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RMC / ROD

STATE OF SOUTH CAROLINA

2001 AUG 24 AM 10:37

ADDITIONAL RESTRICTIVE

COUNTY OF DORCHESTER

LINDA T. MESSE  
DORCHESTER COUNTY, SC

COVENANTS FOR LOTS 65-81 &amp;

LOTS 89-92, WHITEHALL

TRACT "K", PHASE IV,

These Additional Restrictive Covenants ("Additional Covenants") are made this 14<sup>th</sup> day of AUGUST, 2001, by Centex Homes, a Nevada general partnership ("Developer"), and Whitehall Property Owners Association, Inc., a South Carolina non-profit corporation ("Whitehall POA"), and is joined in on and consented to by Middleton Place National Historic Landmark, Inc., a South Carolina Corporation, wholly owned by the Middleton Place Foundation, a 501(c)(3) Public Trust, ("The Foundation").

The background for these Additional Covenants is as follows:

- A. Developer is the owner of the real property described on Exhibit "A" (herein referred to as the "Property" or the "Lots").
- B. The Property is a part of the planned community known as "Whitehall Subdivision". Accordingly, the Property is subject to the terms and provisions of the Amended and Restated Declaration of Covenants and Restrictions for Whitehall Subdivision recorded February 16, 1990, in Book 723, Page 289, in the RMC Office of Dorchester County, South Carolina, as same has been and may be amended from time to time (the "Whitehall Declaration").
- C. The Whitehall POA is the entity empowered by the Whitehall Declaration to enforce the provisions of the Whitehall Declaration and the rules, regulations and guidelines set forth therein and in the other governing documents for Whitehall Subdivision.
- D. The Foundation is the owner of the real property described on Exhibit "B" ("Benefited Property") which is located on the opposite side of the Ashley River from the Property.
- E. The Property is located within the scenic and historic Ashley River corridor and the parties recognize and agree that the protection of the scenic nature of this river corridor will provide significant benefits to the Developer, the Whitehall POA, the present and future owners of property within Whitehall Subdivision, and The Foundation.
- F. For the benefit of the Benefited Property, Developer and the Whitehall POA have agreed, to impose and administer certain additional specific restrictions and

8/9/01

Additional Restrictive Covenants for  
Portion of Tract "K", Phase IV, Whitehall - Page 1 of 9

W. BROOKS STYLES  
8310 RIVERS AVE., S.W. 11A  
NORTH CHARLESTON, SC 29406-9276  
(803) 553-3350

covenants upon the Property in addition to the restrictions and covenants set forth in the Whitehall Declaration and the other governing documents, rules, regulations and guidelines for Whitehall Subdivision (collectively referred to as the "Whitehall Documents").

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, Developer and Whitehall POA, joined in by The Foundation, hereby declare that the Property is and shall hereafter be held, transferred, sold and conveyed subject to the following restrictive covenants, which shall run with the Property, by whomsoever owned, to wit:

1. RIVERFRONT LOTS: TREE PRESERVATION, DEVELOPMENT RESTRICTIONS. The provisions of this Section 1 shall apply only to those Lots referred to on Exhibit "A" as Lots 65 through 75, inclusive (the "Riverfront Lots").

(a) Installation and Maintenance of Additional Trees. The Riverfront Lots abut the Ashley River and the rear portions of those Lots are located within an area referred to in the applicable ordinance(s) adopted by the city of North Charleston (the "City") as the "Ashley River Historic District Scenic Easement" (the "Scenic Easement Area"). One of the purposes of the Scenic Easement Area is to protect the view across the Ashley River from the Benefited Property. To satisfy the City's development requirements regarding the Scenic Easement Area, Developer shall plant a double row of six to eight foot (6'-8') "Leland Cypress" (or similar species) trees within the Scenic Easement Area along the rear boundaries of the Riverfront Lots (the "Additional Trees"). In addition to the requirements, conditions and restrictions set forth in the applicable Whitehall Documents regarding tree removal, the owner of a Riverfront Lot shall be obligated and responsible for the maintenance, preservation and care of the Additional Trees planted by Developer (and any replacements thereof) on such Lot, including pruning and disease control. Each Riverfront Lot owner shall be required to maintain a number of Additional Trees on such owner's Lot equal to the number of original Additional Trees planted by Developer on such Lot. If any of the Additional Trees on a Riverfront Lot dies or is destroyed, the owner of the applicable Lot shall immediately remove the dead tree, and in the same or substantially the same location as the dead tree, plant a new healthy tree of the same species having a minimum of height of at least six feet (6'). Each tree planted by a Riverfront Lot owner to replace an Additional Tree (or any prior replacement thereof) will also be deemed to be an "Additional Tree" and such owner shall be required to maintain, preserve, and replace such tree in the same manner as the original Additional Tree(s) in accordance with this Section.

(b) Adherence to District Standards. Attached as Exhibit "C" is a copy of the "Supplemental Development Standards for Ashley River Scenic District I", as set forth in Section 5-8(d) of the Municipal Code of the City of North Charleston (the "City Code") in effect as of the date of these Additional Covenants (the "District Standards"). The Riverfront Lots are currently subject to the District Standards, and Developer and the Whitehall ARB are incorporating the District Standards into these Additional Covenants as a covenant to run with and bind the land in the Riverfront Lots. During the term of these Additional Covenants, the District Standards as set forth on Exhibit "C" shall remain in effect as to the Riverfront Lots regardless of any modification of the related provisions of the City Code, unless those standards are amended as provided in paragraph 2 (c) below.

(c) Notwithstanding the provisions of paragraph 5, the provisions of this paragraph 2 may be modified or released by an amendment to these Additional Covenants, as long as (i) such amendment is consistent with (and not less restrictive than) the applicable provision(s) of the City Code in effect at the time, and (ii) is approved by the Foundation (or the owner of the Benefited Property at the time of amendment), the Whitehall ARB, and the then-owners of not less than 75% of the Riverfront Lots.

2. EXTERIOR SIDING AND COLOR. The provisions of this Section 2 apply to all of the Lots in the Property. In addition to the requirements set forth in the applicable Whitehall Documents regarding the exterior appearance of a dwelling unit on a Lot, the color of the exterior walls of the dwelling located on a Lot subject to these Additional Covenants, is subject to more specific and restrictive limitations as provided herein. Any colors considered to be bright or reflective in nature and appearance (such as white, yellow, or cream) shall be specifically prohibited. Only colors considered to be "earth-toned" in nature and appearance, or colors which are the same or similar to the original exterior color of the dwelling unit constructed by Developer shall be acceptable.

3. ENFORCEMENT BY WHITEHALL ARB. The restrictions and requirements in Section 1 and 2 of these Additional Covenants shall be incorporated by reference into the guidelines of the Whitehall Architectural Review Board (the "ARB"), the Whitehall Declaration and other applicable Whitehall Documents. Notwithstanding, the provisions herein are specific restrictions and covenants for the Property referred to on Exhibit "A", and shall have no effect on any other property subject to the Whitehall Declaration. The Whitehall POA and the ARB shall enforce these Additional Covenants in the manner provided for in the Whitehall Declaration for the enforcement of the Whitehall Declaration. The Whitehall ARB shall grant or withhold approvals of plans or proposals for additional improvements or modifications to the Lots and/or the residential dwellings thereon, on the basis of whether or not such plans or proposals (in the opinion of the ARB) comply with these Additional Covenants.

8/9/01

*Additional Restrictive Covenants for  
Portion of Tract "K", Phase IV, Whitehall - Page 3 of 9*

4. WHITEHALL POA'S AUTHORITY. To the extent the Whitehall Declaration or any other applicable Whitehall Documents require the approval of a certain number of owners in Whitehall Subdivision in order for the Whitehall POA to enter into these Additional Covenants and bind the Whitehall POA and the ARB to the obligations set forth herein, Whitehall POA represents and confirms that all such necessary approvals (if applicable) have been received.

5. TERM. These Additional Covenants shall run with and bind the land in the Property and all owners thereof for a period of 25 years from the date these covenants are recorded, after which time, they shall be automatically extended for successive periods of 10 years unless altered or amended as set forth below. Except as set forth in paragraph 2, these covenants may be amended during the first 25 year period only by an instrument signed by the Whitehall POA, The Foundation (or the owner of the Benefited Property at the time of amendment), and the then-owners of not less than 90% of the Lots, and thereafter an instrument signed by the Whitehall POA, The Foundation (or the owner of the Benefited Property at the time of amendment), and the then-owners of not less than 75% of the Lots.

6. BENEFITED PROPERTY. The Foundation, as the current owner of the Benefited Property, is joining in on the execution of these Additional Covenants for the purpose of evidencing its consent to the terms and provisions hereof. The Foundation and its successors shall have the right to require the Whitehall POA and the Whitehall ARB to enforce the requirements of Section 1 and Section 2 of these Additional Covenants. However, under no circumstances will these Additional Covenants be interpreted to grant any rights under the Whitehall Declaration or other Whitehall Documents to The Foundation or its successors. The sole remedy of The Foundation (and its successors) in the event of a violation of these Additional Covenants shall be to institute an action to enforce specific performance of a Lot owner's obligations under Section 1 and Section 2 of these Additional Covenants.

7. DEVELOPER'S OBLIGATIONS RELEASED UPON CONVEYANCE. Except as specifically provided below, upon the conveyance of any Lot by Developer, Developer shall be released from any and all obligations in these Additional Covenants with respect to such Lot, which obligations shall be assumed by developer's successors-in-title to the Lots. Developer shall not be released from Developer's obligations in these Additional Covenants with respect to any violation of these Additional Covenants occurring on a Lot which is caused by Developer and remains in existence on the date of Developer's conveyance of the applicable Lot.

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IN WITNESS WHEREOF, Developer and Whitehall POA (joined in by The Foundation) have caused this instrument to be executed as of the 14<sup>th</sup> day of August, 2001.

**DEVELOPER:**

CENTEX HOMES, a Nevada general partnership

Signed, sealed and delivered in the presence of:

[Signature]  
[Signature]  
(Witnesses as to Developer)

By: Centex Real Estate Corporation,  
a Nevada corporation  
Its: Managing General Partner

By: [Signature]  
Jay Thrower  
Division President

Attest: [Signature]  
Assistant Secretary  
(SEAL)

Date: 8/14/01

**WHITEHALL POA:**

WHITEHALL PROPERTY OWNERS ASSOCIATION, INC., a South Carolina non-profit corporation

Signed, sealed and delivered in the presence of:

[Signature]  
[Signature]  
(Witnesses as to POA)

By: [Signature]  
Print Name: ROSE E SAUL  
Its: President

Attest: [Signature]  
Print Name: James M Tutten  
Its: Vice President

(SEAL)  
Date: Aug 14, 2001



STATE OF SOUTH CAROLINA            ⊃

COUNTY OF CHARLESTON            ⊃

The foregoing instrument was acknowledged before me, this 14<sup>th</sup> day of August, 2001, by Jay Thrower, Division President of Centex Real Estate Corporation, a Nevada corporation, the Managing General Partner of Centex Homes, a Nevada general partnership, who executed the foregoing instrument on behalf of such partnership.

Jam Bruce  
(SEAL)  
Notary Public for South Carolina  
My Commission Expires: January 25, 2002

STATE OF SOUTH CAROLINA            ⊃

COUNTY OF Dorchester            ⊃

The foregoing instrument was acknowledged before me, this 14<sup>th</sup> day of August, 2001, by Rose E. Sawl, President of Whitehall Property Owners Association, Inc., a South Carolina Corporation, who executed the foregoing instrument on behalf of such corporation.

Rose E. Sawl  
(SEAL)  
Notary Public for South Carolina  
My Commission Expires: 1-4-09

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**EXHIBIT "A"**

## PROPERTY SUBJECT TO ADDITIONAL RESTRICTIVE COVENANTS

Lying and being in the City of North Charleston, Dorchester County, South Carolina, and being more particularly described as follows:

**BEING Lots 65 through 81, inclusive, and Lots 89-92, inclusive, in Tract "K", Phase IV of Whitehall, as shown on that certain plat entitled "PLAT OF LOTS 38-94, ALSO LOTS 59A AND 94A, TRACT "K", PHASE III & IV, WHITEHALL, CITY OF NORTH CHARLESTON, DORCHESTER COUNTY, SOUTH CAROLINA", recorded in Plat Book J, at Page 141, of the RMC Office of Dorchester County, South Carolina, all as shown on the aforementioned recorded plat, to which plat reference is hereby made for a more particular description of same.**

**Legal Description of The Middleton Place Registered National Historic Landmark, Inc.**

ALL that piece, parcel or tract of land, with the buildings and improvements thereon, located in Dorchester County, South Carolina and more particularly shown on plat thereof entitled "A Plat of the Portion of Middleton Place Designated a Registered National Historic Landmark, Dorchester County, South Carolina", said plat by Richard L. Stroman, S.C. reg. L.S., dated February 19, 1975, a copy of which is attached hereto and is to be recorded simultaneously herewith, including all fresh water lakes and ponds on the property, and as are more particularly shown on the above mentioned plat.

THE property above referred to contains, according to said plat, One Hundred and 59/100 (100.59) acres and is more particularly described according to said plat as follows: BEGINNING at a point at the Southwest corner of the property on the Eastern edge of the right-of-way of South Carolina Highway No. 61, said point being 6.1 miles from the intersection of State road S-10-57 and South Carolina Highway No. 61 and thence proceeding according to said plat, along a curve approximately Four Hundred Forty-Five and 62/100 (445.62) feet in a generally Northwesterly direction along the Eastern right-of-way of South Carolina Highway No. 61 to a point; thence proceeding North  $44^{\circ}37'22''$  West a distance of One Thousand Three Hundred Forty and 90/100 (1340.90) feet to a point; thence proceeding, according to said plat, along a curve a distance of Two Hundred Seventy-Seven and 24/100 (277.24) feet in a generally Northwesterly direction along the Eastern right-of-way of South Carolina Highway No. 61 to a point; thence proceeding North  $42^{\circ}53'00''$  West a distance of Eight Hundred Five and 63/100 (805.63) feet to a point; thence proceeding North  $71^{\circ}52'04''$  East a distance of Nine Hundred Fifteen and 40/100 (915.40) feet to a point represented by an iron pin; thence proceeding South  $31^{\circ}41'31''$  East a distance of Eight Hundred Forty-Six and 87/100 (846.87) feet to an iron pin; thence proceeding North  $47^{\circ}17'40''$  East a distance of Four Hundred Twenty-Two and 70/100 (422.70) feet to an iron pin; thence proceeding according to said plat, north  $19^{\circ}54'50''$  West a distance of Six Hundred Forty-Eight and 50/100 (648.50) feet to an iron pin; and thence proceeding North  $71^{\circ}31'23''$  East a distance of Four Hundred Ninety-One and 82/100 (491.82) feet to an iron pin: thence proceeding North  $78^{\circ}16'44''$  East a distance of Two Hundred Twelve and 32/100 (212.32) feet to a point; thence proceeding North  $65^{\circ}59'36''$  East a distance of Three Hundred Seven and 00/100 (307.00) feet to an iron pin located on the Northeast corner of the property; and thence proceeding South  $17^{\circ}35'52''$  East a distance of Eight Hundred Twenty-Nine and 81/100 (829.81) feet to a point; thence proceeding South  $25^{\circ}50'31''$  East a distance of Four Hundred One and 23/100 (401.23) feet to a point; and thence proceeding South  $31^{\circ}52'24''$  East a distance of Two Hundred Fifty-Five and 31/100 (255.31) feet to a point; thence proceeding South  $37^{\circ}02'44''$  East a distance of One Hundred Sixty-Five and 25/100 (165.25) feet to an iron pin; thence proceeding South  $29^{\circ}42'06''$  East a distance of Four Hundred Five and 98/100 (405.98) feet to an iron pin located on the Southeastern corner of the property; thence proceeding South  $49^{\circ}08'02''$  West a distance of One Hundred Twenty-Three and 65/100 (123.65) feet to a point; thence proceeding South  $40^{\circ}52'57''$  West a distance of Two Hundred Forty-Three and 72/100 (243.72) feet to an iron pin; thence proceeding South  $45^{\circ}39'32''$  West a distance of Three Hundred Ninety-Eight and 34/100 (398.34) feet to an iron pin; thence proceeding South  $68^{\circ}50'05''$  West a distance of One Hundred Nine and 52/100 (109.52) feet to an iron pin; and thence proceeding South  $32^{\circ}55'42''$  West a distance of One Hundred Ninety and 40/100 (190.40) feet to an iron pin; and thence proceeding South  $68^{\circ}40'49''$  West a distance of Two Hundred Forty-Four and 08/100 (244.08) feet to an iron pin; thence proceeding South  $63^{\circ}34'46''$  West a distance of Two Hundred Three and 90/100 (203.90) feet to an iron pin; thence proceeding South  $44^{\circ}36'11''$  West a distance of Eighty-Five and 97/100 (85.97) feet to the point of beginning.

PROVIDED, however, Grantor herein conveys to the Grantee herein only all of his right, title and interest in and to any portion of the above described property which is below the mean high water mark of abutting tidal waters.

300

14

AN ORDINANCE

AMENDING SECTION 5-8 OF THE MUNICIPAL CODE OF THE CITY OF NORTH CHARLESTON TO REVISE REQUIREMENTS IN THE ASHLEY RIVER SCENIC DISTRICT I.

WHEREAS, THE SCENIC BEAUTY AND HISTORIC HERITAGE OF A COMMUNITY ARE AMONG ITS MOST VALUED AND IMPORTANT ASSETS; AND

WHEREAS, THE ASHLEY RIVER AREA REFLECTS ELEMENTS OF OUR CULTURAL, SOCIAL, ECONOMIC, POLITICAL, AND ARCHITECTURAL HISTORY; AND

WHEREAS, THE COUNCIL BELIEVES THESE ELEMENTS MIGHT BE MORE EFFECTIVELY PROTECTED BY REVISING THE SETBACKS, BUFFERING, AND OTHER ZONING REGULATIONS FOR PROPERTIES IN CLOSE PROXIMITY TO THE RIVER.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH CHARLESTON, IN COUNCIL ASSEMBLED, THAT THE ASHLEY RIVER SCENIC DISTRICT I IS HEREBY AMENDED WITH SUCH AMENDED SECTION TO READ AS FOLLOWS:

Section 5-8. AR-I Ashley River Scenic District I

- (a) *Purpose:* The scenic beauty and historic heritage of a community is among its most valued and important assets. In addition to its natural beauty, the Ashley River area reflects elements of our cultural, social, economic, political, and architectural history. It is the intent of the Ashley River Scenic District I, to safeguard the heritage and scenic beauty of the City of North Charleston, Charleston County, and Dorchester County by preserving the viewshed of National Historic Landmarks and Properties on the National Registrar of Historic Places which have been confirmed by the South Carolina Department of Archives and History; to promote conservation and provide protection by promoting the stabilization of the banks of the Ashley River which is tidally influenced and subject to periodic flooding; to preserve water quality by protecting the natural environmental qualities of the land and water; to stabilize and improve property values in Ashley River Scenic District I; to foster civic beauty; to preserve scenic areas; and to promote the use and preservation of the Ashley River Scenic District I for the education, welfare, and pleasure of residents of the City of North Charleston, Charleston County, and Dorchester County and of the state and nation as a whole.
- (b) *Area of district:* The area of the Ashley River Scenic District I shall consist of any property in the City of North Charleston confirmed by the South Carolina Department of Archives and History to be a part of the viewshed for a National Historic Landmark or Properties on the National Registrar of Historic Places situated along the Ashley River which lies within and which is designated on the Official Zoning Map of the City of North Charleston:
  - (1) 100 ft. of the mean high tide of the Ashley River or adjacent lowlands, which lowlands are hereby defined marshes, mudflats, or shallows periodically inundated, by tidal action.

- (2) 100 ft. of an established tree line paralleling the Ashley River, or
- (3) 100 ft. of a bluff or cliff overlooking and visible from the Ashley River, whichever is greater.

(c) *Type of District; Permitted Uses:* The Ashley River Scenic District I is an "overlay" district. As an overlay district, permitted uses are determined by the "underlying" or primary zoning district. For example, where this district overlays a residential zoning district, only those uses permitted in the residential zoning district shall be permitted in the overlay district, subject to the additional conditions and requirements of this Section.

(d) *Supplemental Development Standards:* The following supplemental development standards shall apply to any proposed use or alteration of an existing use, land or vegetation within the established Ashley River Scenic District I as defined by 5-8(b) above and shown on the Official Zoning Map.

- (1) *Height Limitations:* No building or structure shall extend more than thirty-five (35) feet above ground level, nor exceed the average height of the existing tree line.
- (2) *Removal of Trees:* No tree shall be cut or removed from within one hundred (100) feet of the edge of the Ashley River and adjacent lowlands as defined in Section 5-8(b)(2).
- (3) *Buildings or Structures:* No proposed buildings or structures may be erected within one hundred (100) feet of the Ashley River and adjacent lowlands as defined in Section 5-8(b)(2); however, the area within this one hundred (100) foot setback may be used in the computation of other applicable side and rear yard setback requirements. No construction of docks, boat ramps, or boat houses over lowlands within the designated scenic viewshed will be allowed unless it is determined by the Office of Coastal Resource Management after consultation with the South Carolina Department of Archives and History to have no negative effect on the scenic viewshed.
  - (a) For lots created when the Ashley River Scenic District I building setback was 50 ft. from the mean high water mark, the principal structure shall be a minimum distance of 25 ft. from the edge of the 50 ft. buffer zone.
  - (b) In cases where the natural vegetation is not sufficiently dense to approximate an opaque buffer between the development site and the Ashley River, installation of an opaque buffer shall be required.

(4) *Other Alterations:*

- (a) No grading, filling, excavation or other land-altering activity may be conducted within (100) feet of the Ashley River Scenic District I and adjacent lowlands except in accordance with Section 5-8(e).
- (b) No impervious surfaces may be constructed within (100) feet of the Ashley River Scenic District I and adjacent lowlands except in accordance with Section 5-8(e) herein below.

(e) *Necessary Alterations:* The provisions of Section 5-8(d) shall not apply to necessary alterations for required roads or for access to the Ashley River Scenic District I for ingress/egress from any particular tract, provided that no reasonable alternative is available on the tract of land in question and that shoreline alterations are minimized to the greatest extent practicable. The burden of proving that no reasonable alternative is available and that the proposal minimizes shoreline alterations to the greatest extent practicable shall be on the party seeking to make alterations. Such applicant shall submit any information which he desires or which may be requested by the building official, and the building official must give notice to the Director of Planning and Management prior to any determination as to the applicability of this subsection to any particular case.

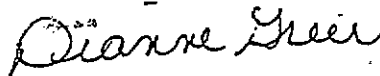
THE ABOVE ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS RATIFICATION BY CITY COUNCIL.

Ratified in City Council this 25 day of Feb., in the Year of Our Lord, 1999, and in the 222<sup>nd</sup> year of the Independence of the United States of America.



R. KEITH SUMMEY  
MAYOR

ATTEST:



DIANNE GREER, CMC  
MUNICIPAL CLERK

APPROVED AS TO FORM:

POOR ORIGINAL

  
LEGAL COUNSEL

STATE OF SOUTH CAROLINA  
COUNTY OF DORCHESTER  
Filed for record this 24th  
Day of Aug. 2001  
at 10:37 AM M. and recorded  
in book 2801 page 291  
LINDA T MESSERVY  
REGISTER OF MESNE CONVEYANCES