

STATE OF SOUTH CAROLINA

DECLARATION OF
RESTRICTIVE COVENANTSCOUNTY OF Spartanburg

THIS DECLARATION OF RESTRICTIVE COVENANTS is made this 28 day of October, 2005, by Wentworth Development, LLC("Declarant(s)").

RECITALS

WHEREAS, Declarant is the owner of certain real property located in Spartanburg County, South Carolina, more particularly the area designated in plat entitled FINAL PLAT FOR COTTAGES AT TURTLE CREEK SUBDIVISION (A PATIO HOME COMMUNITY). Which is part of the COTTAGES AT TURTLE CREEK PROPERTY OWED, AS OF THE DATE OF THIS RESTRICTIVE COVENANTS, BY WENTWORTH DEVELOPMENT, LLC., the Declarant, SAID PLAT BEING RECORDED IN PLAT BOOK 158 PAGE 651..

WHEREAS, as compensatory mitigation under Federal *and State* law for Department of the Army Permit No. 39-2005-0154 ("Permit") issued by the U.S. Army Corps of Engineers, Charleston District ("Corps" or "Charleston District," to include any successor agency), *and certification(s) and/or permit(s) issued by the S.C. Department of Health and Environmental Control ("DHEC," to include any successor agency)*, and in recognition of the continuing benefit to the permitted property, and for the protection of waters of the United States and scenic, resource, environmental, and general property values, Declarant has agreed to place certain restrictive covenants on the Property, in order that the Property shall remain substantially in its natural condition forever.

NOW THEREFORE, Declarant hereby declares that the Property shall be held, transferred, conveyed, leased, occupied or otherwise disposed of and used subject to the following restrictive covenants, which shall run with the land and be binding on all heirs, successors, assigns (they are included in the term, "Declarant," below), lessees, or other occupiers and users.

Prohibitions. Declarant is and shall be prohibited from the following: filling, draining, flooding, dredging, impounding, clearing, burning, cutting or destroying vegetation, cultivating, excavating, erecting, constructing, releasing wastes, or otherwise doing any work on the Property; introducing exotic species into the Property (except biological controls preapproved in writing by the Corps and DHEC); and from changing the grade or elevation, impairing the flow or circulation of waters, reducing the reach of waters, and any other discharge or activity requiring a permit under clean water or water pollution control laws and regulations, as amended. The following are expressly excepted from this paragraph: a) cumulatively very small impacts associated with hunting (excluding planting and burning), fishing and similar recreational or educational activities; b) establishment of un-paved nature trails or boardwalks constructed of natural materials and limited to six (6') feet in width; c) educational or directional signage; d) viewing or observation areas or stands limited to twelve (12') feet in height;

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Office of Register of Deeds, Spartanburg, S.C.
Stephen Ford, Register



e) sitting or picnic areas no more than one hundred fifty (150) square feet; f) planting of native trees or shrubs provided no mechanical equipment is used; g) installation of bird houses, bird feeders and similar wildlife enhancement materials; h) removal or trimming of vegetation hazardous to person or property, or of timber downed or damaged due to natural disaster, or due to disease; and i) restoration or mitigation required under law in association with Department of the Army Permit No. _39-2005-0154_, all consistent with the continuing natural condition of the Property.

2. **Amendment**. After recording, these restrictive covenants may only be amended by a recorded document signed by the Corps *and DHEC* and Declarant. The recorded document, as amended, shall be consistent with the Charleston District model conservation restrictions at the time of amendment. Amendment shall be allowed at the discretion of the Corps *and DHEC*, in consultation with resource agencies as appropriate, and then only in exceptional circumstances. Mitigation for amendment impacts will be required pursuant to Charleston District mitigation policy at the time of amendment. There shall be no obligation to allow an amendment.

3. **Notice to Government**. Any permit application, or request for certification or modification, which may affect the Property, made to any governmental entity with authority over wetlands or other waters of the United States, shall expressly reference and include a copy (with the recording stamp) of these restrictive covenants.

4. **Reserved Rights**. It is expressly understood and agreed that these restrictive covenants do not grant or convey to members of the general public any rights of ownership, entry or use of the Property. These restrictive covenants are created solely for the protection of the Property, and for the consideration and values set forth above, and Declarant reserves the ownership of the fee simple estate and all rights appertaining thereto, including without limitation the rights to exclude others and to use the property for all purposes not inconsistent with these restrictive covenants.

5. **Compliance Inspections**. The Corps, *DHEC*, and its authorized agents shall have the right to enter and go upon the lands of Declarant, to inspect the Property and take actions necessary to verify compliance with these restrictive covenants.

6. **Enforcement**. The Declarant grants to the Corps, the U.S. Department of Justice, and/or *DHEC*, a discretionary right to enforce these restrictive covenants in a judicial action against any persons or other entity(ies) violating or attempting to violate these restrictive covenants; provided, however, that no violation of these restrictive covenants shall result in a forfeiture or reversion of title. In any enforcement action, an enforcing agency shall be entitled to a complete restoration for any violation, as well as any other judicial remedy such as civil penalties. Nothing herein shall limit the right of the Corps to modify, suspend, or revoke the Permit.

7. **Property Transfers**. Declarant shall include the following notice on all deeds, mortgages, plats, or any other legal instruments used to convey any interest in the

Property (failure to comply with this paragraph does not impair the validity or enforceability of these restrictive covenants):

NOTICE: This Property Subject to Declaration of Restrictive Covenants Recorded at Deed Book ~~84-2~~ at Page ~~353~~ in the Register of Deeds Office for Spartanburg County, South Carolina the same date as these Declaration of Restrictive Covenants are being recorded.

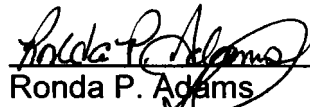
8. **Marking of Property.** The perimeter of the Property shall at all times be plainly marked by permanent signs saying, "Protected Natural Area," or by an equivalent, permanent marking system.

9. **Recording of Plat.** A plat depicting the boundaries of the Property subject to these restrictive covenants shall be recorded in the deed records office for each county in which the Property is situated prior to the recording of these restrictive covenants. The plat(s) is/are recorded in the Register of Deeds Office for Spartanburg County in Plat Book 158 at Page 651 on September 2005.

10. **Separability Provision.** Should any separable part of these restrictive covenants be held contrary to law, the remainder shall continue in full force and effect.

IN WITNESS WHEREOF, the Declarant(s) has/have duly executed this Declaration of Restrictive Covenants the date written above.

IN THE PRESENCE OF:



Ronda P. Adams

S. Frank Adams

Declarant(s) Wentworth Development, LLC

By: 


Member

STATE OF SOUTH CAROLINA

PROBATE

COUNTY OF SPARTANBURG

PERSONALLY appeared before me Ronda P. Adams, the undersigned witness, and made oath that he/she saw the within named Wentworth Development, LLC by Jeffrey L. Hardee, Member sign, seal and as his/her/its act and deed, deliver the within named Declaration of Restrictive Covenants; and that he/she with the other witness named above witnessed the execution thereof.



Ronda P. Adams

SWORN to and subscribed before me
this 28th day of October, 2005.

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 10-14-07

