

BOOK 3560 PAGE 534

PRESENTED

FOR
RECORDATION

HOLD: Yeargan, Thompson & Mitchner 2 23 1985

KIMBER WOODS
SUBDIVISION
PHASE II
PROTECTIVE COVENANTS

STATE OF NORTH CAROLINA

COUNTY OF WAKE

KIMBER WOODS SUBDIVISION
PHASE II
PROTECTIVE COVENANTS

THIS DECLARATION, made this 18th day of September, 1985, by Kimber Woods, Inc. a North Carolina corporation hereinafter called "Declarant."

W I T N E S S E I H:

THAT WHEREAS, the Declarant is the owner of the real property described in Article I of this Declaration and is desirous of subjecting said real property to the Protective Covenants hereinafter set forth each and all of which is and are for the benefit of such property and for each owner thereof, and shall 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.

NOW, THEREFORE, the Declarant hereby declares that the real property described in and referred to in Article I hereof 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 Protective 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:

BEING all of Lots 8 through 18 inclusive, Kimber Woods Subdivision, Phase II, as shown on map recorded in Book of Maps 1985, Page 1499, Wake County Registry.

The real property described in Article I hereof is subjected to the Protective Covenants and Restrictions hereby declared to insure the best use and the most appropriate development and improvement of each lot thereof; to protect the owners of lots against such improper use of surrounding lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the erection thereof of poorly designed or proportioned structures, and structures built of improper or unsuitable materials; to obtain harmonious color schemes; to insure the highest and best development of said property; to encourage and secure the erection of attractive homes thereon with appropriate locations thereof on lots; to prevent haphazard and inharmonious improvement on lots; to secure and maintain proper setbacks from streets and adequate free spaces between structures, and in general to provide adequately for a high type and quality of improvement in said property, and thereby to enhance the values of investments made by purchasers of lots therein.

ARTICLE II

LAND USE AND BUILDING TYPE. No lots shall be used except for residential purposes. No building 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 and a private garage for not more than three cars.

Page Two

ARTICLE III

SITE AND PLAN APPROVAL. No building, fence, swimming pool, or any other structure shall be erected, placed, or altered on any premises in said development until the building plans, specifications, and plot showing the location of such improvements, including finished ground elevation have been approved in writing by an architectural committee (the Architectural Committee) composed of at least two persons designated and appointed by Declarant or its assigns. The Architectural Committee shall have sole discretion as to the location, design and color of any accessory building, including, but not limited to, storage buildings, greenhouses, playhouses, doghouses and dog runs, etc. Said location of any accessory building is to conform to the zoning restrictions by the governmental body having jurisdiction over the area and shall not be placed where it would become an eyesore to any adjoining property owner. In the event said committee fails to approve or disapprove such design or location within thirty (30) days after said plans and specifications have been submitted to it, such approval will not be required and this covenant will be deemed to have been fully complied with. Members of such committee shall not be entitled to any compensation for services performed pursuant to this covenant.

ARTICLE IV

DWELLING SIZE AND DRIVEWAYS. Except with the prior written approval of the Architectural Committee, no residential structure which has an area of less than 1200 square feet, exclusive of porches, breezeways, steps and garages, shall be erected or placed or permitted to remain on any lot; no story and one-half, two story or two and one-half story residential structure which has a ground floor area of less than 650 square feet, exclusive of porches, breezeways, steps and garages, shall be erected or placed or permitted to remain on any lot; and no split-level residential structure which has a living area of less than 1200 square feet, exclusive of basement or unfinished area shall be erected or placed or permitted to remain on any lot. Declarant reserves the right to waive in writing any minor violation of this Article of this Declaration, and for purposes hereof, any violation which does not exceed 10% shall be considered a minor violation.

ARTICLE V

BUILDING LOCATION. No building shall be located on any lot nearer to the front line than 35 feet or nearer to the rear line than 25 feet, or nearer to the side street than 25 feet in the case of a corner lot. No building or garage shall be located nearer than 10 feet to an interior lot line. For the purposes of this covenant, eaves, steps, chimneys and stoops shall not be considered a part of a building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. Declarant reserve the right to waive in writing any minor violation of this Article of this Declaration and for purposes hereof, any violation which does not exceed 10% shall be considered a minor violation.

ARTICLE VI

LOT, AREA AND WIDTH. No dwelling shall be erected or placed on any lot having an area of less than 9,000 square feet. Declarants reserve the right to waive in writing any minor violation of this Article of this Declaration and for purposes hereof, any violation which does not exceed 10% shall be considered a minor violation.

ARTICLE VII

EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear 10 feet of each lot and 5 feet on each side line unless shown in excess of such distances on the recorded plat, in which case the plat shall control. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage facilities, or

Page Three

which may change the direction of flow or drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement 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.

ARTICLE VIII

NUISANCES. 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 an annoyance or nuisance to the neighborhood. No signs or billboards shall be erected or maintained on the premises. No trade materials or inventories may be stored or regularly parked on the premises. No business activity or trade of any kind whatsoever, which shall include but not be limited to the use of any residence as a doctor's office or professional office of any kind, a fraternity house, a rooming house, a boarding house, an antique shop or gift shop, shall be carried on upon any lot.

ARTICLE IX

TEMPORARY STRUCTURES. No trailer, tent, shack, barn, or other outbuilding, except a private garage for not more than three cars, shall be erected or placed on any lot covered by these covenants. Except with the prior consent of the Architectural Committee, no detached garage shall at any time be used for human habitation temporarily or permanently.

ARTICLE X

FENCES. No fence, wall, hedge, or mass planting shall be permitted to extend beyond the minimum building setback line established herein except upon approval by the Architectural Committee.

ARTICLE XI

ACCESSORY BUILDINGS. No accessory building of any nature whatsoever (including but not limited to detached garage, storage buildings, dog houses, greenhouses) shall be placed on any lot without the prior written approval of the Architectural Committee, with said Committee to have the sole discretion relating to the location and type of accessory building which shall be permitted on any lot.

ARTICLE XII

APPEARANCE. Each owner shall keep his building site free of tall grass, undergrowth, dead trees, trash and rubbish and properly maintained so as to present a pleasing appearance. In addition, each owner shall continuously maintain a paved driveway, or a driveway continuously covered with gravel or other suitable stone composition, in order to assure that each driveway not only maintains a pleasing appearance, but also assures that there shall not be any accumulation of mud in the adjacent streets as a result of an improperly maintained driveway. In the event an owner does not properly maintain his building site as above provided, in the opinion of the Architectural Committee, then Declarant may have the required work done and the costs thus incurred shall be paid by the owner.

ARTICLE XIII

ANIMALS. No animals (including horses) or poultry of any kind, other than house pets, shall be kept or maintained on any part of said property.

ARTICLE XIV

PARKING. Adequate off-street parking shall be provided by the owner of each lot for the parking of automobiles owned by such owner, and owners of lots shall not be permitted to park their automobiles on the streets in the development. Owners of lots shall not be permitted to park boats, trailers, campers and all other similar property on the streets in the development, but such property shall be parked in a garage or screened area.

Page Four

ARTICLE XV

UNDERGROUND UTILITIES. The developer reserves the right to subject the real property in this subdivision to a contract with Carolina Power & Light Company for the installation of underground electric cables which may require an initial contribution and/or the installation of street lighting, which will require a continuing monthly payment to Carolina Power & Light Company by the owner of each building.

ARTICLE XVI

ELECTRONIC EQUIPMENT. No satellite dishes or other electronic equipment of similar construction and purpose shall be permitted to be installed on any lot.

ARTICLE XVII

TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said covenants in whole or in part.

ARTICLE XVIII

ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

ARTICLE XIX

SEVERABILITY. Invalidation of any one of these covenants or any part thereof by judgment or court order in no wise affects any of the other provisions which shall remain in full force and effect, and the failure of any person or persons to take action to enforce the violation of any of these covenants and restrictions shall not be construed as a waiver of any enforcement rights and shall not prevent the enforcement of such covenant or covenants in the future.

IN TESTIMONY WHEREOF, the Declarant has caused this instrument to be executed in its corporate name by its President, attested by its Assistant Secretary, and its corporate seal to be hereunto affixed, by order of its Board of Directors duly given, the day and year first above written.



[CORP SEAL]

KIMBER WOODS, INC.

By:

Sherman A. Yeargan, Jr., President

ATTEST:

Carol W. Davis
Carol W. Davis, Assistant Secretary

Page Five

NORTH CAROLINA

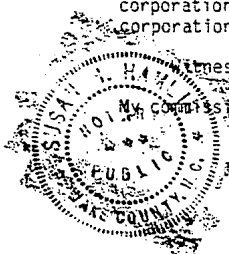
WAKE COUNTY

This is to certify that on this day before me personally appeared Sherman A. Yeargan, Jr., who, being by me first duly sworn, says that he is the President and Carol W. Davis is the Assistant Secretary of Kimber Woods, Inc., the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said President, and the said President and Assistant Secretary subscribed their names thereto and said common seal was affixed all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

I, _____, do hereby witness my hand and notarial seal this 18th day of September, 1985.

My commission expires: 12/14/87

Susan H. Hamlin
Notary Public



NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of _____

Susan H. Hamlin

_____, Notary(ies) Public is

(are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

KENNETH C. WILKINS, Register of Deeds

By Regina R. Cooke
Deputy Register of Deeds