

Annexed Morse Pits - Drive Park

NUM ✓
SCAN ✓
TRACT ✓
VERIFY ✓

Document No. 242895

Office of County Recorder
Houston County, Minnesota

I hereby certify that the within
instrument was recorded on
May 18, 2006
at 2:30 P.M.

Beverly J. Bauer
County Recorder

by Susan K. Schwelb
Deputy

242895

**DECLARATION OF RESTRICTIVE COVENANTS AND
MUTUAL EASEMENTS FOR PINE ESTATES, A SUBDIVISION
TO THE CITY OF CALEDONIA, HOUSTON COUNTY, MINNESOTA**

JAE Realty, LLC, being the owner of the land described on the attached Exhibit A, located in the City of Caledonia, Houston County, Minnesota, hereby makes the following declarations as to limitations, restrictions, and uses of the land for the benefit of the present owner and all future owners of the parcels of land constituted in the above-described real property, generally known as Pine Estates, a subdivision to the City of Caledonia, Houston County, Minnesota, and Lot 1 in Block 4 and Lot 1 in Block 5 of the West Main First Subdivision to the City of Caledonia, Houston County, Minnesota.

The declarations herein are designed for the purpose of keeping the subdivision an area which is desirable, uniform, and suitable in architectural design and use as specified herein.

JAE Realty, LLC, hereby publishes and declares that the Property shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to the following easements, covenants, conditions, and restrictions which shall run with the Property and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in the Property or any portion thereof, their heirs, personal representatives, successors, and assigns.

I

DEFINITIONS

Section 1: The word "Declarant" shall mean and refer to JAE Realty, LLC, a limited liability company organized under the laws of the State of Minnesota.

Section 2: The word "Developer" shall mean and refer to JAE Realty, LLC, a limited liability company organized under the laws of the State of Minnesota.

Section 3: The word "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated in Pine Estates, but notwithstanding any applicable theory of mortgages, shall not mean or refer to a mortgagee unless and until such mortgagee has acquired title pursuant to foreclosure or deed in lieu of foreclosure.

Section 4: The word "Pine Estates" shall mean and refer to all properties subject to this Declaration that is legally described on Exhibit A. Pine Estates is a subdivision of Lot 2, Block 2, and Lot 1, Block 3, West Main First Subdivision, to the City of Caledonia, Houston County, Minnesota. The word "Pine Estates" shall also include the real estate that is legally described as Lot 1 in Block 4 and Lot 1 in Block 5 of the West Main First Subdivision, City of Caledonia, Houston County, Minnesota.

Section 5: The word "Lot" shall mean and refer to any of the individual lots contained in Pine Estates. Attached hereto as Exhibit B and incorporated herein by reference is a copy of the Pine Estates plat map that shows various items including but not limited to the location of the lots and easements. Said plat map has been recorded by the Houston County Recorder's office, as Document Number 239640.

Section 6: The word "Properties" shall mean and refer to all of the real property subject to this Declaration, and all improvements now or hereafter located thereon.

II.

LAND USE

Section 1: Land Use and Building Type. No building or other structure shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) single-family residence per Lot, with attached or detached garage and one (1) shed. Attached hereto as Exhibit B and incorporated herein by reference is a copy of the plat map for Pine Estates. All use of the Lots must be in conformity with its respective zoning and in accordance with the zoning ordinances of the City of Caledonia.

Section 2: Building Size. No Residence shall be erected, altered, or permitted to remain on any Lot unless the ground floor thereof, exclusive of open porches and garages, is at least 1200 square feet for a ranch-style residences, split-entry or tri-level residences, or seven hundred fifty (750) square feet ground floor for two-story residences.

Section 3: Garages. Each Residence shall include an attached or detached garage having space for not less than one (1) nor more than three (3) automobiles. Siding and roofing materials of the Garage shall match Residence.

Section 4: Height of Buildings. No building shall exceed two and one-half (2 ½) stories in height, excluding the basement level.

Section 5: Roof. The roof of each residence shall have a minimum 4/12 pitch and a minimum overhang of ten (10) inches.

Section 6: Grass. The entire yard of each Lot shall be sodded or seeded with grass within four (4) months of the issuance of a certificate of occupancy and thereafter maintained. At the time of construction, or as soon thereafter as weather permits, the Owner shall plant at least one shade tree in the front yard for each Lot. All trees planted in said yard area must be in compliance with any laws, regulations, rules or ordinances of any governmental entity having jurisdiction over the Property that are applicable to landscaping.

Section 7: Setbacks. All setbacks must comply with the appropriate zoning classification of the City of Caledonia.

Section 8: Antennas and Satellite Dishes. Any antenna or other device for the transmission or reception of television or radio signals shall be no more than 5 feet above the roof height and satellite dishes no more the 24" in diameter.

Section 9: Maintenance of Lots and Improvements. Owners of Lots shall keep or cause to be kept all buildings, fences, and other structures and all landscaping located on their property in good repair. Rubbish, refuse, garbage, and other solid, semi-solid, and liquid waste shall be kept within sealed containers, shall not be allowed to accumulate on any Lot, and shall be disposed of in a sanitary manner. No Lot shall be used or maintained as a dumping ground for such materials. All containers shall be kept in a neat, clean, and sanitary condition and shall be stored inside a garage or other approved structure. No trash, litter, or junk shall be permitted to remain exposed upon any Lot and visible from adjacent streets or other Lots. Burning of trash on any Lot shall be prohibited. No lumber or other building materials shall be stored or permitted to remain on any Lot unless screened from view from other Lots and from the streets, except for reasonable storage during construction. Weeds, grasses, and similar vegetation shall not exceed twelve (12) inches in height on vacant Lots. Improved Lots shall be landscaped pursuant to a landscape plan approved by the Developer.

Section 10: Nuisance. Nothing shall be done or permitted on any Lot which is or may become a nuisance. No obnoxious or offensive activities or commercial business or trades shall be conducted on any Lot, except home occupations as defined and permitted by the applicable zoning resolution of the governmental entity having jurisdiction over the property.

Section 11: Household Pets. Household pets, such as dogs and cats, shall be permitted on any Lot, provided that said pets are restricted by leash or chain or confined by fence within the Lot or are properly trained and are at all times within the control of and controlled by the Lot Owner. Household pets may not be kept, bred, or maintained on any Lot for commercial purposes. The Owners of all Lots shall comply

with all rules, laws, regulations and ordinances of the governmental entities having jurisdiction over the property concerning pets.

Section 12: Damage or Destruction of Improvements. In the event any residence or other structure constructed on a Lot is damaged, either in whole or in part, by fire or other casualty, said Residence or other structure shall be rebuilt or remodeled within a reasonable period of time from the date of said damage or destruction to comply with this Declaration; or in the alternative, if the Residence or other structure is not to be rebuilt, all remaining portions of the damaged structure, including the foundation and all debris, shall be removed from the Lot within fourteen (14) days of said damage or destruction, and the Lot shall be restored to its natural condition existing prior to the construction of the Residence or other structure.

Section 13: Storage Tanks and Containers. All air conditioning, refrigeration, cooling, heating, or other mechanical equipment or system which is located outside of a Residence or other structure on a Lot shall be screened from view from other Lots and from the streets by fencing or landscaping.

Section 14: No Violation of Law. Nothing shall be done or kept in or on any portion of the Property by a Lot Owner which would be in violation of any statute, rule, ordinance, regulation, permit, or validly imposed requirement of any governmental body.

Section 15: Restrictions on Signs. No signs or advertising devices of any nature shall be erected or maintained on any Lot other than a sign advertising the sale of the Residence. Political signs shall be limited to two (2) weeks prior and two (2) days following the election.

Section 16: No Hazardous Activities. No activities shall be conducted on a Lot or within improvements constructed on the Lot which are or might be unsafe or hazardous to any person or property. Without limiting the generality of the foregoing, no firearms shall be discharged upon any Lot, and no open fires shall be lighted or permitted on a Lot except in a contained barbecue unit while attended and for cooking purposes or within a safe and well-designed interior fireplace.

Section 17: No Annoying Light, Sound or Odors. No light shall be emitted from any Lot which is unreasonably bright or which causes unreasonable glare; no sound shall be emitted on any Lot which is unreasonably loud or annoying; and no odor shall be emitted on any Lot which is noxious or offensive to others.

Section 18: Garbage and Refuse Disposal. No garbage, refuse, rubbish, or cutting shall be deposited on any street and not on any Lots unless placed in a suitable container located solely for the purpose of garbage pickup. All equipment used for the storage or disposal of such materials shall be kept in a clean and sanitary condition.

Section 19: Repair of Motor Vehicles. No activity, such as, but not limited to, maintenance, repair, rebuilding, dismantling, repainting, or servicing of any kind of vehicles, trailers, and boats may be performed on any Lot unless it is done within a completely enclosed garage located on the Lot which screens the sight and sound of the activity from the street and from adjoining Lots. The foregoing restriction shall not be deemed to prevent washing and polishing of any motor vehicle, boat, trailer, or motorcycle, together with those activities normally incident and necessary to such washing and polishing. In the event of violation of this provision, after reasonable notice, such boat, snowmobile, recreational vehicle, trailer, or other vehicle may be removed at owner's expense.

Section 20: Restrictions on Parking and Storage. Driveways shall not be used for parking or storing of boats, snowmobiles, trailers, camping vehicles, or other recreational vehicles, or for parking of trucks or other commercial vehicles, except temporarily or incidentally for the making of pickup and deliveries to neighboring Lots. No boat, snowmobile, recreational vehicle, trailer, or other vehicle other than automobiles shall be stored or parked in any driveway, yard, or street. All such vehicles shall be stored within fully-enclosed garages. In the event of violation of this provision, after reasonable notice, such boat, snowmobile, recreational vehicle, trailer, or other vehicle may be removed at owner's expense.

Section 21: Dirt or fill excavated: All dirt or fill excavated from the respective Lots belongs solely to the Developer. No Owner may remove any fill or dirt from his respective parcel unless he received the Developer's prior written approval to remove it.

Section 22: Fences. Any fences which are constructed on any Lot must be built with wooden fencing material or other such materials as approved by the Developer or by a majority of the Lot owners.

Section 23: STORAGE OF FIREWOOD. No firewood shall be stored within the front or side areas of any Lot and no firewood shall be stored on the premises except in inside storage areas.

III.

ENVIRONMENTAL AND ARCHITECTURAL CONTROL

Section 1: Approval by Developer: No building shall be erected, placed or altered on any Lot unless a set of building plans has been first submitted to the Developer, or the duly selected agent of the Developer, not less than 30 days prior to the start of construction. The submitted building plans shall include, but is not limited to the following: (1) plans for all proposed improvements of all types, which shall include specifications designating sizes, dimensions, materials, structural systems, and samples of exterior colors and materials; (2) site plan showing the location and design of all buildings, fences, roadways, parking area, and utility locations indicating the

dimensions thereof; (3) if separate, a site plan showing all grading, landscaping, and fencing; (4) if required, payment of anticipated architect's or engineer's fee; and (5) any other information as may be reasonably required by the Developer in order to ensure compliance with this Declaration.

All buildings must be in harmony with the external design and building size of existing structures and as to location, with respect to topography, finish grade elevations and exterior building locations. It is the intention of this provision to preserve the natural grade and terrain and general appearance of the area insofar as possible, and to eliminate any excessive cut or fill, in order to perpetrate and exemplify the natural beauty of the area for the benefit of Owners of the Lots.

The Developer shall have the right to hire an architect or engineer to assist the Developer in reviewing any plans or specifications submitted to the Developer, and the applicant shall be obligated to pay the fee of such architect or engineer, not to exceed One Hundred Dollars (\$100). The Developer shall have 30 days to approve or reject the building plans submitted pursuant to this paragraph. Said approval shall be in writing or indicated by endorsement on the plan and specifications submitted for approval. The Developer may deny a request for approval of a building even though the proposed building meets the minimum square footage requirements if the building is not in harmony with the character of the subdivision and nature of building design within the area.

Building plans not formally approved or rejected in 30 days shall be deemed approved unless enjoined by a court of competent jurisdiction. However, no building or other structure shall be erected or allowed to remain on any Lot which violates any of the covenants or restrictions herein contained. The issuance of a building permit or license by the governmental authority having jurisdiction over the Lot shall not prevent or prohibit the Developer or an Owner from enforcing the terms and provisions of this Declaration; and approval by the Developer of plans and specifications submitted to it shall not constitute any representation that such plans and specifications comply with applicable zoning ordinances or building codes.

Section 2: Variances. Upon written application detailing good and sufficient grounds, the Developer shall have the power to grant exceptions or variances to the requirements of this Declaration. A variance or exception may be granted by the Developer when the variance or exception is reasonably consistent with the intents and purposes of this Declaration and not materially detrimental or injurious to other properties to which this Declaration applies. Any such variance shall not be deemed a waiver of the same requirement in any other instance.

Section 3: Correction of Defects. The Developer, or its duly authorized representative, may at any time inspect any improvement for which approval of plans is required under this Article; provided, however, that the Developer's right of inspection of improvements shall terminate thirty (30) days after the work or improvement has been completed and the respective Owner shall have given written notice to the

Developer of such completion. No oral notice to Developer shall be sufficient to give notice of completion. The Developer's right to inspection shall not be terminated pursuant to this paragraph in the event plans for work or improvements have not been previously submitted to and approved by the Developer. If, as a result of any such inspection, the Developer finds that such improvement has been initiated without obtaining approval of the plans therefor or is not being constructed in substantial compliance with the plans approved by the Developer, the Developer shall have the right to initiate a civil action seeking injunctive relief against the Owner of a Lot who is initiating improvements without compliance with the Architectural Control provisions of this Declaration. Should the Developer be successful in obtaining injunctive relief against the Owner, the Developer shall be entitled to receive from the Owner all costs of the action, including reasonable attorney's fees. It is the intent of the Declaration to give the Developer the ability to prevent any construction within the Property of any type of improvement that has not been previously approved by the Developer.

If the Developer fails to notify the Owner of any noncompliance with the previously submitted and approved plans within thirty (30) days after receipt of written notice of completion from the Owner, the improvement shall be deemed to be in accordance with said approved plans. It is the duty of each Owner to contact the Developer prior to commencing improvements to confirm whether the original application has been approved or disapproved. The Developer may mail its decision as to approval or disapproval of the original application to the applicant, but in the event the Developer does not mail its decision or if the applicant does not receive the decision, the applicant must not commence construction until the applicant verifies approval or disapproval with the Developer.

Section 4: Liability. The Developer shall not be liable to any Owner for any loss, cost, expense, or damage, including but not limited to attorney's fees, suffered by such Owner as a result of any decision made by the Developer unless such action is taken in bad faith or with malice against the Owner.

IV.

EASEMENTS

The location of the easements, including the utility easements, is shown on the plat map attached hereto as Exhibit B. All owners shall purchase their respective Lots subject to all easements located in Pine Estates as shown on the plat map attached hereto as Exhibit B and any other recorded or observable easements.

V.

PREVIOUSLY ERECTED BUILDINGS

No building previously erected elsewhere on a permanent foundation shall be moved on to any Lot.

VI.

CONSTRUCTION PERIOD

Any building erected on any Lot shall be completed within 14 months from date of commencement, and no building shall be allowed to remain with tar paper, building paper sheathing, or similar covering, for a period longer than four (4) months.

VII.

ENVIRONMENTAL AND ARCHITECTURAL CONTROL SUCCESSION

While the Developer retains ownership of any Lot in the subject areas, environmental and architectural control shall be determined by the Developer or its duly authorized agent.

In the event of the death or resignation of the Developer from its duties in regard to environmental and architectural control, a successor committee consisting of three Lot Owners shall be elected by the majority of the fee Owners of the Lots in Pine Estates, with one vote being cast for each Lot in the subdivision.

VIII.

VACANT LOTS

Vacant Lots shall not be used for the storage of any materials, vehicles, boats, firewood and the like. Weeds shall be controlled in conformity with municipal ordinances.

IX.

DRAINAGE

Run-off shall not be altered in any such way as to cause increased drainage upon any adjoining Lot in the subdivision and shall be completed pursuant to Caledonia City Ordinances as well as any other regulations, rules, or statutes of any governmental body having jurisdiction over Pine Estates.

Drainage from each Lot shall be directed in such a way as to direct flow to the Lot's lot lines and not directly, or indirectly, to any structure located elsewhere in this subdivision or adjacent Subdivisions.

X.

GENERAL PROVISIONS

Section 1: TERM. These covenants are to run with the Lots designated as "Pine Estates", and shall be binding on all persons or entities owning the Lots within Pine Estates, their respective heirs, successors, representatives and assigns as well as any persons or entities hereafter acquiring said Lots for a period of fifty (50) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten years unless an instrument signed by a majority of the then homeowners of the Lots has been recorded, agreeing to change said covenants in whole or part.

Section 2: ENFORCEMENT. These declarations may be enforced by (1) any land owner that owns land in Pine Estates, (2) the Developer as long it owns any property in Pine Estates; or (3) any governmental entity that has jurisdiction over the above described land, including but not limited to the City of Caledonia, in Houston County, Minnesota.

Enforcement shall be by proceeding at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages. In the event it becomes necessary to commence any action to enforce this Declaration, the court shall award to the prevailing party in such litigation, in addition to such damages as the Court may deem just and proper, an amount equal to the costs and reasonable attorney's fees incurred by the prevailing party in connection with such litigation. The failure to enforce or to cause the abatement of any violation of this Declaration shall not preclude or prevent the enforcement thereof or of a further or contained violation, whether such violation shall be of the invalidation of any one of these covenants by judgment or court order, shall in no way affect any of the other provisions.

Section 3: SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

Section 4: AMENDMENT PROCEDURE. These covenants may be amended by a majority vote of the Lot Owners of Pine Estates, City of Caledonia, Houston County, Minnesota, through a duly written and recorded instrument, provided that this Declaration may not be amended without the prior written consent of the Developer so long as the Developer is the owner of any Lot within Pine Estates. There shall be one vote cast for each Lot in Pine Estates. However, the Developer may amend this Declaration at any time during which the Developer is the owner of at least one-third (1/3) of the Lots located in Pine Estates, with or without the written approval of the other Lot Owners.

Section 5: HOLD HARMLESS. The Developer is hereby held harmless for any non-compliance with any of the provisions provided in this Declaration of Restrictive Covenants and Mutual Easements and also is hereby held harmless for any claims resulting from the compliance and enforcement of the provisions herein.

Section 6: IDENTIFICATION OF DEVELOPER. For the purpose of the Declarations of Restrictive Covenants and Mutual Easements, the Developer is: JAE Realty, LLC. All decisions referenced in this Declaration shall require the mutual consent of JAE Realty, LLC.

Section 7: REVOCATION OF ANY PRIOR COVENANTS. This Declaration of Restrictive Covenants revokes and supersedes any prior Declaration of Restrictive Covenants for Pine Estates.

Section 8: DECLARANT'S RIGHTS. Declarant reserves the right to use any of the Lots as models and to sell, assign, or conduct other business in connection with the construction and development of the project from any such Lots prior to their being sold. This reservation of right or privilege in Declarant includes, but is not limited to, the right to maintain models, erect signs, maintain an office, staff the office with employees, and to show Lots then unsold. Declarant retains the right to be considered an Owner of any Lot that remains unsold. Declarant also reserves the right to make changes in the number, location, or manner of construction of buildings and other improvements on the Properties; provided that in all cases, such changes shall be accomplished in a manner consistent with applicable laws and ordinances.

Declarant reserves the right and is hereby vested with the sole control over any Common Area or Common Element landscaping, planting and the like. Declarant shall have the right to change landscaping within these areas from time to time.

The rights of Declarant shall continue only so long as Declarant owns one or more Lots.

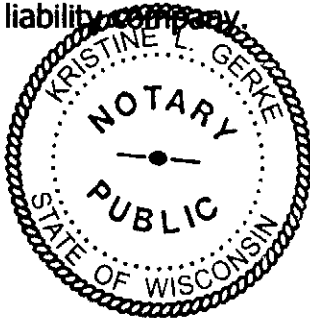
DATE: May 10, 2006

JAE Realty, LLC

By: Jack A. Edwards member
Jack A. Edwards, member

STATE OF WISCONSIN)
)ss
COUNTY OF LA CROSSE)

On this 10 day of May, 2006, before me a Notary Public within and for said County, personally appeared Jack A. Edwards, to me personally known, who being by me duly sworn, did say that he is the sole member of JAE Realty, LLC, the limited liability company named in the instrument, and that said instrument was signed on behalf of said limited liability company by authority of the limited liability company and said Jack A. Edwards acknowledged said instrument to be the free act and deed of the limited liability company.



Kristine L. Gerke
Notary Public
My commission: is permanent

CONSENT OF MORTGAGEE

The Bank of the West hereby consents to the foregoing.

Dated this 15 day of May, 2006.

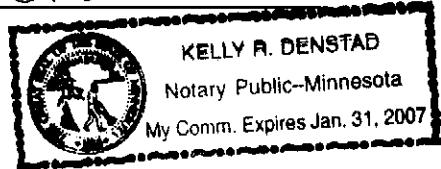
Bank of the West

By: [Signature]
Mike Werner
Title: Branch Manager

STATE OF Minnesota)
)ss
COUNTY OF Houston)

On this 15th day of May, 2006, before me a Notary Public within and for said County, personally appeared Mike Werner, to me personally known, who being by me duly sworn, did say that he is the Branch Manager of the Bank of the West, the mortgagee named above in the instrument, and that said instrument was signed on behalf of said mortgagee by authority of the mortgagee and said Mike Werner acknowledged said instrument to be the free act and deed of the mortgagee.

Kelly R Denstad
Notary Public
My commission: 1-31-07



THIS INSTRUMENT DRAFTED BY:
Attorney Kristine L. Gerke
GERKE LAW OFFICE, LLC
1283 CTH PH
Onalaska, Wisconsin 54650
608-781-5747

EXHIBIT A

Lots 1 through 14 in Block 1, Lots 1 through 5 in Block 2 of Pine Estates, being a subdivision of Lot 2, Block 2, and Lot 1, Block 3, West Main First Subdivision, Houston County, Minnesota

Lot 1, Block 4, West Main First Subdivision, Houston County, Minnesota

Lot 1, Block 5, West Main First Subdivision, Houston County, Minnesota

