Workflow No. 0000408973-0001

Doc ID: 031074050009 Type: CRP
Recorded: 04/24/2017 at 02:39:39 PM
Fee Amt: $26.00 Page 1 of 9
Workflow# 0000408973-0001
Buncombe County, NC
Drew Reisinger Register of Deeds
BK5542 PG50-58

STATE OF NORTH CAROLINA
COUNTIES OF HENDERSON AND BUNCOMBE

RESTATED PROTECTIVE COVENANTS
Effective March 27, 2017

THESE RESTATED PROTECTIVE COVENANTS, made effective the 27th day of March, 2017 by HIGH VISTA HOMEOWNERS' ASSOCIATION, INC.;

WITNESSED:

WHEREAS, there has heretofore been recorded in the Register of Deeds of Henderson County, North Carolina, in Book 562, Page 407, and in the Register of Deeds of Buncombe County, North Carolina, in Box 1186, Page 113, Protective Covenants with regards to High Vista Estates as described therein; and

WHEREAS, on the **27th day of March 2017,** pursuant to due notice to the members of High Vista Homeowners' Association, Inc. at a duly noticed meeting at which a majority was present in person or by proxy, and at such meeting a majority of the owners of lots in the Subdivision having voted to amend the Protective Covenants as hereinafter provided.

NOW, THEREFORE, the High Vista Homeowners' Association, Inc., does hereby amend the Protective Covenants as hereinafter provided:

KNOW ALL MEN BY THESE PRESENT that HIGH VISTA HOMEOWNERS ASSOCIATION, INC. (Incorporated February 28, 1983), a non-profit corporation organized under the laws of the State of North Carolina, does hereby covenant and agree with all persons, firms, and corporations now owning or hereafter acquiring any lots in "HIGH VISTA ESTATES" (the "Subdivision") as shown on Plat, recorded in Plat Book 42 at Pages 172-174 inclusive in the Buncombe County Public Registry, and as shown on Plat, recorded in Plat Cabinet A, Slide 195 and Slides 355A-358 inclusive in the Henderson County Public Registry, that said lots are hereby subjected to the following restrictions as to the use thereof and said restrictions are to run with said property, future acquisitions and annexations and every part thereof, by whomsoever owned, and these restrictions must be adhered to by the Board of Directors as stated without exception, to-wit:

BOOK 3044 PAGE 250 (9)
861815

This document presented and filed:
04/24/2017 10:32:47 AM
AJ
WILLIAM LEE KING, Henderson COUNTY, NC

STATE OF NORTH CAROLINA
COUNTIES OF HENDERSON AND BUNCOMBE

RESTATED PROTECTIVE COVENANTS
Effective March 27, 2017

THESE RESTATED PROTECTIVE COVENANTS, made effective the 27th day of March, 2017 by HIGH VISTA HOMEOWNERS' ASSOCIATION, INC.;

WITNESSED:

WHEREAS, there has heretofore been recorded in the Register of Deeds of Henderson County, North Carolina, in Book 562, Page 407, and in the Register of Deeds of Buncombe County, North Carolina, in Box 1186, Page 113, Protective Covenants with regards to High Vista Estates as described therein; and

WHEREAS, on the **27th day of March 2017,** pursuant to due notice to the members of High Vista Homeowners' Association, Inc. at a duly noticed meeting at which a majority was present in person or by proxy, and at such meeting a majority of the owners of lots in the Subdivision having voted to amend the Protective Covenants as hereinafter provided.

NOW, THEREFORE, the High Vista Homeowners' Association, Inc., does hereby amend the Protective Covenants as hereinafter provided:

KNOW ALL MEN BY THESE PRESENT that HIGH VISTA HOMEOWNERS ASSOCIATION, INC. (Incorporated February 28, 1983), a non-profit corporation organized under the laws of the State of North Carolina, does hereby covenant and agree with all persons, firms, and corporations now owning or hereafter acquiring any lots in "HIGH VISTA ESTATES" (the "Subdivision") as shown on Plat, recorded in Plat Book 42 at Pages 172-174 inclusive in the Buncombe County Public Registry, and as shown on Plat, recorded in Plat Cabinet A, Slide 195 and Slides 355A-358 inclusive in the Henderson County Public Registry, that said lots are hereby subjected to the following restrictions as to the use thereof and said restrictions are to run with said property, future acquisitions and annexations and every part thereof, by whomsoever owned, and these restrictions must be adhered to by the Board of Directors as stated without exception, to-wit:

COVENANT # 1

No building, fence, wall or other structure shall be erected, placed, or altered on any lot until the proposed building plans and specifications (including external appearance, design, materials and color), plot plans (showing the proposed location of such building or structure, drives and parking areas), and construction schedule shall have been approved in writing by the Housing Committee (hereinafter called "Committee") of the High Vista Estates Homeowners Association (hereinafter called "Association") and their respective successors and assigns. Refusal of approval of building plans and specifications and plot plan may be based by the Committee upon such uniformly applied standards and criteria, including purely aesthetic considerations, as the Committee shall reasonably deem to be in the best interests of the subdivision. No alterations may be made in such plans after approval is given by the Committee, except by and with written consent of the Committee. No alteration in the exterior appearance of any building or structure shall be made without like approval by the Committee. A decision of the Committee may be appealed to the Association's Board of Directors should a landowner feel that the Committee has treated the landowner unfairly. One copy of all plans, specifications and related data shall be furnished the Committee for its records.

COVENANT # 2

The exterior of all houses and other structures must be completed within one year after the construction of same shall have commenced except where such completion is impossible due to strikes, fires, national emergencies or natural calamities, or would otherwise result in great hardship to the lot owner or building contractor.

COVENANT # 3

All lots shall be used for residential purposes exclusively. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single family dwelling not to exceed two (2) stories in height above basement and an attached garage or carport. The main dwelling shall contain a minimum of 1500 square feet for a one story or split level dwelling. A minimum of 2000 square feet shall be required for all two-story dwellings with a minimum of 1500 square feet located on the main level. Unfinished attic or basement space, other storage space, garages, carports, porches or other areas not enclosed by the main structure shall not be considered floor space in meeting the above requirements. Exceptions to the single-family dwelling requirements of this Covenant are (a) any lot previously designated by the Falls' developer for a multiunit dwelling in High Vista Falls on the Plat in effect as of the date of this Covenant change. (b) No more than 51 residential units in multi-family dwellings which may be built by High Vista Finance, LLC (HVF) or its successors or assigns on four tracts on the sections of the golf course south of the clubhouses and no other lot within High Vista. Final location of these tracts will be subject to approval as part of the annexation vote.

1. Each residential unit shall be built on an individual platted lot. The owner of record will be the owner of the lot;
2. Zero distance setbacks from property lines will be permitted between each unit within the bounds of a multi-unit building, but remaining setback requirements of these covenants will be applied;
3. Each residential unit of the multi-unit dwelling shall have a minimum of 1,500 square feet of heated space which may be on one or two levels. Adjustments to

square footage are subject to Board of Directors approval, but may not materially deviate from this requirement;

4. Once annexed lots will be subject to all covenants. Maintenance and management of limited common elements within each tract will be by the owners of residential units therein;
5. Board of Directors approval will be required before final surveys are recorded and before building permits are applied for by HVF to the applicable government entity.
6. Residential unit(s) in multi-family tracts may not be used as commercial rental units;

Except as noted above each lot on property annexed into the High Vista Community shall be restricted to one single-family dwelling and governed by the provisions of all covenants.

COVENANT # 4

No building shall be erected nearer than 40 feet from the center line of the front roadway, gravel, pavement, etc. for all lots, nor 40 feet from any side street center line nor nearer than 15 feet to any adjoining property line, unless prior approval is obtained from the Committee. For purposes of this covenant, stoops, terraces, eaves, steps and open porches shall not be considered as part of a building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon any easement or right of way on any other lot. Upon the recommendation of the Committee, the Board of Directors may grant a variance to these setbacks if such a variance will permit the construction of a dwelling on a lot which otherwise could not be utilized or could not be utilized without substantial additional expense to the then owner providing that the overall aesthetics of the community will not be adversely affected.

COVENANT # 5

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the neighborhood. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose, and that they do not become a nuisance or annoyance to the other lots in the subdivision and the owners of the same. It is specifically understood that no dogs shall be permitted to run free. No pet will be allowed off the pet owners' property unless it is under the control of a competent person and restrained by a leash, harness or other means of physical control. Pet owners are responsible for cleaning up after the pets on other's private property and common areas. No firearms shall be discharged nor shall any hunting be engaged in within the subdivision. Recreational and sports vehicles including golf carts, motorcycles, motorbikes, ATVs and comparable motorized vehicles, will not be operated within the subdivision except in accordance with any rules and regulations which may be adopted from time to time by the Association.

COVENANT # 6

It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly or unkempt conditions or buildings or grounds on such lot which shall tend to substantially decrease the beauty of the neighborhood as a whole or the specific area.

COVENANT # 7

Property identification and like signs exceeding a combined total of more than 4 square feet may not be erected without the permission of the Committee.

COVENANT # 8
Each lot owner shall provide space for off-street parking for at least two vehicles on said lot prior to the occupancy of any dwelling. Parking on the streets of said subdivision will not be permitted except during times when the normal parking facilities on the lot will not accommodate all the vehicles owned by persons visiting said lot owners. No Vehicle will be parked overnight on any road or road shoulder, except as necessary during inclement winter weather. No vehicle will be parked on any part of residential property that is not hard surface and as authorized in the architectural guidelines policy.

COVENANT # 9
No unsanitary conditions prejudicial to the public health shall be permitted on said lot. All sewage shall be disposed of by septic tanks approved by appropriate State or local regulatory authorities until such time as a regular sewage system becomes available. No liquid waste of any description shall be drained, dumped or disposed of in any way into open ditches or water courses. Trash, garbage or other waste shall be kept in sanitary containers, hidden from view of adjoining property owners and streets until disposed of. No portion of any lot shall be used or maintained as a dumping ground for rubbish of any description.

COVENANT #10
No buildings shall be erected of exposed cement or cinder blocks and no buildings shall be built where the siding shall consist of asbestos shingles. There shall be no totally manufactured homes, mobile homes, or modular homes that are located on metal "I" beam frames place upon any lot. Prefabricated components of buildings such as window units, door units, roof trusses, cabinet units, etc. shall be permitted. All new construction should have drives of either hard surface asphalt, concrete or similar surface per specifications approved by the Committee. All homes constructed in this subdivision shall be principally of brick, stone, stucco, eight-inch or wider wood siding or of other materials approved in writing by the Committee. As construction methods change in future years, the Board of Directors, its successors and assigns, reserves the right to modify this paragraph in its sole discretion.

COVENANT #11
No structure of temporary character shall be placed upon any lot at any time; however, this prohibition shall not apply to shelters used by a contractor during the construction of a main dwelling house, it being clearly understood that these latter temporary shelters may not, at any time, be used as a residence or permitted to remain on the lot after completion of construction.

COVENANT #12
No trailer or mobile home shall be parked on any lot or on streets within the subdivision for any purpose without permission of the Committee.

COVENANT #13
Trucks (other than pick-up trucks), recreational campers, trailers, boats and carriages for boats may be parked or stored on a lot only in areas which are screened from the street, the High Vista Country Club golf course and adjoining properties within the subdivision, except as otherwise permitted by the Committee. The assembly or

disassembly of a motor vehicle shall not be conducted upon any lot. No vehicle shall be parked without a currently valid license tag.

COVENANT #14
No fuel tanks or similar storage containers may be exposed to view. Tanks with 500 gallon or larger capacity must be buried underground. Tanks smaller than 500 gallons must be aesthetically concealed from the view of adjoining property and roadway.

COVENANT #15
Electric power, telephone and any cable television service to all structures on all lots shall be by underground cable or wires from the utility company's main underground cables or lines to said structures. High Vista Homeowners Association, Inc., reserves the right to subject the real property in this subdivision to a contract with electric utility companies servicing properties within this subdivision for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to said electric utility companies by the owner of each lot; provided, however, that any contract requiring continuing monthly payments shall be entered into only with the approval of two-thirds (2/3) in number of lot owners (determined as provided in Paragraph 22 hereof) and the recording of right-of-way agreement for such service shall be conclusive proof to all third persons, firms and corporations that such approval has been obtained.

COVENANT #16
Outside clotheslines will not be permitted. No above ground pool or temporary or installed play or sports apparatus will be allowed on any property without prior authorization of the Housing Committee.

COVENANT #17
Owners of lots adjacent to the golf course fairways shall permit the entrance upon their lots for retrieval of golf balls.

COVENANT #18
Easements for installation and maintenance of utilities, drainage facilities and other public conveniences are reserved as shown on the recorded plat above referred to. Within these easements, no structures, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and other public conveniences, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through the drainage channels in the easements. The easement area of each lot and all improvements within said area shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. The Association shall have and is hereby granted the right to erect a perimeter fence around portions of or all of the subdivision, such fence to be located along lot property lines abutting such perimeter and the Association is hereby granted such rights of way and access as shall be reasonably necessary to construct and maintain such fence.

COVENANT #19
No other easements, rights of way or rights of access shall be deeded, granted or in any way given by lot owners to any other person, firm or corporation through and over any lot in this subdivision without the written permission of the Board of Directors. In

particular, no owner of a perimeter lot shall permit such lot to be used for access to or from any property not located within the subdivision without the express consent of the Board of Directors.

COVENANT #20
Clear cutting of timber is prohibited. No trees measuring six (6) inches or more in diameter one (1) foot above ground level may be removed, except in accordance with the plot plan approved for each lot or other approval by the Committee.

COVENANT #21

(1) No lot shall be subdivided during the period of these restrictions.

(2) No lot owner shall change boundary lines or convey any parcel of said lot less than the whole of each without the written permission of the Board of Directors.

COVENANT #22
The Association is hereby expressly authorized and empowered to **levy assessments against all lots in the subdivision for purposes of (a) street improvement and maintenance**; (b) other services which may be included but not limited to are guard or other security services, fire protection, garbage and trash collection and removal, water service, and insect and pest control, including such services supplemental to those otherwise available to the subdivision; and (c) enforcement of these Protective Covenants.

The Board of Directors shall establish an annual budget to carry out the business of the Association. Assessments for purposes set forth above shall be based upon the total number of lots in the subdivision, with each lot being subject to an equal share of such assessment. Assessments on all lots shall not exceed **$635.00** per lot per year.

The annual assessment for condominiums shall not exceed a fixed percentage of the assessment for lots as agreed upon by the Association and La Vista Village Condominium Association, Inc.

Assessments other than above set forth may be imposed upon approval by two-thirds (2/3) of lot owners voting in person or by written ballot at a called meeting of the Association held upon not less than twenty (20) days written notice stating time, place, and purpose of the meeting. For the foregoing all owners in good standing of one lot shall have one vote. High Vista Country Club, Inc. shall have no vote with reference to any lots owned by it. La Vista Village Condominium Association, Inc. shall have voting rights in proportion to its assessment.

The amount of the assessment levied by the Association shall be paid to it on or before the date or dates fixed by the resolution establishing the assessment. If not so paid, the amount of such assessment, plus any other charges thereon, including interest at the maximum limit provided by law from date of delinquency and costs of collection, including attorney's fees, if any, shall constitute and become a lien on the lot so assessed when the Association causes to be recorded in the office of the County Registrar of Deeds a notice of assessment which shall state the amount of such assessment and such other charges, and a description of the lot which has been assessed. Such notice shall be signed by the President and Secretary of the Association on behalf of the Association and shall be so acknowledged and notarized. Upon

payment of assessment and charges, or other satisfaction thereof, the Association shall, within a reasonable time, cause to be recorded a further notice stating the satisfaction and the release of said lien.

Conveyance of any lot shall not affect any lien for assessments. Such lien shall be prior to all other liens recorded subsequent to said notice of assessment.

The lien provided for herein may be foreclosed by suit by the Association in like manner of the foreclosure of a lien for mechanic's and/or materialmen's liens under the provisions of Chapter 44A of the North Carolina General Statutes, except that nothing contained herein shall require that such suit be filed within any of the time periods as contained in said Chapter 44A. The Association may also pursue any other remedy against owner owing money to it which is available to it by the law or equity for the collection of a debt.

The Association shall not be required to transfer memberships on its books or to follow (allow) the exercise of any rights or privileges of membership on account thereof to any lot owner or to any persons claiming under them unless or until all assessments and charges to which they are subject have been paid.

COVENANT #23
All covenants, restrictions and affirmative obligations set forth herein shall run with the land and shall be binding on all parties and persons claiming under them for a period of twenty (20) years from the recording of these Protective Covenants, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of lots affected by such covenants has been recorded, agreeing to amend or terminate said covenants in whole or part.

COVENANT #24
In the event of a violation or breach of any of these restrictions by any property owner, or agent, or agent of such owner, the Association or the owner of any lot in the subdivision, or any of them jointly or severally, shall have the right to proceed at law or in equity to compel a compliance to the terms hereof or to prevent the violation or breech in any event. In addition to the foregoing, the Association, its successors and assigns, shall have the right, whenever there shall have been built on any lot in the subdivision any structure which is in violation of these restrictions, to enter upon the property where such violation exists, and summarily abate or remove the same at the expense of the owner if after thirty (30) days' written notice of such violation, it shall not have been corrected by the owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction or condition set forth herein, however long continued, shall not be deemed a waiver of the right to do so hereafter, as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

COVENANT #25
Any portion or all of these Protective Covenants may at any time be amended or rescinded by the written agreement or vote of two-thirds (2/3) of lot owners voting in person or by written ballot at a called meeting of the Association held upon not less than twenty (20) days written notice stating time, place, and purpose of the meeting. For the foregoing all owners in good standing of one lot shall have one vote. High Vista Country

Club, Inc. shall have no vote with reference to any lots owned by it. La Vista Village Condominium, Inc. shall have voting rights in proportion to its assessment. The agreement shall become effective upon its filing in the Henderson and Buncombe County Public Registry.

COVENANT #26
The invalidation by any court of any one or more of the provisions of these Protective Covenants shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

COVENANT #27
The Board of Directors shall have the authority to enter into discussions with regards to the addition of one (1) or more tracts of land, from time to time, to the terms and provisions of these Protective Covenants (hereinafter referred to as "annexation") and to submit such plan for annexation to the members of the Association for approval, subject to the following requirements. Upon approval of such annexation, the owner or owners of such tracts or parcels of land shall become members of the Association and such tracts or parcels of land shall be fully subject to the terms and provisions of these Protective Covenants, except to the extent that any such plan approved by members of the Association shall otherwise provide. The Board of Directors shall establish a policy of guidelines for annexation, prepare a specific plan for each annexation tract and shall present the plan for approval to the members of the Association at a public meeting. Approval is required by two-thirds (2/3) of lot owners voting in person or by written ballot at a called meeting of the Association held upon not less than twenty (20) days written notice stating time, place, and purpose of the meeting. For the foregoing all owners in good standing of one lot shall have one vote. High Vista Country Club, Inc. shall have no vote with reference to any lots owned by it. La Vista Village Condominium Association, Inc. shall have voting rights in proportion to its assessment.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and year first above written, or, if corporate, have caused this instrument to be executed in its corporate name, by it's duly authorized officers, all of the authority of the Board of Directors, the day and year first above written.

HIGH VISTA HOMEOWNERS ASSOCIATION, INC.

Susan Semrod

(Corporate Seal) **Susan Semrod,** President

ATTEST:

Linda Thomas

Linda Thomas, Secretary

STATE OF North Carolina

COUNTY OF Buncombe

I, a Notary Public of the County and State aforesaid, certify that Susan Semrad as President of High Vista Homeowner's Association, Inc. personally came before me this day and acknowledged the due execution of the foregoing Restated Protective Covenants.

Witness my hand and official stamp or seal this 14 day of April, 2017

My commission expires: 06/07/2021

A. Giovanni Arellano Cazares
Notary Public

A. GIOVANNI ARELLANO CAZARES
NOTARY
PUBLIC
BUNCOMBE COUNTY, NC