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Nash County North Carolina
Barbara W. Sasser Register of Deeds

BK **2166** PG **334-348**

NORTH CAROLINA

**DECLARATION OF PROTECTIVE
COVENANTS**

NASH COUNTY

THIS DECLARAITON OF PROTECTIVE COVENANTS of Red Oak Hills

Subdivision, Phase 1, Section 1, is made this 5th day of August, 2005, by **Langwell Development, LLC.**, a North Carolina Limited Liability Company (herein referred to as "Langwell Development");

WITNESSETH:

Langwell Development hereby declares that the properties described on map or plat entitled "**Final Plat-Phase 1, Red Oak Hills**", a plat of which is recorded in Plat Book 33, Page 87 & 88, Nash County Registry, are and shall be held, transferred, and sold subject to the protective covenants set out herein, which covenants or restrictions shall be in effect and shall run with the land for the period stated herein. No land other than that described in Plat Book 33, Page 87 & 88 shall be deemed to be subject to these protective covenants, except by written declaration to that effect as provided herein.

1. These protective covenants and restrictions are made (1) for the purpose of insuring the best use and most appropriate development and improvement of the property and each building site in the subdivision; (2) to protect the owners of the building sites against improper use of surrounding building sites as will depreciate

the value of each; (3) to preserve, so far as practicable, the natural beauty of said property; (4) to guard against the erection thereon of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; (5) to obtain harmonious color schemes; (6) to insure the highest and best development of said property; (7) to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on building sites; (8) to secure and maintain proper set backs from streets, and adequate free space between structures; and (9) in general, to provide adequately for a high type and quality of improvements in said property, and thereby to enhance the value of investments by purchasers of building sites therein.

2. Each lot shown on the above-described plat constitutes a residential building site or lot (hereinafter called "lot") and shall be used for residential purposes only. The lay of the lots as shown on the recorded plat shall be substantially adhered to. However, with the prior written approval of the Architectural Committee, hereinafter referred to, and the Red Oak Planning Board, the size and shape of any building site may be altered, provided that no building lot or group of building lots may be re-subdivided as to produce a greater number of building lots. More than one lot may be used as a building site provided the location of any structure permitted thereon is permitted by the Architectural Committee referred to hereinafter. Except as provided in this paragraph, no residential structure shall be erected, placed or permitted to be rebuilt on any building site, containing less than 2000 square feet of heated floor space. For the purpose of these restrictions, any

two story or three story dwelling shall have at least 1200 square feet of heated living space on the first floor. Houses with 1800 square feet of heated space and 200 square feet of unfinished space which can be later converted to heated space shall be permitted upon review and approval by the architectural committee. All houses shall include a two car garage or a rear facing carport.

3. No mobile homes or modular homes are permitted.
4. In view of the possibility of change in economic conditions and in order to facilitate the protection of property interest in the subdivision and to preserve the character and atmosphere of that subdivision, the Architectural Committee, reserves the right to modify and amend the provisions of these protective covenants relating to minimum square footage dwelling. Such modifications or amendments of these provisions hereto may be accomplished by recordation of an amendment stating such modifications or amendments in the deed conveying the lot or lots affected thereby; PROVIDED, however, that no such modifications or change may reduce or lower the original minimum requirements to less than 1600 square feet of heated floor space.

In recognition of the mutual benefit of the above provisions to the subdivision and to owners of lots therein, a purchaser of a lot or lots in the subdivision, his successors in interest and assigns, by accepting the conveyance of property located therein and subject to these protective covenants, evidences his consent and agreement to the above provisions concerning modifications and amendments

and to any such modification or amendment made pursuant to the above procedure.

5. No building structure, fence (no chain link fence in view of any street shall be permitted), mail box, outside building, newspaper box, screen planting or other improvements shall be erected, placed or altered on any building site until the building plans, specifications and plat plans showing the location of such improvements on the building site have been approved in writing as to conformity and harmony of external design and external materials with existing structures in the area and as to location with respect to topography and neighboring structures by the Architectural Committee composed of Duane R. Wells and Robert L. Langley, and Matthew R. Wells, any successors to the Architectural Committee are to be designated and appointed by Duane R. Wells and Robert L. Langley (or her heirs or assigns). In the event the Architectural Committee fails to approve or disapprove such design or location within thirty (30) days after said plans or specifications have been submitted to it, in any event, if no suit to enjoin the erection of such building or the making of such alteration has been commenced prior to the completion thereof, such approval will not be required, and this covenant will be deemed to have been fully complied with. Members of such Architectural Committee shall not be entitled to any compensation for services performed pursuant to this covenant.
6. All mailboxes in Red Oak Hills shall be of the same design said design to be approved by the Architectural Committee.

7. All houses must be built on a foundation which is built up at least 18 inches off of the ground.
8. All roofs must be shingled in architectural shingles. Any other material for roofs must be approved by the architectural committee.
9. No building shall be constructed so as to violate front, side and rear set back requirements of 75 foot front; 20 foot side; 30 foot rear as shown on the subdivision plat recorded in Book 33, Page 87 & 88, Nash County Registry, with the exception of Lots 1, 2, 3 & 4 which shall have a 50 foot front setback. For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of the building; provided, further, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. The word "eaves" for the purpose of this covenant shall be deemed to include, without limitations, open rear-facing carports. In the event that a dwelling is constructed nearer to the adjacent unit line than is permitted by this paragraph, but no nearer than five (5) feet to such line, such violation may be waived by the execution and recordation in the Nash County Registry of an instrument in writing executed by the Architectural Committee. Upon the execution and recordation of such waiver, said violation shall not thereafter be deemed to exist. In the event that a dwelling is constructed nearer to the front lot line or the side street line than is shown on said plat, such violation may be waived by the execution and recordation on the Nash County Registry of an instrument in writing executed by the Architectural Committee. Upon execution and recordation of such waiver, said violation shall

not thereafter be deemed to exist. In addition, the signatures of the owners of the adjacent building units shall be deemed sufficient to waive the violation.

10. No trade material or inventory shall be stored on the premises in such fashion as they would be visible from the portion of the road immediately abutting said lot.
11. No structure of temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently, other than as provided for herein.
12. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or a nuisance to a reasonable neighbor, or neighborhood.
13. After the construction on any dwelling located in subdivision is complete, no truck larger than 1 ton shall remain parked on the premises of any dwelling or on subdivision streets in front of any dwelling overnight.
14. No business, profession, trade, craft, barber or beauty shop, or industrial activity or money-making endeavor whatsoever shall be carried on or established upon any lot or any structure erected thereon.
15. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except that non-vicious and non-dangerous dogs, cats or other non-vicious and non-dangerous household pets may be kept provided that they are not kept, bred or maintained for any commercial purposes and provided that not more than two such animals in any combination are kept on any one lot. Vicious and Dangerous household pets shall include, without limitation, Pit Bulls and Rotwieliers.

16. Once construction of a dwelling or other improvement is started on any lot, the improvements must be substantially completed within twelve (12) months from commencement. All lots and areas under construction must be cleared of discarded materials and excess debris at least once a week. As a result of the urgency of compliance with this restriction, in the event this restriction is not complied with, the Homeowners Association may meet to remove any and all debris, junk materials, etc., and may assess lot owner the cost of said removal.
17. Once construction of a dwelling is complete said yard of dwelling shall be landscaped within 30 days of receiving the certificate of occupancy from Nash County. All initial landscaping shall be approved by the Architectural Committee.
18. All dwellings and permitted structures erected or placed on any lot shall be constructed of materials of good graded, quality and appearance, and all construction shall be performed in good workmanship manner and quality. No used structures shall be located or relocated or placed on any lot and no structures shall have an exterior constructed of concrete blocks, asbestos or asphalt siding. Any approved outbuilding shall be of the same material, quality, general appearance and workmanship as the dwelling on the lot.
19. No front-facing carports shall be permitted and all driveways shall be Asphalt or Concrete. Flared concrete tiles shall be required at the road.
20. All lots, whether occupied or unoccupied, shall be well-maintained, and no unattractive growth or accumulation or rubbish or debris shall be permitted.

21. No trash, ashes, garbage or other refuse except as normally results from residential occupancy, shall be dumped or stored or accumulated on any lot or other area in the subdivision.
22. Any dwelling or improvement on any lot which is destroyed in whole or in part by fire or other casualty must be rebuilt forthwith, or all debris removed and the lot restored to a sightly condition with reasonable promptness; provided, however, that in no event shall such debris remain on such lot longer than 60 days from the date of the fire or other casualty.
23. Until such time as a municipal or other governmental garbage collection is available, all owners of property subject to these restrictions shall be required to remove or cause to be removed all trash, refuse, debris and garbage from the lots in this subdivision no less than one time per week. Containers for the collection and removal of garbage, trash and other like household refuse shall be kept and maintained in a reasonable, sanitary, unoffensive and aesthetically pleasing manner and location.
24. No junked and/or wrecked dwelling, automobiles or other junked and/or wrecked motor vehicles, including junked and/or wrecked farm machines and implements shall be permitted on any lot at any time.
25. All fuel storage tanks shall be installed and used in accordance with all governmental rules and regulations. All fuel storage tanks, outdoor receptacles for ashes, trash, rubbish or garbage shall be screened or so placed and kept as not

to be visible to the occupant of other lots or the users of any street recreation area in said subdivision.

No fuel shall be located or stored on any lot shown on said recorded plat except such sum as is reasonably necessary for residential heating purposes and the operation of equipment normally used in other petroleum type fuel, and not more than 1000 gallons of LP gas located on any lot shown on said recorded plat. All LP gas tanks shall be buried.

26. No sign (excluding typical "For Sale" and building identification signs or similar signs not to exceed 2 feet by 3 feet, billboard or other advertising structure of any kind, except a sign erected by the Developer to identify the development and advertise for sale lots, may be erected or maintained upon any lot; provided, however, that construction identification signs not to exceed 2 feet by 3 feet showing the lot number and name of the builder may be exhibited upon the lot during the period of construction.
27. No window unit or "through-the-wall" heating and/or air conditioning unit shall be installed or maintained in any structure in such manner as to be unpleasing to the eye, or a detraction to the overall appearance of the structure and adjoining lots, or unsightly to a reasonable person.
28. No clothes lines shall be allowed on any lot.
29. The location, placement or replacement of all antenna for the reception of television, radios and other electronic signals, including towers, and such devices

commonly known as "dish" on any and all lots subject to these covenants shall be under control of the Architectural Committee.

No person, firm, corporation, partnership, or other legal entity shall put, place, establish, install or replace, re-establish, install or move any such antenna of such device known as or shaped like a "dish" without first having secured written authorization for said putting, placing, establishment, installation, replacement, re-installation or movement thereof from the Architectural Committee.

30. The developer reserves the right to subject the real property in this subdivision to a contract with Carolina Power & Light Company for the installation of street lighting, which requires a continuing monthly payment to Carolina Power & Light Company by each residential customer.
31. These covenants shall run with the land and be binding on all parties and persons claiming under them until August 5, 2030, on which date they shall automatically expire and be null and void, unless by a vote of two-thirds majority, the then owners of residential lots in the entire subdivision agree to extend said covenants in whole or in part.
32. Enforcement of these covenants shall be by proceedings at law or in equity by anyone owning property subject to these protective covenants against any person or persons violating or attempting to violate or to recover damages. In addition to all other amounts due on account of said violation or attempted violation, the Violating Party shall be liable to the parties enforcing the covenants for all

reasonable attorney's fees and court costs incurred by the party seeking to enforce the covenants.

33. The "Development Period shall be defined as follows: the period commencing on the date on which this Declaration is recorded in the Nash County Register of Deeds and terminating on the earlier to occur of (i) when Declarant no longer owns any of the Lots in the Subdivision; (ii) the date that Declarant relinquishes in writing Declarant's right to appoint Directors; or (iii) the occurrence of the date ten (10) years from the date of recording the Declaration, renewable for an additional ten (10) year period with the consent of a majority of Lot Owners other than the Declarant.
34. During the Development Period, the Langwell Development may amend this Declaration at any time. The Association (Langwell Development controlling the Association until the expiration of the Development Period) may amend this Declaration at any time, as long as consistent with the design, scheme and purposes of this Declaration, by the affirmative vote or written agreement of the Owners to whom not less than seventy-five percent (75%) of all of the votes in the Association are allocated. Any amendment must be recorded in the Nash County Register of Deeds. Following the end of the Development Period, no such agreement to amend, in whole or in part, shall be effective unless written notice of the proposed amendment is sent to every Member at least thirty (30) days in advance of any action taken, and no such amendment shall be effective with respect to any permanent easements or other permanent rights.

35. There is to be created a North Carolina non-profit corporation, known as Red Oak Hills Homeowners Association, which shall be responsible for the maintenance, management and control of the Common Areas and upon each Lot and Dwelling Unit as more specifically set forth in this Declaration. The Board of Directors, and such officers as they may be elected or appointed in accordance with the Articles or the Bylaws, shall conduct the affairs of the Association. The Board of Directors may also appoint committees and managers or other employees and agents who shall, subject to the general direction of the Board of Directors, be responsible for the day-to-day operation of the Association. By a majority vote of the Board of Directors, the Association may, from time to time adopt, amend and repeal Rules and Regulations with respect to all aspects of the Association's rights, activities and duties under this Declaration. The Rules and Regulations may, without limitation, govern use of the Subdivision, including prohibiting, restricting or imposing charges for the use of any portion of the Subdivision by Owners, Residents or others, interpret this Declaration or establish procedures for operation of the Association or the administration of this Declaration; provided, however, that the Rules and Regulations shall not be inconsistent with this Declaration, the Articles, Bylaws or the terms of the Roadway Declaration. A copy of the Rules and Regulations, as they may from time to time be adopted, amended or repealed, shall be maintained in the office of the Association and shall be available to each Owner upon request. Every Owner of a Lot shall be a Member of the Association. Such Owner and Member shall abide by the

Association's Rules and Regulations, shall pay the Assessments provided for in this Declaration, when due, and shall comply with decisions of the Association's governing body. Conveyance of fee simple title to a Lot automatically transfers membership in the Association without necessity of further documents. Membership shall be appurtenant to and may not be separated from ownership of any Lot that is subject to Assessment. The Association shall have two (2) classes of Membership:

Class A Members. Every person, group of persons, or entity which is a record Owner of a fee interest in any Lot upon which a Dwelling Unit has been erected within the Property, shall automatically be a Class A Member of the Association except the Declarant during the Development Period; provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a Member. A Class A Membership shall be appurtenant to and may not be separated from ownership of any Lot upon which a Dwelling Unit has been constructed that is subject to Assessment. Class A Members shall be entitled to one (1) vote for each Lot in which they hold the interest required for membership. In the event that more than one person, group of persons or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to such Lot portion shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.

Class B Members. The Class B Member during the Development Period shall be the Declarant. The Class B Membership shall cease and be converted to Class A membership upon the expiration of the Development Period. Each Member shall have one vote with respect to each Lot owned by such Member, but a Class A Member shall not be entitled to exercise any vote until the expiration of the Development Period.

The Association, at its expense, shall maintain, operate and keep in good repair, unless such obligations are assumed by any municipal or governmental agency having jurisdiction thereof, the Common Areas and all improvements located thereon for the common benefit of the Subdivision. This shall include, without

limitation, the maintenance, repair, replacement and painting of the following landscaping and improvements (to the extent that such improvements or landscaping are located upon or constitute Common Areas): (a) all private roadways, driveways, pavement, sidewalks, walkways, uncovered parking spaces and landscaped islands and/or medians in any streets or roadways; (b) all lawns, trees, grass and landscape areas, shrubs and fences, except as otherwise set forth hereinbelow; and (c) all conduits, ducts, utility pipes, plumbing, wiring and other facilities which are part of or located in, or for the furnishing of utility services to, the Common Areas and which are not for the exclusive use of a single Dwelling Unit. The Association shall also be responsible for all utility bills associated with any street lights or other common area lights in Red Oak Hills.

The Association shall make the determination as to when maintenance, repair, replacement and care shall be done, and its determination shall be binding.

Langwell shall have the right to oversee and implement the Association's maintenance obligations. The Association shall also perform the other duties prescribed by this instrument or the Association's Rules and Regulations.

36. *Invalidation of any one of these covenants by judgment or court order shall in no way affect any one of the other provisions, which shall remain in full force and effect.*

IN WITNESS WHEREOF the Grantor has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

BOOK 2166 PAGE 347

Langwell Development, LLC, a North Carolina limited liability company

By: *Duane R. Wells* (SEAL)
Duane R. Wells, Member/Manager

By: *Robert L. Langley* (SEAL)
Robert L. Langley, Member/Manager

State North Carolina

Nash County

I, Michael D. Gaynor, a Notary Public for said County and State, do hereby certify that Duane R. Wells, Member/Manager of Langwell Development, LLC personally appeared before me this 18th day of August, 2005 and acknowledged the due execution of the foregoing instrument on behalf of the Company

Michael D. Gaynor
Notary Public

My Commission Expires:
6-16-2008

MICHAEL D. GAYNOR
NOTARY PUBLIC
NASH COUNTY, N.C.

State North Carolina

Nash County

I, Michael D. Gaynor, a Notary Public for said County and State, do hereby certify that Robert L. Langley, Member/Manager of Langwell Development, LLC personally appeared before me this 18th day of August, 2005 and acknowledged the due execution of the foregoing instrument on behalf of the Company

Michael D. Gaynor
Notary Public

MICHAEL D. GAYNOR
NOTARY PUBLIC
NASH COUNTY, N.C.

6-16-2008
My Commission Expires

NORTH CAROLINA, NASH COUNTY

The foregoing certificate(s) of

Michael D. Gaynor

is (are) certified to be correct.

Barbara W. Sasser, Register of Deeds

Barbara W. Sasser

56.00
AOC