

DECLARATION OF COVENANTS, RESTRICTIONS AND CONDITIONS FOR THE PLAT OF SECOND ADDITION TO SAUK CREEK, CITY OF MADISON, DANE COUNTY, WISCONSIN

A & J DEVELOPMENT CORPORATION, a Wisconsin corporation, or ASSIGNS (the "Developer"), owner of the real estate in the City of Madison, Dane County, Wisconsin, which has been platted as the plat of Second Addition to Sauk Creek (the "Plat") hereby declares that all of the lots in the Plat be and the same hereby are subject to the following restrictions, covenants and conditions:

1. For all buildings erected or placed on any lot subject to this declaration, the plans, specifications, site plans and landscape plan must be submitted to the Developer, or the Developer's duly sworn authorized agent, or the Developer's successors and assigns, for written approval as to quality of workmanship and materials, harmony of exterior design including exterior colors, size, location with respect to topography, and finish grade elevation in relation to the street elevation and the finish grade of adjacent structures and lots, prior to commencement of any construction on any lot. Failure of Owner and/or Builder to submit plans for approval prior to the signing of a building contract shall be done at Owners and/or Builders risk.

By approval of the plans submitted to the Developer or the Architectural Control Committee, the Developer or the Committee shall not be responsible for any approval necessitated by ordinances of the city of Madison, and the Developer or the Committee does not make any opinion or representation that the plans are structurally sound; that they meet any city, county or state codes; and the Developer or Committee shall be held harmless by the Builder or Home Owner from any and all claims with respect to the construction and materials used in the home to be built on the subject lot within the Plat. It shall be the Builder and Home Owner's sole responsibility to obtain all permits for the construction of the home.

After the Developer ceases to have any title to any lot subject to this declaration, the plans, specifications, and site plans must be submitted to a committee of three persons, elected by a majority of persons holding title to any lot or lots subject to this declaration, for approval in writing by a majority of said committee as to all of the items enumerated in the preceding paragraph. The election of said committee (the "Architectural Control Committee") shall be held annually for three (3) year terms, with one committee member elected the first year, followed by a second committee member the second year, followed by a third committee member the third year and so on. The committee members shall take office at the time of the annual association meeting.. Vacancies created between elections shall be filled by the remainder of the Architectural Control Committee. In the event the Developer or the Architectural Control Committee, whichever is then applicable, does not approve or reject such plans) specifications and site plans within fifteen (15) days after the same have been submitted to the approving authority, then such approval shall not be required in that instance.

2. For each building erected or placed on any lot subject to this declaration, the prime contractor or builder to be hired for construction of such building shall be approved in writing by the Developer or the Architectural Control committee, whichever is then applicable, prior to commencement of construction.

The approval of the Developer or the Architectural Control Committee shall not be unreasonably withheld. Such approval may be withheld for reasons such as, the proposed contractor's or builder's reputation or any other reason which would be similarly relied upon by a reasonably prudent businessman then developing a neighborhood of quality residential homes.

3. No alteration in the exterior appearance of existing buildings, including but not limited to exterior remodeling and the construction of patios, decks, and swimming pools shall be made without the prior written approval of the Developer or the Architectural Control Committee, whichever is then applicable.

4. The existing vegetation of each lot subject to this declaration, including trees of a diameter of three (3) inches or greater shall not be destroyed or removed except as approved in writing by the Developer or the Architectural Control Committee, whichever is then applicable. In the event such

vegetation is removed or destroyed without approval, the Developer or the Architectural Control Committee may require the replanting or replacement of same, the cost thereof to be borne by the lot owner.

5. The elevation of a lot shall not be changed so as to materially affect the surface elevation or grade of the surrounding lots. A copy of all plot plans shall be kept by the Developer or the Architectural Control Committee for the benefit of other purchasers in planning their individual elevations. Violation of the grading plan as submitted shall allow either the Developer or the Architectural Control Committee, whichever is then applicable, or any adjacent neighbor within the Plat a cause of action against the person violating such grading plan. No earth, rock, gravel or clay shall be excavated or removed without the approval of the Developer or the Architectural Control Committee.

Drainage patterns for each lot are indicated by arrows on the recorded Final Plat and such drainage patterns shall be maintained by the lot owner unless modified in writing by the city Engineer.

6. The Developer, after a period of ten (10) years from the date of recording of the final Plat of Second Addition to Sauk Creek or after seventy-five percent (75%) of the lots in the Plat of Second Addition to Sauk Creek have been sold, whichever occurs first, may elect to assign all of the Developer's right to approve all of the items listed in paragraphs 1 through 5 above to the Architectural Control Committee.

7. Any person who is the owner of record of one of the lots in the Second Addition to Sauk Creek shall also be a member of a Homeowners Association (the "Association") specifically for the 44 lots in the Second Addition to Sauk Creek.

The Association is separate from the Sauk Creek Homeowners Association that has been formed by the lot owners in the Sauk Creek and First Addition to Sauk Creek Plats.

The Association shall be responsible for the maintenance of Outlot's A, B and C.

The members of the Association will be charged an annual assessment to cover the general maintenance (including but not limited to the brick fencing and lights), utility charges and repairs of Outlot's A, B and C, and for any snow removal on sidewalks adjacent to these areas.

Each member of the Association shall pay its prorata share or 1/44 th of the expenses.

The full applicable assessment, without proration, shall be paid for the year in which a Lot is acquired.

The maximum annual assessment shall not exceed \$100.00 per year. This maximum shall not increase until January 1, 1992. At least ninety (90) days prior to January 1, 1992 an elected committee of three (3) persons shall estimate the total funds needed for 1992 and to determine if the annual assessment must be changed. If a change is needed, the committee shall notify the Association at least thirty (30) days prior to January 1, 1992.

All assessments must be paid on/or before October 31 of each year.

If payment has not been made by October 31, the committee has the power to put a lien on the Association members property for payment. The lien of the assessment provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. No sale or transfer shall relieve such lot from liability from any assessments thereafter becoming due or from the lien thereof.

8. Lots 244 -287 in the Plat shall be used only for single family residential purposes. Persons acquiring title to any of said lots within the Plat are hereby notified that Lot 4 certified Survey Map #5514

is intended for multi-family (Apartment) development and Lots I, 2 and 3 certified Survey Map #5514 are intended for commercial development and said persons specifically waive any rights to object to the development of said Lots. (Lots I, 2, 3 and 4 certified Survey Map #5514 were previously described as lots 242 and 243 First Addition to Sauk Creek.)

9. The following minimum floor area requirements shall apply to all single family residential buildings erected on Lots 244 through 287 in the Plat:

- a. No single story building shall have less than 2,200 square feet;
- b. No two-story building shall have less than 2,700 square feet;
- c. No raised ranch, bi-level, or tri-level building shall have less than 2,200 square feet on the main level;
- d. The above minimum requirements may be waived by the Developer or the Architectural Control Committee, whichever is then applicable, in the event the proposed architecture and quality of the house is such as to present an appearance compatible with other houses in the Plat.

For the purpose of determining floor area, stair openings shall be included but open porches, screened porches, attached garages and basements, even if the basements are finished, shall be excluded. All measurements shall be taken from the outside walls.

10. A minimum building setback of 40' from the front property line and 10' side yards are suggested. However all buildings constructed on any lot subject to this declaration shall conform to all governmental zoning requirements and all side-yard and set-back requirements imposed by the local ordinance. The Developer or the Architectural Control Committee, whichever is then applicable, shall have the right to change the side-yard and set-back requirements for new construction within the Plat from time to time at their sole discretion.

11. All single family residential buildings must have at least 50 % stone or brick on the front elevation, and all four elevations must have at least one window.

12. All single family residential buildings must have an attached garage and such garage must contain not less than two (2) nor more than four (4) automobile garage stalls. When possible, it is suggested that garage entrances be from the side.

13. No building previously erected elsewhere may be moved onto any lot subject to this declaration, except new prefabricated construction which has been approved by the Developer or the Architectural Control Committee, as previously set forth.

14. All driveways must be paved or concrete. No more than two (2) domestic animals may be kept on any lot subject to this declaration. Commercial animal boarding, kenneling or treatment is expressly prohibited whether for fee or not. Accessory buildings are expressly prohibited except where approved in writing in advance by the Developer or Architectural Control Committee, whichever is then applicable. Landscape planting and maintenance of the premises and adjoining street terrace shall be the responsibility of the lot owner. Where public sidewalks exist, it is the responsibility of the abutting lot owner to maintain same in a safe and passable condition, reasonably free from snow, ice or obstruction.

15. No trailer, basement, tent, shack, garage, barn, or any part thereof, shall ever be used as a residence, temporary or permanent, nor shall any residence be of a temporary character.

16. Parking of service vehicles owned or operated by residents of homes is prohibited unless such vehicles are kept in garages. Storage of boats, travel trailers, mobile homes, campers, and other

recreational vehicles is prohibited unless kept inside garages. This shall not prohibit the temporary storage of such vehicles for the purposes of loading or unloading for a period not to exceed forty-eight (48) hours. No cars or other vehicles shall be parked on lawns or yards at any time.

17. No firewood or wood pile shall be kept outside a structure. All areas of lots not used as a building site or lawn or under cultivation as a garden shall have cover crop or be so cultivated or tended as to keep such areas free from noxious weeds. The lot owner shall be responsible for maintaining the lot in a neat appearance. Except for wooded lots left in natural state, the owner shall mow the lot at least four (4) times annually. This paragraph shall not be construed to prevent a family garden or orchard.

18. On any lot conveyed by deed from the Developer, construction shall be commenced within one (1) year from the dated of such deed. Upon violation of this restriction, the Developer shall have the option, exercisable by written notice to the lot owner within ninety (90) days of the expiration of such (1) year period, to have said lot conveyed to the Developer at the original sales price, free and clear of any liens and encumbrances created by act or default of the owner of such lot, with taxes and installments on assessments for the year in which such conveyance occurs being prorated as of the date of such conveyance.

19. Construction of all buildings shall be completed within six (6) months after issuance of a building permit for the respective building. Landscaping (including grading, sodding and seeding) shall be completed within ninety (90) days of completion of construction, provided weather conditions so allow. If such construction or landscaping is delayed due to matters beyond the control of the owner, the time for completion shall be extended by the period of such delay.

Landscaping Requirements:

- a. All front and side yards must be sodded - this includes street terraces.
- b. Each home must have three (3) conifers or shade trees visible from the street. Minimum height of conifers shall be five (5) feet and minimum diameter of shade trees shall be three (3) inches.
- c. A minimum of \$2,500.00 shall be spent on foundation plantings.

The Developer or Architectural Control Committee, whichever is then applicable, may at their option, require submission of proof of actual landscape expenditures prior to or after foundation plantings have been installed.

20. No exterior antennas, satellite disks exceeding a diameter of 36" or a quantity over two, solar panels, outdoor kennels, walls or fences shall be permitted unless approved in writing in advance by the Developer or the Architectural Control Committee, whichever is then applicable, as to location, material height and color. All antennas and satellite disks should be placed to be least visible from the street or to other homes as possible.

21. No noxious or offensive trade or activity shall be carried on, nor shall anything be done which may be or will become a nuisance to the neighborhood. This shall not be construed to prevent a vegetable garden or orchard, provided that all vegetable gardens and orchards shall be located in back or side yards.

22. The owner of any lot subject to this declaration shall not change the elevation of the utility easement in excess of six (6) inches without the permission of Madison Gas and Electric Company and shall be responsible for any damages caused to underground utilities based on any changes in grade by more than six (6) inches.

23. This declaration shall run with the land and shall be binding on all persons having an interest in the Plat for a period of twenty-five (25) years after the Plat is recorded, after which time "this declaration shall automatically stand renewed for successive five (5) year periods unless the same is cancelled as

provided in section 26 below. If any person, or his heirs, successors or assigns, shall violate or attempt to violate any of the covenants and restrictions contained herein while this declaration is effective, any person or persons owning any lot or lots in the Plat shall have standing to bring proceedings at law or equity against the person or persons violating or attempting to violate any such covenants or restrictions, and the prevailing party shall be awarded reasonable attorney's fees and costs.

24. No lot as platted shall be re-subdivided. This covenant shall not be construed to prevent the use of one lot and part or all of another lot or lots as one building site.

25. No signs of any type shall be displayed to public view on any lot without the prior consent of the Developer or the Architectural Control Committee, whichever is then applicable, except lawn signs of not more than four .(4) square feet *in* size advertising property for sale.

26. These restrictions or any part thereof may be cancelled, released, amended, or waived in writing as to some or all of the lots subject to this declaration by any instrument signed by the Developer and at least 65% of the property owners subject to this declaration, or if the Developer has released or assigned the Developer's rights under this declaration, as above provided, then by an instrument in writing signed by 65% of the property owners subject to this declaration.

27. Invalidation of anyone of these covenants or any severable part of any covenant, by judgment or court order, shall not affect any of the other provisions, which shall remain in full force and effect.

28. Only mail boxes (and support columns) approved by the Developer or the Architectural Control Committee shall be used in the development.