

FAIRACRES PLACE REPLAT
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

This Declaration of Covenants made this 24 day of July, 1979, by REEDER DEVELOPMENT, INC., and MARQUIS CONSTRUCTION CO. INC., hereinafter jointly referred to as "Declarant";

WHEREAS, Declarant is the owner of Lots 1 - 8, and Out Lots A & B Fairacres Place Replat, an addition to the City of Omaha, Douglas County, Nebraska;
AND

WHEREAS, Declarant desires to establish a general plan for the development and use of this property and to secure the enforcement of uniform restrictions and covenants upon the usage and development of the aforesaid lots and to establish The Fairacres Place Association, Inc. to provide for certain maintenance of the property hereinafter described as "common area" and "limited common area" and to have the power to levy assessments for payment of said maintenance.

NOW, THEREFORE, Declarant does hereby declare that Lots 1 - 8, Fairacres Place Replat, shall be held, transferred, sold, conveyed, owned and developed subject to these covenants, easements, restrictions, charges and liens hereinafter set forth collectively referred to as "Covenants", which shall run with the land and be binding upon the owner or owners of all property of the subdivision until the year 2002 and subject to the rules and regulations of the established "The Fairacres Place Association, Inc." until such corporation ceases existence.

ARTICLE I
DEFINITIONS

Section 1. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of the properties, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, said Lots 1 - 8, inclusive, Fairacres Place Replat.

Section 3. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map or plat of the properties.

Section 4. "Declarant" shall mean and refer to Reeder Development, Inc., its successors and assigns.

Section 5. "Owners property" shall be that property upon which owners dwelling unit is located and which was deeded in fee simple.

Section 6. "Association" shall mean The Fairacres Place Association, Inc. which shall have the power and duty to maintain the "common area" and "limited common area" and certain building exterior maintenance in conformance with the provisions hereinafter set forth which association shall have power to levy and collect assessments for the work it performs; the Association will own for the benefit of its members the "common area" and "limited common area".

Section 7. "Common area" shall mean that property designated on the attached plat of Fairacres Place Replat Exhibit "A" as outlots "A" and "B", any easements as described on said plat or hereafter that area outside the "owners property" and "limited common area" and any other property subsequently acquired by the association and designated as common area.

For illustration purposes only depicted on Exhibit "B" is the "common area", "limited common area" and "owners property".

Section 8. "Limited common area" shall be that portion of any lot not described as "common area" above. The "limited common area" for any particular duplex unit shall be that portion of the lot upon which its "owners property" is situated on its side of a line dividing the duplex units and the lot. The right to the use and benefit of "limited common area" adjacent to each particular "owners property" shall be with lot owner and not association members in general.

ARTICLE II
PROPERTY RIGHTS

Section 1. Severability of Covenants. These Covenants are severable and the invalidation of one shall not invalidate any other covenant, term or condition herein contained.

Section 2. Owner's Legal Remedies. If there shall be a violation or threatened or attempted violation of any covenant, it shall be lawful for any person or persons owning real properties situated within Fairacres Place Replat or any replat thereof to prosecute under proceedings at law or in equity against all persons violating or attempting to violate these covenants to secure an injunction against or required compliance herewith, or recover damages from such person or persons violating these Covenants. These Covenants shall also run to and may be enforced as above by Robert A. Skochdopole, attorney at law, a property owner in Fairacres Addition, as President of the Fairacres Homeowners Association, or his successors or assigns, for the benefit of the residents of the Fairacres Addition, an addition to the City of Omaha, Nebraska. Any release of covenant or amendment thereto requiring signature of any or all owners shall also include the signature of Robert A. Skochdopole, his successors or assigns. Nothing herein, however, shall require the Declarant to undertake to enforce these Covenants.

Section 3. Restrictions. Every owner shall have full rights of ownership and enjoyment to his individual lot, subject to the following restrictions:

A. No noxious or offensive trade or activity shall be carried upon any lot nor shall anything be done thereon which may become an annoyance or nuisance to the neighborhood. No outside, above-ground trash or garbage piles, burners, receptacles or incinerators shall be erected, placed or permitted on any building plot. Except while under construction, any wood storage piles and equipment shall be walled in or kept screened by adequate planting or by other means in such a manner as to conceal them from view. Trailers and recreational vehicles shall not be continuously parked on driveways or front or side yards.

B. No fence shall be erected in front of the main residential structure and all weeds and grass shall be cut down to maximum height of six (6) inches above ground level. All lots shall be kept free of all types of trash and debris.

C. No trailer, basement, tent, shack, garage, barn or other building erected on said real estate 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 until all exterior construction is fully completed according to approved plans.

D. All exterior lighting shall be so installed and maintained so as not to unreasonably disturb adjoining lots.

E. All owners and the association shall have the affirmative duty to maintain in a first class, good and orderly fashion any grass and landscape planting on their property.

F. No structure shall be erected, altered, placed or permitted to remain on any residential building plot other than dwellings not to exceed two and one-half stories in height, a private garage, attached breezeways and other out buildings incidental to such residential use.

G. Each dwelling shall contain at least a two car attached garage or basement garage for the parking of two automobiles and a driveway constructed of concrete, brick or asphaltic material.

H. No additions or alterations shall be made to the exterior of any unit without the approval of the Board of Directors of the Association. Encroachments into the "limited common area" or requests to release property from the "limited common area" for any such addition or alterations shall be given and governed by the Board of Directors.

I. No driveway or sidewalk and no structural element of any approved or permitted duplex or unit thereof residence or exterior part thereof will be maintained on any lot in damaged, deteriorated, hazardous, or otherwise unfit, unsafe, or unsightly condition.

J. No basketball hoop, slide, swing, or other play or recreational equipment will be installed or maintained on any townhome lot, other than in a location out of public view, without an express written Approval executed by association through its Architectural Control Committee in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended; and no garden implements, lawn mower, or other maintenance equipment not in actual use will be kept or otherwise maintained on any townhome lot, other than in a location out of public view.

K. No birds, livestock, poultry, or animals other than domesticated noncommercial pets in no more than reasonable quantity will be bred, kept, or otherwise maintained by any owner. No such pets shall be allowed to roam free on any property other than the "owners property" or the "limited common area" located within the numbered lot upon which owner lives.

ARTICLE III

MINIMUM SWELLING SIZES AND ARCHITECTURAL CONTROL

Section 1. Any dwelling constructed on any lots shall be subject to and abide by the following requirements:

A. The minimum initial sales price of any dwelling or duplex unit shall be \$100,000.00, which price shall be a bona fide price.

B. The front elevation and first floor elevation and all exposed foundations shall be brick or such other material as approved by Robert A. Skochdopole, designee of the Fairacres Homeowners Association.

C. All windows shall be Anderson or Pella casements with paned inserts.

D. The roofs shall be hand split cedar shakes, 3/4" heavy labeled.

E. All chimneys shall be brick chimneys.

F. The outer perimeter buffer landscaping shall be planted upon completing of grading and street improvements and not later than the next planting season following completion of street improvements.

G. The minimum set back on Fairacres Road shall be at least 40 feet.

Section 2. The following shall be the minimum size of living space to be constructed exclusive of garages, porches and breezeways:

1. Only duplexes shall be constructed on Lots 1 thru 8, Fairacres Place Replat, and no duplex structure (2 units) shall be less than a total of 3,600 square feet.
2. The minimum size for any single duplex unit shall be 1,600 square feet.

ARTICLE IV
ASSOCIATION AND MAINTENANCE OF
"COMMON AREA" AND LIMITED COMMON AREA"

Association: The involved property is and will be, through December 21, 2002, or for such longer or other period as may otherwise be fixed, included in membership in association subject to all and each of the following conditions and other terms:

A. Association will have the right, in general, without any part of its net earnings inuring to the private benefit of its members, to promote and sustain their social welfare and otherwise provide for their health, pleasure, recreation, safety, and other non-profitable interests by acquiring, maintaining, operating, contributing to the acquisition, maintenance, or operation of, or otherwise making available for use any one or more open spaces, parks, recreational equipment, facilities, grounds, or structures, by acquiring and maintaining or contributing to the acquisition and maintenance of common or jointly shared fire, extended coverage, and other insurance, by exercising architectural control and securing compliance with or enforcement of applicable covenants, easements, restrictions, and similar limitations, by providing general exterior maintenance, repairs, and services, security service, weed and other actual or potential nuisance abatement or control, and other community services, by fixing and collecting or abating dues or other charges for financing its operations, by delegating by contract or otherwise to any other Nebraska nonprofit corporation or other professional manager general responsibility for administration and executive management of its affairs, and by undertaking any one or more other activities appropriated, convenient, or necessary to promote or sustain any such interest, to acquire by purchase or otherwise, to hold for investment or otherwise, or dispose of for profit or otherwise any interest in or species of personal or real property wherever located, and to engage in any other venture for the mutual non-profitable interests of its members for which a corporation may be organized under the Nebraska Nonprofit Corporation Act, as amended. Each duplex unit owner shall own 1/16th of the asset of the "association" which shall transfer automatically by sale of the "owners property".

B. All "owners property" lot will be automatically included in membership in association as a benefit or burden running with and charge upon the ownership of each owners property.

C. Dues or other charges for "owners property" included in membership as fixed by association in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended, will each constitute until abated or paid a lien upon and charge against such owners lot in favor of association; but no such lien upon any such owners property will at any time be superior to any earlier or later established lien upon such owners lot for security for a home improvement or purchase money loan or unpaid balance of a purchase contract for such owners property.

D. The obligations and privileges of membership in association will in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended, extended to contract purchasers

and owners of all owners property included in membership and appertain to and be coterminous with the duration of the interest of each such contract purchaser or owner; but each member will be and remain personally liable to association until abatement or payment for all dues or other charges as fixed by it at any time or from time to time throughout the duration of such interest and membership.

E. Association will have the right in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended to divide the membership into classes, to deny or limit voting rights of members or any membership class, and to deny access to or use of facilities or services, suspend the membership or privileges of, or otherwise discipline any member for failure to pay dues or charges or for other conduct detrimental to its affairs or otherwise improper.

1. The primary responsibility of the association as to the "common areas" shall be the repair, replacement and maintenance of:

- a. All sewer, water and gas utility lines located therein or appurtenant thereto,
- b. The street pavement, landscaping of the outlots; and
- c. Lawn service including mowing and snow removal.

2. As to the "limited common area" the association shall provide lawn service including mowing, snow removal on the driveways and front walks and regularly scheduled trash removal and maintenance repair and replacement of utility lines located therein.

3. In addition to subparagraphs 1 and 2 above of this Article IV E., the association shall paint the exterior of the owners' property on at least three year intervals. The association shall also pay all MUD charges for water.

ARTICLE V
EASEMENTS - OWNERS EASEMENTS

1. Each owner, his successors or assigns shall have a permanent exclusive easement for driveway and sidewalk purposes for ingress and egress from the "owners property" to the outlot which forms the street in front of "owners property" upon which owner builds a driveway or sidewalk. The location of any more than one driveway or sidewalk shall be approved by the association.

2. Each owner shall also have a non-exclusive easement over and across the "common areas" for the purpose of ingress and egress for vehicular or pedestrian traffic.

3. Party Wall Provision. Each duplex structure to be sold or conveyed has a "party wall" dividing the units. The provisions of this subparagraph 3 of Article V shall declare and establish the respective rights and responsibilities as to said party walls:

- a. The wall dividing the structure shall not be materially altered or changed.
- b. No person shall have the right to add to, or detract from the party wall in any manner whatsoever, it being the intention that said party wall shall at all times remain in the same position as when erected.
- c. If it shall become necessary to repair said party wall, the expense of rebuilding the same shall be borne by the then owners of the fee, in equal proportions, and whenever the said party wall, or any portion thereof shall be rebuilt, it shall be erected on the same place where it stands and be of the same size as when originally erected.

d. Each owner of a duplex unit grants to the owners of the other side an easement to the party wall for repair, maintenance or replacement as may be necessary as occasioned by structural damage, settling or reconstruction to correct a directional deviation from the original building specifications.

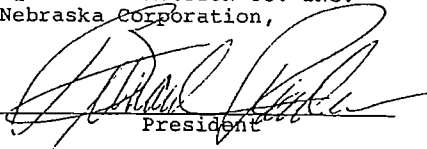
4. Associations and Utility Easements.

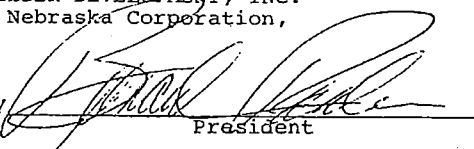
a. Each of association, Northwestern Bell Telephone Company, Metropolitan Utilities Company, Omaha Public Power District and their respective assigns and successors will have an easement, together with rights of egress, ingress and other access thereto, for purposes of constructing, installing, maintaining, operating, renewing, or repairing their respective private sewer, telephone, gas, water, electric, public sewer, or other utility conduits, lines, or other facilities in, over, under and upon such strip or strips of the "common area" or "limited common area" or of any lot as confined to noninterference with any driveway, sidewalk or structural element of any approved or permitted residence as determined by association as to the "common area" or "limited common area" in the manner set out in its Articles of Incorporation or its By-Laws, as from time to time amended, or by Declarant as to any "owners property" then owned by it by executing and recording with the Register of Deeds of Douglas County, Nebraska, an express written Easement describing such strip or strips and naming the grantee or grantees of such easement and, further, after installation of any such facility for additional purposes of confining each such strip to its then present grade elevation and prohibiting use thereof for any building, tree, wall, or other structure or any other use inconsistent with the function of such facility; but the easement for any such strip will terminate if no such facility is installed therein within two calendar years after recording of the Easement describing such strip or will terminate any time thereafter if all such facilities installed therein are abandoned or completely removed without resumption of use or replacement of any thereof within sixty days after such abandonment or removal.

b. Association and its assigns and successors for itself and for the general common benefit of all contract purchasers and owners of all "owners property" will have a general easement, together with rights of egress, ingress, and other access thereto, for purposes of cultivating, cutting, installing, maintaining, mowing, planting, raking, renewing, trimming, or otherwise caring for grass, lawns, plants, sod, shrubs, trees, or other decorative or landscaping vegetation in, over, and upon all parts of each lot not occupied or used for any driveway, sidewalk, or structural element of an approved or permitted residence thereon, for purposes of maintaining, painting, repairing, restoring, or otherwise preserving any such driveway, sidewalk, cleaning and removing ice, mud, snow, or other debris or matter from any such driveway or sidewalk as Association deems necessary.

MARQUIS CONSTRUCTION CO. INC.
A Nebraska Corporation,

REEDER DEVELOPMENT, INC.
A Nebraska Corporation,

By 
President

By 
President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 24 day of July, 1979, before me a Notary Public in and for said county and state, personally came BERNARD REEDER,

President of REEDER DEVELOPMENT, INC., and MARQUIS CONSTRUCTION CO. INC., who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said corporation.

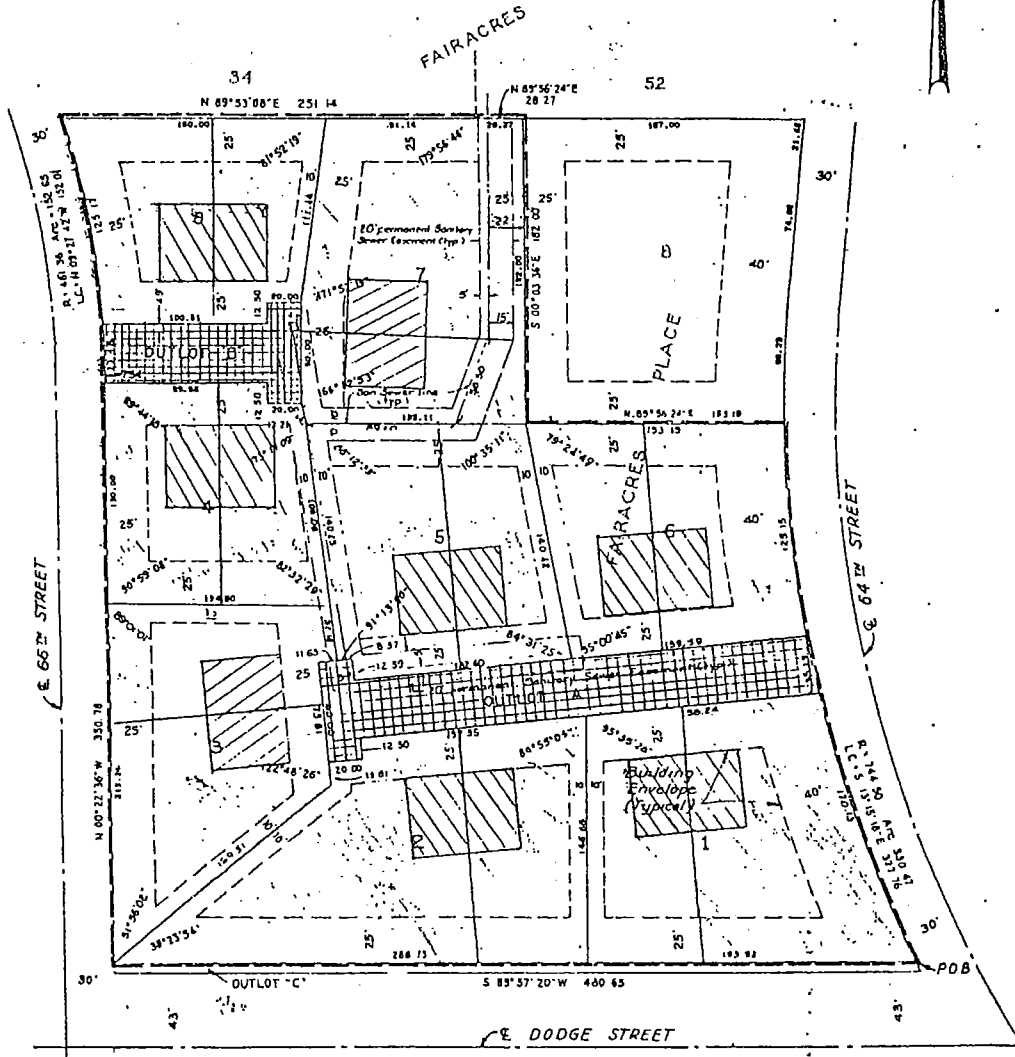
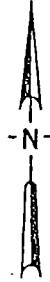
WITNESS my hand and notarial seal the day and year last written above.






Susan J. Knott

Notary Public

Fairacres Place Replat



-  OWNERS PROPERTY
-  COMMON AREA
-  LIMITED COMMON AREA

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Book 618
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Fee 21.50
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Comped 86-189
Exhibit B

RECEIVED
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C. HAROLD OSTER
REGISTER OF DEEDS
BOULDER COUNTY, NEBR.

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