

Secondary Plat of KENSINGTON DOWNS SECTION III

a Subdivision located in the SW1/4 of Section 35, Township 31 North, Range 13 East Allen County, Indiana

1. ALL RIGHT-OF-WAY INTERSECTION RACK TO BE 20 FEET
2. ALL RIGHT-OF-WAYS TO BE DEDICATED 50 FOOT WIDE TO ALLEN COUNTY
3. ALL PARK AREAS, OPEN SPACES, OR LANDSCAPE AREAS TO HAVE A BUNKET UTILITY AND SURFACE DRAINAGE EASEMENT.
4. ALL BUNKET UTILITIES MUST ALLOW FOR PROPOSED DRAINAGE SCALE GRADES AS FOUND IN PLANS

DEVELOPER:
COLONIAL DEVELOPMENT CORPORATION
6008 BRANDY CHASE RUN
FORT WAYNE, INDIANA 46835
219-486-1500

ENGINEERS-SURVEYORS:
COLE & DICKMEYER, INCORPORATED
6044 EAST STATE BOULEVARD
FORT WAYNE, INDIANA 46835
219-745-0725

- BL - BUILDING LINE
- UT - UTILITY EASEMENT
- SD - SURFACE DRAINAGE EASEMENT
- SW - SWIFTWAY EASEMENT

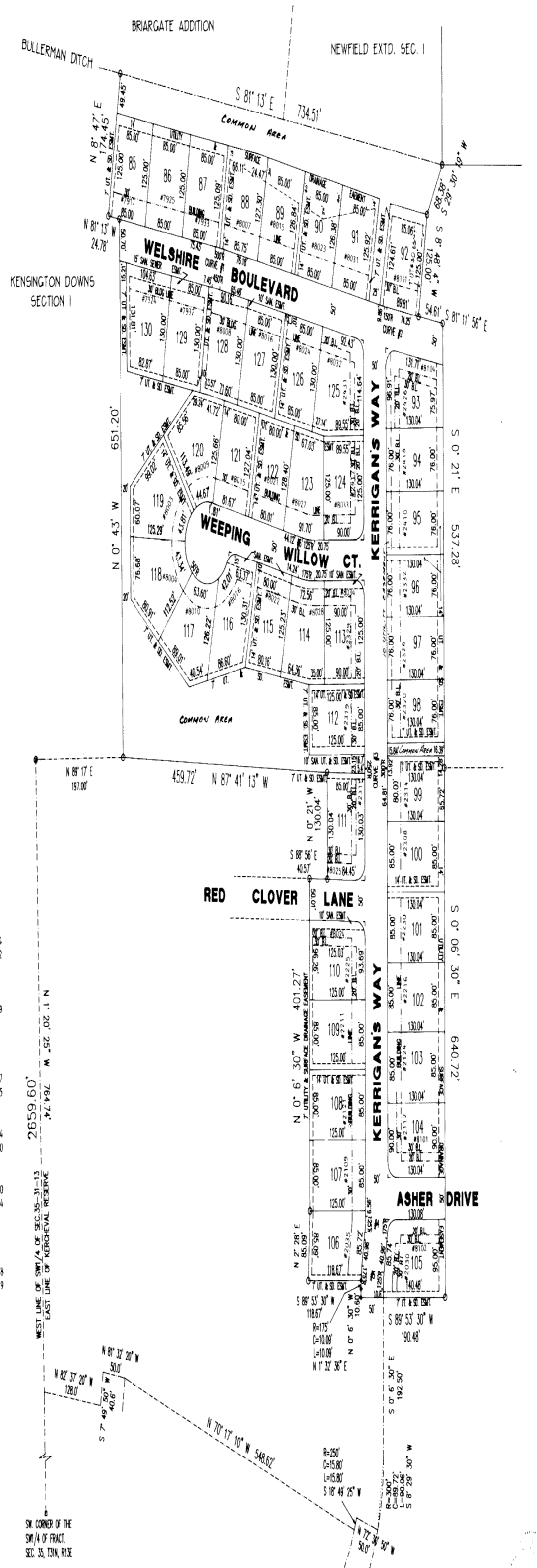
PLAT BENCHMARK TOP OF NORTH BOLT, TOP FLANGE OF FIRE HYDRANT LOCATED AT NORTHEAST CORNER OF LOT #124, ELEVATION 768.10 USGSG DATUM.

RIGHT-OF-WAY CURVE DATA

WELSHIRE BOULEVARD	R	Δ	L	C
CURVE # 1	500	02°-11'-36"	19.14	19.14
NORTH RIGHT-OF-WAY	450	02°-11'-36"	17.23	17.23
SOUTH RIGHT-OF-WAY				
KERRIGAN WAY				
CURVE # 2	150	02°-10'-32"	5.7	5.7
NORTH RIGHT-OF-WAY	200	02°-10'-32"	7.59	7.59
SOUTH RIGHT-OF-WAY				
WEEPING WILLOW COURT				
CURVE # 3	300	00°-14'-30"	1.27	1.27
EAST RIGHT-OF-WAY	150	00°-14'-30"	1.05	1.05
WEST RIGHT-OF-WAY				
CURVE # 4				
EAST RIGHT-OF-WAY	175	09°-13'-25"	28.17	28.14
WEST RIGHT-OF-WAY	125	09°-13'-25"	20.12	20.10
CURVE # 5				
EAST RIGHT-OF-WAY	125	09°-13'-25"	20.12	20.10
WEST RIGHT-OF-WAY	125	09°-13'-25"	28.17	28.14
CURVE # 6				
NORTH RIGHT-OF-WAY	125	12°-11'-57"	26.83	26.78
SOUTH RIGHT-OF-WAY	125	12°-11'-57"	17.57	17.52

FLOOD PROTECTION GRADES AS DEFINED AND ESTABLISHED BY THE ALLEN COUNTY SURVEYOR'S OFFICE

LOT #	FINISHED FLOOR ELEVATION
85	767.0
86	766.9
87	766.8
88	766.6
89	766.4
90	766.2
91	765.7
92	765.2



APPROVED THIS 14th DAY OF August 1988
ALLEN COUNTY BOARD OF COMMISSIONERS

Richard M. Ellenwood
RICHARD M. ELLENWOOD, PRESIDENT

Donald J. Yoder
DONALD J. YODER, VICE-PRESIDENT

Jack R. Worthman
JACK R. WORTHMAN, SECRETARY

ATTEST:
Linda K. Bloom
LINDA K. BLOOM, AUDITOR
ALLEN COUNTY, INDIANA

APPROVED THIS 14th DAY OF August 1988
ALLEN COUNTY PLAN COMMISSION

Lester C. Gerig
LESTER C. GERIG, PRESIDENT

Arthur G. Spiro
ARTHUR G. SPIRO, VICE-PRESIDENT

Lynn Kuehlinger
LYNN KUEHLINGER, SECRETARY

APPROVED THIS 27th DAY OF August 1988
FOR DRAINAGE ONLY.

Louis K. Machlan
LOUIS K. MACHLAN, ALLEN COUNTY SURVEYOR

APPROVED THIS 23rd DAY OF August 1988
FORT WAYNE-ALLEN COUNTY BOARD OF HEALTH

Dr. Jane M. Drmscher
DR. JANE M. DRMSCHER

CONFIRMED THIS 23rd DAY OF August 1988
ALLEN COUNTY PLAN COMMISSION

Dennis A. Gordon
DENNIS A. GORDON, ZONING ADMINISTRATOR

LEGAL DESCRIPTION

A parcel of land located in fractional Section 35, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows: COMMENCING at the Southwest corner of the fractional Section 35, Township 31 North, Range 13 East, Allen County, Indiana, said corner being on the East line of Kerchval Reserve 10 Township 31 North, Range 13 East, said corner North 1 degree 14 minutes West (actual North 1 degree 14 minutes West) along the West line of the Southwest One-quarter of said fractional Section 35, said line also being the East line of Kerchval Reserve, a distance of 2639.60 feet to a point on the South line of the Secondary Plat of Kensington Downs, Section I as recorded in Cabinet A, page 22 in the office of the Allen County Recorder; thence North 89 degrees 17 minutes East along said South line a distance of 197.00 feet to the point of beginning; beginning at the above described point; thence North 0 degrees 13 minutes West along the East line of Kensington Downs, Section I a distance of 651.20 feet; thence North 81 degrees 13 minutes West a distance of 24.78 feet; thence North 8 degrees 57 minutes East along said East line a distance of 174.45 feet; thence South 81 degrees 13 minutes East a distance of 734.51 feet; thence South 29 degrees 30 minutes 19 seconds West a distance of 68.38 feet; thence South 8 degrees 48 minutes 04 seconds West a distance of 125.00 feet; thence South 81 degrees 11 minutes 35 seconds East a distance of 54.81 feet to a point on the West line of the East One-quarter of the Northwest One-quarter of Section 35, Township 31 North, Range 13 East; thence South 0 degrees 21 minutes East along the West line of the East One-half of the Northwest One-quarter of Section 35, Township 31 North, Range 13 East a distance of 537.28 feet; thence South 0 degrees 38 minutes 30 seconds East along the West line of the East One-half of the Southwest One-quarter of said Section 35 a distance of 640.72 feet; thence South 89 degrees 53 minutes 30 seconds East a distance of 190.48 feet; thence North 0 degrees 06 minutes 30 seconds West a distance of 10.60 feet; thence on a curve to the right having a radius of 175.00 feet an arc length of 10.09 feet (chord bearing North 1 degree 32 minutes 30 seconds East a chord distance of 10.09 feet); thence South 89 degrees 53 minutes 30 seconds West a distance of 118.67 feet; thence North 2 degrees 28 minutes East a distance of 85.59 feet; thence North 0 degrees 8 minutes 30 seconds West a distance of 401.27 feet; thence North 88 degrees 36 minutes East a distance of 40.57 feet; thence North 0 degrees 21 minutes West a distance of 130.04 feet; thence North 87 degrees 41 minutes 13 seconds West a distance of 459.71 feet to the point of beginning, containing 17.254 acres of land more or less.

I, KERRY D. DICKMEYER, hereby certify that I am a Land Surveyor licensed in compliance with the laws of the State of Indiana and that this plat correctly represents a survey completed by me on May 6, 1988 and that all markers shown hereon exist and their location, size, type and material are accurately shown.



Plat prepared by and certified correctly this 6th day of May, 1988

Kerry D. Dickmeyer
Kerry D. Dickmeyer, LS # 5-0243

Pl. Sub A P 96

88-034840

DULY ENTERED FOR TAXATION

DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS, LIMITATIONS, EASEMENTS AND APPROVALS APPENDED TO AND MADE A PART OF THE DEDICATION AND PLAT OF KENSINGTON DOWNS, SECTION III, A SUBDIVISION IN ST. JOSEPH TOWNSHIP, ALLEN COUNTY, INDIANA

AUG 25 1988
R. K. Bloom
CLERK OF ALLEN COUNTY

COLONIAL DEVELOPMENT CORP., an Indiana Corporation, by Roger L. Delagrange, its President, hereby declares that it is the Owner of the real estate shown and described in this plat and does hereby lay off, plat and subdivide said real estate in accordance with the information shown on the final plat, being the certified plat to be appended hereto and incorporated herein. The Subdivision shall be known and designated as Kensington Downs, Section III, a Subdivision in St. Joseph Township, Allen County, Indiana.

The Lots are numbered from 85 to 130, inclusive; and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specially shown or described are hereby expressly dedicated to public use for their usual and intended purposes.

PREFACE

Kensington Downs, Section III, is a portion of a tract of real estate which has been and will be ultimately subdivided into residential lots, all to be included in and known as Kensington Downs, separately designated by sequentially numbered subdivisions. After the recordation of the Plat of Kensington Downs, Section III, and the Protective Restrictions and Covenants, there will be recorded Articles of Incorporation of Kensington Downs Community Association, Inc., it being the plattor's intention that each Owner of a lot in Kensington Downs, Section III, as well as Owners of Lots in other subdivisions of Kensington Downs, shall become a member of said Community Association and shall be bound by its Articles of Incorporation and By-Laws.

It shall be the obligation of the Kensington Downs Community Association, Inc., to make provision for the maintenance of the common areas designated on the face of the plat, and the common areas in all subdivisions of Kensington Downs.

ARTICLE I
Definitions

INSTRUMENT W. 6766

The terms hereinafter set forth shall have the following meanings:

Section 1. "Architectural Control Committee" shall mean the body designated herein to review plans and to grant or withhold certain other approvals in connection with improvements and developments. The Committee shall be composed of three (3) members initially appointed by the Developer. Any vacancies from time to time shall be filled pursuant to the By-Laws of the Association.

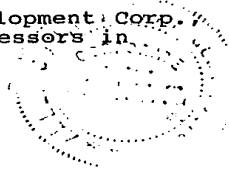
Section 2. "Association" shall mean and refer to Kensington Downs Community Association, Inc., its successors and assigns.

Section 3. "By-Laws" shall mean the By-Laws initially adopted by Kensington Downs Community Association, Inc., and all amendments and additions thereto.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners of Lots in Kensington Downs, Section III, and other subdivisions of Kensington Downs, as shown on the respective plats of said subdivisions.

Section 5. "Developer" shall mean Colonial Development Corp. an Indiana Corporation, its grantees, successors or successors in

88 AUG 25 AM 8:16



88 34840

interest, and any person, firm or corporation designated by it or its said successor or successor in interest.

Section 6. "Lot" shall mean either any of said Lots as platted or any tract or tracts of land as conveyed originally or by subsequent Owners, which may consist of one or more Lots or parts of one or more Lots, upon which a dwelling may be erected in accordance with the restrictions hereinafter set forth. PROVIDED, HOWEVER, no tract of land consisting of part of any one Lot or parts of more than one Lot shall be considered a "Lot" unless said tract of land has a frontage of 75 feet in width at the established building line as shown on the plat.

Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the plat, including contract purchasers, excluding those having such interest merely as security for the performance of an obligation.

ARTICLE II

Property Rights

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations after hearing by the Board of Directors of the Association;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

Architectural Control

No building, fence, wall or other structure shall be commenced, erected or maintained within Kensington Downs, Section III, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by the Architectural Control Committee, such committee to be composed of three (3) members, the first committee members to be: Roger L. Delagrang, Herbert D.

88-34840

Delagrange, and Larry W. Delagrange. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. In the event said Board, or the Architectural Control Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE IV

Kensington Downs Community Association, Inc.

Section 1. Organization. There has been organized in connection with the development of Kensington Downs, Section III, an incorporated not-for-profit association known as Kensington Downs Community Association, Inc., (the "Association").

Section 2. Membership and Voting Rights. 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 which is subject to assessment.

Section 3. Classes of Membership. The Association shall have two (2) classes of voting membership:

Class A. Class A members shall be all Owners exclusive of the Developer or its immediate successor in interest. Owners shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B member(s) shall be Colonial Development Corp., and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when title to all Lots in all subdivisions has been conveyed, or
- (b) on December 31, 1994.

Section 4. Membership Transfer. Membership in the Association will transfer from the Developer or its successor in interest to the Owner upon delivery of the Deed to Owner's Lot.

Section 5. Continuing Memberships. The Owner of any Lot shall continue to be a member of the Association so long as he continues to be the Owner of a Lot for the purpose herein mentioned. Membership shall pass with the transfer of title to the Lot.

Section 6. Transfer of Membership Rights and Privileges in the Association. Each Owner, and in lieu thereof, (and with the written consent of such Owner to the Association) each lessee of a Lot shall be a member of the Association and have the right to the Owner's vote and privileges. Membership, where assigned to a lessee, will pass with the lease except if the Owner withdraws his consent in writing to the Association. The Owner may withdraw his membership assignment to any lessee at his discretion by issuing a sixty (60) day notice in writing to the Association.

Section 7. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, excepting Colonial Development Corp., by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments; and (2) special assessments for

88 34840

capital improvements. Such assessments shall be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 8. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, and welfare of the Owners in all subdivisions of Kensington Downs, including, but not limited to, the improvement and maintenance of the Common Area, maintenance of street lighting, maintenance of the sprinkling system situated on the Common Area, and removal of snow and ice from the streets.

Section 9. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Seventy-Five and no/100----Dollars (\$75.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may not be increased each year more than eight percent (8%) above the maximum annual assessment for the prior year, without the vote or written assent of fifty-one percent (51%) of each class of members of the Association.

(b) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum without the vote or written assent of fifty-one percent (51%) of each class of members of the Association.

Section 10. Special Assessment for Capital Improvements. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote or written assent of fifty-one percent (51%) of each class of members of the Association.

Section 11. Notice and Quorum for Any Action Authorized Under Section 9 and 10. Any action authorized under Sections 9 or 10 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one percent (51%) of each class of members, members who were not present in person or by proxy may give their assent in writing, providing the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

Section 12. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis.



88 34840

Section 13. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors of the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 14. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight per cent (8%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 15. Subordination of the Lien to Mortgages. The lien of the assessments 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 proceedings in lieu thereof, shall extinguish the lien for such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

General Provisions

Section 1. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two and one-half stories in height. Each dwelling shall include an attached two-car garage and basements may be constructed as a part of a dwelling.

Section 2. No dwelling shall be built on any Lot having a ground floor area upon the foundation, exclusive on one-story open porches, breezeway or garage of less than 1,350 square feet for a one-story dwelling, nor less than 950 square feet for a dwelling of more than one story.

Section 3. No dwelling shall be located on any Lot nearer to the front line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In any event, no dwelling shall be located nearer than a distance of seven (7) feet to an interior Lot line. No portion of a dwelling excepting screened-in porches shall be located on any interior Lot nearer than twenty-five (25) feet to the rear Lot line.

Section 4. No dwelling unit shall be erected or placed on any Lot unless the Lot has a width of at least 50 feet at the minimum building setback line.

Section 5. All easements for public and municipal utilities and sewers as dedicated on the face of the plat shall be kept free of all permanent structures and any structure, shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the entities for which such easements are

88

34840

intended to benefit, to install, repair, maintain or replace their utility or sewage facilities. The removal of any such obstructions by utilities or sewage treatment works shall in no way obligate them either in damages or to restore the obstruction to its original form. No Owner of any Lot shall erect or grant to any person, firm or corporation, the right, license or privilege to erect or use or permit the use of overhead wires, poles, or overhead facilities of any kind for electrical, telephone or television services (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Subdivision). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting services by underground wires or cables. Electrical service entrance facilities installed for any house or other structure connecting the same to the electrical distribution system of any electric public utility shall be provided by the Owners of all Lots and shall carry not less than three (3) wires and have a capacity of not less than 200 amperes.

Section 5(a). Surface Drainage Easements and Common Areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

Section 6. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 7. No structure of a temporary character, trailer, boat, boat trailer, camper or camping trailer, basement, tent, shack, garage, barn or other outbuilding shall be located on any Lot at any time or used as a residence either temporarily or permanently.

Section 8. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one square foot, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 9. No radio or television antenna with more than thirty (30) square feet of grid area or which attains a height in excess of six (6) feet above the highest point of the roof shall be attached to any dwelling. No free standing radio or television antenna, television receiving disc or dish, shall be permitted on any Lot. No solar panels, attached or detached, shall be permitted.

Section 10. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

Section 11. 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.

Section 12. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. No incinerators or outside incinerators shall be kept or allowed on any Lot.



88

34840

Section 13. All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any building on any Lots, and no roll roofing of any description or character shall be used on the roof of any dwelling or attached garage on any of said Lots.

Section 14. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width.

Section 15. No individual water supply system, or individual sewage disposal system shall be installed, maintained or used on any Lots.

Section 16. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all Public Utility Companies, the proprietors of the land herein platted, and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintenance and repair of said streets.

Section 17. No rain and storm water run off or such things as roof water, street pavement and surface water, caused by natural precipitation shall at any time be discharged into or permitted to flow into the Sanitary Sewage System, which shall be a separate sewer system from the Storm Water and Surface Water Run Off Sewer System. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned Storm Water and Surface Water Run Off Sewer System.

Section 18. Before any building on any Lot shall be used and occupied as a dwelling, the Developer or any subsequent Owner of said Lot shall install improvements serving said Lot as provided in said plans and specifications filed with Allen County. This covenant shall run with the land and be enforceable by the County of Allen, State of Indiana, or by any aggrieved Lot Owner.

Section 19. Before any Lot may be used or occupied, such user or occupier shall first obtain from Allen County Zoning Administrator the Improvement Location Permit and Certificate of Occupancy as required by the Allen County Zoning Ordinance.

Section 20. The Association, Colonial Development Corp., or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these covenants and restrictions. Failure by the Association, or by any Owner, to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 21. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 22. The covenants and restrictions herein contained shall run with the land, and be effective for a term of twenty (20) years from the date these covenants and restrictions are recorded, after which time they shall automatically be extended for successive periods of ten (10) years; provided these covenants and restrictions may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and provided further, Colonial Development Corp., its successors or assigns, shall have the exclusive right for two (2) years from the date of recording of the plat to

88 34840

amend any of the Covenants and Restrictions, except Section 2 above with the approval of the Allen County Plan Commission.

Section 23 . No Lot or combination of Lots may be further subdivided until approval therefor has been obtained from the Allen County Plan Commission.

Section 24 . In order to minimize potential damages from surface water, flood protection grades are established on the attached plat as follows: Lot number 85, finished floor elevation 767.0 feet; Lot number 86, finished floor elevation 766.9 feet; Lot number 87, finished floor elevation 766.9 feet; Lot number 88, finished floor elevation 766.6 feet; Lot number 89, finished floor elevation 766.4 feet; Lot number 90, finished floor elevation 766.2 feet; Lot number 91, finished floor elevation 765.7 feet; Lot number 92, finished floor elevation 765.2 feet. All dwellings shall be constructed at or above the flood protection grades established for said Lots, such grades shall be the minimum elevation of a first floor or the minimum sill elevation of any opening below the first floor.

Section 25 . Plans and specifications for this subdivision on file with the Allen County Plan Commission require the installation of concrete sidewalks, within the street rights-of-way in front of the following numbered lots: 85 through 92, 93 through 105, 111, 113 through 116. Installation of said sidewalks shall be the obligation of the Owner of any such Lot, exclusive of the Developer, shall be completed in accordance with said plans and specifications and prior to the issuance of a Certificate of Occupancy for any such Lot and the cost of said installation shall be a lien against any such Lot enforceable by the Allen County Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to the Developer, said individual or corporation shall be considered an Owner for the purposes of the enforcement of this covenant.

IN WITNESS WHEREOF, COLONIAL DEVELOPMENT CORP., an Indiana Corporation, by Roger L. Delagrance, its President, Owner of the real estate described in said Plat, has hereunto set its hand and seal, by its duly authorized officer, this 19th day of August, 1988.

COLONIAL DEVELOPMENT CORP.

BY: Roger L. Delagrance
Roger L. Delagrance, President

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

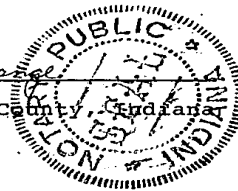
BEFORE ME, a Notary Public, in and for said County and State, personally appeared Roger L. Delagrance, known by me to be the duly authorized and acting President of COLONIAL DEVELOPMENT CORP., and acknowledged the voluntary execution of the above and foregoing instrument on behalf of said Corporation for the purposes and uses therein set forth, this 19th day of August, 1988.

Lena Delagrance
Lena Delagrance
A resident of Allen County, Indiana

My Commission expires:

2/4/89

This instrument prepared by: Dennis J. Grodzian, Attorney-At-Law.



88 34840