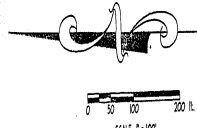


59130111

DEED BOOK 2, PAGE 59  
J. H. SHENOA

N 84°55'02" E  
1220.12'



**DESCRIPTION**

A parcel of land located in the East One-half of the Southeast One-quarter of Section 2, Township 30 North, Range 11 East, Allen County, Indiana and more particularly described as follows: COMMENCING at the Southeast corner of the Southeast One-quarter of Section 2, Township 30 North, Range 11 East as now established and found marked by a P.K. nail; thence North 89 degrees 41 minutes 54 seconds West (bearing based on the recorded plat of Whispering Meadows, Section VI) along the South line to said Southeast One-quarter as now established; a distance of 208.74 feet to the point of beginning;

BEGINNING at the above described point; thence North 89 degrees 41 minutes 54 seconds West along said South line, a distance of 1113.75 feet to the West line of the East One-half of said Southeast One-quarter; thence North 01 degree 08 minutes 59 seconds East, a distance of 1843.63 feet; thence South 88 degrees 51 minutes 01 seconds East, a distance of 212.15 feet; thence South 30 degrees 58 minutes 23 seconds East, a distance of 223.88 feet; thence South 30 degrees 27 minutes 25 seconds West, a distance of 73.95 feet; thence South 88 degrees 43 minutes 59 seconds East, a distance of 722.86 feet; thence North 01 degree 16 minutes 01 seconds East, a distance of 320.00 feet; thence South 88 degrees 43 minutes 59 seconds East, a distance of 130.02 feet; thence North 01 degree 16 minutes 01 second East, a distance of 50.00 feet; thence South 88 degrees 43 minutes 59 seconds East, a distance of 180.00 feet; thence South 01 degree 16 minutes 01 second West, a distance of 1724.76 feet; thence North 89 degrees 41 minutes 54 seconds West, a distance of 355.0 feet; thence North 01 degree 16 minutes 06 seconds East, a distance of 137.85 feet; thence North 14 degrees 03 minutes 46 seconds East, a distance of 213.43 feet; thence North 01 degree 16 minutes 01 second East, a distance of 572.24 feet; thence North 89 degrees 46 minutes 51 seconds West, a distance of 255.0 feet; thence South 40 degrees 05 minutes 29 seconds West, a distance of 147.52 feet; thence South 63 degrees 22 minutes 11 seconds West, a distance of 131.82 feet; thence South 27 degrees 28 minutes 38 seconds East, a distance of 145.42 feet; thence North 01 degree 08 minutes 59 seconds West, a distance of 414.07 feet; thence South 00 degree 00 second 00 minute East, a distance of 264.50 feet; thence South 89 degrees 41 minutes 54 seconds East and parallel to the South line of said Southeast One-quarter, a distance of 468.73 feet; thence South 01 degree 16 minutes 01 second West and parallel to the East line of said Southeast One-quarter, a distance of 60.01 feet to the point of beginning, containing 41.579 acres of land, more or less.

DEED BOOK 2, PAGE 59  
J. H. SHENOA

1. ALL RIGHT-OF-WAY INTERSECTION RADIUS TO BE 20 FEET.
  2. ALL RIGHT-OF-WAYS TO BE DEDICATED 50 FEET WIDE TO ALLEN COUNTY.
  3. ALL PARK LOTS, COMMON AREAS, OR BLOCK AREAS TO HAVE A BLANKET UTILITY AND SURFACE DRAINAGE EASEMENT.
  4. ALL BURIED UTILITIES MUST ALLOW FOR PROPOSED DRAINAGE SHALE GRADIENTS AS FOUND IN PLANS.
- SL - STREET LIGHT EASEMENT  
 UL - UNDERGROUND UTILITY EASEMENT  
 BL - BUILDING LINE  
 UT - UTILITY EASEMENT  
 SD - SURFACE DRAINAGE EASEMENT  
 SAN - SANITARY SEWER EASEMENT  
 EASEMENT  
 FPD - FLOOD PROTECTION GRADE

**PLAT BENCHMARK**

TOP OF NORTH RIM OF THE SANITARY MANHOLE LOCATED AT THE E CORNER OF LOT # 20 IN THE FALLS OF BEAVER CREEK SECTION I.  
ELEVATION 828.00 MSL DATUM

TOP OF NORTH RIM OF THE SANITARY MANHOLE LOCATED 100 FEET EAST AND 5 FEET SOUTH OF THE CORNER OF LOT # 40 IN THE FALLS OF BEAVER CREEK SECTION I.  
ELEVATION 828.00 MSL DATUM

**SECONDARY PLAT  
of  
the FALLS of  
BEAVER CREEK  
SECTION I**

a Subdivision located in SE 1/4 of Section 2,  
Township 30 North, Range 11 East,  
Allen County, Indiana



RIGHT OF WAY			
CURVE #	CHORD	DELTA	CHORD LENGTH
<b>CURVE #1</b>			
EAST	200.00	21° 34' 36"	92.58
WEST	200.00	21° 34' 36"	74.86
<b>CURVE #2</b>			
EAST	200.00	47° 32' 0"	191.21
WEST	200.00	47° 32' 0"	201.52
<b>CURVE #3</b>			
EAST	150.00	42° 27' 51"	106.64
WEST	200.00	42° 27' 51"	144.85
<b>CURVE #4</b>			
NORTH	200.00	50° 25' 4"	91.28
SOUTH	150.00	50° 25' 4"	88.47
<b>CURVE #5</b>			
NORTH	200.00	45° 13' 48"	95.45
SOUTH	150.00	45° 13' 48"	135.93
<b>CURVE #6</b>			
NORTH	200.00	58° 20' 45"	154.58
SOUTH	150.00	58° 20' 45"	145.23
<b>CURVE #7</b>			
EAST	200.00	4° 37' 38"	17.21
WEST	150.00	4° 37' 38"	12.88
<b>CURVE #8</b>			
EAST	250.00	42° 27' 51"	181.07
WEST	200.00	42° 27' 51"	144.85

LOT DATA			
LOT	AREA	ACRES	CHORD
1	200.00	4.579	92.58
2	200.00	4.579	92.58
3	200.00	4.579	92.58
4	200.00	4.579	92.58
5	200.00	4.579	92.58
6	200.00	4.579	92.58
7	200.00	4.579	92.58
8	200.00	4.579	92.58
9	200.00	4.579	92.58
10	200.00	4.579	92.58
11	200.00	4.579	92.58
12	200.00	4.579	92.58
13	200.00	4.579	92.58
14	200.00	4.579	92.58
15	200.00	4.579	92.58
16	200.00	4.579	92.58
17	200.00	4.579	92.58
18	200.00	4.579	92.58
19	200.00	4.579	92.58
20	200.00	4.579	92.58
21	200.00	4.579	92.58
22	200.00	4.579	92.58
23	200.00	4.579	92.58
24	200.00	4.579	92.58
25	200.00	4.579	92.58
26	200.00	4.579	92.58
27	200.00	4.579	92.58
28	200.00	4.579	92.58
29	200.00	4.579	92.58
30	200.00	4.579	92.58
31	200.00	4.579	92.58
32	200.00	4.579	92.58
33	200.00	4.579	92.58
34	200.00	4.579	92.58
35	200.00	4.579	92.58
36	200.00	4.579	92.58
37	200.00	4.579	92.58
38	200.00	4.579	92.58
39	200.00	4.579	92.58
40	200.00	4.579	92.58
41	200.00	4.579	92.58
42	200.00	4.579	92.58
43	200.00	4.579	92.58
44	200.00	4.579	92.58
45	200.00	4.579	92.58
46	200.00	4.579	92.58
47	200.00	4.579	92.58
48	200.00	4.579	92.58
49	200.00	4.579	92.58
50	200.00	4.579	92.58

WEST LINE OF THE E 1/2 OF THE SE 1/4 SEC. 2-30-4  
ROBERT & LORRAINE BANGERT  
DB 22 PAGE 66

SE 1/4 SEC. 2-30-4  
TOWNSHIP 30 NORTH, RANGE 11 EAST, ALLEN COUNTY, INDIANA  
SECTION I  
the FALLS of BEAVER CREEK  
a Subdivision located in SE 1/4 of Section 2,  
Township 30 North, Range 11 East,  
Allen County, Indiana

BCIPLATBDW

0	1	1
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a Subdivision located in SE 1/4 of Section 2  
Township 30 North, Range 11 East,  
Allen County, Indiana

DB Z2 PAGE 06

LOT CURVE DATA		
LOT	RADIUS	DELY

1	200.00	14° 18' 58"
2	200.00	7° 15' 45"

5	250,00	5', 21", 15"
6	250,00	16', 24", 50"
7	500,00	17', 27", 10"

7	250,00	17%	15%	14%
8	250,00	6%	30%	51%
9	250,00	8%	11%	18%

B	200.00	7%	4%	13%
BLOCK D	200.00	8%	12%	26%
C	200.00	10%	15%	25%

9	200.00	23% 33% 5%
10	200.00	3% 56% 7*
14	60.00	74% 80% 11*

14	50.00	59 %	29 %	12 %
15	50.00	59 %	29 %	12 %
16	60.00	58 %	28 %	14 %

17	50.00	67%	57%	24"
18	50.00	58%	3%	42"

18	150.00	20%	68%	58"
BLOCK E	150.00	16%	0%	48"

20	150.00	5°	28°	27°
20	200.00	13°	51°	45°

21	200.00	12° 31' 19"
22	135.00	29° 53' 14"

BLOCK E	135.00	13° - 20° - 35°
BLOCK E	200.00	6° - 24° - 59°

23	200.00	21° 10' 58"
24	200.00	13° 12' 37"

25	200.00	11° 32' 12"
50	200.00	4° 57' 29"
75	10.00	10° 15' 12"

52	51.00	50%	18%	42%
53	50.00	51%	27%	1%
54	49.00	48%	54%	13%

54	50.00	48' - 34' - 19"
55	50.00	46' - 34' - 19"
56	50.00	48' - 11' - 2"

56	50.00	57	6° 37'
58	150.00	59	4° 12' 40"

60	150.00	0° 44' 58"
59	150.00	12° 57' 58"

70	190,00	45° 23' 8"
71	185,00	18° 30' 24"

72	185.00	21° 34' 31"
BLOCK C	185.00	3° 5' 53"

74	150.00	25%	25%	4%
75	200.00	19%	17%	51%
76	200.00	50%	50%	10%

75	200.00	29%	14%	16%
80	250.00	8%	24%	39%
85	300.00	13%	31%	45%

81	250.00	12%	9%	45%
83	200.00	34%	47%	22%
84	300.00	7%	48%	50%

84	200.00	7 %	40 %	29 %
88	50.00	8 %	51 %	18 %
90	50.00	94 %	45 %	19 %

89	60.00	55%	57%	33"
90	60.00	55%	57%	33"
91	60.00	55%	57%	33"

91	50.00	93	50.00	95	50.00
92	50.00	94	26% 17"		
97	250.00	98	8% 50% 8"		

90	250.00	17%	27%	29*
90	250.00	15%	12%	3*

1999

DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS,  
LIMITATIONS, EASEMENTS AND APPROVALS APPENDED  
OF THE PLAT OF THE FALLS OF BEAVER CREEK, SECTION I  
A SUBDIVISION IN ABOITE TOWNSHIP, ALLEN COUNTY, INDIANA

My Comm. Expires 12/31/95  
ALLEN COUNTY RECORDER

95 MAR 31 AM 11:43

North Eastern Construction Co., Inc., an Indiana corporation, by Joseph L. Zehr, its President, declares that it is the owner of the real estate shown and legally described in this plat ("Real Estate"), and lays off, plats and subdivides the Real Estate in accordance with the information shown on the certified plat attached to and incorporated by reference in this document. The platted Subdivision shall be known and designated as The Falls Of Beaver Creek, Section I, a Subdivision in Aboite Township, Allen County, Indiana.

The lots are numbered from 1 through 99 inclusive, and all dimensions are shown in feet and decimals of a foot on the Plat. All streets and easements specifically shown or described are expressly dedicated to public use for their usual and intended purposes.

PREFACE

The Falls of Beaver Creek, Section I is part of a tract of real estate which is currently planned to be subdivided into a maximum of 300 residential lots. In addition to the recordation of the Plat of and this document, there will be recorded articles of incorporation of The Falls of Beaver Creek Community Association, Inc., it being Developer's intention that each Owner of a lot in The Falls of Beaver Creek, Section I will become a member of said association, and be bound by its articles of incorporation and bylaws.

Section 1. DEFINITIONS. The following words and phrases shall have the meanings stated, unless the context clearly indicates that a different meaning is intended:

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

1.2 "Association". The Falls of Beaver Creek Community Association, Inc., an Indiana nonprofit corporation, and its successors and assigns.

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

1.4 "Bylaws". The Bylaws adopted by The Falls of Beaver Creek Community Association, Inc., and all amendments to those Bylaws.

1.5 "Committee". The Architectural Control Committee established under section 5 of the Covenants.

1.6 "Common Area". All real property owned by the Association for the common use and enjoyment of Owners.

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

DULY ENTERED FOR TAXATION

<sup>1</sup> 95 1047  
AUDITORS NUMBER

MAR 31 1995

AUDITOR OF ALLEN COUNTY

35  
JL  
da

95

130

11

1.8 "Developer". Futuro, Inc., an Indiana corporation, and its assigns and successors in interest in the Real Estate.

1.9 "Lot", and in plural form, "Lots". Any of the platted lots in the Plat, or any tract(s) of Real Estate which may consist of one or more Lots or part(s) of them upon which a residence is erected in accordance with the Covenants, or such further restrictions as may be imposed by any applicable zoning ordinance; provided, however, that no tract of land consisting of part of Lot, or parts of more than one Lot, shall be considered a "Lot" under these Covenants unless the tract has a frontage of at least 70 feet in width at the established front building line as shown on the Plat.

1.10 "Owner, and in the plural form, "Owners". The record owner(s) (whether one or more persons or entities) of fee simple title to the Lots, including contract sellers, but excluding those having an interest in a Lot merely as security for the performance of an obligation.

1.11 "Plan Commission". The Allen County Plan Commission, or its successor agency.

1.12 "Plat". The recorded secondary plat of The Falls of Beaver Creek.

1.13 "Subdivision". The platted Subdivision of The Falls of Beaver Creek.

## Section 2. PROPERTY RIGHTS.

2.1 Owners' Easements of Enjoyment. Each Owner shall have the right and an easement of enjoyment in the Common Area that is appurtenant to and passes with the title to every Lot, subject to the following rights which are granted to the Association.

2.1.1 To charge reasonable admission and other fees for the use of any recreational facility located in the Common Area.

2.1.2 To suspend the voting rights and right to the use of the recreational facilities in the Common Area for any period during which any assessment against an Owner's Lot remains unpaid, or an Owner is in violation of the Covenants, the Articles, the Bylaws, or any published rule of the Association.

2.1.3. To dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Association's members. No such dedication or transfer shall be effective unless an instrument signed by at least two-thirds of each class of Association members agreeing to such dedication or transfer, is recorded.

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

## Section 3. MEMBERSHIP AND VOTING RIGHTS

3.1 Every Owner shall be a member of the Association.



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shall be appurtenant to and may not be separated from ownership of a Lot.

3.2 The Association shall have the following two classes of voting memberships:

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

3.2.2 Class B. Class B membership consists of Developer. The Class B member shall be entitled to 900 votes less that number of votes which Class A members are entitled to exercise. Class B membership shall cease upon the happening of either of the following events, whichever occurs first:

3.2.2.1 When fee simple title to all Lots have been conveyed by Developer; or

3.2.2.2 on December 31, 2004.

#### Section 4. COVENANT FOR MAINTENANCE ASSESSMENTS

4.2 Creation of the Lien and Personal Obligation of Assessments. Each Owner, except Developer, by acceptance of a deed for a Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; and (2) special assessments for capital improvements. Such assessments to be established and collected as provided in these Covenants and the Bylaws. The annual and special assessments, together with interest, costs and reasonable attorney fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney fees, shall also be the personal obligation of the person who was Owner of such Lot at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

4.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health and welfare of the residents in the Subdivision, and for the improvement of facilities in the Subdivision. In addition, assessments shall be levied to provide for the proportionate burden of the maintenance of the common impoundment basin into which the Subdivision's surface waters drain.

4.3 Maximum Annual Assessments. Until January 1 of the year immediately following the first conveyance by Developer of a Lot, the maximum annual assessment shall be One Hundred and Fifty Dollars (\$150.00) per Lot. Subsequent assessments may be made as follows:

4.3.1 From and after January 1 of the year immediately following such first conveyance of a Lot, the maximum annual assessment may be increased each year by the Board of Directors, by a percentage not more than 8% above the annual assessment for the previous year, without a vote of the membership.

4.3.2 From and after January 1 of the year immediately following such first conveyance of a Lot, the maximum annual assessment may be increased by a percentage in excess of 8%, only by the vote or written assent of a majority of each class of members of the Association.

4.4 Special Assessments For Capital Improvements. In addition to the annual assessments authorized in Section 4.3, the Association may levy, in any assessment year, a special assessment applicable to that year for the purpose of defraying, in whole or in part, the cost of any new construction, or repair or replacement of an existing capital improvement in the Common Area, including fixtures and related personal property; provided that any such assessment shall require the vote or written assent of 75% of each class of members of the Association; and provided, further, that no such special assessment for any such purpose shall be made if the assessment in any way jeopardizes or affects the Association's ability to improve and maintain the Common Area, or pay its pro rata share of the cost of maintaining the common impoundment basin.

4.5 Notice and Quorum for Any Action Authorized Under Subsections 4.3 and 4.4. Any action authorized under Sections 4.3.2 and 4.4 shall be taken at a meeting of the Association called for that purpose, written notice of which shall be sent to all members not less than 30 days, nor more than 60 days, in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite percentage of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by an officer of the Association within 30 days of the date of such meeting.

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

4.7 Date of Commencement of Annual Assessment/s Due Dates. The annual assessments allowed under Section 4.3 shall commence as to all Lots then subject to an assessment, on the first day of the month following the first conveyance of a Lot by Developer. The first annual assessment shall be pro rated according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of the date the annual assessment is due. Written notice of the annual assessment shall be given to every Owner. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association stating whether an assessment on a Lot has been paid.

4.8 Effect of Nonpayment of Assessments/Remedies of the Association.

4.8.1 Any assessment not paid within 30 days after its due date shall bear interest from the due date at the rate of 12% per annum, or at the legal rate of interest in Indiana, whichever is higher.

4.8.2 The Association may bring an action at law against each Owner personally obligated to pay the same, and foreclose the lien of an assessment against a Lot. No Owner may waive or otherwise escape

liability for the assessments made under the Covenants by non-use of the Common Area or abandonment of a Lot. The lien for delinquent assessments may be foreclosed in the same manner as mortgages are foreclosed in Indiana. The Association shall also be entitled to recover the attorney fees, costs and expenses incurred because of the failure of an Owner to timely pay assessments made under this Section 4.

4.9 Subordination of Assessment Lien to First Mortgages Liens.

The lien of the assessments made under the Covenants shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien against it. No sale or transfer shall relieve an owner or Lot from liability for any assessment subsequently becoming due, or from the lien of an assessment. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer.

Section 5. ARCHITECTURAL CONTROL

5.1 No building, fence, wall, in-ground swimming pool, or other structure shall be commenced, erected or maintained upon a Lot, nor shall any exterior addition, change, or alteration be made to a structure on a Lot until the plans and specifications showing the structure's nature, kind, shape, height, materials and location are submitted to and approved by the Committee in writing as to the structure's harmony of external design and location in relation to surrounding structures and topography in the Subdivision. The Committee shall be composed of three members, the first Committee members to be: Joseph L. Zehr, Cathy A. Zehr and Orrin R. Sessions. A majority of the Committee may appoint a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to appoint a successor.

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

5.3 After primary residences are constructed on all Lots in the Subdivision, the Board of Directors (or other entity designated under its Articles or Bylaws) shall succeed to the Committee's responsibilities under this Section 5 to review subsequent construction, modifications and additions of structures in the Subdivision.

5.4 In the event the Committee (or Board of Directors or other entity acting under Sections 5.2 or 5.3), fails to approve or disapprove the design and location of a proposed structure within 30 days after said plans and specifications have been submitted to it, approval will not be required, and approval under this Section 5 will be deemed to have been given.

5.5 Notwithstanding any other provisions to the contrary in this section 5, the Committee may not approve construction or modification of any fence on Lots 17 through 28, 30, 31, 71, 72, and 92 through 99, all

inclusive which, in the Committee's sole opinion, would create a sight obstruction of any lake in the Subdivision.

#### Section 6 GENERAL PROVISIONS

6.1 Use. Lots may not be used except for single-family residential purposes. No building 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 stories in height. Each residence shall include a garage as part of the residence which shall contain a floor area of not less than 500 square feet.

6.2 Dwelling Size. No residence shall be built on a Lot having a ground floor area upon the foundation, exclusive of one-story open porches, breezeways or garages, of less than 1600 square feet for a one-story residence, or less than 2000 square feet of total living area on Lots 1 through 42 and 66 through 99; and 1400 square feet for a one-story residence, or less than 1800 square feet of total living area on Lots 43 through 65, (excluding one-story open porches, breezeways and garages), for a residence that has more than one story.

6.3 Building Lines. No structure shall be located on a Lot nearer to the front Lot line, or nearer to the side street line than the minimum building setback lines shown on the Plat. In any event, no building shall be located nearer than a distance of 7 feet to an interior Lot line. No dwelling shall be located on an interior Lot nearer than 25 feet to the rear Lot line for Lots 1 through 15, 28, 29, 31 through 71, and 73 through 89, and 15 feet to the rear lot line for lots 16 through 27, 30, 72, and 90 through 99.

6.4 Minimum Lot Size. No residence shall be erected or placed on a Lot having a width of less than 85 feet at the minimum building setback line, nor shall any residence be erected or placed on any Lot having an area of less than 9,000 square feet.

6.5 Utility Easements. Easements for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat and over the rear 10 feet of each Lot. No Owner shall erect on a Lot, or grant to any person, firm or corporation the right, license, or privilege to erect or use, or permit the use of, overhead wires, poles or overhead facilities of any kind for electrical, telephone or television service (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Subdivision). Nothing in these Covenants shall be construed to prohibit street lighting or ornamental yard lighting serviced by underground wires or cables. Electrical service entrance facilities installed for any residence or other structure on a Lot connecting it to the electrical distribution system of any electric public utility shall be provided by the Owner of the Lot who constructs the residence or structure, and shall carry not less than 3 wires and have a capacity of not less than 200 amperes. Any public utility charged with the maintenance of underground installations shall have access to all easements in which said installations are located for operation, maintenance and replacement of service connections.

6.6 Surface Drainage Easements. Surface drainage easements and Common Area used for drainage purposes as shown on the Plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the surface of the Real Estate shall be constructed and maintained so as to achieve this.

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intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor (or proper public authority having jurisdiction over storm drainage) shall have the right to determine if any obstruction exists, and to repair and maintain, or require such repair and maintenance, as shall be reasonably necessary to keep the conductors unobstructed.

6.7 Nuisance. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done there which may be or become an annoyance or nuisance to residents in the Subdivision.

6.8 Temporary Structures. No structure of a temporary character, trailer, boat trailer, camper or camping trailer, basement, tent, shack, garage, barn or other outbuilding shall be constructed, erected, located or used on any Lot for any purpose (including use as a residence), either temporarily or permanently; provided, however, that basements may be constructed in connection with the construction and use of a single-family residence building.

6.9 Outside Storage. No boat, boat trailer, recreational vehicle, motor home, truck, camper or any other wheeled vehicle shall be permitted to be parked ungaraged on a Lot for periods in excess of 48 hours, or for a period of which is in the aggregate is in excess of 8 days per calendar year. The term "truck" as used in this Section 6.9 means every motor vehicle designed, used, or maintained primarily for the transportation of property, which is rated one-ton or more.

6.10 Free-Standing Poles. No clotheslines or clothes poles, or any other free standing, semi-permanent or permanent poles, rigs, or devices, regardless of purpose, with the exception of a flag pole displaying the United States flag, shall be constructed, erected, or located or used on a Lot.

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

6.12 Antennas. No radio or television antenna with more than 30 square feet of grid area, or that attains a height in excess of 6 feet above the highest point of the roof of a residence, shall be attached to a residence on a Lot. No free-standing radio or television antennas, shall be permitted on a Lot. No solar panels or satellite receiving disk or dish (attached, detached or free-standing) are permitted on a Lot.

6.13 Oil Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted on or in a Lot. No derrick or other structure designed for boring for oil or natural gas shall be erected, maintained or permitted on a Lot.

6.14 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on a Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

6.15 Dumping. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage and other waste shall not be kept except in sanitary containers. No incinerators shall be kept or allowed.

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on a Lot.

6.16 Workmanship. All structures on a Lot shall be constructed in a substantial, good and workmanlike manner and of new materials. No roof siding, asbestos siding or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any structure on a Lot, and no roll roofing of any description or character shall be used on the roof of any residence or attached garage on a Lot.

6.17 Driveways. All driveways on Lots from the street to the garage shall be poured concrete and not less than 16 feet in width.

6.18 Individual Utilities. No individual water supply system or individual sewage disposal system shall be installed, maintained or used on a Lot in the Subdivision.

6.19 Street Utility Easements. In addition to the utility easements designated in this document, easements in the streets, as shown on the Plat, are reserved and granted to all public utility companies, the owners of the Real Estate and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove every type of gas main, water main and sewer main (sanitary and storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction over the Subdivision as to maintenance and repair of said streets.

6.20 Storm Water Runoff. No rain and storm water runoff or such things as roof water, street pavement and surface water caused by natural precipitation, shall at any time be discharged or permitted to flow into the sanitary sewage system serving the Subdivision, which shall be a separate sewer system from the storm water and surface water runoff sewer system. No sanitary sewage shall at any time be discharged or permitted to flow into the Subdivision's storm and surface water runoff sewer system.

6.21 Completion of Infrastructure. Before any residence on a Lot shall be used and occupied as such, the Developer, or any subsequent Owner of the Lot, shall install all infrastructure improvements serving the Lot as shown on the approved plans and specifications for the Subdivision filed with the Plan Commission and other governmental agencies having jurisdiction over the Subdivision. This covenant shall run with the land and be enforceable by the Plan Commission or by any aggrieved Owner.

6.22 Certificate of Compliance. Before a Lot may be used or occupied, such user or occupier shall first obtain from the Allen County Zoning Administrator the improvement location permit and certificate of compliance required by the Allen County Zoning Ordinance.

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

6.24 Invalidation. Invalidation of any one of these Covenants by

judgment or court order shall not affect the remaining provisions, and such provisions shall remain in full force and effect.

6.25 Duration of Covenants. These Covenants shall run with the land and be effective for a period of 20 years from the date the Plat and these Covenants are recorded; after which time the Covenants shall automatically be renewed for successive periods of 10 years.

6.26 Amendments. Any provision of these Covenants may be amended, but such amendment is subject to the following requirements and limitations:

6.26.1 After primary residences are constructed on all Lots in the Subdivision and certificates of occupancy are issued by the Plan Commission for such residences, in order to amend a provision of these Covenants, an amendatory document must be signed by the Owners of at least 75% of the Lots in the Subdivision and by the owners of at least 75% of the lots in future sections, if any, of The Falls of Beaver Creek. For purposes of this Section 6.26.1, the term "owner" shall have the same meaning with respect to Lots in such future sections, as the term "Owner" is defined in Section 1.10.

6.26.2 Until primary residences are constructed on all Lots in the Subdivision and certificates of occupancy are issued for those residences, in order to amend the Covenants, Developer, in addition to those persons whose signatures are required under Section 6.25.1, also must sign the amendatory document.

6.26.3 Notwithstanding the provisions of Section 6.25.1, Developer and its successors and assigns shall have the exclusive right for a period of two years from the date the Plat and these Covenants are recorded, to amend any of the Covenant provisions (except Section 6.2) without approval of the Owners.

6.26.4 In order for any amendment of these Covenants to be effective, the approval of the Plan Commission shall be required.

6.27 Subdivision. No lot or combination of Lots may be further subdivided until approval for such subdivision has been obtained from the Plan Commission; except, however, the Developer and its successors in title shall have the absolute right to increase the size of any Lot by adding to such Lot a part of an adjoining Lot (thus decreasing the size of such adjoining Lot) so long as the effect of such addition does not result in the creation of a "Lot" which violates the limitation imposed under Section 1.9.

Section 7. Attorney Fees and Related Expenses. In the event the Association, Developer, an Owner, or the Plan Commission is successful in any proceeding, whether at law or in equity, brought to enforce any restriction, covenant, limitation, easement, condition, reservation, lien, or charge now or subsequently imposed by the provisions of these Covenants, the successful party shall be entitled to recover from the party against whom the proceeding was brought, the attorney fees and related costs and expenses incurred in such proceeding.

Section 8. Sidewalks. Plans and specifications for the Subdivision approved by and on file with the Plan Commission require the installation of concrete sidewalks within the street rights-of-way in front of Lots # 1 through 14, 20 through 34, 41, 42, 57 through 75, and 83 through 88 as shown on the approved plans. Installation of such

sidewalks shall be the obligation of the Owners of those Lots (exclusive of Developer). The sidewalk to be located on a Lot shall be completed in accordance with such plans and specifications prior to the issuance of a certificate of occupancy for such Lot. A violation of this Covenant is enforceable by the Plan Commission or its successor agency, by specific performance or other appropriate legal or equitable remedy. Should a certificate of occupancy be issued to Developer for a Lot on which a sidewalk must be constructed, Developer shall be considered as an Owner subject to enforcement of this Covenant with respect to that Lot.

**Section 9. Flood Protection Grades.** In order to minimize potential damage to residences from surface water, minimum flood protection grades are established of 838.5 feet Mean Sea Level for lots 3 through 9, 838.0 feet Mean Sea Level for lots 16 through 28, 30 and 31, 837.5 feet Mean Sea Level for lots 37 through 40, 840.1 feet Mean Sea Level for lots 48 through 52, 832.2 feet Mean Sea Level for lots 55 and 91, 838.9 feet Mean Sea Level for lots 71 through 73 and 94 through 99. All residences on such Lots shall be constructed so that the minimum elevation of the first floor, or the minimum sill elevation of any opening below the first floor, equals or exceeds the applicable minimum flood protection grade established in this Section 9.

**Section 10. Mandatory Solid Waste Disposal.** The Association shall be obligated to contract for disposal of garbage and other solid waste to and may pay for the cost of such disposal through assessments established under Section 4. An Owner who privately arranges for solid waste disposal to service the Owner's Lot shall not be excused from payment of any part of an assessment attributable to the cost of waste disposal for which the Association contracts under this section 10.

IN WITNESS WHEREOF, North Eastern Construction Co., Inc., an Indiana corporation, by its duly authorized President, Joseph L. Zehr, Owner of the Real Estate, has signed this document on this 22nd day of December, 1994.

North Eastern Construction Co., Inc.

By: Joseph L. Zehr, President

STATE OF INDIANA       )  
                                  ) SS  
COUNTY OF ALLEN       )

Before me, a Notary Public in and for said County and State, this 22nd day of December, 1994, personally appeared Joseph L. Zehr, known to me to be the duly authorized President of North Eastern Construction Co., Inc. and acknowledged the execution of the above and foregoing as his voluntary act and deed and on behalf of said corporation for the purposes and uses set forth in this document.

Orrin R. Sessions  
Orrin R. Sessions, Notary Public,  
Resident of Allen County, Indiana

My Commission Expires:  
May 30, 1996

Witness my hand and notarial seal.

This instrument was prepared by James A. Federoff, Attorney at Law.

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