

BOOK 60 PAGE 246

DECLARATION OF RESTRICTIONS

THIS DECLARATION, Made this the 21st day of November, 1985, by Daniel B. Griffis, Jr., and wife, Susan R. Griffis of Pitt County, North Carolina, their heirs and assigns, herein referred to as "Declarants";

WHEREAS, Declarants are the owners of certain lots in Farmville Township, Pitt County, North Carolina, which are shown on the map entitled "Birchwood Estates" prepared by McDavid and Associates, dated August 8, 1985, and recorded in Map Book 33, at Page 10, of the Pitt County Registry, showing 10 lots numbered 1 through 10, hereinafter referred to as "the Property";

WHEREAS, Declarants are about to sell and convey certain of said lots to be used for residential purposes and to develop the entire property into an integrated community enjoying pleasant residential and vacation living conditions, but before selling and conveying the residential lots, Declarants, for the benefit and complement of all of the residential lots in the subdivision and in the light of their general plan or scheme of improvement, desire to subject them to and impose upon them mutual and beneficiary restrictions, covenants, conditions and charges, hereinafter collectively referred to as "Restrictions".

NOW, THEREFORE, Declarants hereby declare that all of said lots are held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and improved subject to the following Restrictions, all of which are declared and agreed to be in furtherance of the general plan for the subdivision, improvement and sale of said lots and are established and agreed upon for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. All of the Restrictions shall run with the land and

shall be binding on all parties having or acquiring any right, title or interest in and to the Property or any part or parts thereof subject to such Restrictions. Each lot owner shall have the right to enforce each Restriction, as herein provided.

(1) TERM: These Restrictions shall affect and run with the land and shall exist and be binding upon all parties and all persons claiming under them until January 1, 2006. By accepting a deed to residential property subject to these Restrictions, the residential owners agree that after January 1, 2006, these Restrictions shall be extended for successive period of ten (10) years each, unless an instrument signed by a majority of the then owners of the lots subject thereto has been recorded, agreeing to change the covenants in whole or in part, provided, however, that at any time after January 1, 1988, these Restrictions may be amended by the vote of the then record owners of two-thirds (2/3) of such residential lots to make variations in the Restrictions as to details to suit varying circumstances or changed conditions, but not to make changes that would annul any material part hereof.

(2) MUTUALITY OF BENEFIT AND OBLIGATION: The Restrictions and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot in the subdivision and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all of the other lots therein; to create reciprocal rights between the respective owners of all of said lots; to create a privity of contract and estate between the grantees of said lots, their heirs, successors and assigns, and shall, as to the owner of each such lot, his heirs, successors or assigns, operate as covenants running with the land for the benefit of each and all other lots in the subdivision and their respective owners.

(3) DECLARANTS' RIGHTS: Declarants shall have the authority to:

A. Cut weeds, remove rubbish, trash, debris or other undesirable matter in order to protect the safety,

BOOK 60 PAGE 248

health and appearance of adjoining property owners ten days after written notice to lot owner and charge the cost thereof to such lot owner.

B. Carry out any other right or duty of the Declarants as owners.

(4) LAND USE AND BUILDING TYPE: The only type of major structure which shall be constructed, altered, erected, placed or permitted to remain on any lot or portion of the above-described tract shall be one structure designed and used exclusively as a single-family dwelling and in addition, buildings which are incidental to and in keeping with the residential structure. A private garage may be constructed however, the opening shall not face the street. One owner may combine any number of contiguous parts, lots or portions of the tracts of land owned by the Declarants and place one dwelling on any such combination, provided the area of such combined lot shall be at least 35,000 square feet.

(5) BUILDING LINES: No residential structure or other building may be placed, erected or constructed, altered or permitted to remain nearer than fifteen (15) feet to any side line nor nearer than thirty (30) feet to the closest edge of the right-of-way of Birchwood Drive or (30) feet from any other roadway and twenty <sup>2' by</sup> ~~(20)~~ feet to rear lot lines.

(6) DWELLING SIZE: Any single-family residential structure erected or placed upon any part, lot or portion of this tract shall contain not less than an aggregate of 2000 square feet of heated area, and shall not be more than 3 stories in height.

(7) DWELLING QUALITY:

A. All dwelling, garages, and incidental outbuildings, erected upon any lot, part or portion of this tract described above shall be constructed of material of good grade, quality and appearance and all construction shall be performed in a good and workmanlike manner and must at least meet the then current minimum requirements of the Federal Housing Administration for dwellings in the area.

BOOK 60 PAGE 249

B. Any driveway connectors to be connected to any road shall be done in such manner as not to impede any flow of surface water or storm drainage.

C. No concrete blocks, either in buildings or walls, shall be used above finished ground elevations, unless such blocks are covered with brick veneer, stone, stucco or some similar suitable material approved by the Declarant.

D. No asbestos shingles or any type of asphaltic covering shall be used on exterior walls.

E. No dwelling or outbuilding shall be built on any lot until Declarants shall have given approval of the plans and specifications thereof, the purpose of this requirement being to ascertain that said building will be constructed in accordance with these covenants. Should Declarants not communicate a decision in respect to any plans and specifications submitted in writing to them for approval within thirty (30) days after such submission, Declarants' approval thereof shall be conclusively presumed, providing all other requirements herein are adhered to.

(8) FENCES: No fence may be erected, installed or situated on any part of the lots shown on the above referred to map, at any point from the front lot line, to a line parallel to said front line passing through the front line of the main structure of the dwelling set on said lot unless said fence is four (4'0") feet high or less on front and side yards and constructed of material similar to or the same as the main building structures. Any fence erected on any other portion of a lot shall be constructed of materials suitable for attractive residential enclosures and shall not exceed eight (8) feet in height. No wire fences shall be permitted with the sole exception of commercially manufactured chain link fencing.

(9) NUISANCES: No noxious or offensive trade or activity shall be carried on upon any part or portion of this tract nor shall anything be done thereon which may be or become a nuisance or annoyance. No commercial venture of any type or character shall be carried on upon any of said lots. No truck

BOOK 60 PAGE 250

or commercial vehicle in excess of a one-ton load capacity, or tractor shall be parked or permitted to remain on any lot except during construction, delivery or other temporary parking.

(10) SIZE OF LOTS: No part or portion of these tracts shall be held, sold, or conveyed as a lot, estate or tract which shall contain less than 35,000 square feet.

(11) TEMPORARY STRUCTURES: No structure of a temporary character, trailer, mobile home, basement, tent, shack, barn or other outbuilding shall be used on any lot, part or portion of these tracts at any time as a residence, either temporarily or permanently.

(12) LIVESTOCK, POULTRY AND OTHER ANIMALS: No wild animals, livestock or poultry of any kind shall be raised, bred or kept on any part or portion of this tract. This Restriction is not intended to prohibit the owners from maintaining dogs, cats and other household pets on this property, provided they are not kept, bred or maintained for any commercial purposes, however, pets shall not be allowed to become nuisances or vicious on the premises.

(13) GENERAL PROHIBITIONS AND REQUIREMENTS:

A. The following general prohibitions and requirements shall prevail as to the construction or activities conducted on any lot in the subdivision:

(1) All plumbing fixtures, dishwashers, toilets or sewage disposal systems shall be connected to the sewage system approved by the appropriate governmental authority and it shall be exclusively used.

(2) Once construction of improvements is started on any lot, the improvements must be substantially completed in accordance with plans and specifications, as approved, within twelve (12) months from commencement.

(3) All structures constructed or placed on any lot shall be built of substantially new materials and no used structures shall be relocated or placed on any such lot, unless first approved by Declarants in writing.

(4) No sign, billboard, or other advertising structure of any kind may be erected or maintained upon any lot except after applying to and receiving written permission from the Declarants except temporary "For Sale" or "For Rent" signs which shall not exceed a maximum of 30" x 30".

(5) No inoperative or junked motor vehicle will at any time be placed or allowed to be parked or abandoned on the premises. A motor vehicle unable to be cranked and self moved and remaining on the premises of any lot or street for a period of more than fifteen (15) days shall be considered to be in violation of these covenants, unless it is not visible from any street.

(6) Every fuel storage tank shall be buried below the surface of the ground or screened by fencing or shrubbery. Every outdoor receptacle for ashes, trash, rubbish or garbage shall be installed underground, screened or so placed and kept as to not be visible from any street except on pick up days.

(7) All lots being occupied, shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted.

(8) Any dwelling or outbuilding on any lot which may be destroyed in whole or in part by fire, windstorm or for any other cause or act of God, must be rebuilt 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 longer than six (6) months.

(9) No trash, ashes, garbage or other refuse shall be dumped or stored or accumulated on any lot in the subdivision.

(10) No Satellite Receiving Systems or equipment of a similar nature shall be installed permanently or temporarily on any part of the lots shown on the above referenced map at any point from the front lot line to a line parallel to the front lot line passing through the rear line of the main structure of the dwelling set on said lot.

BOOK 60 PAGE 252

B. The Declarants may allow reasonable variances and adjustments of these Restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purposes of the general development scheme 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 subdivision.

(14) EASEMENTS:

A. Declarants reserve for themselves, their heirs and assigns, for purposes incident to their development of the lots subject to these Restrictions the following easements and/or rights-of-way:

(1) Those specifically designated on the above referenced map for the purpose of installing, operating and maintaining utility lines and mains, storm and sanitary sewers, and sub-surface and surface water drainage ditches.

(2) They also reserve the right to trim, cut and remove any trees and brush and to locate guy wires and braces wherever necessary for the installation, operation and maintenance, together with the right to install, operate and maintain gas, water and sewer mains, sub-surface and surface water drainage ditches, and other services for the convenience of the property owners and appurtenances thereto. Declarants may charge to the owner of any lot the actual cost of their work in maintaining the appearance of the lot where notice has been given to such owner by Declarants at least thirty (30) days prior to the performance of such work at the owner's address as shown on the Declarants' records.

B. Declarants reserve for themselves, their heirs and assigns, an exclusive easement for the installation and maintenance of radio, telephone and television transmission cables within the rights-of-way and easement areas reserved and defined above.

C. On each lot, the rights-of way and easement areas reserved by the Declarants or dedicated to public utilities purposes shall be maintained continuously by the lot owner but no structures, plantings or other material shall be placed or permitted to remain, or other activities undertaken which may damage or interfere with the installation or maintenance of utilities. Improvements within such areas shall also be maintained by the respective lot owner except for those which a public authority or utility company is responsible.

D. An easement for light, air and view is expressly reserved for the benefit of all lot owners and no structure or vegetation shall be permitted which will obstruct or restrict the ability of any adjoining lot owners to construct, maintain and benefit from an energy efficient residential structure designed to maximize the use of the effects of air, light and view.

(15) REMEDIES:

A. The Declarants or any property owner or any party to whose benefit these Restrictions inure may proceed at law or in equity for injunction or damages, to prevent the occurrence, continuation or violation of any of the Restrictions and the Court, in any such action, may award the successful party reasonable expenses in prosecuting such action, including attorneys' fees.

B. The remedies hereby specified are cumulative, and this specification of them shall not be taken to preclude an aggrieved party's resort to any other remedy at law, in equity, or under any statute. No delay or failure on the part of the Declarants or any property owner or an aggrieved party to invoke an available remedy in respect of a violation of any of these Restrictions shall be held to be a waiver by that party of (or an estoppel of that party to assert) any right available to him upon the recurrence or continuation of any violation or the occurrence of a different violation.

BOOK 60 PAGE 254

(16) GRANTEE'S ACCEPTANCE:

A. The grantee of any lot subject to the coverage of this Declaration, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarants or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these Restrictions and the agreements herein contained, and also the jurisdiction, rights and powers of Declarants, and by such acceptance shall for himself, his heirs, personal representatives, successor and assigns, covenant, consent and agree to and with Declarants, and to and with the grantees and subsequent owners of each of the lots within the subdivision to keep, observe, comply with and perform said Restrictions and agreements.

B. Each such grantee whose lots are adjacent to available underground electrical service, if any, also agrees to complete the underground secondary electrical service to their respective residences.

(17) SEVERABILITY: Every one of the Restrictions is hereby declared to be independent of, and severable from, the rest of the Restrictions and of and from every combination of the Restrictions. Therefore, if any of the Restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, unenforceability or "running" quality of any other one of the Restrictions.

(18) CAPTIONS: The captions preceding the various paragraphs and subparagraphs of these Restrictions are for convenience of reference only, and none of them shall be used as an aid to the contraction of any provision of the Restrictions. Wherever or whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or to the neuter.

IN WITNESS WHEREOF, Declarants have hereunto set

their hands and affixed theirs seals, this the day and year first above written.

Daniel B. Griffis, Jr. (SEAL)  
Daniel B. Griffis, Jr.

Susan R. Griffis (SEAL)  
Susan R. Griffis

NORTH CAROLINA

Dee COUNTY

I, Joseph D. Corbett, a Notary Public, in and for said County and State, do hereby certify that Daniel B. Griffis, Jr. and wife, Susan R. Griffis, personally appeared before me this day and acknowledged the due execution of the foregoing Declarations of Restrictions.

Witness my hand and notarial seal, this the 21 day of November, 1985.

Joseph D. Corbett  
Notary Public  
My Commission Expires 12-25-89

NORTH CAROLINA

PITT COUNTY

The foregoing certificate of Joseph D. Corbett, a Notary Public in and for said County and State is certified to be correct.

This the 2 day of December 1985.

Elvira T. Allred  
Register of Deeds, Pitt Co.

FILED  
ELVIRA T. ALLRED  
REGISTER OF DEEDS  
PITT COUNTY, N.C.  
Elvira T. Allred  
DEC 2 11 33 AM '85



Doc ID: 00185560006 Type: CRP  
Recorded: 04/30/2007 at 03:19:46 PM  
Fee Amt: \$29.00 Page 1 of 6  
Pitt County, NC  
Judy J. Tart Register of Deeds  
BK 2308 PG 247-252

FILE: LEWIS & ASSOCIATES  
Prepared by: William H. Lewis, Jr.

STATE OF NORTH CAROLINA

COUNTY OF PITT

**AMENDMENT TO DECLARATION OF RESTRICTIONS  
BIRCHWOOD ESTATES**

THIS AMENDMENT, made this the 26<sup>th</sup> day of March, 2007, by James W. Harrell and wife, Shirley V. Harrell; Edward L. Greene and wife, Margaret P. Greene; Daniel B. Griffis, Jr. and wife, Susan R. Griffis; Ronald K. Parker and wife, Sandra P. Parker; Roland Dixon Sauls, Jr. and wife, Kathryn F. Sauls; Thomas Frank Styers and wife, Karyn C. Styers; Blanche R. Fritz and husband, Harvey W. Fritz, and R. Scott Lang and wife, Jo Ann S. Lang, all of Farmville, Pitt County, North Carolina, their heirs and assigns, herein referred to as "Declarants";

WHEREAS, Declarants are all of the owners of all the lots in Farmville Township, Pitt County, North Carolina, which are shown on the map entitled, "BIRCHWOOD ESTATES," prepared by McDavid Associates, dated August 8, 1985, and recorded in Map Book 33, at Page 10 of the Pitt County Registry, showing ten (10) lots numbered one (1) through ten (10), hereinafter referred to as "the Property". The metes and bounds description as shown on said map being incorporated herein by reference for a further and more accurate description.

WHEREAS, Declarants desire to amend those certain Restrictions dated November 21, 1985, and recorded December 2, 1985 in Book 60, at Page 246 of the Pitt County Registry as to how the restrictions affect lot number six (6) as follows:

- (1) Lot Number 6 may be subdivided into three (3) lots being Lot 6A, Lot 6B and Lot 6C, as shown on that certain map entitled, "Survey for Pitt & Greene, EMC," prepared by Grant & Associates, P.A., dated January 29, 2007, and duly recorded in Map Book 68, page 8 of the Pitt County Public Registry.
- (2) Lot 6B and 6C may be sold for the purpose of providing a roadway access to the Pitt and Greene Electric Membership Corporation Substation site located directly behind Lot 6.
- (3) The owner of Lot 6B and Lot 6C shall buffer Lot 6A on all sides, except for the street side. Planting materials shall fully screen the proposed roadways with a minimum height of six (6) feet and a maximum spacing of five (5) feet.

5

- (4) The owner of Lot 6B and Lot 6C shall buffer Lot 7 on the north side along Lot 6 adjoining the property line. Planting requirements shall be the same as in (3) above.
- (5) Drive entrances from Birchwood Drive shall be ten (10) foot wide concrete valley gutter and ten (10) feet wide by twenty (20) feet long concrete drive to a fifteen (15) foot side lockable gate. Each end of said gate shall have the same planting requirements as in (3) above.
- (6) Roadway construction shall not interfere with the drainage of Lot 6A.
- (7) Lot 6B and Lot 6C shall be used for roadway access only to the Pitt and Greene Electric Membership Corporation Substation site.
- (8) Lot 6B and Lot 6C shall be maintained year around and in the same manner as the adjacent properties.
- (9) Roadway construction shall not cause damage to adjacent properties, specifically, but not limited to, dust, mud or other debris.

WHEREAS, the Restrictions on the remaining lots as referenced shall remain in full force and effect.

IN WITNESS WHEREOF, Declarants have hereto set their hands and affixed their seals, this the day and year first above written.

*James W. Harrell* (SEAL)  
JAMES W. HARRELL

*Shirley W. Harrell* (SEAL)  
SHIRLEY W. HARRELL

*Edward L. Greene* (SEAL)  
EDWARD L. GREENE

*Margaret P. Greene* (SEAL)  
MARGARET P. GREENE

*Daniel B. Griffis, Jr.* (SEAL)  
DANIEL B. GRIFFIS, JR.

*Susan R. Griffis* (SEAL)  
SUSAN R. GRIFFIS

*Ronald K. Parker* (SEAL)  
RONALD K. PARKER

*Sandra P. Parker* (SEAL)  
SANDRA P. PARKER

*Roland Dixon Sauls, Jr.* (SEAL)  
ROLAND DIXON SAULS, JR.

*Kathryn F. Sauls* (SEAL)  
KATHRYN F. SAULS

*Thomas F. Styers* (SEAL)  
THOMAS FRANK STYERS

*Karyn C. Styers* (SEAL)  
KARYN C. STYERS

*Blanche R. Fritz* (SEAL)  
BLANCHE R. FRITZ

*For Blanche R. Fritz* (SEAL)  
For HARVEY W. FRITZ D/A

*R. Scott Lang*  
~~*J. Ann S. Lang*~~ (SEAL)  
 R. SCOTT LANG  
*J. Ann S. Lang* (SEAL)  
 JO ANN S. LANG

STATE OF NORTH CAROLINA  
 COUNTY OF PITT

I, Jane H. Little, a Notary Public, in and for said County and State,  
 hereby certify that James W. Harrell and wife, Shirley V. Harrell, personally appeared before me this day  
 and acknowledged the due execution of the foregoing instrument.



Witness my hand and notarial seal, this the 16<sup>th</sup> day of April, 2007.

Jane H. Little  
 NOTARY PUBLIC  
 My commission expires: March 12, 2010

STATE OF NORTH CAROLINA  
 COUNTY OF PITT

I, Jane H. Little, a Notary Public, in and for said County and State,  
 hereby certify that Edward L. Greene and wife, Margaret P. Greene, personally appeared before me this day  
 and acknowledged the due execution of the foregoing instrument.



Witness my hand and notarial seal, this the 16<sup>th</sup> day of April, 2007.

Jane H. Little  
 NOTARY PUBLIC  
 My commission expires: March 12, 2010

STATE OF NORTH CAROLINA  
 COUNTY OF PITT

I, Jane H. Little, a Notary Public, in and for said County and State,  
 hereby certify that Daniel B. Griffis, Jr. and wife, Susan R. Griffis, personally appeared before me this day  
 and acknowledged the due execution of the foregoing instrument.



Witness my hand and notarial seal, this the 16<sup>th</sup> day of April, 2007.

Jane H. Little  
 NOTARY PUBLIC  
 My commission expires: March 12, 2010

STATE OF NORTH CAROLINA

COUNTY OF PITT

I, Jane H. Little, a Notary Public, in and for said County and State, hereby certify that Ronald K. Parker and wife, Sandra P. Parker, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.



Witness my hand and notarial seal, this the 16<sup>th</sup> day of April, 2007.

Jane H. Little  
NOTARY PUBLIC  
My commission expires: March 12, 2010

STATE OF NORTH CAROLINA

COUNTY OF PITT

I, Jane H. Little, a Notary Public, in and for said County and State, hereby certify that Roland Dixon Sauls, Jr. and wife, Kathryn F. Sauls, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.



Witness my hand and notarial seal, this the 16<sup>th</sup> day of April, 2007.

Jane H. Little  
NOTARY PUBLIC  
My commission expires: March 12, 2010

STATE OF NORTH CAROLINA

COUNTY OF PITT

I, Jane H. Little, a Notary Public, in and for said County and State, hereby certify that Thomas Frank Styers and wife, Karyn C. Styers, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.



Witness my hand and notarial seal, this the 16<sup>th</sup> day of April, 2007.

Jane H. Little  
NOTARY PUBLIC  
My commission expires: March 12, 2010

STATE OF NORTH CAROLINA

COUNTY OF PITT

I, Jane H. Little, a Notary Public, in and for said County and State, hereby certify that Blanche R. Fritz, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.



Witness my hand and notarial seal, this the 16<sup>th</sup> day of April, 2007.

Jane H. Little  
NOTARY PUBLIC  
My commission expires: March 12, 2010

STATE OF NORTH CAROLINA  
COUNTY OF PITT

I, Jane H. Little, a Notary Public for said County and State, do hereby certify that Blanche R. Fritz, attorney-in-fact for Harvey W. Fritz, personally appeared before me this day, and being by me duly sworn, says that she executed the foregoing and annexed instrument for and in behalf of the said Harvey W. Fritz, and that her authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and duly recorded in the Office of the Register of Deeds in the County of Pitt, State of North Carolina, on the 25<sup>th</sup> day of January, 2006 in Book 2057 at Page 629, and that this instrument was executed under and by virtue of the authority given by said instrument granting her power of attorney.

I do further certify that the said Blanche R. Fritz, acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said Harvey W. Fritz.

Witness my hand and notarial seal, this the 16<sup>th</sup> day of April, 2007.



Jane H. Little  
NOTARY PUBLIC  
My commission expires: March 12, 2010

STATE OF NORTH CAROLINA  
COUNTY OF PITT

I, Jane H. Little, a Notary Public, in and for said County and State, hereby certify that Jo Ann S. Lang, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the 16<sup>th</sup> day of April, 2007.



Jane H. Little  
NOTARY PUBLIC  
My commission expires: March 12, 2010

STATE OF NORTH CAROLINA

COUNTY OF PITT

I, Karen R. Clark, a Notary Public, in and for said County and State, hereby certify that R. Scott Lang, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the 18<sup>th</sup> day of April, 2007.

(Seal)



Karen R. Clark  
NOTARY PUBLIC

My commission expires: 08-20-2011

BIRCHWOOD.AMD