

14
200

BK: RB 6044

PG: 712-726

RECORDED:
03-17-2017

12:18:01 PM
BY: ANDREA CRESWELL
ASSISTANT



2017008206

NEW HANOVER COUNTY, NC
TAMMYTHEUSCH BEASLEY
REGISTER OF DEEDS

NC FEE \$2600

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

ROUND TREE RIDGE

This Declaration is made this the 17th day of April, 2017 by Round Tree Ridge LLC, a North Carolina limited liability company (hereinafter referred to as the "Declarant"), and any and all persons, firms, or corporations hereinafter acquiring any of the within described property and any of the property hereinafter made subject to these Restrictive Covenants of Round Tree Ridge (hereinafter referred to as "Restrictions").

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in New Hanover County, North Carolina known as Round Tree Ridge; and

WHEREAS, Round Tree Ridge is more particularly described by General Warranty Deed in Deed Book 5990 at Page 550 of the New Hanover County Registry and by map(s) thereof entitled "Round Tree Ridge" and duly recorded in Map Book b2, Page 3tO of the New Hanover County Registry, to which reference is hereby made for a more complete description; and

WHEREAS, said Round Tree Ridge lots are so situated as to comprise a neighborhood unit, and planned community, and it is the intent and purpose of the Declarant to convey the aforesaid lots to persons who will erect thereon residences to be used for family purposes, subject to the provisions hereinafter set forth; and

Return to: Tom Smith, Jr.

WHEREAS, Declarant has agreed to establish a general plan of development as herein set out to restrict the use and occupancy of the property made subject to these Restrictions for the benefit and protection of the property and for the mutual protection, welfare and benefit of the present and the future owners thereof; and

WHEREAS, Declarant has filed and recorded separately with the Register of Deeds for New Hanover County a Subdivision Street Disclosure Statement, which is incorporated herein by reference as if fully set forth; and

WHEREAS, Declarant desires to provide for the preservation of the value of Round Tree Ridge made subject to these Restrictions and for the construction, maintenance and preservation of the Common Property.

NOW, THEREFORE, in accordance with the recitals which by this reference are made a substantive part hereof, Declarant declares that all of the property described herein on above said recorded plat (and all future plats(s) that may be made a part hereof in the manner set forth below) is made subject to these Restrictions and shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of Round Tree Ridge as it now exists and may hereafter be expanded, and that such easements, restrictions, covenants and conditions shall burden and be appurtenant to and run with said property and be binding on all parties now or hereafter owning said real property and their respective heirs, successors and assigns, having any right, title or interest in the properties now or hereafter subjected to these Restrictions, and shall inure to the benefit of each owner thereof and their respective heirs, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Round Tree Ridge Homeowners' Association, Inc., a North Carolina nonprofit corporation.

Section 2. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all property including improvements thereto owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot shall be the

storm water retention ponds and surrounding open area designated as "common area", if any, on the plat of Round Tree Ridge together with the, mailbox area, the "wetlands" and the private streets as shown on the recorded plat .

Section 5. "Lot" shall mean and refer to any plat of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Round Tree Ridge, LLC, and its successors and assigns.

ARTICLE I

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights of an Owner for any period during which any assessment against his Lot remains unpaid. Said suspension may be continued without further hearing until the violation or delinquency is cured.

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two thirds (2/3) of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and Stevens Building Company, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B members shall be the Declarant and Stevens Building Company and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership, and the period of Declarant Control will cease, on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership;
- (b) on December 31, 2028; or
- (c) Or such time as the Declarant elects to assign its Declarant rights to the Association, in its sole discretion.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to maintain, repair and improve the private street and road system; the private storm water pond and storm water ditches and storm water retention facility within the planned community; the wetlands within the planned community; and the Common Area.

Section 3. Special Assessments for Capital Improvements. In addition to the assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that such assessment shall have the assent of two thirds (2/3) of the vote of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 4. Notice and Quorum of Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Rate of Assessment. The Association may differentiate in the amount of Assessments charged when a reasonable basis for distinction exists, including but not limited to as between vacant Lots of record and Lots of record with completed dwellings for which certificates of occupancy have been issued by the appropriate governmental authority, or when any other substantial difference as a ground of distinction exists between Lots. However, Assessments must be fixed at a uniform rate for all Lots similarly situated.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to each Lot upon the date of acceptance by an Owner of a deed from Declarant. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 7. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 18% per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 8. Subordination of Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessment as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. Developer's Rights. All duties and responsibilities conferred upon the Architectural Review Committee by this Declaration or the Bylaws of the Association shall be exercised and performed by the Declarant or its Designee, so long as Declarant shall own any lot in the Properties or any additions annexed thereto by Supplemental Declaration or Amendment to this Declaration.

Section 2. Building and Site Improvements.

(a) No dwelling, fence, wall or other structure shall be commenced, erected, or maintained upon any Lot in the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, or its designee, or, after the sale of all lots by Declarant, by the Board of Directors of the Association, or by an Architectural Review Committee composed of three (3) or more representatives appointed by the Board. In the event the Declarant, or its designee, or, if applicable, the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specification have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Refusal of approval of any such plans, location or specification may be based upon any ground, including purely aesthetic and environmental considerations that in the sole and uncontrolled discretion of the Declarant or Architectural Review Committee shall seem sufficient. One copy of all plans and related data shall be furnished to the Declarant or Architectural Review Committee, as the case may be, for its record. Neither the Declarant nor the Architectural Review Committee shall be responsible for any structural or other defects in plans or specifications submitted to it or any structure erected according to such plans and specifications.

(b) No concrete block, concrete brick, asbestos siding, aluminum siding, cinder block nor tar paper composition shall be used for the exterior of any residence constructed on any building lot herein conveyed, it being intended that only conventional brick, clay brick, vinyl or exterior composition sidings for exteriors be constructed on the lots subject to these covenants.

Section 3. Approval of Plans.

(a) No house plans will be approved unless the proposed house shall have a minimum of 1200 square feet of enclosed dwelling area for one story homes and 1800 square feet of enclosed dwelling area for two story homes. No home shall exceed a maximum square feet of 3500 for a one story home and 4000 square feet for a two story home. The term "enclosed dwelling area" as used in the minimum requirements shall be the total enclosed area within a dwelling, provided, however, that such term does not include garages, terraces, decks, open porches, and like areas; provided, further, that shed type porches, even though attached to the house are specifically excluded from the definition of the aforesaid term "enclosed dwelling area".

(b) Since the establishment of inflexible building setback lines for location of houses on lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related consideration, specific setback lines are established by New Hanover County Zoning. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any lot shall be controlled by and must be approved absolutely by the Declarant or the Architectural Review Committee, as the case may be. Provided, however, that no dwelling shall be constructed closer than five (5) feet to an adjoining property line.

(c) The exterior and landscaping of all houses and other structures must be complete within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the Owner of builder, due to strikes, fires, national emergency or natural calamities.

(d) No structure shall be erected, altered, placed, or permitted to remain on any lot, except one single family dwelling not to exceed two stories in height, exclusive of any structural pilings unless the Declarant or the Architectural Review Committee, as the case may be, approves in writing a structure of more than two stories, and one or more small accessory buildings (which may include a detached private garage, servants quarters, or guest facilities) provided the use of such dwelling or accessory building does not in the opinion of the Declarant or Architectural review Committee overcrowd the site, and provided further, that such buildings are not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building.

(e) All service utilities, fuel tanks, clothes lines, wood piles, and trash and garbage accumulations are to be enclosed within a fence, wall or plant screen of a type and size approved by a Declarant of the Architectural Review Committee, so as to preclude the same from causing an unsightly view from any highway, street or way within the subdivision, or from any other residence within the subdivision. All mail boxes shall be uniform in design. Design for mail boxes shall be furnished by the Declarant.

(f) Off street parking for not less than two (2) passenger automobiles must be provided on each lot prior to the occupancy of any dwelling constructed on said lot, which parking areas and the driveways thereto shall be constructed of concrete, brick, asphalt or turfstone. No overnight on street parking shall be permitted.

(g) All front, rear and side yards shall be sodded, except for planting beds, shrubbery, trees, patios or other areas designated by the Declarant or the Architectural Control Committee.

In the event that the need for maintenance, repair, or replacement (other than said be caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion; aircraft, vehicles, and smoke as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage Insurance Policies) is caused through the willful, or negligent act of the Owner, his family, guests or invitees, the costs of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such lot is subject.

ARTICLE VI

USE RESTRICTIONS

Section 1. Land Use and Building Type. No Lot in Round Tree Ridge shall be used except for residential purposes, provided, however, this shall not prevent the Declarant or Stevens Building Company from, constructing models or sales offices within the subdivision and from operating offices for the purpose of sales and other related activities from said model or office. All Lots (herein referred to as "single family lots") in Round Tree Ridge shall be restricted for the construction of single family dwellings only. Any building erected, altered, placed or permitted to remain on any lot shall be subject to the provisions of Article V of this Declaration relating to architectural control.

Section 2. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence are in any way noxious, dangerous, unsightly, unpleasant or other nature that may diminish or destroy the enjoyment of other property in the neighborhood by the Owners thereof. It shall be the responsibility of each Lot Owner to prevent the development of any unclean, unsightly, or un-kept condition of buildings or grounds on such lot which would tend to substantially decrease the beauty of the neighborhood area as a whole or the specific area.

Section 3. Lot Maintenance. In the event that any Lot Owner shall fail or refuse to keep such premises free from weeds, underbrush or refuse piles, or unsightly growth or objects, then, after thirty (30) days' notice from the Architectural Review Committee, the

Association or its designee shall enter upon such lands and remove the same at the expense of the Owner, and such entrance shall not be deemed a trespass, and in the event of such removal a lien shall arise and be created in the favor of the Association for the full amount thereof chargeable to such Lot, including collection costs and such amounts shall be due and payable within thirty (30) days after the Owner is billed therefore. Such lien shall be enforceable by Court proceedings as provided by law enforcement liens.

Section 4. Temporary Structures. No trailer, basement, tent, shack, garage, barn, or any other out building or structure shall be used on any Lot at any time as a residence either temporarily or permanently. Notwithstanding this provision, Declarant or Stevens Building Company may construct a temporary construction trailer or sales office trailer on any Lot.

Section 5. Recreational Vehicles. Any boat, motor boat, camper, trailer, or motor homes, or similar type vehicle remaining on any lot at any time shall be parked in the back yard and screened from view as not to be readily visible from the street.

Section 6. Animals. No animals, livestock, or poultry of any kind shall be maintained on any Lot or in any dwelling except that dogs, cats, or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and provided further that they are not allowed to run free and are at all times properly leashed.

Section 7. Outside Antennas. No outside radio or television antennas shall be erected on any Lot or dwelling unit within the Properties unless and until permission for the same has been granted by the Board of Directors of the Association or its Architectural review Committee.

Section 8. Exterior Lights. All light bulbs or other lights installed in any fixture located on the exterior of any building or any Lot shall be clear, white or non-frost lights or bulbs.

Section 9. Junk Vehicles and Tractor-Trailers. No inoperable vehicle or vehicle without current registration and insurance, and no tractor-trailers will be permitted on the premises. The Association shall have the right to have all such vehicles towed away at the Owner's expense.

Section 10. Signs. No "FOR SALE" signs or any other signs shall be permitted on any lot or in the common areas without the permission of the Declarant or the Board of Directors, except that a sign conforming to the New Hanover County Sign Ordinance may be placed by Declarant on any Lot used by Declarant as a sale/rental office for the project so long as Declarant owns any Lot in the Properties.

Section 11. Tree Cutting. No trees located within Round Tree Ridge with a diameter in excess of ten (10) inches as measured at the base of the trunk at the ground level shall be cut without the written consent of the Architectural Review Committee.

ARTICLE VII

WATER AND SEWER SERVICES

Water and Sewer Service. All lot owners shall be required to use water supplied by the companies servicing the Properties for all household uses.

ARTICLE VIII

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. The Declarant may annex any adjoining property, in its sole discretion, during the period of Declarant Control. Any such annex shall require the annexed property to be subject to these Declarations and shall contribute to the common expenses under terms and conditions acceptable to the Declarant.

Section 2. After the expiration of Declarant control, Annexation of additional property shall require the assent two-thirds (2/3) of the members at a meeting duly called for these purposes, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at a law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of the Declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive period of ten (10) years each. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90) percent of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75) percent of the Lot Owners. Any amendment must be recorded.

Section 4. All property within the Subdivision is subject to the following terms and conditions of with State Stormwater Management Permit Number SW8 160717

referenced at Exhibit C, as issued by the Division of Water Quality under NCAC 2H J 000.

(a) , The maximum allowable built-upon area per lot is 4,000 square feet. This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the, right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate, coquina, but does not include raised, open wood decking, or the water surface of swimming pools.

(b) The covenants pertaining to storm water regulations may not be changed or deleted without concurrence of the Division of Water Quality.

(c) Filling in, piping or altering any vegetative conveyances (ditches, swales, etc.) associated with the development except for average driveway crossings, is strictly prohibited by any persons.

(d) Lots within CAMA's Area of Environmental Concern may have the permitted built upon area reduced due to CAMA jurisdiction within the AEC.

(e) Further, filling in, piping or altering any designated curb outlet swale associated with the development is prohibited by any persons.

(f) The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the Stormwater management permit.

(g) Alteration of the drainage as shown on the approved plan may not take place without the concurrence of the Division of Water Quality.

(h) These Covenants are to run with the land and shall be binding on all persons and parties claiming under them. The Covenants pertaining to storm water may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Environmental Management.

(i) No lot owner is allowed to pipe or fill in any swale or ditch used to meet the storm water regulations, except for driveway culverts.

(j) Each lot will maintain a 30' wide vegetated buffer between all impervious areas and surface waters.

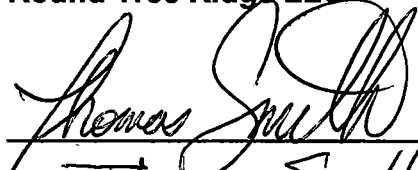
(k) All roof drains shall terminate at least 30' from the mean high water mark of surface waters.

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

IN TESTIMONY WHEREOF, Round Tree Ridge, LLC, a North Carolina limited liability company, has caused this instrument to be executed in its company name by its authorized member/manager with full authority to act for all of its members and managers and said member/manager has hereunto set his hand and seal as the act and deed of the limited liability company.

Round Tree Ridge LLC



Date: 3-17-17

By: Thomas Smith

EXHIBIT A

PLAT MAP

EXHIBIT B

STATE STORMWATER PERMIT SWB 160717

TAMMYTHEUSCH
BEASLEY
Register of Deeds

New Hanover County

Register of Deeds

320 CHESTNUT ST SUITE 102 • WILMINGTON, NORTH CAROLINA 28401
Telephone 910-798-4530 • Fax 910-798-7716



State of North Carolina, County of NEW HANOVER
Filed For Registration: 03/17/2017 12:18:01 PM
Book: RB 6044 Page: 712-726
15 PGS \$26.00
Real Property \$26.00
Recorder: ANDREA CRESWELL
Document No: .2017008206

DO NOT REMOVE!

This certification sheet is a vital part of your recorded document. Please retain with original document and submit when re-recording.