

# Heritage Estates Amended & Restated Declaration

## Version Comparison Analysis — Six Questions

*How the document changed from Swanson's first draft (July 8, 2025) to his last (February 20, 2026), and what it would have looked like had his review comments simply been applied to our committee's version.*

Internal Board working analysis · Prepared May 20, 2026 · HEPOA Covenants Committee

### Update — a newer final arrived May 19, 2026

After this analysis was first prepared, Swanson sent a new final version (doc 301070.7, version 09). Questions 1–6 describe the history through his February final (version 08). The new version is analyzed in Q7 at the end of this report.

### How to read this analysis

This document answers six questions about how our amended covenants evolved. It compares the actual document versions, verified file-by-file. Throughout, two parties are tracked:

- **Swanson** — Timothy Swanson, our attorney (Young, Morphis, Bach & Taylor). He produced the first draft and the last draft.
- **The Committee** — our Board and covenants committee, who edited his drafts and gathered member feedback.

Each version is labeled with the number used in the Version\_Chain\_Timeline folder. The versions in the chain are:

#	Date	Author	What it is
01	Jul 8, 2025	Swanson	First attorney draft (doc no. 301070.1).
02	Aug 5, 2025	Committee	Our first redline — ~40 tracked edits on draft 01.
03	Aug 15, 2025	Swanson	His revision after our August meeting (301070.3).
04	Sep 29, 2025	Committee	Our redraft after member feedback.
05	Nov 23, 2025	Committee	Our final committee version, sent to him Dec 5.
06	Dec 8, 2025	Swanson	His 19-item bullet-list review of version 05.
07	Feb 19, 2026	Swanson	Draft returned after the Feb 16 meeting.
08	Feb 20, 2026	Swanson	His February final (re-sent Apr 30, doc 301070.3).
09	May 19, 2026	Swanson	His NEW final (doc 301070.7) — analyzed in Q7.

### Q1 — How do Swanson's first and last versions compare?

**Short answer:** His last version (08) is essentially his first draft (01) plus the cleanups he accepted from us in August 2025, plus two sections he rewrote on his own in February 2026.

None of the substantive changes our members asked for between September and November are in it.

The differences fall into three groups:

### Group A — The ~30 cleanups he accepted from our August redline

These are the same edits covered in Q2 below. In summary, between draft 01 and the final he: deleted the standalone Leasing section and the Access section; changed outbuildings from “same style and materials as the residence” to “approved by the ARC”; rewrote the Signs section into the statutory political-/for-sale-sign rule; rewrote the Pets section (dropped the three-pet limit, the “housed inside” rule, and the “defecate/urinate on shrubbery” language; added a commercial-breeding/puppy-mill ban); rewrote Parking and Trash; extended the owner-maintenance cure period from 30 to 90 days; changed “average use” to “occasional use”; changed unsightly-equipment storage from “enclosed structure” to “out of sight from streets”; and added “HUD-labeled units” to the mobile-home ban.

### Group B — Two sections Swanson rewrote on his own in February 2026

Neither was discussed at the February 16 meeting; both first appeared in the February 19/20 file.

#### § 3.01 Community Use — a new paragraph he added

He appended a long paragraph giving the Board broad rule-making authority over the Common Elements and making any exclusive or limited use of the Common Elements subject to advance written Board approval (revocable, on conditions the Board sets). Our committee's specific allowance for “a standard sized real estate sign” is not in his version.

#### § 7.02 Subdivision / Combination — he replaced the rule with a detailed procedure

He swapped the committee's one-line “owners may combine as they see fit” rule for a detailed lot-combination procedure requiring a recorded “Combination Plat” and a “Combination Instrument” that is “reasonably acceptable to the Association,” filed within 30 days.

**His version still preserves voting and assessment rights on combined lots, and it keeps the no-subdivision and no-outside-access sentence. The genuinely new element is the recordation procedure and the requirement that the Association sign off on the combination instrument.**

### Group C — Housekeeping

- The stated initial annual assessment reads \$200 in draft 01 and \$425 in the final.
- The notary blocks were updated from 2025 to 2026.

## Q2 — The version that came from meeting with Swanson over his original

### What happened in this round

The Board sent Swanson a tracked redline of his first draft on August 5, met with him in mid-August to walk through it, and he returned a revised version on August 15 (version 03) that adopted about 30 of the Board's ~40 requested edits and declined about 10.

**On landscaping:** this change was not part of this round. The August 5 redline did not ask to remove landscaping from ARC approval, and §6.02 still required ARC approval for “landscaping” in his August 15 version. Removing the broad “approval of plans... landscaping” requirement was a later committee change (November 23), and it did not survive into the final version.

## What Swanson changed from his original (01) to his August 15 version (03)

These are the edits he accepted from the Board's August 5 redline:

Section	Change he made
3.02 / 3.03	Deleted the right to charge fees for Common-Element facilities and the right to limit the number of an owner's guests.
5.05	Updated the stated initial annual assessment from \$200 to \$425 per lot.
5.06	Reworded Special Assessments (kept his own framework, not yours).
5.09	Changed allocation from "against all Owners" to "against all Lots."
5.10	Lowered the late-payment interest rate from 18% to 10%.
7.02 Leasing	Deleted the entire standalone Leasing section.
7.03(a)	Added "HUD-labeled units... manufactured mobile homes" to the mobile-home prohibition.
7.03(c)	Deleted "change in grade or slope of any Lot."
7.03(e)	Outbuildings: "same style/materials as the residence" → "approved by the ARC."
7.07 Signs	Rewrote to the statutory for-sale / political-sign rule.
7.08 Pets	Dropped the 3-pet limit, "housed inside," and "defecate/urinate on shrubbery"; added commercial-breeding / puppy-mill ban; added "easily and immediately" carried/leashed.
7.09 / vehicles	Deleted the "move sanitary containers" paragraph; "average use" → "occasional use"; "enclosed structure" → "out of sight from streets."
7.10 Parking	Rewrote the parking restrictions.
8.02	Owner-maintenance cure period 30 days → 90 days.
Article X	Added "after appropriate notice, make whatever repairs" to the violation-abatement clause.
Easement / 11.02	Deleted the "developer multiple-lot purchases" phrase; deleted the entire Access section.

**Note:** about 30 of the Board's ~40 edits are above; smaller wording cleanups are omitted for brevity.

## What he declined at the August meeting (and never came back)

He explained these were rejected on enforceability or consistency grounds; the Board accepted his explanations at the time:

- The Lots 5 and 34 single-membership / single-vote carve-out, and the "indivisible vote" concept.
- Replacing the fixed-cap budget structure with a line-item operating budget tied to a Reserve Study and annual member approval.
- The three-subsection Special Assessments rewrite.
- The "by Lot" allocation wording, the ARC easement/setback guidance, and "cinder block may remain exposed."

**Worth noting:** several of these rejected items are the same ones the committee re-developed with member input in the September–November round (Q3).

### Q3 — What changed from his Aug 15 draft to our Nov 23 version (member feedback)

This is the committee's work after the September 12 member meeting, the mailed-in comments, and the outside attorney's review. The change is captured precisely in the redline (file 05b): **53 insertions and 38 deletions, all authored "Committee."** Grouped by section:

Section	What the committee changed (member-driven)
3.01 Signs	Added an allowance for "a standard sized real estate sign" in common areas.
4.01 Governing Body	Reframed to "the shared interests of all Owners" and "oversight... of current and future improvements on the common elements."
5.04 Reserves	Required the reserve fund to be sized "as determined by a Reserve Study."
5.05 Annual Assessments	Replaced the text with the NC statute §47F-3-103(c) budget-ratification process; lowered the no-vote increase cap from 20% to 10%.
5.06 Special Assessments	Full restructure into three categories (≤50% emergency cap; other authorized; legally mandated) and an explicit ban on using special assessments for predictable expenses like road repaving (must be budgeted).
6.01 / 6.02 ARC	"No fewer than three Members-at-Large"; ARC reports to Board before owner; rewrote Approval of Plans to an NC Building Code standard "not unreasonably withheld," added bonding power, an owner appeal right, and a Lot 31 outbuilding grandfather; added a heated-SF minimum.
6.03 (new)	Added a Construction Impact Fee equal to one annual assessment.
7.01 Residential Use	Short-term rentals deemed a residential use; leases must be in writing and subject to the Declaration.
7.02 Subdivision/Combination	Kept the no-subdivision and no-outside-access rule and added that combined lots keep their voting and assessment status.
7.03 Building	Extended the setback exemption to add Lots 17, 54 and 55; replaced the cinder-block clause with general code-compliance.
7.08 Pets / 7.10 Parking	Pets: "clean up any discharge." Parking: "no temporary shelter or residence (motor home, trailer, yurt, tent)."
8.02 / Article X	Framed the cost of Association repairs as a special assessment against the owner's lot.
11.01 Easements	On combining lots, the interior utility easement is extinguished; original lot lines still govern voting and assessments.

### Q4 — What Swanson recommended in his 19 bullets reviewing our Nov 23 version

On December 8, 2025, after reviewing our redline, Swanson sent 19 bullet comments. Most are clarifying questions or small cleanups; **only two are substantive recommendations** (remove the special-assessment-for-predictable-expenses ban in 5.06, and reword the 7.02 combination sentence). He did **not** ask to remove the Reserve Study, the 10% cap, the impact fee, the Lot 31 grandfather, or the three-category structure.

§	Swanson's comment	Type	Handled
3.01	Does the HOA want to permit real estate signs in common areas?	Question	Kept (yes)

§	Swanson's comment	Type	Handled
4.01	"Property" is broader than "common elements" — include both.	Edit	Applied
5.04	Commit all reserves to an actual reserve study?	Question	Kept (yes)
5.05	Revise "to whit" to "to wit."	Edit (typo)	Applied
5.06	"a Lot or Lots" conflicts with "uniform rate among all Lots."	Edit	Applied
5.06	"may not be levied for predictable... expenses" — "I would remove this."	Edit (substantive)	Applied – removed
5.06	Subsections (a) and (b) seem inconsistent.	Question	Left for board
5.07	"Declaration" is already inside "Management Documents."	Edit	Applied
6.01	Why "Members-at-Large"? Why must ARC report to Board before the owner (undermines appeal)?	Question	Left for board
6.02	Building-code reference near plan approval confuses; ARC handles aesthetics only.	Edit	Applied
6.02	Remove the comma before "for major construction projects."	Edit	Applied
6.02	Do all existing homes meet the heated-SF requirement?	Question	Left for board
7.01	This has already been established by the court.	Comment	Left as-is
7.02	Reword to: "If any lots are combined, they shall continue to be treated as separate lots for purposes of voting and assessments."	Edit	Applied
7.03(b)	Same heated-SF requirement as 6.02 — remove it from 6.02.	Edit	Applied
7.08	Not sure "discharge" is the correct term.	Edit	Applied
8.02	Parallels G.S. 47F-3-107 — these are "assessments," not "special assessments."	Edit	Applied
10.02	See 8.02 above.	Edit	Applied
11.01	Seems redundant with 7.02; probably okay to keep both.	Comment	Kept both

## Q5 — What the final would have looked like if we'd just applied his bullets

**Short answer:** The November 23 committee document, intact, with about a dozen small lawyer cleanups. Almost everything the membership asked for would still be in it.

This version has been reconstructed: it takes the Nov 23 committee document and applies Swanson's 12 actionable bullet recommendations as tracked changes. It is the file [Q5\\_Reconstructed\\_Final\\_Nov23\\_plus\\_Swanson\\_bullets\\_TRACKED.docx](#) in this folder.

### What this version keeps (that the actual final lost)

Applying his bullets would not have removed any of these member-driven items:

- The Reserve Study standard (5.04).
- The statutory budget-ratification process and the 10% no-vote cap (5.05).
- The three-category Special Assessments structure (5.06).
- The Construction Impact Fee (6.03).

- The ARC rewrite: appeal right, bonding power, Lot 31 grandfather, NC code standard (6.01/6.02).
- The real-estate-sign allowance (3.01).
- Short-term-rental-as-residential (7.01).
- The simple lot-combination rule preserving voting/assessments (7.02), and the longstanding no-outside-access prohibition.
- The Lots 17/54/55 setback exemptions and the easement-extinguishment-on-combination rule (11.01).

**The only substantive things his bullets would have changed**

- **Removed** the one sentence in 5.06 banning special assessments for predictable expenses such as road repaving (he wrote “I would remove this”).
- **Reworded** the 7.02 combination sentence to his shorter wording, and removed the NC Building Code phrasing from 6.02 (the general code-compliance clause in 7.03(d) still covers it).

**Everything else** was a typo fix, a comma, a redundancy, or a question left for the Board.

**Q6 — What we expected as our final vs. our actual final**

**What we expected:** our November 23 committee document, lightly cleaned up at the February 16 meeting — essentially the Q5 reconstruction above.

**What we got (version 08):** his August 15 draft, plus his own February rewrites of §3.01 and §7.02. Virtually every substantive member-feedback item is missing, and two provisions we never discussed appeared.

**Why the gap exists**

At the February 16 meeting Swanson was editing his August 15 draft on screen, not our November 23 document. We worked bullet-by-bullet; when he couldn't find language we had added, we read it as “already removed” rather than “never in this file.” So our member-driven changes were never carried into the version he finalized.

**Member-feedback items that are in our expected final but missing from the actual final**

Section	Expected (our Nov 23 / Q5)	Actual final (08)
5.04 Reserves	Reserve fund sized by a Reserve Study	Reverted: “adequate”, no study
5.05 Annual assess.	Statutory ratification; 10% cap	Reverted: 20% cap, old structure
5.06 Special assess.	Three-category structure	Reverted to his original wording
6.02 ARC	Appeal right, bonding, Lot 31 grandfather, code standard	Reverted to original Approval of Plans
6.03 Impact fee	Construction Impact Fee included	Absent entirely
3.01 Signs	Real-estate-sign allowance	Dropped; broad Board sign control added
7.01 Rentals	Short-term rentals = residential	Replaced with “single-family residential”
7.02 Combination	Simple “combine as they see fit”; voting/assessments preserved	Heavy Combination Plat/Instrument procedure needing Association sign-off

Section	Expected (our Nov 23 / Q5)	Actual final (08)
		(voting/assessments and no-outside-access still kept)
7.03 Setbacks	Lots 17, 54, 55 added	Reverted to 38, 39, 52, 53
11.01 Easements	Easement extinguished on combination	Absent

### Two provisions in the actual final that we never discussed

- **§3.01** — a new paragraph giving the Board broad rule-making authority over the Common Elements and making any exclusive or limited use of them subject to advance written Board approval. (It also drops the committee's real-estate-sign allowance.)
- **§7.02** — a detailed lot-combination procedure (Combination Plat + Combination Instrument “reasonably acceptable to the Association,” recorded within 30 days). This is far heavier than the committee's “combine as they see fit” language and gives the Association approval power over an owner's combination. The no-subdivision and no-outside-access language is retained.

**Correction worth noting:** *an earlier committee write-up (Drafting\_Process\_Overview) stated that Swanson deleted the outside-access prohibition in his February rewrite. Version 08 actually retains that prohibition in its original 1999 wording (the April 14 mailed version later reworded it into the “platted streets and drives” form). The deletion claim does not hold for the last version Swanson sent.*

### Q7 — How the new final (301070.7) compares to what we expected

**Context:** On May 19, 2026 Swanson sent a new version (doc 301070.7, version 09). “What we expected” is the Q5 reconstruction — our November 23 document with his 19 bullets applied.

#### This version is a tracked-changes redline

It contains 63 insertions and 30 deletions, and every insertion is Swanson's. The findings below describe the document with all changes accepted — its proposed final form. (In the plain redline view, deletions and insertions appear run together, e.g. “twenty ten percent (2010%)”; those are not errors — accepted, the cap reads cleanly as “ten percent (10%).”)

**Short answer:** A real step toward the committee's version. Accepting his redline adopts several of the member items that were missing from the February final — though a few important ones are still not in it.

#### What his redline now adopts — member items the February final lacked

- The 10% no-vote increase cap (5.05) — the committee's number, replacing his earlier 20%.
- The statutory budget-ratification process under N.C.G.S. §47F-3-103(c) (5.05).
- An owner's right to appeal an ARC decision to the Board (6.01).
- The real-estate-sign allowance (3.01).
- Short-term rentals treated as a residential use (7.01).
- An impact fee on new construction (6.03).
- “Rent” on the for-sale sign (7.07); the yurt/tent/trailer parking language (7.10); combined-lot voting/assessment preservation (Article XI); and the “shared interest... Property and Common Elements” governing-body language (4.01).

#### What is still missing — versus what we expected

Section	What we expected (Q5)	New final (301070.7), accepted
5.04 Reserves	Reserve fund sized by a Reserve Study	Still only “adequate” — no Reserve Study
5.06 Special assess.	Three-category structure; no special assessments for predictable road repaving	His original wording — still explicitly allows special assessments for “repaving of capital improvements, including roads,” with a 51% vote for capital improvements
6.01 / 6.02 ARC	Members-at-Large, appeal right, Lot 31 grandfather, code standard	Appeal right added; but no “Members-at-Large,” no Lot 31 grandfather, and Approval of Plans is still his original (landscaping needs ARC approval)
3.01 Community Use	Committee's simpler section plus the real-estate sign	Real-estate sign added, but his broad Board rule-making paragraph kept
7.02 Combination	His own one-line bullet wording	His heavy Combination Plat / Combination Instrument procedure kept

**Bottom line:** Unlike the February final, this redline was built on a base that carries the committee's direction, and accepting it gets much closer to what members asked for — the 10% cap, statutory ratification, the ARC appeal right, real-estate signs, short-term rentals, and an impact fee are all in. The remaining gaps are specific and worth raising with him: the Reserve Study standard (5.04); the special-assessment restructure (5.06 still permits special assessments for road repaving); the Lot 31 grandfather; and the committee's ARC composition language — plus his own 3.01 and 7.02 rewrites.

## A note on the two February files

While preparing this we confirmed that versions 07 (Feb 19) and 08 (Feb 20) contain the same covenant text. The only difference is that someone prepended a block of working notes to the top of file 07. File 08 — the one Swanson's office re-sent on April 30 — is the clean, authoritative last version, and is the one used throughout this analysis.

## How these comparisons were verified

Each version was converted to text and compared section by section. The Aug 15 → Nov 23 changes were read directly from the committee's tracked-change redline. Swanson's bullets were taken verbatim from his December 8 email. File identities were confirmed by checksum, and the reconstructed Q5 document was validated and rendered to confirm the tracked changes display correctly.

**Companion file:** Comparison\_Explorer.html (interactive, color-coded version of this analysis) is in the same folder.