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MASTER DECLARATION OF COVENANTS AND RESTRICTIONS OF BEAR CREEK ESTATES

Barbara J. Hall
RECORDER OF DEEDS

WHEREAS, the undersigned (hereinafter called "Declarant") is the owner in fee simple of certain real property in the City of Wentzville, County of St. Charles and State of Missouri, known as BEAR CREEK ESTATES, being several tracts of land in Sections 22 and 23, Township 47 North, Range 1 East, and being more particularly described in Exhibit A attached, and

WHEREAS, the development of said property has been approved by the City of Wentzville Planning and Zoning Board, and

WHEREAS, Bear Creek Estates is located entirely within the boundaries of the Bear Creek Golf Course Community Neighborhood Improvement District (the "District"), and

WHEREAS, Demien Development Company (the "Developer") has made certain covenants for the benefit of the City of Wentzville, Missouri (the "City") in connection with the payment of special assessments for public improvements within the District; and

WHEREAS, the Declarant desires to declare of public record its intention to create certain protective covenants and conditions to the ownership of said property, including but not limited to those covenants and conditions as are necessary to assure continuing compliance with the requirements of the City of Wentzville and County of St. Charles building and zoning ordinances.

NOW THEREFORE, the Declarant does hereby certify and declare that the following reservations, conditions and covenants shall become and are hereby made a part of all conveyances inclusive within the plat of Bear Creek Estates, recorded in St. Charles County, Missouri and that the following protective covenants, conditions and reservations shall by reference become a part of any conveyances of any said property, and shall apply thereto as fully and with the same effect as if set forth in full therein. These Master Covenants And Restrictions shall take precedence over all other covenants and restrictions as may hereafter be imposed upon all or portions of the real estate platted as Bear Creek Estates unless written exception thereto is made by Declarant which exception shall be recorded in the St. Charles County Recorder's Office.

A. DESIGN AND CONSTRUCTION:

1. The floor area of living space of all non-attached residences excluding porches, decks, basements and garages shall not be less than 1,600 square feet for a one-story dwelling and shall not less than 2,200 square feet for any multi-level dwelling. The Trustees may grant variances for construction of smaller living space residences, not to exceed a 13% reduction from the foregoing requirements. All attached residences must be approved by the Trustees. The minimum square footage for each living unit of attached housing shall be at least 1,400 square feet.

2. All Building distances from property lines shall comply with governmental ordinances and structures shall not infringe on any utility easement.

3. All construction shall comply with all applicable building codes.

4. The Trustees shall have control over the development concept, which may vary from lot to lot within the subdivision.

5. All residences at shall be designed to provide a pleasing visual appearance. Consideration should be given to the architectural character of existing houses in the neighborhood. Similar or identical houses should be separated.

6. Dwellings shall front or present a good frontage on the street on which they are located, as shown on the recorded plat. Dwellings located on corner lots shall present a good frontage on both streets.

7. Style of front elevation to be carried out on other elevations.

8. All chimneys must be boxed in with siding to match the house; or to match the trim, brick or masonry.

9. The pitch of all roofs shall be 7 to 12 or steeper. The slope of the roof lines should all relate to each other.

10. No residence shall be more than two levels in height above ground level without the written consent of the Trustees.

11. All driveways shall be of concrete.

12. Each residence shall have at least a two car attached garage exterior to the main dwelling. No vehicles may be parked in the interior of the main dwelling. All garages must be equipped with doors and blend in color with building siding.

13. All front yards must be sodded. On lots contiguous with the golf course, at least ten feet of the rear yard which is contiguous with the golf course must be sodded. All sod must be in place within the time allowed for construction unless the Trustees grant an extension for sodding due to inclement weather. All non-sodded lawn areas must be seeded and strawed immediately after construction is completed unless the Trustees grant an extension due to inclement weather.

14. All major trees shall be preserved. Caution should be exercised so that trees are not damaged or severed.

15. No surface water shall drain directly or indirectly into the sanitary water. All downspouts and surface drains must be drained or pumped to daylight.

16. No more than 12" of any foundation wall may be exposed above ground.

17. Before construction may begin on any lot, the owner of that lot shall submit the following in triplicate to the Trustees for architectural review and approval:

- a. A proposed site plan showing the location, layout, dimensions and configuration of the proposed structures as well as proposed landscaping and fencing.
- b. A proposed building plan and supporting drawings, showing style and design of the proposed residence including the type of exterior materials and colors to be used.
- c. The sum of \$50.00 as a review fee.

18. No dwelling or other structure shall be erected, placed or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved in writing by the Trustees. If any aspect of the proposed plan and specifications do not meet the Trustees' development concepts for the subdivision including but not limited quality of workmanship, materials and harmony of design with existing structures, the lot owner shall revise and resubmit the plans and specifications until they are approved in writing by the Trustees. Once plans and specifications have been approved, no changes will be made by the owner or the builder unless resubmitted to declarant and approved. All additions, alterations or deviations of any sort, not on the originally submitted and approved plans, must be resubmitted to the Trustees and governmental authorities for review and approval.

19. After approval of the plans by developer and municipal governing permits authority, the lot owner may begin construction in accordance with the plans. All elevations on the plans must conform to the plot plans submitted. Construction not in conformity with the plans shall be deemed a violation of these protective covenants.

20. If, after inspection, the Trustees believe any construction is not in agreement with the approved plans, they may halt construction, without court order, and may require, without court order, that corrective action be taken before construction can continue. The Trustees shall not be liable for any damages, delays or inconveniences caused by its inspection, whether or not the inspection results in the discovery and correction of any unapproved work.

21. All lot owners, builders, developers, subcontractors and other persons and entities causing or allowing any work or process on any lot shall take whatever steps are necessary to prevent their work or process from causing mud, siltation or materials to go onto the golf course and/or into the lakes. If such person or entity fails to prevent the same, the Trustees shall have

the right to enter upon the lot and take measures to stop such mud, siltation or materials from leaving such lot. No person or entity shall impede or interfere with the Trustee's actions in taking such measures and the person or entity responsible for allowing mud, siltation or materials to go onto the golf course and/or into the lakes shall promptly indemnify the Trustees for the Trustees' time and expenses in taking such measures. The Trustees shall have in their sole discretion the right to determine what constitutes adequate siltation control.

22. The Declarant and the Trustees shall have the right to adjust the final grade of all lots at any time without liability to the lot owner or other persons or entities. Should the Declarant or Trustees adjust the final grade of a lot, they shall make reasonable efforts to restore the surface of the lot area adjusted and the vegetation thereon, excepting trees, to its condition prior to the adjustment.

23. All construction shall be completed within six months of the commencement of any construction unless an extension is granted by the Trustees for good cause.

B. LAND USE:

1. RESIDENCE: No lot or portion thereof shall be used for any purpose except for one owner occupied single family residence approved in writing by the Trustees. No dwelling may be leased or rented without written consent of the Trustees.

2. PROHIBITED STRUCTURES: No detached buildings, car ports, open garages, above ground pools, chain link or wire mesh fences, or outdoor satellite dishes, television or radio antennas will be permitted. No propane or other gas tanks shall be permitted except for barbecue pits.

3. TRUSTEES' APPROVAL: No other structure, including without limitation fences, in ground pools, gazebos and direct TV dishes in excess of 22 inches in diameter, shall be erected, altered, placed or permitted on any lot except as approved in writing by the Trustees.

4. OUTDOOR PARKING: Personal property, including without limitation, boats, trailers, trucks in excess of 3/4 ton capacity, campers and recreational vehicles, shall not be parked or stored permanently or temporarily in the open on any lot.

5. BUSINESS AND COMMERCIAL USES: No trade, business, professions or commercial activity of any kind shall be conducted on any lot; nor shall any goods, equipment, vehicles, materials or supplies used in connection with any trade, service or business enterprise be stored on any lot.

6. OFFENSIVE ACTIVITIES: No noxious or offensive activities shall be carried on upon any lot; nor shall anything be done or placed upon any lot which interferes with or jeopardizes the enjoyment of other lots within the subdivision.

7. ANIMALS: No swine of any kind shall be raised, bred or kept upon any lot for any purpose. No animals of any kind shall be raised, bred or kept upon any lot for any commercial purpose. Any lot owner may keep domestic pets, not to exceed three in total number, as household pets, provided they are restrained from leaving the lot owner's property. Provided, however, that no lot owner shall cause or allow the creation of a nuisance to other lot owners by the keeping of any animal or animals.

8. SIGNS: No signs shall be erected or maintained on any lot, except that one "for sale" sign not exceeding 18 inches high and 24 inches wide may be temporarily displayed on a lot. This restriction shall not prohibit:

1. One sign indicating the name of the occupant of a residence, not exceeding 1-1/2 square feet in size, or
2. Temporary placement of "political" signs on a lot by the owner, or
3. The placement of a sign identifying the subdivision at or near the primary entrance to the subdivision, or
4. The temporary placement of "garage sale" or a similar sign on the lot on which such sale is being conducted.
5. The temporary placement of "builder's signs" with permission and at the sole discretion of the Trustees.

9. VEHICLES IN DISREPAIR: No owner shall permit any vehicle which is inoperable or in an extreme state of disrepair or dismantled to be abandoned or to remain parked upon any lot, driveway or street in the subdivision for a period in excess of 48 hours.

10. RUBBISH AND TRASH: No lot or any part thereof shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate sanitary containers for proper disposal and out of view. No grass clippings, leaves, dirt or other materials from gardening or landscaping work shall be dumped onto driveways, parking areas or other lots.

11. MAINTENANCE OF LANDSCAPING: The owner of each lot shall be responsible for the maintenance of the landscaping and plantings on his property in a manner which will maintain a clean, well-tended appearance. This duty includes, but is not limited to, performance reasonable and proper weeding, mowing of any lawns, maintaining of mulches and ground covers, controlling pests and plant diseases, cleaning, pruning, fertilizing, and replacement of destroyed or diseased plant materials. The owner of each lot shall plant and maintain at least two trees of at least two inches diameter each in the front yard of the lot.

12. **EXTERIOR MAINTENANCE:** Each lot owner shall not allow the exterior of any residence or other building or structure on the owner's lot to fall into disrepair. Each lot owner shall paint, maintain and repair any residence, building or structure on that owner's lot in accordance with usual community standards for structures of similar type and style.

C. EASEMENTS:

1. Easements as shown on the subdivision plat shall be preserved and maintained by the respective lot owners. The owner of any lot which has an easement shall maintain the easement area at his expense, except for improvements for which a public authority or utility is responsible. No structures of a permanent nature may be installed on any easement. Temporary improvements such as landscaping will be permitted. If, however, it becomes necessary to remove any such improvements to permit installation, maintenance or repair of utilities or other service facilities located or to be located in the easement, the owner will be responsible for replacement of the improvement at his sole expense.

2. The Trustees and their employees and agents shall have the right to enter upon any lots and other areas of the subdivision to maintain and repair subdivision property, to abate the flow of mud, siltation or materials, to adjust final grades, and for other purposes set forth in these covenants and restrictions.

3. Golfers lawfully using the Bear Creek Golf Course shall have a "Bad Shot" easement to go upon lots at reasonable times and in a reasonable manner to retrieve golf balls which unintentionally land upon the lots. In no event, however, shall any golfer have the right by this easement to strike a golf ball from a lot with a golf club or other instrument. By purchasing a lot in the subdivision, the Owner thereof acknowledges that such location may result in nuisances and hazards to persons and property on such lot as a result of golf course operations, and each owner, by acceptance of a deed, covenants for itself and its successors, assigns, children, invitees, and licensees that they shall assume all risks associated with such location, including but not limited to, the risk of property damage or personal injury arising from stray golf balls or actions incidental to the golf course operations and shall indemnify and hold Declarant, the Trustees and the owner(s) and/or operator(s) of the Golf Course Property and their respective subsidiaries, affiliates, offices, directors, heirs, successors and assigns, harmless from any liability, claims or expenses, including reasonable attorney's fees, arising out of any such property damage or personal injury sustained on their lot, on subdivision common ground or on the Golf Course property. Nothing herein contained, however, shall be deemed to release individual golfers from their negligence or willful misconduct. The provisions of this subparagraph 3 can only be amended with the consent of the owner of Bear Creek Golf Course a/k/a Bear Creek Golf, LLC or its successors and assigns, in addition to the requirements for amendment provided for herein.

D. TRUSTEES: Declarant shall act as the Trustee of the subdivision until such time as Declarant has sold all of the lots which it owns in the subdivision or Declarant voluntarily calls for the election of Trustees, whichever first occurs. The Trustees shall accept and hold title to

those tracts of land which the Declarant designates as common ground. The Trustees shall have the fiduciary responsibility for the management of the assets of the subdivision including the common ground of the subdivision and the improvements thereon and such other rights and responsibilities as are designated in these covenants and restrictions. The Trustees are authorized to expend funds for such purposes, for insurance premiums, for incorporation if they deem incorporation desirable, and for all other purposes which are lawful and appropriate expenditures for the benefit of the subdivision. The trustees shall further have the authority to expend funds for construction, operation and maintenance of subdivision improvements such as play grounds, parks, swimming pools and other amenities. All trustees shall be lot owners of the subdivision. The owner of Bear Creek Golf Course a/k/a Bear Creek Golf, LLC, its successors and assigns, shall have the perpetual right to appoint one of the three Trustees from year to year or for such term as they may designate, which right may not be repealed or amended without the written consent of said owner. The other two Trustees shall be elected by the lot owners. Only lot owners who are current in their payment of assessments may vote in the Trustees' election. Each lot shall be entitled to one vote for each position of Trustee in the election. In the first election of the Trustees, the person receiving the highest number of votes shall hold a term of two years, and the person receiving the second highest number of votes shall hold a term of one year. In all succeeding elections, the term of a newly elected Trustee shall be a term of two years. Should a Trustee resign or become incapable or unwilling to serve, the remaining Trustees shall have the authority to designate a successor Trustee for the remainder of such Trustee's term. The Trustees shall serve without compensation.

E. ASSESSMENTS: Each lot sold by Declarant shall thereafter be subject to a \$50.00 annual assessment to be paid to the Trustees on January 1st of each year. The Trustees are authorized by their unanimous vote to reduce the amount of the annual assessment or to increase the amount of the annual assessment. All lot owners shall be personally liable for payment of assessments levied against their lots. Any assessments unpaid when due shall be a lien against the lot assessed and shall incur interest of 9% per annum until paid.

F. SPECIAL ASSESSMENTS:

1. Developer has covenanted and agreed for the benefit of the City to pay all special assessments to be levied against any and all real property owned by the purchaser and located within the District pursuant to the Missouri Neighborhood Improvement District Act, Sections 67.453 through 67.475 of the Missouri Revised Statutes, as amended (the "NID Act") (collectively, the "NID Assessments") on or before the date such NID Assessments are due, and Developer has also waived any right, pursuant to Section 67.463.3 of the NID Act, to pay such NID Assessments in full in one lump sum, and elected to pay such NID Assessments in substantially equal annual installments as provided in Section 67.463.4 of the NID Act, and Developer has further waived the right, in accordance with Section 67.465 of the NID Act, to file suit to set aside the NID Assessments or otherwise question the validity of the proceedings relating thereto.

2. The foregoing covenants, agreements and waivers contained in Paragraph F.1. above shall run with the land and bind future owners of all or any portion of the land, including future platted lots, for the benefit of the City so long as any notes or bonds relating to the NID Assessments are outstanding, and that such covenants, agreements and waivers may not be amended, modified or waived without the consent of the City so long as any notes or bonds relating to the NID Assessments are outstanding.

3. Any lot owner selling, conveying, or otherwise transferring title to his lot shall cause a statement substantially in the form of Paragraphs F.1. and F.2. to be placed in such deed or other instrument by which such sale, conveyance, or transfer occurs.

G. TERM AND AMENDMENT: These covenants and restrictions shall perpetually run with the land and shall be binding upon and inure to the benefit of Declarant and all lot owners, their heirs and successors, assigns and all persons claiming under them. So long as Declarant shall own any lots in the subdivision, Declarant shall have the right to amend these covenants and restrictions in any manner by an instrument executed and recorded by Declarant and they may not be amended otherwise, other provisions hereof notwithstanding. Following the time that Declarant no longer owns any lots in the subdivision, these covenants and restrictions may be amended by recordation of a written instrument amending these covenants and restrictions executed by at least two-thirds (2/3) of the lot owners in the subdivision, computed as of the date of recordation of such written instrument, with each lot being deemed to have one owner for such purposes. All persons having legal ownership of a lot must each execute such instrument in order for such lot to be counted as a lot owner who executed such instrument.

H. NOTICES: Any notice required or permitted to be given to an owner shall be in writing, and may be given by personal delivery or by certified mail, return receipt requested, to the post office address of the residence or place of business of such owner. Mailed notice shall be deemed given two days after its deposit in the post office.

I. SEVERABILITY: If any covenant or provision of this declaration is invalid, illegal or unenforceable, the other covenants and provisions shall remain in full force and effect.

J. VIOLATION: In the event of any failure to pay assessments or other continued violation by any lot owner of any of the provisions herein contained after five (5) days' written notice from the Trustees, the Trustees may institute suit against any person or persons violating or attempting to violate any provision hereof to restrain and enjoin such violation and/or to recover damages. Any lot owner and all persons acting under him or in his behalf, who so violates or attempts to violate any provision hereof, shall indemnify the Trustees for all expenses incurred in the enforcement of these covenants and restrictions, including, but not limited to, court costs and reasonable attorneys' fees. In addition, the Trustees, prior to filing suit, shall have the power to correct any such violation and make any necessary repairs and alterations and do such work as is reasonably deemed necessary to correct such violation. The Trustees may thereafter institute proceedings against the owner of such lot to collect the cost of such repairs, alterations and work from the owner of such lot.



ENGINEERING

PLANNING

BOOK 1994 PAGE 1652

SURVEYING

LAND DESCRIPTION
BAX PROJECT NO 96-7976
OCTOBER 24, 1997
NJN

EXHIBIT A

A tract of land being part of Sections 22 and 23, in Township 47 North, Range 1 East of the Fifth Principal Meridian, City of Wentzville, St. Charles County, Missouri, said tract being more particularly described as follows.

Beginning at the East corner of Section 22, thence along the line dividing Sections 22 and 23, South 01 degrees 32 minutes 00 seconds West 1881.08 feet to the Southwest corner of a tract conveyed to Randall M. Drullinger by deed recorded in Book 837 Page 147 of the St. Charles County Records, thence along the Southern line of said Drullinger tract, South 88 degrees 07 minutes 44 seconds East 715.19 feet, North 00 degrees 50 minutes 20 seconds East 27.40 feet; and South 87 degrees 50 minutes 25 seconds East 603.49 feet to a point on the centerline of May Road, 40.00 feet wide, thence along said centerline, South 01 degrees 31 minutes 24 seconds West 383.84 feet to the Northeast corner of a tract conveyed to Joseph and Mary Steward, as per deed recorded in Book 765 Page 597 of the St. Charles County Records, thence along the North and West lines of said Steward tract, North 87 degrees 07 minutes 42 seconds West 419.36 feet; and South 01 degrees 49 minutes 17 seconds West 96.94 feet to the Northeast corner of Bear Creek Plat One, as per plat recorded in Plat Book 34 Page 165 of the St. Charles County Records, thence along the Northern and Western lines of said Bear Creek Plat One, North 88 degrees 07 minutes 44 seconds West 614.97 feet; South 01 degrees 52 minutes 16 seconds West 31.90, South 07 degrees 41 minutes 34 seconds West 141.35 feet; South 02 degrees 35 minutes 20 seconds West 139.60 feet to the Southwest corner of said Bear Creek Plat One, thence in a Westwardly direction along the Northern line of Cherokee Lake Estates Plat Two, as per plat recorded in Plat Book 10 Page 42 of the St. Charles County Records, El-Mau Acres as per plat recorded in Plat Book 10 Page 49 of the St. Charles County Records, and a tract conveyed to David and Penny Pitman, North 87 degrees 24 minutes 40 seconds West 404.60 feet; North 87 degrees 39 minutes 45 seconds West 515.41 feet; North 88 degrees 49 minutes 54 seconds West 432.00 feet; and South 88 degrees 25 minutes 39 seconds West 229.54 feet to the Southeast corner of the Southwest quarter of the Southeast quarter of Section 22, said point being the Southeast corner of a tract conveyed to Carolyn A. Duncan Revocable Living Trust, as per deed recorded in Deed 1702 Page 1387 of the St. Charles County Records, thence along the Eastern line of said tract North 01 degrees 20 minutes 53 seconds East 1320.10 feet to the Northeast corner of



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BOOK 1994 PAGE 1653

LAND DESCRIPTION

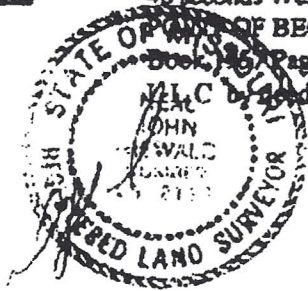
BAX PROJECT NO. 96-7976

OCTOBER 24, 1997

PAGE 2

said tract, being the Northeast corner of the Southwest quarter of the Southeast quarter of Section 22, thence along the Northern line of said tract, and the Northern line of tracts conveyed to King by deed recorded in Book 1409 Page 259 of the St. Charles County Records, and conveyed to Osterloth by deed recorded in Book 773 Page 101 of the St. Charles County Records, the Northern line of West Plains Estates as per plat recorded in Plat Book 18 Page 6 of the St. Charles County Records, and a tract conveyed to Rolland and Dorothy Coyne by deed recorded in Book 910 Page 541 of the St. Charles County Records, North 88 degrees 35 minutes 35 seconds West 1513 27 feet; North 88 degrees 32 minutes 51 seconds West 1680.00 feet and North 88 degrees 41 minutes 59 seconds West 739 65 feet to a point on the centerline of Point Prairie Road, thence along said centerline, North 01 degrees 45 minutes 58 seconds East 1330.30 feet, thence leaving said centerline, along the Southern line of Copper Creek, as per plat recorded in Plat Book 20 Page 160 of the St. Charles County Records, South 88 degrees 24 minutes 33 seconds East 1327.16 feet to the Southeast corner of said tract, thence along the Eastern line of said tract, and the Eastern line of property conveyed to James and Evelyn Davison by deed recorded in Book 878 Page 1578 and Book 577 Page 33 of the St. Charles County Records, and the Eastern line of a tract conveyed to Larry and Carolin Jones by deed recorded in Book 1629 Page 364 of the St. Charles County Records, North 01 degrees 23 minutes 11 seconds East 1797 76 feet to the Southwest corner of a tract of land conveyed to Wentzville R-IV School District of deed recorded in Book 1883 Page 646 of the St. Charles County Records, thence along the South and East lines of said school tract South 88 degrees 11 minutes 17 seconds East: 660.00 feet; North 69 degrees 52 minutes 35 seconds East 374.70 feet and North 01 degrees 36 minutes 33 seconds East 710 00 feet to a point on the centerline of Meyer Road, 40.00 feet wide, thence along said centerline, South 88 degrees 11 minutes 17 seconds East 300 00 feet to the Northwest corner of a tract conveyed to Kuhlmann by deed recorded in Book 800 Page 815 of the St. Charles County Records, thence along the Western, Southern and Eastern lines of said Kuhlmann tract South 01 degrees 36 minutes 33 seconds West 688 00 feet; South 88 degrees 27 minutes 01 seconds East 640.89 feet, and North 01 degrees 36 minutes 53 seconds East 688 02 feet to a point on the centerline of aforesaid Meyer Road, thence along said centerline South 88 degrees 27 minutes 08 seconds East 661 99 feet to the Northwest corner of a tract of land conveyed to George and Audrey Thompson by deed recorded in Book 1196 Page 279 of the St. Charles County Records, thence along the Western and Southern lines of said Thompson tract, South 01 degrees 28 minutes 48 seconds West 2638 05 feet and South 88 degrees 30 minutes 43 seconds East 1309.98 feet to the point of BEGINNING. Excluding property conveyed to City of Wentzville by deed recorded in Book 146 Page 1506 of the St. Charles County Records and property conveyed to Bear Creek Golf Club by deed recorded in Book 1987 Page 1158 of the St. Charles County Records.

RECORD AS IS



END OF DOCUMENT

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