

Withdrawal and Restated Declaration of Covenants for Timber Lake Subdivision

NORTH CAROLINA

WAKE COUNTY

THIS WITHDRAWAL AND RESTATED DECLARATION, made this
28th day of January 2000, by the following landowners, hereinafter called
Declarants:

List of Landowners attached as Exhibit 1

WITNESSETH:

WHEREAS, the Declarants are the owners of the real property described in
Article I of this Declaration and

WHEREAS, the said property was originally developed in four parts, each
with a different set of restrictive covenants and

WHEREAS, Declarants desire to add and make changes to some of the
covenants as originally set forth and

WHEREAS, Declarants consider all of the real property to be part of the
subdivision known as Timber Lake and desire the property to be subject to a uniform
set of restrictive covenants each of which will inure to the benefit of and pass and
run with said property and each and every lot or parcel thereof, and shall apply to
and bind the successors in interest and any owner thereof;

WHEREAS, Declarants and the Lot Owners desire to withdraw and revoke in
their entirety the Declarations of Covenants recorded in [a] Book 1002, Page 191;
[b] Book 2839, Page 201; [c] Book 1465, Page 198; and [d] Book 1815, Page 690,

Wake County Registry; and

WHEREAS, Declarants and the Lot Owners hereby withdraw and revoke the Original Declaration and declare that all of the properties described above 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, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

NOW, THEREFORE, the Declarants hereby declare that the restrictive covenants now applicable to the real property described and referred to in Article I are hereby repealed and said real property is and shall be held, transferred, sold and conveyed subject to the protective covenants set forth below.

ARTICLE I

The real property which is and shall be held, transferred, sold and conveyed subject to the restrictive covenants set forth in the Articles of this Declaration is located in the County of Wake, State of North Carolina, and is more particularly described as follows:

(a) The property identified as Tracts 1-11 on the Map recorded at Book of Maps 1948, Page 16, Wake County Registry.

(b) All of Timber Lake Part II as identified in the Map recorded in the Book of Maps 1955, Page 43, Wake County Registry.

(c) All of the Timber Lake Subdivision Part III as identified by the Map recorded at Book of Maps 1965, Page 52, Wake County Registry and revised by map recorded in Book of Maps 1966, Page 96, Wake County Registry

(d) All of Timber Lake Estates as identified in Map 1 recorded at Book of Maps 1966, Vol. 1, Page 91, and Map 2 recorded at Book of Maps 1967, Vol. 3, Page 359

ARTICLE II

All of the property described in Article I shall be referred to hereinafter as "Timber Lake." For purposes of these covenants, the following terms shall be defined as set forth below:

1. Part I - The property described in Article I, subparagraph (a) and Lots 1, 2 and 3 of Part D of Timber Lake Estates, the property in Article I, subparagraph (d).
2. Part II - The property described in Article I, subparagraph (b).
3. Part III - The property described in Article I, subparagraph(c).
4. Part IV - The property described in Article I, subparagraph (d) except Lots 1, 2 and 3 of Part D in Timber Lake Estates.

ARTICLE III

The Timber Lake restrictive covenants shall be as follows:

1. No building lot may be less than twenty thousand (20,000) square feet (0.459 acre) or have a width at the minimum building setback line of less than seventy-five (75) feet. The building lots shall be as recorded on the maps described in Article I above except that the owners of said lots may vary the lines provided they

do not reduce the size of a lot to less than the above width or area.

2. Each lot shall be used primarily for residential purposes. No structure shall be erected, altered, placed or permitted to remain on any lot other than one, detached single family dwelling not to exceed two and one-half stories in height, a private garage, and out-buildings primarily for residential use.

3. No dwelling shall be erected on any lot if the total floor area of the main structure, exclusive of the eaves, open porches and garages, is less than eighteen hundred (1,800) square feet.

4. No building shall be located nearer than ten feet (10) from the sideline nor thirty feet (30) from the front street right-of-way line nor nearer than twenty-five (25) feet from a side street right-of-way line provided, that where a building is erected to face an intersection, said building shall be thirty (30) feet from each street right-of-way line.

For the purpose of this covenant, eaves, steps and upper porches shall not be considered. In addition to the above, no building located on a lot which includes or adjoins lake property shall be nearer than fifty (50) feet to the average high water line of the lake as shown on the maps described in Article I.

5. No animals or fowls shall be kept or allowed to remain on any lot other than household pets and household pets shall not be bred or maintained for commercial purposes.

6. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

7. No trade materials or inventory shall be stored on the premises and no commercial trucks or tractor-trailer rigs or either part thereof may be regularly parked on the premises.

8. No abandoned, unlicensed vehicle shall be left on a street or lot for a period of more than six months.

9. No structure of temporary character, trailer, mobile home, manufactured home, basement, tent, shack, garage, barn or out-buildings shall be used on any lot at any time as a residence, either temporarily or permanently.

10. An improvement or use on any lot that lawfully existed prior to the recordation of this instrument is not made a violation or nonconformity by the imposition of the requirements herein.

11. No trade or business may be conducted in or from any lot or dwelling, except that an Owner or occupant may conduct business activities so long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell; (b) the business activity conforms to all zoning requirements for the Properties; (c) the business activity does not involve persons coming onto the Properties who do not reside in the Properties or door-to-door solicitation of residents of the Properties; and (d) the business activity is consistent with the residential character of the Properties and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Properties.

12. No lot or lots may be resubdivided, so as to produce a greater number of lots than shown on the recorded map of the Subdivision. However, more

than one lot may be used as one building site. Only one residential structure shall be permitted on one lot; however, property located in Part I known as Tract 2, may subdivide and add one residential structure in addition to the duplex residential structure erected on property prior to conveyance to Eugene E. and Kathryn F. Schwall.

ARTICLE IV

A. The rights and privileges in the lake located in Part I and the use and enjoyment thereof shall be as follows:

1. All owners and/or occupants of lots in Part I and their guests shall have the right to the use and enjoyment of the lake and the use and enjoyment of said lake is reserved exclusively for these persons.

2. The lake may be used for boating, bathing, fishing, and for other proper purposes except, because of the noise incident to such use, a boat propelled by a motor or engine other than electric motor will not be allowed on the lake.

3. Any change or improvement to said lake shall be determined by a majority of the owners of said lake lots, each and every lot having one vote and the lots to bear equally the expense incurred, with the right to enforce payments for such expense by such procedure as the law allows and provides with this binding contractual obligation.

4. Other rules and regulations relating to the use or enjoyment of the lake may be adopted by a majority of the lake lot owners, with each lot having one vote.

B. The rights and privileges in the lakes located in Parts II and IV and the use and enjoyment thereof shall be as follows:

1. All owners and/or occupants of lots in Parts II, III, and IV and their guests shall have the privilege to the use and enjoyment of the lakes and the use and enjoyment of said lakes is reserved exclusively for these persons.

2. The lake may be used for boating, bathing, fishing, and for other purposes except, because of the noise incident to such use, a boat propelled by a motor or engine other than electric motor will not be allowed on the lake.

3. Lot 13 is designated as community beach property for the lake in Part II. The owners and/or occupants of lots in Part II, III, and IV and their guests shall have equal use to and use of said community beach.

4. Any change or improvement to said lake shall be determined by a majority of the owners of the lake property, with each owner having a vote proportional to his interest in the lake and bearing a share of the expenses proportional to his interest. Any owner of lake property shall have the right to enforce payment for such expense by such procedure as the law allows and provides.

5. Other rules and regulations relating to the use or enjoyment of the lakes may be adopted by a majority of the lake owners, with each owner having one vote for each lot owned.

ARTICLE V

All roads in the subdivision will be maintained and/or improved by a majority vote of the lot owners with a permanent dwelling thereon with each owner having one vote, and all expenses so incurred shall be prorated to each lot of the subdivision that has a residence. For the purposes of this covenant, repairs to any of the dams carrying roads shall be considered to be repairs to the road.

In the alternative, The Timber Lake Residents' Association by a majority vote of attendees at its quarterly meetings can maintain and/or improve all roads. However, expenditures cannot be approved at quarterly meetings beyond the level of funds currently available.

ARTICLE VI

These covenants are to run with the land and shall be binding on all parties and persons claiming under them until January 1, 2005. Thereafter said covenants shall be automatically extended at ten (10) year intervals unless a written instrument shall be filed in the office of the Register of Deeds of Wake County executed by fifty-one percent (51%) or more of the landowners of lots in the subdivision requesting that said covenants be modified or be annulled.

ARTICLE VII

Enforcement of these covenants shall be by proceeding at law or proceeding in equity against any person or persons violating or attempting to violate a covenant either to restrain violation or recover damages resulting from such violation.

ARTICLE VIII

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

ARTICLE IX

All permanent houses on existing lots in the subdivision as of this date occupants shall be exempt from the requirements of covenants 3 and 4 in Article III, but the covenant shall apply with full force to any structures built after the date of recording of

these covenants.

ARTICLE X

All lot owners with a permanent dwelling thereon shall be active members of the Timber Lake Residents' Association with annual payment of dues for road maintenance as determined by a majority vote of the members present at the first quarterly Association meeting of the year pursuant to the Association's By-Laws.

Membership in the Association shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

(the original covenants filed will list each person's signature at this location) The signatures were witnessed as indicated on the notary information below.

1. _____ (SEAL) _____ (SEAL)

NORTH CAROLINA WAKE COUNTY

I, C. Miller Sigmon, a Notary Public of Wake County, North Carolina, certify that Judith K. Leonard personally appeared before me this day, and being duly sworn, stated that in her presence the following

(Immediately following the individual names were printed for legibility reasons as required by the Wake County Register of Deed Office)

Individuals:

1. _____

signed the foregoing instrument.

Witness my hand and official seal, this 28th day of January 2000.

(Official Seal)

C. Miller Sigmon

Notary Public

My commission expires: 11-8-2002

The covenants are recorded in Book 008508, Pages 01499 -01517