

NORTH CAROLINA
BEAUFORT COUNTY

This Declaration made this 23rd day of October, 1986 by Steven R. Poole, Jr. and wife, Lucinda T. Poole, hereinafter called Declarants:

W I T N E S S E T H:

THAT WHEREAS, the Declarants are owners of real property described in Article I of this Declaration and are desirous of subjecting said real property to protective covenants hereinafter set forth, each and all of which is and are for the benefit of such property and for each owner of a lot therein, and shall enure 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 interests of any owner thereof.

NOW THEREFORE, the Declarants hereby declare that the lots conveyed out of the real property described in and referred to in Article I herein are and shall be held, transferred, sold and conveyed subject to the Protective Covenants set forth:

ARTICLE I

The real property which is, and shall be, held, transferred, sold and conveyed subject to the Protective Covenants set forth in the various Articles of this Declaration is located in Bath Township, Beaufort County, North Carolina, and is more particularly described as follows:

Beginning at an iron pipe in the centerline of the 60-foot wide right of way at the entrance to Banjo Creek Estates, the said iron pipe identified by the letter "A" on a map by Hood L. Richardson, Registered Land Surveyor, #2522 dated July 11, 1986, recorded in the Beaufort County Registry in

Plat Cabinet D, at Slide 77; thence a line running with the centerline of a ditch North 73 degrees 21 minutes 44 seconds East 700.00 feet to a point; thence a line at right angles to the last said line North 16 degrees 38 minutes 16 seconds West to the high water mark of Pungo Creek; thence in a northwesternly direction with the meanders of the said high water mark to the confluence of Banjo Creek, also known as Little Mill Creek, with Pungo Creek; thence in a southerly direction with the centerline of Little Mill Creek to a point; thence North 73 degrees 23 minutes 44 seconds East approximately 150 feet crossing the marsh to a point; thence North 73 degrees 23 minutes 44 seconds East 1518 feet with the centerline of a ditch and crossing a pond to the beginning, according to a survey by Hood L. Richardson, Registered Land Surveyor, #2522 dated July 11, 1986 and recorded in Plat Cabinet D at Slide 77, Beaufort County Register of Deeds; and being a part of the land described in Deed Book 702, at Page 620, Beaufort County Registry.

ARTICLE II

The real property described in Article I does not adjoin a public road, and access to said property and lots conveyed therefrom shall be over a right of way from State Road 1718 to said property more particularly described as follows:

Beginning at a P.K. Nail in the centerline of State Road 1718, the said P.K. Nail is 998.56 feet in an easterly direction with the centerline of the said State Road 1718 from the East end of the bridge crossing Banjo Creek, also known as Little Mill Creek; thence from the said beginning P.K. Nail an easement 15 feet each side of a line North 07 degrees 42 minutes 33 seconds West crossing a rod at 690.66 feet and continuing the same bearing 15.71 feet to an iron pipe; thence an easement beginning fifteen feet West of the last said iron pipe and running 15 feet each side of a line from the last said iron pipe North 73 degrees 10 minutes 36 seconds East 1274.43 feet to an iron pipe, the South boundary of the easement being a boundary line between the Steven R. Poole, Jr. and Mrs. D. W. Payne (formerly S. W. Winley) land; thence a right of way 30 feet on each side of the following: six calls marked by iron pipes driven below the surface of the ground, North 8 degrees 55 minutes 55 seconds West 229.45 feet, North 19 degrees 35 minutes 26 seconds West 204.10 feet, North 38 degrees 38 minutes 38 seconds West 219.84 feet, North 23 degrees 07 minutes 26 seconds West 205.46 feet, North 08 degrees 18 minutes 33 seconds East 226.12 feet, North 20 degrees 11 minutes 46 seconds West 203.56 feet to Banjo Creek Estates, the last said iron pipe designated by the letter "A" on a survey by

Hood L. Richardson, Registered Land Surveyor, #2522 dated July 11, 1986, recorded in Plat Cabinet D at Slide 77, Beaufort County Registry.

Reference is made to Deed Book 808, at Page 400, Deed Book 796, at Page 689, Deed Book 825, at Page 369, Map Book 10, at Page 58, Deed Book 702, at Page 620 and Deed Book 821, at Page 956.

ARTICLE III

The real property described in Article I is to be subdivided into not more than forty-eight lots, each lot to contain not less than 20,000 square feet, and each lot shall meet the State and Beaufort County minimum health and sanitation requirements for the installation of individual wells and septic tanks on each lot before any improvements may be constructed thereon.

In the event certain lots do not by themselves meet such requirements, Declarant reserves the right to convey to purchasers contiguous or noncontiguous parcels to be used by said purchasers for ground absorption sewage disposal systems. Such additional parcels shall be used only for such purpose and not for construction of other structures or improvements. Declarants reserve to themselves and their heirs and assigns an easement and right of way under any and all roads in the subdivision for installation and maintenance of all utility lines necessary to construct and use such disposal systems. Such parcels shall be conveyed as an appurtenance to the main lot and shall be designated as such, and shall be considered part of the lot.

Each lot shall have access from State Road 1718 over the right of way described in Article II as well as a right of way over any and all roads within Tract A described in Plat Cabinet D, Slide 77 that are subsequently built and/or surveyed, and maps

thereof recorded in the public records of Beaufort County. The road described in Article II and any subsequent roads built, surveyed and mapped in said subdivision will not be publicly dedicated within the meaning of N.C.G.S. 136-102.2, nor will said roads be designated or constructed in accordance with the minimum standards for subdivision roads as adopted by the North Carolina Secondary Roads Council for acceptance on the State of North Carolina Highway System. After construction of the roads, responsibility for maintenance of the roads shall be govern by the provisions of Article XIV of this Declaration.

The term "lot" as hereinafter used in these Declarations shall mean those individual lots that are subsequently surveyed out of the real property described in Article I, and thereafter conveyed by Declarants, and all such lots conveyed out of the property described in Article I shall be conveyed subject to the terms and provisions of this Declaration.

ARTICLE IV

Lots shall be used for single family residential purposes only. Garages, storage buildings, etc. shall be built of materials of the same nature as the residence and for use only by the occupants of the said dwelling.

ARTICLE V

No trade or commerce shall be carried on upon any lots and no activity which may be considered a nuisance to the neighborhood shall be carried on upon any lot. No trade materials or inventories may be stored upon any Lot and no tractor trailer type trucks, house trailer (other than camping

trailers) or mobile home may be stored or regularly parked on any lot. No sign or billboard of any kind shall be erected or allowed to remain on any Lot other than a "For Sale" or "For Rent" sign.

ARTICLE VI

After Declarants have conveyed individual lots out of the real property described in Article I, no such lots shall be thereafter subdivided except to enlarge an adjoining lot, but any lot so enlarged cannot be improved with more than one single family dwelling.

ARTICLE VII

All single story residential structures constructed on a lot shall have an area of at least 1,000 square feet exclusive of porches, breezeways, steps and garages. Any story and one-half, two story or two and one-half story residential structure shall have a ground floor area of at least 800 square feet, exclusive of porches, breezeways, steps and garages.

ARTICLE VIII

No structure of a temporary character, trailer, mobile home, modular home, tent, shack, garage, barn, or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently, except for a travel trailer and/or motor home used during the initial construction of the dwelling, provided, that such use of a motor home not exceed six months. A well and septic tank must be installed prior to use by a travel trailer or motor home.

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Each owner shall keep his lot free of tall grass, undergrowth, dead trees, trash and rubbish and properly maintained so as to present a pleasing appearance. All receptacles and other equipment for trash or waste material disposal shall be kept in a clean and sanitary condition. Each lot owner shall provide receptacles for garbage located in an area not generally visible from the subdivision roads or from Pungo Creek.

ARTICLE IX

On those lots having waterfronts, piers and bulkheads may be constructed on the property or adjacent thereto provided that prior to construction, written approval has been obtained from the appropriate federal, state, county and/or local authorities.

ARTICLE X

No animals, livestock or poultry of any kind shall be raised, bred, or kept on said property except that a reasonable number of dogs, cats or other household pets may be kept, provided they are not kept, bred or maintained for any commercial purpose.

ARTICLE XI

No structure of any kind may be built on any individual lot within 10 feet from either sideline, or within 35 feet from any adjoining road right of way. All lots shall have a minimum rear setback line of 15 feet, but lots on Pungo Creek and Banjo Creek will have a 40 feet setback line from the high water mark. Setbacks from waterfront or marsh may also be governed by applicable, federal, state, county or local regulations.

ARTICLE XII

All electrical and telephone services from distribution systems to residences shall be underground with the cost for such underground service being shared by the owner and utility company in conformity with existing utility company's policy, and no overhead wiring insofar as electrical, telephone and other wire using utility services shall be permitted on any lot.

An easement, 10 feet in width is hereby reserved along the front lot lines of all lots, said front lot line being the line adjoining the subdivision road adjacent to each lot.

ARTICLE XIII

The road described in Article II, and future roads within the property described in Article I that are surveyed and maps thereof recorded, shall be subject to an easement for ingress, egress and regress, in favor of the owners of the lots conveyed out of the property described in Article I. Said easement shall be nonexclusive, and Declarants herein reserve an easement in common with said future owners over all of said roads for their own use, for the future development of their adjoining property, and for the use of Declarants' heirs and assigns.

ARTICLE XIV

Every lot conveyed out of the property described in Article I shall be subject to an assessment for maintenance of the road described in Article II and for the roads hereinafter surveyed, mapped and recorded out of the property described in Article I. Each lot owner is assessed the sum of \$100.00 due and payable with the purchase price. Said \$100.00 shall be deposited in a

common fund account for a fund to be known as the "Banjo Creek Estates Maintenance Fund". Thereafter each owner shall pay an annual road maintenance assessment which may be increased or decreased for any given year by a majority vote of lot owners as hereinafter defined. The annual assessment will be payable on or before January 31 of each year and may be waived only by unanimous vote of the lot owners. Said funds may be used only for road maintenance and facility expenses approved by a majority vote as hereinafter defined.

The Banjo Creek Estates Maintenance Fund shall be owned jointly by all the property owners and shall be used only for:

- a. Road maintenance expenses; and
- b. Common property maintenance; and
- c. Administration costs for enforcement of collection of the maintenance fees.

The funds shall not be subject to partition by any individual lot owners. There shall be created for the purpose of holding and administering such funds a Banjo Creek Estates Homeowners Association, which shall have the power to file with the Register of Deeds of Beaufort County a Notice of Assessment of Lien against any lot for which the annual maintenance assessment has not been paid by February 1 of any year, and such lien shall continue until the assessment is paid. The Banjo Creek Estates Homeowners Association shall be comprised of all property owners. All decisions shall be made by majority vote (except that a two-thirds majority shall be necessary for the levy of increased or special assessments, or expenditure of

monies), at a meeting of the property owners held after reasonable notice has been given to all such property owners. Voting rights are on the basis of one vote per lot, but provided that to and until at least 24 individual lots are conveyed, the Declarants herein shall be deemed to be the owners of 24 lots and shall be able to vote at all meetings as the owner of at least that many lots to and until at least 24 lots have been conveyed. Thereafter, Declarants will be deemed to be the owners of all subdivided lots not sold and will be entitled to one vote per lot. Provided further, that in the event the entire property described in Article I is surveyed into individual lots, Declarants shall be deemed to be the owner of as many lots so subdivided as if not been conveyed and will have one vote per lot. The Association will organize, elect officers and operate freely within the restrictions herein contained. Steven R. Poole, Jr. will administer the Banjo Creek Estates Homeowners Association until at least 24 lots have been sold. At that time, Banjo Creek Estates Homeowners Association does hereby agree to take over the administration of the maintenance of the roads, common area, and enforcement of the assessment liens. At that time Banjo Creek Estates Homeowners Association will be deeded the private roads and common areas, and it agrees to accept the deed for ownership of said roads and common area at that time. Provided, however, that said roads will continue to be subject to the nonexclusive easements in common as described in Article XIII, and the utility easements described in Article III.

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ARTICLE XV

12. a. All driveway connections to the adjoining roads shall be at least 16 feet in width and shall contain a 15 inch metal or concrete culvert for the width of the driveway connections.

b. Any damage caused by driveway connections to the adjoining roads; to the ditches or shoulders of the road; to the flow of drainage water along said road; or to underground utilities shall be repaired at the expense of the owners connecting such driveways.

ARTICLE XVI

The map hereinabove referred to in Article I shows a temporary boat launch facility. The owners of the lots conveyed out of the property described in Article I shall have the use of said temporary boat launch facility as a common area to and until such time as the Declarants are able to obtain the necessary permits to construct a comparable boat launch on Pungo Creek and said comparable area shall be dedicated as a common area for the lot owners. Upon said dedication, the existing temporary boat launch facility shall cease to be a common area, and title to said temporary boat launch facility shall be vested in the Declarants without any further claim by any of the lot owners.

ARTICLE XVII

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2000, at which time said covenants shall be automatically extended for successive periods of 10 years unless,