

UNOFFICIAL COPY

99201105

9946 0082 00 001 Page 1 of 9

1999-03-02 16:34:13

Cook County Recorder

71.50

**DECLARATION OF COVENANTS AND RESTRICTIONS  
FOR  
WHITETAIL POND**



THIS DECLARATION is made this 2nd day of March, 1999, by DE LORIS PRENA, (hereinafter referred to as "Declarant"):

**WITNESSETH:**

Declarant is a title holder of that certain real property situated in Palatine Township, Cook County, Illinois, more particularly described in the attached Exhibit A, made a part hereof;

Declarant or its successors and assigns intends Whitetail Pond to be a residential Subdivision; with five Lots to be conveyed to individual Owners;

Declarant intends to subject Whitetail Pond to the covenants and restrictions, charges and liens hereinafter set forth, each and all of which is and are for the benefit of the Owner; and

Declarant hereby declares that Whitetail Pond shall be held, sold and conveyed subject to the following covenants, restrictions, charges and liens which are for the purpose of protecting the value and desirability of, and which shall run with the Property submitted thereto and be binding on and inure to the benefit of all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns.

Section 1: "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers and land trust beneficiaries, but excluding those having such interest merely as security for the performance of any obligation. Declarant shall, as long as it owns Lots, be an Owner.

Section 2: "Property" shall mean and refer to the Whitetail Pond Subdivision.

Section 3: "Lot" shall mean and refer to the separate plots of land as shown and designated upon the recorded Subdivision plat to the Property.

Section 4: "Declarant" shall mean and refer to DeLoris Prena and her respective successors and assigns who are designated as such in writing by Declarant and who consent in writing to assume the duties and obligations connected therewith.

Section 5: "Declaration" shall mean the within instrument and shall include such amendments, if any, to the within instrument as may be from time to time adopted pursuant to the terms hereof.

# UNOFFICIAL COPY

Section 6: Reference in any deed, mortgage, trust deed or any other recorded documents to the restrictions and covenants herein described shall be sufficient to create and reserve such restrictions and covenants to the respective grantees, mortgages, or trustees of said parcels as fully and completely as if those restrictions and covenants were fully related and set forth in their entirety in said documents.

Section 7: Architectural, Landscape Design and Site Plan Approval: The purpose of requiring architectural, landscape design and site plan approval, including location of the dwelling, accessory structures, water well and sewage system for each individual Lot is to preserve the architectural and aesthetic appearance of the Property, insure that the location of each dwelling, accessory structure, water well and sewage system does not hamper or restrict the opportunity for placement of said items on adjoining Lots in order to comply with applicable governmental regulations, and to protect the value of the property of all Lot Owners.

In approving or disapproving a request relating to a dwelling unit or accessory structure, Declarant (or designated representative) shall consider whether the proposed dwelling unit or accessory structure is or will be in harmony with other dwelling units or accessory structures on the Lots, whether it would have a detrimental effect on property values or development on the other Lots within the Property, whether there is excessive similarity or excessive dissimilarity, and whether the Dwelling Unit or accessory structure substantially promotes the goal to have a first class residential development on the Property.

In approving or disapproving a request relating to a landscape design or site plan, Declarant (or designated representative) shall consider whether the proposed plan preserves surface drainage patterns on the Lot, whether it does or does not impair surface drainage upon adjoining Lots, whether damage to or removal of large trees can be avoided, whether proposed grade changes are necessary, sufficient, and aesthetically pleasing, whether, in the case of water well and sewage system location, applicable governmental regulations will be observed, and adjoining Lot Owners will not be substantially restricted in their placement of a water well and/or sewage system.

No construction of a single family residence, accessory structure, or undertaking of landscaping or site work costing more than \$5,000.00 when completed, shall be commenced until and unless plans, specifications, design drawings, grading and site plans for the same shall have been first submitted to and approved in writing by the Declarant (or designated representative). Any such submission shall include, but not be limited to, documents showing the cost, architectural design, elevations, floor plan, size, shape, and outside materials for a proposed dwelling unit or accessory structure. Any submission for approval of a landscape design or site plan shall show the cost, existing topography and drainage features, proposed grading and/or drainage changes, proposed tree removal, proposed location and identification of trees, shrubs, concrete or brick walls, timbers, boulders, walkways and underground sprinkler systems. Such submission shall also include the location and style of fencing permitted under this Declaration, and the location and elevation of any proposed driveway, garage apron, or other

**UNOFFICIAL COPY**

impervious surfaces composed of asphalt, brick and/or concrete materials. Submissions relating to a dwelling unit, landscape design and site plan must be made at the same time.

If there is a conflict between the architectural, landscape design and/or site plan documents, as approved by Declarant, and applicable governmental ordinances or regulations, then to such extent the said documents shall be amended to satisfy the requirements of the conflicting ordinance or regulation.

Declarant (or designated representative) shall not be liable to any Lot Owner, to anyone submitting documents for approval, or to any other person by reason of good faith exercise of judgment or mistake or non-feasance arising out of, or in connection with, the approval, disapproval or failure to approve any of the documentation called for under this Section 7.

The provisions of this Section 7 shall remain in full force and effect until December 31, 2002, or the resolution and disposition of any dispute arising hereunder, whichever last occurs.

Section 8: Building Standards: No building shall be erected or maintained on any Lot in the Property unless it is a dwelling house designated, equipped and used for occupancy as a private residence by a single family and containing a minimum livable area of 3,500 square feet, exclusive of garage, basement and lower level living space.

Section 9: Each Lot Owner shall be responsible for the maintenance, care, repair and replacement to a high quality standard:

- A. of the dwelling structure and appurtenances on his Lot;
- B. of the grounds, including landscaped areas, within his Lot and between his Lot line and the curb line of Whitetail Lane;
- C. of the portion of any Lot located within the boundaries of a drainage and Detention Easement in accordance with applicable governmental regulations, with the exceptions of those matters under the authority and responsibility of the Drainage & Detention Commissioner.

No Lot Owner shall allow erosion to take place or continue on his Lot.

Section 10: Drainage and Detention Commissioner. Declarant shall appoint a Drainage and Detention Commissioner who shall serve until Declarant designates a successor Drainage and Detention Commissioner. When all the Lots 1 through 4 have been conveyed to Purchasers (or sooner if Declarant so elects), Declarant will call a meeting of all Lot Owners, at which time said Owners, by a majority vote shall elect a successor Drainage and Detention Commissioner. Thereafter, such successor Drainage and Detention Commissioner shall serve for a period of two years.

No more than 60 nor less than 30 days prior to the expiration of such term, a meeting of Lot Owners shall be called to elect a successor Commissioner from among themselves. Written

# UNOFFICIAL COPY

notice of such meeting shall be given to the Owners by the Commissioner at the name and address shown in the current records of the Palatine Township Assessor's Office, indicating the date, time and place for such meeting. In the event that the then acting Commissioner fails to give such notice as required, or has resigned, moved away, become unable to carry out the duties proscribed, or is deceased, any Owner can call for a meeting of the Owners to elect a successor Commissioner by directing written notice as aforesaid.

The meeting to elect a successor Commissioner shall be held on the date and at the time and place designated in the written notice, or at an alternative date, time and place agreed to by no less than three of the give Lot Owners. There shall be a quorum of at least three Lot Owners present at any such meeting in order to conduct an election, with a majority of votes being case needed to elect a successor Commissioner. At such election, the Owner or Owners of each Lot shall be entitled to one vote.

The Drainage and Detention Commissioner shall have the following authority and responsibilities.

- A. Inspect the drainage and detention structures serving the Whitetail Pond Subdivision to see that they are functioning properly.
- B. To report the substandard condition of said structures to the PALATINE TOWNSHIP HIGHWAY DEPARTMENT when such structures are located in the public right-of-way; or when outside the public right-of-way, the care and maintenance of any such structure is under contract with the Highway Department.
- C. In all other cases, to provide for and oversee the care and maintenance of all drainage and detention structures serving the Subdivision.
- D. Provide for and oversee the control of pond weeds and algae on a periodic or as-needed basis. Commissioner may seek a contribution for this purpose from adjoining property owner.
- E. Provide for and oversee the periodic testing of pond water for fecal bacteria and/or injurious chemicals, reporting evidence of such contamination promptly to Owners and appropriate public authorities.
- F. Gather and maintain a file relating to the maintenance and inspection of individual aerobic treatment systems located on Lots 1,2,3 & 4. Owners of record of each Lot shall provide copies of maintenance agreements and inspections when requested by Commissioner.
- G. Cut weeds, grass and maintain landscaping on that part of Lot 2 located on the southwesterly edge of Whitetail Pond.
- H. Maintain landscaped area on both sides of Whitetail Lane at the conjunction with Hillside Road.
- I. Commissioner or representative shall have reasonable access on the Property in order to properly carry out responsibilities and to deal with matters within his authority.

# UNOFFICIAL COPY

- J. Maintain a bank account at a local bank with funds donated by Declarant as a fund from which to make payments for services provided under the authority of Commissioner. This fund is to be replenished by assessments collected from Owners.
- K. Levy monthly assessments equally from each Owner (regardless of Lot size or location) to defray expenses incurred in carrying out all responsibilities stated herein; except that all expenses associated with the control of pond weeds or algae shall be divided as follows: 33% to Lot 2, 33% to Lot 3, 11% to Lots 1,4 & 5. Should a monthly assessment remain unpaid when due, such sum shall become a lien against the Lot in question upon the filing with the Cook County Recorder of Deeds of an Affidavit of Delinquency.
- L. At his option, initiate legal proceedings to foreclose such lien and, in addition or in the alternative, bring an action at law against the Owner or Owners of the delinquent Lot to collect such delinquency, plus costs and reasonable attorney's fees.

Section 11: Individual sewage disposal systems for Lots, 1,2,3 and 4 shall include a state approved Class I aerobic treatment plant as an integral part of the installation.

The owner of record of any individual sewage disposal system which employs an aerobic unit for pretreatment of wastewater shall initiate and keep in force an agreement for inspection and maintenance of the aerobic unit with an authorized representative of the manufacturer.

The agreement shall provide for inspection of the aerobic unit a minimum of two times per year, and shall provide for the repair, replacement, adjustment or modification of the aerobic unit and for additional inspections as are necessary to insure proper operation of the unit.

Copies of inspection and maintenance agreements and reports shall be provided to the Drainage and Detention Commissioner by each Lot Owner.

Section 12: Each single family residence to be located on Lots 1,2,3 and 4 is to be equipped with a fire protection sprinkler system approved by the Barrington Countryside Fire Protection District in accordance with the provisions contained in NFPA-13D. In the event Cook County (or other governmental body in authority) adopts an ordinance governing the installation and inspection of a fire sprinkler system on the Property, such ordinance or regulation shall govern and the approval of the Barrington Countryside Fire Protection District shall no longer be required under this Declaration.

Section 13: Nuisances. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 14: Development Activity. Notwithstanding any other provision herein, any Owner, including the Declarant, shall be entitled to conduct on the Property all activities

normally associated with and convenient to the development of the Property and the construction and sale of single-family residential units on the Property. However, no construction equipment or material delivery vehicles shall be allowed to load or download on the paved public roadway.

Section 15: Temporary Structures. No structure of a temporary character, including, without limiting the generality thereof, trailer, basement, tent, shack, garage, barn, or other outbuilding, shall be used on any Lot at any time as a residence either temporarily or permanently.

Section 16: Signs. No advertising sign or billboards of any kind shall be displayed to the public view on any Lot, other than the Subdivision entrance signs, if any, and except a "For Sale" sign, not exceeding 2 feet by 3 feet in size. Such sign shall be removed immediately after the sale or completion of the dwelling. This restriction shall not apply to the Declarant, Declarant's beneficiary or assignee.

Section 17: Livestock and Poultry. No animals, livestock or poultry, or bees of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose. No horse or horses may be kept on any Lot within the Subdivision.

Section 18: Garbage and Refuse Disposal. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition and in an inconspicuous place.

Section 19: Parking of Vehicles and Boats. No private vehicles shall be parked on Whitetail Lane. No travel trailer, private truck, bus, hauler, trailer, motorized home or boat shall be parked in the front yard of any Lot, or elsewhere on any Lot unless it is shielded from the view of other Lots and the public roadway.

Section 20: Fencing. Fencing shall be governed as follows: There shall be no fencing along such portions of the property facing or adjacent to Whitetail Lane and Hillside Road; or along, adjacent to or parallel with the common lot lines between Lots 2 and 3, between Lots 3 and 4, or between Lots 4 and 5. A fence no more than 48" in height shall be permitted to enclose a contiguous area of no more than 6,500 square feet providing it is located in the rear of any residence and is landscaped with evergreen plant material along its perimeter so as to be aesthetically compatible.

Fencing for an in-ground swimming pool shall meet governmental safety requirements but in the absence of any height requirements shall be no more than six feet in height. Any such fencing shall be landscaped with evergreen plant material along its perimeter so as to be aesthetically compatible. A metal and/or filament fence approved by the Declarant may be situated along the edge of Whitetail Pond within the tall grasses and wildflowers there present.

# UNOFFICIAL COPY

All other fencing shall be made of wood, or plastic or concrete simulated wood product, or as otherwise approved in writing by Declarant.

Section 21: No dock, pier or other structure shall be allowed on the pond area. No boat, skiff, raft or other floating device shall be allowed on the pond, except for the periodic purpose of treating pond, weeds and algae. No snowmobiling shall be allowed on the pond or upon any Lot.

Section 22: There shall be no above-ground swimming or wading pools. There shall be no basketball hoops or playground equipment except in the rear of the residence, situated so as not to be visible from the street. Any in-ground swimming pool shall be located to the rear of the residence on such Lot. It shall be fenced and landscaped in accordance with the provisions of Section 20 herein.

Section 23: Provisions of this Declaration may be modified, amended or rescinded by an instrument in writing, executed and acknowledged by no less than four of the five Lot Owners, and recorded in the Recorder's Office of Cook County, Illinois. If there are more than two fee owners of record of a particular Lot, a majority of them may execute such instrument. Mortgagees or other parties of interest are not to be included as Owners.

Section 24: Notices. Any notices required or desired to be sent under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of recipient.

Section 25: Rule Against Perpetuities. If and to the extent that any of the covenants, restrictions, rights, conditions, terms, provisions, etc. contained in this Declaration would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants, restrictions, rights, conditions, terms, provisions, etc. may be valid, then the covenant, restriction, right, condition, term, provision, etc. concerned shall continue and endure only until the expiration of a period of twenty-one (21) years after the death of the last to survive of the class of persons consisting of all of the lawful descendants who are living at the date of this Declaration of any member of the current Congress of the United States of America.

Section 26: Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 27: Rights and Obligations. The provisions of this Declaration and the rights and obligations established thereby shall be deemed to be covenants running with the land and shall inure to the benefit of, and be binding upon, each and all of the Owners and their respective heirs, representatives, successors, assigns, purchasers, grantees and mortgagees. By the recording or the acceptance of a deed conveying a Lot or any interest therein, or any ownership

# UNOFFICIAL COPY

interest in the Lot whatsoever, the person to whom such Lot or interest is conveyed shall be deemed to accept and agree to be bound by and subject to all of the provisions of this Declaration and the bylaws, whether or not mention thereof is made in said deed.

**Section 28: Declarant's Right of Enforcement.** In the event any Lot Owner shall be delinquent in any of the provisions of this Declaration, the Declarant may, but shall not be obligated to, pursue any remedy at law or in equity to enforce the Declaration. The Declarant may record costs incurred in the enforcement of the Declaration, including attorney's fees, as a lien against the title of said Lot. The Declarant may initiate legal proceedings to foreclose such lien and may, in addition, or in the alternative, bring any action at law or in equity against the Owner or Owners of record of said delinquent Lot. Any inaction by the Declarant shall not be construed as a waiver by the Declarant of its rights to enforcement under this or any provision of the Declaration.

IN WITNESS WHEREOF, Declarant has caused this Declaration of Covenants, Conditions, Restrictions and Rights for Whitetail Pond to be executed as of this 2<sup>nd</sup> day of March, 1999.

*DeLoris Prena*  
DeLoris Prena, Declarant

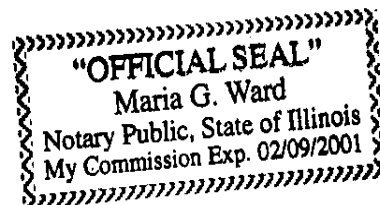
STATE OF ILLINOIS     )  
  ) SS  
COUNTY OF COOK     )

I, MARIA G. WARD, a Notary Public in and for the County in the State aforesaid, do hereby certify that DeLoris Prena, who is personally known to me to be the person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as her own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 2<sup>nd</sup> day of March, 1999.

*Maria G. Ward*  
Notary Public

6276237.1





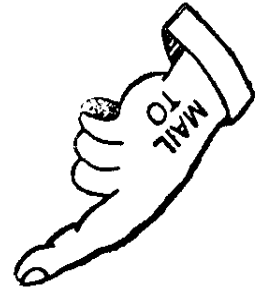
# UNOFFICIAL COPY

## SCHEDULE A

WHITETAIL POND, A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF SECTION 5 TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS

PIN No. 02-05-104-034 thru 038

Property of Cook County Clerk's Office



G. PRENA  
20457 HAZELCREST RD  
PALATKA, IL. 60074