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Pamela K. Berglund, Tippecanoe County Recorder

DULY ENTERED FOR TAXATION
SUBJECT TO FINAL ACCEPTANCE
FOR TRANSFER

SEP 20 2004

KEY NUMBER: 134-06800-0176


AUDITOR OF TIPPECANOE CO.

 **RESTRICTIVE COVENANTS
FOR
WAKEROBIN ESTATES II SUBDIVISION, PHASE 3**

G & L DEVELOPMENT CO., INC., an Indiana corporation, being the owner of all the real estate platted as Wakerobin Estates II Subdivision, Phase 3, in Wabash Township, Tippecanoe County, Indiana (hereinafter referred to as the "Addition"), and having recorded said plat in the Office of the Recorder of Tippecanoe County, does hereby establish the following covenants, restrictions and conditions to govern the use and occupancy of the lots in said Addition:

1. All numbered lots shall be known and described as residential lots. No building shall be erected or placed on any residential building plot other than one (1) single-family dwelling and a private garage for not less than two (2) nor more than three (3) automobiles. Other structures which are consistent with the high-quality residential character of the neighborhood, including without limitation, fences and storage sheds, may be erected or placed on residential building plots only with the express written approval of the building committee established by paragraph 4 of these Restrictive Covenants.

2. The ground floor living area of a one (1) story dwelling house shall not be less than one thousand three hundred (1,300) square feet, and the living area of a two (2) story, bi-level, tri-level or split-level dwelling house shall not be less than one thousand five hundred

(1,500) square feet, exclusive, in all cases, of porches, decks, patios, garages and similar areas not regarded as living areas.

3. The lowest floor elevation of any structures located on Lots 83 through 91 shall be located at least two (2) feet above the one-hundred (100) year flood elevation for the pond adjacent to those lots.

4. No building, wall, fence or other structure shall be erected or placed on any lot until the building plans, specifications and plot plans showing the location and elevation of such structure have been approved in writing as to the conformity and harmony of external design and appearance with existing structures in Wakerobin Estates II Subdivision, and as to the location of the structure with respect to topography and finished ground elevation, by a committee composed of Bruce A. Gunstra and Brian Keene, or by a representative designated by a majority of the members of said committee. In case of disagreement among the committee members on any matter officially before the committee, the vote of the majority among such members of the committee shall be controlling. If there is death or resignation of any members of said committee, the remaining member or members shall be authorized to select a replacement, but prior to such selection the remaining member or members shall have full authority by unanimous action to perform all of the duties of the full committee. In the event said committee or its designated representative fails to approve or disapprove building plans, specifications and plot plans within thirty (30) days after said documents have been submitted to the committee, committee approval will not be required and full compliance with this covenant shall be assumed. Neither the members of such committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant.

5. No building shall be located nearer to the front lot line nor nearer to the side street line than the building set-back lines shown on the plat. In any event, no building shall be located on the residential building plot nearer than twenty-five (25) feet to the front lot line or to any side street line. No building shall be located nearer than six (6) feet from any side plot line, other than a detached garage located fifty (50) feet or more from the front lot line which may be located three (3) feet from any side plot line. No fence of any kind shall be constructed or maintained between the building set-back line and the front property line of any lot.

6. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, twenty-five (25) feet from the intersection of the street property lines extended. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any lot within the triangular areas formed by street property lines and the edges of any driveway or alley (whether on such lot or adjacent thereto) and lines connecting them at points ten (10) feet from the intersection of the street property lines and the edges of the driveway or alley. No tree shall be permitted to remain within such triangular areas unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

7. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No lot shall be used or maintained as a dumping ground for rubbish. Trash,

garbage or other waste shall be kept in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and out of view of other lots and the street.

8. No garage or other out-building, no shack or other temporary structure, no trailer, no tent, and no basement (other than a basement which is part of a completed dwelling house) shall be used either permanently or temporarily as a residence. Garages containing finished living quarters in the upper level or loft shall not be subject to this restriction.

9. All lawns, exclusive of those areas on the lot that are left in a natural state, shall be sodded or seeded to prevent erosion onto adjoining real estate. Such lawns must be established by sodding or seeding within two (2) months after completion of the dwelling house, season permitting.

10. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and, in any event, such easements will be at a minimum ten (10) feet wide over the rear 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 through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

11. An easement for landscaping is reserved as shown on the final plat of Wakerobin Estates II Subdivision, Phase 3. Within this easement, the developer has or may install and

maintain such signs, landscaping, mounding, fencing and aesthetic appurtenances as it deems desirable to present a pleasing appearance for the Addition along McCormick Road. After the conveyance of each lot over which the easement runs, the owner thereof shall place nothing on the easement which is inconsistent with the intended purpose of this landscape easement and shall maintain the appearance thereof and any structures thereon in the same manner as originally installed by the developer, unless a homeowners association or other vehicle is hereafter established to provide such maintenance. If and/or when such association or vehicle is established pursuant to Paragraph 25, each lot owner in Wakerobin Estates II Subdivision will share in the expense of maintaining the landscape easement pursuant to paragraph 26.

12. No business or business activity shall be conducted on any lot other than that activity which is customarily considered to be purely incidental to residential use.

13. All driveways shall be at least sixteen (16) feet wide. All driveways and walks shall be of concrete or blacktop and shall be built no later than thirty (30) days after a new dwelling is occupied, weather permitting.

14. No permanent outside clothesline shall be erected, placed or allowed to remain upon any lot.

15. No signs of any kind shall be displayed to the public view upon any lot other than one (1) sign of no more than five (5) square feet advertising the property for sale or rent.

16. 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 on any lot, provided that they are not kept, bred or maintained for any commercial purpose, and provided further that they do not become an unreasonable annoyance or a nuisance to other residents.

17. Vegetable gardens may be raised on any lot provided the garden is planted and maintained in an orderly fashion.

18. No truck of any kind that requires a "truck license," no recreational vehicle and no unlicensed vehicle shall be parked or permitted to remain on any street or lot in the Addition unless the same is enclosed by a garage and not exposed to view. Trucks making deliveries or present in connection with service, repair or construction within the Addition are excepted. Other vehicles of any kind except conventional passenger cars shall not be parked or permitted to remain on any street or lot in the Addition for a period in excess of forty-eight (48) hours unless enclosed by a garage and not exposed to view. Conventional passenger cars may be parked on streets in the Addition for periods of no longer than twenty-four (24) hours and in private driveways for unlimited periods of time. The purpose of this restriction is to preserve the overall appearance and integrity of the Addition and to eliminate on-street parking wherever possible.

19. Unless a delay is caused by strikes, war, court injunctions or acts of God, the exterior of any dwelling or structure built upon any lot shall be completed within twelve (12) months from the date of commencement of the building process.

20. All fuel tanks shall be buried in the ground, and installation and maintenance thereof shall comply with all applicable safety regulations.

21. The building committee established under paragraph 4, subject to U.S. postal regulations, reserves the right to approve the type of mailboxes installed in the Addition.

22. No vehicular access shall be permitted from a lot directly onto a street where shown on the final plat. More specifically, no vehicular access shall be permitted along McCormick Road except as shown on the final plat. Further, no vehicular access shall be

permitted from Lot 108 directly onto Yeoman Court and Yeoman Lane, as shown on the final plat. These restrictions shall be enforceable by the Tippecanoe County Area Plan Commission, and are irrevocable by the lot owners.

23. No exterior television or radio antenna, satellite dish larger than nineteen (19) inches or ground station shall be placed, allowed or maintained on any lot without the prior written approval of the building committee, which may require appropriate enclosure or screening as a condition of any approval.

24. Until or unless a homeowner's association is established pursuant to paragraph 25, the owner of each lot which includes any portion of (a) a wetland area designated by the U.S. Army Corps of Engineers, or (b) a storm water detention or management facility shall be responsible for maintaining that portion of such area or facility which is located on the lot. The maintenance of such designated wetland areas shall be subject to the any and all requirements of the U.S. Army Corps of Engineers. If the owner fails to exercise such maintenance obligation, the Tippecanoe County Drainage Board may perform such maintenance and take all other actions necessary for the proper maintenance of such areas and facilities. The Tippecanoe County Drainage Board shall have the right to assess such owner for the cost of such maintenance and, if necessary, to file a Notice of Lien against such lot in the office of the Recorder of Tippecanoe County, Indiana. Such Notice of Lien shall perfect the lien of the Tippecanoe County Drainage Board for the cost of maintaining such portion of the areas and facilities, and said lien shall have the same force and effect, and be enforced in the same manner, as a mortgage lien under Indiana law, and shall include attorneys' fees, title expenses, interest and costs of collection.

In the event the storm water drainage system servicing the Addition or servicing any immediate adjacent subdivision (including existing parts of Wakerobin Estates II Subdivision and future development areas of Wakerobin Estates II Subdivision) shall become or be proposed to become a legal drain, each owner of a lot in the Addition shall, by virtue of ownership, be deemed to agree and consent to the storm water drainage system becoming a legal drain and all legal requirements and assessments imposed by the Tippecanoe County Drainage Board and applicable drainage ordinances.

The requirements of this paragraph 24 shall run to the benefit of the Tippecanoe County Drainage Board and may not be altered, amended or repealed by the lot owners without the written consent of the Tippecanoe County Drainage Board.

25. A Wake Robin Estates II Homeowners Association (the "Association") shall be formed which shall (a) own such common areas as shall be conveyed to it from time to time; (b) be responsible for the maintenance of such common areas and facilities located thereon including, but not limited to such entry monumentation and street lighting as may be constructed in the Addition; (c) be responsible for maintenance of any storm water management and detention facilities which may be installed to serve Wake Robin Estates II and which are not maintained by a public authority; and (d) be responsible to maintenance of any designated wetland areas subject to any and all requirements of the U.S. Army Corps of Engineers.

In the event the storm water drainage system serving Wake Robin Estates II shall become or be proposed to become a legal drain, each owner of a lot in the Addition shall, by virtue of ownership, be deemed to agree and consent to the storm water drainage system becoming a legal

drain and all legal requirements and assessments imposed by the Tippecanoe County Drainage Board and applicable drainage ordinances.

If the Association fails to exercise any maintenance obligation relating to storm water drainage, the Tippecanoe County Drainage Board may perform such maintenance and take all other actions necessary for the proper maintenance of such storm water facilities. The Drainage Board shall have the right to assess such Association and the individual lot owners thereof for the cost of such maintenance and, if necessary, to file a Notice of Lien against such lot in the office of the Recorder of Tippecanoe County, Indiana. Such Notice of Lien shall perfect the lien of the Drainage Board for the cost of maintaining such portion of the storm water facilities, and said lien shall have the same force and effect, and be enforced in the same manner, as a mortgage lien under Indiana law, and shall include attorneys' fees, title expenses, interest and costs of collection. The requirements of this paragraph 25 shall run to the benefit of the Tippecanoe County Drainage Board and may not be altered, amended or repealed by the lot owners without the written consent of the Drainage Board.

26. In the event of the establishment of an Association, each and every lot owner within the Addition shall be part of the Association. Upon establishment, the Association, in accordance with the bylaws of the Association, shall pay for the cost of maintenance of the common areas of Wake Robin Estates II.

27. The foregoing covenants, restrictions and conditions shall run with the land and shall be binding upon all the parties claiming or owning any interest in Wakerobin Estates II Subdivision or any lot therein, until January 1, 2024, at which time said covenants, restrictions and conditions shall be automatically extended for successive periods of ten (10) years, unless

amended or declared null and void by a vote of the owners of a majority of the lots covered by these covenants, restrictions and conditions. If any lot owner or person in possession shall violate or attempt to violate any of these covenants, restrictions and conditions, it shall be lawful for any party, person or persons owning any lot in Wakerobin Estates II Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate the same to compel compliance with these restrictions, or to recover damages caused by such violations, and the owner, or owners or persons in possession against whom such action is taken shall pay court costs and reasonable attorneys' fees in the event judgment is rendered against him or them.

28. Except as specifically provided in paragraph 3 above, the failure for any period of time to compel compliance with any restrictions, conditions or covenants shall in no event be deemed as a waiver of the right to do so thereafter, and shall in no way be construed as permission to deviate from said restrictions, conditions and covenants.

29. Invalidation of any one of these covenants by judgment or decree shall in no way affect any of the other provisions that shall remain in full force and effect.

30. The final plat shows a temporary right-of-way for a turn-a-round for Yeoman Lane near the planned intersection of Yeoman Road and McCormack Road. Upon the completion of the construction of such intersection and the opening of such intersection for use by public traffic between the roads, the reservation of the temporary right-of-way over and across the Lots shown on the final plat shall terminate, and all right, title, and interest in such areas for use as right-of-way shall terminate.

IN WITNESS WHEREOF, G & L Development Co., Inc. has caused these restrictions, conditions and covenants to be executed by its duly authorized officers this 12 day of August, 2004.

G & L DEVELOPMENT CO., INC.

By: BACgt
Bruce A. Gunstra, President

ATTEST:

James L. Keene
James L. Keene, Treasurer

STATE OF INDIANA)
) SS:
TIPPECANOE COUNTY)

Before me, a Notary Public in and for said State and County, personally appeared G & L Development Co., Inc., by Bruce A. Gunstra, its President, and James L. Keene, its Treasurer, and acknowledged the execution of the foregoing instrument and swore to the truth of the matters contained therein.

WITNESS my hand and seal this 12 day of August, 2004.



Lori A. Crampton
Resident of Tippecanoe County
Commission Expires July 17, 2008

Lori A. Crampton
, Notary Public

My Commission Expires:

County of Residence:

This Instrument was prepared by
STUART & BRANIGIN
By: Thomas R. McCully