

REAL ESTATE USE RESTRICTIONS

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These restrictions are hereby made this 27 day of June, 1989 by the undersigned owner.

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WHEREAS, Menard, Inc. is the owner of Menard Commercial Park which is a plat consisting of approximately 26 acres which is presently in the City of Madison, Dane County, Wisconsin, and

WHEREAS, the preliminary and final plats for the Menard Commercial Park were approved by the City of Madison Planning Commission on June 19, 1989 and by the Common Council of the City of Madison on June 20, 1989; and

WHEREAS, the conditions of approval of said Plat were enumerated in a letter dated June 19, 1989, prepared by George E. Austin, Secretary, Madison Planning Commission; and

WHEREAS, said letter of conditional approval contained conditions (1) and (4) which Menard, Inc. and the City of Madison agreed would be incorporated as deed restrictions in favor of the City of Madison and applicable to the plat know as Menard Commercial Park; and

WHEREAS, Menard, Inc. and the City of Madison agreed that said restriction shall run with the land and shall be released by the City of Madison when certain conditions are met.

NOW, THEREFORE, prior to or at the time the Menard Commercial Park Plat is recorded with the Dane County Register of Deeds, the following restrictions are hereby imposed:

1. Menard, Inc. shall construct a second access point consisting of a 24-foot wide bituminous concrete drive between Commerce Drive and CTH "M" which shall intersect CTH "M" as close as possible near the south property line of the Westside Businessman's Club, taking into account Menard's proposed lot layout. Said drive shall be constructed by the latter of thirty (30) months of the recording of the final plat or issuance of any new occupancy permit. All lots in this plat as well as the land immediately east of this plat shall have the right to use this private drive for access by the developers of these lots and their customers. Menard, Inc. shall seek permission from the Dane County Highway and Transportation Department to construct the private drive to CTH "M". Said deed restriction shall be released by the City of Madison as such time as the second access to CTH "M" is constructed.

2. Until both the directional median break is built on Mineral Point Road at the Commerce Drive intersection and the second access to all CTH "M" is provided, all perspective developers of the undeveloped lots in this plat shall have a Traffic Engineering consultant prepare a traffic impact study of the proposed use for the property for review by the City Department of Transportation. This requirement may be waived by the Director



of Transportation if it is felt that a traffic impact study will likely find that a proposed use will have insignificant impact, in which case the use will be allowed to develop per the regular City approval process.

If the Department of Transportation finds after reviewing the traffic impact study, that a proposed use has the potential for creating new or will significantly contribute to existing traffic problems adjacent to this plat, the issue will be taken to the City Transportation Commission for consideration. The City Transportation Commission, after considering the matter, will forward a recommendation OT the City Plan Commission. The Plan Commission will then consider approval of the use on the basis of potential traffic performance.

3. The deed restriction as stated in (2) shall be released by the City at such time as the directional median break is constructed on Mineral Point Road and the second access to CTH "M" is constructed.

4. These restrictions shall constitute the covenants running with the land for the benefit of the City of Madison and would be enforceable by injunctive action in Dane County Circuit Court.

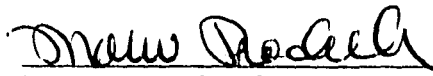
5. These restrictions shall run with the land from the time the Menard Commercial Park Plat is recorded until the time the directional median break is built on Mineral Point Road at the Commerce Drive intersection and the second access to CTH "M" is provided.

6. These restrictions are made by the owner in addition to the restrictions recorded on September 28, 1987 in favor of the Town of Middleton and Dane County to those recorded on December 23, 1988 in favor of the City of Madison and to those recorded on May 5, 1989 in favor of the City of Madison.

7. These restrictions shall be recorded in the office of the Register of Deeds for Dane County.

IN WITNESS WHEREOF, THE UNDERSIGNED OWNER DOES HEREBY AGREE TO BE BOUND BY THE RESTRICTIONS SET FORTH HEREIN ABOVE AND THEIR HEIRS, ASSIGNS, AND SUCCESSORS AND SHALL ALSO BE OBLIGATED TO SAID RESTRICTIONS.

MENARD, INC.  
A Wisconsin Corporation

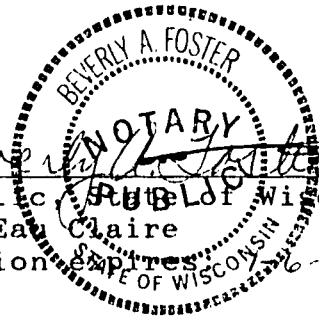
  
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Marv Prochaska, Vice President  
Real Estate

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State of Wisconsin )  
                          ) ss.  
County of Eau Claire)

Personally came before this 27th day of June, 1989, the above named MARV PROCHASKA, Vice President, Real Estate, of Menard, Inc. to be known to be the person who executed the forgoing and acknowledges the same.

*Beverly A. Foster*  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
County of Eau Claire  
My Commission Expires 6-91.



This instrument was drafted by:  
  
Michael R. Christopher  
222 South Hamilton Street, Suite 21  
Post Office Box 7901  
Madison, Wisconsin 53701  
  
Telephone: (608) 257-0505

*Re-recorded to  
conform with correct  
legal description,  
3/6/90*

*RET*

*RE*  
RECORDER'S OFFICE  
DANE COUNTY, WI.  
REGISTER OF DEEDS  
RECORDED ON  
MAR 6 3:45 PM '90