

BK 1681 PG 521



INSTRUMENT # 2009002026

FOR REGISTRATION REGISTER OF DEEDS
Jennifer Leggett Whitehurst
Beaufort County, NC
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Book 1681 Page 521-537
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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
NORTHWINDS SUBDIVISION

THIS DECLARATION, made on the 9th day of April, 2009, by Crosswind Partners, LLC, hereinafter referred to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Long Acre Township, Beaufort County, North Carolina, which is more particularly described as follows:

IT BEING Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 & 18 as shown on that subdivision survey prepared by Jarvis Consultants, Inc. dated 6-30-08 entitled "Map of Property of Crosswind Partners, LLC" of record in Plat Cabinet H, Slide 34-5, Beaufort County Registry.. SAVE AND EXCEPT, cemetery lot which is a part of that common area lot as shown on the aforesaid plat, together with a perpetual, non-exclusive easement or right of way for the purposes of ingress, egress and regress between said cemetery lot and NC Highway 32 (Broad Creek Road) over Northwinds Way as shown on the above reference survey.

THEREFORE, Declarant hereby declares that all of the properties described 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, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1: "Association" shall mean and refer to Northwinds Subdivision Homeowner's 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 hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4: "Common Area" shall mean all real property (including the improvements thereto) owned or used by the Association for the common use and enjoyment of the owners.

Section 5: "Lot" shall mean and refer to any numbered or lettered lot or plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6: "Declarant" shall mean and refer to Crosswind Partners, LLC, their successors and assigns.

Section 7: "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1: Owners Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area 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 suspend the voting rights and right of 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 Sixty (60) days for any infraction of its published rules and regulations;

(b) the right of the Association to dedicate or transfer all or any part of the Common Area 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 agreeing to such dedication or transfer signed by 2/3rds of each class of members has been recorded.

Section 2: Declaration of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1: Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and not 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 membership shall be all Owners, with the exception of the Declarants, and shall be entitled to one vote for such Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as then determined, 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 the Declarants and shall be entitled to three (3) votes for each Lot owned, and notwithstanding any other provisions herein, shall not be assessed.. Class B membership shall cease and be converted to Class A membership when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership, and in all events no later than January 1, 2014.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1: Creation of the Lien and Personal Obligation of Assessments. The Declarants, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) 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 assessment shall not pass to his successors in the 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 of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to, open space maintenance, common lighting, landscape buffers, entrance sign areas, repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area, including but not limited to, open space maintenance, common lighting, landscape buffers, entrance sign areas, repairs, replacements and additions, the cost of labor, equipments, materials, management and supervision, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, and such other needs as may arise. Individual lot owners shall be responsible for all maintenance to the interior and exterior of their individual homes and their lots. The Declarant shall be exempt from paying any and all assessments.

Section 3: Basis and Maximum of Annual Assessments. Until January 1 of the year immediately following the conveyance of the first lot to an Owner, the maximum annual assessment shall be \$300.00 per lot, prorated for the remainder of said year. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the annual assessment shall be determined by the Board of Directors of the

Association or by the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting . A set up fee of \$150 will be paid to the Homeowners Association at time of conveyance of lot.

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 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 Common Area, provided that any such assessment shall have the assent of two-thirds (2/3rds) of the votes of each class of members who are voting in person or by proxy at the meeting duly called for this purpose.

Section 5: Notice and Quorum of 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 and 4 shall be sent to all members not less than thirty (30) days or more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all 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 requirements, 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 sixty (60) days following the preceding meeting.

Section 6: Uniform Rate of Assessment. Except as provided for Class B

members, both annual and special assessments must be fixed as a uniform rate for all Lots and may be collected on a yearly as determined by the Board of Directors of the Association.

Section 7: Date of Commencement of Annual Assessments. Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. 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 assessments 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 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 Assessment. 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 eight (8%) 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 or deny liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9: Subordination of the Lien to Mortgages. The lien of the assessment 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.

Section 10: Exempt Property. All property dedicated to and accepted by, a local authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina, shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or be permitted to remain on any Lot other than one detached single family dwelling not to exceed a basement plus two and one-half stories in height and a private attached or detached garage for the use only of the occupants of said dwelling. Any detached garage or outbuilding shall be of the same color scheme and materials as the dwelling and shall not be larger than 50% of the square footage of the first floor of the dwelling on that Lot. Any detached buildings must be of the same color scheme and materials of the main dwelling. Metal roofs are not allowed on any dwelling or outbuilding constructed in Northwinds Subdivision. All building restrictions contained in the Master Covenants shall be fully applicable to all of the lots of

State Stormwater Management Systems
Permit No. SW7080328

ATTACHMENT "A"

<u>Lot #</u>	<u>Area (S.F.)</u>	<u>Allowable built-upon area per Lot (S.F.)</u>
1	28,263	8,400
2	30,145	8,400
3	23,903	7,000
4	23,946	7,000
5	18,996	5,600
6	18,895	5,600
7	23,208	6,500
8	21,221	6,200
9	35,266	8,400
10	38,174	8,400
11	42,714	8,400
12	45,173	8,400
13	28,787	8,400
14	46,133	7,000
16	40,429	7,000
16	36,281	8,400
17	24,475	6,500
18	22,478	6,500
Total	548,488	132,100

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Northwinds. The subdivision has been approved for the construction of single family residential lots by the State of North Carolina in accordance with the Coastal Stormwater Regulations adopted by the Department of Environmental Management of the State of North Carolina. As required by the Master Covenants, the construction of all structures, and the creation of impervious surfaces, is under the complete control and jurisdiction of the Declarant and the amount of impervious surface allowed on each Lot is set out on Attachment "A" attached hereto. Impervious surfaces include the use of land that has a significant impact upon the absorption of water into the soil, such uses to include not only the primary living unit on any Lot, but also driveways, sidewalks and other covered or hardened surfaces. The State of North Carolina is specifically granted authority and authorization to enforce its Coastal Stormwater Regulation, which regulations are specifically incorporated herein by reference, and which regulations shall be followed by the Declarants in reviewing and approving plans for construction of structures and landscaping and site alterations on Northwinds Lots.

ARTICLE VI

No building, fencing, wall, or any other structure, hedging or mass planting shall be erected, placed, or altered on any Lot or Lots until a plot plan showing the location of such building has been approved in writing as to location of the building with respect to topography and finished ground elevation by an architectural committee (hereinafter called ARCHITECTURAL COMMITTEE) composed of at least two persons designated and appointed by Declarant or its assigns. In the event of death or resignation of any member and in the event that Declarant or its assigns do not appoint a successor within

thirty days following such death or resignation, the remaining members of the ARCHITECTURAL COMMITTEE shall have full authority to designate a successor. A majority of the ARCHITECTURAL COMMITTEE may designate a representative to act for it. In the event said committee fails to approve or disapprove such location within thirty days after said plot plan has been submitted to it, such approval will not be required and this covenant will be deemed to have been fully complied with. Neither the members of such committee nor its designated representative shall be entitled to any compensation for services performed pursuant to this covenant. At any time the then record owners of a majority of the Lots described herein shall have the power through a duly recorded written instrument to change the membership of said committee or to withdraw from said committee or restore to the ARCHITECTURAL COMMITTEE any of its duties and powers. It is specifically declared that no skateboard, bicycle or similar ramp or structure shall be permitted to be erected or placed upon any lot. No chain link fences shall be permitted to be erected or placed upon any lot, however a lot owner may place a small chain link fenced animal pen on his or her lot, provided that it is placed within an approved fenced in area. Approved fencing required for any in-ground or above ground pools. All mailboxes will be installed by Homeowners Association and paid for by the set up fee paid at initial conveyance of lot. No outside clotheslines or antennas are allowed. Satellite dishes not to exceed 18" in diameter and must not be visible from the street. Any variation must be approved by the Architectural Committee prior to installation. Furthermore, no swings or recreational play equipment shall be placed in front yards.

ARTICLE VII

No building shall be located on any Lot (except on corner Lots) less than 30' from the front Lot line. No building shall be located less than 15' from any side Lot line. No building shall be located less than 25' from any rear Lot line. A detached garage may be placed 10' from the side Lot line and 10' from the rear Lot line, provided such detached garage is not greater than 15' in height and provided that it is located at least as far back from the front Lot line as the rear of the residence. Declarant reserves the right to waive minor violations of the front and side set back line requirements set forth in this Article (Violations not in excess of 10% of the minimum requirements shall be deemed minor. Attention is called to front, side and rear setback provisions of City Zoning Ordinance prevailing which may be more or less restrictive than setback provisions of this article).

ARTICLE VIII

No single story residential structure which has an area of less than 1600 square feet exclusive of porches, breeze-ways, steps and garages, shall be erected or placed or permitted to remain on any Lot, and no story and one-half, two story or two and one-half story residential structure which has a ground floor area of less than 1,000 square feet exclusive of porches, breeze-ways, steps, and garages, shall be erected or placed or permitted to remain on any lot. A written statement indicating square footage of the structure shall be presented to the ARCHITECTURAL COMMITTEE prior to commencement of construction.

ARTICLE IX

No Lot or Lots shall be subdivided into parcel or parcels, unless it be bought or sold for the purpose of enlarging a Lot which shall then be improved with single family dwelling or which shall already have been improved with a single family dwelling;

except, however Declarant does hereby reserve the right to use any Lot or Lots for the development of a public street.

ARTICLE X

No Lot or Lots or part thereof shall be used as rights-of-way providing ingress or egress over, across, from, or into the property subject to this declaration to or from outside adjoining property without the written consent of Declarant.

ARTICLE XI

No trade, commerce, or 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 or mobile home may be stored or regularly parked on any Lot. Any car, truck, boat or recreational vehicle that is kept on the property must be operational. No junk or partially wrecked vehicles shall be parked on any street or kept on any lot. No boats, recreational vehicles (4 wheelers, RV's etc.) shall be visible from the front unless otherwise approved by the Architectural Committee or fenced as required. 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 XII

No structure of a temporary character, trailer, mobile home, basement, tent, shack, garage, barn, or other outbuilding shall be used on any Lot at any time as a residence either temporarily or permanently; provided, however, that the Declarant may grant permission for any such temporary structure for storage of materials during construction.

ARTICLE XIII

No animals or poultry of any kind, other than a reasonable number of house pets shall be kept or maintained on any Lot subject to this declaration. All lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth or accumulation of debris shall be permitted.

ARTICLE XIV

Easements for installation and maintenance of utilities and drainage facilities are reserved measuring ten feet in width over side Lot lines and ten feet in width over rear Lot lines of each building Lot. A sign easement has been reserved on Lot 1 as shown on the recorded subdivision map. Installation, landscaping and maintenance of improvements within the common area or assigned easements so reserved shall be the responsibility of the Association. Declarant reserves the right to waive provisions of this Article in whole or in part by special recorded instrument.

ARTICLE XV

Fuel tanks shall be installed underground or shall be screened by plantings or fences. Outdoor garbage cans on Lots shall be equipped with a suitable top and shall either be concealed with plantings or fences and not to be located closer to the street than the front corner of the house.

ARTICLE XVI

All electrical and telephone services from distribution system to residences shall be underground with the cost for such underground service being shared by Lot 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 are

concerned shall be permitted on any Lot.

ARTICLE XVII

The Declarant may annex adjacent properties into Northwinds Subdivision without approval from any other party. Upon annexation, any future lot owner of annexed properties shall be subject to the same covenants contained in this Declaration, including membership in the Association, the payment of Dues and Assessments and the like.

ARTICLE XVIII

These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2018, at which time said covenants shall be automatically extended for successive periods of 10 years unless by vote of a majority of the then owners of the Lots described it herein, including those added by annexation is agreed to change said covenants in whole or in part.

If the parties hereto, or any of them, or their heirs, successors, or assigns shall violate or attempt to violate any of the covenants herein, it shall be lawful for any person or persons owning Lots described herein to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, and either to prevent it, her, him or them from so doing or to recover damages or other dues for such violation. In the event that any lot owner shall fail to keep his lot in any manner described above, Declarant shall have the right, through its agents and employees, to enter upon said lot and clean, clear, repair or maintain the lot or the exterior of any building or any other improvement upon said lot. The cost of such improvement shall be considered a legal obligation of the lot owner for which Declarant may maintain an

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action in a court having jurisdiction, but shall not constitute a lien on said lot until a final judgment has been issued by the court and which shall be of record in the Beaufort County Courthouse.

ARTICLE XIX

Invalidation of any one of these covenants or any part thereof by judgment or court order shall in no wise 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 restrain 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 WITNESS WHEREOF, the Declarant has caused this instrument to be executed in its name, by its manager this the day and year first above written

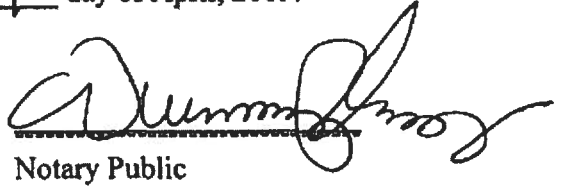
Crosswind Partners, LLC
a North Carolina Limited Liability Company

By: Chris C. Tkach
Chris C. Tkach, Manager

STATE OF NORTH CAROLINA
COUNTY OF BEAUFORT

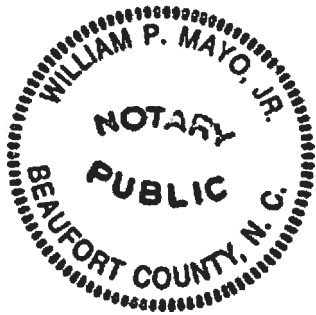
I, William P. Mayo, Jr., a Notary Public of the County and State aforesaid, certify that Chris C. Tkach, personally came before me this day and acknowledged that she is **Manager of Crosswind Partners, LLC**, a North Carolina Limited Liability Company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company for the purposes therein expressed.

Witness my hand and official seal this the 9th day of April, 2009.



Notary Public

My commission expires: 8.20.2012



W. Mayo/jrw