

DEDICATION AND DECLARATION OF PROTECTIVE RESTRICTIONS,
COVENANTS, LIMITATIONS, EASEMENTS, AND APPROVALS APPENDED
TO AND AS PART OF THE DEDICATION AND PLAT OF
WHISPERING WILLOWS, SECTION ONE,
A SUBDIVISION IN GARRETT, DEKALB COUNTY, INDIANA

BAER LAND DEVELOPMENT COMPANY, LLC, an Indiana Limited Liability Company hereby declares that it is the Owner and Developer of real estate which includes Whispering Willows, Section One, described in Exhibit "A", which is attached hereto, and does hereby lay off, plat and subdivide said real estate in accordance with the information shown on the final plat, being the certified plat appended hereto and incorporated herein. The Subdivision shall be known and designated as Whispering Willows, Section One, a Subdivision in Garrett, DeKalb County, Indiana.

The Lots shall be subject to and impressed with the covenants, agreements, restrictions, easements and limitations hereinafter set forth (and hereinafter referred to as the "Covenants"), and they shall be considered a part of every conveyance of land in said Subdivision without being written therein. The provisions herein contained are for the mutual benefit and protection of the owners present and future of any and all land in the Subdivision, and they shall run with and bind the land and shall inure to the benefit of and be enforceable by the owners of land included therein, their respective legal representatives, successors, grantees and assigns.

The Lots are numbered from 1 through 23, inclusive; and all dimensions are shown in feet and decimals of a foot on the plat. All streets and easements specifically shown or described are hereby expressly dedicated to public use for their usual and intended purposes. However, should there be a plat for future sections of Whispering Willows, these Covenants shall automatically be applicable to such all lots in that plat. At this time, it is contemplated that there will be a plat for Whispering Willows, Section Two, consisting of Lots numbered from 24 through 45, inclusive, and these Covenants shall automatically apply to that plat upon the recording of that plat.

As used in these Covenants:

"Architectural Control Committee" shall mean the body designated herein to review plans and to grant or withhold certain approvals in connection with improvements and developments.

"Association" shall mean and refer to Whispering Willows Association, its successors and assigns.

"By-Laws" shall mean the By-Laws initially adopted by Whispering Willows Association, and all amendments and additions

thereto.

"Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners of Lots in Whispering Willows, and also for drainage and the like, as shown on the plat of said Subdivision.

"Developer" shall mean and refer to the undersigned owners, its successor or successor in interest, and any person, firm or corporation designated by it or its said successor or successor in interest.

"Dwelling Unit" shall mean and refer to the structure used as a residential living unit located upon a Lot, including the garage and any appurtenances.

"Lot" shall mean any platted Lot, including any portion thereof which may be subject to easement, within the subdivision.

"Covenants" shall mean and refer to the dedication and declaration of protective restrictions, covenants, limitations, easements, approvals appended to and part of the dedication and plat of Whispering Willows, Section One.

"Subdivision" shall mean Whispering Willows Subdivision, including any subsequent sections.

I. Development and Use Restrictions

1. All lots shall be used for residential purposes only. No dwelling shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single-family dwelling not to exceed two (2) stories in height. Each dwelling shall include an attached one (or more) car garage, and basements may be constructed as part of the dwelling so long as the basements meet all other requirements. In addition, each Lot may have one (1) outbuilding of not more than ten feet by twelve feet (10' X 12") in floor area and a maximum of twelve feet (12') high, which outbuilding must be constructed with the same siding materials as the Dwelling Unit and be approved in the same manner as a dwelling house by the Architectural Control Committee.

2. No Lot shall be used for any purpose other than a single-family residence, except that a home occupation, defined as follows, may be permitted: Any use conducted entirely within the Dwelling Unit and participated in solely by a member of the immediate family residing in said Dwelling Unit, which use is clearly incidental and secondary to the use of the Dwelling Unit for dwelling purposes and does not change the character thereof, and in connection with which there is: (a) no sign or display that indicates from the exterior that the Dwelling Unit is being

used in whole or in part for any purpose other than that of a Dwelling Unit; (b) no commodity is sold upon the Lot; (c) no person is employed in such home occupation other than a member of the immediate family residing in the Dwelling Unit; and (d) no mechanical or electrical equipment is used; provided that, in no event shall a barber shop, styling salon, beauty parlor, tea room, licensed child care center or other licensed or regulated babysitting service, animal hospital, or any form of animal care or treatment such as dog trimming be construed as a home occupation.

3. No Dwelling Unit shall be built on any Lot having the living area of the main structure, exclusive of porches, breezeways, basements, or garages, of less than 1,200 square feet of living area if one story, and 850 square feet on the first floor if a two story. In addition, all of said square feet of living area must be constructed for year round living area. Furthermore, all such construction must be in accordance with the setbacks and easements and in accordance with the plat covenants and with the Garrett zoning ordinances and regulations.

4. Every Dwelling Unit on any Lot in the Subdivision shall be completed within twelve (12) months after the beginning of such construction. No improvement which has partially or totally been destroyed by fire or otherwise shall be allowed to be remained in such state for more than three (3) months from the time of such destruction or damage. Within said time limitations, but before any Dwelling Unit on any Lot shall be used and occupied as a dwelling or otherwise, the owner of such Lot shall install improvements serving such Lot as provided in the plans and specifications for such improvements filed with the appropriate governmental authorities, together with any amendments or additions thereto which said governmental authorities may authorize and/or require. In addition, such owner shall first obtain from the Garrett City Zoning Administrator an Improvement Location Permit and Certificate of Occupancy as required by the Garrett City Zoning Ordinance within said period of time. This covenant shall run with the land and be enforceable by any governmental authority having jurisdiction over the Subdivision, by the Association, or by any aggrieved Lot owner in this subdivision.

5. Any Dwelling Unit erected on a Lot shall be built on the site upon a permanent foundation, except as provided in this paragraph 5. Under no circumstances shall a mobile home or pre-built, or manufactured, or modular, or pre-fabricated home be placed, temporarily or permanently, on any Lot. However, pre-constructed home delivered in parts and then assembled on site on a permanent foundation, such as those furnished by All American Homes, is permitted.

6. No animals, livestock or poultry of any kind shall be

raised, bred or kept on any Lot, except that not more than two (2) domestic pets, such as dogs, cats or other household pets, may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Household pets must be either tethered or on a leash when outside of the Dwelling Unit. Owners

of household pets are responsible for cleaning up any messes created by those pets, whether organic or otherwise.

7. No Dwelling Unit shall be permitted to become overgrown, unsightly or to fall into disrepair. All Dwelling Units shall at all times be kept in good condition and repair and adequately painted or otherwise finished in accordance with specifications established by the Architectural Control Committee. No rubbish, trash, garbage or other waste materials shall be kept or permitted on any Lot except in sanitary, enclosed containers, which containers shall be kept inside or at the rear so as not to be visible from the street. Each owner, for himself and his successors and assigns, hereby grants to the Association, jointly and severally, the right to make any necessary alterations, repairs, maintenance or cleaning approved by the Architectural Control Committee to carry out the intent of this provision and they further agree to reimburse the Association for any expenses actually incurred in carrying out the foregoing. The Association may assess and collect such reimbursement in the same manner as it assesses and collects yearly assessments pursuant to the provisions regarding the Association below in these Covenants.

8. No noxious, loud, or offensive activity shall be carried on or allowed on any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Without limiting any of the foregoing, no exterior lights, the principal beam of which shines upon portions of a Lot other than the Lot upon which they are located, or which otherwise cause unreasonable interference with the use and enjoyment of a Lot by the occupants thereof, and no speakers, horns, whistles, bells or other sound devices, shall be located, used or placed on the premises, except security devices used exclusively for security purposes which are activated only in emergency situations or for testing thereof.

9. All lots must be covered with grass or other ground cover to reduce dust and erosion except during the construction/development period, and all lots whether improved or not, must be maintained and not allowed to become unsightly. All shrubs, trees, grass and plantings of every kind shall be kept well maintained, properly cultivated and free of trash and other unsightly material. There shall be a minimum of five (5) shrubs on each Lot and two (2) trees in every front yard.

10. Except for currently licensed motor vehicles stored for the routine and regular transportation of the family members

residing in a Dwelling Unit, no motor vehicle, boat, trailer or mobile units of any kind shall be stored on the Lot. Motor homes may remain on a Lot for not more than one (1) week each year. Off street parking on a Lot is permitted only for residents and their guests, and is not intended to be long term storage of any type of vehicle, whether licensed or otherwise.

11. No repairs to any motor vehicles, boat, boat trailer, or other mobile unit of any kind may be conducted on any Lot excepting only routine, minor repairs and maintenance to a vehicle owned by a resident of a Dwelling Unit, and only if done within an enclosed garage.

12. All Dwelling Units and other permitted structures shall be constructed in a substantial and good workmanlike manner and of new materials. The entire exterior of each residence shall be constructed of materials in accordance with this paragraph. All siding shall be of wood (such as cedar), aluminum, brick or vinyl. Each dwelling shall have at least twenty-five percent (25%) brick on the front. No roll siding, asbestos siding or siding containing asphalt or tar as one of its principal ingredients shall be used in the exterior construction of any Dwelling Unit or other permitted structure on any Lot of said Subdivision. Roofing shall be of asphalt or cedar shake shingles. No roll roofing of any description or character shall be used on the roof of any Dwelling Unit or other permitted structure on any of said Lots.

All exterior building surfaces, materials and colors shall be harmonious and compatible with colors of the natural surrounding and other Dwelling Units. The Architectural Control Committee shall have the right to approve or disapprove materials and colors so controlled. All windows, porches, balconies and exteriors of all Dwelling Units shall at all times be maintained in a neat and orderly manner.

13. No structure of a temporary character, trailer, boat trailer, truck, commercial vehicle, recreational vehicle (RV), camper shell, all terrain vehicle (ATV), camper or camping trailer, tent, shack, garage, barn or other building shall be either used or located on any Lot, or adjacent to any Lot, public street or right-of-way within the Subdivision at anytime as a residence, either temporarily or permanently, except as otherwise contained in the Covenants.

14. No outdoor fires for the purpose of burning leaves, grass or other forms of trash shall be permitted to burn upon any street, roadway or Lot in the Subdivision. No outside incinerators shall be kept or allowed on any Lot.

15. Power sources for all heating and air conditioning shall be by natural gas or electricity delivered in buried/underground lines from the property line to the dwelling unit. There shall

be no underground or above ground fuel storage on any lot.

16. All Lots in the Subdivision are required to have sidewalks, and the installation of said sidewalks shall be the obligation of the owner of such Lot, exclusive of the Developer, and shall be completed in accordance with the rules, regulations and ordinances of the City of Garrett, and shall be installed during the construction of the Dwelling Unit residence, or in any event within three (3) years after the purchase of the Lot, whether construction of a Dwelling Unit has begun or not.

17. It shall be the responsibility of each owner of a Lot to install a lighting fixture on a pole in the front yard of each Lot. These lights shall be on a photocell type switch so as to automatically operate from dusk to dawn, shall have a minimum of one hundred (100) watts in the light itself, and shall be mounted on a pole no less than six (6) feet high, with said pole fifteen (15) feet behind the sidewalk. Plans and specifications for each front lawn light, and the location of the same, are subject to the approval of the Architectural Control Committee, it being the intent to have all of said lights of similar construction, style, and substance.

18. No sign of any kind shall be displayed to the public view on any Lot except one (1) sign of not more than five (5) square feet, advertising such Lot for sale, or signs used by a builder to advertise such Lot during the construction and sales period.

19. No radio or television antennas shall be attached to any Dwelling Unit except for a receiving disk or dish, not to exceed thirty (30) inches in diameter, which shall be permitted to be attached to any Dwelling Unit. No free standing radio or television antennas shall be permitted on any Lot. No solar panels attached or detached shall be permitted.

20. All driveways from the street to the garage shall be poured concrete or masonry; and if the Dwelling Unit has a one car garage, the driveway shall be at least ten (10) feet in width, or if the Dwelling Unit has a two car garage, the driveway shall be at least eighteen (18) feet in width.

21. The type, location, and installation of mailboxes must be approved in advance by the Developer; and once mailboxes are installed, replacements and/or additional mailboxes shall be subject to the prior approval of the Architectural Control Committee.

22. In addition to the utility easements herein designated, easements in the streets, as shown on the plat, are hereby reserved and granted to the Developer, the Association and any public or quasi-public utility company engaged in supplying one

or more of the utility services contemplated in the addition, and their respective successors and assigns, to install, lay, erect, construct, renew, operate, repair, replace, maintain and remove all and every type of gas main, water main and sewer main (sanitary and/or storm) with all necessary appliances, subject, nevertheless, to all reasonable requirements of any governmental body having jurisdiction thereof as to maintenance and repair of said streets.

23. No rain and storm water runoff or such things as roof water, street pavement and surface water, caused by natural precipitation, shall at any time be discharged into or permitted to flow into the Sanitary Sewage System, which shall be a separate sewer system from the Storm Water and Surface Water Runoff Sewer System. No sanitary sewage shall at any time be discharged or permitted to flow into the above-mentioned Storm Water and Surface Water Runoff Sewer System.

24. Every owner shall have a right and easement of enjoyment in and to any common areas designated on the plat which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable fees for use of any recreational facility situated now or in the future upon any Common Area;

(b) the right of the Association to suspend the voting rights and right to use any recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed thirty (30) days for any infraction of its published rules and regulations after hearing by the Board of Directors of the Association;

(c) the right of the Association to dedicate or transfer all or any part of any Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of member agreeing to such dedication or transfer has been recorded.

(d) the Developer reserves the right so long as Class B members of the Association exist, to convey and transfer to the Association such additional real and/or personal property as the Developer within its sole discretion deems appropriate, and the Association shall accept such transfer and shall hold such property as a part of the Common Area of the Subdivision.

II. Whispering Willows Association

25. There shall be organized in connection with the development of Whispering Willows, and its various sections, an incorporated not-for-profit association known as Whispering Willows Association (the "Association"). Every owner of a Lot shall be a member of the Association. Membership shall be appurtenant to any may not be separated from ownership of any Lot which is subject to assessment.

(a) Each Lot (excluding lots owned by Developer) shall be entitled to one (1) Class A membership. Multiple owners of a Lot shall share the membership between themselves and shall designate one of the co-owners to be listed as a member. Each Class A membership is entitle to one vote. In no event shall more than one vote be cast for a "Class A" designated Lot.

(b) Each Lot owned by the Developer shall be entitle to one (1) Class B membership. Each Class B member shall be entitled to seven (7) votes. Class B membership shall cease upon the happening of either of the following events, whichever occurs first:

1. When fee simple title to all Lots have been conveyed by Developer; or

2. On December 31, 2002. If Developer still owns any lots as this date, all such lots shall revert to Class A membership.

26. Membership in the Association will transfer from the Developer or its successor in interest to the owner upon delivery of the deed to owners Lot. The owner of any Lot shall continue to be a member of the Association so long as he continues to be the owner of a Lot for the purposes herein mentioned. Membership shall pass with the transfer of title to the Lot. Each owner of a Lot shall be a member of the Association and have the right to the owners vote and privileges. Each owner of any Lot, excepting the Developer, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, as deemed to covenant and agree to pay to the Association: (1) annual assessments, and (2) special assessments for capital improvements. Such assessments shall be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys fees, shall be a charge and a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorneys fees shall also be the personal obligation of the person who was the owner of such Lot at the time when the assessment fell due. The

personal obligation for delinquent assessments shall not pass to an owners successors in title unless expressly assumed by them. However, the personal obligations for delinquent assessments shall continue to remain a lien against the land until paid or foreclosed.

27. The assessments levied by the Association shall be used exclusively to conduct the business of the Association and promote the recreation, health and welfare common to the residents in the Subdivision, and for the improvement,

maintenance and utilities associated with the common areas and facilities in the Subdivision.

28. Until changed by vote of the Association membership, the annual assessment shall be one hundred dollars (\$100.00) per Lot membership. Subsequent assessments may be increased no more than eight percent (8%) above the previous annual assessment, only by the vote or written assent of fifty-one percent (51%) of the total membership votes including the total of each class of members of the Association.

29. Any action authorized under paragraph Twenty-six (26) changing the amount of assessments shall be taken at a meeting of the Association called for the purpose, written notice, including the date, time and place of the meeting and a statement of the purpose, of which shall be sent to all members not less than thirty (30) days, nor more than sixty (60) days, in advance of the meeting. If the proposed action is favored by a majority of the votes cast at such meeting, but such vote is less than the requisite majority of each class of members, members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by an officer of the Association within thirty (30) days of the date of such meeting.

The Association membership shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of the date the annual assessment is due. Once determined, written notice of the annual assessment shall be given to every owner although failure to provide such notice does not abrogate the assessment obligation. The Association shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association stating whether an assessment on a Lot has been paid.

30. Annual assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly or yearly basis. The Association shall make the determination as to whether the assessments be collected on a monthly or yearly basis.

31. The annual assessments under paragraph Twenty-six (26)

shall commence as to all Lots then subject to an assessment, on the first day of the month, twelve (12) months after the conveyance of the first Lot sold by Developer. The Developer shall be responsible for maintenance of the common areas until the first annual assessment date.

32. Unless otherwise provided by By-Laws of the Association adopted as provided herein, the Association membership shall annually elect officers including President, Vice-President, Secretary and Treasurer. Elections shall be upon a majority vote of those present in person or by proxy to vote, so long as there is a quorum, and a quorum shall consist of fifty-one percent (51%) of the total membership votes.

33. In addition to the annual assessment authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the vote of written assent of fifty-one percent (51%) of each class of members of the Association.

34. Effect of Non-payment of Assessment/Remedies of the Association.

(a) Any assessment not paid within thirty (30) days after the due date shall bear interest at the rate of twelve percent (12%) per annum, or the rate set by the Association membership.

(b) The Association may bring an action by law against any owner and foreclose the lien of any assessment against a Lot in accordance with the laws governing foreclosures of liens in general. Liability of an assessment is absolute and is not discharged or otherwise lessened by non-use of the Common Areas or abandonment of a Lot. The Association shall also be entitled to recover all attorney fees, costs and expenses incurred due to the failure of an owner to timely pay assessments.

35. The lien of the assessments shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceedings in lieu thereof, shall extinguish the lien for such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

36. Sections may be added to Whispering Willows Association in the future and will be welcomed into the Association, and if accepted will have the same covenants and full Association rights and responsibilities.

III. Architectural Control Committee

37. No Dwelling Unit or other building, improvement, construction, excavation, landscaping, fence, wall, swimming pool or spa or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration thereof be made until two (2) sets of plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing by the Architectural Control Committee established in these covenants. All approvals shall be requested by submission to the Architectural Control Committee of plans and specifications in duplicate, showing the following:

- (a) The Dwelling Unit, and other improvements, access drives, and other improved areas, and the locations thereof on the site;
- (b) All landscaping, including existing and proposed tree locations and planting areas (and specie thereof), mail boxes, and exterior ornamentation;
- (c) Plans for all floors and elevations, including projections and wing walls;
- (d) Exterior lighting plans;
- (e) Walls, fencing, and screening;
- (f) Patios, decks, pools, and porches.

Neither the Developer, the Architectural Control Committee, nor any member thereof, nor any of their respective heirs, personal representatives, successors or assigns, shall be liable to anyone by reason of any mistake in judgment, negligence, or nonfeasance arising out of or relating to the approval or disapproval or failure to approve any plans so submitted, nor shall they, or any of them, be responsible or liable for any structural defects in such plans or in any building or structure erected according to such plans or any drainage problems resulting therefrom. Every person and entity who submits plans to the Architectural Control Committee agrees, by submission of such plans, that he or it will not bring any action or suit against the Committee or the Developer to recover any damages or to require the Committee or the Developer to take, or refrain

from taking, any action whatever in regard to such plans or in regard to any building or structure erected in accordance therewith. Neither the submission of any complete sets of plans to the Developer's office for review by the Architectural Control Committee, nor the approval thereof by that Committee, shall be deemed to guarantee or require the actual construction of the building of structure therein described, and no adjacent Lot Owner may claim any reliance upon the submission and/or approval of any such plans or the buildings or structures described therein.

38. The original Architectural Control Committee shall consist of three (3) members: Ronald Baer, Erica Baer, and Joshua Baer. A majority of the Committee may designate a representative to act for it. In the event of death or resignation of any member of the Committee, the remaining members shall have full authority to designate a successor. In the event said Board, or the Architectural Control Committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and this Article will be deemed satisfied.

39. The members of the Architectural Control Committee shall be elected by a vote of the membership of the Association on an annual basis at its annual meeting. Should there be no election or no annual meeting which takes place, or no one selected, the then sitting members of the Architectural Control Committee shall remain on the Committee until a replacement is properly elected.

IV. Effect and Enforcement

40. The covenants and restrictions of this declaration shall run with the land and bind any owner of any Lot, and shall insure to the benefit of and be enforceable by any Lot owner.

41. Any Lot owner, the Association, or the Developer shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and covenants, reservations, liens and charges now or hereafter imposed by the provisions of these covenants. Failure by any owner, by the Association, or by the Developer to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter, and shall not operate to deprive an owner, the Association, or the Developer from enforcing said covenant or restriction. The Developer and the Association, acting through their respective representatives, shall have the right, during reasonable hours, to enter upon and inspect the Lot and Dwelling Unit, whether prior to, during, or after the completion of, any construction, for the purpose of determining whether or not the

provisions of these restrictions are being complied with, and may exercise all rights and powers conferred upon the Developer, and upon the Architectural Control Committee, and upon the Association with respect to the enforcement or correction or remedy of any failure of a Lot owner to observe these restrictions; and the Developer, the Architectural Control Committee and the Association and such representatives shall not be deemed to have committed a trespass as a result thereof. Notwithstanding the foregoing, an occupied Dwelling Unit may not be entered hereunder unless written notice of such proposed entry shall have been given to the owner at least five (5) days prior to such entry.

42. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

43. The covenants and restrictions of this declaration may be amended by duly recording an instrument executed and acknowledged by not less than three quarters (3/4) of the Lot owners, which for the purposes of this provision, shall include the Developer, with one (1) vote for each Lot owned by the Developer.

44. The covenants and restrictions herein contained shall run with the land, and be effective for a term of twenty (20) years from the date these Covenants are recorded, after which time they shall automatically be extended for successive periods of ten (10) years; provided these Covenants may be amended as set forth above; and provided further, the Developer, its successors and assigns shall, with the approval of the Garrett City Plan Commission, have the exclusive right for a period of two (2) years from the date of recording of the plat to amend any of the Covenants and Restrictions.

V. Drainage Easement

45. The drainage easements, including the drainage detention area described as Block A, Block B and Block C, on the recorded Plat shall be maintained by the Whispering Willows Community Association. The storm water detention structures to be maintained by the Community Association included the dam (or dike) located within Block A, B and Cs boundary and the overflow pipe and emergency overflow structures located within Block A, B and C and on adjacent property within the easement provided.

46. Surface drainage easements and common areas used for drainage purposes as shown on the plat are intended for either periodic or occasional use as conductors for the flow of surface

water runoff to a suitable outlet, and the land surface shall be constructed and maintained so as to achieve this intention. Such easements shall be maintained in an unobstructed condition and the County Surveyor or a proper public authority having jurisdiction over storm drainage shall have the right to determine if any obstruction exists and to repair and maintain, or to require such repair and maintenance, as shall be reasonably necessary to keep the conductors unobstructed.

IN WITNESS WHEREOF, the undersigned owners of the real estate described in such plat have hereunto set their hand and seal, by the duly authorized members, this 2nd day of APRIL, 1999.

BAER LAND DEVELOPMENT COMPANY, LLC

BY Ronald J. Baer
Ronald J. Baer

BY Beverly A. Baer
Beverly A. Baer

STATE OF INDIANA, COUNTY OF DEKALB)SS:

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this 2nd day of APRIL, 1999, personally appeared Ronald J. Baer and Beverly A. Baer, known to me to be the duly authorized and acting members of Baer Land Development Company, LLC, an Indiana limited liability company, and each acknowledged the voluntary execution of the above and foregoing instrument on behalf of said limited liability company for the purposes and uses therein set forth.

Witness my hand and Notarial seal.

My Commission Expires:

2-10-2000



James P. McCanna
Notary Public

JAMES P. McCANNA

(typewritten or printed name)

Resident of DeKALB County, IN.

This instrument prepared by James P. McCanna, McCanna Law Offices, 1320 S. Grandstaff Dr., P.O. Box 543, Auburn, IN 46706.