

# The Oaks, Section V

PART OF THE SW 1/4 OF SEC. 36, T. 32 N. R. 12 E. IN ALLEN COUNTY, INDIANA.

PARTIAL E:

970073439 Page

*J. G. Simon*  
President

Vice-President

Secretary

APPROVED by the Allen County Board of  
Commissioners on 6/25/97

*J. G. Simon*  
President

ATTEST: Allen County Auditor  
T. C. C. ALLEN

APPROVED by the Allen County Zoning  
Administrator on 6/25/97

*Deanna A. Gordon*  
Deanna A. Gordon

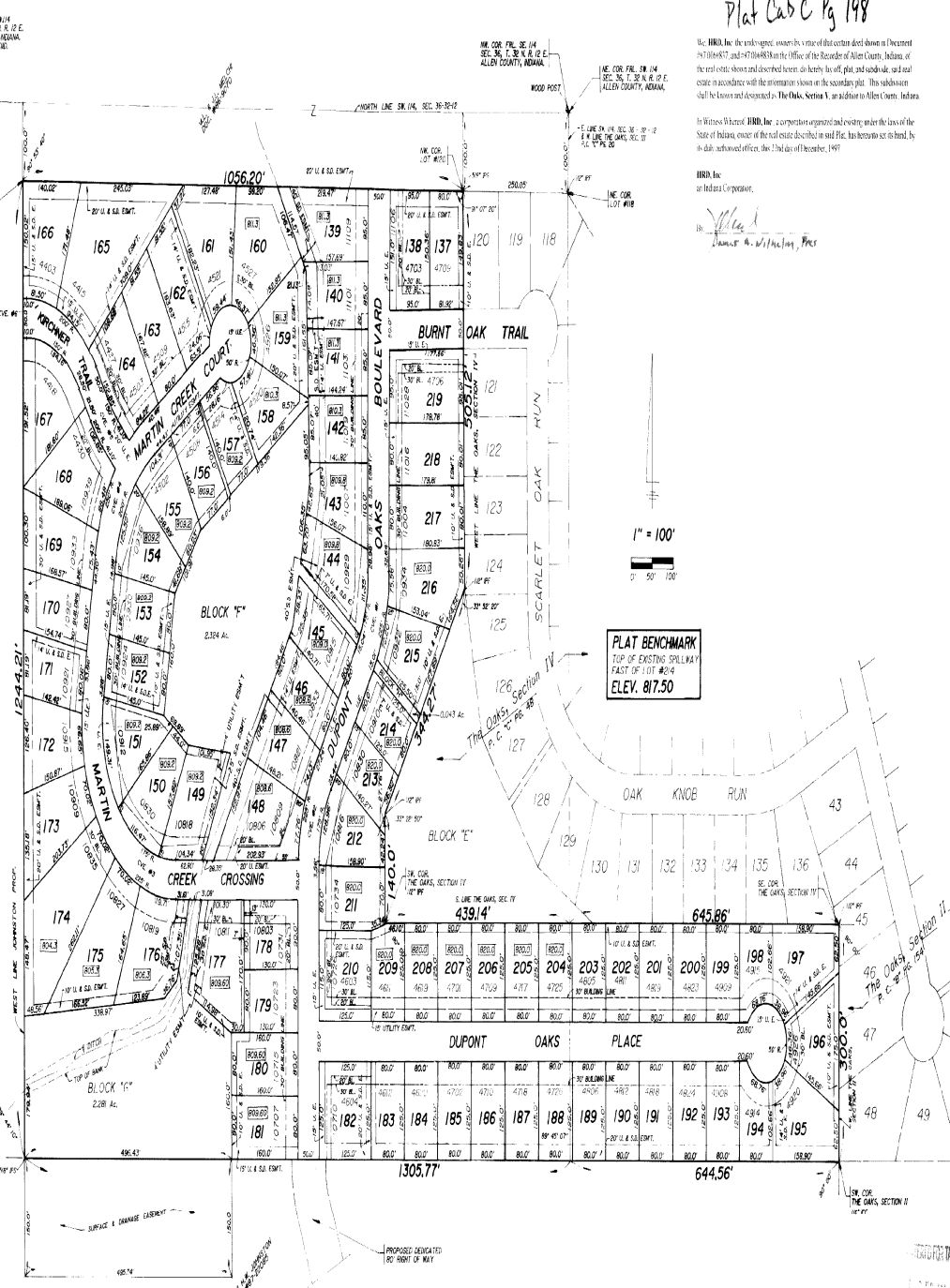
APPROVED by the Allen County Surveyor  
on December 15, 1997

*Allen D. Papp*  
Allen D. Papp

APPROVED by the Allen County Health  
Commissioner on 6/25/97

*John H. Schuchert*  
John H. Schuchert

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Part of the West Half of the Fractional Southwest Quarter of Section 36, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

CURB & GUTTER at a wood post marking the Northwest corner of the Fractional Southwest Quarter of Section 36, Township 32 North, Range 12 East, Allen County, Indiana, thence South along the East line of said Southwest Quarter, also being the West line of the Oaks, Section III, as recorded in 'Plat Cabnet C', page 70, in the Office of the Recorder of Allen County, a distance of 100.0 feet to a 1/2 inch iron pin found at the Northwest corner of Lot number 118 in the Oaks, Section IV, as recorded in 'Plat Cabnet C', page 48, in said Recorder's Office, thence West, parallel with and 100.0 feet South of the North line of the Oaks, Section IV, a distance of 250.0 feet to a 5/8 inch iron pin set, said point being 5.12 feet North of a 1/2 inch iron pin found at the Northwest corner of Lot number 120 in the Oaks, Section IV, thence South with a deflection angle to the left of 91 degrees 07 minutes 20 seconds along the West line of the Oaks, Section IV, a distance of 955.12 feet to a 1/2 inch iron pin found at a corner of said plat, thence South with a deflection angle to the right of 33 degrees 52 minutes 20 seconds along the West line of the Oaks, Section IV, a distance of 344.72 feet to a 1/2 inch iron pin found at a corner of said plat, thence South with a deflection angle to the left of 33 degrees 52 minutes 20 seconds along the West line of the Oaks, Section IV, a distance of 140.0 feet to a 1/2 inch iron pin found at the Southwest corner of said plat, thence South with a deflection angle to the right of 90 degrees 10 minutes along the West line of the Oaks, Section II, as recorded in 'Plat Cabnet C', page 154, in said Recorder's Office, thence South with a deflection angle to the right of 90 degrees 10 minutes along the West line of the Oaks, Section II, a distance of 200.0 feet to a 1/2 inch iron pin found at the Southwest corner of said plat, thence South with a deflection angle to the right of 90 degrees 10 minutes, a distance of 644.56 feet, thence North with a deflection angle to the right of 89 degrees 45 minutes 07 seconds, a distance of 200.0 feet to the point of beginning, containing 4.444 acres.

PARTIAL E:

Part of the East Half of the Fractional Southwest Quarter of Section 36, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

CURB & GUTTER at a wood post marking the Northeast corner of the Fractional Southwest Quarter of Section 36, Township 32 North, Range 12 East, Allen County, Indiana, thence South along the East line of said Southwest Quarter, also being the West line of the Oaks, Section III, as recorded in 'Plat Cabnet C', page 70, in the Office of the Recorder of Allen County, a distance of 100.0 feet to a 1/2 inch iron pin found at the Northwest corner of Lot number 118 in the Oaks, Section IV, as recorded in 'Plat Cabnet C', page 48, in said Recorder's Office, thence South with a deflection angle to the left of 91 degrees 07 minutes 20 seconds along the West line of the Oaks, Section IV, a distance of 955.12 feet to a 1/2 inch iron pin found at a corner of said plat, thence South with a deflection angle to the right of 33 degrees 52 minutes 20 seconds along the West line of the Oaks, Section IV, a distance of 344.72 feet to a 1/2 inch iron pin found at a corner of said plat, thence South with a deflection angle to the left of 33 degrees 52 minutes 20 seconds along the West line of the Oaks, Section IV, a distance of 140.0 feet to a 1/2 inch iron pin found at the Southwest corner of said plat, thence South with a deflection angle to the right of 90 degrees 10 minutes 53 seconds, a distance of 305.77 feet to a point on the West line of the real estate conveyed to Hugh and Hugh W. Johnson, in the deed recorded in Document Number 87-22085, said Recorder's Office, thence North with a deflection angle to the right of 89 degrees 44 minutes 10 seconds along said West line a distance of 124.21 feet to a 5/8 inch iron pin set at the Northwest corner of said Johnson property, being a point located 100.0 feet South of the North line of said Southwest Quarter, a distance of 105.20 feet to the point of beginning, containing 0.513 acres.

This is to certify that this plat and survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for METROPOLITAN LAND TITLE SURVEYS", jointly established by ALTA and NSDS in 1932, and includes items (a) and (b) of Table A thereof, and pursuant to the accuracy standards (as adopted by ALTA and NSDS) in effect on the date of this certification of a subdivision survey.

I further certify that this survey was completed under my direct supervision and to the best of my knowledge and belief, was executed according to the survey requirements set forth in the 1932 ALTA.

THIS PLAT PREPARED BY AND CERTIFIED ON THIS 4th DAY OF JUNE 1997.

*Kenneth W. Harris P.L.S.*  
KENNETH W. HARRIS P.L.S.

DEVELOPER  
HUI, INC./HRD, INC.  
833 COLISEUM BLVD. N.  
FORT WAYNE, INDIANA 46805  
(219) 422-2332  
FAX: 426-1822

ENGINEER  
DONOVAN ENGINEERING, INC.  
2020 INWOOD DRIVE  
FORT WAYNE, INDIANA 46815  
(219) 424-7418  
FAX: 424-1918

For Easement info see doc 97-40839  
6/16/97  
FOR EASEMENT SEE Doc. 100004787 1/25/2000



Plat Cab C Pg 198

**DEDICATION, PROTECTIVE RESTRICTIONS, COVENANTS,  
LIMITATIONS, EASEMENTS AND APPROVALS APPENDED  
TO AND MADE A PART OF THE DEDICATION AND PLAT OF  
THE OAKS, SECTION V, A SUBDIVISION  
IN PERRY TOWNSHIP, ALLEN COUNTY, INDIANA**

#970073439 Page 1

Doc. No.	970073439
Receipt No.	27229
DCFD	3.00
PLAT	32.00
PLAT	9.00
Total	44.00

RECORDED  
12/23/1997 13:44:08  
RECORDER  
VIRGINIA L. YOUNG  
ALLEN COUNTY, IN

HRD, Inc., an Indiana corporation, hereby declares that it is the Owner of the real estate shown and described in this plat and does hereby lay off, plat and subdivide said real estate in accordance with the information shown on the final plat, being the certified plat to be appended hereto and incorporated herein. The Subdivision shall be known and designated as The Oaks, Section V, a Subdivision in Perry Township, Allen County, Indiana.

The Lots are numbered 137 to 219, inclusive; and all dimensions are shown in feet and decimals of a foot on the Plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use for their usual and intended purposes.

PREFACE

The Oaks, Section V, is a portion of a tract of real estate which has been and will be ultimately subdivided into residential lots, all to be included in and known as The Oaks, separately designated by sequentially numbered sections. After the recordation of the Plat of The Oaks, Section V, and the Protective Restrictions and Covenants, there will be recorded Articles of Incorporation of The Oaks Community Association, Inc., it being the platter's intention that each Owner of a Lot in The Oaks, Section V, as well as Owners of Lots in other sections of The Oaks, shall become a member of said Community Association and shall be bound by its Articles of Incorporation and By-Laws.

It shall be the obligation of The Oaks Community Association, Inc., to make provision for the maintenance of the common areas designated on the face of the plat, and the common area in all sections of The Oaks.

ARTICLE I

POLY ENTERED FOR TAXATION

Definitions

DEC 28 1997

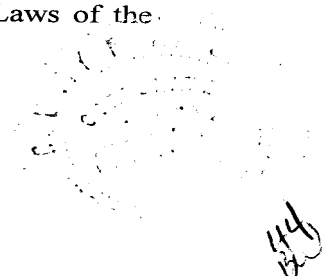
The terms hereinafter set forth shall have the following meanings:

  
AUDITOR OF ALLEN COUNTY

Section 1. "Architectural Control Committee" shall mean the body designated herein to review plats and to grant or withhold certain other approvals in connection with improvements and developments. The Committee shall be composed of three (3) members initially appointed by the Developer. Any vacancies from time to time shall be filled pursuant to the By-Laws of the Association.

97 13138  
AUDITORS NUMBER

\\ODMA\PCDOCS\FWDOCS\1\12188\1



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

Section 3. "By-Laws" shall mean the By-Laws initially adopted by The Oaks Community Association, Inc., and all amendments and additions thereto.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners of Lots in The Oaks, Section V, and other subdivisions of The Oaks, as shown on the respective plats of said subdivisions.

Section 5. "Developer" shall mean HRD, Inc., an Indiana corporation, its grantees, successors or successors in interest, and any person, firm or corporation designated by it or its said successor or successor in interest.

Section 6. "Lot" shall mean either any of said Lots as platted or any tract or tracts of land as conveyed originally or by subsequent Owners, which may consist of one or more Lots or parts of one or more Lots, upon which a dwelling may be erected in accordance with the restrictions hereinafter set forth. PROVIDED, HOWEVER, no tract of land consisting of part of any one Lot or parts of more than one Lot shall be considered a "Lot" unless said tract of land has a frontage of fifty (50') in width at the established building line as shown on the plat.

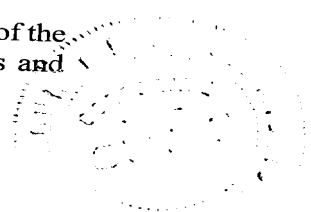
Section 7. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee-simple title to any Lot which is a part of the plat, including contract purchasers, excluding those having such interest merely as security for the performance of an obligation.

## ARTICLE II

### Property Rights

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations after hearing by the Board of Directors and the Association;
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and



subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

### ARTICLE III

#### Architectural Control

No building, fence, wall or other structure of any kind or nature shall be commenced or erected within The Oaks, Section V, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same have been submitted to and approved in writing by the Architectural Control Committee as to harmony of design, external appearance and location in relation to surrounding structures and topography. The Architectural Control Committee shall be composed of three (3) members. Initially, the members shall be appointed by the Developer. At such time as the Developer's Class B membership in the Association ceases and is converted to a Class A membership, the Board of Directors of the Association shall appoint the members of the Architectural Control Committee. A majority of the Architectural Control Committee may designate a representative to act for it. In the event of death or resignation of any member of the Architectural Control Committee, the Developer or the Board of Directors of the Association, as is applicable, shall designate a successor. In the event the Architectural Control Committee fails to act within thirty (30) days after said plans and specifications have been submitted to it, or disapproves the plans and specifications, the Owner may appeal to the Board of Directors of the Association and request that it either approve the plans and specifications and/or overturn the disapproval of the Architectural Control Committee. In any event, if an appeal is not filed with the Board of Directors of the Association within sixty (60) days after the plans and specifications were first delivered to the Architectural Control Committee, the plans and specifications shall be deemed to be disapproved and the Owner shall have no further appeals to the Board of Directors of the Association.

### ARTICLE IV

#### The Oaks Community Association, Inc.

Section 1. Organization. There has been organized in connection with the development of The Oaks, Section V, an incorporated not-for-profit association known as The Oaks Community Association, Inc., (hereinafter referred to as the "Association").

Section 2. Membership and Voting Rights. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 3. Classes of Membership. The Association shall have two (2) single classes of voting membership:

Class A. Class A members shall be all Owners exclusive of the Developer or its immediate successor in interest. Owners shall be entitled to one (1) vote for each Lot owned.

Class B. The Class B member(s) shall be HRD, Inc., and shall be entitled to five (5) votes for each Lot owned. The Class B membership shall cease and shall be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when title to all Lots in all subdivisions has been conveyed; and

(b) On December 31, 2000.

Section 4. Membership Transfer. Membership in the Association will transfer from the Developer or its successor in interest to the Owner upon delivery of the Deed to Owner's Lot.

Section 5. Continuing Memberships. The Owner of any Lot shall continue to be a member of the Association so long as he continues to be the Owner of a Lot for the purpose herein mentioned. Membership shall pass with the transfer of title to the Lot.

Section 6. Transfer of Membership Rights and Privileges in the Association. Each Owner, and in lieu thereof, (and with the written consent of such Owner to the Association) each lessee of a Lot shall be a member of the Association and have the right to the Owner's vote and privileges. Membership, where assigned to a lessee, will pass with the lease except if the Owner withdraws his consent in writing to the Association. The Owner may withdraw his membership assignment to any lessee at his discretion by issuing a sixty (60) day notice in writing to the Association.

Section 7. Creation of the Lien and Personal Obligation of Assessments. Each Owner of any Lot, excepting HRD, Inc., by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments; and (2) special assessments for capital improvements. Such assessments shall be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 8. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of residents of

The Oaks, and in particular for the maintenance of any Lot prior to commencement of construction of a Dwelling Unit thereon, and for the improvement, operation and maintenance of any storm water detention basin along with any water level control structures and all other Common Areas, including but not limited to, repair, maintenance, lighting, lawn care, snow removal, insurance, taxes, and all other things necessary or desirable in the opinion of the Board of Directors of the Association in connection therewith.

**Section 9. Maximum Annual Assessment.** Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Hundred Fifty and No/100--Dollars (\$150.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may not be increased each year more than eight percent (8%) above the maximum annual assessment for the prior year, without the vote or written assent of fifty-one percent (51%) of each class of members of the Association.

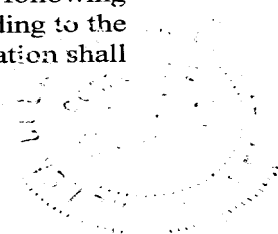
(b) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum without the vote or written assent of fifty-one percent (51%) of each class of members of the Association.

**Section 10. Special Assessment for Capital Improvements.** In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote of written assent of fifty-one percent (51%) of each class of members of the Association.

**Section 11. Notice and Quorum for Any Action Authorized Under Section 9 and 10.** any action authorized under Section 9 or 10 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite fifty-one percent (51%) of each class of members, members who were not present in person or by proxy may give their assent in writing, providing the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

**Section 12. Uniform Rate of Assessment.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis.

**Section 13. Date of Commencement of Annual Assessments: Due Dates.** The annual assessment provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. the first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall



fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due date shall be established by the Board of Directors of the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 14. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. If any Owner shall fail or refuse to pay an assessment when due, the amount thereof plus interest and the Association's costs of enforcement, shall constitute a lien upon the Lot of the Owner, and upon the recording of notice thereof by the Association, such lien shall be an encumbrance upon such Owner's Lot.

Section 14(a). The lien provided for in this Section shall be in favor of the Association and may be foreclosed by an action brought in the name of the Association in a like manner as a mortgage upon real property. The Association shall have the power to bid on the interest so foreclosed at foreclosure sale and to acquire, hold, lease, mortgage and convey the same. Suit to recover a money judgment for the unpaid assessment plus interest and costs may be maintained without foreclosing or waiving the lien securing the same.

Section 14(b). No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 14(c). If the Association files a suit to recover a money judgment for the unpaid assessment or to foreclose the lien, and it prevails in such suit, then the Association shall be entitled to include its reasonable attorney's fees as part of the costs identified herein above.

Section 15. Subordination of the Lien to Mortgages. The line of the assessment for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien for such assessments as to the payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

## ARTICLE V

### General Provisions

Section 1. Residential Purposes. No Lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling not to exceed two and one-half stories in height. Each dwelling shall include an attached two-car and basements may be constructed as a part of a dwelling.



**Section 2. Building Sizes.** No dwelling shall be built on any of Lots numbered 183 through 194, inclusive, having a ground floor area upon the foundation, exclusive of one-store open porches, breezeway or garage of less than one thousand two hundred (1,200) square feet for a one-store dwelling, nor less than eight hundred (800) square feet for a dwelling of more than one (1) story. No dwelling shall be built on any other Lot having a ground floor area upon the foundation, exclusive of one-store open porches, breezeway or garage of less than one thousand three hundred fifty (1,350) square feet for a one-store dwelling, nor less than nine hundred fifty (950) square feet for a dwelling of more than one (1) story.

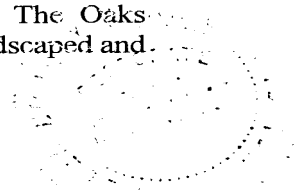
**Section 3. Building Setback.** No dwelling shall be located on any Lot nearer to the front line or nearer to the side street line than the minimum building setback lines shown on the recorded plat. In any event, no dwelling shall be located nearer than a distance of seven feet (7') to an interior Lot line. No portion of a dwelling shall be located on any interior Lot nearer than twenty-five feet (25') to the rear Lot line.

**Section 4. Minimize Size.** No dwelling unit shall be erected or placed on any Lot unless the Lot has a width of at least fifty feet (50') at the minimum building setback line.

**Section 5. Utility and Drainage Easement.** All easements for public or municipal utilities and sewers as dedicated on the face of the plat shall be kept free of all permanent structures and any structure, shrubbery, trees, or other installation thereon, whether temporary or permanent, shall be subject to the paramount right of the entities for which such easements are intended to benefit, to install, repair, maintain or replace their utility or sewage facilities. The removal of any such obstructions by utilities or sewage treatment works shall in no way obligate them either in damages or to restore the obstruction to its original form. No Owner of any Lot shall erect or grant to any person, firm or corporation, the right, license or privilege to erect or use or permit the use of overhead wires, poles, or overhead facilities of any kind for electrical, telephone or television services (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Subdivision). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting services by underground wires or cables. Electrical service entrance facilities installed for any house or other structure connecting the same to the electrical distribution system of any electrical public utility shall be provided by the Owners of all Lots and shall carry not less than three (3) wires and have a capacity of not less than 200 amperes.

**Section 5(a).** Surface Drainage Easements and Common Areas used for drainage purposes as shown by the plat are intended for either periodic or occasional use as conductors for the flow of surface water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance as shall be reasonably necessary to keep the conductors unobstructed.

**Section 5(b).** The common area retention ponds shall be maintained by The Oaks Community Association, Inc., (hereinafter referred to as "Association") in a properly landscaped and





well maintained condition. The Association shall have the continuing responsibility for properly maintaining any water, including, but not limited to, such things as proper water cleanliness and purity, weed and algae control, dredging and structural integrity of the dike system enclosing the pond, all at its expense. All such maintenance and repairs will be made in accordance with the county Surveyor or the proper public authority having jurisdiction over said improvements.

**Section 6. Nuisances.** No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

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

**Section 8. Signs.** No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one square foot, one sign of not more than five square feet, advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

**Section 9. Radio and Television Antennas.** No radio or television antenna with more than thirty (30) square feet of grid area or which attains a height in excess of six feet (6') above the highest point of the roof shall be attached to any dwelling. No free standing radio or television antenna, television receiving disc or dish, shall be permitted on any Lot. No solar panels, attached or detached, shall be permitted.

**Section 10. Drilling, Refining, Quarrying and Mining Operations.** No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot. No derrick or other structure designed for the use in boring for oil or natural gas shall be erected, maintained or permitted upon any Lot.

**Section 11. Animals.** No animals, livestock or poultry of any kind shall be raised, bred, or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

**Section 12. Storage Areas.** No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. No incinerators or outside incinerators shall be kept or allowed on any Lot.

**Section 13. Building Materials.** All buildings shall be constructed in a substantial and good workmanlike manner and of new materials. No roll siding, asbestos siding, or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any building on any Lots, and no roll roofing of any description or character shall be used on the roof of any dwelling or attached garage on any of said Lots.



**Section 14. Driveways.** All driveways from the street to the garage shall be poured concrete and not less than sixteen feet (16') in width.

**Section 15. Individual Water and Sewage Systems.** No individual water supply system, or individual sewage disposal system shall be installed, maintained or used on any Lots.

**Section 16. Use of Public Easements.** In addition to the utility easements herein designated, easements in the streets, as shown on this plat, are hereby reserved and granted to all Public Utility Companies, the proprietors of the land herein platted, and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to the maintenance and repair of said streets.

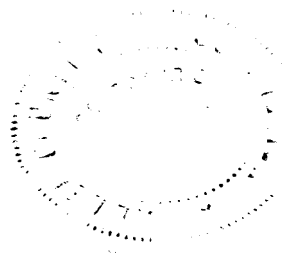
**Section 17. Sanitary Sewer Restrictions.** No rain and storm water run off or such things as roof water, street pavement and surface water, caused by natural precipitation shall at any time be discharged into or permitted to flow into the Sanitary Sewage System, which shall be a separate sewer system from the Storm Water and Surface Water Run Off Sewer System. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned Storm Water and Surface Water Run Off Sewer System.

**Section 18. Improvements.** Before any building on any Lot shall be used and occupied as a dwelling, the Developer or any subsequent Owner of said Lot shall install improvements serving said Lot as provided in said plans and specifications filed with Allen County. This covenant shall run with the land and be enforceable by the County of Allen, State of Indiana, or by an aggrieved Lot Owner.

**Section 19. Permits and Certificates.** Before any Lot may be used or occupied, such user or occupier shall first obtain from Allen County Zoning Administrator the Improvement Location Permit and Certificate of Occupancy as required by the Allen County Zoning Ordinance.

**Section 20. Enforceability and Recovery of Costs.** The Association, Architectural Control Committee, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, covenants, reservations, liens and charges now or hereafter imposed herein, and to recover all its costs incurred in such enforcement proceedings, including interest of eight percent (8%) per annum from the date such costs are incurred.

**Section 20(a).** The Association shall have the right, but not the obligation, after giving thirty (30) days prior written notice to an Owner, to enter upon said Owner's Lot and then repair, clean, or perform such other acts as may be reasonably necessary to make the Lot and improvements thereon conform to all restrictions, conditions, covenants and reservations now or hereafter imposed herein.



Section 20(b). The Association shall have the right, but not the obligation, if the Board of Directors determines that an emergency exists, after attempting to give oral notice to an Owner, to enter upon said Owner's Lot and then repair, clean, or perform such other acts as may be reasonably necessary to resolve the emergency by making the Lot and improvements thereon conform to all restrictions, conditions, covenants and reservations now or hereafter imposed herein.

Section 20(c). The costs incurred by the Association, identified hereinabove, shall be paid by said Owner within thirty (30) days after receipt of written demand for payment from the Association. The Association shall be entitled to the creation of a lien upon said Owner's Lot, in the amount of all such costs, and the enforcement thereof as set forth in Article IV. Failure by the Association, Architectural Control Committee, or by any Owner to enforce any covenants or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

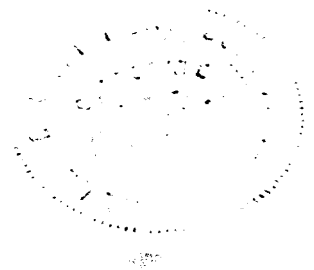
Section 20(d). If the Association, Architectural Control Committee, or any Owner shall enforce, by a proceeding at law or in equity, any restriction, condition, covenant, reservation, lien or charge now or hereafter imposed herein, and prevails in such proceeding at law or in equity, then it shall be entitled to include its reasonable attorney's fees as part of the costs identified hereinabove.

Section 21. Partial Invalidation. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 22. Covenants, Restrictions and Extensions. The covenants and restrictions herein contained shall run with the land, and be effective for a term of twenty (20) years from the date these covenants and restrictions are recorded, after which time they shall automatically be extended for successive periods of ten (10) years; provided these covenants and restrictions may be amended by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and provided further, HRD, Inc., its successors or assigns, shall have the exclusive right for two (2) years from the date of recording of the plat to amend any of the Covenants and Restrictions, except Section 2 above with the approval of the Allen County Plan Commission.

Section 23. Subdivision of Lots. No Lot or combination of Lots may be further subdivided until approval therefor has been obtained from the Allen County Plan Commission.

Section 24. Flood Protection Grade. In order to minimize potential damages from surface water, flood protection grades are established as set forth below. All dwellings shall be constructed at or above the minimum flood protection grades; such grades shall be the minimum elevation of a first floor or the minimum sill elevation of any opening below the first floor.



Lot #	FPG (Mean Sea Level)
139-141	811.3
142	810.3
143	809.8
144	809.3
145	809.0
146-148	808.6
149-157	809.2
158	810.3
174	804.3
175	805.3
176	806.3
177	809.6
204-209	820.0
211-216	820.0

Section 25. Limitation on Liability. Neither the Developer, Architectural Control Committee, Association board members, or Association officers, nor any of their respective heirs, personal representatives, successors, or assigns, shall be liable to anyone by reason of any mistake in judgment, negligence, or malfeasance arising out of or relating to their performance or non-performance of duties, obligations and powers granted to them herein or in the Association By-Laws. Every person that submits plans to the Architectural Control Committee agrees, by submission of such plans, that he will not bring any action or suit against the Architectural Control Committee regarding such plans or any building or structure erected in accordance therewith.

Section 26. Lot Landscaping and Maintenance. An Owner shall cause his Lot to be landscaped after he occupies the residential improvements upon the Lot, or the residential improvements upon the Lot are completed, whichever shall first occur, in accordance with the following time frames and minimum standards:

(a) All areas of the Lot not improved with plantings (including but not limited to bushes, trees, and shrubs) shall be planted or sodded with grass within six (6) months.

(b) Front yard plantings (including but not limited to bushes, trees and shrubs) shall be planted within one (1) year. for purposes of this Section 26, the front yard is identified as that portion of each Lot between the front of the residential improvements and the street curbing.

(c) All trees planted on a Lot shall be at least one (1) inch in diameter or six (6) feet in height. This provision shall not apply to existing trees.

(d) The area of the Lot between the sidewalk and the street curbing shall be kept free of all bushes, shrubs, and trees, and the only landscaping allowed in this area shall be grass or sod.

(e) All dead trees or plantings shall be removed within one (1) year after receipt of written request of removal by the Association.

(f) All shrubs, trees, grass, plantings, and landscaping of every kind and nature shall be kept well maintained, property cultivated, and free of trash and debris.

(g) All sidewalks, driveways, decks, residential structures and other improvements to the Lot shall be kept well maintained and free of trash and debris.

(h) All sidewalks shall be kept free of ice and snow.

The existing landscaping on all improved Lots shall be brought into compliance with these minimum standards within one (1) years after this Section is enforceable.

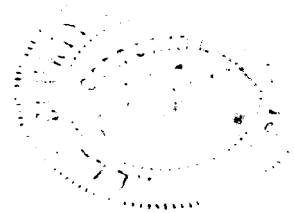
Section 27. Sidewalks. Plans and specifications for this subdivision on file with the Allen County Plan Commission require the installation of concrete sidewalks, within the street rights-of-way in front of the following numbered lots: 139-148; 162-164; 167-194; and 219. Installation of said sidewalks shall be the obligation of the Owner of any such Lot, exclusive of the Developer, shall be completed in accordance with said plans and specification and prior to the issuance of a Certificate of Occupancy for any such Lot and the cost of said installation shall be a lien against any such Lot enforceable by the Allen County Plan Commission or its successor agency. Should such Certificates of Occupancy be issued to the Developer, said individual or corporation shall be considered an Owner for the purposes of the enforcement of this covenant.

IN WITNESS WHEREOF, HRD, Inc., an Indiana corporation, Owner of the real estate described in said plat, has hereunto set its hand and seal, by its duly authorized officer, this 15<sup>th</sup> day of December, 1997.

HRD, INC., an Indiana corporation

By:

  
James A. Wilhelm, President



STATE OF INDIANA       )  
                                      ) SS:  
COUNTY OF ALLEN       )

BEFORE ME, a Notary Public, in and for said County and State, personally appeared James A. Wilhelm, known to me to be the duly authorized and acting President of HRD, Inc., an Indiana corporation, and acknowledged the voluntary execution of the above and foregoing instrument on behalf of said Corporation for the purposes and uses therein set forth, this 1st day of December, 1997.



My Commission Expires:

8/21/98

Cheryl L. Kirkwood  
\_\_\_\_\_, Notary Public  
A resident of Allen County, Indiana

THIS INSTRUMENT PREPARED BY: Steven H. Hazelrigg, Baker & Daniels, 111 East Wayne Street, Suite 800, Fort Wayne, Indiana 46802.

