

AMENDMENT

TO

DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS

FOR HEATHER GROVE SUBDIVISION

IN WEST GROVE BOROUGH AND LONDON GROVE TOWNSHIP,

CHESTER COUNTY, PENNSYLVANIA

AMENDMENT  
TO  
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IN WEST GROVE BOROUGH AND LONDON GROVE TOWNSHIP,  
CHESTER COUNTY, PENNSYLVANIA

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CHESTER COUNTY, PENNSYLVANIA

This Declaration is made this 25<sup>th</sup> day of November, 1991 by Heather Grove Development Corp., a Pennsylvania corporation (hereinafter referred to as "Declarant").

PREAMBLE

WHEREAS, Heather Grove Development Corp., Declarant, did, on December 7, 1990 file with the Office of the Recorder of Deeds in and for Chester County, Pennsylvania a DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS FOR HEATHER GROVE SUBDIVISION IN WEST GROVE BOROUGH AND LONDON GROVE TOWNSHIP, CHESTER COUNTY, PENNSYLVANIA, (therein and hereinafter referred to as the "Declaration") which such Declaration is of record at Deed Book 2240, Page 141; and

WHEREAS, the Declaration provides that the Property (as defined therein) described in Exhibit "A" attached to the Declaration (being the same Property subject to this Addendum and described in Exhibit "A" attached hereto and made a part hereof) is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, charges and liens set forth in the Declaration; and

WHEREAS, the Declarant, pursuant to the right reserved in Section 8.4 of the Declaration, in response to changes in technological, economic, environmental and/or social conditions related to the development of the Property, intends to revise the Approved Development as shown on the Proposed Resubdivision Plan for Heather Grove Parcel 2 prepared by Brandywine Valley Engineers, Inc., dated August 8, 1991 and last revised September 16, 1991 (hereinafter referred to as "Final Plans"), which such Final Plans have been approved for subdivision and development by West Grove Borough as shown and set forth on the said Final Plans into a total of fifty six (56) individual building lots being forty five (45) individual building lots for attached single family residences and eleven (11) individual building lots for detached single family residences (hereinafter referred to as Lots or referred to individually as a Lot), other areas indicated and identified on the Final Plans and referred to in the Declaration as "Common Land", and public streets and other facilities (hereinafter referred to as "Public Facilities") to be conveyed for public purposes to governmental entities (such Lots, Common Land and Public Facilities are hereinafter collectively referred to as the "Community of Heather Grove" or "Community") and which such Final Plans will be recorded in the office of the Recorder of Deeds in and for Chester County, Pennsylvania; and

WHEREAS, Declarant desires to develop and improve the Property pursuant to the Final Plans as approved by the Borough of West Grove and pursuant to the applicable provisions of the Zoning Ordinance of West Grove Borough (hereinafter referred to as "Approved Development"), with the intent that each of the Lots be improved with either a single-family attached dwelling or a single family detached dwelling; and

WHEREAS, the Declarant desires to provide for the provision of certain maintenance services of and on the individual Lots on which attached single family residences are constructed, and to this end desires to make provision for the administration of maintenance of and on the individual Lots on which attached single family residences are constructed, and the method by which assessments and charges shall be made and enforced against each Lot and the Lot Owners thereof for the aforesaid purposes; and

WHEREAS, Declarant is the record owner of more than 75% of the Lots within the Community;

NOW, THEREFORE, Declarant, pursuant to the provisions of Section 8.3 of the Declaration, by this instrument signed by the Declarant as record owner of at least 75% of the Lots within the Community, changes, alters and modifies the conditions, covenants and restrictions of the Declaration, in part, as set forth herein.

The following numbered Sections REPLACE the same numbered Sections in the unamended Declaration:

ARTICLE I

DEFINITIONS

- 1.3 "Common Land" shall mean all real property interest (including the improvements thereto) of those certain portions of the Property, described in Exhibit "B" attached to the Amendment to the Declaration, designated on the Final Plans as "Common Land", including therein Storm Water Facilities, owned or to be owned by the Association for the common use and enjoyment of the Owners, excluding areas and improvements dedicated to any governmental entity and excluding any areas dedicated to a public utility corporation for rendering of service to the Association, but only after such dedication or conveyance in fact occurs.
- 1.4 "Community" or "Community of Heather Grove" shall mean and refer to the Property as subdivided by the recording of the Final Plans in the Recorder of Deeds office in and for Chester County, Pennsylvania, and developed in accordance with the Approved Development into fifty six (56) individual building Lots (being forty five (45) individual building lots for attached single family residences and eleven (11) individual building lots for detached single family residences), Common Land, and Public Facilities.

1.9 "Final Plans" shall mean and refer to the "Proposed Re-Subdivision Plan for Heather Grove Parcel 2", prepared by Brandywine Valley Engineers, Inc., dated August 8, 1991 and last revised September 16, 1991 which such Final Plans have been approved by West Grove Borough as shown and set forth on the Final Plans and which will be recorded in the office of the Recorder of Deeds in and for Chester County, Pennsylvania.

ARTICLE II

HEATHER GROVE IN WEST GROVE BOROUGH HOMEOWNERS ASSOCIATION

2.1.1 Membership and Voting Rights

The conditions of membership in the Association are such that the members shall be those Owners and only those Owners from time to time of Lots in the Community of Heather Grove.

Membership in the Association is coextensive with, and indivisible from, ownership of a Lot in the Community of Heather Grove. Every Owner of a Lot shall be a member of the Association. Membership shall be appurtenant to and may not be separated from the ownership of any Lot.

The owner, or owners collectively if more than one, of each individual Lot shall constitute one member of the Association. The Association shall have 56 memberships.

The Association shall have two classes of voting membership:

2.1.1.1 Class A.

Class A members shall be all Owners of Lots for which a Use and Occupancy Certificate for a dwelling constructed on such Lot shall have been issued by West Grove Borough. Class A members shall be entitled to one vote for each such Lot owned.

2.1.1.2

Class B.

Class B members shall be the Declarant or any other person owning any vacant Lot or any Lot containing a dwelling for which a Use and Occupancy Certificate has not been issued by West Grove Borough. Class B members shall be entitled to three (3) votes for each Lot owned. With respect to any Lot, the Class B membership shall cease and be converted to a Class A membership on the issuance of a Use and Occupancy Certificate for the dwelling erected thereon. Provided, however, notwithstanding anything herein contained to the contrary, all remaining Class B memberships, if any, shall become Class A memberships on December 31, 1997, whether or not a Use and Occupancy Certificate shall have been issued therefor.

2.2.4.1

provision of lawn mowing services on and for, and only on and for, the individual Lots within the Community on which an attached single family residence is located;

ARTICLE III

PROPERTY RIGHTS AND RESPONSIBILITIES

3.1.1 Title to Common Land

On or before the earlier of a) the issuance of a Use and Occupancy Permit for the fifty sixth (56th) dwelling constructed in the Community, or b) December 31, 1997, the Declarant shall convey all of the Community Facilities not dedicated to the public or conveyed to governmental entities, to the Association free and clear of all liens and financial encumbrances but subject to all easements and restrictions of record, and the Association shall thereafter own all of the Community Facilities in the Community subject to the terms of this Declaration, the Governing Documents and the conditions set forth in the deed or deeds of conveyance. Nothing herein shall prevent the Declarant from conveying parts or portions of the Community Facilities to the Association from time to time, prior to the required time hereinabove set forth.

ARTICLE IV

ASSESSMENTS

4.5.1 Maximum Annual Assessment

Until January 1 of the year immediately following the first conveyance of a Lot conveyed by the Declarant to a purchaser thereof (hereinafter referred to as the "Initialization Date"), the maximum annual assessment shall be Two Hundred Fifty Dollars (\$250.00) per Lot for all Lots on which attached single family residences are located and on which such Lots, and around which such Lots, lawn mowing services are provided by the Association.

Until January 1 of the year immediately following the first conveyance of a Lot conveyed by the Declarant to a purchaser thereof (hereinafter referred to as the "Initialization Date"), the maximum annual assessment shall be One Hundred Dollars (\$100.00) per Lot for all Lots on which detached single family residences are located and on which such Lots, and around which such Lots, lawn mowing services are NOT provided by the Association.

From and after the Initialization Date, the maximum annual assessment may be increased each year no more than the greater of 1) the increase in the Consumer Price Index for the area of which the Property is a part, or 2) Five percent (5%), unless two-thirds (2/3) of each Class of members present at a meeting duly called for this purpose shall approve a greater increase.

4.8 Uniform Rate of Assessment

Both annual and special assessments must be fixed at a uniform rate for all Lots for which services provided by the Association are the same.

The annual and special assessments must be fixed at a uniform rate for all Lots on which attached single family residences are located and on which such Lots, and around which such Lots, lawn mowing services are provided by the Association.

The annual and special assessments must be fixed at a uniform rate for all Lots on which detached single family residences are located and on which such Lots, and around which such Lots, lawn mowing services are NOT provided by the Association.

The Board may authorize, in its discretion, assessments to be paid on a monthly basis.

## ARTICLE VIII

### GENERAL PROVISIONS

#### 8.3 Amendment

The conditions, covenants and restrictions of this Declaration shall run with and bind the land in perpetuity and may be changed, altered, modified or extinguished in whole or in part, at any time, as set forth in Section 8.4 hereof, or by an instrument, in writing, signed by not less than the record owners of seventy-five percent (75%) of the Lots within the Community, which shall be recorded in the office of the Recorder of Deeds, Chester County, State of Pennsylvania.

#### 8.4 Annexation and Revisions to Approved Development

Additional property and/or Community Facilities may be annexed to the Property, the Community of Heather Grove with the consent of two-thirds (2/3) of all classes of members voting as a single class.

The Declarant hereby reserves the right to revise or amend the Approved Development, the plans contained therein, or to change, alter, modify or extinguish in whole or in part, at any time, the conditions, covenants and restrictions of this Declaration without the consent of the Association or any Class A members, in response to changes in technological, economic, environmental or social conditions related to the development.

Anything herein contained to the contrary notwithstanding, Declarant shall have the right and power to amend unilaterally any provision herein and any provision of the Final Plans, applications or related documents necessary in the opinion of the Declarant to conform to the requirements of:

- (a) the Federal Emergency Management Agency, the Federal Environmental Protection Agency, the Soil Conservation Service of the United States Department of Agriculture, the Pennsylvania Department of Environmental Resources, the Pennsylvania Department of Community Affairs, the Chester County Department of Health, London Grove Township and any and every other federal, state, county or local governmental entity having jurisdiction over the lands, the subject of this Declaration, the development and land use contemplated therein; or
- (b) any mortgagee of improved lots or dwelling houses in the Community; or
- (c) Required by any title insurance company issuing title insurance to owners and/or mortgagees of same; or
- (d) Required by the Federal Housing Administration, Department of Housing and Urban Development, Veterans Administration, Farmers Home Administration, GNMA or any like public or private institution acquiring, guaranteeing, or insuring mortgages or providing any type of financial assistance, with respect to dwelling units or Lots within the Community.



EXHIBIT "A"

ALL THAT CERTAIN parcel of land situated partly in the Township of London Grove and partly in the Boro of West Grove, County of Chester, State of Pennsylvania, being bounded and described as follows:

BEGINNING at a point, said point being the intersection of the westerly side of Heather Grove Lane (50' wide) with the Municipal Boundary Line between the Boro of West Grove and the Twp. of London Grove; THENCE along said Municipal Boundary Line the following two courses and distances: (1) Thru the bed of Heather Grove Lane  $S01^{\circ}53'08''W$  the distance of 69.00' to a point; (2) THENCE crossing the bed of Heather Grove Lane and passing across the bed of Winterset Court (50' wide)  $N89^{\circ}51'06''W$  the distance of 96.92' to a point on the southerly side of said Winterset Court; THENCE along said side of Winterset Court the following course and distance: THENCE along the arc of a circle curving to the left with a radius of 601.11' the distance of 81.52' to a point; THENCE leaving said side of Winterset Court the following seven courses and distances: (1)  $S29^{\circ}41'36''W$  the distance of 90.46' to a point; (2) THENCE  $S07^{\circ}16'26''E$  the distance of 26.01' to a point; (3)  $S86^{\circ}23'00''W$  the distance of 522.97' to a point; (4) THENCE  $S82^{\circ}29'27''W$  the distance of 84.61' to a point; (5) THENCE  $S06^{\circ}20'E$  the distance of 10' to a point; (6) THENCE  $S79^{\circ}19'21''W$  the distance of 243.99' to a point; (7) THENCE  $N00^{\circ}01'W$  the distance of 407.52' to a point; THENCE along the southerly and the southeasterly sides of a certain parcel proposed for use as a park the following four courses and distances: (1)  $N87^{\circ}30'E$  the distance of 185.00' to a point; (2) THENCE  $N45^{\circ}45'E$  the distance of 352.00' to a point; (3) THENCE  $N28^{\circ}45'E$  the distance of 380.00' to a point; (4) THENCE  $N64^{\circ}09'25''W$  the distance of 158.65' to a point; THENCE along lands now or late of Urban Developers the following two courses and distances: (1)  $N21^{\circ}46'35''E$  the distance of 217.07' to a point; (2) THENCE  $S80^{\circ}30'57''E$  the distance of 537.47' to a point on the aforesaid Municipal Boundary Line between the Boro of West Grove and the Twp. of London Grove; THENCE along the southerly side of Lot No. 81 as shown on a plan of Heather Grove  $S80^{\circ}32'02''E$  the distance of 55.90' to a point on the westerly side of Heather Grove Lane; THENCE along said side of Heather Grove Lane the following three courses and distances: (1) along the arc of a circle curving to the left with a radius of 550' the distance of 315.06' to

a point of tangency; (2) THENCE  $S05^{\circ}48'40''E$  the distance of 98.53' to a point of curvature; (3) THENCE along the arc of a circle curving to the right with a radius of 1460.87' the distance of 60.09' to a point of compound curvature; THENCE along the arc of a circle curving to the right with a radius of 25' the distance of 43.45' to a point on the northerly side of Morningside Court (50' wide); THENCE along said side of Morningside Court along the arc of a circle curving to the right with a radius of 125' the distance of 1.61' to a point; THENCE leaving said side of Morningside Court and crossing the bed of the same  $S01^{\circ}53'08''W$  the distance of 50.05' to a point on the southerly side of said Morningside Court; THENCE along said side of Morningside Court in a southeasterly direction along the arc of a circle curving to the left with a radius of 175' the distance of 9.50' to a point of reverse curvature; THENCE along the arc of a circle curving to the right with a radius of 25' the distance of 38.50' to a point of compound curvature on the westerly side of Heather Grove Lane; THENCE along said side of Heather Grove Lane the following three courses and distances: (1) along the arc of a circle curving to the right with a radius of 1460.87' the distance of 155' to a point of tangency; (2) THENCE  $S06^{\circ}37'W$  the distance of 133.60' to a point of curvature; (3) THENCE along the arc of a circle curving to the right with a radius of 298.37' the distance of 84.30' to a point on the aforesaid Municipal Boundary Line, being the first mentioned point and place of beginning.

EXHIBIT "B"

ALL THAT CERTAIN parcel of land situated partly in the Township of London Grove and partly in the Boro of West Grove, County of Chester, State of Pennsylvania, being bounded and described as follows:

BEGINNING at a point, said point being the intersection of the westerly side of Heather Grove Lane (50' wide) with the Municipal Boundary Line between the Boro of West Grove and the Twp. of London Grove; THENCE along said Municipal Boundary Line the following two courses and distances: (1) Thru the bed of Heather Grove Lane  $S01^{\circ}53'08''W$  the distance of 69.00' to a point; (2) THENCE crossing the bed of Heather Grove Lane and passing across the bed of Winterset Court (50' wide)  $N89^{\circ}51'06''W$  the distance of 96.92' to a point on the southerly side of said Winterset Court; THENCE along said side of Winterset Court the following course and distance: THENCE along the arc of a circle curving to the left with a radius of 601.11' the distance of 81.52' to a point; THENCE leaving said side of Winterset Court the following seven courses and distances: (1)  $S29^{\circ}41'36''W$  the distance of 90.46' to a point; (2) THENCE  $S07^{\circ}16'26''E$  the distance of 26.01' to a point; (3)  $S86^{\circ}23'00''W$  the distance of 522.97' to a point; (4) THENCE  $S82^{\circ}29'27''W$  the distance of 84.61' to a point; (5) THENCE  $S06^{\circ}20'E$  the distance of 10' to a point; (6) THENCE  $S79^{\circ}19'21''W$  the distance of 243.99' to a point; (7) THENCE  $N00^{\circ}01'W$  the distance of 407.52' to a point; THENCE along the southerly and the southeasterly sides of a certain parcel proposed for use as a park the following four courses and distances: (1)  $N87^{\circ}30'E$  the distance of 185.00' to a point; (2) THENCE  $N45^{\circ}45'E$  the distance of 352.00' to a point; (3) THENCE  $N28^{\circ}45'E$  the distance of 380.00' to a point; (4) THENCE  $N64^{\circ}09'25''W$  the distance of 158.65' to a point; THENCE along lands now or late of Urban Developers the following two courses and distances: (1)  $N21^{\circ}46'35''E$  the distance of 217.07' to a point; (2) THENCE  $S80^{\circ}30'57''E$  the distance of 537.47' to a point on the aforesaid Municipal Boundary Line between the Boro of West Grove and the Twp. of London Grove; THENCE along the southerly side of Lot No. 81 as shown on a plan of Heather Grove  $S80^{\circ}32'02''E$  the distance of 55.90' to a point on the westerly side of Heather Grove Lane; THENCE along said side of Heather Grove Lane the following three courses and distances: (1) along the arc of a circle curving to the left with a radius of 550' the distance of 315.06' to

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a point of tangency; (2) THENCE  $S05^{\circ}48'40''E$  the distance of 98.53' to a point of curvature; (3) THENCE along the arc of a circle curving to the right with a radius of 1460.87' the distance of 60.09' to a point of compound curvature; THENCE along the arc of a circle curving to the right with a radius of 25' the distance of 43.45' to a point on the northerly side of Morningside Court (50' wide); THENCE along said side of Morningside Court along the arc of a circle curving to the right with a radius of 125' the distance of 1.61' to a point; THENCE leaving said side of Morningside Court and crossing the bed of the same  $S01^{\circ}53'08''W$  the distance of 50.05' to a point on the southerly side of said Morningside Court; THENCE along said side of Morningside Court in a southeasterly direction along the arc of a circle curving to the left with a radius of 175' the distance of 9.50' to a point of reverse curvature; THENCE along the arc of a circle curving to the right with a radius of 25' the distance of 38.50' to a point of compound curvature on the westerly side of Heather Grove Lane; THENCE along said side of Heather Grove Lane the following three courses and distances: (1) along the arc of a circle curving to the right with a radius of 1460.87' the distance of 155' to a point of tangency; (2) THENCE  $S06^{\circ}37'W$  the distance of 133.60' to a point of curvature; (3) THENCE along the arc of a circle curving to the right with a radius of 298.37' the distance of 84.30' to a point on the aforesaid Municipal Boundary Line, being the first mentioned point and place of beginning.

EXCEPTING therefrom the following four parcels:

(1) SINGLE FAMILY LOTS - NO. 1 to NO. 11

BEGINNING at a point on the southerly side of Morningside Court, said point being located at the following two courses and distances from a point of compound curvature on the westerly side of Heather Grove Lane (50' wide), said point being for a curve connecting said side of Heather Grove Lane with the southerly side of Morningside Court: (1) Along the arc of a circle curving to the left with a radius of 25' the distance of 38.50' to a point of reverse curvature; (2) THENCE along the arc of a circle curving to the right with a radius of 175.00' the distance of 30.49' to said beginning point: THENCE leaving said side of Morningside Court also

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the perimeter of the Common Land the following eight courses and distances: (1) S70°06'09"W the distance of 156.78' to a point; (2) THENCE N44°15'16"W the distance of 218.33' to a point; (3) THENCE N16°29'01"W the distance of 188.52' to a point; (4) THENCE N15°16'39"E the distance of 152.63' to a point; (5) THENCE N56°00'39"E the distance of 150.17' to a point; (6) THENCE S81°01'02"E the distance of 156.65' to a point; (7) THENCE S30°31'51"E the distance of 132.01' to a point; (8) THENCE S01°53'08"W the distance of 330.14' to a point on the northerly side of Morningside Court; THENCE along said side of Morningside Court the following two courses and distances: (1) along the arc of a circle curving to the right with a radius of 125.00' the distance of 133.80' to a point of tangency; (2) THENCE N21°48'57"W the distance of 98.53' to a point of curvature; THENCE along a cul-de-sac the following two courses and distances: (1) along the arc of a circle curving to the right with a radius of 50' the distance of 59.93' to a point of reverse curvature; (2) THENCE along the arc of a circle curving to the left with a radius of 60' the distance of 260.41' to a point of tangency on the southwesterly side of Morningside Court; THENCE along said side of Morningside Court the following two courses and distances: (1) S21°48'57"E the distance of 201.00' to a point of curvature; (2) THENCE along the arc of a circle curving to the left with a radius of 175' the distance of 170.67' to a point, being the first mentioned point and place of beginning.

(2) BLOCK "F" - "G" - "H"

BEGINNING at a point on the easterly side of a cul-de-sac extending in a northeasterly direction from Winterset Court (50' wide), said point being the southerly corner of Lot No. 1 (Block H); THENCE along said cul-de-sac in a northwesterly direction the following three courses and distances: (1) along the arc of a circle curving to the right with a radius of 25' the distance of 5.93' to a point of reverse curvature; (2) THENCE continuing in a northwesterly direction along the arc of a circle curving to the left with a radius of 60' the distance of 228.51' to a point of reverse curvature; (3) THENCE along the arc of a circle curving to the right with a radius of 25' the distance of 22.31' to a point; THENCE leaving said cul-de-sac along the southerly side of Lot No. 1

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(Block F) N89°59'30"W the distance of 118.91' to a point; THENCE along the westerly side of Lot No.1 to Lot No.5 (Block F) inclusive N00°00'30"E the distance of 150' to a point; THENCE along the northerly side of Lot No.5 (Block F) S89°59'30"E the distance of 82.00' to a point; THENCE S38°56'33"E the distance of 15' to a point; THENCE along the westerly side of Lot No.1 (Block G) N00°00'30"E the distance of 73' to a point; THENCE along the northerly side of Lot No.1 to Lot No.6 inclusive (Block G) S89°59'30"E the distance of 174' to a point; THENCE along the easterly side of Lot No.6 (Block G) S00°00'30"W the distance of 95' to a point; THENCE along the northerly side of Lot No.6 (Block H) S89°59'30"E the distance of 72' to a point; THENCE along the easterly side of Lot No.6 to Lot No.1 (Block H) inclusive S00°00'30"W the distance of 174' to a point; THENCE along the southerly side of Lot No.1 (Block H) the following three courses and distances: (1) N89°59'30"W the distance of 85' to a point; (2) THENCE N63°11'31"W the distance of 55' to a point; THENCE N29°21'22"W the distance of 29.39' to a point on a cul-de-sac, being the first mentioned point and place of beginning.

(3) BLOCK "A"

BEGINNING at a point on the southerly side of Winterset Court (50' wide), said point being the intersection of the easterly line of Lot No.4 (Block A) with said side of Winterset Court; THENCE leaving said side of Winterset Court along the easterly side of said Lot No.4 (Block A) S00°00'30"W the distance of 99.49' to a point; THENCE along the southerly side of Lot No.4 to Lot No.1 (Block A) inclusive N89°59'30"W the distance of 126' to a point; THENCE along the westerly side of Lot No.1 (Block A) N00°00'30"E the distance of 122' to a point on the southerly side of Winterset Court; THENCE along said side of Winterset Court the following three courses and distances: (1) S89°59'30"E the distance of 50' to a point of curvature; (2) THENCE along the arc of a circle curving to the right with a radius of 125' the distance of 54.54' to a point of tangency; (3) THENCE S64°59'30"E the distance of 25.57' to a point, said point being the first mentioned [point and place of beginning.