



Planning for Permanence: the Speeches of J.C. Nichols
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Developer's View of Deed Restrictions

In commenting upon the problems and questions discussed in "The Use of Deed Restrictions in Subdivision Development," by Helen C. Monchow, one must realize that the things to be considered in one city may vary greatly from those to be considered in another city. Also the problems vary greatly within a city and frequently within a subdivision. Many grave mistakes have resulted when sub-dividers in one part of the country have literally copied the restrictions of successful subdivisions in other cities or when they have applied restrictions put into effect a quarter of a century ago to a present-day subdivision, thus failing to recognize changes in modes of home building, requirements of purchasers and the new needs and perhaps new situations created by a modern city plan into which their subdivisions should fit. The great problem of deed restrictions is to create solidarity and stability in a real estate development and at the same time afford sufficient elasticity to meet the rapidly changing conditions of our American cities and the habits of our American people.

The evolution of deed restrictions practice has been remarkable. Fortunately few examples remain of the sub-divider who simply works up his restrictions as a medium of selling lots rather than creating stable standards for his property. Only a comparatively few years ago sub-dividers would often offer a subdivision for sale and then incorporate restrictions into each deed separately as the lot was sold. Frequently, through error, certain important restrictions were omitted in some of the deeds. Also if sales were not active, the sub-divider might lower the restriction requirements on his remaining unsold lots with great unfairness to his early buyers. Or, occasionally, a sub-divider might fail in the process of selling his subdivision and the unsold lots thus pass to a new company which would completely ignore at least the moral obligation placed by the restrictions in the early sales.

In contrast with these practices the better sub-dividers began many years ago to file a restriction agreement as a covenant running with all the land in advance of offering any of the lots for sale, or with all the land except certain designated areas which were exempted with proper notice from the restrictions. Certainly every buyer in a subdivision has the right to know which lots are to be restricted and which lots are not to be restricted. Certainly also he ought to know that certain irreducible minimums have been established through his neighborhood restrictions and, if certain areas are specifically exempted from such restrictions, he should know whether this unrestricted property may be devoted only to retail shops, churches, schools, neighborhood libraries, and such other less injurious purposes, or whether it may pass into industrial or other extremely injurious uses. Reservations of certain parcels of land by the sub-divider without some restrictions as to their use, even though it may be for a lower classification of property uses, may prove to be the downfall of the character of the entire subdivision.

The whole question of the use of deed restrictions has been so splendidly covered by Miss Monchow that it is hardly worthwhile to comment upon the many conclusions or the informative tables she has presented. In this review of the subject matter as she covered it in her monograph, I shall simply accentuate some of the phases deemed especially important from the point of view of a practitioner and refer to a few things which in my opinion she has not fully treated or adequately emphasized, particularly some border-line problems which deserve further attention.

In 25 years' experience in developing the Country Club District in Kansas City and advising and conferring with sub-dividers throughout the country, many problems have arisen to which it has been difficult to apply any satisfactory formula. For instance, in subdividing some of our earlier and smaller subdivisions of 10 to 20 acres, restrictions were made to run only with the land owned in that particular subdivision. Other adjoining subdivisions were later developed with equally as good or better restrictions. Later on, the early restrictions expired and, because the owners of the majority of the land in the smaller subdivision were unwilling to extend their restrictions,¹ a situation developed with a small unrestricted area almost surrounded by more recently restricted subdivisions which naturally suffered from the expiration of the restrictions in the smaller area.

Protecting the Border.

This suggests that a more careful study be made as to the areas which should be covered by the restrictive covenants. Certainly the best interest of the buyer is not served by applying as rigid restrictions in the small area, unless topographically protected, as can be applied on a larger area. Furthermore, it is desirable to get a common covenant running in a number of adjoining subdivisions or undeveloped tracts where possible, even though they may be developed by different owners. In this way one subdivision may not be jeopardized by the changed character of an adjoining subdivision. We frequently provide in our subdivisions that future owners in certain adjoining tracts of land yet to be subdivided may, if their land be similarly situated, have a beneficial interest in and the right to enforce the restrictions in the earlier subdivision, and, of course, give the earlier subdivision the same interest and right of enforcement in the later adjoining subdivision. This has proved to be one of the most effective phases of our restrictions and one that has not been generally adopted by many sub-dividers.

A developer of a small subdivision assumes a grave responsibility when he obligates his purchasers to a rigid set of restrictions and subjects the future value of their property and its desirability as a place to live to uncertain surroundings. Of course, every subdivision has similar boundary-line problems and perhaps not enough consideration has been given by any of our developers to the graduation of our restrictions downward as we approach uncertain borderlines. Frequently, buyers or purchasers have confidence in us and do not stop to consider the deterioration of neighborhood values which may develop when the property just beyond the edge of the subdivision may be developed for less desirable purposes. Therefore, the creation of a buffer, either of parkland or golf

¹ There are many cases in the country where some individual or some company has been able to control the necessary majority in a certain small subdivision and thus to prevent the extension of its restrictions at the end of a certain period, in order to convert the property into perhaps a higher priced use but with great injury to the adjoining subdivisions.

land, as a barrier to injurious encroachment of unrestricted or lowly restricted property, is extremely desirable wherever possible. Other methods are a graduation of uses from single residential to apartment to commercial property or the proper placement of public or private schools with large grounds, churches, neighborhood libraries, or other semipublic institutions at the edges of the subdivision.

Another border problem is presented by the sub-divider who decides upon his lot and block plan and draws restrictions as to the fronting of homes on boundary line streets of his property without obtaining in advance a reasonable amount of protection as to the future lot and block plan and the frontage of homes on the property just opposite his subdivision. However carefully the sub-divider may have set up his protective restrictions within his property their effect may be largely annulled all around the fringes of his subdivision by failure to obtain at least a minimum degree of protection against the future development of the adjoining property. The resulting injury frequently penetrates far into the heart of the well-protected subdivision.

The goal of every sub-divider and developer should be to sell not only land but to sell and deliver protection. Injured residential areas frequently create a gigantic economic loss and at the same time strike deeply at the very roots of the desire to own a home. Blighted or abandoned residential areas with no compensating use discourage home owning. The purchaser of a restricted lot who builds his home on it should procure in effect a greater obligation from the sub-divider than that represented by the purchase price of the lot. His investment in the home may be many times the cost of the lot and consequently he is entitled to many times the protection represented by the mere price of a few unsold lots.

Adapting Restrictions to Market Sentiment.

In this connection the extremely close relation between restrictions and the absorbing power of the market deserves careful consideration. It is ever a nice problem so to determine restrictions as to bring about the best development of the land within a reasonable time [sic]. A great many examples of failure could be cited, particularly in high-class subdivisions throughout our country, where the courage and vision of the developer led him beyond his market in the determination of his restrictive requirements. On the other hand, if a sub-divider too closely follows the absorbing power of his market, restricts only very small parts of his subdivision from time to time, and varies his requirements from year to year to meet immediate market conditions, the result is frequently not in the best interest of the city nor does he create a generally harmonious neighborhood. Perhaps more care and thought and more careful analysis of the comparative buying power of his city should be taken into consideration in the decision of restrictions and area to be restricted. A good developer should ever strive to go as far as practicable beyond the immediate needs and yet not allow his ideals to lead him beyond sound business principles. Deed restrictions should not be used as mere selling arguments but should be a careful estimation of the possible buying power of the community supplemented by a reasonable period of education and encouragement for better home life and better home surroundings.

Duration of Restrictions.

The Country Club District of Kansas City was probably the first district in the United States where self-perpetuating restrictions were used. The restrictions automatically extend themselves unless the owners of a majority of the front feet execute and record a change or abandonment of the restrictions five years before the respective expiration dates. Prior to this time many subdivisions in other cities had required an affirmative vote of a majority of the owners to extend the restrictions. This placed the burden upon those wishing to extend. The developer may have died or long since gone out of business and the perpetuation of the original character of this property might have become everybody's business. Much of the property may have been owned by non-residents and the time for extending may have slipped by without notice. In the Country Club District the presumption in favor of the established character of the development for home purposes has prevailed and, if its character is to be changed, the affirmative vote of those wishing the change is required. By this plan used in all our subdivisions for the last 10 or 12 years the restrictions automatically extend themselves unless action otherwise is taken by the majority. The result is a greater assurance to the homeowner as to the stability of his property. With the greater protection to property through such automatic extension of restrictions, particularly if they cover an area of considerable size, the original restriction period need not be so long. Perhaps 25- to 30-year periods are long enough to give reasonable assurance and yet short enough to permit readjustment of restrictions to changing modes of life.

Certain very practical construction or landscape problems, arising out of the rapidly changing standards of American living conditions, are also pertinent in determining the duration of deed restrictions. The advent of the garage, replacing a stable and barn, created a very difficult problem in many subdivisions where restrictions were placed before the garage era, and justified a different restriction stipulation. A few years ago enclosed sleeping porches were largely unknown in many cities. This brought the demand on the part of some owners that they be permitted to enclose open porches in order to make sleeping porches or sunrooms. Many sub-dividers found their restrictions so drawn, on account of building-line or sideline requirements or percentage of lot area or percentage of lot width requirements that such infractions of restrictions could not safely be permitted.

Another illustration is found in many of our cities where a growing tendency is seen to place the kitchen at the front of the house facing the street but so treated architecturally as not to render it objectionable. In some climates this is particularly desirable on north-front lots in order to permit development of the garden and the living quarters to the south. This tendency was further accentuated by the abandonment of the old-fashioned barn or stable, doing away with the old idea of a back yard and replacing it with a flower garden. Yet the restrictions in many subdivisions throughout the country have been so drawn that permission for such an arrangement has been very difficult to secure even where it could be handled without injury to anyone.

Many of us have made a very careful stipulation as to the building of fences and walls as to height and place and yet have found within a very few years a complete change in the desires of the home owners. Many requests have been made for an alteration of those restrictions to allow greater use of fences and walls, frequently in

accordance with a perfectly acceptable plan if our restrictions could only permit it. I am citing these few instances of changed conditions as an argument for not extending restrictions over too long periods without the power to make desirable changes in the restrictions.

Many sub-dividers who have stipulated that the front door or front porch of a house must face the street have found this a very unfortunate requirement. The increased use of our streets for automobile travel has practically made obsolete the front porch, which is largely giving way to a side porch or garden side porch. This change in house arrangement has also created a new situation as to lot-width requirements. An occasional sub-divider who filed a plat with comparatively narrow lots, stating that not more than one house could be built on any one lot, was confronted with a difficult situation in his efforts to keep each house within the boundary lines of a certain lot. Many sub-dividers today simply require a certain lot-width area for each home, having found that long, deep lots do not meet the present day demands for wider lots.

The old idea of a uniform building line with no power of change frequently works a grave hardship and results in a stiff, monotonously undesirable appearance.

The developer under his restrictions should have the right within reasonable bounds, to make changes as to building lines at least with the consent of owners of the adjoining homes and home sites. The same is true as to the percentage of lot that may be occupied by the residence or the percentage of width of the lot which the residence may not exceed. Also frequently an unintentional violation of restrictions with a slight encroachment of a foot or two beyond the building line or over the side line makes it desirable for the developer to have the right to permit this infraction. Again if restrictions placed on wooded land are not carefully studied and, unless some power of variation is reserved, great forest trees may be sacrificed in order to conform rigidly to the restrictions for placement of the house or a poor adaptation of house to site may be caused.

Many developments have not given careful consideration to the changing modes of placing chimneys projecting beyond the front line of the home; the greater use made of the porte cochere; the attachment of greenhouses to the residences; the building of tea houses, pergolas, and other ornamental features as part of the landscape development. Many of these phases only come about in a community or development as the taste of the people changes or develops. Certainly every effort should be made to give restrictions ample elasticity to permit the fullest and most complete use of the site so long as it does not seriously injure the adjoining owners or the neighborhood in general. May I suggest that I doubt whether any of us dealing with deed restrictions are giving quite as much consideration as we should to this particular problem.

Restrictions and Neighborhood Stores.

Another general subject to which more consideration should be given is the desirability of setting aside land in large developments for occupancy by neighborhood shops, or in the case of a number of smaller developments, providing in some of them for such shops. A few years ago most of our cities had only one well-established downtown business center and a large part of the trade of the city concentrated in this one center. Four strong factors are bringing about a decentralization of downtown business centers:

- (1) automobile congestion of our downtown streets;
- (2) the movement to suburban centers of neighborhood picture shows;
- (3) the outward tendency of large apartment houses, kitchenettes and family hotels; and
- (4) the entrance of a large amount of suburban and rural trade into the city by good paved highways, whereas a few years ago practically all suburban and rural trade came into the city by railroads generally accessible to downtown centers.

These four factors and many others are bringing about the creation of outlying shopping centers in most of our cities. Unless the proper location of the sub-centers is studied and provided for in neighboring developments they will not be conveniently placed for the residents. Also if the building of these shopping centers is to be left entirely to others than the developer they will generally be built with very little regard for the effect upon adjoining properties. This is a case where restrictions do not simply prevent a buyer from doing certain things but, if properly drawn, will permit the developer or buyer to build a shopping center under certain reasonable regulations such as a reasonable setback of shops from the streets; perhaps a provision for planting space for shrubbery and trees in front of the shops; the creation of loading courts in the rear of the shops; control of such shops to a maximum of perhaps not more than two stories in height; and also architectural control so that the design and color will harmonize with the residences in the neighborhood. This is a good example of community and municipal obligation so frequently referred to by Miss Monchow.

Administration and Enforcement of Restrictions.

We are thoroughly in accord with the view frequently expressed that the "retaining of the approval of the plans" is one of the most important clauses in any restrictive covenant. While we have used this clause in all recent subdivisions, we have not yet reached the conclusion that we can with safety and fairness to our owners completely abandon a certain minimum-cost requirement. On the other hand, we believe that a certain fairly irreducible minimum is applicable to the various subdivisions or the parts of a large subdivision, which gives a fundamental basis of protection and assurance. As various parts of the subdivision develop and as more costly homes may in certain areas, a sub-divider may restrict upwards by adding an additional cost-requirement in a particular deed on any particular tract in order to bring about group harmony among the several parts of his property. We have applied this same practice to the minimum requirement of site width for any house. As a certain neighborhood develops with homes on larger lots, we feel an obligation has been created to widen the remaining lots for the residences to be built in that particular neighborhood. The owner has the right to assume that no home will have a sit-width less than a certain minimum amount. If the improvement of a neighborhood justifies greater width of lot, he depends upon us to increase the required widths in each future sale. This we regard not only as good business but as a moral obligation to the early buyer.

Many sub-dividers have carefully provided that the plans of each home be subject to the approval of the developer but have not provided for future alterations in the house or changes in the color scheme of the house.

This matter of approval of plans should not be limited to consideration of the house about to be built but should also consider its effect on adjoining homes. Bright red roofs are allowed to clash with adjoining bright green roofs. Tall roofs over-tower houses of lower design. Driveways are permitted at a point on the side of the lot that injures the porch of the house nearby. The grading of a lot is permitted which may not only unfairly discharge surface water on to the adjoining lot but may create a height of terrace that greatly injures the adjoining lot. Comparatively few sub-dividers control the planting of shrubbery, while as a matter of fact the planting of tall shrubs may be just as injurious to the adjoining owner as the erection of a high wall. Or shrubbery may be so placed at the front of a lot as to endanger the lives of children on the sidewalks at private driveway crossings. Many subdivisions permit the erection of exposed fuel tanks or the placement of garbage or trash cars at a point very objectionable to the adjoining owners. Some of us have perhaps not given sufficient consideration to the placement of outbuildings, such as garages, as it may affect adjoining property nor the placement of garage doors as it may affect the view from adjoining property. Too frequently the developer thinks largely of the appearance of the side or rear elevations of the home so far as they may be viewed by adjoining owners.

Of course, the problem of approval of the plans, as has been well said by Miss Monchow, is closely related to the proper administration of this regulation. To us this is one of the most serious considerations confronting all those interested in deed restrictions, for arbitrary application may have serious consequences. It generally takes many years for public sentiment in any community to become adjusted to surrendering a private right to the extent of submitting to the judgment of a realtor, a neighborhood association or art jury in the determination of a design home which proposes to build with his own money for his own family. Fortunately most realtors have been sufficiently diplomatic and reasonable in the use of this power and as a result it is gaining public support, but this very support increases the obligation of realtors to evolve the best plan for the use of this particular restriction.

In Kansas City we have placed the power of enforcing restrictions, even including approval of plans, in a board of directors elected from the neighborhood rather than in the hands of an outside group of architects or artists. The theory is that these directors have a vital interest in the continuance of the established character of the development, they are elected by vote of their neighbors and thus represent the lot owners and afford a sound medium for perpetuating the ideals and standards of the development. They are free to command the advice of architects whenever needed. On the other hand, the argument is advanced that an outside jury might not be influenced by neighborhood feeling and might bring into play greater technical skill in the approval of plans. It would be interesting to observe over a period of years the comparative results of plans passed upon by each of these agencies.

Other duties of these directors, as well as the plan of organization, deserve further description. Since comparatively few sub-dividers continue their interest in a subdivision after the last lot is sold, some provision should be made for efficient execution of approval of building plans. In Kansas City we have divided our properties into 14 sections, each under a separate home association having five directors. Each association covers an area of approximately 500 families, on the supposition that this is a practical

size for close community and neighborhood interest. All property is sold subject to an assessment to provide funds for all community matters not provided by the municipality and power is given to the boards of directors of the homes associations to use their neighborhood funds for the enforcement of the building restrictions. These funds are also used to pay for hauling trash, plowing snow, taking care of street trees, keeping vacant property cleaned, maintaining neighborhood playgrounds, tennis courts, entrances, ornaments placed by our company in park areas, and providing general community service at a reasonable cost. We believe that the value of these associations to the neighborhood justifies their continuance and that they afford a means of enforcing restrictions even beyond the life of our company. We have never had a director who refused to serve when elected. We have never had a suggestion for the abandonment of these homes associations. On any attempt at a violation of the restrictions the homes association has immediately responded in defense.

What I particularly wish to emphasize, however, is the obligation of a developer to set up a workable plan for enforcing restrictions, and handling approval of building plans after he ceases to be interested directly in the further development of his subdivision.

One aspect of the enforcement of restrictions which requires emphasis is the need for alertness to prevent the first incipient infraction. Study of many subdivisions where the restrictions have gradually fallen into disuse shows the difficulty of finding the exact time when the character of the property actually began to change. One or two very conspicuous infractions develop and residents begin to look around and find that for years a gradual deterioration has set in and that scores of violations have occurred throughout the subdivision. Although some of the violations may have been very slight and not noticeable by the general neighborhood, they brought about a gradual further encroachment on the restrictive covenant. One owner, seeing that another owner has somewhat violated his restriction, goes a little further in the violation. Then some adjoining owner, realizing that the restriction had not been properly regarded by his neighbors, either in disregard or desperation, seriously violates the restriction and suddenly the neighborhood awakens to the fact that the abandonment has become very general and the restrictions of little force.

A woman may have a pet canary and sell a few baby canaries to the children of the neighborhood. She may later add parrots and send out circulars and you have a full-fledged bird store. Or some esteemed lady may be quite active as a literary critic. For a fee she may criticize articles and help market them, all incidental to the use of the home as a residence. The field may be promising, and she may advertise in a trade journal using her residence address. It has passed to a business use and continued advertising of this activity must cease or your restriction of the whole neighborhood may be in danger. Similarly the paying of board by a visiting friend may imperceptibly ripen into a commercial boarding house business. It would be hard for even a next-door neighbor to tell you when the house became converted to a business use. Yet the courts might not differentiate between a refined bird store or a literary critic's office and a public garage so far as the infraction of restrictions is concerned.

There is another phase of the use of deed restrictions to which sufficient thought is possibly not given. The original deed restriction in every subdivision should underlie

if possible all the mortgages on the land. The importance of such a precaution is shown by the example of a developer who has in good faith bought land, given back a mortgage on it to the seller, later procured the release of part of it and sold it under restrictions. Then he finds himself, through financial reverses, unable to pay the balance of his mortgage; he is subjected to foreclosure and the remainder of his land passes into unrestricted use greatly to the injury of his buyers. The National Association of Real Estate Boards has been working for some years on this problem to give a greater assurance of protection to buyers in a subdivision.

It is comparatively easy to write a treatise upon the proper form of deed restrictions and discuss them in a theoretical way. However, the proper adaptation of restrictions to the real estate business and the proper enforcement of restrictions are very difficult and complicated matters. No sub-divider should attempt to restrict a development unless he is willing to incur a large expense in the enforcement of the restrictions. He must maintain an organization charged with the responsibility of checking accurately on the building line of every foundation. The mere approval of plans at the office will not suffice. He must with vigilance observe that the restrictions are complied with throughout the construction of the building and the completion of the development of the grounds. Enforcement is very difficult after construction has been completed. A violation unobserved until too late is frequently allowed to remain, particularly where it has been unintentional and yet the accumulation of these overlooked violations may lead to the downfall of the whole character of the property.²

Another suggestion is that no sub-divider should depend only upon the statements in his abstracts or his original deeds as to any unrestricted property which he may reserve in his development for such uses as neighborhood shops, schools, churches, libraries. Many owners may buy their property and, although supplied with complete abstracts and records, they honestly may not know that this or that tract is not restricted. Respect for the case of deed restrictions will be much greater if proper signs, although small, are maintained upon all unrestricted property so that everyone buying in the subdivision may have full knowledge of any future uses permitted at any place throughout the entire development.

The effectiveness of proper deed restrictions will be further increased if, in designating certain areas for other than single residence purposes, space is provided for parking cars of the patrons of shops, apartments, churches or schools, for if parking of these cars is allowed to over-crowd the adjoining residential streets it may be a deteriorating influence on that property.

There has been a general tendency in developments throughout the country to restrict more carefully the areas given over to larger homes than the areas given over to smaller homes. In our opinion the restrictions should be as carefully considered and

² We recently had a case in our office where an owner requested permission to enclose with glass a porch on the side of his house for a very sick wife. The erection would have been a violation of the building restriction. The case was a very pathetic one and required the most delicate handling, and yet our organization felt it was of such importance, although all of our property had been sold in that neighborhood for many years, that we went to much expenditure of time and money to bring about its proper solution. We did not feel we could afford to have a precedent of violation established even under these urgent circumstances.

cover as many phases for modest homes as for the largest homes. The necessity for the creation of good environment and consequently good citizenship is as great in the subdivision for small homes as it is in the subdivision for large homes. But, of course, the sub-divider must be very careful lest his restrictions increase the cost to the builder of the modest home.

Restrictions are drawn for a good purpose and this purpose can be so much better accomplished if the sub-divider will do all the practical things within his power to make these restrictions desirable and effective through the years; make them a stabilizing and value-creating influence, build up respect for them; and cause them to be regarded as a bulwark of strength to the property rather than a handicap.

Furthermore, the developer should live up to his own restrictions. Frequently he may prohibit billboards or large advertising signs of others and yet mar his subdivision and spoil the view of his buyers by the erection of his own large subdivision signs.

Restrictions and Community Welfare.

The use of deed restrictions to create residential neighborhoods may effectively block industrial growth of the city by developing for residences land which should have been reserved for industrial uses. The injury to the city in the long run may be as great as would be the introduction of industrial property into the heart of an otherwise beautiful residential area. Here again the use of deed restrictions should be very carefully considered in relation to the needs of the city and broad comprehensive city planning.

A few years ago it was regarded as axiomatic in city building that the good residential areas shifted almost every decade and the use of deed restrictions enduring for long periods was a daring attempt in the face of these rapid changes. Perhaps today with the spreading of cities over large areas we are reaching the time when we can promote stability and permanence in neighborhood character. If so, deed restrictions may be used with a great deal more assurance and be more effective in creating a permanent allocation of various parts of the city to their best and most related uses. The whole movement of city planning has encouraged a more careful analysis of future needs of our cities. The developer who studies and works with his city planning officials may be able, by the careful use of deed restrictions, to bring about a situation where homes may pass down through generations of a family and we will begin to get more real traditions in American home life. Thus the more permanent our restrictions may become the more important is their careful consideration and enforcement.

Few people realize the terrific economic waste, estimated at more than one billion dollars a year, of rapid changes in the character of residential neighborhoods in American cities. Stability, permanence, or, if you will, orderly progress, conceived and aided by city planning officials and by developers using deed restrictions, combat this waste. Restrictions aid scientific planning to meet the needs for urban land and enable greater economy for the city at large in the size of water and gas mains, sewers, street widths, paving widths, the size and number of school buildings, fire stations, shopping centers, park areas, playgrounds, and so forth.

While the effectiveness of the use of deed restrictions by the sub-dividers of the country really gave birth to the idea of zoning by municipal authority, I believe

practically all sub-dividers agree that zoning, as desirable as it is for cities as a whole cannot, at least for the present, supplant all the advantages gained by the rise of deed restrictions. These arguments have been well covered by Miss Monchow and I only wish to add approval of her conclusion, as I know it exists among the more thoughtful sub-dividers of our country.

The community aspects of the problem need to be kept in view. I question the claimed inviolability of the rights of those who buy lots in a restricted subdivision in anticipation that the restrictions will expire and the property pass into uses of higher monetary value. Such a purchaser sees his neighbors building their homes, many of whom have no other thought than to use the land permanently as a home site. He accepts the advantages of this superior environment for his own home and receives the benefits of the restricted neighborhood. The time might come when his own lot would be worth considerably more money were he able to convert it to another use; or he might have held his lot vacant expecting to realize great gain from selling, or converting to business use, particularly if the lot is on the edge of a subdivision adjoining business property. Yet he should realize that the gain to him would be far less than the neighborhood loss to others. His individual right is and should be subordinated to the neighborhood's welfare. The use of deed restrictions as applied to subdivisions marks an advance in the understanding of American liberties based upon the higher regard for public welfare, and the benefits of the use of deed restrictions are measured in neighborhoods or sections of the city and not measured in individual gains or losses.

While my discussion has largely been devoted to single-family residential areas and corollary shopping centers and semi-public uses, fortunately the developers of apartment-house and family-hotel districts and even the developers of retail business centers and commercial districts are becoming more and more convinced of the value to them of placing restrictions upon such properties. It is hoped that the time is near when the developer of apartment-house districts will as carefully safeguard the perpetuation of the character of the neighborhood as the developer of single-home areas. It is hoped that the developer of a wholesale district, or a retail shopping center, has come to realize the value of deed restrictions in controlling the use of property, the design and color of the building, set-backs, side building lines, frontages, loading courts, placement of rear doors, loading docks, type of heating plants and all physical features of his property as carefully as those in a high-class, single residence development.

In many of our largest cities the skeleton or frame of the city has hardened and replanning involves enormous cost. The suburban areas of these larger cities, however, and the thousands of smaller cities and towns are still plastic and a grave responsibility and opportunity rests with all those directing the future physique of their respective communities to make wise and careful use of deed restrictions.

The J.C. Nichols Company Records (KC106) – Speech JCN076

Arguably Jesse Clyde Nichols (1880-1950) was the single most influential individual to the development of metropolitan Kansas City. Moreover his work, ideas, and philosophy of city planning and development had far-reaching impact nationally – so much so that the Urban Land Institute has established the J.C. Nichols Prize for Visionary Urban Development to recognize a person or a person representing an institution whose career demonstrates a commitment to the highest standards of responsible development.

Nichols' objective was to “develop whole residential neighborhoods that would attract an element of people who desired a better way of life, a nicer place to live and would be willing to work in order to keep it better.” The Company under Nichols and his son, Miller Nichols (1911-), undertook such ventures as rental housing, industrial parks, hotels, and shopping centers. Perhaps the most widely recognized Nichols Company developments are the Country Club District and the Country Club Plaza Shopping Center, reportedly the first shopping area in the United States planned to serve those arriving by automobile rather than trolley car.

The J.C. Nichols Company Records (KC106) contains both personal and business files concerning J.C. Nichols' private and business life. Included are personal correspondence, family related material, and speeches and articles written by him. Business and financial files pertain to actions of the Company, including information about different developments and the securing of art objects; and printed materials produced by and about the Company.