



\$104,500

05002587

INST. NO 2005

2005 JAN 13 P 4: 04

002587

LANCASTER COUNTY, NE

BLOCK
 CODE
 STBRCS
 CHECKED
 ENTERED
 9

RESTRICTIVE COVENANTS
(Stone Bridge Creek Fifth Addition)

The undersigned was or is the titleholder of record and the Owner and Developer of the following-described real estate:

Lots 1-16, Block One, Lots 1-18, Block Two, Lots 1-13, Block Four Stone Bridge Creek Fifth Addition, Lincoln, Lancaster County, Nebraska ("Single Family Properties");

Lots 17-22, Block 1, Lots 1-46, Block Three Stone Bridge Creek Fifth Addition, Lincoln, Lancaster County, Nebraska ("Townhome Properties");

Collectively referred to as "Fifth Addition Properties."

Existing Covenants

Restrictive Covenants have been established, which were recorded with the Register of Deeds of Lancaster County, Nebraska on August 15, 2002, as Instrument No. 02-054310 and amended by the First Amendment to Restrictive Covenants filed in duplicate on October 1, 2002 as Instrument No. 2002-066401 and November 1, 2002 as Instrument No. 2002-076776 covering Stone Bridge Creek. Covenants for the First, Second, and Third Additions of Stone Bridge Creek were recorded on May 26, 2004 as Instrument No. 2004-064493. The Original, First Amendment First, Second, and Third Additions are referred to in this document collectively as "Covenants."

Addition of Properties

Pursuant to paragraph 31 of the Covenants, Owner is exercising its right to add additional real estate to the Properties. The Fifth Addition Properties are hereby added to the Properties and are made subject to the Covenants.

Purpose of Restatement

Pierston Fitchett

The following Restrictive Covenants are intended by the Owner to simply restate the existing Covenants which have been recorded against the Properties and make the Fifth Addition Properties subject to the terms, conditions and requirements of the Covenants.

- ii. Story and-a-half 1,200 sq. ft.
- iii. Two story 1,400 sq. ft
- iv. Multi-level/split entry 1,100 sq. ft.
- v. Duplex 1,000 sq. ft./dwelling unit

b. Setbacks. Setbacks of dwellings from the lot line are established as follows:

- i. Homes 20 feet from front lot line, 5 feet side lot line
- ii. Townhomes 20 Feet from front line, 5 feet side lot line

c. Exterior Appearance.

- i. Front Elevation. The front elevation of any dwelling shall be faced with not less than 10 percent (10%) brick or natural stone.
- ii. Exposed Foundation. Exposed foundation walls shall be painted or sided to match the exterior color scheme of the dwelling.
- iii. Roof Pitches. All roof pitches shall be a minimum of 5:12 or as may be dictated by a unique architectural style.
- iv. Solar Panels. Any active solar panels shall be flush with the roof or side wall of a dwelling and shall not be located in any required yard or upon any accessory structure.

6. GENERAL STANDARDS FOR IMPROVEMENTS AND STRUCTURES OTHER THAN DWELLINGS: The following general standards shall be satisfied in the construction and installation of improvements and structures other than the dwelling. Written approval for other improvements and structures is not required but shall comply with these standards. The Corporation and members of the Corporation shall have the right to enforce these standards.

- a. Fencing. All fencing shall comply with City of Lincoln requirements. Fencing shall not be constructed closer to the street than the front elevation of the dwelling and shall be constructed with the finished side facing the lot line. Fencing may be constructed to the lot line of the side yard of corner lots. No fencing other than decorative garden fencing, not to exceed 24 inches in height, shall be allowed in the front yard. No chicken wire, goat or cattle fencing material, nor any other type of commonly denominated livestock fencing material shall be allowed on any lot.
- b. Accessory Structures. Accessory structures such as storage sheds and playhouses shall be constructed of compatible and similar materials and design with the dwelling. All other accessory improvements such as swing sets and sand boxes shall be compatible with the quality of the overall development and shall be maintained in good order and an attractive condition.

- c. Dog Kennels. Any dog run or kennel shall be adequately screened from view and shall not be located in the front yard or within 5 feet of any lot line. Dog runs and kennels shall not be located in the front yard or side yard setback.
 - d. Satellite Dish. Any satellite dish shall be no larger than 24 inches in diameter and located and screened so as to be as unobtrusive as is reasonably possible.
 - e. Landscaping. All front, side and rear yard areas shall be seeded or sodded within six (6) months after completion of any dwelling constructed within the Properties. Within one year of the occupancy of the dwelling, not less than \$250 shall be spent on each lot within the Properties for landscaping other than the lawn.
7. COMMON FENCING: Owner shall have the option to install on the lot line of any lot within the Properties abutting an arterial or collector street, a common fence and shall have a temporary construction easement as may be necessary to exercise this option. Upon the construction of any such fence, Owner shall record a notice upon the lots affected and the titleholder of the adjoining lot shall thereafter be deemed to covenant to maintain and replace the fence as may be reasonably necessary.
8. PARTY WALLS: Any wall constructed on any common lot line between two adjoining lots within the Properties shall be a party wall. Any expense of structural repair, replacement or reconstruction of a party wall, or of the protection of a party wall against the natural elements, shall be borne equally by the members who are the titleholders of the adjoining lots. The provisions of this paragraph shall not operate to relieve any member from any liability which the member may incur by reason of negligent or willful acts or omissions resulting in damage to a party wall.
9. ENCROACHMENTS: When a building shall be constructed on any lot so as to encroach upon an adjoining lot within the Properties, the member who is the titleholder of the lot with the encroaching building shall have an easement upon the adjoining lot to the extent of the encroachment. Any expense of maintenance, repair or replacement of the encroaching building shall be borne by the member who is the titleholder of the lot with the encroaching building. The provisions of this paragraph shall not operate to relieve any member from any liability which the member may incur by reason of negligent or willful acts or omissions resulting in damage to the encroaching building.
10. COMMON UTILITY SERVICE LINES: When any common utility service line shall be constructed to serve two or more adjoining lots within the Properties, each member who is the titleholder of one of the adjoining lots shall have an easement for the maintenance, repair and replacement of the common utility service line upon all of the adjoining lots, which easement shall be appurtenant to the interest requisite for membership. Any expense of maintenance, repair or replacement of the common utility service line shall be borne equally by the members who are the titleholders of such adjoining lots. The provisions of this paragraph shall not operate to relieve any member from any liability which such member may incur by reason of negligent or willful acts or omissions resulting in damage to the common utility service line.

11. **CITY REQUIREMENTS:** All buildings within the Properties shall be constructed in conformity with the requirements of the applicable building codes of the City of Lincoln, Nebraska. Public sidewalks and street trees shall be installed during the construction of the dwelling as required by the City of Lincoln, Nebraska.
12. **TEMPORARY STRUCTURES:** No partially completed dwelling or temporary building and no trailer, tent, shack, or garage on any lot within the Properties shall be used as either a temporary or permanent residence.
13. **NUISANCE:** No noxious or offensive activity shall be conducted or permitted upon any lot within the Properties, nor anything which is or may become an annoyance or nuisance to the neighborhood or which endangers the health or unreasonably disturbs the quiet of the occupants of adjoining lots.
14. **SIGNS:** No advertising signs, billboards, or other advertising devices shall be permitted on any lot within the Properties larger than 24 inches by 36 inches. However, Owner may erect signs of any size advertising lots for sale within the Properties, and a sign advertising a single lot for sale may be erected upon any lot.
15. **ANIMALS:** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot within the Properties for any commercial purpose.
16. **RECREATIONAL VEHICLES:** No recreational vehicle, as defined by the Lincoln Municipal Code, shall be parked or stored upon the front yard of any lot within the Properties. Recreational vehicles in operational condition may be parked or stored upon the back or side yards of a lot.
17. **CONSTRUCTION VEHICLES AND ROLLOFF SERVICE:** Owner may designate and enforce locations through and over which all construction vehicles shall enter and exit the Properties during development. Owner shall also have the exclusive right to designate a single provider of roll off service within the Properties. The purpose of designating a single provider is to limit and control the number of service trucks operating within the Properties. The rights of the Owner under this paragraph to designate a roll off provider may be assigned to the Corporation when residences shall have been placed or constructed upon all of the lots within the Properties.
18. **HOMEOWNERS ASSOCIATION:** Every person or entity who owns a lot within the Properties shall be a member of the Corporation. However, any person or entity who holds such interest merely as security for the performance of an obligation shall not be a member.
19. **MANAGING AGENT:** The Owner or the Corporation may contract for the performance of any of the Corporation's rights, obligations or responsibilities with any entity or individual ("Managing Agent"). The Managing Agent shall exercise such authority which may be granted by the Owner or Corporation. The fee charged by the Managing Agent shall be a common expense of the members.
20. **MEMBERSHIP:** The Corporation shall have two classes of membership:

Class A membership shall include all members of the Corporation except the Owner and any successor in interest. Each Class A member of the Corporation shall be entitled to all the rights of membership and to one vote for each lot.

Class B membership shall include only the Owner and any successor in interest. The Class B member shall be entitled to five votes for each lot. However, the Class B membership shall be converted to Class A membership when the total number of votes entitled to be cast by Class A members equals the total number of votes entitled to be cast by the Class B member.

21. **CONVEYANCE OF COMMONS:** Owner may convey at any time but shall convey within one year after the conversion of Class B membership to Class A membership all or any part of the Commons to the Corporation, free from encumbrance but subject to easements and restrictions then of record and further subject to any requirements of the City of Lincoln.
22. **USE OF COMMONS:** Each member of the Corporation shall have the right to use and enjoy the Commons as established by the rules, regulations and requirements of the Corporation and shall have an easement upon the Commons for the use thereof, which shall be appurtenant to the interest requisite for membership.
23. **RIGHTS IN COMMONS:** The rights and easements of the members of the Corporation shall be subject to:
 - a. The right of the Corporation to borrow money for the purpose of improving the Commons and to mortgage the Commons. In the event of default, the mortgagee shall have the right, after taking possession of the Commons, to charge admission and other fees as a condition of the continued use of any recreational facilities within the Commons by the members, and to open the facilities to a wider public until the mortgage debt is satisfied. Any mortgage of the Commons shall be approved by the affirmative vote of two-thirds of each class of members entitled to vote, present in person or by proxy, at a regular meeting of the members or at a special meeting of the members, if notice of the proposed mortgage is contained in the notice of the special meeting.
 - b. The right of the Corporation to take any steps reasonably necessary to protect the Commons against foreclosure.
 - c. The right of the Corporation to suspend the enjoyment of the facilities by any member for any period during which an assessment remains unpaid, and for a period not to exceed 30 days for any infraction of the published rules and regulations governing the use of the facilities.
 - d. The right of an abutting member of the Corporation to landscape and establish a garden space upon the Commons consistent with the rules, regulations and requirements of the Corporation.
 - e. The right of the Corporation to charge reasonable admission and other fees for the use of the facilities.

- f. The right of the Corporation to dedicate or convey all or any part of the Commons to any public entity.
24. **MAINTENANCE OF LANDSCAPE SCREENS:** Each member of the Corporation who is the titleholder of a lot or living unit on which any landscape screen, whether composed of structural or live plant material, which is installed as required by the City of Lincoln, Nebraska, shall be deemed to covenant to maintain the screen.
25. **GENERAL MAINTENANCE OBLIGATIONS:** Each member of the Corporation shall be responsible for the proper storage and disposal of all construction debris and materials associated with the construction of any improvements upon their lot. Lots shall be periodically mowed and loose debris and materials picked up and properly stored to prevent them from being spread and blown throughout the Properties. Each member shall be responsible for the enforcement and monitoring of these obligations for all contractors and suppliers performing work upon their lot.
26. **FAILURE TO MAINTAIN:** In the event any member fails or refuses to perform any required maintenance and upkeep of any landscape screen or the general maintenance obligations, the Owner or Corporation after seven (7) days notice to the member in default, may perform the required work or maintenance. The actual cost of performing the work or maintenance together with a 25 percent (25%) administrative fee shall be the personal obligation of the member who is or was the owner of the lot failing to perform their maintenance obligations, shall bear interest at the rate of 18 percent per annum and shall be a lien upon the lot assessed.
27. **CORPORATION RESPONSIBILITIES:** The Corporation shall provide such services to its members as they may determine. These services and responsibilities of the Corporation shall include, but are not limited to, the following:
- a. **Maintenance of Commons.** The Corporation covenants and each member of the Corporation, by the acceptance of a deed by which the interest requisite for membership is acquired, shall be deemed to covenant to maintain the Commons to the extent not otherwise provided for by these Covenants, which Covenants by the members shall be satisfied by the payment of annual and special assessments for the administration, maintenance or improvement of the Commons.
- b. **Refuse Services.** The Corporation shall contract on behalf of each member for refuse collection services through a single designated provider. The cost of this service shall be paid for by the members directly to the designated provider as billed.
28. **LIEN DUES AND ASSESSMENTS:** The lien of any dues or special assessment shall, until shown of record, be subordinate to the lien of any mortgage placed upon the lot against which the assessment is levied.
29. **ANNUAL ASSESSMENTS AND LIENS:** Annual dues and special assessments, other than for capital improvements, may be levied by the Board of Directors of the Corporation. Any special assessment for capital improvements may be rejected at any

time within 30 days of the notice of the levy by the vote of a majority of each class of members affected and entitled to vote, at a regular meeting of the members or at a special meeting of the members, if notice of a special assessment is contained in the notice of the special meeting.

The members shall pay annual dues and special assessments to the Corporation or Managing Agent as billed. Each member's dues shall be determined on an annual basis for each fiscal year, prorating a fractional year which may occur by issuance of a building permit for any dwelling. The initial annual dues are established at \$50 per year per lot. Changes in the amount of future annual dues shall be based upon an estimate of the Corporation's costs for administration, maintenance and improvement of the Commons and each member shall pay the annual dues so established in advance. At the end of each fiscal year, a statement of the total year's Common's operating costs may be presented to the members of the Corporation and the members shall pay any excess charge to the Corporation within thirty (30) days of the statement.

- a. Budgets. The Corporation or Managing Agent shall prepare, approve and make available to each member a pro forma operating statement (budget) containing: (1) estimated revenue and expenses on an accrual basis; (2) the amount of any cash reserves of the Corporation currently available for replacement or major repair of the Commons and for contingencies; (3) an itemized estimate of the remaining life of, and the methods of funding to defray repair, replacement or additions to, major components of the Commons; and (4) a general statement setting forth the procedures used by the Corporation in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Commons.
- b. Additional Charges. In addition to any amounts due or any other relief or remedy obtained against a member who is delinquent in the payment of any dues or assessments, each member agrees to pay such additional costs, fees, charges and expenditures ("Additional Charges") as the Corporation or Managing Agent may incur or levy in the process of collecting from each member monies due and delinquent. All Additional Charges shall be included in any judgment in any action brought to enforce collection of delinquent dues or assessments. Additional Charges shall include, but not be limited to, the following:
 - i. Attorney's Fees. Reasonable attorney's fees and costs incurred in the event an attorney(s) is employed to collect any dues, assessment or sum due, whether by suit or otherwise;
 - ii. Late Charges. A late charge in an amount to be fixed by the Corporation to compensate the Corporation for additional collection costs incurred in the event any dues, assessment or other sum is not paid when due or within any "grace" period. The late charge shall not exceed twenty-five percent of the delinquent assessment or fifty dollars (\$50), whichever is greater.
 - iii. Costs of Suit. Costs of suit and court costs incurred as allowed by the court;
 - iv. Filing Fees. Costs of filing notice of lien in the Office of the Register of Deeds;

- v. Interest. Interest on all dues and assessments at the rate of 18 percent per annum, commencing thirty (30) days after the assessment becomes due; and
 - vi. Other. Any other costs that the Corporation may incur in the process of collecting delinquent dues and assessments.
- c. Lien. The dues and assessments shall be the personal obligation of the member who is the owner of the lot assessed at the time of the assessment and when shown of record shall be a lien upon the lot assessed.
 - d. Fines. The Corporation may create a schedule of fines for violation of Corporation rules and regulations which fine shall be treated and billed as a special assessment to the offending member's lot.
30. UNDEVELOPED LOT FEE AND FIRST YEAR PRORATE: Upon the initial sale of a lot within the Properties from the Owner, the purchaser shall pay to the Corporation the sum of \$50 in lieu of any annual dues or assessments. The \$50 annual fee shall be due and owing from the titleholder on January 1 of each and every year until such time as a residence is constructed upon the lot and occupied. No portion of this fee shall be credited to the annual dues or assessments.

Upon the initial occupancy of a residence on a lot within the Properties, the titleholder of the lot shall pay to the corporation the prorated amount of the annual dues or assessments, prorated from the date of occupancy to the end of the calendar year.

31. ADDITIONS: The Owner may add additional contiguous or adjacent real estate to the Properties or the Commons, at any time, without the consent of the members of the Corporation. Additions shall be made by the execution and recordation of Restrictive Covenants upon the additional real estate, making the addition subject to these Restrictive Covenants; provided the general standards set forth in paragraphs 5 and 6 may be reduced, increased or otherwise modified within any such addition.
32. AMENDMENTS: These Restrictive Covenants shall run with the land and shall be binding upon and enforceable by the Owner and all persons claiming under the Owner. These Restrictive Covenants may be terminated or modified, in writing, by the owners of two-thirds of the lots within the Properties, at any time. However, the provisions of these Restrictive Covenants governing membership in the Corporation and the maintenance of the Commons shall not be terminated or modified without the consent of the City of Lincoln, Nebraska.
33. ENFORCEMENT: The enforcement of these Restrictive Covenants may be by proceedings at law or in equity against any person violating or attempting to violate any provision hereof. The proceedings may be to restrain the violation, or to recover damages and, by the Corporation or Owner, may be to enforce any lien or obligation created hereby.

34. SEVERABILITY: The invalidation of any one of these Restrictive Covenants shall not affect the validity of the remaining provisions hereof.

Dated: January 10, 2005.

Stone Bridge Creek L.L.C., a Nebraska limited liability company,

By: Robert D. Hampton
Robert D. Hampton, Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 10th day of January, 2005, by Robert D. Hampton, Manager of Stone Bridge Creek L.L.C., a Nebraska limited liability company, on behalf of the company.

Lori Michl
Notary Public

(G:\WPData\PK\COVENANT\Stone Bridge Creek\Stone Bridge Covenants 5th.wpd)

