

WAKE COUNTY, NC 503
 LAURA M RIDDICK
 REGISTER OF DEEDS
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Brief Legal: Summer Ridge S/d

Mail to and Prepared By: Beaver & Green, PA
 Attorneys at Law

510 NC HWY 42 W.
 Clayton NC 27520

PROTECTIVE COVENANTS
and
DECLARATION OF HOMEOWNERS ASSOCIATION
for
SUMMER RIDGE SUBDIVISION

THIS DECLARATION, made and entered into this 12th day of May, 2004, by South Park Development Co., Inc., a North Carolina corporation, hereinafter referred to as "Declarant";

WITNESSETH:

THAT WHEREAS, Declarant is the owner of that certain tract or parcel of land more particularly described as Lots 1 through 22 of Summer Ridge Subdivision, as the same are shown on map and survey entitled "Subdivision Plat of Summer Ridge Cluster Development for South Park Development Co., Inc." as recorded in Book of Maps 2004, Pages 1371+1372, Wake County Registry;

AND WHEREAS, it is for the mutual benefit of all homeowners, present and future, in said Summer Ridge Subdivision, Lots 1 through 22, for Declarant to subject said lot as referenced hereinabove to the following Protective Covenants and Homeowners Association;

NOW, THEREFORE, Declarant does hereby declare that all of the properties referred to 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, for the term of these covenants as set forth below, and shall inure to the benefit of each holder thereof.

ARTICLE I
LAND USE AND BUILDING TYPE

No lot shall be used except for residential purposes, except that nothing herein shall preclude the use of any lot for a utility purpose for the benefit of this subdivision or access by the Declarant or its successors in interest, except that if any lot is purchased from the developer by an individual lot owner or builder, then said lot must be used for residential purposes only. No building shall be erected, altered, placed or permitted to remain on any lot other than one (1) detached single-family dwelling not to exceed two and one-half (2 1/2) stories in height and a private garage for not more than three (3) cars and (with the approval of the Architectural Control Committee) an accessory building or structure for storage or other appropriate use.

ARTICLE II
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 plan showing the location of such improvements have been approved in writing as to conformity and harmony of external design with existing improvements in the development by an architectural committee (Architectural Control Committee) composed of two (2) or three (3) persons designated and appointed by Declarant or its successors in interest. 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, or in any event, if no suit to enjoin the erection of such improvements or the making of such alterations has then commenced prior to the completion thereof, 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.

Until such time as the last developed lot is sold by Declarant, the Architectural Committee shall be and consist of Ron R. Lee, Lanny K. Clifton, and John C. Johnson, Jr., or their assigns.

ARTICLE III
DWELLING SIZE AND DRIVEWAYS

No one-story residential structure which has an area of less than one thousand two hundred (1,200) finished, heated square feet, exclusive of porches, breezeways, steps and garages, 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, and for the purposes hereof, any violation which does not exceed ten percent (10%) shall be considered a minor violation.

All driveways shall be concrete from street to each house, including parking area. Driveway piping shall be at least twenty (20) feet in width, with a minimum diameter of

eighteen (18) inches, unless the Declarant or its successors in interest specifies otherwise. Driveway piping and temporary gravel driveways must be installed before any type of construction is commenced on any lot.

ARTICLE IV BUILDING LOCATION

No building shall be located on any lot nearer to the front line than twenty-five (25) feet or nearer to the rear line than twenty-five (25) feet, or nearer to the side street than twenty (20) feet in the case of a corner lot. No building or garage shall be located nearer than ten (10) feet from an interior lot line, and no other permitted accessory building shall be located nearer than ten (10) feet to an interior lot line, nor nearer than fifteen (15) feet from the rear lot line, nor nearer than fifty (50) feet from the front setback line. For purpose of this covenant, eaves, steps, chimneys and stoops shall not be considered part of a building. For purposes of this covenant, decks shall be considered part of a building; however, decks may be located five (5) feet beyond the rear setback line as provided herein. No portion of any building shall be permitted to encroach upon another lot.

Declarant reserves the right to waive in writing any minor violation of this Article, and for the purposes hereof, any violation which does not exceed ten percent (10%) shall be considered a minor violation.

ARTICLE V EASEMENTS

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, the rear ten (10) feet of each lot, and ten (10) feet on each sideline, unless shown in excess of such distances on any 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 which may change the direction of flow of drainage channels in the easements, or which may obstruct or retire the flow of water through 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.

ARTICLE VI ELECTRICITY

All electric service will be underground. The developer reserves the right to subject the real property in the subdivision to a contract with Progress Energy, Inc. for the installation of underground electric cables and/or the installation of street lighting,

either or both of which may require an initial payment and/or a continuing monthly payment to Progress Energy, Inc. by the owner of such lot.

ARTICLE VII 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 stored 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, professional office of any kind, fraternity house, rooming or boarding house, antique or gift shop, shall be carried on upon any lot.

ARTICLE VIII SATELLITE DISHES

There shall not be any satellite dishes allowed within forty (40) feet from the right of way of the street that the house fronts on and shall not be within forty (40) feet to any side street. Satellite dishes exceeding eighteen (18) inches in diameter are prohibited.

ARTICLE IX ALL-TERRAIN VEHICLES

No all-terrain vehicles will be permitted to operate on any street or lot within the subdivision.

ARTICLE X MAILBOXES

Developer requires builder to provide white mailbox post with a black mailbox approved by Lanny K. Clifton to be placed on the lot before obtaining a Certificate of Occupancy.

ARTICLE XI TEMPORARY STRUCTURES

Except as hereinbefore set forth, no trailer, tent, shack, barn or other out building, except a private garage for not more than three (3) cars, shall be erected or placed on any lot covered by these covenants. Except with the prior consent of the Architectural Control Committee, no detached garage shall at any time be used for human habitation, either temporarily or permanently.

ARTICLE XIII FENCES

No fence, wall, hedge or mass planting shall be permitted to remain on any lot closer to the front line than the back of the dwelling erected thereon. No metal fences, except chain link fences, shall be installed on any lot unless screened in a manner approved by Lanny Clifton, which approval may be withheld arbitrarily. Any fence over four (4) feet in height must be approved by Lanny Clifton or his assigns.

If homeowner is found to be in non-compliance with this provision then said homeowner shall have sixty (60) days to either bring his/her fence into compliance or remove said fence upon notification by either Declarant or Architectural Committee. After sixty (60) days, if fence is still not in compliance then Declarant or Architectural Committee has the authority to remove fence at homeowner's expense.

All fences must be maintained in an aesthetically appealing manner.

ARTICLE XIV BASKETBALL GOALS

No basketball goals are permitted to be buried anywhere in the fifty (50) or sixty (60) foot road right-of-way.

ARTICLE XV SWIMMING POOLS

All swimming pools must be located in the back yard. Any above-ground pool must be approved in writing by Declarant or Architectural Committee.

ARTICLE XVI ACCESSORY BUILDINGS

No accessory building of any nature whatsoever (including, but not limited to, detached garages, storage buildings, doghouses, and greenhouses) shall be placed on any lot without the prior written approval of the Architectural Control 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. Under no circumstances shall metal storage buildings be permitted.

ARTICLE XVII APPEARANCE

Each owner shall keep his building site free from tall grass, undergrowth, dead trees, trash and rubbish, and properly maintained so as to present a pleasing appearance within the subdivision. In the event an owner does not properly maintain his building site

as above-provided, in the opinion of the Declarant and/or Architectural Control Committee, then Declarant (or its successors in interest), at its option, may have the site cleaned to its or the Architectural Control Committee's satisfaction, and the costs thus incurred shall be the responsibility of the lot owner. The costs of clean-up, if expended by the Declarant or its successors in interest, shall be a continuing lien upon the property until the sums due and payable are paid in full.

No clothes line shall be permitted if visible from any road within the subdivision. Trash cans must be located as to not be visible from any road within the subdivision. Screening for satellite television receivers, clothes lines and trash cans are subject to approval by the Architectural Control Committee. Communication towers are expressly prohibited. No inoperable motor vehicles may be parked on any lot if visible from any road within the subdivision.

ARTICLE XVIII ANIMALS

No animals, livestock or poultry shall be raised , bred, kept or allowed to remain on any lot other than household pets, and household pets shall not be bred or maintained for commercial purposes. Homeowners are allowed to have pets but any pet that is not on the premises of the homeowner shall be on a leash and occupied by the owner or someone with the owner's permission.

ARTICLE XIX 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 subdivision. Owners of lots shall not be permitted to park boats, trailers, campers, and all other similar property on the streets in the development, and such property shall not be permitted to be parked in front of the main dwelling.

ARTICLE XX UNDERGROUND UTILITIES AND STREET LIGHTING

Declarant reserves the right to subject the real property described hereinabove to a contract with Carolina Power & Light Company or its successors in interest for the installation of underground electric cables and the installation of street lighting, either or both of which may require a continuous monthly charge to the owner of each lot.

ARTICLE XXI
OPEN SPACE

Declarant shall deed that property which is designated as "Open Space To Be Dedicated to Summer Ridge Homeowners Association To Be Used as Passive Recreation Space" to Summer Ridge Homeowners Association upon the sale of the last developed lot by Declarant. This 5.932 acres shall be for the benefit and enjoyment of the members of Summer Ridge Homeowners Association.

ARTICLE XXII
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 with the Wake County Register of Deeds office, 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 XXIII
AMENDMENT

These restrictive covenants may be amended by Declarant, with no other consent, until such time as Declarant no longer owns at least one lot within the subdivision. After Declarant has sold the last lot that he owns within in the subdivision, these covenants may only be amended by a 2/3 majority vote of the then existing homeowners. Any amendment hereto must be in writing, duly recorded, and properly indexed in order to be valid.

ARTICLE XXIV
ENFORCEMENT

Enforcement of these covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, and the aggrieved party may request restraint of the violation or damages resulting from said violation.

ARTICLE XXV
SEVERABILITY

Invalidation of any one of these covenants or any part thereof by judgment or court order shall in no way affect 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 these covenants shall not be construed as a waiver of any future enforcement rights.

ARTICLE XXVI MEMBERSHIP AND VOTING RIGHTS

Every owner of a lot which is subject to these Covenants shall be a member of the Summer Ridge Property Owners' Association. Membership shall be appurtenant to and may not be separated from ownership of any lot. Such membership is not intended to apply to those persons or entities holding an interest in any tract merely as security for the performance of an obligation to pay money, e.g., mortgages or deeds of trust; however, if such secured party should realize upon his security and become the fee owner of a tract, it and its assigns will be subject to all of the requirements and limitations imposed in these covenants on owners of tracts within Summer Ridge Subdivision, including those provisions with respect to payment of annual assessments.

ARTICLE XXVII COVENANTS FOR MAINTENANCE ASSESSMENTS

The administration of the entrance signs and landscaping, including maintenance, repair and upkeep, shall be the responsibility of the Summer Ridge Property Owners' Association after the Declarant makes the initial construction and/or improvements thereto. There are hereby created contributions for maintenance expenses as may from time to time specifically be authorized by the Board of Directors of the Summer Ridge Property Owners' Association, to be commenced at the time and in the manner set forth in this article. The initial assessment amount shall be set at \$96.00 per year. Each owner, by acceptance of a deed or a recorded contract of sale for any portion of the properties, is deemed to covenant and agree to pay these contributions. The contributions, 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 such contribution is made. Each such contribution, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who is the owner of such property at the time when the assessment fell due. The personal obligation for delinquent contributions shall not pass to his successors in title unless expressly assumed by them. The contributions levied by the association shall be used exclusively for improvement and maintenance of the signs and other easements located on each lot for the benefit of the property owners as a whole.

It shall be the duty of the Board of Directors of Summer Ridge Property Owners' Association, at least sixty (60) days before the beginning of each fiscal year, to prepare a budget covering the estimated expenses of the association during the coming year. The budget shall include a capital contribution establishing a reserve fund in accordance with the budget separately prepared as provided herein. The base contribution to be levied against each lot for the coming year shall be set at a level which is reasonably expected to produce total income to the association equal to the total budgeted common expenses, including reserves. In determining the level of contributions, the Board, at its discretion, may consider other sources of funds available to the association. In addition, the Board shall take into account the number of lots subject to contribution on the first day of the

fiscal year for which the budget is prepared and the number of lots reasonably anticipated to become subject to contribution during the fiscal year. In no event shall the maximum annual contribution be increased each year by more than five percent (5%) above the maximum contribution for the previous year, without a vote of the membership. The maximum annual contribution may be increased above five percent (5%) by a vote of two-thirds of the members who are voting in person or by proxy, at a meeting duly called for this purpose.

The obligation to pay the contributions provided for herein shall commence as to each lot on the first day of the month following the conveyance of the lot to a person other than the Declarant. Contributions shall be due and payable in a manner and on a schedule as the Board of Directors of the Summer Ridge Property Owners' Association may provide. The first annual contribution shall be adjusted according to the number of days remaining in the fiscal year at the time contributions commence as per this section. Contributions must be fixed at a uniform rate for all lots.

ARTICLE XXVIII EFFECT OF NON-PAYMENT OF ASSESSMENTS

Any contribution not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of eight percent (8%) per annum. The Summer Ridge Property Owners' 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 contributions provided herein by non-use of his lot.

ARTICLE XXIV SUBORDINATION OF THE LIEN TO MORTGAGES

The lien of the contributions provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lots 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 assessment as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any contributions thereafter becoming due or from the lien thereof.

IN TESTIMONY WHEREOF, the Declarant has caused this instrument to be executed in its corporate name by its President, attested by its Secretary, and sealed with its corporate seal, by authority of its Board of Directors, as of the day and year first above-written.

SOUTH PARK DEVELOPMENT CO., INC.

BY: Lanny K. Clifton

Lanny K. Clifton
President

ATTEST:

Ron Lee
Secretary

Corporate Acknowledgment:

STATE OF NORTH CAROLINA

COUNTY OF JOHNSON

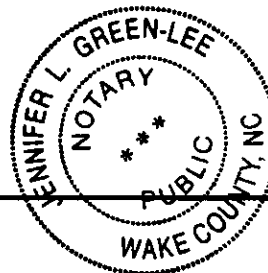
I, the undersigned Notary Public of the County and State aforesaid, certify that LANNY K. CLIFTON personally came before me this day and acknowledged that he (~~she~~) is the PRESIDENT of SOUTH PARK DEVELOPMENT CO., INC., a NC corporation, and that he (~~she~~), as PRESIDENT, being authorized to do so, executed the foregoing on behalf of the corporation, AND THAT SAID DOCUMENT WAS ALSO ATTESTED TO BY RON LEE, SECRETARY OF SOUTH PARK DEVELOPMENT CO., INC.

Witness my hand and official stamp or seal, this 20 day of MAY, 2004.

JENNIFER L. GREEN-LEE
Notary Public

My commission expires: 9-25-08

[Official Seal]





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Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

North Carolina – Wake County

The foregoing certificate _____ of Jennifer L. Green-dee

_____ 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.

Laura M. Riddick, Register of Deeds

By: Sheila Chestnut
Assistant/Deputy Register of Deeds

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