

24-37
50-70 inclusive
78-86
~~86~~
Lots

OAK BEND ESTATES

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SECTION 2

RESTRICTIVE COVENANTS

PHW Development Corporation does by this indenture, and by those restrictive covenants and requirements entered for record in Miscellaneous Record ____, page ____, in said Recorder's office, restrict and covenant the lots and other areas within the boundary of this subdivision to itself and its grantees, assigns, successors, legal representatives, and to any person, persons, corporations, banks, and associations and/or anyone who may acquire title to any of said lots or other areas, as to the following terms, stipulations, conditions, restrictions, and covenants which shall apply in their entirety to all of said subdivision:

1. DEFINITIONS. "Committee" shall mean the Architectural and Environmental Control Committee composed of the officers and directors of PHW Development Corporation or their duly authorized representatives, all of whom shall serve without compensation for services performed as committee members. In the event PHW Development Corporation is dissolved, the then existing committee members shall appoint an owner to take said member's position on the committee. In the event of the death or resignation of any member of said committee, the remaining member or members shall have full authority to perform the duties of the committee or to designate a representative with like authority, who must be an owner. "Owner" shall mean the person or collection of persons who has acquired or is acquiring any right, title or interest, legal or equitable, in and to a lot or other area in this subdivision, but excluding those persons having such interest merely as security for the performance of an obligation.

2. LAND USE. Lots shall be used only for residential purposes, and no lot shall be subdivided. Where an owner acquires adjoining lots for the purpose of building one dwelling across the common lot line, the side lot line set back restrictions specified in Section numbered 5 below shall not apply to said common lot line. Drainage easements and utility easements coinciding with lot lines may not be built across.

3. DWELLING SIZE. No dwelling shall be erected, altered, placed, or permitted to remain on any lot other than one single-family residence not to exceed three stories in height. Dwellings on all lots shall have, at a minimum, attached two-car garages. The ground floor area of the main structure of any one-story dwelling, excluding garages and one-story porches, shall be not less than 1,850 square feet. The ground floor area of the main structure of any two-story dwelling, excluding garages and one-story porches, shall be not less than 1,100 square feet, with no less than a total of 2,100 square feet of finished floor space in such two-story structure.

4. UTILITY BUILDING AND/OR BARN. A utility building, barn, or other accessory building will not be allowed on any lot.

5. BUILDING SETBACK DISTANCES. Between the front lot lines and the building lines shown on this plat, no buildings shall be erected, placed, altered, or be permitted to remain, nor shall any building be erected nearer than 15 feet to any side line of a lot on one side, and the total of both side setbacks shall be not less than 20 percent of the lot width, as measured at the building line. Architectural appurtenances projecting not more than 24 inches, stairways projecting not more than 4 feet, unenclosed and unroofed porch slabs on the front sides of buildings, steps, and walks are exceptions to these setback requirements. No house shall be constructed nearer than 15 feet from the Undisturbed Area shown hereon.

6. OCCUPANCY OF STRUCTURES. No dwelling shall be occupied or used for residential purposes or human habitation until it has been fully completed upon the outside and substantially completed on the inside, and a Certificate of Occupancy has been issued therefor by the Hendricks County Building Commissioner. No other structure or mobile home shall be used at any time as a residence, either temporarily or permanently.

7. ARCHITECTURAL DESIGN. 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 first submitted to, and approved by, the committee as to harmony with the exterior design, quality, and aesthetic appearance of structures already existing, and as to conformity with grading plans, first floor elevations, locations of water wells, destruction of trees and other vegetation, and any other such matter as may affect the environment or ecology of the subdivision. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove any plans and specifications within fifteen (15) days after such plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

8. IMPROVEMENT LOCATION PERMIT. In addition to the approval required in Section numbered 7 above, an Improvement Location Permit must be issued by the Hendricks County Building Commissioner before any structure, improvement, or land use may be altered, changed, placed, erected, or located in this subdivision. A soil and water conservation plan (erosion control plan) and a development plan showing house locations and first floor elevations, with slopes for positive surface drainage therefrom, has been approved by the Hendricks County Plan Commission. Said plans may be inspected in the office of said commission during regular office hours. Deviations from those plans require prior Commission approval and may necessitate a site reevaluation and redesign by a Registered Professional Engineer or Registered Land Surveyor at the time of improvement location permit and certificate of occupancy application, which engineer or surveyor shall certify positive surface drainage and that wastewater will gravity flow from the first floor of the dwelling to a sanitary sewer.

The Table of Elevations appearing on said development plan and at the end of these covenants, shows, for each lot, first floor elevations for houses if constructed at the locations shown on said development plan. Because of the proximity of lots 83, 84, 85, and 86 to the floodway and floodway fringe of White Lick Tributary Number 4, the table also specifies for each said lot a flood protection grade furnished by the Indiana Department of Natural Resources. For any house to be constructed (with prior Plan Commission approval) on the 100-year floodway fringe between the floodway fringe line and the 100-year flood line shall have as its first floor elevation the flood protection grade given in said table. Construction of any kind in the floodway between White Lick Tributary Number 4 and the 100-year flood line shown herein is prohibited without prior approval of said Department of Natural Resources. Lot owners should insure all dwellings (and the contents thereof), constructed at or near those limits, against possible flooding. Wherever in this subdivision any basement floor elevation will be below the tabulated flood protection grade, even if the basement is situated outside the floodway and floodway fringe, said basement shall be specially designed and constructed to prevent the entrance of ground water. While said Department of Natural Resources has determined the locations of the floodway fringe line and the 100-year flood line in accordance with the most modern technology available, neither the developers nor their engineers make any express or implied warranty with regard to the correctness of said limits.

9. WATER WELLS, WATER SUPPLY SYSTEMS, AND GEOTHERMAL HEAT PUMP SYSTEMS shall comply with minimum standards set forth in an ordinance passed and adopted by the Board of Commissioners of Hendricks County, Indiana, October 7, 1985, entitled Chapter 3.1, Minimum Standards for Well Supply Systems and Geothermal Heat Pump Systems. The pitless adapter vent on any well located within the 100-year floodway fringe between the floodway fringe line and the 100-year flood line shall have an elevation at or above the flood protection grade for the lot as given in the aforementioned Table of Elevations.

Whenever a public water supply system is constructed within 100 feet of any lot in this subdivision, a direct connection shall be made by the owner to said water supply system within two (2) years of the availability date. Right of enforcement of this covenant is hereby granted to the Hendricks County Plan Commission.

10. FENCES require committee approval before erection as provided in Section numbered 7 above. No fence shall be placed on any lot or boundary thereof that will obstruct reasonable light, air, or view, or will otherwise hinder or damage the aesthetics of the subdivision. No fence shall be erected in the front yard of a dwelling excepting open wood fences of a decorative type not exceeding four (4) feet in height. Swimming pools shall be properly fenced to protect the safety of others as required by Section numbered 26 below.

11. CONSTRUCTION TIME. Any dwelling, fence, water line, sewer, ditch, or any structure excepting sidewalks, once approved and under construction, must be completed one (1) year from the date construction starts. Sidewalks shall be constructed in accordance with Section numbered 32 below.

12. STORAGE TANKS. Oil or gas storage tanks shall be buried or located in a dwelling or garage.

13. SIGNS. The only signs permitted to be erected or displayed in this subdivision are: those required by law, a single sign placed by a builder or financial institution to advertise a property during the construction and sales period, a single yard sale or garage sale sign placed by the owner no more frequently than one day twice each year, a single sign placed by an owner to advertise the property for sale or rent or to prohibit hunting or trapping. No sign excepting the latter type shall exceed five (5) square feet in size.

14. HUNTING AND TRAPPING are prohibited in this subdivision.

15. SIGHT DISTANCES. At driveways no one may place, construct, plant, maintain, allow, or suffer any improvements, landscaping, or other obstructions to vision (excepting mailboxes mounted on simple posts) between 2 and 8 feet above the finished grade so as to provide 150 feet of sight distance in both directions along streets from points in the driveways 25 feet from the street curb. Where the committee determines that this rule for a driveway is impracticable or unreasonable, it may allow an alternative that offers the least hazard and interference with traffic.

16. ANIMALS. No animals or poultry shall be kept or maintained in this subdivision except household pets such as cats and dogs, but no pet shall be kept, bred, or maintained for commercial purposes. Household pets kept shall be confined by fence or leash and kept quiet so as not to disturb the peace and tranquility of the neighborhood. Should an animal be walked by leash, any debris or animal waste resulting therefrom shall be cleaned up, removed, and disposed of by the owner of said animal.

17. VEHICLE PARKING. No trucks larger than pickup trucks, disabled vehicles, unused vehicles, campers, trailers, recreational vehicles, boats, motorcycles, or similar vehicles shall be parked on any road, street, private driveway, or lot in this subdivision unless it is screened in such a way that it is not visible to the occupants of the other lots in the subdivision. No vehicle of any kind shall park on any road in this subdivision excepting for a reasonable length of time. The committee shall determine what constitutes adequate screening and reasonable length of time.

18. LANDSCAPING. The lot owner shall landscape the lot within sixty (60) days following completion of a house thereon, weather permitting. Landscaping required for sidewalk construction shall be in accordance with Section numbered 32 below.

19. MAINTENANCE OF LOTS AND IMPROVEMENTS. Excepting in the Undisturbed Area, each lot owner shall at all times maintain the lot and any improvements thereon to prevent the same from becoming unsightly by removing all debris, rubbish, dead trees, and other materials or conditions that reasonably tend to detract from or diminish the aesthetic appearance of the subdivision, and by keeping the exterior of all improvements in a good state of repair. Garbage, trash, and other wastes shall be kept in odorless and sanitary containers which shall be emptied weekly by a refuse collection service. All lots, whether improved or not, shall be mowed by the lot owners or their designated representatives at least twice during each of the months of April through September.

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

21. BUSINESSES. No mercantile building shall be erected, nor shall any manufacturing, wholesaling, or retailing business be carried on in this subdivision.

22. DEDICATED EASEMENTS. The owners of the lots in this subdivision will take their titles subject to the rights of public utility companies, the Hendricks County Drainage Board, and the Commissioners of Hendricks County in those certain strips of ground designated "utility easements" and "drainage easements" which are reserved hereinabove. No permanent or other structures may be erected or constructed on said easements excepting fences and the facilities for which the easements have been reserved. Fences erected on easements may be removed by easement holders if necessary to the proper operation and maintenance of the facilities for which the easements have been reserved. No facility shall be installed on any easement in a position that will obstruct a property line or corner.

23. LOT GRADING. Lots shall be graded so as not to restrict the surface water runoff or cause ponding or stoppage of said runoff over any lot in this subdivision.

24. UNDISTURBED AREA shown hereon shall remain in its natural state and no standing trees, small vegetation, or soil, shall be disturbed in said area except as may be necessary for the installation of outlets for foundation drains, basement floor drains (excluding downspout and washwater drainage), and water wells and water lines. No trees larger than one (1) inch in diameter shall be removed for the installation of said drain outlets and/or water facilities, and backfilled trenches shall be seeded immediately to retard erosion. No temporary or permanent dumping of dirt, grass clippings, leaves, or rubbish of any kind is allowed in this area. This covenant shall not restrict the authority of the County, State, or Federal government in taking any action, or in enforcing any law, ordinance, or regulation, to promote public health or safety, flood protection, good drainage, or environmental quality.

25. **DRIVEWAYS.** Residential driveways shall be constructed of portland cement concrete or of asphalt paving. Pavement shall be a minimum of four (4) inches thick excluding subbase material.

26. **SWIMMING POOLS.** No swimming pools, where the water level is either partially or completely above ground level, shall be permitted. Any in-ground swimming pool shall be properly fenced so as to protect the safety of others. Prior to erection, such fence shall be approved by the committee as required by Section numbered 10 above.

27. **CRAWL SPACE AND FOUNDATION DRAINS.** No crawl spaces, eaves troughs, gutters, downspouts, or foundation drains shall be constructed so as to discharge water onto a street. Crawl space and foundation drains may be connected to subsurface drains that are parallel with and three feet outside street curbs.

28. **BASEMENTS** may be constructed in this subdivision but pump ejector system for withdrawing wastewater from basement facilities, as well as other pumps for foundation drains, may be required. For rules regarding basement floor elevations on certain lots, see Section numbered 8 above.

29. **SIGNAL RECEIVER.** No signal receiver in the form of a satellite dish, or other similar device, shall be permitted closer than fifty (50) feet from a street boundary.

30. **SANITARY SEWER CONNECTION.** A check valve to prevent backflow shall be installed in every pipe connecting between a dwelling and a public sanitary sewer.

31. **UTILITIES CONNECTION INSPECTION.** All materials and workmanship in the installation of connections between dwellings and public utility facilities shall be subject to access and inspection by the utility companies having jurisdiction, or by their duly authorized representatives or successors, who shall have the right to require correction of any defects discovered.

32. **SIDEWALKS.** Each initial lot owner taking his title from the developer, by acceptance of a deed for said lot, even if not expressed in said deed, is deemed to covenant and agree to build and maintain in good condition a concrete walk at the sides of all streets upon which his lot abuts. Said walks shall conform with the lines and grades as established by the Committee. Each said owner shall be responsible for slope modifications, erosion control, and decorative landscaping as required by the Committee for sidewalk construction. Said walks shall conform with the development plans for this subdivision on file in the office of the Hendricks County Plan Commission and shall be placed on a 4-inch aggregate sub-base. Sidewalks shall be constructed within sixty (60) days after completion of the dwelling on the lot, weather permitting, or within two (2) years of the date of said deed if no dwelling is constructed or prior to the conveyance of title to another party, whichever first occurs.

33. **ENFORCEMENT.** If the parties hereto, or any of them, their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons owning any lot or lots in this subdivision to prosecute by any proceeding at law or equity the person or persons violating or attempting to violate any such covenant, and either prevent him or them from so doing or to recover damages or other dues for such violation. A violation of any restriction herein will not result in reversion or forfeiture of title.

If any owner of a lot in this subdivision shall fail to maintain his lot and/or any improvements situated thereon, or to keep sight distances clear, or to construct and/or maintain sidewalks in accordance with these restrictive covenants, the committee shall have the right, but not the obligation, by and through its agents and employees or contractors, to enter upon said lot and repair, mow, clean, or perform such other acts as may reasonably necessary to make said lot, and/or any improvements situated thereon, conform to the requirements of these restrictions. The cost thereof to the committee shall be collected in any reasonable manner from the owner. Neither the committee nor any of its agents, employees, or contractors shall be liable for any damage that may result from any maintenance or other work performed hereunder. Any fine so assessed against any lot, together with interest and other charges or costs as hereinafter provided, shall become and remain a lien upon that lot subordinate only to the lien of a first mortgage until paid in full, and shall also be a personal obligation of the owner or owners of that lot. Such charge shall bear interest at the rate of 12% per annum until paid in full. If, in the opinion of the committee, such charge has remained due and payable for an unreasonably long period of time, the committee may institute such procedures, either at law or in equity, by foreclosure or otherwise, to collect the amount owing, in any court of competent jurisdiction. The owner of the lot or lots subject to the charge shall, in addition to the amount of the charge due at the time legal action is instituted, be obligated to pay any expenses or costs, including attorney's fees, incurred by the committee in collecting the same. Every owner of a lot in this subdivision, and any person who may acquire any interest in such lot, whether as an owner or otherwise, is hereby notified, and by acquisition of

such interest agrees, that any such liens which may exist upon said lot at the time of the acquisition of such interest are valid liens and shall be paid. Every person who shall become an owner of a lot in this subdivision is hereby notified that by the act of acquiring, making such purchase, or acquiring such title, such person shall be conclusively held to have covenanted to pay the committee all fines that shall be made pursuant to this paragraph.

34. TERM. These covenants will run with the land and shall be binding on all parties, and all persons claiming under them, for a period of twenty-five (25) years from the date these covenants are recorded, after which twenty-five (25) years they shall be automatically extended for successive ten (10) year periods, unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part.

35. SEVERABILITY. Invalidation of any one of these covenants by court order shall not affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the said PHW Development Corporation, by Paul T. Hardin, President, as owner and proprietor of the above-described real estate, has set its hand and seal this 11th day of October, 1988.



PAUL T. HARDIN, PRESIDENT

AMENDMENT TO RESTRICTIVE COVENANTS

OF

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OAK BEND ESTATES, SECTION TWO

PHW DEVELOPMENT CORPORATION being on this date owner of a majority of the lots in the following described real estate:

SECTION TWO, Oak Bend Estates, a subdivision in Washington Township, Hendricks County, Indiana, as per plat thereof recorded November 2, 1988 in Plat Book 14, pages 46-50 in the Office of the Recorder of Hendricks County, Indiana.

do hereby declare the Restrictive Covenants as recorded on the Plat referred to above to be amended in part to read as follows:

A. SECTION FOUR of those restrictive covenants is hereby amended to read as follows:

4. UTILITY BUILDING AND/OR BARN. A utility building, barn, or other accessory building will not be allowed on any lot, except one gazebo type structure and/or one in-ground pool accessory building/bath house. Said accessory building/bath house must be erected as a part of and in conjunction with a privacy fence surrounding an in-ground pool as provided for in Section 26 hereinafter. Any building allowed by this Section must be approved as to location, and design by the architectural control committee as described in Section numbered Seven hereafter.

B. SECTION FIVE of those restrictive covenants is hereby amended to read as follows:

5. BUILDING SETBACK DISTANCES. Between the front lot lines and the building lines shown on this plat, no buildings shall be erected, placed, altered, or be permitted to remain, nor shall any building be erected nearer than 15 feet to any side line of a lot on one side, and the total of both side setbacks shall be not less than 20 percent of the lot width, as measured at the building line. Architectural appurtenances projecting not more than 24 inches, stairways projecting not more than 4 feet, unenclosed and unroofed porch slabs on the front sides of buildings, steps, and walks are exceptions to these setback requirements. An exception to the side line setback shall be permitted on the north side of lot 29 where the minimum setback shall be no more than eight feet due to the unique topography of that lot.

IN WITNESS WHEREOF, the undersigned, as owners of a majority of the lots in the above described Section have set their hands and seals this 19th day of January, 1989.

PHW DEVELOPMENT CORPORATION

Signature of Paul T. Hardin, President

Signature of Russell M. Webb, Jr., Secretary

Subscribed and sworn to before me, a Notary Public in and for said County and State, this 19th day of January, 1989.

My Commission Expires: May 17, 1992



Signature of Janet Lynne Opdike, Notary Public, Residing in Hendricks County, Indiana

This instrument was prepared by Paul T. Hardin, Attorney at Law.

ENTERED FOR RECORD BOOK 116 JAN 20 1989 PAGE 379

Signature of Dennis D. Mynlow, Hendricks County Recorder