

**Silverheels New Amended Covenants Committee (SNACC)**

**Minutes of 11/09/22 Meeting**

***(7:00 PM via Zoom)***

***Approved at 11/30/22 Meeting***

**1. Attendance & Quorum (13 lots)**

**Members Present:** Rich Bainbridge, Susan Barden, Tony Boccio, Luis Canales, Lesley & Ed Hall, Gail & Steve Kloppel, Mary Manka, Lane Mathison, Mike Peterson, Tyler Pontius, Kylie Pontius, Charlie Schultz, Maria Smaldone, Jeff Togie.

**Members Late:** Zach Loos

**Members Absent:** Natalie Gorak, Maria Mitchell, Lillian Wissel

**Moderator:** JB Burghardt

**Quorum:** A quorum was satisfied with 15 lots represented at the outset.

**2. Review and Approve Minutes of 10/26/22 Meeting**

Minutes of the 10/26/22 meeting, provided days in advance to all Members, were unanimously approved.

**3. Continue Section-by-Section Review of Art.3 using Draft v21**

**Section 3.5 - Compliance with Water Augmentation Plan; Water Supply**

At the 9/24/22 meeting, Section 3.5 had been approved as originally written. But on further consideration after that meeting, JB became concerned that the original wording did not really satisfy one of SNACC's charges: to make the language of our Covenants as clear and user-friendly as possible. Therefore, he had reviewed the underlying Water Court decrees and tried to redraft the Section to make the text easier to read and understand, without affecting the substance. He further explained that well in advance of this meeting he had contacted Lillian, Charlie, and Mike because of their long experience with Silverheels water issues, to ask them to review his redraft and provide any suggestions for further improvement. They each had advised him in advance of the meeting that they were OK with his proposed changes. In response to a Member's question about referencing the underlying legal documents, JB showed that the redraft included redrafted Definitions that made the necessary legal references. After discussion, the proposed redraft was approved unanimously. It reads as follows:

**Section 3.5 Compliance with Water Augmentation Plan; Water Supply.**

a. Well Permits. Water shall be supplied to each Lot by well. Before drilling a well, the Lot Owner must obtain a well permit from the Colorado State Engineer's Office in Denver, Colorado. Wells on Lots that include land on the west side of the Ridge are subject to restrictions set forth on the Plats.

b. Irrigation and Stockwatering. The Water Augmentation Plan provides for both in-house use and a combination of lawn/garden irrigation and/or stockwatering. On an annual basis, an Owner may choose one of three scenarios for water use on each Lot owned by the Owner: (i) irrigation of up to 945 square feet and no

stockwatering; (ii) irrigation of up to 140 square feet and stockwatering up to the equivalent of two horses; or (iii) irrigation of up to 540 square feet and stockwatering up to the equivalent of one horse.

c. Each of the three scenarios above is limited to a consumptive use not to exceed 0.026 acre feet per year per Lot, assuming an irrigation efficiency of 80% and a consumptive irrigation requirement of 1.2 acre-feet per acre. Stockwatering will be approximately 10 gallons per day per horse equivalent with a consumptive use rate of 100%. Annual consumptive use for stockwatering will be approximately 0.011 acre-feet per horse equivalent. Each year, the Owner of a Lot may elect to restrict use: (i) to one of the three scenarios above, or (ii) to a metered limit of approximately 0.026 acre-feet of consumptive use multiplied by the number of Lots owned by the Owner, so long as the total consumptive use for the Subdivision does not exceed approximately 5.28 acre-feet per year. Owners choosing to meter their water use are responsible for doing so at their own expense and must comply with reporting and use requirements. Replacement of depletions will vary depending on the number of Lots irrigating and/or stockwatering. The number of Lots falling under each scenario will be determined by an annual survey and recorded on an acceptable accounting form. The Association will provide each Owner with a written means of reporting annual outdoor water usage. Each Owner shall report to the Association on an annual basis, within thirty (30) days after receipt of the Association's request for a report, the actual or projected specified outdoor water usage as decreed in Case No. 97CW370 on a schedule and accounting form as determined by the Association and the Colorado Division Engineer for Water Division 1 (the administrator of the decrees in both Case No. W-9358-78 and 97CW370). Sanctions may be imposed on individual Owners by both the Association and the Division Engineer for noncompliance with the terms and conditions in both decrees.

**Definitions:**

Augmentation Plan. The augmentation plan decreed in 1979 in Case No. W-9358-78 (District Court, Water Division 1, State of Colorado), which limited well water to in-house use, as amended by the decree in 1999 in Case No. 97CW370 to provide for additional uses including a combination of lawn/garden irrigation and/or stockwatering.

Owner. The owner of record of fee title to a Lot, as more fully described in Section 4.2, but not including the holder of a security interest in a Lot.

**Section 3.6 – Fences.**

As directed at the last meeting, JB had provided Members in advance with a draft of an addition to the end of Section 3.6 which addressed electric fencing. The addition was unanimously approved. The Section as modified reads as follows:

**3.6 Fences.** Fencing along BLM land or National Forest land must be in accordance with applicable regulations. Existing boundary fences may not be

removed, but may be reset to conform to staked property lines and/or be rebuilt as necessary. Owners of Lots on the outside perimeter of the Community shall be responsible for jointly maintaining fences with adjacent owners of private property as and if necessary. Any Owner of a Lot on the west boundary of the Community who keeps livestock or horses shall fence the Lot and keep the fence in good condition and repair. Electrically charged fences are permitted, but must include reasonable warning signage.

**Section 3.15 - Restrictions on Mining and Drilling.**

This section was approved at the 10/26/22 meeting. After that meeting, however, JB had received an email from an SROA member who reviews our Eblasts, asking whether the wording might affect the drilling of water wells on individual lots. Based on this input, JB recommended adding a new opening clause to make clear that drilling for water wells per Section 3.5 is not affected by Section 3.15. His proposed addition was unanimously approved, so Section 3.15 was amended to read as follows

**Section 3.15 Restrictions on Mining or Drilling.** Except as provided in Section 3.5, no real property within the Community shall be used for the purpose of mining, quarrying, drilling, boring, development, or exploring for or removing oil, gas, or other hydrocarbons, minerals, rocks, stones, gravel, earth, or water

**[Former Section 2.17] - Temporary Structures.**

At our 7/13/22 meeting, a motion to delete this Section from Article 2 was unanimously approved because it did not seem to belong in that Article; however, it also was agreed that the Section should be reconsidered in the context of Article 3 - Restrictions. Discussion about this began at our 10/26/22 meeting but was tabled because we ran out of time. During that discussion, several Members urged that this provision was not needed at all because: (i) structures of any kind are included in the definition of “Improvements” in Section 2.1, and since all Improvements are subject to the ARC process described beginning in Section 2.7 there is no need to say more; also (ii) per Park County regulations, mobile homes are not allowed to remain on a permanent basis in Residential zoning. Other members expressed concern, however, that temporary or moveable units like house trailers and mobile homes may not reasonably fit into the same category as the structures that are the subject of Article 2, and that therefore something about this should be addressed in Article 3 (especially since County zoning limitations could be changed in the future). It also was noted that paragraph 3(a) of the Original (1979) Covenants specifically identifies these separate from other structures. It was suggested that an option could be “Camper Units and Motor Homes must comply with County regulations. No mobile homes will be allowed for permanent use.” It was also suggested at that time that “ARC” be changed to “Board” as it is the Board’s responsibility to create policy.

Prior to the this meeting JB had submitted a draft to the Members based on the discussion at the 10/26 meeting. Discussion ensued again around the above issues. Some Members voiced the need to reference the Board to make clear that the Board had the power to create policies on these topics. Further, if the County was not enforcing its own regulations, the

Board then would have clear leeway to deal with these issues. It was suggested that Short Term Rentals, Camping and B&B's all be included.

JB suggested that, after reviewing existing County regulations, he thought it might be helpful to separate out two different concepts: one regarding physical structures and one regarding practices or activities. He suggested that physical structures like mobile homes be addressed in one section, and practices or activities like renting out a home as a Short-Term Rental ("STR") or using one's home as a B&B be addressed in a separate section. This led to a discussion that use of the term "structures" could be confusing given its use in Article 2. JB suggested using the term "units" instead. Also, what "temporary" and "movable" truly meant were discussed. A vote was taken on retaining the language of Section 2.17 and requiring that a structure conform to County regulations and be approved by the Board. That version failed by a substantial majority. Another version, with a new title, was crafted during the meeting, based on the various suggested changes; it ultimately passed by majority vote. It reads as follows:

**Section 3.17 Temporary and/or Moveable Units.** All motor homes, mobile homes, and other temporary and/or moveable living or ancillary units are subject to all applicable County ordinances and regulations, but shall not be allowed for extended or permanent use.

### **Potential New Section 3.18**

Based on extensive prior discussions, JB raised the question as to whether a new Section 3.18 should be drafted to at least begin to address several remaining "hot issues" in our community: Camping, Short Term Rentals, and B&B's. As noted above, some Members felt these could be included in our just-approved Section 3.17, but others felt that a separate section was needed, particularly for Short Term Rentals because of issues that have arisen lately and because of the growth of STR's in Silverheels. This led SNACC Members who also are on the present Board to be asked what, if any, action has been taken or was being taken by the Board related to STR's. Mike explained that the former Board had begun a process to identify which owners were using their homes as STR's and whether they had a County license to do so. The former Board also had been in the process of developing "bullet points" to disseminate to those owners. At this time, 13 owners are known to be listing their homes as STR's. At the annual meeting this past September one person owning an STR had voiced an interest in participating in a committee to continue addressing STR issues, but it was noted that there had been no further follow-up on that concept. Several Members reiterated their concerns regarding traffic, noise, fire safety, and loose/lost dogs near their homes due to STR's, and the concerns discussed by the Park County firefighters who made a presentation at the last Annual Meeting. Mike expressed his belief that it is the right of a property owner to rent their property, but that such use must be subject to County regulations and any reasonable restrictions in the Covenants. He said that although the new Board is moving slowly, he will encourage them to continue working on the STR project.

This discussion ended without a clear conclusion, other than that JB is to provide the Members with a draft of a possible new Section 3.18 to address this in his next version of the Covenants that will be sent to Members in advance of our next meeting.

**4. New Business**

JB discussed recent responses to the E-blast he most recently sent to all SROA members, summarizing the Minutes of prior SNACC meetings. It appears from the responses that some SROA members are mistaking the E-blasts for the Minutes themselves. He will clarify this in the next E-blast.

**5. Next Meeting and Homework**

Due to the Thanksgiving holiday, the next meeting will be in three weeks instead of two: November 30, 2022 at 7:00 PM via Zoom.

Homework will include reviewing the County Ordinances and Regulations related to Camping, STR's, and B&B's that JB had sent to the Members in advance of this meeting. The goal for the November 30 meeting will be to complete Article 3 and begin work on Article 4.

**6. Adjournment**

The meeting was adjourned at 9:06 PM.