This information is taken from public records filed with the Lucas County Recorder’s Office. Port Lawrence Title and Trust Company assumes no liability for the accuracy or completeness of the information contained herein.
DECLARATION OF RESTRICTIONS
AS TO
OAK CREEK PLAT II, A SUBDIVISION
IN SYLVANIA TOWNSHIP, LUCAS COUNTY, OHIO

WHEREAS, MillStream Development Company, an Ohio Corporation, (hereinafter referred to as "Developer") is the owner in fee simple of the following described real estate, (hereinafter referred to as "subject property") to wit:

Lots 26 through 33 inclusive Oak Creek Plat II, a Subdivision in Sylvania Township, Lucas County, Ohio.

AND WHEREAS, Developer, for the benefit of all future owners of all or any part of the subject property, desire to establish certain rights in and restrictions upon the manner of use, improvement and enjoyment of the subject property, in order to insure the stability of land values and to protect all future owners of all or any part of the subject property from variations not in keeping with the uses, improvements and enjoyment described herein;

NOW, THEREFORE, in consideration of the premises and in consideration of the benefits accruing to the future owners of all or any part of the subject property, and the enhancement in value of said property, and for the mutual benefit and protection of each and every person who now is, or shall hereafter become, an owner thereof, Developer, for his successors and assigns, do hereby declare and stipulate that the subject property, and every part thereof hereafter sold, conveyed or transferred, including transfers by operation of law, shall be deemed sold, conveyed or transferred subject to the following covenants, conditions, agreements and restrictions, which shall run with the land, to wit:

ARTICLE I

USE OF LAND

1.1 Residential Lots. All of the lots located and shown on the plat of Oak Creek Plat II as the same may be hereafter combined and/or subdivided shall be referred to herein as "residential lots". No housing structure shall be less than 4000 sq. ft. of living area (measured from the outside of exterior walls and excluding basements, decks, porches, sun rooms unless completely finished and garages) having a private entrance as well as a private attached garage of not less than two (2) car capacity, which garage shall be attached or connected by means of a covered access to the dwelling and shall be side or rear loading, and such accessory buildings and uses as are approved by the Developer as provided under Article II hereof. With respect to each structure erected or maintained in the Subdivision, all utility services shall be underground.

1.2 Use Restrictions. No building or structure shall be erected and no portion of any residential lot shall be used for any use of purpose other than residential purposes. No noxious, offensive or unreasonably disturbing activities shall be carried on upon any part of the Subdivision, nor shall anything be done within the Subdivision which may become an annoyance or nuisance in the Subdivision. No well for gas, water, oil or any other substance shall at any time be erected, placed or maintained on any of the residential lots other than a well for water for recreation or maintenance purposes which shall first have been approved by the Developer as provided under Article II hereof. No lot shall be used for the storage of automobiles, mobile home, boats, or other similar device or equipment, recreational vehicles, trailers, scrap, scrap iron, paper, glass or any reclamation products or material except that during the period while a structure is being erected upon any residential lot, building materials to be used in the construction of such structure may be stored thereon, provided, however, that any building materials not incorporated into said structure within ninety (90) days after its delivery to such residential lot shall be removed therefrom.
1.3 Completion of Structures. Lot owners shall commence construction of a home on a lot within four (4) years after receiving title to a lot, and all structures must be completed by an owner within one (1) year following the commencement of construction. No sod, dirt or gravel other than incidental to construction of approved structures shall be removed from residential lots without the approval of the Developer as provided under Article II hereof.

1.4 Pets. Dogs, cats or other household pets suitably maintained and housed within a residential dwelling may be kept subject to rules and regulations adopted by the Developer, provided, however, that no animal of any sort may be kept, bred or maintained for any commercial purpose, and any pet causing or creating a nuisance or unreasonable disturbance shall be subject to permanent removal and exclusion from the Subdivision in accordance with the rules and regulations adopted by the Developer.

1.5 Signs. No signs of any character other than signs of not more than ten (10) square feet advertising the sale of the residential lot on which such sign is located shall be erected, placed, or posted or otherwise displayed on or about any residential lot without the written permission of the Developer, and the Developer shall have the right to prohibit, restrict, and control the size, construction, material, wording, location and height of all such signs.

1.6 Miscellaneous. No trailer, basement, tent, shack, garage, barn, mobile home or other temporary shelter or housing device shall be maintained or used as a residence, temporarily or permanently, in the Subdivision. No dwelling erected in the Subdivision shall be used as a residence until the exterior thereof has been completed in accordance with the detailed plans and specifications approved therefore by the Developer as provided under Article II hereof unless approved by the Architectural Control Committee at which time an alternate completion time will be established. Any truck, boat, bus, tent, mobile home, trailer or other similar housing device, if stored on any residential lot in the Subdivision, shall be suitably housed within a garage building. All rubbish, debris and garbage shall be stored within the garage. Additional regulations for the storage, maintenance and disposal of rubbish, debris, leaves and garbage may from time to time be established by the Developer.

ARTICLE II

ARCHITECTURAL CONTROL

2.1 Submission and Approval of Plans and Specifications. The plans and specifications for all buildings, landscaping, and other improvements and structures (including, but not limited to signs, fences, walls, driveways, hedges, garages, basements, swimming pools, tennis courts and other enclosures) to be constructed within the Subdivision shall be submitted for examination to the Developer and written approval of the Developer to such plans and specifications shall be obtained before any such building, structure or improvement shall be constructed or placed upon any residential lot and before any addition, change or alteration may be made to any building or other structure situated on a residential lot. The Developer shall approve, reject, or approve with modifications all submissions within thirty (30) days after submission of the plans and specifications required hereunder. Failure to so respond within such period shall be deemed to be disapproval of the submission. The plans and specifications to be submitted shall show the size, location, type, architectural design, quality, use, construction materials and color scheme of the proposed building, structure or improvement, the grading plan for the building site and the finished grade elevation thereof. Such plans and specifications shall be prepared by a competent architect or draftsman and two (2) complete sets shall be furnished to the Developer so that the Developer may retain a true copy thereof with its records.

2.2 Architectural Standards, Harmonious Plan. In requiring the submission of detailed plans and specifications as herein set forth, Developer intends to assure the development of Oak Creek Plat II as an architecturally harmonious, artistic and desirable residential Subdivision, with all residential structures to be constructed in such architectural styles, of such materials, in such colors, and located in such manner as to, in the judgment of the Developer, complement one another and promote the harmony and desirability of the Subdivision taken as a whole. In approving or withholding its approval of any plans and specifications, the Developer shall have the right to consider the suitability of the proposed building or structure and of the materials of which it is to be built to the building site upon which it is to be erected. In no event, however, modernistic or severely contemporary structures. The use of vinyl or aluminum siding will not be approved.
2.3 Location of Structures. No dwelling shall be erected, reconstructed, placed or suffered to remain upon any lot, nearer the front or street line or lines than the building setback lines as shown on the recorded plat nor nearer to any side line or rear line than shall be determined by Developer in writing at the time of the approval of the plans and specifications for said dwelling. This restriction as to the distances at which said dwelling shall be placed from the front, side, and rear lines of said lot, shall apply to and include, porches, verandas, portecochere, and other similar projections of said dwelling.

2.4 Maximum Height. No structure constructed or erected within the Subdivision shall be greater than two and one half (2-1/2) stories, nor more than thirty-five (35) feet in height above the main (first) floor level, unless approved by the Developer.

2.5 Swimming Pools Above Ground. No above ground swimming pool shall be permitted installed or maintained on any lot unless plans and specifications are submitted to the Developer and the approval is granted in writing.

2.6 Driveway. All driveways shall be asphalt, if not now established, shall be determined by Developer in writing at the time of approval of the plans and specifications for said dwelling. Location and specifications for construction of any driveway shall be submitted to Developer and its approval thereof endorsed thereon in writing.

2.7 Trees. No structure of any part thereof shall be erected, placed or maintained on any lot in Oak Creek Plat II, nearer to the front or street line or lines than the building setback lines as shown on the recorded plat. Said portion of any lot shall not be used for any purpose other than that of a lawn; nothing herein contained, however, shall be construed as preventing the use of such portion of any lot for privacy walks, not sidewalks, (and drives, if otherwise permitted), the planting of trees or shrubbery, the growing of flowers or ornamental plants, or statuary, fountains and similar ornamentations, for the purpose of beautifying any lot; but no vegetables, so-called, nor grains of the ordinary garden or field variety shall be grown on such portion thereof; and no weeds, underbrush, or other unsightly growths, shall be permitted to grow or remain anywhere upon any lot, and no unsightly objects shall be allowed to be placed or suffered to remain anywhere thereon. No fence, hedge, wall or enclosure of any kind for any purpose, shall be erected, placed or suffered to remain upon any lot, nor shall a hedge be erected, placed or suffered to remain upon any lot until the written consent of Developer shall have been first obtained therefor and shall be subject to the terms and conditions of said consent as to its type, height, width, color, upkeep and any general conditions pertaining thereto that said consent may name. No tree greater than six (6) inches in diameter (as measured 3 feet above existing grade) shall be removed unless approved in writing by the Developer. No trees shall be removed in house or driveway area until Developer has removed as many trees from such area as he deems necessary for replanting purposes.

2.8 Establishment of Grades. Developer shall have the sole and exclusive right to establish grades, slopes and swales on all building sites and to fix the grade at which any building or structures shall be erected or placed thereon, so that the same may conform to a general plan for the development and use of Oak Creek Plat II. Deviation of 12° or more is strictly prohibited unless approved by the Developer.
2.9 Basketball Backboards. No basketball backboard shall be erected or attached to the front of any dwelling or garage or beyond the front building line of the residence, and all such basketball backboards whenever erected shall be approved in writing by the Developer.

2.10 Mailbox and/or Paper Delivery. The Developer shall have the exclusive right to determine the location, color, size, design, lettering and standards and brackets of any mail and paper delivery boxes. The owner of a residential lot shall maintain the mailbox and/or paper delivery box and replace when necessary with a mailbox and/or paper delivery box of similar type, look and quality. The mailbox must be lighted.

2.11 Fencing. No fence, hedge, wall or enclosure of any kind, for any purpose, shall be erected, placed or suffered to remain upon said lots, nor shall a hedge be erected, placed, or suffered to remain upon said lots until the written consent of the Developer shall have been first obtained therefor, and to be subject to the terms and conditions of said consent as to its type, height, width, color, upkeep and any general conditions pertaining thereto that said consent may name. Wire fences may be attached to split rail fencing on the property owners side of the fence with Developer approval. Fences cannot be erected nearer to any street than the rear building line or lines unless approved by the developer in writing.

2.12 Construction in Violation of Approved Plan. Developer, its successors and assigns reserves and is hereby granted the right in case of any violations or breach of any of the restrictions, rights, reservations, limitations, agreements, covenants, and conditions herein contained, to enter the property upon or as to which such violation or breach exists, and to summarily abate and remove, at the expense of the owner thereof, any erection, thing or condition that may be or exists thereon contrary to the intent and meaning of the provisions hereof interpreted by Developer, and Developer shall not, by reason thereof be deemed guilty of any manner of trespass for such entry, abatement or removal. A failure of developer to enforce any of the restrictions, rights, reservations, limitations, agreements, covenants and conditions contained herein shall in no event be construed, taken or held to be a waiver therefor or acquiescence in or consent to any continuing further or succeeding breach or violation thereof, and Developer shall at any and all times have the right to enforce the same.

2.13 Power of Attorney. Whenever any of the foregoing covenants, reservations, agreements, or restrictions provide for any approval, designation, determination, modification, consent or any other action by Developer, any such approval, designation, modification, consent or any other such action by any attorney-in-fact authorized to sign deeds on behalf of Developer shall be sufficient pursuant to a recorded power of attorney.

2.14 Oak Creek Property Owners' Association. The Developer may cause a not-for-profit corporation to be incorporated under the laws of the State of Ohio, to be called "Oak Creek Property Owners' Association" or a name similar thereto (the "Association"). Upon the formation of the Association, the owners of lots in Oak Creek Plat II and all persons who thereafter acquire title to such lots shall be members of the Association, and each such owner shall be entitled to one vote on each matter submitted to a vote of the Association for each lot so owned by him, provided, so long as the Developer or its successor or assign owns, actually or beneficially, any lot in Oak Creek, the Developer or its successor or assign shall be entitled to five votes in the Association for each lot owned by it. The Developer reserves the right to incorporate one not-for-profit corporation for a joint owners' association made up of all of the low owners in Oak Creek Plat II, notwithstanding the fact that such lots may be located in other plats of the Oak Creek Subdivision. In such event the membership and voting rules set forth herein shall apply to all plats in the Oak Creek Subdivision now in existence and subsequently created.
2.15 Common Areas. Upon conveyance of the final unsold lot in Oak Creek Plat II by or on behalf of the Developer, or at such earlier time as the Developer may elect, the Developer shall convey or assign to the Association, and each lot owner by its purchase of a lot subject hereeto agrees to accept on behalf of the Association, all of the Developer's right, title and interest in and to the common areas in Oak Creek Plat II (the "Common Areas"), including, without limitation, the common fence and structures located in the right of way adjacent to Oak Creek Plat II and all landscaping associated therewith and all center islands in boulevards and/or cul-de-sacs located in Oak Creek Plat II and all landscaping associated therewith. Upon conveyance or assignment of the Common Areas to the Association as set forth herein, the Association shall assume the responsibility for (i) the repair, replacement, care and maintenance of the Common Areas, including, without limitation, the Common Fence, structures and all landscaping in the Common Areas, and (ii) real estate taxes and assessments, if any, which may be assessed against the Common Areas by public authorities. The Common Areas, including the Common Fence and all landscaping located within the Common Areas, shall be maintained in its original condition. Notwithstanding anything contained herein to the contrary, the Common Fence shall not be removed or otherwise altered without the prior written consent of the Developer, which consent shall be required notwithstanding the fact that the Developer may no longer own an interest in a lot in Oak Creek Plat II or in the Common Areas. The assignment or conveyance of the Common Areas to the Association shall not be construed or interpreted to be an assignment by the Developer of any other rights hereunder, including, without limitation, the Developer's right to appoint the members of the Architectural Control Committee.

An Architectural Control Committee consisting of three (3) individuals is hereby established. The initial members of the Architectural Control Committee shall be appointed by the Developer, and may be replaced by the Developer from time to time. The Architectural Control Committee shall continue to be appointed by or on behalf of the Developer until such time as all lots in Oak Creek Plat II have been sold and living units have been completed thereon. At such time, or at such earlier time as the Developer may elect, the right to appoint the members of the Association Control Committee shall be turned over to the Association.

The assessments set forth in Section 2.15 hereof shall be applied toward payment of the following costs and expenses:

(a) For the repair, replacement, care and maintenance of the Common Areas, including, without limitation, the Common Fence and all landscaping in the Common Areas, regardless of whether the Developer has previously assigned or conveyed the Common Areas to the Association;

(b) Legal and accounting services for the Association;

(c) The full amount of taxes and assessments, if any, assessed against the Common Areas, whether the Common Areas are then held in the name of the Developer or the Association; and

(d) For the cost of collecting assessments, and expenses of maintaining the Association, and for any and all other purposes which the Association may determine from time to time to be for the general benefit of the owner of lots in Oak Creek Plat II.

2.16 Maintenance Charges. Each and every lot in Oak Creek Plat II shall be subject to a maintenance charge in the amount established by the Association, initially one hundred dollars ($100.00) annually (such assessment shall be on a per lot basis), payment to be made in equal installments on the first day of May and the first day of November each calendar year for such calendar year commencing May 1, 1991. The Association shall have a lien perpetually upon lots in Oak Creek Plat II to secure the payment of the annual maintenance charge. In default of the payment of such maintenance charge within sixty (60) days of its due date, a "Notice of Lien" in substantially the following form may be filed and recorded in the lien records at the Office of the Recorder of Lucas County, Ohio:
"Notice of Lien"

Notice is hereby given that Oak Creek Property Owners' Association claims a lien for unpaid annual assessments for the year(s) ______ in the amount of ______ against the following described premises:

(Insert legal description)

OAK CREEK PROPERTY OWNERS' ASSOCIATION

By

President

STATE OF OHIO }  SS:
COUNTY OF

The foregoing instrument was acknowledged before me this ______ day of ______ by

President

of OAK CREEK PROPERTY OWNERS' ASSOCIATION, an Ohio corporation on behalf of the corporation.

Notary Public

In the event any of said annual assessments are not paid when due, the Developer may, when and as often as such delinquencies occur, proceed by process of law to collect the amount then due by foreclosure of the above described lien, or otherwise, and in such event, shall also be entitled to recover and have and enforce against each residential lot a lien for its costs and expenses in that behalf, including attorney fees. No owner may waive or otherwise escape liability for the annual assessments provided for herein by non-use of the common areas or any facilities located thereon or by abandonment of his residential lot. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any residential lot shall not affect the assessment lien; provided, however, that the sale or transfer of any residential lot pursuant to foreclosure of a first mortgage shall extinguish the lien of such assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof. Said charges and assessments shall be levied against all lots in Oak Creek Plat II and shall be applied only toward payment of the costs of collections, improvements, the expenses of maintenance of the Association, and for any and all other purposes which the Association may determine from time to time to be for the general benefit of the owners of the lots in Oak Creek Plat II, including the maintenance of boulevard areas, ponding areas, drainage areas, and the management and enforcement of the Association's rights and duties under the within Declaration of Restrictions.
ARTICLE III

EASEMENTS

3.1 Reservation of Easement Rights. Developer reserves to itself, and to its successors and assigns, the exclusive right to grant consents, easements and rights of way for the construction, operation and maintenance of electric light, cablevision, telephone and telegraph poles, wires and conduits, including underground facilities, and for drainage, sewers and any other facilities or utilities deemed convenient or necessary by Developer or its successors and assigns for the services of the Subdivision on, over, below or under all of the areas designated as "Utility Easements", or with words of similar import, on the recorded plat of Oak Creek Plat II and along and upon all highways now existing or hereafter established and abutting all the residential lots in the Subdivision. Developer also reserves to itself, and to its successors and assigns, the right to go upon or permit any public or quasi-public utility company to go upon the residential lots from time to time to install, maintain and remove such utility lines and to trim trees and shrubbery which may interfere with the successful and convenient operation of such equipment. No structures, or any part thereof, shall be erected or maintained over or upon any part of the areas designated as "Utility Easement", or with words of similar import, upon the recorded plat of Oak Creek Plat II. The term "structures" as used in the foregoing portion of this paragraph shall include houses, garages, other buildings and swimming pools, but shall not include residential lot improvements such as driveways, paved parking areas, and fences. No owner of any residential lot shall have the right to reserve or grant any easements or rights of way upon or over any of the residential lots without the prior written consent of the Developer, its successors and assigns. Notwithstanding the provisions of Section 2.14, the rights reserved to the Developer in this Section 3.1 shall survive the transfer of the Developer's rights set forth in section 2.14.

ARTICLE IV

DURATION OF RESTRICTIONS, AMENDMENTS

4.1 Term. These covenants and restrictions shall run with the land and shall be binding upon the Developer, and all persons claiming under or through Developer or the Association until the first day of January, 2008, at which time these covenants and restrictions shall be automatically extended for successive periods of ten (10) years.

4.2 Amendments. These covenants and restrictions may be amended or revoked with the written approval of the then owners of not less than seventy-five percent (75%) of the residential lots in Oak Creek Plat II, which amendment shall become effective from and after the filing with the Recorder of Lucas County, Ohio of an instrument stating the amendment and signed by all approving residential lot owners with the formalities required by law.

ARTICLE V

ENFORCEMENT OF RESTRICTIONS, OTHER GENERAL MATTERS

5.1 Violations Unlawful. Any violation or attempt to violate any of the covenants or restrictions herein shall be unlawful. Developer, the Association, or any person or persons owning any residential lot may prosecute any proceedings at law, or in equity, against the person or persons violating or attempting to violate any such restrictions to prevent him or them from so doing, to cause the removal of any violation, and/or to recover damages for such violation or attempted violation. In addition to the foregoing rights, the Developer and the Association shall have the right, to the extent permitted by law, to record in the Office of the Recorder of Lucas County, Ohio, a notice giving third parties notice of the non-compliance of a lot owner within the provisions hereof, which notice shall constitute a lien on the lot until such time as such non-compliance has been cured.
5.2 Saving Clause. Invalidation of any of the restrictions herein contained by judgment court order or amendment hereof by act of the officers, employees and agents of the developer shall be indemnified by the Developer to the fullest extent permitted by law for their actions taken on behalf of and at the direction of the Developer, including their actions taken under this Declaration of Restrictions at the direction of the Developer.

5.3 Transfers Subject to Restrictions. All transfers and conveyances of each and every residential lot in Oak Creek Plat II shall be made subject to these restrictions.

5.4 Notices. Any notice required to be sent to any owner of a residential lot or any part thereof, to Developer or to the Association shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as such owner or to the Developer or to the Association as such address appears on the applicable public record.

5.5 No Waiver of Violations. No restrictions imposed hereby shall be abrogated or waived by any failure to enforce the provisions hereof, no matter how many violations or breaches may occur.

5.6 Waiver of Restrictions by Developer. Each residential lot owner, by acceptance of a deed to a residential lot, agrees and consents and shall be deemed to agree and consent for himself and for his heirs, personal representatives, successors and assigns, that if, in the opinion of the Developer, the shape, dimensions, number of structures, location of natural features such as trees, or topography of the residential lot upon which a building or improvement is proposed to be made, is such that a strict construction or enforcement of the requirements of the recorded plat or of any provision of these restrictions would work a hardship, the Developer may, in writing, grant waivers from these restrictions as to such residential lot so as to permit the erection of such building or the making of the proposed improvements.

5.7 Paragraph Headings. The paragraph headings contained in this Declaration of Restrictions have been inserted for convenience of reference only and are not to be used in the construction and/or interpretation of these restrictions.

IN WITNESS WHEREOF, the undersigned parties have hereunto set their hands to this instrument as of the 10th day of April, 1990.

WITNESSES

Kaye J. Welty

By: Douglas C. Wood

Joyce Ander

MILLSTREAM DEVELOPMENT COMPANY

STATE OF OHIO, COUNTY OF LUCAS, SS:

The foregoing instrument was acknowledged before me this 10th day of April, 1990, by Douglas C. Hamsher, President of Millstream Development Company, an Ohio corporation, on behalf of the corporation.

Kaye J. Welty
Notary Public

RECEIVED & RECORDED

APR 8 1990

BILL COPELAND
RECORDER, LUCAS COUNTY, OHIO

90-522A08