

Regulation Defining “Structures” Within Article IV, Section 2 of the Covenants and Restrictions for Winding Creek Estates

- 1. BACKGROUND AND PURPOSE.** Pursuant to *the Covenants and Restrictions for Winding Creek Estates* (“C&R”), Winding Creek Homeowners Association (“WCHA”) maintains the right to review, and approve or deny as appropriate, all proposed buildings and structures sought to be erected by homeowner/members (“Homeowners”) within Winding Creek Estates Units II, III, IV, and V (“Winding Creek”). Specifically, the C&R provide:

The Covenantor shall have the right to require architectural review by the Covenantor of all **buildings and structures** to be erected in Winding Creek Estates Units II and III and IV and V. No building, fence, wall, **or other structure** shall be commenced, erected, or maintained, nor shall any exterior additions to or exterior changes or alteration therein be made prior to written approval by the Covenantor. The owner of the lot shall submit the following information: a) construction plans and specifications, showing the nature, kind, shape, height, materials, and color scheme of the building or structure, b) a plat of survey showing the location on the lot of the building or structure as surveyed by any surveyor specified by the Covenantor, and c) a grading plan as engineered and drawn by any engineer specified by the Covenantor. The Covenantor shall have the right to reasonably refuse to approve any such construction it determines is not suitable or desirable for Winding Creek Estates Units II and III and IV and V based on aesthetic considerations or other factors.

(Emphasis added) Article VI, Section 2. WCHA’s Board of Directors (“Board”) periodically receives questions from Homeowners regarding whether the term “structure” referenced in C&R Article VI, Section 2 (“CRVI2”) encompasses various aspects of their contemplated construction plans. Recently, the question was raised regarding whether a driveway is considered a “structure” as used in CRVI2. Considering the C&R and other WCHA governing documents in their totality, the general definition of the word “structure,”¹ and the manner in which CRVI2 was addressed in the past, the Board unanimously agreed (and confirmed) it was the intention of the Covenantor that the word “structure” in CRVI2 includes, without limitation, driveways. To avoid any confusion and/or potential dispute by, with, and/or among Homeowners, the Board determined it to be in the best interests of the Homeowners to adopt a regulation confirming the same. Accordingly, pursuant to WCHA’s C&Rs and Bylaws, the Board adopts the following regulation.

- 2. REGULATION.** Reference to “structures” (and “other structures”) in CRVI2 includes all things constructed within Winding Creek that are intended to be stable (i.e., remain in the physical place they are constructed, as opposed to being removable). Without limiting the foregoing, and for the avoidance of doubt, “structures” include driveways, decks, firepits, patios, sport courts, and walkways.

Adopted: October 16th, 2020

¹ Something (such as a building) that is constructed. Something arranged in a definite pattern of organization. *Merriam-Webster, 10-11-20 (www.merriam-webster.com/dictionary/structure).*