

FILED
GREENVILLE CO. S.C.
JUL 18 11 02 AM '77
CLERK OF SUPERIOR COURT
GREENVILLE

VOL 1021 PAGE 445

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) RESTRICTIVE AND PROTECTIVE COVENANTS
)
) FOR SUGAR CREEK SUBDIVISION - MAP 4

These restrictions and protective covenants are applicable to the numbered lots of Map 4, Section 1 of Sugar Creek as recorded in the RMC Office for Greenville County in Plat Book 5D, page 72.

I/ USES PERMITTED AND PROHIBITED

I. All numbered lots shall be used exclusively for single family residential dwellings.

2. No trailer, basement, tent, shack, garage, barn or other outbuilding erected upon any lot shall at any time be used as a residence either temporarily or permanently. No structure of a temporary nature shall be used as a residence.

3. No house trailer shall be placed on any lot either temporarily or permanently. Any camping trailer and/or similar equipment used for the personal enjoyment of a resident of a lot shall at all times be parked to the rear of the dwelling and shall not be parked in the front or side thereof. Such equipment shall at all times be neatly stored and positioned to be inconspicuous. No tree houses or play houses shall be erected on any lot unless previously approved in writing by the Architectural Committee.

4. No noxious or offensive activity shall be carried on anywhere on the property subject to these covenants, nor shall anything be done thereon which may be or become a nuisance or menace to the neighborhood. No numbered lot or any part thereof shall be used for any business or commercial purpose or for any public purpose.

5. All fuel oil tanks or containers shall be covered or buried underground consistent with normal safety precautions.

6. Sewerage disposal shall be by municipal or community

9445

4328 RV-21

sewage system or, if by septic tank, in compliance with the specifications of the State Board of Health.

7. No animals shall be kept, maintained or quartered on any lot except that cats, dogs and caged birds may be kept in reasonable numbers as pets for the pleasure of the occupants.

8. The total area of all driveways shall be paved by plant mix concrete or asphalt.

II/ SETBACKS, LOCATION AND SIZE OF IMPROVEMENTS AND LOTS

1. No building shall be erected on any lot nearer to the front lot line than the building shall face toward the front line of the lot except that buildings to be constructed on corner lots shall face in the direction designated by arrows on said Plat. No residence shall be nearer to any side lot line than a distance equal to 10% of the width of the lot measured at the building setback line.

2. No detached garage or other outbuilding shall be constructed on any lot without approval by the Architectural Committee as to its location and design.

3. No wall, fence or hedge shall be erected across or along the front of any lot and nearer to the front lot line than the building setback line having a height of more than 3 feet.

4. No lot shall be recut without first obtaining the written permission of the Architectural Committee created under Article III hereof.

5. Nothing herein contained shall be construed to prohibit the use of more than one lot or of portions of one or more lots as a single residential unit, provided, written approval thereof shall first be obtained from the Architectural Committee and, provided further, said site faces as required by these restrictions and the recorded Plat.

6. 2400 square feet shall be the minimum floor space required on all numbered lots in Map 4, Section I, of Sugar Creek. In calculating the minimum floor space, the Architectural Committee may within its sole discretion give credit for one-half ($\frac{1}{2}$) of

unheated areas under roof, such as porches, carports, garages and basements.

7. No garage or other outbuilding more than two stories in height shall be erected upon any numbered lot. The entrance to a garage shall not face the street unless it has doors, except when entered from the end on a corner lot. The entrance to all carports shall face the rear or the side of the lot.

III/ APPROVAL OF PLANS CHANGES

1. The Architectural Committee shall be composed of John C. Cothran, Ellis L. Darby, Jr. and M. Graham Proffitt. In the event of the failure or inability, for any reason, of a member to act, the vacancy created shall be filled temporarily or permanently, as necessary, by the remaining member(s) of the Committee.

All members shall constitute a quorum and a unanimous vote shall be required for the transaction of any business of the Committee.

2. No improvements or buildings shall be erected, placed or altered on any lot or lots until and unless the building plans, specifications and plot plan showing the proposed type of construction, exterior design and location of such residence have been approved in writing as to conformity and harmony of external design and consistence with plans of existing residences or other buildings and as to the location of the structure with respect to topography and finished ground elevation, by the Architectural Committee.

3. In order to prevent duplication of buildings or improvements to be constructed in this section or adjacent section the Committee is vested with full authority to approve or disapprove plans for the construction of any building or improvements with its major features

so similar to an existing building or improvement as to be construed as a practical duplication thereof in the discretion of the Committee.

4. In the event said Committee fails to approve or disapprove such designs and plans within 30 days after said plans have been submitted to it, or in any event, if no suit to enjoin the erection or alteration of such building or improvement had been commenced before such erection or alteration is substantially completed, such prior approval will not be required and this covenant will be deemed to have been fully complied with and no suit or claim will be available to said Committee, nor to any lot owner or other person. The term "Building or improvement" shall be deemed to include the erection, placement, or alteration of any outbuilding, wall or fence to be made in any lot.

5. The Committee is authorized by unanimous vote of all its members to approve or ratify in the construction or alteration of any building minor violations of the requirements herein set forth under Section II, "Setbacks, Location and Size of Improvements and Lots", if in the opinion of all the members of the Committee the same shall be necessary to prevent undue hardship because of topography, the shape of any platted lot or the setback lines as shown on the recorded Plat, and if in the opinion of the members of the Committee such violation will cause no substantial injury to any other lot owner. In no event may the Committee approve or ratify a violation of the front setback line of more than 5 feet or of the main building side line restriction of more than 4 feet or of the restrictions as to building size imposed by Section II hereof. The approval or ratification by the Committee in accordance with this paragraph shall be binding on all persons.

IV/ EASEMENTS

1. An easement is reserved over the rear and side lot lines 5 feet in width on each lot for the installation, operation and maintenance of utilities and for drainage purposes. Such easements across the lots as are shown on the recorded Plat are also reserved.

The right is further reserved within the 5 foot easement for grade changes and tree removal, if necessary, for the purpose of proper

landscaping and drainage, all subject to the approval of the Architectural Committee.

V/ MAINTENANCE CHARGES, RECREATIONAL FACILITIES & COMMON GROUNDS

1. On or before such time as there are one hundred families living in the subdivision, the developers shall cause an eleemosynary corporation to be formed for the benefit of the residents of the subdivision, which shall bear the name "Sugar Creek Recreational Center, Inc." The owner of every residence located in said subdivision shall be a member of said corporation, and shall be entitled to one vote, regardless of the number of lots used in connection with his residence. When title to the property is vested in two or more persons jointly, the vote shall be exercised as they among themselves determine but in such case no more than one vote shall be cast per residence. Membership shall be appurtenant to and may not be separated from ownership of the property which is subject to assessment.

2. An annual assessment consistent with the By-Laws of Sugar Creek Recreational Center, Inc., shall be levied by said Recreational Center against the owner(s) of each residence in the subdivision. This assessment shall be based on the residence only but shall be a lien upon all lots or portions of lots used by an owner in connection with his residence. Said assessment shall be due and payable to the Recreational Center on January 1 of each year. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the highest legal rate. The acceptance of a deed by a grantee shall be construed to be a covenant by the grantee(s) to pay said assessment, which shall run with the land and be binding upon the grantee, his successors, heirs and assigns. No persons may waive or otherwise escape liability hereunder by the non-use of the facilities of the corporation or abandonment of the property.

9449

4328 RV-2

The corporation shall have the right to suspend the voting rights and right to the use of the recreational facilities of a resident for any period during which any assessment against his property remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations. In addition, the corporation shall have the right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this instrument. In the event of non-payment of any assessment as set forth herein, the corporation may bring an action at law against the owner(s) personally obligated to pay same or foreclose a lien against the property in the same manner that a real estate mortgage is foreclosed and interests, costs and attorneys fees shall be added to the amount of such assessment. The lien of the corporation against the property must be established by, and shall be effective from the time of, filing of a Notice of Lis Pendens in the Office for the Clerk of Court of Greenville County. Failure by the corporation, or any owner, to enforce any covenant or lien herein contained shall in no event be deemed a waiver of its right to do so.

3. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage, lien of laborers, contractors or materialmen furnishing labor and materials in connection with the construction of improvements located on said property, unless prior to the filing thereof Notice of Lis Pendens has been filed by the corporation for foreclosure for the nonpayment of its assessment. Sale or transfer of any residence shall not affect the assessment lien; however, the sale or transfer of any lot pursuant to foreclosure of a mortgage or materialmen's or mechanic's lien or any proceeding in lieu thereof shall extinguish the lien of such assessment as to payments which became due prior to such sale or

transfer unless prior to commencement of said action a Notice of Lis Pendens has been filed by the corporation as set forth above. Nothing herein shall affect the right of the corporation to enforce the collection of any charges that shall become payable after the acquisition of title by a subsequent bona fide purchaser for value.

4. The annual assessment to be levied by the Recreational Center shall not apply to any lot or residence so long as it is wholly or partially owned by John C. Cothran, Ellis L. Darby, Jr., or M. G. Proffitt, or any partnership, corporation or other entity in which Cothran, Darby or Proffitt individually have at least a twenty-five (25%) per cent interest. In the case of builders who purchase lots in the subdivision for the purpose of erecting residence thereon for resale, the full annual assessment to be levied by the Recreational Center shall be first due on such lots or residences on the first day of January next succeeding the date title is transferred to the homeowner but in no event later than the first day of January of the second January following the purchase of the lot by the builder. When the homeowner takes title from the builder, the homeowner shall pay a proportional share of the assessment in effect for that year which partial assessment shall be due and payable within thirty (30) days from the date title is transferred to the homeowner. With respect to individuals who purchase lots with the expectation of later erecting a residence, when such individual takes title to the lot, such individual shall pay a proportional share of the assessment in effect for that year, which partial assessment shall be due and payable within thirty (30) days from the date title is taken.

5. Until such time as the developers form the corporation, Sugar Creek Recreational Center, Inc., the Architectural Committee is empowered to perform the functions that will be performed by the Recreational Center and for this purpose may make such rules and

regulations as it deems desirable to carry out said purposes. During this interim period, the Committee shall have the power to make an annual assessment as provided hereinabove but in no event shall such assessment exceed \$150.00 to property owners in Sugar Creek Subdivision. The funds created by the assessment shall be expended solely and exclusively for the maintenance and operation of the common grounds, street lighting and all other common facilities, including recreational. Upon the formation of the Sugar Creek Recreational Center, Inc., all unexpended funds, if any, then in the hands of the Committee shall be transferred to the Recreational Center. The assessment made by the Committee shall have the same force and effect as though made by the Recreational Center, all as set forth above.

VI/ MISCELLANEOUS

1. No signs shall be permitted on any residential lots except that a single sign offering property for sale or for rent may be placed on any such lot provided such sign is not more than 24 inches wide by 20 inches high.
2. The property within the subdivision is hereby declared to be a bird sanctuary and any hunting of any wild birds is hereby prohibited.
3. Nothing herein contained shall be construed to prevent Cothran & Darby Builders, Inc. and/or M. G. Proffitt, Inc., or their successors and assigns, from maintaining temporary sales offices and storage on any lot, common grounds or recreational facilities while the subdivision is in the process of being developed and houses constructed within the development.
4. The covenants herein contained are to run with the land and shall be binding on all persons claiming under them until the 31st day of December, 1994, at which time said covenants shall be

automatically extended for successive periods of ten (10) years unless by vote of the majority of the then owners of the lots, it is agreed to change said covenants and building restrictions in whole or in part.

If the undersigned, or their Successors, Heirs or Assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person owning any real property situated in said subdivision to prosecute any proceedings at all or in equity against the person or persons violating or attempting to violate any such covenant and either to prevent him or them from so doing or to recover damages or other dues for such violation.

Invalidation of any one or more of these covenants by Judgement or Court Order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the said developers have hereunto set their Hands and Seals this 17 day of July, 1975.

Witness:

[Signature]
Mary L. Johnson

M. Graham Proffitt III
M. Graham Proffitt, III
Ellis L. Darby, Jr.
Ellis L. Darby, Jr.
John C. Cothran (LS)
John C. Cothran, President
JOHN COTHRAN COMPANY, INC.