

DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS FOR

Walnut Creek Estates

A SUBDIVISION IN
MIAMI COUNTY, KANSAS

THIS DECLARATION is made and executed on April 15, 1997, by FRIDEY ENTERPRISES, LLC, a Kansas limited liability company, which is called "Developer" in this Declaration.

INTRODUCTORY STATEMENTS

A. The Developer is the owner of real property located in Miami County, Kansas, which is legally described on Exhibit "A" attached to this Declaration. Developer desires to create a single family residential community on the property to be known as Walnut Creek Estates. The community will include horse riding and walking trails.

B. The Developer has filed a Plat of Walnut Creek Estates No. 1 with the Register of Deeds of Miami County, Kansas. The plat delineates the lots and common areas contained within the legal description of the property.

C. The Developer intends by this Declaration to provide for the preservation and enhancement of the property values, amenities and opportunities in the community in order to contribute to the personal and general health, safety, and welfare of the residents, and also to provide for the maintenance of the land and improvements, all for the benefit of the property and each owner. The Developer may also add additional real property to the community as set forth in Article II of this Declaration, and subject the new property to this Declaration.

D. The Developer further intends by this Declaration to create an association which will maintain, administer and enforce this Declaration and to collect and spend the assessments and charges created by this Declaration. The association will be incorporated under the laws of the State of Kansas, and will be named The Walnut Creek Estates Homes Association, Inc., a Kansas not-for profit corporation.

GRANTING STATEMENTS

The Developer hereby declares that the land described in Exhibit "A" and all additional property added under Article II, shall be held, sold, used and conveyed subject to the following covenants, restrictions, easements, charges and liens, all of which are for the purpose of promoting the common good and general welfare of the residents and owners of the Property, for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These covenants, restrictions, easements, charges and liens shall run with the land and with the title to the Property and will bind all parties now having or later acquiring any right, title or interest in the Property, and, subject to limitations provided in this Declaration, shall benefit each owner, his and/or her heirs, grantees, distributees, personal representatives, successors and assigns, the Association, and the Developer.

The Developer hereby delegates and assigns to the Association, upon its formation, the power of owning, maintaining and administering the community properties and facilities, administering and enforcing the covenants and restrictions, collecting and spending the assessments and charges created by this Declaration, and promoting the recreation, health, safety and welfare of the residents.

Article I

Definitions

"Approval" means a written statement of approval or any written waiver of approval rights, or a letter of "no objection" by the Design Review Committee, the Association or any public agency.

"Assessable Unit" means any Properties subject to assessments, as provided in Article V.

"Association" means The Walnut Creek Estates Homes Association, Inc., its successors and assigns.

"Board" means the Board of Directors of the Association.

"Builder" means a person or entity who acquires any of the Properties to improve the Properties for resale to future Owners.

"Common Area" means all real property and improvements owned by the Association or over which the Association has an easement for the use and enjoyment of the Members.

"Declaration" means this Declaration and all its amendments.

"Developer" means Fridey Enterprises, LLC, and its successors and assigns, except that no successor or assignee of the Developer shall have any rights or obligations of the Developer hereunder unless they are specifically assigned and assumed in the instrument of succession or assignment, or unless they pass by operation of law. The rights and obligations set forth herein of the Developer shall cease when one hundred percent (100%) of the Lots are sold and the Living Units are substantially complete (the "Development Period").

"Development Plan" means the total general scheme of intended uses of land in the Properties approved by the County of Miami, Kansas, as illustrated in Exhibit "B" attached to this Declaration, as further defined in Article II.

"First Mortgagee" means an institutional lender who holds the first mortgage on a Lot.

"Governing Documents" means the Articles of Incorporation of the Association, this Declaration, Supplementary Declarations and the Association By-Laws, as such documents may be amended.

"Living Unit" means a structure located on a Lot designed and intended for use and occupancy as a residence by a Single Family.

"Lot" means any lot of land shown on any recorded subdivision map or plat of the Properties, with the exception of Common Area.

"Members" means members of the Association, which shall consist of all Owners.

"Notice" means written notice delivered personally or mailed to the last known address of the intended recipient.

"Owner" means the record holder of the fee simple title to a Lot, whether one or more persons.

"Phase" means a group of Lots and Common Areas subject to the same Supplementary Declaration and plat establishing such Phase. Each Phase shall be distinguished from other Phases by sequential roman numerals. Phase I shall be the group of Lots and Common Areas which are legally described on Exhibit "A".

"Property" or "Properties" means all real property which is subject to the Declaration, and additional real property annexed under the provisions of Article II of this Declaration.

~~{DELETE} "Quorum of Members" means the representation by presence or proxy of Members who hold fifty one percent (51%) of the outstanding votes of each voting class.~~
{ADD} "Quorum" of Members is defined in the Bylaws.

"Registered Notice" means any Notice which has been signed for by a recipient or has been certified by the U.S. Postal Service or other entity as having been delivered (or the delivery of which has been certified by the Postal Service or other entity to have been attempted) to the address of the intended recipient. Failure by refusal of an intended recipient to acknowledge such Notice shall nevertheless constitute receipt.

"Single Family" means a single housekeeping unit of one family which includes not more than two adults and their children. The Board shall resolve any dispute as to the meaning of this definition.

"Supplementary Declaration" means any declaration of covenants and restrictions recorded by the Developer extending this Declaration to a Phase and which may contain provisions applicable only to such Phase.

"Zoning Order" means the provisions pertaining all applicable zoning laws and ordinances of Miami County, Kansas, amended from time to time, applicable to the Properties.

Article II

Property Subject to This Declaration; Additions Thereto

Section 1. The Properties. The real property which is subject to this Declaration is legally described in Exhibit "A", and is known as Phase I of Walnut Creek Estates.

Section 2. Additions to the Properties. Additional properties may become subject to this Declaration in the following manner:

a. Additions by the Developer. The Developer shall have the right to subject to the Declaration any additional property which lies within the land area represented by the Development Plan and which is legally described on Exhibit "B"; and

b. Other Additions. Additional land, other than that described above, may be annexed to the Properties upon approval of two-thirds percent of the votes of a Quorum of Owners.

The additions authorized under subsections (a) and (b) shall be made by complying with the requirements of the Zoning Order, by filing of record one or more Supplementary Declarations with respect to the additional property, and by filing the plat of the addition with the Association.

Section 3. The Development Plan.

a. Purpose. The Development Plan, illustrated in Exhibit "B-1", is the dynamic design for the staged development of the Properties as a residential planned community which will be modified and amended, as provided herein, during the several years required to build the community. Because the Development Plan is a temporary design, it shall not bind the Developer to make any of the additions to the Properties which are shown on the Development Plan or to improve any portion of such lands in accordance with the Development Plan unless and until a Supplementary Declaration is filed by the Developer subjecting such property to this Declaration.

b. Amendments. The Developer hereby reserves the right to add land to or amend the Development Plan for lands which have not yet been made subject to this Declaration, in response to changes in technological, economic, environmental, social or other conditions related to the development or marketing of the Properties or in response to changes in requirements of government agencies and financial institutions.

Article III

The Walnut Creek Estates Homes Association, Inc.

Section 1. Creation. The Developer may create the Association at any time it owns one or more Lots. Until the Association is created, the Developer will have all of the powers and obligations of the Association hereunder. If the Developer has not created the Association at the time it no longer owns any Lots, the Owners of two-thirds or more of the Lots may create the Association.

Section 2. Organization.

a. The Association. The Association will be a nonprofit, nonstock corporation organized and existing under the laws of the State of Kansas and charged with the duties and vested with the powers prescribed by law and set forth in the Governing Documents, as they may be amended, except that no Governing Documents may for any reason be amended or otherwise changed or interpreted inconsistent with this Declaration.

b. Exercise of Vote. The vote for any membership which is held by more than one person may be exercised by any one of them, unless an objection is made by one of the holders prior to the completion of a vote, in which case the vote for such membership will not be counted. If fewer than twenty-five percent of all Class A votes are cast in an election for any elective office, the Board may declare the results of such election invalid and may elect a Member to fill such office.

Section 3. Membership and Voting Rights in the Association.

a. Membership. Every record owner of a fee interest in any Lot shall be a Member of the Association, except that any person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member.

b. Voting Rights. The Association shall have two classes of voting memberships. Class A Members shall be Owners in good standing in accordance with the By-Laws of the Association entitled to membership with the exception of the Developer. Class A Members shall be entitled to one vote for each Lot. There shall be only one (1) vote per Lot, regardless of whether there is more than one Member with respect to a Lot. The Developer is the sole Class B Member. The Class B Member shall be entitled to ten (10) votes for each Lot in which it holds fee simple title. At the Class B Member's election, at any time after seventy-five percent (75%) of the Lots are owned by persons other than the Developer, the Developer can convert the Class B membership to Class A membership. After such election the Class B Member shall be deemed to be a Class A Member entitled to one vote for each Lot in which it holds the interests required for membership.

Section 4. Board of the Association.

a. The powers of the Association shall be vested in, exercised by, and under the authority of, and the affairs of the Association shall be controlled by, a Board of Directors consisting of five (5) persons who need not be Members. The Board, by a majority vote, shall exercise for and on behalf of the Association all powers, duties and authority vested in or delegated to the Association.

b. The Developer shall have the absolute right to elect the Board until conversion of Class B shares to Class A shares as described in paragraph III.3.b Voting Rights above. Thereafter, Directors shall be elected at the first annual meeting of Members following the Development Period, and terms shall be staggered, so that two (2) Directors and three (3) Directors shall be elected respectively in alternating years. At the first annual meeting of Members, and at each annual meeting of Members thereafter, Directors shall be elected for two (2) year terms of office and shall serve until successors are elected and qualified.

c. In any election of the members of the Association Board, every Member entitled to a vote at such election shall have the right to cumulate his or her votes and give one (1) candidate, or divide among any number of the candidates, a number of votes equal to the number of Directors to be elected multiplied by the number of votes which such Member is otherwise entitled to cast. The candidates receiving the highest number of votes, up to the number of the Directors to be elected, shall be deemed elected.

Article IV

Powers and Duties of the Association

The Association shall have the following powers and duties:

a. To provide for the care and maintenance of all Common Areas owned by the Association including roads (to the extent not maintained by Miami County), landscaping, open spaces, ornamental features, signage, islands, monuments, street lights, retention areas and other facilities now existing or which may be erected or created in the future on the Properties, and to assess special charges or service fees or to charge dues to Members for the use of such facilities.

b. To levy assessments on the Owners of Lots and to enforce payment of such assessments, all in accordance with the provisions of this Declaration set forth in Article V and VII.

c. To employ, at its discretion, the services of any person or corporation as manager (herein, "Manager"), together with other employees, to, as may be directed and delegated by the Association Board, manage, conduct and perform the business, obligations and duties of the Association and to enter into contracts for such purpose; provided, however, that no management contract shall exceed a term of one (1) year and such contract shall be cancelable for good cause shown by either party upon thirty (30) days written notice. Such employees shall have the right of ingress and egress over such portions of the Properties as is reasonably necessary for the purpose of performing such business, duties and obligations.

d. To maintain insurance or surety bonds, as deemed by the Association Board to be necessary and appropriate, including but not limited to:

(a) fire and appropriate extended coverage and other physical loss and damage insurance on all improvements located in or upon the Common Areas;

(b) comprehensive liability insurance insuring the Board and Members, including the Developer, against liability to, and claims of, the public, Members or the Board and Association; except that the coverage in favor of the Developer shall not extend to the Developer's capacity as a developer; and

(c) such other insurance, including workmen's compensation insurance, to the extent necessary to comply with any applicable law and then-current insurance practices, and indemnity, faithful performance, fidelity and other bonds as the Board shall deem necessary, appropriate or required to carry out the Association functions or to insure the Association against any loss from malfeasance or dishonesty of any employee or other person charged with the management or possession of any Association funds or property.

e. To enforce the decisions of the Design Review Committee (Article X).

f. To grant and convey to any third party easements and rights of way in, on, over or under the Common Areas for the purposes set forth in Article XIII.

g. At the discretion of the Board, contract for trash removal.

h. At its discretion to do all other things not inconsistent with this Declaration that the Board may from time to time determine to be either necessary or desirable for the Association, for its Members or for the protection, care or development of the Common Areas and the Property.

Article V

Method of Providing Funds

Section 1. For the purpose of providing funds to enable the Association to perform the duties and to discharge the obligations imposed upon it, all of the Properties shall be subject to an annual general fund assessment to be paid to the Association by Owners on such terms that a majority of a Quorum of the Members shall determine. Such assessment shall be prorated as follows:

- A. 100% of the prorata share for each Lot, whether occupied or not until 50% of the Lots are sold.
- B. After 50% of the Lots are sold:
 - a. 100% on each Lot occupied by a Living Unit
 - b. 50% on each unoccupied Lot; and
 - c. 10% on each unoccupied platted Lot owned by the Developer;

Section 2. The amount of the general fund assessment provided for in Section 1 of this Article may be increased by an amount not to exceed 25% in any given year from the prior year (excepting the first years assessment which shall not be restricted) by majority vote of a Quorum of Members in attendance in person or by proxy at such meeting at any general meeting or at a special meeting of Members; PROVIDED that at least ten days notice in writing shall be given and such notice set out the reason, the purpose, and the need for the additional assessment.

Section 3. For the purpose of providing a special fund assessment to be used and to enable the Association to repair, replace, construct and extend its facilities and property, each Assessable Unit may be specially assessed by the Association at an annual rate in an amount not exceeding the amount fixed for the annual general fund assessment as provided in Section 1 above for the year that such special assessment is approved. The amount of the special fund assessment against each Assessable Unit shall be in the same proration as required in Section 1 above. Such assessment may be made by the Board, subject to approval at a regular annual meeting or a specially called meeting of all Class A Members entitled to vote. A majority of a Quorum of Class A Members present or by proxy at such meeting shall be required to approve such an assessment.

Notice of any meeting for the approval of an assessment or for one or more special fund assessments shall be given as provided in Article I not more than 30 days nor less than 10 days prior to the meeting. The notice shall set forth the purpose for which the sums derived from the assessment or assessments are to be used, together with the estimated cost of the proposed project or projects, and the proposed time and method of payment. The sums paid to the Association on account of such special assessment shall be set aside and used for the specific purpose for which the special fund assessment is made, unless otherwise authorized by the Members of the Association at a meeting duly called as herein provided.

Section 4. The assessments made pursuant to Sections 1, 2, and 3 above shall be on a calendar year basis and shall be paid on or before January 31 of each year. ~~The annual payment shall be in default if not paid on or before the fifteenth day of January of each year.~~ Any assessment not paid when due shall be subject to a late charge of Thirty Dollars (\$30.00) per month, which late charge may be increased from time to time by the Board.

Section 5. User Fees and Charges.

In addition to the general and special fund assessments, the Board may levy and collect charges and fees for the use of the Common Areas for the purpose of maintaining Common Areas, operating services on Common Areas, regulating the use of Common Areas and the services offered thereon, and for providing utility services. In addition, the Association may levy and collect any costs incurred in bringing an Owner or his Lot into compliance with the provisions of this Declaration.

Section 6. Developer Advances.

a. On an annual calendar year basis, the Board shall prepare the Association Budget which shall include a cash budget projecting anticipated cash receipts, cash expenditures and net cash surplus or deficit for the ensuing calendar year.

b. The Developer may, but shall not be obligated, to make cash advances to the Association to eliminate any projected net cash requirements of the Association which occur during the course of any calendar year. Such cash advances may be considered borrowings of the Association. The option of the Developer to make advances to the Association pursuant to this shall continue only during the Development Period.

Article VI

Limitation on Expenditures

Section 1. General Funds. The Association shall at no time expend more money within any one year for maintenance of Common Areas than the total amount of the general fund assessment for that particular year plus any surplus which it may have on hand from previous assessments, nor shall the Association enter into any contract binding the general fund assessments of any future year to pay for any such obligations.

Section 2. Special Funds. The limitations imposed upon general funds shall not apply to special fund assessments.

Section 3. Surplus Funds. The Association may create as part of the general fund assessment a surplus or reserve fund to be carried forward from year to year as determined by the Board as necessary and/or desirable for the greater financial security of the Association and the effectuation of its purposes.

Article VII

Liens on Real Estate

Assessments, fees and other charges levied by the Association shall become a lien on the Lot against which it is levied as soon as it is due, except that it will be subordinate to any First Mortgage then existing or which is later recorded against such Lot. If the assessments, fees or charges are not paid when due, the amount due plus late charges stated in Article V, plus the costs of collection (including attorney's fees), may be enforced as a lien against the Lot in proceedings in any court in Miami County, Kansas having jurisdiction. The Association may file certificates of nonpayment of assessments in the Office of the Register of Deeds whenever any such assessments are delinquent, collect from the Owner a fee of \$100.00, which fee is also a lien upon the Lot, except it will be subordinate to any First Mortgage then existing or which is later recorded against such Lot, collectible in the same manner as the original assessments.

Such liens shall continue for a period of five (5) years from the date recorded unless suit shall have been instituted for collection of the assessment, in which case the lien shall continue until termination of the suit and/or sale of the property under execution of the judgment.

Article VIII

Right to Enforce This Declaration

This Declaration shall run with the land and bind the Properties, the Owners, their heirs, administrators, executors, successors and assigns, and all persons claiming by, through or under them. The Association and each Owner shall have the right to obtain an injunction, to prevent the breach of or to enforce the observance of this Declaration or to maintain an ordinary legal action for damage.

The failure of the Association to enforce this Declaration at the time of its violation will not waive the right to do so at a later time. If the Association is the prevailing party in any legal action, it may recover its attorneys' fees in such action from the non-prevailing party.

If any Member fails to pay an assessment, fee or charge when due, the Board may suspend the voting rights of the Member.

Article IX

Property Rights in the Common Areas

Section 1. Members' Easements of Enjoyment. Each Member has a right and easement of enjoyment to the Common Areas, and such easement is appurtenant to and runs with the land of every Lot.

Section 2. Title to Common Areas. The Developer may retain the legal title to the Common Areas until it has completed all improvements on the Common Areas. The Developer hereby covenants, for itself, its successors and assigns, that it will convey the Common Areas to the Association free and clear of all liens and encumbrances.

Section 3. Limitation on Members' Easements. The rights and easements of enjoyment created in this Declaration are subject to the right of the Association to dedicate or transfer all or any part of the Common Areas to any public agency, authority or utility.

Section 4. Damage or Destruction by Owner. If any Common Area is damaged by an Owner or any of his guests, tenants, licensees, agents or members of his family, such Owner hereby authorizes the Association to repair the damaged areas. The amount for such repairs shall be a Special Assessment upon the Lot of the Owner, shall be a lien upon the Lot, and shall be enforceable under Article VIII.

Article X

Design Review Committee (DRC)

Section 1. Purposes, Powers and Duties of the Design Review Committee (DRC). The purpose of the DRC is to assure that all proposed uses and any construction or alteration of any structure which takes place on any Lot or to any Living Unit or any other property affected by the Declaration shall be performed in conformity with these covenants and restrictions and the "Design Standards and Procedures for Single Family Construction" at Walnut Creek Estates.

Section 2. Composition and Appointment. The DRC shall be composed of a minimum of four members. During the Development Period members shall be appointed by the Developer. Thereafter, members of the DRC shall be appointed by the Board.

Section 3. Conflict of Interest. No member of the DRC may participate in any decision of the DRC on a matter in which he or she has a direct or indirect financial interest, or in which he or she has personally provided professional consulting services for a fee to the party whose application is before the DRC. Providing services to the Developer shall not be considered a conflict of interest.

Section 4. Operation of the DRC.

a. Meetings. The DRC shall hold regular meetings at least quarterly or more often as may be determined by the members of the DRC. Regular and special meetings shall be held at such time and such place as the members of the DRC shall specify. At least three members of the DRC must be present for the transaction of business. The DRC shall maintain a written record of votes and minutes of each of its meetings.

b. Activities. The DRC shall adopt, promulgate and amend the Designs Standards and Procedures for Single Family Construction as provided in Section 5 hereof, and will make findings, determinations, rulings and orders with respect to the conformity with said Design Standards of plans and specifications submitted for approval. As required, the DRC shall issue permits, authorizations or approvals pursuant to the directions and authorizations contained herein.

Any applicant to the DRC, may within ten (10) days after receipt of notice of any decision which he or she deems to be unsatisfactory, file a written request to have the matter reviewed by the Board. The Board shall review such request within 30 days of receipt and its decision shall be final and binding.

Section 5. Design Standards and Procedures for Single Family Residential Construction.

a. The DRC shall adopt and enforce the Design Standards and Procedures for Single Family Residential Construction, for the purposes of:

(a) governing the form and content of plans and specifications to be submitted for approval pursuant to the provisions of Section 6 of this Article; and

(b) governing the procedures for such submissions of plans and specifications; and

(c) establishing policies, requirements, standards, restrictions and specifications with respect to the approval and disapproval of proposed uses and with respect to all construction or alteration of any structure on any Lot, Living Unit, Easement or Common Area.

Section 6. Submission of Plans and Specifications. No structure shall be erected, placed or moved onto or permitted to remain on any Properties, nor shall any existing structure upon any Properties be altered in any way which materially changes its exterior appearances, nor shall any new use be commenced, unless plans and specifications (including a description of any new use) are submitted to and approved in writing by the DRC. Plans for construction

of a new home or additions to existing homes shall be stamped by a licensed architect. Upon receiving plans and specifications, an authorized representative of the DRC shall provide a written receipt.

Section 7. Approval of Plans and Specifications. A copy of the approved plans and specifications will be deposited as a permanent record with the DRC and a copy of such plans and specifications bearing written approval shall be returned to the applicant.

Approval of plans and specifications for any Lot or Living Unit will not waive the DRC's right, in its discretion, to disapprove similar plans and specifications or any of the features or elements included therein, if such plans, specifications, features or elements are subsequently submitted in connection with any other Lot or Living Unit. Approval shall be final and such approval may not be revoked or rescinded. The DRC is permitted to approve deviations from the Design Standards and Procedures and from this Declaration when, in its judgement, such deviations will result in a more beneficial use, or when such deviations do not detract from the value or enjoyment of surrounding properties. Such approval must be granted in writing.

Section 8. Disapproval of Plans and Specifications.

a. The DRC shall have the right to disapprove any plans and specifications submitted hereunder for any reason, including but not limited to:

(a) the failure to include information in such plans and specifications as may have been reasonably requested;

(b) the failure of such plans or specifications to comply with this Declaration or the Design Standards and Procedures;

(c) objection to the exterior design, appearance or materials of any proposed Living Unit or improvements;

(d) incompatibility of any proposed improvements or use with existing Living Units or uses upon surrounding properties;

(e) objection to the site plan of improvement on grounds of incompatibility with surrounding properties;

(f) objection to the grading plan;

(g) objection to the color scheme, finish, proportions, style, architecture, height, bulk, safety or appropriateness of any proposed Living Unit or improvement;

(h) failure to satisfy minimum floor area requirements;

(i) objection to the location of the improvements on a Lot;

(j) any matter not included in the Design Standards and Procedures, if such matter, in the judgement of the DRC, would lower the value of or otherwise damage the Properties; or

(k) any other matter which, upon the judgement of the DRC, would render a proposed improvement or use inharmonious with the Design Standards and Procedures or as set forth in the Development Plan.

b. In any case in which the DRC shall disapprove any plans and specifications, or shall approve the same only as modified or upon specified conditions, the disapproval or qualified approval shall be accompanied by a detailed statement of the grounds upon which such action was based. If requested, the DRC will make reasonable efforts to assist and advise the applicant in order that an acceptable proposal may be prepared and submitted for approval.

Section 9. Failure to Act. If the DRC fails to take action on any plans and specifications within sixty (60) days of presentation to the DRC, together with the fees authorized by Section 13 of this Article, and consistent with such other requirements as called for by the Design Standards and Procedures, the same will be deemed to have been approved as submitted, and no further action by the DRC will be required for the applicant to begin construction. Such approval will be placed in writing on the plans and specifications and will be returned to the applicant.

Section 10. Inspection Rights. After reasonable notice and at a reasonable time, a designated agent of the Association or the DRC may enter upon any Lot for the purpose of ascertaining whether the use or maintenance of such Lot or the construction of any Living Unit thereon complies with these provisions and to inspect and report the condition of the septic system on each Lot, and neither the Association, the DRC nor any agent shall be deemed to have committed a trespass or other wrongful act solely by reason of entry or inspection, provided the inspection is carried out in accordance with the terms of this Section.

Section 11. Violations. If any Living Unit is erected, placed, maintained or altered upon any Lot, or any new use commenced on any Lot, without the approval of the DRC, such erection, placement, maintenance or alteration or such use, shall be deemed to have been undertaken in violation of this Article.

If, in the opinion of the DRC, a violation occurred, the DRC will notify the Association. If the Board agrees with the determination of the DRC with respect to the violation, then upon Notice of the violation to the Owner from the Board, any such Living Unit, or improvement shall be removed or altered, and any such use shall be terminated, so as to end such violation.

If the Owner of the Lot upon which such violation exists shall not have taken reasonable steps toward the removal or termination of the violation within the time specified in such Notice, the Association shall have the right to enforce its rights of action as provided in this Declaration together with all remedies whether at law or in equity and including but not limited to the remedy of injunctive relief and obtaining a monetary judgement for all costs, expenses, including reasonable attorneys' fees, and damages.

Section 12. Certification of Compliance.

a. Upon completion of the construction or alteration of any improvement in accordance with plans and specifications approved by the DRC, the DRC, upon written request of the Owner thereof, will issue a Certificate of Compliance, identifying such improvement and the property upon which such improvement is placed and stating that the plans and specifications and the location of such improvement complies with the requirements of the DRC. A copy of the Certificate of Compliance shall be filed for permanent record with the plans and specifications on file with the DRC. A Certificate of Compliance is not a certification by the DRC as to compliance with any governmental regulations or requirements.

b. Any Certificate of Compliance issued in accordance with the provisions of this Section shall be prima facie evidence of the facts therein stated and, as to any purchaser, encumbrancer, or insurer, such Certificate of Compliance shall be conclusive evidence that all improvements on the Lot or uses described therein comply with all the requirements of this Article.

Section 13. Fees. The DRC may charge a reasonable and appropriate fee to an Owner applicant, including fees for the professional DRC members. The fees shall be made payable to the Association and shall be payable at the time plans and specifications are submitted as a condition for the review and approval of such plans and specifications. No additional fee shall be required for the resubmission of plans and specifications revised in accordance with DRC recommendations.

Section 14. Nondiscrimination by DRC. The DRC shall not discriminate against any applicant requesting its approval of plans and specifications because of such applicants race, color, sex, religion, national origin, family composition or marital status. Further, the DRC in the exercise of its power granted pursuant to this Declaration shall not take any action which is intended to or does, in effect, discriminate against persons of a particular race, color, sex, religion, national origin, family composition or marital status.

Section 15. Public Approvals. All pertinent requirements of public agencies must be followed in the development of this Property, and all plans must be approved by the appropriate departments of Miami County. Each potential Owner should verify code requirements prior to purchase of a Lot or Living Unit. Although based on local zoning and subdivision regulations, the community development criteria may be more restrictive in land use, site development standards, landscape requirements and other matters. In every case in which these criteria are at variance with public agency requirements, the more restrictive regulations shall govern.

Final approvals permitting development and occupancy of property will be made by Miami County.

Article XI

General Restrictions

Section 1. General Provisions. In addition to any design standards established by the DRC, all of the existing Properties and all additional lands which shall be subject to this Declaration under Article II shall be subject to the following use restrictions:

a. Land Use. No building or structure shall be used for a purpose other than Single Family residential use, except for out buildings incidental to residential use. No Living Unit or other improvements shall be placed on any Lot without the prior written approval of DRC;

b. Landscaping; Obstruction of Traffic. No fence, wall, tree, hedge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic. Unless required to comply with the prior sentence, no tree of a diameter of more than four inches measured at six feet above ground level shall be removed without the approval of the DRC. The DRC may designate certain trees, regardless of size, as not removable without written authorization. The DRC may adopt and promulgate rules and regulations regarding the preservations of trees and other natural resources and wildlife to protect and encourage the preservation of the ecological balance of the Properties. All landscaping must conform to the area, in the opinion of the DRC, and shrubbery and other plantings must be planted along the front elevation of the Living Unit, and otherwise as required by the DRC. All bare ground shall be finish graded and fully sodded, seeded and planted. Owners and Builders shall protect all trees during the course of construction;

c. Nuisances. No noxious or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done that may be or become a nuisance or annoyance to the neighborhood. All exterior lighting, except for low intensity decorative lighting, shall have a concealed light source. Noise shall be limited to 55/50 dbldn at the Lot line;

d. Grades. Within any slope control area established by the Board, no structure, planting, or other materials shall be placed or permitted to remain, nor shall any activity be undertaken, which may damage or interfere with established slope ratios, create erosion or sliding problems, or change the direction of flow of drainage channels, or obstruct or retard the flow of water through drainage channels. The slope control areas of each Lot or other parcel and all improvements them shall be maintained continuously by the Owner, except for those improvements for which a public authority or utility company is responsible;

e. Fences. No fence of any kind shall be erected, begun, or permitted to remain upon any portion of the Properties unless approved by the DRC. No fence shall be located on any Lot, within any Common Area or Easement, nor nearer than twenty-five (25) feet to a property line which is adjacent to a street. All fences shall be five (5) feet in height or less. Fences in front of a Living Unit shall be wood (such as split rail), stone or other naturally occurring materials. Wire fences may be used behind a Living Unit provided that steel wire is used, or chain link fence, and only as approved by the DRC. No chicken wire or barbed wire shall be used for fences.

f. No Business Structure. No business structure shall be erected on any Lot; however, limited home occupations shall be permitted subject to the following restrictions and limitations:

(a) Prior to commencing any home occupation on any Lot, the Owner shall furnish to the Board a written description of such home occupation. In the event the Board in its sole discretion, deems such home occupation to be non-detrimental to the Properties or to other Owners, written permission to conduct such home occupation shall be given to such Owner. Such written permission shall always be subject to revocation upon thirty (30) days written notice and the Owner shall thereupon cease such home occupation. In no event will permission be granted for (i) wholesale or retail selling from inventory located or exhibited at the premises, (ii) rental of equipment or personal property stored or exhibited at the premises, (iii) medical, dental or related health care services, or (iv) automobile or other vehicle repair services;

(b) The home occupation shall be incidental and subordinate to the principal use of the premises and not more than twenty-five percent (25%) of the floor area of any one floor of the Living Unit shall be utilized for a home occupation;

(c) All materials or equipment used in the home occupation shall be stored within an enclosed structure;

(d) No alteration of the exterior of the Living Unit shall be made which changes the character thereof as a residence;

(e) No signs shall be permitted;

(f) At least one person occupying such Living Unit as his or her residence shall be engaged in such home occupation;

(g) No equipment shall be utilized that creates a nuisance due to noise or electrical interference; and

(h) In no event shall more than two (2) off-street parking spaces be provided.

g. Animals. No hogs, cows, rabbits, chickens, goats, poultry, birds, livestock, or animals of any kind, other than horses and house pets (except house pets with vicious propensities), shall be brought onto or kept on the Properties; and no more than two (2) horses, two (2) adult dogs, two (2) adult cats, or other such pets, may be kept or maintained on any Lot or Living Unit and further provided that they are not kept, bred or maintained for commercial purpose or as a steady hobby of the Owner. Pets shall be confined to the Lot and not allowed to run at large. All animal waste shall remain contained within the Lot and shall be disposed of properly.

h. Parking of Motor Vehicles, Boats and Trailers. No trucks or commercial vehicles, boats, house trailers, boat trailers, and trailers of every other description shall be permitted to be parked or to be stored on any Lot unless they are parked or stored in an enclosed garage or in such other enclosure approved by the DRC, except only during periods of approved construction on the Lot. This prohibition of parking shall not apply to temporary parking such as for pick-up delivery, and other commercial services.

For the purpose of this covenant, a 3/4 ton or smaller vehicle, commonly known as a pickup truck and which is not used for commercial purposes, and not bearing a commercial sign, shall not be deemed to be a commercial vehicle or truck. The DRC is authorized at its discretion, to issue a waiver of not more than 48 hours in a 30 day period for recreation vehicles;

i. Overhead Wiring. No power or telephone distribution or service connection lines may be erected or maintained above the surface of the ground on the Properties without the prior written consent of the DRC;

j. Laundry Poles. No permanent poles for attaching wires or lines for the purpose of hanging laundry thereupon shall be erected, installed or constructed on the Properties (except as located in the backyard of any Lot);

k. Antennas. No outside radio or television antenna or dish shall be erected, installed or constructed on any Lot, without the prior written consent of the DRC;

l. Fuel Tanks. No above ground fuel tank or container of any nature shall be placed, erected, installed or constructed on any Lot, unless located next to a structure and properly screened in accordance with DRC guidelines;

m. Temporary Structures. No structure of the character of a trailer, basement, tent, shack, garage, barn or other out buildings shall be used on the Properties at any time as a residence, either temporarily or permanently;

n. Signs. No signs, advertisements, billboards, or advertising structures of any kind may be erected or maintained on any Lot; provided, however, that permission is hereby granted for the erection and maintenance of not more than one advertising board on each Lot which shall not be more than eight (8) square feet in size and may be used for the sole and exclusive purpose of advertising for sale the Lot upon which it is erected and permission is granted to erect normal and customary signs advertising garage sales or promoting political campaigns so long as the same are removed within seven (7) days from erection;

o. Drilling and Quarrying. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall oil wells, tunnels, mineral excavations or shafts be permitted upon or in any Lot. No derrick or other structure designed for use in boring oil or natural gas shall be erected, maintained or permitted upon any Lot;

p. Trash. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in containers, or other equipment for the storage or disposal of such material, which equipment shall be kept in a clean and sanitary condition and out of view. There shall be no burning of trash or leaves on any Lot. All firewood shall be stored out of view of any street;

q. Sewage Disposal. A septic tank waste water treatment system shall be installed to serve each Living Unit. An interceptor tank shall be installed as a septic tank with a separate tank having an effluent pump system. Effluent from each septic tank shall be pumped, via common utility piping, to a common effluent sewer treatment plant. No septic tank effluent shall be discharged on any Lot. Each septic tank shall meet the specifications prescribed by the DRC. Each Owner shall be responsible for costs associated with the occasional pumping of such tanks. The Association may inspect such tanks (the cost of which shall be part of the annual general assessment) and report to an Owner that pumping will be required at Owner's expense. When available each Owner shall connect the septic pump tank to the community sewer system which will be maintained by Miami County. The Developer shall pay the cost of connection to the sewer system, and will construct at its expense the sewer system. Once the sewer system has been accepted by the County of Miami, the cost of connecting to the sewer system shall be borne by the Owner or Builder, as the case may be;

r. Water Supply. No individual water supply system shall be permitted on any Lot, except for use in air conditioners and sprinkler systems;

s. Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved to the Association and/or applicable public utility companies. Such easements shall include the rights of ingress and egress for construction and maintenance purposes. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage any structure installed in accordance with said easement, or interfere with the installation and maintenance of utilities, or which may change the direction of the flow drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of said Lot;

t. Care and Appearance of Premises. The structures and grounds on each Lot shall be maintained in a neat and attractive manner. All sidewalks and driveways shall be kept clear of snow and ice, which shall be removed as soon as possible. The Association shall have the right (upon twenty (20) days notice to the Owner of the Lot involved, setting forth the action intended to be taken, and if at the end of such time such action has not been taken by the Owner), at the expense of the Owner, to remove trash or rubbish, and to cut grass, weeds and vegetation and to trim or prune any hedge or other planting that in the opinion of the DRC, by reason of its location or the height to which or the manner in which it is permitted to grow, is detrimental to adjoining property. Upon like notice and conditions, the DRC shall care for vacant or unimproved property, and remove grass, weeds and rubbish therefrom and to do any and all things necessary or desirable in the opinion of the DRC to keep such property in neat and good order, all at the cost and expense of the Owner. Such costs and expenses incurred by the Association shall be paid to the Association upon demand and if not paid within ten (10) days thereof then they shall become a lien upon the property affected;

u. Exterior Colors and Landscaping. The exterior colors, materials and all landscape planting with mature height above three (3) feet and decoration shall have the prior written approval of the DRC and shall not be changed without the written approval of the DRC;

v. Minimum Size and Height Requirements. Minimum square footage and height requirements will be set forth for each Phase of development pursuant to the Development Plan. The requirements for Phase I are as follows:

Any one story residence erected on any Lot in the Subdivision shall contain not less than a minimum of 1,800 square feet of enclosed floor area, and any residential structure of one and one-half (1 1/2) or two (2) stories shall have a minimum of 2,000 square feet of enclosed floor area, with 1,400 square feet on the first floor. Any Living Unit with a basement level garage will have 1,800 square feet of enclosed floor area on the first floor. Each Living Unit shall have an attached garage for a minimum of two cars, and a maximum of four cars.

The words "enclosed floor area" as used herein shall mean and include areas of the residence enclosed and finished for all year occupancy, computed on outside measurements of the residence and shall not mean or include any areas in basements, garages, carports, porches or attics.

A residence containing less than the minimum enclosed floor provided herein may be erected on any Lots with the recommended approval of the DRC and the written consent of the Board of the Association, or may be waived in writing by the Developer expressly waiving the restrictions, however no such waiver shall otherwise affect these restrictions with regard to other Lots.

w. Building Lines. No part of any residence shall be located on any Lot which violates the building lines established by the Plat. For Phase I, building setbacks are as follows: fifty (50) feet from street right-of-way lines; forty (45) feet from rear lot lines; twenty (20) feet from trail easements; and thirty-five (35) feet from side lot lines.

Provided however, the following enumerated parts of any residence may project over the above described front, side and rear lines, for the distance shown:

(a) Window Projections. Bay, bow or oriel, dormer and other projecting windows not exceeding one story in height may project a distance not to exceed two (2) feet.

(b) Miscellaneous Projections. Roof, overhangs, cornices, spoutings, chimneys, brackets, pilasters, grillwork, trellises and other similar projections for purely ornamental purposes, may project a distance not to exceed two (2) feet.

(c) Vestibule Projections. Any vestibule not more than one story in height may project a distance not to exceed two (2) feet.

(d) Porch Projections. Unenclosed, covered porches and balconies may project beyond the front building line not to exceed six (6) feet.

x. Damaged Structures. In the event of fire, windstorm or other damage, no building shall be permitted to remain with its exterior in a damaged condition longer than six (6) months. The DRC shall have the right at its discretion to grant extensions for periods of no more than two (2) months. Extensions shall be subject to renewal by the DRC but in no event shall the exterior of any building on any lot be permitted to remain in a damaged condition for more than twelve (12) months. In the event an owner fails to comply with the time limitation set forth herein, liquidated damages of \$100 per day shall accrue against such Owner and shall become a lien upon such Owner's Lot;

y. Frontage. All Living Units shall present a good frontage to any street or adjacent property. All Living Units located on a corner Lot shall front or present a good frontage on both streets. Each Living Unit shall present good frontage on all sides;

z. Foundation Exposure. No concrete on common concrete blocks shall be exposed over one (1) foot above ground level on any elevation of a structure, if the same is visible from any street;

aa. Driveways. Any portion of any driveway within street right of way must comply to standards established by the DRC. All driveways must be asphalt, chip-seal or concrete.

bb. Electrical Requirements. All Lots upon which a residence is constructed shall have and maintain in good operating condition a unit commonly known as an "electric heat pump" heating and cooling unit. In the alternative each said residence shall have "all electric" service and shall not use gas for its heating and cooling requirements.

cc. Outbuildings. There shall be no more than one (1) outbuilding per Lot that shall not exceed two (2) stories in height. The first floor area of any outbuilding shall be the same or smaller than the Living Unit. The outbuilding shall be located at least fifty (50) feet behind the Living Unit, and shall set back at least one hundred (100) feet from a street right-of-way line. Any outbuildings shall be constructed of wood, masonry or pre-finished metal panels. In addition, the design, material, etc. of any outbuilding shall be approved by the DRC in accordance with these Declarations.

Section 2. Lot Use for Model Home or Real Estate Office. All else herein to the contrary notwithstanding and as expressly limited herein, any Lot may be used for a model home or for a real estate office by the Developer, or its agents or employees, during the Development Period. Such right shall be limited to the Developer, or its agents or employees, and shall extend to no other person, Builder, Owner or other developer except as may be permitted by a majority vote of the Association Board.

Article XII

Easements

Section 1. Easements. Any provision in this Declaration to the contrary notwithstanding, easements and rights-of-way are hereby expressly reserved to the Developer and, as appropriate and necessary, to the Association, their agents, designees, successors and assigns, in, on, over and under the easement area of each Lot and the Common Area as designated on any plat filed relative to a Phase, for the following purposes:

- a. the erection, installation, construction and maintenance of wires, lines, conduits and poles and the necessary or proper attachments and appurtenant structures in connection with the transmission of electricity, telephone, traffic signals, fire alarm systems, communication systems, television cables and other utilities and similar facilities;
- b. the erection, installation, construction and maintenance of storm water drains, land drains, public and private sewers, grinder pumps, pipe lines for supplying gas, water and heat, and for any other public or quasi-public facility, service or function, and appurtenant structures whether above ground or underground;
- c. slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity which might interfere with slope ratios approved by the Developer or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow;
- d. landscape purposes, including the right to require Owner's of Lots affected by the Landscape Easements set forth on any plat filed relative to a Phase, to plant and maintain such area in accordance with DRC standards;
- e. horse and walking trails.

Section 2. Installation. Developer reserves unto itself, its assignees, successors and designees, the right, power and authority to direct and control, in cooperation with a public authority or any utility company which will install or own, operate and maintain the respective facilities, or both, which utilities and drainage services (as provided for herein) shall be installed in and occupy any specific easement. Within any easements, no improvement, planting or other material or improvement shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the directional flow of drainage channels in the easement, or which may alter, obstruct or retard the flow of water through drainage channels within the easement areas, or which may change or prevent the intended use of any easement.

Section 3. Owner Rights and Obligations. Subject to all of the other restrictions contained in this Declaration, each Owner shall have the right to use the Easement Areas of his Lot in any manner not inconsistent with the purposes for which such easement areas are reserved, and the area within any easement area and all improvements within the bounds of such easement areas shall be maintained continuously by the Owner of the said Lot, except for such improvements for which a public authority or utility company is or may become responsible for maintenance. Notwithstanding anything herein to the contrary, each owner of a Lot covenants and agrees that, in cooperation with the Developer, each Owner shall execute all grants of easements, grants of right-of-way or any other similar grant or conveyance documentation required to be executed by an Owner in order to grant and convey to any public authority or utility company, their assigns or lessees, the right, privilege and easement to lay, construct, maintain, alter, inspect, repair, replace, protect, relocate, change the size of, operate and remove all utility lines, service taps, distribution facilities, valves, regulators, pressure sewer systems (including the force mains, grinder pump units and appurtenances) and other equipment appurtenant to and necessary for providing any and all of the utility and drainage services as provided herein.

Section 4. Access. The Developer reserves for itself and the Association, their agents, designees, successors and assigns the right at all reasonable times and upon reasonable notice to enter upon all parts of the Easement Areas of each Lot for any of the purposes for which said easements or rights-of-way are reserved, without

being deemed to have committed a trespass or wrongful act solely by reason of such entry. The Developer and the Association, their agents, designees, successors and assigns shall be responsible for leaving each Easement Area in good repair and condition following any work or activity within such Easement Area pursuant to the provisions of this Article XII.

Section 5. Horse and Walking Trails. Common areas shall include the horse and walking trails as shown on the Plat. An easement and right-of-way is hereby expressly reserved to the Developer and the Association, their agents, designees, successors and assigns, in, on, over and under the walking and horse trails designated on the Plat, or any future Plat filed relative to a Phase, for the following purposes.

a. The walking and horse riding trails and easements may be used by all Members, their families and guests, for walking and horse riding.

b. The walking and horse riding trails may also be used by Members and guests of the planned equestrian park which is shown on the Development Plan.

c. No Owner shall in any way block or obstruct the use of the walking and horse riding trails for the purposes above set forth.

Article XIV

Duration of Restrictions

This Declaration is binding upon the parties, their heirs, administrators, successors and assigns, for a period of twenty (20) years from date hereof, and will automatically be continued for successive periods of ten (10) years each, unless terminated as set forth in Article XVII.

Article XV

Notice

A Notice is sufficient and proper notice of any matter to which any Member, Owner or other interested person is entitled under the terms of this Declaration.

Article XVII

Modification, Amendment and Termination

This Declaration may be modified, amended or terminated at any time by the execution and acknowledgement of an appropriate agreement or document by a two-thirds (2/3's) vote of the Members, which instrument shall be recorded in the Office of the Register of Deeds of Miami County, Kansas.

Article XVIII

Assignment by the Association

The Association may, with the approval of a majority of its Members, by appropriate agreement made expressly for that purpose, assign or convey all or any part of the rights, reservations and privileges herein reserved by or granted to it. The assignee shall be subject to the duties, obligations and restrictions imposed upon the Association.

Article XIX

No Personal Liability

Neither the Developer or any member of the Board, officer of the Association, member of the DRC or member of any committee of the Association, whether such committee is specifically described in this Declaration or later created by the Association, shall be personally liable for any damage, loss or prejudice suffered or claimed for any act, omission, error, failure to act, or negligence of any member of the Board, Developer, officer or committee member of the DRC and, further, neither the DRC nor any member thereof shall be liable to the Association, prejudice suffered by or claimed on account of (a) the approval or disapproval of any plans, drawings or specifications, whether or not defective, (b) the construction or performance of any work upon the property, (c) the execution and filing of any estoppel certificate, whether or not the facts therein are correct, or (d) any other act, action or conduct of such party. Such limitation of liability shall apply in all cases, provided that such person has, on the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct.

Article XX

To Observe All Laws

The Association will at all time observe all applicable State, County, City and other laws. If the provisions of this Declaration are in conflict, then the parts of this Declaration in conflict shall become ineffective, but no other part of this Declaration not in conflict with such laws shall be affected. Each of the various provisions of this Declaration and of the covenants, restrictions, rights, duties and obligations created or imposed, are each separate and distinct of the others. The invalidity or unenforceability of any part of this Declaration shall not affect the remainder.

Article XXI

Association to Notify Members of Address

The Association shall notify all Owners of the official address of the Association and any address changes, the place, time and purpose of the regular and special meetings of the Association, and the place where payments shall be made and other business of the Association may be transacted.

Article XXII

Land or Person not Bound, if any

If for any reason this Declaration shall be ineffective or not binding as to any Lot or other part of the Property or is not enforceable against any Owner or Member, then as to that Lot or Owner or Member, nothing in this Declaration will alter, change, terminate or affect any of the assessments, restrictions, limitations, covenants or agreements of this Declaration which were effective with respect to such Lot, Owner or Member.

Article XXIII

Equal Opportunity Housing

Covenants of Owners. Any person when he or she becomes an Owner or Member agrees that neither he nor she nor anyone authorized to act for them will refuse to sell or rent, after the making of a bona fide offer, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny the Lot to any persons because of race, color, religion, sex, age (if old enough to contract) or national origin or because such person receives financial assistance from the local, state or Federal government. This covenant shall run with the land and shall remain in effect without limitation in time. Any restrictive covenant on the Property relating to race, color, religion, sex, age (if old enough to contract) or national origin is recognized as being illegal and is specifically disclaimed.

IN WITNESS WHEREOF, Developer, by authority of its Members, has caused this instrument to be executed, the month, day and year first above written.

FRIDEY ENTERPRISES, LLC,
a Kansas limited liability company

By: _____
John V. Fricke, Member

EXHIBIT "A"
TO
COVENANT'S, CONDITIONS
AND RESTRICTIONS FOR
WALNUT CREAK ESTATES

A SUBDIVISION IN
MIAMI COUNTY, KANSAS

LEGAL DESCRIPTION

A tract of land in the West Fractional Half of Section 7, Township 16 South, Range 24 East of the Sixth Principal Meridian, being more particularly described as follows:

Beginning at the Southwest corner of the Southwest Quarter of Section 7, Township 16 South, Range 24 East of the Sixth Principal Meridian;

THENCE North 00 degrees 16 minutes 53 seconds West for a distance of 2640.51 feet to the Northwest corner of said Quarter Section;

THENCE North 87 degrees 52 minutes 37 seconds East for a distance of 360.40 feet along the North line of said Quarter Section;

THENCE South 34 degrees 43 minutes 07 seconds East for a distance of 616.75 feet;

THENCE South 54 degrees 01 minutes 36 seconds East for a distance of 198.75 feet;

THENCE South 10 degrees 23 minutes 09 seconds West for a distance of 261.80 feet;

THENCE South 38 degrees 58 minutes 05 seconds East for a distance of 60.00 feet;

THENCE South 65 degrees 07 minutes 56 seconds East for a distance of 456.03 feet;

THENCE South 09 degrees 36 minutes 38 seconds West for a distance of 643.96 feet;

THENCE South 01 degrees 51 minutes 56 seconds East for a distance of 243.29 feet;

THENCE South 31 degrees 01 minutes 01 seconds East for a distance of 316.16 feet;

THENCE South 01 degrees 56 minutes 50 seconds East for a distance of 339.87 feet to a point on the South line of said Quarter Section;

THENCE South 88 degrees 03 minutes 10 seconds West for a distance of 1339.23 feet along said South line to the POINT OF BEGINNING;

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 61.94 acres more or less, in Miami County, Kansas.

EXHIBIT "B"

DEVELOPMENT PLAN

Potentially to include the lots depicted herein on the real property described as follows (a portion of which constitutes Phase I as described on Exhibit "A"):

Northwest $\frac{1}{4}$ and Southwest $\frac{1}{4}$, Section 7, Township 16 South, Range 24 East.