

Craig, Sondra

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Congratulations on this forward looking modification.

Having spent 5 years on the City's Zoning and Housing Study Group, I think it is ,potentially a positive tool.

If I may suggest an addition to (2) a. **“Owner must provide proof that restrictive covenants for the property allow and do not prohibit proposed use at time of building permit application. Proof to be a copy of recorded restrictive covenants , or confirmation by Title Insurer, acceptable to the department.**

It is not the responsibility of the City to check restrictive covenants prior to issuing a permit, but it may assist in preventing expensive misunderstandings.

One of the most notorious examples of this situation was the “Envelope House” between Cass and Janice Court area across from La Crosse Floral. The structure absorbed solar heat and included an interior garden and was very state of the art, environmentally. A neighbor took the owner to court to enforce the height limit and the owner had to chop off the top of the house.

There are probably as many restrictive covenants as there are subdivision plats. All of them different, some expire after a few years, some like outside of Rockland last for 999 years. It is not up to the City to do the complete due diligence on a construction project, If a covenant is ambiguous or the enforceability questionable, verification by a title company is a reasonable expense for the owner, and a reasonable requirement by the City. It may only have to be done once per subdivision.

Joe Van Aelstyn
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