

9646784

PROTECTIVE RESTRICTIONS, COVENANTS,
LIMITATIONS AND EASEMENTS
FOR

9146546

PHEASANT POINT ESTATES

in

St. Joseph County, Indiana

FILED

ST. JOSEPH COUNTY

NOV 22 3 47 PM '96

ST. JOSEPH CO. REC. ROOM
FILE NO. 9146546
RECORDED

as more particularly described in Exhibit "A" which is attached hereto and hereby made a part hereof.

All the lots in said Addition shall be subject to and impressed with the covenants, agreements, easements, restrictions, limitations and charges hereinafter set forth; and they shall be considered a part of the conveyance of any lot in said Addition without being written therein. The provisions herein contained are for the mutual benefit and protection of the owners, present or future, of any and all lots in said Addition; and they shall run with the land and inure to the benefit of and be enforceable by the owner, or owners, of any land or lots included in said Addition, their respective legal representatives, heirs, successors, grantees and assigns. The owner, or owners, present or future, of any land or lot included in said Addition shall be entitled to injunctive relief against any violation or attempted violation of the provisions hereof and also damages for any injuries resulting from any violation thereof; but there shall be no right or reversion or forfeiture of title resulting from such violation. The restrictions and limitations imposed upon said Addition are as follows:

1. LAND AND USE AND BUILDING TYPE. No dwelling shall be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling, not to exceed two and one-half (2 1/2) stories in height and a private garage for not more than three (3) cars. No lot or lots shall be used for any purpose other than as a single-family residence, with the exception of a home business which is defined as being within the residence dwelling and participated in solely by a member of the immediate family residing in said residence and as permitted by local ordinance. No sign or display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling shall be permitted.

2. DWELLING SIZE.

(a) GENERAL RESTRICTIONS. No dwelling shall be permitted on any lot with a living floor area of the main structure, exclusive of one-story open porches and garages, of not less than:



<u>Type of Homes</u>	<u>Minimum Square Footage</u>
Ranch Style	1,000 square feet
1 1/2 Story	1,300 square feet
2 Story or Higher	1,500 square feet
Tri-Level	1,600 square feet
Bi-Level	1,800 square feet

(b) GARAGES. All dwellings must have a full-size attached garage which is capable of storing at least one (1) automobile, but not to exceed space for three (3) automobiles.

3. ARCHITECTURAL CONTROL COMMITTEE. In order to maintain harmonious structural design, no building for the principal use of residential dwelling may be erected on any lot, unless and until the plans and specifications therefore have been approved in writing by the Pheasant Point Architectural Control Committee. There is hereby created the Pheasant Point Architectural Control Committee (hereinafter referred to as "Committee") which shall consist of three (3) persons appointed by the Pheasant Point "Developer" or its successors and assigns who shall serve until they are removed by the Developer or have resigned. This committee may designate any one of its members to act on its behalf. In the event of any vacancy on the Committee, the Developer shall appoint a replacement. The Committee shall have the authority to approve all plans and specifications for all structures to be erected in the subdivision. No construction of any structure shall be commenced until the Committee shall have issued its written approval. The decision of the Committee shall be entirely within its discretion. The authority of the Committee shall expire Fifteen (15) years after the date of the recording of this Plat.

4. BUILDING LOCATION. No building shall be located on any lot nearer to the right-of-way line than the minimum building setback lines as shown on the recorded Plat. No building shall be located nearer than eight (8) feet to any side lot line and having a total combined width of two (2) side yards of not less than twenty (20) feet. No dwelling shall be located closer than forty (40) feet to any rear lot line. For the purposes of this covenant, eaves, steps and open porches shall not be considered as part of the building; provided, however, that this shall not be construed so as to permit any portion of a building on a lot to encroach upon another lot nor violate any building code.

5. EASEMENTS. There are strips of ground variable in width, as shown on this Plat, and marked "Easement", reserved for use as roads and for the use of mains, poles, ducts, lines and wires, overland drainage flows, subject at all times to the proper authorities and to the easement herein reserved. No permanent structure shall be erected or maintained upon said strip of land. No changes shall be made in the grading of any lot areas used as drainage swales as initially provided which would alter the flow

of the overland storm drainage runoff, but owners of lots in this subdivision shall take their titles subject to the rights of the public utilities.

6. NUISANCE. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may become an annoyance or nuisance in the neighborhood. No campers, recreational vehicles, trailers, boats, snowmobiles, cars, disabled vehicles, commercial vehicles, and seldom used vehicles will be permitted to be kept outside of the residence or parked on the streets of the development. They must be kept within the structure or outside the development.

7. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently. No above ground pools shall be permitted. Any structures or additions must be approved prior to installation. No in ground pools will be allowed on any lot or lots unless a dual septic field system is installed on the lot or lots and approved by the St. Joseph County Health Department.

(a) FENCING. Fencing must have wood posts and rails. Fence material must be of a natural color, not galvanized steel. All fencing must be approved prior to installation.

(b) ANTENNA. No dwelling shall be permitted to have any sending or receiving devices, antennae or dish on the dwelling itself or on the lot on which the dwelling is located or any adjacent lots which might be owned by any other person.

8. DETACHED BUILDINGS. The construction and placement of any detached storage structures to be used for the storage of lawn tools, toys, swimming pool apparatus, or any other personal property must be of a quality construction and must be maintained in an attractive and neat manner and blend with the established home. Pheasant Point Developer shall have the authority to require protective screening around these structures. All buildings must be approved in writing prior to placement on lot. All buildings must be placed next to the existing dwelling and not at the back of the lot.

9. DRIVEWAYS - SIDEWALKS. No stone or cinder driveways shall be permitted. All driveways are to be complete and to the curb and must be constructed of asphalt or concrete. If constructed of asphalt, the depth of the asphalt shall be at least four (4) inches thick. Circular drives in front of homes (if any) may be a minimum of nine (9) feet wide. Each homeowner will install a five (5) foot sidewalk beginning five (5) foot from the back of the curb the full length of street frontage of the lot. The sidewalk shall be not less than two (2) inches above the curb and not more than six (6) inches above the curb.

10. SIGNS. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet, advertising the property for

sale or rent, or a sign of any dimension used by a builder to advertise the property during the construction and sales period. There is reserved to Pheasant Run Developer, its successors and assigns, the right to construct signs as they desire in order to foster the development, promotion and sale of lots or structures in said development.

11. PETS, LIVESTOCK AND POULTRY. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that of dogs, cats, or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes and are not permitted to become a neighborhood nuisance or hazard in any manner. All household pets must be kept within the house structure and not in a pen or separate structure, or chained outside.

12. GARBAGE AND REFUSE DISPOSAL. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition within the structure.

13. SIGHT DISTANCE AT INTERSECTIONS. 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 the 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. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

14. CONSTRUCTION. Construction of a dwelling by a recognized contractor(s) shall commence within a two (2) year period from the date of receiving title to said lot and shall be completed within the period stated in paragraph fifteen (15), unless a variance from this building requirement shall have been approved in writing by Pheasant Point Developer.

15. COMPLETION DATE. Any structure begun must be completed within a period of one (1) year from the date of beginning, or thereafter completely removed. The yard of each lot shall be planted with grass seed or with sod within one hundred twenty (120) days after the structure is completed, or the structure is occupied as a home, whichever is earlier.

16. FUEL STORAGE TANKS. All oil or fuel storage tanks must be installed underground or concealed within the main structure of the dwelling, basement or attached garage.

17. LOT DIVISION. There shall be no subdivision or sale of any lot by a homeowner for the purpose of building an additional dwelling or building.

18. UTILITIES. All lines for telephone and all other public utility services, either in the streets, or on any lots, shall be located underground, and shall not be visible. All street or lot lighting shall be situated on posts with no lines visible.

(a) YARD LIGHTING. Every residence will have a minimum of one yard light located in the front yard. This light will operate automatically by either an electric eye or timer clock.

19. SEWER - SEPTIC SYSTEMS. A sanitary septic system shall be installed for each dwelling erected in the tract. Such septic system shall be drawn to show that house and field system will fit on lot and be of a type and construction and so located on the individual lot as to be approved in writing by the appropriate regulatory agency as required in St. Joseph County. No other sanitary provision or device for sewage disposal, other than municipal sewer, shall be installed or permitted to remain on the tract, except that which is approved by the St. Joseph County Health Department.

20. RESTRICTION CHANGES. It is expressly provided that Pheasant Point Developer, its successors, or assigns, shall have the exclusive right for a period of ten (10) years from the date of recording of this Plat to amend any or all of the restrictions or covenants herein contained. Such amendment shall be evidenced by the recording of a written amendment signed and recorded in the office of the Recorder of St. Joseph County and shall become effective upon such recording. This shall include the right to waive any part of the restrictions or conditions as to any particular lot. After ten (10) years from the date of recording this Plat, these restrictions and limitations may be amended by the owners of the fee title of not less than seventy-five percent (75%) of the lots in the subdivision.

21. DURATION OF COVENANTS. These covenants and restrictions are to run with the land and shall be binding on all parties and all persons claiming under them until June 1, 2006, at which time said covenants or restrictions shall be automatically extended for successive periods of ten (10) years, unless by a vote of the then owners of the fee title of not less than seventy-five percent (75%) of the lots covered by these covenants and restrictions in whole or in part.

22. SEPARABILITY OF COVENANTS. Invalidation of any one of the covenants or restrictions by judgment of a Court of competent jurisdiction shall in no way affect any of the other covenants or restrictions and all other provisions of these restrictions shall remain in full force and effect.

23. ENFORCEMENT OF COVENANTS. The right to enforce these provisions by injunction, together with the right to cause the removal by due process of law of any structure, is hereby vested in each owner of a lot in Pheasant Point, and in Pheasant

Point Developer, its successors and assigns. These covenants and restrictions may all be enforced by a civil action for damages and by any other appropriate remedy at law or in equity. If any person or persons shall violate or attempt to violate any of the covenants herein, it shall be permissible for the owners of the lots hereinbefore described, their successors and assigns, or the Pheasant Point Developer, to proceed either in law or in equity, against such person or persons, violating or attempting to violate any such covenants, and to enjoin them from so doing to recover damages for such violation and to seek all other appropriate relief.

24. EFFECTIVE DATE. These restrictions and covenants shall be attached to and shall be considered a part of the Plat of Pheasant Point, and shall become effective upon the recording of said Plat or Plats in the office of the Recorder of St. Joseph County, Indiana.

PHEASANT POINT ESTATES

By: Dennis D. Miller
Dennis D. Miller

STATE OF INDIANA)
) SS:
ST. JOSEPH COUNTY)

Before me, the undersigned, a Notary Public, in and for said County and State, personally appeared Dennis D. Miller on behalf of Pheasant Point Estates, who acknowledged the execution of the foregoing to be his voluntary act and deed.

WITNESS, my hand and seal this 6th day of NOVEMBER,
1996.



Malcolm J. Tuesley
Malcolm J. Tuesley - Notary Public
A resident of St. Joseph County, Indiana
My commission expires October 5, 1998.

This instrument was prepared by: Malcolm J. Tuesley, Attorney at Law.
112 W. Jefferson Boulevard
South Bend, IN 46601

Exhibit "A"

LEGAL DESCRIPTION

A TRACT OF LAND IN THE SOUTHWEST QUARTER OF SECTION 4. AND THE SOUTHEAST QUARTER OF SECTION 5, TOWNSHIP 37 NORTH, RANGE 4 EAST, PENN TOWNSHIP, ST, JOSEPH COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 4; THENCE S 89 51' 57" WEST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER A DISTANCE OF 1649.86 FEET; THENCE SOUTH 00 32' 56" EAST A DISTANCE OF 669.46 FEET TO THE PLACE OF BEGINNING; THENCE CONTINUING SOUTH 00 32' 56" EAST, A DISTANCE OF 1979.27 FEET TO A POINT ON THE SOUTH LINE OF SAID SOUTHWEST QUARTER, 1645.85 FEET WEST OF THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 89 51' 01" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 989.98 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 4, BEING ALSO THE SOUTHEAST CORNER OF SECTION 5; THENCE NORTH 89 50' 54" WEST ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5, A DISTANCE OF 827.03 FEET TO A POINT 494.00 FEET EAST OF THE SOUTHWEST CORNER OF THE EAST HALF OF SAID SOUTHEAST QUARTER; THENCE NORTH 00 18' 37" WEST, PARALLEL AND 494.00 FEET EAST OF THE WEST LINE OF SAID EAST HALF, A DISTANCE OF 412.50 FEET; THENCE NORTH 89 50' 54" WEST A DISTANCE OF 494.00 FEET TO A POINT ON THE WEST LINE OF THE EAST HALF OF SAID SOUTHEAST QUARTER, 412.50 FEET NORTH OF THE SOUTHWEST CORNER THEREON, THENCE NORTH 00 18' 37" WEST ALONG SAID WEST LINE, BEING ALSO THE CENTERLINE OF BIRCH ROAD, A DISTANCE OF 2229.85 FEET TO THE NORTHWEST CORNER OF SAID EAST HALF; THENCE NORTH 89 51' 57" EAST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER A DISTANCE OF 826.77 FEET; THENCE SOUTH 00 21' 56" EAST, A DISTANCE OF 292.91 FEET; THENCE NORTH 89 54' 09" EAST A DISTANCE OF 222.47 FEET; THENCE NORTH 00 21' 56" WEST A DISTANCE OF 293.05 FEET; THENCE NORTH 89 51' 57" EAST A DISTANCE OF 130.22 FEET; THENCE SOUTH 00 42' 50" EAST A DISTANCE OF 670.47 FEET; THENCE NORTH 89 48' 53" EAST A DISTANCE OF 1118.54 FEET TO THE PLACE OF BEGINNING.