360437

VOL. 675 PAGE 185

DECLARATION OF RESTRICTIONS TO THE PLAT OF BEAVER CREEK MEADOWS IN THE TOWN OF GALE, TREMPEALEAU COUNTY, WISCONSIN

Rec'd Otium Register
OFFICE OF REGISTER OF DEEDS
Trempealeau County, WI
Rec. for Record JUN 01 2004
at 10:00 O'Clock A. M
Vol 675 of Records
Page 185
Register

RETURN TO:
James W. McNeilly, Jr. @
BOSSHARD & ASSOCIATES
P O Box 966,
La Crosse, WI 54602-0966 pd $25.00

Beaver Creek Development 2, LLC, a limited liability company organized and existing under the laws of Wisconsin, (hereinafter referred to as the Developer) is are the owner of all of the following described real property located in the Town of Gale, Trempealeau County, Wisconsin:

Plat of Beaver Creek Meadows

Developer has subdivided said real estate into the following lots and outlots: **Lots 2 – 47,** (hereinafter referred to as the "Lots"), and Outlot 1 (hereinafter referred to as the "Outlot"), thereby creating the subdivision known as Beaver Creek Meadows, as such plat is now recorded by the Register of Deeds Office for Trempealeau County. Developer hereby makes the following declarations as to limitations, restrictions and uses to which all of the Lots or Outlot constituting the subdivision may be put, and specifies that such declarations shall constitute covenants to run with the land, as provided by law, and shall be binding on all parties and all persons claiming under them, and for the benefit of and limitations on all future owners of any Lot or Outlot in the subdivision, this declaration of restrictions being designed for the purposes of keeping the Lots and Outlot of the subdivision desirable, uniform and suitable in architectural design and use as specified in this instrument.

SECTION ONE
BUILDING RESTRICTIONS AND USE

1.1 The subdivision shall be a single-family, two-family and multi-family residential subdivision and all Lots shall be used solely for residential purposes. **Lot 2** may be used for single family, for two-family or multi-family residences. **Lots 3-7 and 24-47** shall be used for single-family residences, and **Lots 8-23** shall be used for single-family or two-family residences.

1.2 No building, except a residential building together with detached garage and/or such other accessory buildings as may be permitted by local land use or ordinances, shall be permitted on any Lots. Such garage or accessory buildings shall not be used for or in connection with multi-family living. A garage and/or accessory building on any Lot shall be of construction and architectural type similar to the residence on said Lot.

1.3 No trailer, basement, tent, shack, garage, barn or other outbuilding erected in the subdivision shall at any time be used as a residence temporarily or permanently, nor shall any residence of a temporary character be permitted.

1.4 No structure shall be moved onto any Lot in the subdivision.

1.5 Any single-family home constructed on a Lot shall have a minimum main floor area of the main structure, exclusive of one-story open porches and garages, of not less than 1,400 square feet for a one-story dwelling. In the case of a multiple-story or split-level single-family dwelling, the lower or ground floor living level shall be not less than 700 square feet and the total finished square footage area of the second floor and/or split level, when added to the minimum 700 square feet main floor requirement, shall not be less than 1,400 square feet. Any two-family dwelling constructed on a Lot shall have a minimum living area of the main structure, exclusive of one-story open porches and garages, of not less than 1,000 square feet per unit.

1.6 No home shall be constructed on any Lot at a cost of less than $100,000 for single family residences and $150,000 for two-family residences, based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than which can be produced on the date these covenants are recorded at the minimum costs stated herein for the minimum dwelling size. It is understood that said minimum amount is intended to fluctuate with the rise and fall of construction costs, but any dwellings so constructed must compare with a dwelling which could have been constructed for $100,000 for single-family residences and $150,000 for two-family residences as of February 14, 2004.

1.7 Any construction commenced on any house shall be substantially completed, including, but not limited to, all painting, within twelve (12) months from the date the construction is commenced.

1.8 No sign of any kind shall be displayed to public view on any building site, except for a one sign, limited to one, advertising the property for sale; which sign shall not be larger than five square feet, or signs of any size used by a builder to advertise the property during the construction and sales period, or a sign of any size used by the Developer to advertise the subdivision or the lots in the subdivision.

1.9 All buildings and improvements shall be constructed in compliance with the pertinent zoning and building codes of the Town of Gale, Trempealeau County, Wisconsin, and any and all other governmental entities that have jurisdiction at the time of undertaking the buildings and improvements. No dwelling, house, garage, or other accessory building or part of it (exclusive of fences and similar structures) shall be placed nearer to the front lot line or nearer to the side lot line or to the rear lot line than the minimum building setback lines, if any, imposed by any such governmental entity having control, or as shown on the recorded plat of the subdivision, whichever is more restrictive.

360437 VOL. 675 PAGE 187

1.10 No noxious, illegal, or offensive use of property shall be carried on any Lot or Outlot, nor shall anything be done on it that may be, or become, an annoyance or nuisance to the neighborhood. No business of any kind shall be conducted on any Lot or Outlot with the exception of the business of the Developer in developing all of the Lots and Outlots.

1.11 No trash, garbage, ashes, or other refuse, junk, vehicles in disrepair, underbrush, or other unsightly growths or objects shall be maintained or allowed on any Lot or Outlot. All fences and buildings shall be kept in a reasonable state of repair. All residences, garages, and accessory buildings shall be painted or stained, from time to time, so as to maintain a reasonable state of repair. No incinerators shall be allowed. No exterior wood burning furnaces or boilers shall be allowed. Use of outdoor grills or outdoor fireplaces shall be permitted.

SECTION TWO
ARCHITECTURAL CONTROL

2.1 No improvement, including, but not limited to, any dwelling, building, fence or accessory building shall be erected, placed or altered, nor any landscaping commenced, until the plans and specifications therefor and a plan showing the location and details of the improvement or landscaping shall have been approved by the Architectural Control Committee (hereafter "Committee") as to the quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography, finish grade elevations, drainage and public utility easements and exterior property lines.

2.2 While the Developer retains ownership of any Lot, this Committee shall consist of three members appointed by the Developer. The Committee may appoint a representative to act for them. When Developer ceases to own any of the Lots, a majority of the then record Owners of the Lots shall have one vote per Lot and shall elect the three members of the Committee.

SECTION THREE
TERM AND EFFECT

3.1 These covenants and restrictions shall be covenants running with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) 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 Owners of the Lots, has been recorded agreeing to change said covenants in whole or in part.

3.2 This Declaration may be terminated and all of the real property now or hereafter affected, may be released from all or any part of the terms and conditions of this Declaration, by the owners of 75% of the Lots subject to this Declaration at any time it is proposed to terminate this Declaration, by executing and acknowledging an

appropriate written agreement or agreements for that purpose, and filing the same with the Office of the Register of Deeds for Trempealeau County, Wisconsin.

SECTION FOUR
EASEMENTS AND LANDSCAPING

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No Lot Owner shall alter in any way, by fill or cut, any natural drainage ditch or channel. No Lot Owner shall make any substantial cut or alteration of natural terrain other than excavation of a basement.

SECTION FIVE
OPEN AREAS

5.1 Outlot 1 and all pedestrian easements described in the plat of the subdivision are hereby dedicated as common areas for the benefit of all Lots in the subdivision and shall be developed and maintained by the Association, as provided in this Section Five.

5.2 The Developer shall convey to the Association and the Association shall accept Outlot 1 and the pedestrian easements (hereinafter referred to as "common areas"). The Developer shall also contribute $100 out of the sale proceeds of each Lot to the Association to be used to develop the common areas.

5.3 Maintenance of the common area along with any amenities located on them shall be at the cost and expense of the Lot Owners within the subdivision, except for the Developer. All of such costs, shall be borne by the individual Lot Owners, per Lot, on an equal basis, except that Developer shall only be required to pay its pro rata share per lot, based on the number of Lots owned by the Developer, of real estate taxes and insurance.

5.4 This documents does not and is not intended to create a condominium within the meaning of Wisconsin Statutes Chapter 703.

5.5 By acceptance of the deed or other instrument of conveyance for his or her lot within the subdivision, each Lot Owner shall be deemed to covenant and agree to pay to the Association monthly assessments and special assessments. Such assessments shall be fixed, established and collected from time to time as provided in this Declaration. The monthly and special assessments, together with such interest and costs of collection as provided below, shall be a continuing lien on the property affected and shall also be a personal obligation of the Owner of the Lot on the date when the assessment is due.

Any first mortgagee who obtains title to a Lot pursuant to the remedies in its mortgagee or through foreclosure will not be liable for more than six (6) months of

unpaid monthly assessments. The monthly assessment shall initially be $5.00 per month.

On the vote of the members of the Association in the manner set forth below, the Association may levy, in addition to monthly assessments, a special assessment or assessments in any calendar year applicable to that year only, for the purposes of defraying in whole or in part various costs associated with the common areas.

Any special assessment or change in monthly assessment must be approved by the Board of Directors of the Association and have the assent of a majority of the votes of the Lot Owners present at a meeting called for that purpose. Written notice of the meeting called for such purpose shall be sent to all members of the Association at least ten (10) days in advance of the date of the meeting, setting forth the purpose of the meeting.

Any monthly or special assessment levied as set forth in this declaration shall become a lien on the affected real estate as soon as the assessment is due and payable as set forth above. In the event any Owner fails to pay the assessment when it is due, then the assessment shall bear interest at the maximum legal rate permitted by Wisconsin from the date when the assessment is due until it is paid in full.

Thirty (30) days after the date of any such assessment has been fixed and levied, the assessment, if not paid, shall become delinquent and the payment of both principal and interest may be enforced as in the case of a laborer's lien on the affected real estate. A notice of the assessment may be filed with the Register of Deeds for Trempealeau County, and venue shall be in Trempealeau County Circuit Court, Wisconsin. It shall be the duty of the Association to bring actions to enforce such liens before they expire.

Any such lien shall continue for a period of two (2) years from the date of delinquency and no longer, unless within that time period legal proceedings shall be instituted to collect the assessments, in which event the lien shall continue until the termination of the legal proceedings and the sale of the property under the execution of the judgment establishing the same.

In the event legal proceedings are commenced to collect any such assessment, or if the services of an attorney are retained by the Association in connection with same, the nonpaying Owner or Owners shall be obligated to pay all costs incurred, plus reasonable attorneys' fees, which costs and fees shall become a portion of the assessment and may be foreclosed on in the same manner as the assessment as provided above.

5.6 The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, enjoyment and welfare of the residents in the subdivision and, in particular, for the improvement and maintenance of the common areas. Without limiting the generality of the above statement of purpose, the assessments shall be applied by the Association to the payment of the costs to:

1. Enforce any and all building and land use restrictions that exist as of the date of this Declaration or which may be lawfully imposed on or against any of the property in the subdivision.

2. Maintain the common areas and any improvements on them.

3. Improve the common areas.

4. Pay expenses to carry out the above, such as real estate property taxes, special assessments, attorneys' fees, insurance costs, bookkeeping and accounting expenses, and any and all other expenses that may from time to time be deemed necessary to carry out the intent of this Declaration by the Association.

5.7 Each Owner, by purchasing any Lot in the subdivision shall automatically become a member of the Association and shall be bound by the terms and conditions of this Declaration, and such rules and regulations as may be promulgated and adopted by the Association.

5.8 On transfer, conveyance, or sale by any Owner of all of his or her or its interest in any Lot, the Owner's membership in the Association shall cease and terminate.

5.9 Except as provided in this Declaration, the Association shall be the sole judge of the qualification of its membership and of the right to participate in and vote at its meetings.

5.10 The official address of the Association is 5603 Eagle Lane, La Crosse, Wisconsin, and shall remain so until changed by the Association, at which time the Association shall notify each member of the change in address.

5.11 Each Lot Owner or Lot purchaser, on the purchase of the Lot, shall immediately notify the Association of the Owner's name and address.

5.12 Subject to the limitations set forth in this Declaration, the Association shall have the right to make such reasonable rules and regulations and to provide such means and to employ such agents as will enable it to adequately and properly carry out the provisions of this Declaration.

SECTION SIX
ENFORCEMENT

These covenants and restrictions are put into effect for the mutual benefit of all of the Lot Owners and, if any Lot Owner in this subdivision shall violate or attempt to violate any of the restrictions or covenants heretofore enumerated, it shall be lawful for any person or persons owning any real estate in this subdivision, or the Association, to prosecute any proceeding at law or in equity against any person or persons who are violating or attempting

360437 VOL 675 PAGE 191

to violate the restrictions and covenants. The Association, and/or persons enforcing these covenants and restrictions shall be allowed to recover monetary damages and/or injunctive relief or both.

SECTION SEVEN
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. Furthermore, if at any time any of the provisions of this declaration, shall be found to be in conflict with any law, regulation, ordinance or the like of the Town of Gale, Trempealeau County, State or Wisconsin, or of the United States of America, then such parts of this declaration as are in conflict with those laws, regulations, ordinances and the like shall become null and void, but no other part of this declaration not in conflict shall be affected.

SECTION EIGHT
AMENDMENT

These covenants and restrictions may be amended by a majority vote of the Owners of the Lots of the Beaver Creek Meadows subdivision to the Town of Gale, Trempealeau County, Wisconsin, except that any amendment also requires the written approval of Beaver Creek Development 2, LLC, while said Owner retains ownership of any Lot or Outlot in the subdivision.

IN WITNESS WHEREOF, the undersigned, acting as the members of Beaver Creek Development 2, LLC, have caused this declaration to be executed on the date indicated below.

BEAVER CREEK DEVELOPMENT 2, LLC

Date: May 27, 2004 By: Kenneth J. Visger, Member

Date: May 27, 2004 By: Robert H. Kasparek, Manager

Date: May 27, 2004 By: Member

Real Estate/Beaver Creek Development 2, LLC\
Declaration of Restrictions MEADOWS 3-15-04\

CONTINUED ON NEXT PAGE

360437 VOL. 675 PAGE 192

STATE OF WISCONSIN)
) ss
COUNTY OF LA CROSSE)

Personally came before me this 27th day of MAY, 2004, the above-named Kenneth I. Visger, to me known to be the person who executed the foregoing instrument and acknowledged the same for the said limited liability company, by its authority.

, Notary Public
La Crosse County, Wisconsin
My Commission:

STATE OF WISCONSIN)
) ss
COUNTY OF LA CROSSE)

Personally came before me this 27th day of MAY, 2004, the above-named Robert H. Kasparek, to me known to be the person who executed the foregoing instrument and acknowledged the same for the said limited liability company, by its authority.

Notary Public
La Crosse County, Wisconsin
My Commission

STATE OF WISCONSIN)
) ss
COUNTY OF LA CROSSE)

Personally came before me this 27th day of MAY, 2004, the above-named Fredrick C. Kusch, to me known to be the person who executed the foregoing instrument and acknowledged the same.

, Notary Public
La Crosse County, Wisconsin
My Commission

THIS DOCUMENT DRAFTED BY:

James W. McNeilly, Jr. @
BOSSHARD & ASSOCIATES
P O Box 966
La Crosse, WI 54602-0966

Real Estate/Beaver Creek Development 2, LLC\
Declaration of Restrictions MEADOWS 3-15-04\ jlk