

**AMENDED AND RESTATED DECLARATION OF COVENANTS AND
RESTRICTIONS FOR TWO RIVERS SUBDIVISION**

This Amended and Restated Declaration is made this 3rd day of November 1998, by TWO RIVERS OF MUKWONAGO, LLC, a Wisconsin limited liability company (hereinafter "Developer").

RECITATIONS

WHEREAS, Developer executed a Declaration of Covenants and Restrictions for Two Rivers Subdivision dated September 5, 1996 (the "Declaration") subjecting all the land within Two Rivers Subdivision (the "Subdivision") to the conditions, restrictions, covenants, reservations, and easements as set forth in the Declaration for the benefit for the Subdivision as a whole and for the benefit of each lot owner; and

WHEREAS, Developer caused the Declaration to be recorded on September 6, 1996, in the office of the Register of Deeds for Waukesha County, Wisconsin, at Reel 2301, Images 0520-0529, inclusive, as Document No. 2154859; and

WHEREAS, Developer, as owner of greater than sixty (60%) percent of the lots in the Subdivision executed a First Amendment to the Declaration dated January 28, 1997 (the "First Amendment") and caused the First Amendment to be recorded on July 9, 1997, in the Office of the Register of Deeds for Waukesha County, Wisconsin, at Reel 2469, Images 0442-0446, inclusive, as Document No. 2227967; and

WHEREAS, Developer, as the current owner of more than sixty (60%) percent of the lots in the Subdivision, now desires to amend and completely restate the Declaration.

DECLARATIONS

This Amended and Restated Declaration supersedes in all respects the Declaration and any prior amendments to the Declaration.

Developer hereby declares that the real estate described in Exhibit A shall be used, held, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations and easements set forth herein, which shall inure to the benefit of and shall pass with each lot as covenants running with the land and shall apply to and bind all successors in interest, users and owners (hereinafter referred to as "Covenants and Restrictions").

Developer and all lot owners are subject to all rules, codes, regulations and ordinances of the Village of Mukwonago, Waukesha County, Wisconsin and the Federal Government, and the same may be more restrictive than the covenants,

conditions and restrictions imposed by the provisions of this Amended and Restated Declaration. In the event there is a conflict between the requirements of this Amended and Restated Declaration and any provision of the Village, County, State or Federal law, the more restrictive shall apply.

General Restrictions

A. General Purposes. The purpose of this Amended and Restated Declaration is to insure the best use and most appropriate development and improvement of each lot in the Subdivision; to protect owners of lots against such use of surrounding lots as will detract from the value of their property; to preserve, as far as it is practicable, the natural beauty of the Subdivision; to guard against the erection in the Subdivision of poorly designed or proportioned structures; to obtain harmonious use of material and color schemes; to insure a quality residential development of the Subdivision; to encourage and secure the erection of attractive homes in appropriate locations on lots; to prevent haphazard and inharmonious improvement of lots; to secure and maintain proper setbacks from streets and adequate free spaces between structures; and, in general to provide adequately for a high type and quality of improvement in the Subdivision and thereby to preserve and enhance the values of investments made by purchasers of lots in the Subdivision.

B. Land Use and Building Type. All of the lots in the Subdivision shall be known and described as residential lots and no dwelling shall be erected on any lot other than one single-family dwelling with an attached two or three (not more) car garage. Garages must be attached and must be built subject to the requirements of Paragraph H. of this Amended and Restated Declaration. All dwellings shall be designed by a registered architect, a professional engineer or a designer experienced in residential construction.

C. Architectural Control. No dwelling, outbuilding or other structure shall be erected, placed or altered on any lot until the construction plans and specifications, building grade elevations and a plan showing the location of the structure have been submitted to and approved by the Architectural Control Board as to (1) quality of design, workmanship and materials; (2) harmony of external design with existing structures- and, (3) location with respect to topography and finish grade elevation. The plans, specifications and survey shall be submitted in duplicate to the Architectural Control Board and the Board's approval or disapproval shall be in writing within twenty-one (21) days thereafter. Reasons for disapproval shall be given. The Architectural Control Board shall have the right to waive infractions or deviations from these Covenants and Restrictions if, in the opinion of the Architectural Control Board, their strict implementation would cause undue hardship. No dwelling may be occupied until it has been completed in accordance with the plans and specifications submitted to and approved by the Architectural Control Board and an occupancy permit obtained from the Village. Any action by the Architectural Control Board shall be final and conclusive as to persons then or thereafter owning lots covered by these Covenants and Restrictions.

The Architectural Control Board shall be deemed to be an "unincorporated association" as defined by Wis. Stat. Ch. 184, and shall be comprised of three (3) members who shall act by majority vote. Until all lots in the Subdivision have been sold, Developer may appoint and remove members of the Architectural Control Board. Thereafter, or earlier if Developer elects and notifies all of the lot owners in writing, the members of the Architectural Control Board shall be elected by a majority of the lot owners in the Subdivision.

The Architectural Control Board shall be empowered to meet whenever necessary and to levy and collect annual and/or special assessments in accordance with the following provisions:

1. Each lot owner shall be subject to an annual charge or assessment equal to the lot owner's "pro rata share" of the annual expenses incurred or anticipated to be incurred by the Architectural Control Board in performing its duties and discharging its responsibilities.
2. In the event the actual expenses incurred by the Architectural Control Board exceed the anticipated expenses, or in the event of special circumstances requiring additional funds, the Architectural Control Board may make special assessments against each lot owner equal to the lot owner's "pro rata share" of the special assessment.
3. The "pro rata share" of a lot owner shall be a fraction, the numerator of which shall be one and the denominator of which shall be the total number of lots subject to this Amended and Restated Declaration at the time of the annual or special assessment.
4. Written notice of an assessment shall be delivered by regular mail addressed to the last known address of each lot owner or personally delivered to each lot owner.
5. Assessments shall be due and payable thirty (30) days after the mailing or personal delivery of the notice of assessment.
6. Assessments not paid when due shall bear interest at the rate of 12% per annum from the date due until paid, and such unpaid assessments and the interest thereon shall constitute a continuing lien on the real property against which it was assessed until paid in full. The assessments and interest thereon shall also be the personal obligation of any current or subsequent lot owner of any lot against which the assessment was made.

7. The Architectural Control Board may record a document with the office of Register of Deeds for Waukesha County, Wisconsin, giving notice of a lien for any unpaid assessments, and upon payment or satisfaction of the amount due, record a document, satisfying or releasing any lien. The failure to file any such notice shall not impair the validity of the lien. All recording and attorney fees relating to any such notice, satisfaction or release, or the foreclosure of any lien, shall be borne by the affected lot owner.
8. Any lien for assessment may be foreclosed by a suit brought by the Architectural Control Board in a like manner as the foreclosure of a mortgage on real property.

Members of the Architectural Control Board shall not be liable for any action taken by them in good faith in discharging their duties, even if such action involved a mistaken judgment or negligence by the member. The lot owners shall indemnify and hold the members of the Architectural Control Board harmless from and against any and all costs or expenses, including reasonable attorney fees, in connection with any suit or other action relating to the performance of their duties or obligations.

D. Building Locations. Setbacks, height restrictions and locations of all structures shall be as regulated by the zoning ordinances of the Village.

E. Building Type and Size. All lots in the Subdivision are restricted to the erection of a one story or two story dwelling with an attached two or three (not more) car garage. Dwellings, exclusive of garages and basements, shall be subject to the following area restrictions:

1. A one story dwelling shall be a minimum of one thousand seven hundred fifty (1,750) square feet.
2. A two story dwelling shall be a minimum of two thousand one hundred (2,100) square feet with a minimum of one thousand (1,000) square feet on the first floor.

F. Surveys. Each lot owner shall, at the time a Building Permit is requested, provide to the Village of Mukwonago Building Inspector a Survey of the lot showing the buildable area as well as all wetlands, shorelands, and/or floodlands located within the lot's boundaries.

G. Surface Drainage and Elevation Grade. A master surface drainage and housegrade plan has been prepared by Developer designating the manner in which each lot shall drain in relation to all other lots in the Subdivision and designating the grade elevation of any dwelling to be constructed thereon. A copy of this plan is on file in the office of Developer and in the office of the Village Engineer and Building Inspector. At the time a building permit is requested, the grade elevation for the

dwelling shall be obtained from the Building Inspector and the dwelling shall be constructed accordingly. No deviation therefrom shall be permitted without the approval of the Village. Within sixty (60) days after completion of a dwelling on any lot in the Subdivision, the owner of said dwelling shall grade the lot to conform to said drainage plan and from that time forward nothing shall be done which will alter the plan or impede or obstruct the flow of surface drainage water in accordance with the plan.

H. Garages. All garages shall be built at the same time as the dwelling and shall be large enough to accommodate two (2) or three (3) cars, but no more than three (3). Garages shall be attached and must be a minimum of 400 square feet and, if the dwelling constructed is a one-story dwelling, may not exceed a maximum of forty-eight percent (48%) of the floor area of the dwelling, or 960 square feet, whichever is less. If the dwelling constructed is a two story dwelling, the garage may not exceed a maximum of forty percent (40%) of the floor area of the dwelling, or 960 square feet, whichever is less. Garages may not have more than three (3) overhead doors. Garage doors may not exceed a total of thirty-two (32) feet in length and eight (8) feet in height.

I. Parking. Recreational vehicles, including all trailers, shall not be kept, parked or stored on any lot outside of an enclosed garage without the prior approval of the Architectural Control Board. Recreational vehicles shall not be used or operated within the Subdivision except on dedicated streets in accordance with applicable traffic laws.

J. Driveways. All driveways must be completed within one (1) year from the date of issuance of an occupancy permit for the dwelling on the lot and must be finished with hard surface materials, such as asphalt, concrete or paver brick. Driveways shall be installed no closer than three (3) feet to any side lot lines. Initial construction of curbs and sidewalks by Developer shall be continuous, without any gap or break for driveway approaches or sidewalks. The owner of each lot is responsible for removing, in and around the proposed driveway area, vertical faced curb and sidewalk, for pouring a new flared curb, and for replacing any sidewalk areas which require replacement as a result of driveway construction. The lot owner must utilize a "monolithic" pour of 6" thickness for the driveway approach and any sidewalk areas which require replacement as a result of driveway construction, pursuant to the specifications set forth in Exhibit B attached hereto.

K. Construction Damage Account. The owner of each lot, upon (1) the closing of the purchase of a lot, or (2) at Developer's discretion, upon submission of building plans to the Architectural Control Board, shall deposit in an account with Developer the sum of One Thousand Dollars (\$1,000.00). Each lot owner's account may be used by Developer or the Architectural Control Board: to repair any damage to streets, sidewalks or curbs adjacent to the applicable lot as a result of construction on the lot not conducted by Developer- to clean debris from streets directly caused by construction not conducted by Developer; to plant required trees, as specified in Paragraph T. below, that are not planted by the lot owner within one and one-half (1-1/2) years of occupancy, or, at the sole discretion of the Developer or the Architectural

Control Board, to perform or cause to be performed any of lot owner's other obligations or responsibilities under this Amended and Restated Declaration. In the event the costs for any such required work exceed \$1,000.00, the lot owner shall promptly pay the excess to Developer or the Architectural Control Board. Unused funds, if any, shall be returned to the lot owner. Within one and one-half (1 -1 /2) years of occupancy, the Village Building Inspector shall inspect the street, sidewalks and curbs adjacent to the lot, the driveway approach, and the required trees for compliance with the Village ordinances. Sidewalks and driveways must be clear from any debris and snow to permit such inspection. The cost of a reinspection shall be a minimum of \$25, which cost may be withdrawn by the Village from the lot owner's account or may be paid by the lot owner directly to the Village.

At such time as all lots in the Subdivision have been sold, or earlier if the Developer elects, the remaining balance of all accounts under this paragraph shall be transferred to the Architectural Control Board.

L. Nuisances. No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to other lot owners in the Subdivision. Trash, garbage or other waste shall only be kept in sanitary containers which shall be properly screened from public view. During and after construction, all materials which can be blown about shall be stored in the garage, burned in compliance with all applicable laws and ordinances, or placed in a dumpster.

M. Completion of Construction. All structures shall be completed within one (1) year from the date ground is broken for such structures.

N. Post Lamp and Mailbox. Lot owners are required to purchase a post lamp and mailbox from Developer at closing. Lot owners shall be responsible, at lot owner's cost, to install the post lamp and mailbox at locations selected by the Village, to insure harmony, safety and appearance in the Subdivision. Installation shall occur prior to occupancy unless frozen ground, snow or ice prevent installation at such time, in which case installation shall occur as soon as such conditions cease. A post lamp shall contain a 50 watt sodium vapor bulb and light sensing device that shall cause the bulb to come on automatically at dusk. Lot owners must keep the post lamp (including the bulb and sensing device) operative at all times and the Architectural Control Board may, without prior notice to a lot owner and at the lot owner's expense, repair or replace any post lamp that the lot owner fails to keep properly operative. The Architectural Control Board, its agents, employees or representatives may enter upon any lot with an improperly operating or inoperative post lamp to perform such repairs or replacements.

O. Swimming Pools. Swimming pools are permitted if they meet Village ordinances and specifications.

P. Outbuildings. Any sheds or other outbuildings shall be aesthetically compatible to other structures on the lot with respect to color, materials and roof pitches, and shall comply with all local, state and federal laws and regulations.

Q. Fences. No fences, other than split-rail or other DECORATIVE landscape accent fences and fences required for swimming pools, shall be permitted. Fences required for swimming pools shall be installed only as minimally necessary. Any fence installed on any lot shall require the prior written approval of the Architectural Control Board. All fences constructed shall comply with applicable Village ordinances.

R. Signs. No signs of any kind shall be displayed to the public view on any lot except a sign of not more than six (6) square feet in area advertising the property for sale or rent or signs used by a building contractor or by Developer for advertising during the construction and sales period. Notwithstanding the foregoing, Developer may erect permanent subdivision entrance signs at Highway ES and Eastern Trail and Highway ES and Two Rivers Drive. Such signs may not be located in the street right-of-way.

S. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except as permitted herein. Dogs and cats may be kept, but are limited to a combined total of two (2) and may not be kept for a commercial purpose.

T. Landscaping. Lots shall be landscaped and seeded or sodded within one (1) year after completion of a dwelling thereon. Landscaping shall include the area between the front lot line and the edge of the street pavement. Each lot owner, at the lot owner's sole cost, shall be responsible for planting two (2) trees per lot, pursuant to the Village's list of acceptable trees. Trees planted shall be not less than one and one-half inches in diameter and shall be planted within one and one-half (1-1/2) years of occupancy. Trees shall be located between the sidewalk and the curb. Trees must be planted 25 feet from any intersection and may not be planted over any water or sewer service.

U. Maintenance of Berm and Subdivision Entrance Signs.

1. The berm, located along the lot lines of Lot 1, Block 1; Lots 1-10, Block 2 and Lot 1, Block 5, that abuts Highway ES shall be properly maintained and kept in a neat and attractive appearance by the owners of such lots. The repair and maintenance of the portion of the berm contained on a lot shall be an expense of the owner of such lot. If after sixty (60) days written notice from the Village to the owner of the affected lot, the berm is not repaired and/or maintained in a reasonable manner, the Village may enter upon said lot and said berm, make any reasonable repairs and/or maintenance to the berm, and charge the same against the affected lot as a special charge pursuant to Wisconsin Statute 66.60.

2. The permanent subdivision entrance signs referred to at Paragraph R. above, located on Lot 1, Block 1; and Lot 1, Block 5, shall be properly maintained and kept in a neat and attractive appearance by the Architectural Control Board. The Architectural Control Board may make annual or special assessments for the expense of repairing and maintaining the subdivision entrance signs.

V. Enforcement. The Covenants and Restrictions contained herein may be enforced by the Architectural Control Board and/or any lot owner by proceedings at law or in equity against any person or persons violating or attempting to violate the same. The proceeding may seek to recover damages and/or demand compliance, provided however, that no actions shall be commenced after two (2) years from the date on which the violation occurred. The losing party in any such action or proceeding shall pay the prevailing party's attorney fees and other costs and expenses.

W. Telephone and Electric Service. All telephone and electric service to any structure on any lot shall be underground from the underground utilities system and no overhead service shall be provided or allowed.

X. Term. These Covenants and Restrictions shall run with the land and shall be binding on all parties and persons having any interest in the land affected hereby for a period of twenty-five (25) years from the date this Amended and Restated Declaration is recorded, unless an amendment extending or reducing the term hereof is recorded prior to the expiration of such period.

Y. Severability. Invalidity of any provision of this Amended and Restated Declaration, regardless of how determined, shall in no way affect any of the other provisions, which shall remain in full force and effect.

Z. Amendments to Amended and Restated Declaration. This Amended and Restated Declaration may be annulled, waived, changed, modified or amended at any time by written declaration setting forth said change, executed by the owners of at least sixty percent (60%) of the lots in the Subdivision; provided, however, so long as Developer owns any parcel or lot in the Subdivision, any amendment is subject to the approval of, and must be executed by, Developer. Amendments shall become effective only upon due recording with the Office of the Register of Deeds for Waukesha County, Wisconsin.

AA. Future Subdivision of Lots. There shall be no future division or subdivision of lots in the Subdivision without the approval of the Village.

BB. Conflicts Between Restrictions and Zoning or Building Regulations. In the event of any conflict between these Covenants and Restrictions and the Village's zoning and building regulations, the stricter provisions shall apply.

IN WITNESS WHEREOF, Two Rivers of Mukwonago, LLC, as owner of greater than sixty (60%) percent of the lots in the Subdivision, has caused this Amended and Restated Declaration to be executed by its duly authorized managing member at Pewaukee, Wisconsin this 3rd day of November, 1998.

TWO RIVERS OF MUKWONAGO, LLC

By: 
James F. Burg, Managing Member

AUTHENTICATION

Signature of James F. Burg authenticated
This 3rd day of November, 1998



Stephen L. Fox

Title: Member, State Bar of Wisconsin


CONSENT OF MORTGAGEE

Johnson Bank, as successor in interest to Heritage Bank and Trust, hereby consents to the foregoing Amended and Restated Declaration of Covenants and Restrictions for TWO RIVERS SUBDIVISION and agrees that its mortgage is subject to the provisions thereof.

Dated this 4th day of Nov., 1998.

JOHNSON BANK

By: 
WILLIAM I KASCH

Title: 

STATE OF WISCONSIN)
 (8)
WAUKESHA COUNTY)

Personally came before me this 4th day of September, 1998,
William J. Kasch, to me known to be the person who executed the foregoing
Consent of Mortgagee and acknowledge that he executed the foregoing Consent of
Mortgagee.

Ashley D. Hill
Notary Public, State of Wisconsin
My commission June 25, 2000

This Document Was Prepared By:

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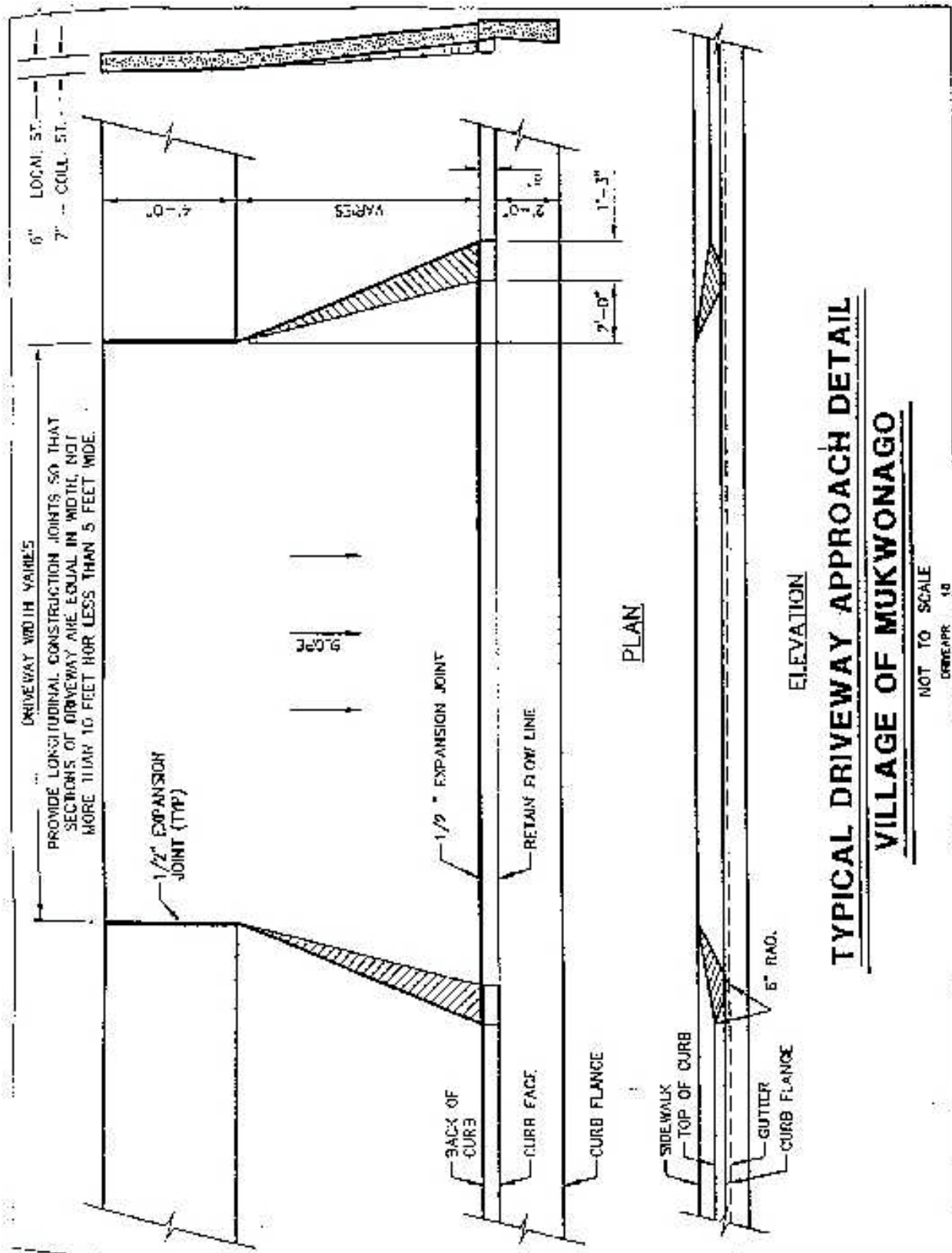
TWO RIVERS SUBDIVISION

ALL THAT PIECE OR PARCEL OF LAND LYING AND BEING IN THE NORTHEAST QUARTER (NE 1/4) OF SECTION NO. TWENTY-FIVE (25), TOWNSHIP FIVE (5) NORTH OF RANGE EIGHTEEN (18) EAST, DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT A POINT ON THE NORTH LINE OF SAID SECTION TWELVE (12) CHAINS, FORTY-EIGHT (48) LINKS EAST OF THE NORTHEAST QUARTER STAKE OF SAID SECTION; THENCE RUNNING EAST TWENTY-SEVEN (27) CHAINS TO THE TOWNSHIP LINE BETWEEN THE TOWNS OF MUKWONAGO AND VERNON; THENCE SOUTH ON SAID TOWNSHIP LINE TO THE EAST QUARTER CORNER OF SAID SECTION: THENCE WEST ON SAID QUARTER LINE TWENTY-SEVEN (27) CHAINS TO A POINT TWELVE(12) CHAINS AND FORTY-EIGHT(48) LINKS EAST OF THE CENTER STAKE OF SAID SECTION: THENCE NORTH FORTY-EIGHT (48) CHAINS TO THE PLACE OF THE BEGINNING, BEING ONE HUNDRED EIGHT (108) ACRES, MORE OR LESS.

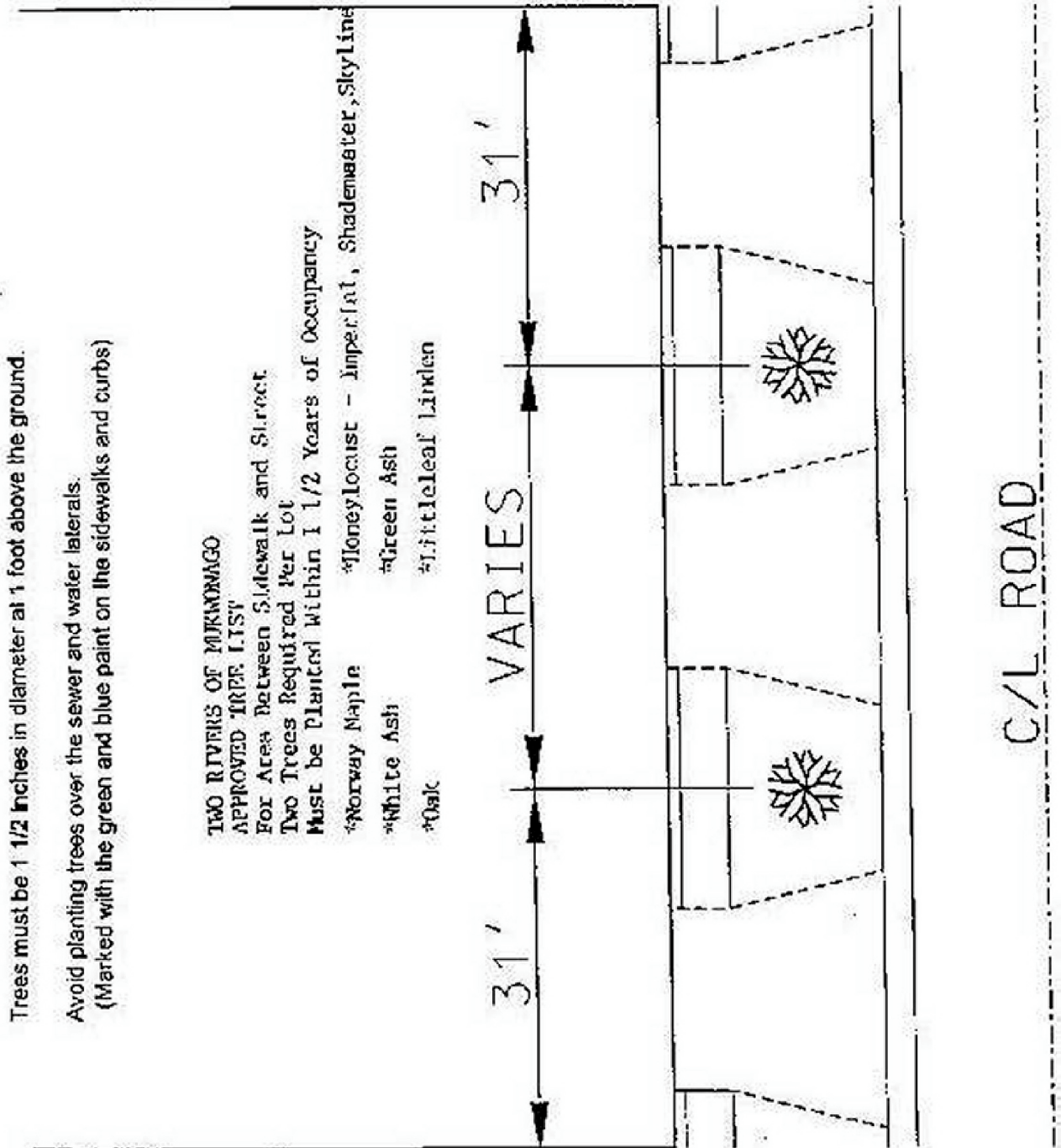
ALSO: A PIECE OR PARCEL OF LAND IN THE SOUTHEAST QUARTER (SE 1/4) OF SECTION TWENTY-FOUR (24), TOWNSHIP FIVE (5) NORTH, RANGE EIGHTEEN (18) EAST, AND DESCRIBED AS FOLLOWS, TO-WIT: COMMENCING AT A POINT IN THE SOUTH LINE OF SAID SECTION, TWELVE CHAINS, FORTY-EIGHT (48) LINKS EAST OF THE SOUTH QUARTER STAKE; THENCE RUNNING EAST TWENTY-SEVEN (27) CHAINS TO THE SOUTHEAST CORNER OF SAID SECTION; THENCE NORTH ON THE TOWNSHIP LINE BETWEEN THE TOWNS OF MUKWONAGO AND VERNON TO THE NORTH SIDE OF THE FOX RIVER BRIDGE; THENCE SOUTHWESTERLY ALONG THE CENTER OF CTH "ES", TO A POINT TWELVE (12) CHAINS, FORTY-EIGHT (48) LINKS EAST OF THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION; THENCE SOUTH ELEVEN (11) CHAINS, FORTY-EIGHT (48) LINKS TO THE PLACE OF BEGINNING BEING FIFTY-ONE (51) ACRES MORE OR LESS.

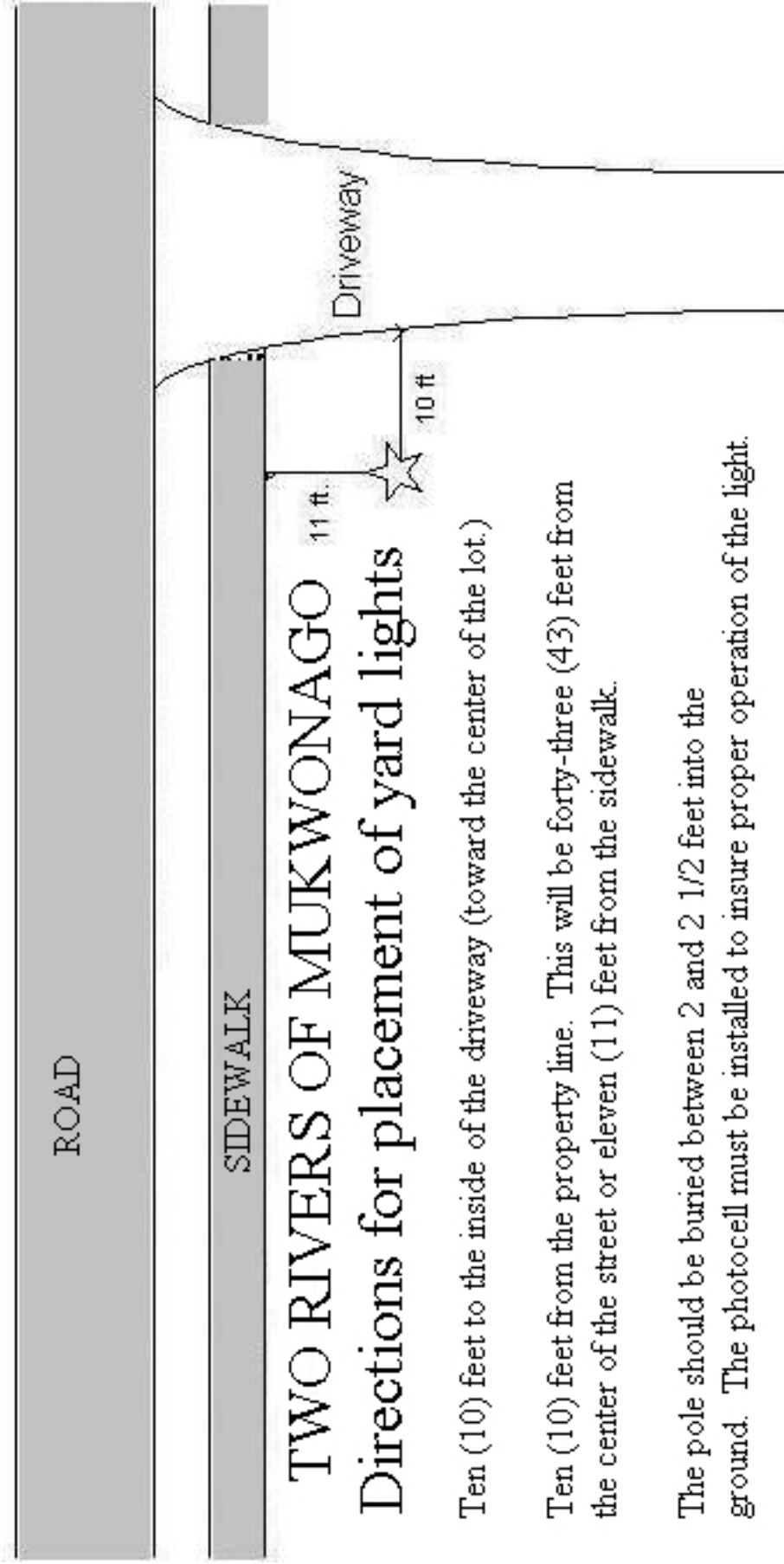
ALSO: ALL THAT PART OF THE NORTH HALF (N 1/2) OF THE NORTHWEST QUARTER (NW 1/4) OF SECTION NO. THIRTY (30), TOWNSHIP FIVE (5) NORTH OF RANGE NINETEEN (19) EAST, WHICH LIES SOUTHWEST OF FOX RIVER, AND ALL THAT PART OF THE SOUTHWEST QUARTER (SW 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF SAID SECTION NO. THIRTY (30) WHICH LIES NORTH OF THE MUKWONAGO CREEK, BEING SIXTY (60) ACRES, MORE OR LESS.

EXCEPTING THEREFROM ANY LANDS NOW OR IN THE FUTURE OWNED BY OR DEDICATED TO THE VILLAGE OF MUKWONAGO.



TYPICAL LOT Tree placement





TWO RIVERS OF MUKWONAGO

Directions for placement of yard lights

Ten (10) feet to the inside of the driveway (toward the center of the lot.)

Ten (10) feet from the property line. This will be forty-three (43) feet from the center of the street or eleven (11) feet from the sidewalk.

The pole should be buried between 2 and 2 1/2 feet into the ground. The photocell must be installed to insure proper operation of the light.