

PREPARED BY AND HOLD FOR: WARREN, PERRY & ANTHONY, P.L.L.C.

NORTH CAROLINA

FRANKLIN COUNTY

DECLARATION OF PROTECTIVE COVENANTS
OF FLEMING FOREST SUBDIVISION

THIS DECLARATION OF PROTECTIVE COVENANTS made this 8th day of ~~August~~ ^{September}, 1999, by MARK E. DOWDY and wife, TONI B. DOWDY and D. DENNIS CYRUS and wife, STARLETTE W. CYRUS hereinafter called DECLARANT, of FRANKLIN County, North Carolina;

WITNESSETH:

That Declarant is the owner of the real property described in Article 1, and is desirous of subjecting said real property to the Protective Covenants hereinafter set forth, each and all of which is and are for the benefit of such property and for each owner thereof, and shall apply to and bind the successors in interest of any owner thereof, and

WHEREAS, said real property has previously been subjected to restrictive covenants filed in Book 1104, Page 304, Franklin County Registry which provide in Paragraph 11 that when the Fleming Forest property is developed, detailed uniform restrictions will be recorded consistent with those covenants and the Settlement and Release Agreement recorded therewith, and

WHEREAS, Declarant is the new owner of said property and desires to develop same in a manner consistent with the Declaration of Restrictive Covenants and Settlement and Release Agreement recorded in Book 1104, Page 304, Franklin County Registry; and

NOW THEREFORE, Declarant hereby declares that the real property described in Article 1 and hereafter shall be held, transferred, sold, and conveyed subject to the protective covenants stated herein, which shall run with the land subjected to them.

ARTICLE I

The real property which is, and shall be held, transferred, sold and conveyed subject to the Protective Covenants set forth in the Articles of this declaration is located in the Township of Youngsville, County of Franklin, State of North Carolina, and is more particularly described as follows:

Being all of Tract One, containing 59.990 acres and Tract Two, Containing 66.662 acres, as shown on survey entitled "Survey for Den-Mark Construction", a copy of which is recorded in Map Book 1999, Page 116, Franklin County Registry.

No property other than that described above shall be deemed to be subject to these covenants until specifically made subject thereto by a written declaration. Declarant may from time to time subject additional real property to these covenants.

The real property described in Article 1 hereof is subjected to the Protective Covenants and Restrictions hereby declared to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practical, the natural beauty of said property; to guard against the erection thereof of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best use in development of said property; to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on lots; to prevent haphazard and inharmonious improvements on lots; to secure and maintain proper setbacks from streets, and adequate free spaces between structures, and in general to provide adequately for high type and quality of improvements on said property, and thereby to enhance the value of investments made by purchasers of lots therein.

ARTICLE II

LAND USE AND BUILDING TYPE. The lots described above shall be used as residential lots. No building shall be erected, altered, placed or permitted to remain on any residential lot other than one single-family dwelling not to exceed three stories in height and an attached private garage for not more than three cars and such other buildings as set out below. More than one lot may be used as one building site if approved in writing by the Declarant or Architectural Committee. Once a building permit is issued to a lot owner or builder, construction must be completed within one year of issuance. No mobile or modular homes will be allowed on any lot in said subdivision.

ARTICLE III

DWELLING SIZE. All dwellings in the above-described tract shall conform to the following regulations:

All single level dwellings shall have a heated, enclosed ground floor area of at least 1600 square feet, not including basements, porches, screened porches, garages, carports or stoops.

All split level or multi-level dwellings (not including two story dwellings) shall have a heated, enclosed area of at least 1800 square feet, not including basements, porches, screened porches, garages, carports or stoops.

Dwellings of two stories shall have a heated, enclosed area of at least 2000 square feet, not including basements, porches, screened porches, garages, carports or stoops.

All dwellings must have an attached side load garage for at least one car.

ARTICLE IV

EXTERIORS AND DRIVEWAYS. All structures in the subdivision shall meet the following criteria:

- A. Exterior siding shall be one of the following: brick, veneer, stone, stucco, wood, hardboard, aluminum, vinyl, masonite, or concrete siding.
- B. Exterior chimneys shall be brick, masonry, stone, stucco or veneer.
- C. Each residential structure shall have a concrete driveway extending to the dwelling, a minimum of 35 feet in length. It shall be a minimum of 16 feet wide at the street and may narrow down to no less than 10 feet. During construction of the dwelling or any other type of construction carried out on a lot, any damage caused by such construction must be cleaned up and repaired by the party causing it. Any mud clods or other debris which get into the right of way area of the street must be cleaned up within 48 hours. During construction there shall be a gravel area of at least 40 feet in length leading from the street, this gravel area being the entrance to the lot. The purpose of this gravel area is to prevent mud and other debris from being tracked into the street. During construction it is the responsibility of the lot owner to keep all construction vehicles off the shoulder and right of way of the road. It is the lot owner's responsibility to see that each construction vehicle enters onto the lot upon which construction is being carried out. In the event an owner does not comply with these requirements, Declarant or the homeowners may have the required work done and the costs thus incurred shall be paid by the owner.

ARTICLE V

LOT AREA AND WIDTH. Unless otherwise approved by the Declarant, no dwelling or other approved structure shall be located on any building site nearer to the edge of the pavement in front of the property than 100 feet, and no dwelling shall be located less than 15 feet from any side property line, or less than 30 feet from any rear lot line or as indicated on recorded plat by building envelope. On corner lots the structure may be no less than 30 feet from either street line. For the purpose of this covenant, eaves, steps, and open porches shall not be considered as part of the building, PROVIDED, however, that this shall not be construed to permit any portion of a dwelling on a building site to encroach upon another building site.

ARTICLE VI

SITE AND PLAN APPROVAL. Declarant shall appoint a three person Architectural Committee that shall review and approve all improvements and construction proposed on any lot. Declarant, so long as he shall own at least one lot in the subdivision, shall appoint any successive members to the committee. At such time as Declarant shall no longer own a lot in the subdivision, it shall appoint a committee of three persons who own lots in the subdivision, who shall thereafter appoint their successors. Declarant or Architectural Committee shall approve all improvements and construction proposed on any lot. No site work, construction, clearing of trees, disturbing of earth, installation of any facilities, or any other improvements whatsoever shall occur on any lot in the subdivision without prior written approval of the Declarant or Architectural Committee. This shall include, but shall not be limited to dwelling,

accessory building, fences, walls, swimming pools, outside lighting, screen plantings, and landscaping where natural topography, or, natural vegetative cover, is disturbed.

The property owner shall submit a plot plan showing all proposed activity, and all plans and specifications for such, including, but not limited to: beginning and finished ground elevations, trees and shrubs to be planted, exterior design of structures, external materials, and all other matters affecting the appearance of the lot and its improvements. The Declarant or Architectural Committee shall have sole discretion as to the location, design, exterior materials used, and color of any dwelling, accessory building including but not limited to: storage buildings, greenhouses, play houses, dog houses, and dog runs, etc. Said location of any accessory building is to conform to the zoning restrictions by the governmental body having jurisdiction over the area.

The further written approval of the Declarant or Architectural Committee shall be required for any alteration to approved plans, and the alteration and modification of existing structures and improvements made after a house shall be occupied.

Lot owners shall submit their plot plans, drawings, plans and specifications to the Declarant or Architectural Committee. If the Declarant or Committee fails to give his written approval within 30 days of the date of submission, then approval shall be deemed to have been given. If, after submission of plans, no suit to enjoin the proposed construction or improvements shall have been commenced prior to completion of such, approval will be presumed, and this Article shall be deemed to have been complied with.

At all times, at least 25% of each lot shall remain wooded. No clear cutting shall be permitted.

ARTICLE VII

NUISANCES. No business or trade activity where goods or services are offered to the public shall be carried out on any lot, nor shall anything be done thereon which is or may become a nuisance to the neighborhood. Nothing herein shall be interpreted or construed to prevent the use of any structure or portion thereof as a home office, or to prevent the occupant of the house from working at home, provided that goods or services are not offered to the general public on the premises.

No trade materials or inventories (except during construction on the premises) shall be stored or otherwise allowed on the premises. No trucks, tractors or inoperable automobiles may be stored or regularly parked on the premises or upon any street right of way in the subdivision. Such parking or storing on a street right of way shall be deemed a prohibited use of the lot occupied by the person so storing or parking.

No business or trade offering goods to the general public shall be allowed. Such include, but are not limited to: doctors, lawyers, or other professional office, fraternity house, rooming house, or boarding house, antique or gift shop, or other commercial business open to the general public; or any other business use which shall generate pedestrian or vehicular traffic to the premises.

ARTICLE VIII

PARKING AND ACCESSORY BUILDINGS. Adequate off street parking shall be provided by the owner of each lot for the parking of automobiles owned by the owner, and owners of lots shall not be permitted to park their automobiles, boats, campers, travel trailers or any other vehicles on the streets in the subdivision. All boats, travel trailers and campers shall be kept behind or to the side of the owners' residence and screened

from the street if not enclosed in a garage or outbuilding. No trailer, tent, shack, barn or structure other than one detached garage for no more than two cars or one outbuilding with a maximum square footage of 250 square feet shall be permitted on any lot in the subdivision. The owner of any building site containing an approved dwelling may erect one outbuilding thereon, provided that said owner first submits plans as specified in Article VI. All buildings shall maintain the same architectural continuity as main dwelling, must be approved in advance by the Declarant or the Architectural Committee and must match the main dwelling in color, building materials, roof pitch and roof materials.

ARTICLE IX

ANIMALS. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, EXCEPT dogs, cats and other household pets may be kept, provided that they are not raised or bred for any commercial purpose. Any animal house or pen must be kept clean and maintained regularly and shall not become any eyesore to its subject surroundings. All pet owners will be responsible for their animals and will insure that they are not a nuisance to other lot owners.

ARTICLE X

DEVIATION FROM RECORDED PLAT. No lot or portion thereof shall be dedicated or used for a public street, private road, or easement of ingress or egress except as shown on the recorded plat or as required by North Carolina Department of Transportation. No lot in the subdivision may be subdivided except as set forth in this paragraph. This shall prevent any owner from splitting a lot into two or more lots.

However, the property line between two lots may be altered so long as it meets the minimum zoning requirements.

ARTICLE XI

FENCES AND LP GAS TANKS. No fence, wall, hedge, or mass planting shall be erected or permitted to remain on any lot closer to the front lot line than the back of the dwelling located on the lot, unless approved by the Declarant. Fences must be dark green or black vinyl coated chain link and all fences must be approved in advance as to type, style and location by the Declarant or the Architectural Committee. All propane, oil, and other storage tanks shall be located underground.

ARTICLE XII

UNDERGROUND UTILITIES AND STREET LIGHTING. All public and private utility distribution lines and facilities in the subdivision shall be located underground. Declarant reserves the right to subject the subdivision to contracts and easements for all available utilities; and for the installation of streetlights which may require a continuing monthly payment to the utility company by the owner of the lot whereon the light is located, or a continuing monthly payment by each lot owner for a proportional part of the total street lighting cost.

ARTICLE XIII

EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear ten feet and five feet on either side of all side and rear lot lines; and fifteen feet wide along the front lot line unless these are in excess of such distances on the recorded plat, in which case, the plat shall control. Within these easements, no structure, planting, or other

materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction or flow of drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

Any recombination of lot areas that results in a different side lot or real lot line shall change the area subject to the easements; provided, however, that no such recombination shall affect the rights of any person, firm, corporation or government entity resulting from the physical location of utility lines or facilities in any such easement area prior to the recombination, then the easement along this line shall become void.

Declarant reserves for a period of five years from the date hereof an easement to go on any lot whereon a sediment control basin is located for the purposes of maintaining, covering up, or removing such basin. Lots 1 and 82 shall be subject to a sign easement for maintenance of a subdivision entrance sign and plantings. Homeowners in the subdivision are to maintain the signs and plantings once they have been completed and turned over to homeowners by Declarant after last lot is sold.

ARTICLE XIV

APPEARANCE. Each owner shall maintain all buildings on his lot in a neat and pleasing manner; and shall keep the lot free and clear of all tall grass, unsightly undergrowth, dead trees and bushes, trash, rubbish, and clotheslines. No signs or billboards shall be erected or maintained on the premises other than temporary real estate

signs. The owner of each lot shall maintain a grassed lawn area on the shoulders and slopes adjacent to the paved streets in the subdivision; and shall maintain, and replant as needed, all grass, ornamental trees and shrubs which shall be placed on the cleared areas along the streets. In the event an owner does not properly maintain his building site as above provided then the Declarant or homeowners may have the required work done and the costs thus incurred shall be paid by the owner.

ARTICLE XV

ANTENNAS AND SATELLITE RECEIVING DEVICES. Unless otherwise approved by the Declarant or the Architectural Committee no satellite reception dish, or similar device for the reception of electromagnetic signals, having dimensions greater than twenty-four inches in height, width, and depth shall be located on any lot in the subdivision. Such devices having dimensions less than twenty-four inches shall be located so they cannot be seen from the street, and no closer to the street than the front of the dwelling. Any person desiring to install an exterior television antenna shall first obtain written approval of Declarant or Architectural Committee regarding size, shape, location, proportion and all other matters regarding the impact of the proposed antenna on the appearance of the house. The Declarant or Architectural Committee shall exercise its sole discretion in granting or withholding such approval. Nothing herein shall be construed to give any person the right to erect an antenna without the written approval of Declarant or Architectural Committee.

ARTICLE XVI

MAILBOXES. Each owner shall purchase a high quality, custom made, uniform mailbox with a newspaper compartment designated by the Declarant. No other type of mailbox may be used in the subdivision.

ARTICLE XVII

TERMS AND AMENDMENTS. These Covenants shall run with the land, and shall be binding upon all parties and persons claiming under them for a period of twenty-five years from the date hereof, after which they shall be extended automatically for successive ten-year periods unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change the covenants in full or in part.

These restrictions are subject to being altered, modified, or changed at any time by the Declarant so long as he shall own one or more lots in the subdivision; or when Declarant shall no longer own a lot, by the owners of sixty percent or more of the lots in the subdivision. Such changes shall be by writing signed by the Declarant, or, if by lot owners, by the necessary number of them, and duly recorded in the proper county registry. To the extent that anything in these covenants is inconsistent with the Declaration of Restrictive Covenants and the Settlement and Release Agreement recorded in Book 1104, Page 304, Franklin County Registry, then the Declaration of Restrictive Covenants and the Settlement and Release Agreement recorded in Book 1104, Page 304, Franklin County Registry shall control.

ARTICLE XVIII

ENFORCEMENT. Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate these

Covenants, to restrain the violation, to recover damages, or enjoin suit by specific performance. The Covenants are enforceable by any person or persons owning a lot in Fleming Forest Subdivision, at their own expense and said person or persons shall not be entitled to any compensation for services performed pursuant to these covenants. The failure of any person or persons to take action to enforce the violation of any of these covenants and restrictions shall not be construed as a waiver of any enforcement rights and shall not prevent the enforcement of such covenant or covenants in the future.

ARTICLE XIX

SEVERABILITY. These Covenants are to be governed by and construed in accordance with the laws of the State of North Carolina. Invalidation of any one of these covenants by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, MARK E. DOWDY and wife, TONI B. DOWDY and D. DENNIS CYRUS and wife, STARLETTE W. CYRUS have executed this instrument on the day and year first above written.

Mark E. Dowdy
MARK E. DOWDY

Toni B. Dowdy by Mark E. Dowdy P.O.A.
TONI B. DOWDY

D. Dennis Cyrus
D. DENNIS CYRUS

Starlette W. Cyrus by [Signature] P.O.A.
STARLETTE W. CYRUS

STATE OF NORTH CAROLINA

COUNTY OF WAKE

The undersigned, Notary Public of the County and State aforesaid, certify that MARK E. DOWDY and D. DENNIS CYRUS appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 8th day of Sept. ~~August~~ 1999.

My Commission Expires: 10-16-2003

Jackie B. Rogers
Notary Public



STATE OF NORTH CAROLINA, FRANKLIN COUNTY

The foregoing certificate(s) of Jackie B. Rogers, a
& annexed Notar(y) (ies) Public,
is/are certified to be correct.

This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Franklin County, N.C., in Book 1154, Page(s) 425-439

This 15th day of September, A.D., 19 99, at 10:45 o'clock A.M.
KAY S. HUNT, REGISTER OF DEEDS By: [Signature] Asst.
Kay S. Hunt Asst. Deputy Register of Deeds

NORTH CAROLINA

Franklin COUNTY

I, a Notary Public of the aforesaid County and State, do certify that DAVID DENNIS CYRUS, Attorney-In-Fact for STARLETTE W. CYRUS personally appeared before me this day and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of STARLETTE W. CYRUS and that his authority to execute and acknowledge said instrument is contained in that certain instrument duly executed, acknowledged and recorded in the office of the Register of Deeds for Franklin County, North Carolina in Book 1057, Page 140, and that this instrument was executed under and by virtue of the authority given by said instrument granting him Power of Attorney; that the said DAVID DENNIS CYRUS acknowledged the due execution of the foregoing instrument for the purposes therein expressed and in behalf of STARLETTE W. CYRUS.

Witness my hand and notarial seal, this the 8th day of September, 1999.

My Commission Expires: 6-16-2003

Jackie B. Rogers
NOTARY PUBLIC



NORTH CAROLINA

Franklin COUNTY

I, a Notary Public of the aforesaid County and State, do certify that MARK E. DOWDY personally appeared before me this day and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of TONI B. DOWDY and that his authority to execute and acknowledge said instrument is contained in that certain instrument duly executed, acknowledged and recorded in the office of the Register of Deeds for Franklin County, North Carolina in Book 1065, Page 511, and that this instrument was executed under and by virtue of the authority given by said instrument granting him Power of Attorney; that the said MARK E. DOWDY acknowledged the due execution of the foregoing instrument for the purposes therein expressed and in behalf of TONI B. DOWDY.

Witness my hand and notarial seal, this the 8th day of

September, 1999.

My Commission Expires: 6-16-2003

Jackie B. Rogers
NOTARY PUBLIC



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The original of this instrument together with the
three copies required, having been filed for
recording in the office of the Register of Deeds
for Franklin County, North Carolina, in Book 1065,
Page 511, and that this instrument was executed
under and by virtue of the authority given by
said instrument granting him Power of Attorney;
that the said MARK E. DOWDY acknowledged the
due execution of the foregoing instrument for the
purposes therein expressed and in behalf of
TONI B. DOWDY.

Notary Public
Jackie B. Rogers
Franklin County, N.C.
Commission Expires 6-16-2003