

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

DULY ENTERED FOR TAXATION

SEP 15 1995

AUDITOR OF ALLEN COUNTY

North Eastern Construction Co., Inc., an Indiana Corporation, by Joseph L. Zehr, its President, as Developer of The Falls of Beaver Creek, Section I, a subdivision in Aboite Township, Allen County, Indiana, according to the plat thereof, recorded on March 31, 1995, in Plat Cabinet C, page 52 and as Document No. 95-13011 in the Office of the Recorder of Allen County, Indiana ("Subdivision"), amends the recorded Dedication, Protective Restrictions Covenants, Limitations, Easements and Approvals ("Covenants") of the plat of the Subdivision as follows:

- 1. These amended covenants will apply to all Lots in the Subdivision, which lots are numbered 1 through 99, inclusive.
2. The following Section 11 is added:

Section 11. Declaration of Restriction on Land Use. Developer is the title holder of certain property located in said plat shown on attached Exhibit "A" and which property is referred to herein as the "Property".

The Property contains area which have been identified as "waters of the United States, including wetlands," as defined in regulations promulgated pursuant to Section 404 of the Clean Water Act (33 CFR 328.3 (b)), and

Developer desires to obtain viable economic use of the Property by constructing residential subdivision on a portion of the Property, but this activity requires certain improvements being constructed in portions of the waters of the United States. The improvements include fill for lots and road crossing.

The locations of the improvement areas are shown on the recorded plat.

Developer has agreed to voluntarily restrict any activities within Wetland areas on the Property, as shown on the sketch attached, and depicted thereon as "Designated Wetlands".

Developer has agreed to minimize detriments to wetland resources in the Designated Wetlands remaining outside the improvement areas in exchange for and as a condition of the authorization of the improvements by the Indiana Department of Environmental Management.

Developer hereby declares and covenants that no discharging of dredged or fill material, dredging, or other altering, modification of development of the Designated Wetlands shall be undertaken, and that they will ensure, to the best of their ability, that the vegetation, soils, and hydrology of the Designated Wetlands shall remain in an unaltered, natural condition.

The restriction and covenant created herein shall be perpetual, and shall be binding upon the Developer and their legal representatives, heirs, and assigns. The Indiana Department of Environmental Management and its successors and designees, shall have the right to enforce any of the provisions contained herein against their legal representatives, heirs, and assigns.

- 3. This amendment is made by Developer pursuant to section 6.26.3 of the Covenants.
4. All other provisions of the Covenants not amended by this document shall remain in effect.

95 7472 AUDITORS NUMBER

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IN WITNESS WHEREOF, North Eastern Construction Co., Inc. an Indiana corporation, by its duly authorized President, Joseph L. Zehr, has signed this document on June 28th, 1995 .

NORTH EASTERN CONSTRUCTION CO., INC.

By: *[Signature]*
Joseph L. Zehr, President

STATE OF INDIANA)
) SS:
COUNTY OF INDIANA)

Before me, a Notary Public, in and for said County and State, this 28th day of June, 1995, personally appeared Joseph L. Zehr, known by me to be the duly elected and acting president of North Eastern Construction Co., Inc., and Indiana corporation, and acknowledged the execution of the foregoing document as his voluntary act and deed and on behalf of said corporation for the purposes and uses set forth in this document.

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



My commission Expires:
May 30, 1996

This is to certify that the foregoing document has been reviewed by the Allen County Plan Commission. As presented, the content of the restrictions contained in such document conforms to the requirements of the Allen County Zoning Ordinance and the Allen Count Subdivision Control ordinance, and the document is now eligible for recording. This certification does not extend to the form or validity of the document.

Date: SEPT 1, 1995.

ALLEN COUNTY PLAN COMMISSION
By: *[Signature]*
Dennis A. Gordon, Executive Director

This instrument prepared by: Thomas J. Blee, Attorney at Law

Mail to: Futuro, Inc.
10808 La Cabreah Lane
Fort Wayne, Indiana 46845
Attention: Cathy A. Zehr

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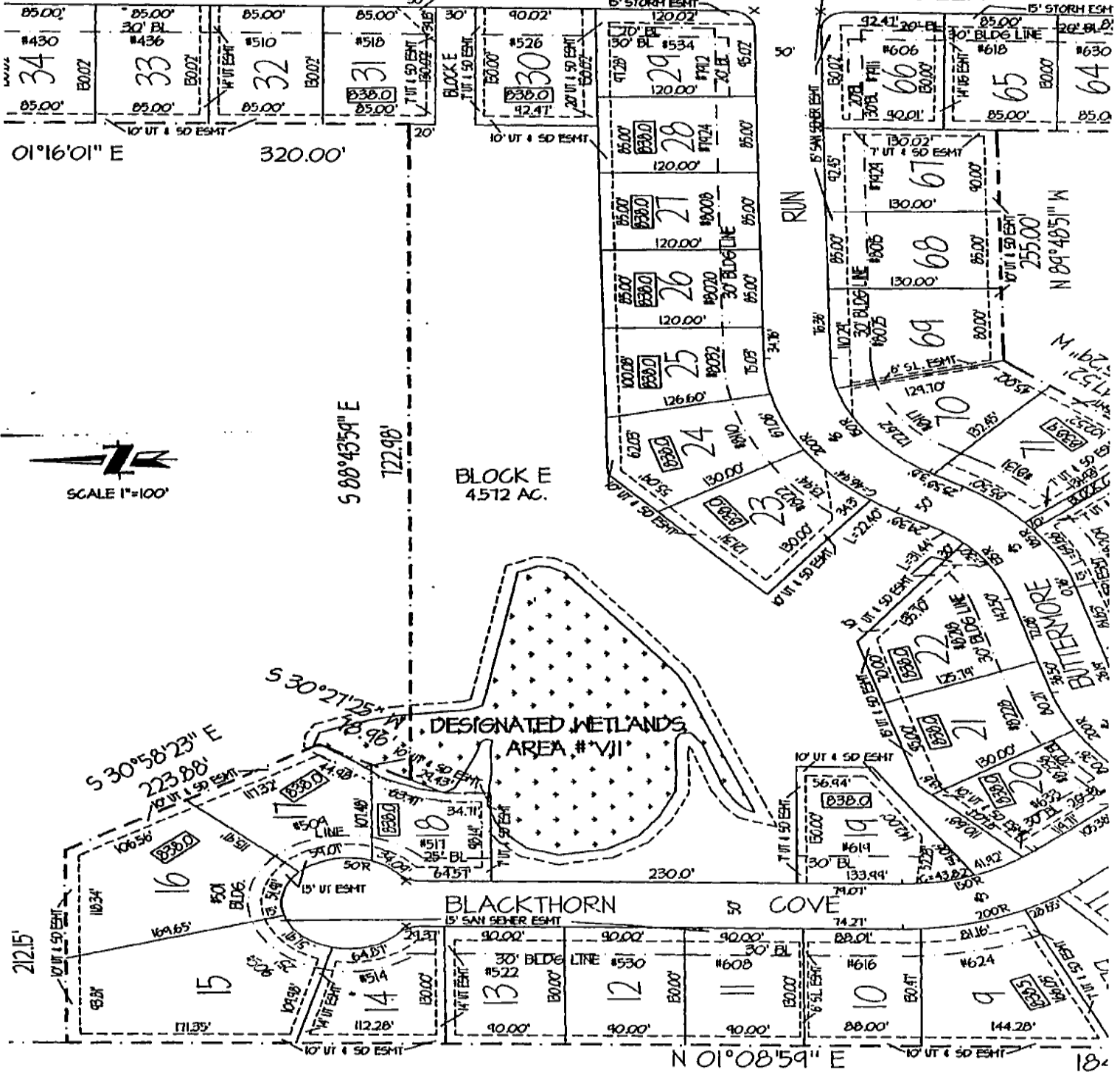


EXHIBIT - A

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