

VOLUSIA COUNTY

AMENDMENT TO DECLARATION OF COVENANTS AND RESTRICTIONS
OF
THE TRAILS SUBDIVISION, UNITS 1 THROUGH 3,
VOLUSIA COUNTY, FLORIDA, AND
NOTICE OF PROVISIONS OF THE TRAILS HOMEOWNER'S ASSOCIATION, INC.

THIS AMENDMENT executed this 22nd day of FEBRUARY, 1991, by THE TRAILS, INC., a Florida corporation, maintaining a principal place of business at 1001 Old Tomoka Road, Ormond Beach, Florida 32174, the "Developer".

BACKGROUND FACTS:

1. The Developer has caused a subdivision to be filed with the Clerk of the Circuit Court of Volusia County, Florida, known as the Trails Subdivision, Units 1 through 3, as more particularly described in various plats and maps.

2. Developer has further caused the various units of the Trails Subdivision to be encumbered by covenants and restrictions originally recorded in Official Records Book 1792 at Page 1867 and Official Records Book 1797 at Page 1903 of the Public Records of Volusia County, Florida, as the same have been subsequently amended and which amended instruments shall be referred to herein as the "Declaration".

3. Pursuant to the terms of the Declaration, Developer reserve the right to amend the Declaration so long as such amendment does not change the character, nature or general scheme of Development of the Trails Subdivision.

4. Developer has elected to exercise its reserved amendment power, described in the preceding paragraph, as set forth in this instrument and Developer hereby finds and states that the amendment set forth herein does not change the character, nature or general scheme of development of the Trails Subdivision.

TERMS OF AMENDMENT

NOW, THEREFORE, FOR VALUABLE CONSIDERATION RECEIVED, the Developer hereby amends the Declaration in accordance with the following provisions:

5. Developer hereby states that the foregoing Background Facts are true and correct and incorporates the same by this

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CLERK CIRCUIT COURT
VOLUSIA COUNTY
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RECORD VERIFIED

reference.

6. This amendment to the Declaration applies to the following-described parcel of real property situate in Volusia County, Florida, which shall be referred to herein as the "Subject Property", viz:

That portion of the TRAILS SUBDIVISION, Unit 10, of record in Map Book 35 at Page 107 of the Public Records of Volusia County, Florida, that lies North of Oak Village, as recorded in Map Book 36 at Page 113 of the Public Records of Volusia County, Florida.

7. A sketch of the legal description of the subject property prepared by Sliger & Associates, Inc., is attached hereto as Exhibit "A" to this amendment.

8. The subject property is presently zoned R-2, Single-Family Low Density Residential District, as set forth in Section 700.02 of Ordinance No. 78-35 of the Ordinances of the City of Ormond Beach, as the same has been subsequently amended.

9. The subject property is presently encumbered by that portion of the Declaration originally defined as Unit 3, which sets forth covenants and restrictions for a multi-family use.

10. The purpose of this amendment is to encumber the subject property with that portion of the Declaration originally recorded for Units 1 and 2 and specifically to apply that portion of the Declaration to the subject property as concerns a single family use for the subject property so as to permit the development of the subject property for one single family residence.

11. Accordingly, Developer hereby amends the Declaration as described in the preceding paragraph and encumbers the subject property with all provisions of the Declaration applicable to single family use and provides that the owner of the subject property is a member of the Trails Homeowner's Association, Inc., a Florida not-for-profit corporation and is subject to all of the rights, privileges, immunities, covenants and obligations as set forth in the Declaration and that the subject property constitutes one single family residential lot.

12. Attached hereto as Exhibit "B" to this amendment is a letter to Developer's counsel setting forth a resolution adopted by the Board of Directors of the Trails Homeowner's Association, Inc., on November 8, 1990, approving the amendment set forth herein.

13. Attached hereto as Exhibit "C" to this amendment is a letter to Developer's counsel from the City Attorney of the City of Ormond Beach indicating that the amendment set forth herein is in compliance with the ordinances of the City of Ormond Beach and that no further action by the City of Ormond Beach is required with respect to the implementation of this amendment and the change in use of the subject property to a single-family use.

IN WITNESS WHEREOF, the Developer has executed this amendment on the day and year first above written and instructed delivery of the same to the Clerk of the Circuit Court of Volusia County, Florida, for filing and recording.

WITNESSES:

THE TRAILS, INC., a Florida corporation

By:

Gary L. Sager, President

Attest:

James M. Sweet, Asst. Secretary

ACKNOWLEDGEMENT

STATE OF FLORIDA
COUNTY OF VOLUSIA

BEFORE ME, the undersigned Notary Public, personally appeared, GARY L. SAGER and JAMES M. SWEET, as President and Assistant Secretary, respectively, of THE TRAILS, INC., a Florida corporation, who acknowledged execution of the foregoing for the purposes therein stated, under due corporate authority, this 22nd day of February, 1991.

[Signature]
NOTARY PUBLIC, State of Florida
at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. JULY 31, 1992
BONDED TWO THOUSAND DOLLARS

DAVIDSON, J. L. & SONS, INC.
1225 S. US HWY. 1
P.O. Box 6438
Daytona Beach, FL 32118

- IRON ROD WITH CAP
- G IRON PIPE
- CONCRETE MONUMENT
- PERMANENT REF. ENCE MONUMENT
- △ PERMANENT CONTROL POINT
- (R) RADIAL LINE
- (NR) NON-RADIAL LINE
- EXISTING ELEVATION
- PROPOSED ELEVATION

I HEREBY CERTIFY THAT THIS PLAN MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 21HH-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

[Signature]

KUS A. SLIGER, P.L.S. NO. 3754
STEPHEN H. SLIGER, P.L.S. NO. 3754
JE. ZAPERT, P.L.S. NO. 4346

BOOK PAGE

3592 1819

VOLUSIA CO., FL



HOMEOWNERS ASSOCIATION, INC.
P.O. Box 908
Ormond Beach, Florida 32175

November 9, 1990

Random R. Burnett, Esq.
Black, Crotty, Sims, Hubka,
Burnett, Bartlett & Samuels
1825 Security First Boulevard
Building #3
Daytona Beach, FL 32114

RE: .55 acre portion of Trails Subdivision, Unit 10

Dear Mr. Burnett:

I received your letter of November 5, 1990, and brought it before the Board of Directors of The Trails Homeowners Association, Inc. at its regular meeting on November 8, 1990. At that meeting, in response to your request, the Board adopted the following resolution.

WHEREAS, a certain portion of Unit 10 of The Trails Subdivision, as recorded in Plat Book 35, Page 107, more particularly described as follows:

That portion of The Trails Subdivision, Unit 10, as recorded in Plat Book 35, Page 107, of the Public Records of Volusia County, Florida, that lies North of Oak Village, as recorded in Plat Book 36, Page 113, of the Public Records of Volusia County, Florida.

Is Zoned R-2A (single-family housing) even though originally included in a multi-family unit; and

WHEREAS, such portion of Unit 10 was left out of the resubdivision of Oak Village as recorded in O. R. Book 36, Page 113, of the Public Records of Volusia County, Florida; and

WHEREAS, such described portion of Unit 10 is suitable as a single-family lot and it is in the interest of The Trails Homeowners Association, Inc. that it be sold and used as an additional single-family lot, providing a new single family unit within The Trails and subject to the original Declarations of Covenants and Restrictions of The Trails and their subsequent amendments; now therefore be it resolved:

From the office of the Executive Director • (904) 673-0855



Random Burnett, Esq.
November 9, 1990
Page Two

1. The Board of Directors of The Trails Homeowners Association, Inc. finds that Amendment of Unit 10 to remove the multi-family restriction on the subject property or replatting of Unit 9 to include the subject property and the appropriate renumbering of the plats of record if it is determined to replat the property in order to accomplish the goal of making it a saleable single-family lot, is in the best interest of The Trails Homeowners Association, Inc.; and such change or combination of changes necessary to effect this result are changes allowed under Article V of the Declaration of Covenants and Restrictions and Notice of Provision of The Trails Homeowners Association, Inc. and such Covenants and Restrictions were incorporated into the later Declarations of both Unit 9 and Unit 10, as an amendment or modification of such a nature that it does not substantially change the character, nature or general scheme of development of The Trails Subdivision.
2. The Board of Directors further requests that the City of Ormond Beach assist and cooperate with The Trails, Inc. in taking all necessary action to make the subject property a single-family residential lot that can be a portion of the overall Trails Subdivision as a matter of public record.

RESOLUTION enacted pursuant to vote of The Board of Directors of The Trails Homeowners Association, Inc., this 8th. day of November 1990.

ATTESTED TO: Ken Nelson, Acting Secretary PRESIDENT
As Appointed by the President
For 11/08/90 Board Meeting

EDWARD ECK, Secretary (Secretary Out of State)

I trust this will meet your needs in dealing with the City. We have worded the Resolution this way, on the advice of our attorney, in case leaving the property as a single-family portion of Unit 10 would be technically easier than replatting as a portion of Unit 9. The intent of this Resolution is to authorize either course of action or any other action that creates a single-family lot on the property which is fully subject to the obligations of ownership in The Trails and in the particular unit of The Trails in which it winds up.

BOOK PAGE

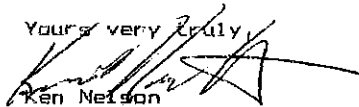
3592 1821

VOLOSIA CO. FL

Random Burnett, Esq.
November 9, 1990
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Please do not hesitate to call if you have any further
questions or needs with regards to this lot.

Yours very truly,



Ken Nelson
Executive Director

cc: Fred Disselkoen, Jr., Esq.
William Townsend, Trails Attorney

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3592 1022

CITY OF ORMOND BEACH

FLORIDA



OFFICE OF CITY ATTORNEY

February 18, 1991

Random R. Burnett, Esquire
Post Office Box 5488
Daytona Beach, Florida 32118

Re: The Trails Sub. Unit 10
MB 35 Pg. 107
Portion North of Oak Village

Dear Mr. Burnett:

I have reviewed the contents of and attachments to your letter of November 5, 1990, the points discussed in our meeting of February 8, 1991, and offer the following.

It is the opinion of this office that the referenced parcel, as shown on the attached sketch, may be sold as a single-family residential lot by the present owner, as a part of Unit 10, upon appropriate amendment of the applicable restrictive covenants to apply the single-family covenants thereto.

This opinion is based upon the following assumptions:

- (A) this parcel is zoned R2A;
- (B) this parcel is included in the overall density limit of 990 units applicable to The Trails project;
- (C) the sale of the parcel has the prior approval of The Trails Homeowners Association, Inc.

It is understood that this letter may be recorded in the public records of Volusia County, Florida.

Should you need anything further on this matter, please let me know.

Sincerely,

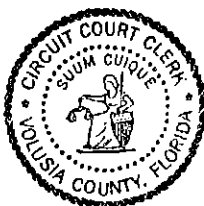
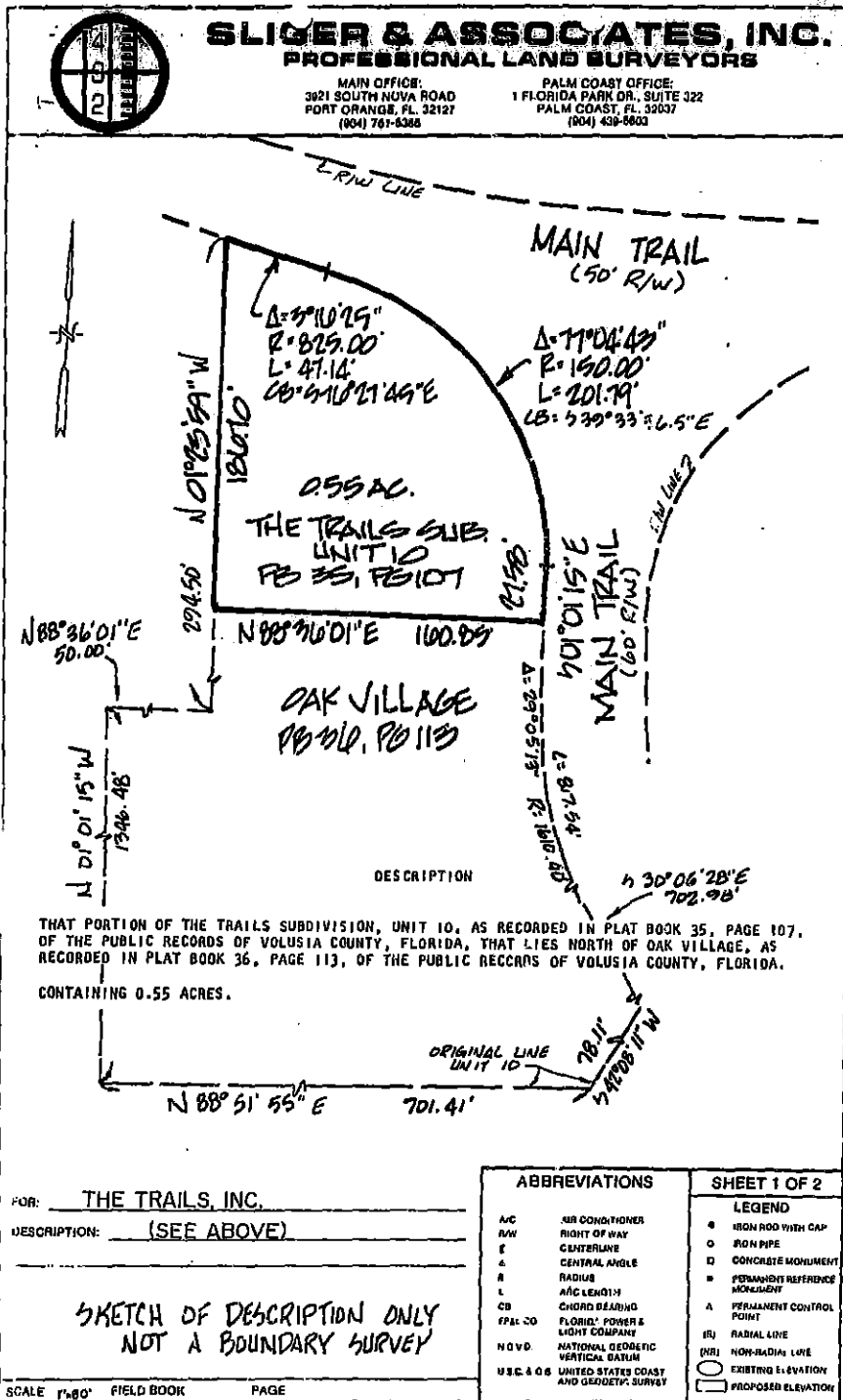

FRED S. DISSELKOEN, JR.

FSD\mpl
Enclosure
cc: Kevin Tyjeski, Sr. Planner

22 SOUTH BEACH STREET • P.O. BOX 277 • ORMOND BEACH, FL 32175-0277 • (904)



BOOK PAGE
3592 1823
VOLUSIA COUNTY



STATE OF FLORIDA, VOLUSIA COUNTY
I HEREBY CERTIFY the foregoing is a true copy
of the original filed in this office. This

99th day of July 15
Clerk of Circuit and County Court

By Medwa Seery
Deputy Clerk

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