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Filed for Record in  
HAMILTON COUNTY, INDIANA  
JENNIFER J HAYDEN  
12-05-2003 At 01:54 pm.  
AMEND DECL 19.00

**SECOND AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR BROOKS CHASE**

THIS FIRST AMENDMENT, dated November, 24, 2003, is made by C.P. MORGAN COMMUNITIES, L.P., an Indiana limited partnership ("Developer").

**Recitals:**

A. Developer recorded a certain document entitled Declaration of Covenants, Conditions and Restrictions for Brooks Chase, dated June 6, 2002, and recorded on June 7, 2002, as Instrument No. 200200040997 (the "Declaration"), as amended by a First Amendment to Declaration of Covenants, Conditions and Restrictions for Brooks Chase, dated January 28, 2003, as Instrument No. 200300010621 and recorded on January 29, 2003, in the Office of the Recorder of Hamilton County.

B. Section 9.2 of the Declaration provides that the Developer may amend the Declaration.

C. The Developer desires to amend the Declaration in accordance with the terms hereof.

**Terms:**

NOW THEREFORE, the Developer hereby amends the Declaration as follows:

1. Section 7.23 of the Declaration is amended and restated, as follows:

**Section 7.3 Fencing. No fencing shall be installed on any Lot without the prior review and approval of the Committee (which is defined in the Declaration as the Architectural Control Committee of the Association). The Committee shall have approval on all aspects of any proposed fencing, including but not limited to size, location, height and composition.**

Fencing guidelines are as follows:

(a) General Restrictions: The following restrictions are applicable to all Lots within the Development:

(i) *Approvals*. Any fencing shall be subject to the prior approval of the Committee.

(ii) *Fencing Types and Materials*. All fencing shall be constructed of white vinyl, white picket style (3' to 4' in height vinyl or painted wood), black wrought iron style materials, or wood (except as otherwise provided in this subsection or in subsection (c), below). For purposes of this Declaration, the terms "picket style" shall mean a 3' to 4' in height vinyl or painted wood fence where there exists between 2" and 3" of space between the vertical

(c) Fencing location on Lots subject to Private Lane Easements(Village Lane Communities): In addition to the restrictions under subsection (a), above, and those found under subsection (d), below, the following restrictions are applicable to all Lots which are improved with Developer's Village Lane product (being Lots which are subject to Private Lane Easements):

- (i) No wood fencing shall be permitted on any Lot subject to this subsection (c);
- (ii) Fencing shall not extend forward beyond a point, which is ten (10) feet behind the front corner of the residence;
- (iii) Fencing shall not extend backwards beyond a point towards the rear of a residence determined by a measurement which is the greater of (A) four (4) feet from the rear corner of such residence or (B) the rear corner of the adjacent residence, if any;
- (iv) Fencing that is parallel to an adjoining residence shall be at least three (3) feet from the sidewall of each such adjacent residence;
- (v) Fencing shall not be constructed within twenty-five (25) feet of the shoreline of any lake or detention pond; and
- (vi) Fencing on any corner Lot shall be at least five (5) feet from the sidewalk.

(d) Additional Fencing Restrictions. Fencing for Lots in highly visible locations (such locations to be determined by the Committee in its sole discretion) shall be subject to the following additional restrictions:

(i) **Pond Lots:** Lots which are adjacent to or which abut a Lake or detention pond are subject to the following restrictions:

(A) Fencing shall not exceed four (4) feet in height; provided that in the discretion of the Committee, the portion of such fence closest to the rear side of the residence may be the five (5) feet in height, and have a decorative cap (not to exceed six (6) feet aggregate); provided further that such higher section shall not extend more than ten (10) feet from the rear corner(s) of the residence, subject to (B), below. In exercising its discretion under this provision, the Committee shall take into account the affect such proposed fence would have on the use and enjoyment of the lake or pond areas by other Owners.

(B) Fencing shall not be constructed within twenty-five (25) feet of the shoreline of any Lake or detention pond.

(ii) **Perimeter Lots and Highly Visible Lots:** With respect to a Lot where either (A) the rear yards are highly visible from public streets (within the neighborhood or surrounding the neighborhood), or (B) the Lot abuts a Common Area, the Committee may require fencing for such Lot to be consistent in material, height, and style to that of previously approved fencing for any other Lot which is on and along such street or Common Area.

slats of such fence. Wood fencing shall not be permitted on Lots described in subsection (c), below, and the ACC Committee reserves the right to restrict the use of wood fencing and other fence types on perimeter and highly visible lots within the Development, as provided in subsection (d) (ii), below. A brochure showing an example of fencing to be installed must be included with the application to the Committee.

(iii) **Fencing Colors.** Fencing shall be either white, off-white, neutral, or earth toned colors and wrought iron must be black. All wooden fencing must be waterproof, stained and/or painted. Such stain or paint must be uniform for an entire fence and maintained in good condition.

(iv) **Fencing Height.** Fencing shall not exceed five (5) feet in height; provided that a decorative cap or top (lattice work or other approved decorative detail) may be installed thereon so long as the aggregate height of the entire structure shall not exceed six (6) feet.

(v) **Use of Professional Installer.** A professional fencing contractor must be hired by the Owner, at such Owner's cost, to install approved fencing for such Owner.

(vi) **Developer Installed Fencing.** No fencing shall connect to or otherwise interfere with any fencing originally installed by the Developer. Any fencing installed by Developer shall not be subject to these standards.

(vii) **Landscape Easements.** Except as installed by Developer or the Association, no improvements or permanent structures, including without limitation, fences, shall be erected or maintained in or upon Landscape Easements.

(viii) **Fencing within Easements:** Fencing which is installed within any easement affecting a Lot shall be subject to the risk of removal without notice by the Association or any other entity or entities which have access rights, if any work or repairs are to be done within the easement area(s). The Owner of such Lot shall be responsible for any and all costs relating to the removal of such fencing and for the subsequent replacement of any approved replacement fencing.

In addition, fencing must not impede surface drainage and must be installed to be a minimum of three (3) inches off the ground (fence posts must not obstruct any drainage, i.e. rear swale)

(b) Location of Fencing on Conventional Lots: In addition to the restrictions under subsection (a), above, and those found under subsection (d), below, the following restrictions are applicable to the following Lots: (1 – 97; 179 – 261; 283, 284; 332 – 348; 416 – 435; and 508 – 553):

(i) Fencing shall not extend forward beyond a point, which is ten (10) feet behind the front corner of the residence; and

(ii) Fencing on any corner Lot shall be at least five (5) feet from the sidewalk.

Such restrictions shall be disclosed to buyers in the Common Interest and Community Information Disclosure.

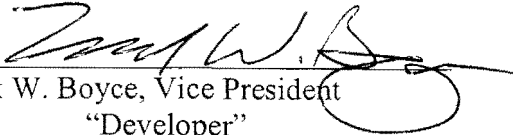
(iii) ***Dog Runs and Similar Enclosures.*** No enclosures, structures or “runs” which are designed primarily for the outside keeping of pets or other animals and which are made in whole or part from chain link fencing material, including but not limited to dog runs, kennels, or other similar enclosures, shall be permitted; provided, however, the Committee shall have the discretion to approve such an enclosure or structure if such is surrounded by a fence which is consistent with the foregoing restrictions and minimizes the visibility of such structure by adjoining property owners .

***NOTE: In addition to the above restrictions and standards, the applicable municipality may have restrictions and ordinances that may affect, limit or otherwise restrict or prohibit an improvement to a Lot, including fencing. Approval of any improvement by the Committee does not guarantee that such improvement is not subject to any other governmental approval. There may be instances where a change is approved through the Committee but may not be allowed through the municipality (or vice versa). An Owner must check with the municipality and obtain any permits or approvals that may be required.***

2. Except as amended by Section 1, above, the Declaration shall remain in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the undersigned has caused this Second Amendment to be executed as of the date written above.

C.P. MORGAN COMMUNITIES, L.P.  
By: C.P. MORGAN INVESTMENT CO., INC.,  
its general partner

By:   
Mark W. Boyce, Vice President  
“Developer”