

AN ORDINANCE AMENDING CITY OF CHESTERFIELD ORDINANCE NUMBER 879, PROVIDING FOR A FIRST AMENDMENT TO INDENTURE OF TRUST AND RESTRICTIONS OF WILDHORSE SPRINGS SUBDIVISION; LOCATED ON THE NORTH SIDE OF WILD HORSE CREEK ROAD AND WILSON ROAD.

WHEREAS, an "R-2" 15,000 square foot Residence District with a Planned Environment Unit, located on the north side of Wild Horse Creek and Wilson Roads, was approved in response to P.Z. 3&4-93, via City of Chesterfield Ordinance Number 787 on May 17, 1993; and,

WHEREAS, the record plat, trust indenture, warranty deed and escrow agreements for Wildhorse Springs Subdivision, located on the north side of Wild Horse Creek and Wilson Roads, were approved via City of Chesterfield Ordinance Number 879 on February 7, 1994; and,

WHEREAS, the Trustees of Wildhorse Springs Subdivision, seeking a means by which the subdivision may sell an additional piece of common ground to be developed into a single-family dwelling, have requested an amendment to City of Chesterfield Ordinance Number 879; and,

WHEREAS, the Planning Commission having considered said request, recommended approval and,

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. City of Chesterfield Ordinance Number 879 is hereby amended to provide for adoption of a First Amendment to Indenture of Trust and Restrictions of Wildhorse Springs as set out in Attachment "A" and Exhibit 6, which is attached hereto and made a part hereof.

Section 2. In all other respects, the original ordinance that had been passed by the City of Chesterfield City Council as they relate to Wildhorse Springs Subdivision are to remain in full force, except as amended.

Section 3. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 8th day of OCTOBER, 2003.


MAYOR

ATTEST:


CITY CLERK

ATTACHMENT A

Section 1 of City of Chesterfield Ordinance Number 879 shall be amended to read as follows:

Section 1. The Record Plat, Trust Indenture, **First Amendment to Indenture of Trust and Restrictions of Wildhorse Springs**, Warranty Deed and Escrow Agreements for Wildhorse Springs, which are a part hereof and attached hereto as Exhibits 1,2,3,4,5, and **6** are hereby approved; provided, however, that nothing in this ordinance shall be construed or interpreted as an acceptance of the public utilities or public easements which are dedicated on the Record Plat.

FIRST AMENDMENT TO
 INDENTURE OF TRUST AND RESTRICTIONS
 OF
 WILDHORSE SPRINGS

This FIRST AMENDMENT TO INDENTURE OF TRUST AND RESTRICTIONS OF WILDHORSE SPRINGS (the "Amendment") is made and entered into as this 2nd day of April, 1997, by SCOTT H. MALIN, DAVID K. GARVER and WILLIAM J. PERRY, all of St. Louis County, Missouri (the "TRUSTEES").

W I T N E S S E T H:

WHEREAS, the Trustees are the currently serving "Trustees" under that certain INDENTURE OF TRUST AND RESTRICTIONS OF WILDHORSE SPRINGS (the "Trust Indenture") dated February 8, 1994, recorded on February 12, 1994, in Book 10094 at Pages 610 to 630 of the St. Louis County Recorder's Office, which Trust Indenture establishes the "Subdivision" located in the City of Chesterfield, St. Louis County, Missouri, known as WILDHORSE SPRINGS on that certain real estate situated in the St. Louis County, Missouri, being more particularly described in EXHIBIT A annexed hereto and by reference made a part hereof; and

WHEREAS, the Trustees and the owners of the lots in the Subdivision desire to amend the Trust Indenture as hereinafter set forth; and

WHEREAS, pursuant to Section 15 of Article VI of the Trust Indenture, the Trust Indenture may be amended upon the written consent of two-thirds (2/3rds) of all of the owners of lots or parcels within the Subdivision; and

WHEREAS, this Amendment has been approved in writing by at least two-thirds (2/3rds) of all of the owners of lots or parcels within the Subdivision; and

WHEREAS, this Amendment has been approved by the City of Chesterfield Department of Planning.

NOW, THEREFORE, for and in consideration of the premises and the sum of One Dollar (\$1.00) in hand paid by each party to the others, the receipt and sufficiency of which each party hereby acknowledges, the Trustees hereby agree, provide and covenant, as follows:

A. Section 14 of Article IV of Trust Indenture. Article IV of the Trust Indenture hereby is amended by adding thereto the following new Section, to be denominated Section 14 of Article IV of the Trust Indenture, to-wit:

"14. Conveyance of Certain Common Ground. (a) In the event that any of the Common Ground of the Subdivision is hereafter zoned or rezoned by the City of Chesterfield, Missouri, and/o by other applicable governmental authority(ies) havin

jurisdiction, to permit development of a single-family detached residential home on such Common Ground (any such Common Ground so zoned or rezoned being hereinafter referred to as "Residential Common Ground"), then the Trustees shall have the right, power and authority to sell, convey and transfer any such Residential Common Ground of the Subdivision to third-party(ies), upon such terms and conditions as the Trustees determine.

(b) Effective upon such conveyance of any such Residential Common Ground to a third-party, (i) said Residential Common Ground shall cease to be and shall no longer be Common Ground under the Trust Indenture for all purposes of the Trust Indenture, but said Residential Common Ground shall remain subject to the Trust Indenture, and thereafter shall remain subject to the Trust Indenture the same as if said Residential Common Ground were a platted lot; (ii) said Residential Common Ground so conveyed to a third-party thence shall be deemed to be a lot in the Subdivision, subject to assessments under the Trust Indenture prorated from the date of such conveyance to a third-party, and also subject to all of the terms, conditions, restrictions, provisions, rights, authorities, powers, duties, obligations and agreements of the Trust Indenture the same as if said Residential Common Ground were a platted lot; (iii) the Trustees' rights, authorities, powers, duties, obligations and agreements with respect to Common Ground under the Trust Indenture shall terminate and lapse with respect to any such Residential Common Ground which, by reason of the conveyance thereof to a third-party, has ceased to be Common Ground under the Trust Indenture; and (iv) the rights, authorities, powers, duties, obligations and agreements of the other lot owners with respect to Common Ground under the Trust Indenture shall terminate and lapse with respect to any such Residential Common Ground which, by reason of the conveyance thereof to a third-party, has ceased to be Common Ground under the Trust Indenture.

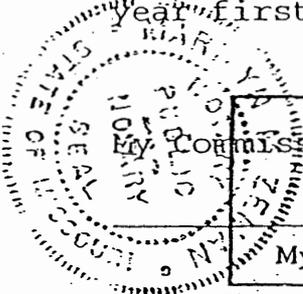
(c) The Trustees hereby are authorized and empowered to sell and convey applicable Residential Common Ground of the Subdivision to Kelly Homes, Inc., pursuant to and in accordance with the terms and conditions of that certain Sales Contract dated December 20, 1996, by and between the Trustees as seller, and said Kelly Homes, Inc., as purchaser."

B. Miscellaneous. The Trustees certify that, pursuant to the written ballots of the owners of lots or parcels within the Subdivision, this Amendment has been consented to and approved in writing by at least two-thirds (2/3rds) of all of the owners of lots or parcels within the Subdivision. All capitalized terms herein defined shall have the meanings ascribed to such terms in the Trust Indenture. As amended herein and hereby, the Trust Indenture is confirmed and ratified, and is in full force and effect as of the date hereof. This instrument shall be governed and construed in accordance with the laws of the State of Missouri. This instrument shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors.

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

On this 2nd day of April, 1997, before me personally appeared DAVID K. GARVER, to me known to be the person described in and who executed the foregoing instrument as Trustee, and acknowledged that he executed the same as his free act and deed in said capacity.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.



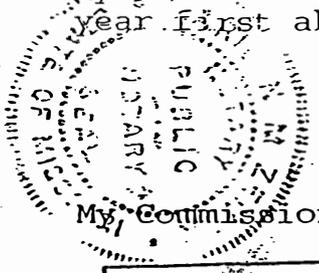
MARILYN M. ZEMAN
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
My Commission Expires: Jan. 13, 2001

Marilyn M. Zeman
Notary Public

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

On this 2nd day of April, 1997, before me personally appeared WILLIAM J. PERRY, to me known to be the person described in and who executed the foregoing instrument as Trustee, and acknowledged that he executed the same as his free act and deed in said capacity.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.



MARILYN M. ZEMAN
Notary Public - Notary Seal
STATE OF MISSOURI
St. Louis County
My Commission Expires: Jan. 13, 2001

Marilyn M. Zeman
Notary Public

My Commission Expires:

AN ORDINANCE PROVIDING FOR THE APPROVAL OF THE RECORD PLAT, TRUST INDENTURE, WARRANTY DEED AND ESCROW AGREEMENTS FOR WILDHORSE SPRINGS, A SUBDIVISION LOCATED ON THE NORTH SIDE OF WILD HORSE CREEK ROAD, EAST OF THE INTERSECTION OF WILD HORSE CREEK ROAD AND WILSON ROAD.

WHEREAS, Zavrados Engineering, has submitted for review and approval the Record Plat, Trust Indenture, Warranty Deed and Escrow Agreements for Wildhorse Springs; and,

WHEREAS, the Petitioner has submitted a Subdivision Record Plat consisting of 30 lots with associated common ground on 12.6 acres; and,

WHEREAS, the Planning Commission having reviewed the same and has recommended approval thereof.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The Record Plat, Trust Indenture, Warranty Deed and Escrow Agreements for Wildhorse Springs, which are a part hereof and attached hereto as Exhibits 1, 2, 3, 4, and 5 are hereby approved; provided, however, that nothing in this ordinance shall be construed or interpreted as an acceptance of the public utilities or public easements which are dedicated on the Record Plat.

Section 2. The Mayor and City Clerk are authorized and directed to evidence the approval of said Record Plat, Trust Indenture, Warranty Deed and Escrow Agreements by affixing their signatures and the official seal of the City of Chesterfield as required on said documents.

Section 3. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 7TH day of FEBRUARY, 1994.

Jack Leonard
MAYOR

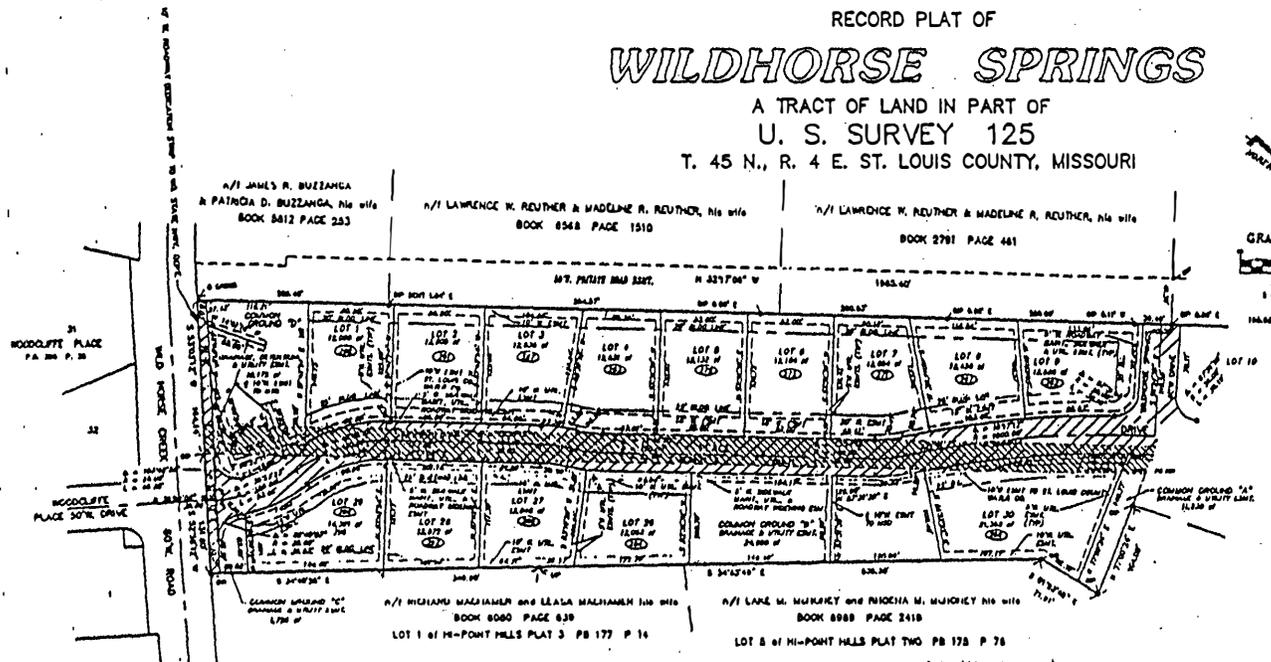
ATTEST:

Muriel R. DeMay
CITY CLERK

RECORD PLAT OF

WILDHORSE SPRINGS

A TRACT OF LAND IN PART OF U. S. SURVEY 125 T. 45 N., R. 4 E. ST. LOUIS COUNTY, MISSOURI



This is to certify that on the month of August, 1953 by order of D.C. Development Company... The undersigned owners of the tract of land herein... The undersigned deprecates the easements... Resubmits Plans 270, 28, 29, 30, 31 and 32...

The common ground shown on this plat has been conveyed heretofore... The division easement as shown on this plat is hereby given... The easement is subject to the easements... It is hereby certified that all existing easements... D.C. Development Company, David L. Cunningham, President; Kelly Residential Group, Inc., Marc Kelly, President.

State of Missouri } County of } On this _____ day of _____ 1954 before me appeared David L. Cunningham to me known and who being by me duly sworn and my oath as to the correctness of the contents of the foregoing instrument... My commission expires _____ History Public _____ City Clerk of the City of Chesterfield, Missouri do hereby certify that the plat of 'WILDHORSE SPRINGS' was approved by the City Council of the City of Chesterfield, Missouri, by resolution _____ on the _____ day of _____ 1954.

The undersigned owner and legal holder of notes secured by Deed of Trust recorded in Book _____ and Page _____ of the St. _____ County Recorder of Deeds Office have in and approve in every detail this plat of 'WILDHORSE SPRINGS'.

By WITNESS WITNESSES, I have signed and sealed the foregoing this _____ day of _____ 1954. State of Missouri } County of } On this _____ day of _____ 1954, before me appeared _____ to me known and who being by me duly sworn and my oath as to the correctness of the contents of the foregoing instrument... My commission expires _____ History Public _____

The undersigned owner and legal holder of notes secured by Deed of Trust recorded in Book _____ and Page _____ of the St. _____ County Recorder of Deeds Office have in and approve in every detail this plat of 'WILDHORSE SPRINGS'.

By WITNESS WITNESSES, I have signed and sealed the foregoing this _____ day of _____ 1954. State of Missouri } County of } On this _____ day of _____ 1954, before me appeared _____ to me known and who being by me duly sworn and my oath as to the correctness of the contents of the foregoing instrument... My commission expires _____ History Public _____

The undersigned owner and legal holder of notes secured by Deed of Trust recorded in Book _____ and Page _____ of the St. _____ County Recorder of Deeds Office have in and approve in every detail this plat of 'WILDHORSE SPRINGS'.

By WITNESS WITNESSES, I have signed and sealed the foregoing this _____ day of _____ 1954. State of Missouri } County of } On this _____ day of _____ 1954, before me appeared _____ to me known and who being by me duly sworn and my oath as to the correctness of the contents of the foregoing instrument... My commission expires _____ History Public _____

Table with columns for dates and names. Includes 'Zavradinos Engineering and Surveying Engineers Surveyors 20445 Old Highway 94 St. Charles MO 63305'.

City of Chesterfield

January 28, 1994

Mayor Jack Leonard and City Council Members
City of Chesterfield
922 Roosevelt Parkway
Chesterfield, MO 63017

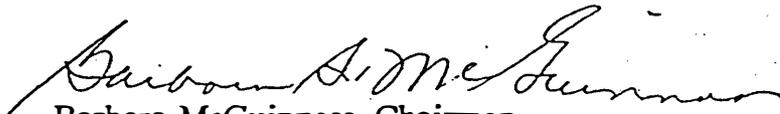
RE: Wildhorse Springs Subdivision; Subdivision Record Plat; north side of Wild Horse Creek Road, east of the intersection of Wild Horse Creek Road and Wilson Road.

Dear Mayor Leonard and Council Members:

At its meeting on January 24, 1994, the City of Chesterfield Planning Commission considered the above referenced request. By a vote of 9 to 0, the Planning Commission approved the Subdivision Record Plat for the thirty (30) residential lots within Wildhorse Springs subdivision, in accordance with the recommendation of the Department of Planning.

Attached for your review is a copy of the Department report concerning this matter.

Sincerely,


Barbara McGuinness, Chairman
Chesterfield Planning Commission

BM/JH/dc

Attachment

cc: Michael G. Herring, City Administrator
Jerry Duepner, Director of Planning
David Cunningham, DLC Development, P.O. Box 6247, Chesterfield/63006

cc-whs.j28

City of Chesterfield

January 24, 1994

Planning Commission
City of Chesterfield
922 Roosevelt Parkway
Chesterfield, MO 63017

RE: Wildhorse Springs Subdivision; Planned Environment Unit (PEU) in the "R-2" 15,000 Square Foot Residence District Subdivision Record Plat; north side of Wild Horse Creek Road, east of the intersection of Wild Horse Creek Road and Wilson Road.

Dear Commission Members:

Zavradinos Engineering has submitted for Planning Commission consideration a subdivision Record Plat for a 12.6 acre tract of land located on the north side of Wild Horse Creek Road, east of the intersection of Wild Horse Creek Road and Wilson Road. Upon review, the Department submits the following report.

The Chesterfield City Council, on May 17, 1993, approved, via Ordinance #787, a change in zoning from "NU" District to "R-2" Residence District with a Planned Environment Unit (PEU) for Wildhorse Springs Subdivision. The approved conditions provide for a maximum of thirty (30) residential lots, a minimum lot size of 12,000 square feet, with eight (8) foot side yards and twenty-five (25) foot front yards associated with the reduction of the right-of-width of Woodcliffe Place to forty (40) feet.

Access to the development is via one (1) curb cut onto Wild Horse Creek Road. Two (2) stub streets are provided to the properties to the west, while an area in Common Ground "B" has been reserved for right-of-way for possible development which could occur should the Hi Point Subdivision be further subdivided. In addition to Common Ground "B", three (3) additional parcels of common ground are provided, two (2) of which act as detention areas for stormwater. Additionally, a thirty (30) foot wide common ground strip has been located east of Woodcliffe Place, adjoining Wild Horse Creek Road.

The Department would note the existence of a driveway access easement from Wild Horse Creek Road to the neighboring Layton lot, north and east of the subject site. At this time, the parties involved have not reached agreement on vacating this easement, which is

DOUGLAS R. BEACH
JOSEPH R. BURCKE
MARK A. WELFERS
DAVID G. WALTRIP
ROBERT A. HUTTON, JR.
DEBORAH C.M. HENRY
ROBERT M. HEGGIE

December 28, 1993

OF COUNSEL
MARK D. MITTLEMA
JOSEPH R. NIEMAN
JAMES S. MOONEY
*ADMITTED IN ILLINOIS
**ADMITTED IN NEW YORK
AND FLORIDA

Jerry Duepner, Director
Department of Planning/Economic Development
City of Chesterfield
922 Roosevelt Parkway
Chesterfield, Missouri 63017

FAXED
12-30-93

Re: Wildhorse Springs Estates

Dear Jerry:

I have received additional communications from the attorney for DLC Development Company. This would follow up with the letter that I sent to you earlier with regard to the City's need to make a determination of whether the current DLC proposal is appropriate and then acting at this stage.

The letter from the attorney also included a copy of a lawsuit which has been filed by the Laytons seeking an injunction. I think this is the appropriate way for them to handle the problem and this bolsters my belief that the City must simply take action in accordance with the Department's recommendation of the current plans as proposed by DLC regardless of whether this can be resolved at this juncture or not. In the letter sent to Mr. Klaman, it appears to be that DLC has agreed to the following:

1. To deed to the Laytons that portion of the property over which DLC proposes to connect the Layton property to their currently proposed road.
2. The road would be an 18 foot asphalt drive and would include a lateral sanitary hook up to the Layton property.
3. They have agreed to advance the funds to grade and finish the parcel so that the road and the sanitary sewer will be put in place.
4. They have agreed to advance the sums to complete the grading and asphaltting of the parking area on the Laytons currently property.

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

222 SOUTH CENTRAL AVENUE, SUITE 900
ST. LOUIS, MISSOURI 63105-3509
(314) 863-8484
TELECOPIER: (314) 863-5312

DOUGLAS R. BEACH
JOSEPH R. BURCKE
MARK A. HELFERS-
DAVID G. WALTRIP-
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DEBORAH C.M. HENRY
ROBERT M. HEGGIE-

OF COUNSEL

MARK D. MITTLEMAN
JOSEPH R. NIEMANN
JAMES S. MOONEY

- ADMITTED IN ILLINOIS
-- ADMITTED IN NEW YORK
AND FLORIDA

December 30, 1993

Jerry Duepner, Director
Department of Planning/Economic Development
City of Chesterfield
922 Roosevelt Parkway
Chesterfield, Missouri 63017

Re: Wildhorse Springs

Dear Jerry:

Thank you for your latest correspondence on the Wildhorse Springs/Layton problem. I am greatly distressed that we are being embroiled in the middle of this discussion process when it is a legal matter between the parties and not between the City.

As you and I have discussed, we have attempted to take a very middle of the road stand to allow the development to go forward and not prohibit their progress while at the same time being aware of the Layton interests. The Laytons have a legal right to access but that would not prohibit us from approving the development or allowing the development of the subdivision to go forward. As I see it, there is a legal issue between the Laytons and the developer, not the City.

In my opinion, we are at the administrative step of handling the subdivision. If the proposal which is submitted by DLC is in accordance with a plan that the Department would approve, I think we have reached a point now where we must approve the plan and the Site Plan Committee must go forward. We must make a decision that we either approve or disapprove at the next meeting. We are no longer in the legislative portion which is whether this is a good idea or not.

Accordingly, I would ask that at the next meeting the Department review the site plan and the issue and decide either yes or no in terms of your recommendations. If it is a yes recommendation, then I will be indicating to the Site Plan Committee and the Planning Commission that they will need to approve this plan so that it can go forward. At that point, the Laytons and DLC will need to do whatever they need to do between themselves.

Very truly yours,

Douglas R. Beach

DRB:klb

cc: Michael Herring, City Administrator

City of Chesterfield

January 28, 1994

Mayor Jack Leonard and City Council Members
City of Chesterfield
922 Roosevelt Parkway
Chesterfield, MO 63017

RE: Wildhorse Springs Subdivision; Subdivision Record Plat; north side of Wild Horse
Creek Road, east of the intersection of Wild Horse Creek Road and Wilson Road.

Dear Mayor Leonard and Council Members:

In conjunction with the Record Plat for Wildhorse Springs Subdivision, the Department of
Planning also submits for City Council action the Trust Indentures and Warranty Deed and
Escrow Agreements.

Sincerely,

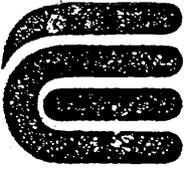


Jerry Duepner, Director
Department of Planning

JD/JH/dc

cc: Michael G. Herring, City Administrator
William C. Hawn, Director of Public Works/City Engineer
David Cunningham, DLC Development, P.O. Box 6247, Chesterfield/63006

cc-whs2 j28



City of Chesterfield

January 28, 1994

Mayor Jack Leonard and City Council Members
City of Chesterfield
922 Roosevelt Parkway
Chesterfield, MO 63017

RE: Trust Indenture and Warranty Deed for Wildhorse Springs Subdivision; north side of Wild Horse Creek Road, east of the intersection of Wild Horse Creek Road and Wilson Road.

Dear Mayor Leonard and Council Members:

The Department of Planning has reviewed the Trust Indenture and Warranty Deed for Wildhorse Springs Subdivision. The Department, with concurrence from the City Attorney, find the Trust Indenture and Warranty Deed to be in accord with Section 1005.095 of the City of Chesterfield Subdivision Ordinance.

Sincerely,



Jerry Duepner, Director
Department of Planning

JD/JH/dc

Attachment

cc: Michael G. Herring, City Administrator
William C. Hawn, Director of Public Works/City Engineer
David Cunningham, DLC Development, P.O. Box 6247, Chesterfield/63006

cc-whs4.j28

**INDENTURE OF TRUST AND RESTRICTIONS
OF
WILDHORSE SPRINGS**

THIS INDENTURE OF TRUST AND RESTRICTIONS, made and entered into this ____ day of _____, 1993 by and between DLC DEVELOPMENT CO., a Missouri corporation, Party of the First Part (hereinafter sometimes referred to as "Owner"), and DAVID L. CUNNINGHAM, MARK KELLY and MATT KELLY, all of the County of St. Louis, State of Missouri, Parties of the Second Part (hereinafter sometimes collectively referred to as "Trustees").

W I T N E S S E T H T H A T:

WHEREAS, the City of Chesterfield, Missouri has approved, by ordinance, a Site Development Plan and Subdivision Plat for Wildhorse Springs, a subdivision in Chesterfield, Missouri (the "Subdivision"), the legal description of which is attached as Exhibit A hereto, so that the plat may now be recorded; and

WHEREAS, common land, cul-de-sac islands and street lights and other common areas have been reserved in Wildhorse Springs; and

WHEREAS, Party of the First Part will adopt this Indenture of Trust and Restrictions for all subsequent plats, if any, of Wildhorse Springs; and

WHEREAS, there may be designated, established and recited on the recorded plat of Wildhorse Springs certain streets, fire lanes, common land, easements, detention areas and any other non-public items which are for the exclusive use and benefit of the residents of Wildhorse Springs except those streets or easements which are or may hereafter be dedicated to public bodies and agencies, and/or which have been provided for the purpose of constructing, maintaining and operating sewers, pipes, poles, wires, storm water drainage and detention areas and other facilities and public utilities for the use and benefit of the residents of Wildhorse Springs; and

WHEREAS, it is the purpose and intention of this Indenture to preserve said tract of land as a restricted neighborhood and to protect the same against certain uses by the adoption of a sound urban

environment plan and scheme of restrictions, and to apply that plan of restrictions to all of said land described in Exhibit A, and mutually to benefit, guard and restrict future residents of Wildhorse Springs and to foster their health, welfare and safety; and

WHEREAS, all reservations, limitations, conditions, easements and covenants herein contained, any and all of which are sometimes hereafter termed "restrictions", are jointly or severally for the benefit of all persons who may purchase, hold or reside upon any of the lots covered by this instrument;

NOW, THEREFORE, in consideration of the premises and of the mutual promises, covenants and agreements made by the parties hereto, each to the other, the parties hereto covenant and agree to and with each other, collectively and individually, for themselves, their heirs, successors and assigns, and for and upon behalf of all persons who may hereafter derive title to or otherwise hold through them, together with their heirs, successors, or assigns, any of the lots, and parcels of land in any plat of Wildhorse Springs, all as described herein as follows, to-wit;

I. CONVEYANCE TO TRUSTEES

WHEREAS, First Party shall by General Warranty Deed executed simultaneously herewith convey to the Trustees herein designated in perpetuity the following described real estate, situated in the County of St. Louis, Missouri:

The common area as marked on the record plat of Wildhorse Springs, according to the plat thereof recorded on the _____ day of _____, 1993, as Daily No. ____ of the St. Louis County Recorder's Office.

This trust shall continue for the duration of Wildhorse Springs, a Subdivision to be developed under the Ordinances of the City of Chesterfield, Missouri, it being the intent of the First Party that the common properties held hereunder be and remain used and maintained for the sole benefit and use and enjoyment of all unit owners and residents so long as all or part of Wildhorse Springs shall be developed for residential purposes in substantially the form presently anticipated.

Upon vacation of the Subdivision, title to the common land shall thereupon be conveyed by the then Trustees to the then lot owners of Wildhorse Springs as tenants in common. The rights of the

tenants in common shall only be exercisable appurtenant to and in conjunction with their lot ownership. Any conveyance or change in ownership of any lot shall convey with it ownership in the common property, and no interest in the common land shall be conveyed by a lot owner except in conjunction with the sale of a lot. The sale of any lot shall carry with it all the incidents of ownership of the common property although such is not expressly mentioned in the deed; provided, however, that no right or power conferred upon the trustees shall be abrogated.

II. RESERVATION OF EXPENDITURES

First Party reserves the right to receive and retain any money consideration which may be refunded or allowed on account of any sums previously expended or subsequently provided by them for sewers, gas, pipes, conduits, poles, wires, street lights, roads, streets, recording fees, subdivision fees, consultation fees, or fees, charges and expenses incurred with respect to the creation of any subdivision in the tract described in Exhibit A attached hereto and made a part hereof.

III. DESIGNATION AND SELECTION OF TRUSTEES

1. Initial Trustees. The initial Trustees shall be David L. Cunningham, Mark Kelly and Matt Kelly, designated herein as Trustees, who, by their signatures to this instrument, consent to serve in such capacity, subject to the terms and provisions of this paragraph. Whenever any of the said initial Trustees resign, refuses to act, becomes disabled or dies, the remaining Trustees or Trustee shall appoint a successor or successors until such time an election of trustees is required as hereinafter set forth.

2. Successor Trustees. One-Third ($\frac{1}{3}$) of the Trustees shall be chosen by owners of the lots after fifty percent (50%) of the lots in Wildhorse Springs have been sold; two-thirds ($\frac{2}{3}$) of the Trustees shall be chosen by owners of the lots after ninety-five percent (95%) of all of such lots in Wildhorse Springs have been sold; (the first Trustee to be replaced shall be MATT KELLY, the second Trustee to be replaced shall be MARK KELLY) all of the Trustees shall be chosen by owners of the lots after all of such lots of Wildhorse Springs have been sold. For these purposes, a sale of improved lots to a professional residential builder shall not be considered as a sale. The election of a successor trustee shall

be called by notice of a meeting signed by the Owner, or the successor or assign of the Owner, sent by first class mail or personally served upon all of the record lot owners at least ten (10) days before the date of such meeting. This notice shall set forth the purpose of electing a trustee and the time and place of the meeting which shall be within St. Louis County. This meeting shall be held within sixty (60) days of the date when fifty percent (50%) of the lots have been sold and within sixty (60) days of the date when ninety-five percent (95%) of the lots have been sold. The successor trustees so elected shall serve until all of the lots have been sold.

When all of the lots have been sold a notice of meeting, signed by the Owner or the successor or assign of the Owner, shall be sent by first class mail or personally served upon all the record lot owners, at least ten (10) days before the date of such meeting. This notice shall set the date of the meeting within sixty (60) days of the time when all of the lots have been sold and such notice shall state that the purpose of the meeting is to elect three (3) trustees. The notice shall specify the time and place of meeting, which place shall be in St. Louis County, Missouri. At such meeting, or any adjournment thereof, the majority of the record owners attending such meeting, in person or by proxy, shall have the power to elect such Trustees to serve until their successors have been duly appointed or elected and qualified. After three (3) have been elected by lot, one shall serve for a term of one (1) year, one for a term of two (2) years and one for a term of tree (3) years, their successors being elected to terms of three (3) years each. Thereafter, one (1) trustee shall be elected each at an annual meeting called by the trustees on ten (10) days notice, said notice to be given as set out above and specifying the purpose of the meeting, the time and place of same, which shall be in St. Louis County. The annual meeting of lot owners shall be held on the same date each year following the date of the meeting at which the lot owners first elect all three (3) trustees or, if such date falls on Sunday or a holiday, on the first business day following.

At all meetings, each lot owner, whether attending in person or by proxy, shall be entitled to one vote for each full lot owned by him. The results of such elections shall be certified by the persons elected

Chairman and Secretary. A majority of the owners, whether they are by person or by proxy, shall constitute a quorum. Whenever there is a vacancy among the trustees, said vacancy shall be filled by a person designated by the remaining trustees, to serve the unexpired term of the trustee replaced.

Special meetings may be called by the trustees, with notices given in the same manner as hereinabove provided and any business relevant or pertinent to the affairs of any plat of Wildhorse Springs may be transacted at any meeting of owners in conformity with this procedure.

3. Replacement of Trustees. Where the provisions of this Trust Indenture cannot be fulfilled by reason of unfilled vacancies among the Trustees, the City Council of Chesterfield may upon the petition of any concerned resident or lot owner of Wildhorse Springs, appoint one or more Trustees to fill vacancies until such time as Trustees are elected in accordance with this Trust Indenture. Any person so appointed who is not a resident or owner of a lot in Wildhorse Springs shall be allowed a reasonable fee for his services by order of appointment, which fee shall be levied as a special assessment against the property of Wildhorse Springs, and which shall not be subject to any limitations on special assessments contained in the Trust Indenture or elsewhere.

IV. TRUSTEES' DUTIES AND POWERS

First Party hereby invests the Trustees and their successors with the rights, powers and authorities described in this instrument, and with the following rights, powers and authorities:

1. Common Ground. To acquire and hold the common land hereinabove described and conveyed to Trustees by separate instrument on even date herewith, which said common land is set forth and shown on the plat of Wildhorse Springs, all in accordance with and pursuant to the aforesaid ordinance of the Chesterfield City Council and in accordance with and subject to the provisions of this instrument, and to deal with any common lands so acquired under the provisions hereinafter set forth.

2. Easements. To exercise such control over the easements, (including the right to abandon an easement by properly recorded instrument when it is determined by the Trustees that abandonment is in the best interest of the Subdivision) streets and roads (except for those easements, streets and roads

which are now or hereafter may be dedicated to public bodies or agencies), fire lanes, entrance lights, street lights, common land, cul-de-sacs, (including restrictions on use of same), shrubbery, entrance markers and any other non-public items, storm water sewers and detention areas, sanitary sewer trunks and lateral lines, pipes, and disposal and treatment facilities as may be shown on the plat of Wildhorse Springs as is necessary to maintain, clear and clean (including removal of snow), repair, rebuild, supervise and insure the proper use of said easements, street lights, entrance markers, streets, fire lanes, detention areas, roads and any other non-public items by the necessary public utilities and others, including the right (to themselves and others to whom they may grant permission) to construct, operate and maintain on, under and over said easements and streets, sewers, pipes, poles, wires and other facilities and public utilities for services to the lots shown on said plat.

3. Control of Common Ground. To exercise control over and to maintain the common land and cul-de-sac islands shown on said plat for the full term of this Indenture; to repair, maintain and improve same with shrubbery, vegetation, decorations, and any and all other types of facilities in the interest of health, welfare, safety, morals, recreation, entertainment, education and general use of the owners of lots in Wildhorse Springs in conformity with applicable law; to prescribe by reasonable rules and regulations the terms and conditions of the use of common land, all for the benefit and use of the owners of the lots in Wildhorse Springs and according to the discretion of the Trustee, such rules and regulations to be applied equally to all of said owners.

4. Enforcement. To prevent, as Trustees of an express trust, an infringement and to compel the performance of any restrictions set out in this Indenture or established by law or ordinance, and to enforce any rules and regulations issued by said Trustees covering the use of said common land or any matters relating thereto. This provision is intended to be cumulative and not to restrict the right of any lot owner to proceed in his own behalf, but the power and authority herein granted to the Trustees is intended to be discretionary and not mandatory. In exercising this power and the power to collect assessments hereinafter granted, the Trustees shall have the right to engage the services of attorneys and

to recover costs and attorneys fees in a reasonable amount as part of any settlement or judgment obtained. Such attorney's fees shall become a lien on the lot of the owner that has violated the terms of this Indenture.

5. Dedication. To dedicate to public use any private streets constructed or to be constructed on the aforescribed tract of land, whenever such dedication would be accepted by a public agency, in the event the recorded plat does not provide for public use and maintenance.

6. Maintenance. To clean up rubbish and debris and remove grass and weeds from, and to trim, cut back, remove, replace and maintain trees, shrubbery and flowers upon any vacant or neglected lots or property, and the owners thereof may be charged with the reasonable expenses so incurred. The Trustees, their agents or employees shall not be deemed guilty or liable for any matter of trespass or any other act for any such injury, abatement, removal or planting.

7. Building Plans. To consider, approve or reject any and all plans and specifications for any and all buildings or structures, fences, detached buildings, outbuildings, accessory buildings, satellite dishes, antennas, swimming pools and tennis courts proposed for construction and erection on said lots, proposed additions to such buildings or alterations in the external appearance of buildings already constructed, it being provided that no buildings or structures, fences, detached buildings, outbuildings, accessory buildings, satellite dishes, antennas, swimming pools, tennis court or other structures may be erected or structurally altered on any of said lots unless there shall be first obtained the written approval of a majority of the Trustees to the plans and specifications therefor and to the grade proposed therefor. In the event the Trustees fail to approve or disapprove within thirty (30) days after building plans or other specifications for fences, swimming pools or tennis courts, accessory buildings, satellite dishes and other outbuildings have been submitted to them hereunder, approval will not be required and the related restrictions shall be deemed to have been fully complied with, **EXCEPT THAT** the First Party, its successors or assigns shall not be governed by the terms and provisions of this Paragraph and Paragraph 3 of Article VI as the same pertain to the main residential building and related buildings and structures

initially constructed by First Party and the First Party, its successors and assigns may construct any building or structure that it may desire so long as it complies with the ordinances of the City of Chesterfield, Missouri. Nothing herein shall be construed to permit the construction or placement of a satellite dish or antennae upon any lot of the Subdivision; the placement or construction of a satellite dish or antennae shall be at the sole discretion of the Trustees or in the event that a variance is obtained from the City Board of Adjustment.

In exercising the powers herein granted for approval or disapproval, the Trustees shall consider, among other things, the aesthetics of any proposed construction and its impact on the overall appearance of Wildhorse Springs.

The Trustees shall have the power to grant such variances as they deem necessary.

8. Deposits and Fees. To require a reasonable deposit in connection with the proposed erection of any building or structure, fence, detached building, outbuilding, swimming pool, tennis court or other structure on any of said lots in order to provide that upon completion of the project, all debris shall be removed from the site and from the adjacent lots, and that any and all damages to Subdivision improvements shall be repaired.

9. Insurance. To purchase and maintain in force, liability insurance, protecting Trustees and lot owners from any and all claims, for personal injuries and property damage arising from use of common areas and facilities; to insure the Trustees for claims against them arising out of decisions, acts or failure to act in their capacity as Trustees; to bond the Trustees, or any person or entity that handles funds of the lot owners, to insure against loss by misappropriation by such party.

10. Right to Contract. In exercising the rights, powers and privileges granted to them and in discharging the duties imposed upon them by the provisions of this Indenture, from time to time to enter into contracts, employ agents, servants and labor as they may deem necessary or advisable for the betterment and protection of the Subdivision and to provide for the health, safety and welfare of the lot

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9. Insurance. To purchase and maintain in force, liability insurance, protecting Trustees and lot owners from any and all claims, for personal injuries and property damage arising from use of common areas and facilities; to insure the Trustees for claims against them arising out of decisions, acts or failure to act in their capacity as Trustees; to bond the Trustees, or any person or entity that handles funds of the lot owners, to insure against loss by misappropriation by such party.

10. Right to Contract. In exercising the rights, powers and privileges granted to them and in discharging the duties imposed upon them by the provisions of this Indenture, from time to time to enter into contracts, employ agents, servants and labor as they may deem necessary or advisable for the betterment and protection of the Subdivision and to provide for the health, safety and welfare of the lot

owners and occupants and to defend suits brought against them individually or collectively in their capacity as Trustees.

11. Condemnation. In the event it shall become necessary for any public agency to acquire all or any part of the property herein conveyed to the Trustees, for any public purpose, the Trustees, during the period of trust, are hereby authorized to negotiate with such public agency for such acquisition and to execute instruments necessary for that purpose. Should acquisition by eminent domain become necessary, only the Trustees need be made parties, and in any event, the proceeds received shall be held by the Trustees for the benefit of those entitled to the use of the property, roads or easements.

12. Tie Walls. The Trustees shall maintain any tie walls constructed by Party of the First Part which are required by any governing authorities or municipalities.

13. Compliance. Notwithstanding any other condition herein, the Trustees shall make suitable provision for compliance with all subdivision and other ordinances, rules and regulations of the City of Chesterfield and any other municipality of which the property may become a part and for such purposes shall not be limited to the maximum assessment provided for herein. Specifically and not by way of limitation, the Trustees shall make provision for maintenance and operation of all easements, streets and roads (except those easements, streets and roads, which are now or hereafter dedicated to public agencies), fire lanes, cul-de-sac islands, detention areas, entrance lights, street lights, common land, shrubbery, entrance markers and any and all other non-public items including, but not limited to storm water sewers and detention areas, sanitary sewer trunks and all other items used by the owners of the lots in Wildhorse Springs.

V. ASSESSMENTS

The Trustees and their successors in office are hereby authorized, empowered and granted the right to make assessments upon and against lots in Wildhorse Springs for the purposes herein stated and at the rate hereinafter provided, and in the manner and subject to the provisions of this instrument.

1. (a) Annual Assessments. The Trustees and their successors in office are authorized to make uniform annual assessments in an amount not to exceed Five Hundred Dollars (\$500.00) per lot in each calendar year upon and against each lot in any plat of Wildhorse Springs upon which a residence has been constructed, for the purpose of carrying out any and all of the general duties and powers of the Trustees hereunder and for the further purpose of enabling the Trustees to defend and enforce restrictions adequately, to maintain streets, if required, common land, utilities, parking spaces, street lights, cul-de-sacs, detention areas, entrance gates and markers, and trees, and all other non-public items and to dispose of garbage or rubbish, to perform or execute any powers or duties provided for in this instrument, or otherwise properly to protect the health, safety and general welfare of the residents of Wildhorse Springs.

Commencing with the sixth annual assessment to be made hereunder, and each five years thereafter, the fixed annual assessment per lot shall not exceed the greater of (i) Five Hundred Dollars (\$500.00) or (ii) the number of dollars equivalent to the purchasing power of Five Hundred Dollars (\$500.00) for the month in which this Indenture is recorded. Such number of dollars shall be determined by dividing Five Hundred Dollars (\$500.00) by the index for said month of recording as computed in the Consumer Price Index made by the Bureau of Labor Statistics of the United States Department of Labor for St. Louis Urban Wage Earners and Clerical Workers, and then multiplying the quotient by the similar index number for the month in which the sixth annual assessment (and each succeeding sixth annual assessment thereafter) commences. If the Bureau of Labor Statistics shall change the base period in effect during the month in which this Indenture is recorded, the new index figure applicable as a divisor and multiplier shall be correspondingly changed. In the event such statistics shall no longer be available the most nearly similar statistics showing the purchasing power of United States Dollars shall be used instead, and the table to be used shall be designated by the Trustees.

Lots not improved with a residence one (1) year from the date of recording of the plat creating said lots shall be annually assessed at the same rate a lot improved with a residence is assessed; provided, however, the regular and special assessment provisions of this Indenture shall not apply to any vacant lot

owned by First Party, nor to any lot having thereon a building which lot and building are offered for sale by First Party, but if a residence retained by First Party is occupied, it shall be subject to the assessment provisions hereof.

The initial annual assessment against a lot shall be prorated from date of closing whereon the original home purchaser took title from First Party or in the event of a residence retained by First Party on the date the residence was first occupied. Thereafter the total annual assessment shall be due against the lot regardless of whether or not the residence is occupied.

In the event that Party of the First Part enters into an agreement to permit the use and enjoyment of a recreation area by the owners of the lots of Wildhorse Springs, which area is located outside the boundary of Wildhorse Springs, then in such event a part of the annual assessment shall be used to defray the cost incurred, including but not limited to maintenance and repair, in the operation of said recreation area. By acceptance of a deed of conveyance each lot owner of Wildhorse Springs, his heirs, successors and assigns, hereby agrees to be bound to make annual assessment payments which will include an amount for the recreation area costs herein described. Non-use of said recreation area shall not relieve any lot owner of the obligation for payment of the part of the annual assessment which goes toward the recreation area costs.

(b) Special Assessments. If at any time the Trustees consider it necessary to make any expenditure requiring an assessment in addition to the annual assessment or an increase in the annual assessment provided for in paragraph (a) above, they shall submit a written outline of the contemplated project and the amount of the assessment required, to the owners of each lot in the Subdivision. This additional assessment or the increase in the annual assessment from that time forward must then be approved in writing by fifty-five percent (55%) of the record owners of the lots in the Subdivision. The approval may be obtained by the Trustees by securing the signatures of not less than fifty-five percent (55%) of the owners of the lots in the Subdivision to an agreement authorizing the additional assessment, or the increase in annual assessment, or by the affirmative vote of at least fifty-five percent (55%) of the

owners of the lots in the Subdivision at a meeting called for such purpose. Notice of such additional assessment, or increase in the annual assessment, shall be given and such assessment shall become delinquent thirty (30) days after the date of such notice.

(c) Storm Water Sewers. The Trustees are hereby authorized and directed to make and collect a separate annual assessment for storm water sewers and facilities, until such time that all said storm water sewers and facilities are dedicated to and accepted by the Metropolitan St. Louis Sewer District or its successors or assigns; such assessment amount shall be Twenty-Five Dollars (\$25.00) annually.

2. Delinquent Interest. All assessments shall bear interest at the rate of eighteen percent (18%) per annum from the date of delinquency and such assessments, together with interest, shall constitute a lien upon a dwelling until against which it is assessed until the amount, together with interest and charges, is fully paid. As an assessment becomes delinquent, the Trustees may execute and acknowledge an instrument reciting the levy of the assessment and cause the same to be recorded in the Recorder's Office of St. Louis County, Missouri. Such assessment may be enforced in the same manner as is provided by law for the enforcement of special tax liens against real estate, except that such assessment shall not have priority over existing mortgages, or deeds of trust. Should an owner pay an assessment after the recording of a notice thereof, as herein provided, the Trustees shall release said lien (as shown by recorded instrument) by executing, acknowledging and recording (at the expense of the owner of the property attached) a release of such assessment with respect to any lot or lots affected, and the Trustees shall cause to be noted from time to time in the minutes of their proceedings, the payments made on account of assessments. In the event that the Trustees are required to incur attorney's fees in order to collect any delinquent assessments, said Trustee shall have the right to collect such attorney's fees from the lot owner and such fees shall be a lien on the lot until paid.

3. Depository. The Trustees shall deposit the funds coming into their hands as Trustees in a bank protected by the Federal Deposit Insurance Corporation or in a savings and loan association

protected by the Federal Savings & Loan Insurance Corporation. The treasurer shall be bonded for the proper performance of his duties in an amount fixed by the Trustees.

4. Budget. All assessments made by the Trustees for the purposes hereinabove enumerated, shall be made in the manner and subject to the following procedure, to-wit:

(a) The Trustees shall annually prepare a budget in which the anticipated revenue and anticipated expenditures for the ensuing calendar year are set forth. The Trustees shall attempt to limit the anticipated expenditures so that the same do not exceed the anticipated revenues.

(b) Notice of all assessments may be given by mail addressed to the last known or usual post office address of the holder of a fee simple estate and deposited in the United States mail with postage prepaid, or may be given by posting a brief notice of assessment upon the lot or dwelling unit itself.

VI. INDENTURE OF RESTRICTIONS

The Party of the First Part, being the owner of the following described real estate lying and being situated in St. Louis County, Missouri and being more particularly described in Exhibit A attached hereto and made a part thereof, by this Indenture does impose upon all lots and common land in Wildhorse Springs the following restrictions and conditions, to-wit:

1. Term. These restrictions shall run with the land and shall continue for the duration of Wildhorse Springs and shall be binding on all parties and all persons claiming under them.

2. Land Use and Building Type. All lots in Wildhorse Springs shall be used only for single-family residential dwellings.

3. Placement of Improvements. Buildings shall be placed on lots only in the manner approved by the Trustees, subject to terms and provisions of Article IV, Paragraph 7, with the front and side building setback lines being at least those required by applicable zoning ordinances for the Subdivision.

4. Easements. The easements shown on the recorded plat for installation and maintenance of utilities, detention areas and drainage facilities are hereby reserved and the same shall run with the land.

5. Signs. No signs shall be erected or displayed in public view on any lot except one (1) sign, not larger than eight (8) square feet, advertising the property for sale or rent, EXCEPT THAT, any signs may be erected by the Party of the First Part, its successors and assigns in the development of the Subdivision. Should the Party of the First Part not develop all the lots and should it convey lots to other builders, such other builders or developers shall have the right to place suitable signs on lots during construction and prior to initial sale of the buildings constructed thereon.

6. Livestock and Poultry. No animals, livestock or poultry shall be raised, bred or kept on any lot, EXCEPT THAT, household pets, in limited numbers as set by the Trustees, may be kept provided they are not maintained for any commercial purposes.

7. Fences; Garages; Outbuildings. No fences or screening shall be erected or maintained on any lots until specifications and plans for same shall be approved by the Trustees as above required, provided however, there shall be no fence erected on any lot in front of the rear building line and the Trustees may not amend or waive this restriction. All garages must be attached to the main residential structure. No carports shall be allowed. No sheds or other type of outbuilding may be placed on any lot without prior written approval of the Trustees of the plans for same and the location of such shed or outbuilding.

8. Above Ground Structures. No above ground structure, other than required street lights, may be erected within a cul-de-sac, divided street entry island, or median strip without the written approval of the appropriate public authority regulating highways and traffic.

9. Vehicles. No trucks, campers, recreational vehicles, trailers, boats and/or construction vehicles of any kind and description may be parked on any of the streets or common ground of the Subdivision; all such vehicles must be either garaged or parked in an area that is behind the rear building

line and within the side building lines of the existing residence; provided however, First Party, its successors and assigns, shall be permitted to park all types of construction vehicles and equipment during the construction of residences upon the various lots in the Subdivision. No abandoned cars, motorcycles, jeeps, trucks or motor vehicles of any kind whatsoever that are unable to move under their own power may be stored or suffered to remain upon any of the common ground or the lots of the Subdivision. If said motor vehicles are so stored or remain on the aforesaid premises, Trustees shall take the necessary action to remove same and in doing so, the Trustees or their designated agent may enter upon any lots to carry out the terms and duties herein imposed.

10. Trash Hauling. Only one trash hauler shall service the Subdivision and such trash hauler shall be designated by the Trustees.

11. Nuisances. No noxious or offensive activity shall be carried on any lot, nor shall anything be done thereon which may be or become a nuisance or annoyance.

12. Liability of Trustees; Trustees not to be Compensated. The Trustees shall endeavor to exercise ordinary care and to use reasonable judgment in carrying out their duties hereunder. However, each of the Trustees and their successors have assumed, or will assume, the responsibilities of a trustee under this Indenture on the express condition that: (A) the Trustees shall not be held personally liable for any consequences of fulfilling, attempting to fulfill or failing to fulfill their duties and obligations under this Indenture; (B) no Trustee shall be held personally liable for his wrongful acts or for the wrongful acts of others; (C) no Trustee shall be held personally liable for injury or damage to persons or property by reason of any act or failure to act of the Trustees, collectively or individually; and (D) the Trustees shall not be required to expend any money for payment of taxes, maintenance of storm and sanitary sewers, parkways, street lighting or any other improvements, or any other non-public items in excess of the assessment collected by them. The Trustees may retain a reasonable cash reserve from such assessments and expend only such sums for maintenance and improvements as they, in their sole

discretion, deem necessary. Neither the Trustees nor successor Trustees shall be entitled to any compensation for services performed pursuant to this covenant except as otherwise provided for herein.

13. Grading. No individual owner may change the grade of his lot without prior written approval of the Trustees, said approval to be obtained by having the Trustees approve the plans for same as set out in Article IV, Paragraph 7 above.

14. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations three (3) feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points thirty (30) feet from the intersection of the street property lines extended. No tree shall be permitted to remain within such distance of such intersection unless the foliage lines are maintained at sufficient height to prevent obstruction of such sight lines.

15. Amendment. Provisions herein may be amended, modified or changed from time to time by First Party, its successors or assigns so long as they own a lot in Wildhorse Springs by recording such amendment in the Office of the Recorder of Deeds of St. Louis County, Missouri, provided such amendment, modification or change is approved by the Planning Director and the City Attorney of the City of Chesterfield, Missouri. Thereafter, this Indenture may be amended, modified or changed by the written consent of two-thirds ($\frac{2}{3}$) of all the owners of lots or parcels within Wildhorse Springs with any such amendment, modification or change being recorded in the Office of the Recorder of Deeds of St. Louis County, Missouri. No such amendment, modification or change shall (1) reduce or modify the obligation or right granted to or imposed upon the Trustees with respect to maintenance of common land and the power to levy assessments thereof as set out in Article V above or (2) eliminate the requirement that there be Trustees unless some persons or entity is substituted for the Trustees with their responsibilities and duties in a manner approved by the Director of Planning of Chesterfield, Missouri.

16. Invalidation. Invalidation of any one of the covenants of this Indenture shall in no way affect any other provision hereof.

VII. SUBJECT TO APPLICABLE ORDINANCES

Notwithstanding the provisions of this Indenture, Wildhorse Springs shall be subject to the provisions of all applicable ordinances pertaining to this Subdivision and the provisions of said ordinances supersede the provisions of this Indenture.

IN WITNESS WHEREOF, the Party of the First Part and the Parties of the Second Part have hereunto executed this Indenture the day and year first above written.

PARTY OF THE FIRST PART:

DLC DEVELOPMENT CO.

By: _____
David L. Cunningham, President

SECOND PARTY: TRUSTEES

David L. Cunningham

Mark Kelly

Matt Kelly

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this ____ day of _____, 1993, before me appeared DAVID L. CUNNINGHAM, to me personally known, who, being by me duly sworn, did say that he is the President of DLC DEVELOPMENT CO., a corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation, by authority of its Board of Directors; and said David L. Cunningham acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the County and State aforesaid, the day and year first above written.

Notary Public

My commission expires:

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this ____ day of _____, 1993, before me personally appeared DAVID L. CUNNINGHAM, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the County and State aforesaid, the day and year first above written.

Notary Public

My commission expires:

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this ____ day of _____, 1993, before me personally appeared MARK KELLY, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the County and State aforesaid, the day and year first above written.

Notary Public

My commission expires:

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this ____ day of _____, 1993, before me personally appeared MATT KELLY, to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he executed the same as his free act and deed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the County and State aforesaid, the day and year first above written.

Notary Public

My commission expires:

December 23, 1993

Department of Planning
City of Chesterfield
922 Roosevelt Parkway
Chesterfield, Missouri 63017

Re: Indenture of Trust and Restrictions of Wildhorse Springs

Gentlemen:

This opinion is submitted to you in compliance with the requirements of Section 1003.187 of the City of Chesterfield Zoning Ordinance.

We have reviewed a certain General Warranty Deed wherein DLC Development Co., a corporation organized and existing under the laws of the State of Missouri, as grantor, conveys certain described property located in the City of Chesterfield, Missouri, to the Trustees under Indenture of Trust and Restrictions of Wildhorse Springs.

We find that the General Warranty Deed conveys the common land shown on the plat of Wildhorse Springs to the Trustees designated therein until the Subdivision may be vacated, after which time the fee simple title to said property will vest in the then record owners of all lots in Wildhorse Springs as tenants in common. We also find that the Indenture of Trust duly establishes and designates three (3) Trustees and grants to those Trustees proper powers to hold and maintain the said common ground for the indicated period.

In our opinion, the General Warranty Deed and Indenture of Trust and Restrictions of Wildhorse Springs comply with the requirements of Section 1003.187 of the City of Chesterfield Zoning Ordinance.

PASTER, WEST & KRANER, p.c.

By _____
Phillip J. Paster

PJP/nes

c:\w\doe\wildhorse

General Warranty Deed

This Deed, Made and entered into this

day of

nineteen hundred and

, by and between .

DLC Development co., a Missouri corporation

party of the first part, and David L. Cunningham, Mark Kelly and Matt Kelly, each of the County of St. Louis and with a mailing address c/o _____,

_____ as Trustees under the Indenture of Trust and Restrictions of Wildhorse Springs dated _____, and recorded on the ___ day of _____, 19__ as Daily No. ___ of the St. Louis County Recorder's Office, parties of the second part.

Witnesseth, that the said party of the first part, for and in consideration of the sum of One Dollar (\$1.00) paid by the said parties of the second part, the receipt of which is hereby acknowledged, does by these presents, Grant, Bargain and Sell, Convey and Confirm unto the said parties of the second part, the following described Real Estate, situated in the County of St. Louis and State of Missouri, to-wit:

All of the Common Area as marked on the record Subdivision Plat of Wildhorse Springs, according to the plat thereof recorded on the ___ day of _____, 199__, as Daily No. ___ of the St. Louis County Recorder's Office.

To Have and to Hold the same, together with all rights and appurtenances to the same belonging, unto the said parties of the second part, and to their heirs and assigns forever.

The said party of the first part hereby covenanting that it and its heirs, executors and administrators, shall and will Warrant and Defend the title to the premises unto the said parties of the second part, and to their heirs and assigns forever against the lawful claims of all persons whomsoever, excepting, however, the general taxes for the calendar year 19__ and thereafter, and the special taxes becoming a lien after the date of this deed.

In Witness Whereof, the said party of the first part has executed these presents the day and year first above written.

DLC DEVELOPMENT CO.

By: _____
David L. Cunningham, President

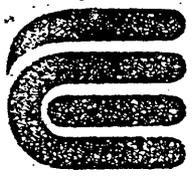
State of Missouri, }
County of St. Louis } ss.

On this _____ day of _____, 19____, before me personally appeared David L. Cunningham to me personally known, who, being by me duly sworn, did say that he is the President of DLC Development Co., a Corporation of the State of Missouri, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation, by authority of its Board of Directors; and said David L. Cunningham acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public.

My term expires



City of Chesterfield

January 28, 1994

Mayor Jack Leonard and City Council Members
City of Chesterfield
922 Roosevelt Parkway
Chesterfield, MO 63017

RE: Escrow Agreements for Wildhorse Springs Subdivision; north side of Wild Horse
Creek Road, east of the intersection of Wild Horse Creek Road and Wilson Road.

Dear Mayor Leonard and Council Members:

The Department of Planning, in conjunction with the City Attorney, has reviewed the Escrow Agreement Guaranteeing Subdivision Improvements for Wildhorse Springs Subdivision. The Department and the City Attorney find the Agreement to be in accord with Section 1005.080 of the City of Chesterfield Subdivision Ordinance in the amount specified by the Department of Public Works. In addition, the Department of Public Works has reviewed and approved a Special Cash Escrow, in the amount of \$3,500, for pavement and sidewalk extensions.

Sincerely,



Jerry Duepner, Director
Department of Planning

JD/JH/dc

Attachment

cc: Michael G. Herring, City Administrator
William C. Hawn, Director of Public Works/City Engineer
David Cunningham, DLC Development, P.O. Box 6247, Chesterfield/63006

cc-whs3.j28

2. That the ESCROW SUM will be held in escrow by the ESCROW HOLDER in a special escrow account, subject to the special audit of the CITY.

3. That the ESCROW SUM guarantees the construction, installation and completion of the improvements in the aforesaid subdivision in accordance with the report of the said Department of Planning dated _____, a copy of which is attached hereto as Exhibit A and made a part hereof as per plans and specifications for the said subdivision which have been filed with the Department of Planning of the City of Chesterfield, Missouri, all of which are also made a part hereof as though set forth herein word for word.

4. That in the event the City should determine that the ESCROW SUM herein provided is insufficient to complete the said Subdivision Improvements, the City will so notify the Developer who shall deposit within thirty (30) days of said notice with the ESCROW HOLDER that additional sum of lawful money of the United States of America that will be required to complete the said improvements and said additional sum will be subject to the terms of this Escrow Agreement. Failure to provide said sum will be cause for cessation of all work on said subdivision until the additional amount is paid.

5. That the DEVELOPER guarantees that all required utilities and improvements will be installed, constructed and completed within two (2) years from the date of the approval of the said Subdivision Plat and the DEVELOPER shall furnish, upon the completion of said improvements, a Certificate of Completion by a licensed engineer engaged to supervise the construction, installation and completion of said improvements, all as provided in Ordinance # _____.

6. That the ESCROW HOLDER shall only release or disburse the ESCROW SUM, or portion thereof, upon receipt and in the amount set forth in a written authorization from the said Department of Planning addressed to the ESCROW HOLDER: which authorization may be for the payment of labor and materials used in the construction, installation and completion of the said improvements, as the work progresses under the supervision of a qualified, licensed engineer, as provided in Ordinance # _____, said engineer to certify such work and materials to the Department of Planning.

7. That in the event the developer shall abandon the subdivision or fail to complete the improvements within two (2) years hence from the date of the CITY'S approval of the said subdivision plat, whichever shall first occur, the CITY shall present to the ESCROW HOLDER a certified statement from the City Engineer estimating the cost for the repair or completion of the project as originally set out. Upon receipt of this certification, the ESCROW HOLDER shall disburse said funds directly

to the CITY so that the CITY may complete itself, or have completed by outside resources, the said improvements. The ESCROW HOLDER shall disburse the escrow sums therefore as ordered and directed by the City, and upon such disbursement shall be relieved of all liability under the terms of this agreement.

8. That the CITY hereby accepts this agreement as a satisfactory Escrow Agreement under the provisions and requirements of Ordinance # _____.

9. IT IS HEREBY FURTHER AGREED by the ESCROW HOLDER: (A) That in full consideration of its covenants, promises and agreements, the ESCROW HOLDER has received the sum of ONE AND NO/100 DOLLARS (\$1.00) lawful money and other valuable considerations, receipt thereof from the DEVELOPER being hereby admitted and acknowledged; and (B) That the ESCROW HOLDER hereby acknowledges the receipt and deposit of the ESCROW SUM and guarantees that the same shall be held as hereinabove provided and shall be released only in accordance with the terms herein set forth.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals this 31st day of January A.D. 1994.

ATTEST: (SEAL)

Secretary
Type Name:

BY [Signature]
Type Name:

DEVELOPER (Name/Address)
DLC Development Co.
P.O.Box 6247 Chesterfield, Mo. 63006
By David L. Cunningham, President

ATTEST: (SEAL)

Secretary
Type Name: Reba F. Sitze

BY [Signature]
Type Name:

ESCROW HOLDER (Name/Address)
Construction Escrow Service, Inc.
By Robert W. Grandcolas

CITY OF CHESTERFIELD, MISSOURI

BY _____
Director of Planning

APPROVED: _____

CITY OF CHESTERFIELD

Mayor

ATTEST:

City Clerk

N.B. The signatures of the DEVELOPER and ESCROW HOLDER are to be acknowledged before a Notary Public. In the case of a partnership, all partners must sign. In the case of a corporation, the affidavits of the corporation act must be attached.

APPROVED: _____
City Attorney

Approved by City of Chesterfield
Planning Commission
[Updated 10/91]

[FORM E-SUBD]

CORPORATE EXECUTING OFFICIAL'S ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

On this 31st day of January, A. D., 1994, before me appeared Robert W. Grandcolas, to me personally known, who, being by me duly sworn, did say that he is the President of Construction Escrow Service, Inc., a Missouri Corporation and that he executed the foregoing agreement pursuant to the authority given him by the Board of Directors of the aforesaid corporation; and that said agreement was signed and sealed by him in behalf of the aforesaid corporation by authority of its Board of Directors and said Robert W. Grandcolas, as President of the said corporation, acknowledged said agreement to be the lawful, free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year above written.

My commission expires January 12, 1995.

W. L. DIECKHAUS
NOTARY PUBLIC - STATE OF MISSOURI
MY COMMISSION EXPIRES JAN. 12, 1995
ST. LOUIS COUNTY

W L Dieckhaus
W. L. Dieckhaus, Notary Public

CORPORATE SECRETARY'S ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

On this 31st day of January, A. D., 1994, before me appeared Reba F. Sitze, to me personally known, who, being by me duly sworn, did say that he is the Secretary of the Construction Escrow Service, Inc., a Missouri Corporation and that Robert W. Grandcolas, who executed the foregoing agreement as President of the aforesaid corporation is in fact the President of that Corporation and was authorized and directed by the Board of Directors of the aforesaid corporation to execute the foregoing agreement.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year above written.

My commission expires January 12, 1995.

W. L. DIECKHAUS
NOTARY PUBLIC - STATE OF MISSOURI
MY COMMISSION EXPIRES JAN. 12, 1995
ST. LOUIS COUNTY

W L Dieckhaus
W. L. Dieckhaus, Notary Public

On this 31st day of January, 19 94 before me appeared David L. Cunningham, to me personally known, who, being by me duly sworn, did say that he is the President of DLC Development Co. a Corporation of the State of Missouri and that the seal affixed to the foregoing instrument is the Corporate seal of said corporation, by authority of its Board of Directors and said David L. Cunningham acknowledged said instrument to be the free act and deed of said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

My Term Expires: MARTHA L. DEMAY
NOTARY PUBLIC STATE OF MISSOURI
ST. LOUIS COUNTY
MY COMMISSION EXP. MAY 11, 1997

Martha L. Demay
Notary Public



CHESTERFIELD, MISSOURI

MICHAEL G. HERRING
CITY ADMINISTRATOR

STATE OF MISSOURI)
COUNTY OF ST. LOUIS) SS

On this _____ day of _____, 19____, before me personally appeared _____, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that _____ executed the same as free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year above written.

My Term Expires: _____

Notary Public

ATTEST:
COUNCIL

MARTHA L. DEMAY
CITY CLERK

APPROVED:

WILLIAM C. HAWN
PUBLIC WORKS DIRECTOR

APPROVED AS TO LEGAL FORM:

DOUGLAS R. BEACH
CITY ATTORNEY

THE UNDERSIGNED, REPRESENTING THE DIRECTOR OF FINANCE OF THE CITY OF CHESTERFIELD, HEREBY CERTIFIES THAT _____ HAS DEPOSITED THE CASH SUM OF _____ DOLLARS.

JAN HAWN
FINANCE DIRECTOR