

FILED

MAY 20 1997

PIKE TOWNSHIP
ASSESSOR

APPROVAL OF CORRECTION
 METROPOLITAN DEVELOPMENT COMMISSION
 PLAT COMMITTEE

DATE: 5-22-97

SUBDIVISION ADMINISTRATOR

Cross Reference: 96-0098697
 97-0070416

PLAT COVENANTS AND RESTRICTIONS

FAIRWAY WOODS

80

085895 MAY 22 1997

JOHN R. VON ARX
 MARION COUNTY RECORDER

SUBJECT TO FINAL ACCEPTANCE FOR TRANSFER

05/22/97 04:01PM JOHN H. ROBERTS MARION CITY RECORDER CRG 25.00 PAGES: 8
 Inst # 1997-0070417

The undersigned, Indiana Development Company, LLC, an Indiana limited liability company (the "Developer"), is the Owner of the real estate more specifically described in Exhibit "A" attached hereto (the "Real Estate"). The Developer is concurrently platting and subdividing the Real Estate as shown on the plat for Fairway Woods, which Plat is filed of record as Instrument No. 96-0098697, in the office of the Recorder of Marion County, Indiana (the "Plat") and desires to subject the Real Estate to the provisions of these Plat Covenants and Restrictions. The subdivision (the "Subdivision") created by the Plat is to be known and designated as "Fairway Woods." In addition to the covenants and restrictions hereinafter set forth, the Real Estate is also subject to those covenants and restrictions contained in the Declaration of Covenants, Conditions and Restrictions of Fairway Woods, recorded as Instrument No. 97-0070416, in the office of the Recorder of Marion County, Indiana, as the same may be amended or supplemented from time to time as therein provided (the "Declaration"), and to the rights, powers, duties and obligations of the Fairway Woods Community Association, Inc. (the "Association"), set forth in the Declaration. If there is any irreconcilable conflict between any of the covenants and restrictions contained herein and any of the covenants and restrictions contained in the Declaration, the covenants and restrictions contained in the Declaration shall govern and control, but only to the extent of the irreconcilable conflict, it being the intent hereof that all covenants and restrictions contained herein shall be applicable to the Real Estate to the fullest extent possible. Capitalized terms used herein shall have the same meaning as given in the Declaration.

In order to provide adequate protection to all present and future Owners of Lots or dwellings in the Subdivision, the following covenants and restrictions, in addition to those set forth in the Declaration, are hereby imposed upon the Real Estate:

1. **PUBLIC RIGHT OF WAY.** The rights-of-way of the streets as shown on the plat, if not heretofore dedicated to the public, are hereby dedicated to the public for use as a public right-of-way.
2. **DRAINAGE UTILITY AND SEWER EASEMENTS.** There are areas of ground on the Plat marked "D.U. & S.E." (Drainage Utility & Sewer Easements). The Drainage, Utility and Sewer Easements are hereby created and reserved (a) for the use of Developer, all public utility companies (not including transportation companies), governmental agencies and the association for access to and installation, maintenance, repair or removal of poles, mains, ducts, drains, lines, wires, cables and other equipment and facilities for the furnishing of utility services, including but not limited to sanitary sewers, storm sewers and cable television services; and (b) for (i) the use of Developer during the "Development Period" (as such term is defined in the Declaration) for access to and installation, repair or removal of a drainage system, either by surface drainage or appropriate underground installations, for the Real Estate and adjoining property, (ii) the use of the Association

23

Cross References: 96-0098697, 95-0012240

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

FAIRWAY WOODS

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("Declaration") is made this 16th day of May, 1997, by Indiana Development Company, LLC, an Indiana limited liability company (the "Developer").

Recitals

1. Developer is the owner of the real estate which is described in Exhibit "A" attached hereto and made a part hereof (the "Real Estate").

2. Developer intends to subdivide the Real Estate (and any real estate annexed) into residential lots in a subdivision (the "Subdivision"). The Subdivision is to be known as Fairway Woods; provided Developer in its sole discretion may change the name of the Subdivision and/or may market the Subdivision under a name other than that set forth herein.

3. Developer desires to subject the Real Estate to certain rights, privileges, covenants, conditions, restrictions, easements, assessments, charges and liens for the purpose of preserving and protecting the value and desirability of the Real Estate for the benefit of each owner or any part thereof.

4. Developer further desires to create an organization to which shall be delegated and assigned the powers of maintaining and administering the Common Areas and certain other areas of the Real Estate and of administering and enforcing the covenants and restrictions contained in this Declaration and the Plat Covenants and Restrictions for the Real Estate as recorded in the office of the Recorder of Marion County, Indiana, and of collecting and disbursing the assessments and charges as herein provided.

NOW, THEREFORE, Developer hereby declares that the Real Estate is and shall be acquired, held, transferred, sold, hypothecated, leased, rented, improved, used and occupied subject to the following provisions, agreements, covenants, conditions, restrictions, easements, assessments, charges and liens, each of which shall run with the land and be binding upon, and inure to the benefit of, Developer and any other person or entity hereafter acquiring or having any rights, title or interest in or to the Real Estate or any part thereof.

05/22/97 04:01PM JOHN H. ROBERTS MARION CITY RECORDER CMC 55.00 PAGES: 23
Inst # 1997-0070416

085894 MAY 22 5
JOHN R. VON ARX
MARION COUNTY RECORDER

APPROVAL OF CORRECTION
METROPOLITAN DEVELOPMENT
DATE: 5-22-97
SUBDIVISION ADMINISTRATOR

FILED
MAY 20 1997
PIKE TOWNSHIP ASSESSOR

FILED

APR 14 1999

PIKE TOWNSHIP
ASSESSOR



(B)

Cross References:
95-12240, 96-98697,
97-70417, 97-70416

171841 APR 16 99
SUBJECT FOR TRANSFER
LACCEI

VOID

171852 APR 16 99
MARTHA A. WICKMANS
RECORDER OF MARION COUNTY, INDIANA

(Le)

AMENDMENT TO THE DECLARATION OF COVENANTS,

CONDITIONS AND RESTRICTIONS

OF

FAIRWAY WOODS

THIS AMENDMENT to the Declaration of Covenants, Conditions and Restrictions of Fairway Woods ("Amended Declaration") is made this 7th day of April, 1999 by Indiana Development Company, LLC, an Indiana limited liability company, (the "Developer").

Recitals

1. Developer has developed a subdivision known as Fairway Woods in Pike Township, the plat of which was recorded in the Office of the Recorder of Marion County, Indiana as Instrument No. 96-98697.

2. Developer subjected Fairway Woods to a Declaration of Covenants, Conditions and Restrictions of Fairway Woods (the "Declaration") by recording said Declaration in the Office of the Recorder of Marion County, Indiana as Instrument No. 97-0070416. Legal description attached as Schedule A.

3. The Declaration provides in subparagraph 3.1(iv) that the nonexclusive easement in favor of each owner for the use and enjoyment of the common area is subject to the right of the Association (Fairway Woods Community Association, Inc.) to dedicate or transfer all or any part of the Common Areas or to grant easements to any public agency, authority, or utility for such purposes and subject to such conditions as may be set forth in any instrument of dedication or transfer.

4. Developer wishes to amend subparagraph 3.1(iv) of the Declaration by adding the following language to such subparagraph of the Declaration:

"No such dedication or transfer shall be effective, however, unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members has been recorded."

NOW, THEREFORE, pursuant to the Declaration, Developer, by execution and recordation of this Amendment to the Declaration, does hereby amend subparagraph 3.1(iv) of the Declaration which Declaration is hereby incorporated herein by reference, by inserting therein the language set forth between quotation marks in paragraph 4 of the recitals appearing above.

04/16/99 10:43AM WANDA MARTIN MARION CTY RECORDER

Inst # 1999-0072922

JSH 14.00 PAGES: 3