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DECLARATION OF RESTRICTIONS

DEER WALK ESTATES

RECEIVED
MAY 21 1 27 PM '90
CLERK OF SUPERIOR COURT
HAMILTON COUNTY, INDIANA

THIS DECLARATION, made this 21st day of March, 1990, by Kevin W. Emmert and Denise G. Emmert, (the "Developers"),

WITNESSETH THAT:

WHEREAS, the following facts are true:

1. Developer is the contract purchaser or owner of all of the lands described in Exhibit "A" attached hereto and made a part hereof, which lands will be subdivided and known as Deer Walk Estates (hereinafter referred to as the "Development") and will be more particularly described on the plat of Deer Walk Estates, to be recorded in the Office of the Recorder of Hamilton County, Indiana, and

2. Developer is about to sell and convey the residential lots situated within the platted areas of the Development and before doing so desires to subject and impose upon all real estate within the platted areas of the Development mutual and beneficial restrictions, covenants, conditions and charges (the "Restrictions") under a general plan of improvement for the benefit of the lots and lands in the Development and the future owners thereof.

NOW, THEREFORE, the Developer hereby declares that all of the platted lots and lands located within the Development are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved, subject to the following Restrictions, all of which are declared and agreed to be in furtherance of a plan for the improvement and sale of said lots and lands in the Development, and are established and agreed upon for the purposes of enhancing and protecting the value, desirability and attractiveness of the Development as a whole, and of each of said lots situated therein. All of the Restrictions and matters appearing on the recorded plat shall run with the land and shall be binding upon the Developer and upon the parties having or acquiring any right, title or interest, legal or equitable, in and to the real property or any part or parts thereof, subject to such Restrictions, and shall inure to the benefits of the Developer and every one of the Developer's successors in title to any real estate in the Development.

1. Definitions. The following are the definitions of the terms as they are used in this Declaration.

- A. "Lot" shall mean any parcel of real estate described on the plat of the Development (except for areas described by such plat as "Block"), which is recorded in the Office of the Recorder of Hamilton County, Indiana, or any amendment thereto.
- B. Approvals, determinations, permissions, or consents required herein shall be deemed given if they are given in writing signed, with respect to the Developer by either person mentioned as Developers herein.
- C. "Owner" shall mean a person who has or is acquiring any right, title or interest, legal or equitable, in and to a lot, but excluding those persons having such interest merely as security for the performance of an obligation.

2. CHARACTER OF THE DEVELOPMENT.

A. In General. Every numbered lot in the Development is a residential lot and shall be used exclusively for single-family residential purposes. No structure shall be erected, placed or permitted to remain upon any of said residential lots unless approved by the Developer, their successors or assigns. Unless otherwise provided in these Restrictions or on the recorded plat, no dwelling house shall be constructed or placed on any residential lot in the Development except as provided herein.

B. Residential Use of Accessory Outbuildings Prohibited. No accessory outbuilding or temporary structure which may be constructed upon a residential lot under these Restrictions shall be used as a residence or dwelling house or place for human occupancy or habitation.

C. Occupancy or Residential Use of Partially Completed Dwelling House Prohibited. No dwelling house constructed on any of the lots shall be occupied or used for residential purposes or human habitation until it shall have been substantially completed. The determination of whether the house shall have been substantially completed shall be made by the Developer.

D. Block A. There is a parcel designated on the recorded plat as "Block A". The developer shall retain the ownership of said area until such time as the developer can resolve the existing encroachment on it by sale or removal of the encroachment.

E. Subdivision of Lots Prohibited. No lot in the Development shall be divided or sub-divided in order to provide for an additional lot or lots.

3. RESTRICTIONS CONCERNING SIZE, PLACEMENT AND MAINTENANCE OF DWELLING HOUSES AND OTHER STRUCTURES.

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such destruction or damage.

F. Prohibition of Used Structures. All structures placed on any lot in the Development shall be constructed with substantially all new material, except used brick is acceptable, and no used structures shall be relocated or placed on any such lot.

G. Maintenance of Lots and Improvements. The Owner of any lot in the Development shall at all times maintain the lot and any improvements situated thereon in such a manner as to prevent the lot or improvements from becoming unsightly; and; specifically, such Owner shall:

- (i) Mow such portion of the lot upon which grass has been planted at such times as may be reasonably required.
- (ii) Remove all debris or rubbish.
- (iii) Prevent the existence of any other condition that reasonably tends to detract from or diminish the aesthetic appearance of the Development.
- (iv) Cut down and remove dead trees.
- (v) Keep the exterior of all improvements in such a state of repair or maintenance as to avoid their becoming unsightly.

H. Developer's Right To Perform Certain Maintenance. In the event that the Owner of any lot in the Development shall fail to maintain his lot and any improvements situated thereon in accordance with the provisions of these Restrictions, the Developer shall have the right, but not the obligation, by and through their agents and employees or contractors, to enter upon said lot and repair, mow, clean or perform such other acts as may be reasonably necessary to make such lot and improvements situated thereon, if any, conform to the requirements of these Restrictions. The cost therefore, including collection costs and attorney fees, shall become a lien on the lot so maintained and may be collected in any reasonable manner, including foreclosure, from the Owner. Neither the Developer nor any of its agents, employees, or contractors shall be liable for any damage which may result from any maintenance work performed hereunder.

I. Prohibition On Removal of Trees. No tree or a diameter in excess of eight inches shall be removed from any lot in the Development without the prior consent of the Developer. At the time of the submission by each owner of the plans of the proposed residential structure to the Developer in accordance with the provisions of paragraph 6 of these Restrictions, each such owner shall indicate upon the plot plan to be submitted at

such time the location and size of all trees proposed to be removed as a result of such construction. The removal of such trees must be approved by the Developer.

4. PROVISIONS RESPECTING DISPOSAL OF SANITARY WASTE.

A. Nuisances. No outside toilets shall be permitted on any lot in the Development (except during a period of construction and then only with the consent of the Developer). By purchase of a lot, each owner agrees that any violation of paragraphs four (4) or five (5) constitutes a nuisance which may be abated by the Developer in any manner provided at law or in equity. The cost or expense of abatement, including Court costs and attorney's fees, shall become a charge or lien upon the lot, and may be collected in any manner provided by law or in equity for collection of a liquidated debt, including foreclosure.

Neither the Developer nor any officer, agent, employee or contractor thereof, shall be liable for any damage which may result from enforcement of this paragraph.

B. Wastewater Treatment Systems. Each lot owner shall be required to install, and properly maintain, a wastewater treatment system as approved by the Developer. This system together with a finger system and peripheral subsurface drain tile, shall be installed in strict compliance with all applicable State and Federal laws, rules and regulations.

5. GENERAL PROHIBITIONS.

A. In General. No noxious or offensive activities shall be carried on any lot in the Development, nor shall anything be done on any of said lots that shall become or be an unreasonable annoyance or nuisance to any Owner of another lot in the Development.

B. Signs. No signs or advertisements shall be displayed or placed on any lot or structure in the Development without the prior written approval of the Developer.

C. Animals. Any animals kept or maintained on any lot in the Development must be kept reasonably confined so as not to become a nuisance provided, however, that no pigs, cows, chickens, sheep, horses or other farm animals shall be allowed unless approved by the Developer.

D. Crops. The Owner of a lot may not cultivate farm crops on said lot, however, gardens for personal consumption only are allowed.

E. Garage, Trash and Other Refuse. No Owner of a lot in the Development shall burn or permit the burning out of doors of garbage or other refuse, nor shall any such Owner accumulate or permit the accumulation out of doors of such refuse on a lot.

F. Fuel Storage Tanks, Satellite Dishes, Radio or Television Antennas, Trash Receptacles, Insect Killing Devices and Above Ground Swimming Pools. Every tank for the storage of fuel that is installed outside any building in the Development shall be buried below the surface of the ground or adequately screened so that it is not visible from any street or other residence in the Development. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be so placed and kept as not to be visible from any street or other residence within the Development at any time, except at the times when refuse collections are being made. Satellite dishes, radio or television antennas or other similar devices shall be placed on any lot and screened in such a manner so as to minimize the observation from the street and by the owners of any surrounding lot. The erection and placement of any such device shall not take place until plans are submitted to the developer and their approval obtained. No electronic or other device designed to kill insects which emits any sound shall be allowed on any lot. No above ground swimming pools shall be placed on any lot.

G. Model Homes. No Owner of any lot in the Development shall build or permit the building upon said lot of any dwelling house that is to be used as a model home or exhibit house without permission from the Developer.

H. Temporary Structures. No temporary house, or garage, shall be placed or erected on any lot in the Development.

I. No Mobile Homes. No mobile homes, campers or similar vehicles shall be placed, or erected, on any lot in the Development or allowed to remain parked on any lot for more than five (5) days.

J. Ditches and Swales. It shall be the duty of every Owner of every lot in the Development on which any part of an open storm drainage ditch or swale is situated to keep such portion thereof as may be situated upon his lot continuously unobstructed and in good repair, and to provide for the installation of such culverts upon said lot as may be reasonably necessary to accomplish the purposes for which the ditch or swale was created or shown as being used for on the plat.

6. APPROVAL OF PLANS BY DEVELOPER.

- (i) Generally. No dwelling, building structure, including unattached garage, storage building, barn, or improvement of any type or kind shall be constructed or placed on any lot in the

Development without the prior approval of the Developer. All such structures, or other structures of a similar nature, shall be placed on a permanent foundation and constructed of the same or similar materials as the residence on the lot on which they are placed. Such approval shall be obtained only after written application has been made to the Developer by the Owner of the lot requesting authorization from the Developer. Such written application shall be in a manner and form prescribed from time to time by the Developer and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction or improvement. Such plans shall include plot plans showing the location of all improvements existing upon the lot and the location of the improvement proposed to be constructed or placed upon the lot, each properly and clearly designated. Such plans and specifications shall be set forth the color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Developer may require. There shall also be submitted, where applicable, the permits or reports required under any other paragraph of these Restrictions. All such plot plans shall be prepared by either a registered land surveyor, engineer or architect.

- (ii) Power of Disapproval. The Developer may refuse to grant permission to construct, place or make the requested improvement, when:
 - (aa) The plans, specifications, drawings or other material submitted are themselves inadequate or incomplete, or show the proposed improvement to be in violation of these Restrictions;
 - (bb) The design or color scheme of a proposed improvement is not in harmony with the general surroundings of the lot or with adjacent buildings or structures;
 - (cc) The proposed improvement, or any part thereof, would be in the option of the Developer be contrary to the interests, welfare or rights of all or any part of other Owners.
- (iii) Power To Grant Variances. The Developer may allow

reasonable variances or adjustments of these Restrictions where literal application would result in unnecessary hardship, but any such variance or adjustment shall be granted in conformity with the general intent and purposes of these Restrictions and no variance or adjustment shall be granted which is materially detrimental or injurious to other lots in the Development.

B. Duties of Developer. The Developer shall approve or disapprove proposed improvements within thirty (30) days after all required information shall have been submitted to them. One copy of submitted material shall be retained by the Developer for their permanent files. All notifications to applicants shall be in writing and, in the event that such notification is one of disapproval, it shall specify the reason or reasons.

C. Liability of Developer. The Developer or any agent thereof, shall not be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor any defects in any work done according thereto.

D. Inspection. The Developer may inspect work being performed with its permission to assure compliance with these Restrictions and applicable regulations.

7. EASEMENTS.

There are strips of ground as shown on the plat as easements for drainage (D.E.), utility (U.T.), Legal Drain or otherwise which are reserved for the use of public utility companies and governmental agencies to provide paths, courses and installation and maintenance, equipment for area and local storm drainage either overland or in adequate underground conduit to serve the needs of this and adjoining ground and/or the public drainage system or for installation and maintenance of mains, ducts, poles, lines, wires and all equipment reasonably necessary to serve the various lots in the plat with all utilities and services specified herein or reasonably consistent with residential uses. The owners of all lots in this addition shall take title subject to the rights of public utilities, governmental agencies and the rights of other lot owners in this addition to the easement granted for ingress and egress in, along and through the strips of ground for the purposes herein stated. No permanent or temporary structure shall be erected or maintained upon any such strip of ground nor shall any lot owner in any way alter, modify or affect such strips so as to interfere with the purposes intended to be served.

There is dedicated as a fifteen (15) foot wide easement, with its center line being the lot line between lots ten (10) and eleven (11) and running the entire length of said lot line to be used as a private drive for ingress and egress to property inside or outside the development.

8. REMEDIES.

A. In General. Any party to whose benefit these Restrictions inure, including the Developer, may proceed at law or in equity to prevent the occurrence or continuation of any violation of these Restrictions, but the Developer shall not be liable for damages of any kind to any person for failing either to abide by, enforce or carry out any of these Restrictions. The Developer shall be entitled to receive all costs, expenses and attorney fees expended by it should any action be required by them to be pursued to enforce these Restrictions.

B. Delay or Failure To Enforce. No delay or failure on the part of any aggrieved party to invoke any available remedy with respect to a violation of any one of these Restrictions shall be held to be a waiver by that party (or an estoppel of that party to assert) any right available to him upon the occurrence, recurrence, or continuation of such violation or violations of these Restrictions.

8. EFFECT OF BECOMING AN OWNER.

The Owners of any lot subject to these Restrictions, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from the Developer or a subsequent Owner of such lot, shall accept such deed and execute such contract subject to each and every Restrictions, and also, for themselves, their heirs, personal representatives, successors and assigns, such Owners covenant and agree and consent to and with the Developer to and with the Owners and subsequent owners of each lot affected by these Restrictions to keep, observe, comply with and perform such Restrictions and agreements.

9. TITLES.

The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken

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to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

10. DURATION.

The foregoing covenants and Restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2015, at which time said covenants and Restrictions shall be automatically extended for successive periods of ten (10) years each, unless changed in whole or in part by a vote of those persons who are then the owners of the majority of the numbered lots in the development.

11. SEVERABILITY.

Every one of the Restrictions is hereby declared to be independent of, and severable from the rest of the Restrictions and of and from every combination of the Restrictions.

Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, the holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

IN WITNESS WHEREOF, the Developer has caused this Declaration of Restrictions to be executed as of the day and year first above written.

Date this 21st day of March, 1990.

Kevin W. Emmert
Kevin W. Emmert

Denise G. Emmert
Denise G. Emmert

The undersigned, as owner of the property described in Exhibit "A", hereby acknowledges that she has reviewed the above Declaration of Restrictions and she agrees, consents and acquiesces to their placement on the land as described herein this 21st day of March, 1990.

Marie Freeman
Marie Freeman

Before me, a Notary Public in and for said County and State, personally appeared Kevin W. Emmert and Denise G. Emmert, hereinafter referred to as "Developers", and Marie Freeman, hereinafter referred to as "Property Owner", and acknowledged the execution of the foregoing Declaration of Restrictions for and on behalf of the Developers and the Property Owner.

WITNESS my hand and Notarial Seal this 21st day of March, 1990.



Bruce A. Boje
Notary Public

Printed: Bruce A. Boje
Resident of Hamilton County

My Commission Expires:
August 1, 1991

This instrument was prepared by Bruce A. Boje, Attorney at Law.
1312 Maple Avenue
Noblesville, Indiana 46060

This Instrument Recorded 5-21 1990
Sharon K. Cherry, Recorder, Hamilton County, IN

EXHIBIT "A"

LAND DESCRIPTION

A part of the Southwest Quarter of Section 34, Township 20 North, Range 5 East located in White River Township, Hamilton County, Indiana being bounded as follows:

Commencing at the northwest corner of the Southwest Quarter of Section 34, Township 20 North, Range 5 East (Railroad spike found over stone with "X"); thence South 89 degrees 42 minutes 24 seconds East (assumed bearing) 417.00 feet along the north line of said Southwest Quarter to the northeast corner of a 2.00 acre tract of land described and recorded in Instrument #89-06879 in the records of Hamilton County and the POINT OF BEGINNING of this description; thence continuing South 89 degrees 42 minutes 24 seconds East 1572.00 feet along the north line of said Southwest Quarter to a point, said point being North 89 degrees 42 minutes 24 seconds West from the northeast corner of said Southwest Quarter (stone with "X" found), said point also being 1989 feet East of the northwest corner of the Southwest Quarter of Section 34, Township 20 North, Range 5 East as per Instrument #87-12508; thence South 01 degree 58 minutes 36 seconds West (said bearing of South 01 degree 58 minutes 36 seconds West forms the same angular relationship with the north line of the Southwest Quarter of Section 34, Township 20 North, Range 5 East, as is shown at this corner in Instrument #87-12508) 1631.91 feet to a point on the north edge of water of White River, the next 13 courses are along a line traversing the approximate location of the north edge of water of White River; thence 1.) North 45 degrees 36 minutes 04 seconds West 124.06 feet; thence 2.) North 65 degrees 21 minutes 21 seconds West 247.33 feet; thence 3.) North 66 degrees 55 minutes 18 seconds West 175.47 feet; thence 4.) South 70 degrees 01 minute 09 seconds West 35.41 feet; thence 5.) South 61 degrees 32 minutes 00 seconds West 54.15 feet; thence 6.) South 76 degrees 02 minutes 31 seconds West 144.57 feet; thence 7.) South 75 degrees 48 minutes 06 seconds West 121.10 feet; thence 8.) South 81 degrees 15 minutes 16 seconds West 107.83 feet; thence 9.) North 80 degrees 00 minutes 20 seconds West 163.41 feet; thence 10.) North 44 degrees 14 minutes 00 seconds West 108.95 feet; thence 11.) North 71 degrees 29 minutes 32 seconds West 132.34 feet; thence 12.) North 71 degrees 39 minutes 41 seconds West 161.09 feet; thence 13.) South 83 degrees 07 minutes 35 seconds West 24.52 feet; thence leaving said line North 09 degrees 33 minutes 36 seconds West 382.61 feet; thence North 75 degrees 37 minutes 37 seconds West 203.30 feet; thence North 50 degrees 49 minutes 08 seconds West 122.37 feet; thence South 44 degrees 07 minutes 17 seconds West 168.67 feet to a point on the west line of said Southwest Quarter, said point being South 00 degrees 44 minutes 52 seconds West 932.85 feet from the northwest corner of said Southwest Quarter; thence North 00 degrees 44 minutes 52 seconds East 619.67 feet along the west line of said Southwest Quarter to the southwest corner of said 2.00 acre tract of land, the next 2 courses are along the bounds of said 2.00 acre tract of land; thence 1.) South 59 degrees 42 minutes 24 seconds East 417.00 feet; thence 2.) North 00 degrees 44 minutes 52 seconds East 313.18 feet to the POINT OF BEGINNING. Containing 56.44 acres, more or less, being subject to all applicable easements and rights-of-way of record.

This Instrument Recorded 5-21 1991
Recorder, Hamilton County, IN

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ADDITIONS AND AMENDMENTS TO
DECLARATION OF RESTRICTIONS
DEER WALK ESTATES

THIS DECLARATION, made this 22 day of November, 1991,
by Kevin W. Emmert and Denise G. Emmert, (the "Developer"), and
all other property owners of Deer Walk Estates, (the "Owners"):

WITNESSETH THAT:

WHEREAS, the Developer made a certain Declaration of
Restrictions for Deer Walk Estates, dated March 21, 1990 and
recorded May 21, 1990 as Instrument Number 9011705 in the Office
of the Recorder of Hamilton County, Indiana and a plat of said
development which was recorded in Plat Cabinet 1, Slide 95 in the
same recorder's office; and

WHEREAS, the Developers and all other owners of lots and
property in said development wish to amend and make additions to
said Declaration of Restrictions and Plat.

NOW, THEREFORE Developers and Owners hereby declare that
the above Declaration of Restrictions and plat should be amended
as stated hereafter, which additions and amendments shall run
with the land and shall be binding upon the Developer and upon
the parties having or acquiring any right, title or interest,
legal or equitable, in and to the real property or any part or
parts thereof, subject to such Restrictions, and shall inure to
the benefits of the Developer and Owners and every one of the
Developer's and Owners' successors in title to any real estate in
the Development.

This Instrument Recorded 11-22
Sharon K. Cherry, Recorder, Hamilton County, Indiana

ADDITIONAL RESTRICTION

The use of the Dylan Clay Emmert Nature Walk as shown on
the above described plat shall be restricted to the developer,
owners of property in the development, residents living in the
development and the authorized guests of said parties.

AMENDED RESTRICTION

Added to paragraph seven (7) "EASEMENTS" is the following
sentence: There shall be no ingress or egress along and through
the easement between lots ten (10) and eleven (11) to property
outside the development unless the house located on such property
meets all the requirements and restrictions for residences
located in Deer Walk Estates and the person seeking ingress or
egress shall agree to pay their pro rata share of any and all
expenses required to be paid under any maintenance agreement for
said easement.

All remaining portions or parts of the original declaration
of restrictions and plat described above shall remain in full
force and effect.

Dated this 22nd day of November, 1991.

DEVELOPERS

Kevin W. Emmert
Kevin W. Emmert

Denise G. Emmert
Denise G. Emmert

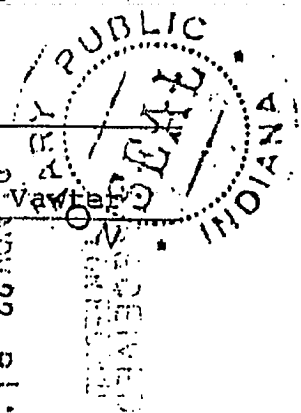
Before me, a Notary Public in and for said County and State, personally appeared Kevin W. Emmert and Denise G. Emmert and acknowledged the execution of the foregoing Additions and Amendments to the Declaration of Restrictions and Plat for and on behalf of the Developers.

Witness my hand and Notarial Seal this 22 day of November, 1991.

Janet A. Vawter
Notary Public

Printed: Janet A. Vawter

Resident of Hamilton County
My Commission expires: 2-15-92



OWNERS LOT (7)

Robert T. McFeely
Robert T. McFeely

Carolyn J. McFeely
Carolyn J. McFeely



Before me, a Notary Public in and for said County and State, personally appeared Robert T. McFeely and Carolyn J. McFeely and acknowledged the execution of the foregoing Additions and Amendments to the Declaration of Restrictions and Plat for and on behalf of themselves.

Witness my hand and Notarial Seal this 22nd day of November, 1991.

Margaret A. Humphrey
Notary Public

Printed: Margaret A. Humphrey

Resident of MADISON County
My Commission expires: Feb. 14, 1995

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