

**SILVERHEELS NEW AMENDED COVENANTS COMMITTEE (SNACC)**

**Minutes of 04/27/22 Meeting**

*(7:00 PM via Zoom)*

*Approved at 05/18/22 Meeting*

**1. Attendance & Quorum**

Members Present: Rich Bainbridge, Susan Barden, Tony Boccio, Luis Canales, Lesley & Ed Hall, Gail & Steve Kloppel, Zach Loos, Mary Manka, Lane Mathison, Kylie & Tyler Pontius, Charlie Schultz, Maria Smaldone, Jeffrey Togie, Lillian Wissel.

Members Absent: Natalie Gorak, Mike Peterson, Maria Mitchell

Quorum: With 16 Members present, the quorum requirement of 13 was satisfied.

**2. Approval of Minutes**

The Minutes from the 4/13/22 meeting, as provided to the Members several days in advance of the meeting, were approved by a vote of 15 to 1.

**3. Continue section-by-section review of proposed modifications to Article 2, using Draft v9, starting with Section 2.9(b) (keeping v1 base document text handy for reference). Goal: get at least to Section 2.13.**

Between the last meeting and this one, JB had initiated email discussions with Ed Hall, Lesley Hall, Lane Mathison, and Charlie Schultz about Sections 2.9(b) and (c), given the comments each of them had made at the last meeting and given that Ed, Lane, and Charlie all have substantial experience in the construction industry. The language reflected in Draft v9 subsections 2.9(b) and (c) substantially reflected the input and interactions they all had provided. JB reminded everyone that the draft language was not presented as a finished product, but as a catalyst for further discussion and resolution.

Draft v9 included a Note that the language presented for Section 2.9 was based on the original 1979 Covenants, which stated: “No structure, including walls and fences, shall be erected, converted, placed, added to or altered on any lot until the construction plans and specifications to include materials and colors to be used and a plan showing the location of the structure on the lot have been approved in writing by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to other structures planned, to topography and to finished grade elevation. Structural color schemes will be compatible with the natural environment of the subdivision. Natural or earth colors (shades of brown or green or natural wood) are required.”

**Section 2.9(b) Owner’s Formal Application to ARC**

Section 2.9(b) as proposed in Draft v9 stated: “Except as otherwise stated below, no Improvement shall be constructed, placed, applied, installed or modified on any Lot, unless a complete application for the Improvement (“**Application**”) has first been submitted to and approved, or conditionally approved, in writing by the ARC. The Application shall include all exterior elevations and site plans (including size, proposed location, and location of any existing structures), and all exterior materials and colors. Floor plans and construction details (i.e., engineered drawings) are not required.”

Specifics of this draft language were discussed, including application to real-life situations, the desire to simplify where possible, and potential clarifications. After several motions and friendly amendments, the final version of Section 2.9(b) was approved by a vote of 15 to 1, as follows:

b. Except as otherwise stated below, no Improvement shall be constructed, placed, applied, installed, or modified on any Lot, unless a complete application for the Improvement (“**Application**”) has first been submitted to and approved, or conditionally approved, in writing by the ARC. The Application shall include all site plans (including size, proposed location, and location of any existing structures), exterior elevations where applicable, and all exterior materials and colors pertaining to the Improvement. Floor plans and construction details (i.e., engineered drawings) are not required.

### **Section 2.9(c) Owner’s Formal Application to ARC**

Section 2.9(c) as proposed in Draft v9 reflected the aforementioned email discussions among Lesley, Ed, Lane, and JB between meetings:

c. The color scheme for any Improvement shall be compatible with the natural environment of the Subdivision. Predominant colors in natural or earth tones, with accent colors complementary to the predominant colors, are acceptable.

Specifics of this language were discussed, including the intentionally broad nature of this provision, the potential that future Guidelines might address more specifics, and the reference to what is “natural” in the Subdivision. The proposed language was approved without any changes by a unanimous vote.

### **Section 2.9(d) Required Review by ARC**

Section 2.9(d) as proposed in Draft v9 stated: “The ARC shall have the authority to approve, disapprove, or conditionally approve an Application using its reasonable good-faith judgment, guided by its purpose as set forth in Section 2.7.”

Discussions ensued regarding good-faith judgment, whether inclusion of the concept of “harmony” from the Original (1979) Covenants was necessary, and whether the last phrase in this draft was necessary. Also, Members felt that the majority vote requirement in Section 2.10 of Draft v9 could be included in this subsection instead of being separated. This ultimately led to a final version of Section 2.9(d) which was approved by a vote of 14 to 2, as follows:

d. The ARC shall have the authority to approve, disapprove, or conditionally approve, by a majority vote, an Application using its reasonable good-faith judgment.

### **Section 2.9(e) Reimbursement for Expenses.**

Section 2.9e) as set forth in Draft v9 stated: “In its review of such plans, specifications and other materials and information, the ARC may require that the applicant(s) reimburse the ARC

for the actual expenses incurred, or reasonably anticipated to be incurred, by the ARC with a third party consultant should the ARC need or desire such assistance, in the review and/or approval process. Such amounts, if any, shall be levied in addition to the Assessments against the Lot for which the request for ARC approval was made, and shall be subject to the Association's lien and subject to all other rights of the Association for the collection of Assessments.”

JB noted that this subsection appeared to have been one of the completely-new additions set out in the Amended and Restated Covenants that did not gain majority approval last summer. He also asked if anyone knew whether, in the history of the SROA, the power proposed here had ever been needed or utilized. No Committee Members was aware of such use, and virtually all expressed a dislike for the tone and content of the provision. This led to a unanimous vote to delete proposed Section 2.9(e) from our redraft.

#### **Section 2.10 ARC Vote**

As noted above, the “majority vote” language of proposed Section 2.10 was incorporated into Section 2.9(d).

#### **Section 2.11 ARC Decision Deadline**

Section 2.11 (which now will become Section 2.10) as proposed in Draft v9 stated: “The ARC must decide to approve or disapprove an Application within 30 days after the date of the Owner’s submission of the complete Application (the “**Decision Deadline**”). The ARC shall email written notice to the Owner of its approval (including any requirements or conditions to the approval) or disapproval no later than the Decision Deadline, and shall promptly thereafter place the same notice in the US Mail to the applicant. If the ARC fails to decide the Application by the Decision Deadline, the Application shall be deemed approved.”

Pros and cons to the deadline of 30 days were discussed, including noting the short building window that South Park weather affords, use of technology allowing for a speedier response, the fact that ARC members are volunteers who do not have constant availability, the impact of incomplete Applications, and other concerns. Due to time constraints, JB was tasked with drafting a new version based on these comments and provide it as part of Draft v10 in advance of the next meeting.

#### **4. New Business**

There was no new business.

#### **5. Next Meeting**

Due to scheduling conflicts, the next meeting will be held on Wednesday, May 18 at 7:00 PM via Zoom.

#### **6. Adjournment**

The meeting was adjourned at 9:03 PM.