

WINDHAVEN at the HAVENS

SECTION FOUR

COVENANTS

I 050002111

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We, R & F Development, Inc. by John F. Forcum, secretary, do hereby lay off, plat and subdivide said real estate in accordance with the within plat.

This subdivision shall be known and designated as Windhaven at the Havens Section 4. All streets shown and not heretofore dedicated are hereby dedicated to the public.

Front building setback lines are hereby established as shown on this plat, between which lines and property lines of the streets there shall be erected or maintained no buildings or structures. The strips of ground shown on this plat and marked drainage and utility easement (D. & U. E.) or Sanitary Sewer drainage and utility easement (S.S.D. & U.E.) are reserved for the use of the public utilities for the installation of water and sewer mains, poles, ducts, line and wires, and drainage facilities. The strips of ground are subject at all times to the proper authorities and to the easement herein reserved. No permanent or other structures are to be erected or maintained on said strips of land, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities, and to the rights of the owners of the other lots in this subdivision.

This subdivision shall be subject to the following restrictions which shall operate as perpetual covenants.

1. Drainage Swales (Ditches) along dedicated roadways and within the right-of-way, or on dedicated drainage easements, are not to be altered, dug out, filled in, tiled, or otherwise changed without the written permission of the Hancock County Drainage Board (Commissioners). Property owners must maintain these swales as sodded grassways or other non-eroding surfaces. Water from roof or parking areas must be contained on the property long enough so that said drainage swales or ditches will not be damaged by such water. Driveways may be constructed over these swales or ditches only when appropriate sized culverts are installed as set out in 7-1-47(5) of the Hancock County Subdivision Control Ordinance.

2. Altering Drainage Swales Any property owner altering, changing or damaging the drainage swales or ditches will be held responsible for such action and will be given 10 days notice by registered mail to repair said damage, after which time, if no action is taken, the Hancock County Drainage Board (Commissioners) will cause said repairs to be accomplished, and the bill for such repairs will be sent to the affected property owner for immediate payment.

3. Corner Lots No fence, wall, hedge, tree or shrub planting which obstructs sight

7. Minimum living space areas The minimum square footage of living space of dwellings constructed on various residential lots in the development, exclusive of porches, terraces, garages, carports, accessory building, or basements below ground shall be no less than 1350 square feet of ground floor living area for a one-story structure and a minimum of 1500 square feet of living area if higher than one story. Each dwelling shall have a two or three car attached garage.

8. Residential Use Only All lots in this subdivision shall be used solely for residential purposes except for residences used as model homes during the sale and development of this subdivision. No motor home, trailer, tent, shack, basement, or other outbuilding shall be used for temporary or permanent residential purposes on any lot in the subdivision. No commercial business will be permitted in the subdivision.

9. Building Location No building shall be located on any lot nearer to the front line nearer to the side street line than the minimum building setback lines shown on the plat. The side yards on any lot shall contain an aggregate distance of not less than eighteen (18) feet between any dwelling and the side lot lines, provided, however, that no building shall be located on any lot nearer to the side lot line than six feet (6'). No accessory building shall be located closer to any front or side lot line than the required minimum front and side yard distance for the primary dwelling. No accessory building shall be located closer to any rear lot line than 15 feet, but in no case shall it encroach upon a easement.

10. Health Concerns All water systems and methods of sewage disposal in this subdivision are to be in compliance with the regulations or procedures by the State Board of Health, Gem Utilities, Gem Water Inc., or other civil authority having jurisdiction. All sanitary sewage lines on the residential building lots shall be designed and constructed in accordance with the provisions and requirements of Gem Utilities Inc. No water wells or septic tanks shall be installed on any lot.

11. Nuisances No noxious or offensive trade shall be permitted upon any lot in this subdivision nor shall anything be done thereon which may be a nuisance or annoyance to the neighborhood. No refuse will be maintained on the lot. Garbage and trash shall be kept in containers which are not visible from the street, except on collection day.

12. Limitation On Time All residential construction must be completed within one year after the starting date, including the final grading.

13. Parking Limitations No boats, campers, trailers of any kind, buses, mobile homes

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3. Corner Lots No fence, wall, hedge, tree or shrub planting which obstructs sight lines and elevations between 2.5 and 8 feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points 40 feet from the intersection of said street lines (40 feet for minor streets and 75 feet for arterial streets) or in the case of a rounded property corner from the intersection of the street right-of-way lines extended. The same sight line limitations shall apply to any lot within 10 feet of the intersection of a street right-of-way line with the edge of the driveway pavement or alley line. No driveway shall be located within 70 feet of the intersection of two street center lines.

4. Drainage and Sump Pumps Open channel and tile drains within all drain easements shall be regulated drains subject to Indiana Code 36-9-27 and its amendments. It shall be the responsibility of the owner of any lot or parcel of land within the area of this plat to comply at all times with the provisions of the drainage plan as approved for this plat by the Hancock County Drainage Board through its agents, the Hancock County Surveyor and the Hancock County Engineer, and the requirements of all drainage permits for this plat by said Hancock County Drainage Board.

The property shall be graded pursuant to the final construction plan and may not thereafter be changed without the written approval of the Hancock County Surveyor, whose decision may be appealed to the Hancock County Drainage Board.

No trees or shrubs shall be planted, nor any structure erected in any drainage easement, unless otherwise approved by the Hancock County Surveyor and the Hancock County Engineer.

Sump pumps installed to receive and discharge groundwaters or other stormwaters shall be connected to the storm sewer where possible or discharged into a designated storm drainage channel. Sump pumps installed to receive and discharge floor drain flow or other sanitary sewage shall be connected to the sanitary sewers with approval from Gem Utilities, Inc. A sump pump shall be used for one function only, either the discharge of stormwaters or the discharge of sanitary sewage.

Footing drains shall be connected to storm sewers where possible or designated storm drainage channels. No footing drains or drainage tile shall be connected to the sanitary sewer with approval from Gem Utilities, Inc.

No roof downspouts, roof drains, nor roof drainage piping shall be connected to the storm drainage system. No down spouts or roof drains shall be connected to the sanitary sewers. Basement floor drains shall be connected to the sanitary sewers.

No sump pump, footing drain, roof downspout, or basement drain shall be connected to any street underdrain or drain onto the street.

5. Right-of-way No trees or landscaping shall be planted in the Hancock County road right-of-way or drainage easements shown on the plat except for those labeled as landscape easements.

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3. Corner Lots No fence, wall, hedge, tree or shrub planting which obstructs sight lines and elevations between 2.5 and 8 feet above the street shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines and a line connecting points 40 feet from the intersection of said street lines (40 feet for minor streets and 75 feet for arterial streets) or in the case of a rounded property corner from the intersection of the street right-of-way lines extended. The same sight line limitations shall apply to any lot within 10 feet of the intersection of a street right-of-way line with the edge of the driveway pavement or alley line. No driveway shall be located within 70 feet of the intersection of two street center lines.
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No sump pump, footing drain, roof downspout, or basement drain shall be connected to any street underdrain or drain onto the street.
5. Right-of-way No trees or landscaping shall be planted in the Hancock County road right-of-way or drainage easements shown on the plat except for those labeled as landscape easements.
6. Driveways All driveways shall be hard surfaced with concrete or asphalt and shall thereafter be maintained solely as concrete driveways unless otherwise approved by the Architectural Control Committee. No hard surfaced with either concrete, asphalt or brick. No gravel or stone driveways will be permitted. Driveways must be finished with the Residence. No drainage structures shall be located within Driveway limits.

PLAN at the HIAVENS SECTION FOUR COVENANTS

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11. Nuisances No noxious or offensive trade shall be permitted upon any lot in this subdivision nor shall anything be done thereon which may be a nuisance or annoyance to the neighborhood. No refuse will be maintained on the lot. Garbage and trash shall be kept in containers which are not visible from the street, except on collection day.

12. Limitation On Time All residential construction must be completed within one year after the starting date, including the final grading.

13. Parking Limitations No boats, campers, trailers of any kind, buses, mobile homes, trucks, motorcycles, mini-bikes, or any other unconventional vehicles of any description, shall be permitted, parked, or stored anywhere within this subdivision except that any such vehicle may be parked or stored completely within an enclosed garage, except for personal automobiles, vans and pick up trucks which may be parked on the driveway. The parking of any type or kind of vehicle shall not be permissible upon the streets, other than temporary parking by guests, invitees and subcontractors of any owner. Except within an enclosed garage, no inoperative or unlicensed vehicle shall be parked or repaired on any lot in this subdivision, or in any street thereon. Boats, Campers, and Motor Homes may be parked for a maximum of 2 days at one time for the purpose of preparation or loading.

14. Storage Tanks No outside fuel storage tanks above or below ground shall be placed in this subdivision.

15. Architectural Control Committee No building, fence, walls, or other structure shall be erected, placed or altered on any building lot in this subdivision until the building plans, specifications and plot plan showing the location of such structures have been approved by the Architectural Control Committee. The purpose of the Committee shall be to enhance and protect the value, desirability, and attractiveness of the development as a whole and to ensure that all building, fences, walls or other structures are harmonious with the overall Architectural character of the subdivision. The destruction of trees and vegetation and any other matter as may affect the environment and ecology of this subdivision shall be the proper concern of the Committee. The Architectural Control Committee shall be composed initially of the Developer, and after completion of the development or at the election of the Developer, whichever is sooner, by a committee of three homeowners designated by the Developer for a term of one (1) year thereafter until their successors are elected by a majority vote of homeowners within the development.

16. Fencing Fencing shall not exceed six (6) feet in height and no fence shall be placed closer to the front lot line than the rear of the primary residence and be approved by the Architectural Control Committee prior to construction. Chainlink fencing must be of the dark vinyl coated type. All fencing must be maintained in good condition. On corner lots an additional requirement is that fences may not be placed closer to the street than the building setback line on the side of the residence.

17. Sidewalks Each homeowner (lot owner) shall be responsible for constructing a four (4) foot wide concrete sidewalk of 4,000 strength plain cement four (4) inches thick, placed 1/4 inch per foot toward the street with expansion joints each forty-eight (48) feet,

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16. Fencing Fencing shall not exceed six (6) feet in height and no fence shall be placed closer to the front lot line than the rear of the primary residence and be approved by the Architectural Control Committee prior to construction. Chainlink fencing must be of the dark vinyl coated type. All fencing must be maintained in good condition. On corner lots an additional requirement is that fences may not be placed closer to the street than the building setback line on the side of the residence.

17. Sidewalks Each homeowner (lot owner) shall be responsible for constructing a four (4) foot wide concrete sidewalk of 4,000 strength plain cement four (4) inches thick, sloped 1/4 inch per foot toward the street with expansion joints each forty-eight (48) feet, along the entire street frontage of their respective lot. The sidewalk shall be constructed prior to completing finish lot grading. The sidewalk shall be located one (1) inch inside the street right-of-way line, (not on the lot) and parallel to the street right-of-way line. The lot owner is responsible for the repair and maintenance of the sidewalk for the initial 1 year from completion of residence. Thereafter, the Homeowners Association shall be responsible for maintenance and upkeep of the sidewalk except for any damage done by the adjoining lot owner. All public sidewalks shall comply with all Americans with Disabilities Act(A.D.A.), as amended, requirements and in the situation of a conflict between A.D.A. rules, covenants, or other regulations, the A.D.A. shall govern.

DULY ENTERED
FOR TAXATION

FEB 17 2005

Victoria Saunders
Auditor of Hancock County

18. Lot Maintenance/Block Maintenance. All lots on which construction has not begun must be mowed and maintained by the lot owner. After construction, the structure, grounds and recreational equipment shall be maintained in a neat and attractive manner. Firewood shall be kept behind the residence, and stacked in a neat manner. Brightly colored tarps are not to be used to cover items outdoors. The areas labeled as Blocks on the plat shall be decided from the Developer to the The Havens Homeowners Association when the developer has transferred title to a minimum of 90% of the lots herein to an entity other than the Developer. The Developer shall maintain the Blocks until the title is transferred to the homeowners association, who will then be responsible for the maintenance, upkeep and other responsibilities as outlined in the association-by-laws.

19. Antennas All communications antennas shall be placed indoors and out of view. Satellite dishes shall be placed behind the residence and not exceed 24" in diameter.

20. Mailboxes The Developer or its Assigns shall require a standardized mailbox for each residence and shall establish a design, material, and paint specification for the mailbox which shall be standard for all mailboxes in this subdivision.

21. Architectural Design No dwelling, building structure, improvement, exterior alteration or change of original color or material shall be constructed, placed or performed on any lot in the Development without the prior approval of the Architectural Control ("Committee"). Such approval shall be obtained only after written application has been made to the Committee by the Owner of the lot requesting authorization from the Committee. Such written application shall be in the manner and form prescribed from time to time by the Committee, and shall be accompanied by two (2) complete sets of plans and specifications for any such proposed construction, improvement or alteration. Such plans shall include plot plans where applicable showing the location of all improvements existing under or upon the lot and the location of the improvement proposed to be constructed or placed upon the lot, each properly and clearly designated. Such plans and specification shall set forth color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of 1" Equals 10' or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or reports required under Paragraph 3 of these Restrictions. All such plot plans shall be prepared by either a registered land surveyor, engineer or architect.

22. Solar Technology Devices for solar technology must be architecturally integrated within the primary residence and must be approved by the architectural control committee.

23. Construction Methods No modular or concrete homes will be permitted in this subdivision. No wood foundations or wood basements shall be permitted.

24. Outbuildings Outbuildings or accessory buildings shall be permitted on any lot only if approved by the Architectural Control Committee. The approval for such structures shall be in the same manner as is required for a primary residence. All outbuildings and accessory structures shall be required to have exteriors similar in appearance to the primary residence. No metal outbuildings shall be approved.

25. Homeowners Association Each lot owner, by acceptance of a deed conveying title thereto, whether from the Developer or a subsequent owner of such lot, shall accept such deed subject to the provisions of the By-Laws of The Havens Homeowners Association, Inc. and thereby becomes a member of The Havens Homeowners Association, Inc. for the purposes outlined therein.

26. Swimming Pools Swimming pools must be placed behind the residence. All pools must be below ground.

27. Basketball Goals Freestanding basketball goals with clear backboards may be

all improvements existing under or upon the lot and the location of the improvement proposed to be constructed or placed upon the lot, each properly and clearly designated. Such plans and specification shall set forth color and composition of all exterior materials proposed to be used and any proposed landscaping, together with any other material or information which the Committee may require. All plans and drawings required to be submitted to the Committee shall be drawn to a scale of 1" Equals 10' or to such other scale as the Committee may require. There shall also be submitted, where applicable, the permits or reports required under Paragraph 3 of these Restrictions. All such plot plans shall be prepared by either a registered land surveyor, engineer or architect.

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27. Basketball Goals Freestanding basketball goals with clear backboards may be constructed. Basketball goals attached to the house or garage shall not be permitted. All recreational equipment must be maintained in good condition.

28. Pets No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except dogs, cats and other household pets may be kept, provided they are not kept, bred or maintained for any commercial purposes. Any animal so kept will not be permitted to roam at large within the subdivision and shall be confined to the owners premises.

29. Utility Easements There are strips of property as shown on the recorded plat which are hereby designated and reserved for use of the public utilities for the installation and maintenance of utilities and drainage facilities (hereinafter referred to as Utility Easements). No permanent structure or other obstruction, shall be erected or maintained on such Utility Easement but each owner shall take title to that part of the utility easement comprising a part of his lot, subject to the rights of such public utility for ingress and egress in and along, across, through, and over the Utility Easement.

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30. Developer specifically reserves the right and privilege to include additional real estate not shown on the Preliminary Planned Unit Development Plan for the Havens, in either Summerhaven or Windhaven or both, and the owners of lots within the additional real estate shall be entitled to the use and benefit of Meadow Havens Park, to participate on the Meadow Havens Park Association Board of Directors, and shall be obligated to pay their fair share of the expenses for said Park. Developer reserves the right to take any action reasonably necessary to accomplish the above.

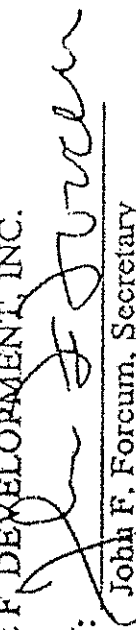
31. Enforcement of Covenants The right to enforce these covenants by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby reserved to any owner of any of the real estate in this subdivision, including the developer. However, such time as the developer no longer owns any property contained in this subdivision Section, the developer no longer has any right, obligation or standing to enforce any covenant. The cost of enforcement of any violation of the Covenants contained herein, including any expenses and attorneys' fees, shall be charged to the property owner in violation, and such costs, expenses and fees shall be collectible in the same manner as assessments as provided herein. In no event shall the Developer be responsible for any damages, fees, or expenses resulting from the enforcement or failure to enforce any covenant.

32. Duration of Covenants These Covenants are to run with the land, and shall be binding on all parties and all persons claiming under them. At any time, a Covenant may be changed in whole or in part upon i) an affirmative vote of eighty percent (80%) of the then owners of lots in the subdivision, and ii) with the consent of the Developer. If the Developer does not own one or more lots in the subdivision, the consent of the Developer shall not be required. Invalidation of any of the foregoing Covenants, provisions, restrictions or conditions by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

33. SEVERABILITY Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every other one of the Restrictions, and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable, or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability or "running" quality of any other one of the Restrictions.

34. IRRIGATION AND/OR LAWN SPRINKLING SYSTEMS: Except adjacent to common areas, Blocks, or at entrances to the subdivision or other landscaped areas, irrigation systems shall not be placed in the public right-of-way or drainage easements.

We, R. & F. Development, Inc., do hereby certify that we are the owners of the property described in the above caption and that as such owner, we have caused the said above described property to be surveyed and subdivided as shown on the herein drawn plat, as our own free and voluntary act and deed.

R. & F. DEVELOPMENT, INC.
BY: 
John F. Forcum, Secretary