

Complete

TERESA BROWN

1975 FEB 7 PM 4 07

1975 FEB 4 PM 3 32

NORTH CAROLINA
HECKLENBURG COUNTY

REGISTERED
OFFICE OF RECORDS
HECKLENBURG CO. N.C.

REGISTERED
OFFICE OF RECORDS
HECKLENBURG CO. N.C.

SUPPLEMENTARY DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS SUPPLEMENTARY DECLARATION of Covenants, Conditions and Restrictions, made this 3/24 day of JANUARY, 1975, by JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC. and ALTA ENTERPRISES, INC., a joint adventure trading as Walnut Properties, and John Crosland Company, hereinafter collectively referred to as "Declarant";

W I T N E S S E I I:

THAT WHEREAS, Declarant is the owner of the real property described on the Maps of Walnut Creek, Section II A, which Maps are recorded in Map Book 17 at Page 195 and Map Book 17 at Page 239 in the Mecklenburg Public Registry and desires to create for the exclusive use of the owners of said property and property annexed thereto as hereinafter provided; and

WHEREAS, by Declaration of Covenants, Conditions and Restrictions recorded in Book 3624 at Page 239 in the Mecklenburg Public Registry as amended by instrument recorded in Book 3734 at Page 953 in the Mecklenburg Public Registry, the exclusive residential community of Walnut Creek was created and certain covenants, conditions and restrictions were thereby imposed; and

WHEREAS, the aforesaid Declaration was made in order to provide for the maintenance and preservation of the parks, play areas and open spaces owned by the Walnut Creek Homes Association; and

WHEREAS, the single family detached housing portion of said Walnut Creek will have permanent community property and recreational facilities for the exclusive use and benefit of residents of single family detached houses located on properties incorporated in said single family detached housing community as in the aforesaid Declarations and in these Declarations provided; and

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and manage the exclusive community properties and recreational facilities appurtenant to said single family houses and to perform services and enforce covenants and restrictions exclusively applicable to the residents thereof, and Declarant, therefore, has incorporated under North Carolina Law as a non-profit corporation, Walnut Creek Swim and Racket Association, for the purpose of exercising the aforesaid functions.

MAIL TO: R607 E. DEER, J.R., P.O. BOX 4566, CHARLOTTE, N.C. 28204

PERRY, PATRICK, FARMER & MICHAUF, CHARLOTTE, N.C.

3734 0959

✳

NOW, THEREFORE, Declarant, by this Supplementary Declaration of Covenants, Conditions and Restrictions does declare that Walnut Creek, Section II A, as aforesaid, and such additions thereto as may be hereafter made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Supplementary Declaration which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Walnut Creek Swim and Racket Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the "Existing Property" and any additions thereto, as are or shall become subject to this Supplementary Declaration under the provisions of Article II hereof.

Section 4. "Limited Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and designated as a "Limited Common Area" or "Limited Recreational Facility" on any plat of Walnut Creek, Sections I and II duly recorded in the Heckenburg Public Registry in accordance with the provisions of this Declaration; the Limited Common Area to be owned by the Association at the time of the conveyance of the first lot is described by metes and bounds on Schedule B attached hereto and incorporated herein by reference.

Section 5. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown upon any recorded subdivision map of the Properties with the exception of (1) any Common Area or Common Open Space shown on any recorded map, (2) land reserved and designated for commercial use, and (3) land reserved and designated for the exclusive common use of the Owners of single-family houses.

Section 6. "Declarant" shall mean and refer to John Crosland Company, Carolina Financial Services, Inc. and Alta Enterprises, Inc., a joint adventure trading as Walnut Properties, and John Crosland Company. The term "Declarant" shall also mean and refer to any person, firm or corporation which shall hereafter become vested, at any given time, with title to two or more undeveloped lots for the purposes of causing residence building(s) to be constructed thereon, and any such successor in title to Declarant defined as aforesaid shall be a Declarant during such period of time as said party is vested with title to two or more such lots so long as improvements constructed thereon are unoccupied (whether undeveloped, or developed and un conveyed), but no longer.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION

ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Supplementary Declaration, irrespective of whether there may be addition thereto as hereinafter provided, is located in Pineville Township, Mecklenburg County, North Carolina, described as Walnut Creek, Section II-A, which is shown on Maps recorded in Map Book 17 at Page 195 and Map Book 17 at Page 239 in the Mecklenburg Public Registry.

This property shall be herein referred to as "Existing Property".

Section 2. Additions to Existing Property. Additions may be made in any of the following ways:

(a) Additional land within the area described in the metes and bounds description attached hereto as SCHEDULE A and incorporated herein by reference may be annexed to the Existing Property by Declarant and brought within the scheme of this Declaration and within the jurisdiction of the Association, in future states of development, without the consent of the Association or its members; provided, however, that said annexations, if any, must occur within twelve (12) years after the date of this instrument and provided further that the FHA or the VA determine that any such annexation is in accord with the general plan heretofore approved by them.

(b) Additional residential property (and common area), outside of the area described in the aforementioned SCHEDULE A may be annexed to the Properties and brought within the scheme of this Declaration and the jurisdiction of the Association with the consent of the members entitled to at least sixty percent (60%) of the votes appurtenant to all Class A lots and at least sixty percent (60%) of the votes appurtenant to all Class B lots, if any, as hereinafter defined in Article III, Section 2. The Association may participate in mergers or consolidations with other non-profit corporations organized for the same or similar purposes as the Association, thereby adding to the Association, or to a surviving homes association, the properties, rights and obligations of the non-profit corporation with which it merges or consolidates. Any such merger or consolidation shall have the assent of the members as provided above in this subsection (b), and no such merger or consolidation shall revoke, change or add to any of the provisions of this Declaration except as herein provided.

(c) The additions authorized under subsections (a) and (b) shall be made by filing for record a Supplementary Declarations of Covenants, Conditions and Restrictions with respect to the additional properties which shall extend the scheme of this Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to assessment for their just share of the Association's expenses. Said Supplementary Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect only the different character of the added properties and as are not inconsistent with the provisions of this Declaration.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. The voting rights of the membership shall be appurtenant to the ownership of the lots. There shall be two classes of lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B. Lots as the same are hereinafter defined. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or a security interest) in any Lot all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any one Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been converted to Class A Lots as provided in (1) or (2) below. The Declarant shall be entitled to three (3) votes for each Class B Lot owned by it. The Class B Lots shall cease to exist and shall be converted to Class A Lots (and Declarant shall be entitled to one (1) vote per Lot for each of the aforesaid converted Class A Lots):

- (1) When the total number of votes appurtenant to the Class A Lots equal the total number of votes appurtenant to the Class B Lots; or
- (2) Upon April 1, 1980; whichever occurs earlier.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Limited Common Area which shall be appurtenant to and pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees to persons other than Owners for the use of any recreational facilities situated upon the Limited Common Area and to limit the use of any such recreational facilities to Owners who occupy a residence on the properties and to their families, tenants, contract purchasers and guests as provided in Section 2 of this Article IV;

(b) The right of the Association to suspend the voting rights and enjoyment rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty days for any infraction of its published rules and regulations;

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless the Members entitled to at least three-fourths (3/4) of the votes appurtenant to each Class of Lots (Class A and Class B) agree to such dedication or transfer and signify their agreement by a signed and recorded written instrument, provided that this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewerage, utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership when, in the opinion of such Board, such easements are necessary for the convenient use and enjoyment of the Properties;

(d) The right of the Association, with the written assent of Members entitled to at least sixty percent (60%) of the votes appurtenant to each Class of Lots (Class A and Class B), to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment granted to every Owner in Section 1 of this Article IV may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Mecklenburg County, North Carolina.

(b) Tenants or Contract Purchasers. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Mecklenburg County, North Carolina.

(c) Guests. Recreational facilities situated upon the Properties may be utilized by guests of Owners, tenants or contract purchasers subject to the rules and regulations of the Association, as may be established by its Board of Directors, governing said use.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorney's fees shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Limited Common Area, including but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed against the Limited Common Area, the procurement and maintenance of insurance, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1, 1976 or January 1 of the year immediately following conveyance of the first lot to an Owner, whichever is later, the maximum annual assessment shall be Eighty Four (\$84.00) Dollars per lot.

(a) From and after January 1, 1976 or January 1 of the year immediately following the conveyance of the first lot to an Owner, whichever is later, the maximum annual assessment may be increased, effective January 1 of each year, without a vote of the membership but subject to the limitation that the percentage of any such increase shall not exceed the percentage increase, if any, in the Consumer Price Index (published by the Department of Labor, Washington, D. C.) for the twelve (12) month period ending the preceeding July 1.

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, or January 1, 1976, the maximum annual assessment may be increased without limitation if such increase is approved by no less than sixty percent (60%) of the votes appurtenant to each class of lots (Class A and Class B), cast in person or by proxy, at a meeting duly called for this purpose.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Limited Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the same assent of the Members as provided in Section 3(b) of this Article.

Section 5. Assessment Rate. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected in advance semi-annually.

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of the votes appurtenant to each Class of Lots (Class A and Class B) shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates: Certificate of Payment. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance to the Association of the Limited Common Area or January 1, 1976, whichever is later. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each Lot for the next year and at least fifteen (15) days before each January 1 after assessment shall commence shall send written notice of such fixed assessment to every Owner subject thereto. The due dates for the payment of annual and special assessments shall be established by the Board of Directors. The Association shall upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Non-payment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees for such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage, first mortgages, first deed of trust or first deed of trust. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessment thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust.

ARTICLE VI GENERAL

Section 1. Enforcement. The Association or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than seventy five (75%) percent of the lots, and thereafter by an instrument signed by the Owners of not less than seventy five (75%) percent of the lots. Any amendment must be properly recorded. For the purposes of this section additions to existing property as provided for in Article II, Section 2 hereof shall not constitute an "Amendment".

Section 4. FHA/VA Approval. As long as any Class 8 lot exists, as provided in Article III hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration; Annexation of additional properties, other than as provided in Article II, Section 2(a) hereof, dedication of Common Area, and amendment of this Supplementary Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC. and ALTA ENTERPRISES, INC., a joint venture trading as WALNUT PROPERTIES, have caused this instrument to be executed by their _____ Presidents and attested to by their _____ Secretaries and their corporate seals to be hereunto affixed this 31st day of JANUARY, 1975.

FERRY, PATRICK, FARMER & WICKHAUSE, CHARLOTTE, N. C.

ALTA ENTERPRISES, INC.
SECRETARY
70-
500
SECRETARY
SECRETARY
SECRETARY

Attest:
[Signature]
Secretary

Attest:
[Signature]
Secretary

Attest:
[Signature]
Secretary

Attest:
[Signature]
Secretary

WALNUT PROPERTIES
BY: JOHN CROSLAND COMPANY
By: *[Signature]*
VICE President

BY: CAROLINA FINANCIAL SERVICES, I
By: *[Signature]*
President

BY: ALTA ENTERPRISES, INC.
By: *[Signature]*
President

JOHN CROSLAND COMPANY
BY: *[Signature]*
VICE President

REAL ESTATE PAGE
BOOK

3752 U383

NORTH CAROLINA
HECKLENBURG COUNTY

PRESENTED
FOR
REGISTRATION

1975 Apr 29 PM 1 50

CHARLES E. ARGWOOD
REGISTER OF DEEDS
HECKLENBURG CO. N.C.

AMENDMENT TO
SUPPLEMENTARY DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS

42

THIS AMENDMENT TO SUPPLEMENTARY DECLARATION of Covenants, Conditions and Restrictions, made this 29th day of April, 1975, by JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC. and ALTA ENTERPRISES, INC., a joint adventure trading as Walnut Properties, and John Crosland Company, hereinafter collectively referred to as "Declarant" and the owners of all of the lots in Walnut Creek subdivision heretofore conveyed;

W I T N E S S E T H:

THAT WHEREAS, Declarant is the owner of the real property described on the Maps of Walnut Creek, Section II A, which Maps are recorded in Map Book 17 at page 195 and Map Book 17 at page 239 in the Mecklenburg Public Registry; and

WHEREAS, by Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3736 at page 292 in the Mecklenburg Public Registry, the Walnut Creek Swim and Racket Club was created and certain covenants, conditions and restrictions related thereto were thereby imposed on the real property described therein; and

WHEREAS, the aforesaid Declaration was made in order to provide for the maintenance and preservation of Limited Common Area owned by the Walnut Creek Swim and Racket Club; and

WHEREAS, Declarant and all of the purchasers of lots from Declarant have deemed it advisable to amend said Supplemental Declaration by changing the description of the Limited Common Area as described in Exhibit B thereof;

NOW, THEREFORE, Declarant and all of the owners of lots in Walnut Creek subdivision as the same is shown on Maps recorded in Map Book 17 at pages 195 and 239 in the Mecklenburg Public Registry, do hereby amend Supplementary Declaration of Covenants, Conditions and Restrictions, recorded in Book 3736 at page 292 in the Mecklenburg Public Registry by deleting from said Supplementary Declaration the metes and bounds description contained in Schedule B which describes the "Limited Common Area" to be owned by the Walnut Creek Swim and Racket Association at the time of conveyance of the first lot and substituting therefor the following new description:

Beginning at the point where the southerly right-of-way of the margin of Hackberry Lane intersects the easterly margin of the right-of-way of Painted Tree Road, as shown on map recorded in Map Book 17 at page 195 in the Mecklenburg Public Registry; thence along the easterly margin of the right-of-way of Painted Tree Road (proposed) as follows: (1) S. 13-25 E. 250 feet to a point (2) with the arc of a circular curve to the right, having a radius of 351.12 feet, an arc distance of 129.71 feet to a point (3) S. 7-45 W. 158.0

3752 0384

feet to a point (4) with the arc of a circular curve to the left, having a radius of 195.05 feet, an arc distance of 117.64 feet to a point (5) S. 26-48-20 E. 272.24 feet to a point (6) with the arc of a circular curve to the right, having a radius of 373.22 feet, an arc distance of 469.91 feet to a point (7) S. 45-20 W. 511.75 feet to a point (8) with the arc of a circular curve to the right, having a radius of 195.62 feet, an arc distance of 84.0 feet to the point or place of beginning; thence S. 8-29-30 E. 172.95 feet to a point; thence S. 37-30 E. 107.0 feet to a point; thence S. 20 E. 20 feet to a point; thence S. 74-58-17 W. 497.75 feet to a point; thence N. 7-00-50 W. 64.0 feet to a point; thence N. 45-40 E. 296.24 feet to a point; thence N. 17-35-10 E. 140.74 feet to a point in the southerly margin of Painted Tree Road (proposed); thence with said margin, in a northeasterly direction with the arc of a circular curve to the left having a radius of 195.52 feet, an arc distance of 139.56 feet to the point or place of beginning.

The parties to this agreement further covenant and agree to a change in the name of the Association from Walnut Creek Swim and Racket Association to Painted Tree Swim and Racquet Association and Article I, Section 1 of the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions is hereby amended to effect said name change.

In all other respects, the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions shall remain unchanged and is hereby approved, ratified and affirmed.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day and year first above written.

Attest:

[Signature]
Secretary

WALNUT PROPERTIES

By: JOHN CROSLAND COMPANY

By: *[Signature]*
VICE President

Attest:

[Signature]
Secretary

By: CAROLINA FINANCIAL SERVICES, INC.

By: *[Signature]*
President

Attest:

[Signature]
Asst. Secretary

By: ALTA ENTERPRISES, INC.

By: *[Signature]*
President

Attest:

[Signature]
Secretary

JOHN CROSLAND COMPANY

By: *[Signature]*
VICE President

[Signature] (SEAL)
Frederick B. Files

[Signature] (SEAL)
Sandra C. Files

[Signature] (SEAL)
William Ellis Murray

(continued on page 3)



3752 0384

NORTH CAROLINA

HECKLENBURG COUNTY

SECOND AMENDMENT TO
SUPPLEMENTARY DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

111

THIS SECOND AMENDMENT TO SUPPLEMENTARY DECLARATION of Covenants, Conditions and Restrictions, made this 30th day of June, 1975, by JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC., and ALTA ENTERPRISES, INC., a joint venture trading as Walnut Properties, and John Crosland Company (herein, collectively referred to as "Declarant") and the undersigned individual signatory parties hereto, all together and collectively being not less than ninety (90%) per cent of the owners of all Lots in the hereinafter referred to Walnut Creek subdivisions;

W I T N E S S E T H:

THAT WHEREAS, Declarant is the owner of the real property described on the Maps of Walnut Creek, Section II A, which Maps are recorded in Map Book 17 at page 195 and Map Book 17 at page 239 in the Hecklenburg Public Registry; and

WHEREAS, by Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3736 at page 292 in the Hecklenburg Public Registry, the Walnut Creek Swim and Racket Club was created and certain covenants, conditions and restrictions related thereto were thereby imposed on the real property described therein; and

WHEREAS, by Amendment to Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3752 at page 383 in the Hecklenburg Public Registry, the aforesaid Supplementary Declaration was amended to correct the description of the Limited Common Area and to change the name of Walnut Creek Swim and Racket Association to Painted Tree Swim and Racquet Association ("the Association"); and

WHEREAS, it has been and is the intention of Declarant (and the other signatory parties hereto) that the Supplementary Declaration, the Association and the by-laws governing the Association shall manage, regulate, govern and provide for the maintenance and preservation of Limited Common Areas and Limited Recreational Facilities, only, as same are defined or identified in Article I, Section 4 of the Supplementary Declaration, and shall not manage, regulate, govern or provide for the maintenance or preservation of Lots, Common Area or any other Properties (as same are defined in Article I, Section 3, of the Declaration recorded in Book 3624 at page 239 in the Hecklenburg Public Registry, not specifically designated as Limited Common Area or Limited Recreational Facility; and

WHEREAS, Declarant and other undersigned Owners of Lots have deemed it advisable to enter into this Second Amendment to Supplementary Declaration of Covenants, Conditions and Restrictions.

*Mail to
Lloyd Boone
10 East ...
Charlotte, NC*

MISSY, PATRICK, FARMER & MICHAEL, CHARLOTTE, N. C.

ENCLOSURE

3804 0266

The aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions is further amended as follows:

The last sentence of Article V, Section 9, is deleted and the following sentence substituted in its place:
"No such sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage, first mortgages and first deeds of trust."

The parties hereto for themselves, their heirs, successors and assigns, hereby release Tract A as shown on map recorded in Map Book 17 at Page 195 in the Mecklenburg Public Registry from any and all restrictions or dedications, if any, which have heretofore been imposed or made on said tract by the recording of the aforesaid map, and the conveyance of lots with reference thereto and the parties for themselves, their heirs, successors and assigns, hereby acknowledge and confirm that said property is now and shall hereafter be single-family lots 29-B and 29-C and common open space as shown on map recorded in Map Book 17 at Page 405 in the Mecklenburg Public Registry.

The following described property is hereby added to the Limited Common Area to be owned by the Painted Tree Swim and Racquet Club and is hereby made subject to the Declaration of Covenants, Conditions and Restrictions recorded in Book 3736 at Page 292 in the Mecklenburg Public Registry, as amended by instrument recorded in Book 3752 at Page 383 in said Mecklenburg Public Registry:

BEGINNING at the point where the southerly right-of-way of the Margin of Hackberry Lane intersects the easterly margin of the right-of-way of Painted Tree Road, as shown on map recorded in Map Book 17 at Page 195 in the Mecklenburg Public Registry; thence along the easterly margin of the right-of-way of Painted Tree Road (proposed) as follows: (1) S. 13-25 E. 250 feet to a point (2) with the arc of a circular curve to the right, having a radius of 351.12 feet, an arc distance of 129.71 feet to a point (3) S. 07-45 W. 158.0 feet to a point (4) with the arc of a circular curve to the left, having a radius of 195.05 feet, an arc distance of 117.64 feet to a point (5) S. 26-48-20 E. 272.24 feet to a point (6) with the arc of a circular curve to the right, having a radius of 373.22 feet, an arc distance of 469.91 feet to a point (7) S. 45-20 W. 511.75 feet to a point (8) with the arc of a circular curve to the right, having a radius of 195.62 feet, an arc distance of 84.0 feet to the point or place of BEGINNING; thence S. 20-21 E. 100.50 feet to a point; thence S. 06-22 E. 74.20 feet to a point; thence S. 26-44 E. 55.07 feet to a point; thence N. 37-30 W. 60.97 feet to a point; thence N. 08-29-30 W. 172.95 feet to the point or place of BEGINNING.

In all other respects, the aforesaid Supplementary Declarations of Covenants, Conditions and Restrictions shall remain unchanged and is hereby approved, ratified and affirmed.

IN WITNESS WHEREOF, the parties hereto have caused these

3915 0920

NORTH CAROLINA
MECKLENBURG COUNTY

PRESENTED
FOR
REGISTRATION
77 FEB 2 PM 4 50
REGISTERED UNDER
MECKLENBURG CO. N.C.

93

THIRD AMENDMENT TO
SUPPLEMENTARY DECLARATION
OF COVENANTS, CONDITIONS, AND RESTRICTIONS

THIS THIRD AMENDMENT TO SUPPLEMENTARY DECLARATION of Covenants, Conditions, and Restrictions, made this 28th day of January, 1977, by JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC., and ALTA ENTERPRISES, INC., a joint venture trading as WALNUT PROPERITES, and John Crosland Company (herein, collectively referred to as "Declarant") and the undersigned individual signatory parties hereto, all together and collectively being not less than ninety (90%) percent of the owners of all Lots in the hereinafter referred to Walnut Creek Subdivision;

W I T N E S S E T H :

THAT WHEREAS, Declarant and Owners are the owners of the real property described on the Maps of Walnut Creek, which Maps are recorded in Map Book 17 at Pages 195, 239, 405, 578 and Map Book 18 at Page 8 in the Mecklenburg Public Registry; and

WHEREAS, by Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3736 at Page 292 in the Mecklenburg Public Registry, the Walnut Creek Swim and Racquet Association was created and certain covenants, conditions and restrictions related thereto were thereby imposed on the real property described therein; and

WHEREAS, by Amendment to Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3752 at Page 383 in the Mecklenburg Public Registry, the aforesaid Supplementary Declaration was amended to correct the description of the Limited Common Area and to change the name of Walnut Creek Swim and Racquet Association to Painted Tree Swim and Racquet Association ("the Association"); and

WHEREAS, by Second Amendment to Supplementary Declaration of Covenants, Conditions and Restrictions, recorded in Book 3804 at Page 264 in the Mecklenburg Public Registry, the aforesaid Supplementary Declaration was amended to add certain Limited Common Areas to the Association's property and to make certain technical changes as required by the Veterans Administration and the Department of Housing and Urban Development; and

WHEREAS, Declarant and other undersigned Owners of Lots located within Walnut Creek subdivision have deemed it advisable to add certain areas to the property which may be annexed by Declarant and made subject to the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions.

NOW, THEREFORE, Declarant and the other undersigned Owners of Lots in Walnut Creek subdivision as same are shown on maps thereof recorded in Map Book 17 at Pages 195, 239, 405, 578 and Map Book 18 at Page 8 in the Mecklenburg Public Registry, do hereby further amend Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3736 at Page 292 in the Mecklenburg Public Registry by deleting the description set forth in

MAIL TO: Della Boone P.O. Box 11231 CHASLOTTE NC 28209

3915 0921

Schedule A attached to said Supplementary Declaration and substituting therefore the following new description for the description contained therein:

Lying and being in Pineville Township, Mecklenburg County, North Carolina and being more particularly described as follows:

BEGINNING at a point on the easterly line of the eighty-foot right-of-way of Carmel Road Extension, said Beginning point being located 150.41 feet in a northeasterly direction along the easterly margin of said Carmel Road Extension from the point of intersection of the northeasterly margin of the right-of-way line of Painted Tree Road, if extended, and the easterly margin of the right-of-way line of Carmel Road Extension, if extended, said point also being located North 35 degrees 03 minutes 14 seconds East 133.3 feet from the aforesaid intersection; thence from said beginning point South 58 degrees 45 minutes 20 seconds East 676.91 feet to a point; thence South 80 degrees 00 minutes East 381.97 feet to a point; thence South 18 degrees 16 minutes East 130.60 feet to a point; thence South 9 degrees 38 minutes West 484 feet to a point; thence South 28 degrees 10 minutes West 387.0 feet to a point; thence South 11 degrees 36 minutes 50 seconds West 80.18 feet to a point; thence South 0 degrees 35 minutes 30 seconds East 57.19 feet to a point; thence South 15 degrees 11 minutes 40 seconds East 245.0 feet to a point; thence South 36 degrees 27 minutes 40 seconds East 105.70 feet to a point; thence South 41 degrees 42 minutes 10 seconds East 500.00 feet to a point; thence South 1 degree 00 minutes East 160.0 feet to a point; thence South 4 degrees 00 minutes West 170.0 feet to a point; thence South 8 degrees 00 minutes West 210.0 feet to a point; thence South 60 degrees 30 minutes West 120.0 feet to a point; thence South 72 degrees 30 minutes West 240.0 feet to a point; thence South 74 degrees 20 minutes West 880.0 feet to a point; thence North 15 degrees 45 minutes West 210.0 feet to a point; thence South 46 degrees 13 minutes 40 seconds West 780.93 feet to a point; thence North 45 degrees 50 minutes West 870.0 feet to a point; thence North 87 degrees 10 minutes West 215.0 feet to a point; thence North 31 degrees 10 minutes West 300.0 feet to a point; thence North 10 degrees East 220.0 feet to a point; thence North 80 degrees 00 minutes East 210.0 feet to a point; thence North 21 degrees 15 minutes East 175.0 feet to a point; thence North 8 degrees 30 seconds West 585.0 feet to a point; thence North 80 degrees 33 minutes 10 seconds East 235.0 feet to a point; thence North 12 degrees 30 minutes East 661.06 feet to a point; thence North 4 degrees 30 minutes West 320.0 feet to a point; thence North 85 degrees 30 minutes East 350.0 feet to a point; thence along the arc of a circular curve to the left having a radius of 1300.34 feet, an arc distance of 1220.09 feet to the point of BEGINNING containing 157.70 acres.

In all other respects, the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions, as heretofore amended, is hereby approved, ratified and affirmed.

PEERY, PATRICK, FABER & MICHAEL, CHARLOTTE, N. C.

3938 0776

APR 28 AM 10 55
REGISTER OF DEEDS CO. N.C.

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
Section II-D

THIS SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, made on this 7th day of April, 1977, by JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC. and ALTA ENTERPRISES, INC., a joint venture trading as WALNUT PROPERTIES, and JOHN CROSLAND COMPANY, hereinafter referred to collectively as "Declarants";

WITNESSETH:

WHEREAS, Declarants are the owners of that property shown on map of Walnut Creek, Section II-D, which map is recorded in Map Book 18 at page 69 in the Mecklenburg Public Registry; and

WHEREAS, Declarants have heretofore imposed Supplementary Declaration of Covenants, Conditions and Restrictions upon Walnut Creek, Section IIA, which Section appears of record in Map Book 17 at page 195 and in Map Book 17 at page 239 in the Mecklenburg Public Registry which Supplementary Declaration is recorded in Book 3736 at page 292 in the said registry; and

WHEREAS, said Supplementary Declaration of Covenants, Conditions and Restrictions has been amended by documents recorded in Book 3752 at page 183, Book 3804 at page 264 and Book 3915 at page 920; and

WHEREAS, the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions is recorded in Book 3736 at page 292 in the Mecklenburg Public Registry; and provides therein in Article II, Section 2(a) that "Additional land within the area described in the metes and bounds description attached... Schedule A... may be annexed to the Existing Property, by Declarant..."; and

WHEREAS, the Declarant desires to incorporate the aforesaid Walnut Creek, Section II-D, as same is shown on map thereof recorded in Map Book 18 at page in the Mecklenburg Public Registry within the Property subject to the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions;

NOW, THEREFORE, pursuant to the provisions of the aforesaid Declaration of Covenants, Conditions and Restrictions, Declarant does hereby annex Walnut Creek, Section II-D, as shown on the aforesaid map to the Property which is subject to the Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3736 at page 292 in the Mecklenburg Public Registry, to the end that Walnut Creek, Section II-D, as aforesaid, shall be within the scheme of said Declaration and within the jurisdiction of the Association identified in said Declaration and to the further end that all present and future owners of all lots shown on map recorded in Map Book 18 at page in the Mecklenburg Public Registry shall be subject to the terms and conditions of the aforesaid Declaration and shall have the rights and privileges therein set out.

Mail to: John Crosland Co.
John Bone
P.O. Box 11231
Charlotte, NC
28209

PROBY, PATRICK, FARMER & MICHAUX, CHARLOTTE, N. C.

REC-955-107

3938 0777

IN WITNESS WHEREOF, the undersigned, WALNUT PROPERTIES, a Joint Venture, and JOHN CROSLAND COMPANY have caused this instrument to be executed by its Joint Venturers the day and year first above written.

WALNUT PROPERTIES (SEAL)

By: John Crosland Company

Attest:
Katherine G. Setzer
Asst. Secretary

Harman Alley Jr.
Vice - President

By: Carolina Financial Services, Inc.

Attest:
[Signature]
Secretary

[Signature]
President

By: Alta Enterprises, Inc.

Attest:
[Signature]
Secretary

[Signature]
President

JOHN CROSLAND COMPANY

By: Harman Alley Jr.
Vice - President

Attest:
Katherine G. Setzer
Asst. Secretary

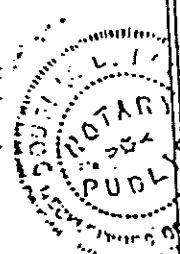
STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

This 26 day of April, 1977, personally came before me Harman Alley Jr. who, being by me duly sworn, says that he is the Vice President of JOHN CROSLAND COMPANY, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said company, and that said writing was signed and sealed by him, in behalf of said corporation, by its authority duly given. And the said Harman Alley Jr. acknowledged the said writing to be the act and deed of said corporation.

Don L. Boone
Notary Public

Commission Expires:
April 14, 1981



3938 0780

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

RESTRICTION AGREEMENT
WALNUT CREEK

SECTION II-D 42

KNOW ALL MEN BY THESE PRESENTS, that JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES CORPORATION and ALTA ENTERPRISES, INC., d/b/a WALNUT PROPERTIES, a Joint Venture, do hereby covenant and agree to and with all persons, firms and corporations hereafter acquiring any of the property described as follows:

Located in the Township of Pineville, County of Mecklenburg, State of North Carolina, and being the following lots in Walnut Creek Subdivision, to-wit: Lots 38-64, inclusive, in Block 4 and Lots 44-47, inclusive, in Block 5 as same are shown on recorded map thereof recorded in Map Book 18 at Page 109 in the Mecklenburg Public Registry.

1. Land Use and Building Type. All lots in the tract shall be known and described as residential lots and shall be used for residential purposes only. No structure shall be erected, altered, placed or permitted to remain on any residential building plot other than one detached single-family dwelling not to exceed two and one-half stories in height and a private garage for not more than three cars and other outbuildings incidental to residential use of the plot.

2. Building Setbacks. No building shall be erected on any residential lot nearer to any street line than the building setback lines shown on the recorded map. With respect to a corner lot, no residence shall be located nearer than 20 feet to the side street line. With respect to corner lots, the front lot line shall be deemed the street line having the shorter frontage and any building consisting of a residence erected on such corner lots shall face the front lot line. No building other than a residence shall be located nearer than 50 feet to a side street line, and no building, including a residence, shall be located nearer than 6 feet to any side lot line, except that a garage or carport may be erected on the rear one-quarter of any lot as close as two (2) feet to any side lot line other than a side street line. No fence or wall shall be erected on any building plot closer to any street line than the building setback lines shown upon the recorded map.

3. Lot Area and Width. No residential structure shall be erected or placed on any building plot, which plot has an area of less than 12,000 square feet, or a width of less than 70 feet at the front building setback line.

4. Temporary Structures. No trailer, basement, tent, shack, garage, barn or other outbuilding erected in the tract shall at any time be used as a residence, temporarily or permanently, nor shall any structure of a temporary character be used as a residence.

5. Nuisance. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No animals, livestock or poultry of any kind

PRESENTED FOR REGISTRATION

17 APR 28 AM 10 59

RECEIVED FOR REGISTRATION MECKLENBURG COUNTY, N.C.

Mail to: John Crosland Co
Doris Boone
PO Box 11231
Charlotte, NC 28209

RECEIVED

3938 0781

shall be kept or maintained on any lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes.

6. Dwelling Size. No dwelling costing less than \$15,000 shall be permitted on any lot in the tract. The ground floor area of the main structure, exclusive of one-story open porches and garages, shall be not less than 1,200 square feet in the case of a one-story structure, nor less than 900 square feet in the case of a one and one-half story structure, nor less than 750 square feet in the case of a two-story structure. Building cost to be based on cost as of January, 1976. (It being the intention to require in each instance the erection of such building as would have cost not less than the minimum cost provided if the same had been erected in January, 1976.)

7. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two and six feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property line and a line connecting them at points thirty-five (35) feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within ten feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

8. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent or signs used by a builder to advertise the property during the construction and sales period.

9. Fences. No chain link or fences of metal construction shall be permitted on any lot except that a split rail fence of less than five feet in height with an attached wire fence backing shall be permitted.

10. Metal Carport and Garages. No metal carport or garage of any kind shall be erected on any lot or attached to any residence building located on the lot.

11. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded map and over the rear ten feet and each side five feet of every lot. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. The parties hereto reserve the right to create and impose

3938 0782

additional easements or rights-of-way over any unsold lot or lots for street, drainage and utility installation purposes by the recording of appropriate instruments and such shall not be construed to invalidate any of these covenants.

12. Unintentional Violations. In the event of the unintentional violation of any of the building line restrictions herein set forth, the parties hereto, their successors and assigns, reserve the right, by and with the mutual written consent of the owner or owners for the time being of such lot, to change the building line restrictions set forth in this instrument; provided, however, that such change shall not exceed ten (10%) percent of the marginal requirements of such building restrictions.

13. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant and to either restrain violation or to recover damages.

14. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

15. Term. These covenants are to run with the land and be binding upon all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed and sealed, this 27th day of April, 1977.

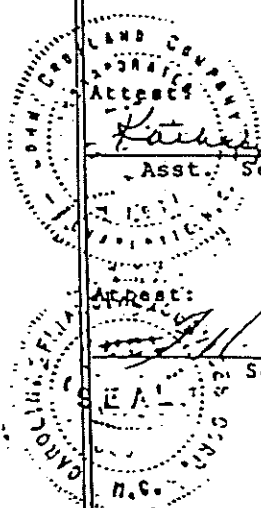
John Crosland Company, Carolina
Financial Services Corporation and
Alta Enterprises, Inc. d/b/a
WALNUT PROPERTIES (SEAL)

By: John Crosland Company

By: [Signature]
Vice- President

By: Carolina Financial Services Corporation

By: [Signature]
President



Accepts:
[Signature]
Asst. Secretary

Accepts:
[Signature]
Secretary