

Erwin



Doc ID: 006954340015 Type: CRP
Recorded: 10/16/2008 at 11:00:02 AM
Fee Amt: \$56.00 Page 1 of 15
Onslow County, NC
Maryland K. Washington Reg. of Deeds

BK 3137 PG 676-690

Prepared by: FRANK W. ERWIN, ATTORNEY
825 Gum Branch Road, Suite 115
Jacksonville, NC 28540

Index in the Grantor Index:

HALL EFFECT ACRES
FOSE PROPERTIES, LLC
HALL EFFECT ACRES COMMUNITY SERVICES ASSOCIATION, INC.

NORTH CAROLINA
ONslow COUNTY

**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS**

HALL EFFECT ACRES,
[SF w/CSA- Roads Only]

THIS DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS, made the 15th day of OCTOBER, 2008, by **FOSE PROPERTIES, LLC**, a North Carolina limited liability company, hereinafter called "Declarant," and **HALL EFFECT ACRES COMMUNITY SERVICES ASSOCIATION, INC** having powers as described herein;

WITNESSETH:

THAT WHEREAS, the Declarant is the owner of the real property described in Paragraph I of this Declaration and is desirous of subjecting said real property to the protective covenants hereinafter set forth, each and all of which is and are for the benefit of such property and for each owner thereof, and shall inure 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 interest and any owner thereof;

ERWIN, SIMPSON & STROUD Attorneys, P.L.L.C. - Telephone: (910) 455-1800
825 Gum Branch Road, Suite 115, Jacksonville, NC 28540

NOW, THEREFORE, Declarant hereby declares that the real property in and referred to in Paragraph I hereof is and shall be held, transferred, sold and conveyed subject to the protective covenants set forth below:

1. DESCRIPTION OF REAL PROPERTY:

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 ONSLOW, State of North Carolina, and is more particularly described as follows:

Being all of those lots as shown on that plat entitled "Final Plat HALL EFFECT ACRES," as recorded in Map Book 56, Page 223, Onslow County Registry.

2. DEFINITIONS:

Section 1. "Association" shall mean and refer to **HALL EFFECT ACRES COMMUNITY SERVICES 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 hereinafter described, and such additions thereto as hereafter be brought within the jurisdiction of the Association, and specifically includes all of that subdivision known generally as **HALL EFFECT ACRES**.

Section 4. "Common Area" shall mean the roads or private streets which are intended to be constructed by the Declarant and owned by the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any record subdivision map of the Properties with the exception of the Roads and private streets ("Common Area") , and includes any improvements thereon, if any.

Section 6. "Declarant" shall mean and refer to **FOSE PROPERTIES, LLC**, its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

3. GENERAL RESTRICTIONS:

Section 1. Residential Use: All lots shall be used exclusively for residential purposes of a single family (which may include separate living quarters for one or more members of the owners' family or relative).

ERWIN, SIMPSON & STROUD Attorneys, P.L.L.C. - Telephone: (910) 455-1800
825 Gum Branch Road, Suite 115, Jacksonville, NC 28540

Section 2. Allowable/Prohibited Structure: No structure shall be erected, altered, placed or permitted to remain on any Lot other than a single, one family dwelling not to exceed three stories in height, (which may include separate living quarters for one or more members of the owners' family or relative), a private garage which may contain living quarters for occupancy by domestic servants of the lot occupant only, provided that the same are constructed in line with general architectural design and construction standards used as the dwelling itself. Each dwelling shall contain a minimum of 1300 heated square feet. This covenant shall not be construed as prohibiting the use of a new dwelling as a model home for sales/rental purposes.

No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence either temporary or permanently. No trailer, mobile home, camper or like vehicle shall be allowed on the property at any time, or any other structure which is finished or partially finished at a manufacturing unit or plant and transported for quick assembly and which is designed to be disassembled and relocated shall be allowed. It is specifically the intention and purpose of this covenant to prohibit the location of any manufactured home as defined in NCGS §143-145 and any structure for which a "Label of Compliance" as defined in NCGS §143-145 is issued, including but not limited to those structures which are generally referred to as mobile homes, trailers, relocatable houses, or similar type structures on the property.

"Modular construction" of walls, floor systems, roof trusses and other portions of the structure shall be permitted providing that it is a full floor joist system not supported by chassis or steel frame. Fabrication shall not be limited to the building lot.

This covenant shall not be construed as prohibiting the use of such a structure as a sales/rental model or office or construction site facility.

Section 3. Building Location: No building, residence, garage or other permitted accessory building shall be located on any lot nearer to the front line, any side street line, interior or rear lot line, than as shown on the recorded plat. For the purpose of this covenant, eaves, steps, open porches, and carports shall not be considered as a part of a building provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot. An error of not more than ten percent (10%) in the location of a building on the lot with respect to the minimum set back lines shall not be considered a violation of this covenant.

Section 4. Nuisances: No noxious, offensive, or illegal activity shall be carried on or conducted upon any Lot nor shall anything be done on any Lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood. All Lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted to remain on a Lot. Declarant, its successors or assigns, reserves the right to enter upon and cut grass, weeds, or undergrowth on any lot or easement, but shall be under no obligation to do so. The Declarant may contract for, and assess to owner, any maintenance necessary to enforce his covenant.

Section 5. Animals: No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling for breeding or commercial purposes. No pet or animal shall be allowed off the Lot of the Owner. Owners shall be solely and absolutely liable for the acts of any animal kept on their Lot. Notwithstanding anything in this document to the contrary, horses and appurtenant structures shall be allowed to be kept for recreational purposes on any other lot.

The following dog breeds shall be specifically prohibited: Rottweiler, Doberman, Mastiff, Boxer, Bulldog, Pit Bulls, Chows and wolf hybrids. In addition to the above, inherently dangerous animals shall be prohibited. "Inherently dangerous animal" means any nondomesticated animal for which evidence demonstrates that unprotected human contact with the species can result in a life threatening injury or disease to those who come in contact directly or indirectly. The following are examples of inherently dangerous animals, but shall not be deemed an exclusive listing: Bats, wolves and wolf hybrids, lions, tigers, cheetahs, jaguars, cougars, leopards, snow leopards, clouded leopards, all hyena species, all bear species, all apes, Old and New World monkeys, and prosimians, all elephant species, rhinoceroses, hippopotamus, gaur, banteng, kouprey, anoa, Cape buffalo, all Crocodilia, – all species, aHelodermatidae – all species, green anaconda, Amethystine python, African rock python, and Reticulated python and all venomous snakes.

Section 6. Garbage and Refuse Disposal: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be burned or disposed of on any Lot and shall be kept in sanitary. All equipment for the storage prior to disposal of such material shall be kept in a clean and sanitary condition. The placement of containers shall be kept in an enclosed area not subject to view from any person, from any direction. The Declarant reserves the right for itself, its successors and assigns, to contract for garbage collection services for each lot in the subdivision and the lot owner shall be responsible for the payment of such garbage services to the company providing the same.

Section 7. Exterior Lights: All light bulbs or other lights installed in any fixture located on the exterior of any dwelling, building or other structure located on any Lot shall be clear or white lights or bulbs. No mercury vapor or similar wide area lighting similar to street lights shall be allowed.

Section 8. Sight Distance at Intersections: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 9. Mailboxes: All mailboxes shall retain the same style, design, color and location of the mailbox as originally provided at construction of any residence.

Section 10. Signs: No sign, billboard, or other advertising of any kind, including without limitation professionally prepared "for sale" and "for rent" signs, shall be placed or erected on any Lot, right of way or Roads and private streets ("Common Area") save and except a professionally prepared "for sale" or "for rent" sign not to exceed six (6) square feet in size. Provided, however, nothing shall prohibit or limit in any manner "construction" signs designating the job site and builder which may be placed upon a Lot during the period of the construction of a residential dwelling on the Lot but must be immediately removed upon final completion of such construction. Notwithstanding the above, any additions to the Project Property in the Development area may be further limited in regard to signs, billboards or advertising as set out in any Supplemental Declaration. Nothing herein shall prohibit any sign erected by the Declarant or its assigns.

Section 11. Reserved.

Section 12. Driveways/Parking: All driveways constructed on any Lot shall be paved with either asphalt or concrete. An Owner shall provide a minimum of one (1) paved off-street parking space(s), excluding garage space(s) and shall provide at least one per automobile or other vehicle owned and regularly used at the Lot. On street parking is prohibited except for temporary, short gatherings.

Section 13. Subdivision: No lot shall be subdivided if the result of each subdivision is separate ownership of less than a whole lot; provided, however, that the Declarant, its successors or assigns, reserves the right to make minor boundary line adjustments between lots so long as said adjustment does not exceed ten percent (10%) of the total area of a given lot; and further provided that one lot may be combined with another lot or lots or a portion thereof to create a larger lot, in which case these Restrictive Covenants shall be construed to apply to the larger lot so created.

Section 14. Reserved.

Section 15. Window Appearance: All draperies or other window dressings viewable from the exterior of a dwelling unit shall be white or off white or in lieu thereof shall have a white lining.

Section 16. Trees: Except as to development or construction by Declarant no tree four inches (4") in diameter at any location on said tree or ten feet (10') in height shall be cut, removed or intentionally damaged on any Lot.

Section 17. Reserved.

Section 18. Reserved.

Section 19. Fence Minimum Requirements: No fences over six (6) feet in height shall be constructed on any lot. No fence shall be erected between the rear of any building and the street

right of way. Any portion of any fence which can be viewed from the street right of way shall be of an ornamental nature. The term fence shall include but not be limited to, a wall, fence, landscaping, berm, or hedge which act as a fence or privacy or security inducing structure. Architectural review requirements must be met prior to construction of any fence.

Section 20. Street Lighting Agreement: The developer reserves the right to subject the real property in this subdivision to a contract with an electric utility company for the installation of underground electric cables and/or the installation of street lighting, either or both which may require an initial payment and/or a continuing monthly payment to an electric utility company by the owner of each dwelling.

4. RETENTION OF DECLARANT RIGHTS:

A. Declarant hereby reserves all Special Declarant Rights and Development Rights described or set out in N.C.G.S. Section 47F -1-103 (28) and Section 47F-3-103(d). Any or all of such Special Declarant Rights and Development Rights may be exercised as to any portion or all of the Property, as herein defined, and must be exercised, if at all, within seven (7) years from the date of recording of this Declaration. The transfer of Special Declarant Rights and Development Rights shall be done pursuant to N.C.G.S. Section 47F 3-104.

B. Sales Offices. Other provisions of this Declaration or the Bylaws notwithstanding, Declarant may maintain offices for the sale of Lots and models. Declarant shall have the right to (1) re-locate, discontinue and reestablish within the Project any such offices or models until all Lots have been conveyed to Owners other than a Declarant; and (2) change the use of such offices or models, provided that they shall be used only for sales purposes or models. Notwithstanding anything to the contrary herein, the Declarant's right to use Lots owned or leased by it as sales or models shall continue so long as Declarant owns at least one (1) lot.

C. Declarant Rights Defined: "Special Declarant Rights" or "Declarant Rights" shall include but shall not be limited to, any right (i) to complete improvements indicated on plats and plans filed with the declaration; (ii) to exercise any development right; (iii) to maintain sales offices, management offices, signs advertising the planned community, and models; (iv) to use easements through the common elements for the purpose of making improvements within the planned community or within real estate which may be added to the planned community; (v) to make the planned community part of a larger planned community or group of planned communities; (vi) to make the planned community subject to a master association; or (vii) to appoint or remove any officer or executive board member of the association or any master association during any period of declarant control.

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the county in which this

Declaration is recorded. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit A in any manner whatsoever.

The Declarant shall have the rights (i) to use or grant the use of a portion of the roads and private streets ("Common Area") for the purpose of aiding in the sale, or rental, or management of Lots; (ii) to use portions of the Property for parking for prospective purchasers or lessees of Lots and such other parties as the Declarant determines; (iii) to erect and display signs, billboards and placards and store and keep the same on the property; (iv) to distribute audio and visual promotional material upon the Roads and private streets ("Common Area") ; and (v) to use or permit to be used any Lot which it owns or leases as a sales and/or rental office, management office or laundry and maintenance facility. The Declarant shall have an easement for access to such facilities and activities shall include specifically the right to use residences owned by the Declarant, if any, and any which may be owned by the Association.

So long as Declarant continues to have rights under this paragraph, no person or entity shall record any declaration of restrictions and protective covenants or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of restrictions and protective covenants or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

4.1. MEMBERSHIP AND VOTING RIGHTS:

A. Membership and Voting: Every Owner of a Lot shall be a member of the Association and shall be entitled to one (1) vote. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

B. Directors During Declarant Control. The directors shall be selected by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant until the Declarant Rights shall cease as set forth in the Declaration or at such earlier date as when, in its discretion, the Declarant so determines. Upon such designation and selection of Declarant by written instrument presented to the meeting at which such election is held, said individuals so designated and selected by Declarant shall be deemed and considered for all purposes Directors of the Association, and shall thenceforth perform the offices and duties of such Directors until their successors shall have been selected or elected in accordance with the provisions of the By-Laws.

Within one hundred twenty (120) days after Declarant Rights shall cease, the Declarant shall call a meeting, as provided the By-Laws for special meetings, to advise the membership of the termination of the Declarant control.

Should any vacancy in the Board of Directors be created in any Directorship previously filled by any person designated and selected by Declarant, such vacancy shall be filled by Declarant designating and selecting, by written instrument delivered to any Officer of the Association, the successor Director to fill the vacated Directorship for the unexpired term thereof.

ERWIN, SIMPSON & STROUD Attorneys, P.L.L.C. - Telephone: (910) 455-1800
825 Gum Branch Road, Suite 115, Jacksonville, NC 28540

In the event that Declarant in accordance with the rights herein established, selects any person or persons to serve on any Board of Directors of the Association, Declarant shall have the absolute right at any time, in its sole discretion, to replace such person or persons with another person or persons to serve on said Board of Directors. Replacement of any person or persons designated by Declarant to serve on any Association Board of Directors shall be made by written instrument delivered to any Officer of the Association, which instrument shall specify the name or names of the person or persons to be replaced and the name or names of the person or persons designated as successor or successors to the persons so removed from said Board of Directors. The removal of any Director and designation of his successor shall be effective immediately upon delivery of such written instrument by Declarant to any Officer of the Association.

C. Veto. This Section may not be amended without the express, written consent of the Declarant, as long as the Declarant Rights exists.

So long as the Declarant Rights exists, the Declarant shall have a veto power over all actions of the Board and any committee, as is more fully provided in this Section. This veto power shall be exercisable only by the Declarant, or its successors and assigns, which successors and assigns must specifically take this power in a recorded instrument.

The veto power shall be as follows: No action authorized by the Board of Directors or any committee shall become effective, nor shall any action, policy, or program be implemented until and unless:

(a) The Declarant shall have been given written notice of all meetings and proposed actions approved at meetings of the Board or any committee by certified mail, return receipt requested, or by personal delivery at the address of its Registered Agent, as it may change from time to time, which notice complies as to the Board of Directors meetings and to regular and special meetings of the Directors and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and

(b) The Declarant shall be given the opportunity at any such meeting to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy or program to be implemented by the Board, any committee, or the Association. The Declarant and its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the subject committee and/or the Board. The Declarant shall have and is hereby granted a veto power over any such action, policy, or program authorized by any committee or Board or the Association or any individual member of the Association if Board, committee, or Association approval is necessary for said action. This veto may be exercised by providing to the Association a notice of veto by certified mail, return receipt requested to the Registered Agent of the Association or any officer or Board member thereof within ten (10) days following the meeting held pursuant to the terms and provisions hereof.

**5. COVENANTS FOR MAINTENANCE ASSESSMENTS:
ASSESSMENTS:**

Section 1. Purpose of Assessments:

The assessments levied by the Association shall be used exclusively to maintain and repair and improve the streets and roads ("Common Area") and for capital improvements and maintenance of those streets and roads ("Common Area") and any improvements thereon.

Section 2. Creation of the Lien and Personal Obligations of Assessment:

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:

- (1) annual assessments or charges;
- (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided;
- (3) to the appropriate governmental taxing authority, a pro rata share of ad valorem taxes levied against the Roads and private streets ("Common Area") if the Association shall default in the payment therefor for a period of six (6) months, all as hereinafter provided.

The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, 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 and costs, and reasonable attorneys' fees (as provided in North Carolina General Statutes Section 6-21.2) incurred by the Association in collecting delinquent assessments shall also be the personal obligation of the person or entity who was the Owner at the time when the assessment became due. The obligation of an Owner for delinquent assessments shall not pass to his successors or assigns in title.

Section 3. Determination of Amount of Assessment:

(1) The initial minimum annual assessment shall be \$ 75.00 per year per lot for the 2008 and 2009 calendar years. The subsequent year assessments will be based upon a budget determined by the operating costs and reserve requirements of anticipated amenities which will become part of the roads and private streets ("Common Area") of the subdivision and as such the initial minimum assessment does not represent subsequent year assessments to which each lot shall be subject. Assessments shall commence as to each lot beginning on the date of closing from the Declarant to an owner other than the Declarant. So long as Declarant Control exists, the Declarant shall pay no assessments but shall be responsible for any deficit in the operating budget.

(2) Except as otherwise required by statute, within thirty (30) days after adoption of any proposed budget for the planned community, the executive board shall provide to all the lot owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The executive board shall set a date for a meeting of the lot owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that

meeting a majority of all the lot owners in the association or any larger vote specified in the declaration rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the lot owners shall be continued until such time as the lot owners ratify a subsequent budget proposed by the executive board.

(3) The due dates shall be established by the Board of Directors of the Association and the Board of Directors shall have the authority to require the assessment to be paid in installments as may be determined. 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.

Section 4. Collection of Assessments:

(1) The first pro rata payment of the balance of the current year assessment shall be due and payable beginning on the day of closing. In addition thereto, at closing, the Declarant shall cause to be collected from the purchaser, an amount equal to the then current minimum annual assessment for said lot. This shall be used for the sole purpose and use as a working capital fund.

Section 5. Special Assessments: 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 any purpose. Any such assessment for any use other than insurance premiums, any uninsured loss or insurance deductibles, shall have the assent of fifty-one percent (51%) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose. Special Assessments for insurance premiums, any uninsured loss or insurance deductibles shall not be limited by member approval.

Section 6. Remedies for Non-Payment of Assessments: Any assessment which are not paid when due shall be delinquent. The assessment shall bear interest from the due date at the rate established by the Board of Directors of the Association, or if not set by the Board, at the highest rate allowed by law, together with such late fees as may be set by the Board. The Association may file a lien of record against any lot where there remains an assessment unpaid for a period of thirty (30) days or longer. Said lien shall be filed in the office of the clerk of superior court of Onslow County in a manner provided therefor by Article 8 of Chapter 44 of the North Carolina General Statutes. No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Roads and private streets ("Common Area") or abandonment of his dwelling unit or site.

The Association may bring an action at law against the Owner personally obligated to pay any assessments and interest. Costs and reasonable attorneys' fees for the prosecution of any such action shall be added to the amount of such assessment. In the event of such action at law and in the further event that such action results in a judgment being entered against the Owner and in favor of the Association, then, and in that event, the Association shall collect on such judgment in such manner and to the extent provided and permitted by the laws of the State of North Carolina.

The Association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Chapter 45 of the North Carolina General Statutes. All fees, charges, late charges, fines, and interest are enforceable as assessments.

In any foreclosure action brought under the power of sale provisions, the Association shall be deemed to be the holder and owner of the obligation secured by this Declaration. The Registered Agent of the Association shall be the Trustee for all purposes of the foreclosure proceeding and the Association shall have the power to appoint a substitute trustee if for any reason the Association desires to replace the trustee, and the said substitute trustee shall succeed to all rights, powers and duties thereof. The Association shall request of the trustee to sell the land subject to the lien at public action for cash, after having first given such notice and advertising the time and place of such sale in such manner as may then be provided by law for mortgages and deeds of trust, and upon such and resales and upon compliance with the law then relating to foreclosure proceedings under power of sale to convey to the purchaser in as full and ample manner as authorized by Chapter 45. The Trustee shall be authorized to retain an attorney to represent him in such proceedings. The proceeds of the Sale shall, after the Trustee retains his commission, together with any addition attorney's fees incurred by the Trustee, be applied to the costs of the sale, including but no limited to costs of collection, taxes, assessment, costs of recording, service fees, and incidental expenditures, the amount due on any note secured by the property, and any advancements made by the Association in the protection of the security.

Section 7. 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 assessment as to payments which become 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.

6. RESERVED.

7. EASEMENTS:

Section 1. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat and over the rear ten (10) feet of each lot. Within these easements, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may obstruct or retard the flow of water through a drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible.

Section 2. The grantor reserves for itself, its successors or assigns, an easement and right at any time in the future to grant a right of way under, over and along ten (10) feet off the side, rear and front property lines of each and every lot in the subdivision described herein, for the installation and maintenance of poles, lines, conduits, pipes and other equipment necessary to or useful for

furnishing electric power, gas, telephone service, drainage or other utilities including water and sewer services.

Section 3. For a period of two (2) years from the date of conveyance of the first Lot in a Parcel, the Declarant reserves a blanket easement and right of way on, over and under the ground within a Parcel to maintain and correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary. Following such action the Declarant shall restore the affected property to its original condition as near as practical. The Declarant shall give reasonable notice of its intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice. At the expiration of such two (2) year period, said easement to correct drainage shall automatically be held by the Association.

7.1 OWNER'S EASEMENT OF ENJOYMENT:

Section 1. 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 charge reasonable fees for the use of any Roads and private streets ("Common Area") which is not a routine use by all owners;

(b) the right of the Association to limit the number of guests of members utilizing the streets or roads ("Common Area");

(c) the right of the Association to dedicate or transfer all or any part of the Roads and private streets ("Common Area") to any public agency, authority, or utility for such purposes 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 fifty-one percent (51 %) of members agreeing to such dedication or transfer has been recorded.

(d) the right of the Association to impose regulations for the use and enjoyment of the streets or roads ("Common Area") and improvements thereon, which regulations may further restrict the use of the streets or roads ("Common Area") as to hours, speed or other matters.

Section 2. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the streets or roads ("Common Area") to the members of his family, his tenants, or contract purchasers who reside on the property.

8. GENERAL PROVISIONS:

Section 1. Term: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty (20) years from the date these covenants are recorded, after which time such covenants shall be automatically extended for successive periods of ten (10) years.

ERWIN, SIMPSON & STROUD Attorneys, P.L.L.C. - Telephone: (910) 455-1800
825 Gum Branch Road, Suite 115, Jacksonville, NC 28540

Section 2. Enforcement: In the event of a violation or breach of any of these restrictions, covenants, agreements and conditions by any person or concern claiming by, through or under the undersigned, or by virtue of any judicial proceedings, the Association, its successors and assigns and the owners of the number lots in the subdivision, or any of them, jointly or severally, shall behave the right to proceed at law or in equity to compel compliance with the terms thereof or to prevent the violation or breach of any of them. Costs and reasonable attorney fees shall be recoverable by the Association as part of any judgment or order to enforce these Restrictive Covenants. The failure to enforce any right, reservation, restriction or condition contained herein, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach or as to a breach occurring prior or subsequent thereto and shall not bar or affect its enforcement.

Section 3. Remedies Extended to the State of North Carolina: To ensure that this subdivision is maintained consistent with the laws of the State of North Carolina, the State of North Carolina is specifically empowered to take such acts necessary by and through its officers to enforce any of these covenants against an Owner or the Association. The State of North Carolina is specifically made a beneficiary of these covenants.

Section 4. Modification of Restrictive Covenants:

This Declaration may be amended as follows:

A. Amendments Proposed by Association. An amendment or amendments to this Declaration may be proposed by the Board of Directors of the Association acting upon a vote of a majority of the Directors, or by the members of the Association owning a majority of the Lots, whether meeting as members or by instrument in writing signed by them. Upon any amendment or amendments to this Declaration being proposed by said Board of Directors or members, such proposed amendment or amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the members of the Association for a date not later than sixty (60) days from receipt by him of the proposed amendment or amendments. It shall be the duty of the Secretary to give to each member written or printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed amendment or amendments in reasonably detailed form, which notice shall be mailed not less than fourteen (14) days nor more than thirty (30) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the Meeting, shall be deemed equivalent to the giving of notice to such member. At the meeting, the amendment or amendments proposed must be approved by an affirmative vote of at least sixty-seven percent (67%) of the votes in the Association which are allocated to Lot owners in the Subdivision in order for such amendment or amendments of this Declaration to be adopted. Any such amendment or amendments as adopted shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. The original or an executed copy of such amendment or amendments, so certified and executed with the same formalities as a deed, shall be recorded in the Register of Deeds Office of

Onslow County, North Carolina, such amendment or amendments to specifically refer to the recording data identifying this Declaration. Thereafter, a copy of said amendment or amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to the Owners of all Lots, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such amendment or amendments. At any meeting held to consider such amendment or amendments, the written vote of any member of the Association shall be recognized if such member is not in attendance at such meeting or represented thereat by proxy, provided such written vote is delivered to the Secretary of the Association prior to such meeting or at such meeting.

As an alternative to holding a meeting of the members to consider an amendment of this Declaration, a written agreement may be circulated among the members. To be effective, the written agreement must be executed by Lot owners to which at least sixty-seven percent (67%) of the votes of the Association are allocated. Once approved, the amendment or amendments shall be transcribed, certified, executed, recorded and a copy sent to all Owners as specified above.

B. Amendments by Declarant. A Declarant may amend the Declaration as set forth herein and in the Act without the consent of any other Person or the Association to exercise Development Rights.

C. Amendments Requiring Declarant Consent. During the Development Period, this Declaration may not be amended without the prior written consent of the Declarant. Except to the extent expressly permitted by the Act or other provisions of this Declaration (in compliance with the Act), no amendment may create or increase special Declarant Rights, create or increase Development Rights, increase the number of Lots, change the boundaries of any Lot, or change the uses to which any lot is restricted in the absence of unanimous consent of the Lot owners.

Section 5. Litigation: No judicial or administration proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the membership and a majority of the Board of Directors. This Section shall not apply, however to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of personal assessments, (c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the Declarant or is approved by the percentage votes and pursuant to the same procedures necessary to institute proceedings as provided above.

Section 6. Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 7. Variances: The Association may allow reasonable variances and adjustments of the restrictions set forth in this Declaration in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that

ERWIN, SIMPSON & STROUD Attorneys, P.L.L.C. - Telephone: (910) 455-1800
825 Gum Branch Road, Suite 115, Jacksonville, NC 28540

any such variance granted must be done in conformity with the intent and purposes of the general development scheme and provided also that in every instance such variance or adjustment shall not materially be detrimental or injurious to other property or improvements within the Properties.

IN WITNESS WHEREOF, as the above date, Grantor (whether person, corporation, limited liability company, general partnership, limited partnership, or other entity) has signed this instrument in the ordinary course of business, by the signature(s) below if its duly authorized representative(s), as the act of such entity.

FOSE PROPERTIES, LLC

By: _____

DONALD G. FOSE, JR., Manager

North Carolina
Onslow County

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: DONALD G. FOSE, JR., Manager

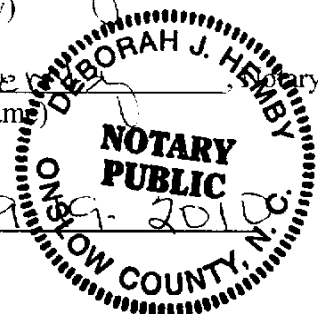
Date: 10-15-08

Deborah J. Hemby
(Official Signature of Notary)

Deborah J. Hemby Notary Public
(Notary's printed or typed name)

(Official Seal)

My commission expires: 9-29-2010



r/rescovs/sf sph wesa 033008
K:\FOSE\HALL EFFECT\RC HALL EFFECT 033008 REV 100708
revised 091108/091208/091408fwe\100708dh\101408dh
RC993

ERWIN, SIMPSON & STROUD Attorneys, P.L.L.C. - Telephone: (910) 455-1800
825 Gum Branch Road, Suite 115, Jacksonville, NC 28540