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INSTRUMENT # 2014005421
STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

FOR REGISTRATION REGISTER OF DEEDS
Jennifer Leggett Whitehurst
Beaufort County, NC
December 05, 2014 09:29:45 AM
Book 1859 Page 959-967
FEE: \$26.00
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PROTECTIVE COVENANTS-CROSSWINDS WEST SUBDIVISION

THIS DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS, amends and replaces in total the previous declaration of protective covenants, restrictions, and easements, titled: "PROTECTIVE COVENANTS-CROSSWINDS SUBDIVISION, dated October 26, 2001, and recorded in Book 1223 pages 940-952, Instrument # 2001007519.

Crosswinds West Home Owner's Association, Inc, a North Carolina non-profit corporation ("Declarant"), hereby declares and sets forth as of this the 05 day of DECEMBER, 2014, that its members are the sole owners of all land shown upon the plats made by Weyerhaeuser Real Estate Development Company recorded in Plat Cabinet F, Slides 87-3 to 87-8 "Crosswinds West", Beaufort County Registry, and all property shown there on is hereinafter referred to as the "Subdivision". Each numbered lot shown on the Plat is referred to herein as a "Lot".

RECITALS:

In order to maintain the private roads providing access to the Subdivision and each Lot therein, a North Carolina non-profit corporation named Crosswinds West Homeowners Association, Inc. ("Association") was established. The Association shall, as more fully set out hereinafter, maintain the private roads, approve desired improvements on the Lots, and otherwise protect the value of the Subdivision by enforcing and administering these Protective Covenants.

THEREFORE, for its benefit and with the intent of preserving the value of each Lot, to restrict the utilization of and improvements constructed on each Lot and to otherwise enhance the beauty and value of the Subdivision, Declarant hereby subjects the property described hereinafter to the terms and provisions of these Protective Covenants for the use and benefit of all present and future owners of Lots within the Subdivision.

1. **DESCRIPTION.** This Declaration shall run with the land and shall bind and ensure to the benefit of the owner of each Lot described herein. The property made subject to these Protective Covenants is all of that property described as Lots 1 through 14, as shown on the Plat.
2. **SINGLE FAMILY UTILIZATION.** All Lots shall be used only for single family residential purposes. No home or other structure constructed within the Subdivision shall be used for commercial purposes.
3. **BUILDING AND SITE RESTRICTIONS.** The Architectural Control Committee (ACC) of the Association must give prior approval for the removal of any

living, undamaged tree of a size of four inches in diameter or greater from any Lot or the construction of any improvement or structure on any Lot in accordance with the procedures described in paragraph 4 of these Protective Covenants. In addition, the following restrictions shall apply:

a. No detached garage, storage shed or carport shall be permitted unless architecturally compatible with the primary dwelling structure on the Lot. Such structures cannot be built on the Lot until the residential structure on the Lot is completed or near completion.

b. No more than one single family house or dwelling shall be allowed per Lot.

c. All living units must be constructed in accordance with standards for single family homes included in the North Carolina Uniform Residential Building Code, notwithstanding whether or not such homes are constructed in whole or in part on site. No homes may be moved on to any Lot if such home has previously been occupied and used as a residential living unit elsewhere. No mobile home (home built in accordance with Manufactured Home Standards imposed by the Federal Construction and Safety Standards Act) or other structure designated for transportation on attached axles and wheels shall be located on any Lot.

d. The minimum square footage of heated, enclosed living space for each approved residential structure shall be 1,400 square feet; a minimum of 1,000 square feet of such space must be located in the first living floor of the residential structure. Carports, garages, attics, porches, patios and decks shall not be considered heated, enclosed living space.

e. With the exception of removing brush, living trees four inches or less in diameter, or dead/hazardous trees of any size, the ACC must approve the clearing of a Lot's building site, septic tank/drain field area, and/or road access. Once these areas are cleared, the owner must control any vegetation regrowth either by chemical application or by cutting at least once per year.

f. No "for rent" or similar sign shall be allowed on any Lot, or shall be placed so as to be visible from any public or private street.

g. No "For Sale" sign shall be allowed, unless said sign is of a size no greater than four square feet in size, and the number of such signs shall be limited to one sign per adjoining road front, and one sign near the intersection of Satterthwaite Lane and Wilkins Road.

h. Except as set out in this paragraph, there are no absolute building set back requirements other than those imposed by a local government or those shown on the recorded plat of the Subdivision. However, no structure shall be allowed within fifty feet of Pitch Kettle Court, fifteen feet of any side lot line or seventy five feet of any waterway unless the ACC determines that a variance from these suggested setbacks will impose no hardship on any owner of any other Lot; and further finds that the particular features of the

Lot upon which the structure is sought to be constructed is best used by allowing construction at variance with the suggested setbacks contained herein. Any construction within the North Carolina State established building buffer zone adjacent to Satterthwaite Creek shall require not only permission of the ACC, but permission of the State of North Carolina. Notwithstanding any suggested setback, the ACC shall have complete authority to determine the appropriate building site on each and every Lot. Accordingly, there is no presumption that such approved building location shall be allowed within fifteen feet of any side lot line, within fifty feet of any street right of way or within seventy five feet of any waterway. There shall further be maintained an absolute setback of 100 feet adjacent to the right-of-way of Satterthwaite Lane, which setback shall be maintained as a vegetative buffer.

i. Bulkheads, piers and the utilization of other riparian rights by construction of improvements or structures shall only be allowed after approval by the ACC and all applicable governmental agencies, and no such structure shall be allowed unless such structures are compatible with similar or proposed approved improvements on other Lots and after a finding that the construction of such structures will not unduly interfere with the riparian rights or reasonable property expectations of the owners of other Lots within the Subdivision. The type of construction used for bulkheads may be controlled by the ACC based upon appearance, function, and environmental engineering criteria.

j. It is expressly understood that the purchaser of a Lot fronting on the water can have only one pier located on the Lot (extending into Satterthwaite Creek from the Lot) and this pier can have no more than four boat slips. The boat slips shall be for the sole use of Lot owners and their guests.

k. The heights of structures shall be subject to approval of the ACC in accordance with the standards set out in paragraph 5 hereunder.

l. Fences are subject to the complete jurisdiction of the ACC as to location, style, materials, and height. As used herein, fences shall include walls, barricades, shrubbery, or other impediments to reasonable mobility and visibility. Absent an extraordinary showing of need by the owner of a Lot, no fence shall be allowed any closer to any water line than the nearest residential structure. The ACC shall only approve the construction of a fence upon a determination that the fence is aesthetically pleasing, does not detract from the reasonable value of any Lot and does not unreasonably impede the view of any water course or other attractive feature from any other Lot. Chain link fencing is not permitted except for small enclosures built for animals.

m. No satellite receiving dish, radio antenna, or other similar device shall be located on any Lot except in a location approved by the ACC. The ACC shall approve the location of such device only upon making an affirmative finding that the location of the device on the Lot is in the area of minimum visibility from any surrounding Lot or from any street, and upon a further finding that the proposed location will not significantly detract from the aesthetic values of the Subdivision.

n. No activity, whether active or passive, that is reasonably considered a nuisance by the Association shall be allowed on any Lot. This prohibition includes any activities within any structure, on any Lot or on any street or common area. The Association is specifically authorized by paragraph 16 of these Protective Covenants to adopt rules regarding conduct and use of any Lot; however, the Association may find any conduct or use of a Lot to be a nuisance notwithstanding the fact that such conduct is not specifically prohibited by these Protective Covenants or by an adopted rule. If any conduct is deemed by the Association to be a nuisance, and to the extent that such conduct is not specifically prohibited by the provisions of these Protective Covenants or by an adopted rule, the Association shall give written notice to the offending owner specifying the nature of the nuisance, requesting that such nuisance be terminated. If such nuisance is not terminated within a reasonable time thereafter, the Association may use those remedies provided by law.

o. The owner of a Lot may place a recreational vehicle on the Lot under the following conditions:

i. For a period up to two weeks at any one time, but no more than a total of twenty eight days during the calendar year. After each period of the recreational vehicle being placed on the Lot, the recreational vehicle must be removed from the Lot for a period of at least one week before it can again be placed on the Lot.

ii. No barns or storage buildings may be placed on the Lot that is being used by a recreational vehicle.

p. Above ground pools will be screened by fencing and/or landscaping so as not to be visible from the street or adjacent lots and shall be aesthetically pleasing as determined by the Architectural Control Committee.

q. No lot or common area of the Association shall be used or maintained as a dumping ground for rubbish. All trash, garbage, or other waste shall be kept in sanitary containers.

4. **ARCHITECTURAL CONTROL COMMITTEE (ACC)**. The ACC shall be composed of three members who shall be appointed by the Board of Directors (BoD) of the Association. If a sufficient number of volunteers are not available the BoD will augment the ACC or assume ACC responsibilities. At least thirty days prior to the commencement of any major landscaping or construction of a permanent vertical structure or any structural change to a permanent vertical structure, the Lot owner (or his duly appointed agent) shall submit an application to the chairman of the ACC for any Lot clearing, terrain alteration that could affect drainage, building, garage, accessory building, outbuilding, fence (man-made or vegetation), or any addition to the same, or any other vertical structure, pole, antenna, transmitter, satellite dish, mast or tower, to be erected containing the plans and specifications for the same (two copies unless submitted electronically) and a plat showing placement of the building or structure upon the lot (two copies unless submitted electronically). The Lot owner will also provide the ACC with vertical structure elevations, a statement of exterior building materials, proposed exterior colors, and a timeline that shows when construction is estimated

to begin and end, and any other pertinent information that allows the ACC to appropriately and accurately evaluate what is proposed for construction on the Lot.

a. Within thirty days after receipt of all required information, the ACC shall submit in writing to the owner of the Lot requesting approval whether or not the requested improvements are approved. If no response is given by the ACC within thirty days, the submitted plan shall be deemed approved. The response of the Association may be an approval, a denial, an approval with conditions, or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate, and the thirty day time for response shall only commence upon receipt of the requested additional information. If approval with conditions is granted, and construction then begins, the construction shall be deemed approved by the owner of the Lot with the conditions imposed. One set of plans, denoted as approved (or approved with specified conditions) shall be retained by the ACC and the other shall be returned to the applicant.

b. The Committee shall approve the plans as submitted, if all required information is submitted, and the following affirmative findings are made by the ACC:

- i. that the improvements sought to be constructed will not have negative economic impact on any other Lot within the Subdivision;
- ii. that all required specific building standards and other conditions contained within these Protective Covenants and other applicable legal documents have been complied with;
- iii. that the improvements are architecturally compatible with proposed or constructed improvements on other Lots within the Subdivision; and
- iv. that the natural features of the Lot have been retained to the maximum extent feasible.

c. The ACC shall be obligated to specify the particular grounds upon which denial of any application is founded. Any owner of any Lot disagreeing with the finding of the ACC may appeal the decision to the BoD of the Association by giving written notice of appeal to the President of the Association within fifteen days following the receipt of a notice of denial. The BoD shall then review the plans, giving a representative of the ACC the opportunity to present to the BoD specific reasons why the plans were not approved, in the presence of the owner of the Lot or his agent. The owner of the Lot or his agent may present information challenging the findings of the ACC. The decision of the ACC shall only be overridden by a unanimous vote of the BoD. All notices required to be given herein shall be given in writing, hand delivered, or by first-class mail to the Lot owner's address of record with the association.

5. **ASSOCIATION.** The owner or owners of every Lot shall be voting members of the Association. However, only one vote shall be allowed per Lot. If there is more than one

owner of any Lot, said owners shall determine among themselves, and designate, one voting member, to cast the vote allocated to that Lot. If the owners cannot agree among themselves, the BoD of the Association shall determine and designate a voting member from among the owners of the Lot. The Association shall be governed by a BoD, selected in accordance with the By-Laws of the Association, and the Association shall operate and do business in accordance with the terms and provisions of its By-Laws.

a. The Association shall have the responsibility of maintaining Satterthwaite Lane from Wilkins Road through the point of terminus in the southern boundary of Pitch Kettle Court, and also shall have the responsibility of maintaining Pitch Kettle Court. This obligation shall include the responsibility of maintaining a sightly appearance along Pitch Kettle Court and Satterthwaite Lane, and their rights of way and utility easements.

b. The Association shall further have the obligation to provide for itself and for the benefit of the owner of each Lot all necessary professional services to promote the proper maintenance of all common areas and to provide the smooth, proper and legal administration of the Association. These services may include the services of an engineer, lawyer, accountant, or other professional. The Association is specifically authorized to provide such other incidental services for the benefit of the Subdivision and in the management of the Association as deemed reasonably necessary by the BoD. These purposes may include the stabilization or improvement of any shoreline. The Association shall also have an affirmative obligation to maintain Satterthwaite Lane and Pitch Kettle Court and other common elements in good condition, utilizing its funds to do so, notwithstanding the use or lack of use of such facilities by any or all Lot owners.

c. The BoD may maintain a capital reserve fund if deemed necessary by the Association, but shall be under no obligation so to do if, in the reasonable opinion of the BoD, annual maintenance of roads or other common areas is sufficient to make unlikely significant and unexpected expenditures within a five year period from the due date of the current regular assessment.

d. In order to fund its obligations, the owner of every Lot is obligated and bound, whether or not expressly stated in any instrument of conveyance, to pay to the Association the following:

- i. Annual or regular dues or assessments; and
- ii. special assessments.

e. Annual assessments are due on the 1st of March of each year, special assessments due dates are established by the approving resolution.

f. Liens shall be perfected in the manner of a mechanics' or material man's lien under North Carolina General Statutes. Any liens for unpaid common assessments may be enforced in the manner of a deed of trust with power of sale, as allowed by North Carolina

General Statutes, through a foreclosure proceeding. This instrument shall be deemed to give to the President of the Association, or his designated agent, said power of sale.

g. Annual assessments shall be in an amount determined by the BoD.

h. A special assessment may be levied from time to time by vote of a minimum of seventy percent of the total votes cast in any regular or special meeting of the owners of Lots, called in accordance with the By-Laws. A special assessment may be made for any purpose for which expenditures are allowed in accordance with this Declaration. The resolution approving a special assessment shall specify the date payable.

i. Notwithstanding any provision of these Protective Covenants, the BoD shall have authority to levy any special assessment if, in the sole discretion of Directors, the assessment is reasonably required to protect properties impacted in case of any emergency, such as a storm. In such event, the Directors shall give written notice to the owners of Lots so affected, as promptly as possible after the determination of the need and amount of said assessment and, notwithstanding any other provision herein, such assessment may be levied only against owners protected by the funds generated from such assessment. The action of adopting such a limited special assessment shall be binding as if ratified by the requisite vote of the owners of Lots.

j. The fiscal year of the Association shall be the calendar year.

6. **ENFORCEMENT.** These Protective Covenants, including any amendment hereto, may be enforced by any individual Lot owner or by the Association, upon approval of its BoD. Appropriate remedies shall include, but are not limited to, specific performance. In any action to enforce these Protective Covenants, including any action to collect assessments, either regular or special, or to foreclose upon any real property for payment of such assessment, all costs associated with said collection, including court costs and reasonable attorney fees, shall be collected as an additional assessment. In addition, interest at the highest rate allowed by the laws of the State of North Carolina shall be collected from the due date of any assessment, until the assessment is paid in full.

7. **SETBACKS.** All setback and building restriction areas, and allowable building areas, as shown on any recorded subdivision plat of any portion of the Subdivision, shall be incorporated herein by reference.

8. **AMENDMENTS.** These Protective Covenants may be amended at any time upon affirmative vote of the owners of eighty percent or more of the Lots subjected to the terms, provisions and conditions of these Protective Covenants.

9. **BINDING EFFECT.** All covenants, restrictions, reservations, easements, and privileges contained herein shall run with the land and the grantee, by accepting any deed to any portion of such land described herein, except the same subject to these Protective Covenants and its terms and conditions, and agrees for himself, his heirs, successors and assigns, to be

fully bound by each and all of the terms and conditions contained herein, jointly, separately, and severally.

10. **RESERVATIONS OF RIGHTS.** Any utility easements reserved as shown on any recorded plat of any portion of the Subdivision (and all roadways shall be deemed for this purpose a utility easement) shall be available for utilization by utility companies, authorized by the Association or by the owner of any Lot within the Subdivision, upon approval of the Association, for purposes of providing utility services and/or necessary drainage.

11. **UTILITY SUPPLY LINES.** All utility supply lines located within the Subdivision will be underground. Service from the underground supply line to the living unit on each Lot must also be underground.

12. **RE-SUBDIVISION.** Lots 2 through 13 will not be further subdivided. Lots 1 and 14 may be subdivided once in accordance with the Beaufort County Subdivision Regulations and provided that no subdivided lot is smaller than two acres. Any recombined Lots shall be considered a single Lot for the purpose of Association membership.

13. **UTILITY EASEMENTS.** There is hereby reserved for the benefit of the Association and the owner of each Lot within the Subdivision a utility and drainage easement running parallel to any road shown on any plat of any portion of the Subdivision, and having a width of ten feet on either side of said road, and there is further reserved an easement parallel to each side and rear Lot line having a width of five feet.

14. **MINOR AMENDMENT.** The Association shall be allowed to amend these Protective Covenants, notwithstanding any other provision contained herein, and without joinder of any other party, for the purpose of correcting any discovered and apparent error contained herein, clarifying any ambiguity contained herein, or adding or deleting any incidental provisions deemed in the sole interest of the Association to be in the best interests of the Subdivision, and the Owners therein, and not in conflict with any provision contained herein. This right may be exercised, and shall be effective, only upon the recordation of a "Corrected Declaration" in the Office of the Register of Deeds of Beaufort County, which Corrected Declaration shall specifically reference this document, and any provision hereof impacted.

15. **RULES.** The Board of Directors may from time to time, upon affirmative vote of eighty percent or more of the Lot owners, establish rules for the use of any property within the Subdivision in order to protect the value of Lots, the aesthetic qualities of the Subdivision and the tranquility of the owners of Lots. Said rules may include, but are not limited to, reasonable restrictions on pets, rental use of homes, and parking of vehicles (cars, trailers, boats, campers) on Lots and streets. All such rules shall be effective after written notice of adoption is mailed to the record owners of all Lots. All such rules shall be enforceable as those set out within these Protective Covenants.

16. **PRIVATE ROAD MAINTENANCE.** All portions of Satterthwaite Lane and Pitch Kettle Court rights-of-way shall be maintained in a sightly condition, and any

improvements, such as drainage facilities, culverts, or lights located thereon shall be maintained in good condition and at the expense of the Association, with assessments relating theretobe allocated equally among Lots.

17. **MISCELLANEOUS PROVISIONS.** Notwithstanding any other provision contained herein, the following miscellaneous provisions shall apply:

a. Upon affirmative vote by the owners of 75% of the Lots within the Subdivision, and upon concurrence of a majority of the Board of Directors of the Association, the Association may merge with any other non-profit corporation, the purpose of which is similar to that of the Association.

b. No more than 25% of the surface area of any Lot shall be covered by impervious surfaces, as the same are defined by the Storm water Regulations adopted by the North Carolina Department of Environment Health and Natural Resources.

c. Any Lot owner may apply to the BoD for a variance to any restriction within these covenants; however approval of any variance does not constitute blanket approval for other Lot owners nor is it implied that the BoD will approve any requested variance.

d. Timber Harvest. All timber may be harvested in Lots 1 and 14 provided a 100-foot buffer is maintained from the Satterthwaite Lane and Pitch Kettle Court 50-foot right-of-ways. The timber may be harvested along the east (right-hand side) and west (left-hand side) of Satterthwaite Lane provided the 100-foot buffer is maintained. This buffer is permanent.

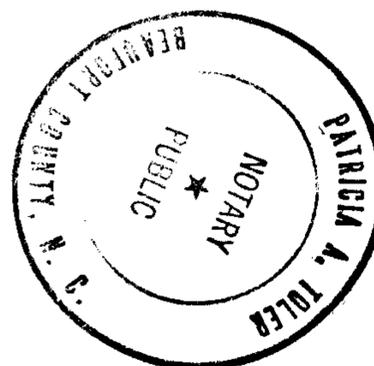
Crosswinds West HOA, Inc

By: *Wally Trivitt*
President

Sworn to and subscribed before me
this 05 day of December, 2014.

Patricia A. Toler
NOTARY PUBLIC

My Commission expires: 11-22-2016



Label: Patricia Walter gm