

Return to: Title West, Inc.
N14 W24200 Tower Place, Suite 110
Waukesha, WI 53188

Recorded
SEP. 12, 2003 AT 10:05AM
SHARON A. MARTIN
REGISTER OF DEEDS
WASHINGTON COUNTY, WI
Fee Amount: \$43.00

**DECLARATION OF RESTRICTIONS
FOR
SUMMER WIND**

43-17

This Declaration is made this 11th day of September, 2003 by CS Land, LLC, hereinafter the "Developer".

WHEREAS, Developer is the developer of the Summer Wind Subdivision, in the City of Hartford, Washington County, Wisconsin, as more particularly described on the attached Exhibit A; and

WHEREAS, Developer desires to subject the Lots and Outlots in said Summer Wind Subdivision to the conditions, restrictions, covenants, reservations and easements contained herein for the benefit of the said property and for the benefit of each owner of any part thereof and for the purpose of creating a desirable utilization of land in an aesthetically pleasing residential environment.

THEREFORE, the Developer hereby declares that the real property described on the attached Exhibit A, shall be held, sold, conveyed, transferred, used and improved only subject to the conditions, restrictions, covenants, reservations and easements hereinafter set forth which shall inure to the benefit of the Developer, and its successors and assigns, and to all parties hereafter having any interest in the property.

1. BINDING EFFECT AND DEFINITIONS

This Declaration of Restrictions shall become effective immediately upon recording with respect to the property described on the attached Exhibit A.

The terms "Summer Wind", "Summer Wind development" and "subdivision", as used in this Declaration of Restrictions, are defined as the property described on the attached Exhibit A.

The term "Lot" as used in this Declaration is hereby defined as each separate buildable parcel of real estate existing now or in the future which is created by any land division done in accordance with all applicable laws and regulations, and in compliance with all restrictions set forth in this Declaration, of the lands subject to this Declaration.

The term "common area" is defined as Outlot 2, Summer Wind.

2. GENERAL PURPOSE

The general purpose of these restrictions is to assure that Summer Wind will become and remain an attractive, high quality residential community and to that end to preserve and maintain

the natural beauty, to insure the best use and the most appropriate development and improvement of building sites within the property; to protect owners of building sites against such use of surrounding sites as may detract from the residential value of their property; to guard against and prevent the erection of poorly designed or proportioned structures on any part of the property; to obtain harmonious use of materials and color schemes in improvements; to insure the highest and best residential quality of the property; to encourage and secure the improvements of the property with attractive homes with appropriate locations thereof on the building sites; to secure and maintain proper spatial relationships of structures to other structures and lot lines; and generally to insure the highest and best residential development of the property.

3. INTERPRETATION

It is inherent to protective covenants and restrictions that from time to time those covenants and restrictions are subject to interpretation. In those instances wherein an interpretation is required because there is no definitive rule to be followed, or because there is a question regarding an intangible concept such as, but not limited to, what constitutes harmonious architectural design, what is poor design or proportion and what is aesthetically pleasing, the matter shall be subject to the opinion of the Architectural Control Committee for the granting of a final approval.

4. ARCHITECTURAL CONTROL COMMITTEE

An Architectural Control Committee (hereinafter the "Committee") for Summer Wind Subdivision is hereby established. The Committee shall consist of not less than three members, designated as hereinafter set forth. The decision of the majority of the members of the Committee shall be final and binding upon all parties. The Committee members shall not be entitled to compensation for services performed pursuant to this paragraph. The initial members of the Committee shall be appointed by the Developer, and the Developer shall be entitled to remove and replace members of the Committee, at its sole discretion, as long as there remains any vacant Lot in the subdivision; thereafter, the Committee shall consist of the Board of Directors of the Owner's Association, established as hereinafter set forth, provided said Owner's Association is in existence. If the Owner's Association is not legally in existence at any time after which there is no longer any vacant Lot in the subdivision, the Committee shall continue in existence with its then existing members, and Committee members shall be subject to removal, replacement and/or appointment as follows: by majority vote of the Committee members in attendance at a Committee meeting called by any one or more Committee members for that purpose; and/or by majority vote of Lot Owners in attendance at a meeting of Lot Owners called by any one or more Lot Owners for that purpose. Lot Owner meetings called to remove, replace and/or appoint Committee members shall require not less than 10 days written notice to at least one owner of each Lot, by personal delivery or by First Class U. S. Mail addressed to the last known owner and address as shown on the Tax Roll.

5. ARCHITECTURAL CONTROL

No building, swimming pool, gazebo, fence, wall, driveway, tennis court, light post, landscaping or other structure or improvement shall be constructed, erected, placed or altered on any Lot in Summer Wind Subdivision without the approval of the Architectural Control Committee. For any undertaking requiring approval of the Architectural Control Committee, three sets of plans [including building construction plans (with square footage called out, and with roof, siding and trim colors), site plans, grading plans (where necessary) and landscaping

plans] shall be submitted to the Architectural Control Committee, with a postage paid return envelope. If and when plans are approved, two sets of the approved plans shall be signed, dated, and returned by the Architectural Control Committee to the Lot Owner as evidence of such approval. Any minor changes or revisions required by the Architectural Control Committee may be noted as an exception to approval on the plans and detailed in a letter to the Lot Owners. The Architectural Control Committee may also request that revisions shall first be made to the plans by the owner's agent before approval is given. Once the Architectural Control Committee's approval has been given the plans, with revisions, if any, by the Committee, shall be strictly adhered to by the Lot Owner, unless subsequent changes are approved by the Architectural Control Committee.

In passing upon the plans and specifications, the Committee may take into consideration the suitability of the proposed building or other structure or improvement, its design, elevation, color, construction materials, the harmony thereof with surrounding buildings, its proposed location, the view from other properties in the subdivision, and such other matters of terrain, environmental impact, aesthetics, and impact upon other Lots in the subdivision as the Committee may deem appropriate. The Committee shall have the right to waive minor infractions or deviations from these restrictions in the case of hardship and/or common sense. Any action by the Committee shall be final and conclusive as to all persons then or thereafter owning Lots covered by these restrictions. The Committee shall not be liable for actions taken or decisions made in good faith.

In addition to the requirements of these restrictions, all construction shall comply with applicable zoning and building code requirements. It is not intended that the Committee have full knowledge of, or expertise in, matters of zoning, building codes or proper drainage. The Committee shall have no liability or responsibility in the event it approves plans which fail to comply with applicable zoning or building codes, and/or which fail to properly handle drainage. Notwithstanding the fact that the Developer's Agreement provides that the Developer is responsible for housing design related to grades on all Lots, and that Developer shall not authorize building permit issuance where planned yard grade(s), top of block level, basement floor grade, driveway grade, or features such as spit-level, tri-level, exposed basement, etc are likely to result in erosion control problems, including unplanned storm water detention on a Lot or exporting storm water onto adjacent lot in violation of the storm water management plan, all persons and entities hereafter acquiring any interest in a Lot hereby assume primary responsibility for said matters, and hereby release and agree to hold harmless and indemnify Developer, and all members (including the then members and all past members) of the Architectural Control Committee, upon demand, from any and all liability or responsibility in any way relating to drainage matters. In the event that approved plans violate applicable zoning or building codes, or fail to properly handle drainage, it shall be the sole responsibility of the Lot Owner to discover and determine the error, to have the appropriate corrections made to the plans, and to resubmit the corrected plans to the Committee for its approval.

6. DWELLINGS AND OTHER STRUCTURES

All Lots shall be used only for single family residential purposes, and such recreational purposes permitted by this Declaration and applicable zoning. All dwellings shall be designed by a home designer, registered architect or equally qualified individual or firm.

It is specifically intended, by the architectural control provisions set forth herein, that there be a compatibility of architectural styles amongst the various homes that are in close visual

proximity to one another, while at the same time retaining diversity so as to avoid the monotony of duplication. Toward this end, the Architectural Control Committee may evaluate and approve the use of a particular architectural style of home on any given Lot in the subdivision. In making that evaluation the Architectural Control Committee may consider the proposed residence in relation to existing homes or previously approved homes that will be in close visual proximity to the proposed residence. The Architectural Control Committee, in its sole discretion, may grant conceptual approval for the use of a certain exterior design on any Lot in the subdivision, and reserve the use of said design for said Lot, prior to receiving the actual plans as required pursuant to Paragraph 5 above. Any such conceptual approval and/or reservation may be rescinded by the Architectural Control Committee at any time, at its sole option, upon not less than sixty (60) days written notice to the Lot Owner, if the Lot Owner fails to submit the full set of plans as required pursuant to Paragraph 5 above prior to the expiration of said notice period, and/or if the Committee rejects the plans so submitted.

The exterior siding of all dwellings shall consist of natural wood siding, natural stone, brick and/or stucco. In addition to the foregoing, exterior siding may consist of double-4 or double-5 wood-grain metal or vinyl siding providing three and one-half inch or larger cedar board or cedar board designed vinyl or metal material acceptable to the Architectural Control Committee is used on the corners of the dwelling, and providing that the architectural integrity of the home is not adversely affected by the use of such metal or vinyl siding. No other types of metal or vinyl siding shall be permitted. Further, the Architectural Control Committee, in its sole discretion, shall have the right to permit or prohibit the use of artificial stone, artificial brick, composite wood or wood substitute (such as wood-grain Hardi-Plank type siding), and/or other types of siding as it may deem appropriate to preserve the architectural integrity and quality appearance of dwellings in the Subdivision. No exposed poured concrete or concrete block over eight (8") inches above grade shall be permitted on any house. Where block or concrete would otherwise be exposed, it must be covered by the house siding, or by brick or stone. The Architectural Control Committee shall have the right to permit or prohibit the use of roof materials other than asphalt shingles.

All homes shall include an attached garage with a minimum capacity of two (2) cars. The Architectural Control Committee, at its sole discretion, may prohibit any attached garage which has an exterior appearance of having a capacity of more than 3 cars. All garages shall be equipped with automatic garage door openers for all overhead doors. No detached garages shall be permitted.

Not more than one (1) storage shed shall be allowed on any Lot. All outbuildings require approval, as to design, color scheme, location and landscaping, by the Architectural Control Committee. Outbuildings shall be of the same architectural style, and shall constructed and kept in the same color scheme, as the single family residence. No prefabricated metal or wood sheds shall be permitted. No outbuilding shall be constructed on any Lot prior to the commencement of construction of the single family residence on such Lot. All Lot Owners are further advised that outbuilding construction is also subject to applicable zoning ordinances, and may be prohibited or restricted unless a variance or conditional use permit is obtained from the City.

Pursuant to the Developer's Agreement entered into between the Developer and The City of Hartford, the following standards shall apply:

1. Liberal use shall be made of front porches and window/door trim. Porch rails shall be decorative and painted. All front elevations shall have a porch or other

specifically identifiable architectural feature such as a gable (other than the one over the garage) or arched/framed entryway.

2. Each house in the Subdivision shall contain at least two (2) of the following amenities:
 - Minimum 6/12 roof pitch
 - Architectural (dimensional) shingles
 - Two windows on each side of the house
 - Panelized garage and entry doors
3. Front-load garages may not extend forward of the house more than 10 feet for more than one-half of the houses with front-load garages.
4. Any lot less than 90 feet wide or 10,500 square feet is only allowed a 2-car garage. Further, any house on any lot with an attached 3 or more car garage require the at least one garage entrance will be side-loaded. For purposes of these restrictions, a 2-car garage is defined as a garage with an interior width of not more than 24', and a maximum door size of 18' for a single door, and 10' each for 2 doors, and a 3 or more car garage is defined as any garage having a total width of all garage door openings (other than service doors) in excess of 20'.
5. Structures with identical front elevations shall not be located adjacent to each other or directly face each other across a public right-of-way.

7. MINIMUM SQUARE FOOTAGE REQUIREMENTS

Houses constructed in Summer Wind Subdivision shall have a minimum square footage of living space as follows:

- i. One story houses shall have a minimum square footage of living space of not less than 1,400 square feet.
- ii. One and one-half story and two story houses shall either have a minimum square footage of living space of not less than 1,800 square feet total with not less than 1000 square feet on the first floor, or shall have not less than 1,400 square feet of living space on the first floor.
- iii. Split level houses (three or more levels) shall have a minimum square footage of living space of not less than 1,400 square feet total on the upper two levels.
- v. Bi-level houses shall have a minimum square footage of living space of not less than 1,400 square feet on the upper level.

Living space is determined by the outside dimensions (exclusive of garages, porches, patios, breezeways, sun rooms and similar additions) of the exterior walls of above grade finished living space. In no event shall floor space which is partially or completely below finished yard grade (such as basement space, whether or not exposed, and/or the lower level of a split level) be counted for purposes of determining minimum square footage of living space. The minimum square footage shall be determined as of the time of initial construction, and shall not consider or include unfinished areas or future additions.

Notwithstanding the above minimum square footage requirements, the Architectural Control Committee shall have the right, in its sole discretion, to reduce the square footage requirement for any house by up to 10 % (but not below the minimum required by applicable zoning), providing the house contains outstanding architectural features and/or materials.

8. COMMENCEMENT OF AND COMPLETION OF CONSTRUCTION

Any exterior construction commenced shall be completed within a one year period and shall be ready for occupancy within that period. A permanent lawn (including at least 4" of topsoil in all lawn areas) shall be established by the Lot Owner within 3 months of seeking an occupancy permit, unless the occupancy permit is sought between October 1 of any year through March 30 of the succeeding year, in which case the required establishment date is May 31st. Also, within one year of occupancy or within two years of the commencement of construction, whichever date shall be shorter, the owner of such Lot shall complete all landscaping in accordance with the plans and specifications approved by the Architectural Control Committee.

During the time of construction the Lot Owner shall be responsible to see that his or her contractor maintains a constant cleanup of all scraps, paper or other waste materials, and all dirt and mud tracked onto public streets, and that appropriate measures are taken to prevent damage to road pavement, curb and gutter and sidewalks. The Lot Owner shall be responsible for the repair of any and all damage to the public right-of-way adjacent to the Lot, including but not limited to any pavement, sidewalk, curb, gutter, ditch, swale and/or culvert, and to any drainage ditches, swales and/or other drainage facilities on the Lot, occurring prior to completion of construction. In the event that the owner or his contractor shall fail in this responsibility the Developer shall have the right to perform the necessary cleanup and/or make the necessary repairs and to charge the Lot Owner for the expense incurred by the Developer, as set forth in Paragraph 9 below.

During any earth moving activities, proper erosion control practices shall be installed to prevent sediment entering storm water drainage ways or leaving the immediate construction site.

9. PARK FEES

Lot owners, by acceptance of a Deed to their Lot, assume and agree to perform the obligations of Developer relating to payment of Park fees. The Park fee is due and payable by the Lot Owner, to the City of Hartford, at the time of building permit issuance. The Park fee, as of February, 2003 is \$700.00 per Lot. This fee may be subject to increase by the City of Hartford. In the event any Lot Owner fails in their obligation to pay the Park fee on or before issuance of the building permit, and in the event Developer pays same, the Owners of such Lot, jointly and severally, shall reimburse Developer, upon demand for the amount paid by Developer, including any interest and penalties, plus an administrative fee of \$100.00.

10. TREES

No existing live tree with a diameter of four inches or more at a height six inches above ground shall, without approval of the Architectural Control Committee be cut down, destroyed, mutilated, moved or disfigured. All existing trees shall be protected during construction and preserved by wells or islands and proper grading in such a manner as may be required by the Architectural Control Committee. Existing live trees with a diameter of four inches or more at a height six inches above the ground shall be considered by the Architectural Control Committee in granting approval for the location of the house, driveway and any and all other structures on any Lot.

Lot owners, by acceptance of a Deed to their Lot, assume and agree to perform the obligations of Developer relating to the installation of street trees in front of their Lots, as set forth in the Developer's Agreement. The Owners of each Lot shall plant a minimum of two (2) trees, between the sidewalk and curb in front of the Lot, (plus one tree along the second street yard for corner Lots). Each tree shall have a minimum trunk diameter, at the time of planting, of not less than two inches (2"), measured six inches (6") above the ground surface. The type, nursery source and planting location of said trees shall comply with the requirements of the City of Hartford, and the Lot Owner shall supply to Developer all documentation required by the City, including but not limited to documentation from the supplier as to the type of tree and the identity and location of the nursery where it was grown. The installation of the foregoing trees shall be completed, and the documentation shall be supplied to Developer, on or before the earlier of: August 1, 2004; or 60 days after the issuance of an occupancy permit for the dwelling on the Lot (with an extension to no later than June 1, 2004 for installations related to occupancy permits issued during the months of December, 2003 through March, 2004). In the event any Lot Owner fails in their obligation to timely install any tree, and/or provide the required documentation, pursuant to this provision, Developer may install such trees as are required by the Developer's Agreement in front of such Lot, and, in such event, the Owners of such Lot, jointly and severally, shall reimburse Developer, upon demand for all costs and expenses incurred by Developer for such tree(s), plus an administrative fee of \$100.00.

Lot Owners are further required to maintain, and replace, if necessary, the street trees installed in the road right of way in front of their Lot, between the sidewalk and the street, for a period of three (3) years from the date of planting of each such tree. Replacement, if required, shall be with a tree approved by the City of Hartford.

11. BUILDING SETBACKS

It is one of the intentions of the covenants and restrictions to create a completed community whose site plan is varied and well integrated to the overall site surroundings as well as the specific Lot.

The minimum building setbacks and offsets are:

- 25 feet from all street property lines for garages;
- 20 feet from all street property lines for dwellings;
- 10 feet from all side property lines;
- 25 feet from all rear property lines;
- 25 feet from all wetlands.

The site plan for each Lot will be reviewed with respect to achieving the above goals and avoiding monotony or noticeable similar placement of homes to those existing or previously approved. In achieving these goals, offsets greater than those specified above may be required by the Architectural Control Committee. Further, the Architectural Control Committee, in its sole discretion, may alter the offsets to the minimum allowed by the City of Hartford if it determines, in its sole discretion, that terrain conditions and/or preservation of existing trees so require.

12. DRIVEWAYS AND SIDEWALKS

The owner of each Lot shall, within ninety (90) days of the date of issuance of a Conditional Occupancy Permit for the residence on a Lot, install a hard surfaced concrete or asphalt driveway. Said driveway shall extend from the vehicle entry to the garage to an intersection with the public street. The driveway approach, extending from the public street to the house side of the public sidewalk shall be concrete, and shall be installed in compliance with the driveway approach construction requirements of the City. The street side 15 feet of all driveways is limited to a 20-foot width.

Lot owners, by acceptance of a Deed to their Lot, assume and agree to perform the obligations of Developer relating the installation of public sidewalks in front of their Lots, as set forth in the Developer's Agreement. Excluding Lots 1-3 and the west side of Lot 4, the owner of each Lot shall, on or before receipt of an initial Occupancy Permit, install a 5-foot wide public sidewalk within the public road right-of-way adjacent to the Lot, at a distance of 7 ½ feet from the back of the curb (5 ½ feet from the back of the curb along the eyebrows serving Lots 4-6), in compliance with all requirements of the City of Hartford. In the event occupancy is requested during inclement weather, a sidewalk construction escrow amount may be placed by the Lot Owner with the City, in an amount determined by the City Engineer, in order to obtain a Conditional Occupancy Permit.

13. HEIGHT OF GRADE AND BUILDING PADS

No owner of any Lot, nor any person or persons claiming under him, shall or will at any time alter the grade of any Lot from that which is naturally occurring on that Lot at the time the site development improvements have been completed by the Developer, except to the extent required to comply with the Master Grading Plan or any amendment thereto approved by the City Engineer on file in the office of the City Clerk, unless and until the property owner shall first obtain the written approval of the Architectural Control Committee and the City of Hartford for such grade alterations.

In order to obtain this approval it shall first be necessary for the property owner, at his or her expense, to have prepared a grading plan which shows in detail the area to be re-graded, the existing and proposed topography, analyzes the effects on site drainage, and is a plan which does not unreasonably affect an adjacent Lot Owner as regards drainage or their viewing of unreasonable slope treatment.

Each Lot Owner must strictly adhere to and finish grade its Lot in accordance with the Master Lot Grading Plan or any amendment thereto approved by the CITY Engineer on file in the office of the CITY Clerk. The Developer and/or the CITY and/or their agents, employees or independent contractors shall have the right to enter upon any Lot or outlot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the property owner is responsible for cost of the same.

Subdivision grading has been performed with the intention that home construction on each lot take place within a building pad area consisting of a strip of land extending from the minimum front yard set-back line to a line parallel to and 50 feet back from said front yard set-back line, and extending across the Lot to the minimum side yard set-back lines. Construction of the home and/or other improvements beyond the limits of such building pad area may result in an increased risk of encountering adverse subsoil conditions.

14. NUISANCES

No noxious or offensive activities shall be carried on upon any Lot or outlot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

15. OUTDOOR STORAGE

No boat, unlicensed vehicle, inoperable vehicle, recreational vehicle, vehicle licensed as a truck containing any type of commercial signage, truck or van classified as having a rated capacity in excess of 3/4 ton, or trailer of any kind, may be parked or stored on any Lot outside of a building for any time period in excess of 24 hours in any calendar week, except for trucks and/or trailers used during construction or remodeling periods. The term "recreational vehicle" shall mean any vehicle used primarily for pleasure or recreation, and shall include, but not be limited to: snowmobiles; trail bikes; travel trailers; campers; motor homes; and off road vehicles of any kind. Further, no other vehicles and/or equipment, except vehicles and/or equipment not exceeding a total of 100 square feet, shall be stored outdoors on any lot. Parking on the driveway of fully licensed and fully operational automobiles, non-commercial trucks having a rated capacity not in excess of 3/4 ton, and non-commercial vans having a rated capacity not in excess of 3/4 ton, shall not be construed as "storage" for purposes of the foregoing, and is not prohibited by these restrictions.

16. UTILITY RESTRICTIONS

All Lots shall be provided with electric, natural gas, and telephone service by means of underground installation only. No residence or other building or structure on any Lot shall be serviced by the use of any secondary overhead service wires. All costs and expenses involved in installing underground utility service connections on any Lot between the utility companies' secondary pedestals and the buildings on any Lots shall be paid by the owner of said Lot.

17. ANIMALS AND LIVESTOCK AND POULTRY

No animals, livestock or poultry shall be raised, bred or kept on any Lot, except that dogs, cats and/or other customary household pets shall be permitted providing they are not raised, bred and/or kept for commercial purposes. Outdoor kennels are prohibited.

18. SIGNS

No sign of any kind shall be displayed to the public view on any Lot except one sign not more than two square feet in size identifying the property of the owner, one sign not more than five square feet in size advertising the property for sale or rent, a sign used by a builder to advertise a residence for sale, or as a model home, but only during the construction and sales period, such signs as may be used by the Developer in conjunction with initial Lot sales in the

subdivision, or one or more subdivision entrance signs erected by the Developer and/or by the Association.

19. LAWN AND YARD

In addition to the normal maintenance and mowing of lawn areas on a Lot, the owner of each Lot shall also maintain the lawn and yard area in front of the Lot from the property line (front lot line) to the back of the curb and gutter section or shoulder of the public roadway. In addition to mowing the area between the Lot line and the road, the Lot Owner shall keep this area free of debris and in all other ways properly maintained.

20. ANTENNAE

No exterior antennae, other than one dish type antenna not exceeding thirty (30) inches in diameter, shall be allowed on any Lot.

With respect to dish antennas not exceeding thirty (30) inches in diameter, same shall not be attached to the front of any house, nor shall same be located in the front yard of the residence.

21. FENCES

All fencing requires approval of the Architectural Control Committee prior to installation. It is the intention to preserve the open natural feeling of Summer Wind Subdivision's environment. Therefore, no barrier fences or containment fences may be erected on or adjacent to any lot line, other than along the rear lot lines of Lots adjacent to Independence Park (if approved by the Committee). The Committee may approve fencing which is purely of a decorative or landscaping nature, fencing of play areas of limited size, and fencing to meet governmental regulations with regard to swimming pools.

22. MAILBOX, LAMPPOST AND LANTERN

Each Lot shall have a uniform mail box and newspaper box on a uniform wood post, which shall be installed by the Lot Owner at the Lot Owner's expense no later than the date of issuance of the occupancy permit. The design and specifications of the mail box, newspaper box and post, including size, style, color, paint or stain, and materials, shall be such as is determined by the Architectural Control Committee, so that all mail boxes, newspaper boxes and mail box posts have a uniform appearance throughout the Subdivision. If the Post Office requires the use of grouped mail boxes, Developer shall have the right to elect, as to some or all Lots, to provide and install the mail boxes, newspaper boxes and/or posts, and to collect from Lot Owners, at or after closing on the lot sale, a reasonable charge for providing and installing same. The Owner's Association shall have the right to assume all or part of the responsibility for maintaining, repairing and/or replacing mailboxes, newspaper boxes and/or posts, and to charge the cost thereof as a common expense. To the extent not assumed by the Association, the Lot Owner shall be responsible for maintaining the mailbox, newspaper box and post in a first class condition at all times, and in compliance with the specifications.

Lot Owners are not required to install a lamppost and lantern, however, if the Lot Owner does install a lamppost and lantern the Lot Owner shall, prior to installation, obtain the approval of the Architectural Control Committee for the lamppost and lantern, including, but not

necessarily limited to, approval of size, style, color, quality of construction and materials, wattage and location. To obtain approval, the Lot Owner must submit a picture or drawing of the proposed post and lantern, details concerning specifications, including color, type and quality of materials, wattage and type of light source, and such other information as the Architectural Control Committee may require. The Architectural Control Committee has the express right to include in the basis of its decision matters concerning quality and ease of maintenance. The Lot Owner shall be responsible for maintaining the light post and lantern in a first class condition, and in compliance with the approval, at all times, and the failure to do so shall constitute a violation of this Declaration of Restrictions.

23. EASEMENTS

The Developer at its sole discretion may grant easements to the public utilities that will service the Lots at Summer Wind Subdivision. Developer expressly reserves the right to grant any and all such easements within individual Lots, at any time within 1 year after the conveyance of such Lot by Developer, without the necessity of obtaining any consent from the Lot Owner or any mortgagee or other lien holder. All water, sanitary sewer, storm water and utility easements heretofore or hereafter dedicated to the City grant to the City the right to construct install, maintain, inspect, repair and replace the designated improvements in, on, over, or under the easement, or permit others to do so. No use of such easement property shall be made which interferes with the City's rights. The City's only obligation to restore easement property after any use by the City shall be to grade the soil, replace the topsoil, and restore grass as needed.

24. SWIMMING POOLS AND HOT TUBS

In-ground swimming pools shall be permitted, subject to the approval of the Architectural Control Committee, if they meet applicable laws, ordinances and specifications. Above ground swimming pools are prohibited, including but not limited to temporary or portable above ground pools with filtration systems. Above ground wading pools in excess of 30 square feet of water surface area are prohibited. Hot tubs and spas are permitted. Architectural Control Committee approval is not required for portable units, but is required for permanently installed units. If placed on a concrete slab, the slab requires approval. If covered with a gazebo type structure, the gazebo requires approval, whether or not the gazebo is permanently affixed to the ground.

25. GOVERNMENT RESTRICTIONS

~~The Developer, its successors and assigns, and all parties hereafter having an interest in the property, are subject to all rules, codes, regulations and ordinances of the City of Hartford, Washington County, the State of Wisconsin and the Federal Government, and the same may be more restrictive than these restrictions. In the event there is a conflict between the requirements of these restrictions and any provision of any City, County, State or Federal law or regulation, the more restrictive provisions shall apply. Nothing herein authorizes any modification of, nor does it authorize the Architectural Control Committee to modify in any way, the rules, codes, regulations and ordinances of the City of Hartford, Washington County, the State of Wisconsin and the Federal Government. No release or waiver by the public body and/or public utility requiring same shall be effective unless it is in writing and approved by the governing body.~~

In the event any specific restriction contained herein is the same as, or is substantially similar to, any specific restriction set forth in or on the subdivision plat, the Developer's

Agreement, and/or any approval obtained in conjunction with the development of this subdivision, and in the event the public body and/or public utility having the right of enforcement releases, waives or grants a variance with respect to such restriction, such restriction shall remain a part hereof, and shall continue to be enforceable by the Developer, the Owner's Association and the Lot Owners, unless the Architectural Control Committee, in its sole discretion, also releases, waives and/or grants a variance with respect to such restriction.

26. DEVELOPER'S AGREEMENT

A Developer's Agreement has been entered into by and between the Developer and the City of Hartford, a copy of which is on file in the office of the City Clerk of the City of Hartford. Said Developer's Agreement includes provisions which are binding upon Lot Owners and The Homeowner's Association.

27. AMENDMENTS TO DECLARATION

This Declaration may be annulled, waived, changed, modified or amended at any time by written declaration setting forth said change, executed by the owners of at least sixty percent (60%) of the Lots in the subdivision, provided, however, so long as the Developer owns any Lot in the subdivision, no amendment to this Declaration of Restrictions shall become effective unless the amendment is approved by and executed by the Developer. Notwithstanding the foregoing, those provisions hereof which were required by the Developer's Agreement shall not be amended or modified without the approval of the City Council of the City of Hartford. Further, no amendment shall become effective unless and until same is duly recorded in the office of the Register of Deeds for Washington County, Wisconsin. In the event there is more than one (1) owner of any Lot in the subdivision, the execution of any amendment by any one (1) or more of said owners of such Lot shall be deemed sufficient for the purpose of approving and executing any amendment, without the requirement that the other owner(s) of such Lot join in the execution of such amendment, unless such other owner or owners of said Lot have recorded in the Office of the Register of Deeds for Washington County, Wisconsin, prior to the date of execution of such amendment by any other owner of such Lot, a notice setting forth the fact that approval of any amendment on behalf of such Lot shall not be effective without the approval of the owner filing such notice. In no event shall this section be construed so as to require the Developer to obtain the approval of any Lot Owner to make any amendment to this Declaration which is expressly permitted by any provision of this Declaration to be made by Developer alone.

28. ASSIGNMENT

All Developer's rights pursuant to this Declaration may be assigned by Developer to one or more successor developers.

29. ENFORCEMENT

The restrictions and covenants herein contained may be enforced by the Developer, by the Owner's Association created pursuant to the provisions of this Declaration of Restrictions, and/or by any Lot Owner in the subdivision, by proceedings at law or in equity against any person or persons violating or attempting to violate same. The proceedings may seek to recover damages and/or demand compliance. No enforcement action by the Developer, by the Owner's Association created pursuant to the provisions of this Declaration of Restrictions, and/or by any Lot Owner in the subdivision with respect to the construction, placement or alteration of any

structure or improvement on any Lot shall be commenced more than one (1) year after the completion of the construction, placement or alteration of such structure or improvement. Nothing herein contained shall be construed so as to require that the Developer or the Owner's Association undertake any enforcement action.

In the event the Lot Owner and/or his or her contractors fail to comply with the cleanup and/or repair requirements set forth in these restrictions, and in the event the Developer, as a result of such noncompliance, undertakes any cleanup or repair, and/or is charged or assessed by the City of Hartford for same, the owners of the lot shall be jointly and severally liable to Developer for a sum sufficient to reimburse Developer for all costs and expenses incurred by Developer for such cleanup and/or repair, plus an administrative charge of \$100.00. In the event the lot owner and/or the lot owner's contractors fail to comply with the architectural or other requirements or provisions of the Declaration, and in the event Developer retains an attorney to pursue enforcement of said requirements and/or provisions, the owners of the lot shall be jointly and severally liable to Developer for a sum sufficient to reimburse Developer for all costs and expenses, including but not limited to reasonable actual attorney's fees, incurred by Developer with respect to such enforcement. In the event the Lot Owner fails to timely comply with those obligations of Developer set forth in the Developer's Agreement which are imposed upon and/or assumed by the Lot Owners pursuant to these restrictions, including but not limited to tree planting, sidewalk installation, and payment of park fees, the owners of the Lot shall be jointly and severally liable to Developer for all costs and expenses incurred by Developer for such compliance, plus an administrative fee of \$100.00. All sums due Developer pursuant to these restrictions are due and payable upon demand, and, if not paid within 10 days after demand, Developer shall be entitled to collect all costs and expenses of collection, including but not limited to reasonable actual attorney's fees.

30. TERM

These restrictions shall run with the land and shall be binding upon all parties and persons having any interest in the land affected hereby for an initial period of forty (40) years from the date this Declaration of Restrictions is recorded, and thereafter shall continue for the full duration of the statutory limitation period for actions to enforce easements or covenants restricting the use of real estate (currently codified at Section 893.33 (6), Stats., but including any future amendments, modifications or re-numbering of that section).

31. SEVERABILITY

~~Invalidity of any provision of this Declaration, regardless of how determined, shall in no way affect any of the other provisions, which shall remain in full force and effect.~~

32. OWNER'S ASSOCIATION

An Owner's Association shall be created by the Developer for the purpose of managing the affairs of the subdivision, and for the purpose of managing, controlling and maintaining common areas, common improvements and common easements. Said Association shall be established as follows:

- A. The Association shall be established as either a non-profit corporation or a non-profit association. Each Lot Owner shall be a member of

the Association, and each Lot shall be entitled to one (1) vote at meetings of the Association. Membership shall pass with title to each Lot.

B. The Association shall be governed by a Board of Directors consisting of not less than three (3) directors, who shall act by majority vote. So long as any vacant Lot in the subdivision is owned by Developer, Developer shall be entitled to appoint a sufficient number of the directors such that the directors appointed by Developer constitute a majority.

C. Each Lot in the subdivision shall be subject to assessment by the Association for an equal share of the Association's existing or anticipated expenses, which assessments shall constitute a lien on the Lot, and, except as set forth below with respect to Washington County and/or the City of Hartford, the personal obligation of the Lot Owners, until paid. In the event Washington County and/or the City of Hartford become the owners of any Lot through the tax delinquency process, the foregoing provision shall not be deemed to supersede any law limiting or eliminating the liability of the County or the City with respect to fees or assessments imposed by this Declaration. Further, in the event Washington County and/or the City of Hartford become the owners of any Lot through the tax delinquency process, neither the County or the City shall have any personal obligation for the payment of Association assessments.

D. The Articles and By-Laws of the Association shall contain such additional provisions as Developer may deem appropriate at the time of establishment of the Association.

E. In the event any further division of any Lot (whether by Subdivision Plat, Certified Survey Map, and/or other legal land division) creates additional residential Lots within the subdivision, each Lot so created shall have equal membership and voting rights in the Association, and be subject to assessment for an equal share of the Association's existing and anticipated expenses, with all other Lots in the Subdivision.

33. OUTLOT 2.

The Summer Wind Subdivision Plat contains an area designated as Outlot 2. Said Outlot is a common area for the Lots in Summer Wind. Each Lot in Summer Wind shall be deemed to include an equal undivided ownership interest in Outlot 2, and each conveyance of a Lot in Summer Wind shall be deemed to include the conveyance of such undivided interest, whether or not specifically set forth in the instrument of conveyance.

34. MAINTENANCE OF DRAINAGE EASEMENTS, COMMON AREAS AND ENTRANCE SIGNAGE

The Owner's Association has the responsibility of properly landscaping and maintaining all common areas, all subdivision entrance signage and entrance amenities, and such other areas as are required by the Developer's Agreement, including but not limited to the following: South Wilson Avenue eyebrows; 20-foot access easements between Lots 13 and 14 and 66 and 67; pedestrian path on 20' access easement on west end of Lot 4 (until South Wilson Avenue is extended west and south); the non-paved western portion of the South Wilson Avenue right-of-

way and throughout the right-of-way south of the Lot 4-6 eyebrow (until such time as South Wilson Avenue becomes a wider arterial road); and emergency storm water spillway between Lots 30 and 31. Subject to the provisions of Paragraph 35 below, the Owner's Association further has the responsibility of properly maintaining all drainage easement areas located within the individual Lots which are subject to this Declaration of Restrictions and all drainage easement areas within common areas. In the event the Owner's Association does not properly landscape and/or maintain said items, the City of Hartford may send written notice to the Association setting forth which of said items the City has determined are not properly landscaped and/or maintained, and stating that the City of Hartford may perform such landscaping and/or maintenance if not properly done by the Association. The above-referenced notice shall give the Association a minimum of fifteen (15) days to correct the problem, unless the City determines, in its discretion, that a shorter notice period is appropriate due to a hazardous condition requiring more immediate action. If such landscaping and/or maintenance is not performed within the time granted by the above-referenced notice, and/or if the City determines, in its discretion, that immediate action, without notice, is required due to an imminent threat of damage to persons or property, the City of Hartford shall then have the authority, but not the obligation, to undertake such landscaping and/or maintenance, and shall have the right to charge the Lot Owners on a pro rata basis for any costs incurred by the City as a result of said landscaping and/or maintenance. Said costs shall be assessed as special charges pursuant to Section 66.0627 Wis. Stats. If such charges are not paid by any Lot Owner within the period fixed by the City of Hartford, such charges shall become a lien upon the Lot Owner's Lot as provided in Section 66.0627(4), Wis. Stats., and shall be extended upon the tax rolls as a delinquent tax against the Lot Owner's Lot as provided in Section 66.0627, Wis. Stats.

35. DAY TO DAY MAINTENANCE OF DRAINAGE EASEMENT AREAS

The day to day maintenance of any drainage easement area located on an individual Lot shall be the responsibility of the owners of such Lot. Day to day maintenance includes such items as cutting grass, raking leaves, removing fallen trees and branches, and removing other minor obstructions. This paragraph shall not limit the City's authority of enforcement against the Association, as described in Section 34, above.

36. MISCELLANEOUS MATTERS

Lot Owners are hereby made aware of the following:

- A. Pedestrian paths will be located within easements along the common Lot lines of Lots 13 and 14 and 66 and 67, and at the west end of Lot 4. The Homeowner's Association for Summer Wind is responsible for maintaining said paths and adjacent lawn areas. The easements for said paths have been granted to the City of Hartford. Use of easements granted to the City of Hartford is not restricted to subdivision owners or residents.
- B. Pursuant to the Developer's Agreement, the Homeowners Association for Summer Wind is responsible for any damage to the roadway, curb, gutter, sidewalk or to privately owned vehicles or persons resulting from the emergency storm water spillway between Lots 30 and 31.
- C. The adjacent Independence Park is a former landfill site. The City intends to design and construct, in 2003, an environmental trench north of Lots 69-73. The

City will be providing environmental detectors for installation in the homes on those Lots.

- D. The City may, at some indefinite future date, widen South Wilson Avenue to an arterial width, and/or extend South Wilson Avenue west across the wetlands and then south to connect to STH 83 near its intersection with CTH E.
- E. A 20-foot wide gravel park service road will be located approximately 30 feet north of the north lot line of Lots 61-67, and will connect to Seneca Street between Lots 60 and 61. The City intends to pave this service road between 2008 and 2012. The City has indicated it intends to take measures to discourage subdivision residents from using this road for park access.
- F. Lots 58-73 directly abut Independence Park. The City of Hartford intends to install lighting for its softball fields north of Lots 67-73 prior to 2007. The degree of illumination will exceed street light illumination. Lot owners are further advised that there will be noise, including crowd and competitor noise, emanating from softball games and from soccer competition elsewhere in Independence Park.
- G. As set forth in the Developer's Agreement, at the time of securing a building permit, the Lot Owner shall pay to the City \$100.00 as reimbursement for emergency sirens to be installed in or otherwise serving the Subdivision.
- H. The Lot Owner will be required to pay a Reserve Sewer Capacity Fee upon application for a building permit. The amount of said fee in 2002 was \$1,720.00. Said fee may be subject to increases in subsequent years.

11th IN WITNESS WHEREOF, we have hereunto set our hands and seals this
day of September, 2003.

CS Land, LLC, Developer

By: Todd Wozniak
Todd Wozniak, Member

ACKNOWLEDGMENT

STATE OF WISCONSIN)
)SS.
WAUKESHA COUNTY)

Personally came before me this 11 day of September, 2003, the above-named Todd Wozniak, to me known to be the person who executed the foregoing instrument and acknowledged the same.

Nancy Jupp
Notary Public, milwaukee County, WI
My commission expires 10/2/05

Drafted by: Attorney Daniel R. Heiden, State Bar No. 1017551
Heiden & Associates, S.C., 405 N. Calhoun Road, Suite 101, Brookfield, WI 53005
DRH090403

EXHIBIT A
LEGAL DESCRIPTION

Lots 1 through 105, and Outlot 2, Summer Wind, being a part of the NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ and the NE $\frac{1}{4}$, SE $\frac{1}{4}$, SW $\frac{1}{4}$, and NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Sec. 28 T.10N, R.18E, City of Hartford, Washington County, WI,

CS LAND, LLC - City of Hartford
Amendment # 1 to Developer's Agreement
(SUMMER WIND SUBDIVISION)

Document Number

Document Title

DOC#: 983658



Recorded

APR. 04, 2003 AT 09:00AM

SHARON A. MARTIN
REGISTER OF DEEDS
WASHINGTON COUNTY, WI
Fee Amount: \$15.00

This Amendment made and entered into this 27th day of April, 2003, by and between CS LAND, LLC, (the "Developer") and the City of Hartford (the "City"), amends the Developer's Agreement executed on the 13th day of December 2002 and recorded as Document No. 964751, Washington County, Wisconsin. Any provision of that Developer's Agreement which does not conflict with the following provisions remains in full force and effect.

This Amendment shall apply to the following described real estate:

Being a part of the SE 1/4 of Section 28, T10N, R18E, City of Hartford, Washington County, Wisconsin.

Beginning at the southwest corner of the SE 1/4 of Section 28, T10N, R18E; thence N. 89° 39' 32" E., 2645.87 feet along the south line of said SE 1/4 section, to the southeast corner of said SE 1/4 section; thence N. 00° 29' 57" W., 2633.32 feet along the east line of said SE 1/4 section to the northeast corner of said SE 1/4 section; thence S. 89° 24' 16" W., 1110.96 feet along the north line of said SE 1/4 section; thence S. 00° 18' 38" E., 931.89 feet; thence S. 88° 08' 22" W., 1706.87 feet; thence S. 00° 18' 38" E., 371.29 feet; thence S. 45° 29' 19" E., 253.77 feet; thence S. 00° 18' 38" E., 1100.96 feet along the west line of said SE 1/4 section to the point of beginning.

RECITALS

WHEREAS, the City of Hartford has approved the Final Plat of *Summer Wind Subdivision* pursuant to Chapters 12 and 13 of the Hartford Municipal Code, and

WHEREAS, in consideration of the approval of the subdivision plat by the City, the parties agreed to the provisions of a Developer's Agreement expediting development, and

WHEREAS, the Developer and City find it desirous to modify the provisions of the Developer's Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

SECTION I. (LAND DIVISION), D. (DEDICATIONS AND EASEMENTS), 3 and 5 are amended to read as follows:

3. Outlot 1 and 2 will be owned by the Subdivision Homeowner's Association and managed for open space and stormwater management purposes. Outlot 2 shall be dedicated to the City.

Atty. Karen Christianson
O'MEARA LAW OFFICE
P.O. Box 270468
Hartford, WI 53027

36-2804-001-002, 36-2804-001-00
36-2804-001-004, 36-2804-001-00
Tax Parcel No.

15

5. 20-foot pedestrian easements will be granted to the City, to be maintained by the Homeowner's Association, between Lots ~~58 and 59~~, 30 and 31, and 14 and 15. They will be improved by the Developer with six-foot bark and/or gravel paths (including steps or other appropriate measures to allow pedestrians to readily navigate grade changes) to be installed by the Developer prior to issuance of a building permit on any of said lots. Likewise the Developer will install, and until South Wilson Avenue is extended west and south of the plat, the Homeowner's Association maintain, a like path west of Lot 4.

SECTION I. (LAND DIVISION), E. (DEED RESTRICTIONS AND RELATED IMPROVEMENT RESPONSIBILITIES), 5, b is amended to read as follows:

5. The deed restrictions shall incorporate, but not be limited to the following provisions:

b. Maintenance of the landscaped areas of Outlot 1 shall be the responsibility of the Homeowner's Association. Any required maintenance of or alterations to Outlot 2 will be the responsibility of the Homeowner's Association City.

SECTION II. (REQUIRED IMPROVEMENTS), A. (GRADING, EROSION CONTROL, AND STORM WATER MANAGEMENT), 8 is amended to read as follows:

8. Any damage to the roadway, curb, gutter, sidewalk or to privately owned vehicles or persons resulting from the emergency storm water spillway between Lots 30 and 31 shall be the responsibility of the Homeowner's Association. The City may require the Association to take corrective action, or may do so on its own at the Homeowner's Association expense, as the City shall determine. The City assumes no liability resulting from the placement of the spillway ~~and shall not control its use.~~

SECTION II. (REQUIRED IMPROVEMENTS), C. (SIDEWALKS, PEDESTRIAN WAYS & PARKING LOT), 2 is amended to read as follows:

2. The Developer shall be responsible for 6-foot wide bark and/or gravel trails between Lots ~~58 and 59~~, 30 and 31, and 14 and 15, and west of Lot 4. These paths will be installed by the Developer prior to issuance of a building permit on any abutting lot. Appropriate posts designed to prevent vehicular entry shall be placed on the street-side of the paths.

SECTION II. (REQUIRED IMPROVEMENTS), D. (BOUNDARY MARKERS) is amended to read as follows:

In the rearmost center of each lot backing on wetlands, the Developer shall place cemented 4-foot high decorative poles with 2 foot by 1 foot two-sided signs facing the lot indicating, "~~Protected Environment Beyond Here~~". "**City of Hartford Environmental Conservancy Area Beyond Here**". At the rear center of all lots abutting Independence Park the Developer shall place like-size signage facing the lot reading "Public Parkland Beyond Here." The reverse side of all signs shall read "Private Property Beyond Here."

IN WITNESS WHEREOF, the parties have hereunto executed this Agreement the date first above written.

CITY OF HARTFORD

By: [Signature]
Scott M. Henke, Mayor

By: [Signature]
Marjorie C. Savana, City Clerk

SUMMER WIND SUBDIVISION

By: CS LAND, LLC

[Signature]
Michael D. Schutte, Managing Partner

STATE OF WISCONSIN)
) SS.
WASHINGTON COUNTY)

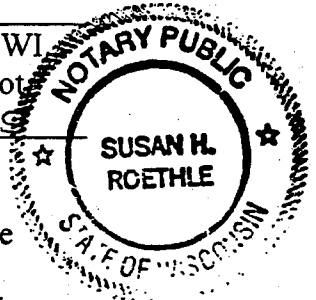
Personally came before me this 28th day of March, 2003, the above named *Scott M. Henke, Mayor*, and *Marjorie C. Savana, City Clerk*, to me known to be the persons who executed the foregoing instrument as the officers, pursuant to authority granted by the City of Hartford Common Council on the 25th day of March, 2000.

[Signature]
* Patricia A. Borlen
Notary Public, Washington County, WI
My Commission is permanent. (If not,
State expiration date: 4/4/04)

STATE OF WISCONSIN)
) SS.
WASHINGTON COUNTY)

Personally came before me this 20th day of March, 2003, the above named *CS LAND, LLC* by *Michael D. Schutte, Managing Partner*, to me known to be the persons who executed the foregoing instrument.

[Signature]
* Susan H. Roethle
Notary Public, Washington County, WI
My Commission is permanent. (If not,
State expiration date: 10-16-09)



Approved as to form:

[Signature]
Karen Christianson, City Attorney

RETURN TO: O'Meara Law Office
P.O. Box 270468
Hartford, WI 53027

Drafted by: Daniel Moser, City Planner