

NORTH CAROLINA
PERSON COUNTY

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PERSON COUNTY NC
09/05/97 1:05 PM
AMANDA W. GARRETT
Register Of Deeds

**RESTRICTIVE COVENANTS, EASEMENTS
AND ROAD MAINTENANCE AGREEMENT FOR
CARDEN'S COVE SUBDIVISION**

THESE AGREEMENTS AND COVENANTS, made and entered into this 4th day of September, 1997, by and between: ERNEST G. HOLT and wife, RUTH C. HOLT, of Durham County, North Carolina, North Carolina, party of the first part; and their SUCCESSORS IN TITLE to any portion of the lands hereinafter described, parties of the second part;

WITNESSETH:

THAT WHEREAS, the party of the first part is seized of fee simple absolute title in and to the hereinafter described lots or parcels of land lying situated in Flat River Township, Person County, North Carolina, and being more particularly described as follows:

Being all of what is shown, depicted and described as LOT NUMBERS 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 on that certain plat of survey entitled "CARDEN'S COVE", as surveyed and prepared by Jim Morrow, R.L.S. #3250; which plat, of record in Plat Cabinet 10, Hanger 80-B, Person County Registry, is incorporated by express reference thereto as an integral part of this description.

AND WHEREAS, the party of the first part desires to restrict the use of the aforescribed property for its own benefit and for the benefit of its successors in title, it being the intent and purpose of the party of the first part to develop and use said property for private residential purposes;

NOW, THEREFORE, in order to carry out its intent and purpose, and in order that said property might afford a maximum beneficial use to any owner of any part thereof for residential purposes, the party of the first part does hereby covenant with its successors in title to any part of the property hereinbefore described that the restrictions hereinafter set forth shall be effective until December 31, 2017, and that the party of the first part and its successors in title thereto shall hold title to the same subject to the restrictions upon its use hereby imposed, to wit:

1. PROPERTY USE:

The subject property shall be used exclusively for residential purposes and no lot shall be further subdivided.

2. TYPE, SIZE AND QUALITY OF BUILDINGS:

(a) No building shall be erected, altered, placed, or permitted to remain on the subject property unless said building shall be a detached single-family dwelling with the exception of outbuildings such as garages and utility sheds which shall be constructed in harmony and conformity with the residential dwelling and shall be of equal quality and finish.

(b) No dwelling shall be erected upon any lot embraced within the aforescribed property unless said dwelling shall contain at least 1,500 square feet of living area exclusive of garages, carports, storage areas, breezeways and porches. No dwelling or outbuilding shall exceed two and one-half stories in height exclusive of any basement area. All dwellings and

outbuildings erected upon these premises shall be of good and standard quality workmanship and the materials used therein shall be of standard and approved quality. No mobile home, modular home, manufactured home or prefabricated home shall be erected, placed, or permitted to remain on the aforescribed premises, without regard to whether the same is placed on a permanent foundation.

(c) All dwellings shall be served by a separate well and septic separate septic system to be constructed and maintained at no expense to the party of the first part and full compliance with the applicable regulations and laws governing private wells and septic systems.

3. BUILDING LOCATION:

All dwellings, outbuildings and other structures with the exception of fences erected on any of the above-referenced lots shall have a minimum set back line of at least thirty-five (35) feet from the right of way of any highway or subdivision road right-of-way, twenty (20) feet from any adjoining lot, and twenty (20) feet from the rear of any lot. However, the part of the first part shall have the right, not the obligation, to waive minor violations of these requirements, such minor violations being defined as those not in excess of ten percent (10%) of the minimum requirements specified herein. If any person(s), corporation, firm or other legal entity shall own more than one adjoining lot, then such person(s), corporation, firm or other legal may elect to combine said lots into one larger lot by recordation of a plat of survey combining such lots; in that event, the twenty (20) feet set back requirements for those adjoining lots shall be waived.

4. BUILDING COMPLETION AND MAINTENANCE DURING CONSTRUCTION:

(a) The exterior of all dwellings and other structures must be completed within twelve (12) months after the commencement of construction, except when such completion is impossible or would result in great hardship to the owner or builder due to strikes, fires, national emergency or natural calamities. The construction and maintenance of any dwelling, building or other structure shall be in full compliance with all applicable county and state building codes and health regulations.

(b) During construction the contractor or owner must keep the building site reasonably clean. All building debris, stumps trees, and other refuse must be removed from each building lot as often as necessary in order to keep same in neat and attractive condition. Such debris will not be dumped or allowed to remain on any part of the property. Further, during construction, all trash receptacles shall be concealed from view from the private roadway shown as "CARDEN'S COVE ROAD" on the above-referenced plat.

5. TEMPORARY STRUCTURES:

No structure of temporary character, (whether trailer, basement, tent, shack, or barn) shall be erected or placed on any of the above-referenced lots. No building of any kind detached from the main residence including, but not limited to, garages shall be used at any time for human habitation, either temporarily or permanently. No outbuilding shall be constructed on any lot prior to the construction of a dwelling house.

6. FENCES AND SWIMMING POOLS:

(a) All privacy fences built or erected on any lot shall be constructed in harmony and conformity with the residential dwelling and shall be of equal quality and finish. No fence shall exceed eight (8) feet in height.

(b) All swimming pools built on property shall be constructed with standard and approved quality materials and good workmanship. All swimming pools shall be enclosed by a fence to be maintained by the owner in order to insure the safety of children and animals.

7. ANIMALS:

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No animal of any kind, other than domestic pets, shall be kept or maintained on any part of the above-referenced lots. Further, all such pets shall at all times be kept under proper control of their owners. The combined number of domestic pets allowed to be kept on any one lot shall not exceed five (5). It is the intent of the party of the first part that the lot owners, their families and guests shall have free use of their properties and "CARDEN'S COVE ROAD" without being harassed by the domestic pets of the other lot owners.

8. PERMITTED AND PROHIBITED ACTIVITIES:

(a) No noxious or offensive activities shall be carried on upon any lot, nor should anything be done thereon which might be or become an annoyance or nuisance to the surrounding property owners, including, but not limited to, hunting and the discharge of firearms.

(b) No motor vehicle or equipment of any kind which is not in operable condition shall be regularly stored upon the property except in enclosed garages or outbuildings. No abandoned trucks, cars, car parts or junk of any kind shall be stored upon property. No unlicensed vehicle or driver shall be allowed to operate on the private road depicted as "CARDEN'S COVE ROAD" on the above-referenced plat with the exception of small farm tractors and equipment, lawn maintenance equipment and road maintenance equipment.

(c) Adequate off street parking (garages and driveways) shall be provided by the owner(s) of each lot for the parking of automobiles of the owner(s) or the resident(s) of any dwelling and their guests.

(d) No outdoor clothes drying lines or other similar devices shall be located so as to be visible from the highway or the private road shown as "CARDEN'S COVE ROAD" on the above-referenced plat.

(e) It shall be the responsibility of each owner to prevent the development of any unclean, unsightly or unkempt conditions of buildings or grounds on their lot(s) such as to substantially decrease the beauty and value of the neighborhood as a whole or the specific area affected. No refuse pile or unsightly accumulation shall be allowed to be placed or remain on any lot, including vacant lots.

(f) Any satellite dishes for the reception of television and/or radio which exceed 36 inches in diameter must be out of sight of the private road shown as "CARDEN'S COVE ROAD" on the above-referenced plat of survey.

9. ROAD MAINTENANCE:

(a) The expense of maintaining the private road shown and depicted as "CARDEN'S COVE ROAD" on the above-referenced plat of survey in an unpaved condition reasonably suitable for residential vehicular traffic in all weather conditions shall be equally apportioned among the lot owners with the owner(s) of each such lot or lots paying an equal amount per year for such maintenance. If any person(s), corporation, firm or other legal entity shall own more than one adjoining lot, then such person(s), corporation, firm or other legal may combine said lots into one larger lot by recordation of a plat of survey combining such lot; in that event, the new lot resulting from such combination shall be treated as one (1) lot for the purposes of this covenant so long as only one residential dwelling is located upon such new lot.

(b) Maintenance shall be determined and provided for by a "Roadway Maintenance Committee" composed of two persons, one appointed by the party of the first part or its assigns and one elected by the majority vote of the owners of the subject lots. At such time as all the subject lots have been sold, the party of the first part shall no longer be entitled to representation on the Roadway Maintenance Committee and both of its members shall be elected by majority vote of the owners of the subject lots. A meeting of the owners of the subject lots shall be held in January of every year to elect by majority vote, members to serve of this committee, with the owner(s) of each lot having one vote per lot owned. The Roadway

Maintenance Committee shall establish a roadway maintenance fund and make all decisions as to the type and timing of maintenance.

(c) On or before January 1st of each year beginning in 1998, the owner(s) of the subject lots shall pay to the road maintenance fund the sum of \$100.00 unless and until such assessment is subsequently modified by the Roadway Maintenance Committee. However, should any one person, corporation, husband and wife, or other recognized legal entity own more than one contiguous lot, then they shall pay only one roadway maintenance assessment unless more than one dwelling is placed upon the lots.

(d) All purchasers of subject lots hereby bind themselves, their heirs, successors, and assigns to this road maintenance obligation and same shall constitute a lawful obligation of each lot owner(s) and shall be enforceable against said lot owner(s) by the Roadway Maintenance Committee using any and all legal remedies allowed for the collection of debts.

10. RIGHT OF WAY, UTILITIES, AND SIGN EASEMENTS:

(a) The party of the first part reserves the right to subject the above-described property to a contract with Carolina Power and Light or its successor, hereinafter "CP&L", for the installation of electric cables and lines, and the installation of street lighting, which shall require a continuing monthly payment to CP&L by the owners of the subject lots. The amount of such payment shall be determined by CP&L.

(b) The party of the first part further reserves an easement for the installation and maintenance of utilities, including cable television lines or cables, along and over a fifteen (15) foot wide strip on all sides of each lot. Within this easement, no structures, plants or other material shall be placed or permitted to remain which might damage or interfere with the installation or maintenance of utilities.

(c) All utility lines specifically serving an individual lot must be placed underground at the expense of the lot owner(s) to the extent that underground placement is possible consistent with the requirements and regulations of the applicable utility provider. Electrical cables and lines will be installed at the expense of the party of the first part in the right of way of the private road shown as "CARDEN'S COVE ROAD" on the above-referenced plat. It shall be the responsibility of parties of the second part (individual lot owners), at no expense to the party of the first part, to extend electrical service from the private road right of way to the individual lots.

11. DURATION AND AMENDMENT OF COVENANTS:

These covenants and restrictions shall run with the land and shall be binding upon the property owners, and all persons claiming under them until December 31, 2017, after which time the same shall be automatically extended for successive periods of ten (10) years unless an instrument signed by not less than seventy-five (75%) of the lot owners has been recorded, agreeing to change these covenants in whole or in part.

These covenants may be amended by the party of the first part to include additional lots; however, any amendments other than the inclusion of additional lots must be approved and signed by each and every owner of the lots restricted hereby.

12. ENFORCEMENT:

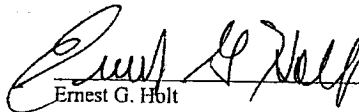
If the parties or anyone or more of them or their heirs, successors, or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person(s) owning any of the other real property subject to these restrictions to prosecute any proceedings at law or in equity against such person or persons violating or attempting to violate any such covenant. These restrictive covenants shall be enforceable by any remedy allowed by the law of the State of North Carolina, including, but not limited to: temporary restraining orders, injunctions and monetary damages. In addition, the complaining party, if successful, shall be

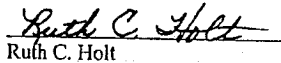
entitled to recover reasonable attorney fees from the person(s) or entity(ies) found to be in violation of these covenants.

13. SEVERABILITY:

Invalidation of any one or more of these covenants by judgment or order of a court having jurisdiction of such matters shall in no way affect any of the provisions hereof, all of which shall remain in full force and effect. Failure by any person(s) to take action against an ongoing violation of any of these covenants shall not be construed as a waiver of any rights of enforcement thereof and shall not prevent the enforcement of such covenant or covenants in the future.

IN WITNESS WHEREOF, the parties of the first part have set their hands and affixed their seals hereto, this the day and year first above written.

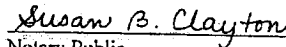
 (SEAL)
Ernest G. Holt

 (SEAL)
Ruth C. Holt

NORTH CAROLINA
PERSON COUNTY

I, Susan B. Clayton, a Notary Public of the County of Alamance, State of North Carolina, certify that Ernest G. Holt and Ruth C. Holt personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp of seal this 4th day of September, 1997.



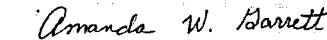
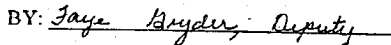

Notary Public

STATE OF NORTH CAROLINA
COUNTY OF PERSON

The foregoing certificate of Susan B. Clayton, a Notary Public for Alamance County, North Carolina, is certified to be correct. This instrument and this certificate are duly registered in Deed Book 270, Page 075, Person County Registry.

This the 5th day of September, 1997, at 1:05 o'clock P.M

AMANDA W. GARRETT, REGISTER OF DEEDS


BY:  Deputy

NORTH CAROLINA
PERSON COUNTY

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AMANDA W. GARRETT
Register Of Deeds

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, **RUTH C. HOLT** of Durham County, North Carolina, have made, constituted and appointed and by these presents do make, constitute and appoint my spouse, **ERNEST G. HOLT**, of Durham County, North Carolina, my true and lawful attorney-in-fact, for me and in my name, place and stead and on my behalf, to do and perform for me anything of any character which I might do or perform for myself if personally present and acting.

Without in any way diminishing the broad general powers just conferred, which are believed and intended to include all of the following, as well as other acts not mentioned, I do specifically authorize my attorney-in-fact, in my name and on my behalf:

- (1) To make claim for, execute proofs of claim and otherwise take all steps necessary to collect any insurance to which I am entitled, particularly any health, accident, disability or hospital insurance, all benefits of governmental Medicare and State of North Carolina retirement benefits and pensions included, and in connection herewith to give receipts and, where deemed proper, to give releases and other acquittances.
- (2) To sell or lease real estate or personal property, tangible and intangible, including automobiles, stocks, bonds, or other evidences of ownership or debt in which I have or may hereafter have any interest whatever, and to endorse, sign or assign said stock certification or bonds or other instruments in connection therewith.
- (3) To endorse negotiable instruments of any character made payable to me and to cash the same or deposit to my account or otherwise utilize the proceeds at the discretion of my attorney-in-fact.
- (4) To make deposits to and to draw checks upon my checking account or savings account in any bank or savings and loan institution wherein I maintain an account, whether in my own name or jointly with another, and in general to deal with the said bank accounts to the same extent that I might do if personally present and acting.
- (5) To execute deeds, leases, deeds of trust, and other instruments conveying or encumbering real or personal property, and generally to deal with such property as fully as I might if personally present and acting.
- (6) To collect all sums due me from any sources, particularly any sums which are now due or may become due from the Government of the United States or the State of North Carolina or any branch thereof, and to execute such instruments, endorsements or signatures thereto in my name as may be requisite or proper to facilitate the collection thereof.
- (7) To make up and file any income tax returns intangible tax returns, or tax returns of any other character and, as my agent, to sign and affirm such returns, my attorney-in-fact being fully informed as to all facts necessary to make such returns.

- (8) To enter any safe deposit box standing in my name or to which I have the right of access and to deal with the contents thereof at the discretion of my attorney-in-fact.
- (9) To make contracts on my behalf with respect to any property owned by me and with respect to my care and upkeep, including the employment of a nurse or nurses, physicians or any other person whose service should be needed for my care and upkeep.
- (10) To make any contracts with respect to my care and treatment at any hospital, nursing home or institution whose services are needed, in the opinion of my said attorney-in-fact, for my proper care, maintenance, and treatment.
- (11) To pay and settle any and all claims or debts which may be due and owing by me at the time.
- (12) To enter into leases on any property owned by me or for any property to be leased by me, including an apartment, rooming accommodations, or nursing home accommodations.
- (13) To borrow in my behalf and in my name any funds needed by me and to pledge for the payment thereof any stocks, bonds, or securities or other property owned by me.
- (14) To purchase medicine, clothes, food, or other supplies for my benefit.
- (15) To convey by gift to my spouse, children or next of kin, including my attorney-in-fact or alternate attorney-in-fact, any of my real estate or personal property, tangible and intangible, including automobiles, stocks, bonds, or other evidences of ownership or debt in which I have or may hereafter have any interest whatever, and to endorse, sign or assign said stock certification, bonds, deeds or other instruments in connection therewith. This authority is specifically included to override the statutory prohibition against such gifts without court approval as set forth in §32-34 of the General Statutes of North Carolina.

And, in general, the said **ERNEST G. HOLT**, as my attorney-in-fact, is given full power and authority to do and to perform all and every act or thing whatsoever requisite or necessary to be done for my upkeep, care, and maintenance and for the management of any property owned by me, as fully to all intents and purposes as I might or could do if personally present, and I hereby ratify and confirm all things that said fiduciary as my attorney-in-fact, shall lawfully do or cause to be done by virtue hereto, it being my intent and purpose to confer upon my said attorney-in-fact the broadest possible powers to be used and exercised in the unlimited discretion of my attorney-in-fact for my use and benefit.

The powers herein granted shall be deemed continuing and relate as fully to any property which I may hereafter acquire as to any property which I may now own, and the powers herein conferred may be exercised repeatedly; and the provisions of this document are not exclusive and shall not bar the use of any other or different powers not enumerated, it being intended that the powers stipulated in N.C.G.S. §32A, *et seq.*, are, by reference, herein incorporated, granted, and conferred.

This power of attorney is executed pursuant to the General Statutes of North Carolina, Section 32A-1, *et seq.*, (Durable Power of Attorney); and it is my intention that this power of attorney shall continue in effect, notwithstanding my incapacity or incompetence; and I expressly intend that this Power of Attorney shall not be affected by my subsequent incapacity or mental incompetence; and my attorney-in-fact shall keep full and accurate records of all transactions for me as my agent and of all my property and the disposition thereof, and upon stated request, shall render to me, if competent, or to my nearest living relative, or Court-appointed Fiduciary, if I shall be incompetent or

incapacitated, substantiated inventories and accounts of all transactions of my attorney-in-fact done in my behalf; and to the extent that I am able to do so, I hereby relieve my attorney-in-fact of the responsibility and duty of filing any reports with any court, subject however, to provisions of N.C.G.S. §32A-11(b).

IN WITNESS WHEREOF, I have executed the foregoing Power of Attorney this the 5th day of September, 1997.

Ruth C. Holt (SEAL)
Ruth C. Holt

WITNESS:

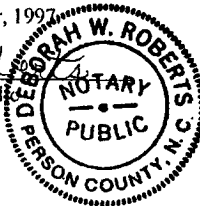
Daniel R. Long, Jr.
Daniel R. Long, Jr.

NORTH CAROLINA
PERSON COUNTY

I, Deborah W. Roberts, a Notary Public, in and for said County and State, do hereby certify that Ruth C. Holt personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the 5th day of September, 1997.

Deborah W. Roberts
Notary Public



My Commission Expires: 5/28/98

(The pronoun designation used herein shall include the singular, plural, masculine, feminine or neuter, as set forth in, and required appropriately by, the context of the document.)

NORTH CAROLINA
PERSON COUNTY

The foregoing certificate of Deborah W. Roberts, a Notary Public of the governmental unit designated is certified to be correct. This instrument was presented for registration and recorded in this office in Deed Book 270, Page 080. This the 5th day of September, 1997, at 1:05 o'clock, ~~AM~~ P.M.

Amanda W. Garrett
Amanda W. Garrett, Register of Deeds

Jaye Snyder, Deputy