

PLAT 1

2424589

FILED BY
CHICAGO TITLE INS. CO.
OLATHE, KANSAS
Account 11299

**WHITEHORSE
HOMES ASSOCIATION DECLARATION**

THIS DECLARATION, Made on this 22nd day of August, 1994, by J. C. Nichols Company, a Missouri corporation, of Kansas City, Jackson County, Missouri.

WITNESSETH: That,

WHEREAS, J. C. Nichols Company is the owner of all of the lots shown on the plat of WHITEHORSE, a subdivision of land in the City of Leawood, in Johnson County, Kansas, filed for record on April 26, 1994, in the Office of the Register of Deeds of Johnson County, Kansas, and recorded in Book 87 of Plats, at Page 10; and

WHEREAS, J. C. Nichols Company is now developing said WHITEHORSE for residence purposes and it is its desire to create and maintain a residential neighborhood possessing features of more than ordinary value.

NOW, THEREFORE, to provide the means necessary to achieve such purpose, J. C. Nichols Company does now and hereby subject Lots 1 to 8, both inclusive, in Block 1; and Lots 1 to 21, both inclusive, in Block 2; and Lots 1 to 3, both inclusive, in Block 3; and Lots 1 and 2, in Block 5; and Lots 1 and 2, in Block 6; and Lots 1 to 12, both inclusive, in Block 7; and Lots 1 to 26, both inclusive, in Block 8; and Lots 1 to 11, both inclusive, in Block 9; and Lots 7 to 12, both inclusive, in Block 10, of WHITEHORSE, as shown on the aforesaid plat, to the covenants, charges and assessments set forth, contained and provided for in this Declaration.

ARTICLE I. DEFINITION OF TERMS USED

For purposes of this Declaration, the following definitions shall apply:

STATE OF KANSAS)
COUNTY OF JOHNSON)
FILED FOR RECORD

1994 AUG 23 P 41207

4000 SARA F. ULLMANN
REGISTER OF DEEDS

VOL. 4412 PAGE 698

(a) The term "Lot" shall mean any lot as shown as a separate lot on any recorded plat of all or part of the District; provided, however, that if an Owner, other than the Developer, owns all or parts of one or more adjacent lots upon which only one residence has been, is being, or will be erected, then such adjacent property under common ownership shall be deemed to constitute only one "Lot".

(b) The term "District" shall mean all of the above-described lots in WHITEHORSE, all Common Areas, and all additional property which hereafter may be made subject hereto in the manner provided herein.

(c) The term "Developer" shall mean and refer to J. C. Nichols Company, a Missouri corporation, and its successors and assigns.

(d) The term "Owner" shall mean the record owner in fee simple of any Lot, including the Developer.

(e) The term "Common Areas" shall mean (i) street right-of-ways, (ii) streets and street islands, (iii) gateways, entrances, monuments, berms and other similar ornamental areas and related utilities, street lights, sprinkler systems and landscaping constructed or installed by or for the Developer at or near the entrance of any street or along any street, and any easements related thereto, including an approximate 30 foot wide landscape easement along Nall Avenue as shown on the plat of WHITEHORSE, and (iv) all other similar areas and places, together with all improvements thereon and thereto (including clubhouse or other

recreational facilities that may be constructed or erected), the use, benefit or enjoyment thereof is intended for all of the Owners within the District, whether or not any "Common Area" is located on any Lot.

(f) The term "street" shall mean any public street, road, terrace, circle or boulevard shown on any recorded plat of all or part of the District.

(g) The term "WhiteHorse Homes Association" shall mean the Kansas not-for-profit corporation to be formed by the Developer for the purpose of serving as the homes association for the District.

(h) The term "Certificate of Substantial Completion" shall mean a certificate executed, acknowledged and recorded by the Developer stating that all or substantially all of the Lots in the District (as then composed or contemplated by the Developer) have been sold by the Developer and the residences to be constructed thereon are substantially completed; provided, however, that the Developer may execute and record a Certificate of Substantial Completion or similar instrument in lieu thereof in its discretion at any time and for any limited purpose hereunder.

**ARTICLE II. HOMES ASSOCIATION
MEMBERSHIP, VOTING AND MANAGEMENT**

Membership in the WhiteHorse Homes Association shall be limited to the Owners of Lots within the District and every such Owner shall be a member. The WhiteHorse Homes Association shall have only one class of membership. Each member shall have one vote for each Lot for which he is the owner and upon which he shall not be delinquent in the payment of any assessment; provided, however,

that when more than one person is an Owner of any particular Lot, all such persons shall be members and the vote for such Lot shall be exercised as they, among themselves, shall determine, but in no event shall more than one vote be cast with respect to such Lot.

ARTICLE III. POWERS AND DUTIES
OF THE HOMES ASSOCIATION

1. In addition to the powers granted by other portions of this Declaration or by law, the WhiteHorse Homes Association shall have the power and authority to do and perform all such acts as may be deemed necessary or appropriate by its Board of Directors to carry out and effectuate the purposes of this Declaration, including, without limitation:

(a) To enforce, in its own name, any and all building, use or other restrictions, obligations, agreements or reservations which have been or hereafter may be imposed upon any of the Lots; provided, however, that this right of enforcement shall not serve to prevent changes, releases or modifications of restrictions, obligations, agreements or reservations from being made by the parties having the right to make such changes, releases or modifications under the terms of the deeds, declarations or plats in which such restrictions, obligations, agreements and reservations are set forth. The expense and cost of any such enforcement proceedings by the WhiteHorse Homes Association may be paid out of the general fund of the WhiteHorse Homes Association, as herein provided. Nothing herein contained shall be

deemed or construed to prevent any Owner from enforcing any building, use or other restrictions in his own name.

(b) To maintain public liability, worker's compensation, fidelity, fire and extended coverage, director and officer liability, indemnification and other insurance with respect to the activities of the WhiteHorse Homes Association and the property within the District.

(c) To levy and collect the assessments which are provided for in this Declaration.

(d) To enter into agreements from time to time with the Developer and other parties regarding the performance of services and matters benefiting both the Developer and the WhiteHorse Homes Association and its members and the sharing of the expenses associated therewith.

(e) To enter into agreements with the Developer, other developers, other homes associations and other parties relating to the joint use, operation and maintenance of any recreational facilities and other similar common areas, whether in or outside the District, and the sharing of expenses related thereto.

(f) To engage the services of a management company or other person or entity to carry out and perform the functions and powers of the WhiteHorse Homes Association, including, without limitation, keeping of books and records, and operation and maintenance of Common Areas.

(g) To engage the services of a security guard or security patrol service.

(h) To provide for the collection and disposal of rubbish and garbage; to pick up and remove loose material, trash and rubbish of all kinds in the District; and to do any other things necessary or desirable in the judgment of the board of directors of the WhiteHorse Homes Association to keep any property in the District neat in appearance and in good order.

(i) To exercise any architectural and aesthetic control and authority given and assigned to it in this Declaration or in any other deed, declaration or plat relating to all or any part of the District.

(j) To make such reasonable rules and regulations (including, without limitation, the use of Common Areas) and to provide means to enforce such rules and regulations as will enable it to adequately and properly carry out the provisions and purposes of this Declaration.

(k) To exercise such other powers as may be set forth in the Articles of Incorporation or Bylaws of the WhiteHorse Homes Association.

2. In addition to the duties required by other portions of this Declaration and by law, the WhiteHorse Homes Association shall have the following duties and obligations with respect to providing services to Owners within the District:

(a) To the extent not provided as a service by any governmental authority, the WhiteHorse Homes Association shall provide for the collection and disposal of rubbish and garbage for each residence one day per week (which day shall be the same for all residences).

(b) The WhiteHorse Homes Association shall at all times be responsible for the proper maintenance of, and shall maintain, the Common Areas,

(c) The WhiteHorse Homes Association shall pay all amounts due from it under any agreement regarding recreational facilities, as contemplated in Article VIII below.

ARTICLE IV, METHOD OF PROVIDING GENERAL FUNDS

1. For the purpose of providing a general fund to enable the WhiteHorse Homes Association to exercise the powers, maintain the improvements and render the services provided for herein, all Lots in the District, other than Lots then owned by the Developer, shall be subject to an annual assessment to be paid to the WhiteHorse Homes Association by the respective Owners thereof. The amount of such annual assessment shall be fixed periodically by the WhiteHorse Homes Association and, until further action of the WhiteHorse Homes Association, shall be ^{\$400.00} \$200.00 per year; provided, however, that if and when the initial Recreational Facilities contemplated in Article VIII below are substantially completed and available for use, such annual amount shall be automatically increased to \$350.00.

Document No. 2498425

2. The rate of annual assessment upon each Lot in the District may be increased or decreased (i) by the Board of Directors of the WhiteHorse Homes Association from time to time to an increased amount not to exceed 10% of the rate of annual assessment in effect on the preceding January 1st, or (ii) at a meeting of the members specially called for that purpose and of which advance notice is given and if a majority of the members present at such meeting and entitled to vote, authorize such increase or decrease by an affirmative vote therefor; provided, however, that the rate of annual assessment may not be less than an amount that is necessary to permit the WhiteHorse Homes Association to perform its duties as specified in subsection 2 of Article III.

3. The annual assessments provided for herein shall be based upon the calendar year and shall be due and payable on January 1st of each year; provided, however, that (a) the first assessment for each Lot shall be due and payable, at the Developer's option, upon closing of the acquisition of the Lot from the Developer and shall be prorated as of the date thereof and (b) any increase that occurs under the proviso in subsection 1 above shall be effective as of the date such recreational facilities are available and ready for use (as determined by the Developer) and such increased amount shall be prorated as of the date thereof for the remainder of the calendar year. If the effective date of any increase in the rate of assessment is other than January 1st, the prorated portion of

the amount of such increase for the remainder of such year shall be due and payable on such effective date.

ADD #4
Doc No. 3006098 + 3640189
Initiation fee @ 350.00

ARTICLE V. LIEN ON REAL ESTATE

1. The annual assessment shall become a lien on the Lot against which it is levied as soon as it is due and payable as set forth above. In the event of the failure of any owner to pay any assessment within 30 days of the due date thereof, then such assessment shall bear interest at the rate of 10% per annum from the due date until paid. Should it become necessary to engage the services of an attorney to collect any assessment hereunder, all costs of collecting such assessment, including court costs and reasonable attorneys' fees, shall, to the extent permitted by applicable law, be added to the amount of the assessment being collected and the lien on the Lot.

2. All liens on any Lot for assessments provided for herein shall be inferior and subordinate to the lien of any valid purchase money first mortgage now existing or which may hereafter be placed upon such Lot.

3. Nonpayment of any assessment provided for herein within 60 days from the due date thereof shall cause such assessment to become delinquent. Payment of both principal and interest of a delinquent assessment may be enforced as a mortgage lien on such Lot through proceedings in any court in Johnson County, Kansas, having jurisdiction of suits for the enforcement of such liens. The WhiteHorse Homes Association may file certificates of nonpayment of assessments in the office of the Register of Deeds of

Johnson County, Kansas, whenever any assessment is delinquent. For each certificate so filed, the WhiteHorse Homes Association shall be entitled to collect from the Owner of the Lot described therein a fee of \$25.00, which fee shall be added to the amount of the delinquent assessment and the lien on the Lot.

4. Such liens shall continue for a period of five years from the date of delinquency and no longer, unless within such period suit shall have been instituted for collection of the assessment, in which case the lien shall continue until payment in full or termination of the suit and sale of the property under the execution of judgment establishing the same.

ARTICLE VI. SPECIAL ASSESSMENTS

In addition to the annual assessments provided for herein, the Board of Directors of the WhiteHorse Homes Association (a) shall have the authority to levy from time to time a special assessment against any Lot and its Owner to the extent the WhiteHorse Homes Association expends any money (for services or materials) to correct or eliminate any breach by such Owner of any agreement, obligation, reservation, or restriction contained in any deed, declaration or plat covering such Lot (including, without limitation, to maintain or repair any Lot or improvement thereon) and (b) shall levy from time to time special assessments against each and every Lot in an equal amount that is sufficient, when aggregated, to enable the WhiteHorse Homes Association to perform its duties as specified in subsection 2 of Article III that require any expenditure during any period in an amount in excess of the

general funds of the WhiteHorse Homes Association available therefor. Such special assessment shall be due and payable, and become a lien on such Lot, upon notice to such Owner of the assessment. Interest at the rate of 10% per annum shall accrue from the due date until paid and shall also be part of the lien against such Lot. Such lien shall be enforced and terminated in accordance with the provisions of Article V above.

ARTICLE VII. LIMITATION ON EXPENDITURES

Except with respect to recreational facilities, the WhiteHorse Homes Association shall at no time expend more money within any one year than the total amount of the assessments for that particular year, plus any surplus which it may have on hand from prior years; nor shall the WhiteHorse Homes Association have the power to enter into any contract which binds the WhiteHorse Homes Association to pay for any obligation out of the assessments for any future year, except for contracts for utilities, maintenance or similar services or matters to be performed for or received by the WhiteHorse Homes Association or its members in subsequent years and except for matters contemplated in subsection 2(c) of Article III above.

ARTICLE VIII. RECREATIONAL FACILITIES

1. The Developer shall have the right to construct and erect from time to time a clubhouse, parking lot and other similar recreational facilities ("Recreational Facilities") within the District or on property near the District and to make such facilities available for use by residents of the District and residents of other subdivisions that may be situated near the

District. The size, number and components of the Recreational Facilities shall be as determined by the Developer in its absolute discretion.

2. In the event any Recreational Facilities are so constructed and made available for use by residents of the District, the following shall apply:

(a) The WhiteHorse Homes Association will pay, from and after the substantial completion and availability date, a pro rata share (as defined below) of the operating expenses (as defined below) of the Recreational Facilities and of any post construction capital expenditures (as defined below); provided, however, that until ownership and control of the Recreational Facilities are transferred as provided in paragraph (d) below the per residence payment by the WhiteHorse Homes Association shall not exceed \$150.00 per year (which amount may be increased by 10% on January 1st of each year).

(b) For purposes hereof, the "operating expenses" of the Recreational Facilities shall generally have the meaning attributed thereto under generally accepted accounting principles, consistently applied, but shall not include (i) any costs of the Developer of acquiring, developing, improving, constructing or erecting the Recreational Facilities or the site on which such facilities are located, (ii) any depreciation or

amortization of the costs described in clause (i) above, (iii) any financing or debt service expenses related to the costs described in clause (i) above, (iv) any ground, facilities, or other lease payments or rents related to the costs described in clause (i) above, or (v) any costs attributable or allocable to the use of the Recreational Facilities or any part thereof by the Developer, any construction company, any real estate agent or any other similar party as an office, meeting place or storage facility.

(c) For purposes hereof, "post construction capital expenditures" shall mean any expenditures made or incurred after the completion of the initial (as specified by the Developer) Recreational Facilities for equipment, furniture, or other capital assets, including the expansion of any facilities, and any other expenditures that would be capitalized under generally accepted accounting principles, consistently applied.

(d) For purposes hereof, the WhiteHorse Homes Association's "pro rata share" for any fiscal year shall be equal to the product of (i) the aggregate pertinent expenses for the period multiplied by (ii) a fraction the numerator of which is the number of Lots that are then obligated to pay homes association dues and the denominator of which is the sum of (A) the numerator plus (B) the number of residential units in other subdivisions

that are using the Recreational Facilities.

(e) At such time as the Developer deems appropriate, the Developer shall convey title to or its interest in the Recreational Facilities to the WhiteHorse Homes Association and any other homes associations whose members may use the Recreational Facilities or to a not-for-profit corporation having as its members the owners of the residences entitled to use the Recreational Facilities. Such transfer shall be without cost or charge to the grantee(s) and free and clear of any mortgages or similar liens.

(f) The WhiteHorse Homes Association shall pay the amounts due from it under paragraph (a) above out of the homes association dues collected from the Owners of the Lots.

ARTICLE IX, COMMON AREAS

The Developer covenants and agrees to convey title to or its interest in the Common Areas (except as provided in Article VIII above) to the WhiteHorse Homes Association, without cost to the WhiteHorse Homes Association, not later than one month after the Developer has recorded the Certificate of Substantial Completion.

ARTICLE X, NOTICES

1. At least seven days prior to any meeting of the WhiteHorse Homes Association, it shall give written notice to all members of the place, time and purpose of the regular or special meeting of the WhiteHorse Homes Association.

2. The WhiteHorse Homes Association shall designate from time to time the place where payment of assessments shall be made and other business in connection with the WhiteHorse Homes Association may be transacted.

3. All notices required or permitted under this Declaration shall be deemed given if deposited in the United States Mail, postage prepaid, and addressed to the person entitled to such notice at the last address listed with the WhiteHorse Homes Association for such person. Notice to one co-owner shall constitute notice to all co-owners.

ARTICLE XI. EXTENSION OF DISTRICT

The Developer shall have, and expressly reserves, the right, from time to time, to add to the existing District and to the operation of the provisions of this Declaration such other adjacent (without reference to streets and right-of-ways) lands as it may now own or hereafter acquire by executing, acknowledging and recording an appropriate written declaration or agreement subjecting such land to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; provided, however, that such declaration or agreement may contain such deletions, additions and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable as solely determined by the Developer in good faith.

ARTICLE XII. OBSERVANCE OF ALL LAWS

The Whitehorse Homes Association shall at all times observe all applicable state, county, city or other laws or regulations and, if at any time any of the provisions of this Declaration shall be found to be in conflict with such laws, such provisions shall become null and void, but no other parts of this Declaration not in conflict therewith shall be affected thereby.

ARTICLE XIII. AMENDMENT AND TERMINATION

This Declaration may be amended or modified, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by both (a) the owners of two-thirds of the Lots within the District as then constituted and (b) if prior to the recording of the Certificate of Substantial Completion, by the Developer.

ARTICLE XIV. ASSIGNMENT OF DEVELOPER'S RIGHTS

The Developer shall have the right and authority, by appropriate agreement made expressly for that purpose, to assign, convey, transfer and set over to any person or entity, all or any part of the rights, benefits, powers, reservations, privileges, duties and responsibilities herein reserved by or granted to the Developer, and upon such assignment the assignee shall then for any or all such purposes be the Developer hereunder with respect to the rights, benefits, powers, reservations, privileges, duties and responsibilities so assigned. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer and set over the rights, benefits, powers,

reservations, privileges, duties and responsibilities hereunder.

ARTICLE XV. COVENANTS RUNNING WITH THE LAND

All provisions of this Declaration shall be deemed to be covenants running with the land and into whosoever hands any of the property in the District shall come.

ARTICLE XVI. TEMPORARY TRUSTEE

Prior to actual organization or incorporation of the Homes Association contemplated by the terms of this Declaration, Developer as Temporary Trustee for the WhiteHorse Homes Association shall have the right at its option to perform the duties, assume the obligations, levy and collect the assessments, and otherwise exercise the powers herein given to the WhiteHorse Homes Association, in the same way and manner as though all of such powers and duties were herein given directly to Developer. The WhiteHorse Homes Association contemplated by the terms of this Declaration shall not assume any of the rights herein provided for without the written consent of Developer and its relinquishment of its rights as Temporary Trustee.

ARTICLE XVII. SEVERABILITY

Invalidation of any of the provisions set forth herein, or any part thereof, by an order, judgment or decree of any court, or otherwise, shall not invalidate or affect any of the other provisions, or any part thereof, but they shall remain in full force and effect.

IN WITNESS WHEREOF, J. C. Nichols Company, by authority of its Board of Directors, has caused this instrument to be executed by its Vice President, and its corporate seal to be hereto affixed, the day and year first above written

J. C. NICHOLS COMPANY

By: *Walter C. Janes*
Walter C. Janes, Vice President

ACKNOWLEDGMENT

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

BE IT REMEMBERED, that on this 22nd day of August, 1994, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came WALTER C. JANES, Vice President of J. C. Nichols Company, a corporation duly organized, incorporated and existing under and by virtue of the laws of Missouri, who is personally known to me to be the same person who executed, as such officer, the within instrument of writing on behalf of said corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal the day and year last above written.

Shirley Buchanan
Shirley Buchanan Notary Public

My Commission Expires:
January 16, 1995

2498425 ✓

PLAT 1

FILED BY
CHICAGO TITLE INS. CO.
OLATHE, KANSAS

Accum 11441

AMENDMENT OF WHITEHORSE
HOMES ASSOCIATION DECLARATION

Amendment to
2424589

This Amendment is made this 13th day of June, 1995, by J. C. Nichols Company, a Missouri corporation, licensed to do business in the State of Kansas, with offices at 310 Ward Parkway, Kansas City, Missouri 64112.

WITNESSETH: That,

WHEREAS, J. C. Nichols Company did on the 22nd day of August, 1994, execute the WhiteHorse Homes Association Declaration which was recorded on August 23, 1994, under Document No. 2424589, in Volume 4412, at Page 698, in the office of the Register of Deeds of Johnson County, Kansas; and

WHEREAS, a plat of part of Blocks 3, 5, 6, 7, 9 and 10, and all of Blocks 1, 2 and 8, WHITEHORSE, was recorded on April 26, 1994, under Document No. 2386101, in Plat Book 87, at Page 10, in the office of the Register of Deeds of Johnson County, Kansas; and

WHEREAS, J. C. Nichols Company desires to amend said WhiteHorse Homes Association Declaration, pursuant to ARTICLE IV. METHOD OF PROVIDING GENERAL FUNDS, 1., the second sentence thereof, which states that, "The amount of such annual assessment shall be fixed periodically by the WhiteHorse Homes Association and, until further action of the WhiteHorse Homes Association, shall be \$200.00 per year; provided, however, that if and when the initial Recreational Facilities contemplated in Article VIII below are substantially completed and available for use, such annual amount shall be automatically increased to \$350.00."; and

WHEREAS, said initial Recreational Facilities are now substantially completed and available for use; and

WHEREAS, said WhiteHorse Homes Association Declaration, pursuant to ARTICLE XIII. AMENDEMNT AND TERMINATION, states that "This Declaration may be amended or modified, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by both (a) the owners of two-thirds of the Lots within the District as then constituted and (b) if prior to the recording of the Certificate of Substantial Completion, by the Developer."; and

WHEREAS, J. C. Nichols Company, at the present time, is the owner of fee simple title to more than two-thirds of the Lots within the District as now constituted and no Certificate of Substantial Completion has been recorded by the Developer, J. C. Nichols Company.

NOW, THEREFORE, in consideration of the foregoing recitals, and the mutual benefits to be derived by J. C. Nichols Company and other owners of the Lots as now and hereafter constituted within the District under this Amendment, J. C. Nichols Company does hereby declare that said second sentence of ARTICLE IV is hereby deleted and the following new second sentence is substituted in amendment and in lieu thereof: The amount of such annual assessment shall be fixed periodically by the WhiteHorse Homes Association and, until further action of the WhiteHorse Homes Association, shall be \$400.00 per year.

IN WITNESS WHEREOF, J. C. NICHOLS COMPANY, by authority of its Board of Directors, has caused these presents to be executed by its Vice President and its corporate seal to be hereto affixed, the day and year above written.

J. C. NICHOLS COMPANY

By Brian G. Shanahan
BRIAN G. SHANAHAN, Vice President

Vol. 4606 PAGE 324
A

ACKNOWLEDGMENT

STATE OF MISSOURI)
)ss
COUNTY OF JACKSON)

BE IT REMEMBERED, That on this 13th day of June, 1995, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Brian G. Shanahan, Vice President of J. C. Nichols Company, a corporation duly organized, incorporated and existing under and by virtue of the laws of Missouri, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument of writing on behalf of said corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

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

My Commission Expires:
January 16, 1999

Shirley Buchanan
Shirley Buchanan Notary Public

STATE OF KANSAS)
COUNTY OF JOHNSON)ss
FILED FOR RECORD

800

95 JUN 15 P 3:44.3

SARA FULLMANN
REGISTER OF DEEDS

VOL 4606 PAGE 325



FILED BY
CHICAGO TITLE INS. CO.
OLATHE, KANSAS
Account 11288

2423423

PLAT 1

STATE OF KANSAS)
COUNTY OF JOHNSON) ss
FILED FOR RECORD

WHITEHORSE
DECLARATION OF RESTRICTIONS
PART OF BLOCKS 3, 5, 6, 7, 9 AND 10
AND ALL OF BLOCKS 1, 2 AND 8

1994 AUG 18 P 4 15.4
4200
SARA F. ULLMANN
REGISTER OF DEEDS

WHEREAS, J. C. NICHOLS COMPANY, a Missouri corporation, its business address is 310 Ward Parkway, Kansas City, Missouri, authorized to transact business in the State of Kansas, has heretofore executed a plat of part of Blocks 3, 5, 6, 7, 9 and 10, and all of Blocks 1, 2 and 8, WHITEHORSE, which plat was recorded on April 26, 1994, under Document No. 2386101, in Book 87 of plats, at Page 10, in the office of the Register of Deeds of Johnson County, Kansas, and said Company has heretofore dedicated to the public the streets, circles, places, roads and terraces for street purposes as shown on said plat; and

WHEREAS, J. C. NICHOLS COMPANY is the owner of all of the lots shown on the aforesaid plat of WHITEHORSE and now desires to place certain restrictions on said lots owned by it, which restrictions shall be for the use and benefit of the present owner thereof and its future grantees.

NOW, THEREFORE, in consideration of the premises, J. C. NICHOLS COMPANY, for itself and for its successors and assigns, and for its future grantees, hereby declares that Lots 1 to 8, both inclusive, in Block 1; Lots 1 to 21, both inclusive, in Block 2; Lots 1 to 3, both inclusive, in Block 3; Lots 1 and 2, in Block 5; Lots 1 and 2, in Block 6; Lots 1 to 12, both inclusive, in Block 7; Lots 1 to 26, both inclusive, in Block 8; Lots 1 to 11, both inclusive, in Block 9; and Lots 7 to 12, both inclusive, in Block

10, of WHITEHORSE, as shown on the aforesaid plat, shall be and are hereby restricted as to their use in the manner hereinafter set forth.

SECTION 1. DEFINITION OF TERMS USED. For purposes of this Declaration, the following definitions shall apply:

(a) The term "Lot" shall mean any lot as shown as a separate lot on any recorded plat of all or part of the District; provided, however, that if an Owner, other than the Developer, owns all or parts of one or more adjacent lots upon which only one residence has been, is being, or will be erected in accordance with the restrictions hereinafter set forth, or as set forth in the individual deeds from Developer, or from its successors and assigns, then such adjacent property under common ownership shall be deemed to constitute only one "Lot".

(b) The term "District" shall mean all of the above-described lots in WHITEHORSE, all Common Areas, and all additional property which hereafter may be made subject hereto in the manner provided herein.

(c) The term "Developer" shall mean and refer to J. C. Nichols Company, a Missouri Corporation, and its successors and assigns.

(d) The term "Owner" shall mean the record owner in fee simple of any lot, including the Developer.

(e) The term "Common Areas" shall mean (i) street right-of-ways, (ii) streets and street islands, (iii) gateways, entrances, monuments, berms and other similar ornamental areas and

related utilities, street lights, sprinkler systems and landscaping constructed or installed by or for the Developer at or near the entrance of any street or along any street, and any easements related thereto, included an approximate 30 foot wide landscape easement along Hall Avenue as shown on the plat of WHITEHORSE, and (iv) all other similar areas and places, together with all improvements thereon and thereto (including any swimming pool, clubhouse or similar recreational facilities that may be constructed or erected), the use, benefit or enjoyment thereof is intended for all of the Owners within the District, whether or not any "Common Area" is located on any Lot.

(f) The term "street" shall mean any public street, road, terrace, circle or boulevard shown on any recorded plat of all or part of the District.

(g) The term "WhiteHorse Homes Association" shall mean the Kansas not-for-profit corporation to be formed by the Developer for the purpose of serving as the homes association for the District.

(h) The term "Exterior Structure" shall mean any structure erected or maintained on a lot other than the main residential structure or any structural component thereof, and shall include, without limitation, any deck, gazebo, greenhouse, doghouse or other animal shelter or run, outbuilding, fence, privacy screen, boundary wall, bridge, patio enclosure, tennis court, paddle tennis court, swimming pool, hot tub, basketball goal, swingset, trampoline, sand box, playhouse, treehouse or other recreational or play structure.

(i) The term "Approving Party" shall mean (i) prior to the consummation of the sale of the Lot and the fully completed residence to the Owner, the Developer, and (ii) subsequent to the sale of the Lot and the fully completed residence to the Owner, the Homes Associations of Country Club District, a Missouri not-for-profit corporation.

(j) The term "Board" shall mean the Board of Directors of the WhiteHorse Homes Association.

SECTION 2. USE OF LAND. None of the Lots may be improved, used or occupied for other than single-family, private residential purposes, and no duplex, flat or apartment house, although intended for residential purposes, may be erected thereon. No residential building which has previously been at another location shall be moved onto any lot. No trailer or outbuilding erected on any Lot shall at any time be used for human habitation, temporarily or permanently, nor shall any residence of a temporary character be erected on any of such Lots or used for human habitation; provided, however, that nothing herein shall prevent the Developer or others (including, without limitation, builders and real estate sales agencies) authorized by the Developer from erecting temporary buildings and using such temporary buildings or any residence for model office, sales or storage purposes during the development of the District. It is expressly provided, however, that Lot 2, Block 6, of WHITEHORSE, shall be used for the construction and operation of a clubhouse and swimming pool recreation facility, with surface parking areas, including appurtenant pedestrian walkways and appropriate landscaping improvements.

SECTION 3. BUILDING MATERIAL REQUIREMENTS. Exterior walls of all residences and all appurtenances thereto shall be of stucco, brick, stone, wood shingles, wood siding, wood paneling, plate glass, or any combination thereof. All windows shall be thermal pane type only. All exterior doors and louvers shall be constructed of wood, metal clad and wood laminate, colored metal (other than silver) and glass. All exterior doors shall be functional. Roofs with a pitch of three inches or more per foot shall be covered with wood shingles, wood shaker or slate. Any building products that may come into general usage for dwelling construction of comparable quality and style in the area after the date hereof shall be acceptable if approved in writing by the Approving Party. All wood exteriors, except roofs and shake side walls, shall be covered with a workmanlike finish of two coats of high quality paint or stain. No building shall be permitted to stand with its exterior in any unfinished condition for longer than five months after commencement of construction. All exterior basement foundations and walls which are exposed in excess of 12 inches above final grade shall be painted the same color as the residence or covered with siding compatible with the structure. No "earth" homes shall be permitted. No driveway shall be constructed in such a manner as to permit access to a street across a rear lot line.

SECTION 4. PERMITTED HEIGHT OF RESIDENCES. Any residence erected on any of said lots shall not be more than two stories in

height, provided, that a residence more than two stories in height may be erected on any of said lots with the consent in writing of Developer.

SECTION 5. REQUIRED SIZE OF RESIDENCES. Any residence one story in height erected on any lot in the District shall contain a minimum of 2,000 square feet of enclosed floor area. Any residence one and one-half stories in height erected on any lot shall contain a minimum of 2,000 square feet of enclosed floor area, all of which area shall be on the first floor. Any residence two stories in height erected on any lot shall contain a minimum of 2,600 square feet of enclosed floor area, of which at least 1,600 square feet shall be on the first floor.

The words "enclosed floor area" as used herein shall mean and include in all cases areas on the first and second floors of the residence enclosed and finished for all-year occupancy, computed on outside measurements of the residence, and shall not mean or include any areas in basement, garages, porches or attic. Developer shall have and hereby reserves the right to reduce the floor area requirements set forth above, provided the total reduction for any one residence may not exceed 20 percent of such minimum floor area requirements for such residence, and provided further that written approval of any such reduction is obtained from the City of Leawood.

SECTION 6. LOT AREA REQUIRED. No residence may be erected or maintained on any lot, or on any part or parts thereof, which makes provision for less than 12,000 square feet of lot area, without the prior written consent of Developer and the City of Leawood.

SECTION 7. APPROVAL OF PLANS AND POST-CONSTRUCTION CHANGES.

(a) No residence or Exterior Structure may be erected upon or moved onto any lot unless and until the building plans, specifications, materials, location, elevation and grade thereof have been submitted to and approved in writing by the Developer, or in the case of Exterior Structures as provided in Section 8 below, the Approving Party. Nor shall any change or alteration in such building plans, specifications, exterior color scheme, materials, location, elevation, grade and landscaping thereof be made until such change or alteration has been submitted to and approved in writing by the Approving Party. All building plans and plot plans shall be designed to minimize the removal of existing trees and shall designate those trees to be removed.

(b) No exterior additions or alterations to any structure shall be made unless and until the changes have been submitted to and approved in writing by the Approving Party. All replacements of all or any portions of a structure because of age, casualty loss or other reason, including, without limitation, roofs and siding, shall be of the same material as the original structure unless the changes have been submitted to and approved in writing by the Approving Party.

SECTION 8. SET BACKS. No building, exclusive of porches, porticoes, stoops, balconies, bay and other windows, eaves, chimneys and other similar projections, shall be closer to any street than the building setback lines, if any, shown on the plat.

SECTION 9. COMMENCEMENT AND COMPLETION OF CONSTRUCTION. Unless the following time periods are expressly extended by the

Developer in writing, construction of the residential building on a Lot shall be commenced within six months following the date of delivery of a warranty deed from the Developer to the purchaser of such Lot and shall be completed within six months after such commencement. In the event such construction is not commenced within such six month period (or extension thereof), the Developer shall have, prior to commencement of construction, the right to repurchase such Lot from such purchaser at its original sale price. No Owner of a Lot in violation of this construction commencement provision shall be entitled to reimbursement for taxes, interest or other expenses paid or incurred by or for such Owner.

SECTION 10. EXTERIOR STRUCTURES.

(a) No Exterior Structure shall be erected upon, moved onto or maintained upon any Lot except (i) with and pursuant to the advance written approval of the Approving Party, and (ii) in compliance with the additional specific restrictions set forth in subsection (b) below; provided, however, that the approval of the Approving Party shall not be required for any deck, gazebo or similar Exterior Structure that has been specifically approved by the Developer as part of the residential construction plans approved by the Developer and has been built in accordance with such approved plans.

(b) (1) All residential fences and privacy screens (other than those installed by the Developer) shall be consistent with the standard designs, heights and materials to be selected by the Approving Party. All fences shall be constructed with the finished side out. No metal (other than wrought iron), chain link

or similar fence or privacy screen shall be permitted. No fence shall extend toward the front of the residence beyond the rear corners of the residence.

(ii) All basketball goals shall be free standing and not attached to the residence unless the Approving Party determines that there are compelling reasons for the basketball goal to be attached to the residence. All basketball goals shall be consistent with the standard designs and materials to be selected by the Approving Party. All backboards shall be clear or painted white and all poles shall be a neutral color. There shall be only one basketball goal per Lot. The Approving Party shall have the right to establish reasonable rules regarding the hours of use of basketball goals and any such rules shall be binding upon all of the Lots.

(iii) All recreational or play structures (other than basketball goals) shall be located behind the back building line of the residence.

(iv) No above-ground swimming pools shall be permitted. All pools and hot tubs shall be fenced. All pools and hot tubs shall be kept clean and maintained in operable condition.

(v) All outside doghouses and other animal shelters and runs shall be located in the back yard, shall be up against or within two feet of the residence, shall be painted the same color as the residence and shall have roofs that are compatible with the residence.

(vi) No Exterior Structure that is prohibited under Section 11 below shall be permitted under this Section 10.

SECTION 11. BUILDINGS OR USES OTHER THAN FOR RESIDENTIAL PURPOSES; NOXIOUS ACTIVITIES; MISCELLANEOUS.

(a) Except as otherwise provided in Section 2 above, no residence or Exterior Structure shall ever be placed, erected or used for business, professional, trade or commercial purposes on any lot; provided, however, that this restriction shall not prevent an Owner from maintaining an office area in his residence in accordance with the applicable ordinances of the City of Leawood, Kansas.

(b) No noxious or offensive activity shall be carried on with respect to any Lot, nor shall any trash, ashes or other refuse be thrown, placed or dumped upon any Lot or Common Area, nor shall anything be done which may be or become an annoyance or a nuisance to the neighborhood. Each Owner shall properly maintain his Lot in a neat, clean and orderly fashion. All residences and Exterior Structures shall be kept and maintained in good condition and repair at all times.

(c) In the absence of any local ordinance to the contrary, no vehicle, trailer, bus, camper, boat or similar apparatus shall be parked, left or stored in any yard. No truck or commercial vehicle shall be parked, left or stored in any driveway or street for more than an eight-hour period. No trailer, bus, van, camper, boat or similar apparatus shall be parked, left or stored in any driveway or street for more than a 24-hour period. It is the intent of the parties hereto that all automobiles shall be kept in an enclosed garage whenever possible.

Replaced in Doc. No 2511168

(d) No television, radio, citizens' band, short wave or other antenna, satellite dish, solar panel, clothes line or pole, or other unsightly projection shall be attached to the exterior of any residence or erected in any yard. Should any part or all of the restriction set forth in the preceding sentence be held by a court of competent jurisdiction to be unenforceable because it violates the First Amendment or any other provision of the United States Constitution, the Approving Party shall have the right to establish rules and regulations regarding the location, size, landscaping and other aesthetic aspects of such projections so as to reasonably control the impact of such projections on the neighborhood and any such rules and regulations shall be binding upon all of the Lots. No lights or other illumination shall be higher than the residence.

(e) All garage doors shall remain closed at all times except when necessary for entry or exit.

(f) No speaker, horn, whistle, siren, bell or other sound device, except intercoms and those used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any residence or in any yard.

(g) In the event of vandalism, fire, windstorm or other damage, no buildings shall be permitted to remain in damaged condition for longer than three months.

(h) No shed, barn, detached garage or other storage facility shall be erected upon, moved onto or maintained upon any yard. Storage shall be permitted under a deck provided such area is fenced or otherwise screened.

(i) No fuel storage tanks of any kind shall be permitted.

SECTION 12. ANIMALS. In the absence of any local ordinance to the contrary, no animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes and do not constitute a nuisance to the neighbors or neighborhood. In no event, however, shall more than three dogs or cats, or combination thereof, be raised, kept or maintained on any Lot.

SECTION 13. LANDSCAPING AND LAWNS. Prior to occupancy, and in all events within five months after commencement of construction, all lawns, including all areas between each residential building and any adjacent street, regardless of the existence and location of any fence, monument, boundary wall, berm, sidewalk or right-of-way line, shall be fully sodded and shall remain fully sodded at all times thereafter; provided, however, that the Owner of a Lot may leave a portion of the Lot as a natural area with the express written permission of the Developer. Prior to occupancy, and in all events within five months following commencement of construction of the residence, the Owner thereof shall expend a minimum of \$1,000 or escrow \$1,000 for landscaping that portion of the Lot between the street and the front building line of the residence. No lawn shall be planted with zoysia grass. All vegetable gardens shall be located in the back yard. The Owner of each Lot shall keep the lawn uniformly mowed and clipped with a length of grass not to exceed four inches and shall properly maintain and replace all trees and landscaping.

SECTION 14. EASEMENTS FOR PUBLIC UTILITIES; DRAINAGE; MAINTENANCE. The Developer shall have, and does hereby reserve, the right to locate, erect, construct, maintain and use, or authorize the location, erection, construction, maintenance and use of drains, pipelines, sanitary and storm sewers, gas and water mains and lines, electric and telephone lines and other utilities, and to give or grant rights-of-way or easements therefor, over, under, upon and through all easements and rights-of-way shown on the recorded plat of the District or any Common Area. All utility easements and rights-of-way shall inure to the benefit of all utility companies, including, without limitation, the Johnson County Unified Wastewater District, for purposes of installing, maintaining or moving any utility lines or services and shall inure to the benefit of all Owners in the District and the WhiteHorse Homes Association as a cross easement for utility line or service maintenance.

The Developer shall have and does hereby reserve for itself, its successors and assigns and the WhiteHorse Homes Association and its successors and assigns, an easement over and through all unimproved portions of each lot in the District for the purpose of performing the duties of the WhiteHorse Homes Association and maintaining any Common Area.

SECTION 15. COMMON AREAS.

(a) The Developer and its successors, assigns and

grantees, as Owners of Lots in the District, shall have the right and easement of enjoyment in and to all of the Common Areas, but only for the intended use, and such easement shall be appurtenant to, and shall automatically pass with, the title to each Lot.

(b) The ownership by the WhiteHorse Homes Association of any Common Area and the right and easement of enjoyment of the Owners in the District as to any Common Area shall be subject to the right of the Developer to convey sewage, water, drainage, maintenance and utility easements over, under, upon and through such Common Area, as provided in Section 14 above.

(c) No owner shall improve, destroy or otherwise alter any Common Area without the express written consent of the Approving Party.

(d) Any gates or similar security facilities that may be installed as or in a Common Area shall be constructed and operated in a manner so as to permit access at all times by emergency vehicles.

(e) The Developer and the WhiteHorse Homes Association shall have the right to make additional rules, regulations and restrictions pertaining to the use of any Common Area.

SECTION 16. APPROVING PARTY.

(a) The Approving Party shall consider and act upon applications that have been submitted to it for approval with respect to Exterior Structures. In making its decisions, the Approving Party may consider any and all aspects and factors that the Approving Party, in its absolute discretion, determines to be appropriate to establish and maintain the quality, character and

aesthetics of the WHITEHORSE neighborhood, including, without limitation, the plans, specifications, exterior colors, materials, location, elevation, landscaping and use of the proposed Exterior Structure. All decisions of the Approving Party shall be in writing and delivered to the applicant, who shall be responsible for keeping the same. The Approving Party may establish in advance and change from time to time certain guidelines and conditions that it intends to follow in making its decisions.

(b) Any applicant who is dissatisfied with the decision of the Approving Party shall have the right to appeal such decision to the Board provided such appeal is filed in writing with a member of the Board within 15 days of the date the Approving Party renders its decision. Any decision rendered by the Board on appeal shall be final and conclusively binding on the applicant.

SECTION 17. NO LIABILITY FOR APPROVAL OR DISAPPROVAL. Neither the Developer, nor the WhiteHorse Homes Association, nor the Approving Party or the Board shall be personally liable to any person for any discretionary approval, disapproval or failure to approve any matter submitted for approval, for the adoption of any rules, regulations or guidelines or for the enforcement of or failure to enforce any of the restrictions contained in this Declaration.

SECTION 18. LIMITATIONS ON CERTAIN FENCES. No fences of any kind may be erected or maintained westerly of the east line of the 30 foot landscape easement that runs along and parallel and adjacent to the east right-of-way line of Nall Avenue as shown on said plat, as to Lot 1, in Block 1, and Lot 1, in Block 3, without the consent in writing of Developer.

SECTION 19. COVENANTS RUNNING WITH LAND; ENFORCEMENT. The agreements, restrictions and reservations herein set forth are, and shall be, covenants running with the land into whosoever hands any of the property in the District shall come. The Developer, and its successors, assigns and grantees, and all parties claiming by, through or under them, shall conform to and observe such agreements, restrictions and reservations; provided, however, that no person shall be obligated to enforce any such agreements, restrictions and reservations. No agreement, restriction or reservation herein set forth shall be personally binding upon any Owner except with respect to breaches thereof committed during its or his seizin of title to such Lots; provided, however, that the immediate grantee from the builder of the residence on a Lot shall be personally responsible for breaches committed during such builder's ownership of such Lot.

The Developer, its successors and assigns, and all other Owners of any of the Lots and the WhiteHorse Homes Association, shall have the right (but not the obligation) to sue for and obtain an injunction, prohibitive or mandatory, to prevent the breach of or to enforce the observance of the agreements, restrictions and reservations herein set forth, in addition to any action at law for damages. The failure to enforce any of the agreements, restrictions or reservations herein set forth at the time of its violation shall in no event be deemed to be a waiver of the right to do so thereafter.

SECTION 20. ASSIGNMENT OF DEVELOPER'S RIGHTS. The Developer shall have the right and authority, by appropriate agreement made expressly for that purpose, to assign, convey, transfer and set

over to any person or entity, all or any part of the rights, benefits, powers, reservations, privileges, duties and responsibilities herein reserved by or granted to the Developer, and upon such assignment the assignee shall then for all purposes be the Developer hereunder with respect to the assigned rights, benefits, powers, reservations, privileges, duties and responsibilities. Such assignee and its successors and assigns shall have the right and authority to further assign, convey, transfer and set over the rights, benefits, powers, reservations, privileges, duties, and responsibilities hereunder.

SECTION 21. RELEASE OR MODIFICATION OF RESTRICTIONS. The provisions of this Declaration shall remain in full force and effect until December 31, 2024 and shall automatically be continued thereafter for successive periods of five years each; provided, however, that the then Owners of a majority of the Lots may release the District, or any part thereof, from all or part of such provisions as of December 31, 2024, or at the expiration of any extension period, by executing (in one or more counterparts), acknowledging and recording an appropriate agreement in writing for such purpose, at least one year prior to the original expiration date or to a subsequent expiration date, whichever is applicable. The provisions of this Declaration may be amended, modified or terminated, in whole or in part, at any time by a duly acknowledged and recorded written agreement (in one or more counterparts) signed by both (a) the Owners (excluding therein the Developer if it is then an Owner) of a majority of the Lots (excluding those owned by the Developer) and (b) the Developer, or its successors and assigns.

SECTION 22. EXTENSION OF DISTRICT. The Developer shall have, and expressly reserves, the right, from time to time, to add to the existing District and to the operation of the provisions of this Declaration such other adjacent (without reference to streets and right-of-ways) lands as it may now own or hereafter acquire by executing, acknowledging and recording an appropriate written declaration or agreement subjecting such land to all of the provisions hereof as though such land had been originally described herein and subjected to the provisions hereof; provided, however, that such declaration or agreement may contain such deletions, additions and modifications of the provisions of this Declaration applicable solely to such additional property as may be necessary or desirable as solely determined by the Developer in good faith

SECTION 23. SEVERABILITY. Invalidation of any of the provisions set forth herein, or any part thereof, by an order, judgment or decree of any court, or otherwise, shall not invalidate or affect any of the other provisions, or any part thereof, but they shall remain in full force and effect.

IN WITNESS WHEREOF, J. C. Nichols Company, by authority of its Board of Directors, has caused these presents to be executed by its Vice President and its corporate seal to be affixed this 17th day of August, 1994.

J. C. NICHOLS COMPANY

By: Walter C. Janes
Walter C. Janes, Vice President

STATE OF MISSOURI)
) SS
COUNTY OF JACKSON)

BE IT REMEMBERED, that on this 17th day of August, 1994, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came WALTER C. JAMES, Vice President of J. C. Nichols Company, a corporation duly organized, incorporated and existing under and by virtue of the laws of Missouri, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument of writing on behalf of said corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

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


Shirley Buchanan
Shirley Buchanan Notary Public

My Commission Expires:
January 16, 1995

FILED BY ACCOM
CHICAGO TITLE INS. CO. 11463
OLATHE, KANSAS

2511168 ✓

Amendment PLAT 1
to 2423423
STATE OF KANSAS
COUNTY OF JOHNSON 755
FILED FOR RECORD

2600
MODIFICATION AGREEMENT OF
WHITEHORSE
DECLARATION OF RESTRICTIONS
PART OF BLOCKS 3, 5, 6, 7, 9 AND 10
AND ALL OF BLOCKS 1, 2 AND 8

95 JUL 31 P 4:45.3

SARA F. ULLMANN
REGISTER OF DEEDS

THIS MODIFICATION AGREEMENT, made and entered into this 19th day of July, 1995, by and among J. C. Nichols Company, a Missouri corporation, licensed to do business in the State of Kansas, with offices at 310 Ward Parkway, Kansas City, Missouri 64112 ("Developer"), and those parties (whether one or more) whose names are signed hereto and who are the majority of record owners of the Lots presently in WHITEHORSE subdivision described opposite their name, of Johnson County, Kansas ("Owners").

WITNESSETH: That,

WHEREAS, Developer did on the 17th day of August, 1994, execute the WhiteHorse Declaration of Restrictions which was recorded on August 18, 1994, under Document No. 2423423, in Volume 4409, at Page 558, in the office of the Register of Deeds of Johnson County, Kansas; and

WHEREAS, a plat of part of Blocks 3, 5, 6, 7, 9 and 10, and all of Blocks 1, 2 and 8, WHITEHORSE, was recorded on April 26, 1994, under Document No. 2386101, in Plat Book 87, at Page 10, in the office of the Register of Deeds of Johnson County, Kansas; and

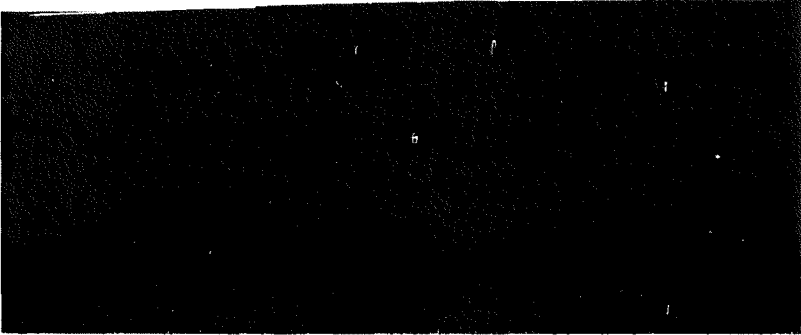
WHEREAS, provision was made in the last sentence of Section 21 of said Declaration that the Declaration may be modified and amended at any time by a written agreement of the Owners of a majority of the Lots and the Developer; and

WHEREAS, the undersigned Owners, at the present time, are the owners of recorded fee simple title ownership of the majority of the Lots within said plat; and

WHEREAS, the Owners whose names are signed hereto, and who now own the majority of Lots in said plat described opposite their names, and the Developer, now desire to modify and amend said Declaration as provided hereinafter as to all the Lots in said plat.

NOW, THEREFORE, in consideration of the foregoing recitals, and the mutual benefits to be derived by the undersigned Owners and by the Developer as to all of the Lots in said plat, the undersigned Owners and Developer do hereby agree that subsection (d) of Section 11 of said Declaration is hereby deleted in its entirety and the following new subsection (d) thereof is hereby substituted in modification and in lieu thereof:

- (d) No external radio, television or other antennas of any kind or nature (including, but not limited to "satellite dishes") or other device for the reception or transmission of radio, microwave or other similar signals, shall be placed or maintained upon any Lot without the prior written consent of the Approving Party. All such antennas or other devices shall be completely screened from view outside the Lot. No external lights or other illumination shall be higher than the residence without the prior written consent of the Approving Party.



IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and year first above written.

DEVELOPER

J. C. NICHOLS COMPANY



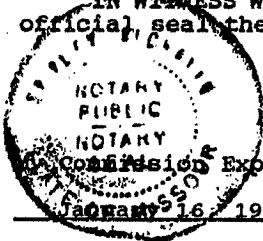
By: Brian G. Shanahan
BRIAN G. SHANAHAN, Vice President

ACKNOWLEDGEMENT

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

BE IT REMEMBERED, That on this 24th day of July, 1995, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came BRIAN G. SHANAHAN, Vice President of J. C. NICHOLS COMPANY, a corporation duly organized, incorporated and existing under and by virtue of the laws of Missouri, who is personally known to me to be such officer, and who is personally known to me to be the same person who executed, as such officer, the within instrument of writing on behalf of said corporation, and such person duly acknowledged the execution of the same to be the act and deed of said corporation.

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



Shirley Buchanan
Shirley Buchanan Notary Public



Accom
This instrument filed by
Security Land Title Company

3640189

260
\$800
STATE OF KANSAS }
COUNTY OF JOHNSON } SS
FILED FOR RECORD

2003 JUN -4 P 12: 54 P

AMENDMENT TO SUPPLEMENT TO
WHITEHORSE HOMES ASSOCIATION
DECLARATIONS

REBECCA L. DAVIS
REGISTER OF DEEDS

This Amendment to Supplement to WhiteHorse Homes Association Declarations ("Amendment") is made as of the 1st day of June, 2003 by White Horse Development, L.L.C., a Kansas limited liability company ("Developer"), and Riffe Home Building Company, a Missouri corporation ("Riffe").

WITNESSETH:

WHEREAS, either Developer or Riffe is the owner of the specific lots in the "WhiteHorse" area in Leawood, Kansas that are described on Exhibit A attached hereto (the "Specific Lots").

WHEREAS, the Specific Lots are burdened by and subject to a Supplement to WhiteHorse Homes Association Declarations recorded in the office of the Register of Deeds of Johnson County, Kansas (the "Recording Office") as instrument no. 3006098 in book 622 at page 674 (the "Supplement").

WHEREAS, the Supplement, in effect, assesses a \$250.00 "initiation fee" upon the Specific Lots.

WHEREAS, Developer and Riffe desire to increase the initiation fee as provided herein with respect to the Specific Lots and all future lots that may be made subject to the Declaration (as defined in the Supplement);

NOW, THEREFORE, the Developer and Riffe declare and agree as follows:

A. Clause B of the Supplement is hereby amended, solely with respect to the Specific Lots and with respect to all future Lots that may be made subject to the Declaration (as defined) in the Supplement, to increase the initiation fee from \$250.00 to \$350.00.

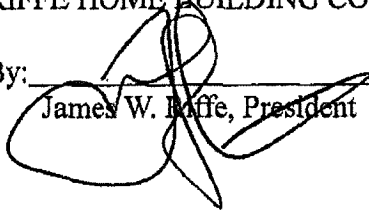
B. Except as provided herein, the Supplement shall remain in full force and effect.

C. This Amendment shall become effective as an amendment to the Supplement and binding upon all of the Specific Lots upon (a) the execution hereof by the Developer and Riffe, and (b) the recordation hereof in the Recording office. The Developer is executing this Supplement in its capacity as the Developer of the Subdivision (as defined in the Declaration) and as the Owner of certain of the Specific Lots. Riffe is executing this Supplement in its capacity as the Owner of certain of the Specific Lots.

IN WITNESS WHEREOF, the Developer and Riffe have caused this Amendment to be duly executed.

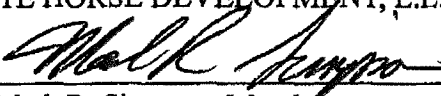
RIFFE:

RIFFE HOME BUILDING COMPANY

By: 
James W. Riffe, President

THE DEVELOPER:

WHITE HORSE DEVELOPMENT, L.L.C.

By: 
Mark R. Simpson, Member

By: GREAT PLAINS INVESTMENT CO.,
L.L.C., Member

By: SAILORS BUILDING
COMPANY, L.L.C., Member

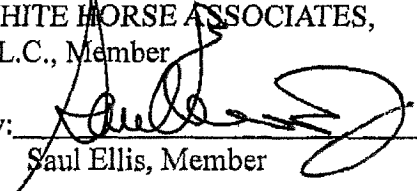
By: 
Bobby F. Sailors, Member

By: ASHNER VENTURE, LLC, Member

By: ASHNER DEVELOPMENT, INC.,
Member

By: 
Leo Ashner, President

By: WHITE HORSE ASSOCIATES,
L.L.C., Member

By: 
Saul Ellis, Member

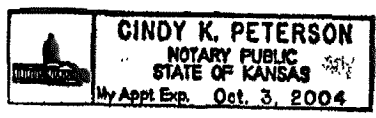
STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on ^{July} ~~June~~ 23, 2003 by Mark R. Simpson; Bobby F. Sailors, as a member in and on behalf of Sailors Building Company, L.L.C., a Kansas limited liability company, as a member in and on behalf of Great Plains Investment Co., L.L.C., a Kansas limited liability company; Saul Ellis, as a member in and on behalf of White Horse Associates, L.L.C., a Kansas limited liability company; and Leo E. Ashner, as President of Ashner Development, Inc., a Kansas corporation as a member in and on behalf of Ashner Venture, LLC, a Kansas limited liability company; in each person's or entity's capacity as a member in and on behalf of White Horse Development, L.L.C., a Kansas limited liability company.

Cindy K. Peterson
Notary Public in and for said County and State

Print Name: Cindy K. Peterson

My Commission Expires:
10/03/04



STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on June 1, 2003 by James W. Riffe, as President of Riffe Home Building Company, a Missouri corporation.

Gunilla Pierce
Notary Public in and for said County and State

Print Name: Gunilla Pierce

My Commission Expires:
4-09-2003

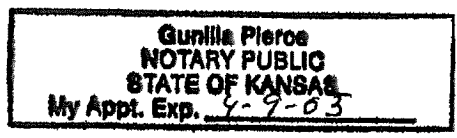


EXHIBIT A

SPECIFIC LOTS

OWNED BY DEVELOPER:

Lots 20 & 22 of Block 6, Lots
6 & 22 of Block 10, Lots
12 & 14 of Block 11, Lots
1 & 3 of Block 14, and Lots
2, 3 & 4 of Block 15, WHITEHORSE, Plat
No. 4, a subdivision in City of Leawood, Johnson County, Kansas.

OWNED BY RIFFE

Lots #1-36 except 6, 24, 25 & 31, The Villas
of WhiteHorse, a subdivision in City of Leawood, Johnson County,
Kansas.

24109 / 45207
SNWOO 187774

20050203-0001188 02/03/2005
P: 1 of 4 F: \$20.00 08:50:14 AM
Register of Deeds T20050006175
Johnson Co ROD B:200502 P:001188

WHITEHORSE
CERTIFICATE OF SUBSTANTIAL COMPLETION

WHEREAS, White Horse Development, L.L.C., a Kansas limited liability company ("**Developer**"), is the current "**Developer**" of the residential subdivision in Leawood, Johnson County, Kansas commonly known as "WhiteHorse", platted as the following residential lots (the "**Lots**"):

Lots 1 through 8 of Block 1, Lots 1 through 21 of Block 2, Lots 1 through 3 of Block 3, Lots 1 and 2 of Block 5, Lots 1 and 2 of Block 6, Lots 1 through 12 of Block 7, Lots 1 through 26 of Block 8, Lots 1 through 11 of Block 9, and Lots 7 through 12 of Block 10, WHITEHORSE, a subdivision in Leawood, Johnson County, Kansas.

Lots 3 through 16 of Block 6, and Lots 3 through 9 of Block 7, WHITEHORSE PLAT NO. 2, a subdivision in Leawood, Johnson County, Kansas.

Lots 12 through 21 of Block 9, Lots 13 through 15 of Block 10, Lots 5 through 11 of Block 11, Lots 1 through 5 of Block 12, Lots 1 through 5 of Block 13, WHITEHORSE PLAT NO. 3, a subdivision in Leawood, Johnson County, Kansas.

Lots 17 through 36 of Block 6, Lots 16 through 25 of Block 10, Lots 12 through 18 of Block 11, Lots 6 through 9 of Block 13, Lots 1 through 3 of Block 14, Lots 1 through 5 of Block 15, and Lot 1 of Block 16, WHITEHORSE PLAT NO. 4, a subdivision of land in Leawood, Johnson County, Kansas.

Lots 4 through 13 of Block 3, Lots 3 through 24 of Block 5, Lots 37, 38 and 39 of Block 6, and Lots 4 through 18 of Block 14, WHITEHORSE PLAT NO. 5, a subdivision of land in Leawood, Johnson County, Kansas.

WHEREAS, the Lots are subject to the following documents (collectively, the "Declarations") that have been recorded with the Register of Deeds of Johnson County, Kansas:

(a) WhiteHorse Homes Association Declaration recorded as Instrument No. 2424589 in Volume 4412 at Page 698, as amended or supplemented by the following:


<u>Title</u>	<u>Instrument No.</u>	<u>Book</u>	<u>Page</u>
Amendment of WhiteHorse Homes Association Declaration	2498425	4606	324
WhiteHorse Plat No. 2 Homes Association Declaration	2609748	4915	742
WhiteHorse Plat No. 3 Homes Association Declaration	2898977	5893	99
WhiteHorse 4 th Plat Homes Association Declaration	3328646	7421	300
WhiteHorse 5 th Plat Homes Association Declaration		200312	007660
Supplement to WhiteHorse Homes Association Declarations	3006098	6222	674
Amendment to Supplement to WhiteHorse Homes Association Declarations	3640189	9060	805
WhiteHorse Homes Association Declaration (Additional Phase – Villas of WhiteHorse)	3541816	8514	144

(b) WhiteHorse Declaration of Restrictions recorded as Instrument No. 2423423 in Volume 4409 at Page 558 , as amended and supplemented by the following:

<u>Title</u>	<u>Instrument No.</u>	<u>Book</u>	<u>Page</u>
Modification Agreement of WhiteHorse Declaration of Restrictions	2511168	4641	442
Declaration of Restrictions of WhiteHorse Plat No. 2	2609228	4914	301
Declaration of Restrictions of WhiteHorse Plat No. 3	2898976	5893	79
WhiteHorse Plat No. 4 Declaration of Restrictions	3342158	7493	388

217919.1

2


 20050203-0001188 02/03/2005
 P: 2 of 4 08:50:14 AM
 Register of Deeds T20050006175
 Johnson Co ROD B:200502 P:001188

<u>Title</u>	<u>Instrument No.</u>	<u>Book</u>	<u>Page</u>
WhiteHorse Plat No. 5 Declaration of Restrictions		200312	007661

NOW, THEREFORE, Developer does hereby certify that, at the time of recording of this instrument, substantially all of the Lots have been sold by the Developer and the residences to be constructed thereon are substantially completed. This instrument constitutes the "Certificate of Substantial Completion" described in the Declarations. In addition, this instrument evidences that the "Turnover Date" has occurred under the Declarations. This instrument does not constitute the release, transfer or assignment of any of Developer's rights under the Declarations, except those that are expressly affected by the filing of this instrument, as expressly set forth in the Declarations. In particular, and without limitation, Developer retains the right to approve all plans for the construction of new residences in the Subdivision.

IN WITNESS WHEREOF, Developer has caused this instrument to be duly executed as of the 29 day of December, 2004.

THE DEVELOPER:

WHITE HORSE DEVELOPMENT, L.L.C.

By: Mark R. Simpson
Mark R. Simpson, Member

By: ASHNER VENTURE, L.L.C., Member

By: ASHNER DEVELOPMENT,
INC., Member

By: Leo E. Ashner
Leo E. Ashner, President


By: GREAT PLAINS INVESTMENT CO.,
L.L.C., Member

By: SAILORS BUILDING
COMPANY, L.L.C., Member

By: Bobby F. Sailors
Bobby F. Sailors, Member

217919.1

3


20050203-0001188 02/03/2005
P: 3 of 4 08:50:14 AM
Register of Deeds T20050006175
Johnson Co ROD B:200502 P:001188

By: WHITE HORSE ASSOCIATES,
L.L.C.

By: [Signature]
Saul/Ellis, Member

STATE OF KANSAS)
) ss.
COUNTY OF JOHNSON)

This instrument was acknowledged before me on December 29, 2004 by Mark R. Simpson; Saul Ellis, as a member in and on behalf of White Horse Associates, L.L.C., a Kansas limited liability company; Leo E. Ashner, President of Ashner Development, Inc., a Kansas corporation, in its capacity as a member in and on behalf of Ashner Venture, L.L.C., a Kansas limited liability company; and Bobby F. Sailors, as a member in and on behalf of Sailors Building Company, L.L.C., a Kansas limited liability company, in its capacity as a member in and on behalf of Great Plains Investment Co., L.L.C., a Kansas limited liability company; in each entity's capacity as a member in and on behalf of White Horse Development, L.L.C., a Kansas limited liability company.

Ann M Anderson
Notary Public in and for said County and State

My Commission Expires:

4-8-2008
[SEAL]

Print Name: Ann M Anderson

