

R39449

OCT 04 2002

STATE OF MO.
CLAY COUNTY
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BOOK 3799 PAGE 120
ROBERT T. SEVIER
RECORDER OF DEEDS

By Mandy Metcalf
R. Sevier

(ABOVE SPACE RESERVED FOR RECORDER OF DEEDS' USE)

Document Title: Fourth Supplement to Declaration of Homes Association and Covenants, Conditions, Restrictions and Easements of Benson Place
Document Date: September 24, 2002
Grantor Names: Hunt Midwest Real Estate Development, Inc.
Grantee Names: N/A
Statutory Address: Suite 100, 8300 N.E. Underground Drive, Kansas City, Missouri 64161
Legal Description: See Exhibit A attached
Reference Book and Page: Declaration of Homes Association and Covenants, Conditions, Restrictions and Easements of Benson Place, Document No. R24799, Book 3699, Page 69

FOURTH SUPPLEMENT
TO
DECLARATION OF HOMES ASSOCIATION
AND
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF
BENSON PLACE

THIS FOURTH SUPPLEMENT TO DECLARATION OF HOMES ASSOCIATION AND COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS OF BENSON PLACE (this "Supplemental Declaration") is made and executed as of September 24, 2002, by HUNT MIDWEST REAL ESTATE DEVELOPMENT, INC., a Missouri corporation (the "Developer"), Suite 100, 8300 N.E. Underground Drive, Kansas City, Missouri 64161.

RECITALS:

A. On June 6, 2002, the Developer executed that certain subdivision plat entitled "BENSON PLACE - FIRST PLAT" (the "First Plat"), covering the real property formerly legally described as shown therein (and on Exhibit A attached to the Declaration, defined below), and platting the same into certain Lots, Tracts, Common Areas, Restricted Common Areas, the streets, roadways and other areas shown and marked on the First Plat as identified therein and in the Declaration defined below (collectively, the "Property" or the "Benson Place Property"), which First Plat was approved on July 2, 2002, by the City Council of the City of Kansas City, Missouri, and was recorded on July 24, 2002, under Document No. R24798, in Cabinet F, at Sleeve 27, in the Office of the Recorder of Deeds of Clay County, Missouri, at Liberty.

B. The Developer has executed that certain Declaration of Homes Association and Covenants, Conditions, Restrictions and Easements of Benson Place, dated May 15, 2002, which was recorded on July 24, 2002, under Document No. R24799, in Book 3699, at Page 69, in the Office of the Recorder of Deeds of Clay County, Missouri, at Liberty, as amended and supplemented by the First Supplement thereto date August 12, 2002, which was recorded on August 16, 2002, under Document No. R29197, Book 3725, Page 928, in said Recorder of Deeds

Benson Place - Patio Homes - 1st Plat

Office (pursuant to which the "First Expansion Property" as identified therein was subjected to the Declaration), by the Second Supplement thereto date August 13, 2002, which was recorded on August 16, 2002, under Document No. R29198, in Book 3725, at Page 933, and by the Third Supplement thereto dated September 23, 2002, which was recorded on September 23, 2002, under Document No. R36640, in Book 3780, at Page 238, in said Recorder of Deeds Office [collectively, the "Declaration"], pursuant to which Declaration the Developer subjected the Benson Place Property, as expanded by the First Expansion Property, to certain covenants, conditions, restrictions and easements for the purpose of protecting the value and desirability of the Property.

C. Pursuant to Section 16.2 of the Declaration, prior to the "Turnover Date" (which has not yet occurred), the Developer has the unilateral right to amend, alter or modify the Declaration.

D. Pursuant to Section 13.1 of the Declaration, the Developer has the absolute unilateral right to expand the Property to include additional Lots (for Single Family Residences, Attached Patio Homes, Attached Townhomes or any combination thereof), Common Area, Restricted Common Areas and other property in the Subdivision and also other property that has not yet been subdivided or platted (the "Expansion Property").

E. On Oct 4, 2002, the Developer executed that certain subdivision plat entitled "BENSON PLACE PATIO HOMES - FIRST PLAT" (the "Patio Homes First Plat"), covering the real property formerly legally described as shown therein and on EXHIBIT A attached to this Supplemental Declaration, and platting the same into the Lots, Tracts, streets, roadways, private open space and other areas shown and marked thereon and as identified on private open space and other areas shown and marked thereon EXHIBIT A attached to this Supplemental Declaration (the "Second Expansion Property"), which Patio Homes First Plat was approved on 9-12-2002, by the City Council of the City, and was recorded on 10-4-2002, in Cabinet F, at Sleeve 34, in said Recorder of Deeds' Office. Document No. R 39448

F. The Developer presently owns all of the Lots, Tracts, Common Areas, Restricted Common Areas or other areas shown on the Patio Homes First Plat.

G. The Developer desires to exercise its right to expand the Property to include the additional Lots, Tracts, Common Areas, Restricted Common Areas or other areas which constitute the Second Expansion Property and to subject the Second Expansion Property to the covenants, conditions, restrictions and easements contained within the Declaration.

NOW, THEREFORE, in consideration of the premises, the Developer states and declares as follows:

1. **Exercise of Right to Expand.** The Developer hereby exercises its unilateral right to expand the Property to include the additional Lots, Tracts, Common Areas, Restricted Common Areas or other areas which constitute the Second Expansion Property.

2. **Expansion Effective Upon Recording.** The expansion set forth above, shall be effective immediately upon filing the Patio Homes First Plat and this Supplemental Declaration of record in the Office of the Recorder of Deeds for Clay County, Missouri, at Liberty. Recording of the Patio Homes First Plat and this Supplemental Declaration shall automatically grant, transfer and convey to the Association any new Common Areas, Restricted Common Areas and all other areas designed for Members' or Association use, if any, added by the Second Expansion Property.

3. **Expansion of Definitions.** The definitions contained in the Declaration are hereby expanded to encompass and refer to the Property, as expanded by the Patio Homes First Plat and this Supplemental Declaration to include the Second Expansion Property. For example, (i) "Lot" shall mean the Lots described in the Declaration and in the Plat described in the Declaration, all subsequent Plats and in the Patio Homes First Plat and (ii) all references to the Declaration shall mean the Declaration as supplemented and amended by this Supplemental Declaration.

4. **Declaration Operative on New Lots, Tracts, Common Areas and Restricted Common Areas.** The new Lots, Tracts, Common Areas or Restricted Common Areas, which constitute the Second Expansion Property,

shall be subject to all of the terms and conditions of the Declaration immediately upon recording of the Patio Homes First Plat and this Supplemental Declaration in the Office of the Recorder of Deeds for Clay County, Missouri, at Liberty.

5. **Use and Maintenance of Tracts.** Tract 1 of Patio Homes First Plat shall be used for clubhouse and swimming pool, including Subdivision signage monumentation. Tracts 2 and 3 of Patio Homes First Plat shall be used for walking trails and related amenities. Once said improvements are installed or developed by the Developer, said Tracts shall be maintained and repaired by the Association under the terms of the Declaration, as amended, for such purposes.

6. **Ratification of Declaration.** The Developer, on behalf of itself and as the holder of a majority of the votes possible to be cast under the Declaration, hereby ratifies, affirms and confirms all covenants, conditions, restrictions and easements contained in the Declaration, which covenants, conditions and provisions shall run with the land and be binding upon the Owners, including the Developer, and their respective heirs, personal representatives, successors, transferees and assigns and all other persons or entities having, at any time, any right, title or interest in all, or any part of, the Property, the Second Expansion Property or any Lots, Tracts, Common Areas or Restricted Common Areas otherwise subject to the terms hereof.

IN WITNESS WHEREOF, the Developer has caused this Supplemental Declaration to be executed by its duly authorized officers as of the day and year first above written.

All signatures must be in black ink!

DEVELOPER:

HUNT MIDWEST REAL ESTATE DEVELOPMENT, INC.

By:

Ora H Reynolds

Ora H. Reynolds, Vice President and General Manager
of Residential Development

ATTEST:

By:

Donald K. Hagan

Donald K. Hagan, Secretary

ACKNOWLEDGMENT

STATE OF MISSOURI)
) S.S.
COUNTY OF CLAY)

On this 24th day of September, 2002, before me, the undersigned Notary Public in and for said County and State, personally appeared Ora H. Reynolds, who, being by me first duly sworn, did say that she is the Vice President and General Manager of Residential Development of Hunt Midwest Real Estate Development, Inc., a Missouri corporation, that she executed the foregoing instrument on behalf of said corporation under and with the authority of its Board of Directors and that she acknowledged that she so executed the same as the free act and deed of said corporation for the purposes therein stated.

DONNA K. WILLIS
Notary Public - Notary Seal
(Notary Seal) **STATE OF MISSOURI**
County of Clay
My Commission Expires November 1, 2005

My Commission expires:

11/1/05

Donna K Willis
Signature of Notary Public

DONNA K. WILLIS
Notary Public - Notary Seal
Typed or Printed Name of Notary
STATE OF MISSOURI
County of Clay
My Commission Expires November 1, 2005

EXHIBIT A
TO
FOURTH SUPPLEMENT TO DECLARATION OF HOMES ASSOCIATION
AND COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF BENSON PLACE

Legal Description of Second Expansion Property: Lots A, B and C and Tracts 1, 2 and 3, BENSON PLACE PATIO HOMES – FIRST PLAT, a subdivision in Kansas City, Clay County, Missouri, according to the recorded plat thereof.

Legal Description of Second Expansion Property Prior to Platting: A subdivision of land in the Southwest corner of Section 34, Township 52, Range 32, Kansas City, Clay County, Missouri, being bounded and described as follows:

Commencing at the Southeast corner of said Southwest Quarter; thence North 0°38'32" East along the East line of said Southwest Quarter, 128.78 feet to a point on the Centerline of NE 96th Street, as now established; thence North 88°55'31" West along said Centerline, 111.74 feet to the True Point of Beginning of the tract to be herein described; thence continuing North 88°55'31" West along said Centerline, 424.12 feet; thence North 0°03'31" West, 322.70 feet; thence North 57°47'49" East, 343.38 feet; thence Northerly on a curve to the left, having an initial tangent bearing of North 14°12'03" West, a radius of 488.00 feet, central angle of 01°25'29", an arc distance of 12.13 feet; thence North 15°37'32" West, 419.47 feet; thence Northerly on a curve to the right, tangent to the last described course, having a radius of 1525.00 feet, a central angle of 01°19'22", an arc distance of 35.21 feet; thence South 81°23'09" West, 309.09 feet; thence South 75°11'03" West, 129.84 feet; thence South 15°08'31" East, 37.57 feet; thence South 75°06'40" West, 212.78 feet; thence Northerly on a curve to the left, having an initial tangent bearing of North 14°53'20" West, a radius of 875.00 feet, a central angle of 01°44'22", an arc distance of 26.56 feet; thence South 72°03'43" West, 326.69 feet to a point on the West line of the East One-Half of said Southwest Quarter; thence North 0°46'59" East along said West line, 934.25 feet; thence South 89°13'01" East, 36.18 feet; thence Easterly on a curve to the left, tangent to the last described course, having a radius of 975.00 feet, a central angle of 06°56'03", an arc distance of 118.00 feet; thence North 83°50'56" East, 14.38 feet; thence Northerly on a curve to the left, tangent to the last described course, having a radius of 15.00 feet, a central angle of 90°16'58", an arc distance of 23.64 feet; thence North 84°00'43" East, 50.00 feet; thence Southerly on a curve to the left, having an initial tangent bearing of South 06°24'43" East, a radius of 15.00 feet, a central angle of 89°44'21", an arc distance of 23.49 feet; thence North 83°50'56" East, 170.44 feet; thence Easterly on a curve to the right, tangent to the last described course, having a radius of 725.00 feet, a central angle of 16°11'18", an arc distance of 204.84 feet; thence Northerly on a curve to the left, having a common tangent to the last described course, a radius of 15.00 feet, a central angle of 87°39'54", an arc distance of 22.95 feet; thence South 81°34'37" East, 50.12 feet; thence Southerly on a curve to the left, having an initial tangent bearing of South 12°30'07" West, a radius of 15.00 feet, a central angle of 92°34'31", an arc distance of 24.24 feet; thence South 80°04'23" East, 200.59 feet; thence Northerly on a curve to the left, tangent to the last described course, having a radius of 15.00 feet, a central angle of 88°30'42", an arc distance of 23.17 feet; thence South 78°35'05" East, 50.00 feet; thence Southerly on a curve to the left, having an initial tangent bearing of South 11°24'55" West, a radius of 1475.00 feet, a central angle of 28°33'48", an arc distance of 735.32 feet; thence South 17°08'53" East, 411.43 feet; thence Southerly on a curve to the right, tangent to the last described course, having a radius of 812.00 feet, a central angle of 17°05'22", an arc distance of 242.19 feet; thence South 0°03'31" East, 174.55 feet; thence Easterly on a curve to the left, tangent to the last described course, having a radius of 35.00 feet, a central angle of 88°52'00", an arc distance of 54.29 feet; thence South 01°04'29" West, 64.00 feet to the True Point of Beginning. Containing 22.33 acres, more or less.

Note: The above-described Property has been platted. The recording information identifying such Plat is shown in Recital E of the Supplemental Declaration to which this EXHIBIT A is attached.