

2007002786

CLAY CO, NC FEE \$29.00
PRESENTED & RECORDED:
07-13-2007 01:55:43 PM
MELISSA BURCH
REGISTER OF DEEDS
BY: MELISSA BURCH
REGISTER OF DEEDS
BK:CRP 321
PG:182-182

Melissa Burch

STATE OF NORTH CAROLINA
COUNTY OF CLAY

AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
RIVERWALK OF HAYESVILLE
as recorded in Deed Book 307 at page 51, records of Clay County, N.C.
AND TO THE SUPPLEMENTAL DECLARATION
as recorded in Deed Book 310 at page 69, records of Clay County, N.C.

The undersigned, being the Declarant and the owner of all of the lots in RIVERWALK OF HAYESVILLE, does hereby make these amendments to the covenants and restrictions of RIVERWALK OF HAYESVILLE dated July 2, 2006, recorded in Deed Book 307 at page 51, records of Clay County, N.C., and to the Supplemental Declaration dated September 1, 2006, recorded in Deed Book 310 at page 69, records of Clay County, N.C.

1. Under **RECITALS**, Paragraph "A" is hereby deleted and replaced with the following:

Declarant is the owner of certain real property in Clay County, North Carolina, comprising a subdivision to be known as RIVERWALK OF HAYESVILLE, being a portion of the lands as shown on the plat of survey by Samuel L. Sprinkle and Associates, P.A., entitled "Plat of Riverwalk of Hayesville, LLC," dated February 6, 2006, and revised August 11, 2006, January 30, 2007, and March 08, 2007, recorded in Plat Cabinet 4 at Slide 1599, the portion of said lands herein restricted being described on the attached Exhibit "A".

2. Article 1, Definitions, Section 1.15 is deleted and replaced with the following:

Mortgage. "Mortgage" means a mortgage or deed of trust which constitutes a first lien upon a Unit given to a bank, savings and loan association or other institutional or individual lender for the purpose of securing indebtedness incurred to purchase or improve a Unit.

3. Article 1, Definitions, Section 1.21 is deleted and replaced with the following:

Phase 1. "Phase 1" means the real estate which comprises a total of 2.339 acres, more or less, and is shown on the plat recorded in Plat Cabinet 4 at Slide 1599 in Clay County Public Registry and is more particularly described in Exhibit "B".

4. Article 6, **COMMON AREA AND UNIT MAINTENANCE**, Section 6.01, the first paragraph, is deleted and replaced with the following:

Maintenance by Association. The Association shall repair and maintain the Common Area including the Recreational Common Area and any improvements, utilities and facilities located on the Common Area. The Association's maintenance obligation shall arise upon the filing with the Association by Declarant of a notice of completion of Common Area improvements, or any portion thereof, and the commencement of annual assessments against the Owners. The Association shall maintain and repair all signage, irrigation facilities, lighting and landscaping that may be installed on or within common area, public or private street, and street medians throughout the project.

5. Article 7, **USE RESTRICTIONS**, Section 7.17, **Architectural Requirements**, is deleted and replaced with the following:

The driveway and sidewalks of a Unit shall be constructed of concrete. Specifications will be provided to each Owner by the Association. Units shall be planted with standard size planting along the front of the dwelling to screen the foundation. No above ground storage tanks shall be erected or installed on a Unit. WITH THE EXCEPTION that no more than 2 above ground propane tanks, not exceeding 120 gallons each, may be placed on any unit at either the side or rear of any unit. No building shall be erected, placed, or altered until the construction plans and specifications and a plan showing the location of the structure have been approved by the Declarant, its successors or assigns, as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. There will be a common post box for the community. No erected dwelling Unit shall have an exterior siding of concrete block or firebrick, and foundation of any dwelling Unit shall be covered with stucco or stone. No dwelling shall have front, rear or side materials different than the materials used by the Declarant unless approved by the Declarant or the Architectural Control Committee. No garage, carport, room, building, utility shed or similar structure customarily incident to the residential use shall be constructed. There are to be no outside buildings associated with the Unit.

6. Article 17, **MISCELLANEOUS PROVISIONS**, A new section 17.11 is added to read as follows:

17.11 TELECOMMUNICATIONS PROVIDERS:

The Declarant reserves for itself, its successors, and assigns, the exclusive and perpetual right and easement, but not the obligation as Declarant, in its discretion, deems appropriate to select and contract with companies licensed to provide telecommunications (including telephone service and television services) in Riverwalk of Hayesville.

7. Article 17, **MISCELLANEOUS PROVISIONS**, A new section 17.12 is added to read as follows:

17.12 RIGHT TO NOTICE OF DESIGN OR CONSTRUCTION CLAIMS:

No person shall retain an expert for the purpose of inspecting the design or construction of any structures or Improvements with RIVERWALK OF HAYESVILLE in connection with or in anticipation of any potential or pending claim, demand, or litigation involving such design or construction unless Declarant has been first notified in writing ten (10) days prior to the inspection and given an opportunity to meet with the Owner and conduct an independent inspection.

EXCEPT as herein stated, said Declaration of Covenants, Conditions and Restrictions as originally drafted or supplemented, shall remain in full force and effect.

In Witness Whereof, the undersigned have set their hand and seal, this the ___ day of April, 2007.

RIVERWALK OF HAYESVILLE, LLC,
a North Carolina Limited Liability Company

By: Tighe K. White (SEAL)
Tighe K. White, Member/Manager

By: Garland Hogsed (SEAL)
Garland Hogsed, Member/Manager

North Carolina
Clay County

I, April L. Krieger, a notary public of said County and State, do hereby certify that Tighe K. White, Member/Manager and Garland Hogsed, Member/Manger, each being personally known to me or who provided appropriate identification and each personally appeared before me this day and acknowledged the voluntarily execution of the foregoing instrument for the purposes therein stated and in the capacity indicated.

Witness my hand and notarial seal, this the 9th day of July, 2007.

My Commission Expires:

05-26-12

April L. Krieger
Notary Public

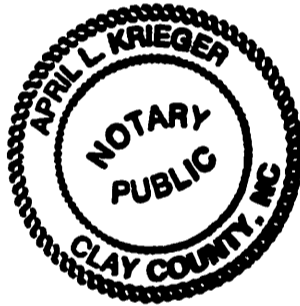


EXHIBIT "A"
Property Subject to Covenants and Restrictions

In Hayesville Township, Clay County, N.C., and being bounded and described as follows:

BEGINNING on a p.k. nail set in the existing paving at the Southwest corner of the original Patterson Tract and in the line of the lands of Clay County, N.C. (Deed Book 68 at page 92) and runs thence with the line of Clay County N 37-21-32 E 207.16 feet and N 37-09-06 E 210.65 feet to an existing iron pin and N 38-41-11 W 143.90 feet to an existing iron pin, a corner common to the lands of Light (Deed Book 203 at page 51); thence with the line of Light N 04-55-24 W 145.47 feet to an iron rod set; thence a severance line through the lands of Riverwalk, N 33-57-16 E 176.30 feet to an iron rod set, a corner common to Whichard (Deed Book 299 at page 33); thence with the line of Whichard N 64-34-15 E 16.30 feet and N 75-12-34 E 90.81 feet to an iron rod set, a corner common to the lands of Wal-Ford Farms, LLC (now Wheeler, Deed Book 317 at page 31); thence with the line of Wheeler, N 78-26-41 E 42.41 feet; N 56-56-13 E 62.67 feet; N 16-52-32 E 47.36 feet; and N 50-39-22 E 60.54 feet to an iron rod, a corner common to Wal-Ford Farms, LLC; thence with the line of Wal-Ford Farms, LLC, N 50-39-02 E 111.02 feet to an iron rod set, corner common to Teeter (Deed Book 297 at page 162); thence with the line of Teeter, N 50-39-02 E 154.71 feet to an iron rod set on the Southwest side of Bell Street; thence with the Southwest side of Bell Street S 43-56-19 E 241.17 feet to an existing iron pin at the corner of Bell Street and Jones Street, a corner common to the lands of Griffin (Deed Book 162 at page 140) and the lands of Jones and others (Deed Book 28 at page 330); thence with the line of Jones, S 57-50-30 W 229.29 feet to a locust post at a cherry; S 40-28-41 E 702.50 feet to an iron rod set; and N 66-19-25 E 1,502.36 feet to a 36 inch cluster of Wild Cherry trees at the top of the West Bank of the Hiawassee River; thence with the bank of the river, S 08-10-49 E 32.66 feet; S 11-04-39 E 72.76 feet; S 03-26-05 E 40.66 feet; S 13-28-21 W 65.61 feet; S 02-22-48 E 55.73 feet; and S 11-33-06 W 187.08 feet to a 48 inch Beech, a corner common to the lands of Clay County; thence leaving the top of West bank of the Hiawassee River, S 85-41-56 W, passing an existing iron rod at 11.97 feet, a total distance of 117.92 feet to a point in the centerline of Town Creek; thence upstream with the centerline of Town Creek and the line of the lands of Clay County (Deed Book 230 at page 121), S 02-08-14 W 55.91 feet; S 31-44-23 W 39.35 feet; S 39-41-12 W 197.06 feet; and S 05-06-02 E 29.90 feet to a point; thence leaving the centerline of Town Creek and runs S 58-59-36 W, passing an existing iron pin at 12.00 feet, a total distance of 93.26 feet to a 36 inch Wild Cherry, a corner common to the lands of Clay County (Deed Book 190 at page 246); thence with the line of Clay County, S 58-59-36 W, passing the centerline of a 20-foot wide sewer line easement at 38.63 feet, the West side of an existing 20-foot wide sewer easement at an additional 14.35 feet, a total distance of 1,086.76 feet to an iron rod set, a corner common to Martin (Deed Book 238 at page 238); thence with the line of Martin and then the line of lots 15 through 4 of the W.H. McClure Annex to the Town of Hayesville, N 59-17-36 W 676.71 feet to an iron pin in the line of Lot 4 and a corner common to the land of Kenney (Deed Book 288 at page 42); thence with the line of Kenney, N 34-22-42 E 21.76 feet to an iron rod set on the South bank of an old farm road; thence with the South side of said farm road, N 62-06-25 W 37.83 feet; N 66-40-48 W 50.61 feet; N 72-25-34 W 38.07 feet; N 86-37-47 W 26.96 feet; S 87-02-36 W 28.49 feet; S 75-33-50 W 24.97 feet; S 76-30-21 W 39.79 feet; and continuing with the line of Kenney and then Byers, S 66-55-38 W 172.09 feet to an iron rod set on the Northeast side of S.R. 1140; thence with the Northeast side of said road, N 18-04-13 W 20.08 feet; N 20-36-13 W 55.00 feet; N 37-51-13 W 59.20 feet; N 52-16-55 W 42.11 feet; N 64-22-29 W 37.08 feet; N 75-39-29 W 34.97 feet; N 87-59-29 W 39.95 feet; and N 88-40-01 W 47.70 feet to the place of Beginning, as shown on the plat of survey by Samuel L. Sprinkle & Associates, P.A., entitled "Plat of Riverwalk of Hayesville," dated February 06, 2006, and revised August 11, 2006, January 30, 2007, and March 8, 2007, and recorded in Plat Cabinet 4 at Slide 1599, records of Clay County, N.C.

The foregoing property is conveyed subject to the 20-foot wide sewer easement conveyed by Lynn E. Waldroup and wife, Gail P. Waldroup, to Clay County Water & Sewer District, dated February 27, 2003, recorded in Deed Book 257 at page 213, records of Clay County, N.C.

The foregoing property is conveyed subject to the existing 20-foot wide alley shown on the map of the Town of Hayesville and shown on the plat of survey recorded in Plat Cabinet 4 at Slide 1599.

The foregoing property is conveyed subject to the 20-foot wide right of way serving the lands of Kenney (Deed Book 54 at page 409) as shown on the plat of survey recorded in Plat Cabinet 4 at Slide 1599.

EXHIBIT "B"

PHASE 1

In Hayesville Township, Clay County, N.C., and being bounded and described as follows:

BEGINNING on a iron rod set in the line of the lands of Clay County, N.C. (Deed Book 68 at page 92) and in the line of the Patterson Tract, said point being located N 37-21-32 E 123.26 feet from the Southwest corner of the Patterson tract and runs thence with the line of the lands of Clay County N 37-21-32 E 83.90 feet to an existing iron rod; N 37-09-06 E 210.65 feet to an existing iron pin; and N 38-41-11 W 143.90 feet to an existing iron pin, a corner common to the lands of Light (Deed Book 203 at page 51); thence with the line of Light, N 04-55-24 W 145.47 feet to an iron rod set; thence a severance line through the lands of Riverwalk, N 33-57-16 E 176.30 feet to an iron rod set, a corner common to Whichard (Deed Book 299 at page 33); thence with the line of Whichard, N 64-34-15 E 16.30 feet and N 75-12-34 E 56.77 feet; thence leaving the line of Whichard and runs S 32-41-42 E 142.05 feet to iron rod set in the centerline of a street; thence with the centerline of said street, S 58-15-36 W 25.78 feet; S 58-15-36 W 67.39 feet; S 26-52-56 W 38.34 feet; S 14-09-55 E 23.23 feet; S 40-29-30 E 161.36 feet; S 46-30-52 W 100.05 feet; S 06-30-42 W 92.42 feet; S 37-05-08 W 215.44 feet; S 59-18-40 W 38.91 feet; and S 66-31-42 W 35.39 feet; thence leaving the centerline of said street and runs N 19-19-51 W 29.72 feet to an iron rod set, and N 59-31-59 W 52.96 feet to the place of Beginning, containing **2.399 acres** and designated as **Phase 1** on the plat of survey by Samuel L. Sprinkle & Associates, P.A., entitled "Plat of Riverwalk of Hayesville, LLC" dated February 06, 2006, and revised August 11, 2006, January 30, 2007, and March 8, 2007, and recorded in **Plat Cabinet 4 at Slide 1599**, records of Clay County, N.C.

The foregoing tract is made together with and subject to a non-exclusive, perpetual right of way and easement, forty-five feet (45') in width, for ingress to, egress from, and for water and utility lines, lying 22.5 feet on each side of the East boundary line of the above described lands.

The forgoing tract is also subject to easements for such portions of the 20-foot wide water line easement as shown on the plat recorded in Plat Cabinet 4, Slide 1599, records of Clay County, N.C.