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Deputy Clerk

DECLARATION
OF
RESTRICTIVE COVENANTS AND CONDITIONS
FOR
BEVERLY RISE SUBDIVISION

THIS DECLARATION, is made this 18 day of January, 2000, by C. DANE ROGERS, WILLIAM THOMAS ROGERS and JOHN STEVEN ROGERS (hereinafter "Developer" or "Declarant"), owner (hereinafter "Owner") of all the right, title and interest, both legal and equitable, in and to certain lands more particularly described on the attached Exhibit "A" (hereinafter, "Property").

WITNESSETH:

WHEREAS, the Owner of said real property desires to impose Restrictive Covenants and Conditions on said real property for the benefit of subsequent grantees which Restrictive Covenants and Conditions shall be deemed to be covenants and conditions running with the land.

NOW, THEREFORE, the following Restrictive Covenants and Conditions are hereby imposed upon each lot as described hereinabove; the breach of which prior to December 31, 2024 A.D. shall not give rise to a possibility of reverter or right of entry for condition broken on the part of the Owner but shall entitle any record owner of any one lot hereinabove described to proceed with legal action to prevent the furtherance of any breach of said Restrictive Covenants and Conditions and for damages resulting from said breach. Failure to enforce in whole or in part any of said Restrictive Covenants or Conditions for any length of time shall not estop any party so entitled from enforcing same; however, the present Owner shall not be liable or responsible in any way for his failure to enforce any part of the Restrictive Covenants or Conditions so enumerated. Further, invalidation of any one or any part of any one of these Restrictive Covenants and Conditions by Judgment or Order of Court will in no way affect any of the other Restrictive Covenants or Conditions herein set out, and such other Restrictive Covenants or Conditions shall remain in full force and effect.

1. Each lot shall be used expressly and exclusive for one single-family private residence.
2. No business activity (except citrus caretaking and harvesting) shall be conducted

or carried on in connection with the usage of any lot. Further, no signs of any character may be exhibited or displayed upon any lot or the improvements hereon except one (1) sign of not more than five square feet advertising the property for sale or rent; or signs used by a builder, sub-contractor or financial institution during the period of improvement construction; or a sign of a reasonable display area tastefully identifying the owner of the residence.

3. No residence may exceed two stories in height. No residence shall contain less than a minimum of 1,300 square feet on the ground floor. Garaging beneath a two-story or split-level residence shall not be construed as either ground floor or an additional story. The term "ground floor" means the footing area on the ground, whether or not the same is on the lowest level. All square footage shall be measured by outside dimensions, exclusive of garages, porte cocheres, patios, screened or unscreened porches, covered walkways, breezeways and approaches. No construction nor any alteration to the exterior of any existing structure of any type shall take place without prior written approval from the Beverly Rise Property Owners' Association, Inc., as hereinafter set forth.

4. Each residence shall contain a minimum of an enclosed standard double car garage not less than 18 linear feet in width with garage doors for ingress and egress purposes. Each garage shall be architecturally integrated as a part or as an extension of the residence and attached thereto to conform architecturally therewith. The driveway from each garage to Platted Roadways within the Subdivision shall be paved with either asphalt or cement, shall be adequate width for vehicular use, and shall be in keeping and be maintained by the residence's owner so as not to degrade the value of the residence or adjacent properties in the Subdivision.

5. All construction on each lot shall be new construction. No used buildings or structures shall be moved onto any lot; nor shall there be any storage of building supplies on any lot unless used in immediate construction. The exterior of any building or structure shall be properly finished by painting, stucco, block, wood-treatment, or other similar treatment and in keeping with other residences in the Subdivision. No unfinished exposed concrete block walls shall be permitted. Any prefabricated or modular or geodesic-dome type residence must be specifically approved by written permission of Beverly Rise Property Owners' Association as hereinafter set forth.

Out-buildings (one per lot only) other than garages shall be allowed; however, no detached out-building or accessory buildings shall be allowed unless they are architecturally compatible (including paint color and other finishing materials) with the residential unit and approved in writing by Beverly Rise Property Owners' Association as hereinafter set forth. No tents, garages, out-building or attachments shall be erected on any lot prior to construction of the main residence; and none shall be used as a residence, either temporary or permanent.

6. Each residence shall be built on a lot so as to face, for front yard purposes, the lot line having the shortest frontage along a Platted Roadway within the Subdivision. For front yard purposes, no part or portion of any residence, garage or out-building on any lot shall be erected closer than fifteen (15) feet from the right-of-way of a Platted Roadway within the Subdivision; nor closer than seven (7) feet from any side-yard property line; nor closer than twenty (20) feet from any rear-yard property line. Further, no walls, fencing or hedging along or near the boundary line of any lot shall be erected, constructed, placed or grown in excess of four (4) feet in height above normal ground level within the minimum front-yard setback area. In addition, there shall not be placed within the minimum front-yard building setback area fencing of any kind; all fencing shall commence at the rear corners of the home and extend perpendicular from each rear corner toward the side lot line. Further, no security chain-link fencing may be placed on any lot in the Subdivision. Security chain-link fencing shall mean a fence made of thick steel wire interwoven in a diamond or other repetitive pattern in excess of four (4) feet in height or any fencing with barbed wire of any kind. All chain-link fencing must have a green vinyl coating. The provisions of this paragraph are also applicable to wooden fences except that wooden fences may be up to six (6) feet in height.

7. All lot yards must be sodded with grass or planted in ground cover. Landscaping plans and specifications as hereinafter set forth shall be approved by Beverly Rise Property Owners' Association before construction commences. Receptacles for mail and paper deliveries placed adjacent to or upon the right-of-way of the Platted Roadways within the Subdivision by lot owners in the subdivision shall meet the requirements of the United States Postal Service, if any, and shall be tastefully constructed and maintained by the lot owner in keeping with the intention of these Restrictions so as not to degrade the value of the residence or adjacent properties in the Subdivision. There shall be no permanent receptacles for

garbage and trash and, except during the days of scheduled pick-up, garbage and trash receptacles shall be located so as not to be visible by vehicular traffic traveling along the Platted Roadways within the Subdivision.

All telephone, electrical and cable services to any residence must be underground from the point of distribution to the residence. Outside television aerials, antennas and satellite dishes (not exceeding 18-inches in diameter) must be located in the rear-yard and approval shall be obtained from Beverly Rise Property Owners' Association for the erection of any satellite dish, which approval may be withheld if it is determined that the location thereof would degrade the value of the residence or adjacent properties.

8. All motor vehicles located on any lot shall carry a current year's license tag registration. No house-trailers or mobile homes shall be parked on any lot at any time. Additionally, there shall be no parking of any trucks of any nature, including vans and campers upon the rights-of-way of the Platted Roadways within the Subdivision. Further, there shall be no parking of any trucks of any nature, other than pick-up trucks, vans or campers upon a lot. No vehicles may be stored upon any lot other than boats and boat-trailers which must be stored either in the garage or on the rear of each lot under a shelter approved by Beverly Rise Property Owners' Association. All motor vehicles, cycles and other engine-run apparatus located and run within the Subdivision by a lot owner, their guests and invitees, will carry legal sound control devices as prescribed by the manufacturer or approved by Beverly Rise Property Owners' Association.

9. No livestock, poultry or other farm animals of any kind shall be raised, bred, or kept on any lot. Dogs, cats and other household pets may be kept on a lot provided that they are not raised, kept, bred or maintained for any commercial purpose and that proper restraint and control by use of a leash or a secure enclosure are used in the keeping of them. No agricultural activities on a lot (other than citrus caretaking and harvesting) shall be permitted which results in the sale of an agricultural product grown on the premises whether sold in or out of the subdivision.

10. No lot without a house constructed thereon shall be used for parking purposes nor shall any lot be used, without express written permission of the present Owner or Beverly Rise Property Owners' Association for ingress, egress, utility or drainage purposes to adjacent

property. No major alteration of ground elevation shall be permitted on any lot without the express written permission of Beverly Rise Property Owners' Association. The integrity of the drainage design of the Subdivision must be maintained and no lot owner shall impair or divert drainage structures or easements within the Subdivision but shall maintain same if located on the lot. No lot owner shall construct outdoor clothes lines or expose fuel tanks on a lot. Each lot owner shall be responsible for lot and yard maintenance and shall, whether or not improvements shall have been constructed thereupon, maintain the upkeep thereof keeping the same free of debris and trash, unsightly weeds and litter.

11. No building or improvement which has been partially or totally destroyed by fire or other casualty shall be allowed to remain in such state for more than six months from the time of such destruction. If not reconstructed or repaired within six months, the owner shall raze and remove the building or improvement from the lot promptly thereafter. The building of every residence, structure or other improvement upon a lot shall be diligently and continuously pursued until completed by a lot owner and may not be abandoned without completion.

12. Nothing contained herein shall prevent the present Owner, his successors or assignees and contractors or subcontractors from doing or performing all or any part of the subdivision not conveyed or transferred what may be determined to be necessary or advisable to complete the Subdivision development, including without limitation:

a) Erecting, constructing and maintaining a sales office or model units as may be necessary for the completing of the development and establishing it as a residential community and disposing of it by lots or residential units through sale, lease or otherwise; and

b) Maintaining such signs thereon and other advertising media as may be necessary in connection with the sale, lease or other transfer of the development in either lots or residential units to third parties.

c) Building additional homes using plans and specifications similar to those theretofore used in the subdivision.

13. No noxious activity, trade or business of any sort shall be carried on upon any lot; nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood; nor shall any use be made of any lot that will in any way injure the value

of any adjoining lot or the Subdivision a whole.

14. Each lot owner is a member of Beverly Rise Property Owners' Association, Inc., a Florida corporation not for profit and will maintain membership in the Association as long as the lot is owned. Each lot owner further agrees to maintain said membership in the Association in good standing and to abide by the Articles of Association, By-Laws Rules and Regulations of the Association as may be amended from time to time.

15. The Association shall have two classes of voting membership:

CLASS A. Class A members shall be all owners, with the exception of the Declarant, and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

CLASS B. The Class B members shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to a Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership or;

(b) On December 31, 2002.

16. The Property Owners' Association shall be empowered:

(a) To enforce these Restrictive Covenants and Conditions either for its own account or in conjunction with other lot owners.

(b) To modify these Restrictive Covenants and Conditions on a reasonable basis to prevent undue hardship in the placement of any structures upon any lot in regard to lot line setback requirements and the placement of garages with a side-yard entrance.

(c) To place easements of record, if necessary, for utility and drainage along the perimeter of any lot line in the Subdivision.

(d) To maintain and improve all common facilities, including but not limited to the storm water retention ponds, adjacent facilities and use easements pertaining thereto and to promote Rules and Regulations for the use of same.

(e) To maintain and improve common area landscaping.

(f) To maintain and improve traffic control signs, subdivision name

designation signs within the Subdivision.

(g) To maintain and improve private lighting for night decorative effect or security purposes.

(h) To maintain by appointment or retainer, a Building Committee which need not consist of lot owners to review plans and specification required by lot owners to be submitted hereunder which Committee for and on behalf of the Association shall give permission in writing or rejection in writing, as the case may be, to said lot owners as provided herein. No member of the Building Committee shall in any way be subject to liability in granting or failing to grant approval or permission of any plans, specifications or request brought before said Committee by any person whomsoever.

(i) To maintain security within the Subdivision. It shall have the right, but not the duty, to enunciate a Neighborhood Crime Watch Security Program or other similar program for the Subdivision as a whole.

(j) To obtain insurance for loss purposes, whether by casualty or liability, covering Beverly Rise Property Owners' Association, Inc., Directors, Officers, Committee members and employees of the Association. Further, it may bond, if desired, Directors, Officers and employees of the Association.

(k) The surface water management system shall be owned by the association or said surface water management system shall be denominated as common property and it shall be the responsibility of the association to operate and maintain the surface water management system as permitted by the Southwest Florida Water Management District including all lakes, retention areas, culverts and related appurtenances.

(l) It shall have the right, but not the duty, to maintain improved or unimproved lots within the Subdivision wherein lot owners have failed to maintain same in keeping said lot free and clear of debris and trash and unsightly weeds and litter and to assess the costs thereof against said lot owner. It shall have an easement or License of Entry over any lot within the Subdivision for the purpose of this maintenance.

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(m) To determine, prepare, deliver notice of and collect assessments from the Association members for the purpose of the foregoing and to enforce liens for such assessments uncollected, with interest, by legal action, if necessary.

(n) To do every other act as may be reasonably necessary in carrying out that which has been empowered to it under these Restrictive Covenants and Conditions, its Articles of Association, By-Laws, Rules and Regulations.

17. Each lot owner shall be liable and obliged to pay to the Property Owners' Association an annual property improvement and management fee covering the cost of maintenance, improvement and operation of the various common areas under control of the Property Owners' Association hereinabove referenced which are for the private use and benefit of the property and lot owners, their guests and invitees. Each lot that has membership in the Association shall bear equal portions of each annual assessment regardless of a lot's location, dimension or size.

18. Each lot owner as a member of the Association at all Association membership meetings, if in good standing, shall be entitled to one vote for each lot owned.

19. There shall be a \$120.00 initial membership fee prorated to January 1, 2000 per lot payable upon lot acquisition from the present Owner. Commencing January 1, 2000, there shall be made an annual assessment by the Association for each lot membership in the Association, including any owned by the present Owner and unsold at that time. The annual assessments shall be payable in advance on or before December 31 of each preceding year with the initial annual assessment payable on or before December 31, 2000, for the year 2001. There shall be no proration, except as between lot owners, of any assessments and any unpaid assessments due at any time shall be and become the obligation of a new lot owner upon purchase of said lot. The amount of an annual assessment will depend upon the financial requirements for maintenance, improvements and operation of the common areas desired by the Association members. Special Assessments for these purposes may from time to time be made by the Association.

20. There shall be no assessment (except for the fee payable at closing) until January 1, 2001, as hereinabove set forth and the Developer agrees to maintain, improve and operate all common areas of the Association until that date at no expense to lot owners.

21. During the month of December in each year, commencing in 2000, the Board of Directors of the Association shall call a meeting of the membership of the Association for the purpose of electing members of the Board of Directors; fixing the amount of the Association's

maintenance, improvement and operation assessment; and conducting old and new Association business for the ensuing year. Said call shall be in writing, state the meeting's purpose, shall designate the date (which shall be no less than ten (10) days from the date the call is mailed), time and place of said meeting and shall be mailed by certified mail, return receipt requested, to all lot owners at the last addresses for said owners shown on the books and recorded by the Association or to the lot owners' addresses as shown on the Polk County Tax rolls. The annual election of the Board of Directors, each year's annual assessments and business of the Association, shall be determined at said meeting by the affirmative written vote of a majority of those Association members present, in person or by proxy, at said meeting.

22. The Association shall be empowered through its Officers and Board of Directors to place a charging lien against the lot owner's property for non-payment of such assessments, charges and costs that have been properly made hereunder and in accordance with the Charter, By-Laws, Rules and Regulations of the Association. Removal of said lien shall require the payment of said lien amount, interest, recording costs and attorney fees. A lien shall be subordinate to a mortgage lien of any financial institution having a mortgage on said lot whether before or after said lien shall be placed thereupon. In addition, any financial institution holding a mortgage on any lot and taking title thereto after default through foreclosure or otherwise, shall have no obligation toward the payment of accrued and uncollected assessments, charges and costs on the part of the Association that have accrued to the date that it has taken title to said lot.

23. A member not in good standing with the Association shall include a member that has failed to pay any assessments, charges and costs, of the Association during the time period allowed for the payment of same. A member not in good standing with the Association may be denied the right to vote at the Association affairs or to hold office within the Association as well as the use of any recreational facilities within the common areas of the Association or the use thereof by immediate family members, guests and invitees.

24. The Association through its membership shall have the absolute right to modify all of the Restrictions contained herein by amendment, deletion and addition thereto upon the written direction of seventy-five percent (75%) or more of the membership in the Association, except that any amendment which would affect the surface water management system,

including the water management portion of the common area, must have the prior approval of the Southwest Florida Water Management District or its successor agency.

25. Additional lands within the area described on Exhibit "A" attached hereto may be annexed by the Declarant without the consent of members within seven (7) years from the date hereof, provided that HUD/The Veterans Administration ("VA") determines that the annexation is in accord with the general plan heretofore approved by it. Annexations contemplated by Declarant shall become effective upon the recording of a Supplementary Declaration in the public records of Polk County, Florida. Should the Declarant, in its sole discretion, determine not to annex additional lands as approved, the general plan of development shall not bind the Declarant to make any additions contemplated or to adhere to this plan in the subsequent development of any lands described on Exhibit "A". Additional property which is outside of the area described in Exhibit "A" may be annexed to the property with the consent of two-thirds (2/3) of each class of members of the association, any such annexation shall become effective upon the recording of a Supplementary Declaration in the public records of Polk County, Florida. As long as there is a Class B membership and as long as HUD/The VA has an interest in , the annexation of additional properties will require the prior approval of HUD/The VA.

26. The covenants and conditions contained herein shall be in force and effect until December 31, 2027, A.D. and for five (5) year periods thereafter unless seventy-five percent (75%) or more of the membership shall, in writing, vote to rescind them at the expiration of the original period or any five (5) year term.

IN WITNESS WHEREFORE, C. DANE ROGERS, WILLIAM THOMAS ROGERS and JOHN STEVEN ROGERS, have executed this Declaration of Restrictive Covenants and Conditions this 18 day of January, 2000.

Signed, Sealed & Delivered in the Presence of:

Eugene W. Butler
Witness Eugene W. Butler

Debra Robinson
Witness Debra Robinson

C. Dane Rogers
C. DANE ROGERS