

July/CP 201357 - Goodwin

→ T. SIMSTAD  
11471 LAKEWOOD ST  
C.P. 46307

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DECLARATION OF RESTRICTIONS FOR  
COUNTRY COMMONS  
LAKE COUNTY, INDIANA

FILED

54-63-142

MAY 03 1996

54-64-142

SAM ORLICH  
AUDITOR LAKE COUNTY

THIS DECLARATION, made this 15<sup>TH</sup> day of MAY, 1996 by MARIAN S. HOOSLINE and JIMMY D. HOOSLINE, Husband and Wife, and DONALD R. O'DELL, as Trustee under the provisions of a trust agreement dated the 12th day of July, 1989, of Lake County (hereinafter referred to as the "Developer").

WITNESSETH:

WHEREAS, Developer owns the real property described in Clause I of this Declaration and is desirous of subjecting said real property to the conditions, options, restrictions, reservations, undertakings, agreements and easements hereinafter set forth (sometimes hereinafter collectively referred to as "Covenants"), each and all of which is and are declared to be equitable servitudes binding upon the property so designated and each owner thereof and every other party having any interest therein, and shall inure to the benefit of and pass with said property, and each and every parcel thereof.

NOW, THEREFORE, Developer hereby declares that the real property described in and referred to in Paragraph I of Clause I hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to these Covenants.

CLAUSE I

PROPERTY SUBJECT TO AND BENEFITING FROM THIS DECLARATION

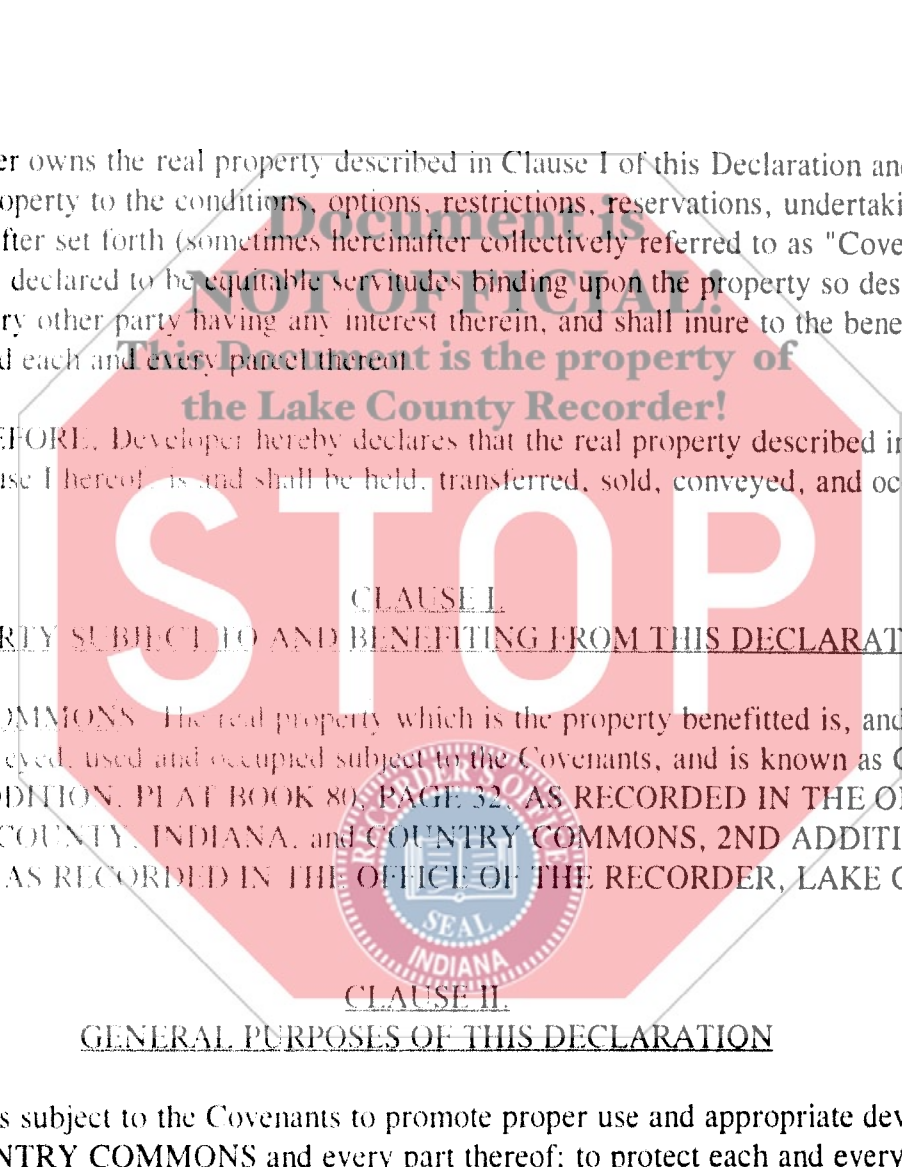
COUNTRY COMMONS. The real property which is the property benefitted is, and shall be, held, transferred, sold, conveyed, used and occupied subject to the Covenants, and is known as COUNTRY COMMONS, 1ST ADDITION, PLAT BOOK 80, PAGE 32, AS RECORDED IN THE OFFICE OF THE RECORDER, LAKE COUNTY, INDIANA, and COUNTRY COMMONS, 2ND ADDITION, PLAT BOOK 80, PAGE 33, AS RECORDED IN THE OFFICE OF THE RECORDER, LAKE COUNTY, INDIANA.

CLAUSE II

GENERAL PURPOSES OF THIS DECLARATION

This property is subject to the Covenants to promote proper use and appropriate development and improvement of COUNTRY COMMONS and every part thereof; to protect each and every owner of any part of COUNTRY COMMONS against such use as may depreciate the value of their property; to guard against the erection thereon of buildings built of improper or unsuitable materials; to promote adequate and reasonable development of COUNTRY COMMONS and the use and enjoyment of the property ownership therein; to encourage the erection of attractive improvements thereon, with appropriate locations thereof; and in general to provide adequately for a type and quality of improvement in COUNTRY COMMONS consistent with these Covenants. The provisions herein contained are for the mutual benefit and protection of the owners, present or future, of any and all of the lots in said COUNTRY COMMONS, their respective legal representatives, heirs, successors, grantees, and assigns.

96029150



STATE OF INDIANA  
LAKE COUNTY  
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CLAUSE III.  
GENERAL RESTRICTIONS

1. LAND USE. Each lot shall be used, exclusively, as a site for a single building for general business use (B-1 use per the now current Lake County Zoning ordinance) and other such uses as may be allowed with the express written permission of the Developer. Prior to the time that legal title to a lot is first transferred from the Developer to an owner, the Developer shall be permitted to re-subdivide or re-plat said lot and, in addition, the Developer shall be entitled to dedicate additional roadways over and across said lot(s). Once the Developer transfers legal title from himself to a lot owner, no further re-subdivision, nor any change in zoning classification, shall be permitted without the express written permission of the Developer.

2. BUILDING SIZE. The building shall conform to the then current Lake County Planning and Zoning ordinances in all respects. Should the town of Winfield enact their own Planning and Zoning ordinances, the more restrictive of the two ordinances shall apply.

3. ARCHITECTURAL CONTROLS. Architectural controls shall be in effect to govern the site plan, design, and style of the building and/or associated structures, final grading of the lot, and quality of materials (see "Check List of Requirements for Construction"). The Architectural Control Committee shall consist of the Developer, or its designated agent(s), or assignees. After all lots have been built upon, or at such earlier time as the Developer deems appropriate, the architectural control of the property may be vested with and continued by a simple majority of the lot owners granting approval, thereby turning over complete architectural control to the property owners themselves, and Developer shall thereupon be relieved and discharged from all such duties so assigned. Neither the lot owners, nor any agent(s) thereof, nor the Developer, shall be responsible in any way for any defects in plans, specifications, or other materials submitted to the architectural control committee, nor for any defects in any work done according thereto.

Approval of all plans shall be required prior to the construction of any dwelling or structure. Site plans shall be submitted showing the location of property lines, all proposed structures, existing and proposed grades, well(s), sewers, landscaping, and fences. Building styles shall be compatible with the existing area and the contour of the land, and all buildings shall use finish quality material on all sides. At least FIFTY PERCENT (50%) of the exterior of the entire building and/or structure shall be masonry. In lieu of traditional face brick, the Architectural Control Committee may, at their discretion, approve the use of faux rubble stone on the structure, paving brick on the driveway, or other aesthetically pleasing masonry materials on the site in order to meet part of the masonry requirement. The minimum allowable roof slope shall be 5' rise in 12' run. Only architectural grade shingles, slate tiles, standing seam metal roofs and other high quality roofing materials, approved by the architectural control committee, shall be used on the building. Only site built buildings shall be permitted. No building, nor any structure, shall be moved to any lot in the property. No modular, manufactured, nor mobile building, shall be allowed. No temporary structures shall be allowed.

A written copy of all plans and all specifications shall be submitted to the Architectural Control Committee and is subject to its written approval. Approval or disapproval shall be given in writing within 30

days after receiving complete plans and specifications. Construction may commence once approval is granted, or in the event neither written approval nor disapproval is obtained within thirty (30) days after submission of complete plans and specifications. Whether approval is granted by the Architectural Control Committee or by default, all improvements shall conform to these covenants. The property owner shall notify the Architectural Control Committee in writing, by mail, return receipt requested, of the issuance of the certificate of occupancy. The Architectural Control Committee may inspect the improvements after this notification to approve for compliance with these restrictive covenants. If no suit to enjoin the construction, or if no other legal action has been commenced prior to ninety (90) days after the property owner properly notifies the Architectural Control Committee of the issuance of the certificate of occupancy, approval will not be required and the related Covenants shall be deemed to have been fully complied with. All construction shall be completed within nine (9) months from the date of issuance of the building permit. The building on said lot shall be built by a licensed and bonded general contractor. No improvement which has partially or totally been destroyed by fire or otherwise, shall be allowed to remain in such state for more than three (3) months from the time of such destruction or damage.

4. ADDITIONAL STRUCTURES. No trailer, garage, barn, storage shed, outbuilding, or any other additional structure shall be used either temporarily or permanently. No trailers, boats, motor vehicles or recreational vehicles are permitted to be stored on any lot for a period of time in excess of two (2) days, unless said personal property is stored in a fully enclosed building. No unattached garage, barn, storage shed, outbuilding, or any other structure (other than the primary building) shall be placed, erected or altered on any lot.

5. BUILDING LOCATION. No building or other structure shall be located closer than fifteen (15) feet from a side property line. No building or other structure shall be located closer than fifty (50) feet from the front or rear property lines of any lot. Site plan must specifically show the building, building sidelines, front setback line, and rear setback line. Parking lots, driveway and common access roadways shall be permitted within the building lines.

6. COMMON ACCESS ROADWAYS. All lot owners shall install and properly maintain a twenty foot (20') wide common access roadway over and across their property. The common access roadway shall be constructed with a minimum of ten inches (10") of gravel base, with two inches (2") of asphalt surface. The common access roadway shall be located within the easement described in document #96027862, dated April 29, 1996, and it shall provide for continuous, uninterrupted, travel from one lot to another. The common access roadway shall be used only for normal business traffic and shall not be used for any construction vehicles or traffic. Each lot owner shall install the common access roadway at the time of construction of the primary building and they shall maintain the roadway in a timely fashion to provide a smooth, pot-hole free surface.

7. FENCES. Property line fences are discouraged in this development and may only be constructed with express written permission of the developers. Metal fences and vinyl coated metal fencing and support posts shall not be permitted to be erected on any lot. All fences, if approved by Developer, shall be constructed of such other materials and in a manner which does not detract from the natural quality and aesthetic appearance of the existing geographic areas within the property. In addition, no fence of any kind

shall be erected, placed or maintained in the area between the rear, exterior wall of the main dwelling structure located on the lot and the front property line. Any fences constructed within this development shall be kept in good repair by the owner. All trash containers, bins, and/or "dumpsters" shall be enclosed in a wooden, fenced-in enclosure. Placement of the fenced-in trash enclosure, type of construction and height shall be at the sole discretion of the Developer. Every effort shall be made by the owner to place the trash enclosure in an area where it will be minimally visible from the streets or adjacent properties.

8. MAINTENANCE OF LOTS AND IMPROVEMENTS. The owner of any lot in the Property 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) Remove all debris or rubbish.
- (ii) Prevent the existence of any other that reasonably tends to detract from or diminish the aesthetic appearance of the Property.
- (iii) Keep the exterior of all improvements in such state of repair or maintenance as to avoid their becoming unsightly.
- (iv) All lots are to be mowed, at the owners expense, at least one (1) time monthly during the months of May, June, July, August, September, and October and more often as is necessary.

9. NUISANCES. No noxious or offensive activity shall be carried on or upon any lot, nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood. No waste, trash or garbage of any sort shall be allowed on any lot.

10. ANIMALS. No animals shall be boarded or kept in any outdoor kennel. Animals may be kept overnight only when kept indoors, totally enclosed within the primary building.

11. WEAPONS. The use of firearms within the property is strictly forbidden. No hunting, target practice, nor any other use of firearms or other weapons is allowed.

12. CONSTRUCTION OF DRIVEWAYS. All parking lots, common access roadways, driveways or entrances to any lot in the property from the dedicated streets in the subdivision shall be paved with two inches of black top over a base of ten inches of stone prior to occupancy.

13. OVERNIGHT PARKING. No trucks or other similar vehicles having a load rating in excess of three-quarters of a ton shall be permitted to be parked on any of the streets or lots of the property in excess of four (4) hours.

14. LANDSCAPING. All lot owners shall submit to the architectural control committee a professionally prepared landscape design plan. All landscaping shown on the initial plans and specifications as approved by the architectural control committee and such other landscaping as is necessary for the

integrity of the property shall be completed by the owners within thirty (30) days of occupancy, weather permitting. All landscaping shall be properly maintained in a healthy, disease free condition.

15. LIGHT FIXTURES AND SIGNS. Automatic dusk to dawn lighting shall not be permitted. Lighting energized by motion detection devices, timers and manual switches shall be permitted. The majority of all outside lighting shall be turned off within one (1) hour after closing. All signs, street numbers, markers or other outdoor displays shall be subject to the approval of the architectural control committee. No temporary signs or displays shall be allowed.

CLAUSE IV.  
GENERAL PROVISIONS

1. SEVERABILITY. In the event that any part(s) of the restrictive Covenants is construed or declared unenforceable by a Court of competent jurisdiction, remainder shall so continue in full force and effect as though the unenforceable portion or portions were not included herein.

2. INITIAL TERMS AND EXTENSIONS. These Restrictive Covenants shall run with the land and shall be binding on all parties, persons, or entities claiming under them or onto the land for a period of twenty (20) years from the date of recording of this document, after which time said Covenants shall automatically extend for successive periods of ten (10) years, unless a signed agreement by seventy-five percent (75%) or more of the then current property owners of said lots has been recorded, modifying these Covenants in whole or in part.

3. REMEDIES. The Developer, owner or owners, present or future, of any land or lot included in said Property shall be entitled to injunctive relief against any violation, or attempted violation, of the provisions hereof, and also damages from the owner violating these covenants for any injuries resulting from any violation thereof; but there shall be no right of reversion or forfeiture of title resulting from such violation. The Developer shall be entitled to recover attorney fees and other costs and expenses incurred in the enforcement of the provisions of this agreement from any owner or owners in violation of the same. The Developer shall not be liable for any lot owner's violation of these covenants.

4. ASSIGNMENT. Developer reserves the right to assign all or any of the rights, privileges, easements, powers and duties herein retained or reserved by the Developer by written instrument or instruments in the nature of an assignment which shall be effective when recorded in the Office of the Recorder of Deeds of Lake County, Indiana, and Developer shall thereupon be relieved and discharged from all such duties so assigned.

5. FAILURE TO ENFORCE. The failure to enforce any of the Covenants herein set forth as to any violation by the Developer, its agent(s) and/or assignee, or any property owner, of any term, condition or covenant contained herein shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or different term, condition or covenant herein. Moreover, no such failure to enforce shall entitle any owner to claim, sue for, or receive any damages or other payment from Developer. In addition, if Developer is named by any owner in any legal action, Developer shall be entitled to recover from said owner

reasonable attorney fees in defending said action. Should, for any reason, the Developer be unable or unwilling to enforce these covenants, each lot owner shall be permitted to initiate enforcement action against another owner at their own expense.

6. WAIVER. The Developer may waive any of the covenants or any portion thereof. For instance, should the owner desire to use new or innovative building materials, new types of construction, or other items not specifically addressed herein, the Developer (or assignee) may consider those items on a case by case basis. If such waiver is by a document duly executed by said Developer (or assignee), acknowledged and recorded with the Recorder of Deeds of Lake County, Indiana, the same shall permanently waive the benefits of the Covenants, for the benefit of the property and shall be binding upon said various owners and their respective successors and assigns.

7. MISCELLANEOUS. The underlined titles preceding the various paragraphs and subparagraphs of the Restrictions are for 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 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.

The word "Owner" shall be defined for purposes of this Agreement as a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, which owns the fee simple title to a Lot, and any executors, heirs, legatees, successors, and assigns thereof.

IN WITNESS WHEREOF, Developer has caused this Instrument to be executed and attested to as of this 1 day of May, 1996

Marian S. Hooseline  
MARIAN S. HOOSELINE

Jimmy D. Hooseline  
JIMMY D. HOOSELINE

SEE ATTACHED PAGE FOR DONALD R. O'DELL, TRUSTEE

ACKNOWLEDGMENT

State of Indiana, County of Lake ) SS

Before me, a Notary Public in and for said County and State, personally appeared the above mentioned persons, who executed and acknowledged the execution of the foregoing instrument for and on behalf of themselves.

WITNESS my hand and Notarial Seal this 1st day of MAY, 1996

SIGNED Karen Kane

PRINTED KAREN KANE

Notary Public My Commission expires: 9/12/99

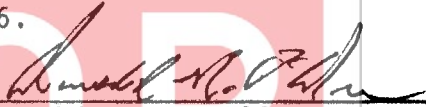
My County of residence: PORTER

THIS INSTRUMENT PREPARED BY: JIM BROWN, ATTORNEY AT LAW

FILE D:\AD\WP51\FILES\TNS-96\COVE-CC-1-2 September 19, 1995

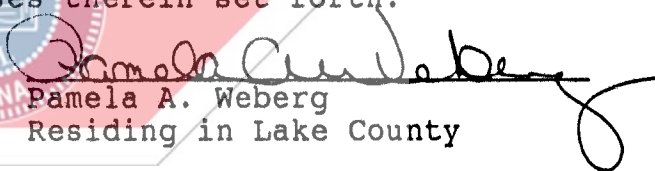
It is expressly understood and agreed by and between the parties hereto, anything to the contrary notwithstanding, that each and all of the representations, covenants, undertakings and agreements herein made on the part of the Trustee while in form purporting to be the representations, covenants, undertakings and agreements of said Trustee are nevertheless each and every one of them, made and intended not as personal representations, covenants, undertakings and agreements by the Trustee or for the purpose or with the intention of binding said Trustee personally, but this instrument is executed and delivered by said Trustee not in his own right, but solely in the exercise of the powers conferred upon him as such Trustee; and that no personal liability or personal responsibility is assumed by nor shall at any time be asserted or enforceable against Donald R. O'Dell on account of this instrument or on account of any representation, covenant, undertaking or agreement of the said Trustee in this instrument contained, either express or implied, all such personal liability, if any, being expressly waived and released.

Signed this 1st day of May, 1996.

  
Donald R. O'Dell, Trustee

STATE OF INDIANA, COUNTY OF LAKE, SS:

Before me, a Notary Public in and for the above County and State, this 1st day of May, 1996, personally appeared Donald R. O'Dell, Trustee, and acknowledged the execution of the foregoing instrument for the uses and purposes therein set forth.

  
Pamela A. Weberg  
Residing in Lake County

My Commission Expires:  
9-2-99

THIS INSTRUMENT PREPARED BY: ATTORNEY JIM BROWN