

97-07955

FILED SARPY CO. NE.
INSTRUMENT NUMBER
97-007955

97 APR 28 PM 3:35

Glenn J. ...
REGISTER OF DEEDS

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Fee: 117.50
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(Exhibit B of Development Agreement)

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS

THIS DECLARATION is made on the date hereinafter set forth by Construction Sciences, Inc. ("CSI"), a Nebraska Corporation with offices at 8425 Madison Street, Omaha, Nebraska 68127, who is hereinafter referred to as the "Declarant."

WHEREAS, the Declarant is the owner of certain real property platted as lots 1 through 175 in Oakhurst Subdivision in Sarpy County, Nebraska.

NOW, THEREFORE, the Declarant hereby declares that all of Lots 1 through 175 in Oakhurst shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements ("covenants"). These covenants shall run with such lots and shall be binding upon all parties having or acquiring any right, title or interest in such lots, or any part thereof, and they shall inure to the benefit of each Owner thereof. If the present or future Owners of any of the lots in Oakhurst, or their grantees, heirs, successors or assigns shall violate or attempt to violate any of these covenants, it shall be lawful for BHOA or Oakhurst property owners to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them so doing or to recover damages or other dues for such violation.

1. *Definitions*

1.1. "BHOA" shall mean and refer to the Blackhawk Homeowners Association, a Nebraska non-profit corporation.

1.2. "Blackhawk" shall refer to a subdivision in Sarpy County, Nebraska, platted as lots 1 through 151, Blackhawk Subdivision.

1.3. "Declarant" shall mean and refer to Construction Sciences, Inc. or CSI and its grantees, successors and assigns.

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1.4. "*Lot*" shall mean and refer to any platted lot in Oakhurst or in a subsequent plat of Oakhurst.

1.5. "*Oakhurst*" shall mean the subdivision in Sarpy County, Nebraska owned by Declarant which is final platted as Lots 1 through 175.

1.6. "*Owner*" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot which is subject to this Declaration.

1.7. "*Transition Area A*" shall mean Lots 1 through 28, 142, and 166 through 175, in Oakhurst.

1.8. "*Transition Area B*" shall mean Lots 64, 65, 78 through 82, 127, 128, 137 through 141 and 162 through 165 in Oakhurst.

2. Said Lots shall be used only for single-family residential purposes, except such Lots, or portions thereof, as may hereafter be conveyed or dedicated by the Owners thereof for church, park, play ground or outdoor recreational facilities.

3. No structures shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family home not to exceed two and one-half stories in height, a private garage, and attached breezeways incidental to residential uses.

CSI shall develop single-family homes in Oakhurst in accordance with the following requirements:

a) CSI shall construct single family homes on Lots in Transition Area A known by the CSI plan type names of Legend, Summerset, Sterling, Pembroke, McClain and Westover, which homes represent CSI's most expensive six (6) models. The minimum square footage, of homes in Transition Area A, exclusive of basements, porches, breezeways, carports and garages, shall be (1) for single story homes: 1,239 sq. ft., and (2) for two story homes: 1,708 sq. ft. Single story homes shall have finished basements and all Legend, Sterling, Pembroke, McClain and Westover homes shall incorporate the "Flex-Space Option" offered by CSI. Fifty percent of the homes on Lots in Transition Area A, excluding Lots 166 through 175, shall be constructed with three-car garages.

b) Oakhurst Lots 64, 65, 78 through 82, 127, 128, 137 through 141 and 162 through 165. CSI shall construct single family homes on Lots in Transition Area B known by the plan type names of Legend, Summerset, Sterling, Pembroke, McClain, Westover, Windsong, Freedom, and Advantage, which homes represent CSI's largest and most expensive nine (9) models. The minimum square footage of such homes, exclusive of basements, porches, breezeways, carports and garages, shall be (1) for single-story homes: 1,239 sq. ft.; (2) for two-story

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homes: 1,708 sq. ft.; (3) for split entry homes: 1,990 sq. ft. which includes a finished lower level; (4) for bi-level homes: 1,536 sq. ft., and (5) for tri-level homes: 1,717 sq. ft.

c) The exposed foundation walls at the front of all homes in Transition Areas A and B shall be constructed of or faced with genuine brick and side wall foundations facing any street shall be constructed of and or faced with genuine brick. The foundation walls of the homes on all other Lots in Oakhurst shall be either simulated-brick poured foundations or concrete block foundations with genuine brick fronts.

d) After the date hereof, should CSI develop new plan types which meet or exceed the minimum square footages set forth above, then such plan types may be constructed as well.

4. The Lots in Oakhurst shall average at least 7200 sq. feet. Except as hereinafter provided, no dwelling shall be located on any Lot nearer than 25 feet to the front lot line, nor shall any dwelling be located nearer than 10 feet to any dwelling located on an adjoining Lot; provided, however, that if the Board of Appeals of the City of Bellevue, Nebraska, shall by resolution permit a lesser minimum setback, lot area or side yard for any Lot, then as to such Lot the determination of said Board shall govern and shall automatically supersede these covenants.

5. No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No outside radio, television or other electronic antenna shall be erected on any Lot without recorded written consent of owners of record of all property within two hundred feet of any Lot line on which such structure is sought to be or is placed. No outside above-ground trash or garbage piles, burners, receptacles or incinerators shall be erected, placed or permitted on any Lot.

6. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale" or "For Rent"; nor shall the Lot or dwelling thereon be used in any way for any purpose which may endanger the health or unreasonably disturb the Owner or Owners of any Lot or any dwelling thereof. Further, no business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing shall not apply to the business activities, signs and billboards or the construction and maintenance of dwellings, if any, by Declarant, its agents or assigns, during the construction and sale of the lots or homes thereon. Nothing in this provision shall prohibit CSI from constructing its usual signage for its model home area.

7. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted

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on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot, other than in an enclosed structure, unless it is on concrete pad at the rear of the dwelling in which case the rear yard shall be enclosed by a wood fence of not less than six feet in height. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this paragraph 8 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of dwellings during their period of construction. All Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Bellevue, Nebraska.

9. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container shall be permitted unless completely screened from view, except for pickup purposes. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling nor shall refuse, rubbish or cutting be deposited on any street, road or Lot. No permanent clothes line shall be permitted outside of any dwelling at any time.

10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the Owners of adjacent Lots or the occupants of lots in Blackhawk.

11. No swimming pool shall be permitted which extends more than one foot above ground level.

12. A public sidewalk shall be constructed of concrete four (4) feet wide by three and one half (3-1/2) inches thick in front of each built upon lot and upon the street side of each built upon corner lot. The sidewalk shall be placed four (4) feet back of the street curb line and shall be constructed by the Owner of the Lot prior to the time of completion of the dwelling and before occupancy thereof, provided, however, this provision shall vary to comply with any requirements of the City of Bellevue. It is understood, however, that from time to time because of weather or material shortages the Owner may be allowed to move in prior to sidewalk construction, but only after an escrow has been established to assure such construction when weather and material availability permits.

13. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any lot, except that a dog house constructed

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for one (1) dog shall be permitted, provided always that the construction plans, specifications and the location of the proposed structure have been first approved by all owners of Lots located in whole or in part within one hundred feet of the Lot on which such dog house is to be placed. In any event, dog houses shall only be allowed at the rear of the dwelling, concealed from public view. No dog runs or kennels of any sort shall be allowed.

14. No trailer, basement, tent, shack, garage, barn or other out-building erected on no Lot shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

15. Except as provided herein, all exposed side and rear concrete block or masonry foundation walls must be painted. All driveways must be constructed of concrete, brick or laid stone. Fireplace chimneys shall be covered with brick or wood. The roof of all dwellings shall be covered with asphalt or wooden shingles.

16. Dwellings shall not be moved from outside of Oakhurst to any Lot within it.

17. All telephone, cable television, electric, power and any other service lines from property line to dwelling shall be underground.

18. A perpetual license and right is hereby reserved unto and granted to Sanitary and Improvement District No. _____ of Sarpy County, Nebraska, and to the City of Bellevue, Nebraska, their respective employees, representatives, successors, assigns and the employees, and representatives of its successors or assigns, to enter upon said property to construct, reconstruct, repair, maintain, improve, and inspect each sewer, and to inspect sewage thereof or therein.

19. Declarant shall be allowed to operate and maintain model homes in Oakhurst. This right shall not expire with the sale of the last buildable lot in Oakhurst.

20. Any fence constructed on a Lot shall be of wood construction. If a fence is constructed on a Lot, the Owner of such Lot shall at his sole expense maintain and keep such fence in good order, including removal of graffiti and the prevention of placing signs banners, or any such thing on the fence, and repair and replace the same with the same style and equal quality fence when and if reasonably necessary.

21. For the purposes of these covenants, two story height, as herein before mentioned in paragraph 3, shall, when the basement wall is exposed, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s).

22. Invalidation of any 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.

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23. These covenants shall run with the land and shall be binding on the Declarant, all Owners and all persons claiming under them for a period of 25 years from the date these covenants are recorded. BHOA shall have the right, power and authority to enforce the terms and conditions of this Declaration against the Declarant and any Owner of a Lot as herein defined.

DATED this 21st day of February, 1997.

By [Signature]
Title PRESIDENT

Notary Public
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me on this 21st day of February, 1997 by John J. Smith, PRESIDENT of Construction Sciences, Inc., a Nebraska corporation, on behalf of the corporation.

GENERAL NOTARY-State of Nebraska
DEBORAH A. BURKE
My Comm. Exp. Jan 14, 2001

[Signature]
Printed Name: Deborah A. Burke
Notary Public

My Commission Expires:

FILED SARPY CO. NE.
INSTRUMENT NUMBER
2000 22860

2000 SP 12 PM 4: 11

Glenn J. Bowring

REGISTER OF DEEDS

Counter
Verify
D.E.
Proof
Fee \$ 97.50
Ck Cash Chg S/LT

FIRST AMENDMENT TO COVENANTS

THIS FIRST AMENDMENT TO COVENANTS is made the date hereinafter set forth by Construction Sciences, Inc. (n/k/a HearthStone Homes, Inc.), a Nebraska Corporation.

RECITALS

A. On April 28, 1997, a document entitled Declaration of Covenants, Conditions, Restrictions and Easements for Oakhurst Subdivision located in Sarpy County, Nebraska (hereinafter the "Declaration") for Lots One (1) – One Hundred Seventy Five (175), inclusive, all in OAKHURST, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, was recorded by Construction Sciences, Inc. a Nebraska Corporation, Declarant, in the office of Register of Deeds of Sarpy County, Nebraska as Instrument No. 97-007955.

B. The Declarant is the owner of Lots One (1) – One Hundred Forty One (141) of Oakhurst Subdivision in Sarpy County, Nebraska.

NOW, THEREFORE, Developer hereby declares that the Declaration recorded April 28, 1997 as Instrument No. 97-007955 in the Office of the Register of Deeds of Sarpy County, Nebraska, should be and hereby is amended in the following manner:

I. by deleting therefrom Paragraph 20 and adding in its place and stead the following:

20. Any fence constructed on a Lot shall be of wood or vinyl slat construction. Vinyl, chain link material shall not be allowed. If a fence is constructed on a lot, the Owner of such Lot shall at his sole expense maintain and keep such fence in good order, including removal of graffiti and the prevention of placing signs banners, or such thing on the fence, and repair and replace the same with the same style and equal quality fence when and if reasonably necessary.

All other terms of said Covenants shall remain in full force and effect.

Dated this 11 day of September, 2000.

HearthStone Homes, Inc.
(f/n/a Construction Sciences, Inc.)

By *John J. Smith*
John J. Smith, President

22860

(S/LT)

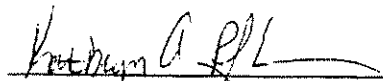
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STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

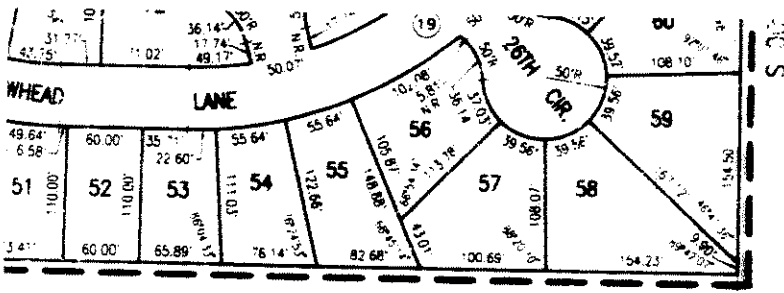
The foregoing instrument was acknowledged before me this 12 day of SEPTEMBER 2000 by John J. Smith, President of HearthStone Homes, Inc., a Nebraska corporation, known to me to be the identical person who executed the above instrument and acknowledged the same to be his voluntary act on behalf of said corporation.

Witness my hand and Notarial Seal this 12 day of SEPIEMBER 2000.




Notary Public

OAKHURST



DEDICATION

Know all men by these presents that we, Construction Sciences, Inc., owners of the property described in the Certification of Survey and embraced within the plat has caused said land to be subdivided into lots and streets to be numbered and named as shown, said subdivision to be hereafter known as OAKHURST (lots numbered as shown), and we do hereby ratify and approve of the disposition of our property as shown on the plat, and we do hereby dedicate to the public for public use, the streets, avenues and circles, and we do hereby grant easements as shown on this plat, we do further grant a perpetual easement to the Omaha Public Power District, U.S. West Communications and any company which has been granted a franchise to provide a cable television system in the area to be subdivided, their successors and assigns, to erect, operate, maintain, repair and renew poles, wires, cables, conduits and other related facilities, and to extend thereon wires or cables for the carrying and transmission of electric current for light, heat and power and for the transmission of signals and sounds of all kinds including signals provided by a cable television system, and the reception on, over, through, under and across a five-foot (5') wide strip of land abutting all front and side boundary lot lines; an eight-foot (8') wide strip of land abutting the rear boundary lines of all interior lots; and a sixteen-foot (16') wide strip of land abutting the rear boundary lines of all exterior lots. The term exterior lots is herein defined as those lots forming the outer perimeter of the above-described addition. Said sixteen-foot (16') wide easement will be reduced to an eight-foot (8') wide strip when the adjacent land is surveyed, platted and recorded, and we do further grant a perpetual easement to Metropolitan Utilities District of Omaha and Peoples Natural Gas Company, their successors and assigns, to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes for the transmission of gas and water on, through, under and across a five-foot (5') wide strip of land abutting all streets, avenues and circles, whether public or private. No permanent buildings or retaining walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

In witness whereof, we do set our hands.

CONSTRUCTION SCIENCES, INC.

John J. Smith
 John J. Smith
 President

007354

OA
 BELLI

FINAL PLAT

PROJECT NO.	98067
SCALE	1" = 100'
SHEET	1 of 1
DATE	2-11-97
BY	RLS
CHECKED BY	TRH
APPROVED BY	HRH

designated, a Notary
 Smith, President of
 the identical person
 acknowledged the same
 in

as written

wed by the Sarpy



FILED SARPY CO. NE.
INSTRUMENT NUMBER
2000-13485
2000 JUN -6 PM 3:44

Counter 2
Verify [initials]
D.E. [initials]
Proof [initials]
Fee \$ 11.00
Ck Cash Chg SLC

[Signature]
REGISTER OF DEEDS

EASEMENT

The undersigned, being the owner of the following described property:

The South 10.00 feet of Lot 1; and, the North 10.00 feet of Lot 64, Oakhurst, as depicted on attached Exhibit "A"

Does hereby grant to Grantee, Sanitary and Improvement District No. 186 of Sarpy County, Nebraska, its agents and employees, with necessary equipment, to enter upon and have access to the above described real property for the purpose of constructing and maintaining a subdivision entrance pillar, and landscaping upon such easement property.

Grantee shall, at its own expense repair and maintain in proper and workmanlike manner the above described improvements.

It is expressly understood and agreed that Grantee shall have the right of ingress to and egress from the real property described above for the purpose of maintaining, repairing and keeping said improvements in useable condition at all reasonable times; however, should said improvements continue in a state of disrepair, be permanently removed, or should the grantee or its assigns refuse or neglect to maintain the improvements, then and in that event, this easement shall automatically terminate.

The easement describe in this instrument is to and shall run with the land and shall be for the benefit and use of Grantee and its assigns.

Date:

HearthStone Homes, Inc.

By: [Signature]

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me, a Notary Public, on 30 day of MAY 2000 by John J. Smith, its President on behalf of HearthStone Homes, Inc.

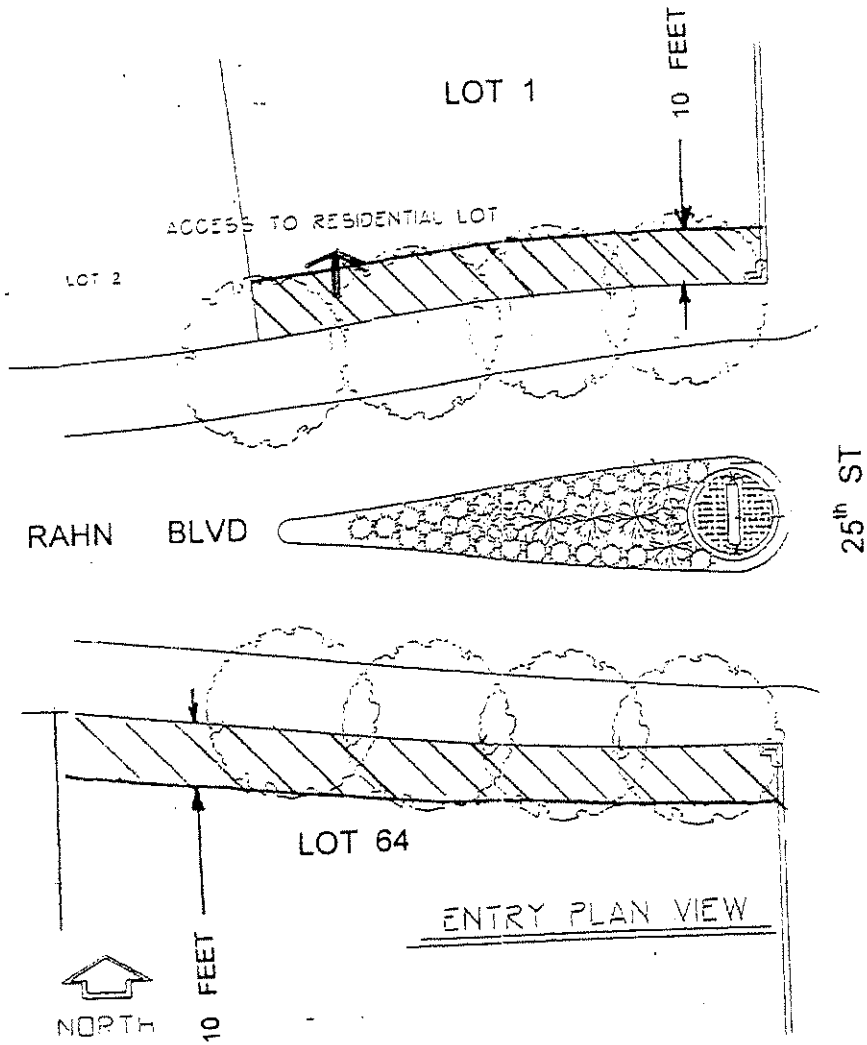
[Signature]
Notary Public



[Handwritten mark]

2000 13485 A

EXHIBIT "A"



Maintenance Easement:
The south 10.00 Feet of Lot 1; and,
The north 10.00 Feet of Lot 64,
Oakhurst.