

PREPARER: Kyle Smalling, Esq., Capital City Law, 106 North Avenue, Wake Forest, NC 27587
RETURN TO: Preparer

STATE OF NORTH CAROLINA

**DECLARATION OF COVENANTS, CONDITIONS,
AND RESTRICTIONS FOR PRESERVE AT NORRIS
CREEK SUBDIVISION**

COUNTY OF FRANKLIN

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR PRESERVE AT NORRIS CREEK (hereinafter, "Declaration") is made this 21st day of December, 2022, by SUMNER CONSTRUCTION, INC. (hereinafter, "Declarant").

WHEREAS:

Declarant is the owner of certain real property located in Franklin County, North Carolina, as described in Exhibit A hereto (the "Subdivision"); and,

The Subdivision is a single-family cluster development approved by Franklin County, North Carolina, now known as PRESERVE AT NORRIS CREEK; and,

Declarant desires to impose certain easements, covenants, conditions, and restrictions upon the real property of the Subdivision.

DECLARATION:

NOW, THEREFORE, DECLARANT hereby declares that all of the Subdivision shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of enhancing and protecting the value and desirability of, and which shall run with, all real property within the Subdivision and shall be binding on all parties which have any right, title, or interest in the real property within the Subdivision or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE 1 – DEFINITIONS

For purposes of this Declaration, the following definitions shall apply:

"Association" shall mean and refer to PRESERVE AT NORRIS CREEK HOMEOWNERS ASSOCIATION, INC., a North Carolina nonprofit corporation, its successors, and assigns, whether incorporated now or after filing of this Declaration.

"Board of Directors" shall mean the elected body governing the Association as provided by North Carolina corporate law.

"Bylaws" shall mean the duly adopted bylaws of the Association, as implemented or amended.

"Common Areas" shall mean those certain portions of the Subdivision and improvements thereto owned by the Declarant or the Association for the common use and enjoyment of the Owners, including any landscaping and recreation facilities, and any easement rights granted to the Association.

"Common Expenses" shall mean and include, as applicable: (a) all sums lawfully assessed by the Association against its members; (b) expenses for the maintenance of roads, streets, any private roads, rights-of-way, Department of Transportation right-of-way easements as shown on any recorded plat of the Subdivision or subsequently adopted by the Department of Transportation, and any amenities provided in this Declaration; (c) expenses of administration, maintenance, repair, or replacement of Common Area or

improvements thereto; (d) expenses declared to be common expenses by the provisions of this Declaration or Bylaws, including any amendments thereto; (e) hazard, liability, or other insurance premiums as required by the provisions of this Declaration or Bylaws, including any amendments thereto; (f) ad valorem taxes and public assessment charges lawfully levied against Common Areas; (g) expenses associated with maintenance of all easements, landscaping, and improvements thereon, conveyed to the Association; and (h) any other expenses determined by the Board or approved by the Members to be common expenses of the Association.

“Declarant” shall mean and refer to SUMNER CONSTRUCTION, INC., a North Carolina corporation, its successors, and assigns, to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as Declarant may impose in the transfer of such rights.

“Declarant Development Period” shall refer to that period of time during which (a) Declarant is the owner of any portion of the Subdivision, including any Lot or Common Area; (b) Declarant is in any way involved in the maintenance of the streets, landscaping, or Common Area; (c) Declarant is in any way involved in the marketing of the Subdivision through advertisements, signs, listings, or provision of real estate agent services; (d) Declarant is providing funds to the Association; or (e) Declarant has not signed and caused to be recorded a “Notice of Termination of Declarant’s Rights and Transfer of Rights to the Homeowner’s Association” as set forth herein.

“Entry Features” shall mean those portions of Common Area and/or Lots upon which permanent identification signs or monuments shall be initially installed and erected by Declarant at the entrance(s) of the Subdivision, which shall be maintained by the Association in accordance with this Declaration.

“Lot” shall mean any numbered or lettered plot of land shown upon any recorded subdivision map of the Property which is intended for residential purposes.

“Lot in Use” shall mean any Lot on which a residential structure has been fully constructed and is being or to be occupied as a residence.

“Member” shall mean every person or entity who holds membership in the Association.

“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 Subdivision, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

“Property” shall mean that certain real property described in Exhibit A.

“Supplemental Declaration” shall mean any amendment or supplement to this Declaration which subjects additional property to this Declaration and/or imposes expressly or by reference, additional restrictions and obligations on said additional property described herein.

ARTICLE 2 – THE SUBDIVISION

The Subdivision is hereby made subject to this Declaration and the Subdivision shall be owned, held, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association and each Owner subject to this Declaration and the controls, covenants, conditions, restrictions, easements, development guidelines, charges liens set forth in this Declaration.

The Declarant hereby reserves the right to subject other real property to this Declaration and to bring such additional property within the jurisdiction of the Association without the consent of the other Members by filing a Supplemental Declaration in the Franklin County, North Carolina, Register of Deeds.

Each Supplemental Declaration shall be effective upon recordation in the Franklin County, North Carolina, Register of Deeds, and shall incorporate the provisions of this Declaration either by reference hereto or by fully setting out the provisions hereof. Such Supplemental Declaration need not be in any specific form (for example, it may be contained in a deed from Declarant conveying the real property being subjected to this Declaration) but shall clearly indicate the intention to subject additional property to this Declaration. A Supplemental Declaration may contain such other terms and conditions, not inconsistent herewith, as the parties subjecting the additional property to this Declaration may agree upon. Nothing contained herein shall prohibit the owner of any additional property made subject to this Declaration by Supplemental Declaration from subjecting such additional property to other covenants, conditions, and restrictions not inconsistent with the terms of this Declaration. In addition, as to any Supplemental Declaration which adds property to this Declaration, Declarant or the Association may include such additional or different covenants, conditions, restrictions, easements, uses, privileges, charges, assessments, liens, options, rights, terms, and provisions as Declarant or the Association, in its sole discretion, may determine.

ARTICLE 3 – PROPERTY RIGHTS

Section 1. Owners' Easements or Enjoyment. Every Owner shall have a right and easement of enjoyment in and to and right of ingress and egress over the Common Areas, which rights 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 permit the charge of reasonable fees for the enjoyment of any portion of the Common Areas;
- (b) the right of the Association to suspend the voting rights during which any assessment against his Lot remains unpaid;
- (c) the right of the Association to formulate, publish, impose, and enforce rules and regulations for the enjoyment of the Common Areas.

Section 2. Delegation of Use. Subject to Section 1 above, any Owner may delegate, in accordance with the Bylaws, his right of enjoyment in and to the Common Areas, to the members of his family, his lawful tenants, or contract purchasers who reside on such Owner's Lot, and to his guests, invitees and licensees.

Section 3. General Easements and Associated Undertakings. All of the Subdivision, including Lots and Common Areas, shall be subject to such easements for private roads or drives, public streets, water lines, sanitary sewers, storm drainage facilities, gas lines, cable communication transmission, telephone and electric power lines and other public utilities, whether above or below ground, as shall be established by the Declarant, by its predecessor in title prior to the subjecting of the Property to this Declaration, or as shown on any recorded subdivision map of any portion of the Subdivision. The Association shall have the power and authority to grant and establish upon, over, under and across the Common Areas conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Property. Sight easements, if any, as may be shown upon any recorded subdivision map of the Property are hereby reserved by the Declarant. The Declarant reserves sign easements as may be shown upon any recorded subdivision map.

Section 4. Utility and Public Safety Easements. An easement is hereby established for the benefit of any agency or utility performing any of the following services over all Common Areas and over an area of all Lots within the Property ten (10) feet from the right-of-way line of any street or roadway established within the Property hereby or hereafter established for the setting, removal, and reading of water and electricity meters, the maintenance and replacement of water, electricity, sewer, and drainage facilities. In addition thereto, an easement is hereby established over all of the Property for the benefit of the County of Franklin and all other agencies and personnel performing any of the following duties and services for the fighting of fires, mail delivery, collection of garbage, ambulance services, and police protection.

Section 5. Title to the Common Areas. The Declarant hereby covenants for itself, its heirs, and assigns that it will convey fee simple title or, as applicable, easement rights for the Common Areas to the Association, free and clear of all encumbrances and liens, except public streets, private roads or drives, utility easements, and any use restrictions of record, including this Declaration, upon completion by Declarant of any initial improvements thereto, including landscaping.

Section 6. Entry Features. At all times during the term of this Declaration, the Association shall maintain and/or improve any Entry Features created within the Property in a manner at least comparable to the initial creation and construction thereof.

ARTICLE 4 – MEMBERSHIP AND VOTING

Section 1. Membership Generally. 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 a Lot which is subject to assessment.

Section 2. Membership Classes. The Association shall have the following two classes of voting membership:

- (a) Class A Member. Class A Members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any such Lot, all such persons shall be Members. The vote for such Lot shall be exercised as they determine, but shall not be more than one vote with respect to any Lot.
- (b) Class B Member. The Class B Member shall be the Declarant and shall be entitled to eight (8) votes for each Lot owned. The Class B membership shall cease upon expiration of Declarant's Rights.

ARTICLE 5 – COVENANT FOR MAINTENANCE ASSESSMENTS

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

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the welfare of the residents in the Property for the improvement and maintenance of the Common Areas, including Entry Features, for the establishment of adequate reserves for the replacement of capital improvements, if any, located within the Common Areas, payment of insurance premiums for contracts of hazard and liability insurance on the Common Areas, and payment of local ad valorem taxes or governmental charges, if any, on the Common Area.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Two Hundred Dollars (\$200.00) per Lot. Owners who purchase Lots for the purpose of constructing dwellings shall not be assessed unless and until the dwellings are occupied by residents. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased by resolution of the Declarant or vote of the Board of Directors, provided that such increase does not exceed fifteen percent (15%) in any given year.

Section 4. Special Assessments for Capital Improvements. In addition to the annual 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, any extraordinary maintenance, including vegetation, fixtures, and personal property related thereto and any property for which the Association is responsible, provided, however, any such assessment shall have the assent of three-fourths (3/4) of the votes of each appropriate and affected class of Members who are voting in person or by proxy at a meeting duly called for this purpose. Provided, however, the Board of Directors if established, at its option may declare that a special assessment be levied against all Lots, unless ninety percent (90%) of the total vote of each class of members vote to reject it (a "Board Issued Assessment"). This Board Issued Assessment shall be in an amount not to exceed Five Hundred Dollars (\$500.00) per Lot and may be used to defray the cost of any construction, reconstruction, restoration, repair, or replacement of a capital improvement upon the Common Area.

Section 5. Notice and Quorum. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than fifteen (15) 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 fifty percent (50%) of all the votes of each appropriate and affected 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 (1/2) 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 6. Uniform Rate of Assessment. Both annual and special assessments for capital improvements must be fixed at a uniform rate for all Lots owned by each class of Member and annual assessments may be collected on an annual, monthly or quarterly basis; provided, however, annual and special assessments for capital improvements, for all Lots owned by Declarant and not occupied as a residence shall be twenty-five percent (25%) of such assessments for other Lots. Further, Lots purchased by Owners for the purpose of constructing dwellings shall not be assessed unless and until the dwellings are occupied by residents.

Section 7. Specific Special Assessment. A uniform rate shall not apply to specific special assessments. The Association shall have the power, right and authority to issue a special assessment against any Lot and its Owner if such Owner shall fail to reimburse the Association or the Declarant, as the case may be, pursuant to the provisions of Section 9 of this Article.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments

provided for herein shall commence and shall be due and payable as to all Lots at the time of recording of a deed from the Declarant to the initial property Owner. Provided, however, that Lots purchased by Owners for the purpose of constructing dwellings shall not be assessed unless and until the dwellings are occupied by residents. Such amount due and payable on the first day of each such calendar year shall be as set forth and established pursuant to Section 3 of this Article. The first annual assessment applicable to a Lot shall be adjusted according to the number of months remaining in the calendar year. There shall be paid at the time of the initial sale of each Lot by the Owner acquiring such Lot an amount equivalent to at least two (2) months' assessments in order to provide a working capital fund for the initial months of the Association's operations. For the purpose of establishing such working capital fund, a sale by Declarant to a purchaser who intends solely to acquire such Lot in order to construct a residential dwelling structure thereon for resale purposes shall not be considered the initial sale; provided, however, the sale at which time a Lot shall become a Lot in Use shall be considered the initial sale for such purpose. Amounts paid into such fund shall be in addition to and shall not be considered as advance payment of any portion of the annual assessment. 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 date shall be as previously set forth herein, unless otherwise 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 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be subject to a late charge of the greater of Twenty Dollars (\$20.00) per month or ten percent (10%) of any unpaid assessment installment. The Association may bring an action at law against the Owner personally obligated to pay the same for such delinquent assessment, interest, late charges, costs, and reasonable attorneys' fees of any such action, or foreclose the lien against the Lot. For purposes of this Section 9, the amount of delinquent assessment, plus accrued interest and late charges shall be considered evidenced by this Section 9 and, therefore, evidence of indebtedness shall exist hereby. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Areas or abandonment of Owner's Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became 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.

Section 11. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE 6 – INSURANCE

Section 1. Ownership of Policies. Contracts of insurance upon the Common Areas may be purchased by the Association for the benefit of the Association. The Association may reevaluate its coverage from time to time and may provide, subject to Section 2 of this Article, for such insurance coverage as it deems appropriate.

Section 2. Coverage. All improvements and personal property included in the Common Areas shall be insured in an amount equal to at least eighty percent (80%) of their insurable replacement value as determined annually by the Association with the assistance of the insurance company underwriting the coverage. Such coverage shall provide protection against loss or damage by fire and other hazards covered by a standard extended coverage endorsement and such other risks as from time to time shall be customarily covered with respect thereto. This section shall not apply to signage or unimproved open space within the Subdivision.

Section 3. Fidelity Insurance or Bond. All persons responsible for or authorized to expend funds or otherwise deal in the assets of the Association shall first be bonded by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties in an amount equal to at least one-half (1/2) the annual assessment plus reserves accumulated. This section shall not apply to the Declarant.

Section 4. Premiums. Premiums for contracts of insurance purchased by the Association shall be paid by the Association and charged to the Owner, as part of the assessment.

Section 5. Proceeds. All contracts of insurance purchased by the Association shall be for the benefit of the Association and its mortgagees, if any, as their interests may appear, and the Owners, and

shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein.

Section 6. Distribution of Insurance Proceeds. Proceeds of contracts of insurance received by the Association as insurance trustee shall be distributed to or for the benefit of the beneficiary or beneficiaries thereof in the following manner:

- (a) The proceeds shall be paid first to defray the cost of reconstruction and repair of casualty or liability so covered.
- (b) Any expense of the insurance trustee may be paid from proceeds after payment of reconstruction or repair expenses or liability. Any proceeds remaining thereafter shall be distributed to the benefit of the subdivision.

ARTICLE 7 - ARCHITECTURAL AND APPEARANCE CONTROL

Section 1. General. Notwithstanding anything contained in this Declaration which may be construed to the contrary, no tree removal, site preparation on any Lot or change in grade or slope of any Lot, erection of buildings or exterior additions or alterations to any building situated upon the Subdivision, or erection of or changes or additions in fences, hedges, walls and other structures, or construction of any swimming pools or other Improvements, shall be commenced, erected or maintained on any Lot until the architectural control committee appointed as hereinafter provided (the "Architectural Control Committee"), has approved the plans and specifications therefor and the location of such Improvements. The Architectural Control Committee shall also have the power to require the construction or installation of certain exterior structures and fixtures and require the use of certain materials and finishes in such structures and fixtures.

Section 2. Composition. During the Declarant Development Period, Declarant shall annually appoint one or more members of the Architectural Control Committee, which may be the Declarant itself. In the event of the death or resignation of any member of the Architectural Control Committee, Declarant, for so long as it has the authority to appoint the members of the Architectural Control Committee, and thereafter, the remaining members of the Architectural Control Committee, shall have full authority to designate and appoint a successor. No member of the Architectural Control Committee shall be liable for claims, causes of action or damages (except where occasioned by gross negligence or willful misconduct of such member) arising out of services performed pursuant to this Declaration. Upon final termination of Declarant's membership in the Association, the Board of Directors of the Association shall appoint three members of the Architectural Control Committee on an annual basis. At any time Declarant may elect not to appoint the member of the Architectural Control Committee and may assign this right to the Board of Directors of the Association.

Section 3. Procedure. No Improvement of any kind or nature shall be erected, remodeled or placed on any Lot until all plans and specifications therefor and a site plan therefor have been submitted to and approved in writing by the Architectural Control Committee, as to:

- (a) quality of workmanship and materials, adequacy of site dimensions, adequacy of structural design, and facing of main elevation with respect to nearby streets;
- (b) conformity and harmony of the external design, color, type and appearance of exterior surfaces;
- (c) location with respect to topography and finished grade elevation and effect of location and use on neighboring Lots and improvements situated thereon and drainage arrangement; and
- (d) the other standards set forth within this Declaration (and any amendments hereto) or as may be set forth within bulletins promulgated by the Architectural Control Committee or matters in which the Architectural Control Committee has been vested with the authority to render a final interpretation and decision.

Any modification or change to the Architectural Control Committee approved set of plans and specifications must again be submitted to the Architectural Control Committee for its inspection and approval. The Architectural Control Committee's approval or disapproval, as required herein, shall be in writing.

The Architectural Control Committee may, but shall not be so required, from time to time publish and promulgate architectural standards bulletins which shall be fair, reasonable and uniformly applied in regard to the Lots and shall carry forward the spirit and intention of these covenants, conditions and restrictions. Although the Architectural Control Committee shall not have unbridled discretion with respect to taste, design and any standards specified herein, the Architectural Control Committee shall be responsive to technological advances or general changes in architectural designs and materials and related conditions in future years and use its best efforts to balance the equities between matters of taste and design (on the one hand) and use of private property (on the other hand). Such bulletins, if any, shall supplement these covenants, conditions and restrictions and are incorporated herein by reference.

Section 4. Jurisdiction. The Architectural Control Committee is authorized and empowered to consider and review any and all aspects of the construction of any Improvements on a Lot which may, in the reasonable opinion of the Architectural Control Committee, adversely affect the living enjoyment of one or more Owners or the general value of the Property.

Section 5. Enforcement. The Architectural Control Committee and/or the Association shall have the specific, nonexclusive right (but not obligation) to enforce the provisions contained in this Article and/or to prevent any violation of the provisions contained in this Article by a proceeding at law or in equity against the person or persons violating or attempting to violate any such provisions contained in this Article.

Section 6. Definition of "Improvement". The term "Improvement" shall mean and include all buildings, storage sheds or areas, roofed structures, parking areas, loading areas, trackage, fences, walls, hedges, mass plantings, poles, driveways, ponds, lakes, changes in grade or slope, site preparation, swimming pools, tennis courts, signs, exterior illumination, changes in any exterior color or shape and any new exterior construction or exterior improvement exceeding \$1,000.00 in cost which may not be included in any of the foregoing. The definition of Improvement does not include shrub or tree replacements or any other replacement or repair of any magnitude which ordinarily would be expensed in accounting practice and which does not change exterior colors or exterior appearances. The definition of Improvements does include both original Improvements and all later changes to Improvements.

Section 7. Failure of the Architectural Control Committee to Act. If the Architectural Control Committee fails to approve or disapprove any plans and specifications and other submittals which conform (and which relate to Improvements which will conform) with the requirements hereof or to reject them as being inadequate or unacceptable within sixty (60) days after submittal thereof, it shall be conclusively presumed that the Architectural Control Committee has approved such conforming plans and specifications and other submittals. If plans and specifications or other submittals are not sufficiently complete or are otherwise inadequate, the Architectural Control Committee may reject them as being inadequate or may approve or disapprove part, conditionally or unconditionally, and reject the balance.

Section 8. Limitation of Liability. Neither the Architectural Control Committee nor the members thereof nor Declarant shall be liable in damages or otherwise to anyone submitting plans and specifications and other submittals for approval or to any Owner by reason of mistake of judgment, negligence, except for gross negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any plans or specifications.

Section 9. Miscellaneous. No member of the Architectural Control Committee shall be entitled to compensation for services performed pursuant to this Article. The Association shall reimburse members of the Architectural Control Committee for reasonable out-of-pocket expenses.

ARTICLE 8 - USE RESTRICTIONS

Section 1. Rules and Regulations. The Declarant shall have the power to formulate, amend, publish and enforce reasonable rules and regulations concerning the use and enjoyment of each Lot and the Common Areas.

Section 2. Use of Property. No portion of the Property shall be used except for residential purposes incidental or accessory thereto. Each Lot shall be occupied and/or used as follows:

- (a) Each Lot, excluding Common Area, will be used for residential purposes only (except for temporary office of the Declarant and/or model used by Declarant or assigns).
- (b) Each dwelling shall have a heated, enclosed ground floor area as follows: If one story, at least 1400 square feet; if one and one-half stories, at least 2000 square feet; and if two or more stories, at least 2300 square feet. Heated, enclosed floor area shall not include unfinished basements, open porches, breezeways, screened porches, garages, walk-up attics, carports, steps, or stoops.
- (c) No dwelling or other approved structure shall be located on any Lot nearer to any property line than allowed by County regulations. For the purpose of this Declaration, eaves, steps, and open porches shall not be considered as part of the building, provided, however, this shall not be construed to permit any portion of a dwelling on a Lot to encroach upon another Lot.
- (d) No vehicles, boats, or any other type of personal property shall be placed in the front or side yard of any residence with a "for sale" sign upon it or information which might indicate that the property is for sale, for longer than seven (7) consecutive days.
- (e) Any boats, motor homes, trailers, campers, or any other type of recreational vehicles must be used regularly and be in operational use. If not used regularly, licensed if necessary, and kept in operational use, it shall not be kept in the subdivision.

- (f) No noxious or offensive trade or activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become any annoyance or nuisance to the neighborhood.
- (g) No signs or billboards shall be erected or maintained on the premises other than real estate signs.
- (h) No trade materials or inventories may be stored on the premises. No business activity or trade of any kind shall be conducted on any Lot except that a home office may be maintained in a residence if there is no regular client or customer traffic to the office.
- (i) No shelter of a temporary or permanent character such as a mobile home, trailer, basement, tent, shack, garage or barn shall be used on any Lot at any time as a residence, either temporarily or permanently. No trailer, modular or mobile home shall be placed on any building site covered by these covenants.
- (j) Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the front ten (10) feet of each Lot and five (5) feet on each sideline unless these are in excess of such distances on recorded plats, in which case the plats shall control. Within these easements, no structure, planting, or other material shall be placed or be permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or which may change the direction or flow of drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. In the event that any Owner of two or more adjacent Lots shall prepare plans for the construction of a house on the line separating two or more such Lots, then the easement along this Lot line shall become void.
- (k) No animals, livestock or poultry of any kind shall be raised, bred or kept on building site, except that a maximum of three (3) dogs, cats, or other household pets may be kept, provided that they are not bred or maintained for any commercial purposes. Owners with dogs, cats, or other household pets will be responsible for their animals and will ensure that they do not make objectionable noise and are not a nuisance to other Lot owners. All pets shall be confined to the Owners residential Lot. The Board, in its sole discretion, may remove any household pets that cause damage or injury to the Property or otherwise endangers the health of any Owner.
- (l) No Lot or portion thereof shall be dedicated or used for a public street unless approved by Declarant.
- (m) Adequate off-street parking shall be provided by the Owner of each Lot for the parking of automobiles owned by such Owner.
- (n) All telephone, electric and other utility lines and connections between the main utility lines and residence and other buildings located on each Lot shall be concealed and located underground so as not be visible.
- (o) The construction of a residential dwelling and any appurtenant building shall be completed within twelve (12) months from issuance of the building permit.
- (p) Roads constructed in all phases of this development shall be maintained by the Developer until the North Carolina Department of Transportation assumes responsibility for maintenance of such roads. Developer shall ensure all roads are incorporated into the North Carolina Department of Transportation Secondary Road Maintenance Program prior to termination of Developer Control Period.
- (q) The exterior walls of each dwelling, its garage and any outbuilding shall be approved by the Architectural Control Committee.
- (r) Declarant shall create a mailbox kiosk for the use of all Owners. It is the intention of the Committee to create a standard design to be used by all residences in the Subdivision.
- (s) During construction of the dwelling or any other type of construction being carried out on a Lot, any damage caused by such construction must be cleaned up and repaired by the party causing it. Any mud clods or other debris which get into the right-of-way area of a street must be cleaned up within 48 hours. During construction on any Lot, there shall be a gravel area of at least forty (40) feet in length leading from the street onto said Lot, this gravel area being the entrance to the Lot, in order to prevent mud and oilier debris from being tracked into the street. During construction on any Lot, the Owner shall keep all construction vehicles off the shoulder of the road. During construction, the Lot Owner may burn trash in trash barrels only if a safe distance from neighboring houses and such burning does not constitute a disregard for any local building or fire codes.
- (t) Each Owner shall keep his Lot free of tall grass, undergrowth, dead trees, trash, and rubbish. Such Lots shall be maintained so as to present a pleasing appearance. In the event an Owner does not

properly maintain his Lot as set forth in this paragraph, the Architectural Control Committee has the right to do whatever work is required to give the Lot a pleasing appearance with any such cost incurred being the liability of the Owner of the Lot.

- (u) There shall be no more than two (2) yard sales per calendar year for any one Lot in the subdivision. Any such yard sale shall not extend longer than six hours on the day it is held.
- (v) Except as outlined above, there shall be no burning of trash in the Subdivision. All garbage and other refuse must be kept in stable, sanitary containers, and said containers shall be cleaned on a regular basis. Such garbage and refuse must be picked up and disposed of at least weekly. Storage facilities for garbage, trash and other refuse shall be out of sight of streets in the Subdivision, either by placing such receptacles in the rear of the residence or providing a screening for them.
- (w) Motorbikes, go-carts and any other types of motorized vehicles that produce excessively loud noises shall not be allowed in the subdivision. Any use of the shoulders of the paved streets by motorized vehicles is expressly prohibited.
- (x) Any hobbies regularly conducted on any Lot shall not be a nuisance to the neighbors. Separate buildings for hobbies shall be constructed only when approved by the Architectural Control Committee. If a detached building is used mainly for a hobby, the Architectural Control Committee shall consider the type of hobby during the approval process.
- (y) There shall be no signs displayed to the public view on any Lot except for one sign advertising that the dwelling is "For Sale" or "For Rent". The Architectural Control Committee may, in its sole discretion, approve signs displaying information regarding security or personal protection systems. Notwithstanding the foregoing signs of not more than ten (10) square feet expressing support of or opposing to political candidates or other issues which will appear on the ballot of a primary, general or special election are allowed provided that such political signs shall not be placed on a Lot earlier than forty-five (45) days before such election and shall be removed within seven (7) days after such election. The Declarant reserves the right to erect and maintain signs of any type and size on any Lot which it owns and on the Common Area in connection with the development and sale of Lots.
- (z) No above-ground swimming pools shall be located on any Lot.

ARTICLE 9 - STORM WATER MANAGEMENT

The Association shall also provide for maintenance of all erosion and storm water drainage efforts, whether preventative, remedial, routine or otherwise. This includes the maintenance of all storm water and detention ponds or natural areas, the surrounding vegetation, and any drains, pipes and other equipment or apparatuses used for handling storm water drainage. Provided, however, such maintenance obligations shall cease and terminate, or be reduced, at such time as any governmental entity, through a department of public works or some other agency or division, elects to maintain, in whole or in part, the erosion and storm water drainage efforts, or some other person is providing the necessary maintenance. Following any such assumption of maintenance by the governmental entity or other person, the Association may, without obligation, continue to provide maintenance to the extent that the governmental entity or other person fails to provide adequate maintenance, in the opinion of the Board of Directors.

ARTICLE 10 - RIGHTS RESERVED FOR DECLARANT

Notwithstanding anything contained herein to the contrary, during the Declarant Development Period, Declarant expressly reserves the right to (i) subject additional property to this Declaration by the method described herein; (ii) reasonably amend this Declaration without any consent of any Members by the method described herein; (iii) select, appoint and remove members of the Architectural Control Committee who need not be Members of the Association; and (iv) select, appoint and remove the officers and Board of Directors who need not be Members of the Association. The Declarant may waive or assign any of the rights reserved herein to a Member, a non-Member, another entity (such as a Management Company) or the Association.

At any time, Declarant may terminate the Declarant Development Period by executing a Notice of Termination of Declarant Development Period and assigning all rights reserved herein to the Association. The Notice of Termination of Declarant Development Period shall be effective when filed in the Franklin County Registry.

ARTICLE 11 - OPEN SPACE

The Declarant shall convey all real property identified as "Open Space" shown on the recorded map referenced in Exhibit A to the Association.

ARTICLE 12 - GENERAL PROVISIONS

Section 1. Enforcement. The Association, Declarant or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association, Declarant or 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. Legal Action. Should any proper party undertake a legal proceeding to enforce a violation or breach of any of these restrictions, such party shall be reimbursed for any legal expenses, court costs or other financial obligations undertaken in enforcing these covenants against the violating party. It is the intention that anyone violating these covenants pay for any expenses undertaken by a proper party in seeing that these covenants are enforced.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 4. Effect and Amendment. The covenants, conditions, and restrictions of this Declaration shall run with and bind the Property for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by an instrument approved by not less than seventy-five percent (75%) of the Lot Owners. Notwithstanding these provisions, during the Declarant Development Period, this Declaration may be amended by the Declarant without the approval of any Lot Owners. Any amendment must be recorded.

Section 5. Amendment Form. If any amendment to these Declarations is so approved, each such amendment shall be delivered to the Board of Directors of the Association. Thereupon, the Board of Directors shall within thirty (30) days, do the following:

- (a) Reasonably assure itself that the amendment has been validly approved by the Owners of the required number of Lots.
- (b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed.
- (c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Franklin County Registry.

All amendments shall be effective from the date of their recordation in the Franklin County Registry, provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association in each Registry. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively deemed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots.

Section 5. Contract Rights of Association. As long as there is a Class B membership, any contract entered into by or on behalf of the Association shall contain a provision giving the Association or the other party thereto the right to terminate such contract upon the giving of not more than thirty (30) days written notice to the other party or parties.

Section 6. Lender's Notice. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, any mortgage holder, insurer or guarantor will be entitled to timely written notice of:

- (a) Any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage.
- (b) Any sixty (60) day delinquency in the payment of assessments owed by the Owner of the Lot on which it holds the mortgage.
- (c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.
- (d) Any proposed action that requires the consent of a specified percentage of mortgage holders.
- (e) The Association's financial statement for the immediately preceding fiscal year.

Section 7. Duty of Maintenance. The Owner of each Lot in the Property shall have the duty and responsibility, as such Owner's sole cost and expense, to keep that part of the Property so owned, including Improvements, ground and drainage easements or other rights-of-way incident thereto, in accordance with

the terms and provisions of the Declaration and in a well maintained, safe, clean and attractive condition at all times. Such maintenance includes, but is not limited to, the following:

- (a) Prompt removal of all litter, trash, refuse and waste;
- (b) Lawn mowing on a regular basis;
- (c) Tree and shrub pruning;
- (d) Watering by means of a lawn sprinkler system or hand watering as needed;
- (e) Keeping exterior lighting and mechanical facilities in working order;
- (f) Keeping lawn and garden areas alive;
- (g) Removing and replacing any dead plant material;
- (h) Keeping vacant land well-maintained and free of trash and weeds;
- (i) Keeping parking areas and driveways in good repair;
- (j) Complying with all governmental health and police requirements; and,
- (k) Repainting of Improvements; and Repair of exterior damage to Improvement.

Section 8. Enforcement. If any such Owner or occupant has failed in any of the duties or responsibilities of such Owner as set forth in Article 11, Section 7 of this Declaration, then the Board of Directors of the Association or Declarant may give such person written notice of such failure and such person must within ten (10) days after receiving such notice (which notice shall be deemed to have been received upon deposit in an official depository of the United States mail, addressed to the party to whom it is intended to be delivered, and sent by certified mail, return receipt requested) perform the care and maintenance required or otherwise perform the duties and responsibilities of such Owner. Should any such person fail to fulfill this duty and responsibility within such period, then the Association, acting through its authorized agent or agents, or the Declarant, acting through its authorized agent or agents, shall have the right and power to enter onto the premises and perform such care and maintenance without any liability for damages for wrongful entry, trespass or otherwise to any person. The Owner of a Lot on which such work is performed shall be liable for the cost of such work together with interest on the amounts expended by the Association or the Declarant in performing such work computed at the highest lawful rate from the date(s) such amounts are expended until repaid to the Association or the Declarant, as the case may be, and for all cost and expenses incurred in seeking the compliance of such Owner with his duties and responsibilities hereunder and shall reimburse the Association or the Declarant, as the case may be, on demand for such costs and expense (including interest as above provided). If such Owner shall fail to reimburse the Association or the Declarant, as the case may be, within thirty (30) days after mailing to such Owner of a statement for such costs and expense by the Association or Declarant, the Association may issue a special assessment against such Owner pursuant to this Declaration.

In addition, the Board of Directors of the Association or the Declarant during the Declarant Development Period, may impose fines up to \$100.00 per day, per violation or other sanctions for a violation of the Declaration, which shall be assessed as provided in the North Carolina Planned Community Act. Failure to comply with this Declaration, the Bylaws, or any applicable rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, the Declarant, or, in a proper case, by an aggrieved Owner. Failure to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board or the Declarant shall have the right to record in the appropriate land records a notice of violation of the Declaration Bylaws, rules and regulations, use restrictions, or design guidelines and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing. The Association shall also have the right to suspend the voting rights of a Lot Owner for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid; and, for an infraction of the Declaration, the Bylaws or any rules and regulations applicable to such Owner for a period no longer than sixty (60) days after the infraction has been corrected. Nothing contained herein shall serve to limit any enforcement procedures provided in the North Carolina Planned Community Act.

Section 9. Obligation to Improve Property and Waiver Thereof. IF ANY OWNER (OR ITS SUCCESSORS OR ASSIGNS) OF A LOT DOES NOT, WITHIN TWO (2) YEARS AFTER CONVEYANCE OF TITLE TO SUCH LOT FROM DECLARANT, OBTAIN A PERMIT TO BEGIN THE CONSTRUCTION OF A PERMANENT RESIDENCE ON SUCH LOT AND WHICH IS APPROVED BY THE ARCHITECTURAL CONTROL COMMITTEE DECLARANT SHALL HAVE AN OPTION (BUT NOT AN OBLIGATION) TO REPURCHASE SUCH LOT FOR A CASH PRICE EQUAL TO THE PURCHASE PRICE PAID TO DECLARANT FOR SUCH LOT. THIS OPTION

TO REPURCHASE MUST BE EXERCISED IN WRITING WITHIN SIX (6) MONTHS AFTER THE EXPIRATION OF THE ABOVE-REFERENCED TWO (2) YEAR PERIOD. CLOSING OF THE REPURCHASE SHALL TAKE PLACE WITHIN NINETY (90) DAYS AFTER THE EXERCISE OF OPTION TO REPURCHASE AND SHALL BE HELD AT AN OFFICE CHOSEN BY DECLARANT. THE SUBJECT LOT SHALL BE RECONVEYED TO DECLARANT BY GENERAL WARRANTY DEED SUBJECT ONLY TO THE EXCEPTIONS OF TITLE AS WERE INCLUDED IN THE DEED FROM DECLARANT TO THE PURCHASER OF SUCH LOT AND ANY SUCH OTHER EXCEPTIONS, IF ANY, AS DECLARANT MAY SPECIFICALLY APPROVE OF IN WRITING AT THE CLOSING OF SUCH SALE.

IN WITNESS WHEREOF, Declarant has caused this DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR PRESERVE AT NORRIS CREEK to be executed by its duly authorized officer as of the day and year first above written.

SUMNER CONSTRUCTION, INC.

Bobby C. Sumner
By: Bobby C. Sumner
Title: President

STATE OF NORTH CAROLINA
COUNTY OF Franklin

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Bobby C. Sumner, whose identity has been proven by satisfactory evidence in the form of a current state or federal identification with the principal's photograph, personally came before me this day and acknowledged that he/she, in such capacity as President of Sumner Construction, Inc., a North Carolina corporation, and being authorized to do so, voluntarily executed the foregoing on behalf of the corporation for the purpose stated therein and in the capacity indicated.

Witnessy hand and official stamp or seal this 21st day of December, 2022.

Megan Dudash
Notary Public Signature
Print Name: Megan Dudash
My Commission Expires: 10/14/2027

[AFFIX NOTARY SEAL]

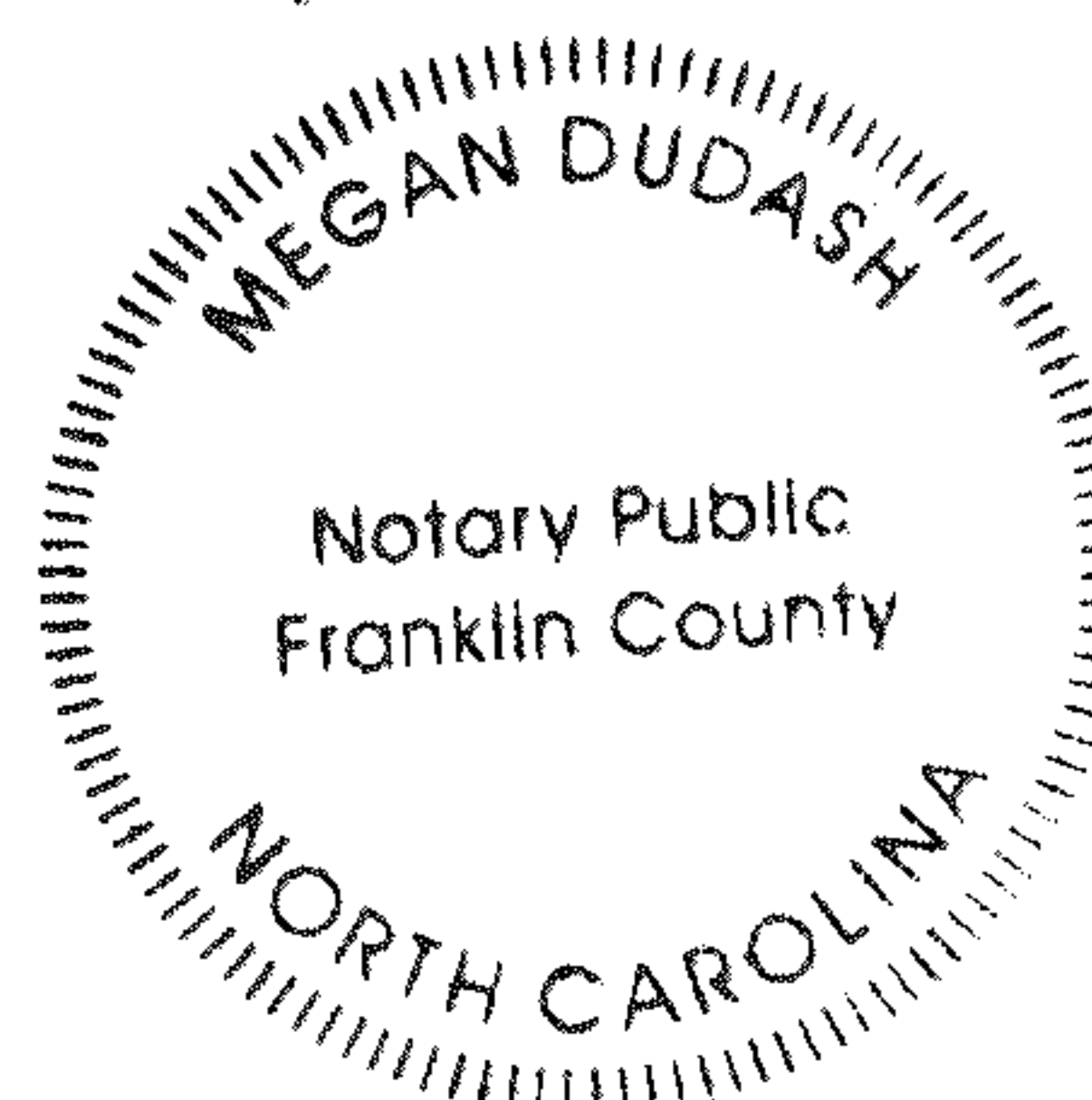


EXHIBIT A**PRESERVE AT NORRIS CREEK**

BEING all of those certain Lots 1 through 16, inclusive, and Lots 29 through 31, inclusive, and the public rights-of-way for Weathered Oak Way (Type III 50' Public R/W) and Pintail Lane (Type III 50' Public R/W) and those Common Areas identified as "Open Space #1" and "Open Space #2", all being shown on a plat entitled "Final Plat for Preserve at Norris Creek" dated July 20, 2022, and recorded in Plat Book 2023 Pages 9 _____, Franklin County Registry.