

07/20/07

DEED OF DECLARATION OF RESTRICTIONS

OF

HIDDEN GLEN
SUBDIVISION

200700770128
Filed for Record in
GEAUGA COUNTY OHIO
GLEN ERIC DUGIGLEY
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City of Chardon - Geauga County, Ohio

THIS DEED OF DECLARATION OF RESTRICTIONS OF HIDDEN GLEN SUBDIVISION is made by HIDDEN GLEN ASSOCIATES, LLC, an Ohio limited liability company, whose address is 401 South Street, Chardon, Ohio, 44024, (hereinafter referred to as "Declarant").

WITNESSETH:

WHEREAS, Declarant owns in fee simple, certain real property situated in the City of Chardon, County of Geauga, State of Ohio (hereinafter sometimes referred to as the "premises"), and described in the attached legal description identified as Exhibit "A" and incorporated herein by reference.

WHEREAS, Declarant proposes to develop and improve the premises for single family residential purposes under a general plan or scheme of development and does also hereby desire to create and establish certain restrictions, and obligations pursuant to such plan or development with respect to the premises.

WHEREAS, the Declarant, has or will file for record with the Geauga County Auditor and Geauga County Recorder, a Subdivision Plat for the Hidden Glen Subdivision, creating one hundred forty (140) individual sublots, all of which are jointly and individually referred to as "sublot" and/or "building lot" and/or "premises";

NOW, THEREFORE, Declarant, as owner of the premises, for itself, and its successors and assigns, declares that the premises are held, and hereafter shall be conveyed, subject to the following covenants, rights, terms, reservations, limitations and restrictions.

ARTICLE I:

The premises, and each building lot, shall be used only for private, single family, residential purposes and for no other purpose whatsoever. Each residence shall be occupied by no more than one family and members of its domestic staff, if any. Nothing contained herein shall be construed to prohibit the use of portions of the premises for street or utility purposes. No building or structure intended for or adapted to business or commercial purposes shall be erected, placed, permitted or maintained on the premises. No dwelling or other building shall be constructed upon the premises until the building plans, plot plan and specifications (including the exterior materials and color(s) of any such improvement) shall have been approved in writing by the Declarant or an architectural review committee approved in writing by Declarant. The process for obtaining said approval shall be as set forth in the remaining provisions of this Article 1. The Declarant or the architectural review

committee shall consider in approving or disapproving, but need not be limited to such factors as conformity and harmony of architectural design with existing structures in the subdivision; and location and compatibility with established elevations, topography, lot lines and natural features.

NO OWNER OF ANY SUBLOT WITHIN HIDDEN GLEN SUBDIVISION NOR ANY BUILDER OR OTHER REPRESENTATIVE OF ANY SUCH OWNER SHALL APPLY FOR A ZONING OR BUILDING PERMIT UNTIL THEY HAVE RECEIVED WRITTEN APPROVAL FROM DECLARANT OR THE ARCHITECTURAL REVIEW COMMITTEE OF THE REQUIRED SITE PLAN AND HOUSE PLANS AND EXTERIOR MATERIALS AND COLORS SELECTIONS. IN ORDER TO RECEIVE APPROVAL OF SITE PLANS, HOUSE PLANS AND EXTERIOR MATERIALS AND COLORS SELECTIONS, THE APPLICANT MUST SUBMIT DUPLICATE COPIES OF BOTH ALONG WITH DUPLICATE COPIES OF THE DECLARANT'S "SUBMITTAL REVIEW DATA SHEET." ONCE THE PLANS ARE APPROVED, SAID PLANS WILL BE STAMPED "APPROVED" WITH ALL REQUIRED CHANGES AND/OR CONDITIONS, IF ANY, SET FORTH THEREON, WITH ONE COPY RETAINED BY DECLARANT AND ONE RETURNED TO APPLICANT. NO SUCH APPROVAL WILL BE GRANTED UNTIL THE PROVISIONS OF THE FOLLOWING PARAGRAPH ARE COMPLIED WITH.

PRIOR TO DOING ANY TREE REMOVAL ON ANY LOT WITHIN HIDDEN GLEN SUBDIVISION, THE OWNER/APPLICANT MUST RECEIVE PRIOR WRITTEN APPROVAL FROM DECLARANT OF ALL SUCH REMOVAL, WHICH APPROVAL WILL BE BASED UPON AN ACTUAL ON-SITE CONSULTATION OF DECLARANT'S REPRESENTATIVE AND OWNER/APPLICANT. OWNER/APPLICANT SHALL PROVIDE DECLARANT'S DESIGNATED REVIEWER AT LEAST FOUR (4) WEEKDAYS ADVANCE NOTICE OF EACH SUCH REQUIRED SITE INSPECTION. PROPOSED HOUSE AND DRIVEWAY LOCATIONS MUST BE ROUGH STAKED PRIOR TO THE REQUESTED SITE INSPECTION.

ALL REQUESTS FOR SITE PLAN, HOUSE PLAN, EXTERIOR FINISH OR TREE REMOVAL SHALL BE MADE TO JERRY PETERSEN, 401 SOUTH STREET, CHARDON, OHIO 44024 (440-286-6339) OR HIS DESIGNEE. DECLARANT MAY PRE-APPROVE HOUSE PLANS, EXTERIOR FINISH SPECIFICATIONS AND INDIVIDUAL LOT CLEARING AND TREE REMOVAL AND IT MAY ALSO UNDERTAKE "PRE-CLEARING" OF ANY AND/OR ALL LOTS IN ITS SOLE DISCRETION.

APPLICATION FOR AND/OR RECEIPT OF A ZONING PERMIT OR BUILDING PERMIT PRIOR TO SITE AND HOUSE PLAN APPROVAL WILL BE CONSIDERED PRIMA FACIE EVIDENCE OF VIOLATION OF THESE RESTRICTIONS AND WILL IMPOSE A ONE THOUSAND DOLLARS NO/100 (\$1,000.00) PENALTY UPON THE OWNER OF THE LOT INVOLVED, WHICH FEE SHALL BE PAYABLE TO DECLARANT. ANY HOUSE LOCATED OR CONSTRUCTED IN VIOLATION OF THE APPROVED HOUSE, SITE AND CLEARING PLANS SHALL BE SUBJECT TO REMOVAL AND RELOCATION UPON THE WRITTEN DIRECTION OF DECLARANT.

All dwellings shall meet the following minimum requirements:

1. No dwelling other than a single family dwelling, with at least 1600 square feet of finished living area (floor area) for a single story house and 1650 square feet for a multi floor house,

excluding basements, garages, breezeways and porches shall be constructed on the premises.

2. Each dwelling shall have at least a two-car attached garage with minimum outside dimensions of twenty feet by twenty feet (20' x 20'). Each garage shall have at least one window on its side elevation. All garage openings shall be equipped with garage doors and openers.
3. All buildings shall have a sloping roof with a minimum pitch of 6 to 12 and a maximum pitch of 12 to 12.
4. Roofs shall be of asbestos, asphalt or fiberglass shingles.
5. All structures shall be provided with gutters and downspouts conducting water away from walls and foundations.
6. Glass block or similar materials shall not be permitted as an exterior material on the exterior of any structure.
7. Construction of the exterior of the dwelling shall be completed before occupancy of the dwelling. Construction of the interior of the dwelling shall be completed no later than six (6) months from the date of occupancy.
8. Each dwelling shall be fully landscaped including lawns within six (6) months after occupancy. Each subplot purchaser is responsible, at the purchaser's expense, for the installation of not less than two (2) living shade trees with a minimum caliper of two and one-half inches (2 1/2") upon each subplot in a location subject to the approval of the developer and the City of Chardon. Said trees shall be selected from the following varieties: Littleleaf Linden, Crimson King Maple, Summer Shade Maple, Sugar Maple, October Glory Maple, Red Sunset Maple, London Plantree, Red Oak, Shumardi Oak and Sweetgum.
9. No log cabins, domes or similar styled homes shall be permitted.
10. The building line, location of the dwelling, exterior elevation(s), building plans, building specifications (including color and all other details), for the dwelling to be constructed shall be approved in writing, by HIDDEN GLEN ASSOCIATES, LLC prior to the start of construction. Approval shall be solely at the discretion of HIDDEN GLEN ASSOCIATES, LLC, all as set forth above.

ARTICLE 2:

All dwellings or other structures shall be serviced by underground electric, telephone, and television facilities. No building lot shall be serviced by overhead electrical poles and wires. No exterior satellite dishes shall be permitted exceeding 36" in diameter unless mandated by federal law or regulations.

ARTICLE 3:

Nothing contained herein shall be deemed to preclude the construction and maintenance of a pool house or bath house upon any building lot upon which there is then located a swimming pool. Written approval prior to the construction of a pool house or bath house shall be received from Declarant or the Architectural Review Committee approved by Declarant. No accessory buildings allowed.

ARTICLE 4:

No portion of any building lot as transferred by Declarant shall be resubdivided in any manner whatsoever.

ARTICLE 5:

No signs, billboards, or advertising device shall be erected, placed, or suffered to remain upon any building lot, except a "for sale" sign and a builder identification sign. No such sign shall exceed 36" x 24" and no such sign may be placed before actual construction commences nor shall any such sign remain after an occupancy permit has been issued for said residence.

ARTICLE 6:

No industry, business, trade, occupation or profession of any kind, whether it be commercial, agricultural, religious, charitable, educational or otherwise, whether or not organized for profit, shall be conducted, maintained or permitted on any portion of any building lot.

ARTICLE 7:

No recreational type truck, trailer or vehicle and no boat or boat trailer shall be stored or parked on any building lot, except as may be parked in an enclosed garage or approved accessory building.

ARTICLE 8:

No commercial vehicles or commercial trailers of any kind shall be stored or parked on any building lot.

ARTICLE 9:

Only pets of a customary household variety may be kept or maintained on any building lot, and no pet or pets shall be kept or maintained so as to create a nuisance.

ARTICLE 10:

No clothes line or clothes pole or other device or mechanism for the hanging of clothes shall be maintained on any building lot.

ARTICLE 11:

All necessary maintenance of the dwelling or other permitted structures shall be done in a manner to conform to the original architectural design. Each owner of a subplot shall, at his sole cost and expense, repair his dwelling, keep the same in condition comparable to the condition of such dwelling at the time of its initial construction, excepting only normal wear and tear.

ARTICLE 12:

If all or any portion of a dwelling is damaged or destroyed by fire or other casualty, it shall be the duty of the owner thereof, with all due diligence and dispatch, to rebuild, repair or reconstruct

such dwelling in a manner that will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within six (6) months after the occurrence of the casualty and shall be completed within eighteen (18) months after the occurrence of the casualty, unless prevented by causes beyond the control of the owner.

ARTICLE 13:

The cost to maintain the decorative street sign(s), subdivision signs and entrance landscaping, cul-de-sac snow storage grass areas and entrance area shall be paid 1/140th by each individual building lot owner through the Hidden Glen Homeowners Association membership in which is mandatory. All decisions regarding maintenance of common areas and facilities shall be by majority decision of the Trustees of said Association.

Additionally, the Homeowners Association shall be responsible for the maintenance, repair, restoration and/or replacement of any landscaping, driveway pavements or other improvements which may be approved, by permit issued by the City of Chardon, to be placed in or upon any public easement (outside of a dedicated street right-of-way) and which improvements may be disturbed as a result of any work done by the City of Chardon within the scope and purpose for which the easement is granted. This requirement shall also be placed upon any Record Plat which may hereafter be approved by the City Council for recording with the Geauga County Recorder.

Additionally, maintenance of the open drainage ways/streams throughout the proposed project, as defined in the approved plan, will be the obligation of the Homeowner's Association. In the event the Association fails to maintain the open drainage way/stream portion of the storm water drainage system, The City of Chardon shall have the authority to send written notice to the Association directing them to undertake needed maintenance. In the event the Association then fails to undertake the maintenance which is necessary, the City of Chardon will be empowered to enter upon the premises for the purpose of performing the maintenance, following which, the full reasonable charge thereof may be charged back to the Association. In the event of an emergency situation, the City of Chardon may enter upon the premises for the purpose of removing impediments to flow without prior notice, following which the full reasonable charge thereof may be charged back to the Association. This obligation shall be clearly set forth in the Homeowner's Association Declaration and any future plats of record. Any entry upon and/or work upon said premises by the City of Chardon shall be subject to all applicable USA Corps of Engineers and Ohio EPA rules and regulations.

ARTICLE 14:

The City of Chardon is hereby granted an easement allowing it to enter onto the premises to remove impediments from the Stream watercourse. These easements shall be provided by incorporation into the Phase I final plat as shown on the Phase I preliminary plat. Any improvements within the blanket easement that may, of necessity, be removed or damaged in the process of work done by the City shall be repaired or replaced at the expense of the Homeowners Association or by the infringing owner or owners. The noted provisions for the blanket easement, including assignment of responsibility for repair and replacement of improvements, shall appear in the easement documents, the Homeowner's Association Declaration and shall be affixed upon any future plats of record for this development.

ARTICLE 15:

In the event the installation of drainage swales and/or yard drains/storm sewers is required in the rear yard of sublots to insure adequate storm water drainage of sublots, the proposed grading work and storm water management improvements shall be subject to the review and approval of the municipal engineer and shall be in accordance with all applicable municipal standards and specifications. Supplemental drainage improvements may be required as noted above and in other drainage improvements may be required as noted above and in other areas; final review of this issue will be accomplished during review of the Preliminary and Construction Documents submittals. Where storm sewers and/or drainage swales are installed to serve rear yard drainage or other supplemental drainage purposes for more than one lot, then easements shall be provided for the maintenance of these improvements by the Homeowners Association. The noted provisions for the easements, including assignment of responsibility for repair and replacement of improvements, shall appear in the easement documents, the Homeowner's Association Declaration and shall be affixed upon all future plats of record for this development.

ARTICLE 16:

All Hidden Glen Subdivision lot owners are hereby notified that the jurisdictional wetland areas, if any, regardless of the size of the area, require a permit, if you intend to disturb in any way any jurisdictional wetland. The permit must be obtained from the United States Army Corps Of Engineers, 1776 Niagara Street, Buffalo, New York, 14207-3199.

ARTICLE 17:

Federal law at 40 CFR Part 122 prohibits point source discharges of storm water associated with construction activity to a water body(ies) of the United States without a National Pollutant Discharge Elimination System (NPDES) permit.

The development of the Hidden Glen Subdivision is covered by an Ohio EPA General Storm Water NPDES Permit For Construction Activities. (Permit Number OHR100000).

The Developer/Declarant has received a Section 401 Water Quality Certification Permit No. B2000-00786(1).

The developer, HIDDEN GLEN ASSOCIATES, LLC, is required to inform the lot purchaser of the lot purchaser's obligation to file an Individual Lot Notice Of Intent (Individual Lot NOI), and advise that the lot purchaser is required to abide by the terms and conditions of the NPDES Permit.

Each property owner in the Hidden Glen Subdivision is required to submit an Individual Lot Notice Of Intent for coverage under Ohio EPA Storm Water Construction General Permit. If you have questions regarding the form or need the form, contact the Ohio EPA Storm Water Unit at (614) 644-2001. The NOI must be sent to the following address:

Ohio Environmental Protection Agency
General Permit Program
P.O. Box 1049
Columbus, Ohio 43266-0149

Each purchaser/owner of the individual building lots at the Hidden Glen Subdivision hereby is notified of the foregoing requirements and by purchase of the individual building lots at the

Hidden Glen Subdivision agrees to comply with all of the foregoing requirements and to indemnify and hold HIDDEN GLEN ASSOCIATES, LLC absolutely harmless from any loss, claim or liability in any manner connected with the individual lot NOI and/or purchaser's (or purchaser's contractor's) failure to comply with the applicable regulations now in effect or as hereafter modified.

ARTICLE 18:

The attached Exhibit "B," which is incorporated herein by reference identifies and locates:

Wetland B - .34 acres remaining;
Wetland P - .05 acres remaining;
Wetland O - .06 acres remaining;
Stream 1 - 106 feet remaining
Stream 2 - 152 feet remaining;
Stream 4 - 244 feet remaining;
Stream 5 - 630 feet remaining;
Perennial stream south of 20.831 acre
conservation easement area - 181 feet remaining;

which have been classified by OEPA as "Waters of the State," which shall be protected and undisturbed in perpetuity. Part or all of one or more of said areas are located upon Sublots 35, 63, 76, 112, 113, 114, 115, as shown by Exhibit "B". These areas may not be impacted and any future impact would be violative of the OEPA's December, 2001, Section 401 Permit and subject to appropriate enforcement action by any of the following:

OEPA

Geauga Soil & Water Conservation District
Chardon Village
The Declarant

Any property owner within Hidden Glen

Any of the foregoing parties or their successors may take enforcement action either alone or in conjunction with other parties or owners by appropriate proceedings in a court of competent jurisdiction.

ARTICLE 19:

A Conservation Easement has been granted to the Land Conservancy of Ohio, which document is recorded at Volume 1831, Page 2744 of the Geauga County, Ohio Record of Deeds. All owners and occupants of sublots within the Hidden Glen Subdivision shall be subject to all terms and provisions of said Conservation Easement documents as well as all terms hereof.

ARTICLE 20:

Prior to any Grantor transferring title to any subplot within Hidden Glen Subdivision, he, she or it shall obtain a written acknowledgment from each such Grantee that he, she, they or it has/have received and reviewed this document and all exhibits incorporated herein. This acknowledgment shall be set forth on the deed by which any such transfer is accomplished.

ARTICLE 21:

If it shall be held that any restriction or restrictions herein or any part of any restriction herein, is invalid or unenforceable, no other restriction or restrictions, or any part thereof, shall be thereby affected or impaired.

Nothing contained herein shall be construed to prohibit the use of portions of the premises for street or utility purposes or any other purposes related to the development of the premises for single family residential purposes by HIDDEN GLEN ASSOCIATES, LLC.

ARTICLE 22:

In the event of a breach, or attempted or threatened breach by any owner of a building lot of any of the terms, covenants and conditions hereof, any one or all of the owners of any building lots or the Declarant shall be entitled, forthwith, to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, except that no owner of a building lot may terminate this Agreement with respect to its building lot because of such breach, and any deed, lease, assignment, conveyance or contract made in violation of this Declaration shall be void and may be set aside upon petition of one or more of the owners of the building lots or of the Declarant. All costs and expenses (including attorneys fees, which fees shall be based upon the usual, customary and reasonable hourly rate at the time incurred) of any such suit or proceeding shall be assessed against the defaulting owner and shall constitute a lien, until paid, against the real estate or the interest of such defaulting owner as of the date it was decreed, leased, signed, conveyed or contracted for in violation of this Declaration, effective upon recording of an Affidavit To Obtain A Mechanic's Lien thereof in the office of the Recorder of Geauga County, Ohio. The remedies of any one or all such owners of building lots or of the Declarant specified herein shall be cumulative as to each and as to all other permitted at law or in equity. Failure or neglect to enforce the foregoing restrictions, rights or easement shall in no event be construed, taken or held to be a waiver thereof.

ARTICLE 23:

The provisions of this Declaration may be modified or amended in whole or in part by Declarant during its continued development of the HIDDEN GLEN SUBDIVISION and thereafter by the consent of the owners of a majority of the building lots, by Declaration, in writing, properly executed and acknowledged, duly recorded in the office of the Recorder in and for Geauga County, provided, however, that no amendment which affects any provision of the deed restrictions which grants rights to the City of Chardon shall be effective unless first approved by the Chardon City Council. Notwithstanding the foregoing, so long as HIDDEN GLEN ASSOCIATES, LLC is the owner of any of the building lots in the Hidden Glen Subdivision, no modification or amendment in whole or in part to the provisions of this Declaration may be made without the written consent of HIDDEN GLEN ASSOCIATES, LLC.

ARTICLE 24:

This Deed Of Declaration Of Restrictions Of Hidden Glen Subdivision shall continue and the obligations hereunder shall remain binding from the date of the filing of this Declaration in the Geauga County Recorder's office and for twenty (20) years thereafter, and shall be automatically extended for successive five (5) year periods thereafter, unless on or before expiration of one (1) such extension period the owners of a majority of the building lots shall by written instrument, duly recorded in the Geauga County Recorder's office declare a termination of the same. To the fullest extent permitted by law, no such declaration shall be effective to deprive the City of Chardon of its rights thereunder unless consented to by the Chardon City Council.

ARTICLE 25:

The covenants, rights, terms, reservations, limitations, agreements and restrictions contained in this Declaration shall be deemed to be covenants running with the land herein described as the premises, and not conditions and shall bind Declarant and all owners of building lots, their respective heirs, successors and assigns. This Declaration shall create privity of contract and/or estate with and among all owners of all or any part of the premises, their heirs, executors, administrators, successors or assigns.

ARTICLE 26:

Reference to this Declaration of Restrictions, including the volume and page of its recordation, shall be made in every deed, lease or easement, or any other document conveying all or any portion of the property or any interest therein to any party.

ARTICLE 27:

The restrictions created via this agreement shall take effect upon recordation in the office of the Recorder of Geauga County, Ohio.

ARTICLE 28:

If any provision of this Declaration or its Exhibits is held to be invalid by any court of competent jurisdiction, the invalidity of any such provision shall not affect the validity of any other provision of this agreement.

IN WITNESS WHEREOF, HIDDEN GLEN ASSOCIATES, LLC, by Joseph L. Sute, its Member, and Jerry Petersen, its Member, and Joe Peterson, its Member, has duly executed this DEED OF DECLARATION OF RESTRICTIONS OF HIDDEN GLEN SUBDIVISION, August 10, 2006.

HIDDEN GLEN ASSOCIATES, LLC

BY: [Signature]
ITS: Member

BY: [Signature]
ITS: Managing Member

BY: [Signature]
ITS: Managing Member


(See Next Page)

STATE OF OHIO
COUNTY OF GEauga

ss:

Before me, a Notary Public, in and for said County and State, personally appeared the above named HIDDEN GLEN ASSOCIATES, LLC, Joseph T. Suede, its Member, by Serry Petersen, its Member, and Leo Peterson, its Member, who acknowledged that they did sign the foregoing instrument and that the same is their free act and deed, individually and as officers of HIDDEN GLEN ASSOCIATES, LLC.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal, at Chardon, Ohio, this 10th day of August, 2007.


NOTARY PUBLIC

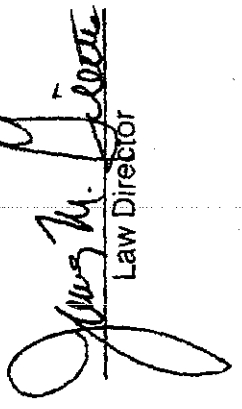
LINDA L. BUTTH
Notary Public - State of Ohio
My Commission Expires Oct. 24, 2010
Recorded in Geauga County

Prepared by:
JERRY PETERSEN, ESQ.
401 South Street
Chardon, Ohio 44024
(440) 285-3511

I/We, the undersigned, purchaser(s) and prospective vendee(s) of Sublot Hidden Glen Subdivision, acknowledge receipt of a complete copy of this Deed of Declaration of Restrictions and that I have read and understand the foregoing provisions of and this entire document and Exhibits A, B, and ___ attached hereto. I/We will advise our builder of the provisions of Article 1: before I/we sign a contract to build my/our home on said lot.

Date: _____

APPROVED AS TO FORM:


Law Director