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PLAT COVENANTS AND RESTRICTIONS

REC 1503 22829

AUG 15 1989

THE GARDENS
AT EAGLE CREEK NORTH

PIKE TOWNSHIP
ASSESSOR

SECTION I

890079162

The undersigned, DAVIS DEVELOPMENT - EAGLE CREEK NORTH, INC., an Indiana corporation (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). Developer is concurrently platting and subdividing Real Estate as shown on the plat for The Gardens at Eagle Creek North - Section I, which is filed of record as ~~Instrument No. 89-0079157~~ ^{simultaneously herewith} in the office of the Recorder of Marion County, Indiana (the "Plat") and desires in such Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision created by the Plat (the "Subdivision") is to be known and designated as "The Gardens at Eagle Creek North - Section I". In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants and restrictions contained in a Declaration of Covenants, Conditions and Restrictions of Eagle Creek North, dated 14 AUG, 1989, and recorded on 19 AUG, 1989, as Instrument No. 89-0079157, in the office of the Recorder of Marion County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of Eagle Creek North Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenant or restriction contained in the Declaration shall govern and control only to the extent of the irreconcilable conflict, it being the intent hereof that all such covenants and restrictions shall be applicable to the Real Estate to the greatest extent possible. Capitalized terms used herein shall have the same meaning as given the term in the Declaration.

In order to provide adequate protection to all present and future Owners of Lots or Residence Units in the Subdivision, the following covenants and restrictions, in addition to those set forth in the Declaration, are hereby imposed upon the Real Estate:

1. PUBLIC RIGHT OF WAY. The rights-of-way of the streets as shown on the Plat, if not heretofore dedicated to the public, are hereby dedicated to the public for use as a public right-of-way.

2. UTILITY AND DRAINAGE EASEMENTS. There are areas of ground on the Plat marked "Utility Easements" and "Drainage Easements," either separately or in combination. The Utility Easements are hereby created and reserved for the use of all public utility companies (not including transportation companies), governmental agencies and the Association, for access to and installation of

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maintenance, repair, or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Drainage Easements are hereby created and reserved: (i) for the use of Developer during the "Development Period" (as such term is defined in the Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) for the use of the Association and the Department of Public Works of the City of Indianapolis for access to and maintenance, repair and replacement of the drainage system; provided, however, that the Owner of any Lot in the Subdivision subject to a Drainage Easement shall be required to keep the portion of said Drainage Easement on his Lot free from obstructions so that the surface water drainage will be unimpeded and will not be changed or altered. The delineation of the Utility Easement and Drainage Easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this paragraph 2. No permanent structures shall be erected or maintained upon said easements. The Owners of Lots in the Subdivision shall take and hold title to the Lots subject to the Utility Easements and Drainage Easements herein created and reserved.

3. BUILDING SET - BACK AND SIDE YARD EASEMENT. Building set-back lines are established on the Plat. No building or structure shall be erected or maintained between said set-back lines and the front or rear Lot line (as the case may be) of said Lot. The set back lines may vary in depth from the minimum as designated on the Plat. The minimum front set-back shall be fifteen (15) feet from the right of way to the living area or side of a garage and twenty (20) feet to the garage opening. The minimum Lot width both at the front Lot line and at the designated setback shall be forty (40) feet, except on a cul-de-loop or a cul-de-sac Lots, which shall be thirty-five (35) feet at the designated setback. In addition, no building or structure shall be erected or maintained closer to any side Lot line of any Lot than zero (0) feet. No building or structure on a Lot shall be located any closer than ten (10) feet to any other building or structure, whether or not located on an adjacent Lot. If a residential building or structure is constructed on any Lot within three (3) feet of the side Lot Line, then a Side Yard Easement shall exist on that portion of the adjoining Lot which is within six (6) feet of any part of the residential structure on the abutting Lot. Utility companies and service people shall have an easement for access over any side yard easements to the extent reasonably necessary to service, repair or replace any utility lines or facilities located therein or on an adjoining lot where access is necessary over the side yard easement. If a residential structure is not located within three (3) feet of the Lot Line, then there shall not be any Side Yard Easement on the adjoining Lot. No structure shall be built within such Side Yard Easement. Decks, fences, patios, walkways, landscaping, public utilities, cable TV

and other ground level improvements may be constructed within the Side Yard Easement. In addition, the Owner of the Lot which abuts the Side Yard Easement shall have the right to pass over any part of the Side Yard Easement which is within four (4) feet of such Owner's residential structure for the purpose of obtaining access to his or her building or structure for the purpose of painting, repairing, and maintaining such building or structure. Where two (2) or more contiguous Lots are used as a site for a single family dwelling or a two family dwelling where zoning permits, this side yard restriction shall apply to the combined Lots as if they were a single Lot.

4. SIGHT OBSTRUCTIONS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

5. RESIDENTIAL UNIT SIZE. No residence constructed on a Lot in the Subdivision shall have less than eight hundred fifty (850) square feet of floor area, exclusive of garages, carports and open porches. No more than twenty-five percent (25%) of the homes within the entire subdivision shall contain less than nine hundred (900) square feet, and the average size of all homes in the entire subdivision shall be at least one thousand (1,000) square feet.

6. RESIDENTIAL UNIT USE. All Lots in the Subdivision shall be used solely for residential purposes. No business building shall be erected on said Lots, and no business may be conducted on any part hereof, other than the home occupations permitted in the Dwelling Districts Zoning Ordinance of Marion County, Indiana. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residence not to exceed two and one-half (2 1/2) stories in height and permanently attached residential accessory buildings. Any garage, tool shed, storage building or any other building erected or used as an accessory building to a residence shall be attached to the structure, shall be of a permanent type of construction and shall conform to the general architecture and appearance of the residence.

7. ACCESSORY AND TEMPORARY BUILDINGS. No trailers, shacks, outhouses, detached storage sheds or tool sheds of any kind shall be erected or situated on any Lot in the Subdivision, except that used by a builder during the construction of a residential building on the property, which temporary construction structures shall be promptly removed upon completion of construction of the building.

8. TEMPORARY STRUCTURES. No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence.

9. NUISANCES. No farm animals, fowls or domestic animals for commercial purposes shall be kept or permitted on any Lot or Lots in the Subdivision. No noxious, unlawful or otherwise offensive activity shall be carried out on any Lot in the Subdivision; nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

10. VEHICLE PARKING. No camper, motor home, truck, trailer, boat or recreational vehicle of any kind may be stored on any Lot in the Subdivision in open public view. No vehicles shall be put up on blocks or jacks to accommodate car repair on a Lot except if such repairs are done in a garage. Disabled vehicles shall not be allowed to remain in open public view.

11. SIGNS. No sign of any kind shall be displayed to the public view on any Lot, except that one sign of not more than six (6) square feet may be displayed at any time for the purpose of advertising the property for sale or rent, except Developer may use larger signs during the sale and development of the Subdivision.

12. MAILBOXES. All mailboxes and replacement mailboxes shall be uniform and shall conform to the standards set forth by the Architectural Review Committee.

13. GARBAGE AND REFUSE DISPOSAL. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage, or other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. All rubbish, garbage or other waste shall be regularly removed from a Lot and shall not be allowed to accumulate thereon. No homeowner or occupant of a Lot shall burn or bury out of doors, any garbage or refuse.

14. STORAGE TANKS. Any gas or oil storage tanks used in connection with a Lot shall be either buried or located in a garage or house such that they are completely concealed from public view and shall comply with all applicable underground storage laws and regulations.

15. WATER SUPPLY AND SEWAGE SYSTEMS. No private or semi-private water supply and/or sewage disposal system may be located upon any Lot in the Subdivision which is not in compliance with regulations or procedures as provided by the Indiana State Board of Health, or other civil authority having jurisdiction. No septic tank, absorption field, or other method of sewage disposal shall be located or constructed on any Lot.

16. DITCHES AND SWALES. All Owners shall keep unobstructed, unchanged, unaltered and in good repair, all open storm water

drainage ditches and swales which may be located on their respective Lots.

17. DRIVEWAYS. Each driveway in the Subdivision shall be of concrete or asphalt material.

18. ANTENNA AND SATELLITE DISHES. No antenna in the Subdivision shall exceed five (5) feet above a roof peak. No satellite dishes shall be permitted in the Subdivision.

19. AWNINGS. No metal, fiberglass or similar type material awnings or patio covers shall be permitted in the Subdivision.

20. FENCING. All fencing used in the subdivision on residential lots must be wooden and shall not be higher than six (6) feet. Chain link fencing is prohibited. No fencing shall extend forward of the furthest back front corner of the residence. Fencing style, color, location and height shall be consistent with the subdivision and shall be subject to approval by the Architectural Review Committee.

21. SWIMMING POOLS. No above-ground swimming pools shall be permitted in the Subdivision.

22. SOLAR PANELS. No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots and the streets.

23. VIOLATION. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by the Developer, the Association, any person or entity having any right, title or interest in the Real Estate (or any part hereof), or any person or entity having any right, title or interest in a Lot in the Subdivision, and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief, and the recovery of costs and attorneys' fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Developer nor the Association shall be liable for damages of any kind to any person for failing to enforce or carry out such covenants or restrictions.

24. METROPOLITAN DEVELOPMENT COMMISSION. The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions or other limitations contained herein other than those covenants, commitments, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided further that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance, 58-AO-3, as amended, or any conditions attached to approval of the Plat by the Plat Committee.

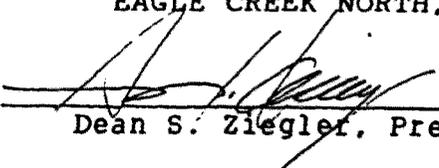
25. AMENDMENT. These covenants and restrictions may be amended at any time by the then Owners of at least sixty-seven percent (67%) of the Lots or Residence Units in all Subdivisions which are now or hereafter made subject to an annexed to the Declaration; provided, however, that until all of the Lots or Residence Units in such Subdivisions have been sold by Developer, any such amendment of these covenants and restrictions shall require the prior written approval of Developer. Each such amendment shall be evidenced by a written instrument, signed and acknowledged by the Owner or Owners concurring therein, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Marion County, Indiana. No amendment which adversely affects the rights of a public utility shall be effective with respect to such public utility without the written consent thereto by such utility.

26. TERM. These plat covenants and restrictions (as the same may be amended from time to time, shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate, or any part hereof, and on all persons or entities claiming under them, until December 31, 2003, and thereafter they shall continue automatically unless terminated or modified by a vote of a majority of the then Owners of the Lots or Residence Units in the Subdivision, it is agreed that said covenants and restrictions shall be amended or shall terminate in their entirety; provided, however, that no termination of said covenants and restrictions shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

27. SEVERABILITY. Invalidation of any of the foregoing covenants and restrictions by judgment or court shall in no way affect any of the other covenants and restrictions of this Plat, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Developer, as the Owner of the Real Estate, has hereunto caused its name to be subscribed this 14th day of AUGUST, 1989.

DAVIS DEVELOPMENT -
EAGLE CREEK NORTH, INC.

BY: 
Dean S. Ziegler, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public, in and for the State of Indiana, personally appeared Dean S. Ziegler, the President of Davis Development - Eagle Creek North, Inc., an Indiana Corporation, and acknowledged the execution of this instrument as his voluntary act and deed as such officer on behalf of such corporation for the uses and purposes hereinabove set forth.

Witness my signature and Notarial Seal this 14th day of August, 1989.

My Commission Expires:

Deborah L. Johnson
Notary Public

12/12/93

My County of Residence is:

Deborah L. Johnson
Printed Name

Marion

This instrument was prepared by Walter E. Wolf, Jr., Esq., KLINEMAN, ROSE, WOLF, and WALLACK, P.C., Suite 2100, 135 North Pennsylvania Street, Indianapolis, IN 46204.

EXHIBIT "A"
THE GARDENS
LAND DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 3 EAST, MARION COUNTY, INDIANA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID QUARTER SECTION; THENCE NORTH 89°56'41" EAST 1203.42 FEET ALONG THE SOUTH LINE OF SAID QUARTER SECTION; THENCE NORTH 00°03'19" WEST 45.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, WHICH POINT IS ON THE NORTH RIGHT-OF-WAY LINE OF WEST 56TH STREET; THENCE NORTH 00°03'19" WEST 478.61 FEET; THENCE NORTHEASTERLY 48.79 FEET ALONG AN ARC TO THE RIGHT AND HAVING A RADIUS OF 300.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 04°36'13" EAST AND A LENGTH OF 48.73 FEET; THENCE NORTH 09°15'44" EAST 136.01 FEET; THENCE NORTHEASTERLY 48.79 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 300.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 04°36'13" EAST AND A LENGTH OF 48.73 FEET; THENCE NORTH 00°03'19" WEST 163.85 FEET; THENCE NORTH 89°55'41" EAST 402.41 FEET; THENCE SOUTH 00°03'19" EAST 90.01 FEET; THENCE NORTH 89°56'41" EAST 5.18 FEET; THENCE SOUTH 00°03'19" EAST 280.00 FEET; THENCE SOUTH 89°56'41" WEST 30.00 FEET; THENCE SOUTH 00°03'19" EAST 89.43 FEET; THENCE NORTH 89°56'41" EAST 13.09 FEET; THENCE SOUTH 00°03'19" EAST 140.56 FEET; THENCE SOUTH 89°56'41" WEST 126.00 FEET; THENCE NORTH 00°03'19" WEST 90.56 FEET; THENCE SOUTH 89°56'41" WEST 75.00 FEET; THENCE SOUTHWESTERLY 23.56 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 15.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 44°56'40" WEST AND A LENGTH OF 21.21 FEET; THENCE SOUTH 89°56'41" WEST 50.00 FEET; THENCE NORTHWESTERLY 23.56 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 15.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH 45°03'19" WEST AND A LENGTH OF 21.21 FEET; THENCE SOUTH 89°56'41" WEST 10.57 FEET; THENCE SOUTH 83°36'16" WEST 91.27 FEET; THENCE SOUTHWESTERLY 21.90 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 15.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH 41°46'28" WEST AND A LENGTH OF 20.01 FEET; THENCE SOUTH 00°03'19" EAST 142.03 FEET; THENCE SOUTH 11°26'47" EAST 132.19 FEET; THENCE SOUTH 00°08'27" EAST 22.81 FEET; THENCE SOUTH 45°05'53" EAST 35.38 FEET; THENCE NORTH 89°56'41" EAST 123.82 FEET; THENCE SOUTH 00°03'19" EAST 20.00 FEET TO THE NORTH RIGHT-OF-WAY LINE OF WEST 56TH STREET; THENCE SOUTH 89°56'41" WEST 200.00 FEET ALONG SAID NORTH RIGHT-OF-WAY LINE TO THE POINT OF BEGINNING AND CONTAINING 5.49 ACRES, MORE OR LESS.

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PLAT COVENANTS AND RESTRICTIONS JUN 29 1990

THE GARDENS
AT EAGLE CREEK NORTH

PIKE TOWNSHIP
ASSESSOR

(46)

John R. ...

SECTION II

The undersigned, DAVIS DEVELOPMENT - EAGLE CREEK NORTH, INC., an Indiana corporation (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). Developer is concurrently platting and subdividing Real Estate as shown on the plat for The Gardens at Eagle Creek North - Section II, which is filed of record simultaneously herewith in the office of the Recorder of Marion County, Indiana (the "Plat") and desires in such Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision created by the Plat (the "Subdivision") is to be known and designated as the "The Gardens at Eagle Creek North - Section II". In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants and restrictions contained in a Declaration of Covenants, Conditions and Restrictions of Eagle Creek North, dated August 14, 1989, and recorded on August 15, 1989, as Instrument No. 89-0079157, in the office of the Recorder of Marion on County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of Eagle Creek North Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenant or restriction contained in the Declaration shall govern and control only to the extent of the irreconcilable conflict, it being the intent hereof that all that all such covenants and restrictions shall be applicable to the Real Estate to the greatest extent possible. Capitalized terms used herein shall have the same meaning as given the term in the Declaration.

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BETTY L. HOGILIN
MARION COUNTY RECORDER

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20. FENCING - All fencing used in the Subdivision on residential Lots must be wooden and shall not be higher than six (6) feet. Chain link fencing is prohibited. No fencing shall extend forward of the furthest back front corner of the residence. Fencing style, color, location and height shall be consistent with the Subdivision and shall be subject to approval by the Architectural Review Committee.

21. SWIMMING POOLS - No above-ground swimming pools shall be permitted in the Subdivision.

22. SOLAR PANELS - No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots and the streets.

23. VIOLATION. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by the Developer, the Association, any person or entity having any right, title or interest in the Real Estate (or any part hereof), or any person or entity having any right, title or

interest in a Lot in the Subdivision, and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief, and the recovery of costs and attorneys' fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Developer nor the Association shall be liable for damages of any kind to any person for failing to enforce or carry out such covenants or restrictions.

24. METROPOLITAN DEVELOPMENT COMMISSION. The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions or other limitations contained herein other than those covenants, commitments, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided further that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance, 58-AO-3, as amended, or any conditions attached to approval of the Plat by the Plat Committee.

25. AMENDMENT. These covenants and restrictions may be amended at any time by the then Owners of at least sixty-seven percent (67%) of the Lots or Residence Units in all Subdivisions which are now or hereafter made subject to an annexed to the Declaration; provided, however, that until all of the Lots or Residence Units in such Subdivisions have been sold by Developer, any such amendment of these covenants and restrictions shall require the prior written approval of Developer. Each such amendment shall be evidenced by a written instrument, signed and acknowledged by the Owner of Owners concurring therein, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Marion County, Indiana. No amendment which adversely affects the rights of a public utility shall be effective with respect to such public utility without the written consent thereto by such utility.

26. TERM. These plat covenants and restrictions (as the same maybe amended from time to time, shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate, or any part hereof, and on all persons or entitles claiming under them, until December 31, 2003, and thereafter they shall continue automatically unless terminated or modified by a vote of a majority of the then Owners of the Lots or Residence Units in the Subdivision, it is agreed that said covenants and restrictions shall be amended or shall terminate in their entirety; provided,

however, that no termination of said covenants and restrictions shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

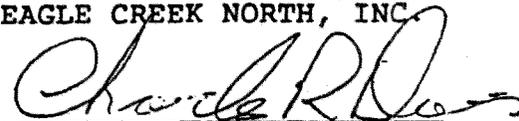
27. SEVERABILITY. Invalidation of any of the foregoing covenants and restrictions by judgment or court shall in no way affect any of the other covenants and restrictions of the Plat, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Developer, as the Owner of the Real Estate, has hereunto caused its name to be subscribed this 27th day of June, 1990.

*Eagle Creek North Associates, LP
by its General Partner*

DAVIS DEVELOPMENT -
EAGLE CREEK NORTH, INC.

BY:



Charles R. Davis
Chairman of the Board

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for the State of Indiana, personally appeared Charles R. Davis, the Chairman of the Board of Davis Development - Eagle Creek North, Inc. an Indiana Corporation, and acknowledged the execution of this instrument as his voluntary act and deed as such officer on behalf of such corporation for the uses and purposes hereinabove set forth.

Witness my signature and Notarial Seal this 27th day of June, 1990.

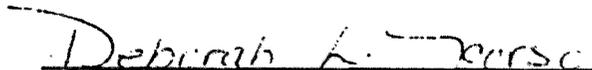
My commission expires:

13/13/92


Notary Public

My County of Residence is:

Marion


Printed Name

This instrument was prepared by Walter E. Wolf, Jr., Esq., KLINE-MAN, ROSE, WOLF and WALLACK, P.C., Suite 2100, 135 North Pennsylvania Street, Indianapolis, IN 46204.

EXHIBIT A

LEGAL DESCRIPTION
(The Gardens at Eagle Creek North - Section II)

A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE ABOVE MENTIONED QUARTER SECTION; THENCE NORTH 89°56'41" EAST ALONG THE SOUTH LINE OF SAID QUARTER SECTION 1871.31 FEET TO THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH 00°03'19" WEST 45.00 FEET; THENCE NORTH 00°05'34" WEST 321.95 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 89°56'41" WEST 101.42 FEET; THENCE SOUTH 30°22'47" WEST 20.94 FEET; THENCE SOUTH 51°45'58" WEST 26.45 FEET; THENCE SOUTH 77°05'37" WEST 61.55 FEET; THENCE SOUTH 89°56'41" WEST 54.20 FEET; THENCE NORTH 00°03'19" WEST 140.56 FEET; THENCE SOUTH 89°56'41" WEST 13.09 FEET; THENCE NORTH 00°03'19" WEST 89.43 FEET; THENCE NORTH 89°56'41" EAST 30.00 FEET; THENCE NORTH 00°03'19" WEST 280.00 FEET; THENCE SOUTH 89°56'41" WEST 5.18 FEET; THENCE NORTH 00°03'19" WEST 90.10 FEET; THENCE NORTH 89°55'41" EAST 234.94 FEET; THENCE SOUTH 00°05'36" EAST 552.05 FEET TO THE POINT OF BEGINNING, CONTAINING 3.15 ACRES MORE OR LESS, SUBJECT HOWEVER, TO ALL EASEMENTS AND/OR RIGHTS OF WAY OF LEGAL RECORD.

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PLAT COVENANTS AND RESTRICTIONS

THE GARDENS
AT EAGLE CREEK NORTH

PIKE TOWNSHIP
ASSESSOR

(46)

John R. ...

SECTION III

The undersigned, DAVIS DEVELOPMENT - EAGLE CREEK NORTH, INC., an Indiana corporation (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). Developer is concurrently platting and subdividing Real Estate as shown on the plat for The Gardens at Eagle Creek North - Section III, which is filed of record simultaneously herewith in the office of the Recorder of Marion County, Indiana (the "Plat") and desires in such Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision created by the Plat (the "Subdivision") is to be known and designated as the "The Gardens at Eagle Creek North - Section III". In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants and restrictions contained in a Declaration of Covenants, Conditions and Restrictions of Eagle Creek North, dated August 14, 1989, and recorded on August 15, 1989, as Instrument No. 89-0079157, in the office of the Recorder of Marion on County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of Eagle Creek North Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenant or restriction contained in the Declaration shall govern and control only to the extent of the irreconcilable conflict, it being the intent hereof that all that all such covenants and restrictions shall be applicable to the Real Estate to the greatest extent possible. Capitalized terms used herein shall have the same meaning as given the term in the Declaration.

In order to provide adequate protection to all present and future Owners of Lots or Residence Units in the Subdivision, the following covenants and restrictions, in addition to those set forth in the Declaration, are hereby imposed upon the Real Estate:

1. PUBLIC RIGHT OF WAY - The rights-of-way of the Public Right of Way as shown on the Plat, if not heretofore dedicated to the public are hereby dedicated to the public for use as a public right-of-way.
2. UTILITY AND DRAINAGE EASEMENTS - There are areas of ground on the Plat marked "Utility Easements" and "Drainage Easements," either separately or in combination. The Utility

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MARION COUNTY RECORDER
PIKE TOWNSHIP ASSESSOR

Easements are hereby created and reserved for the use of all public utility companies (not including transportation companies), governmental agencies and the Association, for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Drainage Easements are hereby created and reserved: (i) for the use of Developer during the "Development Period" (as such term is defined in the Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) for the use of the Association and the Department of Public Works of the City of Indianapolis for access to and maintenance, repair and replacement of the drainage system; provided, however, that the Owner of any Lot in the Subdivision subject to a Drainage Easement shall be required to keep the portion of said Drainage Easement on his Lot free from obstructions so that the surface water drainage will be unimpeded and will not be changed or altered. The delineation of the Utility Easement and Drainage Easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this paragraph 2. No permanent structures shall be erected or maintained upon said easements. The Owners of Lots in the Subdivision shall take and hold title to the Lots subject to the Utility Easements and Drainage Easements herein created and reserved.

3. BUILDING SET - BACK AND SIDE YARD EASEMENT. Building set-back lines are established on the Plat. No building or structure shall be erected or maintained between said set-back lines and the front or rear Lot line (as the case may be) of said Lot. The set back lines may vary in depth from the minimum as designated on the Plat. The minimum front set-back shall be fifteen (15) feet from the right of way to the living area or side of a garage and twenty (20) feet to the garage opening. The minimum Lot width both at the front Lot line and at the designated setback shall be forty (40) feet, except on a cul-de-loop or cul-de-sac Lots, which shall be thirty-five (35) feet at the designated setback. In addition, no building or structure shall be erected or maintained closer to any side Lot line of any Lot than zero (0) feet. No building or structure on a Lot shall be located any closer than ten (10) feet to any other building or structure, whether or not located on an adjacent Lot. If a residential building or structure is constructed on any Lot within three (3) feet of the side Lot Line, then a Side Yard Easement shall exist on that portion of the adjoining Lot which is within six (6) feet of any part of the residential structure on the abutting Lot. Utility companies and service people shall have an easement for access over any side yard easements to the

extent reasonably necessary to service, repair or replace any utility lines or facilities located therein or on an adjoining lot where access is necessary over the side yard easement. If a residential structure is not located within three (3) feet of the Lot Line, then there shall not be any Side Yard Easement on the adjoining Lot. No structure shall be built within such Side Yard Easement. Decks, fences, patios, walkways, landscaping, public utilities, cable TV and other ground level improvements may be constructed within the Side Yard Easement. In addition, the Owner of the Lot which abuts the Side Yard Easement shall have the right to pass over any part of the Side Yard Easement which is within four (4) feet of such Owner's residential structure for the purpose of obtaining access to his or her building or structure for the purpose of painting, repairing, and maintaining such building or structure. Where two (2) or more contiguous Lots are used as a site for a single family dwelling or a two family dwelling where zoning permits, this side yard restriction shall apply to the combined Lots as if they were a single Lot.

4. SIGHT OBSTRUCTIONS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

5. RESIDENTIAL UNIT SIZE. No residence constructed on a Lot in the Subdivision shall have less than eight hundred fifty (850) square feet of floor area, exclusive of garages, carports and open porches. No more than twenty-five percent (25%) of the homes within the entire subdivision shall contain less than nine hundred (900) square feet, and the average size of all homes in the entire subdivision shall be at least one thousand (1,000) square feet.

6. RESIDENTIAL UNIT USE. All lots in the Subdivision shall be used solely for residential purposes. No business building shall be erected on said Lots, and no business may be conducted on any part hereof, other than the home occupations permitted in the Dwelling Districts Zoning Ordinance of Marion County, Indiana. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residence not to exceed two and one-half (2 1/2) stories in height and permanently attached residential accessory

buildings. Any garage, tool shed, storage building or any other building erected or used as an accessory building to a residence shall be attached to the structure, shall be of a permanent type of construction and shall conform to the general architecture and appearance of the residence.

7. ACCESSORY AND TEMPORARY BUILDING. No trailers, shacks, outhouses, detached storage sheds or tool sheds of any kind shall be erected or situated on any Lot in the Subdivision, except that used by a builder during the construction of a residential building on the property, which temporary construction structures shall be promptly removed upon completion of construction of the building.

8. TEMPORARY STRUCTURES - No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence.

9. NUISANCES - No farm animals, fowls or domestic animals for commercial purposes shall be kept or permitted on any Lot or Lots in the Subdivision. No noxious, unlawful, or otherwise offensive activity shall be carried out on any Lot in the Subdivision; nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

10. VEHICLE PARKING - No camper, motor home, truck, trailer, boat or recreational vehicle of any kind may be stored on any Lot in the Subdivision in open public view. No vehicles shall be put up on blocks or jacks to accommodate car repair on a Lot except if such repairs are done in the garage. Disabled vehicles shall not be allowed to remain in open public view.

11. SIGNS - No sign of any kind shall be displayed to the public view on any Lot, except that one sign of not more than six (6) square feet may be displayed at any time for the purpose of advertising the property for sale or rent, except Developer may use larger signs during the sale and development of the Subdivision.

12. MAILBOXES - All mailboxes and replacement mailboxes shall be uniform and shall conform to the standards set forth by the Architectural Review Committee.

13. GARBAGE AND REFUSE DISPOSAL - No lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage, or other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. All rubbish, garbage or other waste shall be regularly removed from a Lot and shall not be allowed to accumulate thereon. No homeowner or occupant of a Lot shall burn or bury out of doors, any garbage or

refuse.

14. STORAGE TANKS - Any gas or oil storage tanks used in connection with a Lot shall be either buried or located in a garage or house such that they are completely concealed from public view and shall comply with all applicable underground storage laws and regulations.

15. WATER SUPPLY AND SEWAGE SYSTEMS - No private or semi-private water supply and/or sewage disposal system may be located upon any Lot in the Subdivision which is not in compliance with regulations or procedures as provided by the Indiana State Board of Health, or other civil authority having jurisdiction. No septic tank, absorption field, or other method of sewage disposal shall be located or constructed on any Lot.

16. DITCHES AND SWALES - All owners shall keep unobstructed, unchanged, unaltered and in good repair, all open storm water drainage ditches and swales which may be located on their respective Lots.

17. DRIVEWAYS - Each driveway in the Subdivision shall be of concrete or asphalt material.

18. ANTENNA AND SATELLITE DISHES - No antenna in the Subdivision shall exceed five (5) feet above a roof peak. No satellite dishes shall be permitted in the Subdivision.

19. AWNINGS - No metal, fiberglass or similar type material awnings or patio covers shall be permitted in the Subdivision.

20. FENCING - All fencing used in the Subdivision on residential Lots must be wooden and shall not be higher than six (6) feet. Chain link fencing is prohibited. No fencing shall extend forward of the furthest back front corner of the residence. Fencing style, color, location and height shall be consistent with the Subdivision and shall be subject to approval by the Architectural Review Committee.

21. SWIMMING POOLS - No above-ground swimming pools shall be permitted in the Subdivision.

22. SOLAR PANELS - No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots and the streets.

23. VIOLATION. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by the Developer, the Association, any person or entity having any right, title or interest in the Real Estate (or any part hereof), or any person or entity having any right, title or

interest in a Lot in the Subdivision, and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief, and the recovery of costs and attorneys' fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Developer nor the Association shall be liable for damages of any kind to any person for failing to enforce or carry out such covenants or restrictions.

24. METROPOLITAN DEVELOPMENT COMMISSION. The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions or other limitations contained herein other than those covenants, commitments, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided further that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance, 58-AO-3, as amended, or any conditions attached to approval of the Plat by the Plat Committee.

25. AMENDMENT. These covenants and restrictions may be amended at any time by the then Owners of at least sixty-seven percent (67%) of the Lots or Residence Units in all Subdivisions which are now or hereafter made subject to an annexed to the Declaration; provided, however, that until all of the Lots or Residence Units in such Subdivisions have been sold by Developer, any such amendment of these covenants and restrictions shall require the prior written approval of Developer. Each such amendment shall be evidenced by a written instrument, signed and acknowledged by the Owner of Owners concurring therein, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Marion County, Indiana. No amendment which adversely affects the rights of a public utility shall be effective with respect to such public utility without the written consent thereto by such utility.

26. TERM. These plat covenants and restrictions (as the same maybe amended from time to time, shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate, or any part hereof, and on all persons or entitles claiming under them, until December 31, 2003, and thereafter they shall continue automatically unless terminated or modified by a vote of a majority of the then Owners of the Lots or Residence Units in the Subdivision, it is agreed that said covenants and restrictions shall be amended or shall terminate in their entirety; provided,

however, that no termination of said covenants and restrictions shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

27. SEVERABILITY. Invalidation of any of the foregoing covenants and restrictions by judgment or court shall in no way affect any of the other covenants and restrictions of the Plat, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Developer, as the Owner of the Real Estate, has hereunto caused its name to be subscribed this 27th day of June, 1990.

*Eagle Creek North Associates, CP
by its General Partner*

DAVIS DEVELOPMENT -
EAGLE CREEK NORTH, INC.

BY: *Charles R. Davis*
Charles R. Davis
Chairman of the Board

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for the State of Indiana, personally appeared Charles R. Davis, the Chairman of the Board of Davis Development - Eagle Creek North, Inc. an Indiana Corporation, and acknowledged the execution of this instrument as his voluntary act and deed as such officer on behalf of such corporation for the uses and purposes hereinabove set forth.

Witness my signature and Notarial Seal this 27th day of June, 1990.

My commission expires:
12/12/92

Deborah L. Scarso
Notary Public

My County of Residence is:
Marion

Deborah L. Scarso
Printed Name

This instrument was prepared by Walter E. Wolf, Jr., Esq., KLINE-MAN, ROSE, WOLF and WALLACK, P.C., Suite 2100, 135 North Pennsylvania Street, Indianapolis, IN 46204.

EXHIBIT A

LEGAL DESCRIPTION
(The Gardens at Eagle Creek North - Section III)

A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE ABOVE MENTIONED QUARTER SECTION; THENCE NORTH $89^{\circ}56'41''$ EAST ALONG THE SOUTH LINE OF SAID QUARTER SECTION 1871.31 FEET TO THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE NORTH $00^{\circ}03'19''$ WEST 45.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH $89^{\circ}56'41''$ WEST 467.89 FEET; THENCE NORTH $00^{\circ}03'19''$ WEST 20.00 FEET; THENCE SOUTH $89^{\circ}56'41''$ WEST 123.82 FEET; THENCE NORTH $45^{\circ}05'53''$ WEST 35.38 FEET; THENCE NORTH $00^{\circ}08'27''$ WEST 22.81 FEET; THENCE NORTH $11^{\circ}26'47''$ WEST 132.19 FEET; THENCE NORTH $00^{\circ}03'19''$ WEST 142.03 FEET; THENCE NORTHEASTERLY 21.90 FEET ALONG AN ARC TO THE RIGHT AND HAVING A RADIUS OF 15.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH $41^{\circ}46'28''$ EAST AND A LENGTH OF 20.01 FEET; THENCE NORTH $83^{\circ}36'16''$ EAST 91.27 FEET; THENCE NORTH $89^{\circ}56'41''$ EAST 10.57 FEET; THENCE SOUTHEASTERLY 23.56 FEET ALONG AN ARC TO THE RIGHT AND HAVING A RADIUS OF 15.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH $45^{\circ}03'19''$ EAST AND A LENGTH OF 21.21 FEET; THENCE NORTH $89^{\circ}56'41''$ EAST 50.00 FEET; THENCE NORTHEASTERLY 23.56 FEET ALONG AN ARC TO THE RIGHT AND HAVING A RADIUS OF 15.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH $44^{\circ}56'40''$ EAST AND A LENGTH OF 21.21 FEET; THENCE NORTH $89^{\circ}56'41''$ EAST 75.00 FEET; THENCE SOUTH $00^{\circ}03'19''$ EAST 90.56 FEET; THENCE NORTH $89^{\circ}56'41''$ EAST 180.20 FEET; THENCE NORTH $77^{\circ}05'37''$ EAST 61.55 FEET; THENCE NORTH $51^{\circ}45'58''$ EAST 26.45 FEET; THENCE NORTH $30^{\circ}22'47''$ EAST 20.94 FEET; THENCE NORTH $89^{\circ}56'41''$ EAST 101.41 FEET; THENCE SOUTH $00^{\circ}05'34''$ EAST 321.95 FEET TO THE POINT OF BEGINNING, CONTAINING 4.58 ACRES MORE OR LESS, SUBJECT HOWEVER, TO ALL EASEMENTS AND/OR RIGHTS-OF-WAY OF LEGAL RECORD.

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JUN 29 1990

(46)

PLAT COVENANTS AND RESTRICTIONS

THE GLEN
AT EAGLE CREEK NORTH

John R. Cox

The undersigned, DAVIS DEVELOPMENT - EAGLE CREEK NORTH, INC., an Indiana corporation (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). Developer is concurrently platting and subdividing Real Estate as shown on the plat for The Glen at Eagle Creek North - Section II, which is filed of record simultaneously herewith in the office of the Recorder of Marion County, Indiana (the "Plat") and desires in such Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision created by the Plat (the "Subdivision") is to be known and designated as the "The Glen at Eagle Creek North - Section II". In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants and restrictions contained in a Declaration of Covenants, Conditions and Restrictions of Eagle Creek North, dated August 14, 1989, and recorded on August 15, 1989, as Instrument No. 89-0079157, in the office of the Recorder of Marion on County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of Eagle Creek North Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenant or restriction contained in the Declaration shall govern and control only to the extent of the irreconcilable conflict, it being the intent hereof that all that all such covenants and restrictions shall be applicable to the Real Estate to the greatest extent possible. Capitalized terms used herein shall have the same meaning as given the term in the Declaration.

In order to provide adequate protection to all present and future Owners of Lots or Residence Units in the Subdivision, the following covenants and restrictions, in addition to those set forth in the Declaration, are hereby imposed upon the Real Estate:

1. PUBLIC RIGHT OF WAY - The rights-of-way of the streets as shown on the Plat, if not heretofore dedicated to the public, are hereby dedicated to the public for use as a public right-of-way.

2. UTILITY AND DRAINAGE EASEMENTS - There are areas of ground on the Plat marked "Utility Easements and Drainage Easements" which are separately or in combination. The Utility

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JUN 29 1990

PIKE TOWNSHIP
ASSESSOR

RECEIVED FOR RECORD
JUN 29 1990
MARION COUNTY RECORDER

Easements are hereby created and reserved for the use of all public utility companies (not including transportation companies), governmental agencies and the Association, for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Drainage Easements are hereby created and reserved: (i) for the use of Developer during the "Development Period" (as such term is defined in the Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) for the use of the Association and the Department of Public Works of the City of Indianapolis for access to and maintenance, repair and replacement of the drainage system; provided, however, that the Owner of any Lot in the Subdivision subject to a Drainage Easement shall be required to keep the portion of said Drainage Easement on his Lot free from obstructions so that the surface water drainage will be unimpeded and will not be changed or altered. The delineation of the Utility Easement and Drainage Easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this paragraph 2. No permanent structures shall be erected or maintained upon said easements. The Owners of Lots in the Subdivision shall take and hold title to the Lots subject to the Utility Easements and Drainage Easements herein created and reserved.

3. BUILDING SET - BACK AND SIDE YARD EASEMENT. Building set-back lines are established on the Plat. No building or structure shall be erected or maintained between said set-back lines and the front or rear Lot line (as the case may be) of said Lot. The set back lines may vary in depth from the minimum as designated on the Plat. The minimum front set-back shall be fifteen (15) feet from the right of way to the living area or side of a garage and twenty (20) feet to the garage opening. The minimum Lot width both at the front Lot line and at the designated setback shall be forty (40) feet, except on a cul-de-loop or cul-de-sac Lots, which shall be thirty-five (35) feet at the designated setback. In addition, no building or structure shall be erected or maintained closer to any side Lot line of any Lot than zero (0) feet. No building or structure on a Lot shall be located any closer than ten (10) feet to any other building or structure, whether or not located on an adjacent Lot. If a residential building or structure is constructed on any Lot within three (3) feet of the side Lot Line, then a Side Yard Easement shall exist on that portion of the adjoining Lot which is within six (6) feet of any part of the residential structure on the abutting Lot. Utility companies and service people shall have an easement for access over any side yard easements to the

extent reasonably necessary to service, repair or replace any utility lines or facilities located therein or on an adjoining lot where access is necessary over the side yard easement. If a residential structure is not located within three (3) feet of the Lot Line, then there shall not be any Side Yard Easement on the adjoining Lot. No structure shall be built within such Side Yard Easement. Decks, fences, patios, walkways, landscaping, public utilities, cable TV and other ground level improvements may be constructed within the Side Yard Easement. In addition, the Owner of the Lot which abuts the Side Yard Easement shall have the right to pass over any part of the Side Yard Easement which is within four (4) feet of such Owner's residential structure for the purpose of obtaining access to his or her building or structure for the purpose of painting, repairing, and maintaining such building or structure. Where two (2) or more contiguous Lots are used as a site for a single family dwelling, this side yard restriction shall apply to the combined Lots as if they were a single Lot.

4. SIGHT OBSTRUCTIONS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

5. RESIDENTIAL UNIT SIZE. No residence constructed on a Lot in the Subdivision shall have less than eight hundred fifty (850) square feet of floor area, exclusive of garages, carports and open porches. No more than twenty-five percent (25%) of the homes within the entire subdivision shall contain less than nine hundred (900) square feet, and the average size of all homes in the entire subdivision shall be at least one thousand (1,000) square feet.

6. RESIDENTIAL UNIT USE. All lots in the Subdivision shall be used solely for residential purposes. No business building shall be erected on said Lots, and no business may be conducted on any part hereof, other than the home occupations permitted in the Dwelling Districts Zoning Ordinance of Marion County, Indiana. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residence not to exceed two and one-half (2 1/2) stories in height and permanently attached residential accessory

buildings. Any garage, tool shed, storage building or any other building erected or used as an accessory building to a residence shall be attached to the structure, shall be of a permanent type of construction and shall conform to the general architecture and appearance of the residence.

7. ACCESSORY AND TEMPORARY BUILDING. No trailers, shacks, outhouses, detached storage sheds or tool sheds of any kind shall be erected or situated on any Lot in the Subdivision, except that used by a builder during the construction of a residential building on the property, which temporary construction structures shall be promptly removed upon completion of construction of the building.

8. TEMPORARY STRUCTURES - No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence.

9. NUISANCES - No farm animals, fowls or domestic animals for commercial purposes shall be kept or permitted on any Lot or Lots in the Subdivision. No noxious, unlawful, or otherwise offensive activity shall be carried out on any Lot in the Subdivision; nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

10. VEHICLE PARKING - No camper, motor home, truck, trailer, boat or recreational vehicle of any kind may be stored on any Lot in the Subdivision in open public view. No vehicles shall be put up on blocks or jacks to accommodate car repair on a Lot except if such repairs are done in the garage. Disabled vehicles shall not be allowed to remain in open public view.

11. SIGNS - No sign of any kind shall be displayed to the public view on any Lot, except that one sign of not more than six (6) square feet may be displayed at any time for the purpose of advertising the property for sale or rent, except Developer may use larger signs during the sale and development of the Subdivision.

12. MAILBOXES - All mailboxes and replacement mailboxes shall be uniform and shall conform to the standards set forth by the Architectural Review Committee.

13. GARBAGE AND REFUSE DISPOSAL - No lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage, or other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. All rubbish, garbage or other waste shall be regularly removed from a Lot and shall not be allowed to accumulate thereon. No homeowner or occupant of a Lot shall burn or bury out of doors, any garbage or

refuse.

14. STORAGE TANKS - Any gas or oil storage tanks used in connection with a Lot shall be either buried or located in a garage or house such that they are completely concealed from public view and shall comply with all applicable underground storage laws and regulations.

15. WATER SUPPLY AND SEWAGE SYSTEMS - No private or semi-private water supply and/or sewage disposal system may be located upon any Lot in the Subdivision which is not in compliance with regulations or procedures as provided by the Indiana State Board of Health, or other civil authority having jurisdiction. No septic tank, absorption field, or other method of sewage disposal shall be located or constructed on any Lot.

16. DITCHES AND SWALES - All owners shall keep unobstructed, unchanged, unaltered and in good repair, all open storm water drainage ditches and swales which may be located on their respective Lots.

17. DRIVEWAYS - Each driveway in the Subdivision shall be of concrete or asphalt material.

18. ANTENNA AND SATELLITE DISHES - No antenna in the Subdivision shall exceed five (5) feet above a roof peak. No satellite dishes shall be permitted in the Subdivision.

19. AWNINGS - No metal, fiberglass or similar type material awnings or patio covers shall be permitted in the Subdivision.

20. FENCING - All fencing used in the Subdivision on residential Lots must be wooden and shall not be higher than six (6) feet. Chain link fencing is prohibited. No fencing shall extend forward of the furthest back front corner of the residence. Fencing style, color, location and height shall be consistent with the Subdivision and shall be subject to approval by the Architectural Review Committee.

21. SWIMMING POOLS - No above-ground swimming pools shall be permitted in the Subdivision.

22. SOLAR PANELS - No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots and the streets.

23. VIOLATION. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by the Developer, the Association, any person or entity having any right, title or interest in the Real Estate (or any part hereof), or any person or entity having any right, title or

interest in a Lot in the Subdivision, and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief, and the recovery of costs and attorneys' fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Developer nor the Association shall be liable for damages of any kind to any person for failing to enforce or carry out such covenants or restrictions.

24. METROPOLITAN DEVELOPMENT COMMISSION. The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions or other limitations contained herein other than those covenants, commitments, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided further that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance, 58-AO-3, as amended, or any conditions attached to approval of the Plat by the Plat Committee.

25. AMENDMENT. These covenants and restrictions may be amended at any time by the then Owners of at least sixty-seven percent (67%) of the Lots or Residence Units in all Subdivisions which are now or hereafter made subject to an annexed to the Declaration; provided, however, that until all of the Lots or Residence Units in such Subdivisions have been sold by Developer, any such amendment of these covenants and restrictions shall require the prior written approval of Developer. Each such amendment shall be evidenced by a written instrument, signed and acknowledged by the Owner of Owners concurring therein, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Marion County, Indiana. No amendment which adversely affects the rights of a public utility shall be effective with respect to such public utility without the written consent thereto by such utility.

26. TERM. These plat covenants and restrictions (as the same maybe amended from time to time, shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate, or any until December 31, 2003, and thereafter they shall continue automatically unless terminated or modified by a vote of a majority of the then Owners of the Lots or Residence Units in the Subdivision, it is agreed that said covenants and restrictions shall be amended or shall terminate in their entirety; provided, however, that no termination of said covenants and restrictions

shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

27. **SEVERABILITY.** Invalidation of any of the foregoing covenants and restrictions by judgment or court shall in no way affect any of the other covenants and restrictions of the Plat, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Developer, as the Owner of the Real Estate, has hereunto caused its name to be subscribed this 27th day of June, 1990.

EAGLE Creek North Associates,
by its General Partner

DAVIS DEVELOPMENT -
EAGLE CREEK NORTH, INC.

BY:

Charles R. Davis

Charles R. Davis
Chairman of the Board

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public, in and for the State of Indiana, personally appeared Charles R. Davis, the Chairman of the Board of Davis Development - Eagle Creek North, Inc. an Indiana Corporation, and acknowledged the execution of this instrument as his voluntary act and deed as such officer on behalf of such corporation for the uses and purposes hereinabove set forth.

Witness my signature and Notarial Seal this 27th day of June, 1990.

My commission expires:

12/13/92

Deborah S. Rose
Notary Public

My County of Residence is:

Marion

Deborah S. Rose
Printed Name

This instrument was prepared by Walter E. Wolf, Jr., Esq., KLINE-MAN, ROSE, WOLF and WALLACK, P.C., Suite 2100, 135 North Pennsylvania Street, Indianapolis, IN 46204.

EXHIBIT A

LEGAL DESCRIPTION
(The Glen at Eagle Creek North - Section II)

A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE ABOVE MENTIONED QUARTER SECTION; THENCE NORTH 00°11'37" EAST ALONG THE WEST LINE OF SAID QUARTER SECTION 45.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH 00°11'37" EAST 873.47 FEET; THENCE NORTH 89°55'41" EAST 634.21 FEET; THENCE SOUTH 00°03'19" EAST 739.18 FEET; THENCE SOUTH 89°56'41" WEST 14.91 FEET; THENCE SOUTH 00°03'19" EAST 134.47 FEET; THENCE SOUTH 89°56'41" WEST 622.25 FEET TO THE POINT OF BEGINNING CONTAINING 12.71 ACRES MORE OR LESS, SUBJECT HOWEVER, TO ALL EASEMENTS AND/OR RIGHTS-OF-WAY OF LEGAL RECORD.

FILED

18208
JUN 29 1990

(46)

John R. [Signature]

PLAT COVENANTS AND RESTRICTIONS

THE GLEN
AT EAGLE CREEK NORTH

SECTION II

The undersigned, DAVIS DEVELOPMENT - EAGLE CREEK NORTH, INC., an Indiana corporation (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). Developer is concurrently platting and subdividing Real Estate as shown on the plat for The Glen at Eagle Creek North - Section II, which is filed of record simultaneously herewith in the office of the Recorder of Marion County, Indiana (the "Plat") and desires in such Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision created by the Plat (the "Subdivision") is to be known and designated as the "The Glen at Eagle Creek North - Section II". In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants and restrictions contained in a Declaration of Covenants, Conditions and Restrictions of Eagle Creek North, dated August 14, 1989, and recorded on August 15, 1989, as Instrument No. 89-0079157, in the office of the Recorder of Marion on County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of Eagle Creek North Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenant or restriction contained in the Declaration shall govern and control only to the extent of the irreconcilable conflict, it being the intent hereof that all that all such covenants and restrictions shall be applicable to the Real Estate to the greatest extent possible. Capitalized terms used herein shall have the same meaning as given the term in the Declaration.

In order to provide adequate protection to all present and future Owners of Lots or Residence Units in the Subdivision, the following covenants and restrictions, in addition to those set forth in the Declaration, are hereby imposed upon the Real Estate:

1. PUBLIC RIGHT OF WAY - The rights-of-way of the streets as shown on the Plat, if not heretofore dedicated to the public, are hereby dedicated to the public for use as a public right-of-way.

2. UTILITY AND DRAINAGE EASEMENTS - These areas of ground the Plat marked "Utility Easements and Drainage Easements" shall be used separately or in combination. The Utility

RECEIVED

JUN 29 1990

PIKE TOWNSHIP
ASSESSOR

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Easements are hereby created and reserved for the use of all public utility companies (not including transportation companies), governmental agencies and the Association, for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Drainage Easements are hereby created and reserved: (i) for the use of Developer during the "Development Period" (as such term is defined in the Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) for the use of the Association and the Department of Public Works of the City of Indianapolis for access to and maintenance, repair and replacement of the drainage system; provided, however, that the Owner of any Lot in the Subdivision subject to a Drainage Easement shall be required to keep the portion of said Drainage Easement on his Lot free from obstructions so that the surface water drainage will be unimpeded and will not be changed or altered. The delineation of the Utility Easement and Drainage Easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this paragraph 2. No permanent structures shall be erected or maintained upon said easements. The Owners of Lots in the Subdivision shall take and hold title to the Lots subject to the Utility Easements and Drainage Easements herein created and reserved.

3. BUILDING SET - BACK AND SIDE YARD EASEMENT. Building set-back lines are established on the Plat. No building or structure shall be erected or maintained between said set-back lines and the front or rear Lot line (as the case may be) of said Lot. The set back lines may vary in depth from the minimum as designated on the Plat. The minimum front set-back shall be fifteen (15) feet from the right of way to the living area or side of a garage and twenty (20) feet to the garage opening. The minimum Lot width both at the front Lot line and at the designated setback shall be forty (40) feet, except on a cul-de-loop or cul-de-sac Lots, which shall be thirty-five (35) feet at the designated setback. In addition, no building or structure shall be erected or maintained closer to any side Lot line of any Lot than zero (0) feet. No building or structure on a Lot shall be located any closer than ten (10) feet to any other building or structure, whether or not located on an adjacent Lot. If a residential building or structure is constructed on any Lot within three (3) feet of the side Lot Line, then a Side Yard Easement shall exist on that portion of the adjoining Lot which is within six (6) feet of any part of the residential structure on the abutting Lot. Utility companies and service people shall have an easement for access over any side yard easements to the

extent reasonably necessary to service, repair or replace any utility lines or facilities located therein or on an adjoining lot where access is necessary over the side yard easement. If a residential structure is not located within three (3) feet of the Lot Line, then there shall not be any Side Yard Easement on the adjoining Lot. No structure shall be built within such Side Yard Easement. Decks, fences, patios, walkways, landscaping, public utilities, cable TV and other ground level improvements may be constructed within the Side Yard Easement. In addition, the Owner of the Lot which abuts the Side Yard Easement shall have the right to pass over any part of the Side Yard Easement which is within four (4) feet of such Owner's residential structure for the purpose of obtaining access to his or her building or structure for the purpose of painting, repairing, and maintaining such building or structure. Where two (2) or more contiguous Lots are used as a site for a single family dwelling, this side yard restriction shall apply to the combined Lots as if they were a single Lot.

4. SIGHT OBSTRUCTIONS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

5. RESIDENTIAL UNIT SIZE. No residence constructed on a Lot in the Subdivision shall have less than eight hundred fifty (850) square feet of floor area, exclusive of garages, carports and open porches. No more than twenty-five percent (25%) of the homes within the entire subdivision shall contain less than nine hundred (900) square feet, and the average size of all homes in the entire subdivision shall be at least one thousand (1,000) square feet.

6. RESIDENTIAL UNIT USE. All lots in the Subdivision shall be used solely for residential purposes. No business building shall be erected on said Lots, and no business may be conducted on any part hereof, other than the home occupations permitted in the Dwelling Districts Zoning Ordinance of Marion County, Indiana. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residence not to exceed two and one-half (2 1/2) stories in height and permanently attached residential accessory

buildings. Any garage, tool shed, storage building or any other building erected or used as an accessory building to a residence shall be attached to the structure, shall be of a permanent type of construction and shall conform to the general architecture and appearance of the residence.

7. ACCESSORY AND TEMPORARY BUILDING. No trailers, shacks, outhouses, detached storage sheds or tool sheds of any kind shall be erected or situated on any Lot in the Subdivision, except that used by a builder during the construction of a residential building on the property, which temporary construction structures shall be promptly removed upon completion of construction of the building.

8. TEMPORARY STRUCTURES - No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence.

9. NUISANCES - No farm animals, fowls or domestic animals for commercial purposes shall be kept or permitted on any Lot or Lots in the Subdivision. No noxious, unlawful, or otherwise offensive activity shall be carried out on any Lot in the Subdivision; nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

10. VEHICLE PARKING - No camper, motor home, truck, trailer, boat or recreational vehicle of any kind may be stored on any Lot in the Subdivision in open public view. No vehicles shall be put up on blocks or jacks to accommodate car repair on a Lot except if such repairs are done in the garage. Disabled vehicles shall not be allowed to remain in open public view.

11. SIGNS - No sign of any kind shall be displayed to the public view on any Lot, except that one sign of not more than six (6) square feet may be displayed at any time for the purpose of advertising the property for sale or rent, except Developer may use larger signs during the sale and development of the Subdivision.

12. MAILBOXES - All mailboxes and replacement mailboxes shall be uniform and shall conform to the standards set forth by the Architectural Review Committee.

13. GARBAGE AND REFUSE DISPOSAL - No lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage, or other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. All rubbish, garbage or other waste shall be regularly removed from a Lot and shall not be allowed to accumulate thereon. No homeowner or occupant of a Lot shall burn or bury out of doors, any garbage or

refuse.

14. STORAGE TANKS - Any gas or oil storage tanks used in connection with a Lot shall be either buried or located in a garage or house such that they are completely concealed from public view and shall comply with all applicable underground storage laws and regulations.

15. WATER SUPPLY AND SEWAGE SYSTEMS - No private or semi-private water supply and/or sewage disposal system may be located upon any Lot in the Subdivision which is not in compliance with regulations or procedures as provided by the Indiana State Board of Health, or other civil authority having jurisdiction. No septic tank, absorption field, or other method of sewage disposal shall be located or constructed on any Lot.

16. DITCHES AND SWALES - All owners shall keep unobstructed, unchanged, unaltered and in good repair, all open storm water drainage ditches and swales which may be located on their respective Lots.

17. DRIVEWAYS - Each driveway in the Subdivision shall be of concrete or asphalt material.

18. ANTENNA AND SATELLITE DISHES - No antenna in the Subdivision shall exceed five (5) feet above a roof peak. No satellite dishes shall be permitted in the Subdivision.

19. AWNINGS - No metal, fiberglass or similar type material awnings or patio covers shall be permitted in the Subdivision.

20. FENCING - All fencing used in the Subdivision on residential Lots must be wooden and shall not be higher than six (6) feet. Chain link fencing is prohibited. No fencing shall extend forward of the furthest back front corner of the residence. Fencing style, color, location and height shall be consistent with the Subdivision and shall be subject to approval by the Architectural Review Committee.

21. SWIMMING POOLS - No above-ground swimming pools shall be permitted in the Subdivision.

22. SOLAR PANELS - No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots and the streets.

23. VIOLATION. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by the Developer, the Association, any person or entity having any right, title or interest in the Real Estate (or any part hereof), or any person or entity having any right, title or

interest in a Lot in the Subdivision, and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief, and the recovery of costs and attorneys' fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Developer nor the Association shall be liable for damages of any kind to any person for failing to enforce or carry out such covenants or restrictions.

24. METROPOLITAN DEVELOPMENT COMMISSION. The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions or other limitations contained herein other than those covenants, commitments, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided further that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance, 58-AO-3, as amended, or any conditions attached to approval of the Plat by the Plat Committee.

25. AMENDMENT. These covenants and restrictions may be amended at any time by the then Owners of at least sixty-seven percent (67%) of the Lots or Residence Units in all Subdivisions which are now or hereafter made subject to an annexed to the Declaration; provided, however, that until all of the Lots or Residence Units in such Subdivisions have been sold by Developer, any such amendment of these covenants and restrictions shall require the prior written approval of Developer. Each such amendment shall be evidenced by a written instrument, signed and acknowledged by the Owner of Owners concurring therein, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Marion County, Indiana. No amendment which adversely affects the rights of a public utility shall be effective with respect to such public utility without the written consent thereto by such utility.

26. TERM. These plat covenants and restrictions (as the same maybe amended from time to time, shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate, or any until December 31, 2003, and thereafter they shall continue automatically unless terminated or modified by a vote of a majority of the then Owners of the Lots or Residence Units in the Subdivision, it is agreed that said covenants and restrictions shall be amended or shall terminate in their entirety; provided, however, that no termination of said covenants and restrictions

shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

27. SEVERABILITY. Invalidation of any of the foregoing covenants and restrictions by judgment or court shall in no way affect any of the other covenants and restrictions of the Plat, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Developer, as the Owner of the Real Estate, has hereunto caused its name to be subscribed this 27th day of June, 1990.

EAGLE Creek North Associates, DAVIS DEVELOPMENT -
by its General Partner^{LP} EAGLE CREEK NORTH, INC.

BY: Charles R. Davis
Charles R. Davis
Chairman of the Board

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public, in and for the State of Indiana, personally appeared Charles R. Davis, the Chairman of the Board of Davis Development - Eagle Creek North, Inc. an Indiana Corporation, and acknowledged the execution of this instrument as his voluntary act and deed as such officer on behalf of such corporation for the uses and purposes hereinabove set forth.

Witness my signature and Notarial Seal this 27th day of June, 1990.

My commission expires:
12/13/92

Michael P. [Signature]
Notary Public

My County of Residence is:
Marion

Deborah S. [Signature]
Printed Name

This instrument was prepared by Walter E. Wolf, Jr., Esq., KLINE-MAN, ROSE, WOLF and WALLACK, P.C., Suite 2100, 135 North Pennsylvania Street, Indianapolis, IN 46204.

EXHIBIT A

LEGAL DESCRIPTION

(The Glen at Eagle Creek North - Section II)

A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE ABOVE MENTIONED QUARTER SECTION; THENCE NORTH $00^{\circ}11'37''$ EAST ALONG THE WEST LINE OF SAID QUARTER SECTION 45.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH $00^{\circ}11'37''$ EAST 873.47 FEET; THENCE NORTH $89^{\circ}55'41''$ EAST 634.21 FEET; THENCE SOUTH $00^{\circ}03'19''$ EAST 739.18 FEET; THENCE SOUTH $89^{\circ}56'41''$ WEST 14.91 FEET; THENCE SOUTH $00^{\circ}03'19''$ EAST 134.47 FEET; THENCE SOUTH $89^{\circ}56'41''$ WEST 622.25 FEET TO THE POINT OF BEGINNING CONTAINING 12.71 ACRES MORE OR LESS, SUBJECT HOWEVER, TO ALL EASEMENTS AND/OR RIGHTS-OF-WAY OF LEGAL RECORD.

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JUN 29 1990

(46)

John R. [Signature]

PLAT COVENANTS AND RESTRICTIONS

THE GLEN
AT EAGLE CREEK NORTH

SECTION III

RECEIVED

JUN 29 1990

PIKE TOWNSHIP
ASSESSOR

The undersigned, DAVIS DEVELOPMENT - EAGLE CREEK NORTH, INC., an Indiana corporation (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). Developer is concurrently platting and subdividing Real Estate as shown on the plat for The Glen at Eagle Creek North - Section III, which is filed of record simultaneously herewith in the office of the Recorder of Marion County, Indiana (the "Plat") and desires in such Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision created by the Plat (the "Subdivision") is to be known and designated as the "The Glen at Eagle Creek North - Section III". In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants and restrictions contained in a Declaration of Covenants, Conditions and Restrictions of Eagle Creek North, dated August 14, 1989, and recorded on August 15, 1989, as Instrument No. 89-0079157, in the office of the Recorder of Marion on County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of Eagle Creek North Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenant or restriction contained in the Declaration shall govern and control only to the extent of the irreconcilable conflict, it being the intent hereof that all that all such covenants and restrictions shall be applicable to the Real Estate to the greatest extent possible. Capitalized terms used herein shall have the same meaning as given the term in the Declaration.

In order to provide adequate protection to all present and future Owners of Lots or Residence Units in the Subdivision, the following covenants and restrictions, in addition to those set forth in the Declaration, are hereby imposed upon the Real Estate:

1. PUBLIC RIGHT OF WAY - The rights-of-way of the ~~as shown on the Plat, if not heretofore dedicated to the public~~ are hereby dedicated to the public for use as a public right-of-way.
2. UTILITY AND DRAINAGE EASEMENTS - There are areas of ground on the Plat marked "Utility Easements" and "Drainage Easements," either separately or in combination. The Utility

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Easements are hereby created and reserved for the use of all public utility companies (not including transportation companies), governmental agencies and the Association, for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Drainage Easements are hereby created and reserved: (i) for the use of Developer during the "Development Period" (as such term is defined in the Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) for the use of the Association and the Department of Public Works of the City of Indianapolis for access to and maintenance, repair and replacement of the drainage system; provided, however, that the Owner of any Lot in the Subdivision subject to a Drainage Easement shall be required to keep the portion of said Drainage Easement on his Lot free from obstructions so that the surface water drainage will be unimpeded and will not be changed or altered. The delineation of the Utility Easement and Drainage Easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this paragraph 2. No permanent structures shall be erected or maintained upon said easements. The Owners of Lots in the Subdivision shall take and hold title to the Lots subject to the Utility Easements and Drainage Easements herein created and reserved.

3. **BUILDING SET - BACK AND SIDE YARD EASEMENT.** Building set-back lines are established on the Plat. No building or structure shall be erected or maintained between said set-back lines and the front or rear Lot line (as the case may be) of said Lot. The set back lines may vary in depth from the minimum as designated on the Plat. The minimum front set-back shall be fifteen (15) feet from the right of way to the living area or side of a garage and twenty (20) feet to the garage opening. The minimum Lot width both at the front Lot line and at the designated setback shall be forty (40) feet, except on a cul-de-loop or cul-de-sac Lots, which shall be thirty-five (35) feet at the designated setback. In addition, no building or structure shall be erected or maintained closer to any side Lot line of any Lot than zero (0) feet. No building or structure on a Lot shall be located any closer than ten (10) feet to any other building or structure, whether or not located on an adjacent Lot. If a residential building or structure is constructed on any Lot within three (3) feet of the side Lot Line, then a Side Yard Easement shall exist on that portion of the adjoining Lot which is within six (6) feet of any part of the residential structure on the abutting Lot. Utility companies and service people shall have an easement for access over any side yard easements to the

extent reasonably necessary to service, repair or replace any utility lines or facilities located therein or on an adjoining lot where access is necessary over the side yard easement. If a residential structure is not located within three (3) feet of the Lot Line, then there shall not be any Side Yard Easement on the adjoining Lot. No structure shall be built within such Side Yard Easement. Decks, fences, patios, walkways, landscaping, public utilities, cable TV and other ground level improvements may be constructed within the Side Yard Easement. In addition, the Owner of the Lot which abuts the Side Yard Easement shall have the right to pass over any part of the Side Yard Easement which is within four (4) feet of such Owner's residential structure for the purpose of obtaining access to his or her building or structure for the purpose of painting, repairing, and maintaining such building or structure. Where two (2) or more contiguous Lots are used as a site for a single family dwelling, this side yard restriction shall apply to the combined Lots as if they were a single Lot.

4. SIGHT OBSTRUCTIONS. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight line.

5. RESIDENTIAL UNIT SIZE. No residence constructed on a Lot in the Subdivision shall have less than eight hundred fifty (850) square feet of floor area, exclusive of garages, carports and open porches. No more than twenty-five percent (25%) of the homes within the entire subdivision shall contain less than nine hundred (900) square feet, and the average size of all homes in the entire subdivision shall be at least one thousand (1,000) square feet.

6. RESIDENTIAL UNIT USE. All lots in the Subdivision shall be used solely for residential purposes. No business building shall be erected on said Lots, and no business may be conducted on any part hereof, other than the home occupations permitted in the Dwelling Districts Zoning Ordinance of Marion County, Indiana. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residence not to exceed two and one-half (2 1/2)

stories in height and permanently attached residential accessory buildings. Any garage, tool shed, storage building or any other building erected or used as an accessory building to a residence shall be attached to the structure, shall be of a permanent type of construction and shall conform to the general architecture and appearance of the residence.

7. ACCESSORY AND TEMPORARY BUILDING. No trailers, shacks, outhouses, detached storage sheds or tool sheds of any kind shall be erected or situated on any Lot in the Subdivision, except that used by a builder during the construction of a residential building on the property, which temporary construction structures shall be promptly removed upon completion of construction of the building.

8. TEMPORARY STRUCTURES - No trailer, shack, tent, boat, basement, garage or other outbuilding may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence.

9. NUISANCES - No farm animals, fowls or domestic animals for commercial purposes shall be kept or permitted on any Lot or Lots in the Subdivision. No noxious, unlawful, or otherwise offensive activity shall be carried out on any Lot in the Subdivision; nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

10. VEHICLE PARKING - No camper, motor home, truck, trailer, boat or recreational vehicle of any kind may be stored on any Lot in the Subdivision in open public view. No vehicles shall be put up on blocks or jacks to accommodate car repair on a Lot except if such repairs are done in the garage. Disabled vehicles shall not be allowed to remain in open public view.

11. SIGNS - No sign of any kind shall be displayed to the public view on any Lot, except that one sign of not more than six (6) square feet may be displayed at any time for the purpose of advertising the property for sale or rent, except Developer may use larger signs during the sale and development of the Subdivision.

12. MAILBOXES - All mailboxes and replacement mailboxes shall be uniform and shall conform to the standards set forth by the Architectural Review Committee.

13. GARBAGE AND REFUSE DISPOSAL - No lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage, or other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. All rubbish, garbage or other waste shall be regularly removed from a Lot and shall not be allowed to accumulate thereon. No homeowner or

occupant of a Lot shall burn or bury out of doors, any garbage or refuse.

14. STORAGE TANKS - Any gas or oil storage tanks used in connection with a Lot shall be either buried or located in a garage or house such that they are completely concealed from public view and shall comply with all applicable underground storage laws and regulations.

15. WATER SUPPLY AND SEWAGE SYSTEMS - No private or semi-private water supply and/or sewage disposal system may be located upon any Lot in the Subdivision which is not in compliance with regulations or procedures as provided by the Indiana State Board of Health, or other civil authority having jurisdiction. No septic tank, absorption field, or other method of sewage disposal shall be located or constructed on any Lot.

16. DITCHES AND SWALES - All owners shall keep unobstructed, unchanged, unaltered and in good repair, all open storm water drainage ditches and swales which may be located on their respective Lots.

17. DRIVEWAYS - Each driveway in the Subdivision shall be of concrete or asphalt material.

18. ANTENNA AND SATELLITE DISHES - No antenna in the Subdivision shall exceed five (5) feet above a roof peak. No satellite dishes shall be permitted in the Subdivision.

19. AWNINGS - No metal, fiberglass or similar type material awnings or patio covers shall be permitted in the Subdivision.

20. FENCING - All fencing used in the Subdivision on residential Lots must be wooden and shall not be higher than six (6) feet. Chain link fencing is prohibited. No fencing shall extend forward of the furthest back front corner of the residence. Fencing style, color, location and height shall be consistent with the Subdivision and shall be subject to approval by the Architectural Review Committee.

21. SWIMMING POOLS - No above-ground swimming pools shall be permitted in the Subdivision.

22. SOLAR PANELS - No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots and the streets.

23. VIOLATION. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by the Developer, the Association, any person or entity having any right, title or interest in the Real Estate (or any part

hereof), or any person or entity having any right, title or interest in a Lot in the Subdivision, and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages or other sums due for such violation, injunctive relief against any such violation or threatened violation, declaratory relief, and the recovery of costs and attorneys' fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Developer nor the Association shall be liable for damages of any kind to any person for failing to enforce or carry out such covenants or restrictions.

24. METROPOLITAN DEVELOPMENT COMMISSION. The Metropolitan Development Commission, its successors and assigns, shall have no right, power or authority to enforce any covenants, commitments, restrictions or other limitations contained herein other than those covenants, commitments, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided further that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance, 58-AO-3, as amended, or any conditions attached to approval of the Plat by the Plat Committee.

25. AMENDMENT. These covenants and restrictions may be amended at any time by the then Owners of at least sixty-seven percent (67%) of the Lots or Residence Units in all Subdivisions which are now or hereafter made subject to an annexed to the Declaration; provided, however, that until all of the Lots or Residence Units in such Subdivisions have been sold by Developer, any such amendment of these covenants and restrictions shall require the prior written approval of Developer. Each such amendment shall be evidenced by a written instrument, signed and acknowledged by the Owner of Owners concurring therein, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Marion County, Indiana. No amendment which adversely affects the rights of a public utility shall be effective with respect to such public utility without the written consent thereto by such utility.

26. TERM. These plat covenants and restrictions (as the same maybe amended from time to time, shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate, or any part hereof, and on all persons or entitles claiming under them, until December 31, 2003, and thereafter they shall continue automatically unless terminated or modified by a vote of a majority of the then Owners of the Lots or Residence Units in the Subdivision, it is agreed that said covenants and restrictions

shall be amended or shall terminate in their entirety; provided, however, that no termination of said covenants and restrictions shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall consent thereto.

27. **SEVERABILITY.** Invalidation of any of the foregoing covenants and restrictions by judgment or court shall in no way affect any of the other covenants and restrictions of the Plat, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Developer, as the Owner of the Real Estate, has hereunto caused its name to be subscribed this 27th day of June, 1990.

*Eagle Creek North Associates, LP
by its General Partner*

DAVIS DEVELOPMENT -
EAGLE CREEK NORTH, INC

BY: 
Charles R. Davis
Chairman of the Board

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public, in and for the State of Indiana, personally appeared Charles R. Davis, the Chairman of the Board of Davis Development - Eagle Creek North, Inc. an Indiana Corporation, and acknowledged the execution of this instrument as his voluntary act and deed as such officer on behalf of such corporation for the uses and purposes hereinabove set forth.

Witness my signature and Notarial Seal this 27th day of June, 1990.

My commission expires:
12/12/92


Notary Public

My County of Residence is:
marion

Deborah L. Scarso
Printed Name

This instrument was prepared by Walter E. Wolf, Jr., Esq., KLINE-MAN, ROSE, WOLF and WALLACK, P.C., Suite 2100, 135 North Pennsylvania Street, Indianapolis, IN 46204.

EXHIBIT A

LEGAL DESCRIPTION
(The Glen at Eagle Creek North - Section III)

A PART OF THE SOUTHWEST QUARTER OF SECTION 6 TOWNSHIP 16 NORTH, RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, MARION COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE ABOVE MENTIONED QUARTER SECTION; THENCE NORTH $89^{\circ}56'41''$ EAST ALONG THE SOUTH LINE OF SAID QUARTER SECTION 622.25 FEET; THENCE NORTH $00^{\circ}03'19''$ WEST 45.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING NORTH $00^{\circ}03'19''$ WEST 137.47 FEET; THENCE NORTH $89^{\circ}56'41''$ EAST 14.91 FEET; THENCE NORTH $00^{\circ}03'19''$ WEST 115.00 FEET; THENCE NORTH $89^{\circ}56'41''$ EAST 250.00 FEET; THENCE NORTH $00^{\circ}03'19''$ WEST 216.71 FEET; THENCE NORTH $89^{\circ}56'41''$ EAST 30.78 FEET; THENCE SOUTHEASTERLY 46.00 FEET ALONG AN ARC TO THE RIGHT AND HAVING A RADIUS OF 75.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH $72^{\circ}29'06''$ EAST AND A LENGTH OF 45.28 FEET; THENCE SOUTH $54^{\circ}54'54''$ EAST 38.25 FEET; THENCE SOUTHEASTERLY 20.40 FEET ALONG AN ARC TO THE RIGHT AND HAVING A RADIUS OF 15.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH $15^{\circ}57'16''$ EAST AND A LENGTH OF 18.64 FEET, TO A POINT OF REVERSE CURVATURE; THENCE SOUTHWESTERLY 37.39 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 125.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH $14^{\circ}26'13''$ WEST AND A LENGTH OF 37.25 FEET; THENCE SOUTH $84^{\circ}07'55''$ EAST 50.00 FEET; THENCE NORTHEASTERLY 31.38 FEET ALONG AN ARC TO THE RIGHT AND HAVING A RADIUS OF 15.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF NORTH $65^{\circ}48'25''$ EAST AND A LENGTH OF 25.96 FEET; TO A POINT OF REVERSE CURVATURE; THENCE SOUTHEASTERLY 64.27 FEET ALONG AN ARC TO THE LEFT AND HAVING A RADIUS OF 125.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH $68^{\circ}59'04''$ EAST AND A LENGTH OF 63.57 FEET; THENCE SOUTH $83^{\circ}42'54''$ EAST 43.32 FEET; THENCE SOUTHEASTERLY 21.90 FEET ALONG AN ARC TO THE RIGHT AND HAVING A RADIUS OF 15.00 FEET AND SUBTENDED BY A LONG CHORD HAVING A BEARING OF SOUTH $41^{\circ}53'06''$ EAST AND A LENGTH OF 20.01 FEET; THENCE SOUTH $00^{\circ}03'19''$ EAST 294.20 FEET; THENCE SOUTH $44^{\circ}56'41''$ WEST 35.36 FEET; THENCE SOUTH $89^{\circ}56'41''$ WEST 150.00 FEET; THENCE SOUTH $00^{\circ}03'19''$ EAST 20.00 FEET; THENCE SOUTH $89^{\circ}56'14''$ WEST 380.12 FEET TO THE POINT OF BEGINNING, CONTAINING 4.06 ACRES MORE OR LESS, SUBJECT HOWEVER, TO ALL EASEMENTS AND/OR RIGHTS-OF-WAY OF LEGAL RECORD.

FEB 26 1992

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FIRST SUPPLEMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF EAGLE CREEK NORTH

FILED

FEB 10 1992

This First Supplement is made this 31st day of January, 1992, by Eagle Creek North Associates, L.P., an Indiana limited partnership (the "Developer").

1. Developer is the owner of certain real estate more particularly described in Exhibit A attached hereto (the "Additional Real Estate").

2. Developer executed that certain Declaration of Covenants, Conditions and Restrictions of Eagle Creek North, on August 14, 1989 and recorded the same on August 15, 1989 as Instrument No. 89-79157 in the Office of the Recorder of Marion County, Indiana (the "Declaration").

3. Developer reserved in said Declaration the right from time to time, acting alone, to subject to the terms and provisions of the Declaration certain additional real estate located within the tracts adjacent to the Eagle Creek North Real Estate (as defined in the Declaration) by execution and recordation in the Office of the Recorder of Marion County of a supplemental declaration so annexing all or any part of such real estate.

4. The Additional Real Estate constitutes a part of the tract adjacent to the Eagle Creek North Real Estate.

NOW, THEREFORE, Declarant, in accordance with the rights reserved in the Declaration, makes this First Supplement as follows:

1. Definitions. All terms used in this First Supplement not otherwise defined in this First Supplement shall have the meanings set forth in the Declaration. Accordingly, the Additional Real Estate shall hereafter for all purposes be included in the definition of the Eagle Creek North Real Estate in the Declaration, as the same may be amended or supplemented from time to time as therein provided.

2. First Supplement to Declaration. Developer hereby expressly declares that the Additional Real Estate, together with all improvements of every kind and nature whatsoever located thereon, shall be annexed to the Eagle Creek North Real Estate and be subject to the provisions of the Declaration, as the same may be amended or supplemented from time to time as therein provided, and the Eagle Creek North Real Estate is hereby expanded include the Additional Real Estate, all as if the same had originally been included in the Declaration. The Additional Real Estate shall be hereafter held, transferred, sold, conveyed,

hypothecated, encumbered, leased, rented, used, improved and occupied subject to all of the provisions, agreements, covenants, conditions, restrictions, easements, assessments, charges and liens of the Declaration, as the same may be amended or supplemented from time to time as therein provided.

3. Effect of Covenants. All such provisions of the Declaration, as the same may be amended or supplemented from time to time as therein provided, shall be covenants running with the land and shall be binding upon, and inure to the benefit of Developer and any other person or entity having any right, title or interest in the Eagle Creek North Real Estate, or any part thereof.

4. Declaration Continuous. Except as expressly supplemented by this First Supplement, the Declaration shall continue in full force and effect.

IN WITNESS WHEREOF, this First Supplement has been executed by Developer as of the date first above written.

Eagle Creek North Associates, L.P.,
an Indiana limited partnership

By: Davis Development-Eagle Creek
North, Inc., its general
partner

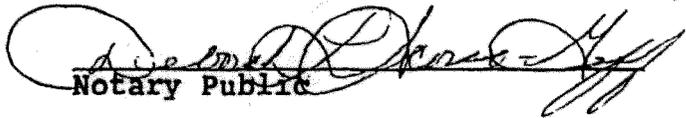
By: 

C. Richard Davis, President

STATE OF INDIANA)
) SS:
COUNTY OF Marion)

Before me, a Notary Public in and for the State of Indiana, personally appeared C. Richard Davis, the President of Davis Development - Eagle Creek North, Inc., who acknowledged the execution of the foregoing First Supplement to Declaration of Covenants, Conditions and Restrictions of Eagle Creek North.

WITNESS my hand and Notarial Seal this 31st day of January, 1992.


Notary Public

Deborah L. Jacobs-Goff
Printed Name

My Commission Expires: 12/12/92

Residing in Marion County



This instrument was prepared by C. Richard Davis, President of Davis Development, Inc., 8250 Haverstick Road, Suite 290, Indianapolis, Indiana 46240 (317)259-6214.

EXHIBIT " A "
LAND DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH,
RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, MARION COUNTY,
INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE ABOVE MENTIONED QUARTER SECTION; THENCE NORTH 00°11'37" EAST ALONG THE WEST LINE OF SAID QUARTER SECTION, 1418.48 (1418.20 FEET DEED) FEET TO THE SOUTHWEST CORNER OF BRIARWOODS APARTMENTS II AS RECORDED IN INSTRUMENT NUMBER 76-16162 IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA, SAID POINT BEING SOUTH 00°11'37" WEST, 1242.99 FEET FROM THE NORTHWEST CORNER OF SAID QUARTER SECTION AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH 89°55'41" EAST ALONG THE SOUTH LINE OF BRIARWOODS APARTMENTS II, SAID LINE BEING PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION, 1864.18 FEET (1864.00 FEET DEED) TO THE EAST LINE OF SAID QUARTER SECTION; THENCE SOUTH 00°05'50" EAST ALONG SAID EAST LINE, 486.86 FEET; THENCE SOUTH 89°55'41" WEST, 1866.71 FEET; THENCE NORTH 00°11'37" EAST, 500.01 FEET TO THE POINT OF BEGINNING CONTAINING 21.41 ACRES MORE OR LESS.

ARTICLES OF INCORPORATION
OF

APPROVED

EAGLE CREEK NORTH COMMUNITY ASSOCIATION, INC.

FILED

IND. SECRETARY OF STATE

The undersigned incorporator, desiring to form a corporation (hereinafter referred to as the "Association") pursuant to the provisions of the Indiana Not-For-Profit Corporation Act of 1971, as amended (hereinafter referred to as the "Act"), executes the following Articles of Incorporation;

ARTICLE I

Name

The name of the Association is Eagle Creek North Community Association, Inc.

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JOSEPH H. JOSEPH

ARTICLE II

Purposes

Section 1. This Association shall be a not-for-profit corporation. The specific purposes for which it is formed are to provide for the maintenance, preservation and architectural control of the lots, buildings and Common Areas within that certain tract of property in Marion County, Indiana, which is described in that Declaration of Covenants and Restrictions which is recorded in the Office of the Recorder of Marion County, Indiana, hereinafter called the "Declaration" as the same may be amended from time to time, as Instrument No. 890079157 (the "Real Estate"). Said Declaration is incorporated herein as if set forth at length. Capitalized terms used in the Articles of Incorporation shall have the same meanings as set forth in the Declaration. It is also a purpose of the Association to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of the Association. The Association shall serve as a "homeowners association" under Section 528 of the Internal Revenue Code of 1954 as amended.

Section 2. For these purposes, the Association shall have the power and authority to:

(a) exercise all of the powers and privileges and perform all of the duties and obligations of the Association set forth in the Declaration.

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; pay all expenses in connection therewith and all office and other expenses incident to the conduct of the

business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, pledge, mortgage and/or hypothecate any and all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, grant easements, sell or transfer all or any part of the Common Area to any public agency, authority, utility or private person, for such purposes and subject to such conditions as may be determined to be in the best interests of the members;

(f) participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and common areas; and,

(g) have and exercise any and all powers, rights and privileges which a corporation organized under the Not-For-Profit Corporation Law of the State of Indiana by law may now or hereafter have or exercise.

ARTICLE III

Period of Existence

The period during which the Association shall continue is perpetual.

ARTICLE IV

Resident Agent and Principal Office

Section 1. Resident Agent. The name and address of the Association's Resident Agent for service of process is C. Richard Davis, 8250 Haverstick Road, Suite 290, Indianapolis, IN 46240.

Section 2. Principal Office. The post office address of the principal office of the Association is 8250 Haverstick Road, Suite 290, Indianapolis, IN 46240.

ARTICLE V

Membership

Section 1. Classes (if any). The Owners of each Lot on the Real Estate, other than the Developer of such Lot, shall be a Class A member of the Association. The Developer of such lots shall be a Class B member.

Section 2. Rights, Preferences, Limitations and Restrictions of Classes. Every person or entity who is or may become a record owner of a Lot in the Real Estate, other than the Developer, shall be a Class A member of the Association. The term "Lot" shall include any single family residential units which are not developed on platted lots. The foregoing shall not include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Where more than one person owns an interest in any Lot, all such persons shall be members. However, there shall be only one voting representative entitled to all the Percentage Vote applicable to a Lot. The one voting representative entitled to cast the vote shall be determined in accordance with the provisions of the By-Laws of the Association.

Section 3. Voting Rights of Classes. The Association shall have two classes of voting membership. The Class A members shall be entitled to cast one vote for each lot owned on each matter coming before the members. The Class B member shall be entitled to cast three votes for each Lot on the Real Estate which the Developer owns. The Class B membership shall terminate, at which time it will automatically convert into Class A Membership for each Lot owned, on December 31, 1996, or at such time as there are three times as many Lots which are owned by Class A members on the Real Estate as there are Lots which are owned by a Class B Member.

ARTICLE VI

Directors

Section 1. Number of Directors. The initial Board of Directors is composed of three (3) members. The number of Directors shall not be less than three (3) nor more than nine (9). If the exact number of Directors is not stated in the By-Laws, the number shall be three (3).

Section 2. Names and Post Office Addresses of the Directors. The names and post office addresses of the initial Board of Directors are:

<u>Name</u>	<u>Number and Street or Building</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
Charles R. Davis	8250 Haverstick Road Suite 290	Indpls.	IN	46240
C. Richard Davis	8250 Haverstick Road Suite 290	Indpls.	IN	46240
Deborah L. Scorso	8250 Haverstick Road Suite 290	Indpls.	IN	46240

Section 3. General Powers of Directors. Subject to the provisions of these Articles of Incorporation, the By-Laws and applicable law, the Board of Directors shall have complete and plenary power to manage, control and conduct all affairs of the Association.

ARTICLE VII

Incorporator

Section 1. Name and Post Office Address. The name and post office address of the incorporator of the Association is as follows:

<u>Name</u>	<u>Number and Street or Building</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
C. Richard Davis	8250 Haverstick Road Suite 290	Indpls.	IN	46240

ARTICLE VIII

Statement of Property (if any)

A statement of the property and an estimate of the value thereof, to be taken over by this Association at or upon its incorporation, is as follows:

\$100.00 in cash.

ARTICLE IX

Provisions for Regulations and Conduct of the Affairs of Association

Other provisions, consistent with the laws of this state, for the regulation and conduct of the affairs of this Association, and

creating, defining, limiting or regulating the powers of this Association, of the directors or of the members of any class or classes of members are as follows:

Section 1. Conflicts of Interest. If the Association enters into contracts or transacts business with one or more of its Directors, or with any firm of which one or more of its Directors are members, or with any other corporation of which one or more of its Directors are stockholders, directors, or officers, such contract or transaction shall not be invalidated or in any way affected by the fact that such Director or Directors have or may have interests thereon which are or might be adverse to the interests of this Association, provided that the fact of such interest is disclosed or known to the Board of Directors and that the Board of Directors shall nevertheless approve and ratify by a vote of a majority of the Directors present, such interested Directors to be counted in determining whether a quorum is present and in calculating the majority of such quorum necessary to carry such vote. This section shall not be construed to invalidate any contract or other transaction which would otherwise be valid under common and statutory law applicable thereto.

Section 2. Place of Meetings. Meetings of the members of the Board of Directors shall be held at such place, within or without the State of Indiana, as may be specified in the respective notices or waivers thereof.

Section 3. Action Without Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors, or of any committee thereof, or of the Members, may be taken without a meeting, if prior to or after such action a written consent thereto is signed by all members of the Board, or of such committee, as the case may be, and such written consent is filed with the minutes of the proceedings of the Board or committee.

Section 4. Indemnity. The Association shall indemnify any person made a party to any action, suit or proceeding by reason of the fact that he, his testator, or intestate, is or was a Director, officer or employee of the Association, or of any Association in which he served as such at the request of the Association, against the reasonable expenses, including attorneys' fees, actually and reasonably incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such officer, Director or employee is liable for negligent or misconduct in the performance of his duties. The Association may also reimburse to any such Director, officer or employee the reasonable costs of settlement of any such action, suit or proceeding if it shall be found by a majority of a committee composed of the Directors not involved in the matter in controversy (whether or not a quorum) that such Director, officer or employee acted in the interests was

not guilty of negligence or misconduct. Such rights of indemnification and reimbursement shall not be deemed exclusive of any other rights to which such Director, officer or employee may be entitled apart from the provisions of this Article.

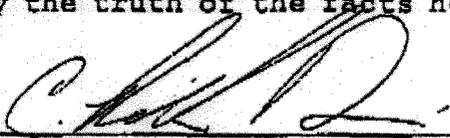
Section 5. Nonliability of Members. No member or director of this Association shall be liable for any of its obligations.

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the approval of the Federal Housing Administration or the Veteran Administration: annexation of additional properties (other than the property described in the attached Exhibit A, as to which approval is not required), mortgaging of Common Areas, dedication of Common Areas, and dissolution and amendment of these Articles.

Section 7. Right to Amend Articles. The Association reserves the right to amend, alter, change or repeal, in any manner now or hereafter prescribed by the Act, any provision contained in these Articles of Incorporation, and all rights, powers and privileges hereby conferred on members, directors or officers of the Association are subject to this reserved power; provided, however, that there shall be no amendment, alteration, change or repeal of these Articles prior to the Applicable Date without the consent and approval of the Developer.

The undersigned hereby adopts these Articles of Incorporation, representing beforehand to the Secretary of State of the State of Indiana and all persons whom it may concern that a membership list of the above named corporation for which a Certificate of Incorporation is hereby applied for, has heretofore been opened in accordance with the law and that at least one (1) person has signed such membership list.

IN WITNESS WHEREOF, I, the undersigned, being the sole incorporator designated in Article VII, do hereby execute these Articles of Incorporation and certify the truth of the facts herein stated, this 1st day of June, 1990.


C. Richard Davis

This instrument was prepared by Walter E. Wolf, Esquire, KLINEMAN, ROSE, WOLF and WALLACK, 135 North Pennsylvania Street, Suite 2100, Indianapolis, IN 46204-2456.

APR 10 1991

STATE OF INDIANA
OFFICE OF THE SECRETARY OF STATE

ARTICLES OF AMENDMENT

To Whom These Presents Come, Greeting:

WHEREAS, there has been presented to me at this office, Articles of Amendment for:

SOUTH CENTRAL ELKHART NEIGHBORHOOD IMPROVEMENT CORPORATION

and said Articles of Amendment have been prepared and signed in accordance with the provisions of the

Indiana Not-For-Profit Corporation Act of 1971,

as amended.

NOW, THEREFORE, I, JOSEPH H. HOGSETT, Secretary of State of Indiana, hereby certify that I have this day filed said articles in this office.

The effective date of these Articles of Amendment is March 25, 1991.

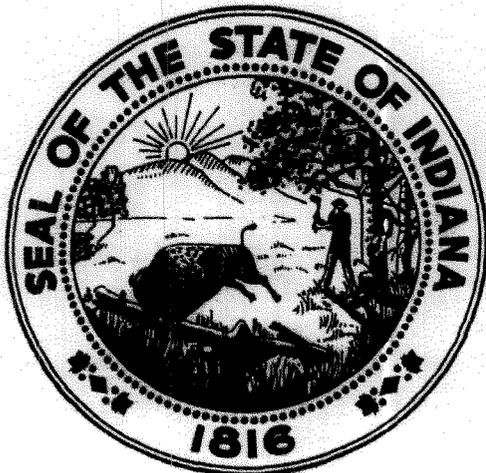
In Witness Whereof, I have hereunto set my hand and affixed the seal of the State of Indiana, at the City of Indianapolis, this Twenty-fifth day of March, 1991

Joseph H. Hogsett

JOSEPH H. HOGSETT, Secretary of State

By *Kirk A. Frank*

Deputy



LIST OF THE INITIAL SUBSCRIBERS
FOR MEMBERSHIP IN
EAGLE CREEK NORTH COMMUNITY ASSOCIATION, INC.

The undersigned hereby subscribes for membership in Eagle Creek North Community Association, Inc., a not-for-profit corporation to be formed under the laws of the State of Indiana (the "Association"), for the purpose of providing maintenance, preservation and architectural control of the lots, buildings and common areas within the area subject to a certain Declaration of Covenants and Restrictions which is recorded as Instrument No. 890079157 in the Office of the Recorder of Marion County, Indiana, as the same may be amended from time to time, as well as the promotion of the health, safety and welfare of the person residing within such area.

NAME OF SUBSCRIBER

DAVIS DEVELOPMENT CORPORATION

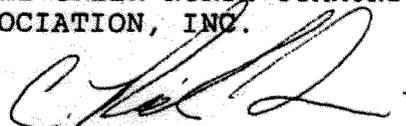
Dated at Indianapolis, Indiana, this 1st day of June, 1990.

DAVIS DEVELOPMENT CORPORATION

By: 
C. Richard Davis, President

Agreed to and accepted by the Association this 1st day of June, 1990.

EAGLE CREEK NORTH COMMUNITY
ASSOCIATION, INC.

By: 
C. Richard Davis,
Incorporator

FORMAL ACTION OF THE SUBSCRIBERS
FOR MEMBERSHIP IN
EAGLE CREEK NORTH COMMUNITY ASSOCIATION, INC.

Dated: June 1, 1990
Indianapolis, Indiana

The meeting of the subscribers as members in Eagle Creek North Community Association, Inc. (hereinafter referred to as the "Association"), a corporation to be formed under the provisions of the Indiana Not-For-Profit Corporation Act of 1971, as amended, was held at 8200 Haverstick Road, Suite 250, Indianapolis, Indiana, on the 1st day of June, 1990. The following actions were taken:

Upon motion duly made and seconded, the following resolutions were unanimously:

RESOLVED: That the following person is hereby designated to act as the Incorporator of the Association, a corporation to be formed under the Indiana Not-For-Profit Corporation Act, as amended:

C. Richard Davis

FURTHER RESOLVED: That Charles R. Davis, C. Richard Davis and Deborah L. Scorso shall serve as the initial members of the Board of Directors of the Association to hold office until the first annual meeting of the members of the Association or until their successors shall be duly elected and qualified.

FURTHER RESOLVED: That the Articles of Incorporation submitted to this meeting be, and they hereby are, approved and adopted as the Articles of Incorporation of the Association.

FURTHER RESOLVED: That the Incorporator named herein shall execute the Articles of Incorporation in triplicate and shall proceed with the organization of the Association according to law.

The Incorporator was requested to execute the Articles of Incorporation in triplicate, and then to cause two (2) executed copies of the Articles to be filed in the Office of the Secretary of State, to secure their endorsement and approval thereon, and to secure the Certificate of Incorporation of the Association.

There being no further business to come before the meeting, the same was, upon motion duly made and seconded, unanimously adjourned.

DAVIS DEVELOPMENT CORPORATION

By: 

C. Richard Davis, President

John

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06 PLAT COVENANTS AND RESTRICTIONS

FEB 10 1992

THE GARDENS NORTH

FILED

The undersigned, EAGLE CREEK NORTH ASSOCIATES, L.P., an Indiana limited partnership (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). The Developer is concurrently platting and subdividing the Real Estate as shown on the plat for The Gardens North, which is filed of record February 10, 1992 in the office of the Recorder of Marion County, Indiana (the "Plat") and desires in the Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision created by the Plat (the "Subdivision") is to be known and designated as "The Gardens North". In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants and restrictions contained in the Declaration of Covenants, Conditions and Restrictions of Eagle Creek North, dated August 14, 1989 and recorded on August 15, 1989 as Instrument No. 89-79157, in the office of the Recorder of Marion County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of the Eagle Creek North Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenants and restrictions contained in the Declaration shall govern and control, but only to the extent of the irreconcilable conflict, it being the intent hereof that all covenants and restrictions contained herein shall be applicable to the Real Estate to the fullest extent possible. Capitalized terms used herein shall have the same meaning as given in the Declaration.

In order to provide adequate protection to all present and future Owners of Lots or Residence Units in the Subdivision, the following covenants and restrictions, in addition to those set forth in the Declaration, are hereby imposed upon the Real Estate:

1. PUBLIC RIGHT OF WAY. The rights-of-way of the streets as shown on the Plat, if not heretofore dedicated to the public, are hereby dedicated to the public for use as a public right-of-way.
2. COMMON AREAS. There are areas of ground on the Plat marked "Common Area". Developer hereby declares, creates and grants a non-exclusive easement in favor of each Owner for the use and enjoyment of the Common Areas, subject to the conditions and restrictions contained in the Declaration.

FILED

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FEB 10 1992

John

3. UTILITY, DRAINAGE AND SEWER EASEMENTS. There are areas of ground on the Plat marked "Utility Easements, Drainage Easements and Sewer Easements", either separately or in combination. The Utility Easements are hereby created and reserved for the use of all public utility companies (not including transportation companies), governmental agencies and the Association for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television services. The Drainage Easements are hereby created and reserved for (i) the use of Developer during the "Development Period" (as such term is defined in the Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) the use of the Association and the Department of Public Works of the City of Indianapolis for access to and maintenance, repair and replacement of such drainage system. The owner of any Lot in the Subdivision subject to a Drainage Easement, including any builder, shall be required to keep the portion of said Drainage Easement on his Lot free from obstructions so that the storm water drainage will be unimpeded and will not be changed or altered without a permit from the Department of Public Works and prior written approval of the Developer. The Sewer Easements are hereby created and reserved for the use of the Department of Public Works and, during the Development Period, for the use of Developer for access to and installation, repair, removal replacement or maintenance of an underground storm and sanitary sewer system. The delineation of the Utility, Drainage and Sewer Easement areas on the Plat shall not be deemed a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this Paragraph 3. Except as installed by Developer or installed as provided above, no structures or improvements, including without limitation decks, patios, fences, walkways or landscaping, shall be erected or maintained upon said easements.

4. LANDSCAPE EASEMENTS. There are areas of ground on the plat marked "Landscape Easements" which are hereby created and reserved: (i) for the use of the Developer during the Development Period for access to and the installation, maintenance and replacement of foliage, landscaping, screening materials and other improvements and (ii) for the use of the Association for access to and the installation, maintenance and replacement of foliage, landscaping, screening materials and other improvements. Except as installed by Developer or installed and maintained by the Association or with the prior written consent of the Architectural Review Committee, no structures or improvements, shall be maintained in or upon said Landscape Easements.

5. TREE PRESERVATION EASEMENTS. There are areas of ground on the Plat marked "Tree Preservation Easements". Developer hereby declares, creates and reserves the Tree Preservation Easements for the preservation of trees located within and upon such easements and for the use of Developer during the Development Period for access to and for planting and replacement of trees, bushes, shrubbery, other vegetation providing landscape screening and other improvements. Trees of four (4) inch caliper or larger within any Tree Preservation Easement shall not be removed without the prior written consent of the Architectural Review Committee; provided, however, that such written consent shall not be required for removal of such trees (a) by public utility companies, governmental agencies, Developer, the Department of Public Works of the City of Indianapolis or the Association in connection with any such entity's use of the Drainage Utility and Sewer Easements as herein permitted; or (b) by Developer or any builder in connection with the initial construction of a residence on a Lot if such trees are located within the foot-print of the residence or any driveway, accessory building and other improvement to be constructed by the Developer or the builder on the Lot.

6. BUILDING LOCATION - FRONT, BACK AND SIDE YARD REQUIREMENTS. The building setback lines are established on the Plat. No building shall be erected or maintained between said setback lines and the front or rear lot line (as the case may be) of a Lot. The setback lines may vary in depth in excess of the minimum as designated on the Plat. The minimum front yard setback shall be fifteen (15) feet from the right of way to the living area or side of a garage and twenty (20) feet to the garage opening. The minimum Lot width both at the front Lot line and the designated setback shall be forty (40) feet, except on a cul-de-loop or cul-de-sac Lots, which shall be thirty-five (35) feet at the designated setback. In addition, no building or structure shall be erected or maintained closer to any side Lot line of any Lot than zero (0) feet. No building or structure on a Lot shall be located any closer than ten (10) feet to any other building or structure, whether or not located on an adjacent Lot. If a residential building or structure is constructed on any Lot. If a residential building or structure is constructed on any Lot within three (3) feet of the side Lot Line, then a Side Yard Easement shall exist on the portion of the adjoining Lot which is within six (6) feet of any part of the residential structure on the abutting Lot. Utility companies and service people shall have an easement for access over any side yard easements to the extent reasonably necessary to service, repair or replace any utility lines or facilities located therein or on an adjoining lot where access is necessary over the side yard easement. If a residential structure is not located within three (3) feet of the Lot Line, then there shall not be any Side Yard Easement on the adjoining Lot. No structure shall be built within such Side Yard Easement. Decks, fences, patios, walkways, landscaping, public

utilities, cable TV and other ground level improvements may be constructed within the Side Yard Easement. In addition, the Owner of the Lot which abuts the Side Yard Easement shall have the right to pass over any part of the Side Yard Easement which is within four (4) feet of such Owner's residential structure for the purpose of obtaining access to his or her building or structure for the purpose of painting, repairing, and maintaining such building or structure. Where two (2) or more contiguous Lots are used as a site for single family dwelling or two family dwelling where zoning permits, this side yard restriction shall apply to the combined Lots as if they were a single Lot.

7. RESIDENTIAL UNIT SIZE. No residence constructed on a Lot shall have less than eight hundred fifty (850) square feet of total floor area, exclusive of garages, carports and open porches. No more than twenty-five percent (25%) of the homes within the entire subdivision shall contain less than nine hundred (900) square feet, and the average size of all homes in the entire subdivision shall be at least one thousand (1,000) square feet.

8. RESIDENTIAL UNIT USE. All Lots in the Subdivision shall be used solely for residential purposes. No business building shall be erected on any lot, and no business may be conducted on any part hereof, other than the home occupations permitted in the Dwelling Districts Zoning Ordinance of Marion County, Indiana. No structure shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family residence not to exceed two and one-half (2 1/2) stories in height and permanently attached residential accessory buildings. Any garage, tool shed, storage building or any other building erected or used as an accessory building to a residence shall be attached to the structure, shall be of permanent type of construction and shall conform to the general architecture and appearance of the residence.

9. ACCESSORY AND TEMPORARY BUILDINGS. No trailers, shacks, outhouses, detached storage sheds or tool sheds of any kind shall be erected or situated on any Lot in the Subdivision, except that used by the Developer or by a builder during the construction of a residential building on the property, which temporary construction structures shall be removed upon completion of construction of the Subdivision or building, as the case may be.

10. TEMPORARY RESIDENCE. No trailer, shack, tent, boat, basement, garage or outbuilding may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence.

11. NUISANCES. No domestic animals raised for commercial purposes and no farm animals or fowl shall be kept or permitted on any Lot. No noxious, unlawful or otherwise offensive activity

shall be carried out on any Lot, nor shall anything be done thereon which may be or may become a serious annoyance or nuisance to the neighborhood.

12. VEHICLE PARKING. No camper, motor home, truck, trailer, boat, snowmobile or other recreational vehicle of any kind may be stored on any Lot in open public view. No vehicles of any kind may be put up on blocks or jacks to accommodate car repair on a Lot unless such repairs are done in the garage. Disabled vehicles shall not be allowed to remain in open public view.

13. SIGNS. No sign of any kind shall be displayed to the public view on any Lot, except that one sign of not more than six (6) square feet may be displayed at any time for the purpose of advertising a property for sale, and except that Developer and its affiliates and designees, including the builders, may use larger signs during the sale and development of the Subdivision.

14. MAILBOXES. All mailboxes and replacement mailboxes shall be uniform and shall conform to the standards set forth by the Architectural Review Committee.

15. GARBAGE AND REFUSE DISPOSAL. Trash and refuse disposal will be on an individual basis, lot by lot. The community shall not contain dumpsters or other forms of general or common trash accumulation except to facilitate development and house construction. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage and other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. No rubbish, garbage or other waste shall be allowed to accumulate on any Lot. No homeowner or occupant of a Lot shall burn or bury any garbage or refuse.

16. STORAGE TANKS. Any gas or oil storage tanks used in connection with a Lot shall be either buried or located in a garage or house such that they are completely concealed from public view and shall comply with all applicable underground storage laws and regulations.

17. WATER SUPPLY AND SEWAGE SYSTEMS. No private or semi-private water supply or sewage disposal system may be located upon any Lot. No septic tank, absorption field or similar method of sewage disposal shall be located or constructed on any Lot.

18. DITCHES AND SWALES. All owners, including builders, shall keep unobstructed and in good maintenance and repair all open storm water drainage ditches and swales which may be located on their respective Lots.

19. DRIVEWAYS. Each driveway in the Subdivision shall be of concrete or asphalt material.

20. ANTENNA AND SATELLITE DISHES. No antenna in the Subdivision shall exceed five (5) feet above a roof peak. No satellite dishes shall be permitted in the Subdivision.

21. AWNINGS. No metal, fiberglass, canvas or similar type material awnings or patio covers shall be permitted in the Subdivision, except that a builder may utilize a canvas or similar type material awning on its model home sales center in the Subdivision.

22. FENCING. All fencing used in the Subdivision must be wooden and shall not be higher than six (6) feet. Chain link fencing is prohibited. No fencing shall extend forward of the furthest back front corner of the residence. All fencing style, color, location and height shall be consistent within the Subdivision and shall be subject to prior written approval of the Architectural Review Committee.

23. SWIMMING POOLS. No above-ground swimming pools shall be permitted in the Subdivision.

24. SOLAR PANELS. No solar heat panels shall be permitted on roofs of any structures in the Subdivision. All such panels shall be enclosed within fenced areas and shall be concealed from the view of neighboring Lots, common areas and the streets.

25. SITE OBSTRUCTIONS. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

26. VIOLATION. Violation or threatened violation of these covenants and restrictions shall be grounds for an action by the Developer, the Association or any person or entity having any right, title or interest in the Real Estate, and all persons or entities claiming under them, against the person or entity violating or threatening to violate any such covenants or restrictions. Available relief in any such action shall include recovery of damages for such violation, injunctive relief against any such violation or threatened violation, declaratory relief and the recovery of costs and attorneys reasonable fees incurred by any party successfully enforcing these covenants and restrictions; provided, however, that neither the Developer nor

the Association shall be liable for damages of any kind to any person for failing to enforce such covenants or restrictions.

27. METROPOLITAN DEVELOPMENT COMMISSION. The Metropolitan Development Commission, its successors and assigns shall have no right, power or authority to enforce any covenants, restrictions or other limitations contained herein other than those covenants, restrictions or limitations that expressly run in favor of the Metropolitan Development Commission; provided that nothing herein shall be construed to prevent the Metropolitan Development Commission from enforcing any provisions of the Subdivision Control Ordinance, 58-AO-3, as amended, or any conditions attached to approval of the Plat by the Plat Committee.

28. AMENDMENT. These covenants and restrictions may be amended at any time by the then owners of at least sixty-seven percent (67%) of the Lots in all Subdivisions which are now or hereafter made subject to and annexed to the Declaration; provided, however, that until all of the Lots in such Subdivisions have been sold by Developer, any such amendment shall require the prior written approval of Developer. Each such amendment shall be evidenced by a written instrument, signed by the Owner or Owners concurring therein, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the office of the Recorder of Marion County, Indiana. No amendment which adversely affects the rights of a public utility shall be effective with respect to such public utility without its written consent thereto. No amendment which is contrary to a zoning commitment shall be effective without the written approval of the affected adjacent homeowners associations designated by the Department of Metropolitan Development.

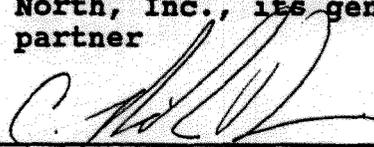
29. TERM. The foregoing plat covenants and restrictions, as the same may be amended from time to time, shall run with the land and shall be binding upon all persons or entities from time to time having any right, title or interest in the Real Estate and on all persons or entities claiming under them, until December 31, 2005, and thereafter they shall continue automatically in effect unless terminated by a vote of a majority of the then Owners of the Lots in the Subdivision; provided, however, that no termination of said these covenants and restrictions shall affect any easement hereby created and reserved unless all persons entitled to the beneficial use of such easement shall have consented thereto in writing.

30. SEVERABILITY. Invalidation of any of the foregoing covenants or restrictions by judgment or court order shall in no way affect any of the other covenants and restrictions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned Developer, as the owner of the Real Estate, has hereunto caused its name to be subscribed this 31st day of January, 1992.

Eagle Creek North Associates, L.P.
an Indiana limited partnership

By: Davis Development-Eagle Creek
North, Inc., its general
partner

By: 

C. Richard Davis
President

STATE OF INDIANA)
)SS:
COUNTY OF MARION)

Before me, a Notary Public in and for the State of Indiana, personally appeared C. Richard Davis, the President of Davis Development - Eagle Creek North, Inc. an Indiana corporation, and acknowledged the execution of this instrument as his voluntary act and deed as such officer on behalf of such corporation for the uses and purposes hereinabove set forth.

Witness my signature and Notarial Seal this 15th day of January, 1992.

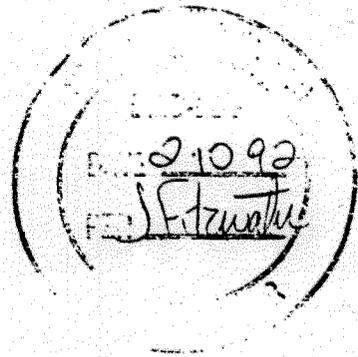
Deborah L. Farnsworth
Notary Public

Deborah L. Farnsworth
Printed

My commission expires:

12/12/92

I am a resident of
Marion County, Indiana.



This instrument was prepared by C. Richard Davis, Davis Development Development, Inc., 8250 Haverstick Road, Suite 290, Indianapolis, Indiana 46240.

EXHIBIT " A "
LAND DESCRIPTION

A PART OF THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 16 NORTH,
RANGE 3 EAST OF THE SECOND PRINCIPAL MERIDIAN, MARION COUNTY,
INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE ABOVE MENTIONED QUARTER SECTION; THENCE NORTH $00^{\circ}11'37''$ EAST ALONG THE WEST LINE OF SAID QUARTER SECTION, 1418.48 (1418.20 FEET DEED) FEET TO THE SOUTHWEST CORNER OF BRIARWOODS APARTMENTS II AS RECORDED IN INSTRUMENT NUMBER 76-16162 IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA, SAID POINT BEING SOUTH $00^{\circ}11'37''$ WEST, 1242.99 FEET FROM THE NORTHWEST CORNER OF SAID QUARTER SECTION AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE NORTH $89^{\circ}55'41''$ EAST ALONG THE SOUTH LINE OF BRIARWOODS APARTMENTS II, SAID LINE BEING PARALLEL WITH THE NORTH LINE OF SAID QUARTER SECTION, 1864.18 FEET (1864.00 FEET DEED) TO THE EAST LINE OF SAID QUARTER SECTION; THENCE SOUTH $00^{\circ}05'50''$ EAST ALONG SAID EAST LINE, 486.86 FEET; THENCE SOUTH $89^{\circ}55'41''$ WEST, 1866.71 FEET; THENCE NORTH $00^{\circ}11'37''$ EAST, 500.01 FEET TO THE POINT OF BEGINNING CONTAINING 21.41 ACRES MORE OR LESS.