

Wake County, NC 414
 Laura M Riddick, Register Of Deeds
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 Book : 009343 Page : 00128 - 00136

Prepared by: (Hold) Senter, Stephenson, and Johnson P.A.
 WCR #175

NORTH CAROLINA
 WAKE COUNTY

PROTECTIVE COVENANTS
 OF
 TURNER DOWNS SUBDIVISION
 PHASE I

Book of Maps 2002, page 475-478
 Wake County Registry

KNOW ALL MEN BY THESE PRESENTS that PERRY DEVELOPMENT CO., L.L.C., declarant; hereby agree with all persons, firms and corporations who hereafter acquire a lot from the above referenced subdivision (**TURNER DOWNS SUBDIVISION**) that the following protective covenants shall apply to all lots conveyed out of said subdivision and said restrictions shall run with the properties by whomever owned, which covenants are as follows:

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 1 through 62 and Lots 100, 101, 126, and 127 of TURNER DOWNS SUBDIVISION, PHASE 1, as shown on that map recorded in Book of Maps 2002, page 475-478, Wake County Registry, reference to which is hereby made for greater certainty of description.

No property other than that described above shall be deemed subject to the Declaration until specifically made subject hereto.

The Declarant may, from time to time, subject additional real property to the protective covenants and restrictions herein set forth by appropriate reference hereto.

The real property set forth above is subject to the covenants herein declared in order to insure the best and most appropriate use and development of each lot; to preserve, as far as feasible, the natural beauty of the property; to prevent the erection thereon of poorly designed or proportioned structures; and to encourage and promote the erection of well designed and well constructed homes for the maximum enjoyment and enhancement of the community.

ARTICLE II

A building unit shall consist of each lot specifically enumerated and set forth on the above reference map. The owners of said lots may revise boundary line of said lots, except as hereinafter provided, may not re-subdivide the lots so as to increase the number of lots within this subdivision.

ARTICLE III

All lots shall be used for residential purposes exclusively and no part of said property shall be used for business, manufacturing or commercial purposes. No portion of any lot shall be used for street purposes without the written consent of the Declarant, their successors or assigns. No structure shall be erected or allowed to remain on any lot except one (1) single family dwelling of not more than two and one-half (2 ½) stories in height (excluding any basement, which may be occupied by a single family, together with an apartment to be occupied by a member of the same family or domestic servants). There may also be located upon said lot a private garage which may include quarters for servants or occupants of the main dwelling and for storage. The construction of dwellings and approved improvements shall be completed within twelve (12) months after construction has begun. No lot owner can sell any part of the lot to adjoining property owners for purpose of exit or entering onto subdivision street unless approved by developer.

ARTICLE IV

All homes of any nature, must have at least 2000 square feet of heated space. All residences must have a double car garage.

ARTICLE V

All building must go by county standards for county setbacks, lines, etc..

ARTICLE VI

PROPERTY RIGHTS

Section 1. OWNER'S EASEMENT OF ENJOYMENT: Every owner shall have a right and easement of enjoyment in and to the Permanent Open Space which 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 use of and to charge reasonable admission and other fees for the use of any recreational facility situated upon the Permanent Open Space.
- b. The right of the Association to suspend the voting rights and right to use the Permanent Open Space facilities by an owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed sixty (60) days for any infractions of its published rules and regulations.
- c. The right of the Association to dedicate or transfer all or part of the Permanent Open Space to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by at least two-thirds (2/3) of the members, agreeing to such dedication or transfer, has been recorded, and provided the dedication or transfer is in compliance with applicable zoning regulations.
- d. The right of the Association to impose regulations for the use and enjoyment of the Permanent Open Space and improvements thereon, which regulations may further restrict the use of the Permanent Open Space.

Section 2. RIGHT TO DELEGATE: Any owner may delegate his right of enjoyment to the Permanent Open Space and facilities to the members of his family, his tenants, guests or contract purchasers who reside on his property.

Section 3. TITLE TO PERMANENT OPEN SPACE: While reserving the right to build and own facilities on the Permanent Open Space and to charge reasonable fees for use of said facilities, the Declarants hereby covenant for itself, its successors or assigns, that it will convey to the association fee simple title to the Permanent Open Space specifically described in the recorded plat. Such conveyance shall be free and clear of all encumbrances and liens, but shall be subject to these covenants and to all easements of record for utilities and for access. It is expressly provided that the Declarants, at its sole discretion, may exchange with the Association for fair value, any portion of the Permanent Open Space heretofore conveyed to the Association for additional contiguous property to be added to the Permanent Open Space. Upon such exchange and conveyance the area conveyed to the Declarants shall cease to be Permanent Open Space and shall cease to be subject to the provisions of this Declaration relating to the Permanent Open Space. Any area acquired by the Association pursuant to the forgoing language shall become Permanent Open Space and be subject to the provisions of these covenants relating to Permanent Open Space. Any conveyance of Permanent Open Space must be approved by Wake County or its successor.

Section 4. PARKING RIGHTS: The Association may regulate the parking of boats, trailers and other such items on the Permanent Open Space. No boats or trailers shall be parked within the right of way of any public street in or adjacent to the property described herein.

ARTICLE VII

HOMEOWNERS ASSOCIATION

No lot shall be used for except for residential purposes. No road shall be constructed on any lot in this subdivision connecting to any lot not in this subdivision.

Section 1. "Association" shall mean and refer to Turner Downs Homeowners Association, Inc., its successors and assigns.

Section 2. "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 Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. " Properties " shall mean and refer to that certain real property, as shown on map recorded in the subdivision and book of maps above referred to and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Permanent Open Space" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the Owners. The Permanent Open Spaces to be owned by the Association will be shown on maps subsequently recorded showing additions to the Properties.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Permanent Open Space.

Section 6. "Declarant" shall mean and refer to Perry Development Co., LLC., and its successors and assigns.

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Permanent Open Space which 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 charge reasonable admission and other fees for the use of any recreational facility situated upon the Permanent Open Space;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Permanent Open Space to any public agency, authority or utility for recreational or other purposes as are allowed by and subject to all applicable governmental ordinances; provided that no such dedication or transfer shall be effective unless approved by local governmental authority having jurisdiction over same, and unless an instrument agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-laws, his right of enjoyment to the Permanent Open Space and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment and the Declarant, shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A member (s) shall be all Owners, with the exception of Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in a Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member (s) shall be Declarant, and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on May 31, 2006.

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, 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: (i) annual assessments or charges, and (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, 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 assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Permanent Open Space.

Section 3. Maximum Annual Assessment. To be determined in the future.

(a) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner by Declarant, the maximum annual assessment may be increased each year not more than 5 % above the maximum assessment for the previous year without a vote of the membership.

(b) 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 above 5 % by a vote of two thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

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 Permanent Open Space, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action **authorized under Section 3 or 4** shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each 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 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on an annual, quarterly or monthly basis as determined by the Board of Directors.

Section 7. Date of Commencement of Annual Assessments: Due Dates The annual assessments provided for herein shall commence as to all Lots other than those owned by the original Declarant on the first day of the month following the recordation of this Amendment. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. 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 dates shall be 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 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of 6 percent per annum. The 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 assessments provided for herein by non-use of the Permanent Open Space or abandonment of his Lot.

Section 9. 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.

ARTICLE VIII

Easements are reserved for the installation of utilities and drainage facilities on, over and under the front ten (10) feet, the rear ten (10) feet of each lot and five (5) feet on each side lot line. Within these easements, no structure, planting, fence 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 alter the direction of flow of drainage channels in said easements, or which may obstruct or impede the flow of water through said channels in said easements. Declarant further reserves an easement over the front twenty feet, rear twenty feet and side twenty feet of each lot for landscaping purposes wherein the Declarant may, in its discretion, plant grass, shrubs or trees, re-grade, contour or install rip-rapp from landscaping and conservation purposed. The easement areas of each lot shall be maintained continuously by the lot owner, except for the improvements for which a public authority or utility may be responsible. These easements and rights expressly include the right to cut any trees, bushes, or shrubbery and do necessary grading within that area.

ARTICLE IX

Mobile homes, log homes, earthen or underground homes, shell homes, modular homes, pre-cut, pre-assembled and packaged homes or similar type buildings are expressly prohibited on any lot, except that Declarant, its successors or assigns, may in its complete discretion, approve a dwelling or appurtenant structure with some of its components being pre-cut or pre-assembled. The erection of Accessory buildings and fences shall require the prior approval of the developer. No structure of a temporary character; i.e., a house trailer, tent, basement, shack, garage, barn or other accessory building may be used at any time as a residence. No window air conditioning units shall be installed so as to be visible from any street or recreational area. In the event that any dwelling or approved structure is damaged or destroyed, by whatever source, any debris remaining shall be removed within 120 days and the structure shall be restored or repaired within 365 days. In the event of a total loss of the structure, owner may elect not to replace it; however, the site shall be cleared of all debris, graded level with the contour of the land and grassed or strawed.

ARTICLE X

Each owner shall keep his building site free of all tall grass, undergrowth, dead trees, trash and debris. All garbage, trash and other refuse shall be deposited temporarily in covered receptacles located at the rear of the dwelling. It shall be the duty of each owner to have his or her garbage removed on at least a weekly basis. No garbage shall be burned on any lot, nor may any lot be used as a dumping area. Each lot shall have one driveway leading from the street which shall be paved

with concrete, asphalt or other material approved by the Declarant. Location of such driveway shall be approved in writing by the Declarant. Such pavings shall be completed simultaneously with completions of the dwelling. During construction, builders shall keep the building site free of trash and debris and shall provide their employees and agents with portable toilet facilities. If, in the opinion of the Declarant, a lot is being maintained in violation of the above standards, Declarant or its designee may, at the expense of the owner, have such conditions corrected. During construction of driveways or other land disturbing activities undertaken for landscaping purposes on lot or street right-of-way in front of lot, the lot owner undertaking such activity shall be responsible for installing erosion control devices, if needed, to control water pollution from sedimentation and to prevent accelerated erosion and sedimentation of lakes and natural water courses. These devices shall be constructed and maintained in accordance with the then current county erosion and sediment control ordinances. No construction debris, including concrete washout, shall be placed on any street right of way. Ditches or slopes of street destroyed during construction activity shall be replaced by the lot owner responsible for such activity. No lot shall be cleared of naturally occurring trees or other vegetation without prior written approval of the Declarant.

ARTICLE XI

No noxious or offensive activities shall be conducted or permitted to be conducted upon any lot nor shall anything be done or be allowed to be done which may be or may become a nuisance or an annoyance to the neighborhood. No mobile homes or truck cargo trailer shall be placed or maintained upon any lot. Boats, trucks, campers, motor homes and trailers may not be parked or permitted to remain on the street or in front of any dwelling, nor may they be parked elsewhere on a lot unless screened in such a manner as may be approved by the Declarant. No junked, dismantled, abandoned, wrecked or inoperable motor vehicle, or parts thereof, shall be allowed to remain on the property. Only motorized vehicles duly licensed by the state of North Carolina to be operated on the public streets and highways shall be operated within the subdivision or maintained or kept on the lots or premises. No signs, including 'For Sale' signs, shall be erected upon any lot without the prior approval of the Developer.

ARTICLE XII

No radio, television, or other antennas may be erected on a lot or structure without the prior approval of the Declarant. No satellite discs, temporary or otherwise may be erected unless approved by the Declarant. No satellite discs greater than 24 inches in diameter shall be allowed in the subdivision. No radio station or short-wave radio operations shall be permitted to operate upon any lot. All outdoor poles, clotheslines or similar equipment shall be erected so as not to be visible to users of any street or community recreational area. No mail receptacles shall be erected unless approved by the Declarant.

ARTICLE XIII

No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot with the following exceptions: dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purposes. The household pets must be kept and contained on owners' property and if contained within a fence enclosure, said enclosure cannot be constructed until approved in writing by the declarant. No person shall keep, permit and/or cause the keeping of any animals otherwise permitted which habitually or frequently make such sounds, cries or other utterances as may disturb the quiet, comfort or repose of any person within the subdivision.

ARTICLE XIV

Sewage disposal shall be by septic tank or by connection to a municipal or county approved sewage system, if such system is available. Septic tank installation plans shall be approved by a representative of the County Health Department or other authorized agency and the installation of a septic system shall conform to such agency approved plan.

ARTICLE XV

All individual water systems shall be constructed in conformity with plans approved by the county Health Department or other authorized agency. All telephone, electrical and other utility lines and connections between the main utility lines and the dwelling or other structures shall be located underground so as not to be visible. Declarant reserves the right to subject the real property to a contract with Carolina Power and Light Company or other appropriate utility for the installation of underground electric cables and/or the installation of street lighting either or both of which may require an initial and/or continuing payment for such service by the owner of each lot.

ARTICLE XVI

In order to maintain the architectural beauty throughout the subdivision and to guard against the erection of poorly placed, designed or proportioned structures, no building, structure or fence shall be erected, altered, or permitted to remain on any building unit until a plat plan showing the location of said building, structure or fence on the lot and the plans and specifications showing the type and exterior lines thereof have been submitted to and approved in writing by the Declarant. In the event the Declarant fails to approve or disapprove such design or location within thirty days after said plans and specifications have been submitted, as herein required, such approval shall not be required and this covenant shall be deemed to have been fully complied with.

ARTICLE XVII

No fuel tanks, or similar storage receptacles may be exposed to view and must be installed only within the main dwelling house, within another approved structure or buried underground in a safe and approved container.

ARTICLE XVIII

Declarant shall have the absolute authority to waive minor violations of not more than fifteen (15%) as long as it owns any portion of subdivision. When Declarant no longer owns any portion of the subdivision, minor violations may be waived by written and recorded instrument of the then owners of a majority of the lots within the subdivision.

ARTICLE XIX

These covenants shall run with the land and remain binding upon all persons or entities claiming under them for a period of twenty-five (25) years from the date of recordation, after which time they shall be automatically extended for successive periods of ten (10) years unless the then owners of a majority of the lots shall execute and record a declaration of abandonment of said covenants.

ARTICLE XX

Enforcement of these covenants shall be by proceedings at law or in equity against any person or entity violating or attempting to violate any of said covenants.

ARTICLE XXI

Invalidation of any one of these covenants or any portion thereof by any court shall in no way affect the validity of the others, which shall remain in full force and effect.

ARTICLE XXII

Any and all authority delegated to the Declarant by these covenants, at Declarant's option, shall be transferred to a Homeowners Association formed by a majority of the lot owners of the subdivision. Such Transfer shall take place when all lots have been conveyed by the Developer, provided such association has been formed at that time. If no association has been formed at the time of the last conveyance by Declarant, the transfer shall take place upon the formation of such an association. In no event shall Declarant be responsible for enforcing these covenants after a period of twelve (12) months has elapsed since Developer's conveyance of the last lot.

ARTICLE XXIII

In the event of litigation to enforce the provisions of these covenants, the party or parties determined to be in violation of these covenants shall pay the reasonable attorney's fees of the Declarant or the Homeowners Association.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this November 6, 2001.

PERRY DEVELOPMENT CO., LLC

By: *ABP* (SEAL)
 Anthony Bryan Perry, Sr., Member-Manager
 (aka A. B. Perry, Sr., A. Bryan Perry, Sr., Anthony B. Perry, Sr.)

By: *A. B. Perry, Jr.* (SEAL)
 Anthony Bryan Perry, Jr., Member-Manager (aka A. B. Perry, Jr., A. Bryan Perry, Jr.)

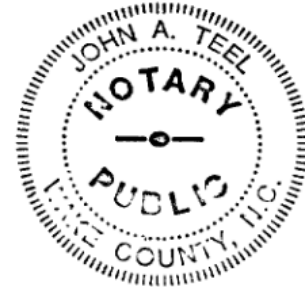
By: *Patrick Lee Perry* (SEAL)
 Patrick Lee Perry, Member-Manager
 (aka Patrick Perry, Lee Perry, Patrick L. Perry)

NORTH CAROLINA
 COUNTY OF WAKE

I, the undersigned notary public, do hereby certify that Anthony Bryan Perry, Sr., (a.k.a. A. B. Perry, Sr., A. Bryan Perry, Sr., Anthony B. Perry, Sr.), Member-Manager, Patrick Lee Perry, (a.k.a. Patrick Perry, Lee Perry, Patrick L. Perry), Member-Manager, and Anthony Bryan Perry, Jr., (a.k.a. A. B. Perry, Jr., A. Bryan Perry, Jr., Anthony B. Perry, Jr.), Member Manager of Perry Development Co., LC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of the company the foregoing instrument was signed in its name by them as the Member-Managers aforesaid.

Witness my hand and notary stamp or seal, this May 1, 2000.

 Notary Public
 My commission expires: 11/23/02



Laura M Riddick
Register of Deeds
Wake County, NC



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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 John A. Teel

____ 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: Vernon S. Glenn

Assistant/Deputy Register of Deeds

This Customer Group

_____ # of Time Stamps Needed

This Document

_____ New Time Stamp
_____ # of Pages