

(Chope)

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION is made August 13, 2007, by HORACE R. CHOPE, single; and AVERY E. CHOPE and ELIZABETH JANE CHOPE, husband and wife, fee owners, ("Declarants") regarding the following facts and circumstances:

- 1. Declarants are the owners of property located in the City of Minnetonka, County of Hennepin, State of Minnesota, legally described as follows ("Subject Property"):

EXHIBIT A

- 2. Upon the application of the Declarants, the City of Minnetonka granted approval of a subdivision of land. As a condition of that approval, the Declarants were required to record a covenant placing certain conditions on the Subject Property. This document seeks to comply with that requirement.

THEREFORE, in consideration of the foregoing facts and circumstances, Declarants make the following Declaration:

- A. The Subject Property is hereafter subject to the following restrictions:
 - 1) The following must be completed before the city issues a grading permit or any site work is started.
 - a. Approval of final grading, drainage, and erosion control plans by the city engineer. If the developer is building the streets and utilities, the developer must submit final street and utility plans for the city engineer's approval. Individual lots must be custom graded. The following changes must be included on the utility plans:
 - (1) Catch basins and a storm sewer must be added in the new streets, including at the intersection with Wentworth Trail.
 - (2) A sump catch basin must be added at the downstream-most point in the street.
 - (3) Sewer lines must be 8 inches and the water lines 6 inches.

- (4) Existing public sanitary sewer must be lowered to serve the property.
 - (5) Storm sewer design and installation must include provisions for pond outlet from the existing pond basin on Wentworth Trail, per the city's water resources management plan. The developer may construct the storm sewer or petition the city for its construction. The city will pay for the additional costs required to include the storm water pond outlet, as determined by the city engineer, that are over and above the normal costs for the developer to install storm sewer for his subdivision.
- b. The maximum street grade may be 7 percent.
 - c. A letter of credit or cash escrow for 150% of the estimated cost to comply with grading permit requirements and restore the site must be submitted to the city. The city will not release the letter of credit or cash escrow until the developer submits as-built drawings and a letter certifying that the utilities, driveway and grading have been completed according to the plans approved by the city.
 - d. All trees to be preserved must be fenced and erosion control measures installed, as approved by the city.
 - e. Approval of a construction management plan by the planning director.
 - f. If required, submit evidence of the watershed district approval. The city may require revisions to the preliminary plat to meet the district's requirements.
2. The following must be completed before the city issues a building permit:
- a. City approval of a grading and tree preservation plan for each lot. The plans must be in substantial compliance with the building pads shown on the preliminary plat and must preserve trees designated for preservation at the time of preliminary plat approval. The city may require adjustments in the house pad location to maximize tree preservation. The sewer and water services must be shown to minimize impact to any significant trees.
 - b. City approval of the installation of a temporary rock driveway, erosion control, tree protection and wetland protection fencing for each lot.
 - c. Submit a copy of the recorded plat and any easement or covenants required to be recorded.
 - d. Pay a hookup fee for sanitary sewer and water.
 - e. Submit a letter from the surveyor stating that boundary and lot stakes have been installed as required by ordinance. If the grading for proposed streets has not been completed, the planning director may approve a time extension to this requirement.
 - f. In addition to the standard PUD setback requirements, the side yard setback requirements for Lot 1 are 10 feet from the north lot line and 50

feet from the south lot line. This would ensure minimal encroachment into the steep slope area.

- g. A fire flow test must be conducted on the new water main. If the fire hydrant flow is less than the minimum NFPA fire flow requirement of 2750 GPM, homes must be built with a sprinkler system.
3. During construction, the streets must be kept free of debris and sediment, and the tree protection fencing, and erosion control fencing must be maintained.
 4. The Outlot must remain in the conservation easement and must not be developed.
 5. Trees must be planted to compensate for significant trees removed from each site that would be outside of the building pad and driveway area. The trees must be primarily species native to the area. They must be at least 2 ½ inches in diameter for deciduous trees and 6 feet tall for coniferous trees. The property owner or original developer must replace the required trees if they die within one year after installation.
- B. These restrictions apply to and bind each owner of any part of the Subject Property, and their respective successors and assigns. These restrictions operate as a covenant passing with the title to the Subject Property and any part of it. The restrictions are imposed upon the Subject Property as a servitude in favor of Declarants and the City of Minnetonka only for their benefit.
- C. Each of the restrictions contained in this Declaration will continue for a period of thirty years from the date of filing for record, and will be automatically extended in their entirety for successive periods of ten years, unless the City of Minnetonka, or its successors or assigns, executes an appropriate written instrument terminating the restrictions, or any part of them.
- D. The restrictions contained in this Declaration are enforceable by Declarants, and their assigns, or by the City of Minnetonka, by any appropriate legal remedy. A person violating any of the restrictions will be liable to the Declarants and the City of Minnetonka for all costs and attorneys' fees which they incur in successfully enforcing the restrictions.
- E. Invalidation of any of the terms of this Declaration will in no way affect any of the other terms, which will remain in effect.
- F. The City of Minnetonka is the only entity required to release the Subject Property from the requirements in this Declaration. When all of the requirements are fulfilled to the City's satisfaction, at the owners' request, the City will release the Subject Property from this Declaration. The release executed by the City must be drafted by the owners and be in a form acceptable to the Recorder or Registrar of Titles. If the Subject Property is registered property, the release will have the effect of terminating this Declaration when it is memorialized on the appropriate certificates of titles, so that the Declaration and the release will be eliminated as memorials on subsequent certificates of title.

IN WITNESS WHEREOF, the Declarants have executed this Declaration on the date written above.

Hobace R. Chope
HOBACE R. CHOPE

Avery E. Chope
AVERY E. CHOPE

Elizabeth Jane Chope
ELIZABETH JANE CHOPE, aka
JANE CHOPE

STATE OF CALIFORNIA

COUNTY OF SAN FRANCISCO

The foregoing instrument was acknowledged before me on August 13 2007

, by AVERY E. CHOPE and ELIZABETH JANE CHOPE aka JANE CHOPE,

husband and wife.

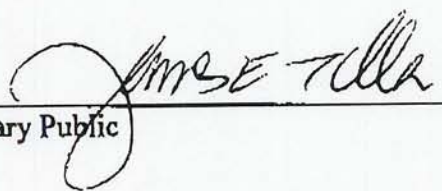
Jennifer Magnone
Notary Public



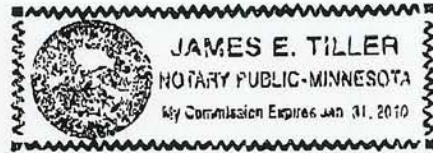
STATE OF MINNESOTA }
COUNTY OF HENNEPIN } SS

The foregoing instrument was acknowledged before me on August 15 2007

, by HORACE R. CHOPE, single.



Notary Public



DRAFTED BY:

City of Minnetonka
14600 Minnetonka Blvd.
Minnetonka, MN 55345
952-939-8200

(Chope)

EXHIBIT A

Lots 1, 2 and 3, Block 1, Wentworth Woods

Outlot A Wentworth Woods