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REGISTER'S OFFICE  
WAUKESHA COUNTY, WIS } SS  
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MAY 31 1990

RIVERWALK APARTMENTS  
PLANNED UNIT DEVELOPMENT AGREEMENT

*Charles J. ...*  
REGISTER OF DEEDS

THIS AGREEMENT, made and entered into this 20<sup>th</sup> day of September, 1989, by and between Waukesha Riverwalk Associates Limited Partnership, having its principal place of business at 301 North Broom Street, Madison, Wisconsin 53703, hereinafter referred to as Developer, and owner of the premises described in Exhibit "A" attached hereto, and the City of Waukesha, a Municipal Corporation, located in the City and County of Waukesha, State of Wisconsin, hereafter referred to as the city,

WITNESSETH:

WHEREAS, the Developer has requested of the City and the City has granted substantial modifications from its normal minimal land area requirements relative to the use of the premises described in Exhibit "A" to the Developer on the basis of planning, social, recreational, economic and other benefits for the Developer and for the public welfare; and

*pc*  
*18-*

WHEREAS, the conditions herein granted in variance from the codes and ordinances of the City of Waukesha will continue in force and effect and shall be deemed to be covenants running with the land and which bind the Developer herein, and all its and their executors, administrators, heirs, assigns, successors and any other persons, partnerships or corporations that may at any time be actual or beneficial owners, or have any interest in any of the premises described in Exhibit "A"; and

WHEREAS, the parties hereto agree and acknowledge that all provisions of the Subdivision Code, all ordinances, rules, regulations, covenants and restrictions properly enacted by the City of Waukesha now in force and effect or hereafter to be enacted shall apply in all respects to the premises described in Exhibit "A," excepting only those modified in and by this Agreement;

NOW, THEREFORE, in consideration of the covenants herein contained, the Developer covenants and agrees to:

1. Furnish to the City a current title policy or a title report describing the premises shown as Exhibit "A," either to be furnished by a reputable title company licensed to do business in the State of Wisconsin.

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2. That the project shall consist of approximately 8.93 acres, of which the Developer will deed approximately 2.38 acres to the City for park purposes, and provide five buildings containing 84 one-bedroom units and 52 two-bedroom units, plus a rental/management/community building. Construction of the project shall commence within thirty (30) days of the date of this agreement and be substantially completed within 24 months thereafter.

3. Furnish to the City of Waukesha a complete, accurate and sufficiently detailed set of drawings, plans and specifications, the said drawings showing a complete plan of the project, indicating the phases thereof and showing in sufficient detail locations of roads, drives, buildings and parking lots, as well as locations of lighting, screening and open areas, and contemplated depths of sanitary sewer and storm sewer, and drawings of locations of electrical, gas and telephone.

4. Establish, align and grade, subject to the approval of the City of Waukesha, the roads and drives on the site; construct, grade and improve the same all at the Developer's expense, in accordance with the plans and specifications and regulations of the City of Waukesha. The roads shall be permanently maintained at the widths shown on the approved plans. The curves or bends of the roads shall be as shown on the approved plans and constructed so as to accommodate the use thereof by fire fighting apparatus of the City of Waukesha. Developer shall maintain and service the same in accordance with the standards of the City. In the event they are not so maintained and serviced, the City shall have the authority to provide such service and maintenance and charge the cost thereof against the property as a special assessment without notice and without hearing, and the determination of the cost thereof by the City shall be final, conclusive and not subject to appeal. Further, in the event the City shall require at any time the private streets to become public streets, the Developer hereby consents to the City's adopting a resolution hereby dedicating the said streets to the City.

5. Develop, construct, furnish, install and maintain all at the expense of the Developer, sanitary sewer facilities within the premises described in Exhibit "A," all subject to approval and inspection by the City of Waukesha, and subject to all the rules, regulations and conditions of the said City, and in accordance with the Statutes of the State of Wisconsin as they apply to sanitary drainage facilities. The Developer

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shall pay forthwith, upon receipt of invoice, the charge to be established by the Board of Public Works of the City of Waukesha for the inspection of the construction of the sanitary sewer facilities which will be inspected by said City. Upon completion of inspection of construction of sewer facilities, the City shall be relieved of any further responsibility.

6. The Waukesha Water Utility agrees to install water mains and service laterals within the property in accordance with its rules and regulations. The Developer agrees to furnish a complete set of plans and specifications to the Waukesha Water Utility and provide such additional information as required by the Utility relative to construction and grades of street and/or easements, and grades and locations of sewer facilities and telephone and electric installations. Developer shall grant to the Waukesha Water Utility an easement, 10 feet in width, with a 15-foot temporary construction easement which shall automatically terminate upon installation of the water mains and service laterals, to be used solely by Waukesha Water Utility. Easement shall be in recordable form using Waukesha Water Utility Format. The precise location of the easement shall be determined by the Waukesha Water Utility. Developer shall provide Utility with a certification of the established grade over said easement and provide line and grade stakes (at Developer's expense) upon request from the Utility. Prior to construction and installation of water facilities, Developer will advance appropriate funds as required by the Waukesha Water Utility and Public Service Commission rules, and as those rules are modified and amended from time to time, and as they apply at the commencement of the construction of any phase of the project. Developer shall pay for water service furnished to the project at present water rates, taxes or assessments from time to time established by the Waukesha Water Utility. Each building in the project shall be supplied with one service lateral and meter for water service for the entire building. All water mains, valves, hydrants, pipes, individual service laterals, meters and other components of the entire water system shall remain the property of the Waukesha Water Utility.

In the event the Waukesha Water Utility finds it necessary to disturb the premises in the exercise of its duties and responsibilities (initial installation and future repairs, if necessary), the Waukesha Water Utility agrees to restore the

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premises, as nearly as is reasonably possible, to the condition existing prior to such disturbance, however, not including the replacement of pavement, trees, shrubbery and other items existing or within the described easement.

Developer shall be responsible for removal of trees and other objects within the easement area which interfere with the initial construction of the water system.

7. Grant to the City the right to inspect and, if requested by the City, approve all construction not heretofore specifically referred to, and including, but not limited because of enumeration, all sewer facilities, gas, telephone and electrical facilities, sidewalks, private drives, lighting facilities, screening and parking lot pavement location and installation. In addition, grant to the City of Waukesha permission for its proper officials to go upon any part of the premises described in Exhibit "A" at all reasonable times, without notice and without securing any other authorization, for the purpose of making inspections, or any other purpose, provided, however, said City officials shall not interfere with the use and enjoyment of the premises by the owners thereof.

8. Prepare, grant and execute in recordable form easements over and above electric, gas and telephone facilities and water mains for the purpose of inspecting, maintaining and servicing any of the aforescribed facilities. The easements shall be of sufficient dimensions and approved by the proper City officials.

9. Except as shown on the approved plans, prohibit the construction of any buildings, or improvements of any nature, or fences upon any of the areas described in the easements, and prohibit trees or shrubbery of more than four (4) feet in height. Upon notice from the City of Waukesha, remove or have removed any buildings, improvements, fences, trees or shrubs not shown on the approved plans from any of the areas described in the easements.

10. That title to the entire premises shall remain in single ownership except as hereinafter provided. It is agreed that the Developer shall not be permitted to separately sell off or divide the development to separate owners unless first receiving permission from the Common Council. If the premises are to be subjected to the condominium form of ownership,

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there shall first be established a Condominium Home Owners Association, which shall have control over the common elements in the condominium. The sale of condominium units after the establishment of the appropriate Condominium Home Owners Association shall not require the prior consent of the Common Council of the City of Waukesha. This Paragraph 10 of the Agreement specifically shall be a covenant running with the land and shall be binding on Developer, its successors and assigns.

11. To construct and maintain private lighting facilities as indicated on the plans and specifications and to provide such landscaping as shown on the specifications.

a. The City Planning Staff shall inspect the site upon completion and may require additional landscaping where necessary to screen parking or storage areas, insure privacy, contribute to safety, or improve the appearance of plain unsightly views of structures where any such deficiency was not contemplated or included on the plans.

b. Developer shall complete the landscaping pertaining to each building within six months after the date of occupancy of such building, and all landscaping pertaining to the project shall be completed within six months after the completion of the final building.

12. To provide enclosed refuse containers as shown on the approved plan, and to provide for the regular and periodic disposal of refuse, debris, garbage and trash all at the expense of the Developer.

13. To pay at the time of the execution of this instrument by certified or cashier's check payable to the City of Waukesha, a sum of money in lieu of dedication of land for park and school purpose as provided in the ordinances of the City of Waukesha in effect at the time of execution of this Agreement. As an alternative to the park land dedication fee, Developer may deed to the City land whose value is equal to or greater than the fee, or it may contribute a combination of land and money if the value of the land is less than the fee.

14. All construction of buildings and improvements of any nature shall be in conformity with the Building Code Ordinances of the City and the laws of the State of Wisconsin in such cases as applicable.

15. In accordance with Section 7.04 of the Municipal Code, Developer for itself and its successors and assigns agrees to erect signs and establish rules prohibiting the parking of any vehicles on the private drives, except as shown on the approved plans. This provision shall be interpreted as a covenant running with the land.

16. Developer shall cause this agreement to be recorded as a "Declaration of Restriction" affecting the above described premises.

17. Invalidation of any one of these restrictions by Judgment or Court Order shall in no way affect any of the other provisions, each of which shall be construed and deemed severable and all of which not so invalidated shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have attached their signatures and seals on the date above written.

WAUKESHA RIVERWALK ASSOCIATES LIMITED PARTNERSHIP  
A Wisconsin Limited Partnership  
Urban Land Interests, Inc., Managing General Partner

By: Thomas M. Neujahr  
Thomas M. Neujahr, President

CITY OF WAUKESHA,  
A Municipal Corporation

By: Paul G. Vrakas (SEAL)  
Paul G. Vrakas, Mayor

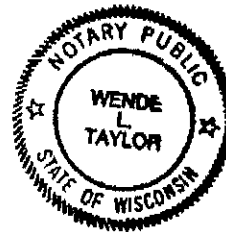
By: Thomas E. Neill (SEAL)  
Thomas Neill, City Clerk

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STATE OF WISCONSIN )  
COUNTY OF DANE ) SS.

Personally appeared before me this 13<sup>th</sup> day of September, 1989, Thomas M. Neujahr, President of Urban Land Interests, Inc., to me known to be the person who executed the foregoing instrument and acknowledged the same.

Nancy L. Anderson  
Notary Public, State of Wisconsin  
My Commission Expires: 4-21-91  
NANCY ANDERSON



STATE OF WISCONSIN )  
COUNTY OF WAUKESHA ) SS.

Personally appeared before me this 22<sup>nd</sup> day of September, 1989, Paul G. Vrakas, Mayor, and Thomas Neill, Clerk, of the City of Waukesha, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

Wendel L. Taylor  
Notary Public, State of Wisconsin  
My Commission Expires: July 26 1992

This instrument was drafted by: Thomas M. Neujahr  
Wendel L. TAYLOR

EXHIBIT A

DESCRIPTION

Vol 12, 3, 4 DAN. 597A - 1352430

A parcel of land located in the Southwest 1/4 of Section 3, Township 6 North, Range 19 East, in the City of Waukesha, Waukesha County, Wisconsin, more particularly described as follows:

Commencing at a point where the Northerly right-of-way line of the former Chicago, Milwaukee, St. Paul and Pacific Railway, intersects the Easterly right-of-way line of Prairie Avenue, being the point of beginning; thence southerly along said east right-of-way line 483.57 feet along a curve deflecting to the right with a radius of 510.00 feet and having a chord bearing of S 12 14' 10" W and a distance of 465.66 feet; thence S 39 27' 54" W 58.11 feet; thence southerly 140.76 feet along a curve deflecting to the left with a radius of 278.76 feet along a curve deflecting to the left with a radius of 278.76 feet and a chord bearing of S 24 48' 32" W and a distance of 139.27 feet; thence S 88 14' 52" E 220.00 feet; thence N 18 45' 03" E 260.00 feet; thence N 34 01' 28" E 111.08 feet; thence N 50 16' 00" E 813.22 feet; thence N22 11' 00" E 141.40 feet; thence N 39 43' 58" W 269.83 feet; thence S 50 16' 00" W 881.45 feet to the point of beginning. Said parcel contains 8.930 acres, more or less.

THIS INSTRUMENT SHOULD BE RETURNED TO:

Thomas M. Neujahr  
Urban Land Interests, Inc.  
301 North Broom Street  
Madison, Wisconsin 53703