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37.00

MORGAN COUNTY RECORDER
KAREN BRUMMETT 13P
PJD Date 08/29/2006 Time 12:29:07
RECORDING: 37.00
I 200611015 Page 1 of 13

**AFFIDAVIT FOR CORRECTION
COVENANTS AND RESTRICTIONS**

I, Ross O. Holloway, Indiana Registered Land Surveyor Number S0530, hereby state and affirm the following:

1. That, the Covenants and Restrictions as recorded for Rolling Vista Estates Sections I and II and made a part of the plat for said subdivision, was prepared under my direct supervision and that I personally certified the plat as recorded under Deed Record 360 page 192 in the Office of the Recorder of Morgan County, Indiana.
2. That the Covenants and Restrictions for said subdivision have errors and inconsistencies.
3. That the attached Covenants and Restrictions for Rolling Vista Estates Sections I and II are hereby being recorded to correct those errors and inconsistencies.


Ross O. Holloway

State of Indiana)
)SS
County of Morgan)

Before me, the undersigned, a Notary Public, personally appeared Ross O. Holloway, and acknowledged the above statements to be correct facts of survey and that this instrument is his voluntary act and deed.

Witness my Hand and Seal this 28th day of August, 2006.

 Signed Notary Public
Lisa L. Zeiner Printed or Typed

Resident of Hendricks County.
My Commission Expires: April 2, 2017



This Instrument Prepared by: Lisa Zeiner
Holloway Engineering PO Box 234 Mooresville, IN 46158

**"I AFFIRM, UNDER THE PENALTIES
FOR PERJURY, THAT I HAVE TAKEN
REASONABLE CARE TO REDACT EACH
SOCIAL SECURITY NUMBER IN THIS
DOCUMENT, UNLESS REQUIRED BY LAW."**

Name: Lisa L. Zeiner
Printed: Lisa L. Zeiner

ROLLING VISTA ESTATES
COVENANTS AND RESTRICTIONS
SECTIONS I AND II

All purchasers, their heirs and assigns, of lots in ROLLING VISTA ESTATES, shall take title subject to the following covenants and restrictions and shall be bound thereby.

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. 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 at least (2) developer's representatives. The developer (Environmental Development Corporation and its successors) shall make all appointments until all lots are sold in all present and subsequent sections of Rolling Vista Estates Subdivision. Thereafter, the committee shall consist of five (5) 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 esthetic 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 fifteen (15) days after such plans and specifications have been submitted to it, then such plans and specifications will be considered approved.

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3. **Land Use.** All lots herein are for residential use only, limited to one single family dwelling per lot.
4. **Street Dedication.** All areas shown and designated as streets if not heretofore dedicated, are hereby dedicated the public.
5. **Building Location.** No building shall be located on any lot nearer to the front lot line, or nearer to the side lot line, or nearer to the rear lot line than the setback lines per Morgan County zoning ordinances and this plat. 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.
6. **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 eight hundred (1800) square feet for a one-story dwelling nor less than one-thousand six hundred-fifty (1650) square feet for a dwelling of more than one-story.

REVISED PARAGRAPH 6 PER MISC. RECORD 125 PAGE 524 DATED 01/31/94

6. **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 eight hundred (1800) square feet for a one-story dwelling nor less than one-thousand three hundred fifty (1350) square feet for a dwelling of more than one-story with a minimum of 2200 square feet total.
7. **Construction Requirements.**
 - a. Overhang (eaves) shall be a minimum of twelve (12) inches beyond any exterior wall 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.

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- c. Exterior of all dwellings shall be full brick. Soffit, fascia, and gable materials and colors shall be subject to approval 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.

REVISED PARAGRAPH 7c PER MISC. RECORD 125 PAGE 524 DATED 01/31/94

- c. Exterior of all dwelling shall be brick on main level. Soffit, fascia, and gable materials and colors shall be subject to approval 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 constructions will be allowed.
- d. An address stone is to be placed on the front brick exterior of all homes. The location and type of stone is subject to approval by the Architectural Control Committee.
- e. 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 or as determined by the Architectural Control Committee, considering specific lot characteristics.
- f. All driveway and sidewalks are to be of concrete a minimum of four (4) inches thick. The location and elevation shall be subject to approval by the Architectural Control Committee. Driveways must be maintained in good repair by the lot owners.
- g. Three (3) trees of the type, size and location subject to approval by the Architectural Control Committee shall be provided and maintained in the front yard of each dwelling. If the dwelling is on a corner lot, five (5) trees are required. In addition, four (4) Shiner Blue Spruce shall be planted and maintained at the rear of the lot. Owners shall replace any such tree that is diseased, dying or dead. The tree requirement may be excepted or changed by the Architectural Control Committee to accommodate lots that are wooded.
- h. Landscaping proposals for all lots must be submitted and subject to approval by the Architectural Control Committee.

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- i. All construction, finish grading, sidewalks and landscaping to be completed within six (6) months of the start of the construction, acts of God and unusual weather destruction of work in progress excepting.
 - j. All owners and their builder/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 Rolling Vista Estates plat and covenants and restrictions.
 - k. All owners and their builder/contractors shall be responsible for and repair or restore any damage during construction whether or not inadvertently or unavoidable including but not limited, to curbs, sidewalks, gutters, street, storm drainage area, utilities or other improvement.
 - l. All lot 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 Developer (Environmental Development Corporation and its successors) 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 doing work on the owner's lot. Standards for erosion control shall be set by the Architectural Control Committee. ®
 - m. All lot owners, for the good of the community, will maintain their lots in good condition to the curb line of the street.
8. 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.

9. **Drainage Easements.** Areas designated as drainage easements on this 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 of the drainage easement area is the responsibility of the lot owner.
10. **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. Licensed and operating 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 or private driveway 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.
11. **Storage and Refuse Disposal.** No outside storage of equipment, materials, supplies, debris and unlicensed or inoperative vehicles, (including recreational vehicles, boats, 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 will be allowed.
12. **Vacant Lot Maintenance.** Vacant lots shall be maintained per the following terms: No trash shall be allowed to accumulate or vegetation allowed 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.
13. **Business Use.** No mercantile or business establishment of any kind or character shall be erected, altered, permitted or maintained on any lot.
14. **Auto Mechanics.** Except for minor or routine repair and maintenance of the owner's personal vehicles, no welding, restoration, reconstruction, overhauling, painting or other type of auto mechanics, whether for hire or otherwise, shall be permitted.
15. **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.

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16. **Storage Tanks.** No bulk storage tanks of any kind shall be allowed.
17. **Utility/Storage Buildings.** No utility building, barn or accessory building of any kind will be permitted on any lot. Gazebo type structures will be permitted if approved by the Architectural Control Committee.
18. **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 fences of a decorative type, provided such fence has been approved by the Architectural Control Committee. All fences shall be maintained in good repair by lot owners.
19. **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. No lot owner shall be allowed to keep, breed or raise livestock, hogs or poultry. All animals shall be restricted to owner's property unless the animal is on a leash accompanied by an adult. Any technical variation or exception to this restriction shall be subject to the approval of the Architectural Control Committee.
20. **Pools.** No above ground type pool will be permitted.
21. **Mailboxes.** Architectural Control Committee shall specify and determine location of all mailboxes.
22. **Basketball Goals.** Type and location of basketball goals are subject to approval by the Architectural Control Committee. ®
23. **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.

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24. **Lake Maintenance.** The lake shall be for the sole benefit and use of the following described lot owners, namely the owners of lots numbered 16 through and including lot 23, lots 50, 51 and 52 and lots 58 through and including lot 65. No other lot owners in this subdivision will be allowed access to the lake. Each of the lots through their respective owners shall be responsible for 1/19th of the cost of maintaining and repairing the common lake area and dam. The lake and dam shall be maintained in accordance with sound engineering and ecological practice. In the event that the owners of said lots shall disagree as to the method or manner in which any such repairs or maintenance should be made, or if there is a disagreement regarding whether any maintenance is required, or in the event that any other questions or problems arise with regard to said lake, then such matter shall be resolved in conformity with the decision of the majority of said owners of the lots with each lot having one vote through its ownership. This covenant shall be binding upon the respective lot owner, their executors, heirs and assigns.
25. **Docks.** All dock location, type and size shall be specified and subject to approval by the Architectural Control Committee. All approved docks must be maintained in good condition by property owner.
26. **Watercraft.** All watercraft allowed on lake shall be subject to approval by the Architectural Control Committee. All approved watercraft must be maintained in good condition by property owner.
27. **Sanitary Sewer Requirements and Fees.** All lot owners shall be required to tap on to the sanitary sewer system. All owners of lots, excluding the Developer (Environmental Development Corporation and its successors), shall be required to pay an availability fee to the utility on a monthly basis along with the initial tap fee of \$_____. The availability fee will be the minimum fee charged monthly to all users of the sanitary sewer system. Upon the failure of any lot owner to pay any of the aforementioned sanitary sewer fees the owner of the sanitary sewer system (SaniTech, Inc. and its successors) shall have the right to place a lien in the amount owed along with other legal means for collection of all bills, costs, penalties, interest and attorney fees. Any fee not paid within 30 days from the first day of the month shall be considered delinquent.

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28. **Water Utility Requirements and Fees.** All lot owners shall be required to tap on to the water lines, excluding the Developer (Environmental Development Corporation and its successors) and to pay all required fees including a tap fee to the water utility company. In the event the water utility changes service territory and refunds said fee to the lot owner the monies shall then be given to the Developer as an offset to Developer's construction cost.

29. **Enforcement.** Enforcement of the Roiling Vista Estates 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 owner's and the owner will be allowed one vote for each lot owned. Invalidation of any covenant or restrictions herein by judgment, Court Order or otherwise shall not effect 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 restrictions 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 cost, 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 attached to and to be a lien upon any real estate owned by the defendant in this subdivision in the event of and 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, ENVIRONMENTAL CORPORATION, owners of said property, this ____ day of _____ 1993.

Christopher M. Crouch
President

Alan Deerwester
Secretary

STATE OF INDIANA)
)SS
COUNTY OF MORGAN)

Before me, the undersigned, a Notary Public, personally appeared Christopher M. Crouch and Alan Deerwester, officers of Environmental Development Corporation, and acknowledged the execution of this instrument to be their voluntary act and deed.

Witness by Hand and Seal this ____ day of _____, 1993.

Signature of Notary Public

Printed Name of Notary Public



Resident of _____ County

My Commission Expires: _____

CHICAGO TITLE

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ASSOCIATION

All of the owners of the Real Estate either legal or equitable shall be members of an Association (which can be unincorporated or incorporated at the discretion of the membership) association to be known as the Rolling Vista Estate Homeowner's Association.

The purpose of the association and all assessments levied by the association shall be for the purpose of promoting preservation and conservation of the environment of the subdivision, for promoting recreation, health, safety and welfare of the residents of the subdivision and in particular for the improvements and maintenance of the properties, services and facilities devoted to the above purposes and related to the use and enjoyment of the common properties situated in the subdivision including, but not limited to the payment of taxes and insurance thereof and repair, replacement, maintenance of common areas including lighting, sidewalks and curbs and other common areas including the cost of labor, equipment, materials and management and supervision thereof.

1. **Membership.** The membership shall exist for each ownership of a lot in the subdivision. "Ownership" shall mean all owners, whether legal or equitable and regardless of the number or form of tenancy. Purchasers on contract "Equitable Owners" shall be entitled to the membership rather than the Developer. The Developer shall have one membership for each lot which is not sold.

2. **Basis and Amount of Annual Assessments.** The initial annual assessment shall be in the sum of \$75.00 per each lot sold by the developer, its representatives or assigns, regardless of whether the sale is by land contract or deed. The payment shall be due on an annual basis starting on the 2nd day of August, 1993 and continuing on this annual anniversary date the assessment shall be levied against each lot sold by the developer. The money shall be paid to the treasurer of the Rolling Vista Estates Homeowner's Association. In no event shall any assessment or charge or special assessment provided below be levied against or be due from the developer.

3. **Special Assessments For Capital Improvements.** In addition to the annual assessment authorized by the above paragraph, the Association may levy in any assessment year on each lot sold by the developer, its representatives or a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of common area improvements, including the necessary fixture and personal property related thereto, provided any such assessments and the affirmative approval of two-thirds of the votes of all voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members at their listed address with the Association at least 30 days in advance of the meeting and shall set forth in the written notice the purpose of the meeting, assessment and the time and place of the meeting.

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4. **Change and Basis and Maximum of Annual Assessments.** The Association may increase or decrease the amount of its annual assessment as determined by an affirmative vote of two-thirds of the voting members who are voting in person or by proxy at a meeting duly called for this purpose, written notice shall be sent to all members at the address given to the Association by the lot owner at least 30 days prior to the meeting with the notice stating the purpose of the meeting and the date and time and place of the meeting.

5. **Quorum For Any Action.** The Quorum required to change the amount of the annual assessments or for a special assessment for capital improvements shall consist of 60% of the membership. The quorum vote can be by written proxy or the membership appearing in person at the meeting if the required quorum is not forth coming at any meeting, another meeting may be called, subject to the notice requirements set out for the purpose of the meeting. The same quorum vote is required for all decisions that require approval by the homeowners.

6. **Duties of the Board of Directors.** The management, affairs or policies of the Association shall be vested in the Board of Directors. The Board of Directors of the Association shall prepare a roster of the properties and assessments applicable thereto and at least 30 days in advance of such assessment due date. Such assessment roster shall be kept in the office of the Association or by the secretary/Treasurer of the Association. Written notice of the assessment shall thereupon be sent to every owner subject to the assessment. The Association shall upon demand at any time furnish to any owner liable for said assessments certificate in writing signed by an officer of the Association, setting forth; whether said assessment has been paid. Said certificates shall be conclusive evidence of payment of any assessment. If any assessment is not paid on the date when due, the assessments and cost of collection thereof as hereinafter provided, shall thereupon become a continuing lien against the property which shall bind such property in the hands of the then owner, his heirs, devisees, personal representatives and assigns. If the assessment is not paid within 30 days after the due date a delinquency fee of Ten Dollars shall be added thereto and from the date of the delinquency shall run at the rate of 12% per annum of both the assessment and any penalty. The association may bring an action at law to collect the penalty from the owner and shall be allowed to collect the assessment delinquency fee, interest, cost of preparing and filing the complaint in the action, attorney fees, and all other costs assessed by the Court in the collection of said debt.

7. **Priority.** The priority of any lien herein shall be second and junior to any purchase money mortgage. Otherwise, such lien is entitled to the priority and dignity according to the date of recordation and operation of law. The Association shall have the right to file a lien against any property that has a delinquency in payment of its annual assessment or special assessment and the lien shall be placed against the property the same name of the lot owner owing the assessment.

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