

579472

PRAIRIE MANOR RESTRICTIVE COVENANTS

Affecting the following real estate located in the City of Fond du Lac, Fond du Lac County, Wisconsin:

A part of the Northwest 1/4 of the Southeast 1/4 and in the Southwest 1/4 of the Southeast 1/4 of Section 1, T. 15 N., R. 17 E., City of Fond du Lac, Fond du Lac County, Wisconsin, and more particularly described as follows:

Commencing at the Southwest corner of the Southeast 1/4 of said Section 1 and running thence North along the West line of the Southeast 1/4 of said Section 1, a distance of 995.40 feet to the point of beginning; thence continuing North, 1,448.43 feet; thence East along the South line of Maplewood Drive, 765.00 feet to a point which is 49 feet more or less from the West shore of Taycheedah Creek and to the beginning of a meander line of said Creek; thence South 05°-12'-27" East along said meander line, 669.49 feet to a point which is 177 feet more or less from the West shore of Taycheedah Creek; thence South 02°-30'-37" East along said meander line, 814.07 feet to a point which is 24 feet more or less from the West shore of Taycheedah Creek and to the end of the meander line; thence North 87°-54" West, 862.00 feet to the point of beginning and containing 27.61 Acres (1,202,784 Square Feet) of land more or less and including all the land lying between the meander line and the West shore of Taycheedah Creek.

Lots Number One (1) through Fifty-Two (52) of Prairie Manor Subdivision.
(Collectively "Real Estate" or individually "Lot(s)").

RECITALS:

1. Prairie Estates, Inc. ("Owner"), a Wisconsin corporation, is the owner of the Real Estate.
2. It wishes to hereby impose certain restrictions upon the future development and use of the Real Estate so that the investment of purchasers will be protected and to provide continuity and consistency of development and use of the Real Estate.
3. In this regard the future purchasers of Lots ("Purchaser", whether one or more) will agree to be bound by the terms hereof as a condition for purchase and ownership of the Real Estate.

IT IS, THEREFORE, AGREED, that the following restrictions shall be imposed upon each

and all of the Lots:

1. ARCHITECTURAL CONTROL.

No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plot plan of the lot showing the location of all such structures or improvements and the landscape and drainage plan shall have been approved in writing by the Control Committee.

In making its determination, the Control Committee may take into account such things as the quality of workmanship, the materials to be used, the harmony of external design and color with existing structures, the topography of the land, the intended landscaping and any other reasonable considerations which the Control Committee, in its discretion, shall deem relevant.

The Control Committee may, in its discretion, require any or all residences to have exterior elevation deemed appropriate by the Control Committee and may require brick or other decorative material to be included in construction of each or any residence.

The Control Committee shall have the authority and discretion to review all relevant information concerning intended use of each lot, including plans and specifications and landscape and drainage plans. The restrictions contained herein, and the authority of the Control Committee, are in addition to, and may be in excess of, applicable building codes or ordinances of any municipal or governing authority. However, any purchaser must comply with all applicable codes and ordinances, as well as provisions of these Restrictive Covenants.

After submission of the required information by a Purchaser (or prospective Purchaser), the Control Committee shall have fifteen (15) days within which to notify the owner of acceptance, rejection, or conditional acceptance of the proposed improvements to the subject

premises. Acceptance must be in writing, and shall be limited to the plans, specifications and other information actually submitted. There shall be no substantial or consequential variation by the Purchaser from approved plans unless written approval for such variation is obtained from the Control Committee.

If requested to do so, the Control Committee will review plans of a prospective purchaser of a Lot and render a decision prior to closing in accord with these procedures as though such party was a Purchaser. In the event such plans and specifications are approved or conditionally approved, the prospective purchaser shall be entitled to thereafter rely on such approval or conditional approval.

The square footage requirements set forth in Paragraph 2.a. are minimum square footage requirements. The Architectural Control Committee reserves, at its discretion, the right to require homes to have additional square footage.

The Control Committee shall be composed as follows:

a. Initially, the Control Committee shall consist of Frank G. Adashun and Robert V. Edgerton. If Robert V. Edgerton is unable or unwilling to act, then A.D. Edgerton shall act. If Frank G. Adashun is unable to act, then Jeffrey A. Jones shall act. The Control Committee shall initially consist of such two (2) members. In the event of a deadlock on the Control Committee prior to addition of a third member, then such deadlock shall be broken by the vote of Val Eppli or a third party who he shall designate.

b. At the time of sales of fifty percent (50%) or more of the Lots to third party purchasers, a then Lot Owner who is not serving on the Control Committee may request that a third party Lot Owner be elected to serve on the Control Committee. When a third party Lot Owner has been elected to serve on the Control Committee, the Control Committee shall then

consist of three (3) members with two (2) of such members to be determined as provided in the previous paragraph and the other member to be a Lot Purchaser who is willing to serve on the Control Committee.

c. Upon sale of all Lots by Prairie Estates, Inc., or earlier at the discretion of members of the Control Committee, the Control Committee shall consist solely of owner residents of the Lots.

d. If any vacancy shall arise, the remaining members of the Control Committee may appoint a third member.

e. At such time as the Control Committee has been taken over by Purchaser/Residents, then any Owner of the Lot may thereafter call a meeting for the purpose of electing members of the Control Committee. Such notice shall be sent to all then Lot Owners not less than five (5) days prior to the meeting. At any such meeting, any Purchaser may be proposed for membership on the Control Committee and upon receiving a majority vote of those attending any such meeting, such person shall be elected to the Control Committee until three (3) parties have been so elected.

Additional Drainage and Landscape Restrictions:

All Purchasers shall respect any and all drainage easements or other easements throughout the Real Estate.

Each Purchaser will comply with the Drainage Plan which is prepared by the Owners and filed with the City of Fond du Lac.

Each Purchaser shall, at the time Purchaser submits Plans to the Control Committee, submit a proposed Drainage Plan which shall be subject to review by the Control Committee in its discretion.

Each Purchaser shall be responsible for compliance with the above drainage requirement and any deviation shall only be upon written approval of the Control Committee.

Completion of Buildings:

All residences and attached garages shall be completed within one (1) year after commencement of construction. Completion shall mean that the following has been accomplished:

- a. The exterior of each dwelling, including the residence and garage, shall be completed in accord with Plans and Specifications which have been approved by the Control Committee, and
- b. The lawn shall sodded or seeded, and
- c. Any landscaping which has been required by the Control Committee shall be completed in accord with approved Plans.

Any excess fill, soil, or dirt from any excavation on any Lot shall, at the option of the Owners, be placed at no expense to the Owners on other Lots at the direction of the Owners. If Owners decline this option, any such excess fill shall be removed from the Real Estate.

Setback:

Unless permitted by the Control Committee in writing, all buildings shall be at the thirty (30) foot setback from the public street regardless of whether or not applicable codes or ordinances may have permitted otherwise. Additionally, in the absence of approval in writing of the Control Committee, it will be presumed that each house located on the Lot will observe a nine (9) foot sideyard setback or if the lot permits a greater sideyard, then the residence and attached garage will be located in the center of the lot.

Elevation:

Unless approved in writing by the Control Committee, each home will be at the suggested grade per the Drainage Plan or not more than one (1) foot above the minimum grade as set on the Drainage Plan.

2. SPECIAL RESTRICTIONS.

a. The following are additional covenants and restrictions which may not be waived by the Control Committee, and shall not be amended, except as provided in Paragraph 14 below:

i. Two story dwellings shall have useable square feet of not less than that specified in Column A of attached Exhibit A.

ii. Ranch-style homes shall have useable square feet of not less than that specified in Column B of attached Exhibit A.

iii. Multi-level homes shall have no less useable square feet of floor space above grade than specified in Column C of attached Exhibit A.

iv. One and one-half story homes, such as a cape cod, shall have the same square footage requirements as a ranch home but to the requirements for a ranch home shall be added two hundred (200) square feet.

b. All driveways and approaches to driveways as to each residential dwelling shall either be concrete or asphalt.

Such concrete or asphalt driveways and approaches shall be fully completed within two (2) years of the last of the following to occur:

i. Occupancy of the residence located on the Lot, or

ii. The finished course of the pavement upon the municipal street or road upon which such driveway has access.

3. GARAGE/OUTBUILDINGS/FENCES, ETC.

The plans for any dwelling shall include the construction of an attached garage to be completed before occupancy of the home. This requirement may only be waived for a compelling construction reason by the Control Committee, in its discretion.

Construction of any additional garages, outbuildings, dog cages, satellite receiving dishes, towers, fences or other similar or dissimilar structures or improvements to the real estate shall be first approved in writing by the Control Committee.

Satellite receiving devices under twenty (20) inches in diameter may be installed on a Lot, but the location shall be approved in writing by the Control Committee. Television antennas may be placed upon Lots, but the Control Committee shall have the authority to determine the style and location of these devices.

4. UTILITIES.

All utilities shall be underground and easements necessary for installation and maintenance along lot lines shall be given by property owners, provided such easement shall not interfere with the normal use of the property. This shall include cable television, if available.

The requirement that utilities be underground shall not apply to shared facilities such as transformers or other pad-mounted accessories to the utility services within easements which are customarily installed in similar subdivisions above ground or on a pad.

The Owners of Lots shall comply with restrictions imposed by utilities which require that the grade not be altered within the easement areas more than the allowable tolerances which are then applicable and of record.

5. USE OF PREMISES.

Lots shall be used exclusively for single-family residential purposes. No nuisance or offensive activity shall be carried on the subject premises. Lots shall be kept in a clean and orderly condition and free from any accumulations of brush, trash, or other materials. Lawns and landscaping shall be maintained in a manner consistent with other Lots.

To the extent not otherwise prohibited by law, "single-family" shall mean that there shall at no time be a number of persons residing in the home which is in excess of two (2) multiplied by the number of bedrooms which have been identified as "bedrooms" on Plans and Specifications which were approved by the Control Committee, and

c. In no event shall the number of persons inhabiting any single residential dwelling on any Lot exceed eight (8) of any age.

Prior to construction and thereafter, each Purchaser shall be responsible for mowing and maintaining the Lot in a manner which prevents the growth or spread of noxious weeds, and the lot shall be maintained in a manner which is substantially consistent with adjoining lots.

6. ANIMALS.

No animals, poultry, pigeons, or livestock shall be raised, bred or kept on a Lot, except that any property owner may maintain a maximum of two (2) dogs and/or two (2) cats (a total of two of said animals), as household pets and provided the same are not bred or maintained for any commercial purpose. No kennels, fences, or other equipment shall be placed with an open view on any lot without the written permission of the Architectural Control Committee.

7. SIGNS.

No signs shall be placed upon Lots, other than street number designations. However, in the event a Purchaser desires to sell a Lot, a sign indicating the sale of the real estate may be placed upon the Lot for a reasonable period of time. Such sign shall be in accord with the type normally associated with sales of residential real estate.

8. TRUCKS.

No trucks with a load capacity over one (1) ton in weight are to be garaged or parked anywhere on a Lot, except for parking in the ordinary course of making trade deliveries or except for periods of time when construction is taking place. Non-operating or junked vehicles shall not be kept on any premises.

9. RECREATIONAL EQUIPMENT.

No recreational or mechanical equipment shall be stored on a Lot within outside view except that functioning recreational equipment may be stored in a driveway or on concrete or asphalt pad provided that this is done only during a season where such recreational equipment is typically or primarily used.

10. INCORPORATION.

In the event that the majority of the Purchasers, at a meeting called for such purpose, shall approve the formation of a corporation to replace the Control Committee, such incorporation shall be allowed by this Agreement. Provided, however, any such corporation shall include provisions in its articles and/or bylaws which specifically recite that actions taken by shareholders, directors and officers of such corporation be consistent with all terms and conditions contained in this document.

11. ENFORCEABILITY.

The Control Committee, and any successors thereto, and the Purchasers of any Lots shall have the right to prevent or stop any violation of the foregoing restrictions by any legal remedy available against the parties responsible for such violations. These remedies include, but are not limited to, an action for injunction for specific performance, or any action for damages resulting from such violations. In the event that a court shall find that a Purchaser was in violation of one or more of the restrictions or covenants contained herein, the party seeking to enforce these Restrictive Covenants shall be entitled to all costs and disbursements associated with such legal action, including reasonably necessary attorney's fees.

It is agreed that these covenants are of critical importance to owners of unique parcels of real estate and that an action for damages may not be an adequate remedy. It is specifically agreed that the Control Committee (or Homeowners Association) or Purchaser who may be aggrieved by a party violating the terms of these Restrictive Covenants shall, at such party or parties' option, be awarded the remedy of injunction and/or specific performance to enforce the terms hereof. An order of enforcement may include an order for removal, at the violating Purchaser's cost, of improvements which have been made to the real estate in violation of these Restrictive Covenants. It is specifically agreed that the Control Committee or a Purchaser acting on behalf of the Control Committee to enforce rights under this agreement may apply to a court of competent jurisdiction for enforcement of the terms hereunder. If such court shall grant relief in favor of the Control Committee or prevailing Purchaser for acts in violation of these covenants, then it is specifically agreed that such judgment shall also include reasonably necessary attorney's fees, costs and disbursements associated with bringing such action as provided above.

If the Control Committee or Purchasers shall fail to enforce any covenants, conditions, or restrictions, such failure:

a. Shall not preclude the Control Committee or a Purchaser from enforcing the provisions as to any other Lots, and

b. Shall not preclude the Control Committee or a Purchaser from enforcing the restrictions as to Lot affected by the waiver unless there has been a valid waiver in writing by the Control Committee and such waiver is valid under the terms of these Restrictive Covenants.

12. DURATION OF RESTRICTIONS.

The restrictions and covenants contained in this agreement shall extend in perpetuity and be deemed covenants which run with the land unless otherwise prohibited by law.

13. SEVERABILITY.

In the event that any provision herein contained shall at any time be deemed invalid, such provision shall be considered to be severed from this agreement, with all of the remaining restrictions and covenants to be in full force and effect and enforceable as outlined in Paragraph 11 above.

14. AMENDMENT.

The restrictions herein contained may be amended, subject to the following:

a. Such amendment shall be in writing.

b. It shall be signed by not less than seventy-five percent (75%) of the then Owners of all Lots, including not less than seventy-five percent (75%) of the Owners who have occupied homes on the Lots as their principal residence.

c. The amendment or memorandum thereof shall be recorded and shall thereafter be binding on subsequent owners of Lots.

15. LIABILITY OF CONTROL COMMITTEE.

Members of the Control Committee, or any party acting on its behalf, shall not be liable to any property owner for malfeasance or misfeasance in such capacity unless such actions cause actual damage and are found to be willful and malicious and/or in bad faith.

16. BINDING EFFECT.

These Restrictive Covenants shall be binding upon the parties, their heirs, successors and assigns. As used herein, the term "Purchaser" will mean those acquiring Lots from the Owner as well as parties who may thereafter purchase or have an interest in the Lots.

17. WAIVER.

In the event the Control Committee shall waive any restrictions herein, any such waiver, or failure to enforce the provisions hereof, shall not prevent the Control Committee or any other interested party from enforcing the provisions of these Restrictive Covenants thereafter.

18. PARAGRAPH TITLES.

Paragraph titles are provided for convenience only and shall not be construed as expanding or limiting the provisions of these Restrictive Covenants which follow.

19. MISCELLANEOUS RESTRICTIONS.

The following additional Restrictions shall prevail as to occupancy and use of each Lot:

- a. There shall be no window or wall air conditioning units within the Real Estate.

b. No home or dwelling shall be moved onto the Real Estate from some other location without the express written consent of the Control Committee.

c. No junked or inoperative vehicles shall be maintained on any Lot, including within any garage on any Lot.

d. Each Lot Owner shall be deemed to have granted easements along Lot lines where utilities have been installed or where catch basin and drain tiles have been installed for the purpose of maintenance thereof.

e. Each and every restriction or condition contained in these Restrictive Covenants is meant to be cumulative and in addition, and not a limitation, to any other conditions or restrictions which may also be contained in these Restrictive Covenants. As between these Restrictive Covenants and governing land use restrictions of any municipality, including applicable codes or ordinances, the most restrictive requirement shall apply.

20. EASEMENTS ON PLAT.

The Lots located within Prairie Manor Subdivision shall be subject to or imposed by the following Easements:

a. Easements of record on the Plat for installation of utility services.

b. *Additional Easements for Utilities.*

Some additional easements have been granted to Wisconsin Power and Light, Ameritech, and Marcus Cable for placement of utilities along property lines. The Lots will be subject to those easements.

c. *Easement for Public Sewer System.*

The developers have granted an easement to the City of Fond du Lac across the northerly ten (10) feet of Lot Seventeen (17) and the south eighteen (18) feet of Lot

Eighteen (18) for the purpose of installation and maintenance of a public storm sewer system which services the Subdivision. Purchasers of these Lots will take subject to this easement.

d. *Easement for Installation of Catch Basins and Agreement for Maintenance.*

The developer, at the developer's expense and pursuant to the Drainage Plan for the Subdivision, will install two (2) catch basins. For sake of reference, these will follow the property lines as indicated on Exhibit B, which are attached to and made a part of. For reference purposes, one of these catch basins, together with the laterals to the storm sewer system, are identified as Catch Basin 1 and the other is Catch Basin 2.

Catch Basin 1:

The present owner and future owners of Lots Twenty-Five (25), Twenty-Six (26), Forty-Six (46), and Forty-Seven (47) do hereby grant a mutual easement for installation and maintenance of Catch Basin 1 and the laterals to the storm sewer as follows:

- i. An easement fifteen (15) feet in width with its center being the common boundary of Lots Forty-Six (46) and Forty-Seven (47).
- ii. An easement fifteen (15) feet in width continuing on Lot Twenty-Six (26) and Lot Forty-Seven (47) to Catch Basin 1.
- iii. An easement on Lots Twenty-Five (25), Twenty-Six (26), and Forty-Seven (47) having the center being Catch Basin 1 and having a radius therefrom of seven and one-half (7½) feet.

Each of the above Lot owners will contribute equally to the maintenance of the Catch Basin 1 should that become necessary. Said owners will cooperate to keep the catch basin free from any debris which would affect its utility.

Catch Basin 2:

The present owner and future owners of Lots Thirty (30), Forty (40), Forty-One (41), and Forty-Five (45) shall grant a mutual easement for installation and maintenance of the Catch Basin 2 in the following areas:

- i. An easement fifteen (15) feet in width with its center being the common property line of Lots Forty (40) and Forty-One (41).
- ii. An easement having as its center Catch Basin 2 and having a radius therefrom of seven and one-half (7½) feet.

The owners of the Lots described above will contribute equally to the maintenance of the Catch Basin 2 should that become necessary. The described property owners will keep Catch Basin 2 free from any debris which would affect its utility.

The easements herein granted shall be in perpetuity and shall be deemed a covenant that runs with the land.

DATED this 1st day of September, 1995.

PRAIRIE ESTATES, INC.

By:


Robert V. Edgerton, President

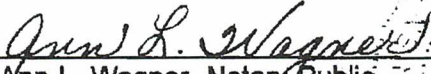
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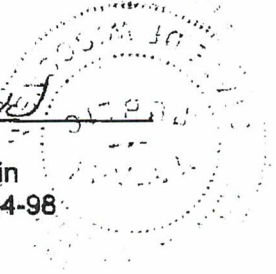

A. D. Edgerton, Secretary

STATE OF WISCONSIN)
) ss.
FOND DU LAC COUNTY)

Personally came before me this 1st day of September, 1995,
Robert V. Edgerton and A. D. Edgerton, President and Secretary respectively of Prairie Estates,

Inc., known to me to be the persons who executed the foregoing instrument, acknowledged the same, and are authorized to sign on behalf of said corporation.


Ann L. Wagner, Notary Public
Fond du Lac County, Wisconsin
My Commission expires: 10-04-98



This instrument drafted by:
Robert V. Edgerton
Attorney at Law

After Recording Return To:
Attorney Robert V. Edgerton
P.O. Box 1276
Fond du Lac, WI 54936-1276

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EXHIBIT A

PRAIRIE MANOR SUBDIVISION			
Minimum Above Grade Square Feet Of Living Area - Lots 1 through 52			
LOT NUMBER	A - TWO STORY	B - RANCH STYLE	C - MULTI LEVEL
1	1700	1400	1200
2	1700	1400	1200
3	1700	1400	1200
4	1700	1400	1200
5	1700	1400	1200
6	1800	1500	1300
7	1800	1500	1300
8	1800	1500	1300
9	1800	1500	1300
10	1800	1500	1300
11	1800	1500	1300
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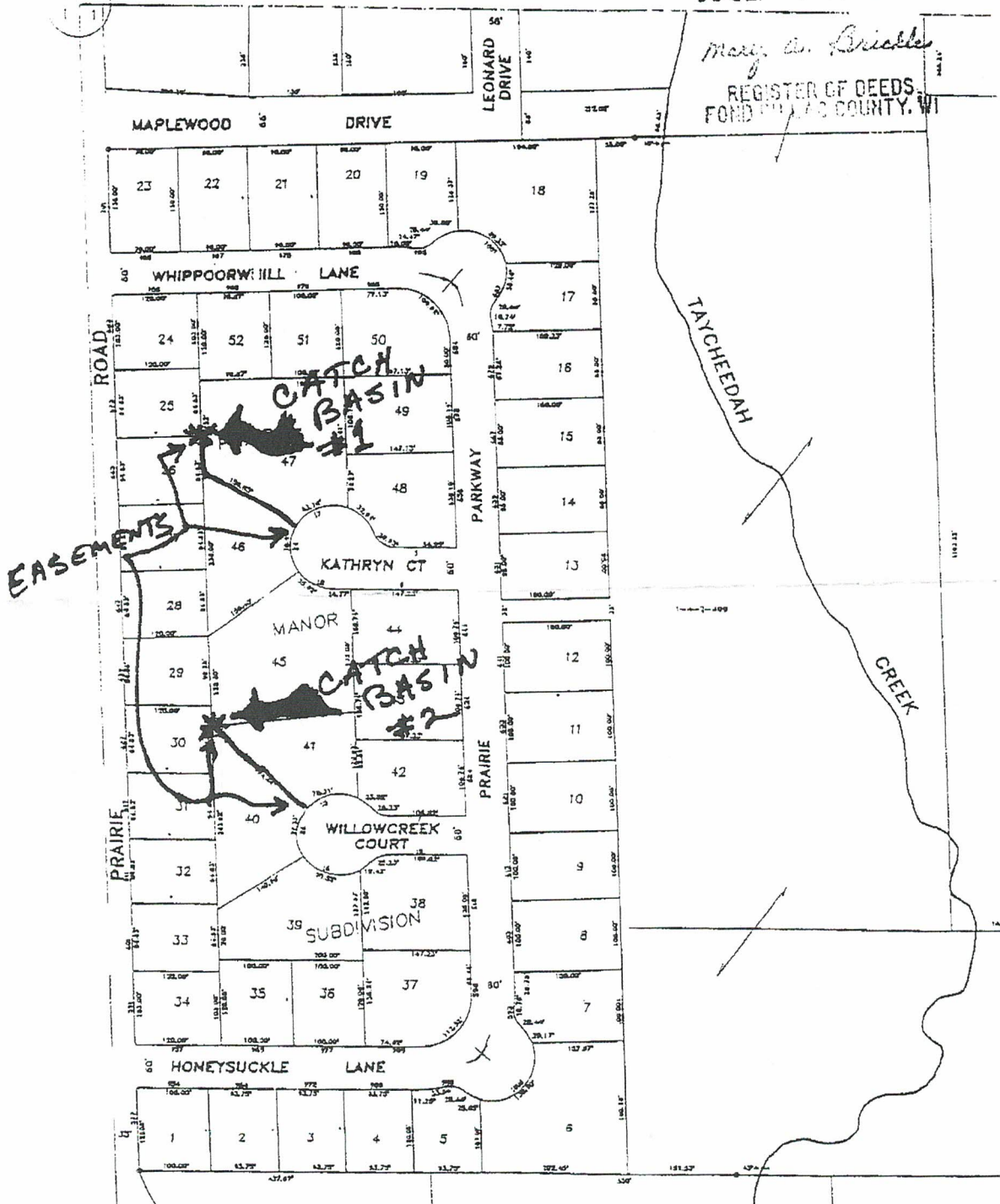
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31	1700	1300	1100
32	1700	1300	1100
33	1700	1300	1100
34	1700	1300	1100
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38	1700	1400	1200
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43	1700	1400	1200
44	1700	1400	1200
45	1700	1400	1200
46	1700	1400	1200
47	1700	1400	1200
48	1700	1400	1200
49	1700	1400	1200
50	1700	1400	1200
51	1700	1300	1100
52	1700	1300	1100

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EXHIBIT B

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