

AUG 20 1999

RESTRICTIVE COVENANTS
MILL CREEK SUBDIVISION PHASE 3
R1-B ZONED LOTS 1 THROUGH 63

Thomas A. Berglund, Jr.
AUDITOR OF TIPPECANOE CO.

Abhinoton Development, Inc., being sole owners of the real estate of Mill Creek Subdivision, Phase 3, R-1B zoned lots, Lafayette, Tippecanoe County, Indiana, more particularly described on Exhibit A attached hereto and incorporated herein by reference, does hereby dedicate forever, for public use, all of the streets and ways on said plat, and does hereby fix and declare the following covenants to be applied in this subdivision:

A. The Land use shall be in conformity with the general zoning ordinance of the City of Lafayette, County of Tippecanoe, Indiana.

B. No building shall be located nearer to the front lot line nor nearer to the side street line than the building setback lines shown on the recorded plat. Due to the radius in the streets, some lots in said subdivision have a different building set back line in the front yard (BSL) than the standard 25 feet. These lots are as follows:

Lot 12 - 30 ft. BSL	Lot 23 - 31.5 ft. BSL
Lot 24 - 42 ft. BSL	Lot 25 - 38 ft. BSL
Lot 26 - 38 ft. BSL	Lot 29 - 35 ft. BSL
Lot 30 - 35 ft. BSL	Lot 32 - 35 ft. BSL
Lot 33 - 30 ft. BSL	Lot 44 - 35 ft. BSL
Lot 45 - 35 ft. BSL	

C. No fence, wall, hedge, or shrub planting which obstructs sight-lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the Street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distances of such intersections, unless the foliage line is maintained at sufficient height to prevent obstruction of such sight-lines. No fence or shrub planting of over thirty six (36) inches in height shall be permitted on any lot from front lot line to building setback line.

D. No noxious or offensive trade or activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

E. No trailer, tent, shack, garage, barn, or other outbuilding erected in the addition shall be at any time used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

F. The lots in this subdivision are fixed as single family lots, and shall not be further subdivided nor divided by plan development.

G. Easements as shown on the recorded plat and marked "Easements" are reserved for the use of sewers and/or public utilities for the installation of poles, ducts, wires, lines, and mains, 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 upon said strips of land, but the 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 other lots in the subdivision.

H. All building plans shall be reviewed and approved or rejected in writing by an architecture committee, consisting of Derrin P. Sorenson and Ronald H. Whistler. Said plans shall consist of minimum building requirements set forth by the architecture committee. In no event shall any building have a basement constructed under it.

I. All recreational vehicles, trailers, boats, busses or trucks must be stored in a garage or suitable permanent building erected for that purpose.

J. All swingsets, trampolines and recreational equipment must be set up in the backyard only.

K. No vehicular access shall be permitted to South 18th St. from lots 1,2,3,4,5,6,7,8,9,10,11,12 and no vehicular access shall be permitted to Bridgewater Circle from lots 1,32,33,34,35,36,37,38,45,46,47,48,49,50 as shown on the final plat. These restrictions shall be enforceable by the Area Plan Commission and irrevocable by the lot owners.

L. No fences shall be built in the front yards in this subdivision, nor shall any fences be erected in the back unless Paragraph I. shall be complied with. In no event shall a fence exceed six feet in height.

H. The owners of the lots of this subdivision shall not object to becoming a part of the Mill Creek Homeowners Association, formed September 27, 1997 and recorded in Document number 9719851, which was formed for the purpose of maintaining any and all common areas adjacent to and included in this final plat. Included, but not limited to, are Common Areas A, B and C as shown on the final plat, as well as CA D and CA E as labeled on the Mill Creek Phase 3 construction plans. The ownership of Common Area A, B, and C shall be transferred to the Mill Creek Homeowners Association after recording of the final plat. The purpose of said common areas are for emergency flood routing for the entire Mill Creek subdivision. Each lot owner shall be required to pay his prorata share of said common area fee.

N. CA D and CA E are planting areas in the public right of way areas in the cul de sac and the eyebrow in the street and shall be maintained by the Mill Creek Homeowners Association. This restriction shall be irrevocable by the Mill Creek Homeowners and enforceable by the City of Lafayette.

The foregoing covenants, restrictions, and conditions shall run with the land and shall be binding on all parties owning or claiming any interest in any lot. Thereof, in said addition and all persons claiming under them until January 1, 2022, at which time they shall be automatically extended for successive periods of ten (10) years, unless by vote of majority of the then owners of the lots, it is agreed to change or abolish said covenants in whole or in part. Covenants F above may only be amended, changed or abolished with the consent of the Area Plan Commission.

If said parties, or any of them, or their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person or persons owning any real estate property situated in said addition to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants, either to prevent him or them from so doing or to recover damages therefore.

Invalidation of any one of these covenants by judgment or decree shall not in any way affect the other provisions which shall remain in full force and effect. The right to enforce these provisions 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 dedicated to the public, and reserved to the several owners of the several lots in this subdivision and to their heirs and assigns.

WITNESS our hands and seals this 18 day of August, 1999.

Abbington Development, Inc.

By: Derrin P. Sorenson For
Derrin P. Sorenson By: Ronald H. Whistler, Sec. Treas
Ronald H. Whistler

STATE OF INDIANA)
)SS:
COUNTY OF TIPPECANOE)

Subscribed and sworn to before me, a Notary Public,
in and for said County and State, personally appeared
Derrin P. Sorenson, Ronald H. Whistler, as corporate
officers for Abbington Development, Inc. August 18
1999.

My Commission Expires:

March 6, 2007

Cynthia L. Whistler
Printed: Cynthia L. WHISTLER
County of Residence: TIPPECANOE

This instrument prepared by:
ABBINGTON DEVELOPMENT, INC.
Ronald H. Whistler

Exhibit "A"

LAND DESCRIPTION
MILL CREEK SUBDIVISION PHASE 3

A part the Northeast Quarter of Section 9, Township 22 North, Range 4 West in Wood Township, Tippecanoe County, Indiana described as follows:

Commencing at a Berman monument marking the northwest corner of said northeast quarter; thence South 00 degrees 49 minutes 39 seconds East along the west line of said northeast quarter a distance of 290.92 feet to the POINT OF BEGINNING; thence continuing South 00 degrees 49 minutes 39 seconds East along said west line a distance of 832.06 feet to the north line of Mill Creek Subdivision Phase 1 as recorded in Plat Cabinet E, Slide 180 in the Office of the Recorder of Tippecanoe County, Indiana; thence along the northerly line of said Mill Creek Subdivision Phase 1 for the following eight calls: 1) North 89 degrees 31 minutes 43 seconds East a distance of 40.00 feet; 2) South 00 degrees 49 minutes 39 seconds East a distance of 327.77 feet to the point of curvature of a curve left, having a radius of 25.00 feet, the radius point of which bears North 89 degrees 10 minutes 21 seconds East; 3) southeasterly along said curve a distance of 39.27 feet to the point of tangency bearing South 00 degrees 49 minutes 39 seconds East from said radius point; 4) North 89 degrees 10 minutes 21 seconds East a distance of 46.57 feet to the point of curvature of a curve left, having a radius of 225.00 feet, the radius point of which bears North 00 degrees 49 minutes 39 seconds West; 5) easterly along the arc of said curve a distance of 133.71 feet to the point of tangency bearing South 34 degrees 52 minutes 31 seconds East from said radius point; 6) North 55 degrees 07 minutes 29 seconds East a distance of 408.16 feet to the point of curvature of a curve left, having a radius of 420.00 feet, the radius point of which bears South 34 degrees 52 minutes 31 seconds East; 7) easterly along the arc of said curve a distance of 252.19 feet to the point of tangency bearing North 00 degrees 28 minutes 17 seconds West from said radius point; 8) North 89 degrees 31 minutes 43 seconds East a distance of 534.97 feet to the west line of Mill Creek Subdivision Phase 2 as recorded in Plat Cabinet E, Slide 184 in the office of said recorder; thence North 00 degrees 28 minutes 17 seconds West along said west line a distance of 453.87 feet to the centerline of Elliot Ditch; thence along said centerline the following four calls: 1) South 88 degrees 16 minutes 20 seconds West a distance of 0.81 feet; 2) North 79 degrees 52 minutes 48 seconds West a distance of 761.46 feet; 3) North 74 degrees 06 minutes 33 seconds West a distance of 269.64 feet; 4) South 84 degrees 54 minutes 26 seconds West a distance of 343.92 feet to the POINT OF BEGINNING, containing 20.981 acres, more or less.