

FILED FOR RECORD
AUG 14 PM 2:50
RANDA MARTIN
MARION COUNTY RECORDER

FOXFIRE

DP ZONING
MINIMUM SETBACKS:
FRONT YARD - 25 FEET
REAR YARD - 20 FEET
SIDE YARD - 5 FEET

PER REZONE CASE
2000-ZON-015, 2000-DP-004

SECTION 1 PART OF THE W.1/2 S.W.1/4 SECTION 23-T15N-R4E MARION COUNTY, INDIANA

LAND DESCRIPTION

A part of the West Half of the Southwest Quarter of Section 23, Township 15 North, Range 4 East of the Second Principal Meridian in Marion County, Indiana, more particularly described as follows:

Commencing at Southwest corner of said Half Quarter Section; thence North 00 degrees 51 minutes 05 seconds West (assumed bearing) along the West line of said Half Quarter Section a distance of 813.44 feet to the Point of Beginning; thence continuing North 00 degrees 51 minutes 05 seconds West along said west line a distance of 381.06 feet; thence North 87 degrees 48 minutes 09 seconds East, parallel with the south line of said Half Quarter Section, a distance of 290.00 feet; thence South 31 degrees 59 minutes 49 seconds East a distance of 101.84 feet; thence South 89 degrees 15 minutes 45 seconds East a distance of 98.80 feet; thence North 83 degrees 29 minutes 18 seconds East a distance of 78.31 feet; thence North 89 degrees 08 minutes 55 seconds East a distance of 180.00 feet; thence South 00 degrees 51 minutes 05 seconds East, parallel with the West line of said Half Quarter Section, a distance of 29.54 feet; thence North 89 degrees 08 minutes 55 seconds East a distance of 119.59 feet; thence North 00 degrees 51 minutes 05 seconds West, parallel with said west line, a distance of 6.84 feet; thence North 89 degrees 08 minutes 55 seconds East a distance of 170.86 feet to the east line of a tract of land described in Instrument Number 98-215707 in said Recorder's Office (the following three (3) described courses being along the east and south lines of said tract of land); thence South 00 degrees 51 minutes 05 seconds East, parallel with said west line, a distance of 832.91 feet; thence South 87 degrees 48 minutes 09 seconds West, parallel with the south line of said Half Quarter Section, a distance of 181.23 feet; thence South 00 degrees 51 minutes 05 seconds East, parallel with said west line, a distance of 240.28 feet to the south line of said Southwest Quarter Section; thence South 87 degrees 48 minutes 09 seconds West along said south line a distance of 306.86 feet; thence North 00 degrees 51 minutes 05 seconds West, parallel with said west line, a distance of 572.69 feet; thence South 89 degrees 08 minutes 55 seconds West a distance of 127.42 feet; thence North 00 degrees 51 minutes 05 seconds West, parallel with said west line, a distance of 148.53 feet; thence South 89 degrees 08 minutes 55 seconds West a distance of 50.00 feet; thence North 00 degrees 51 minutes 05 seconds West, parallel with said west line, a distance of 46.93 feet; thence South 89 degrees 08 minutes 55 seconds West a distance of 84.89 feet; thence North 47 degrees 11 minutes 32 West a distance of 48.52 feet; thence South 89 degrees 08 minutes 55 seconds West a distance of 204.29 feet to the Point of Beginning, containing 16.083 acres, more or less.

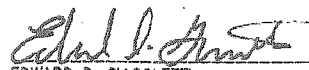
THIS SUBDIVISION CONSISTS OF 49 LOTS, NUMBERED 1 THROUGH 49 TOGETHER WITH BLOCK "A", COMMON AREA NUMBER 1 AND STREETS AND EASEMENTS AS SHOWN HEREON.

THE SIZE OF LOTS, BLOCK AND COMMON AREA AND WIDTHS OF STREETS AND EASEMENTS ARE SHOWN IN FIGURES DENOTING FEET AND DECIMAL PARTS THEREOF.

CROSS-REFERENCE IS HEREBY MADE TO SURVEY PLAT RECORDED AS INSTRUMENT NUMBER 2001-117561 IN THE OFFICE OF THE RECORDER OF MARION COUNTY, INDIANA.

I, THE UNDERSIGNED, HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR, LICENSED IN COMPLIANCE WITH THE LAWS OF THE STATE OF INDIANA AND THAT THE WITHIN PLAT REPRESENTS A SUBDIVISION OF THE LANDS SURVEYED WITHIN THE CROSS REFERENCED SURVEY PLAT, AND THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THERE HAS BEEN NO CHANGE FROM THE MATTERS OF SURVEY REVEALED BY THE CROSS-REFERENCE SURVEY ON ANY LINES THAT ARE COMMON WITH THE NEW SUBDIVISION. I FURTHER CERTIFY THAT THE SAID SUBDIVISION WAS PLATTED UNDER MY DIRECT SUPERVISION AND CONTROL AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

WITNESS MY SIGNATURE THIS 31ST DAY OF JULY 2001


EDWARD D. GIACOLETTI
REGISTERED LAND SURVEYOR
INDIANA #S0560



THE UNDERSIGNED, BOOMERANG DEVELOPMENT, LLC, BY CORBY D. THOMPSON, CHIEF OPERATING OFFICER, BEING THE OWNER OF THE WITHIN DESCRIBED REAL ESTATE, DO HEREBY LAYOFF, PLAT AND SUBDIVIDE THE SAME INTO LOTS, BLOCKS, COMMON AREAS AND STREETS IN ACCORDANCE WITH THE WITHIN PLAT. THE WITHIN PLAT SHALL BE KNOWN AND DESIGNATED AS "FOXFIRE SECTION 1", A SUBDIVISION IN MARION COUNTY, WARREN TOWNSHIP, INDIANA.

IT SHALL BE THE RESPONSIBILITY OF THE OWNER OF ANY LOT OR PARCEL OF LAND WITHIN THE AREA OF THIS PLAT TO COMPLY AT ALL TIMES WITH THE PROVISIONS OF THE DRAINAGE PLAN AS APPROVED FOR THIS PLAT BY THE DEPARTMENT OF PUBLIC WORKS AND THE REQUIREMENTS OF ALL DRAINAGE PERMITS FOR THIS PLAT ISSUED BY SAID DEPT.

"IT SHALL BE THE RESPONSIBILITY OF THE OWNER OF ANY LOT OR PARCEL OF LAND WITHIN THE AREA OF THIS PLAT TO COMPLY AT ALL TIMES WITH THE PROVISIONS OF THE SANITARY SEWER CONSTRUCTION APPROVED BY THE DEPARTMENT OF PUBLIC WORKS AND THE REQUIREMENTS OF ALL SANITARY SEWER CONSTRUCTION PERMITS FOR THIS PLAN ISSUED BY SAID DEPARTMENT. OWNER FURTHER COVENANTS THAT NO BUILDING, STRUCTURE, TREE OR OTHER OBSTRUCTION SHALL BE ERECTED, MAINTAINED, OR ALLOWED TO CONTINUE ON THE PORTION OF THE OWNERS' REAL ESTATE IN WHICH THE EASEMENT AND RIGHT-OF-WAY IS GRANTED WITHOUT EXPRESS WRITTEN PERMISSION FROM THE DEPARTMENT. SUCH PERMISSION, WHEN DULY RECORDED, SHALL RUN WITH THE REAL ESTATE. THE DEPARTMENT, AND ITS AGENTS, SHALL HAVE THE RIGHT TO INGRESS AND EGRESS, FOR TEMPORARY PERIODS ONLY, OVER THE OWNERS' REAL ESTATE ADJOINING SAID EASEMENT AND RIGHT-OF-WAY, WHEN NECESSARY TO CONSTRUCT, REPAIR OR MAINTAIN SANITARY SEWER FACILITIES."

METROPOLITAN DEVELOPMENT COMMISSION: THE METROPOLITAN DEVELOPMENT COMMISSION, ITS SUCCESSORS AND ASSIGNS SHALL NOT HAVE RIGHT, POWER OR AUTHORITY TO ENFORCE ANY COVENANTS, COMMITMENTS, RESTRICTIONS OR OTHER LIMITATIONS CONTAINED HEREIN OTHER THAN THOSE COVENANTS, COMMITMENTS, RESTRICTIONS OR LIMITATIONS THAT EXPRESSLY RUN IN FAVOR OF THE METROPOLITAN DEVELOPMENT COMMISSION; PROVIDED THAT NOTHING HEREIN SHALL BE CONSTRUED TO PREVENT THE METROPOLITAN DEVELOPMENT COMMISSION FROM ENFORCING ANY PROVISION OF THE SUBDIVISION CONTROL ORDINANCE, 58-AO-13, AS AMENDED, OR ANY CONDITIONS ATTACHED TO APPROVAL OF THIS PLAT BY THE PLAT COMMITTEE.

Plat Covenants and Restrictions of Foxfire Section 1

The undersigned, Boomerang Development, LLC, an Indiana limited liability company ("Developer") is the Owner of that certain real estate more specifically described in the land description on sheet PL1 of this plat (the "Real Estate"). Developer is concurrently platting and subdividing the Real Estate as shown on the plat for Foxfire, Section 1 (the "Plat") which Plat is filed of record simultaneously herewith in the Office of the Recorder of Marion County, Indiana (the "Office of the Recorder") and desires in the Plat to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision created by the Plat (the "Subdivision") is to be known and designated as "Foxfire Section 1". In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants, conditions and restrictions contained in the Declaration of Covenants, Conditions and Restrictions of Foxfire, and recorded on _____, 2001 as Instrument No. _____ in the Office of the Recorder, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of The Foxfire Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenants and restrictions contained in the Declaration shall govern and control, but only to the extent of the irreconcilable conflict, it being the intent hereof that all covenants and restrictions contained herein shall be applicable to the Real Estate to the fullest extent possible. Capitalized terms used herein shall have the same meaning as given in the Declaration.

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

1. PUBLIC RIGHT OF WAY. The streets and public rights-of-way shown hereon, subject to construction standards and acceptance, are hereby dedicated, owned and maintained by the City of Indianapolis, Marion County, Indiana, for public use.
2. DRAINAGE AND UTILITY EASEMENTS. There are areas of ground on the Plat marked "Drainage Easements and Utility Easements", either separately or in combination. The Utility Easements are hereby created and reserved for the use of (i) all public utility companies (not including transportation companies), governmental agencies and the Association for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including cable television service, and (ii) the City of Indianapolis and Developer for access to and installation, repair, removal, replacement or maintenance of an underground sanitary sewer system. The Drainage Easements are hereby created and reserved for (i) the use of Developer during the "Development Period" (as such term is defined in the Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property and (ii) the use of the Association and the City of Indianapolis for access to and maintenance, repair and replacement of such drainage system. The owner of any Lot in the Subdivision subject to a Drainage Easement, including any builder, shall be required to keep the portion of said Drainage Easement on his Lot free from obstructions so that the storm water drainage will be unimpeded and will not be changed or altered without

a permit from the City of Indianapolis and the prior written approval of the Developer. Utility and Utility Easement areas on the Plat shall not be deemed to be a limitation on the rights of any entity for whose use any such easement is created and reserved to go on any Lot subject to such easement temporarily to the extent reasonably necessary for the exercise of the rights granted to it by this Paragraph 2. Except as installed by Developer or installed as provided above, no structures or improvements, including without limitation decks, patios, fences, walkways or landscaping, shall be erected or maintained upon said easements.

3A. LANDSCAPE EASEMENTS. There are areas of ground on the Plat marked "Landscape Easements". Such Landscape Easements are hereby created and reserved for the use of the Developer, during the Development Period, and the Association for access to and the installation, maintenance and replacement of foliage, landscaping, screening materials, entrance walls, lighting, irrigation and other improvements. Except as installed by Developer or installed and maintained by the Association or with the written approval of the Architectural Review Committee, no structures or improvements, including without limitation piers, decks, walkways, patios and fences, shall be erected or maintained upon said Landscape Easements.

3B. COMMON AREAS. There are areas of ground on the Plat marked "Common Area". Developer hereby declares, creates and grants a non-exclusive easement in favor of each Owner for the use and enjoyment of the Common Areas, subject to the conditions and restrictions contained in the Declaration. Common Areas are created as conservation easements and shall not be used for residential home construction.

4. BUILDING LOCATION - FRONT, BACK AND SIDE YARD REQUIREMENTS. Building lines and building setback lines are established on the Plat. No building shall be erected or maintained between said setback lines and the front, rear or side lot line (as the case may be) of a Lot. The setback lines may vary in depth in excess of the minimum as designated on the Plat. The minimum front yard set back shall be twenty-five (25) feet. The minimum side yard set back shall be five (5) feet. The minimum rear yard set back shall be twenty (20) feet.

5A. RESIDENTIAL UNIT SIZE AND OTHER REQUIREMENTS. No one-story building residence constructed on a Lot shall have less than 1300 square feet of total floor area, exclusive of garages, carports and open porches. The minimum living area of any building higher than one-story shall be 1600 square feet, exclusive of garages, carports and open porches. Each Residence Unit shall include an attached one-car (or larger) enclosed garage. The maximum height of any structure constructed on a Lot shall be forty (40) feet.

FOXFIRE

SECTION 1

PART OF THE W.1/2 S.W.1/4 SECTION 23-T15N-R4E MARION COUNTY, INDIANA

6. RESIDENTIAL UNIT USE. All Lots in the Subdivision shall be used solely for residential purposes. No business building shall be erected on any Lot, and no business may be conducted on any part thereof. No building shall be erected, placed or permitted to remain on any Lot other than (1) one detached single-family residence not to exceed two stories in height and expressly permitted residential accessory buildings.
7. ACCESSORY AND TEMPORARY BUILDINGS. Except as used by Developer or its designees, no trailers, shacks, mini-barns, outhouses or unenclosed or unattached accessory buildings of any kind shall be erected or situated on any Lot in the Subdivision.
8. TEMPORARY RESIDENCE. No trailer, camper, motor home, truck, van, shack, tent, boat, bus, recreational vehicle, basement or garage may be used at any time as a residence, temporary or permanent; nor may any structure of a temporary character be used as a residence.
9. NUISANCES. No domestic animals raised for commercial purposes and no farm animals or fowl shall be kept or permitted on any Lot. No noxious, unlawful or otherwise offensive activity shall be carried out on any Lot, nor shall anything be done thereon which may be or may become a serious annoyance or nuisance to the neighborhood. Without the written approval of the Architectural Review Committee, no animals of any type shall be housed outside of the interior of homes within the Subdivision with the effect, among other things, that no doghouses, dog pens and/or other animal facilities similar thereto shall be permitted outside of homes within the Subdivision.
10. VEHICLE PARKING. No camper, motor home, bus, truck (over 3/4 ton load capacity), trailer, boat, snowmobile or other recreational vehicle of any kind may be stored on any Lot in open public view. No vehicles of any kind shall be put up on blocks or jacks to accommodate car repair or otherwise on a Lot outside of the garage. Disabled vehicles shall not be allowed to remain in open public view. No camper, trailer, motor home, boat or similar vehicle shall be parked on any street in the Development. No vehicles shall park within any of the streets within the Subdivision except on an occasional and infrequent basis. No more than two (2) otherwise permitted vehicles shall be kept or parked outside of the garage area of homes except on an occasional and infrequent basis.
11. SIGNS. No sign of any kind shall be displayed to the public view on any Lot, except that one sign of not more than six (6) square feet may be displayed at any time for the purpose of advertising a property for sale, and except that Developer and its affiliates and designees, including any builder, may use larger signs during the sale and development of the Subdivision.
12. MAILBOXES. All mailboxes and replacement mailboxes shall be uniform and shall conform to the standards set forth by the Architectural Review Committee.
13. GARBAGE AND REFUSE DISPOSAL. Trash and refuse disposal will be on an individual basis, Lot by Lot. The community shall not contain dumpsters or other forms of general or common trash accumulation except to facilitate development and house construction. No Lot shall be used or maintained as a dumping ground for trash. Rubbish, garbage and other waste shall be kept in sanitary containers. All equipment for storage or disposal of such materials shall be kept clean and shall not be stored on any Lot in open public view. No rubbish, garbage or other waste shall be allowed to accumulate on any Lot. No homeowner or occupant of a Lot shall burn or bury any garbage or refuse.
14. STORAGE TANKS. No gas, oil or other storage tanks shall be installed on any Lot.
15. WATER SUPPLY AND SEWAGE SYSTEMS. No private or semiprivate water supply or sewage disposal system may be located upon any Lot. No septic tank, absorption field or similar method of sewage disposal shall be located or constructed on any Lot.
16. DITCHES AND SWALES. All owners, including builders, shall keep unobstructed and in good maintenance and repair all open storm water drainage ditches and swales which may be located on their respective Lots. No filling, re-grading, piping, rerouting or other alteration of any open ditch or swale may be made without the express written consent of the Architectural Review Committee, subject to the approval of the appropriate governmental entity.

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

18. ANTENNA AND SATELLITE DISHES. Outdoor satellite dishes shall be permitted in the Subdivision; provided, however, that (i) the diameter of the satellite dish shall be no more than one (1) meter (i.e., thirty-nine and 37/100 (39.37) inches); (ii) only one (1) satellite dish shall be permitted on each Lot; and (iii) the Architectural Review Committee shall have first determined that the satellite dish is appropriately placed and properly screened in order to preserve property values and maintain a harmonious and compatible relationship among Residence Units in the Subdivision.

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

20. FENCING. No fence shall be erected on or along any Lot line, nor on any Lot, the purposes or result of which will be to obstruct reasonable vision, light or air. All fences shall be kept in good repair and erected so as to enclose the property and decorate the same without unreasonable hindrance or obstruction to any other property. Any fencing permitted to be used in the Subdivision (unless installed by Developer) must be wooden or black or green vinyl coated chain link and shall not be higher than six (6) feet. Uncoated chain link fencing is prohibited. No fencing shall extend into a yard, fronting onto a street, closer to the street than the front corner of the residence. All fencing style, color, location and height shall be generally consistent within the Subdivision and shall be subject to prior written approval of the Architectural Review Committee. Fences are allowed in easements but are erected at owner's risk as such fences may be partially or completely torn down by others if they interfere with the installation, operation, and/or maintenance of the facilities for which the easement has been reserved.

21. SWIMMING POOLS AND SPORTS COURTS. No aboveground swimming pools shall be permitted in the Subdivision. No hard surfaced sports courts of any kind shall be permitted on any Lot except as approved by the Architectural Review Committee. No basketball goals or similar structures shall be permitted in the Subdivision except as approved by the Architectural Review Committee taking into account the size, location, height, composition, and color thereof prior to installation. No goal or structure shall be installed or maintained such that playing basketball occurs in the street. If portable goals are approved and used, they shall not be placed so that playing basketball occurs in the street.

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

23. OUTSIDE LIGHTING. Except as otherwise approved by the Developer in connection with a builder's model home sales center, all outside lighting contained in or with respect to the Subdivision shall be of an ornamental nature compatible with the architecture of the project and shall provide for projection of light so as not to create a glare, distraction or nuisance to other property owners in the vicinity of or adjacent to the project.

24. SITE OBSTRUCTIONS. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and nine (9) feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting points twenty-five (25) feet from the intersection of said street lines, or in the case of a rounded property corner, from the intersection of the street lines extended. The same sight-line limitations shall apply to any Lot within ten (10) feet from the intersection of a street line with the edge of a driveway pavement or alley line. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

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

26. AMENDMENT. These covenants and restrictions may be amended at any time by a vote of not less than ninety percent (90%) if such date is taken within twenty (20) years after the date hereof and if such vote is taken after such twenty (20) year period by a vote of not less than seventy-five percent (75%) of the Lots in all Subdivisions which are now or hereafter made subject to and annexed to the Declaration; provided, however, that until all of the Lots in such Subdivisions have been sold by Developer, any such amendment shall also require the prior written approval of Developer. Each such amendment shall be evidenced by a written instrument, which instrument shall set forth facts sufficient to indicate compliance with this paragraph and shall be recorded in the Office of the Recorder. No amendment which adversely affects the rights of a public utility shall be effective with respect to such public utility without its written consent thereto. No amendment which is contrary to a zoning commitment shall be effective without the written approval of the affected adjacent homeowners associations designated by the City of Indianapolis.

