

KENAI

Serial No.

68-2477

BOOK ~~1111~~ 223 PAGE 223
Kenai Recording District

DECLARATION AND ESTABLISHMENT OF
CONDITIONS, RESTRICTIONS AND COVENANTS FOR
WOODLAND SUBDIVISION PART III, KENAI, ALASKA

This Declaration of Covenants, Conditions, Restrictions, and Charges is made this 12th day of August, 1968, by WOODLAND DEVELOPMENT CORPORATION, an Alaska corporation, hereinafter referred to for the purposes of convenience as "Declarant".

WHEREAS, Declarant is owner of the real property situated in the State of Alaska, Third Judicial District, Kenai Recording District, legally described as set forth in the attached "Exhibit A" which is incorporated herein by reference; and

WHEREAS, Declarant has established a general plan for the improvement and development of said real property and desires to create covenants, conditions and restrictions upon which and subject to which that portion of said real property shown and legally described in "Exhibit B", incorporated herein by reference, shall be improved, or sold and conveyed by it, as owner thereof.

NOW THEREFORE, Declarant does hereby establish and impose upon said Lots described in said "Exhibit B", provisions, conditions, restrictions, covenants, easements and reservations upon and subject to which each and all of said Lots as provided for herein shall be held, occupied, leased, sold, and/or conveyed by Declarant or Declarant's successors. Said covenants shall run with said Lots for the benefit of said Subdivision and each and every such lot, and for the benefit of each owner of one or more lots therein, and their assigns and successors in interest, and shall apply to and bind the respective successors in interest of Declarant and the owners of each and every lot in said Subdivision from and after the recordation of these Declarations. Said provisions, conditions, restrictions, covenants, easements and

reservations now made applicable to said lots are as follows:

1. LAND USE AND BUILDING TYPE

No lot or other portion of the real property described in "Exhibit B" hereof shall be used for any purpose other than described in this paragraph hereinbelow, or on a subsequently filed plat.

Block N
Lots 2 through 10, single family.

Block O
Lots 4 through 21, single family.

Block P
Lots 1 through 10, single family.

Block Q
Lots 15 through 25, single family.

Block S
Lots 1 through 4, single family.

2. ARCHITECTURAL CONTROL

No building shall be erected, placed, or altered on any lot until the construction plans and specifications plus a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. Approval shall be secured as provided in paragraph 18 hereunder. In no event shall any building be erected, placed or altered on any lot in violation of any building or zoning law and code of the City of Kenai.

3. DWELLING COST AND QUALITY

No dwelling shall be permitted on any lot at a cost of less than \$16,000 based upon cost levels prevailing on the date these conditions, restrictions, and covenants are recorded, it being the intention and purpose of such conditions, restrictions and covenants

to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date such conditions, restrictions, and covenants are recorded at the minimum cost stated herein.

4. BUILDING LOCATION

(a) No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum setback lines shown on the recorded plat. In any event, no building shall be located on any lot nearer than 20 feet to the front line, or nearer than 20 feet to any side street line.

(b) No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 60 feet or more from the minimum building setback line.

(c) No dwelling shall be located on any lot nearer than 15 feet to the rear lot line.

(d) For the purposes of these conditions, restrictions and covenants, eaves, steps, and open porches shall not be considered as a part of the building, provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

5. TIME FOR CONSTRUCTION

Any and all improvements erected upon any lot in said Subdivision shall be completed with reasonable diligence.

6. LOT AREA AND WIDTH

No dwelling shall be erected or placed on any lot having a width of less than 50 feet at the minimum building setback line, nor shall any dwelling be erected or placed on any lot having an area of less than 7,000 square feet.

7. EASEMENTS

Easements for installation and maintenance of utilities, drainage facilities, and natural vegetation screening, are reserved as

shown on the recorded plat. Within these easements no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of the utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

8. NUISANCES

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

9. TEMPORARY STRUCTURES

No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

10. SIGNS

No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by owner or a builder to advertise the property during the construction and/or sales period for marketing Subdivision lots.

11. OIL AND MINING OPERATIONS

No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations, or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained, or permitted upon any lot.

12. LIVESTOCK AND POULTRY

No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose. And further provided that no more than one dog of sled type breed may be maintained, and all dogs shall be restrained as necessary, to prevent their becoming nuisances.

13. GARBAGE AND REFUSE DISPOSAL

No lot shall be used or maintained as a dumping ground for rubbish. Trash or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the disposal or storage of such material shall be kept in a clean and sanitary condition.

All homes constructed on all lots shall have constructed and built in as part of the plumbing equipment a suitable garbage disposal. No garbage cans shall be allowed upon any of the areas upon said Subdivision and all occupants in said Subdivision shall dispose of their garbage as indicated above and shall not place the same in any trash containers.

14. WATER SUPPLY

No individual water supply system shall be permitted on any lot.

15. SEWAGE DISPOSAL

No individual sewage disposal system shall be permitted on any lot.

16. SIGHT DISTANCE AT INTERSECTIONS

No fence, wall, hedge or shrub planting which obstruct sight lines at elevations of between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property line and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection

of the street property line extended. The same sight line limitations shall apply to any lot within 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

17. GRADING

Declarant reserves the right to make such cuts and fills as it or its proper Engineering Department may deem necessary to grade the streets or private ways, whether dedicated or not within the boundaries thereof, in accordance with such grades as may be established to conform to the general plans and grades of the entire Subdivision and the adjoining subdivisions, if any, including the right so far as is reasonable and proper for the necessary support and protection of streets so graded to slope upon abutting lots.

18. ARCHITECTURAL CONTROL COMMITTEE

(a) Membership. The Architectural Control Committee shall be composed of: Three (3) members to be elected by the Board of Directors of the Declarant. A majority of such committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have full authority to designate a successor. Neither the members of the committee, nor its designated representative shall be entitled to any compensation for services performed pursuant to this instrument. At any time after June 1, 1973, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee, or to withdraw from or restore to such committee, any of its powers and duties.

(b) Procedure. The committee's approval or disapproval as required in these conditions, restrictions and covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within sixty (60) days after plans and

specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the relevant covenants, conditions and restrictions shall be deemed to have been fully complied with.

(c) Grading. No grading shall be done or changed on any lot until all the plans and specifications thereof have been submitted to the Architectural Committee for the required approval in the same manner as for building any lot as set forth above.

(d) Disapproval of Plans. In the event said Committee disapproves said plans and specifications, and sufficient changes or alterations therein have not been submitted which meet the approval of the Architectural Committee, in its sole discretion, said Committee shall notify the applicant of the disapproval thereof, and in that event applicant shall have no rights whatsoever to construct or install said proposed improvement upon any lot in said Subdivision. Said Architectural Committee shall have the right to inspect any construction during progress in order to ascertain that the same is being constructed in accordance with the plans on file with said Committee which have theretofore been approved in writing by it. In the event any owner attempts to construct or maintain any improvement, structure, landscaping, fencing, or any other type of planting in any area of said Project which has not been approved in writing by said Architectural Committee, said Architectural Committee, the Declarant, or any other owner of any lot in said Subdivision shall have the right to enforce the conditions of this document and may proceed with legal action as deemed necessary to stop and remove the proposed construction or change in construction or erection of the matters not approved in writing as provided for herein. In the event of any such legal action against any such owner, such owner agrees to pay all court costs plus reasonable attorneys' fees to the party enforcing any part of this Declaration.

(e) Non-Responsibility of Committee. Neither the

Architectural Committee, nor any member thereof shall be responsible for any damages for approval or disapproval of any plan, or for structural or other defects of any kind or nature whatsoever in said plans or specifications erected in accordance therewith. Any person filing suit against said Committee must pay all court costs and all reasonable attorneys' fees for said Committee for each proceeding regardless of the outcome of said proceeding.

19. TREES

No owner shall be permitted to completely clear a lot on which standing trees of size and beauty exist. Space may be cleared for construction, and trees may be thinned so long as maximum natural beauty and esthetic values of such trees are retained.

20. RESUBDIVISION

The area of the lots herein described shall not be reduced in size by resubdivision, except that owners of three (3) contiguous lots may divide the inner lot, or middle lot, thus increasing the size of the two remaining lots which shall then be treated for all purposes pertinent to these conditions, restrictions and covenants, as enlarged single lots.

21. TERM

These conditions, restrictions and covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these conditions, restrictions and covenants are recorded, after which time said conditions, restrictions and covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said conditions, restrictions and covenants in whole or in part.

22. REMEDIES FOR VIOLATIONS - INVALIDATIONS

(a) Declarant may abate Violation. For a violation or breach of any of these conditions, restrictions or covenants by any

person claiming by, through, or under the Declarant, or by virtue of any judicial proceedings, the Declarant, and the lot owners, or any of them severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach of any of them. In addition to the foregoing right, the Declarant shall have the right whenever there shall have been built on any lot any structure which is in violation of these restrictions, to enter upon the property where such violation of these conditions, restrictions and covenants exists and summarily abate or remove the same at the expense of the owner, and any such entry and abatement or removal shall not be deemed a trespass. The failure to promptly enforce any of these conditions, restrictions or covenants shall not bar their enforcement.

(b) Record Notice. Notwithstanding anything contained in this article, there shall be no right of re-entry as provided hereinabove, nor shall there be any right to enforce any remedies set forth in these Declarations until ten (10) days after there is recorded with the Recorder of Kenai District a Notice of Breach of this Declaration, which Notice shall state: The provisions hereof which have been breached, a description of the lot, the name of the person who has breached these restrictions, the name of the record owner of said lot, and an affidavit that a copy of said notice was served on any person present, if any, on the lot, and a copy of said notice posted on a stake in a conspicuous place on said lot or common area. Any such Notice must be signed by Declarant, or the record owner of one or more lots in the Subdivision.

(c) Attorneys Fees and Costs. Whenever the Declarant, or any person entitled to enforce any rights hereunder, engages in legal proceedings to enforce the same, and prevails in said proceedings, the person violating said restrictions by acceptance of the title to said lot does hereby agree to pay to the prevailing party such reasonable attorneys' fees and court costs as are awarded by any court.

23. RESERVATIONS

Declarant, its successors and assigns, for the purpose of further insuring the development of the real property which is the subject of these conditions, restrictions and covenants, as an area of high standards, reserves the right until June 1, 1974:

- (1) to change, lay out a new, or discontinue any street, avenue or way shown on a filed plat which is not necessary for ingress or egress to or from an owner's premises, subject to the approval of the City of Kenai, or the platting authority, or both, if required.
- (2) to make such further exceptions, amendments and additions to these conditions, restrictions and covenants as it and the Architectural Control Committee shall deem reasonably necessary and proper.

24. ASSIGNMENT OF RIGHTS AND POWERS

Any and all of the rights and powers and reservations of the Declarant herein contained may be deeded, conveyed and/or assigned to any other corporation or association which is now organized, or which may hereafter be organized, and which will assume the duties of Declarant hereunder pertaining to the particular rights and powers and reservations assigned, and upon any such corporation or association evidencing its consent in writing to accept such assignment and assume such duties, it shall, to the extent of such deed, conveyance or assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Declarant herein; and thereafter, upon the sale by Declarant of all lots in the Subdivision covered herein, Declarant shall be relieved from that time on of the performance of any further duty and/or obligation hereunder.

25. WAIVER

Any delay or omission on the part of the Declarant, or its successors or assigns, or the owners of other lots or parcels in the Woodland Subdivision, in exercising any rights, powers, remedy or remedies provided by law or herein, in the event of any breach of the conditions, restrictions and covenants herein contained, shall not be

EXHIBIT A

Legal Description:

Commencing at the North 1/4 corner Sec. 31, T. 6 N., R. 11 W., S.M., City of Kenai, Kenai Peninsula Borough, Alaska. Thence N 89° 57' 20" E 354.75' along the North line of said Section 31 to the true point of beginning. Thence S, 0° 02' 40" E 235.88'. Thence Easterly 714.23' through a central angle of 89° 56' 20" along a tangent curve concave to the Northeast, having a radius of 455.00. Thence S 89° 59' 00" E, 104.57 thence N. 0° 01' 00" E. 5.00', thence S. 89° 59' 00" E. 294.37' thence S. 0° 13' 20" E. 34.06' thence N. 89° 46' 40" E. 115.14' thence N. 0° 13' 20" E. 720.01' to the North line of said Section 31 thence S. 89° 57' 20" W. 966.47' along the North line of that Section 31 to the point of beginning.

The above described parcel contains 14.371 acres.

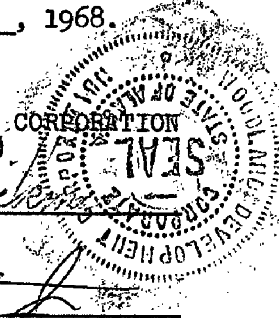
construed as a waiver thereof or acquiescence therein, and no right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Declarant for or on account of its failure to bring any action on account of the breach of these conditions, restrictions and covenants, or for imposing restrictions herein which may be unenforceable.

IN WITNESS WHEREOF, Woodland Development Corporation has caused these presents to be signed by its Vice President and Assistant Secretary on the 12th day of August, 1968.

WOODLAND DEVELOPMENT CORPORATION

By Frank J. Rickman
Vice President

By [Signature]
Assistant Secretary



(TI)

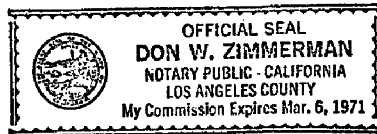
TO 449 c
(Corporation)

STATE OF CALIFORNIA
COUNTY OF Los Angeles } ss.

On August 12, 1968 before me, the undersigned, a Notary Public in and for said State, personally appeared Frank J. Rickman known to me to be the Vice President, ~~XXXXXX~~ of the corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

WITNESS my hand and official seal.

Signature [Signature]
Don W. Zimmerman
Name (Typed or Printed)



(This area for official notarial seal)

STATE OF ALASKA
THIRD JUDICIAL DISTRICT } ss.

THIS IS TO CERTIFY that on this 13th day of August, 1968, before me appeared L. S. Kurtz, Jr., to me known, and acknowledged that he was Secretary of Woodland Development Corporation, a corporation, and that he voluntarily signed and sealed the foregoing instrument on behalf of said corporation and was authorized so to do.

[Signature]
NOTARY PUBLIC FOR ALASKA
My commission expires: _____

