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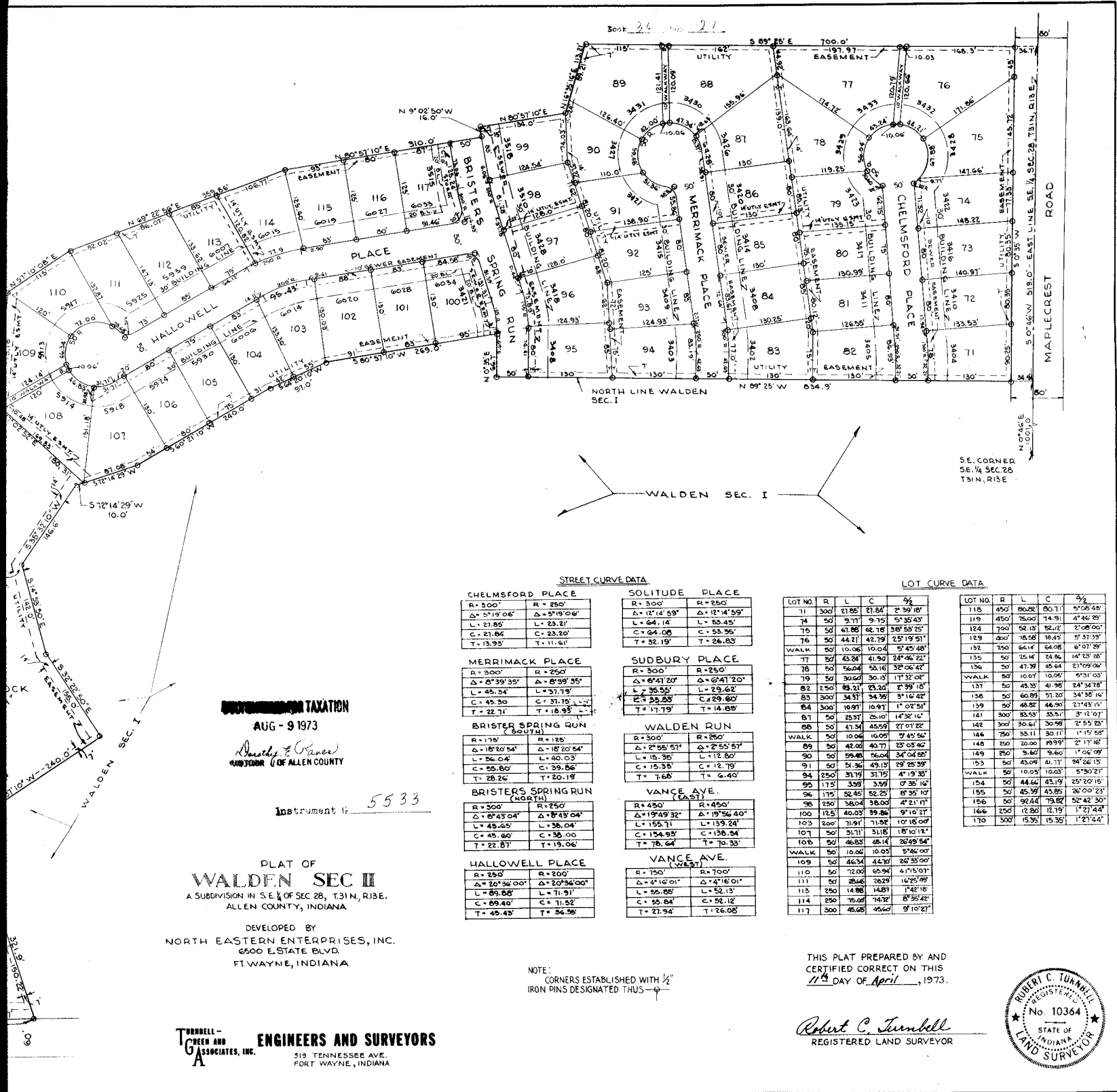
1973 AUG 9 PM 12 05

0 25 50 75 100 200

SCALE: 1" = 100'



Amended  
Joy Protective Restrictions et al., See Doc #80-24199 10-29-80 L.E



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Page 1 of 2

LEGAL DESCRIPTION OF WALDEN SECTION II  
A SUBDIVISION IN THE SOUTHEAST QUARTER  
OF SECTION 28, TOWNSHIP 31 NORTH, RANGE 13 EAST  
ALLEN COUNTY, INDIANA

A part of the Southeast quarter of Section 28, Township 31 North, Range 13 East, Allen County, Indiana, more fully described as follows:

Beginning at a point on the South line of the Southeast quarter of Section 28, Township 31 North, Range 13 East, Allen County, Indiana, said point being situated South 89 degrees 24 minutes 30 seconds East a distance of 60 feet from the Southwest corner of the Southeast quarter of said Section 28, thence on a line parallel with and 60 feet East of the West line of the Southeast quarter of said Section 28 North 0 degrees 40 minutes 50 seconds East a distance of 420.0 feet, thence South 89 degrees 19 minutes 10 seconds East a distance of 120.0 feet, thence North 0 degrees 40 minutes 50 seconds East a distance of 85.0 feet, thence South 89 degrees 19 minutes 10 seconds East a distance of 182.0 feet, thence North 0 degrees 40 minutes 50 seconds East a distance of 369.34 feet, thence North 49 degrees 42 minutes 50 seconds East a distance of 160.28 feet, thence South 71 degrees 36 minutes 15 seconds East a distance of 174.37 feet, thence South 61 degrees 10 minutes 1 second East a distance of 130.69 feet, thence North 77 degrees 16 minutes 39 seconds East a distance of 176.0 feet, thence North 69 degrees 44 minutes 35 seconds East a distance of 126.28 feet, thence North 5 degrees 17 minutes 5 seconds East a distance of 175.18 feet, thence North 57 degrees 10 minutes 8 seconds East a distance of 115.0 feet, thence North 69 degrees 22 minutes 56 seconds East a distance of 359.86 feet, thence North 80 degrees 57 minutes 10 seconds East a distance of 310.0 feet, thence North 9 degrees 2 minutes 50 seconds West a distance of 16.0 feet, thence North 80 degrees 57 minutes 10 seconds East a distance of 134.0 feet, thence North 16 degrees 35 minutes 16 seconds East a distance of 113.21 feet, thence South 89 degrees 25 minutes 0 seconds East a distance of 700.0 feet to a point on the East Line of the Southeast quarter of Section 28 aforementioned; said point being situated North 0 degrees 46 minutes 0 seconds East a distance of 1520.0 feet from the Southeast corner of the Southeast quarter of said Section 28, thence continuing on said East line South 0 degrees 46 minutes 0 seconds West a distance of 519.0 feet to the Northeast corner of Walden Section I, thence along the Northerly and Westerly boundary of Walden Section I by the following described courses:

North 89 degrees 25 minutes West a distance of 834.9 feet,  
North 0 degrees 35 minutes East a distance of 66.7 feet,  
South 80 degrees 57 minutes 10 seconds West a distance of 269.0 feet,  
South 64 degrees 20 minutes 10 seconds West a distance of 97.0 feet,  
South 60 degrees 21 minutes 10 seconds West a distance of 240.0 feet,  
South 72 degrees 14 minutes 29 seconds West a distance of 97.08 feet,  
South 35 degrees 32 minutes 10 seconds West a distance of 146.6 feet,  
South 14 degrees 53 minutes 50 seconds East a distance of 142.0 feet,  
South 32 degrees 22 minutes 50 seconds East a distance of 155.0 feet,  
South 57 degrees 37 minutes 10 seconds West a distance of 240.0 feet,  
South 17 degrees 1 minute 50 seconds East a distance of 321.9 feet,

to a point on the South line of the Southeast quarter of Section 28, thence along said South line North 89 degrees 24 minutes 30 seconds West a distance 1053.1 to the point of beginning containing 34.41 acres more or less and subject to right-of-way for Maplecrest Road Said right-of-way more particularly described as follows:

ONLY ENTERED FOR TAXATION

AUG - 9 1973

*Donald E. Rader*  
AUDITOR OF ALLEN COUNTY

Instrument G

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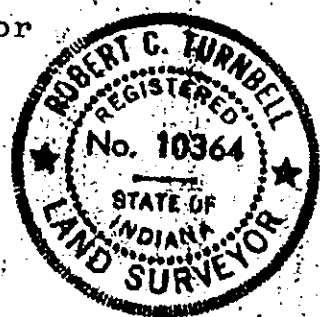
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beginning at a point on the East line of the Southeast quarter of Section 28, Township 31 North, Range 13 East, Allen County, Indiana, said point being situated North 0 degrees 46 minutes East a distance of 1001.0 feet from the Southeast corner of the Southeast quarter of said Section 28, thence North 89 degrees 25 minutes West a distance of 34.9 feet thence North 0 degrees 35 minutes East a distance of 519.0 feet thence South 89 degrees 25 minutes East a distance of 36.7 feet to a point on the East line of the Southeast quarter of Section 28, thence along said East line South 0 degrees 46 minutes West a distance of 519.0 feet to the point of beginning containing 0.43 acres more or less.

I, Robert C. Turnbull, 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 April 11, 1973; that all markers shown thereon actually exist and that their location, size, type and material are accurately shown. Said lots are numbered 71 to 170 inclusive.

*Robert C. Turnbull* SEAL  
Robert C. Turnbull,  
Registered Land Surveyor



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

North Eastern Enterprises, Inc., an Indiana corporation, by Joseph L. Zehr, its President, and Arlene K. Duncan, its Secretary, 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 appended hereto and incorporated herein. The Subdivision shall be known and designated as WALDEN, SECTION II, a Subdivision in St. Joseph Township, Allen County, Indiana.

The lots are numbered from 71 to 170, 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.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Walden Community Association, Inc. its successors and assigns.

Section 2. "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 Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 5. "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 as platted upon which a residence may be erected in accordance with the restrictions hereinabove set out or such further restrictions as may be imposed by any applicable zoning ordinance, 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 70 feet in width at the established building line as shown on this plat.

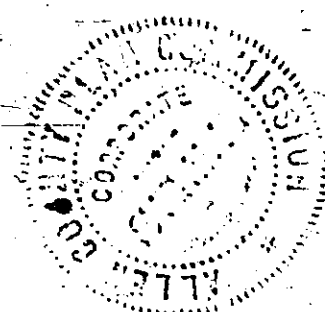
Section 6. "By-Laws" shall mean the By-Laws initially adopted by WALDEN COMMUNITY ASSOCIATION, INC. and all amendments and additions thereto.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' 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;



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(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 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

Section 1. 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 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member (s) shall be North Eastern Enterprises, Inc. 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 event, whichever occurs earlier:

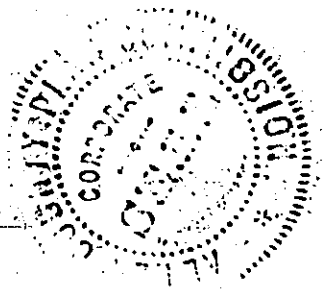
(a) when title to all lots in all sections has been conveyed, or

(b) on December 31, 1976.

### ARTICLE IV

#### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, excepting North Eastern Enterprises, Inc., 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 or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's



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fees, shall be a charge on the land and shall be a continuing lien upon the property 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 property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. 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 Thirty Dollars (\$30.00) 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 be increased each year not more than 3% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 3% by the vote or written assent of 51% of each class of members.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments For Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any 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.

Section 5. Notice and Quorum For Any Action Authorized Under Sections 3 and 4: Any action authorized under Section 3 or 4 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than 30 days nor more than 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 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 7 days from the date of such meeting.

Section 6. 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 7. 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 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

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assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. 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 8. 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 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 property. 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 9. 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 proceeding in lieu thereof, shall extinguish the lien of 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

##### ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, 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 members, the first committee members to be: J. L. Zehr, Richard Moake, and A. K. Duncan. 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 VI

##### 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 house shall include not less than a two car garage, which shall be built as part of said structure and attached thereto.

Section 2. No building shall be built on any lot having a ground floor area upon the foundation, exclusive of one-story open porches, breezeway or

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garage, of less than 1350 square feet for a one-story dwelling, nor less than 950 square feet for a dwelling of more than one-story.

Section 3. No building 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 building shall be located nearer than a distance of ten per cent (10%) of the lot width to an interior lot line and the combined width of both side yards shall be not less than a distance equal to twenty-five per cent (25%) of the lot width on Lots numbered 71 thru 74 and 79 thru 86 and 91 thru 102 and 104 thru 106 and 111 thru 134 and 139 thru 152 and 157 thru 170 inclusive. No building shall be located nearer than a distance of nine per cent (9%) of the lot width to an interior lot line and the combined width of both side yards shall be not less than a distance equal to twenty per cent (20%) of the lot width on Lots numbered 75 thru 78 and 87 thru 90 and 103 and 107 thru 110 and 135 thru 138 and 153 thru 156 inclusive. No dwelling 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 having a width of less than 70 feet at the minimum building setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 8,000 square feet.

Section 5. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear seven (7) feet of each lot, or as shown on the plat. 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 service (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 serviced 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. Any electric public utility charged with the maintenance of any underground installation shall have access to all easements in which said underground installations are located for operation, maintenance and replacement of service connections. Any such electric public utility shall not be liable for damage to walks, driveways, lawn or landscaping which may result from installation, repair or maintenance of such service.

Section 6. No driveway access shall be permitted from lots numbered 71 to 76 inclusive onto the Maplecrest Road right-of-way.

Section 7. 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 8. No structure of a temporary character, trailer, boat, boat trailer, camper or camping trailer, basement, tent, shack, garage, barn or other outbuilding shall be either used or located on any lot at any time or used as a residence either temporarily or permanently.

Section 9. 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,

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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 10. 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 house. No free standing radio or television antenna shall be permitted on any lot.

Section 11. 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 12. 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 13. 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 14. 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 of said Subdivision, and no roll roofing of any description or character shall be used on the roof of any dwelling house or attached garage or any of said lots.

Section 15. All driveways from the street to the garage shall be poured concrete and not less than sixteen (16) feet in width.

Section 16. No individual water supply system, or individual sewage disposal system shall be installed, maintained or used on any lots in this Subdivision.

Section 17. 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 18. 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.



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Section 19. Before any house or building on any lot or tract in this Subdivision shall be used and occupied as a dwelling or as otherwise provided by the Subdivision restrictions above, the developer or any subsequent owner of said lot or tract shall install improvements serving said lot or tract as provided in said plans and specifications for this Addition filed with the City of Fort Wayne. This covenant shall run with the land and be enforceable by the County of Allen, State of Indiana, or by any aggrieved lot owner in this Subdivision.

Section 20. Before any lot or tract 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 21. The Association, North Eastern Enterprises, Inc., 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 22. Invalidity 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 23. 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, North Eastern Enterprises, Inc., its successors or assigns shall have the exclusive right of 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 24. No lot or combination of lots may be further subdivided until approval therefore has been obtained from the Allen County Plan Commission.

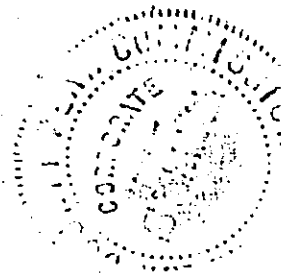
IN WITNESS WHEREOF, North Eastern Enterprises, Inc., an Indiana corporation, by Joseph L. Zehr, its President and Arlene K. Duncan, its Secretary, Owner of the real estate described in said Plat, has hereunto set its hand and seal by its duly authorized officers; this 11th day of April, 1973.

NORTH EASTERN ENTERPRISES, INC.

By:

Joseph L. Zehr, President

Arlene K. Duncan, Secretary



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STATE OF INDIANA )  
COUNTY OF ALLEN ) SS:

Before me, a Notary Public, in and for said County and State, personally appeared Joseph L. Zehr, its President, and Arlene K. Duncan, its Secretary, and acknowledged the voluntary execution of the Plat herewith for the purposes and used therein set forth this 11th day of April, 1973.

Sandra L. Priest  
Sandra L. Priest Notary Public

Commission Expires:

August 24, 1976

APPROVALS:

BOARD OF PUBLIC WORKS  
FORT WAYNE, INDIANA

PLAN COMMISSION OF  
ALLEN COUNTY, INDIANA

Ronald L. Bonar

X Eugene Shanaback  
X James R. Kelly

JUL 16 1973

BOARD OF COMMISSIONERS OF  
ALLEN COUNTY, INDIANA

Charles W. Hornig

Richard M. Clemens

ALLEN COUNTY SURVEYOR  
APPROVED FOR DRAINAGE ONLY

Will L. Smith

Prepared by: George E. Fruechtenicht, Attorney at Law

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