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APR 04 2024

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Total Pages: 13
04/04/2024 02:59 PM Fees: \$30.00
Lisa Posthumus Lyons, County Clerk/Register
Kent County, MI



DECLARATION OF CONDITIONS, RESERVATIONS,
RESTRICTIONS, COVENANTS, TERMS AND PROVISIONS
FOR
RAILSIDE WEST NO. 7
BYRON TOWNSHIP, KENT COUNTY
STATE OF MICHIGAN

PREAMBLE

WHEREAS, Koetje – Brower, LLC, a Michigan limited liability company, whose address is 1860 R.W. Berends Dr., SW; Wyoming, MI 49519, (the Developer) desires to impose certain building and use restrictions and related terms and provisions upon the following described lots owned by the Developer and located in Byron Township, Kent County, Michigan (the Lots);

Lots 233 through 268, Railside West No. 7, part of the NE 1/4 and SE 1/4, Section 17, T5N, R12W, Byron Township, Kent County, Michigan, according to the recorded plat thereof.

Now, therefore, the Developer hereby declares that the Lots will be subject to the following conditions, reservations, restrictions, covenants, terms and provisions (collectively the "Restrictions"), which said restrictions shall run with the land and shall be binding on the Developer and all persons claiming under them for a period of time as hereinafter set forth:

ARTICLE I. ARCHITECTURAL CONTROL

1.1 Approval of Plans. The Developer, in designing Railside West, including the location and contour of the public streets, has taken into consideration the following criteria:

- A. The plats are designed for residential living on large residential sites in a suburban atmosphere.
- B. The construction site on each of the Lots should be located so as to preserve the existing contours where practicable
- C. The architecture of the residence located on any Lot should be compatible and harmonious with the external design and general quality of other dwellings constructed and to be constructed within the development.

Consequently, the Developer reserves the power to control the buildings, structures and other improvements placed on each Lot, as well as to make such exceptions to these Restrictions as the Developer will deem necessary and proper. No building, wall, swimming pool or other structure will be placed upon a Lot unless and until the plans therefore showing the nature, kind, shape, height, materials and location of the improvements on the Lot have the prior written approval of the Developer and no changes or deviations in or from such plans as approved will be made without the prior written consent of the Developer. Each set of plans must include, at the least, a plot plan indicating all of the improvements to be situated thereon, a foundation/basement plan, the floor plan(s) and exterior elevations fully indicating the materials to be used; all the preceding to be fully dimensioned. Two sets of plans must be submitted; one

will be retained by the Developer and one will be returned to the applicant. Each such building, wall, swimming pool or structure will be placed on a Lot only in accordance with the plans and plot plan as approved by the Developer. Refusal of approval of plans by the Developer may be based on any ground including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Developer see sufficient. No alteration in the exterior appearance of the buildings or structures constructed with such approval will be made without like approval of the Developer. If the Developer fails to approval or disapprove any plans within thirty (30) days after written request therefore, then such approval will not be required; provided that no building or other structure will be erected which violates any of the Restrictions. The Developer will not be responsible for any defects in such plans or in any building or structure erected according to such plans and specifications or in any changes in drainage resulting from such construction.

1.2 Delegation of Authority, Creation of Owner's Association. The Developer may, by simple power of attorney, delegate to any person, the authority to act for it in respect to the covenants, conditions, and restrictions or provisions herein. The Developer may transfer all or any part of its authority to an Owner's Association ("the Association"), if formed, at any time. Any such transfer shall be in writing and recorded in the public records of Kent County. Each Owner, shall be required to become a member of the Association, and shall be bound by the Association's Articles of Incorporation and Bylaws as the same may be adopted and amended from time to time.

ARTICLE II. BUILDING RESTRICTIONS

2.1 Minimum Square Footage. All residences constructed on a Lot must conform to the following size requirements:

- A. Plat minimums – No one story residence will be constructed on any Lot with a fully enclosed first floor area of less than one thousand eight hundred (1,800) square feet. No one and one-half story, two story, bi-level or tri-level residence will be constructed on any Lot with a fully enclosed floor area of less than two thousand four hundred (2,400) square feet, including a fully enclosed first floor area of one thousand two hundred (1,200) square feet.
- B. General – All square footage determinations will exclude basement (including walk-out basements), garages and open porches. The Developer may specify the number of levels that residences on specific Lots will be permitted to have to preserve the view from other Lots or to maintain a harmonious pattern of development in the construction of residences on the Lots. The height of any building will be not more than two and one-half full stories above street level. If any portion of a level or floor within a residence is below grade, all of that level or floor will be considered a basement level.

2.2 Construction process. All construction of all buildings and structures will be done only by residential home builders licensed by the State of Michigan and approved by the Developer, provided the Developer may waive this restriction for an owner who wishes to act as his own general contractor if the owner demonstrates to the Developer the owner's ability to construct a residence of a quality consistent with the other residences in the plat within a normal construction schedule. When the construction of any building has begun, work thereon must be diligently continued and must be completed within a reasonable time. In any event, all construction must be completed within one year from the start thereof, provided that the Developer may extent such time when, in Developer's opinion, conditions warrant an extension.

2.3 Building Materials. Any dwelling or garage built on a Lot shall be constructed of new materials only. Approved materials include brick, brick veneer, steel, stone, stucco, wood frame, wood trim, aluminum/vinyl siding and trim or any combination thereof. Concrete block or tile construction above grade level is prohibited unless the exterior surface is covered with an approved

material. Exterior walls of used brick are permissible. In any event, all proposals for construction require prior written approval by the Developer. Such approval may be granted or withheld in each case at the Developer's absolute discretion. The approval by the Developer in one or more cases will not obligate the Developer to grant approval in any other cases. The Developer may approve use of other materials.

2.4 Soil Removal. All soil to be removed from building sites, either in grading or excavating, shall, if desired by the Developer, become the property of the Developer and when removed shall be dumped by any person so removing said soil and at his expense at such place or places upon the properties as the Developer shall designate.

2.5 Trees. All living trees existing on any Lot shall be preserved as is reasonably consistent with the residential uses and construction on the property.

2.6 Garages. Garages, which will be for the use only by the occupants of the residence to which they are appurtenant, must be attached to the residence and constructed in accordance with approved plans and as described in Section 1.1. Each residence must have one and only one garage which must contain at least two (2) and not more than three (3) stalls. Any two-level garage structure, without regard to the number of vehicles or stalls contained therein, shall be subject to prior written approval by the Developer. No garage will be placed, erected or maintained upon any Lot except for use in connection with a residence on that Lot.

2.7 Walls and Fences. No wall or fence of any height will be constructed on any Lot except as approved by developer. Fencing that may be legally required around swimming pools must be illustrated and described on a plot plan and subject to the approval of Developer. The heights or elevations of any wall or fence will be measured from the existing elevations of the property at or along the applicable points or lines. Any questions as to such heights may be completely determined by the Developer.

2.8 Occupancy. No building erected upon any Lot will be occupied in any manner while in the course of construction, nor at any time prior to issuance of a certificate of occupancy. Nor will any residence, when completed, be in any manner occupied until made to comply with the approved plans and specifications and all of the Restrictions.

2.9 Landscaping. The side, front and rear yards of each Lot shall be planted with grass seed, sod or ground cover and adequate front foundation plantings, all within one hundred twenty (120) days after the residence is completed, unless otherwise approved by the Developer. Once constructed, the landscaping shall be maintained in accord with the provisions of Article 4.11 and Article 4.12.

2.10 Elevations. No substantial changes in the elevations of the land will be made on a Lot without the prior written consent of the Developer. Any change which materially affects the surface elevations or grade or drainage of the surrounding Lots will be considered a substantial change. The final grade of the Lot will be contoured to drain away from the residence located on the Lot.

2.11 Water Systems. No individual water supply system will be permitted on a Lot, except solely for irrigation purposes, swimming pools or other non-domestic uses.

2.12 Septic Systems. No septic tank or drain fields will be permitted on any Lot.

2.13 Driveways. No stone or cinder driveways shall be permitted. All driveways are to be a minimum of twelve (12) feet wide and must be constructed of asphalt or concrete. If constructed of

asphalt, the depth of the asphalt shall be at least two (2) inches thick. If constructed of concrete, the driveway shall be at least four (4) inches thick. Circular drives in front of homes (if any) may be a minimum of eight (8) feet wide.

2.14 Chimneys. All fireplace chimneys will be of masonry construction, (or placed in a chase way with materials that match the rest of the house,) unless other construction materials are specifically approved by the Developer.

2.15 Sidewalk Construction. Concrete sidewalks (including necessary dub-downs) 5 feet wide and 4 inches thick shall be constructed by the individual Lot owner along their street frontage within this plat. Construction of sidewalks must be completed within six months of completion of the house. If sidewalk is not installed at such time, the Township has the option to construct said sidewalk and all costs for construction shall be assessed to the aforesaid property owners and, if not paid, may become a lien on the property.

2.16 Footing Drain Restriction. Gravity footing drain connections to the storm sewer system are strictly prohibited (see article VI paragraph 7.8).

ARTICLE III. SETBACKS AND BUILDING LINES

3.1 Buildings. For the purpose of this Article, building will mean the main residence, the garage and related attached structures and their projections such as, bay or bow windows, covered porches, porticos, loggias and the like, but will not include exterior chimneys, open pergolas, uncovered porches, open terraces, stoops, steps or balustrades, the sides of which do not extend more than three (3) feet above the level of the ground floor of the main building. Nonetheless, no such portions of structures which are not considered part of a building will be constructed within fifteen (15) feet of any lot line or thirty five (35) feet on the street side of corner lots.

3.2 Setback Lines. No building shall be erected on any Lot nearer than thirty five (35) feet to the front lot line(s) or nearer than thirty (30) feet to the rear lot line. No building shall be erected on any Lot nearer than fifteen (15) feet to either side lot line. The total of the distance of the building from the two side lot lines must total a minimum of thirty (30) feet. Where one and one-half, two, or more Lots are acquired as a single building side, the side lot line will refer only to the lot lines bordering the adjoining property owners.

3.3 Swimming Pools. Swimming Pools, their associated decks and enclosures shall not be nearer than fifteen (15) feet to any lot line and will not project with its coping more than two (2) feet above the established grade.

3.4 Play Structures and Swing sets. No play structure or swing set will be erected on any Lot nearer than fifteen (15) feet to any side lot line. No play structure or swing set will be permitted in any front yard or that is more than nine (9) feet high.

3.5 Hedges and Screen Planting. No hedges or screen planting over thirty-six (36) inches high will be permitted between the building setback line and front lot line of a Lot.

3.6 Waivers. Notwithstanding anything to the contrary herein, the Developer, in the sole discretion of the Developer, may waive or permit reasonable modifications of the setback requirements; however, under no circumstances shall any setback be less than those required by the current Township Zoning Ordinance (see Article IV, Paragraph 4.17).

ARTICLE IV. USE RESTRICTIONS

4.1 Residential Use. The Lots are for single-family residential purposes only. There will not exist, on any lot at any time, more than one residence. No building or structure intended for or adapted to business purposes, and no duplex, apartment house, lodging house, rooming house, half-way house, hospital, sanatorium or doctor's office, or any multiple-family dwelling of any kind will be erected, placed, permitted or maintained on any Lot. No improvement or structure whatever, other than a first class private residence with attached garage and approved patio walls and swimming pool may be erected, placed or maintained on any Lot. No Lot will be used or occupied by other than a single family, its temporary guests and family servants and no Lot will be used for other than residential use.

4.2 Home Occupations. Although all Lots are to be used only for single-family residential purposes, home occupations, nonetheless, will be considered part of a single family residential use if, and only if, the home occupation is conducted entirely within the residence and participated in solely by members of the immediate family residing in the residence, which use is clearly incidental and secondary to the use of the residence for dwelling purposes and does not change the character thereof. To qualify as a home occupation, there must be (a) no sign or display that indicates from the exterior that the residence is being utilized in whole or in part for any purpose other than that of a dwelling; (b) no commodities sold upon the premises; (c) no person is employed other than a member of the immediate family residing on the premises, and (d) no mechanical or electrical equipment is used, other than personal computers and other office type equipment. In no event shall a barber shop, styling salon, beauty parlor, animal hospital or any form of animal care or treatment, be construed as a home occupation.

4.3 Signs. No sign shall be displayed to the public view on any lot except one sign of not more than four (4) square feet advertising the property for sale or rent. Nothing herein will be construed to prevent the Developer from erecting, placing or maintaining signs and offices as may be deemed necessary by the Developer in connection with the sale of Lots.

4.4 Exterior Changes. Any change in the physical appearance of the exterior of any residence as constructed by Developer or as approved by the Developer for construction must have the prior written approval of the Developer.

4.5 Solar Panels. Solar panel installation and location must be approved in writing by the Developer prior to construction.

4.6 Outbuildings and Structures. No mobile home, modular home, previously used buildings, tent, shack, barn, storage shed, temporary building, outbuilding, playhouse, doll house, guest house or dog house may be placed, erected or maintained on any Lot. No play structure or other structure with a canopy, awning or roof may be placed, erected or maintained on any Lot without consent with the prior approval of the Developer.

4.7 Fuel Storage Tanks. No oil or fuel storage tanks may be installed on any Lot.

4.8 Animals. No animal, birds or fowl may be kept or maintained on any Lot, except dogs, cats and pet birds which may be kept thereon in reasonable numbers as pets for the pleasure and use of the occupants. No animal may be kept or bred for any commercial purpose and all animals will have such care and restraint so as not to be obnoxious or offensive on account of noise, odor or unsanitary conditions. No dog may be permitted, at any time, outside a residence unless the dog is contained within a permitted dog run or unless the dog is accompanied by an attendant who shall have such dog firmly held by collar and leash. No person owning, harboring or having in his possession any cat, shall permit or allow such cat to run at large or in any yard or enclosure other

than the yard or enclosure of the Lot occupied or owned by such cat owner. No savage or dangerous animal will be kept on any Lot. Owners will have full responsibility for any damage to persons or property caused by his or her pet. The owner is required to properly dispose of the waste his or her animal deposits on any property. No dog which barks and can be heard on any frequent or continuing basis will be kept in any residence or on any Lot.

4.9 Garage Doors. For security and aesthetic reasons, garage doors will be kept closed at all times except as may be reasonably necessary to gain access to and from any garage.

4.10 Recreational and Commercial Vehicles. No house trailers, commercial vehicles, boat trailers, boats, camping vehicles, camping trailers or vehicles other than automobiles or vehicles used primarily for general personal transportation use may be parked or stored upon any Lot, or adjoining areas, unless parked in a garage with the door closed. No inoperable vehicles of any kind may be brought or stored upon any Lot or adjoining areas, either temporarily or permanently, unless within a garage with the door closed. Commercial vehicles and trucks will not be parked in or about any Lot, or adjoining areas (except as above provided), unless while making deliveries or pickups in the normal course of business. No vehicle shall be parked overnight on any Lot except in or immediately adjacent to or in front of the garage.

4.11 Nuisances. No owner of any Lot will do or permit to be done any act or condition upon his Lot which may be or is or may become a nuisance. No Lot will be used in whole or in part for the storage or rubbish of any character whatsoever, nor for the storage of any property or thing that will cause the Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor will any substance, thing or material be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding Lots. No weeds, underbrush or other unsightly growths will be permitted to grow or remain upon any part of a Lot and no refuse pile or unsightly objects will be allowed to be placed or suffered to remain anywhere on a Lot.

4.12 Garbage and Refuse Disposal. All trash, garbage and other waste is to be kept only in sanitary containers inside garages or otherwise within fully enclosed areas at all times and will not be permitted to remain elsewhere on the Lot, or other adjoining areas, except for such short periods of time as may be reasonably necessary to permit periodic collection. All trash, garbage and other waste must be removed from the Lot at least once each week. No incinerators or other equipment for the disposal of waste will be permitted on any Lot.

4.13 Wetland Regulation. The Developer desires to preserve and protect certain lands within the subdivision designated as wetlands and accompanying vegetation therein. The fee simple estates to said lands shall be vested in the property owner within whose boundaries said lands shall lie. Said land shall remain substantially in its natural condition forever for the enjoyment of the owner thereof and the protection of the property values associated therewith. The designation of natural wetlands, as located on portions of Lots 240, 241, 249 and 250 herein, may only be altered by obtaining a permit from the Michigan Department of Environment, Great Lakes and Energy.

4.14 No homeowner shall be allowed to change the natural conditions of those areas designated as wetlands by activities such as:

- A. The placing of fill material in the wetland.
- B. Dredging or removing soil or minerals from a wetland.
- C. Construction or development in a wetland other than a possible non-impact type activity or use such as those enumerated hereinafter.
- D. Drain surface water from a wetland.

4.15 Non-impact activities such as construction of a loading deck or floating dock over the wetlands, bird houses, i.e. purple martin houses, may be allowed in said areas subject to the Goemaere-Anderson Wetland Protection Act, Act 203 of 1979, hereinafter referred to as the "Act", and that the obligation to fully comply with the terms of said Act are incorporated herein by reference.

4.16 The restriction enumerated herein shall apply only to those areas designated as wetlands under the terms of the Act. All residential building sites in Railside West have sufficient lands which are not included in this restriction or the provisions of the Act for the erection of a single family residence with the attached garage after complying with the setback and side yard requirements enumerated herein and/or establishment by Byron Township.

4.17 Zoning. In addition to the Restrictions herein set forth, the use of any Lot and any structure constructed on any Lot must satisfy the requirements of the zoning ordinance of Byron Township, Kent County, Michigan, which is in effect at the time of the contemplated use or construction. Furthermore, the approval of construction plans by the Developer does not constitute approval by Byron Township. It shall become the responsibility of the Lot owner to secure, if required, any variance(s) for any deviation(s) from the zoning ordinance in effect from the Zoning Board of Appeals of Byron Township and further there is written consent thereto from the Developer.

ARTICLE V. EASEMENTS AND UTILITIES

5.1 Easements. The Developer has and hereby reserves all easements for utilities or drainage shown on the recorded plans and full rights of ingress and egress for the Developer and Developer's agents, employees and assigns over any part of the Lots for the purpose of installing and servicing the utilities and drains for which the easements are reserved.

5.2 Easements to be Clear. No structures will be erected upon any Lot which will interfere with the rights of ingress and egress provided in Section 6.1. Any fences, paving or plantings which interfere with the rights of ingress and egress provided in Section 6.1 may be removed as necessary when installing or servicing the utilities and drains. The agencies which control the utility within the easement is responsible for the removal of existing improvements occurring in said easement and restoration to its original condition.

5.3 Drainage. No changes will be made in the grading of any Lot areas used as drainage swales which would alter surface runoff drainage patterns.

5.4 Utility Lines and Antennas. All electrical service, cable television and telephone lines will be placed underground and no outside electrical lines or other lines or wires will be placed overhead without the prior written approval of Developer. No exposed or exterior radio or television transmission or receiving antennas, dishes larger than 18" and then only mounted on the residence, or other devices will be erected, placed or maintained on any Lot. Any waiver of these restrictions will not constitute a waiver as to other Lots.

ARTICLE VI. RESTRICTIONS PURSUANT TO THE REQUIREMENTS OF THE KENT COUNTY DRAIN COMMISSIONER

6.1 In accordance with Section 280.433 of the Michigan Drain Code (Act 40 of the Public Acts 1956, as amended) a special assessment drainage district has been created to provide for the maintenance of the Railside West No. 2 County Drain. The Drain District includes all lots within the plat. At some time in the future, the lots within the Drainage District will be subject to a special assessment for the improvement or maintenance of the Railside West No. 2 County Drain. The drainage district boundary of which is shown on Exhibit "A" attached hereto.

6.2 Private Easements for the Railside West No. 2 County Drain have been granted to the Railside West No. 2 Drainage District. The rights and obligations of said easements are recorded with the Kent County Register of Deeds office.

6.3 Critical drainage and overland floodway swales have been constructed through the side yards of Lots 243, Lot 244 and Lot 252, and through the rear yards of Lots 233 through 237, Lots 241 through 248, Lot 251, Lots 255 through 259 and Lot 268. The floodways have been designed to carry storm water runoff overland in an emergency situation where the storm sewer system fails or has exceeded its capacity. Critical elevations have been established with the floodways. Minimum building opening elevations have been placed a foot above these critical floodway elevations. Any alteration of the grade could cause a potential flooding hazard to the home. **The elevations established in the design of these emergency overland drainage and floodway swales must be preserved.** Any alteration of the grade shall be restored to its original condition and design elevations. The direction of surface water drainage and critical floodway elevations are shown on the block grading plan, **Exhibit "B"** attached hereto.

6.4 Some of the lots in the subdivision are subject to private easements for drainage. Private easements for drainage are for the benefit of upland lots within the subdivision and any improper construction, development, or grading that occurs within these easements will interfere with the drainage rights of those upland lots. Private easements for drainage are for the continuous passage of surface drainage and each lot owner will be responsible for maintaining the surface drainage system across his property. No construction is permitted within a private easement for drainage. This includes swimming pools, sheds, garages, patios, decks or any other permanent structure or landscaping feature that may interfere with surface drainage. Further, during the final lot grading and landscaping the owner shall take care to ensure that the installation of fences, plantings, trees, and shrubs does not interfere with the surface drainage.

6.5 The direction of flow for the surface drainage for all lots is shown on the block grading plan, Exhibit "B" attached hereto. A more detailed grading plan is available at the Drain Commissioner's Office at 755 Ball Ave. NE, Grand Rapids, MI 49503. It is the lot Owners responsibility to ensure that the final grading of the lot is in accordance with the block grading plan.

6.6 FENCES, SHRUBS AND FILLING WITHIN EASEMENTS ARE SUBJECT TO THE FOLLOWING RESTRICTIONS WHEN LOCATED ON THE FOLLOWING EASEMENTS

Easements Labeled as "Floodway" and/or "Detention"

- **NO** filling, blocking, fencing, storage buildings or above surface vegetation planting is to be undertaken within a floodway / detention easement.

Easements Labeled as "Drainage"

- Site screen fences are **NOT** allowed **unless prior written approval is given by the Kent County Drain Commission** and they are installed above the top of the bank or the edge of the easement, whichever is higher.
- Chain link fences will be allowed if it is determined that the chain link fence will not obstruct or divert the flow of water.
- If the fences are removed for drain access or maintenance, they are to be replaced by the owner of the fence at the owner's expense.
- **NO** shrubs or trees are to be placed below the top of the bank or the edge of the easement.
- **NO** filling, blocking, or storage buildings are allowed within any drainage easement used for overland flow.

Easements Labeled as "Storm Sewer"

- Fences and pavement are allowed over easements designated for storm sewer, if drainage is not identified with easement.
- If the fences or pavement must be removed for the purpose of construction or maintenance of these utilities, the Kent County Drain Commission or its contractor will remove them. However, the fence or pavement must be replaced by the owner at the owner's expense.
- **NO** shrubs or trees are to be placed below the top of the bank or the edge of the easement. Roots can penetrate the storm sewer and cause blockage. Trees also obstruct maintenance access.

6.7 Minimum building opening (MBO) elevations have been established for all lots as follows:

LOT NO.	MBO ELEV.	LOT NO.	MBO ELEV.	LOT NO.	MBO ELEV.
233	729.5	245	724.5	257	728.0
234	729.5	246	725.0	258	725.5 *
235	729.5	247	724.5	259	722.1 *
236	729.5	248	724.5	260	727.0
237	729.5	249	724.5	261	727.0
238	729.5	250	724.5	262	728.0
239	725.0	251	723.3 *	263	729.4 *
240	725.0 *	252	720.0	264	729.0 *
241	725.0 *	253	729.0	265	728.3 *
242	724.5	254	729.0	266	729.0
243	724.5	255	728.6 *	267	729.0
244	724.5	256	729.4 *	268	733.0

MBO listed with an * is an elevation being 2.5 feet above the sanitary lateral invert at the right-of-way line. This will allow for a gravity sanitary sewer connection to the basement.

To eliminate the potential of structural damage due to flooding from rear yard surface drainage and the detention basins, the lot owners shall keep the lowest door or window sill/ and/or basement floor above the minimum opening elevations listed above. The elevations are based on NGVD 29 Datum, and Benchmarks are described as follows:

- BM #1 Elev. 732.70 Top of NE flange bolt on hydrant at lot line 233 and 234.
- BM #2 Elev. 729.21 Top of NW flange bolt on hydrant at lot line 245 and 246.
- BM #3 Elev. 735.28 Top of NE flange bolt on hydrant at NE corner of Erie Drive and Conrail Drive.
- BM #4 Elev. 727.06 Top of NE flange bolt on hydrant at Lot line 249 and 250.
- BM #5 Elev. 737.99 Top of NE flange bolt on hydrant at Lot line 255 and 256.

6.8 Because of a potential of clay soil conditions, Lots 233 through 268 in the subdivision have been provided with footing drain connections to the storm sewer. The connection to the footing drain provided or to an overland outlet is to be made from the sump pump through a check valve system to the footing drain provided. Under no circumstance shall a gravity connection to the footing drain be allowed. The footing drain location for each lot is indicated on the Block Grading Plan on attached Exhibit "B". The top layer of backfill around the house foundation shall be of a clay material sloping away from the house.

6.9 Each lot owner waives his claim against the RAILSIDE WEST No. 2 Drain Drainage District, the Kent County Drain Commissioner, his employees and agents, Byron Township, the Engineer, and the Developer from any and all claims, damage and obligation arising from the existence or operation of the drainage system.

6.10 Restrictions pursuant to the requirements of the Kent County Drain Commissioner are to be perpetual and shall run with the land. Drain restrictions may not be amended or modified without prior written approval of the Kent County Drain Commissioner and properly recorded at the Kent County Register of Deeds. A waiver of building elevations may be granted by the Kent County Drain Commissioner following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation change does not pose a risk of flooding.

ARTICLE VII. SUBDIVISION OF LOTS

7.1 Subdivision of Lots. No lot will be subdivided except as approved by the Developer.

ARTICLE VIII. ENFORCEMENT OF RESTRICTIONS

8.1 Remedies for Violations. In the event of a breach or attempted or threatened breach of any Restrictions by any Lot owner, the Developer, any association of Lot owners, or any of them will be entitled forthwith to full and adequate relief by injunction and all other such available legal and equitable remedies from the consequences of such breach, specifically including a court order enjoining commencement or continuance of construction on any Lot if the plans, the builder or any other aspect of construction required to be approved by the Developer prior to commencement of

construction by Article I were not approved by Developer as required by Article I or are not being implemented as approved.

8.2 Cost to Enforce. All cost incurred by the Developer in enforcing the Restrictions, including reasonable attorney fees, will be reimbursed by the owner of the Lot or Lots in breach of the restrictions to the Developer enforcing the Restrictions.

8.3 Payment and Liens. Payment for all reimbursable costs incurred as provided in this Declaration will be due and payable thirty (30) days after receipt of a statement therefore, which statement will detail the reimbursement sought the manner of its calculation, and evidence of payment of the reimbursable costs. Any such claim for reimbursement, together with interest at the rate of seven percent (7%) per annum and actual costs including attorney's fees incurred in efforts to collect such reimbursement, will be a secured right and a lien therefore will attach to the Lot, and improvements thereon, owned by the defaulting Lot owner. After written notice to all owners of record and all mortgagees or record of that Lot, the party having paid such costs may foreclose the lien established hereby in the same manner as a mortgage may be foreclosed under the laws of the State of Michigan, provided such liens will be subject and subordinated to any prior mortgage of record with any purchaser at any foreclosure sale (as well as any grantee by deed in lieu of foreclosure sale) under any such prior mortgage taking title free and clear from any such then existing lien, but otherwise subordinated to the provisions hereof.

8.4 Failure to Enforce. No delay or omission on the part of the Developer or the owners of other Lots in exercising any rights, power or remedy herein provided, will be construed as a waiver thereof or acquiescence in any breach of the Restrictions. No right of action will accrue nor will any action be brought or maintained by anyone whatsoever against the Developer for or on account of a failure to bring any action on account of any breach of these Restrictions, or for imposing Restrictions which may be unenforceable.

8.5 Severability. Invalidation of any one of the Restrictions by a court of competent jurisdiction will not affect any of the other Restrictions which will remain in full force and effect.

ARTICLE IX. MISCELLANEOUS

9.1 Binding Effect. Developer hereby declares that this Declaration will be binding upon the Developer, his grantees, successors and assigns, until such time and when closings of the purchases and conveyance have occurred on one hundred percent (100%) of the Lot(s) described herein, until all plans for construction and improvements on a Lot(s) have been reviewed and/or approved and until the responsibilities, as defined in Article 4.12, are fulfilled and met. Thereafter, each owner of a Lot(s) or any portion of a Lot(s), by acceptance of a deed, land contract or other conveyance to a Lot(s) or any portion of a Lot(s) thereby agrees to all the Restrictions and that the Restrictions created herein shall run with the land. Compliance with and enforcement of the Restrictions shall be binding upon the Lot Owners, both individually and collectively.

9.2 Association as Successor to Developer. When and if an association of the collective Lot owners is established, the Developer shall have the right to assign any or all rights or powers as Developer to enforce these Restrictions or grant approvals, consents or waivers as provided in these Restrictions to said association at such time and with such conditions as the Developer determines in the sole discretion of the Developer. Upon such assignment, the established association will have and will succeed to all such granted rights and powers with the same authority as if the association had been named as Developer in this Declaration.

9.3 Waivers. Notwithstanding anything to the contrary herein, the Developer, in the sole

discretion of the Developer, may waive or permit reasonable modifications of the Restrictions as applicable to particular Lots.

9.4 References to Lot Owners. Wherever reference is made in this Declaration to the owner of a Lot or a Lot owner, such reference will be deemed to include all owners collectively with any ownership interest in the respective Lots respectively owned by them, whether there will be one or more such owner.

9.5 Amendment and Termination. Except as provided in Article VI, Paragraph 6.10 and Article XI, this Declaration may be amended, altered, modified or terminated by, and only by, the mutual written agreement of all parties, including mortgagees, then owning any interest of record in the Lots. Amendments may be made without the consent of owners or mortgagees of Lots by the Developer alone as long as the amendment does not materially alter or change the rights of the owner or mortgagee of a Lot, including, but not limited to, amendments for the purpose of facilitating conventional mortgage loan financing for existing or prospective owners of Lots and/or to enable or facilitate the purchase of such mortgage loans by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association, and/or any other agency of the federal government or the State of Michigan. Amendments may be made without the consent of owners or mortgagees by the Developer along even if such amendment will materially alter or change the rights of the owners or mortgagees or Lots, to achieve compliance with the laws of the State of Michigan or with ordinances, rules, interpretations or orders of any government body or agency or any court of competent jurisdiction.

9.6 Notices. All notices, demands, requests, consents and approvals required or permitted under this Declaration will be in writing and will be given or served by personal delivery or postage prepaid United States first class, registered or certified mail, return receipt requested, to the party at that party's last known address. Notice will be deemed to have been the earlier of (a) the date when received, or (b) on the second business day after mailing if mailed in the State of Michigan.

9.7 Captions. The captions of the Articles and Sections of this Declaration are for convenience only and will not be considered or referred to in resolving questions of interpretation and construction.

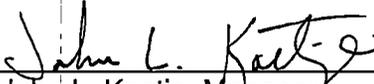
9.8 Governing Law. This Declaration will be construed, interpreted and applied in accordance with the laws of the State of Michigan.

ARTICLE X. DURATION

10.1 Duration. Except for Article VI, this Declaration will remain effective for a period of twenty five (25) years from the date this Declaration is recorded except as terminated by seventy five percent (75%) of the owners of the Lots and the Developer. This Declaration will remain effective after the initial period of twenty (25) years except as terminated or amended by an instrument signed by all owners of a majority of the Lots and recorded, agreeing to terminate the effectiveness of this Declaration in whole or in part, or to amend this Declaration in a manner applying equally to all Lots.

IN WITNESS WHEREOF, the parties hereto have executed this RAILSIDE WEST NO. 7 Declaration of Plat and Building Restrictions on this 21st day of March, 2024.

KOETJE – BROWER, LLC
a Michigan limited liability company



John L. Koetje, Manager

ACKNOWLEDGEMENT
STATE OF MICHIGAN)
COUNTY OF KENT)

The foregoing instrument was acknowledged before me on this 21st day of March, 2024, by John L. Koetje, Manager of Koetje – Brower, LLC, a Michigan limited liability company, on behalf of said limited liability company.



Brent M. Feyen
Notary Public, Kent County, Michigan
My commission expires: 9/14/2029

Prepared by and return to:
John L. Koetje
Koetje – Brower, LLC
1860 R.W. Berends Drive, SW
Grand Rapids, MI 49519