

Second Restrictive Covenant Agreement (RCA)

The parties are the developer (“Blakehurst”), the neighborhood Advisory Board, and the Ruxton-Riderwood-Lake Roland Area Improvement Association (the “Association”). These were the same parties as the First RCA which concerned the original development of Blakehurst. The First RCA expired in October 2017 (except for the moratorium on building south of Cemetery Road, which expires in 2042). This Second RCA would expire on Dec. 31, 2057, including the moratorium.

The Second RCA allows Blakehurst to construct six buildings on the Mission Helper parcel consisting of 40 residential units and no more than 92 parking spaces (40 internal), as shown on prior drawings and maps. Here is a summary of the RCA’s material terms:

I. Mutual Promises

A. In the RCA, the Board and the Association promise to:

- Support Blakehurst’s proposal for development of the Mission Helper parcel in any governmental proceedings necessary for approval (§ 8, p. 7)
- Work collaboratively with Blakehurst to obtain approval for – and retain in the future – closure of Mission Helper Drive (§ 5d and g, p. 5).

B. Blakehurst promises to:

- Block residents of the project and existing Blakehurst residents from using Mission Helper Drive and restrict use to emergency vehicles only (subject to County approval), with specific tasks Blakehurst must perform to enforce this restriction (§ 5a-d, pp. 4-5)
- Provide pre-construction plantings and landscaping on the properties of immediate neighbors (“off-site”) to provide buffering (§ 2c, p. 3)
- Provide plantings and landscaping on the Mission Helper property (“on-site”) to provide buffering (§ 2b, p. 3)
- Maintain the on-site plantings according to a written “Maintenance Standard” that requires regular trimming, mowing, care and treatment during the term of the Agreement, until Dec. 31, 2057 (§ 2b2, p. 3)

- Clean up and maintain the existing plantings along Greenwood Rd (§ 2d, p. 3)
- Construct two screening walls and one retaining wall to block lights and noise from spilling onto Chestnut Avenue (§ 2e, p. 3)
- Extend the limitations on activities and the moratorium on building any structures south of Cemetery Road from March 2042 until December 31, 1957 (also when the Agreement expires) (§§ 4a and 11, pp. 4, 8)
- Provide and maintain fencing, landscaping, and plantings according to the Maintenance Standard for a storm water management facility (i.e., a pond to collect and manage stormwater runoff) to be built behind the O’Conor and Meyer properties (§ 3, pp. 3-4)
- Construct a maintenance shed near the existing carriage house that is landscaped “to provide screening from and for the benefit of nearby residences.” (§ 4a and 4b, p. 4)

II. Construction: During construction, Blakehurst promises to:

- Implement various construction mitigation steps, including no nighttime lighting, washing mud from workers’ vehicles, weekly street sweeping of Chestnut Ave, no trash or debris, no non-project storage, etc. (§ 7, pp. 5-7)
- Designate a Contact Person for Blakehurst to respond to all construction inquiries and provide a 24-hour emergency contact number (§ 7a, p. 6)
- Instruct all workers to park in a temporary parking spot off Cemetery Road west of the community garden, prohibit worker parking on nearby streets, and provide a shuttle service for off-site worker parking if necessary (§ 7b, p. 6)
- Restore this temporary parking area to pre-construction condition after construction is completed, including plantings as necessary (§ 4a, p. 4)
- Abide by the following construction hours, the same hours followed by Pickersgill for its 2004 construction (§ 7b, p. 6):

Activity	Mon-Fri	Sat
Grading, site work, heavy equipment	8 am-5:30 pm	None
Other outside work	7 am-5:30 pm	7 am-5:30 pm
Inside work	Anytime	Anytime

III. Enforcement and Remedies

- Blakehurst will pay for an independent, outside attorney hired by us to review the agreement for legal compliance and other issues (§ 12, p. 8)
- Blakehurst will repair, or reimburse neighbors directly for repairing, any property damage caused during construction (§ 22c7, p. 11)
- In the unlikely event in the future the County indicates it will order the reopening of Mission Helper Drive to non-emergency traffic, Blakehurst will pay for lawyers, traffic experts, and other professionals hired by the Board to fight that decision (§ 5g, p. 5).
- For any violation of Blakehurst's promises in Paragraph 5 regarding restricting traffic on Mission Helper Drive, Blakehurst must pay "liquidated damages" from \$500-\$1,500 *per week* (after we give Blakehurst notice of the violation and a chance to cure) (§ 22b, pp. 9-10)
- For any violation of Blakehurst's promises in Paragraph 7 regarding construction, Blakehurst must pay liquidated damages between \$500-\$1,500 *per day* (after we give Blakehurst notice of the violation and a chance to cure) (§ 22c, p.10)
- Any lawsuit brought to enforce the RCA is restricted to injunctive relief only, i.e., no party will ever have to pay any money damages on any claim arising under the RCA (§22a, first sentence, p. 9).
- Any party successful in a lawsuit undertaken to enforce the terms of the Agreement is entitled to reimbursement of its reasonable attorneys' fees (§22a, second sentence). This same provision was in the First RCA and was invoked at least twice by the Board to have its attorneys' fees paid.
- Before going to court, notice of the violation and a chance to cure must first be given (§22a, third sentence)
- Advisory Board meetings will continue quarterly in the future (although everyone can call a meeting off if there's nothing to talk about). This will give neighbors a chance to discuss any issues with Blakehurst and promote future harmony (§§ 7a, 23, pp. 6, 11-12).

- Upon request, Blakehurst will provide free “no parking” signs to any neighbor to help enforce the construction parking ban (§ 22c7, p. 11).
- Blakehurst can terminate the agreement if (a) it doesn’t get the necessary approvals, (b) if an appeal is filed of any such approval, or (c) it decides not to go forward with the project by Dec. 31, 2022 for any reason, i.e., an escape clause if economic conditions take a turn (§ 10, pp. 7-8)
- The Second RCA would expire on Dec. 31, 2057 (the same date as the moratorium on construction south of Cemetery Road) (§ 11, p. 8).