



DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS, SECTIONS G & H

This Declaration of Covenants, Conditions and Restriction: hereinafter "Declaration", made this 16th day of August, 1988, by Cressy Land Planning associates, an Indiana General Partnership hereinafter referred to as "Declarant";

WHEREAS, Declarant is the owner of Winding Brook Park, Section G, consisting of Lots 283 through 295, and Winding Brook Park, Section H, consisting of Lots 296 through 301 and 302 through 334, recorded on July 11, 1988 as Instruments No. 8818268 and 8818257, respectively, in the office of the St. Joseph County Recorder, the legal descriptions of which are attached hereto as "Exhibit A" and

made part hereof; and

WHEREAS, Declarant intends to sell the above-described property, restricting it in accordance with a common plan designed to preserve the value and residential qualities of said land, for the mutual benefit and protection of its future owners;

NOW, THEREFORE, Declarant declares that said real property shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied subject to the covenants and restrictions hereinafter set forth, expressly and exclusively for the use and benefit of said property and of each and every person or entity who now or in the future owns any portion or portions of said real property. The owner or owners, present or future, of any land or lot subject to this Declaration shall be entitled to injunctive relief against any violation of injuries resulting from any violation hereof; but there shall be no right of reversion or forfeiture of title resulting from such violation.

LAND USE AND BUILDING TYPE.

No lot shall be used except for residential purposes, no building shall be erected, altered, placed or permitted to remain on any lot, other than one single family dwelling not to exceed two and one-half stories in height and a private attached garage for not more than three (3) cars.

DESIGN REVIEW BOARD.

The Design review Board, hereinafter referred to as the "Board", is composed of three persons appointed by the Declarant, or its successors and assigns who shall serve until they are removed by the Declarant or have resigned. A majority of the Board may designate a representative of act for it. Neither the members of the Board nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant.

ARCHITECTURAL CONTROL.

No building or other structure shall be erected, constructed, placed, maintained or altered on any lot, nor shall the natural topography or drainage of any lot be altered, until the construction plans for the structure or topographical alterations have been approved by the Board. The plans must show floor plan, quality of construction, materials, outside colors to be used, harmony of external design with existing structures, mail box design, landscape and outdoor lighting plans and elevations. Three sets of complete plans must be submitted. Two will be retained in the Declarant's office and one will be returned to the builder.

FLOODWAYS AND FLOODFRINGE.

All lot owners adjacent to Juday Creek shall be responsible and conform with floodway and Flood fringe requirements of the Indiana Department of Natural resources. The owner of each affected lot shall be responsible to develop and maintain said lot in conformity with any grading or other requirements which may now or hereafter be imposed by the Indiana Department of Natural resources or any other governmental agencies having jurisdiction.

DESIGN REVIEW BOARD PROCEEDURES.

The Board's approval or disapproval as required in these covenants shall be in writing. No structure of any kind which does not comply fully with such approved plans shall be erected, constructed, altered placed or maintained upon any lot, and no changes or deviations in or from such plans as approved shall be made without the Board's prior written consent. Neither the Declarant, the Design review board, nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone by reason of any mistake in judgment, negligence, or nonfeasance arising out of or relating to the approval or disapproval of failure to approve any plan so submitted, nor shall they, or any of them be responsible or liable for any structural defects in such plans or in any building or structure erected according to such plans, or any drainage problems resulting there from. Every person and entity who submits plans, that he or it will not bring any action or suit against the Board or the Declarant to recover any damages or to require the Board or the Declarant to take, or refrain from taking, any action. Neither the submission of any complete sets of plans to the Declarant's office for review by the Design Review Board, nor the approval thereof by the Board, shall be deemed to guarantee or require the actual construction of the building or structure therein described and no adjacent lot owner may claim any reliance upon the submission and/or approval of a such plans of the buildings or structures described therein.

BUILDING PERMIT.

A copy of working drawings and specifications, reflecting thereon the approval of the Board, shall be submitted as part any application for a building permit and no building permit shall be issued in the absence of such approved plans and specifications.

MINIMUM SIZE REQUIREMENTS.

No building or other structure shall be erected, constructed, placed maintained or altered on any lot, having floor area, exclusive of one story open porches, garages, a basement, less than the following number of square feet for the following types of dwellings in the sections set forth below:

Type of House Minimum Square Footage

Section G Section H

Ranch Style 1,800 Sq. Ft. 2,000 Sq. Ft.

Multi Level and 2-Story 2,200 Sq. Ft. 2,400 Sq. Ft.

Except That

On lots 301 through 318 and lots 327 through 330, the minimum number of square footage shall be as follows:

Type of House Minimum Square Footage

Section H

Ranch Style 2,200 Sq. Ft.

Multi Level and 2-Story 2,600 Sq. Ft.

BUILDING LOCATION

No building shall be located on any lot nearer to the right of way line than fifty (50) feet in section H and forty-five (45) feet in section g. No building shall be located nearer than ten (10) feet to any side lot line. No building shall be located nearer than forty (40) feet to any rear lot line. For the purposes of this covenant, eaves, steps and open porches not exceeding four (4) feet in height, shall not be considered a part of the building.

DRIVEWAYS AND EXTERIOR LIGHTING.

All driveways are to be a minimum of twelve (12) feet wide and must be constructed of asphalt, concrete or brick. If constructed of asphalt, the driveway shall be at least three (3) inches thick. If constructed of concrete, the driveway shall be at least four (4) inches thick. Circular drives in front of homes shall be a minimum of eight (8) feet wide. There shall be installed upon each lot, at the Owner's Expense, one (1) exterior light post in the front yard which shall be a minimum of twenty five (25) feet from the right of way line.

GRAGES AND PARKING.

All dwellings must have a full size attached garage which is capable of storing at least two (2) automobiles but not to exceed space for three (3) automobiles.

UTILITY EASEMENTS.

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear ten (10) feet of each lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which the public authority or utility company is responsible.

FENCING.

No fencing shall be permitted to be constructed or maintained on any lot without prior written approval of the Design review board. In no event will chain link fences be permitted.

NUISANCES.

No noxious or offensive activity shall be carried on, upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

TEMPORARY STRUCTURES.

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be moved onto, assembled or constructed on any lot, or used on any lot at any time for any use. Gazebos may be permitted but shall require the prior written approval of the Design Review Board.

SIGNS.

No sign of any kind shall be displayed to the public view on any lot, except that one sign of not more than five (5) square feet, advertising the property for sale or rent, of signs used by a builder to advertise the property during the construction and sales period. There is reserved to the Declarant, its successors and assigns, the right to construct signs as they desire in order to foster the promotion and effect sales of lots or structures in said development.

LIVESTOCK AND POULTRY.

No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

GARBAGE AND REFUSE DISPOSAL.

No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

LANDSCAPING.

Every effort shall be made to preserve as many trees as reasonably practicable. In addition, two (2) new trees shall be planted in the front yard of each lot at the lot owner's expense. Said trees shall have a minimum diameter of 3 ½" at the base and shall not be less than fifteen (15) feet high when planted. However, this obligation to plant two new trees shall not apply to lots 305 through 307, and 309 through 319, and 327 through 330. So far as is reasonable practicable, new plant materials shall compliment the existing natural landscape. All landscaping shall at all times be maintained in a well manicured condition. Vehicles shall only be parked upon the paved portion of the lot and shall not be parked upon the grass or landscaped portion of any lot at any time.

SITE DISTANCE AT INTERSECTIONS.

No fence, wall, hedge or shrub planting which obstructs site lines at elevations between tow (2)

and six (6) feet above the roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty five (25) feet from the intersecting street property lines extended. The same site line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such site lines.

RECREATIONAL AND COMMERCIAL VEHICLES.

No recreational or commercial vehicles including, but not limited to, campers, trailers, trucks or boats, may be kept in open areas in this subdivision, whether such open areas are on or off the lot of any owner.

UTILITIES, TELEVISION ANTENNAS, AND SATELLITE DISHES.

All public utility services, either in the streets or any lots, including but not limited to electric, gas, telephone and cable television, shall be located underground and shall not be visible. No outside above ground television, A.M., F.M., or short wave radio antennas or satellite dishes shall be erected or maintained on any lots or structures in this subdivision.

FIRES.

No burning of waste, leaves, trees or other debris shall be permitted in this subdivision.

SWIMMING POOLS AND SWING SETS.

No above ground swimming pool nor metal swing sets (or similar metal apparatus) shall be constructed or maintained on any lot in this subdivision.

DECLARANT'S OPTION TO REPURCHASE.

In the event that a residential dwelling meeting the requirements of these restrictions is not completed on any lot within a period of eighteen (18) months from the date on which such lot is conveyed by the Declarant to the purchaser thereof, unless such eighteen (18) month period is extended by a written instrument duly executed by the Declarant, the Declarant shall thereupon have the right during the ensuing twelve (12) month period commencing on the eighteen (18) month anniversary date of such conveyance to repurchase such lot from the current owner of such lot, free and clear of all liens and encumbrances except current property taxes which shall be prorated to the date of closing, at the same price at which the Declarant sold such lot to the original purchaser thereof, without payment of interest or exercise its option and effect such repurchase, notwithstanding whether the current owner of such lot was also the purchaser thereof. The closing of such of such repurchase shall take place at the Declarant's office not later than thirty (30) days from the date of the giving of such written notice to the current owner of such lot, who shall take such actions and shall execute such documents, including a warranty deed to such lot, as the attorneys for the Declarant shall deem reasonably necessary to convey

good title to such lot to the Declarant, free and clear of all liens and encumbrances as aforesaid.

EXTENSIONS OF COVENANTS AND RESTRICTIONS TO INCLUDE ADDITIONAL PROPERTY.

The Declarant may, but need not, at any time, make subject to these Covenants, Conditions and Restrictions, other properties now or hereafter owned by the Declarant by executing an instrument applying these Covenants, Conditions and Restrictions to such other properties and by recording the instrument in the office of the St. Joseph County Recorder. The Declarant presently owns and may hereafter acquire other real estate contiguous to or in the general vicinity of winding Brook Park addition, Sections G and H. This other real estate includes portions of the real estate bounded by Grape road on the west; Fir Road on the east; Douglas Road on the north; and Catalpa Street on the south. The Declarant may, but need not, elect to buy, sell or develop such real estate according to its sole unfettered discretion. In the event the Declarant elects to develop such real estate, it may be developed as residential, multifamily, commercial, office park or any other use subject to obtaining the necessary governmental zoning and other applicable requirements. No person shall claim reliance upon any "master plan", whether preliminary, conceptual or final, concerning the nature and/or timing of development, if any, of such real estate.

AMENDMENT OF COVENANTS.

It is expressly provided that the Declarant, his successors or assigns, shall have the exclusive right for a period of five (5) years from the date of revoking of this Declaration to amend any or all of the restrictions or covenants contained herein. Such amendment shall be evidenced by the recording of a written amendment signed and recorded in the office of the Recorder of St. Joseph County and shall become effective upon such recording. This shall include the right to waive any particular lot. After five (5) years from the date of recording of this Declaration, the then record owners of 75% of the lots shall have the power to change the membership of the Board or to withdraw from the Board or restore to it any of its powers and duties by the recording of such amendment executed by the owners of the fee title of 75% of the lot owners.

IN WITNESS WHERE OF, Declarant has executed this Declaration the day and year first above written.

DECLARANT

Cressy Land Planning Associates

Donald G. Cressy, General Partner