

07 SEP 18 AM 11:49

ALLEN COUNTY ENGINEER

*[Signature]*

57-147845

STREET CURVE DATA

Curve # 1	Δ	R	C	L
	16°-47'-51"	200'	51.51'	51.45'
	14°-47'-51"	250'	64.29'	64.51'

Curve # 2	Δ	R	C	L
	41°-50'-42"	125'	89.28'	91.29'
	41°-50'-42"	135'	124.99'	127.81'

Curve # 3	Δ	R	C	L
	15°-38'-18"	125'	34.01'	34.12'
	15°-38'-18"	175'	47.62'	47.76'

Curve # 4	Δ	R	C	L
North right-of-way				
South right-of-way	91°-35'-31"	135'	250.50'	279.75'

PLAT BENCH MARK:

Top of existing end of curb at curb at Turkey Run and Mayville Road, located 25' West of Centerline of Mayville and 17' South of Centerline of Turkey Run.  
Elevation 773.25 U.S.C. & G.S.

DESCRIPTION

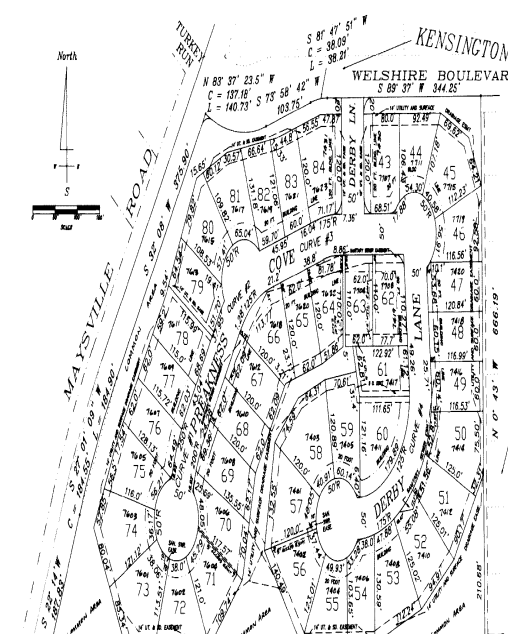
A parcel of land located in fractional Sections 34 & 35, Township 31 North, Range 13 East and also in the Kercheval Reserve, Township 31 North, Range 13 East, Allen County, Indiana, more particularly described as follows: COMMENCING at the Southwest corner of the Southwest One-quarter of fractional Section 35, Township 31 North, Range 13 East, Allen County, Indiana, said corner being on the East line of Kercheval Reserve in said Township and Range of the East line of Kercheval Reserve in said Township and Range of the Southwest One-quarter of said fractional Section 35, said line thence South 89 degrees 17 minutes West a distance of 2659.6 feet; thence North 1 degree 14 minutes West (dead bearing) along the West also being the East line of Kercheval Reserve, a distance of 2659.6 feet; thence South 89 degrees 17 minutes West a distance of 408.0 feet to the Point of Beginning. BEGINNING at the Above described point; thence North 0 degrees 43 minutes West a distance of 646.19 feet; thence North 0 degrees West a distance of 344.25 feet to a point of curvature; thence on a curve to the left having a radius of 140.0 feet an arc length of 38.21 feet and being subtended by a chord of 38.09 feet with a chord bearing South 81 degrees 47 minutes 42 seconds West to the point of tangency; thence South 73 degrees 58 minutes on a curve to the right having a radius of 180.0 feet an arc length of 140.73 feet and being subtended by a chord of 137.18 feet with a chord bearing North 83 degrees 37 minutes 23.5 seconds West to a point on the new 40 foot dedicated right-of-way line of Mayville Road; thence South 32 degrees 08 minutes West along said right-of-way line a distance of 375.90 feet to a point of curvature; thence on a curve to the left having a radius of 184.55 feet an arc length of 184.90 feet and being subtended by a chord of 184.55 feet with a chord bearing South 27 degrees 01 minutes 09 seconds West to the point of tangency; thence South 22 degrees 14 minutes West along said right-of-way line a distance of 187.83 feet; thence North 89 degrees 17 minutes East a distance of 156.64 feet; thence North 89 degrees 17 minutes East a distance of 824.6 feet to the point of beginning. Parcel contains 12.321 acres, more or less.

NOTE:

ALL BURIED UTILITIES MUST ALLOW FOR PROPOSED DRAINAGE SWALE GRADES AS FOUND IN PLANS

LOT #	Δ	R	C	L
43	20°-29'	50'	17.78'	17.88'
44	62°-13'-20"	50'	31.67'	34.30'
45	46°-30'-25"	50'	34.48'	40.38'
46	65°-13'-43"	50'	31.89'	36.41'
47	11°-34'-14"	50'	10.08'	10.10'
48	11°-16'-16"	135'	34.31'	34.42'
50	17°-17'-13"	135'	52.60'	52.80'
51	16°-32'-59"	135'	31.36'	31.57'
52	18°-40'-49"	135'	34.86'	35.29'
53	15°-40'-18"	135'	40.73'	41.88'
54	12°-26'-21"	135'	31.92'	33.49'
54	18°-08'-14"	50'	11.67'	13.48'
55	57°-12'-25"	50'	47.88'	49.93'
56	42°-34'-49"	50'	36.37'	37.44'
57	45°-53'-48"	50'	38.99'	40.05'
58	46°-52'-53"	50'	39.28'	40.91'
59	48°-54'-53"	50'	36.58'	40.14'
59	2°-46'-40"	50'	6.10'	6.10'
60	82°-27'-12"	135'	184.78'	179.89'
61	5°-26'-18"	125'	11.86'	11.86'
64	15°-38'-15"	125'	34.01'	34.12'
66	41°-30'-42"	125'	89.28'	91.29'
69	12°-34'-47"	200'	44.98'	45.08'
70	1°-54'-38"	200'	6.87'	6.87'
70	55°-43'-30"	50'	46.22'	48.25'
71	51°-54'-46"	50'	43.78'	45.39'
72	43°-33'-11"	50'	37.10'	38.00'
73	43°-36'-59"	50'	37.15'	38.06'
74	41°-27'-08"	50'	35.39'	36.17'
75	64°-25'-40"	50'	53.30'	56.11'
76	10°-26'-40"	250'	45.51'	45.57'
77	4°-27'-17"	250'	18.99'	19.200'
79	4°-30'-11"	135'	13.75'	13.75'
79	22°-14'-39"	50'	19.29'	19.41'
80	65°-41'-13"	50'	54.31'	57.41'
81	74°-31'-47"	50'	60.55'	65.04'
82	4°-30'-11"	135'	13.75'	13.75'
84	15°-38'-22"	175'	47.62'	47.77'

DOWN, SECTION I



NOTES:

- 1. All Right-of-Way intersection radii to be 20 feet.
- 2. All Right-of-Ways to be dedicated 50 feet wide to Allen County.
- 3. All Park Areas, Landscape Areas and Open Space to have a Blanket Utility and Surface Drainage Easement throughout.

Secondary Plat of  
**KENSINGTON DOWNS SECTION II**  
 a Subdivision located in Sections 34 & 35,  
 Township 31 North, Range 13 East,  
 Allen County, Indiana

DEVELOPER:

COLONIAL DEVELOPMENT CORP.  
 6008 BRANDY CHASE DRIVE  
 FORT WAYNE, INDIANA 46816  
 219-465-2500

ENGINEER-SURVEYOR:

COIL & DICKMEYER, INC.  
 Civil Engineers-Land Surveyors-Planners  
 6044 EAST STATE BOULEVARD  
 FORT WAYNE, INDIANA 46816  
 219-749-0125

SW Cor., SW4 of Fractional  
 Sec. 35, Twp. 31 N., R. 13 East

*Handwritten note:* Approved Sec. Dec 99-91677 12/7/99

CONFIRMED THIS 17 DAY OF September, 1997  
 ALLEN COUNTY PLAIN COMMISSION:  
*[Signature]*  
 JACK G. SUTER, TOWNSHIP ADMINISTRATOR

I, KERRY D. DICKEYER, 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 THE 12TH DAY OF MAY 1997 AND THAT ALL MARKERS SHOWN HEREON EXIST AND THEIR LOCATION, SIZE, TYPE AND MATERIAL ARE ACCURATELY SHOWN.

PLAT PREPARED BY AND CERTIFIED CORRECTLY THIS 12TH DAY OF MAY 1997.



CABINET A, Pg 31

87-047845

87 SEP 18 AM 11:49  
ALLEN COUNTY RECORDER  
*Deanna S. Lambert*

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

COLONIAL DEVELOPMENT CORP., an Indiana corporation, by Roger L. Delagrang, 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 II, a Subdivision in St. Joseph Township, Allen County, Indiana.

The lots are numbered from 43 to 84, inclusive; and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use for their usual and intended purposes.

PREFACE

Kensington Downs, Section II, 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 II, and the Protective Restrictions and Covenants, there will be recorded Articles of Incorporation of Kensington Downs Villaminiums Association, Inc., it being the plattor's intention that each owner of a lot in Kensington Downs, Section II, shall become a member of said community association as well as the community association known as Kensington Downs Community Association, Inc. and shall be bound by the Articles of Incorporation and By-Laws of each community association.

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.

This Preface and its statements shall be deemed a covenant of equal force and effect as all others herein set forth.

ARTICLE I

Definitions

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.

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

Section 3. "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 II, and other subdivisions of Kensington Downs, as shown on the respective plats of said subdivisions.

DULY ENTERED FOR TAXATION

SEP 18 1987

*Jonda K. Bloom*  
AUDITOR OF ALLEN COUNTY

INSTRUMENT V *87-047845*



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Section 4. "Villaminiums Association" shall mean and refer to Kensington Downs Villaminiums Association, Inc., its successors and assigns.

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

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.

Section 8. "By-Laws" shall mean the By-Laws initially adopted by Kensington Downs Community Association, Inc. and all amendments and additions thereto.

#### 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

##### Membership and Voting Rights in the Association

Section 1. 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 which is subject to assessment.



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Section 2. The Association shall have two 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.

ARTICLE IV

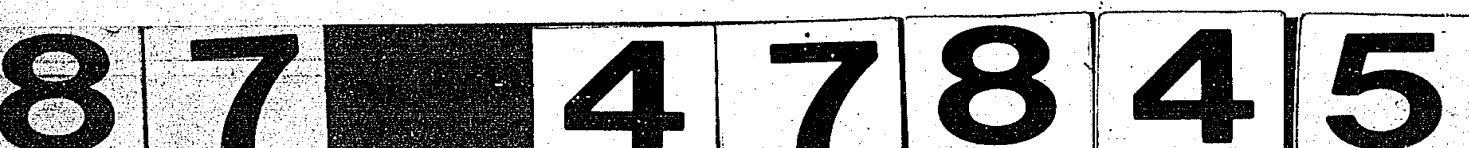
Architectural Control

No building, fence, wall or other structure shall be commenced, erected or maintained within Kensington Downs, Section II, 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. Delagrange, Herbert D. 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 V

Maintenance of Building Exteriors

Section 1. Building Exteriors, Landscaping, General Maintenance. The Villaminiums Association will maintain the roof and exterior portion of each dwelling in good condition and repair, including painting, staining, repair and replacement of wood siding as necessary, removal of snow from driveways and sidewalks, and maintain the lawn and landscaping on each Lot. The Villaminiums Association will maintain the lawn sprinkling system situated on the Lots. The frequency and manner of performance of such maintenance shall be determined solely by the Board of Directors of the Villaminiums Association. The Villaminiums Association shall not be responsible for the repair or maintenance of decks and screened-in porches, any concrete on a Lot, or yard lights and other exterior lights, including replacement of bulbs, nor for window washing and glass replacement. The Board of Directors of the Villaminiums Association may, at its option by appropriate resolution, transfer to each Lot Owner the maintenance responsibility for that portion of the lawn and/or landscaping on each Lot which was not initially installed or planted by the Developer or his successor in interest. In such



event, the Villaminiums Association shall keep and make available to each Lot Owner a drawing or other suitable record of such original landscaping which the Villaminiums Association is to maintain. Each Lot Owner shall be permitted to perform or cause to be performed at the Owner's sole expense, maintenance or repairs on the exterior of any dwelling on his Lot which would otherwise fall within the maintenance responsibility of the Villaminiums Association hereunder, subject to prior written approval from the Architectural Control Committee.

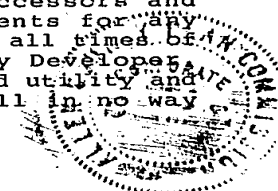
Section 2. Other Maintenance. Except to the extent of the Villaminiums Association's responsibility for maintenance and repair as above provided, each Owner shall at his sole cost and expense maintain and repair his Lot and the improvements situated thereon, keeping the same in good condition and repair, including those items specifically excluded from the Villaminiums Association's responsibilities and any other maintenance and repair responsibilities not expressly included among such responsibilities, as set forth above. In the event any Owner shall fail to maintain and repair his Lot and the improvements thereon as required hereunder, the Villaminiums Association, in addition to all other remedies available to it hereunder or by law and without waiving any of said alternative remedies, shall have the right, through its agents and employees to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the dwelling units and any other improvements erected thereon; and each Owner (by acceptance of a deed for his Lot) hereby covenants and agrees to repay to the Villaminiums Association the cost thereof immediately upon demand. Such costs incurred and demanded by the Villaminiums Association, together with interest, costs and reasonable attorney's fees, shall have the same status as both a continuing lien on the Lot and improvements and the personal obligation of the Owner as an assessment made under Article VI, Section 6 hereof, and the failure of any such Owner to pay the same shall carry with it the same consequences as a failure to pay such an assessment when due.

Section 3. Maintenance Easements. The Villaminiums Association and the Owner of any Lot whose dwelling is constructed up to or within nine (9) feet of an interior Lot line shall have an access easement over a portion of the adjacent Lot which shall be five (5) feet in width measured from said interior Lot line, for the entire length of said Lot line separating the two Lots, for purposes of maintaining, replacing and repairing the exterior of the dwellings so located. This access easement shall extend to the agents, employees and independent contractors of either the Villaminiums Association, the Owner or both. Any damage to an adjacent Lot or landscaping on an adjacent Lot shall be repaired at the expense of the Villaminiums Association, the Owner, or their respective agents, employees or independent contractors utilizing this easement.

Each Owner shall also have a permanent easement permitting roof structures which overhang and encroach upon the adjoining servient Lot provided that the construction of such roof structure is permitted and approved as elsewhere herein provided.

Section 4. Utility Easements. Easements are hereby expressly reserved and dedicated with dimension, boundaries and locations as designated on the plat for the installation and maintenance of public utilities (including but not limited to water, gas, telephone, electricity, sanitary sewer and any other utilities of a public or quasi-public nature) and sewer and drainage facilities.

Any utility company and Developer, their successors and assigns, will have the right to enter upon said easements for any lawful purpose. All easements shall be kept free at all times of permanent structures except improvements installed by Developer, Developer's successor in interest, or an authorized utility and removal of any obstruction by a utility company shall in no way



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obligate the company to restore the obstruction to its original form. The utility will restore any improvement installed by Developer or other authorized utility.

The utility operating the sewer lines and sewage disposal facilities for said subdivision shall have jurisdiction over the installation of all sewer connections and the same shall be installed to property lines of each Lot by the Developer or its successor in interest.

#### ARTICLE VI

##### Kensington Downs Community Association, Inc.

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

Section 2. Membership. One membership in the Association shall be created for each Lot in Kensington Downs, Section II, in accordance with the intent that one membership be created for each Lot planned in Kensington Downs, Section I, and Kensington Downs, Section II. Membership shall be voted by the Developer or its successor in interest until transferred as hereinafter provided.

Section 3. 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 4. 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 purposes herein mentioned. Membership shall pass with the transfer of title to the Lot.

Section 5. 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 6. 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 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 upon 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 7. 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.

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**Section 8. 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/100ths 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 8% above the maximum annual assessment for the prior year, without the vote or written assent of 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 51% of each class of members of the Association.

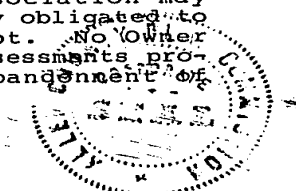
**Section 9. Special Assessment for Capital Improvements.** In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, repair 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 51% of each class of members of the Association.

**Section 10. Notice and Quorum for Any Action Authorized Under Sections 8 and 9.** Any action authorized under Sections 8 or 9 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 51% of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

**Section 11. 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.

**Section 12. 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 first Lot to an Owner. 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 13. 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.



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Section 14. 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. 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 VII

#### KENSINGTON DOWNS VILLAMINIUMS ASSOCIATION, INC.

There will be organized by the Developer forthwith a not-for-profit corporation to be known as Kensington Downs Villaminiums Association, Inc. (the "Villaminiums Association")

Section 1. Membership. Every Owner of a Lot shall be a member of the Villaminiums Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Classes of Membership. The Villaminiums 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.

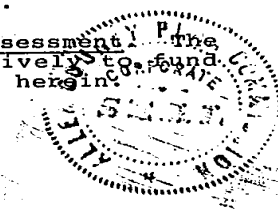
Class B. Class B member(s) shall be Colonial Development Corp., or its immediate successor in interest, which shall be entitled to one hundred twenty-six (126) votes less that number of votes which Class A Members are entitled to exercise. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when title to all Lots in Kensington Downs, Section II, have been conveyed, or

(b) on December 31, 1994.

Section 3. Assessments Payable to Kensington Downs Villaminiums Association, Inc. Each Owner of any Lot, excepting Colonial Development Corp., or its immediate successor in interest, 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 Villaminiums Association: (1) annual maintenance assessment; and (2) special assessment for capital improvements. Such assessments shall be in addition to the annual assessments or special assessments payable to the Association. The annual maintenance and special assessments, together with interest, costs, and reasonable attorney's fees shall be a charge upon 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 4. Purpose of Annual Maintenance Assessment. The annual maintenance assessment shall be used exclusively to fund the Villaminiums Association's obligations set forth herein.



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Section 5. Initial Annual Maintenance Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the initial annual maintenance assessment shall be Eight Hundred Forty Dollars (\$840.00) per Lot.

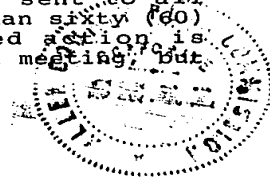
Section 6. Calculation of Annual Maintenance Assessment. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the amount of the annual maintenance assessment shall be determined as follows:

(a) The Board of Directors of the Villaminiums Association shall establish a budget for each calendar year and shall determine the annual maintenance assessment and method of payment required to meet such budget. Such budget and assessment for each such calendar year shall be established by the Board of Directors of the Villaminiums Association at a meeting to be held not later than October 31 of each preceding calendar year. The Board of Directors shall then mail to all Villaminiums Association members a copy of said budget and notice of the ensuing year's assessment not later than November 15th of the year prior to the year to which the assessment is applicable. Such annual maintenance assessment shall be the assessment for the next calendar year unless changed as hereinafter set forth.

(b) The amount of the annual maintenance assessment set forth by the Board of Directors of the Villaminiums Association for any such calendar year may be changed by the members of the Villaminiums Association at a meeting duly called for the purpose as hereinafter provided. The President or Secretary of the Villaminiums Association shall call a meeting of the members of the Villaminiums Association, to be held prior to December 31st of the year prior to the year to which the annual maintenance assessment is applicable, upon receipt, prior to November 30th, of a written petition for annual maintenance assessment review bearing the signatures of at least 20% of both classes of members of the Villaminiums Association. The President or Secretary of the Villaminiums Association shall give at least fifteen (15) days written notice of such meeting to all members.

(c) Any change in the amount of the annual maintenance assessment set by the Board of Directors of the Villaminiums Association must have the vote or written assent of two-thirds of both class of members of the Villaminiums Association who are voting in person or by proxy at the meeting duly called for such purpose. At such meeting, a quorum of not less than 50% of both classes of members of the Villaminiums Association shall be required.

Section 7. Special Assessments for Capital Improvements and Extraordinary Items. In addition to the annual maintenance assessment authorized above, the Board of Directors of the Villaminiums Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of necessary maintenance of an extraordinary nature, or the cost of new construction or replacement of items of a capital nature, provided that any such assessment shall have the vote or written assent of sixty-seven per cent (67%) of both classes of members. Any action authorized by this Article VII, Section 7, 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 a meeting, but



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such vote is less than the requisite 67% of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Villaminiums Association not later than thirty (30) days from the date of such meeting.

Section 8. Uniform Rate of Assessment. Both annual maintenance assessments and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis.

Section 9. Date of Commencement of Annual Maintenance Assessment: Due Dates. The annual maintenance assessments provided for herein shall commence as to each Lot on the first of the following dates: (1) the date of issuance of a certificate of occupancy for a completed dwelling on said Lot; or (2) the date of payment of the final construction draw with respect to a dwelling constructed on said Lot, disregarding any monies retained in escrow from such final draw. The first annual maintenance assessment shall be adjusted according to the number of days remaining in the year. The due dates of the annual maintenance assessment shall be established by the Board of Directors of the Villaminiums Association. The Villaminiums Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Villaminiums Association setting forth whether the assessments on a specified Lot have been paid as of a particular date.

Section 10. Effect of Nonpayment of Assessments: Remedies of the Corporation. Any annual maintenance assessment or special assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 8% per annum. The Villaminiums 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 11. Subordination of the Lien to Mortgages. The lien of the annual maintenance assessment or special assessment provided for herein shall be subordinate to the lien of any first mortgages. 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 of such assessment 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 there- after becoming due or from the lien thereof.

#### ARTICLE VIII

##### 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.

Section 2. No dwelling shall be built on any Lot having a ground floor area upon the foundation, exclusive of one-story open porches, breezeway or garage of less than 1,200 square feet for a one-story dwelling, nor less than 900 square feet for a dwelling of more than one story.

Section 3. No dwelling shall be located on any Lot nearer to the front lot 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 five (5) feet to an interior Lot line. No portion of a dwelling

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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 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. Utility Easements. 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 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 Sub-division). 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.

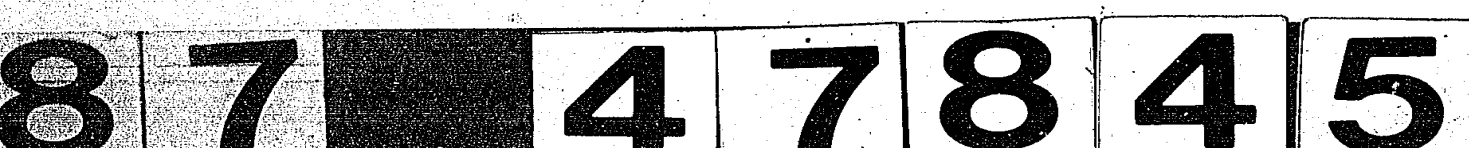
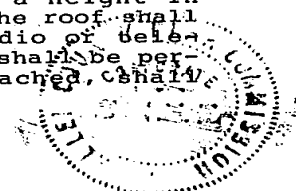
Section 5(a). Surface Drainage Easements and Common Areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve 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. Basements may be constructed as a part of a dwelling. 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.

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.

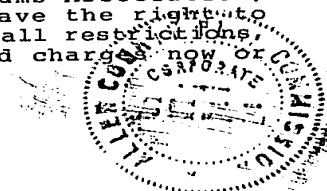
Section 16. In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all Public Utility Companies, the proprietors of the land herein platted, and their respective successors and assigns, to install, lay, erect, construct, 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 the Allen County Zoning Administrator the Improvement Location Permit and Certificate of Occupancy as required by the Allen County Zoning Ordinance.

Section 20. The Association, Villaminiums 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



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hereafter imposed by the provisions of these covenants and restrictions. Failure by the Association, Villaminiums 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 wise 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 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 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. Flood Protection Grades. In order to minimize potential damages from surface water, flood protection grades are established as set forth on the attached plat. 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. Sidewalks. 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: 43, 60 through 62, 76 through 79 and 82 through 84. 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.

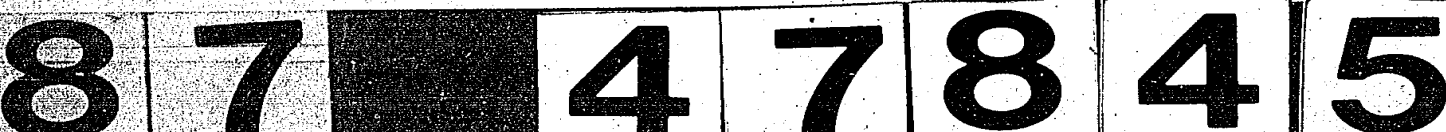
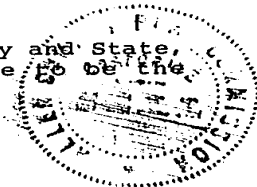
IN WITNESS WHEREOF, COLONIAL DEVELOPMENT CORP., an Indiana corporation, by Roger L. Delagrang, its President, Owner of the real estate described in said Plat, has hereunto set its hand and seal, by its duly authorized officer, this 16<sup>th</sup> day of September, 1987.

COLONIAL DEVELOPMENT CORP.

By   
Roger L. Delagrang  
Its President

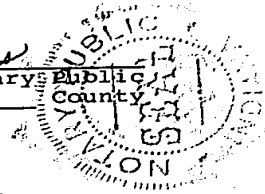
STATE OF INDIANA        )  
                                  ) SS:  
COUNTY OF ALLEN        )

Before me, a Notary Public in and for said County and State, personally appeared Roger L. Delagrang, 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 16<sup>th</sup> day of September, 1987.

Karen L. Wells  
Karen L. Wells Notary Public  
Resident of Allen County



My Commission Expires:

August 7, 1989

This instrument prepared by George E. Fruechtenicht,  
Attorney at Law



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ALLEN COUNTY, INDIANA PLAN COMMISSION

*Lester C. Gerig*  
Lester C. Gerig President

*Lynn Koehlinger*  
Lynn Koehlinger Vice President Secretary

ALLEN COUNTY BOARD OF COMMISSIONERS  
*Jack R. Worthman*  
Jack R. Worthman

*Richard M. Ellerwood*  
Richard M. Ellerwood

*Donald J. Yoder*  
Donald J. Yoder

ALLEN COUNTY AUDITOR  
*Linda K. Bloom*  
Linda K. Bloom

ALLEN COUNTY SURVEYOR  
APPROVED FOR DRAINAGE ONLY  
*Louis K. Machlan*  
Louis K. Machlan

ALLEN COUNTY HEALTH COMMISSIONER  
*Jane M. Ermscher, M.D.*  
Jane M. Ermscher, M.D.

