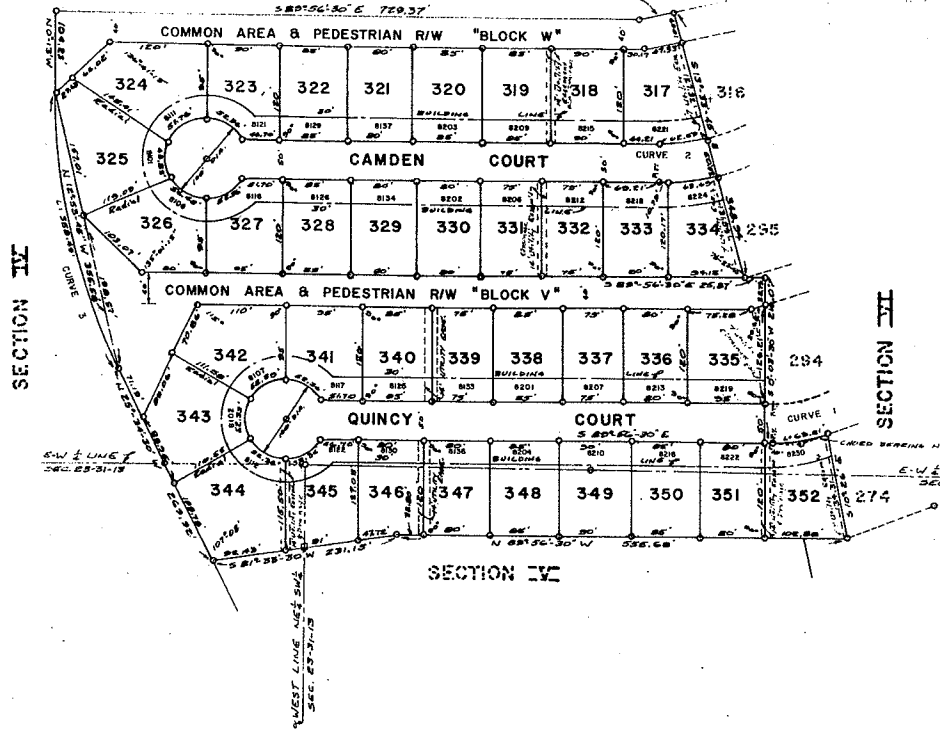


37 9.13



- NOTE:**
1. Alternate 20' & 30' Building Lines on All Corner Lots (30' One Side & 20' One Side, Builders Choice).
  2. 20' Radius on all Corner Lots.
  3. All Curve Data Based on Highway (Arc) Definition.

CURVE # 1	CURVE # 2 (TOTAL CURVE DATA)		CURVE # 3
R = 200'	R = 300'	R = 350'	R = 810'
Δ = 20°	Δ = 15°	Δ = 15°	Δ = 25°-21'-30"
D = 28°-38'-52"	D = 19°-05'-55"	D = 16°-22'-13"	D = 7°-04'-25"
T = 35.27'	T = 39.50'	T = 46.08'	T = 182.23'
L = 69.81'	L = 78.54'	L = 91.63'	L = 358.49'

DEED ENTERED FOR TAXATION  
 DATE 2-2-74  
 AGENT FOR ALLEN COUNTY

# ARLINGTON PARK

## SECTION VII

A Part of the west Half of Section 23, Township  
 31 North, Range 13 East, Allen County, Indiana

Engineers: Philip L. Schnelker, Inc.  
 2777 Maplecrest Road  
 Fort Wayne, Indiana

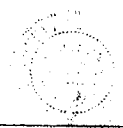
Developers: Arlington Investment Corp.  
 4635 W. Arlington Park Blvd.  
 Fort Wayne, Indiana

Certified Correct This 31<sup>st</sup> Day  
 of January, 1974.

*L. F. Heiman*  
 Louis F. Heiman, Reg. L.S. SO106

Confirmed By The Allen County Zoning  
 Administrator on This 1<sup>st</sup> Day of August, 1973.

*James L. ...*  
 Zoning Administrator



7  
from any violations thereof, but there shall be no right of revision, re-entry or forfeiture of title resulting from any violation.

PROTECTIVE COVENANTS, RESTRICTIONS AND LIMITATIONS

1. Definitions. The terms hereinafter set forth shall have the following meanings:

a. "Developer" shall mean Arlington Investment Corp., its successor or successors in interest in any person, firm or corporation designated by it or its said successor or successors.

b. "Lot" shall mean either any of said lots as platted or any tract or tracts of land as conveyed originally or by subsequent owners, which may consist of one or more lots or parts of one or more lots as platted upon which a dwelling or other structure may be erected in accordance with the restrictions hereinafter set forth.

c. "Living Unit" shall mean any portion of a building designated and intended for use and occupancy as a residence by a single family.

d. "Owner" shall mean and refer to the holder, whether one or more persons or entities, of the fee simple title to any lot or living unit situated in the Addition.

e. "Lessee" shall mean and refer to a person leasing from an Owner, whether one or more persons or entities, of any "Living Unit" situated in the Addition.

f. "Association" shall mean and refer to the Arlington Park Association.

g. "Member" shall mean any person who may be entitled and obligated to hold one or more memberships in the Arlington Park Association.

h. "Membership" shall mean any membership in the Arlington Park Association entitled to one vote and one assessment as hereinafter set forth. A member may hold one or more memberships.

i. "Common Area" shall mean and refer to those areas of land shown on any recorded subdivision plat and intended to be devoted to the common use and enjoyment of the owner and lessees in the Addition.

j. "Pedestrian Right of Way" shall mean any area which is shown on the recorded plat of said Addition for the purpose of a pedestrian

traffic system and intended to be devoted to the common use and enjoyment of the owners and lessees in the Addition, subject to utility rights as hereinafter provided.

k. "Street" shall mean any street, avenue, roadway, cul de sac or boulevard of whatever name which is shown on the recorded plat of said Addition, and which has been heretofore and is hereby, dedicated to the public for the purpose of a public street or for park or boulevard purposes.

1. "Architectural Control Committee" shall mean the body designated herein to review plans and to grant or withhold certain other approvals in connection with improvements and developments.

2. Use. No lot shall be used except for residential purposes. No buildings shall be erected, altered, placed or permitted to remain, on any lot other than one detached dwelling for use by a single family. Each dwelling shall include not less than a two-car garage, which shall be constructed as a part of said structure and attached thereto.

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

4. Minimum Area. No dwelling shall be erected or permitted on any lot having a ground floor area upon the foundation, exclusive of open porches, breezeways or garage, of less than one thousand eight hundred (1,800') square feet in the case of a one-story dwelling, nor less than one thousand (1,000') square feet for a dwelling of more than one-story.

5. Building Lines. No dwelling or structure (including a fence or wall) shall be erected, placed or located on any lot nearer to the front lot line (or nearer to the side lot line on corner lots) than the minimum building set-back line as shown on the attached plat. No dwelling or structure shall be located nearer than a dimension equal to ten percent (10%) of the lot width at the building line to any side lot line, provided that the combined width of both side yards shall not be less than a distance equal to twenty-five percent (25%) of the lot width at the building line. No dwelling or structure shall be located on any interior lot nearer than twenty-five (25') feet to the rear lot line. On a corner lot, no building or structure shall be located nearer

than a distance equal to ten percent (10%) of the lot width to the interior lot line and the combined width of both side yards shall not be less than a distance equal to twenty-five percent (25%) of the lot width. No tree, shrub, planting or other obstruction shall be permitted which obstructs a clear view at intersections.

6. Minimum Lot Area. No dwelling or structure shall be erected or permitted on any lot, having a width of less than sixty-five (65') feet at the minimum building setback line, nor an area of less than seven thousand two hundred (7,200') square feet. Developer, its successors and assigns, may alter the size or shape of said lots as platted, provided that no dwelling or other structure shall be erected, placed or maintained upon any lot which does not conform to the restrictions herein set forth, without express approval of the Allen County Plan Commission.

7. Yard Light. Each dwelling will cause a yard light or other illuminating device to be installed in the front yard fifteen (15') feet (plus or minus one foot) from the street curb. Such yard light or illuminating device will be of such design and construction as shall be approved by the Architectural Control Committee; said Committee shall also have the authority to approve a change in the location of said yard light or illuminating device.

8. Signs. No sign shall be erected or permitted, except one professional sign of not more than one foot square, or one sign of not more than five (5') square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

9. Fences. No wire, metal or chain link fences will be permitted on any lot. Chain link back stops for play areas owned and maintained by the Arlington Park Association will be permitted.

10. Antennas and Appurtenances. Antennas for television or radio receiving or transmitting or any other appurtenance attached or detached from the dwelling will not be permitted if they extend six (6') feet above the top roof line without the written approval of the Architectural Control Committee.

11. Trees. Any lot not having at least two (2) virgin trees remaining after construction of the dwelling will have planted at completion of construction, a minimum of two (2) trees with at least a one inch (1") diameter trunk and/or eight feet (8') tall, with one planted in front of the house and one in the rear.

12. Nuisances. No use shall be permitted which is offensive by reason of odor, fumes, dust, smoke, noise or pollution or which constitutes a nuisance or which is hazardous by reason of fire, explosion or in violation of the laws of the State of Indiana or any subdivision thereof. No lot shall be used for the purpose of raising, breeding or keeping animals, livestock or poultry except as household pets, providing the same are not kept, bred or maintained for any commercial purpose. All fuel or oil storage tanks shall be installed underground or located within the main structure of the dwelling, its basement or attached garage.

13. No Temporary Dwelling. No structure of a temporary character, trailer, boat, boat trailer, camper, or camping trailer, mobile home, travel trailer, motor home, basement, tent, garage, barn, tool shed, or other outbuilding shall be either used or located on any lot or used as a residence either temporarily or permanently. One accessory building may be approved for each lot, the type and location to be approved by the Architectural Control Committee.

14. Common Areas. Certain playgrounds, flood control areas, pedestrian underpasses, greenways and pedestrian right-of-ways designed on the plats shall be installed for the benefit of all the owners and Lessees in Arlington Park. The same will be deeded or transferred to the Arlington Park Association and each Owner and Lessee shall have a right and easement of enjoyment in and to said Common Areas; provided that certain of the pedestrian right-of-ways as designated on the plat shall also be reserved as utility easements, as set forth in Paragraph 16 hereof, and shall be subject to all the terms and conditions as provided in said Paragraph 16. The Developer may retain legal title to the Common Areas until such time as it has completed improvements thereon, after

which time it shall convey the same to the Association and the Association shall accept said conveyance and thereafter be responsible for the maintenance thereof. The rights and easements of enjoyment in the Common Areas shall be subject to the following:

a. The right of the Developer to borrow money and to mortgage any part or parts of Arlington Park in connection therewith.

b. The right of the Association, as provided in its Articles and By-Laws, to suspend the enjoyment of any Member for any period during which any assessment remains unpaid.

c. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Board of Directors of the Association, and subject to acceptance of such assignee.

15. Approval of Improvements by Architectural Control Committee.

In order to maintain harmonious structural design and lot grades, no dwelling building or improvements shall be erected, permitted or altered on any lot (and construction shall not be commenced) until the construction plans and specifications, and a site plan showing the location of the structure on said lot and grade elevations, have been approved by the Architectural Control Committee. The Architectural Control Committee shall be comprised of three (3) members to be designated by the Developer initially. The Developer shall have the right, at such time as it may elect, to relinquish its right to designate the members of the Architectural Control Committee to the Association. Two sets of plans of each improvement, with detailed front, side and rear elevations and floor plans showing square footage and grade elevations, shall be submitted to the Architectural Control Committee at the Developer's office or such other place as may be designated. The Committee's approval or disapproval of said plans shall be in writing; in the event the Committee, or its designated representative, shall fail to approve or disapprove said plans within thirty (30) days after all necessary instruments, documents and other information have been submitted, then approval to the request as submitted shall be deemed to have been given. The improvements as

shown upon said plans shall be substantially completed before said building shall be used or occupied as a dwelling. All improvements shall be constructed in accordance with the plans and specifications as approved by the Architectural Control Committee and any improvements not so constructed shall be subject to immediate removal at Owner's expense. The provisions hereinbefore provided for violation or attempted violation of any of these covenants and restrictions shall be applicable hereto. In addition, before any lot or tract within the Addition may be used or occupied, said user or occupier shall first obtain the Improvement Location Permit and Certificate of Occupancy required by the Allen County Zoning Ordinance. Further, before any living unit within the Addition shall be used and occupied, the Developer shall have installed all improvements serving the lot whereon said living unit is situated, as set forth in Developer's plans filed with the Allen County Plan Commission.

16. Easements: Easements are hereby expressly reserved and dedicated with dimensions, boundaries and locations as designated on the attached plan for the installation and maintenance of public utilities (including but not limited to, water, gas, telephone, electricity, and any other utilities of a public or quasi public nature) and sewer and drainage facilities.

a. Any utility company and the Developer, their successors and assigns, will have the right to enter upon said easements for any lawful purpose. All easements shall be kept free at all times of permanent structures except improvements installed by Developer or an authorized utility and removal of any obstruction by a utility company shall in no way obligate the company to restore the obstruction to its original form. The utility will restore any improvement installed by Developer or other authorized utility.

b. No buildings or structures located in the Addition shall be connected with distribution facilities provided by electrical, television or telephone services, except by means of wires, cables or conduits situated beneath the surface of the ground (except such poles and overhead facilities that may be required at those places where distribution facilities enter and leave the Addition, and except for such

housing, pedestals or facilities as may be appropriate for connection of utility services for individual lot owners). Nothing herein shall be construed to prohibit street lighting or ornamental yard lighting services by underground wires or cables.

c. The utility operating the sewer lines and sewage disposal plant for said subdivision shall have jurisdiction over the installation of all sewer connections and the same shall be installed to the property lines of each lot by the developers. No individual water supply system, or individual sewage disposal system, shall be installed, maintained or used in the Addition. No rain or storm water runoff from roofs, street pavements or otherwise, or any other surface water, shall at any time be discharged into, or permitted to flow into, the sanitary sewer system, which shall be a separate sewer system from the storm water and surface water run-off system. No sanitary sewage shall at any time be discharged or permitted to flow into the storm water and surface water run-off sewer system.

17. Arlington Park Association. There has been organized by the Developer an incorporated not-for-profit association, only one such association to be recognized and approved by the Developer, with the same to be known as the Arlington Park Association.

a. Membership. One membership shall be created for each lot or living unit planned in Arlington Park. The Developer's plans presently provide for the construction of two thousand four hundred and eight (2,408) living units in Arlington Park, which will be voted by the Developer until transferred as hereinafter provided.

b. Membership Transfer. Memberships will transfer from the Developer to his grantee upon delivery of the deed. In the case of the conveyance of land to be used for multi-family construction, said memberships will not transfer to the grantee until the Architectural Control Committee has approved the grantee's plans and then one membership for each living unit to be constructed on the land conveyed will be transferred from the Developer to the grantee.

c. Continuing Membership. The purchaser of any lot or living unit in Arlington Park shall be a member of said Association and shall continue to be a member of said Association so long as he continues to



be the owner of a lot or living unit in Arlington Park for the purposes herein mentioned. Membership shall pass with the ownership of the land or living unit.

d. Transfer of Membership Rights and Privileges to Lessee.

Each owner, or in lieu thereof each Lessee of a living unit (with the written consent of such owner to the Association), shall be a member of the Association and have the right to the owner's vote and privileges. Membership, when assigned to a Lessee, will pass with the lease except if the owner withdraws his consent in writing to the Association. The owner may withdraw his membership assignment to the Lessee at his discretion by a sixty (60) day notice in writing to the Association.

18. Assessments. Developer, for each lot and/or living unit owned by it within the Addition, hereby covenants, and each owner of any lot or living unit, by acceptance of deed therefor, whether or not it shall be so expressed in any such deed or conveyance, shall be deemed to covenant and agree to pay to the Arlington Park Association the Maintenance Fund and/or Club Operating Fund assessments and charges, as hereinafter provided.

a. Maintenance Fund. The "Maintenance Fund" assessment shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of residents of the Addition and in particular, for the improvement and maintenance of the greenways, sidewalks, playgrounds and all other Common Areas, including but not limited to, repair, maintenance, the cost of labor, equipment and materials, supervision, security, lighting, lawn care, snow removal, insurance, taxes, and all other things necessary or desirable in the opinion of the Members of the Association in connection therewith.

The Maintenance Fund Assessment as herein provided shall commence to accrue and become a lien upon any said lots or living units as soon as title thereto has been divested from Developer, or when a dwelling or living unit shall be erected thereon, whichever shall first occur, and shall be payable on the first day of January of each year thereafter. All assessment shall be determined by and paid to the

Association, and the Association shall be responsible for carrying out the purposes of such assessments.

The amount of said Maintenance Fund assessment is established as follows:

(i) Commencing with the year beginning January 1, 1974, the Board of Directors of the Association shall establish a budget for such calendar year and shall determine the annual membership assessment required to meet said budget. Such budget and assessment for each such calendar year shall be established by the Board of Directors at a meeting to be held not later than October 31st of each preceding calendar year. The Board of Directors shall then mail to all Association members a copy of said budget and notice of the ensuing year's assessment not later than November 15th of the year prior to the year to which the assessment is applicable.

(ii) The amount of the assessment set by the Board of Directors for any such calendar year may be changed by the members of the Association at a meeting duly called for that purpose as hereinafter provided. The President or Secretary of the Association shall call a meeting of the membership of the Association, to be held prior to December 31st of the year prior to the year to which the assessment is applicable, upon receipt, prior to November 30th, of a written petition for assessment review bearing the signatures of at least twenty (20) percent of the memberships of the Association. The President or Secretary of the Association shall give at least fifteen (15) days written notice of such meeting to all members.

(iii) Any change so adopted in the amount of the assessment set by the Board of Directors must have the assent of two-thirds (2/3) of the memberships of the Association who are voting in person or by proxy at a meeting duly called for

such purpose. At any such meeting, a quorum of not less than fifty (50%) percent of all memberships shall be required.

b. Club Operating Fund. The Developer plans to construct a clubhouse within Arlington Park, which clubhouse will contain and provide various social, recreational and other facilities. At such time as construction on said clubhouse is substantially completed, the Club Operating Fund will commence to accrue and will become a lien upon all lots or living units in Arlington Park, except as hereinafter provided. For any lots that a living unit has not been erected thereon at the time of substantial completion of the clubhouse, such assessment will commence to accrue and become a lien at such time as a living unit has been erected on such lot. Said Club Operating Fund assessment shall be payable on the first day of January of each year thereafter. All assessments shall be determined by and paid to the Association, and the Association shall be responsible for carrying out the purposes of such assessments.

The amount of said Club Operating Fund assessment is established as follows:

(1) Commencing with the year beginning January 1, 1974, the Board of Directors of the Association shall establish a budget for such calendar year and shall determine therefrom the annual membership assessment required to meet said budget. Such budget and assessment for each calendar year shall be established by the Board of Directors at a meeting to be held not later than October 31st of each preceding calendar year. The Board of Directors shall mail to all Association members a copy of said budget and notice of the ensuing year's assessment not later than November 15th of the year prior to the year to which the assessment is applicable.

(ii) The amount of the assessment set by the Board of Directors for any such calendar year may be changed by the members of the Association at a meeting duly called for that purpose as hereinafter provided. The President or Secretary of the Association shall call such meeting of the membership, to be held prior to December 31st of the year prior to the year to which the assessment is applicable, upon receipt, prior to

November 30th, of a written petition for assessment review bearing the signatures of at least twenty (20%) percent of the memberships of the Association. The President or Secretary of the Association shall give at least fifteen (15) days written notice of such meeting to all members.

(iii) Any change so adopted in the amount of the assessment set by the Board of Directors must have the assent to two-thirds (2/3) of the memberships of the Association who are voting in person or by proxy at a meeting duly called for such purpose. At any such meeting, a quorum of not less than fifty (50%) percent of all memberships shall be required.

(iv) Said Club Operating Fund shall be used exclusively for the purpose of operating and maintaining said clubhouse and all recreational facilities therein or used in connection therewith, including but not limited to, repair, maintenance, cost of labor, equipment, supervision, taxes, insurance, and all other things necessary or desirable in the opinion of the Members of the Association in connection therewith.

c. Collection. Such Maintenance Fund and Club Operating Fund assessment, together with interest thereon and costs of collection as hereafter provided, shall be a lien upon the property against which each assessment is made. Each such assessment, together with interest thereon and costs of collection, shall also be the personal obligation of the person or persons who was the owner of such property at the time when the assessment fell due. The obligation of the assessment is upon the owner of the property or the living unit and is not transferred, even though the owner may have transferred the membership and voting rights in Arlington Park Association, as hereinbefore provided. If the assessments are not paid on the due date, then such assessments shall be a continuing lien on the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. However, the personal obligation of the then owner to pay such assessment shall remain a personal obligation and shall not pass to his successors in title unless expressly assumed by them. If the assessment is not paid within sixty (60) days after the due date,

the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum, and the Association may bring an action against the owner personally obligated to pay the same, or foreclose the lien against the property, and there shall be added to the amount of such assessment the costs of preparing and filing such action. The lien of the assessments as provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the property, taxes and assessments for public improvements.

19. Duration and Alteration. These protective covenants, restrictions and limitations shall be construed as, and shall be, covenants running with the land and shall be binding upon all Owner's and lessees of land in said Addition and all persons claiming under them. They shall continue in existence for a period of fifty (50) years from the date of the recording hereof and thereafter shall be automatically extended for successive periods of ten (10) years each. The protective covenants, restrictions and limitations (but not the easements) may be changed, abolished or altered in part by written instrument signed by the owners of not less than seventy-five (75%) percent of the memberships of the Arlington Park Association; and may be changed, altered or amended by the Developer within two (2) years from and after the date of recording hereof. All said amendments, changes or alterations, however, shall have the prior approval of the Allen County Plan Commission or its successors.

20. Waiver. The failure of either the Developer or an Owner to enforce any covenant contained herein shall constitute a waiver of such covenant.