

Drawn by Blanchard & Jordan

NORTH CAROLINA

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WAKE COUNTY

THIS DECLARATION AND AGREEMENT, made and entered into this 14th day of October, 1955, by BROOKHAVEN, Incorporated, a corporation organized under the laws of the State of North Carolina, with its principal place of business in Wake County, North Carolina, Charles F. Blanchard, Trustee, as hereinafter stated, Louis E. Wooten, Sr., Louis E. Wooten, Jr., N. G. Fonville, Trustee, as hereinafter stated, the WACHOVIA BANK AND TRUST COMPANY, a corporation organized and existing under the laws of the State of North Carolina and having an office in the City of Raleigh, Wake County, North Carolina, and Cedric B. Goodwin and wife Helen Parks Goodwin;

WITNESSETH: That whereas the said Louis E. Wooten Sr., heretofore executed to said N. G. Fonville, Trustee, as trustee of a certain Deed of Trust dated December 7, 1953 and recorded in Book 1136 at Page 271 in the Office of the Registry of Deeds of Wake County, to secure certain notes therein set out due and payable to the WACHOVIA BANK AND TRUST COMPANY; and whereas the said Louis E. Wooten, Sr. has requested the said N. G. Fonville, Trustee, to join with the said WACHOVIA BANK AND TRUST COMPANY in this Declaration and Agreement, and the said WACHOVIA BANK AND TRUST COMPANY has agreed so to do and has requested said Trustee to join in said Declaration and Agreement; and

WHEREAS, by two warranty deeds both dated the 24th day of August, 1955, the said Louis E. Wooten, Sr., and wife, Edith M. Wooten, and Louis E. Wooten, Jr. and wife, Olive B. Wooten conveyed to BROOKHAVEN, Incorporated all their interest in the lands hereinafter described, said deeds being recorded in Book 1206 at pages 81 and 88 in the Office of the Registry of Deeds of Wake County, the latter deed being subject to the aforesaid deed of trust to N. G. Fonville, Trustee; and

WHEREAS, BROOKHAVEN, Incorporated executed and delivered to Charles F. Blanchard, Trustee two certain deeds of trust both dated the 24th day of August, 1955, and recorded in the Office of the Register of Deeds of Wake County, in Book 1205 at pages 414 and 425, conveying all its interest in the lands hereinafter described to secure certain notes therein set out and payable to Louis E. Wooten, Sr. and Louis E. Wooten, Jr.; and whereas the said BROOKHAVEN, Incorporated has requested the said Charles F. Blanchard, Trustee, to join with the said noteholders, Louis E.

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Wooten, Sr. and Louis A. Wooten, Jr. in this Declaration have agreed so to do and have requested said Trustee to join in said Declaration and Agreement; and

WHEREAS, the said Cedric B. Goodwin and wife Helen Parks Goodwin are owners in fee of the southwest triangle of the portion of the lands hereinafter described; and

WHEREAS, it is the desire of all the parties hereto to place restrictive covenants against all lots, numbered and unnumbered, specifically including the unnumbered lots adjacent to Carteret Drive, shown on the plat of BROOKHAVEN SUBDIVISION, Raleigh, N. C. made by L. E. Wooten and Company, Engineers and recorded in Book of Maps 1955, at page 109 of said Wake County Registry;

NOW, THEREFORE, in consideration of the premises and for the mutual benefit of those who become purchasers of said lots in the said BROOKHAVEN SUBDIVISION, the parties hereto for themselves, their heirs, successors and assigns, hereby covenant and agree with all persons, firms or corporations who may hereafter acquire any interest in or title to any of the property hereinafter described, as an inducement to said persons, firms or corporations to purchase a part of said property, to insure the highest and best development of said property and to insure the best use and the most appropriate development and improvement of each lot thereof, that all lots, numbered and unnumbered, specifically including the unnumbered lots adjacent to Carteret Drive, shown on the plat of BROOKHAVEN SUBDIVISION, Raleigh, N. C. made by L. E. Wooten and Company, Engineers, and recorded in Book of Maps 1955, at page 109 of said Wake County Registry are hereby subject to the following restrictive covenants as to the use thereof and that restrictive covenants are hereby placed and imposed thereon, which covenants shall run with the land by whomsoever owned as follows:

1. LAND USE AND BUILDING TYPE. No lot shall be used except for residential purposes and no part of said property shall be used for commercial 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 two cars. Said garage or any apartment therein may be occupied only by domestic servants employed at the residence or by relatives of the lot owners.

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2. DWELLING SIZE. No dwelling shall be erected or allowed to remain on any lot if the ground floor area, exclusive of one story open porches and garages, shall be less than 1750 square feet in case of one story structures, or less than 1200 square feet in case of one and one-half story structures, or less than 1000 square feet in case of two story structures; provided, however, in the case of so-called "split-level" or "multi-level" dwellings, containing three or more floors, there shall be a total living area of not less than 1750 square feet, said living area being defined as all square footage in said dwelling except garages, open porches, furnace rooms and utility rooms.

3. BUILDING LOCATION. No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building set back lines designated in broken lines on the recorded plat of Brookhaven Subdivision, Raleigh, N. C. in Book of Maps 1955, Page 139 of the Wake County Registry. In the event that no set back lines are shown for the particular lot or lots on said recorded plat, then no building shall be located on any lot nearer than 50 feet to the front lot line, or nearer than 30 feet to any side street line. In any event, no building shall be located nearer than 10 feet to an interior lot line, except that no side yard shall be required for a garage located 10 feet or more from the minimum building set back line. For the purpose of the covenants, eaves, steps, and open porches shall not be considered as 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. The word "eaves" for the purpose of this covenant shall be deemed to include carports open on the side opposite the house and on both ends and supported on said side and ends by not more than six posts. In the event that a dwelling is constructed nearer to the adjacent lot line than is permitted by this paragraph but not nearer than five feet to such line, such violation may be waived by the execution and recordation in the Wake County Registry of an instrument in writing signed by any one of the parties to this agreement, if in existence, and the owners of the adjacent lot on the side on which the violation occurs. Upon the execution and recordation of such waiver, said violation shall not thereafter be deemed existing.

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4. LOT AREA AND WIDTH. No dwelling shall be erected or placed on any lot having a width of less than 100 feet at the minimum building set-back line nor shall any dwelling be erected or placed on any lot having an area of less than 20,000 square feet. The owners of said lots may vary the lines of said lots except as otherwise provided herein, but may not reduce the size of any lot less than 20,000 square feet.
5. EASEMENTS. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear 5 feet of each lot.
6. ANIMALS. No animals or fowls shall be kept or allowed to remain on said property other than household pets; provided, however, no household pets may be bred or maintained for commercial purposes.
7. NUISANCES. 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. No trade materials or inventories may be stored on the premises, and no trucks, or tractors may be regularly parked on the premises.
8. TEMPORARY STRUCTURES. No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.
9. TERM. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2005.
10. ENFORCEMENT. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages.
11. SEVERABILITY. Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN TESTIMONY WHEREOF, the said BROOKHAVEN, Incorporated has caused this instrument to be executed in its corporate name by its President, attested by its Secretary, and its corporate seal to be hereto affixed, all by authority of its Board of Directors duly given; and the said Charles F. Blanchard, Trustee, Louis E. Wooten, Sr. and Louis E. Wooten, Jr., have hereunto set their hands and seals; and the said WACHOVIA BANK AND TRUST COMPANY has caused this instrument to be executed in its corporate name by

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one of its vice presidents, attested by its Assistant Secretary, and its corporate seal to be hereto affixed, all by authority of its Board of Directors duly given; and W. G. Fonville, Trustee, and Geodic B. Goodwin and wife Helen Parks Goodwin have hereunto set their hands and seals, all on the day and year first above written.

MACHOVIA, Incorporated

By: Louis E. Wooten Jr.
President.

Attest: Philip R. Taylor
Secretary

Charles F. Blanchard, Trustee
Charles F. Blanchard, Trustee (Seal)

Louis E. Wooten Sr.
Louis E. Wooten, Sr. (Seal)

Louis E. Wooten Jr.
Louis E. Wooten, Jr. (Seal)

MACHOVIA BANK AND TRUST COMPANY

By: W. G. Fonville
Vice President.

Attest: Philip R. Taylor
Secretary

W. G. Fonville
W. G. Fonville, Trustee (Seal)

Geodic B. Goodwin
Geodic B. Goodwin (Seal)

Helen Parks Goodwin
Helen Parks Goodwin (Seal)

NORTH CAROLINA
WAKE COUNTY

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This is to certify that on the 17 day of October 1955, before me personally came Philip T. Taylor, with whom I am personally acquainted, who, being by me duly sworn says that Louis T. Wooten, Jr. is the President and Philip R. Taylor is the Secretary of BROOKHAVEN, INCORPORATED, 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 that the said President and Secretary subscribed their names thereto, and said common seal affixed, all by order of the Board of Directors of said corporation, and that the foregoing instrument is the act and deed of said corporation.



Witness my hand and official seal this the 17 day of October 1955
Commission expires: February 9, 1957
Elizabeth D. Oster
Notary Public

NORTH CAROLINA
WAKE COUNTY



I, Elizabeth D. Oster, a Notary Public in and for said County hereby certify that Charles F. Blanchard, as Trustee, personally came before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and Notarial Seal, this 19th day of October 1955
Commission expires: 4/3/57
Elizabeth D. Oster
Notary Public

NORTH CAROLINA
WAKE COUNTY



I, Elizabeth D. Oster, a Notary Public in and for the County and hereby certify that Louis E. Wooten, Sr. and Louis E. Wooten, Jr., personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and Notarial Seal, this 19th day of October 1955
Commission expires: 4/3/57
Elizabeth D. Oster
Notary Public

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THIS 18 day of Oct 1947, personally came before me
Hubert E. Bennett a Notary Public in and for the
 said State and County, George Newsome, who, being duly sworn, says
 that he knows the certain seal of said said Bank and Trust Company, and
 is acquainted with William Martin, Vice President of said corporation,
 and that he, the said William Martin, is an Assistant Secretary of said
 corporation and saw the said William Martin, Vice President, sign the Fore-
 going and annexed deed of conveyance, and that he, the said George Newsome,
 Secretary, as aforesaid, affirmed said certain seal of said corpora-
 tion and instrument and that he, the said William Martin, signed his
 name and attestation of the execution of the said instrument in the presence
 of the co-resident of said corporation.

WITNESS my hand and official Seal.

Nashel E. Merritt

Commission Expires: 2-18-53

NORTH CAROLINA
DAVE COUNTY

I, Michael E. Minnatt, a Notary Public in and for said County and State, do hereby certify that J. J. Vonville, as Trustee, personally came before me this day and admitted to the execution of the foregoing instrument.

Witness my hand and Notarial Seal, this 19 day of Oct

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Nahel E. Nesvett

NY Collection - Box: 2-18-56

NORTH CAROLINA
WAKE COUNTY

I, Maie B. Brantly, a Notary Public in and for the County and State, do hereby certify that Eric B. Goodwin and Mae Helen Parks Goodwin, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and Notarial Seal, this 14 day of Oct.

Maria B. Brant
Secretary Public

Commission requires: 2.2.

STATE OF NORTH CAROLINA:

Wake County:

The foregoing Certificate(s) of

Ethel M. Magruder) A Notary Public of Wake County, State of North Carolina

E. J. Albert D. Carter A Notary Public of Wake County, State of North Carolina

Margaret Merritt A Notary Public of Wake County, State of North Carolina. and

James B. Binstadt, Jr. A Notary Public of Wake County, State of North Carolina

are adjudged to be in due form and correct. Let the instrument with the certificates be registered.

Witness my hand this the 19 day of October 1950

Clerk Superior Court, Wake County, N. C.

Filed for registration at 4:40 o'clock 19 day of Dec, 1945

and registered in the office of the Register of Deeds for Wake County.

in Book 1211, Page 577.

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 [Signature]
 Register of Deeds