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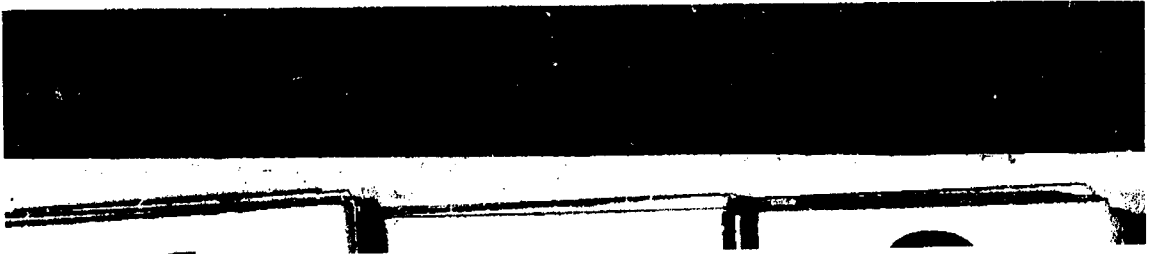
Morgan
County

WHISPERING MIST ESTATES, COVENANTS AND RESTRICTIONS

The following is the declaratory statement of dedication, limitations, restrictions and covenants for all purchasers, their heirs, successors and assigns, of lots in WHISPERING MIST ESTATES, a residential subdivision, lying in the Northeast Quarter of Section 11, Township 13 North, Range 2 East, Madison Township, Morgan County, Indiana, and shall take title subject to and be bound by the following:

1. Architectural Control Committee. An Architectural Control Committee shall review and approve all plans for the construction of residential dwelling houses, accessory buildings and all other structures to promote harmony of design and compatibility with existing structures. Only Developer approved builders are allowed to construct dwelling in this subdivision. The committee also shall approve any technical variation or exception from any construction requirements. The committee shall approve soil and erosion control guidelines which must be adhered to by the lot owners, their builders, contractors and subcontractors. The committee shall initially consist of the Developer or Developers's representative. The developer (H. Hosten Bible and Robert K. Stewart their heirs, assigns and successors) shall make all appointments until all lots are sold. Thereafter, the committee shall consist of three (3) resident owners, which shall be elected annually by all lot owners.

2. Architectural Design. All buildings, walls, fences and all other structures are subject to the approval of the Architectural Control Committee. No building, wall, fence or other structure shall be constructed, erected, placed or altered in this subdivision until the location plan, building plans, and specifications have been submitted to the Architectural Control Committee which will approve or disapprove the submittals as to conformity with the exterior design, quality and aesthetic appearance of structure already existing and for conformity with surface, drainage requirements, first floor area, external construction, destruction of trees and other vegetation and any other such matter as may affect the environment or ecology of the subdivision.



In the event the committee, or its designated representative, fails to approve or disapprove any plans and specifications within thirty (30) days after such plans and specifications have been submitted to it, then such plans and specifications will be considered approved.

3. Land Use. All lots herein are for residential use only, limited to one single family dwelling per lot.
4. Building Location. No building shall be located on any lot nearer to the front lot line, or any lot line which borders a street or road, than forty (40) feet, or nearer to the side and rear lot line than 15 feet. For the purpose of this covenant, eaves, steps and open porches shall not be considered a part of the building; provided, however, that this shall not be construed to permit any portion of any building on any lot to encroach upon any other lot unless the other lot, or part thereof, is owned by the same owner. The division of a lot for the purpose of creating an additional building site is prohibited.
5. Dwelling size. No dwelling shall exceed three (3) stories in height. An attached private garage for at least two (2) cars must be included. The ground floor of the dwelling structure, exclusive of porches, basements and garages, shall not be less than one-thousand six-hundred (1600) square feet for a one-story dwelling nor less than one-thousand eight hundred (1800) square feet for a dwelling of more than one-story, with not less than one-thousand four-hundred square feet on the ground floor.
6. Construction requirements.
 - a. Overhang (eaves) shall be a minimum of twelve (12) inches, excluding any exterior finish.
 - b. If the roof is a hip type then a minimum of 6/12 pitch shall be used. If the roof is to be a gable type then a minimum of 8/12 pitch shall be used.
 - c. Exterior of the first story of all dwellings shall be full brick or stone, gable ends excepted. Soffit, fascia, and gable materials vinyl or wood and colors shall be approved by the Architectural Control Committee. No log cabins, modular or mobile homes will be permitted. All dwellings must be built on a crawl space or basement. No slab construction will be allowed.

d. After construction, all lots shall be graded and landscaped. The grading shall be so as to provide positive drainage from the house as constructed. To insure positive drainage the ground shall slope away from the dwelling a minimum of one (1) inch per foot, for the first six (6) feet outside the perimeter of the foundation.

All driveways are to be of concrete four (4) inches thick or two (2) inches of asphalt on 6" of compacted crushed stone. Driveways must be maintained in good repair by the lot owners.

f. All construction, finish grading, sidewalks and landscaping shall be completed within six (6) months of the start of construction, acts of God and unusual weather or destruction of work in progress excepting.

g. All owners and their builders/contractors shall be responsible for and maintain the job site in a reasonable, sightly order, containing all trash and debris within the lot and properly disposed of or removed. Owner and their builder/contractors shall register and obtain from the Architectural Control Committee a copy of Whispering Mist Estates plat and these covenants and restrictions.

h. All owners and their builders/contractors shall be responsible for and repair or restore any damage during construction, whether or not inadvertent or unavoidable, including but not limited to streets, drainage area, utilities or other improvements.

i. All owners shall be fully responsible for providing proper erosion control on their lot. In the event proper erosion control is not maintained, the lot owner shall be responsible for any and all damages incurred by the Developers and the Home Owners Association. The Developer and the Architectural Control Committee shall have the right to notify the lot owner of specific erosion problems and to assess damages from this. The lot owner is responsible for the acts of any builder, contractor or subcontractor done work on the owner lot. Standards for erosion control shall be set by the Architectural Control Committee.

j. All lot owner, for the good of the community, will maintain their lots in good condition to the edge of the street.

7. **Utility Easements.** Areas designated as utility easements on this plat are dedicated as easements for the installation and maintenance of public utilities reasonably and conveniently required. Such as lines, ducts, gas or water mains or sewer mains and laterals, electric lines, telephone lines and cable television lines, not including transportation and transmission company lines. No structures shall be erected on or maintained within such areas. Maintenance of the easement area is the responsibility of the owner.
8. **Drainage Easements.** Areas designated as drainage easements on the plat are dedicated as easements for drainage of water. No structure shall be erected or maintained within such areas and drainage shall not be restricted. Maintenance is the responsibility of the lot owner.
9. **Vehicle Parking.** No unlicensed or inoperative vehicles of any kind including boats, trucks, campers, trailers, recreational vehicles, motorcycles, or similar vehicles shall be parked on any road, street, private driveway, or lot. Operating and licensed vehicles (of the kind and nature described above) may be parked on a lot provided it is screened in such a way that it is not visible to the occupants of the adjacent lots. No vehicle of any kind shall be parked on the street except for a reasonable length of time. The Architectural Control Committee shall determine what is acceptable screening and shall determine what is a reasonable length of time.
10. **Storage and Refuse Disposal.** No outside storage of equipment, materials, supplies, debris and unlicensed or inoperative vehicles, (including recreational vehicles, boat, trailers, motorcycles or any other motorized or unmotorized equipment) shall be permitted. Trash, garbage or other wastes shall be kept in sanitary animal proof containers. All equipment for the storage of such materials shall be kept in a clean and sanitary condition. No incinerators or trash burning shall be allowed.
11. **Vacant Lot Maintenance.** Vacant lots shall be maintained per the following terms: No trash shall be allowed to accumulate or vegetation to grow in excess of twelve (12) inches in height. Unsold lots shall be mowed and maintained by the developer. If sold lots are not mowed and maintained, the developer shall have the option to mow, or maintain the property, by removing trash or debris and charge the owner a reasonable fee.
12. **Business Use.** No mercantile or business establishment of any kind or character shall be erected, altered, permitted or maintained on any lot.

13. Auto Mechanics. Except for minor or routine repair and maintenance of the owners' personal vehicles, no welding, restoration, reconstruction, overhauling, painting or other type of auto mechanics, whether for hire or otherwise, shall be permitted.
14. Nuisance. No noxious or offensive activity shall be suffered or permitted to continue which may annoy or become a nuisance to a neighbor or the neighborhood, nor shall any unlawful act or activity be allowed whatsoever.
15. Storage Tanks. No bulk storage tanks of any kind will be allowed.
16. Utility/Storage Buildings. Utility or storage buildings must have a minimum area of 120 square feet and may not be larger than 1200 square feet. All utility or storage buildings must be on a concrete foundation and be constructed to compliment the dwelling. Gazebo type structures will also be permitted. All utility, storage or gazebo structures must be approved by the Architectural Control Committee.
17. Fences. No fence shall be erected until approval is obtained from the Architectural Control Committee as to type, location and height. No fence shall be erected closer than the front of the dwelling structure except for open wood fences of a decorative type provided such fence has been approved by the Architectural Control Committee. All fences shall be maintained in good repair.
18. Animals. Lot owners shall not keep, breed or raise any animal for commercial purposes. Lot owners shall be allowed three (3) total of either dogs, cats, or other household pet and all pets must be confined to the owners lot or on a leash accompanied by an adult. No lot owner shall be allowed to keep, breed or raise livestock, hogs or poultry, except that Lots 10 and 11 are allowed to have horses and cattle provided that the total number of animals per lot does not exceed three (3).
19. Pools. No above ground type pool will be permitted.
20. Mailboxes. Architectural Control Committee shall specify and determine location of all mailboxes.

21. Basketball Goals. Type location of basketball goals are subject to approval by the Architectural Control Committee.

22. Signs. No signs of any kind shall be displayed to the public view on any lot except for one sign of not more than five (5) square feet advertising the property for sale or rent. No more than four (4) signs no larger than five (5) square feet shall be allowed by builder or others to advertise the property during construction; however, any sign required by law may be displayed during the construction period in addition to the permitted signs. This covenant has no application to marketing or promotional signs of the developer while lots are being sold.

24. Private Road Maintenance Whispering Mist Lane is to be maintained as an all weather street, including drainage, by the owners of the lots in the subdivision on a share and share alike basis. The owners shall vote annually, on the first Tuesday of April of each year, or any other agreed date, on the type and total dollar amount of maintenance to be performed and the amount of assessment to be paid for each lot owned, a simple majority shall rule. Votes will be binding and valid ONLY if ALL parcels owners were notified of the date, time and place of the street maintenance meeting, by certified mail at the current address listed in the records of the Morgan County Auditors Office, at least thirty days in advance of the meeting date. At the first meeting the owners shall elect an individual to collect the monies and pay out the same for repair and maintenance of the street, associated street maintenance expenses, cost of notification of any required meetings. The individual who is to collect the monies shall be bonded in an amount equal to balance of funds on hand on the date of the annual meeting but in no case less than five-thousand dollars (\$5000). Cost of the bond shall be paid out of the street assessments as an associated expense.

Until such time that the street is accepted into the Morgan County road system, the minimum annual street maintenance fee shall be \$150.00 per lot.

25. Enforcement. Enforcement of the Whispering Mist, covenants and restrictions set out in this agreement shall be by proceeding at law instituted by the Developer as shown on the plat of record, the owner of any lot of record or the Architectural Control Committee, with any of these entities having the right to bring the action against a violating party.

The restrictions shall remain in full force and effect and shall be binding on all parties and all persons claiming ownership of record for twenty-five years from date this plat is recorded, at which time such covenants shall be automatically extended for successive periods of ten years unless otherwise agreed by a majority of lot owners of this section. After the initial term, the covenants and restrictions may also be amended by a majority vote of the lot owners and the owner will be allowed one vote for each lot owned. Invalidation of any covenant or restriction herein by judgment, court order or otherwise shall not affect any other covenant or restriction. Violation of a covenant or restriction shall not cause a forfeiture or reversion of title.

Any person, partnership, Corporation, or other legal entity violating or attempting to violate any covenant or restriction set out herein shall be subject to damages for the violation or the cost of any remedy to cure the violation including attorney fees, courts costs, and actual damage to the Developer, homeowner or Architectural Control Committee for the violation. Any violation or attempted violation may also be cured through injunctive relief to protect the respective owners of the other lots in the subdivision and the Developer. These covenants and restrictions shall inure to and be enforceable on any single family dwelling unit and any judgment for cost on account of the legal action brought to enforce said restrictions or any additional loss of time by the Developer or other expense in bringing the legal action including all attorney fees for the plaintiff's attorney and other trial fees and appellate fees, all shall be attached to and to be a lien upon any real estate owned by the defendant in this subdivision in the even of an adverse judgment in favor of the plaintiff and against the defendant lot owner. Included in the damages which shall be recoverable under this section to the Developer other lot owners and the Architectural Control Committee will be the monies expended by the Developer, lot owners or Architectural Control Committee in curing the violation or time and expenses which accrue in bringing an action to cure the violation.

DEVELOPERS CERTIFICATION AND DEDICATION

This declaratory statement of dedication, limitations, restrictions and covenants, to run with the land, shown hereon, is hereby so declared and executed by the undersigned, H. Hosten Bible and Robert K. Stewart, owners of said property, this 20th day of Aug, 1997.

H. Hosten Bible
H. Hosten Bible, Owner

Robert K. Stewart
Robert K. Stewart, Owner



State of Indiana)
)
County of Morgan)

Before me, the undersigned, a Notary Public, personally appeared H. Hosten Bible and Robert K. Stewart, owners and developers of said property, and acknowledged the execution of this instrument to be his voluntary act and deed.

Witness my Hand and Seal this 20th day of August, 1997.

Josephine A. Messer
Signed Notary Public

Josephine A. Messer
Printed or Typed

Resident of MORGAN County.

My Commission Expires: 3-11-99

RECORDED FOR RECORD
Aug 21 1997
M.O.A.
Yvonne Kivett
MORGAN COUNTY RECORDER

Prepared By Holloway Associates, A.C.
Ross O. Holloway, PLS, PE