

ORIGINAL**97-21403**

**CONDITIONS, COVENANTS, RESTRICTIONS
AND RESERVATIONS FOR THE
BURKHARDT - LYNCH BUSINESS PARK - SECTION I**

Judith Loehrlein, Clinton Loehrlein, Mary Jo Compton, Stephen Kissel, Richard Kissel, Patricia Koch, and John Kissel are the Owners of all lots in the Burkhardt - Lynch Business Park, a subdivision lying near the City of Evansville, as per plat thereof, recorded in Plat Record P, page 114, in the office of the Recorder of Vanderburgh County, Indiana, and does hereby adopt and make applicable to said subdivision the following conditions, covenants, restrictions and reservations which shall run with the title to said subdivision, to-wit:

1. Definitions

A. Subdivision - Burkhardt - Lynch Business Park (hereinafter BLBP)

B. Front Area - Front area shall include the following:

(1) Lots 4-8, 20-24, 36-39, 46, and 47: The area between Burkhardt Road and a line parallel to Burkhardt Road that extends through that point on the principal structure that is closest to Burkhardt Road.

(2) Lots 2, 3, and 11: The area between Hank Avenue and a line parallel to Hank Avenue that extends through that point on the principal structure that is closest to Hank Avenue.

(3) Lots 1 and 31: The area between the western boundary of the lot and a line parallel to the western boundary of the lot that extends through that point on the principal structure that is closest to the western boundary.

(4) Lots 13 and 14: The area between the southern boundary of the lot and a line parallel to the southern boundary of the lot that extends through that point on the principal structure that is closest to the southern boundary.

(5) Lots 16-18 and 26-30: The area between Toney Lane and a line parallel to Toney Lane that extends through that point on the principal structure that is closest to Toney Lane.

(6) Lot 15: The area between Toney Court and a line parallel to Toney Court that extends through that point on the principal structure that is closest to Toney Court.

(7) Lots 32-34 and 41-44: The area between Frito Lay Drive and a line parallel to Frito Lay Drive that extends through that point on the principal structure that is closest to Frito Lay Drive.

RECEIVED FOR RECORD

at 1:45 PM Aug 12 1997

CTRL # 0119

**BETTY J. HERMANN, RECORDER
VANDERBURGH COUNTY**

(8) Lots 48 and 49: The area between Loehrlein Drive and a line parallel to Loehrlein Drive that extends through that point on the principal structure that is closest to Loehrlein Drive.

(9) Lots 9, 10, 19, 25, 35, 40, and 45 The area between Interstate Drive and a line parallel to Interstate Drive that extends through that point on the principal structure that is closest to Interstate Drive.

C. Side and Rear Area - That portion of any lot not used for the principal structure nor designated as Front Area.

D. Subdivider - The Subdivider shall be Robert G. Woodward, Sr. or his designated representative.

2. Land Use

Lots in this subdivision shall be developed in compliance with the guidelines set forth under the "zoning use restrictions" of Vanderburgh County, Indiana Code of Ordinances.

A. Lots adjoining Burkhardt Road shall be limited to those uses set forth in the "C-4 Classification" or lower and shall not have any loading docks.

B. No lot within this subdivision shall be used as a truck stop, with a truck stop being defined as a business which specializes in the sale of fuel to commercial trucks. The sale of fuel to trucks as a part of a normal auto fuel sales business is allowed.

C. Structures erected within this subdivision must be owner occupied for the first five years after initial occupancy. Owner occupied for the purposes of the covenants is defined as occupied by the holder of the real estate title or any subsidiary of the real estate titleholder.

D. A pine tree buffer shall be established by the Subdivider at the eastern edge of the lots adjoining Burkhardt Road after completion of the infrastructure improvements. Said pine tree buffer may be altered for access from Interstate Drive and shall be perpetually maintained by future property owners.

3. Building Committee

The Subdivider shall have the right to establish a Building Committee for the purposes of the enforcement of the restrictions, reservations, conditions and protective covenants set forth herein. The Subdivider shall notify by registered mail all owners of the lots and land within said subdivision prior to the establishment and formation

of a Building Committee. The Building Committee shall consist of the Subdivider and two other individuals designated by said Subdivider. For so long as the Subdivider owns any real estate in the Burkhardt - Lynch Business Park, the other two members shall serve at the pleasure of said Subdivider; provided, however, said Subdivider may at any time in writing relinquish his right to serve on the building committee and to designate the other members of said Building Committee. In the event of such relinquishment by said Subdivider or upon his death or at such time as said Subdivider no longer owns any properties in the Burkhardt - Lynch Business Park, thereafter the remaining members of said committee shall have the right to designate new members to fill the vacancy or vacancies resulting from death or relinquishment of any member.

A. Until the Subdivider establishes a Building Committee the Subdivider shall be the Building Committee and shall be the sole authority in matters requiring the approval of the Building Committee.

B. The powers and duties of said Building Committee shall cease on and after fifteen (15) years from the date of recording of these covenants and restrictions. Thereafter, the approval described in this covenant shall not be required, unless, prior to said date and effective thereon, a written instrument shall be executed by the then record owners of the majority of the lots in this subdivision, and duly recorded, appointing a representative or representatives who shall thereafter exercise the same powers previously exercised by said committee.

4. Lot Subdividing

The Subdivider shall, prior to conveyance of title, have the right to change, alter, or adjust the dimensions of any lot contained within said subdivision, in compliance with the subdivision code of Vanderburgh County, Indiana Code of Ordinances. No lot shall be further subdivided by any other owner without approval of the Building Committee.

5. Construction of Buildings

The construction of any building shall be completed within one (1) year after the date of commencement of such construction; provided, however, the Building Committee may extend the time period.

A. The minimum first floor area for any building erected, placed or permitted to remain on any lots within said subdivision shall be 1500 square feet.

B. No building shall be erected, altered, placed, or permitted to remain on any lot in this subdivision closer than 30 feet from the right of way line of Burkhardt Road,

Interstate Drive, Hank Avenue, Toney Lane, Toney Court, Frito Lay Drive, or Loehrlein Drive.

C. No buildings or structures shall be moved from other locations onto the subdivision. No structures of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be used on any lot of the subdivision at any time, temporarily or permanently, except during the period of any construction of improvements upon any building site in this subdivision in those instances when such temporary structures may be necessary to complete such construction.

D. Each lot owner shall be responsible to see that their builder, contractor, or subcontractors confines all building materials, equipment, and excavated soil within the boundaries of the lot and exercises property erosion control methods during construction of the building in compliance with guidelines as specified in the Indiana Handbook for Erosion Control in Developing Areas. Said contractor and owner shall be responsible for clean up of and run off of lot, owner of lot shall finish grade, seed, and mulch lot as soon after construction as possible. The lot owner shall be liable for any damages and or expense resulting from the failure to comply with the terms and provisions of this paragraph.

E. Upon completion of construction of the building, all permitted structures, parking lots and yard areas shall be maintained in good condition, good state of repair, free of weeds and aesthetically pleasing.

6. Set Backs and Green Areas

Lots shall have the following minimum set back restrictions:

Front Area	60 Feet
Side Area	10 Feet
Rear Area	10 Feet

Lots shall have the following minimum green areas:

Front Area	10 Feet
Side Area	5 Feet
Rear Area	5 Feet

7. Parking Areas Paved

All parking lots, drive ways, and material and truck storage areas shall be constructed of concrete or asphalt and shall be developed in compliance with the conditions set forth in the City of Evansville, Indiana Code of Ordinances.

A. Concrete parking lots shall be constructed of a minimum depth of Four (4) inches and shall have a perimeter concrete rolled or standing curb.

B. Asphalt parking lots shall be constructed a minimum of three (3) inches of asphalt in two layers on a minimum of six (6) inches of compacted #53 stone and shall have a perimeter concrete rolled or standing curb.

8. Storage Areas

All storage areas must be located at the side or rear of the lot and must be located behind and surrounded on all sides not connected to the building by a privacy fence made of durable materials or behind landscaping of shrubbery, trees, bushes, vines or suitable plantings. Said fence and plantings must be a minimum of six feet in height. The building committee must approve all storage areas in writing.

9. Utilities

All utilities shall be installed underground on any lot within this subdivision or along any dedicated roadway right-of-way or easement within this subdivision.

10. Easements

The strips of real estate of the width shown on the recorded plat of the subdivision and marked "P.U.E." or "D. & UG.P.U.E." are hereby reserved for the use of any and all public utilities and for the installation of water, sewer, gas mains, electric facilities and surface water drainage, subject at all times to the proper authorities. No structures or other improvements, planting or other materials shall be erected or permitted to remain within said easements which may damage or interfere with the installation and maintenance of utilities. The easement area of each lot shall be maintained continuously by the owner of said lot so as not to change the intended direction of flow of surface water within said easement as said direction of flow is set forth in a site plan for said subdivision filed with the Area Plan Commission of Evansville and Vanderburgh County.

11. Waste Disposal

All lots shall be free of garbage, sewage, ashes, rubbish, bottles, cans, waste matter and other refuse. Trash, garbage or other waste or debris accumulated by the owner of any lot shall be kept in sanitary containers at the rear or side of the building or out of sight, and shall be disposed in a timely manner. All exterior containers or incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition, in such a manner as to avoid an unsightly appearance within the subdivision and must be in a 6' high enclosed area made of

brick, painted split faced block, dryvit or wood with functioning gates and must completely hide said containers.

12. Storage of Products

No materials, supplies, equipment, storage trailers, finished or semi-finished materials, raw materials or articles of any nature shall be allowed in the Subdivision except during the construction period unless confined in a "storage area" as defined in Section 8.

13. Noxious Activity

Owners, lessees, tenants or users of the subdivision shall not permit noxious or offensive activities to be carried on, nor shall anything be done in the subdivision which may be or become an annoyance or nuisance by reason of noxious, offensive, unhealthy and harmful odors, fumes, dust, smoke, waste, noise or vibration, nor shall they permit EPA violations.

14. Fences

No fence or wall shall be permitted within the front area. Hedges and other landscaping shall be permitted in the front area, provided such do not exceed five (5) feet in height. Except for the front area, there shall be no limitation on the height of any hedge, fence or wall.

15. Signs

A. On Premise Signs advertising the business or services conducted on the building site may be located on the building site where the business is located and must be erected of a permanent material with no exposed wood or paper. The building committee must approve all signs. Signs may be both of the following;

(1) Installed and mounted in a flat manner to the primary structure or primary building and on the front or side of said structure or building, or free standing. No sign shall be mounted or located upon the roof of any structure or building.

B. Off Premise Sign rights are retained by the Subdivider or his designee and no Off Premise Signs shall be constructed or permitted without the prior written consent of the Subdivider. Off Premise signs may only be located on lots adjoining I-164, the Lynch Road Extension, and the first one hundred (100) feet of Burkhardt Road lying south of the proposed Lynch Road Extension. Off Premise Signs for the purpose of

the Covenants are defined as signs that advertise services or products other than those sold or offered on said lot.

16. Lighting

Exterior Lighting may be placed in accordance with Vanderburgh County regulations but may not be placed on wooded poles.

17. Acceptance of Deed

Acceptance of a deed of conveyance to any lot in this subdivision by any person shall be construed to be acceptance and an affirmance by such person of each and all of the covenants, conditions, reservations and restrictions herein set forth, whether or not the same be set out or specified in such conveyance.

18. Enforcement of Covenants and Restrictions

Each and all of the covenants, restrictions, conditions, and reservations contained herein shall insure the total benefit of all owners of lots in this subdivision jointly and severally, and may be enforced by them, or by any of them, and/or the Building Committee herein established, in any court of competent jurisdiction by injunction or other appropriated remedy. The owner of any lot in this subdivision and/or said Building Committee will have the right to enforce said covenants, conditions, restrictions, and reservations without proof of pecuniary damage to his property in this subdivision, or otherwise. If the Building Committee finds it necessary to enforce any of the Conditions, Covenants, Restrictions and Reservations, and is successful in said enforcement, the Building Committee shall be reimbursed reasonable attorney fees and expenses by the lot owner adjudged to have violated said restrictions..

19. Invalidation of a Restriction or Covenant

Invalidation of any foregoing covenant, condition or restriction by judgment or order of a court shall in no way affect any of the other covenants, conditions, or restrictions, all of which shall remain in full force and effect.

20. Binding Effect

Each and all of the covenants, reservations, conditions and restrictions herein contained shall be deemed covenants running with the title to the land and shall be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date of the recording of this indenture, after which time said

covenants shall be automatically extended for successive periods of ten (10) years unless an instrument executed by a majority of the then owners of the lots in this subdivision has been recorded agreeing to change, modify or eliminate said covenants and restrictions in whole or in part.

A. Neither the Owners, Subdivider, Building Committee nor any member, employee or agent thereof shall be liable to the owner or tenant or to anyone submitting plans for approval or to any other party by reason of a mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or failure to approve any such plans or for any other action or lack of action connected with its duties or their duties hereunder.

B. The construction of any structure on any lot or placement of any sign upon any structure or lot shall be prohibited until complete plans and specification showing the nature, kind, shape, size, and color scheme and location have been submitted and approved in writing by the Building Committee. In reviewing plans and specifications the Building Committee shall among other things determine if plans meets requirements, covenants and restrictions and shall in additions approve parking lots, trash containment areas, loading facilities and landscaping.

C. In the event the Building Committee fails to approve plans within sixty (60) days of receipt by the Building Committee the approval of the Committee shall not be required. Lack of approval by the Building Committee shall not waive any changes and/or approvals required by the Building Committee.

D. All items submitted to the Building Committee shall be submitted at Woodward Commercial Realty, Inc., 7321 Eagle Crest Boulevard, Evansville, Indiana 47715. All submissions to the Building Committee must be in written form and must contain the name and address the Building Committee is to reply to.

21. Amendments

The Building Committee reserves the right to amend, modify and supplement any of the conditions, covenants, restrictions and reservations set forth herein insofar as such shall affect any real estate the Subdivider has not yet conveyed.

22. Common Areas

The Owners have designated Common Area 12 as shown on the plat as a Common Area. The Subdivider shall be responsible for the maintenance and repair of the Common Area until ten (10) lots have been sold. Commencing with the sale of the tenth lot, the expense of the above said common area shall be shared equally between the owners of all sold lots based on a formula provided by the Building Committee. Said expense shall be billed to

owners during the month of December of each year. Unless paid within thirty (30) days of billing, said expense will become a lien against the property owner. The Building Committee shall have total authority over all Common Areas to make decision concerning the Common Areas. Sold lots for the purpose of this paragraph shall be defined as all lots transferred by deed from the Owners to another party.

23. Variances

The Building Committee shall have the right to authorize a variance from one or more of these Conditions, Covenants, Restrictions and Reservations for lots within this development. A request for a Variance shall be sent in writing to the Building Committee and the Building Committee shall respond in writing authorizing or denying the request.

J.L. 7-21-97

LOEHRLEIN

IN WITNESS WHEREOF, Judith Loehrline has hereunto set her hand this 21 day of JULY, 1997.

Judith Loehrline
Judith Loehrline

LOEHRLEIN J.L. 7-21-97

STATE OF INDIANA - COUNTY OF VANDERBURGH

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared the within named Judith Loehrline, and acknowledged the execution of the foregoing instrument.

LOEHRLEIN

J.L. 7-21-97

WITNESS my hand and Notarial Seal this 21 day of JULY, 1997.

Clinton M. Loehrline
Notary Public

Clinton M. Loehrline
Name Printed

Notary resides in VANDERBURGH County, Indiana and my

Commission Expires: 12-4-97

Loehrline c.b. 7-21-97
IN WITNESS WHEREOF, Clinton Loehrline has hereunto set his hand this
21 day of July, 1997.

Clinton M. Loehrline
Clinton Loehrline
Loehrline c.b. 7-21-97

STATE OF INDIANA - COUNTY OF VANDERBURGH

Before me, the undersigned, a Notary Public, in and for said County and State, personally
appeared the within named Clinton Loehrline, and acknowledged the execution of the
foregoing instrument. Loehrline c.b. 7-21-97

WITNESS my hand and Notarial Seal this 21 day of July, 1997.

Jackie M. Pressley
Notary Public
Jackie M. Pressley
Name Printed

Notary resides in Prosser County, Indiana and my
Commission Expires: 11-12-00

IN WITNESS WHEREOF, Mary Jo Compton has hereunto set her hand this
21 day of July, 1997.

Mary Jo Compton
Mary Jo Compton

STATE OF INDIANA - COUNTY OF VANDERBURGH

Before me, the undersigned, a Notary Public, in and for said County and State, personally
appeared the within named Mary Jo Compton, and acknowledged the execution of the
foregoing instrument.

WITNESS my hand and Notarial Seal this 21 day of July, 1997.

Clinton M. Loehrlein

Notary Public

Clinton M. Loehrlein

Name Printed

Notary resides in VANDERBURGH County, Indiana and my

Commission Expires: 12-4-97

IN WITNESS WHEREOF, Stephen Kissel has hereunto set his hand this
21 day of JULY, 1997.

Stephen Kissel
Stephen Kissel

STATE OF INDIANA - COUNTY OF VANDERBURGH

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared the within named Stephen Kissel, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and Notarial Seal this 21 day of JULY, 1997.

Clinton M. Loehrlein

Notary Public

Clinton M. Loehrlein

Name Printed

Notary resides in VANDERBURGH County, Indiana and my

Commission Expires: 12-4-97

IN WITNESS WHEREOF, Richard Kissel has hereunto set his hand this
21 day of JULY, 1997.

Richard Kissel
Richard Kissel

STATE OF INDIANA - COUNTY OF VANDERBURGH

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared the within named Richard Kissel, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and Notarial Seal this 21 day of JULY, 1997.

Clinton M. Lochlan
Notary Public

Clinton M. Lochlan
Name Printed

Notary resides in VANDERBURGH County, Indiana and my

Commission Expires: 12-4-97

IN WITNESS WHEREOF, Patricia Koch has hereunto set his hand this
21 day of JULY, 1997.

Patricia Koch
Patricia Koch

STATE OF INDIANA - COUNTY OF VANDERBURGH

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared the within named Patricia Koch, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and Notarial Seal this 21 day of JULY, 1997.

Clinton M. Lochlan

Notary Public

Clinton M. Loehlein
Name Printed

Notary resides in VANDERBURGH County, Indiana and my

Commission Expires: 12-4-97

IN WITNESS WHEREOF, John Kissel has hereunto set his hand this
22 day of July, 1997.

John Kissel
John Kissel

STATE OF INDIANA · COUNTY OF VANDERBURGH

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared the within named John Kissel, and acknowledged the execution of the foregoing instrument.

WITNESS my hand and Notarial Seal this 22 day of July, 1997.

Jackie M. Pressley
Notary Public
Jackie M. Pressley
Name Printed

Notary resides in Paar County, Indiana and my

Commission Expires: 11-12-00