

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVERDECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS -- OSPREY POINT
SECTION ONE
May 20 12 36 PM '88

65-A THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 20th day of May, 1988 by GEORGE F. HERTLING, JR. and wife, REBECCA T. HERRING and EDMOND B. NICHOLS and wife, JOYCE C. NICHOLS and OSPREY POINT DEVELOPMENT COMPANY, a North Carolina general partnership, hereinafter referred to as "Declarant".

STATEMENT OF PURPOSE

Declarant is the owner of certain property in New Hanover County, North Carolina, which is more particularly described on maps recorded in Map Book 28 at Pages 141 in the New Hanover County, North Carolina, Public Registry, reference to which is hereby made. Declarant desires to create thereon an exclusive residential community of single-family residences to be named OSPREY POINT.

Declarant desires to insure the attractiveness of OSPREY POINT and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect and enhance the values and amenities of all properties within OSPREY POINT and to provide for the maintenance and upkeep of all common areas in OSPREY POINT. To this end the Declarant desires to subject the real property described herein, together with such additions as may hereafter be made thereto, to the covenants, conditions, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof.

Declarant further desires to create an organization to which will be delegated and assigned the powers of owning, maintaining and administering the common areas in OSPREY POINT, administering and enforcing the covenants and restrictions contained herein, and collecting and disbursing the assessments and charges hereinafter created in order to efficiently preserve, protect and enhance the values and amenities in OSPREY POINT to ensure the residents' enjoyment of the specific rights, privileges and easements in the common area, and to provide for the maintenance and upkeep of the common area.

To that end the Declarant has or will cause to be incorporated under North Carolina law, OSPREY POINT OWNERS ASSOCIATION, as a non-profit corporation for the purpose of exercising and performing the aforesaid

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functions.

NOW, THEREFORE, Declarant, by this Declaration of Covenants, Conditions and Restrictions, does declare that all of the property described herein, and such additions thereto as may be hereafter made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1: "Association" shall mean and refer to OSPREY POINT OWNERS ASSOCIATION, a North Carolina non-profit corporation, its successors and assigns.

Section 2: "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is all of the area labeled as "Common Area" on the maps and all roads and streets shown thereon (except for public roads and streets).

Section 3: "Declarant" shall mean and refer to GEORGE F. HERRING, JR. and wife, REBECCA T. HERRING and EDMOND B. NICHOLS and wife, JOYCE C. NICHOLS and OSPREY POINT DEVELOPMENT COMPANY, a North Carolina general partnership and also shall mean and refer to any person, firm or corporation which shall also be designated as a "Declarant" by GEORGE F. HERRING, JR. and wife, REBECCA T. HERRING and EDMOND B. NICHOLS and wife, JOYCE C. NICHOLS and OSPREY POINT DEVELOPMENT COMPANY. Any action that may be taken by the Declarant may be performed solely by OSPREY POINT DEVELOPMENT COMPANY, unless this authority is removed by recorded document signed by all the named parties.

Section 4: "Development" shall mean and refer to OSPREY POINT, a single-family residential development proposed to be developed on the Properties by the Declarant.

Section 5: "Lot" shall mean and refer to any plot of land, with delineated boundary lines, appearing on the Maps with the exception of the Common Area.

Section 6: "Maps" shall mean and refer to the maps of the Existing Property as recorded in Book 28 at Pages 141 in the New Hanover County, North Carolina Public Registry and the maps of any additions to the Existing Properties which may be recorded by Declarant in the New Hanover County, North Carolina, Public Registry hereafter.

Section 7: "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot including the Declarant if it owns any Lots and including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 9: "Properties" shall mean and refer to the "Existing Property" described in Article II, Section 1 hereof, and such additions thereto as may hereafter be made subject to this Declaration and brought within the jurisdiction of the Association.

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF OSPREY POINT OWNERS ASSOCIATION

Section 1: Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Association is located in New Hanover County, North Carolina, and is more particularly described on the Maps.

Section 2: Additions to Existing Property.

(a) Additional land which is contiguous to the Existing Property may be brought within the scheme of this Declaration and the jurisdiction of the Association by Declarant, in future stages of development, without the consent of the Association or its Members, provided that such annexations occur within ten (10) years after the date of the filing of this instrument.

(b) The additions authorized under subsection (a) above shall be made by filing Supplementary Declarations of Covenants, Conditions and Restrictions with respect to the additional properties in the New Hanover County, North Carolina, Public Registry which shall extend the scheme of this Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to the benefits, agreements, restrictions and obligations set forth herein, including, but not limited to, assessments as herein determined.

ARTICLE III

PROPERTY RIGHTS

Section 1: Ownership of Common Areas. After the conveyance of 75% of the Lots in this section of OSPREY POINT by Declarant to other owners, Declarant shall convey the Common Areas in this section of OSPREY POINT to the Association. Notwithstanding the recordation of any Map or any other action by Declarant or the Association, all Common Areas (including the Common Area streets and roads) shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public, unless the Association votes to dedicate all or a portion of the Common Areas to the public.

Section 2: Owner's Rights to Use and Enjoy Common Areas. Each Owner shall have the right to use and enjoy the Common Area, which shall be appurtenant to and shall pass with the title to his Lot, subject to the following:

(a) the right of the Association to promulgate and enforce reasonable regulations governing the use of the Common Area to ensure the safety and rights of all Owners;

(b) the right of the Association to suspend the voting rights in his Association and right to use the Common Areas by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty days for any infraction of its published rules and regulations; and

(c) the right of the Declarant or the Association to grant utility, drainage and other easements of the type and for the purposes set forth in Article IX across the Common Areas.

Section 3: Owner's Easements for Ingress and Egress. Every Lot

shall be conveyed with a perpetual, non-exclusive right to use any roadway which may be constructed by the Declarant and conveyed to the Association as part of the Common Area for the purpose of providing access to and from each Lot.

Section 4: Delegation of Use. Any owner may delegate, in accordance with the Bylaws of the Association (a copy of which is attached as Exhibit A), his right of enjoyment to the Common Area and facilities to the members of his family, his guests, his tenants, or contract purchasers who reside on his Lot.

ARTICLE IV

MEMBERSHIP, VOTING RIGHTS AND CONTROL OF THE ASSOCIATION

Section 1: Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot.

Section 2: Classes of Lots. The voting rights of the Membership shall be appurtenant to the ownership of Lots. There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as defined below. Each Class A Lot shall entitle the Owner(s) of said Lot to one (1) vote. When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be Members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Class A Lot.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant which have not been conveyed to purchasers who are not affiliated with the Declarant. The Declarant shall be entitled to three (3) votes for each Class B Lot owned by it.

Section 3: Amendment. Notwithstanding the provisions of Section 2 above, so long as Declarant owns any lot, the Bylaws to the Association may not be amended without its written consent.

Section 4: The Association shall be governed by a Board of

Directors in accordance with the Bylaws. Notwithstanding the provisions of Section 2 above, the Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events occurs:

- (a) Declarant no longer owns any Lot, or
- (b) Declarant surrenders the authority to appoint and remove members of the Board of Directors and officers of the Association by an express amendment to this Declaration executed and recorded by the Declarant.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Lot owned within the Properties hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association annual assessments and special assessments for capital improvements established and collected as hereinafter provided. Any such assessment or charge, together with interest costs and reasonable attorneys fees, if applicable, shall be a charge and a continuing lien upon the Lot against which each such assessment or charge is made. Each such late assessment or charge, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such Lot from the time when the assessment fell due. The personal obligation for delinquent assessments or charges shall not pass to an Owner's successors in title unless expressly assumed by them.

Section 2: Purpose of Annual Assessments. The annual assessments levied by the Association shall be used as follows:

- (a) To maintain all roads constructed within the Common Areas to the standard of maintenance which would be required by the State of North Carolina before it would accept such roads for maintenance; provided that this provision does not require that the width of the road rights of way be the width required as set forth before such roads would be accepted by the State of North Carolina for maintenance;
- (b) To keep all amenities in the Common Areas clean and free

from debris and to maintain all amenities in an orderly condition, and to maintain the landscaping therein in accordance with the highest standards for private residential community including any necessary removal and replacement of landscaping;

(c) To provide such security services as may be deemed reasonable necessary for the protection of the Common Areas from theft, vandalism, fire and damage from animals;

(d) To pay all ad valorem taxes levied against the Common Areas and any property owned by the Association;

(e) To pay the premiums on all hazard insurance carried by the Association on the Common Areas and all public liability insurance carried by the Association pursuant to the Bylaws;

(f) To pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws; and

(g) To accumulate and subsequently maintain a contingency reserve equal to 10% of the sum of the amounts described in subsections (a) through (f) above in order to fund unanticipated expenses of the Association.

Section 3: Maximum Annual Assessment. Until January 1 of the calendar year following the conveyance of the first lot by the Declarant to another Owner the maximum annual assessment shall be \$ 360.00

(a) The maximum annual assessments established above may be increased, effective January 1 of each calendar year following the conveyance of the first lot by the Declarant to another Owner, without a vote of the membership, provided that the percentage of any such increase shall not exceed the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers, all cities, all items, published by the United States Department of Labor, over the 12-month period ended on the October 31 immediately preceding that January 1. If the annual assessment is not increased by the maximum amount permitted under the terms of this provision, the difference between any actual increase which is made and the maximum increase permitted for that year shall be computed and the assessment may be increased by that amount in a

future year by decision of the Board of Directors without a vote of the membership, in addition to the maximum increase permitted under the terms of the preceding sentence.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, said maximum annual assessments may be increased without limitation if such increase is approved by Members entitled to no less than two-thirds (2/3) of all of the votes. Such voting may be represented in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessments at amounts not in excess of the maximum.

Section 4: Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, and the common roadways serving the Development provided that any such assessment requires the same assent of the Members as provided in Section 3(b) of this Article.

Section 5: Assessment Rate. Both annual and special assessments must be fixed at a uniform rate for all Lots.

Section 6: Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At such meeting the presence of Members or of proxies entitled to cast 75% of all the votes of each Class of membership shall constitute a quorum. If the required quorum is not present, subsequent meetings may be called, subject to the same notice requirement, until the required quorum is present.

Section 7: Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance to the Association of the Common Area. The first annual assessment shall be adjusted according

to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner. The Board of Directors may in its discretion require payment of the assessments to be made in quarterly, monthly, or such other installment period, as it deems appropriate. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable administrative charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8: Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors of the Association to defray the costs arising because of late payment. The Association may bring an action at law against the delinquent Owner or foreclose the lien against the Lot, and interest, late payment charge, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by not using the Common Area or abandoning his Lot.

Section 9: Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a Lot or any mortgage or deed of trust to the Declarant. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors may in its sole discretion, determine such unpaid assessments to be an annual or a special assessment, as applicable, collectable pro rata from all Owners including the

foreclosure sale purchaser. Such pro rata portions are payable by all Owners notwithstanding the fact that such pro rata portions may cause the annual assessment to be in excess of the maximum permitted under Section 3. No sale or transfer shall relieve the purchaser of such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the lien provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

ARTICLE VI

DESIGN AND ARCHITECTURAL CONTROL

Section 1: Architectural Committee. For purposes of this Article VI, the Declarant shall function as the Architectural Committee (the "Committee") so long as Declarant is a Class B Member of the Association. After the termination of the Declarant's Class B Membership, the Board of Directors of the Association shall appoint the members of the Committee to carry out the functions set forth in this article.

Section 2: Definitions. For purposes of this Article VI, the following terms shall have the following meanings unless the context clearly requires a different meaning:

(a) "accessory building" means every detached garage, carport, tool shed, storage or utility building, wellhouse, or other similar building constructed on a Lot which is not a dwelling;

(b) "buildings" means accessory buildings and dwellings;

(c) "dwelling" means a building constructed for single-family residential use; and

(d) "improvements" or "structures" mean buildings and all walls, fences, bulkheads, decks, patios, planters, terraces, mail receptacles, swimming pools, tennis courts or anything else constructed or placed on a Lot.

Section 3: General Outlines.

(a) Reservations: The Declarant reserves the right to change, alter or redesignate roads, utility and drainage facilities, plus such other present and proposed amenities or facilities as may, in the sole judgment of the Declarant be necessary or desirable.

(b) Variances: The Committee shall be allowed to approve

adjustments of the conditions and restrictions stated herein in order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein, provided, however, that such is done in conformity to the intent and purposes hereof, and provided, also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood. Variances and adjustments of height, size and setback requirements may be granted hereunder.

(c) Development Concept: It is the express intention of the Declarant to maintain in this residential community a uniform plan of development that will blend with and not detract from the natural environment with respect to design, type and general appearance of the structures to be erected on the lots. Property owners are encouraged to have their architects contact the Committee prior to any costly design work for conceptual guidelines pertaining to the residential community.

(d) Approval of Plans: The proposed Site and Grading Plans; Building Plans and Specifications; Exterior Colors and Finishes; and Construction Schedule must be approved by the Committee. One (1) copy of all plans and related data shall be furnished to the Committee for its records. Until all of the above listed prerequisite plans are approved no improvements or structures shall be erected, placed or altered on any residential lot. The material used, as well as the design, shall be subject to the prior written approval of the Committee.

The Site and Grading Plans should show the proposed location of each building, structure, driveway, parking area, other improvements and proposed alterations to the physical characteristics of the site. The grade, elevation or physical characteristics (including but not limited to slopes and tree growth) of any such lot shall not be altered in any way whatsoever without prior written approval of the Committee based upon a Site or Grading Plan.

The Committee encourages the planting of flowering shrubs and trees; however, all tree removal or planting of trees, bushes, shrubs, grasses or other vegetation whatever, shall be based upon a Site Plan, Landscaping Plan or Planting Plan which has been submitted to and

received written approval from the Committee.

Upon the written request of a lot owner for approval of plans, the Committee shall have ten (10) days within which to approve or disapprove plans: In the event of failure to approve or disapprove within ten (10) days, such approval will not be required provided the design of proposed building is in harmony with the existing structures in this area. If the Committee approves the construction of such improvements, it shall issue a certificate evidencing such approval.

Refusal or approval of any such plans or specifications may be based by the Committee upon grounds, including purely aesthetic and environmental considerations, that in the sole and absolute discretion of the Committee shall seem sufficient.

Without the prior written consent of the Committee, no changes or deviations in or from such plans or specification as approved shall be made. No alterations in the exterior appearance of any building or structure, or in the grade, elevation or physical characteristics of any lot shall be made without like approval by the Committee.

Upon completion of approved construction, the Committee shall inspect the construction to insure that the approved plans and samples were complied with by the Owner. No structure may be occupied or used until the issuance by the Committee of a certificate of compliance. The certificate of compliance shall be issued by the Committee without fee; provided, however, that in the event that the Committee's first inspection of the construction reveals deviations or deficiencies from the approved Plans and samples, the Committee may charge a fee of \$50.00 for every subsequent inspection which is necessary to ensure compliance with the approved Plans and samples. Any such fee must be paid before the issuance of the compliance certificate.

If the finished building or other structure does not comply with the submitted plans and specifications, the Committee retains the right to make the necessary changes at owner's expense, and the further right to file under the North Carolina lien laws notice of liens for any costs incurred.

(e) Subdividing: No lot shall be subdivided, or its

boundary lines changed except with the prior written consent of the Committee. However, the Committee hereby expressly reserves to itself, its successors or assigns, the right to replat any two (2) or more lots shown on the plat of any subdivision in order to create a modified building lot or lots; and to take such steps as are reasonably necessary to make such replatted lot suitable and fit as a building site, said steps to include but not be limited to the relocation of easements, walkways and rights of way to conform to the new boundaries of the said replatted lots.

Section 4. Site Improvements:

Since the establishment of standard inflexible building setback lines for location of houses on lots tends to force construction of houses both directly behind and directly to the side of other homes with detrimental effects on privacy, preservation of land contour, important trees and other vegetation, ecological and related considerations, building setback lines shall not be specified. In order to ensure, however, that the foregoing considerations are given maximum effect, the Committee reserves the right to control and approve absolutely the site and location of any house or dwelling or other structure upon any lot.

(b) Use of Fill and Changes in Elevation: No changes in the elevations of the land shall be made on any lot, nor any fill placed within the common easement areas or within the regulatory setback lines; nor shall any lot be increased in size by filling in the waters on which it abuts without prior written approval of the Committee plus state and federal agencies.

(c) Adequate Drainage Requirement: It shall be the obligation of the Lot Owner to provide adequate drainage of his or her lot to the end that the property or properties adjacent to said lot shall not be subjected to other than the natural flow of drainage presently existing. It shall also be the obligation of the lot owners to provide, install and maintain adequate culvert or drainage pipe beneath his or her

driveway as it crosses the street right of way in order that the natural flow of drainage will not at any time be blocked along the street right of way. The size of such drainage pipe shall be determined by the Committee.

(d) Off Street Parking: Each lot owner shall provide space on his lot for off street guest parking for not less than two (2) passenger automobiles prior to the occupancy of any single family dwelling constructed on said lot. Said parking areas and driveways thereto shall be in accordance with reasonable standards and shall be constructed of concrete, asphalt, crushed stone, crushed shells or any other material approved by the Committee in writing as provided for in Section 3.d. hereinabove.

(e) Underground Utility Requirements: All electric transmission or service lines within the perimeter bounds of any lot or common easement shall be installed beneath the surface of the ground.

(f) Driveway and Mailbox Locations: The Committee has the right to decide in its sole and absolute discretion the precise site and location of any driveway and mailbox location placed upon any right of way; provided, however, that the owner shall be given the opportunity to recommend a specific site for such improvements.

Section 5. Structural Improvements:

(a) Residential Use: No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any residential lot other than a detached single family dwelling. However, a garage or small accessory building is permitted provided the use of such accessory building does not in the opinion of the Committee overcrowd the site, and provided, further, that such buildings are not used for the activities normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building. No building or other structure, or part thereof, at any time situated on such residential lots shall be used as a professional office, charitable or religious institution, business or manufacturing purpose, or for any use whatsoever other than residential and dwelling purposes as aforesaid; and no duplex residence or apartment house shall be erected or placed on

or allowed to occupy such residential lots and no building shall be altered or converted into a duplex residence or apartment unit thereon.

(b) Building Materials: All structures constructed or placed on any lot shall be built of substantially new materials. Any structure erected on the lots shall be of wood, stone, brick, veneer, tiles or concrete and stucco. Any accessory buildings or structures shall be constructed of the same material as the main dwelling, or from such suitable material specifically approved in writing by the Committee.

(c) Square Footage of Enclosed Dwelling Area: Every dwelling constructed on a Lot shall contain at least the minimum required square footage of fully enclosed and heated floor area. The minimum required square footage shall be 1800 square feet for all homes in Section One, Osprey Point, exclusive of patios, attached garages, terraces, decks, roofed and unroofed porches and accessory buildings.

(d) Screening of Refuse Receptacles: Each lot owner shall provide receptacles for ashes, trash, rubbish or garbage on his lot in a screened area not generally visible from the road, other lots, or from common easement areas; or provide underground receptacles (or similar facility) in accordance with reasonable standards established by the Committee.

(e) Mailboxes and Newspaper Receptacles: No mail box, paper box or other receptacle of any purpose shall be erected or located in the road right of way or on any building lot unless and until the size, location, design and type of material, for said box or receptacle shall have been approved by the Committee in accordance with Section 3.d. herein.

(f) Fuel Tanks and Similar Storage Receptacles. No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles may be installed only within an accessory building with a screened area (so as not to be generally visible from the road, adjoining lots, or common areas) or buried underground; provided, however, that nothing contained herein shall prevent the Committee from erecting, placing or permitting the placing of tanks, or other apparatus, on the property for uses related to the provision of utility or other service.