

Briarwood Trace
Section 1
Amendments to Covenants

We, R&F Development, Inc. by John F. Forcum, Secretary, being all of the owners of the real estate platted and described by the plat known as Briarwood Trace, Section One and recorded as Instrument #01-17119 in the Office of the Recorder of Hancock County, Indiana do hereby certify that the covenants recorded with said plat contained errors and omissions in covenant #6 and covenant #23. We further certify that these amended covenants have been prepared and recorded to correct the errors and omissions in covenant #6 and covenant #23 and shall take precedent over the covenants recorded as Instrument #01-17119, and shall be hereafter known as "amended covenants to the plat of Briarwood Trace, Section One". All other covenants shall remain the same as written below.

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

This subdivision shall be known and designated as Briarwood Trace, Section One. 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.) and sanitary sewer and 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, lines and wires, 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)

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 grass ways or other non-eroding surfaces. Water from roof or parking areas must be contained on the property long enough so that said such water will not damage drainage swales or ditches. 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 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 centerlines.

4. Drainage

4a. Open channel and tile drains within all drain easements shall be regulated drains subject to Indiana Code 36-9-27 and its amendments.

4b. 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.

4c. 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.

4d. 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.

5. Driveways

All houses and garages shall be provided with hard-surface driveways constructed of concrete, which shall be installed by the builder concurrently with the original construction of the house, and which shall be available for use not later than the date of initial occupancy of such house, and shall thereafter be maintained solely as concrete driveways unless otherwise approved by the Architectural Control Committee.

5a. Right-of-Way

No trees or landscaping shall be planted in Hancock County Right-of-Way or drainage easements except for those labeled as landscape easements.

6. Minimum Living Space Areas; Minimum Brick or Masonary Requirements; Minimum Landscaping Requirements

6a. The minimum square footage of living space of dwellings constructed on various residential lots in the development, exclusive of porches, garages, terraces, carports, accessory buildings, or basements below ground level shall be no less than 1,900 square feet of ground floor living area for a one-story structure and a minimum of 2,200 square feet of living area if higher than one story. Each dwelling shall have a two or three car-attached garage.

6b. The front elevation of one story structures shall be constructed entirely of brick and masonry materials, exclusive of doors, windows, gables, and garage doors, and 50% of the front elevation of higher than one story structures shall be brick or masonry, and said computation shall be exclusive of doors, windows, gables, and garage doors.

6c. All homes shall have a planting and mulching plan to include at least 6 shrubs and 2 trees. Shrubs shall be a minimum of 18 inches in height. Shade trees shall have a minimum caliper of 2 inches.

7. 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 outbuildings shall be used for temporary or permanent residential purposes on any lot in the subdivision. No dog kennel, junkyard, or commercial business will be permitted in the subdivision.

8. Building Location

No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building setback lines shown on the plat. No building shall be located on any lot nearer to the side lot line than ten feet (10'). No building shall be located closer to any rear lot line than 10 feet, but in no case shall it encroach upon any easement.

9. 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, 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.

10. 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. Each lot owner shall comply with the garbage disposal and waste recycling methods determined by the homeowners association. Garbage and trash shall be kept in containers which are not visible from the street, except on collection day.

11. Limitation On Time

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

12. 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.

13. Storage Tanks

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

14. Fencing

Wood fencing shall be of shadow box style only and shall not exceed four (4) feet in height and no fence shall be placed closer to the front lot line than the rear of the primary residence. 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 primary residence. Fencing or fences shall be approved by the Architectural Control Committee prior to installation. All fences shall be of new materials made out of wood or wrought iron ornamental fencing may also be allowed. On lots where in-ground swimming pools are constructed, the fencing height may be increased to six (6) feet if the fence material is ornamental wrought iron and black in color. No chain link fencing shall be permitted.

15. Yard Decorations

Except seasonal decorations such as at Christmas, yard decorations shall be approved by the Architectural Control Committee.

16. 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.

18. 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.

19. 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 proper concern of the committee. The Architectural Control Committee shall be composed initially of the Developer, and after completion of the development by a committee of three homeowners designated by the Developer for the term of one (1) year and serving thereafter until their successors are elected by a majority vote of homeowners within the development.

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 specifications 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.

21. Solar Technology

Devices for solar technology must be architecturally integrated within the primary residence and must be approved by the Architectural Control Committee.

22. Construction Methods

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

23. Homeowners Association; Trash Removal and Recycling; Mandatory Professional Management Company

23a. 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 Briarwood Trace Homeowners Association, Inc. and thereby becomes a member of Briarwood Trace Homeowners Association, Inc. for the purposes outlined therein.

23b. The Briarwood Trace Homeowners Association shall designate one vendor for the purpose of both trash and recycling service for the subdivision, and the cost shall be allocated to and paid for by the homeowners.

23c. The Briarwood Trace Homeowners Association shall hire a professional manager for the Homeowners Association not later than when the Class B membership ceases and is converted to Class A membership pursuant the by-laws of the Briarwood Trace Homeowners Association.

24. Swimming Pools

Swimming pools must be placed behind the residence. All pools must be below ground and be enclosed by a six (6) foot high fence pursuant to paragraph 14 of these covenants.

25. 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 owner's premises. Dog houses that use new wooden materials the same color of the primary residence may be approved. All doghouses must be near the rear of the primary residence and not readily visible from the public street. Small fenced runs and rabbit houses will not be approved.

26. Lot Maintenance/Block Maintenance/Outbuildings

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 deeded from the Developer to the Briarwood Trace 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. Outbuildings or outside storage units or accessory buildings shall not be constructed or permitted on any lot in this subdivision.

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. 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 $\frac{1}{4}$ 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) foot 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.

29. Irrigation 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.

30. Sump pumps

Sump pumps installed to receive and discharge ground waters or other storm waters 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 storm waters 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 sewers. 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 with approval

from Gem Utilities, Inc. No sump pump, footing drain, roof downspout, or basement drain shall be connected to any street under drain nor outlet onto the street.

31. Utility Easements

There are strips of property as shown on the recorded plat which are hereby designated and reserved for the 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.

32. 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 an 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.

33. 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 (with the exception of covenants 1 thru 4, which may not be changed), a Covenant may be changed in whole or in part upon i) an affirmative vote of eight 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 judgement or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

34. 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.

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.