

COMMITMENTS CONCERNING THE USE AND DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH THE REZONING OF PROPERTY

In accordance with applicable law, the owner of real estate located in Greenwood, Johnson County, Indiana, which is more particularly described in Exhibit "A" which is attached hereto and incorporated herein by reference, makes the following commitments concerning the use and development of the real estate hereinunder consideration;

W I T N E S S E T H :

1. The development of the real estate shall be accomplished in substantial accordance with a site plan prepared and to be furnished with the Greenwood Plan Commission, in accordance with the requirements of said Commission as provided in a hearing under date of September 11, 1989.

2. The real estate shall be developed with the following commitments as to use:

- a) the area to be rezoned to R-4 Residential - Attached Multi-Family use, more particularly described in Exhibit "B" which is attached hereto and incorporated herein, shall have only single family detached dwellings;
- b) the minimum size of any dwelling unit, excluding garages, is 1,200 square feet in the said R-4 area;
- c) the said R-4 area shall be developed in accordance with the zero lot line standards set forth in Exhibit "C" which is attached hereto and incorporated herein;
- d) all along the west line of the said R-4 area, there shall be constructed and maintained in good condition, an opaque ornamental fence, wall or dense evergreen hedge having a height of not less than five (5) nor more than six (6) feet;
- e) along the east line of the said R-4 area abutting the Whispering Trails Subdivision(s), there shall be landscape buffering placed and maintained at least to the extent provided for in the preliminary site plan which is attached hereto and incorporated herein as Exhibit "D";
- f) across from the entrance to the development as shown on Exhibit "D" there shall be constructed a passing blister in existing right-of-way and if there is insufficient right-of-way, then the configuration of Fry Road shall be shifted south so as to provide for three (3) lanes.

3. That by the execution of this document, the undersigned do(es) hereby certify and warrant that the property hereinunder consideration is owned in fee simple absolute by William E. Carter, Dennis E. Copenhaver, Wallace L. VanDyke Jr. and Pamela S. VanDyke
(Owners)

4. These Commitments shall be binding upon the owner(s), subsequent owners of the real estate, and other persons acquiring an interest therein. These Commitments may be modified or terminated by a decision of the Greenwood Plan Commission made at a public hearing after proper notice has been given.

5. The Commitments contained in this instrument shall be effective upon the adoption of the Greenwood Common Council Ordinance No. 89-47 which changes zoning on the real estate aforesaid from R-1 Residential - Single Family use to R-4 Residential - Attached Multi-

Family use as shown on the attached Exhibit "B" and to C-2 Commercial - Tourist use as shown on the attached Exhibit "A".

6. These Commitments shall be considered covenants running with the land and shall bind all subsequent owners to their terms and conditions and subsequent modifications thereto as made pursuant to this instrument, statutes of the State of Indiana, or ordinances of the City of Greenwood.

7. The Commitments may be enforced jointly and severally by:

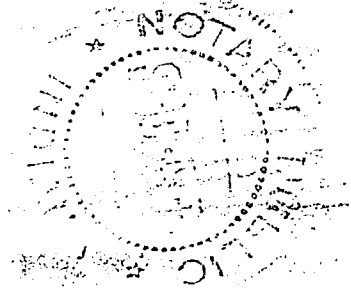
- A. The Greenwood Plan Commission; and
- B. Owners of all parcels of ground adjoining the real estate to a depth of 300 feet. The identity of such owners shall be determined from the records of the Office of the Johnson County Auditor which lists the current owners of record. For purposes of this paragraph, the cutoff date for such determination shall be at 12:00 O'clock noon on the date of filing for enforcement.

8. The undersigned commits, covenants and warrants that the Real Estate described in Exhibit "A" will be developed in accordance with paragraph 2 above.

9. The undersigned owner hereby authorizes the City of Greenwood to record these Commitments in the office of the Recorder of Johnson County, Indiana, upon final approval of Greenwood Common Council Ordinance No. 89-47 which is an ordinance amending the zoning classification applicable to the real estate hereunder consideration.

The undersigned covenant and warrant that they are duly authorized to execute and deliver the foregoing Commitments on behalf of themselves as owners, that all necessary action has been taken to approve and adopt the Commitments made herein, and that upon final approval and adoption of the re-zoning ordinance described herein, these Commitments shall be the lawful and binding obligations of said owner and all subsequent owners of the real estate.

IN WITNESS WHEREOF, the owners have executed this instrument this 16 day of October, 1989.



"OWNER(S)"
William E. Carter
 WILLIAM E. CARTER
Dennis E. Copenhaver
 DENNIS E. COPENHAVER

STATE OF INDIANA)
) SS:
 COUNTY OF JOHNSON)

Before me, a Notary Public, in and for said County and State, personally appeared William E. Carter & Dennis E. Copenhaver, OWNERS, who acknowledged the execution of the within COMMITMENTS, and who having been duly sworn upon their oath, stated that the representations contained therein are true and correct to the best of their knowledge and belief.

Witness my hand and Notarial Seal this 20th day of Oct, 1989.

My Commission Expires:
1-25-93

Geneva Raker
 Geneva Raker, Notary Public
 Resident of Johnson County

This instrument was prepared by Jo Angela Woods, 2 North Madison Avenue, Greenwood, Indiana 46142

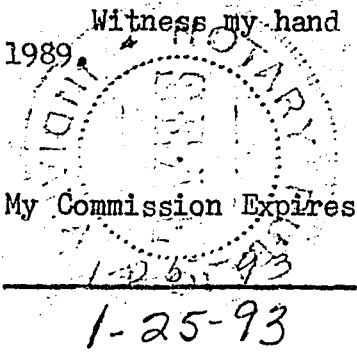
"OWNER(S)"

Wallace L. Van Dyke Jr.
Wallace L. Van Dyke Jr.
Pamela S. Van Dyke
Pamela S. Van Dyke

STATE OF INDIANA)
) SS:
COUNTY OF JOHNSON)

Before me, a Notary Public, in and for said County and State,
personally appeared Wallace L. & Pamela S. Van Dyke,
OWNERS, who acknowledged the execution of the within COMMITMENTS, and
who having been duly sworn upon their oath, stated that the
representations contained therein are true and correct to the best of
their knowledge and belief.

Witness my hand and Notarial Seal this 31st day of November,
1989.



Geneva Rakor,
Geneva Rakor, Notary Public

Resident of Johnson County

PARCEL ONE:

A part of the West Half of the Southwest Quarter of Section 25, Township 14 North, Range 3 East of the Second Principal Meridian, Johnson County, Indiana, more particularly described as follows:

Commencing at the Southeast Corner of the West Half of the Southwest Quarter of Section 25, Township 14 North, Range 3 East; thence North 00°00'00" East along the East line of said West Half 1050.06 feet; thence South 89°07'18" West parallel with the South line of said Half Quarter 901.47 feet to the Point of Beginning of the herein described tract; thence continuing South 89°07'18" West parallel with the south line of said Half Quarter 400.05 feet to the East right-of-way line of S.R. 135; thence North 00°00'40" East along said right-of-way 406.74 feet; thence North 00°00'00" East along said right-of-way 118.90 feet; thence North 15°11'00" East along said right-of-way 40.30 feet; thence North 58°10'00" East 458.30 feet; thence South 00°00'00" West 800.13 feet to the Point of Beginning, containing 6.23 acres; subject to easements, rights-of-way and restrictions.

PARCEL TWO:

A part of the West Half of the Southwest Quarter of Section 25, Township 14 North, Range 3 East of the Second Principal Meridian, Johnson County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 25, Township 14 North, Range 3 East; thence North 00°00'00" East along the East line of said West Half 1050.06 feet to the Point of Beginning of the herein described tract; thence South 89°07'18" West parallel with the South line of said Half Quarter 901.47 feet; thence North 00°00'00" East 800.13 feet; thence North 58°10'00" East 344.75 feet; thence South 01°05'00" East 202.00 feet; thence South 85°21'00" East 606.65 feet to said East line; thence South 00°00'00" West along said East line 717.00 feet to the Point of Beginning; containing 16.41 acres; subject to easements, rights-of-way, and restrictions.

EXHIBIT "A"

A part of the West Half of the Southwest Quarter of Section 25, Township 14 North, Range 3 East of the Second Principal Meridian, Johnson County, Indiana, more particularly described as follows:

Commencing at the Southeast corner of the West Half of the Southwest Quarter of Section 25, Township 14 North, Range 3 East; thence North $00^{\circ}00'00''$ East along the East line of said West Half 1050.06 feet to the Point of Beginning of the herein described tract; thence South $89^{\circ}07'18''$ West parallel with the South line of said Half Quarter 901.47 feet; thence North $00^{\circ}00'00''$ East 800.13 feet; thence North $58^{\circ}10'00''$ East 344.75 feet; thence South $01^{\circ}05'00''$ East 202.00 feet; thence South $85^{\circ}21'00''$ East 606.65 feet to said East line; thence South $00^{\circ}00'00''$ West along said East line 717.00 feet to the Point of Beginning; containing 16.41 acres; subject to easements, rights-of-way, and restrictions.

EXHIBIT "B"

"SECTION 18 - ZERO LOT LINE OR NEAR-ZERO LOT LINE SINGLE-FAMILY DWELLINGS

6.18.01 PURPOSE

The principle purposes of the Zero Lot Line concept are:

- A. To more efficiently use land, as compared with the typical single-family development, making available needed housing at a more affordable cost;
- B. To construct dwellings that integrate and relate internal-external living areas resulting in more pleasant and enjoyable living facilities; and
- C. To place the dwelling near or against one of the property lines, permitting the outdoor space to be grouped and utilized to its maximum benefit.

6.18.02 DEFINITIONS

- A. Zero Lot Line Dwelling - A zero lot line dwelling shall be defined as a detached, single-family dwelling placed upon an individually platted lot so as to have one side yard setback with a minimum of zero (0) feet and a maximum of six (6) feet; and having a minimum setback of ten (10) feet from the other side lot line.
- B. Zero Lot Line - The zero lot line shall be the side property line adjacent to the side yard having a minimum of zero (0) and a maximum of six (6) feet.
- C. Opposite Lot Line - The opposite lot line shall be the side property line on the opposite side of the dwelling from the zero lot line.

6.18.03 PERMITTED DISTRICTS

Zero Lot Line Single-Family Dwellings shall be permitted only in R-3, R-4, and PUD zoning districts pursuant to Section 5 of this Ordinance (Table A - Official Schedule of Uses). Where the regulations included in this Section (18) conflict with regulations in other Sections of this Ordinance or with Greenwood Subdivision Control Ordinance No. 84-7, the regulations in this Section (18) shall apply.

6.18.04 DIMENSIONAL AND AREA DEVELOPMENT STANDARDS

All Zero Lot Line developments shall comply with the following dimensional and area development standards:

- A. Minimum Lot Size shall be four thousand five hundred (4,500) square feet
- B. Minimum Dwelling Size shall be nine hundred (900) square feet
- C. Minimum Dwelling Separation shall be ten (10) lineal feet (congregate Side Yard) Setback
- D. Side yard Setback Distances:
 - (1) Zero Lot Line Dwellings:
 - (a) zero lot line side minimum shall be zero (0) lineal feet
 - (b) zero lot line side maximum shall be six (6) lineal feet
 - (c) opposite lot line side minimum shall be ten (10) lineal feet
 - (d) opposite lot line side maximum shall not be applicable
 - (2) Waivers:

The Plan Commission shall have the right to waive, in whole or in part, the minimum and maximum side yard setback distances for zero lot line dwellings on corner lots, cul-de-sac turnaround lots, and end lots of subdivisions; provided, however, that the minimum dwelling separation of ten (10) feet is maintained.
- E. Minimum Front Yard Setback shall be fifteen (15) lineal feet for dwelling and twenty (20) lineal feet for garage
- F. Minimum Project Perimeter Building Setback shall be twenty-five (25) lineal feet
- G. Minimum Lot Width (at Building Setback Line) shall be forty-five (45) lineal feet
- H. Minimum Lot Frontage (at R/W Line) shall be thirty-five (35) lineal feet and twenty (20) lineal feet on Cul-de-sac
- I. Minimum Street Right-of-Way (for residential service streets) shall be fifty (50) lineal feet of right-of-way width plus parallel drainage and utility easements along both sides, each ten (10) lineal feet in width
- J. Sidewalks shall have a minimum width of four (4) feet and a minimum thickness of four (4) inches
- K. Minimum Attached Carage shall be for one (1) car
- L. Maximum Lot Coverage shall be fifty percent (50%) (includes dwelling, garage and inground pool)(excludes paved areas, patios, and decks)
- M. Minimum Rear Yard Setback shall be twenty (20) feet or twenty percent (20%) of depth of lot, whichever is greater
- N. Maximum Building Height shall be two stories or thirty-five (35) lineal feet
- O. Minimum Setback for In-Ground Swimming Pools shall be ten (10) feet from side or rear lot lines measured from outside face of pool wall, but excluding adjacent patio or deck area. Pools shall not encroach upon easements.

P. Minimum Street Pavement Width/Minimum Off-Street Parking:

Option 1: Minimum street pavement width shall be thirty-two (32) lineal feet with parking permitted on one side;

Minimum off-street parking shall be two (2) spaces per dwelling (excluding garages)

Option 2: Minimum street pavement width shall be twenty-eight (28) lineal feet with street parking prohibited;

Minimum off-street parking shall be four (4) spaces per dwelling (excluding garages)

Option 3: Alternative combinations of street width with on-street parking, and off-street parking may be approved at the discretion of the Plan Commission provided such combination is consistent with the purpose and intent of this section.

At the time of primary plat submittal, a developer shall commit to one of the above options for provision of street pavement width and off-street parking spaces. Street pavement cross-sections and specifications shall be as required by the Greenwood Subdivision Control Ordinance No. 84-7.

Q. Subdivision 20/20 Option shall be prohibited for Zero Line Developments.

5.18.05 PERMITTED USES AND STRUCTURES

Detached single-family dwellings on individually platted lots, including customary accessory uses and structures, not inconsistent therewith, are permitted. Fencing, walls, trellises, and other similar structures may be used as connecting elements between single-family dwellings on adjacent lots. Detached garages, carports, utility storage sheds, and above ground swimming pools are prohibited. In-ground pools are permitted in rear yards only, and shall not encroach upon easements. Garages and carports shall be attached to the dwelling units. Garages and carports shall not be used as connecting elements between dwelling units on adjacent lots.

6.18.06 OPENINGS PROHIBITED ON THE ZERO LOT LINE SIDE

If a dwelling is located within three (3) feet of a side lot line, the wall of the dwelling located nearest to that lot line shall have no windows, doors, air conditioning units, or any type of openings; provided, however, that atriums or courts are permitted on the zero lot line side when the atrium or court is enclosed by three (3) walls of the dwelling unit and a solid wall of at least eight (8) feet in height is provided on the zero lot line side.

In any such case, the dwelling wall closest to the zero lot line shall meet the standards established by the One and Two-Family Dwelling Code as adopted and amended by the State of Indiana.

6.18.07 REQUIRED MAINTENANCE, FIRE PROTECTION, AND DRAINAGE EASEMENTS

A perpetual six (6) foot maintenance, fire protection, and drainage easement shall be provided on the neighboring lot adjacent to the zero lot line property line, which, with the exception of walls and/or fences, shall be kept clear of structures. This easement shall be shown on the plat document and incorporated into each deed transferring title to the property. The exterior wall of the dwelling along the zero lot line shall be maintained in its original color and treatment unless otherwise agreed to in writing by the two effected lot owners. Roof overhangs may penetrate the easement on the adjacent lot a maximum of twenty-four (24) inches, but the roof shall be so designed that water runoff from the dwelling placed on or near the zero lot line is limited to the easement area.

6.18.08 COMMON OPEN SPACE AND MAINTENANCE OF FACILITIES

Common open space may be permitted for zero lot line projects. Incorporation of both natural and landscaped common areas at entry ways and throughout the development is encouraged. If signage is used to identify a development, that signage shall be incorporated into a landscaped (private or common) area. Said signage/landscaped area shall include a minimum area of two hundred (200) square feet. Provisions satisfactory to the Plan Commission shall be made to assure that areas and facilities for common use of the occupants of the development shall be maintained in a satisfactory manner. Copies of easements, restrictive covenants, by-laws, articles of incorporation, or other appropriate documents shall be required by the Plan Commission for homeowners association or other entity formed for the purpose of continually holding title to and/or maintaining such common areas.

6.18.09 TREES AND LANDSCAPING

At least one (1) tree shall be provided within the front yard on each platted lot. Said trees shall be a minimum of six feet in height and one and one-half inch (1 1/2") trunk diameter at the time of planting. Existing trees shall be preserved to the maximum extent practical and shall count towards meeting the total tree requirements.

6.18.10 AESTHETICS AND BUFFERING

Visual monotony created by excessive block lengths shall be avoided. Curvilinear street alignments shall be used to the extent practical. Architectural and/or landscape elements that provide logical transition to adjoining, existing, or permitted uses shall be provided. Landscape materials shall be used to enhance architectural features, relate structure design to the site, visually screen noncompatible uses, and ameliorate the impact of noise.

6.18.11 PRIVATE OPEN SPACE

Open space intended for the private use of each individual dwelling unit shall be so located and designed as to maximize its privacy, especially in relation to adjacent dwelling units. The use of privacy fencing is encouraged, but not mandatory. If used, privacy fencing shall be of a style and color that is compatible to the dwelling units.

6.18.12 PLATTING REQUIREMENTS

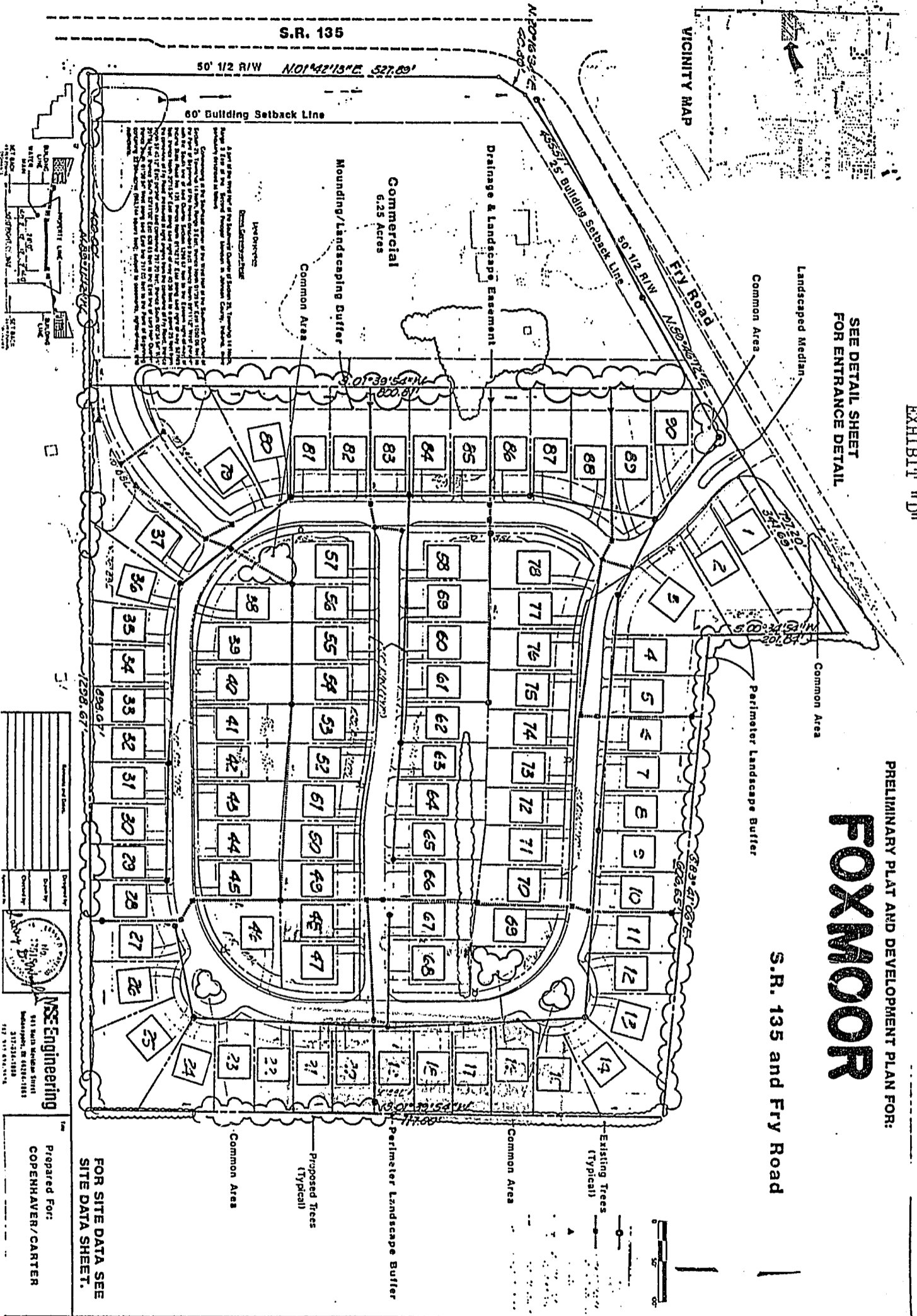
Each Zero lot line dwelling shall be located on its own individual platted lot. Platting and development plan approval shall be in accordance with the procedures, requirements, and standards of the Greenwood Subdivision Control and Land Development Ordinance No. 84-7, as amended. The plat document shall indicate the zero lot lines and easements appurtenant thereto. The property lines of lots do not have to be square or rectangular in shape or configuration provided that the requirements and standards of this Section (18) are otherwise met (i.e. "z" lot or other configurations shall be permitted).

SEE DETAIL SHEET FOR ENTRANCE DETAIL

PRELIMINARY PLAT AND DEVELOPMENT PLAN FOR:

FOXMOOR

S.R. 135 and Fry Road



FOR SITE DATA SEE SITE DATA SHEET.

NSE Engineering
 941 South Highway Street
 Independence, MO 64220-1815
 317-234-1028
 112 1/2 W. 21st St.

Prepared For:
COPENHAVER/CARTER