

DEVELOPER

D. L. & J. CORPORATION
132 LINCOLN HIGHWAY WEST
NEW HAVEN, INDIANA
(219) 749-9535

ASHFORD LAKES

A RESIDENTIAL COMMUNITY
NEW HAVEN, INDIANA

ENGINEER

BONAR
GROUP

ENGINEERING ARCHITECTS PLANNERS SURVEYORS
816 SOUTH HARRISON STREET
FORT WAYNE, INDIANA
(219) 424-0318

GENERAL NOTES

ALL EASEMENTS ARE FOR SURFACE DRAINAGE AND UTILITIES EXCEPT THOSE LABELED FOR STREET LIGHTS. STREET LIGHT EASEMENTS ARE TO BE 3' WIDE PER LOT.

ALL COMMON AREAS ARE ALSO EASEMENTS FOR SURFACE DRAINAGE AND UTILITIES.

THE SUBDIVISION SHALL BE GOVERNED BY THE CORRESPONDING COVENANTS AND RESTRICTIONS.

ALL LOTS HAVE SEVEN FEET SIDE YARDS.

THE NORMAL BUILDING LINE SET BACK IS 30.0 FEET. CORNER LOTS HAVE 25.0/30.0 BUILDING LINES. ALL LOTS ON THE HEAD OF THE CUL-DE-SACS HAVE A 25.0 FEET BUILDING LINE. (SEE DRAWING)

PROJECT BOUNDARY PER SURVEY BY SAUER CONSULTING, LLC, DATED AUGUST 19, 1997, AND ALLEN COUNTY SURVEY CONSULTANTS, DATED MARCH 20, 1998.

ALL LOTS THAT ARE ADJACENT TO COMMON AREA "E" HAVE A FLOOD PROTECTION GRADE OF 785.7.

ALL LOTS THAT ARE ADJACENT TO COMMON AREA "F" HAVE A FLOOD PROTECTION GRADE OF 784.5.

LOTS 52-58 HAVE A FLOOD PROTECTION GRADE OF 787.0.

ALL LOT CORNERS ESTABLISHED WITH A 5/8" x 24" IRON PIN WITH "BONAR" CAP.

ALL CORNER LOTS HAVE 20' RADII.

ALL BURIED UTILITIES MUST ALLOW FOR PROPOSED SWALE GRADES AS FOUND ON PLANS.

RECORDED
12/31/1998 11:28:23
RECORDED
VIRGINIA L. 10/20/98
ALLEN COUNTY, IN

Doc. No. 180093403
Rec'd No. 13342

DATE
3.30
30.00
PLAT
5.00
Total
42.30

LEGAL DESCRIPTION

PART OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 14, TOWNSHIP 30 NORTH, RANGE 13 EAST, ALLEN COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A HALF INCH DIAMETER REBAR AT THE NORTHEAST CORNER OF SAID SOUTHWEST QUARTER, THENCE SOUTH 00 DEGREES 44 MINUTES 28 SECONDS WEST, A DISTANCE OF 2839.53 FEET TO THE SOUTH LINE OF SAID SECTION (CONCORDANT TO THE CENTERLINE OF SELLER ROAD); THENCE NORTH 89 DEGREES 54 MINUTES 59 SECONDS EAST, A DISTANCE OF 301.06 FEET; THENCE NORTH 00 DEGREES 44 MINUTES 28 SECONDS WEST, A DISTANCE OF 233.50 FEET; THENCE NORTH 89 DEGREES 55 MINUTES 04 SECONDS WEST, A DISTANCE OF 321.38 FEET; THENCE NORTH 00 DEGREES 32 MINUTES 20 SECONDS EAST, A DISTANCE OF 443.74; THENCE NORTH 89 DEGREES 51 MINUTES 57 SECONDS WEST, A DISTANCE OF 0.58 FEET; THENCE NORTH 00 DEGREES 30 MINUTES 02 SECONDS EAST, A DISTANCE OF 1982.00 FEET TO THE NORTH LINE OF THE SAID SOUTHWEST QUARTER SECTION (CONCORDANT TO THE CENTERLINE OF MOELLER ROAD); THENCE SOUTH 89 DEGREES 58 MINUTES 17 SECONDS EAST, ON AND ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER SECTION A DISTANCE OF 648.25 FEET TO THE POINT OF BEGINNING, CONTAINING 37.36 ACRES, MORE OR LESS, AND SUBJECT TO ALL RIGHT-OF-WAYS AND EASEMENTS OF RECORDS.

Flood Certification

THIS PROJECT IS WITHIN ZONE "X" AS DEFINED BY THE FLOOD INSURANCE RATE MAP FOR ALLEN COUNTY, INDIANA, COMMUNITY NO. 190030 C0050, EFFECTIVE DATE: SEPTEMBER 28, 1990, AS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY. ZONE "X" IS DEFINED AS BEING OUTSIDE THE 500 YEAR FLOOD PLAIN. THE ACCURACY OF ANY FLOOD HAZARD STATEMENT SHOWN ON THIS REPORT IS SUBJECT TO MAP SCALE UNCERTAINTY AND TO ANY UNCERTAINTY IN THE LOCATION OR ELEVATION ON THE REFERENCED FLOOD INSURANCE MAP.

BENCH MARK

T.B.M. (2) EAST BENCHMARK OF FIRE HYDRANT ON THE SOUTH SIDE OF MOELLER ROAD APPROXIMATELY 30 FEET EAST OF THE CENTERLINE OF MOELLER ROAD. ELEVATION= 788.89

T.B.M. (3) NORTH BENCHMARK OF FIRE HYDRANT AT THE WEST END OF THE CUL-DE-SAC OF WOODRUFF COURT. ELEVATION= 792.16

Key

99 Lot Number
9999 Address Number of Lot
[Symbol] Flood Protection Grade (If Applicable)

SURVEYOR CERTIFICATION

I, Michael F. Hartman, hereby certify that I am a Land Surveyor, licensed in compliance with the laws of the State of Indiana; that this plat correctly represents the land to be subdivided under my direction on April 30, 1998; that all the monuments shown thereon actually exist; and that their location, size, type and material are accurately shown.

Michael F. Hartman
Michael F. Hartman, L.S. 29700003

Date: 10.20.98

DEVELOPER'S STATEMENT

We, D.L. & J. Corporation, the undersigned, owners by virtue of a certain deed shown in Document Number 97-56653, in the Recorder of Allen County, Indiana, of the real estate shown and described herein, do hereby lay off, plat and subdivide, said real estate in accordance with the information shown on the final plat. This subdivision shall be known and designated as Ashford Lakes on addition to the City of New Haven.

Louis Delagrangue
Louis Delagrangue, President

Date: 10-21-98

New Haven Plan Commission

President: Robert Whitney *Robert E. Whitney*

Vice President: Mary G. Leggett *Mary G. Leggett*

Secretary: Greg Harper *Greg Harper* Date: 11-24-98

Allen County Board of Commissioners

Jack McComb

Edwin J. Rousseau

Linda K. Bloom

Attest:

Therese Brown, Auditor

Allen County Surveyor:

Not Applicable

Health Commissioner:

Board of Public Works

Wayne Dosses
Terry Vesting
Lynn Shaw
Wayne A. Dosses
Tom A. Vesting
Lynn Shaw

N.W. CORNER OF S.E. QUARTER SECTION 14
1 1/2" INCH REBAR

N.E. CORNER OF S.E. QUARTER SECTION 14
1 1/2" INCH REBAR

C. HEINE
DOC. 183-21438

J. MOMP
DOC. 177-11391

J. GRAVES
DOC. 182-19216

LAKE OF SCARBOROUGH VILLAMINIUMS

LAKE OF SCARBOROUGH ESTATES



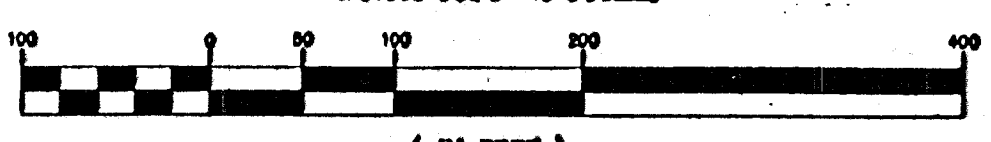
AUDITOR'S OFFICE
Duly entered for taxation. Subject to final acceptance for transfer.
DEC 31 1998

AUDITOR OF ALLEN COUNTY

(Approx. 2' off Road)

R.R. Spike

GRAPHIC SCALE



(IN FEET)
1 inch = 100 ft.

For Affidavit See doc 202048851

Plat Cab E Pg. 13

#980093405 Page 1

**DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS,
LIMITATIONS, EASEMENTS, AND APPROVALS
AS PART OF THE PLAT OF ASHFORD LAKES,
AN ADDITION TO THE CITY OF NEW HAVEN,
ALLEN COUNTY, INDIANA**

RECORDED
12/31/1998 11:26:23
RECORDER
VIRGINIA L. YOUNG
ALLEN COUNTY, IN

Doc. No. 980093405
Receipt No. 33342

DCFD	3.00
PLAT	30.00
PLAT	9.00
Total	42.00

D.L.& J., Inc., an Indiana corporation, declares that it is the owner of the real estate shown and legally described in the attached Plat ("Real Estate"), and lays off, plats and subdivides the Real Estate in accordance with the information shown on the plat, being the certified plat attached to and incorporated in these Covenants. The platted subdivision shall be known and designated as Ashford Lakes, an Addition to the City of New Haven, Allen County, Indiana.

The Lots are numbered from 1 to 84, inclusive, and Common Area is designated as Blocks A, B, C, D, E, F, and G. All dimensions are shown in feet and decimals of feet. All streets and easements specifically shown or described are expressly dedicated to public use for their usual and intended purposes.

PREFACE

Ashford Lakes and Lakes of Scarborough are subdivisions developed by Developer. In addition to the recordation of the Plat and these Covenants, it is Developer's intention that each Owner of a Lot in Ashford Lakes will become a member of the Lakes of Scarborough Community Association, Inc., and be bound by its Articles of Incorporation and Bylaws.

1. **DEFINITIONS.** The following terms shall have the meanings stated, unless the context clearly indicates that a different meaning is intended:

1.1 **"Articles"**. The Articles of Incorporation adopted by the Association and approved by the Indiana Secretary of State, and all amendments to those Articles.

1.2 **"Association"**. Lakes of Scarborough Community Association, Inc., an Indiana nonprofit corporation, and its successors and assigns.

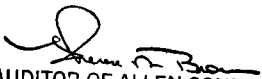
1.3 **"Board of Directors"**. The duly elected board of directors of the Association.

1.4 **"Bylaws"**. The bylaws adopted by the Association and all amendments to those bylaws.

AUDITOR'S OFFICE
Duly entered for taxation. Subject
to final acceptance for transfer.

G:\WORK\SAHW\ASHFORD.COV

DEC 31 1998


AUDITOR OF ALLEN COUNTY

98 14614
AUDITORS NUMBER 1120

Beckman Box

1.5 "**Committee**". The Architectural Control Committee established under section 14 of these Covenants.

1.6 "**Common Area**". All real property owned by the Association for the common use and enjoyment of owners. Common Area is designated as Blocks A, B, C, D, and F, and G on the face of the Plat.

1.7 "**Covenants**". This document and the restrictions, limitations, and covenants imposed under it.

1.8 "**Developer**" shall mean D.L.& J., Inc., an Indiana corporation, and its successors in interest in the Real Estate.

1.9 "**Lot**" shall mean either any of the platted Lots in the Subdivision or any tract or tracts of Real Estate 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 dwelling or other structure may be erected in accordance with these Covenants; provided, however, that no tract of land consisting of a part of a Lot, or parts of more than one Lot, shall be considered a "Lot" unless the tract has a frontage of at least 75 feet in width at the established front building line.

1.10 "**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

1.11 "**Plan Commission**". The City of New Haven Plan Commission, or its successor agency.

1.12 "**Plat**". The recorded secondary plat of Ashford Lakes.

1.13 "**Subdivision**". The platted subdivision of Ashford Lakes.

2. **USE**. No Lot shall be used except for single-family residential purposes. No building or gazebo shall be erected, altered, placed or permitted to remain, on any Lot other than one dwelling for use by a single family. Each dwelling shall include not less than a two-car garage, which shall be constructed as a part of the dwelling and attached to it.

3. **DRIVEWAYS**. All driveways on Lots from the street to the garage shall be of poured concrete and not less than 16 feet in width. No Lot shall have driveway access to Moeller Road or to Seiler Road.

4. **DWELLINGS.**

4.1 No dwelling shall be erected or permitted on a Lot which has a ground floor area upon the foundation (exclusive of open porches, breezeways, and garages) of less than 1,500 square feet for a one-story dwelling, less than 1,150 square feet for a one and one-half story dwelling, or less than 1,050 square feet for two story dwelling.

4.2 In addition to the minimum area requirement set forth in section 4.1, all dwellings must meet all of the following conditions:

4.2.1 The front elevation of the dwelling must be 100% wood, or at least 25% brick or stone.

4.2.2 Any dwelling with a gable facing the street must have no less than an 8/12 roof pitch. If there is no gable facing the street, the main roof line of the dwelling shall be at an 8/12 roof pitch.

4.2.3 All structures on a Lot shall be constructed in a good and workmanlike manner and of new materials.

5. **BUILDING LINES.** No dwelling or structure (including a fence or wall) shall be erected or located on a Lot nearer to the front Lot line (or nearer to the side Lot line on corner Lots) than the minimum building set-back line as shown on the Plat. No dwelling or structure shall be located nearer than 7 feet to any interior Lot line. No dwelling or structure shall be located on any interior Lot nearer than 25 feet to the rear Lot line. No tree, shrub, planting, or other obstruction shall be permitted to be placed or remain on a Lot which obstructs a clear view of vehicular traffic at intersections.

6. **FURTHER SUBDIVISION.** No Lot shall be further subdivided without prior approval of the Plan Commission.

7. **CERTIFICATE OF OCCUPANCY.** Before a Lot may be used or occupied, such user or occupier shall first obtain from the City of New Haven Zoning Administrator the improvement location permit and Certificate of Occupancy required by the City of New Haven Zoning Ordinance.

8. **YARD LIGHT.** Each Owner shall install and maintain in good working order on the Owner's Lot, an automatically controlled "dusk-to-dawn" yard light or other illuminating device installed in the front yard of a Lot within 15 feet (plus or minus one foot) from the right-of-way. Such yard light or illuminating device shall be at least 100 watts, shall be at least five feet high above grade, and shall be of such design and construction as is approved by the Committee. The Committee also shall have the authority to approve a change in the location of such yard light or illuminating device.

9. **SIGNS.** No sign shall be erected or permitted on a Lot, except one professional sign of not more than one foot square, or one sign of not more than five square feet advertising the Lot for sale or rent, or used by a builder to advertise a Lot during the construction and sales period.

10. **FENCES.** No fences will be permitted on any Lot without written approval from the Committee. All fences shall be made of wood.

11. **NUISANCES; PROHIBITED ACTIVITIES AND IMPROVEMENTS.** No Lot may be used in a manner which is offensive by reason of odor, fumes, dust, smoke, noise, or pollution, or which constitutes a nuisance, or which is hazardous by reason of fire, explosion, or in violation of the laws of the State of Indiana or any of its political subdivisions. No Lot shall be used for the purpose of raising, breeding, or keeping animals, livestock, or poultry except as household pets, providing the same are not kept, bred, or maintained for any commercial purpose. All fuel or oil storage tanks shall be installed underground or located within the main structure of the dwelling, its basement, or its attached garage. No radio or television antenna or satellite receiver (dish) greater than 39 inches (1 meter), clothes lines, solar panels, or similar structures shall be allowed on any Lot or attached to any residential structure located on any Lot unless specifically approved by the Committee. No swimming pool, spa, or hot tub shall be permitted above ground level on any Lot, except swimming pools not greater than four feet in diameter, and hot tubs or spas with a capacity not greater than 500 gallons. Any swimming pool, spa, hot tub, or fixture containing water that is below ground level must be completely enclosed by a privacy fence which is not less than 6 feet in height. No unlicensed or unregistered automobile or motorized vehicle may be parked or maintained on any Lot. No motor vehicle may be disassembled or be allowed to remain in a state of disassembly on any Lot, but instead, shall be equipped at all times for on-road driving. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, and other waste shall be kept only in sanitary containers. No open burning shall be allowed on a Lot.

12. **NO TEMPORARY DWELLING.** No structure of a temporary character, trailer, boat, boat trailer, camper, or camping trailer, mobile home, travel trailer, motor home, basement, tent, garage, barn, tool shed, or other outbuilding shall be either used or located on any Lot, or used as a residence either temporarily or permanently.

13. **COMMON AREA.** The playgrounds, flood control areas, and lakes designated on the Plat as Common Area shall be constructed or installed for the benefit of all Owners. Each Owner shall have the right and easement of enjoyment in and to the Common Area that is appurtenant, and passes with title, to every Lot. Developer shall retain legal title and maintenance and repair responsibilities of the Common Area for two years after the Common Area is substantially completed, or until such time as completed improvements in the Common Area are approved by the Allen County Surveyor's Office, whichever event occurs first. Upon receiving such approval, Developer shall convey the Common Area to the Association, and the Association

shall accept such conveyance. Subsequent to such conveyance, the Association shall be responsible for the maintenance of the Common Area. The Owners' rights and easements of enjoyment in the Common Area shall be subject to any or all of the following:

13.1 The right of Developer to borrow money and to mortgage any part of parts of the Common Area in connection with development and construction of them.

13.2 The right of the Association, as provided in the Articles and Bylaws, to suspend the use and enjoyment of any Owner for any period during which an assessment made under these Covenants remains unpaid, and to suspend the voting rights of any such Owner if the Owner is in violation of these Covenants, the Articles, the Bylaws, or any published rule of the Association.

13.3 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 Board of Directors, and subject to acceptance of such assignee.

13.4 Any Owner may delegate, in accordance with the Bylaws, the Owner's right to use and enjoy the Common Area and any recreational facilities in it, to members of the Owner's family, and tenants or contract purchasers who reside on the Owner's Lot.

14. *ARCHITECTURAL CONTROL.*

14.1 In order to maintain harmonious structural design and Lot grades, no dwelling, building, fence, wall, in-ground swimming pool or hot tub, attached solar panels, or other structures or improvements shall be erected, permitted, or altered on any Lot (and construction shall not be commenced and no initial landscaping shall be installed) until the construction or installation plans and specifications, and a site plan showing the location of the structure on the Lot and grade elevations are approved by the Committee. Two sets of plans of each improvement, with detailed front, side, and rear elevations and floor plans showing square footage and grade elevations, shall be submitted to the Committee at Developer's office, or at such other place as may be designated by Developer or the Committee. The Committee's approval or disapproval of such plans shall be in writing. A dwelling, as shown on such plans, shall be substantially completed before the dwelling may be used or occupied as such. All improvements shall be constructed in accordance with the plans and specifications as approved by the Committee. Any improvements not so constructed shall be subject to immediate removal at the Owner's expense. In addition, before any Lot within the Subdivision may be used or occupied, the user or occupier shall first obtain the Improvement Location Permit and Certificate of Occupancy required by the City of New Haven Zoning Ordinance. Further, before any dwelling in the Subdivision shall be used and occupied, Developer shall have installed all improvements serving the Lot on which the dwelling is located, as set forth in Developer's plans filed with the Plan Commission.

14.2 The Committee shall be composed of three members designated by Developer. A majority of the Committee may appoint a representative to act for it. In the event of the death or resignation of any member of the Committee, the remaining members shall have full authority to appoint a successor. Developer may, but is not required to, relinquish Developer's right to designate members of the Committee to the Association.

14.3 The Committee shall have the exclusive authority and responsibility to review plans for the initial landscaping and the initial construction of all dwellings in the Subdivision. The Committee may delegate to the Board of Directors (or to such other entity designated in the Articles or Bylaws) the authority and responsibility to review plans for construction of fences and other structures in the Subdivision. Such delegation shall be made in writing, shall be signed by a majority of the Committee members, and shall be delivered or mailed to the Association's registered office.

14.4 After dwellings are initially constructed on all Lots, the Board of Directors (or other entity designated under the Articles or Bylaws) shall succeed to the Committee's responsibilities under this section 14 to review subsequent construction, modifications, and additions of structures in the Subdivision.

14.5 In the event the Committee (or Board of Directors or other entity acting under sections 14.3 or 14.4), fails to approve or disapprove the design and location of a proposed structure within 30 days after all necessary plans, specifications, documents, and information have been submitted to it, approval shall not be required, and approval under this section 14.5 shall be deemed to have been given.

15. **EASEMENTS.** Easements are expressly reserved and dedicated with dimensions, 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, cable T.V., and any other utilities of a public or quasi-public nature) and sewer and drainage facilities.

15.1 Any utility, Developer, and their respective 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 an authorized utility, and removal of any obstruction by a utility company shall in no way obligate the company to restore the obstruction to its original form. The utility will restore any improvement installed by an authorized utility.

15.2 No buildings or structures located in the Subdivision shall be connected with distribution facilities provided by electrical, television, or telephone services, except by means of wires, cables or conduits situated beneath the surface of the ground (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Subdivision, and except for such housing, pedestals or facilities as may be appropriate for connection of utility services for individual Owners). Nothing in these Covenants shall be

construed to prohibit street lighting or ornamental yard lighting services by underground wires or cables.

15.3 The utility operating the sewer lines and sewage disposal plant for the Subdivision shall have jurisdiction over the installation of all sewer connections and the same shall be installed to the property lines of each Lot by Developer. No individual water supply system, or individual sewage disposal system, shall be installed, maintained, or used in the Subdivision with the exception of a well or other water system that may be used for maintaining the quality and quantity of the water in the lakes. No rain or stormwater run-off from roofs, street pavements or otherwise, or any other surface water, shall at any time be discharged into, or permitted to flow into, the sanitary sewer system, which shall be a separate sewer system from the stormwater and surface water run-off system. No sanitary sewage shall at any time be discharged or permitted to flow into the stormwater and surface water run-off sewer system.

15.4 Surface drainage easements and Common Area 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 run-off 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 Allen County Surveyor, or the 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.

15.5 The Association shall be obligated to maintain, repair, and replace (if necessary) the surface water drainage system and the stormwater retention system consisting of the stormwater retention basin, together with its outlet and water level control structures, in accordance with plans filed with the Plan Commission in conjunction with the Subdivision, approval of which has been granted for the use and benefit of the Subdivision (and any future sections of the Subdivision) the cost of which may be assessed by the Association to all Owners and subsequent Owners of Lots in all sections of the Subdivision.

15.6 The Owner of any Lot or the City of New Haven (or its successor agency) shall have the right to order the Association to carry out its obligation to maintain, repair, and replace the stormwater drainage system and stormwater retention system improvements, as required under section 15.5, and to require the Association to assess the Owners with the cost of such maintenance, repair, and replacement.

16. **COMPLETION OF INFRASTRUCTURE.** Before any dwelling on a Lot shall be used and occupied, Developer, or any subsequent Owner of the Lot, shall install all infrastructure improvements serving the Lot as shown on the approved plans and specifications for the Subdivision filed with the Plan Commission or other governmental agencies having jurisdiction over the Subdivision. The covenant in this section 16 shall run with the land, and be enforceable by the Association or by any aggrieved Owner.

17. **SIDEWALKS.** Plans and specifications for the Subdivision on file with the Plan Commission, require the installation of four-foot wide concrete sidewalks within the street rights-of-way in front of Lots 1 thru 84, inclusive. Installation of such sidewalks shall be the obligation of the Owner of each such Lot (exclusive of Developer). A sidewalk to be located on a Lot shall be completed in accordance with such plans and specifications prior to the issuance of a Certificate of Occupancy for such Lot. If a Certificate of Occupancy is issued to Developer, Developer shall be considered as an Owner for the purposes of enforcement of this covenant.

18. **COMMUNITY ASSOCIATION.**

18.1 **Membership.** Every Owner of a Lot which is subject to assessment under these Covenants shall be a Member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of the Lot which is subject to assessment.

18.2 The Association shall have the following two classes of voting membership:

Class A. Class A Members consists of all Owners, except Developer. Class A Members shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, all such persons shall be members. The vote for such Lot shall be exercised as its Owners among themselves determine; but in no event shall be more than one vote be cast with respect to a Lot.

Class B. Class B Members consist of Developer. The Class B Member shall be entitled to 168 votes less that number of votes which Class A Members are entitled to exercise. Class B membership shall cease upon the happening of the earlier of the following events:

18.2.1 When fee simple title to all Lots have been conveyed by Developer,
or

18.2.2 On December 31, 2002.

18.3 **Membership Transfer.** Membership in the Association shall transfer from Developer to an Owner upon delivery of the deed conveying title to the Lot to the Owner.

18.4 **Continuing Membership.** The purchaser of any Lot in the Subdivision shall be a member of the Association, and shall continue to be a member of the Association as long as the Owner continues to own the Lot.

18.5 *One Association.* Only one such Association shall be recognized and approved by Developer.

19. *ASSESSMENTS.* Each Owner (exclusive of Developer) of a Lot, by acceptance of a deed for the Lot, whether or not it shall be so expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay to the Association the Maintenance Fund assessments and charges, as provided in these Covenants.

19.1 *Maintenance Fund.*

19.1.1 The "Maintenance Fund" assessment shall be used exclusively for the purpose of promoting the recreation, health, and safety of residents of the Subdivision, and in particular, for the improvement and maintenance of the lakes, spillways, sidewalks, surface drainage system, playgrounds, and all Common Area, including, but not limited to, repair, maintenance, the cost of labor, equipment, materials, supervision, security, lighting, lawn care, snow removal, insurance, taxes, and all other things necessary or desirable in the opinion of a majority of the members of the Association, in connection therewith.

19.1.2 The Maintenance Fund assessment shall commence to accrue and become a lien upon Lot as soon as title to the Lot is conveyed by Developer, or when a dwelling is erected the Lot, whichever event shall first occur. Such assessment shall be payable on the first day of January of each subsequent year. All assessments shall be determined by, and paid to, the Association. The Association shall be responsible for carrying out the purposes of such assessments.

19.1.3 The amount of said Maintenance Fund Assessment is established as follows:

19.1.3.1 The annual assessment for the calendar year beginning January 1, 1998, shall be \$50 per Lot which is subject to assessment under section 19.1.2.

19.1.3.2 Each year the Board of Directors shall establish a budget for such calendar year, and shall determine the annual membership assessment required to meet the budget under the Bylaws. Such budget and assessment for each such calendar year shall be established by the Board of Directors at a meeting to be held not later than October 31st of each preceding calendar year. The Board of Directors shall then distribute to all Association members a copy of such budget and a 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.

19.1.3.3 The amount of the assessment set by the Board of Directors for any such calendar year may be changed by the members of the Association at a meeting duly called for such purpose. The President or Secretary of the Association shall call a meeting of the membership of the Association, to be held prior to December 31st of the year prior

to the year to which the assessment is applicable, upon receipt (prior to November 30th) of a written petition for assessment review bearing the signatures of at least 20% of the members of the Association. The President or Secretary of the Association shall give at least 15 days written notice of such meeting to all members of the Association.

19.1.3.4 Any change so adopted in the amount of the assessment set by the Board of Directors must have the assent of at least two-thirds of the members of the Association who are voting in person or by proxy at a meeting duly called for such purpose. At any meeting, a quorum of not less than 50% of all members of the Association shall be required.

19.2 **Collection.** Each Maintenance Fund assessment, together with interest and costs of collection as provided below, shall be a continuing lien upon the Lot against which an assessment is made. Each such assessment, together with interest and costs of collection, also shall be the personal obligation of the Owner of a Lot at the time when the assessment was due. The obligation to pay an assessment is on the Owner of the Lot, and is not transferred, even though the Owner transfers membership and voting rights in the Association. If an assessment is not paid on the due date, then such assessment shall be a continuing lien on the Lot. However, the personal obligation of the then Owner to pay such assessment shall remain a personal obligation, and shall not pass to the Owner's successors in title unless expressly assumed by them. If the assessment is not paid within 60 days after the due date, the assessment shall bear interest from the date of delinquency at the rate of 8% per annum, and the Association may bring an action against the Owner personally obligated to pay the same, foreclose the lien against the Lot, or both, and there shall be added to the amount of such assessment the attorney fees and all other costs of preparing and filing such action. The lien of an assessment shall be subordinated to the lien of any mortgage now or subsequently placed on a Lot, taxes, and assessments for public improvements.

20. **SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.** In addition to the annual assessments authorized in section 19, the 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 any new construction, repair, or replacement of an existing improvement in the Common Area, including fixtures and related personal property; provided that any such assessment shall require the vote or written assent of 75% of each class of members of the Association; and provided, further, that no such special assessment for any purpose shall be made if the assessment in any way jeopardizes or affects the Association's ability to improve and maintain the Common Area, or pay the Association's share of the costs of maintaining any common impoundment basin.

21. **DURATION AND ALTERATION.** These Covenants shall be construed as, and shall be, covenants running with the land, and shall be binding upon all Owners and all persons claiming under them. These Covenants shall continue in existence for a period of ten years from the date of their recording, of and subsequently shall be automatically extended for successive periods of ten years each. The protective covenants, restrictions and limitations (but not the

easements) may be changed, abolished, or altered in part by written instrument signed by the Owners of at least 75% of each class of members in the Association; provided, however, these Covenants may be changed, altered, or amended by Developer, acting alone, within two years from the date these Covenants are recorded.

22. **FLOOD PROTECTION GRADES.** In order to minimize potential damage to residences from surface water, minimum flood protection grades are established of 785.7 feet Mean Sea Level for Lots 7, 8, 9, 12, 14, 15, 17, 18 and 19; 784.5 feet Mean Sea Level for Lots 32 through 44; and 787.0 feet Mean Sea Level for Lots 52 through 58. All residences on such Lots shall be constructed so that the minimum elevation of a first floor, or the minimum sill elevation of any opening below the first floor, equals or exceeds the applicable minimum flood protection grade established in this section 22.

23. **WAIVER.** The failure of either Developer or an Owner to enforce any covenant or obligation contained or right arising from any covenant, contained these Covenants shall in no case be deemed to be a waiver of that right or covenant.

24. **SEVERABILITY.** Invalidation of any one of the provisions in these Covenants by judgment or court order shall in no way affect any of the other provisions, and such provisions shall remain in full force and effect.

25. **ENFORCEMENT AND ATTORNEYS FEES.**

25.1 **Enforcement.** The Association, Developer, and any Owner (individually or collectively) shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or subsequently imposed by the provisions of these Covenants. Failure by the Association, Developer, or an Owner to enforce any provision in these Covenants shall in no event be deemed as a waiver of the right to do so later.

25.2 **Attorney Fees and Related Expenses.** In the event the Association, Developer, or any Owner prevails in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, condition, reservation, lien, or charge now or subsequently imposed by the provisions of these Covenants, the prevailing party shall be entitled to recover from the other party, the attorney fees and related costs and expenses incurred in such proceeding.

IN WITNESS WHEREOF, D.L.& J., Inc., by Louis Delagrange, its President, owner of the Real Estate described in the Plat, has executed these Covenants this ____ day of _____, 1998.

D.L. & J., INC.

By Louis Delagrance
Louis Delagrance, President

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

Before me, a Notary Public in and for said County and State, personally appeared Louis Delagrance, personally known to me to be the President of D.L. & J., Inc., and acknowledged the execution of the plat herewith for the purposes and uses therein set forth, this 23 day of December, 1998.

Wanda Gonsky

Wanda G. Gonsky
Notary Public
Resident of Allen County, Indiana

My Commission Expires:

May 2, 2002

This instrument prepared by James A. Federoff, Attorney at Law, Beckman Lawson, LLP, 200 E. Main Street, Suite 800, Fort Wayne, IN 46802.

Mail to: _____

Box 7