00 FEET; THENCE NORTH 89 DEGREES 52 MINUTES 07 SECONDS EAST 876.00 FEET TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 29; THENCE ALONG SAID EAST LINE SOUTH 00 DEGREES 07 MINUTES 53 SECONDS EAST 380.05 FEET TO THE POINT OF BEGINNING, CONTAINING 11.06 ACRES, MORE OR LESS.

MARY E. HARMON
INST. #83-72055

687.72	684.78 (NW & S)	R-3501-1L
687.53	684.95 (N & E)	R-4342
688.10	685.90 (W)	R-4342
-	681.50 (N)	
-	684.60 (S)	

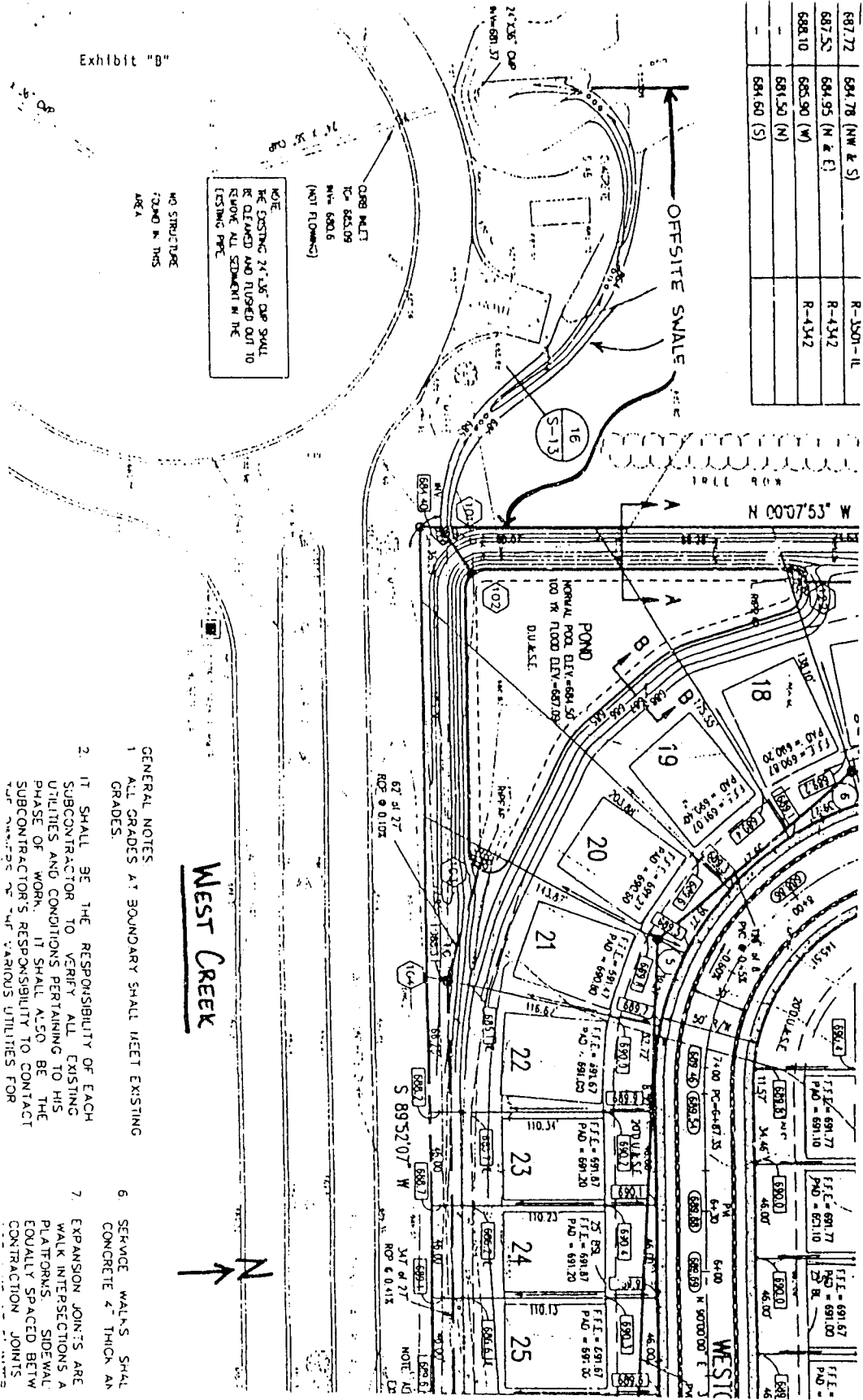


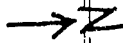
Exhibit "B"

NOTE
THE DESTING 24" DIA. CAP SHALL
BE CLEANED AND RUSHED OUT TO
REMOVE ALL SEDIMENT IN THE
TESTING PIPE

NO STRUCTURE
FOUND IN THIS
AREA

- GENERAL NOTES
- 1 ALL GRADES AT BOUNDARY SHALL MEET EXISTING GRADES.
 - 2 IT SHALL BE THE RESPONSIBILITY OF EACH SUBCONTRACTOR TO VERIFY ALL EXISTING UTILITIES AND CONDITIONS PERTAINING TO HIS PHASE OF WORK. IT SHALL ALSO BE THE SUBCONTRACTOR'S RESPONSIBILITY TO CONTACT THE OWNER OF THE VARIOUS UTILITIES FOR

West Creek



- 6 SERVICE WALKS SHALL CONCRETE 4" THICK AN
- 7 EXPANSION JOINTS ARE WALK INTERSECTIONS A PLATFORMS. SIDEWALK EQUALLY SPACED BETW CONTRACTION JOINTS

No: WESTCREEK

- 3. Solid waste collection assessment number GG of \$. May assessment.
- 4. Solid waste collection assessment number GG of \$. November assessment.
- 5. Taxes for the year 2000 due and payable in 2001 are a lien not yet due and payable.
- F. NOTE: Information relative to current sewer use charges can be obtained from the Department of Public Works at (317)631-1431.
- G. Mortgage from Melody Communities, Inc., an Indiana Corporation to The Fifth Third Bank of Central Indiana in the principal amount of \$594,000.00, dated January 28, 1994 and recorded February 1, 1994, as Instrument #94-17448. (Mortgage covers property herein described and other real estate.)
- H. Financing Statement naming The Fifth Third Bank of Central Indiana as secured party and Melody Communities, Inc., as Debtor filed February 1, 1994, as No. 831 in the Office of the Recorder of Marion County, Indiana.
- I. Commitments Concerning The Use Or Development Of Real Estate recorded November 13, 1983, as Instrument #83-83165.
- J. Commitments Concerning The Use Or Development Of Real Estate dated April 15, 1993, and recorded May 18, 1993, as Instrument #93-57845.
- K. Covenants, conditions, and restrictions contained in Declaration of Covenants, Conditions and Restrictions dated June 16, 1994, recorded June 16, 1994, as Instrument #94-95624, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.
- L. We should be furnished a certificate executed by the appropriate officer of West Creek Homeowners Association, Inc., stating that there are no unpaid assessments which would constitute a lien on the land.
- M. Easement for public utilities and/or drainage as shown on plat.
- N. Building setback requirements as shown on the plat of the subdivision.
- O. Covenants, conditions, and restrictions contained in the plat of Westcreek Subdivision as per plat thereof, recorded June 16, 1994, as Instrument #94-95625, but omitting any covenant or restriction based on race, color, religion, sex, handicap, familial status or national origin unless and only to the extent that said covenant (a) is exempt under Chapter 42, Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons.

Secretary

[Handwritten signature]

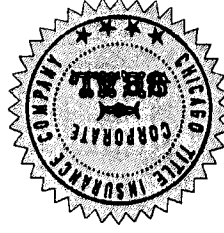
Attest

President

[Handwritten signature]

By

Chicago Title Insurance Company



Issued by:
CHICAGO TITLE INSURANCE COMPANY
101 W. OHIO, SUITE 1100
INDIANAPOLIS, IN. 46204
(317)684-3800

In witness whereof, Chicago Title Insurance Company has caused this Commitment to be signed and sealed as of the effective date of Commitment shown in Schedule A.

This Commitment is preliminary to the issuance of such policy or policies of title insurance and all liability and obligations hereunder shall cease and terminate six months after the effective date hereof or when the policy or policies committed for shall issue, whichever first occurs, provided that the failure to issue such policy or policies is not the fault of the Company.

This Commitment shall be effective only when the identity of the proposed Insured and the amount of the policy or policies committed for have been inserted in Schedule A hereof by the Company, either at the time of the issuance of this Commitment or by subsequent endorsement.

4. Any action or actions or rights of action that the proposed Insured may have or may bring against the Company arising out of the status of the title to the estate or interest or status or the mortgage thereon covered by this Commitment must be based on and are subject to the provisions of this Commitment.

3. Liability of the Company under this Commitment shall be only to the named proposed Insured and such parties included under the definition of Insured in the form of policy or policies committed for and only for actual loss incurred in reliance hereon in undertaking in good faith (a) to comply with the requirements hereof, or (b) to eliminate exceptions shown in Schedule B, or (c) to acquire or create the estate or interest or mortgage thereon covered by this Commitment. In no event shall such liability exceed the amount stated in Schedule A for the policy or policies committed for and such liability is subject to the insuring provisions, the Exclusions from Coverage and the Conditions and Stipulations of the form of policy or policies committed for in favor of the proposed Insured which are hereby incorporated by reference and are made a part of this Commitment except as expressly modified herein.

2. If the proposed Insured has or acquires actual knowledge of any defect, lien, encumbrance, adverse claim or other matter affecting the estate or interests or mortgage thereon covered by this Commitment other than those shown in Schedule B hereof, and shall fail to disclose such knowledge to the Company in writing, the Company shall be relieved from liability for any loss or damage resulting from any act of reliance hereon to the extent the Company is prejudiced by failure to so disclose such knowledge. If the proposed Insured shall disclose such knowledge to the Company, or if the Company otherwise acquires actual knowledge of any such defect, lien, encumbrance, adverse claim or other matter, the Company at its option may amend Schedule B of this Commitment accordingly, but such amendment shall not relieve the Company from liability previously incurred pursuant to paragraph 3 of these Conditions and Stipulations.

1. The term "mortgage", when used herein, shall include deed of trust, or other security instrument.

CONDITIONS AND STIPULATIONS

Issued by
Chicago Title Insurance Company

We recognize and respect the privacy expectations of today's consumers and the requirements of applicable federal and state privacy laws. We believe that making you aware of how we use your non-public personal information ("Personal Information"), and to whom it is disclosed, will form the basis for a relationship of trust between us and the public we serve. This Privacy Statement provides that explanation. We reserve the right to change this Privacy Statement from time to time consistent with applicable privacy laws.

In the course of our business, we may collect Personal Information about you from the following sources:

- From applications or other forms we receive from you or your authorized representative;
- From your transactions with, or from the services being performed by, us, our affiliates, or others;
- From our internet web sites;
- From the public records maintained by governmental entities that we either obtain directly from those entities, or from our affiliates or others; and
- From consumer or other reporting agencies.

Our Policies Regarding the Protection of the Confidentiality and Security of Your Personal Information

We maintain physical, electronic and procedural safeguards to protect your Personal Information from unauthorized access or intrusion. We limit access to the Personal Information only to those employees who need such access in connection with providing products or services to you or for other legitimate business purposes.

Our Policies and Practices Regarding the Sharing of Your Personal Information

We may share your Personal Information with our affiliates, such as insurance companies, agents, and other real estate settlement service providers. We may also disclose your Personal Information:

- to agents, brokers or representatives to provide you with services you have requested;
- to third-party contractors or service providers who provide services or perform marketing or other functions on our behalf; and
- to others with whom we enter into joint marketing agreements for products or services that we believe you may find of interest.

In addition, we will disclose your Personal Information when you direct or give us permission, when we are required by law to do so, or when we suspect fraudulent or criminal activities. We also may disclose your Personal Information when otherwise permitted by applicable privacy laws such as, for example, when disclosure is needed to enforce our rights arising out of any agreement, transaction or relationship with you.

One of the important responsibilities of some of our affiliated companies is to record documents in the public domain. Such documents may contain your Personal Information.

Right to Access Your Personal Information and Ability To Correct Errors Or Request Changes Or Deletion

Certain states afford you the right to access your Personal Information and, under certain circumstances, to find out to whom your Personal Information has been disclosed. Also, certain states afford you the right to request correction, amendment or deletion of your Personal Information. We reserve the right, where permitted by law, to charge a reasonable fee to cover the costs incurred in responding to such requests.

All requests must be made in writing to the following address:

Privacy Compliance Officer
Fidelity National Financial, Inc.
4050 Calle Real, Suite 220
Santa Barbara, CA 93110

Multiple Products or Services

If we provide you with more than one financial product or service, you may receive more than one privacy notice from us. We apologize for any inconvenience this may cause you.

Chicago Title Insurance Company, a Missouri corporation herein called the "Company" for valuable consideration, hereby commits to issues its policy or policies of title insurance, as identified in Schedule A, in favor of the proposed insured named in Schedule A, as owner or mortgagee of the estate or interest covered hereby in the land described or referred to in Schedule A, upon payment of the premiums and charges therefor; all subject to the provisions of Schedule A and B and to the Conditions and Stipulations hereof.

Policy or Policies to be issued:

OWNER'S POLICY:

Proposed Insured:

LOAN POLICY:

Proposed Insured:

The estate or interest in the land described or referred to in the Commitment and covered herein is Fee Simple

Title to said estate or interest in said land is at the effective date hereof vested in: Melody Communities, Inc., a Corporation

The land referred to in this Commitment is described as follows:
Lot Numbered ~ in Westcreek Subdivision, a Subdivision in Marion County, Indiana, as per plat thereof, recorded June 16, 1994, as Instrument #94-95625, in the Office of the Recorder of Marion County, Indiana.

This Commitment is valid only if Schedule B is attached.

No:

WESTCREEK

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the Company:

- A. Instruments necessary to create the estate or interest to be insured must be properly executed, delivered and duly filed for record.
- B. Payment of the full consideration to, or for the account of, the grantors or mortgagors should be made.
- C. Payment of all taxes, charges, assessments, levied and assessed against subject premises, which are due and payable should be made.
- D. Defects, liens, encumbrances, adverse claims, or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.
- E. Any Owner's Policy issued pursuant hereto will contain under Schedule B the General Exceptions set forth below. Any Loan Policy will contain under Schedule B General Exceptions 1, 2 and 3 unless a satisfactory survey is furnished; General Exceptions 4 will appear unless satisfactory evidence is furnished that improvements and/or repairs or alterations thereto are completed; the contractor, subcontractors, labor and materialmen are all paid.

General Exceptions:

- 1. Rights or claims of parties in possession not shown by the public records.
- 2. Easements, or claims of easements, not shown by the public records.
- 3. Encroachments, overlaps, boundary line disputes, or other matters which would be disclosed by an accurate survey or inspection of the premises.
- 4. Any lien, or right to a lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
- 5. Taxes or special assessments which are not shown as existing liens by the public records.

Special Exceptions:

A 1. May installment of taxes for the year 1999, due and payable in 2000, in the amount of \$ are.

Name: Decatur-Outside
Township: 200-~
Parcel No.: 200-~

Assessed Value: \$
Land: \$
Improvements: \$
Exemptions: \$

B 2. November installment of taxes for the year 1999, due and payable in 2000, in the amount of \$ are.

Parcel No.: 200-~