

1842455

TRUAX AIR PARK

VOL 5885 PAGE 6

Declaration of Covenants, Conditions & Restrictions

BE IT RESOLVED, That by agreement of Dane County, all owners and long-term tenants of the Air Park, and the Development Review Committee, certain sections of previously recorded Declaration of Covenants, Conditions and Restrictions are amended as follows:

PREAMBLE

This declaration is made this 26th day of June, 1980, by Dane County, a municipal corporation, Dane County, Wisconsin, and all owners of the real estate hereinafter described. The declaration encumbers lands on the east and west sides of Truax Air Park. For a portion of these lands, it supersedes a previous declaration dated the 28th day of May, 1974 and recorded June 28, 1974 in the Dane County Register of Deeds Office in Volume 519 of Records, Pages 870-880 inclusive, as Document No. 1402413, for the real estate described therein.

The Dane County community, in the effective development of its land resources, is dedicated to the concepts of open space, preservation of nature and enhancement of the environment. Implementing these concepts will not only be a significant achievement in itself, but will encourage industrialists, architects, planners and realtors to follow. Implementing these concepts at a gateway to the community has the further advantage of displaying community aspirations in action for newcomers and visitors. Truax Air Park is not only the gateway to the County for air travelers, but is also County owned. Accordingly, it is a unique setting for putting these concepts to work in a planned industrial and commercial complex.

It is all very well to voice aspirations — many communities have. However, without the wholehearted cooperation of the business community, little will be accomplished. Regardless of industry's wish to contribute to the betterment of the community, it has to make certain that a development is economically feasible. The purpose of this declaration is to provide for economically feasible development through creating efficient, attractive surroundings for employes, tenants and clients — a showcase for prospects — reduced maintenance — maximum exposure — and effective institutional advertising. With such results realistically promised, pertinent sectors of the business community will respond fully.

Let it be clearly understood that the County is not merely seeking new industry at Truax Air Park. The County is seeking developers who want a pleasing environment, secure in the knowledge that neighbors will develop harmoniously and satisfied that property values will not only be protected but enhanced. There are numerous alternate sites in and around the County for standard industrial development, which the community welcomes accordingly.

ARTICLE I. DECLARATION OF TRUAX PARK COVENANTS

The above named interests hereby declare that all of the real property:

- A. located in the southeast $\frac{1}{4}$ of Section 30, Town 8 North and Range 10 East lying southeast of the Chicago, Milwaukee, St. Paul and Pacific Railroad right-of-way therein, except therefrom the bulk fuel storage area bounded by Shaw Street, Swanson Street and Mitchell Street.
- B. located in the north $\frac{1}{2}$ of Section 32, Town 8 North and Range 10 East, lying east of Johnson and Haugh Streets, and northwest of East Washington Avenue, except therefrom those lands bounded on the south by Straubel Street and Rowland Street, on the west by Wright Street, on the north by Anderson Street, and on the east by the east line of said Section 32, and except therefrom those lands bounded on the southwest by Reindahl Avenue, on the northwest by Graceland Avenue, on the northeast by Rowland Avenue, and on the southeast by East Washington Avenue, and except therefrom a tract of land described as follows: beginning at a point which lies 370.55 feet $S 89^{\circ} 12' 23'' E$ and 86.0 feet $N 1^{\circ} 27' 37'' E$ of the center of said Section 32; thence $N 1^{\circ} 27' 37'' E$, 713.56 feet; thence $S 88^{\circ} 32' 23'' E$, 830.00 feet; thence $S 1^{\circ} 27' 37'' W$ 703.90 feet; thence $N 89^{\circ} 12' 23'' E$ 830.05 feet to the point of beginning;
- C. located in the southeast $\frac{1}{4}$ of said Section 32 and described as Outlots 51 and 52 of Burke Assessor's Plat No. One; and
- D. located in the south $\frac{1}{2}$ of Section 29, Town 8 North and Range 10 East lying east of Johnson Street and south of the lands described in a certain quitclaim deed from the City of Madison to Wisconsin Alumni Research Foundation dated November 19, 1973 and recorded November 19, 1973 in Volume 483, Page 203 of Records as Document No. 1383263;

all now in the City of Madison, formerly in the Town of Burke, Dane County, Wisconsin, owned by Dane County, is hereby declared subject to the Truax Air Park Covenants herein.

Said covenants are declared to be in furtherance of a general plan for the subdivision, improvement, and lease or sale of real property, and are established for the purpose of enhancing and perfecting the value, desirability, and beauty of said real property for all purposes and shall be binding upon and inure to the benefit of Dane County, its successors and assigns as set forth in this declaration.

ARTICLE II. STANDARD GOVERNMENTAL APPROVAL AND PERMIT REQUIREMENTS

Approval of plans and specifications as described herein does not in any way relieve the developer from obtaining all approvals and permits routinely required by governmental authorities.

ARTICLE III. DEVELOPMENT REVIEW COMMITTEE — PROCEDURE FOR REVIEW

A. Composition of Development Review Committee

The Development Review Committee (DRC) will consist of nine (9) members. The Dane County Public Works Director, Dane County Real Estate Officer, or in his absence, the Airport Business Manager, and the Dane County Regional Plan Director are designated as the three permanent members. In addition the City of Madison Alderman and the Dane County Supervisor of the District encompassing Truax shall each be a member. A sixth member shall be a representative-at-large elected annually by all owners and long-term (10 years or more) land lessees at Truax Air Park as described above. These six members shall select three (3) members for staggered three-year terms from the following sources: The Office of the State Architect, the School of Landscape Architecture at the University of Wisconsin, professional landscape architects and professional architects.

1. No member who has a conflict of interest in a particular case shall be entitled to vote and the remaining members shall select an ad hoc member from the above sources to replace him.
2. A quorum shall consist of five (5) members.

B. Organization of DRC: Meetings

VOL 5885 PAGE 7

1. The Dane County Real Estate Officer shall be the Chairman.
2. The representative-at-large shall be elected by all owners and long-term land lessees in November of each year.
3. The DRC shall meet from time to time when there is business before it. Meetings shall be called by the Chairman mailing notice of the time, place and purpose of the meeting to all members at least five days prior to the meeting. A meeting of the DRC may be called by any member of the DRC.

C. General Procedure for Review

1. No permit for building, building improvement or addition regulated by this declaration shall be issued and none of these shall be erected, placed, altered, maintained or permitted to remain on any lands subject to this declaration without the prior written approval of the DRC. There shall be an Initial Development Review, an optional Preliminary Development Review and a Final Development Review as provided for herein.
 - a. An Initial Development Review of design concepts is required. Design concepts should include the scope of the project, exterior building treatment, description of landscaping, and plot plans showing parking and future building. Nine copies of the initial design concepts must be submitted in writing.
 - b. A Preliminary Development Review is optional and may be requested by either the DRC or the developer. The developer shall submit three copies of the following:
 - 1) Landscape plans, including existing trees;
 - 2) Plot plan;
 - 3) Building plan;
 - 4) Exterior elevations with material designations;
 - 5) Outlined specifications of facade and roof treatment;
 - 6) Sketches of signs, their dimensions, their size and location; and
 - 7) General exterior color description including signs.
 - c. A final Development Review shall be required. If the DRC has reached satisfactory agreement with the applicant with respect to the Preliminary Development Review, three sets of the following shall be submitted. If there has not been a Preliminary Development Review or if the DRC for any other reason feels it necessary, a minimum of three up to a maximum of ten sets of the following shall be submitted. In either event, each set shall be signed by the applicant. The material shall include:
 - 1) A detailed landscape plan and specifications, including existing trees, their species, size and location;
 - 2) Plot plan showing setbacks, existing and finish contours, driveways, exterior lighting, loading and parking areas;
 - 3) Exterior elevations and roof plan, including screening of exterior electrical and air conditioning structures, etc.;
 - 4) Exterior surface treatment (including roofs) with exterior color and texture samples or descriptions; and
 - 5) Details including drawings and location of signs.
2. Application for Review
 - a. The Initial Development Review material will be submitted to the County Real Estate Officer who shall distribute it to the members of the DRC. If the DRC members feel that the design concepts show promise of evolving into satisfactory final plans, the County Real Estate Officer shall schedule a meeting to review the submittal with the applicant. However, if it is the general consensus that the concepts are seriously deficient, the Real Estate Officer is authorized to discuss them unilaterally with the applicant or to return them to him with appropriate comments.
 - b. The Preliminary and/or Final Development Review material shall be submitted as specified to the Real Estate Officer. The Final Development Review material shall be accompanied by a signed application in triplicate and each set of the material shall be signed by the applicant. As appropriate, the Real Estate Officer shall distribute the material to the members of the DRC and call a review meeting within 15 days. It shall be the obligation of each member to review the material distributed prior to the meeting.
3. Approval or Disapproval of Submittals
 - a. A tie vote on an issue is equivalent to rejection. At least one permanent member shall be with the voting majority.
 - b. Approval. The County Real Estate Officer shall sign three copies of the application if approved. One copy along with a complete set of final specifications, plans and drawings with each sheet stamped "Approved - DRC" and dated shall be submitted by the DRC to the Building Inspection Department of the City of Madison. One set shall be returned to the applicant and the third shall be kept by the DRC.
 - c. Disapproval. In the event of disapproval, notice of same shall be in writing, signed by the Real Estate Officer and shall state the specific grounds for disapproval. Distribution of copies shall be as in b. above.
 - d. At its sole discretion, the DRC may grant conditional approval subject to agreement that certain changes, additions or deletions will subsequently be made. The DRC may delegate the Real Estate Officer to review such modifications for acceptability and approval.
 - e. Results of Inaction. If the DRC fails either to approve or disapprove such final plans and specifications within 30 days after receipt, it shall be conclusively presumed that the DRC has given its approval; provided, however,

that if within said 30 days the DRC gives written notice that an additional 30 days is required for review, there shall be no presumption of approval until the expiration of the time set forth in said notice.

- f. Appeal. If the applicant is dissatisfied with a decision of the DRC involving judgment, the applicant and the DRC shall each choose a recognized authority in the area of design disagreement. These two authorities shall choose a third such authority. The decision of this panel of three shall be binding.
- g. Liability. The DRC shall not be liable for any damage, loss or prejudice suffered or claimed on account of:
 - 1) The approval or disapproval of any plans, drawings and specifications, whether or not defective;
 - 2) The construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications;
 - 3) The development of any property within Truax Air Park; or
 - 4) The execution and filing of a completion certificate as set forth herein, whether or not the facts therein are correct; provided, however, that the DRC has acted in good faith on a basis of actual knowledge possessed by it.

ARTICLE IV. DESIGN REQUIREMENTS

A. General

The requirements outlined in this section have one purpose only: to achieve development which is not only practical, feasible and economic but is an asset to each owner and to the neighbors and the community. Because of the difficulty of reducing a concept to standards and specifications, each design criteria by nature will appear unduly restrictive. The DRC shall keep foremost in its thinking the implementation of the concept rather than religiously adhering to standards and specifications in the presence of evidence that the concepts are being fulfilled.

Approval by the DRC shall be based, among other things, on sufficiency of site dimension, sufficiency of landscape and screening, harmony of exterior design with neighboring structures, effective on location and use of proposed improvements on neighboring sites, the nature of improvements on neighboring sites, and the types of operations and uses thereon, such that all uses will be as complimentary as possible to its neighbor, relation of topography, grade and finish ground elevations on the site being improved to that of neighboring sites, proper facing of main elevation with respect to adjacent streets and conformity of the plans and specifications to the purpose and general plan and intent of this declaration. DRC shall not arbitrarily or unreasonably withhold approval of such plans and specifications.

B. Buildings

1. The front facade and street and joint driveway side facades shall be of brick, stone, architectural concrete panels, architectural metal or wood and/or glass including curtain walls. Unfaced concrete block, structural concrete, prefabricated metal siding, and the like are discouraged for such facade areas. The use of these materials elsewhere shall only be in a manner approved by DRC.
2. All elevations of the building shall be designed in a consistent and coherent architectural manner. Changes in material, color and/or texture when permitted, shall occur at points relating to the massing, fenestration or overall design concept of the building.
3. All electrical and air conditioning structures, including towers and air handling units, regardless of location and whether on the roof or otherwise, shall be concealed by landscaping or by decorative screening materials which form an integral part of the design.
4. Buildings of symbolic design or color schemes for reasons of advertising can be rejected unilaterally by the Dane County Public Works Director and the Dane County Real Estate Officer.
5. All roof surfaces with a slope greater than 3 inches in 12 feet shall be shingled.

C. Landscaping

1. Emphasis is placed upon landscaping to achieve a parklike setting. Landscape design and planting is to be an integral part of the area and site design concept, and not an afterthought merely added onto the plans.
2. At least 30% of the site shall be landscaped. Appropriate natural or "wild" areas compatible with adjacent development are encouraged.
3. Existing trees are to be saved whenever possible, with any necessary removal approved as a part of the landscape plan. It is incumbent upon the owner to take all steps necessary to effectively protect such existing trees during and after clearing, grading and construction. The DRC may retroactively require the planting of additional appropriately sized trees in the case of loss of existing trees during this period.
4. Enough trees and shrubs along with grasses are required to accomplish a parklike appearance, visual screening, sound absorption, border definition, land cooling, drainage and other environmental relationships. If a site does not have an adequate number or stand of mature trees appropriately situated, several of the trees to be planted shall be at least 2½" to 3" in diameter. "Several" as used herein shall be an absolute minimum of four such trees for a site of two acres or less, plus two such additional trees for each additional one acre or fraction thereof. The DRC may require more. The planting of street trees to City of Madison specifications shall be required.
5. One of the uses of landscaping will be to screen. This can be by architecturally complementary wing walls, mounds, nonmetallic fences, or vegetation. All yards shall have at least a 10-foot depth of landscaping. There shall also be a minimum of 10" of landscaping to effectively screen parking lots and the automobiles thereon, loading docks, rail loading facilities, etc. from public streets, joint driveways, and neighboring properties. The total landscaped depth of the two side yards shall be at least 30 feet.
6. The street front yard and the street side yards and the side yards abutting the front one-third of the building shall have a minimum of a six-foot strip of landscaping immediately adjacent to the building or to any sidewalk adjacent to the building. Paved pedestrian walks to building entrances may cross said strip.
7. The street and side yard lawns must be sodded. Proper seeding procedures may be used elsewhere. The lawn and as much of the other landscaping as the season permits shall be installed as an integral part of the building project. All remaining landscaping is to be installed during the next planting season.

D. Minimum Building Setback Lines, Yards

Unless otherwise provided herein, the following yard and building setback requirements shall be observed for all sites.

1. Front yards and street and joint driveway side yards. There shall be a minimum front yard and setback of 50 feet and a minimum street and joint driveway side yard and setback of 40 feet.
2. Interior side yards and rear yards. There shall be a minimum interior side yard and setback and rear yard and setback of 20 feet for a one-story building and 30 feet for a two or more story building. However, where such side or rear yard is adjacent to a railroad spur, the yard may be reduced to permit loading docks adjacent to the spur track with the approval of the DRC. The spur shall then be sufficiently separated from the main line to provide necessary railroad clearances plus a minimum 10-foot screening strip between the spur and the lot line to effectively screen the loading docks from any adjacent street and from adjacent lots.
3. U.S. Highway 51 and Packers Avenue. The minimum setback and yard shall be 50 feet in all cases.

E. Parking Setbacks. All parking lots, rail loading facilities and loading berths shall be located to the rear of the building or in the interior side yard beyond the front yard setback, except that a guest parking lot containing stalls for not more than 10 cars may be located within the front yard, street side or joint driveway side yard. The guest parking stalls shall be located at least 20 feet from any lot line and at least 8 feet from the building. Such facilities shall be effectively screened as specified elsewhere herein. The inclusion of earth mounds in the screening of guest parking may be made mandatory.

F. Parking Areas. It is the intention of the DRC to prohibit on-street parking in the airport and air park. Off-street parking and loading shall be provided on the same zoning lot as served except where specifically approved by the DRC. One off-street parking stall shall be provided for each employe with the number of parking stalls based on the maximum number of employes working at any given time, and not exceeding that number by 20%. One 10-foot by 35-foot loading berth shall be provided for buildings containing 10,000 to 100,000 square feet of gross floor area, plus one additional loading berth for each additional 100,000 square feet of gross floor area or fraction thereof. All drives, parking lots, storage areas, and loading berths shall be paved, dust-free, and properly marked.

G. Driveways. It is the intention that driveways shall be designed to be compatible with a parklike setting. The design shall be such that it does not provide a direct, unscreened view from the street to the employe parking lot, docks, dock maneuvering areas or permitted storage areas. No parking shall be permitted on entry driveways, be they joint or otherwise.

H. Lighting. Lighting and its visual effects are to be considered an element of building and site design.

Lighting may be used to emphasize landscaping, trees, a portion of the building, etc. It is not to be used as a form of advertising except as prescribed in the subsection herein dealing with signs. All lighting shall be shielded and confined within the property lines.

I. Signs

1. This subsection pertains to all signs visible from the exterior of any building. Signing is limited to advertising only the names of the firm, companies or corporations operating the use conducted on the site. Signs shall not rotate, gyrate, blink or move in any animated fashion. Illumination of signs shall be indirect and shielded and shall not be a nuisance to surrounding property nor conflict with aircraft operations.

2. Except as otherwise provided herein, the following sign regulations shall apply.

a. Three types of non-governmental signs shall be permitted:

- 1) Wall signs — a sign attached to or erected on the exposed face of a building or structure in a plane approximately parallel with the plane of the exterior wall and in elevation view shall not extend beyond the cornice or edge of the building or structure. The wall sign shall not comprise more than 10% of the building face on which the sign is located, and shall not exceed 100 square feet in area. The DRC may require a minimum size for a particular building. Individual letters and/or symbols applied directly shall be measured by calculating the area within the rectangle that circumscribes the lettering and/or symbols. If there is more than one building on the site, the 100 square feet shall be cumulative.
- (2) Ground signs — one sign, either single or double faced, is permitted. It shall be integrated with landscaping and shall not unduly interfere with traffic vision. The bottom of the sign may be flush with the ground. The sign must be at least 10 feet from the lot line. At this 10-foot distance, the maximum sign size is 12 square feet. If the sign is architecturally compatible with the building and site, then, as the distance between the facing lot line and the sign increases beyond 10 feet, an additional one-half square foot of sign area may be added for every additional foot of distance, to a maximum of 32 square feet. The maximum height shall be six feet.
- (3) On-site temporary sign, ground or wall — for purposes of describing a construction or improvement project or advertising the sale or lease of a site or building. The sign shall be no larger than 32 square feet and shall not remain longer than completion of such construction, sale or lease.

b. Entry and directory signs — the City of Madison, its governmental successors and assigns, shall have the right to erect entry and directory signs not subject to the size limitations in this declaration, so long as such signs are designed and erected in a fashion and in locations harmonious with the overall intent of this declaration. Such signs shall be subject to the approval of the DRC.

J. Outdoor Storage, Motor Vehicle Pools. Outdoor storage or operations to include motor vehicle pools are not a matter of right, but may be permitted by the DRC subject to conditions specified in writing. Such permission shall always specify that the use be located to the rear of the building or in the interior side yard beyond the front yard setback and enclosed or screened as specified elsewhere herein. Such outdoor storage or operations shall not exceed the height of such screening. Walls or nonmetallic fencing may be made a mandatory part of such screening.

K. Utilities. All Utility service lines on the property shall be placed underground. Such underground service lines cannot be connected to existing overhead facilities without the express written consent of DRC. It is noted that as part of the general upgrading of the area that all existing overhead utility facilities will be replaced by underground facilities.

L. Lot Coverage. The maximum lot coverage shall be 33% for buildings and structures.

M. There shall be no access to U.S. Highway 51 or Packers Avenue except via public streets. Access to other public streets shall comply with governmental regulations, including those which may be noted on the applicable Certified Survey or Subdivision Plat.

- 11 0220
- N. Easements. There is reserved to the City the right to acquire, at no cost, easements deemed necessary for further utility development and to locate such easements within the required yards or at other locations agreeable to property owners and/or tenants. The utility companies utilizing such easements shall have the normal responsibility to return such easement areas to the same level of improvement that existed prior to the installation and/or maintenance of said utilities at no cost to the owner.

ARTICLE V. RENOVATION, DEMOLITION AND CONSTRUCTION DEADLINES

- A. If after the expiration of two years from the date of deed or lease from the City to any site in Truax Air Park, the grantee or lessee thereof or his assignee shall not have entered into a nonrevocable contract for the construction of a building thereon under these covenants and such construction shall not have commenced, then the County shall have the option to extend the two-year time period or to repurchase the site or cancel the lease, as follows:
1. Repurchase. The price shall be the same amount as was paid to the County by the grantee, less 10% and less any commission or expense paid by the County or other pertinent parties. Said amount shall be paid in cash at the time of repurchase.
 2. Lease Cancellation. Lease payments and other expenses incurred by lessee shall be treated as liquidated damages accruing to the County.
 3. The notice of repurchase or lease cancellation shall be deemed exercised by a notice in writing to the grantee or lessee, his heirs, successors or assigns.
 4. The repurchase or lease cancellation shall be within 30 days after delivery of said notice and shall be at the offices of the County with the grantee or lessee, his heirs, successors or assigns delivering a quitclaim deed and an abstract of title or a policy of title insurance showing good and merchantable title of record. The County shall be entitled to deduct from the repurchase price any cost of clearing title to the premises at the time of repurchase. In lease cancellation, the County shall be entitled to collect such cost, including legal fees, from lessee, his heirs, successors or assigns.
- B. Nonconforming structures existing at the time of purchase or lease from the County or its governmental successor or assign.
1. Razing. A bond in the amount of the estimated cost of razing of the structure and renovation of the site shall be posted with the County at the time of purchase or lease to insure completion within one year.
 2. Remodeling. Within one year from the date of sale or lease by the County:
 - a. Complete and acceptable final plans and working drawings as defined and enumerated in Section III.C.1.c. herein have been approved in conformance with this declaration.
 - b. A nonrevocable contract for such renovation shall have been signed, or an additional bond of \$10,000 for liquidated damages has been posted, to be called by the County if such a contract is not signed within an additional one year.
 3. Compliance and Noncompliance. Upon compliance with these provisions, the County shall release the pertinent bond(s). Upon noncompliance with the above provisions, the County shall call such bond(s) and shall have the right and authority to enter upon the site, raze the structures and renovate the site without liability.
- C. Within 30 days after written demand is delivered to DRC, there shall be recorded with the Dane County Registry a completion certificate executed by the Chairman of the DRC and certifying that as of the date thereof either:
1. All improvements made or other work done on or within a site complies with the Truax Air Park restrictions; or
 2. Such improvements or work do not so comply, in which event the certificate shall identify the noncomplying improvements or work and set forth with particularity, the cause or causes for such noncompliance.

Any lessee, purchaser or encumbrancer shall be entitled to rely on said certificate with respect to the matters set forth therein, such matters being conclusive as between DRC and all subsequent parties in interest.

ARTICLE VI. DIVISION OF SITES BY OWNERS AND LESSEES

Lots or sites shall not be further divided into parcels smaller than 1½ acres without the prior written approval of the DRC. Any division not only shall comply with applicable governmental regulations but also shall not create a parcel which is not readily adaptable to these covenants.

ARTICLE VII. NUISANCE, SAFETY AND ENVIRONMENTAL CONTROLS

A. Nuisances

1. All unsold parcels and vacant parcels or portions of parcels vacant shall be maintained in a tidy manner. Any time after 15 days of written notification to owner or lessee of needed landscaping or vacant parcel maintenance or upkeep, the County shall have the right to contract for the completion of the work. Any time after 30 days of written notification to owner or lessee of needed maintenance or upkeep on buildings, structures, paved areas and the like, the County shall have the right to contract for the completion of the work. The County shall have the right to bill the owner or lessee for such costs plus 10% thereof for administrative costs. Minimum actions required on the part of the owner or lessee to avoid County action in the latter case is presentation of a written order, accepted in writing by a licensed contractor, to complete the work within a time limit deemed reasonable by the County, but not to exceed six months.
2. No rubbish may be burned on the premises. Smoke from operations shall not exceed a number 1 rating on the Ringlemen Smoke Chart for periods aggregating four minutes in any 30-minute period. Dust, dirt and fly ash shall not exceed three-tenths of a grain per cubic foot of flue gas at 60° Fahrenheit, 14.7 PSI absolute, and 10% CO₂, and shall in no manner be unclean, destructive, unhealthful or hazardous to humans or vegetation, nor shall visibility be impaired by opaqueness equivalent to a number 1 on the Ringlemen chart.
3. Noise shall be muffled so as not to be objectionable because of intermittence, frequency or shrillness. Noise emitted from any single source and measured at the lot line of the property and its extension upwards, upon which the noise occurs, shall not exceed the amounts indicated in the following table.

SOUND PRESSURE LEVEL

Octave Band Center Frequency: (Cycles Per Second)	31.5	63	125	250	500	1000	2000	4000
Decibels Re 0.0002 Microbar:	73	68	63	58	53	49	45	43

4. Vibration originating within the property which is discernible to the human sense of feeling at the property line shall not be permitted at any time. Emission of gaseous pollutants is not to cause air pollution or public nuisance as defined in the Wisconsin Department of Natural Resources air pollution control rules. No person shall emit into the ambient air maldorous substances or liquid pollutants in the form of mist at levels which cause air pollution or a public nuisance.

- B. **Aeronautic Protection.** Dane County for itself, its governmental successors and assigns, hereby reserves for the use and benefit of the public, the right of aircraft to fly in the airspace overlying the land in Truax Air Park together with the right of said aircraft to cause such noise as may be inherent in the operation of aircraft landing at, taking off from, or operating on or in the vicinity of Truax Field and Dane County Regional Airport. Further reserved is a restriction against causing or permitting any obstructing or hazardous structure, growth or object to aircraft flight to come into being, occur or remain on the premises. The maximum height of any part of a building, structure or tree shall not exceed the height permitted by the airport height zoning regulations, Federal aviation regulations or the Madison Zoning Ordinance. No use shall be permitted that produces undue interference with aircraft operations such as excessive smoke, vibration, glare, heat emission, lights or electronic or radio interference.
- C. **Right of Entry.** During reasonable hours, representatives of Dane County shall have the right to enter upon and inspect any building, site or parcel and the improvements thereon for the purpose of ascertaining whether or not the provisions of the Truax Air Park restrictions have been or are being complied with. Such representatives shall have the further right as necessary to enter upon the premises to accomplish work ordered pursuant to Paragraph VII.A. herein. Such representatives shall not be deemed guilty of trespass by reason of such entry.

ARTICLE VIII. VARIANCES

The DRC, within its scope of authority, reserves the right to grant variances from the strict application of the provisions of these restrictions and impose other conditions and safeguards in the variances so granted, provided such variances are in keeping with the overall development concept of Truax Air Park.

ARTICLE IX. DURATION, MODIFICATION AND TERMINATION

These Truax Air Park Covenants shall run with the land and shall continue and remain in full force and effect at all times; provided, however, that within one year prior to January 1, 1995, and every tenth year thereafter, the owners and lessees of Dane County of not less than two-thirds of the property, based on the total number of square feet therein, may terminate Sections III-VII inclusive, of these covenants, by signing and recording an instrument to that effect; and further provided that this declaration or any provision thereof or any covenant, condition, restriction contained in Section III-VII, inclusive herein, may be prospectively terminated, extended, modified or amended as to the whole of said property or any portion thereof, with the written consent of the owners and lessees of Dane County of 75% of the property based on the total number of square feet therein; provided, however, that so long as Dane County or its governmental successors or assigns owns (unleased) at least 25% of the property subject to these restrictions or for a period of 20 years from the effective date hereof, whichever period is longer, no such termination, extension, modification or amendment shall be effective without the written approval thereto of Dane County or its governmental successors or assigns. No such termination, extension, modification or amendment shall be effective until a proper instrument in writing has been executed and recorded.

ARTICLE X. ENFORCEMENT

- A. **Remedies for Breach.** Violation or breach of any restriction herein contained shall give Dane County or any owner of property or long-term lessee subject to these restrictions the right to prosecute a proceeding in any court of competent jurisdiction against the person or persons who have violated or are attempting to violate any of these restrictions and may enjoin any such violation or breach, and may prosecute any and all remedies permitted at law or in equity.
- B. **Deemed to Constitute a Nuisance.** The result of every action or omission whereby any restriction herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance and every remedy allowed by law or equity against an owner or long-term land lessee, either public or private, shall be applicable against every such result and may be exercised by Dane County or by any owner of property or long-term land lessee subject to these restrictions.
- C. **Attorney's Fees.** In any legal or equitable proceeding for the enforcement or to restrain the violation of this declaration or any provision hereof, the losing party or parties shall pay the attorney's fees of the prevailing party or parties in such amount as may be fixed by the court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.
- D. **Failure to Enforce Not a Waiver of Rights.** The failure of Dane County or any property owner or long-term land lessee to enforce any restriction herein contained shall in no event be deemed to be a waiver of the right to do so thereafter nor the right to enforce any other restriction.

ARTICLE XI. MISCELLANEOUS PROVISIONS

- A. **Assignment of Rights and Duties.** Any and all of the rights, powers and reservations of Dane County herein contained may be assigned to any person, corporation or association which will assume the duties of the County pertaining to the particular rights, powers and reservations assigned and upon any such person, corporation or association evidencing its consent in writing to accept such assignment and assume such duties, he or it shall, to the extent of such assignment, have the same rights and powers and be subject to the same obligations and duties as are given to and assumed by Dane County herein. If at any time Dane County ceases to exist and has not made such an assignment, a successor may be appointed in the same manner as this declaration may be terminated, extended, modified or amended under Article IX herein.
- B. **Constructive Notice and Acceptance.** After the date of recording of this declaration, every person or other entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the property made subject to this declaration, is and shall be conclusively deemed to have consented and agreed to every covenant, condition and restriction contained herein, whether or not any reference to this declaration is contained in the instrument by which such person or entity acquired an interest in said property.
- C. **Mutuality, Reciprocity.** All covenants, conditions, restrictions and agreements contained herein are made for the benefit of each and every part and parcel of the property now or hereafter made subject to this declaration, and shall operate as covenants running with the land for the benefit of all parcels therein.

- D. Paragraph Headings. Paragraph headings where used herein are inserted for convenience only and are not intended to be part of this declaration or in any way to define, limit or describe the scope and intent of the particular paragraphs to which they refer.
- E. Effect of Invalidation. If any provision of this declaration is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

IN WITNESS WHEREOF, the above is a true and complete transcription of the original recorded covenants and all subsequent amendments as approved by Dane County and all long term tenants and owners of Truax Air Park as of this 26 day of June, 1980.

Carol A. Bennett
Witness

By Richard J. Vander Zanden
Richard J. Vander Zanden
Chairman, Development Review Committee

State of Wisconsin }
County of Dane } ss.

The above named Richard J. Vander Zanden personally came before me this 26 day of June, 1980 and is to me known to be the person who executed the foregoing instrument.

Constance M. Fjelstad
Notary Public, State of Wisconsin

My Commission expires July 26, 1981.

This instrument was drafted by Richard J. Vander Zanden, Airport Business Manager
Dane County Regional Airport, Madison, Wisconsin

REGISTER'S OFFICE
 DANE COUNTY, WIS. SS
 RECORDED OK
 JUL 12 2 52 PM '80
 CAROL R. MAHKE
 REGISTER OF DEEDS

RET
 Glen Henry
 419 Room - Corp Council
 CC Bldg