

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

RESTRICTIVE COVENANTS  
PINEHURST PLACE  
SINGLE FAMILY SUBDIVISION

THIS DECLARATION OF PROTECTIVE COVENANTS, RESTRICTIONS AND EASEMENTS, dated for purposes of reference only this 1st day of October, 1990, by WEYERHAEUSER REAL ESTATE COMPANY, a corporation qualified to do business in the State of North Carolina (hereinafter "Declarant").

## RECITALS:

Declarant has, by recordation of a subdivision plat, subdivided certain property shown on said plat into lots intended for utilization for construction of single family homes. The subdivision plat is recorded in Map Book F, Page 113D-113E, Craven County Registry, and all property shown thereon is hereinafter referred to as the "Subdivision." Each numbered lot shown on the recorded plat is referred to herein as a "Lot." There shall also be included within the "Subdivision" the right of way of Pinehurst Drive extending in a generally easterly direction from the eastern right of way of Pine Valley Drive and connecting Pine Valley Drive to the Lots as shown on the subdivision plat above referenced.

Within the Subdivision and as shown on the recorded plat, there has been dedicated a public street right of way, and there has been constructed within such right of way, in accordance with applicable construction standards of the State of North Carolina and the City of New Bern, North Carolina, a subdivision road named Pinehurst Drive. Pinehurst Drive is a public street maintained by the City of New Bern. Access to each Lot within the Subdivision is over Pinehurst Drive as shown on the recorded plat of the Subdivision.

In order to maintain the landscaped areas within the Subdivision, and in order to enforce these Restrictive Covenants and to provide an organization for the benefit of the owner of each Lot within the Subdivision, Declarant has chartered a North Carolina nonprofit corporation named Pinehurst Place Garden Club, Inc. (the "Association"). The owner of each Lot is a member of the Association, and the owner of each Lot is obligated to pay dues and assessments to the Association for the benefit of the Association and the owner of each Lot within the Subdivision. The organization and operation of the Association is described in these Restrictive Covenants and in the By-Laws of the Association.

*See Book 1310 pg 504 for corrected Declaration 2.21.92*  
Prepared by: T. R. Thompson, Jr. *Theresa Shopp R.D.*

It is the desire and intention of Declarant, for its benefit and with the intent of preserving the value of each Lot, to restrict the utilization of and improvements on each Lot within the Subdivision in accordance with guidelines established herein. Therefore, Declarant hereby subjects the property described hereinafter to the terms and provisions of these Restrictive Covenants for the use and benefit of all present and future Lot owners within the Subdivision.

1. DESCRIPTION. This Declaration shall run with the land and shall bind and inure to the benefit of the owner of each Lot within the Subdivision, and the property made subject to these Restrictive Covenants is all of the property shown on that plat of Pinehurst Place Subdivision recorded in Map Book F, Page 113D-113E, Craven County Registry, as the same may be amended from time to time, as well as the right of way of Pinehurst Drive extending from the eastern right of way of Pine Valley Drive to the property described on said subdivision plat.

2. ADDITIONAL PROPERTIES. Declarant reserves no right to subject additional property to the terms and provisions of these Restrictive Covenants.

3. SINGLE FAMILY UTILIZATION. This Restrictive Covenant restricts all numbered Lots subjected to its terms to use only for single family residential purposes. No home or other structure constructed within the Subdivision shall be utilized for commercial purposes, except that Declarant or its assigns shall be entitled to use any structure located within the Subdivision for purposes of assisting in the sale of Lots within the Subdivision.

4. BUILDING AND SITE RESTRICTIONS. The owner of each and every Lot, by contract with Declarant, has agreed to construct on said Lot one of five predesigned homes. The owner of each Lot agrees to construct such home in accordance with the predesigned plan and specification which said owner has selected, copies of which have been provided by Declarant to the Architectural Control Committee of the Association. The Architectural Control Committee of the Association shall approve all site improvement and landscaping plans of owner, and shall further approve the location of all buildings, structures and improvements on each Lot, including, but not limited to driveways, retaining walls, decks, porches and other incidental structures. No tree of a size of four inches in diameter or greater shall be removed from any Lot without the permission of the Architectural Control Committee. In addition, the following restrictions shall apply:

(a) No more than one (1) single family house shall be allowed per Lot.

(b) All homes must be "stick built," on site, and no modular home shall be located within the Subdivision and no homes constructed elsewhere shall be allowed to be conveyed into and located on a Lot within the Subdivision. No temporary structures shall be allowed.

(c) No "For Rent" or similar sign shall be allowed on any Lot, or shall be placed so as to be visible from any street.

(d) No "For Sale" sign shall be allowed, unless said sign is of a size no greater than four (4) square feet in size, and the number of such signs shall be limited to one per Lot. No such sign shall remain on any Lot, or shall be placed so as to be visible from any street, prior to a valid and binding listing agreement being signed with the broker placing said sign on the Lot (unless the sign reads "For Sale By Owner"), and any such sign must be removed within three (3) business days following the execution of a valid contract of sale for the Lot upon which such sign is located, regardless of whether or not the purchase contract contains any conditions. Under no circumstances shall any allowed sign be placed so as to be easily visible from any portion of the golf course adjacent to the Subdivision.

(e) The minimum square footage of heated, enclosed living space for each approved residential structure shall be 1,700 square feet; a minimum of 1,200 square feet of such space must be located in the first living floor of the residential structure. Carports, garages, attics, porches, patios and decks shall not be considered heated, enclosed living space.

(f) There are no absolute building setback requirements other than those that may be imposed by a local government or those shown on the recorded plat of the Subdivision.

(g) The heights of structures shall be subject to approval of the Architectural Control Committee in accordance with the standards set out in Paragraph 5 hereunder.

(h) Fences are subject to the complete jurisdiction of the Architectural Control Committee as to location, style, materials and height. As used herein, fences



shall include walls, barricades, shrubbery or other impediments to reasonable mobility and visibility. The Architectural Control Committee shall only approve the construction of a fence upon a determination that the fence is aesthetically pleasing; does not detract from the reasonable value of any Lot and does not unreasonably impede the view of any water course, golf course fairway or other attractive feature from any other Lot. Under no circumstance shall any fence be allowed to be constructed adjacent to any fairway or green of the golf course located adjacent to the Subdivision.

(i) No satellite receiving dish, radio antennae or other similar device shall be located on any Lot within the Subdivision.

(j) No activity, whether active or passive, that is reasonably considered a nuisance by the Association shall be allowed on any Lot. This prohibition includes any activities within any structure, on any Lot or on any street or common area. The Association is specifically authorized by Paragraph 16 of these Restrictive Covenants to adopt rules regarding conduct and use of any Lot; however, the Association may find any conduct or use of a Lot to be a nuisance notwithstanding the fact that such conduct is not specifically prohibited by these Restrictive Covenants or by an adopted rule. If any conduct is deemed by the Association to be a nuisance, and to the extent that such conduct is not specifically prohibited by the provisions of these Restrictive Covenants or by an adopted rule, the Association shall give written notice to the offending owner specifying the nature of the nuisance, and requesting that such nuisance be terminated. If such nuisance is not terminated within a reasonable time thereafter, the Association may, in addition to any other remedy, impose a fine in the amount of \$100.00 per violation. If the nuisance is of a continuing nature, a separate violation shall be considered made each day the nuisance continues. All such fines may be collected in the same manner as an assessment as more fully specified herein, and all attorneys' fees incurred may be collected as allowed by Paragraph 7 herein.

5. ARCHITECTURAL CONTROL COMMITTEE PROCEDURES. At least thirty (30) days prior to the anticipated commencement of any landscaping or construction of any structure or improvement on any Lot, the owner of such Lot (or his duly appointed agent) shall submit to the Chairman of the Architectural Control Committee a survey of the Lot, which survey shall show each Lot corner. There shall further be shown on said survey the proposed location of all proposed and

existing structures or improvements, including driveways, bulkheads, patios, decks and walkways. There shall further be provided to the Architectural Control Committee any proposed change in the predesigned house plans above referenced, including any change of building material, color or style sufficient to allow the Architectural Control Committee to appropriately and accurately evaluate any exterior changes in said preapproved plans and specifications. The survey shall be prepared by a registered or licensed land surveyor. There shall be submitted two copies of all information required to be submitted.

Within thirty (30) days after receipt of all required information, the Architectural Control Committee shall submit in writing to the owner of the Lot whether or not the requested improvements are approved. Unless a response is given by the Architectural Control Committee within thirty (30) days, the plan shall be deemed approved. The response of the Association may be an approval, a denial, an approval with conditions or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate, and the thirty (30) day time for response shall only commence upon receipt of the requested additional information. If approval with conditions is granted, and construction then begins, the construction shall be deemed approval of the conditions imposed by the owner of the Lot.

The Architectural Control Committee shall approve the plans as submitted, if all required information is submitted, and the following affirmative findings are made by the Architectural Control Committee:

(a) that the improvements sought to be constructed will not have negative economic impact on any other Lot within the Subdivision;

(b) that all required specific building standards and other conditions contained within the Restrictive Covenants and other applicable legal documents have been complied with;

(c) that the improvements are architecturally compatible with proposed or constructed improvements on other Lots within the Subdivision;

(d) that the natural features of the Lot have been retained to the maximum extent feasible; and

(e) that there will be no unusual landscaping or landscape maintenance expense required by the Association in maintaining the landscaped areas.

Any owner of any Lot disagreeing with the finding of the Architectural Control Committee may appeal the decision to the Board of Directors of the Association by giving written notice of appeal to the President of the Association within fifteen (15) days following receipt of notice of denial. The Board of Directors of the Association shall then review the plans, giving the Chairman of the Architectural Control Committee the opportunity to present to the Board of Directors of the Association specific reasons why approval of the plans was denied, in the presence of the owner of the Lot or his agent, and the owner of the Lot or his agent may present information challenging the findings of the Architectural Control Committee. The decision of the Architectural Control Committee shall only be overridden by unanimous vote of the Board of Directors of the Association.

All notices required to be given herein shall be given in writing, hand-delivered or mailed postage prepaid, return receipt requested, and the Architectural Control Committee shall be obligated to specify the particular grounds upon which denial of any application is founded. One set of plans, denoted as approved (or approved with specified conditions) shall be retained by the Architectural Control Committee; and the other shall be returned to the applicant.

6. ASSOCIATION. The owner or owners of every Lot shall be a voting member of the Association. However, only one vote shall be allowed per Lot; to the extent that there is more than one owner of any one Lot, said owners shall determine among themselves, and designate, one voting member, which voting member shall cast the vote allocated to said Lot. If the owners cannot agree among themselves, the Board of Directors of the Association shall determine and designate a voting member from among the owners of the Lot. The Association shall be governed by a Board of Directors, selected in accordance with the By-Laws of the Association, and the Association shall operate and do business in accordance with the terms of its By-Laws.

The Association shall have the responsibility of maintaining in a healthy and attractive condition all exterior landscaped areas within the property made subject to these Restrictive Covenants, including, but not limited to the median on Pinehurst Drive and all landscaped areas on each Lot



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within the Subdivision. Declarant hereby reserves for itself and for the benefit of the Association an easement over and across all landscaped areas of any Lot within the Subdivision for the purpose of maintaining said property, including all plantings thereon. This easement may be assigned by the Association to any contractor or employee performing services or functions for and on behalf of the Association.

The Association shall further have the obligation to maintain landscape bulkheading as well as landscape and garden lighting, including fixtures and lighting elements, all at the expense of the Association. The Association shall further have the responsibility of maintaining a sightly appearance along all street rights of way and utility easements. The owner, however, shall have full maintenance responsibility for all garden walls, and the owner shall maintain such garden walls in good and sightly condition.

There exists along the perimeter of the Subdivision a utility and drainage easement, as shown on the Subdivision plat. Within such easement is located a drainage ditch. The Association shall maintain such ditch in a sightly and functional condition. Declarant hereby grants to the Association the right of the Association to go upon any land adjoining the Subdivision and owned by Declarant for the purpose of maintaining the condition and appearance of any such perimeter drainage ditch, except that neither the Association nor any owner of any Lot shall go upon any portion of the adjacent golf course property to the extent such golf course property is maintained as a portion of the improved golf course, without the prior permission and consent of Declarant or the owner of the adjacent golf course.

The Association shall have the right to install common improvements on any common area, including the access easement located between Lots 12 and 13 within the Subdivision, and further including the construction and maintenance of a bridge near the eastern terminus of such access easement. The improvements that are constructed or are required to be maintained by the Association shall be maintained in a good and operable and sightly condition by the Association, which improvements may include a subdivision sign, with appurtenant lighting, irrigation systems for any or all of the landscaped areas, walkways located on any common area and the aforementioned bridge at the eastern terminus of the clubhouse access easement.

The Association shall have the obligation to provide for itself and for the benefit of the owner of each Lot all necessary professional services to promote the proper

maintenance of all common areas and other Association maintained areas and to provide the smooth, proper and legal administration of the Association. These services may include services of an engineer, lawyer, accountant or other professional. The Association is specifically authorized to provide such other incidental services for the benefit of the Subdivision and in the management of the Association as deemed reasonably necessary by the Board of Directors of the Association. These purposes may include the stabilization or improvement of any perimeter ditching. The Association shall also have an affirmative obligation to maintain all common elements in good condition, utilizing its funds so to do, notwithstanding the utilization or lack thereof of such facilities by any or all Lot owners.

The Board of Directors of the Association may maintain a capital reserve fund if deemed necessary by said Association, but shall be under no obligation so to do if, in the reasonable opinion of the Board of Directors of the Association, annual maintenance of Association maintained areas and facilities is sufficient to make unlikely significant and unexpected expenditures within a five year period from the due date of any current regular assessment.

In order to fund its obligations, the owner of every Lot is obligated and bound, whether or not expressly stated in any instrument of conveyance, to pay to the Association the following:

- (a) annual charges or dues; and
- (b) special assessments.

All such assessments, charges, and dues, together with any interest thereon, shall be a charge on the land and shall be a continuing lien upon the Lot against which such assessments are made. Liens shall be perfected in the manner of a mechanics or materialmens' lien under North Carolina General Statutes, and any lien for dues unpaid shall be filed within nine (9) months after the due date of the payment of such assessment. The due date shall be the first day of the fiscal year of the Association, as to annual dues; and the date established for payment of a special assessment, as more fully set out hereinafter. Any such lien may be enforced in the manner of a deed of trust with power of sale, as allowed by North Carolina General Statutes, through a foreclosure proceeding. This instrument shall be deemed to give to the President of the Association said power of sale.



Annual assessments shall be in an amount determined by a majority vote of the Directors of the Association. The initial assessment shall be \$100.00 per Lot. The fiscal year of the Association shall be the calendar year; dues for the first year of the Association, prorated by date of closing, shall be payable to the Association at closing. Declarant shall pay dues for all unsold Lots beginning on the first day of the month following the first conveyance of a Lot to a third party by Declarant, and all prorations shall be based upon such date. Beginning with the first day of the first month following issuance of a certificate of occupancy for a home on a Lot, the dues for each such Lot for which a certificate of occupancy of a home has been issued shall be increased to an amount determined by the Board of Directors of the Association, which sum shall be \$700.00 per year until such time as the Board of Directors establishes a different level of assessment.

A special assessment may be levied from time to time by vote of a minimum of 70% of the total votes cast in any regular or special meeting, called in accordance with the By-Laws. A special assessment may be made for any purpose for which expenditures are allowed in accordance with this Declaration. The resolution approving a special assessment shall specify the date payable. Notwithstanding this provision, no special assessment may be levied without the approval of Declarant until such time as Declarant owns two or fewer Lots within the Subdivision. Any special assessment shall be imposed so that the percentage assessment charged to each unimproved Lot shall equal the percentage assessment charged to any improved Lot.

Notwithstanding any provisions of these Restrictive Covenants, including this Paragraph 6, the Board of Directors shall have authority to levy any special assessment if, in the sole discretion of said Directors, the assessment is reasonably required to protect properties impacted in case of an emergency, such as a storm causing severe erosion. In such event, the Directors shall give written notice to the members so affected as promptly as possible after the determination of said assessment and the action shall be binding as though ratified by the requisite vote of the owners of Lots.

7. ENFORCEMENT. These Restrictive Covenants, including any amendment hereto, may be enforced by any individual Lot owner; by the Association, upon action by its Board of Directors; or by Declarant, as long as Declarant owns any Lot within the Subdivision. Appropriate remedies shall

Book 1270 pg 1084

include, but not be limited to, specific performance. In any action to enforce these Restrictive Covenants, including any action to collect assessments, either regular or special, or to foreclose upon any real property for payment of such assessment, all costs associated with said collection, including court costs and reasonable attorney's fees, shall be collected as an additional assessment. In addition, interest at the rate of fifteen percent (15%) per annum shall be collected from the due date of any assessment, until the assessment is paid in full.

8. DISCLAIMER. Notwithstanding any other provision of this Restrictive Covenant, neither Declarant nor the Association shall have any obligation to maintain either the interior or exterior of any structure, including the residential dwelling, on any Lot, except that any approved landscaping structure, with the exception of garden walls, shall be maintained by the Association. Specifically, but not by way of limitation, the Association shall have no obligation to maintain heating and air conditioning compressors, water lines, electrical lines, cable television lines or other utilities or utility structures located on any Lot except for irrigation or electrical lines installed by and for the benefit of the Association.

Declarant shall have no obligation to convey to the Association, or to allow utilization by the Association, of the 50 foot access easement located between Lot 1 and Lot 2 as shown on the recorded plat of the Subdivision, but Declarant reserves the right to transfer ownership of such 50 foot access easement to the Association as common property if Declarant elects to make such transfer. Declarant shall have the right to convey, and the Association shall accept the conveyance of the right of way of Pinehurst Drive, the common area within Pinehurst Drive and the access easement located between Lots 12 and 13 as shown on the recorded plat of the Subdivision. Said conveyance may be by limited warranty deed.

9. AMENDMENTS. These Restrictive Covenants shall continue in full force and effect until 12:00 noon on January 1, 2005, at which time it shall automatically extend for additional successive periods of ten (10) years, unless a document terminating or modifying these Restrictive Covenants is recorded prior to any renewal date in the office of the Register of Deeds of Craven County, which amendment shall require approval of eighty percent (80%) of the Lots subjected to these Restrictive Covenants.



10. BINDING EFFECT. All covenants, restrictions, reservations, easements and privileges contained herein shall run with the land and the grantee, by accepting any deed to any portion of such land described herein, accepts the same subject to these Restrictive Covenants and its terms and conditions and agrees for himself, his heirs, successors and assigns, to be fully bound by each and all of the terms and conditions of these Restrictive Covenants, jointly, separately, and severally.

11. RESERVATION OF RIGHTS. Declarant hereby reserves the right to utilize all streets and roads within the Subdivision for purposes of ingress and egress to Lots within such Subdivision owned by it, or for purposes of providing access to other contiguous properties owned by it. This right shall be assignable by Declarant to successors in interest to it of other contiguous properties. Any utility easements reserved as shown on any recorded plat (and all roadways shall be deemed for this purpose a utility easement) shall be available for utilization by Declarant, authorized utility companies, or by the owner of any Lot within Pinehurst Place Subdivision, for purposes of providing utility services or necessary drainage.

12. RESUBDIVISION. No resubdivision of any single Lot shall be allowed, if any resulting Lot will be smaller in size than any of the Lots resubdivided, prior to resubdivision. Nothing contained herein shall prohibit conveyance of more than one Lot, or portions of contiguous Lots, as long as the resulting Lot or Lots are greater in size than those originally subdivided. The deed of conveyance of any such resubdivided or recombined Lots shall restrict the construction thereon to one single family residential home per redivided Lot, so that the maximum number of homes which can be constructed within the Subdivision shall not increase. Upon the recombination of any Lots to reduce the total number of allowable building Lots within the Subdivision, for purposes of membership in the Association and for purposes of the payment of dues and assessments, any recombined Lots shall be considered a single Lot. Furthermore, should any Lot be determined by Declarant to be unbuildable, and should such Lot then be deeded to the Association as common area, or dedicated by Declarant as a recreation or open space area for the benefit of the Association, all by document duly recorded in the office of the Register of Deeds of Craven County, there shall be no further dues assessed as to such Lot from the date of such recordation; however, any dues prepaid shall not be reimbursed.



13. UTILITY EASEMENTS. There is hereby reserved for the benefit of the Association and the owner of each Lot within the Subdivision a utility and drainage easement running parallel to each street a width of 10 feet, and parallel to each side Lot line a width of five feet.

14. MINOR AMENDMENT. Declarant, or its successor or assign, shall be allowed to amend these Restrictive Covenants, notwithstanding any other provision contained herein, and without joinder of any other party, for the purpose of correcting any discovered and apparent error contained herein, clarifying any ambiguity contained herein, or adding or deleting any incidental provisions deemed in the sole discretion of Declarant to be in the best interest of the Subdivision, and the owners therein. This right may be exercised, and shall be effective, only upon the recordation of a "Corrected Declaration" in the office of the Register of Deeds of Craven County, which Corrected Declaration shall specifically reference this document, and the provision impacted.

15. MAIL BOXES, ETC. No mail box, newspaper box, trash receptacle, or trash receptacle enclosure shall be constructed or installed without approval as to style, materials, color, and location given by the Architectural Control Committee.

16. RULES. The Board of Directors may from time to time establish rules for use of any property within the Subdivision in order to protect the value of Lots, the aesthetic qualities of the Subdivision and the tranquillity of the owners of Lots. Said rules may include, but are not limited to, reasonable restrictions on pets, rental use of homes, and parking of cars, trailers, boats, campers and other vehicles on Lots and streets. All such rules shall be effective after written notice of adoption is mailed to the record owners of all Lots. All such rules shall be enforceable as though set out within these Restrictive Covenants.

Rules which shall be in effect as of the date of the recordation of these Restrictive Covenants include the following:

1. No outbuilding of any kind shall be permitted that is readily visible from the adjacent golf course;

2. No exterior clothesline shall be permitted; and

3. A standard mailbox and mailbox post selected by Declarant or the Architectural Control Committee shall be required to be constructed at the expense of owner.

IN TESTIMONY WHEREOF, said parties have caused this instrument to be executed in their corporate name by their corporate officers, and their corporate seals to be hereto affixed, all by order of their Board of Directors first duly given, this the day and year first above written.

WEYERHAEUSER REAL ESTATE COMPANY

BY:

(Vice) President

Assistant Secretary

(Corporate Seal)

STATE OF NORTH CAROLINA

COUNTY OF CRAVEN

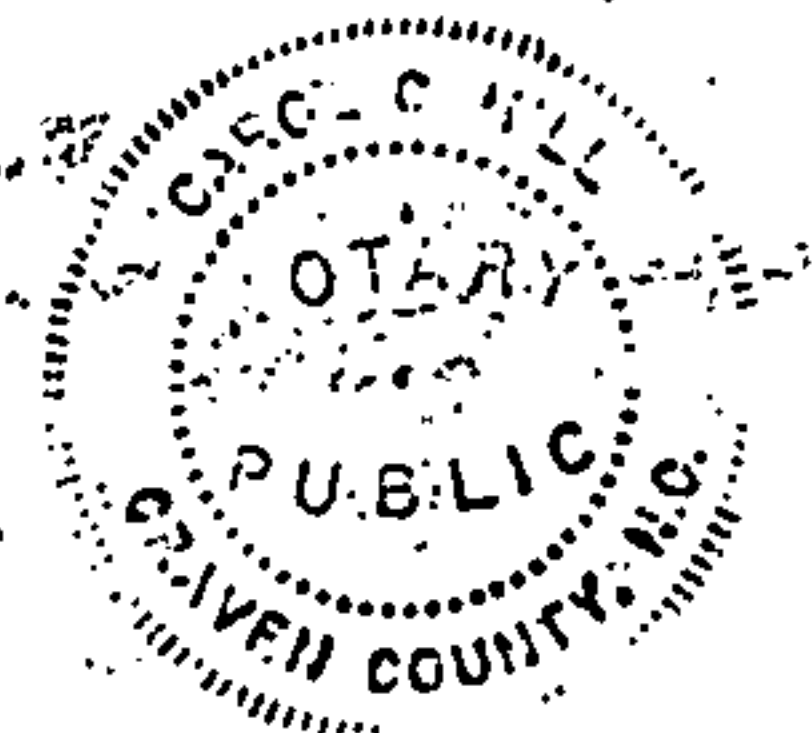
I, Carol C. Hill, a Notary Public in and for the above named State and County, do hereby certify that personally appeared before me this day John M. Doughty, who being by me duly sworn, says that he is the (Vice) President of WEYERHAEUSER REAL ESTATE COMPANY and that he knows that Nan W. Backley is the (Assistant) Secretary, and that he knows the common seal of the said corporation; that the corporation's name was subscribed to the within document by him as (Vice) President and was attested by its (Assistant) Secretary, with its corporate seal thereto affixed, and all by order of its Board of Directors duly given, and that the said instrument is the act and deed of said corporation.

WITNESS my hand and notarial seal, this 28th day of November, 1990:

Carol C. Hill  
Notary Public

My Commission Expires:

MY COMMISSION EXPIRES 5-25-94



PineCov  
Weyer  
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State of North Carolina, Craven County

The foregoing certificate(s) of Carol C. Hill  
of Craven Co

is (are) certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Craven County, NC in Book 1270, Page 1025

This 28th day of Nov A.D., 1990 at 8:20 o'clock PM

James E. Giff  
Register of Deeds

Ast./Deputy Register of Deeds