

Drafted by/Mail to:

D.R. Ryan
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FILED
 30 DEC 1998, at 09:28:56am
 Book 1050, Page 383 - 390
 Joyce A. Pearson
 Register of Deeds,
 Orange County, N. C.

NORTH CAROLINA : SUPPLEMENTARY DECLARATION
) OF COVENANTS, CONDITIONS
) AND RESTRICTIONS:
 ORANGE COUNTY : HIGHLAND AT SOUTHERN VILLAGE, PHASE 2

THIS SUPPLEMENTARY DECLARATION made this 29th day of December, 1998, by SOUTHERN VILLAGE LIMITED PARTNERSHIP (Declarant):

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in Chapel Hill Township, Orange County, North Carolina, which is more particularly described on a map entitled HIGHLAND AT SOUTHERN VILLAGE, PHASE 2, as recorded in Plat Book 80, pages 69 & 70, Orange County Registry, reference to which is hereby made; and,

WHEREAS, Declarant will convey said property subject to the covenants, conditions, restrictions, reservations, and charges as set forth in that certain Master Declaration of Covenants, Conditions and Restrictions recorded in Deed Book 1271, page 165, and Amendment thereto recorded in Deed Book 1456, page 295, Orange County Registry, and as further set forth herein, and which shall run with the lots and be binding on all parties having any right, title, or interest therein and their heirs, successors, and assigns, and which shall inure to the benefit of each owner thereof; and,

WHEREAS, Declarant desires to insure the most appropriate development and improvement of each lot, to protect the lot owners against such improper use as would depreciate the value of the property to such, to preserve insofar as practicable the natural beauty of each lot, to guard against the creation thereof of poorly designed or proportioned structures and structures built of substandard or unsuitable materials, to secure and maintain proper setbacks with adequate free space between structures, and in general to provide for a high quality of improvements.

FOR MULTIPLE PIN SHEET
 SEE BOOK 1850 PAGE 377-382

NOW, THEREFORE, Declarant hereby declares that all of the real property as described hereinabove shall be held, sold, and conveyed subject to that certain Master Declaration of Covenants, Conditions and Restrictions recorded in Deed Book 1271, page 185, and Amendment thereto recorded in Deed Book 1456, page 295, subject further to the following easements, restrictions, covenants, and conditions:

1. UNIT SIZE: LOTS 467-484. No unit shall be erected or allowed to remain on any of the lots numbered 467-484 as shown on the recorded plat referenced hereinabove if the floor area of the main structure, exclusive of unfinished attic and/or basement space, one-story open porches, and garages, shall be less than 1650 square feet.

2. DESIGN SPECIFICS: LOTS 467-484. The following design specifics are applicable to the lots numbered 467-484 as shown on the recorded plat referenced hereinabove:

- | | |
|--------------------------------------|-------------------------------------|
| (a) <u>Setbacks</u> - <u>Front</u> : | 5 feet minimum;
25 feet maximum; |
| - <u>side</u> : | 8 feet minimum; |
| - <u>Rear</u> : | 20 feet minimum. |

The stated rear setback is not applicable to any accessory buildings or structures, including detached garages. The stated front setback shall not apply to steps, stoops, caves, or unenclosed porches which do not project more than five (5) feet beyond the building line. Deviations from building line restrictions of ten percent (10%) or less shall not be construed as a violation of this Supplementary Declaration; further, Declarant shall have the right, in its sole discretion and without the consent of any other party, to waive the building setbacks, in whole or in part.

3. UNIT SIZE: LOTS 539-558. No unit shall be erected or allowed to remain on any of the lots numbered 539-558 as shown on the recorded plat referenced hereinabove if the floor area of the main structure, exclusive of finished attic and/or basement space, one-story open porches and garages, shall be in excess of 1600 square feet.

4. DESIGN SPECIFICS: LOTS 539-558. The following design specifics are applicable to the lots numbered 539-558 as shown on the recorded plat referenced hereinabove:

- | | |
|--------------------------------------|-------------------------------------|
| (a) <u>Setbacks</u> - <u>Front</u> : | 5 feet minimum;
15 feet maximum; |
| - <u>side</u> : | 5 feet minimum; |
| - <u>Rear</u> : | 20 feet minimum. |

The stated rear setback is not applicable to any accessory buildings or structures, including detached garages. The stated front setback shall not apply to steps, stoops, eaves, or unenclosed porches which do not project more than five (5) feet beyond the building line. Deviations from building line restrictions of ten percent (10%) or less shall not be construed as a violation of this Supplementary Declaration; further, Declarant shall have the right, in its sole discretion and without the consent of any other party, to waive the building setbacks, in whole or in part.

5. FUTURE SUPPLEMENTARY DECLARATION: LOTS 401-448. Lots numbered 401-448 as shown on the recorded plat referenced hereinabove will be sold to a successor developer for construction of attached townhome units. That successor developer shall record prior to the sale of any of those units a Supplementary Declaration applicable to said lots numbered 401-448, which Supplementary Declaration shall incorporate all provisions of the Master Declaration, including but not limited to all provisions regarding both assessments and initial contributions payable to the Master Association and Southern Village Homeowners Association, Inc. The successor developer may elect to form a separate sub-association to oversee the operation and maintenance of those units, which sub-association shall be subject to all provisions of the Master Declaration regarding same, including but not limited to the obligation of that sub-association to contribute to common area maintenance expenses borne by the Master Association and Southern Village Homeowner's Association, Inc.

6. SUB-ASSOCIATION MEMBERSHIP AND VOTING RIGHTS. Declarant has incorporated under the laws of the State of North Carolina the Southern Village Homeowners Association, Inc. as a non-profit corporation for the purpose of overseeing and administering the provisions of this Supplementary Declaration as well as those applicable provisions contained in the aforementioned Master Declaration. Except as provided in paragraph 5 hereinabove, each and every owner of a lot as shown on the recorded plat referenced hereinabove, including contract sellers, but not including those persons or entities who hold an interest merely as security for the performance of an obligation, shall be a member of Southern Village Homeowners Association, Inc., which Sub-Association shall be a member of the Southern Village Master Association, Inc.

The Sub-Association shall have two (2) classes of voting members:

Class A. Class A members shall be each owner, but shall not include Declarant. Class A members shall be entitled to one (1) vote for each lot owned. In the case of multiple ownership of a lot, the vote shall be exercised as those owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to seven (7) votes for each lot owned. However, the Class B membership shall cease and be converted to Class A membership on the happening of the earlier of the following events:

- (a) The total votes outstanding in Class A membership equals the total votes outstanding in Class B membership; provided, however, that the Class B membership shall be reinstated with all the rights, privileges, responsibilities, and voting power if, after the conversion as hereinabove provided, additional land is annexed to the properties without the assent of members on account of development of such additional land by Declarant in accordance with Article VII, Section 2, of the Master Declaration; or
- (b) December 31, 2014.

Except as may be otherwise specifically set out in this Supplementary Declaration or in the Articles of Incorporation and/or By-laws of the Sub-Association, the vote of the majority of the aggregate votes entitled to be cast by all classes of members of the Sub-Association, present or represented by legitimate proxy at a legally constituted meeting at which a quorum is present, shall be the act of the Sub-Association. The number of votes present at a Sub-Association meeting that is properly called and that will constitute a quorum shall be as set forth herein or in the Sub-Association By-laws. The right of any Class A member to vote may be suspended by the Board of Directors of the Sub-Association for just cause pursuant to its rules and regulations and according to the provisions of Article II, Section 7, of the Master Declaration.

7. SUB-ASSOCIATION ANNUAL ASSESSMENTS. The Sub-Association shall levy an annual assessment against all the lots under its jurisdiction, which funds shall be used exclusively for the the purpose of promoting the beautification of all property under its jurisdiction, the recreation, health, safety, and welfare of its members, the enforcement of this Supplementary Declaration and all applicable provisions of the Master Declaration, and, in particular, the improvement and maintenance of the services and facilities of the Limited Common Areas, including without limitation any private alleys. In accordance with Article V, Section 10, of the Master Declaration, each lot shall be subject to an annual assessment for same. The assessment applicable to lots numbered 539-558 as shown on the recorded plat referenced hereinabove shall be fixed for assessment year 1999 at \$340.00.

8. ARCHITECTURAL CONTROL. Only units or other improvements which have been approved in writing by the Architectural Review Board ("ARB") prior to the commencement of clearing, grading, or construction of any kind on a lot will be permitted. Upon completion of the foundation and before proceeding with other construction, an actual field survey of the foundation shall be presented to the ARB to ensure compliance with the site plan. The survey must show the proposed location of driveways, and shall indicate the actual distance from all buildings at their closest point to all property lines. All improvements shall comply with the plans as presented unless changes are approved in writing by the ARB. All drives and walks must be paved with concrete or brick. All lots on which a unit is approved and built shall be landscaped in accordance with the plans approved by the ARB. Landscaping must be finished upon completion of the unit. Total construction time, from the date of final approval of plans by the ARB to the completion of the unit for occupancy, shall not exceed nine months.

9. PARTY WALLS: LOTS 539-558. The lots numbered 539-558 as shown on the recorded plat referenced hereinabove are intended for use as attached townhomes with associated Limited Common Areas. Accordingly, each wall which is built as a part of the original construction of the attached homes and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Supplementary Declaration, the general rules of law regarding party walls and the liability for property damage due to negligent or willful acts or omissions shall apply thereto. The costs of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of such wall in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty, any owner who makes use of such wall may undertake its restoration, and each owner having use thereof shall contribute pro-rata to such restoration and repair. Such pro-rata contribution shall not prejudice the right of any owner to call for a larger contribution from one or more owners under the rules of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision herein contained, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole and entire cost of all necessitated repairs and of the furnishing of the necessary protection against such elements. The right of any owner to a contribution from any other owner under these party wall provisions shall be appurtenant to the land and shall pass to his successor in title.

10. EXTERIOR MAINTENANCE: LOTS 539-558. The Sub-Association shall provide exterior maintenance upon each of the lots numbered 539-558 as shown on the recorded plat referenced hereinabove as follows: repair, replacement and on-going care of roofs, gutters, downspouts, trees, shrubs, grass, exterior building surfaces (including, but not limited to, paint, but specifically excluding glass surfaces), and any other exterior improvements, and sidewalks and alleys, to the extent such are not publically maintained. In the event the need for maintenance, repair or replacement is caused by the negligent or willful act of an owner, his family, guests or invitees, or is caused by those excluded acts or incidents as defined and explained in the NC Standard Fire and Extended Coverage Insurance Policies, the costs of such maintenance, repair or replacement shall be added to and become a part of the assessment to which such lot(s) is/are subject. In order to accomplish the foregoing, there is reserved unto the Sub-Association the right to unobstructed access over, under, and across each lot at all reasonable times to perform the maintenance as herein provided.

11. COVENANT TO INSURE: LOTS 539-558. Each owner of a lot numbered 539-558 as shown on the recorded plat referenced hereinabove, by acceptance of a deed therefor, is deemed to covenant to keep the unit constructed on the lot insured against loss by fire with what is commonly known as "extended coverage" in an amount equal to not less than ninety percent (90%) of the replacement value of the unit; to name the Sub-Association as an additional insured "as its interest may appear" in order that the Sub-Association will be notified of any lapse in coverage; to apply the full amount of insurance proceeds to the repair or rebuilding of the unit; to repair or restore the unit in the event of damage thereto substantially in accordance with this Supplementary Declaration and the original plans and specs for same; and, to keep the unit in good repair as herein provided. In the event of non-payment by an owner of any insurance premium as required hereunder, the Sub-Association is authorized to make such payment and to assess the subject lot with the sums so paid as a special assessment.

12. NON-RESIDENTIAL USE. Certain non-residential uses are permitted throughout Southern Village as approved by the Town of Chapel Hill and as referenced in the hereinabove cited Master Declaration. No home occupation or office as an accessory use shall be allowed to occupy greater than 600 square feet of floor area per lot. No general business or office as a principal use shall be allowed to occupy greater than 2200 square feet of floor area per lot.

13. APPLICATION OF RESTRICTIONS. The foregoing restrictions shall apply only to the lots, and nothing contained herein shall prevent the Declarant from altering the size or frontage of any property other than the lots or the location of any streets or roads other than portions of such streets or roads as abut the lots.

14. WAIVER OF AND CONSENT TO VIOLATIONS. Declarant may waive any violation of these restrictions by an appropriate instrument recorded in the Orange County Registry; provided, however, that if the violation occurs on any lot which abuts a lot previously conveyed to an owner in fee simple, the consent of such adjoining owner shall also be contained within the aforementioned instrument to be recorded in the Orange County Registry. The provisions of this paragraph whereby the consent of the adjoining property owner is required shall not be applicable to paragraphs 1 and 2 of this Supplementary Declaration whereby only the written consent of Declarant is required.

15. TERM. These restrictions shall run with the land and be binding on all parties and persons claiming under them for a period of forty (40) years from the date of recordation hereof, after which time said restrictions shall be automatically extended for successive ten (10) year periods unless an instrument agreeing to a change in said restrictions, in whole or in part, and executed by a majority of the then owners of the lots has been recorded in the Orange County Registry.

16. ENFORCEMENT. Enforcement of this Supplementary Declaration shall be by proceedings at law or in equity against any person or persons attempting to violate any of the restrictions contained herein, either to restrain violation or to cover damages.

17. ASSIGNMENT BY DECLARANT. Declarant shall have the right to assign its rights under this Supplementary Declaration, in whole or in part, to any person or entity by an express transfer of such rights.

18. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions contained herein, which shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals, the day and year first above written.

SOUTHERN VILLAGE LIMITED PARTNERSHIP (SPVL)

by: SOUTHERN VILLAGE COMPANY, GENERAL PARTNER

by: [Signature] President

WITNES:

[Signature]



NORTH CAROLINA, WAKE COUNTY

I, S. Elaine Hudspeth, Notary Public, do hereby certify that JAMES M. SARNHARDT personally appeared before me this day and acknowledged that he is ~~Asst~~ Secretary of SOUTHERN VILLAGE COMPANY, GENERAL PARTNER OF SOUTHERN VILLAGE LIMITED PARTNERSHIP, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him as its ~~Asst~~ Secretary. Witness my hand and official seal, this the 29 day of December, 1998.

OFFICIAL SEAL
North Carolina Wake County
S. ELAINE HUDSPETH
Notary Public
My Commission Expires November 9, 2001

[Signature]
Notary Public
My commission expires: 11-9-2001

NORTH CAROLINA - ORANGE COUNTY

The foregoing certificate(s) of S. Elaine Hudspeth

A Notary (~~or Notaries~~) Public of the designated Governmental units is (~~are~~) certified to be correct. Filed for registration this the 30th day of Dec. 1998, at 9:15:59 o'clock, A.M.

In Record Book 1850 Page 383

Return: _____

Joyce H. Pearson, Register of Deeds
By: [Signature]
Assistant Secretary
Register of Deeds