

## STATE OF NORTH CAROLINA

## COUNTY OF HENDERSON

ADOPTION AND AMENDMENT  
OF RESTRICTIVE COVENANTS  
FOR ROCK CREEK SUBDIVISION  
PHASE I, PLAT SLIDE # 4062  
HENDERSON COUNTY REGISTRY

Know all men by these presents that Southern Development, Inc., a North Carolina Corporation, does hereby covenant and agree with all other persons, firm or corporation now owning or hereafter acquiring any subdivision lots as shown and described on the subdivision plat of Rock Creek Subdivision, Phase I, Plat Slide 4062, Henderson County Registry are hereby subjected to the following restrictions as to the use thereof;

1. The restrictive covenants as set forth and enumerated in Deed Book 1073 at Page 270 are hereby adopted in their entirety as restrictions for this subdivision excepting Exhibit B of said Deed Book 1073 at page 279.
2. In accordance with the Storm Water Permit issued by the State of North Carolina, the subject property is hereby subjected to the following additional restrictions:
  - a. The maximum allowable built-upon area per lot is 12 percent. This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina, driveways, and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.
  - b. The covenants pertaining to stormwater regulations may not be changed or deleted without concurrence of the Division of Water Quality.
  - c. Filling in, piping or altering any 3:1 vegetated conveyances (ditches, swales, etc.) associated with the development except for average driveway crossings, is prohibited by any person.
  - d. Filling in, piping or altering any designated 5:1 curb outlet swale associated with the development is prohibited by any persons.
  - e. A 30' vegetated buffer must be maintained between all built-upon area and the Mean High Water line of surface waters.
  - f. All roof drains shall terminate at least 30' from the Mean High Water mark.
  - g. No more than 9% of any lot, including that portion of the right-of-way between the edge of pavement and the front lot line, shall be covered by impervious structures including asphalt, gravel, concrete, brick, stone, slate or similar material but not including wood decking or the surface of swimming pools. This covenant is intended to insure continued compliance with the stormwater permit issued by the State of North

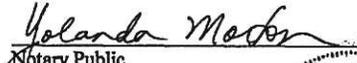
North Carolina. The covenant may not be changed or deleted without consent of the State.

- h. No one may fill in, pipe, or alter any roadside swale except as necessary to provide a minimum driveway crossing.
- 3. Developer reserves the right in each instance to add additional restrictive covenants in respect to lands conveyed in the future by or to the Developer and to amend these covenants and restrictions from time to time, but such amendment shall not at any time alter the rights which shall have already been vested in any person prior to such amendments.
- 4. Should any covenant, restriction, article, paragraph, subparagraph, sentence, clause, phrase or term herein contained be declared to be void, invalid, illegal or unenforceable, for any reason whatsoever, by the parties hereto and the subject matter hereof, such judgment shall in no way affect any other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.
- 5. Developer, its Successors, Heirs, and Assigns, shall have the exclusive right to amend these Covenants and Restrictions for all lands owned by the Developer.

This the 20th day of February, 2002.

  
 Southern Development, Inc.  
 Mr. Mark Searcy, President  
 Route 1, Box 264A  
 Zirconia, North Carolina 28790

STATE OF NORTH CAROLINA COUNTY OF HENDERSON  
 This the 20th day of February, 2002, personally came before me, the undersigned Notary Public in and for the aforesaid County and State, Mark Searcy, who, being duly sworn, says that he is President of Southern Development, Inc. and that the seal affixed to the foregoing instrument in writing is the corporate seal of said Corporation, and that said writing was signed by him in behalf of said Corporation by its authority duly given. And the said Mark Searcy acknowledged the said writing to be the act and deed of said Corporation.

  
 Notary Public

My Commission Expires:  
~~February 3, 2007~~  
March 2, 2002



North Carolina, Henderson County The foregoing certificate(s) of Yolanda E. Madon

Notary Public (~~Notary Public~~) is/are certified to be correct, this instrument presented for registration and recorded in this office this 21 day of February, 2002 at 3:10 PM in book 1090, page 417

   
 Register of Deeds (Assistant Deputy)

11073 P 270

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

COVENANTS, RESTRICTIONS, EASEMENTS,  
RESERVATIONS, TERMS AND CONDITIONS  
GOVERNING ROCK CREEK, A SUBDIVISION,  
HENDERSON COUNTY, NORTH CAROLINA

KNOW ALL MEN BY THESE PRESENTS that Southern Development, Inc., a North Carolina Corporation, (herein "Developer") does hereby covenant and agree with all other persons, firms or corporations now owning or hereafter acquiring any property in the area hereinafter described, for full value received, and the landowner covenants and agrees upon acceptance of deeds of conveyance to any of the lots described in the plats of this subdivision upon the terms and conditions hereinafter set forth, that all of the numbered lots shown upon the plats of the subdivision of the property entitled "Rock Creek" recorded in Deed Book 1060, at page 495, Henderson County Registry are hereby subjected to the following restrictions as to the use thereof, running with said properties by whomsoever owned, to wit:

1. PURPOSE

The primary purpose of these covenants and restrictions and the foremost consideration in the origin of the same has been the creation of a residential community which is aesthetically pleasing and functionally convenient; attracting residents seeking privacy, security and superior facilities in a beautiful environment.

2. DEFINITIONS:

- A. "Residential Lot" or "Lots" shall mean any unimproved parcel of land located within Rock Creek, which is intended for use as a site for a single-family detached dwelling.
- B. "Family Dwelling Unit" shall mean and refer to any improved property intended for use as a single-family detached dwelling unit located within Rock Creek.
- C. "Lot Owner" shall mean and refer to the owner or owners as shown by the real estate records in the office of the Register of Deeds of Henderson County, North Carolina, of fee simple title to any residential lot or family dwelling unit situated within Rock Creek.
- D. "Intended for Use" shall mean the use to which any particular parcel of land is restricted by covenants expressly set forth or incorporated by reference in deeds by which Developer has conveyed the property.
- E. "Developer" shall mean Southern Development, Inc., a North Carolina Corporation or its successors or assigns of its individual or total rights and duties hereunder.
- F. "Single-Family Detached Dwelling," shall mean a structure arranged or designed to be occupied by one (1) family and family servants and which is not attached to any other dwelling.

3. **RESIDENTIAL USE:**  
All Lots shall be used for single family residential purposes exclusively.
4. **SUBDIVIDING AND BOUNDARY RELOCATION:**  
No lot shall be subdivided, or its boundary lines relocated, for any purpose other than to merge an additional lot or part thereof so as to create a lot larger than the original lot. No subdivision or boundary relocation shall be made without the written approval of Developer, its successors and assigns except, however, Developer hereby expressly reserves to itself, its successors, or assigns, the right to re-plate any lot or lots, shown on the recorded plats, prior to the conveyance thereof, in order to create a modified lot or lots. These restrictions herein apply to each lot which may be so created.
5. **COMMERCIAL USE:**  
No commercial or industrial undertaking or use is permitted, except as identified on the recorded Plat.
6. **ARCHITECTURAL REVIEW:**
  - A. No family dwelling unit, garage, fence, wall, swimming pool, mailbox or other structure shall be commenced, erected or maintained upon any lot in Rock Creek; nor shall any exterior addition to any existing structure or change or alteration therein, nor shall any landscaping or site work be done until complete final plans and specifications showing the nature, kind, shape, height, materials, basic exterior finishes and colors, location and floor plans therefore, and showing front, side and rear elevations thereof, the name of the contractor and landscaper have been submitted to and approved by Developer or Architectural Review Committee appointed by the Developer, and as to location in relation to surrounding structure and topography.
  - B. Prior to the construction of any structure, a site plan to scale must be approved on a topographic map with 2' intervals, which shows the location of the proposed house, all drives, walks and parking areas, with each clearly indicated. Prior to any physical disturbance of the site, special drainage and/or irreplaceable features are to be identified and provisions for their protection clearly established. This includes large and/or specimen trees, rock outcroppings, springs and streams, and concentrations of azaleas, rhododendrons, and other shrubs and wild flowers. Silt fences shall be required to be installed prior to any physical disturbance. Culverts needed for ingress or egress shall be provided by lot owner and shall be as specified by the engineer for the Architectural Review Committee when established, or by the Developer.

Refusal or approval of plans, specifications, contractor and landscaper, or location of any structure may be based upon any grounds including purely aesthetic considerations which at the sole discretion of Developer shall be deemed sufficient. Any contractor prior to performing any work within Rock

Creek must be approved by Developer. In the event any owner violates the terms of this section, Developer or its duly appointed agent, shall give written notice to the owner to cure such violation within thirty (30) days, Developer shall be entitled to enter upon the property of the owner and remedy such defect including removal of any structure built in violation hereof, all at the expense of the Owner. This right of Developer or its agent, shall be in addition to all other general enforcement rights which Developer may have for a breach or violation of the terms of these covenants and restrictions and shall not be deemed a trespass by Developer or its agent.

- C. At the completion of all construction in accordance with the plans submitted, the lot owner shall request an on-site inspection by Developer. No home may be occupied until an Occupancy Permit has been issued by Developer. Approvals will not be unreasonably withheld, but in addition to the above, the following will be required:
- i. Final landscaping development plans must be approved and carried out without undue delay.
  - ii. Exterior lighting must be approved.
  - iii. Exterior colors and finishes must be as submitted with original plans.
  - iv. All clean-up must be completed.
  - v. Copy of Certificate of Occupancy from Henderson County provided to Developer.
7. **BUILDING SIZE:**  
No structure except as herein provided, shall be erected, altered, placed or permitted to remain on any lot other than one (1) single-family detached dwelling not exceeding two (2) stories in height above the basement, with a minimum requirement of at least a two (2) car garage preferably attached. Such dwelling shall contain a minimum of 1,800 square feet of living space for a one-story dwelling. All two-story family dwelling units shall contain a minimum of 1,400 square feet of enclosed living space for the main floor, with a total minimum of 2,000 square feet of enclosed living space. Garages, porches, patios, greenhouses or other areas, unfinished basements or cellars shall not be considered floor space in meeting the above requirements.
8. **BUILDING REQUIREMENTS:**
- A. All driveways and parking areas must be paved with tar and gravel, hot mix asphalt or concrete paving unless another paving material is approved in writing by Developer.
  - B. All play equipment shall be placed so that it is not visible from any street. Treehouses are considered structures requiring full approval by Developer.
  - C. No decorative features such as sculptures, bird baths, bird houses, fountains or other decorative embellishments shall be permitted that are visible from any street unless approved by Developer.
  - D. Each house must have a minimum 200 AMP electrical service. Each family dwelling unit must have permanent electric service supplied by Duke Power or its successor normally supplying electric service to Rock Creek.

- E. No concrete blocks may be exposed unless they are plastered or stuccoed.
  - F. No unpainted sheet metal may be exposed.
  - G. All roof stacks and plumbing vents shall be placed on the portion of the family dwelling unit roof facing away from the front lot line.
  - H. Window air conditioning units are not permitted. All compressor units shall be ground mounted. Compressor units shall be screened by approved fencing or planting.
  - I. No Satellite dishes or other outside TV antennas shall be visible from street or adjacent house site.
  - J. Vinyl siding and T-111 panels are not permitted.
9. **TEMPORARY STRUCTURES:**  
No structure of a temporary character shall be placed upon any portion of Rock Creek at any time; provided, however, that this prohibition shall not apply to shelters used by contractors during the construction of any family dwelling unit. Temporary shelters, including mobile homes, trailers, recreational vehicles, and tents, may not, at any time, be used as temporary or permanent residences or be visible after completion of construction thereon as hereinabove provided. Basements or partially complete houses will be considered temporary and may not be inhabited.
10. **SETBACKS:**  
All setbacks shall be measured from the property line. Front and rear setbacks for buildings from the lot line shall be a minimum of 50 feet. Side setbacks shall be 50 feet. Relief from said building setback lines may be given by Developer to any lot owner upon a showing of extraordinary circumstances by the lot owner. Such extraordinary circumstances may include unusual topography, lot shape, frontages and also potential views to give property owners the fullest enjoyment of their lots. The establishment of building setback lines is given in order to assure that location of houses will be staggered where practical and appropriate so that the maximum amount of view and privacy will be available to each house, and so that the structures will be located with regard to the ecological constraints and topography of each lot, taking into consideration topography, the location of large trees and similar considerations. Developer reserves the right to control absolutely the precise site and location of any residential unit or other structure upon all lots. Provided, however, that such location shall be determined only after reasonable opportunity is afforded the lot owner to recommend a specific site.
11. **EXTERIOR CONSTRUCTION:**  
The exterior of all houses and other structures as well as site work and landscaping must be completed within one (1) year after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the lot owner due to strikes, fire, natural emergencies or natural calamities. Residential units and other dwelling structures may not be occupied until the exterior thereof has been completed. If the exterior is not completed within one (1) year, One Thousand Dollars (\$1,000.00) in liquidated damages shall

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be paid to Developer by the lot owner, and \$1,000 per month shall be paid to the Developer in liquidated damages for each month thereafter until completed.

12. **TREES:**  
No trees measuring six (6) inches or more in diameter at a point two (2) feet above ground level, no flowering trees or shrubs, nor any evergreens may be removed without the written approval of Developer, unless located within twenty-five (25) feet of a building, or within the right-of-way of driveways and walkways. Excepting herefrom shall be damaged trees, or trees which must be removed because of any emergency. Should a lot owner remove any tree or vegetation as herein provided without the above-described written approval, said lot owner shall be liable for liquidated damages to Developer in the sum of Five Hundred Dollars (\$500.00) per tree or other plant removed.
13. **SEWER AND WATER:**  
Every family dwelling unit shall have permanent plumbing and running water and a permanent sewage disposal system. No temporary plumbing, water, or sewage systems are allowed.
14. **STORAGE TANKS:**  
Fuel storage receptacles may not be exposed to view and must be installed either within the family dwelling unit, buried underground or screened with an enclosure first approved by Developer.
15. **TRASH:**  
Each lot owner shall provide sanitary containers for garbage, and all garbage receptacles, tools and equipment for use by the lot owner or otherwise shall be placed in a fenced enclosure to shield same from general visibility from roads abutting the lot owner's property, and also from neighboring properties. Trash, garbage and other waste shall be kept in said sanitary containers. No trash, garbage, construction debris or other unsightly or offensive material shall be placed upon any portion of Rock Creek except as temporary and incidental to bona fide improvement of said area of Rock Creek.
16. **ANTENNA:**  
All utilities, wires, cables, antennae and the like, of any kind (such as telephone, electrical, television, radio and citizen band radios must be placed underground except as may be expressly permitted and approved in writing by Developer.
17. **TRAFFIC CONTROL:**  
If the roads are not taken over by a governmental agency for regulation and maintenance, then Developer shall have the power to place any reasonable restrictions upon the use of roadways, including but not limited to the types and sizes of vehicles using the roads, the maximum and minimum speeds of vehicles, all other necessary traffic and parking regulations and the maximum noise level of vehicles.

- 18. **OFF-STREET PARKING:**  
Each owner of a family dwelling unit shall provide sufficient space for parking of any and all vehicles off the roadways. Parking on roadways shall not be permitted.
- 19. **VEHICLES:**  
No disabled or abandoned vehicles shall be permitted on any lot neither shall any vehicles be stored thereon, unless garaged nor shall major repairs be permitted upon any vehicle parked upon any lot. All vehicles parked outside a garage must have an unexpired registration and be lawfully licensed.
- 20. **VEHICLE STORAGE:**  
Any recreation vehicles, boats, motorcycles, motorbikes, motor homes, campers and the like must be parked in an enclosed area screened from view from the street. Garage doors must be closed at all times when not in use.
- 21. **LOT UPKEEP:**  
It is the responsibility of each lot owner to prevent any unclean, unsightly, or unkempt condition of buildings or grounds to exist on the lot owner's property. Developer shall have the right, but not the duty, to enter upon any lot for the purpose of abating any unclean, unsightly, or unkempt condition of buildings or grounds which tend to decrease the beauty of the neighborhood as a whole or the specific areas. The cost of such abatement and any damage resulting from such entry shall be at the expense of the specific lot owner and shall not be deemed a trespass.
- 22. **NUISANCES:**  
No obnoxious or offensive activity shall be carried on upon any portions of Rock Creek nor shall anything be done tending to cause embarrassment, discomfort, annoyance, or nuisance to any lot owner, tenant, or guest thereof in any area of Rock Creek thereby diminishing the enjoyment of other lots by their owners. No plant, animal, device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of other property in Rock Creek by the lot owners, tenants, and guests thereof, may be maintained. Developer reserves the right in its sole discretion to determine a nuisance; and upon ten (10) days' written notification by Developer, the activity must cease.
- 23. **EROSION CONTROL:**  
Developer shall have the right to protect from erosion the land designated as areas upon which residential building shall take place, by planting trees, plants, and shrubs where and to the extent necessary or by such mechanical means as providing drainage ways and/or dams or other means deemed expedient or necessary by the Developer to provide and insure against such erosion. Developer, however, is under no duty to take such actions as hereinabove provided.

24. SIGNS:

No signs, including "For Rent," "For Sale" or other similar signs shall be erected, placed, allowed or maintained on any lot by anyone, including but not limited to the lot owner, a Realtor, a contractor or subcontractor, except with the written permission of Developer or as may be required by legal proceedings. If such permission is granted, Developer reserves the right to restrict size, color and content of such signs.

25. WATER COURSES:

No lake shall be constructed, neither shall the course or bank character of any stream be changed, nor any culverts installed in any stream without prior written approval of Developer.

26. ANIMALS:

No animal, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that horses, dogs, cats or other commonly domesticated pets may be kept, provided that they are not bred or maintained for commercial purposes. Pets, when running loose, must be kept strictly within the boundaries of the owner's property. No pets are permitted if they are kept so as to constitute a nuisance.

27. EASEMENTS:

Developer reserves to itself, its successors and assigns, a perpetual alienable and releasable easement and right on, over and under the ground to erect, maintain and use electric telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, cable television, security cable equipment, telephone equipment, gas, sewer, water or other private or public conveniences or utilities on, over and under the rear and front twenty (20) feet on each lot, and then twenty (20) feet along all sides of each lot, and such other areas as shown on the applicable plats; provided further that Developer may cut drainways or utilize existing natural drainways for surface water wherever and whenever such action may appear to Developer to be necessary in order to maintain proper drainage and reasonable standards of health, safety and appearance. Developer further reserves unto itself, its successors and assigns, a perpetual alienable and releasable easement and right to cut any trees, bushes or shrubbery or to take any other similar action reasonably necessary to provide economical and safe utility installation, and to maintain reasonable standards of health, safety, and appearance. Excluding the right to give easements to Developer and without Developer's consent in its absolute discretion, no lot owner may give easements through their property to other property owners for the purpose of roads or utilities. Developer reserves the right to locate well, pumping stations and tanks within any portion of Rock Creek, provided, however, that if the owner other than Developer and the applicable recorded plat of such lot owner's pumping station, tank or well shall not be located upon such lot owner's property without the permission of such lot owner.

In addition, Developer reserves unto itself, its successors and assigns, a perpetual alienable and releasable easement and right on and over and under all lots to

dispense pesticides and take other action which in the opinion of Developer is necessary; or desirable to control insects and vermin. The Developer reserves the right to cut fire breaks and other activities which in the opinion of the Developer are necessary to control fires. Developer, however, is under no duty to take such actions as hereinabove provided.

28. **TRESPASS:**

Whenever Developer is permitted by these covenants to correct, repair, clean, preserve, clean out or do any action on any lot or on the easement areas adjacent thereto, entering such lot or easement area and taking such action shall not be deemed a trespass on the part of Developer.

29. **ENFORCEMENT:**

A. 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.

B. Enforcement of these covenants and restrictions shall be by any proceeding at law or equity against any persons violating or attempting to violate or circumvent any covenant or restriction, either to restrain or enjoin violations, or to recover damages, or in addition to the lien enforcement rights set out in Article 2 of Chapter 44A of the North Carolina General Statutes, by any appropriate proceeding at law or equity against the land to enforce any lien created by these covenants. The remedies given herein are distinct, cumulative remedies and the exercise of any of them shall not be deemed to exclude the rights of Developer to exercise any or all of the others or those which may be permitted by law or equity. The failure to enforce any rights, restrictions or conditions contained herein, however long continued, shall not be deemed a waiver of this right to do so hereafter as to the same breach, or as to a breach occurring prior to or subsequent thereto and shall not bear or affect its enforcement. Any person entitled to file a legal action for violation of these covenants shall be entitled as part of any judgment in favor of the filing party to recover reasonable attorney's fees as a part of such action.

30. **FUTURE RESTRICTIONS:**

Developer reserves the right in each instance to add additional restrictive covenants in respect to lands conveyed in the future by or to the Developer and to amend these covenants and restrictions from time to time, but such amendments shall not at any time alter the rights which shall have already been vested in any person prior to such amendments.

31. **SEVERABILITY:**

Should any covenant, restriction, article, paragraph, subparagraph, sentence, clause, phrase or term herein contained be declared to be void, invalid, illegal or unenforceable, for any reason whatsoever, by the parties hereto and the subject

matter hereof, such judgment shall in no way affect any other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

32. RESPONSIBILITY FOR OTHERS:  
Lot owners are obligated to assume the responsibility that any and all dependents, guests, servants, visitors and building contractors working for the lot owner observe and maintain all the rules, regulations, covenants and restrictions binding the lot owners themselves.
33. LEASING OR RENTING:  
A lot owner may lease or rent the family dwelling unit owned by such lot owner; provided, however, that the tenant or lessee shall be bound by all covenants and restrictions contained herein. At no time may a lot owner lease or rent a portion of the family dwelling unit less the entire family dwelling unit is leased or rented.
34. VARIANCES:  
In case of hardship and for good cause shown, Developer may in its sole discretion grant variances from any of these covenants and restrictions. The decision of Developer to grant or not grant variances as herein provided is based upon Developer's sole and absolute discretion.
35. HOMEOWNERS ASSOCIATION:  
There will be a Homeowners Association formed for the purpose of maintaining the roads and any common areas. This Homeowners Association will have the authority to collect assessments from property owners as might be necessary to properly and adequately maintain the roads and any common areas which assessments shall be enforced and become a lien if unpaid.
36. AMENDMENTS:  
Developer, its Successors, Heirs, and Assigns, shall have the exclusive right to amend these Covenants and Restrictions for all lands owned by the Developer.

Ex B

August 28, 2001

To Whom It May Concern:

The following items were discussed and approved on the phone between John & Stephanie Constance (Buyer) and Mark Searcy (Seller) as it pertains to the property described as Rock Creek Subdivision and recorded in Deed Book 1060, Page 495 of the Henderson County Registry. These items are to be added to the deed as approved inclusions:

1. A mailbox will be permitted at the end of the road that enters into Rock Creek Subdivision.
2. The driveway on the above mentioned property of John & Stephanie Constance (Buyer) does not have to be paved to their residence, it may be paved at the beginning but can be gravel from there to the house.
3. John & Stephanie Constance (Buyer) may have a ramp on the front or back of their house if medically needed for their son, Cameron Constance.
4. A fence will be allowed on the above-mentioned property if needed or wanted by the John & Stephanie Constance (Buyer).
5. A small satellite dish will be allowed if placed on the backside of the house.
6. A swimming pool will be allowed on the above-mentioned property as long as Mark Searcy (Seller) approves the location on the property.
7. A building, non attached, is allowed as long as it is an on site built building with approved siding to match the house built on the above mentioned property.

Buyer [Signature] Seller [Signature]  
Stephanie Constance

Sworn before me this 29th day of August, 2001.

Notary Public [Signature]

My commission expires January 30, 2002

Ex B



STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

ADOPTION AND AMENDMENT  
OF RESTRICTIVE COVENANTS  
FOR ROCK CREEK SUBDIVISION  
PHASE I, PLAT SLIDE # 4062  
HENDERSON COUNTY REGISTRY

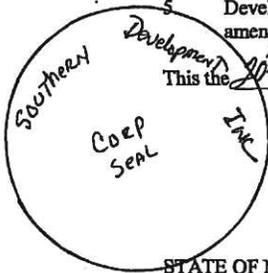
Know all men by these presents that Southern Development, Inc., a North Carolina Corporation, does hereby covenant and agree with all other persons, firm or corporation now owning or hereafter acquiring any subdivision lots as shown and described on the subdivision plat of Rock Creek Subdivision, Phase I, Plat Slide 4062, Henderson County Registry are hereby subjected to the following restrictions as to the use thereof:

1. The restrictive covenants as set forth and enumerated in Deed Book 1073 at Page 270 are hereby adopted in their entirety as restrictions for this subdivision excepting Exhibit B of said Deed Book 1073 at page 279.
2. In accordance with the Storm Water Permit issued by the State of North Carolina, the subject property is hereby subjected to the following additional restrictions:
  - a. The maximum allowable built-upon area per lot is 12 percent. This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina, driveways, and parking areas, but does not include raised, open wood decking, or the water surface of swimming pools.
  - b. The covenants pertaining to stormwater regulations may not be changed or deleted without concurrence of the Division of Water Quality.
  - c. Filling in, piping or altering any 3:1 vegetated conveyances (ditches, swales, etc.) associated with the development except for average driveway crossings, is prohibited by any person.
  - d. Filling in, piping or altering any designated 5:1 curb outlet swale associated with the development is prohibited by any persons.
  - e. A 30' vegetated buffer must be maintained between all built-upon area and the Mean High Water line of surface waters.
  - f. All roof drains shall terminate at least 30' from the Mean High Water mark.
  - g. No more than 9% of any lot, including that portion of the right-of-way between the edge of pavement and the front lot line, shall be covered by impervious structures including asphalt, gravel, concrete, brick, stone, slate or similar material but not including wood decking or the surface of swimming pools. This covenant is intended to insure continued compliance with the stormwater permit issued by the State of North

→ *Edkins*

North Carolina. The covenant may not be changed or deleted without consent of the State.

- h. No one may fill in, pipe, or alter any roadside swale except as necessary to provide a minimum driveway crossing.
- 3. Developer reserves the right in each instance to add additional restrictive covenants in respect to lands conveyed in the future by or to the Developer and to amend these covenants and restrictions from time to time, but such amendment shall not at any time alter the rights which shall have already been vested in any person prior to such amendments.
- 4. Should any covenant, restriction, article, paragraph, subparagraph, sentence, clause, phrase or term herein contained be declared to be void, invalid, illegal or unenforceable, for any reason whatsoever, by the parties hereto and the subject matter hereof, such judgment shall in no way affect any other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.
- 5. Developer, its Successors, Heirs, and Assigns, shall have the exclusive right to amend these Covenants and Restrictions for all lands owned by the Developer.



This the 20th day of February, 2002.

Mark R Searcy  
 Southern Development, Inc.  
 Mr. Mark Searcy, President  
 Route 1, Box 264A  
 Zirconia, North Carolina 28790

STATE OF NORTH CAROLINA COUNTY OF HENDERSON  
 This the 20th day of February, 2002, personally came before me, the undersigned Notary Public in and for the aforesaid County and State, Mark Searcy, who, being duly sworn, says that he is President of Southern Development, Inc. and that the seal affixed to the foregoing instrument in writing is the corporate seal of said Corporation, and that said writing was signed by him in behalf of said Corporation by its authority duly given. And the said Mark Searcy acknowledged the said writing to be the act and deed of said Corporation.

Yolanda Mator  
 Notary Public

My Commission Expires:  
 February 3, 2007  
March 2, 2002



North Carolina, Henderson County The foregoing certificate(s) of Yolanda E. Mator  
 Notary Public (~~Notary Public~~) ~~is/are~~ certified to be correct, this instrument presented for registration and recorded in this office this 20 day of March 2002  
 at 2:16 in book 1093, page 616  
Nedra W. Males By: Patsy B. Higgins  
 Register of Deeds (Assistant Deputy)

31093 P 618

STATE OF NORTH CAROLINA  
COUNTY OF HENDERSON

AMENDMENT TO RESTRICTIVE  
COVENANTS FOR ROCK CREEK  
SUBDIVISION - PHASE I  
PLAT SLIDE 4062, HENDERSON  
COUNTY REGISTRY

Southern Development, Inc., a North Carolina Corporation, does hereby covenant and agree with all other persons, firms or corporations now owning or hereafter acquiring any subdivision lot or lots as shown and described on the subdivision plat of Rock Creek Subdivision, Phase I, Plat Slide 4062, Henderson County Registry, are hereby subjected to the following:

- 1) Southern Development Inc., its successors or assigns, as developer of said Rock Creek Subdivision, Phase I, Plat Slide 4062, Henderson County Registry, shall be responsible for the upkeep and maintenance of all the private subdivision roads as shown on the above referenced subdivision Plat Slide 4062, Henderson County Registry, until such time as a majority of the said lots have been sold to 3<sup>rd</sup> party purchasers.
- 2) When a majority of said lots have been sold, then the said Developer will convey said subdivision private roads to the subdivision Homeowner's association, when formed, which will then provide all the upkeep and maintenance for said subdivision roads.
- 3) Each owner(s) of a lot or lots in said subdivision will automatically become a member of the Homeowner's association for this subdivision when formed by the developer, and said membership shall be mandatory. The Homeowner's Association when formed shall have full power to assess for subdivision road upkeep and maintenance.

This the 26 day of February, 2002.

Southern Development  
 Corp Searcy  
 Inc.

Mark Searcy President  
 Southern Development, Inc.  
 Mr. Mark Searcy, President  
 Route 1, Box 264A  
 Zirconia, North Carolina 28790

State of North Carolina, County of Henderson

This the 26 day of February, 2002, personally came before me, the undersigned Notary Public, in and for the aforesaid County and State, Mark Searcy, who, being duly sworn, says that he is the President of Southern Development, Inc., and that the seal affixed to the foregoing instrument in writing is the corporate seal of said Corporation, and that said writing was signed by him in behalf of said Corporation by its authority duly given. And the said Mark Searcy acknowledged the said writing to be the act and deed of said Corporation.

My Commission Expires:  
February 3, 2007

Don H. Elkins  
 Notary Public



North Carolina, Henderson County The foregoing certificate(s) of

Don H. Elkins  
 Notary Public (Notaries Public) is/are certified to be correct, this instrument presented for registration and recorded in this office this 20 day of March 2002 at 2:17 p.m. in book 1093, page 618

Nedra W. Males By: Patricia B. Hopkins  
 Register of Deeds (Assistant Deputy)

→ Elkins

31168 P448

North Carolina, Henderson County The foregoing certificate(s) of  
LAYLA A ROGERS  
Notary Public (~~Notary Public~~) is/are certified to be correct, this  
instrument presented for registration and recorded in this office  
this 14 day of JAN, 2004  
at 9:35am in book 1168, page 448  
Nedra W. Nolan Willa Blinn  
Register of Deeds (Assistant Deputy)

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

*Return to Mullinax*

ADDENDUM AND ADDITION TO THE RESTRICTIVE  
COVENANTS FOR ROCK CREEK SUBDIVISION

This Addendum is made and entered into on this the 9<sup>th</sup> day of January, 2004 by  
Mark Searcy and wife, Sharon Searcy who are the developers and owners of ROCK  
CREEK SUBDIVISION and who agree as follows:

1. Mark Searcy and wife, Sharon Searcy became the owners of ROCK CREEK SUBDIVISION on July 7, 2003 by virtue of deed recorded in Deed Book 1149 at Page 482, Henderson County Registry. The Covenants for ROCK CREEK SUBDIVISION were recorded in Deed Book 1073 at Page 268, Registry for Henderson County, North Carolina and the Covenants were subsequently Adopted and Amended by Document recorded in Deed Book 1090 at Page 617, document recorded in Deed Book 1093 at Page 616 and document recorded in Deed Book 1093 at Page 618 all of the Henderson County Registry. The Covenants, (Item 36) provide that the developer, its successor, heirs, and assigns shall have the exclusive right to amend the covenants and restrictions for all land owned by the developer.
2. The developer does by this document amend the covenants to provide that the covenants shall apply to all subdivision lots within ROCK CREEK SUBDIVISION including those lots shown as Phase II of ROCK CREEK SUBDIVISION as recorded in Slide 4358 in the Records of Plats, of the Henderson County, North Carolina Registry with reference to same being made in aid of these descriptions. The developer does further agree that should additional subdivision plats for ROCK CREEK SUBDIVISION be recorded or amended those lots shall also be SUBJECT TO restrictions for ROCK CREEK SUBDIVISION as referenced above and as may hereafter be lawfully amended.
3. The developer does further acknowledge and agree by this instrument that all property owners within ROCK CREEK SUBDIVISION, their heirs,

successors, and assigns, shall have the non-exclusive right to utilize for ingress, egress, and regress all of those roadways as are shown on the plats of ROCK CREEK SUBDIVISION, PHASE I and PHASE II to include that sixty (60) foot road right of way for ingress, egress, and regress conveyed to developer by the Trustees of Cedar Springs Baptist Church by document recorded in Deed Book 1108 at Page 40 of the Record of the Henderson County Registry with reference to same being made in aid of this description.

In Witness Whereof the undersigned Mark Searcy and Sharon Searcy as developer of ROCK CREEK SUBDIVISION have executed this instrument on the day and year referenced above.

*Mark Searcy*  
\_\_\_\_\_  
MARK SEARCY, developer

*Sharon Searcy*  
\_\_\_\_\_  
SHARON SEARCY, developer

JANUARY 9, 2004

North Carolina, Henderson County  
I, Layla A. Rogers a Notary Public for the said County and State, certify that Mark Searcy and Sharon Searcy, developer, personally appeared before me this day and acknowledge the due execution of the foregoing instrument.

My Commission Expires:

7-31-08

*Layla A. Rogers*  
\_\_\_\_\_  
Notary Public

