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M. J. J.

Filed for Record  
Date 2.21.2003  
Time 3:30 o'clock P M  
JUDY G. PRICE, Register of Deeds  
Union County, North Carolina  
Smith's

08106

**DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS  
FOR LATHAN'S POND**

This DECLARATION OF RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS, made and entered into this the 21<sup>st</sup> day of February, 2003, by and between LOVE CONSTRUCTION COMPANY, INC. (hereinafter "Declarant"), owner of LATHAN'S POND SUBDIVISION, as shown on plat recorded in Plat Cabinet H, File(s) 374-375 of the Union County, North Carolina Registry, and, PROSPECTIVE PURCHASERS of all lots in said subdivision.

WITNESSETH:

WHEREAS, the Declarant intends to convey each of said lots as the same are shown and delineated on the above-mentioned map, by deeds, deeds of trust, mortgages, and other instruments to various persons, firms, and/or corporations, subject to certain restrictive and protective covenants and conditions which are deemed to make the subdivision more desirable and to be for the benefit of all those who acquire title to any one or more of said lots to the end that the restrictive and protective covenants and conditions herein set out shall inure to the benefit of each person, firm or corporation which may acquire title to any and all of said lots and which shall be binding upon each such person, firm or corporation to whom or to which Declarant may hereafter convey any of said lots by deed, mortgage, deed of trust, or other instrument.

NOW, THEREFORE, in consideration of the premises, Declarant hereby covenants and agrees with said Prospective Purchasers that each of the aforementioned lots shall be held, sold, encumbered and conveyed subject to the restrictive and protective covenants and conditions hereinafter set forth and said restrictive and protective covenants and conditions shall become a part of each instrument conveying any of said lots as fully and to the same extent as if set forth therein. As a condition of the sale or conveyance, the purchasers agree and covenant to abide by and conform with said restrictive and protective covenants and conditions:

**THE RESTRICTIVE AND PROTECTIVE COVENANTS  
AND CONDITIONS ARE AS FOLLOWS:**

**ARTICLE I  
USE RESTRICTIONS**

Section 1. Lot. The word "Lot" as used herein shall mean the separately numbered parcels depicted on the above-mentioned map. Provided, however, that the owner of all of a numbered Lot on said map may combine with such numbered lot, part or portions of another numbered lot or lots and the aggregate shall be considered as one "Lot" for the purposes of these restrictive and protective covenants and conditions.

Section 2. Land Use. All Lots shall be known and described as residential lots. Lots are to be used exclusively for single-family residential purposes and are devoted exclusively to dwelling use. No structure shall be erected, altered, placed or permitted to remain on the property other than for use as a single-family residential dwelling. No mobile, manufactured or modular home may be erected, placed, or permitted to remain upon the property. Only site-built homes are permitted. No outbuildings shall be erected on the property unless the same is incidental to the residential use of the property. It is provided, however, that Declarant or Builders, during the development and building stage, may maintain a mobile manufactured dwelling for use as a model home to aid sales in the subdivision or site construction trailer. After development has been completed, no such model home or construction trailer may be maintained in the subdivision.

*Mail After Recording: LOVE Construction Company  
2675 Old Charlotte Hwy,  
MORRIS, NC 28110*

Section 3. Building Lines. No building shall be located nearer to the front, side or rear property lines of a Lot than the building setbacks shown on the recorded plat(s) of the Properties. In no event, shall any building be placed nearer to any front, side or rear Lot line than permitted by Union County Zoning Ordinances.

Section 4. Subdivision of Lots. No person or entity may subdivide or re-subdivide any Lot or Lots without the prior written consent of the Declarant.

Section 5. Size of Structure. No residential structure shall be erected or placed on any Lot having a total finished heated area of less than eighteen hundred (1,800) heated square feet in addition to at least a two-car garage of standard size. Such required garage may be used for any uses that are legal under the local laws and ordinances. Unintentional violations not exceeding two percent (2%) of the minimum square footage requirements herein set forth shall not be considered a violation of this section.

Section 6. Construction Quality. All dwellings and garages and outbuildings erected upon the property shall be constructed of material of good grade, quality and appearance, and all construction shall be performed in a good and workmanlike manner. The exterior wall construction of any dwelling shall be of brick-veneer, vinyl, masonry, cement board, stone, stucco or any other material specifically approved by the Declarant. The foundation elevations must be of brick-veneer or stone veneer. All dwellings shall have simulated architectural roofing.

Only construction of a new residential dwelling and other structures on a lot shall be permitted. The moving and placement of an existing structure (including residence) from any other property to any lot in the subdivision shall be prohibited.

Section 7. Garages and Construction of Driveways. Each dwelling must contain an attached garage which shall accommodate a minimum of two automobiles. All garages must be equipped with an operating garage door or doors that has capability of closing and completely covering the interior of the garage. Any portion of a driveway that intersects a street must be made of poured concrete. The poured concrete section of each driveway must be a minimum of ten (10) feet in width, must begin at the street, and must extend for a minimum of twenty (20) feet in length. The remainder of the driveway may be concrete, asphalt, or gravel.

Section 8. Storage Buildings and Outbuildings. All storage buildings and outbuildings erected upon the property shall be constructed of material of good grade, quality and appearance, and all construction shall be performed in a good and workmanlike manner. Outbuildings and storage buildings shall be permitted as long as they are constructed with exterior finishes and colors similar to the finish and color of the main dwelling. No metal outbuildings, or metal storage buildings shall be maintained upon the property. All outbuildings and storage buildings must be built upon permanent foundations.

Section 9. Temporary Structures. No structure of a temporary nature shall be erected or allowed to remain on any Lot. This Section shall not be applicable to temporary construction trailers, sales offices and material storage facilities used during construction.

Section 10. Clothes Drying. All exterior clothes hanging and drying devices such as lines, reels, poles, frames, etc. shall be stored directly behind the residence, where not visible from any point on the street in front of the residence.

Section 11. Nuisances. No noxious or offensive trade or activity shall be carried on upon the property nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 12. Residence. No trailer, basement, tent, shack, garage, barn or other outbuilding erected on the Properties shall be at any time used as a dwelling or residence, temporarily or permanently, nor shall any structure of a temporary character be used as a dwelling or residence.

Section 13. Radio and Television Antennas. No free standing radio or television or electronic reception towers, antennas, dishes or disks shall be erected on any Lot. Except that small satellite dishes not exceeding two (2) feet in diameter shall be permitted to be freestanding but not erected on any Lot closer to any street line than the rear corners of the residence. Radio and television antennas not exceeding fifteen (15) feet in height above the roof line of the residence or structure and only dishes or disks not exceeding two (2) feet in diameter shall be permitted upon the roofs.

Section 14. Harmony of Structures. No structure shall be constructed or moved onto any Lot unless it shall conform to and be in harmony with existing structures on the Properties.

Section 15. Residence Placement. Each residence shall face the street fronting the lot.

Section 16. Easements. Declarant reserves a perpetual easement and the right to grant such easement to the appropriate governmental authorities or utility companies over the front and rear fifteen (15) feet of each Lot and seven and one-half (7 1/2) feet adjacent to all side Lot lines for the installation and maintenance of any and all utility lines and drainage facilities. Declarant reserves the right to grant an encroachment easement along any property line for the inadvertent installation of a driveway, or when the installation of the driveway is reasonably necessary in Declarant's sole judgment. Said driveway easement to be no more than twelve (12) inches onto any adjoining lot.

Section 17. Signs. No sign of any kind shall be displayed to the public view on any Lot except one professional sign of not more than one square foot; one sign of not more than five square feet, advertising the property for sale or rent; or signs used by a builder to advertise the property during the construction and sales period.

Section 18. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs (with a limit of three exterior dogs), cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purpose.

Section 19. Trash Disposal. All rubbish, trash, garbage or waste of any kind shall be kept in sanitary containers. All equipment for the storage and disposal of such material shall be kept in a clean and sanitary condition.

Section 20. Fences. No chain link or barbed wire or wire mesh fence shall be erected on any Lot. However, a wood rail fence with wire mesh attached shall be specifically permitted. Also, chain-link dog kennels not to exceed a size of ten (10) feet by twelve (12) feet shall be specifically permitted. No fences (including invisible fencing and dog kennels) shall be erected on any Lot closer to any street line than the rear corners of the residence (or in any case between the residential structure located on the Lot and the road right-of-way). No fences shall be erected within any area reserved within this Declaration or as set forth on the recorded map of the subdivision as an easement area. Provided, however, that notwithstanding anything contained in this Section or elsewhere to the contrary, Declarant and Builders may install decorative fencing on any Lot used by it containing a model home.

Section 21. Swimming Pools and Trampolines. All swimming pools and trampolines shall not be erected nearer the front lot line of a Lot than the back face of the dwelling located on such Lot. All swimming pools must be enclosed with safety fencing as defined in the applicable building code. No above-ground swimming pools shall be permitted.

Section 22. Sight Line Limitations. No fence, wall, hedge or 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 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 10 feet from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 23. Parking of Vehicles. No commercial trucks that exceed 26,000 lb (GVW) gross vehicle weight shall be permitted to remain upon the property. No camper or like recreational vehicle, trailer, work trailer, utility trailer, school bus, boat or boat trailer, nor any other vehicle, craft or watercraft, shall be permitted to remain upon the property located any closer to any street line than the rear corners of the residence. These vehicles shall not be parked in the street, in a driveway, in the front yard or in a side yard of any lot. No wrecked or junked motor vehicle or vehicle without current license plates and registration and current valid inspection shall be permitted to remain upon the property.

Section 24. Certain Vehicles Prohibited. No motorized, unlicensed, recreational vehicles, including, without limitation, all terrain vehicles, dirt bikes and go-carts shall be operated anywhere within the subdivision.

Section 25. Mailbox and Newspaper Box. No brick, stone, or other type mailbox or mailbox stand which has not been approved by the North Carolina Department of Transportation (NCDOT) or other agency having jurisdiction over mailboxes located within street rights of way shall be permitted in the subdivision.

Section 26. Basketball Goal Support. No basketball goal supports shall be erected or placed within any street right of way, or in front of the rear corners of the residence.

Section 27. Landscaping and plantings in the road right-of-ways. Each owner is responsible for establishing and maintaining a grass cover on the road right-of-way that exists on his lot. Additionally, no owner should plant any trees, or large growing shrubs, or place any other fixture in the road right-of-ways.

Section 28. Driveway Pipes. Each driveway must include a NCDOT approved driveway pipe, which shall be 15" minimum diameter, or larger as directed by NCDOT. All drainage apparatuses and headwalls that are located within the street right-of-way must be NCDOT approved.

Section 29. Diligent Construction. All construction, landscaping, or other work which has been commenced on any Lot must be continued with reasonable diligence to completion and no partially completed houses or other improvements shall be permitted to exist on any Lot, except during reasonable time period as is necessary for completion. All construction must be completed within one (1) year after the date upon which it commenced.

Section 30. Outside Access to Streets. No right of way or easement or grant of any kind for egress, ingress or regress (whether by verbal permission or in writing, or through inaction, implication or otherwise) shall be granted or allowed by the owner of any lot to create access by or for an adjoining landowner or person or entity not adjoining, to the subdivision's streets.

Section 31. Damage to subdivision improvements and Sediment control. Any damage to the streets, street side drainage ditches, street right-of-ways, signage, or any utility system caused by a Lot Owner or Lot Owner's builder or his subcontractors shall be repaired by such responsible Lot Owner. The Lot Owner is also responsible for retaining and containing sediments upon his Lot. Any sediment that washes into the street is the responsibility of the Lot Owner. The Lot Owner will be responsible for washing any sediment from the street that originated from his Lot.

Section 32. Well Condition. If Lot Owner chooses to install a water well upon his lot, he must get specific written approval on the location of this well from Love Construction Company, Inc. The Lot Owner must also get approval from the Union County Environmental Health Department on this well placement. Also, discharge location of any spent water must be approved in writing by Love Construction Company, Inc. and by Union County Environmental Health Department.

Section 33. Shared Driveway. The Lot Owners of Lot 9 and Lot 12 are responsible for shared maintenance of the shared driveway that serves those lots.

**ARTICLE II  
EASEMENTS**

Section 1. General Easements. Easements for the installation and maintenance of fences, driveways, walkways, parking areas, water lines, gas lines, telephone, cable TV, electric power lines, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plats and as further described in Article I, Section 16 of this instrument. Within any such easements, no structure, planting, fencing or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of sewerage disposal facilities and utilities, or which may change the direction or flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. The owner of each Lot shall maintain that portion of said Lot lying within the easement areas as defined herein and shall maintain such improvements as may be located thereon except those improvements installed and maintained by a public authority or utility company. No lot owner may dedicate, convey or permit an easement or right of way for ingress and egress to land located outside the subdivision boundaries as shown on the recorded plat.

**ARTICLE III  
GENERAL PROVISIONS**

Section 1. Repurchase of Unimproved Lot by Declarant. In order to promote the timely development of the subdivision, it is the intention of Declarant that Owners begin construction of a house within a timely manner. Therefore, in the event an Owner has not begun construction of a house on its Lot within one (1) year after the date on which such Lot was originally sold by Declarant to the initial owner thereof, Declarant shall have the option at any time thereafter and so long as construction has not begun to purchase the Lot from Owner at the same price for which such unimproved Lot was originally sold by Declarant to the initial owner thereof ("Original Price"). The Original Price shall be the actual cash purchase price of such Lot and shall not include any additional expenses incurred by any party in connection with the purchase of such Lot. For purposes of this Section, construction shall be deemed not to have begun until Declarant has approved construction plans hereunder, a valid building permit has been issued, the foundation is in place, and framing has begun.

Section 2. Enforcement. Any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, and covenants now or hereafter imposed by the provisions of this Declaration. In any such action, the court may award reasonable attorney's fees to the prevailing party. Failure by any Owner to enforce any covenant or restriction herein contained shall in no way be deemed a waiver of the right to do so thereafter.

Section 3. 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 4. Effect of Restrictions and Amendment. The covenants and restrictions of this Declaration shall bind only the land specifically herein described and shall run with and bind that land. This Declaration may be amended prior to February 15, 2007, by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots and by the Declarant, so long as Declarant still owns any Lots, and thereafter, by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be properly recorded.

**IN WITNESS WHEREOF**, Love Construction Company, Inc., Declarant, by virtue of the provisions of the preamble of the aforesaid Declaration of Restrictive and Protective Covenants and Conditions, has caused this instrument to be duly executed under seal as of the day and year first above written.

LOVE CONSTRUCTION COMPANY, INC.

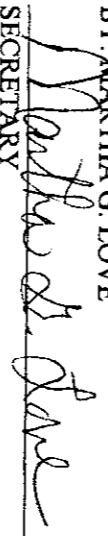
BY: VANN J. LOVE

  
PRESIDENT

ATTEST:

LOVE CONSTRUCTION COMPANY, INC.

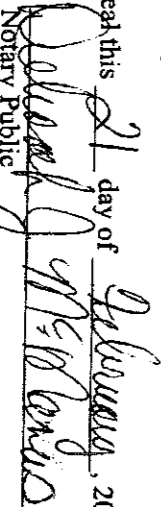
BY: MARTHA G. LOVE

  
SECRETARY

STATE OF NORTH CAROLINA  
COUNTY OF UNION

Before me, a Notary Public, personally appeared this day Martha G. Love who, being duly sworn, says that he/she is the Secretary and that Vann J. Love is the President of LOVE CONSTRUCTION COMPANY, INC., the corporation described in and which executed the foregoing instrument; that he/she knows the common seal of said corporation; that the foregoing instrument was executed in its corporate name by the said President and attested to by the said Secretary who affixed the common seal thereto, all by order of the Board of Directors of said corporation and that the said instrument is the act and deed of the said corporation.

Witness my hand and notarial seal this 21 day of September, 2003.

  
Notary Public

My commission expires: My Commission Expires August 31, 2003

STATE OF NORTH CAROLINA  
COUNTY OF UNION

The foregoing certificate of DA DONAH J. McMERWIG  
Notary(ies) Public of Union County, North Carolina, is/are hereby certified to be correct.  
This instrument was presented for registration and recorded in this office in Book 2072 page  
194.

This 21<sup>st</sup> day of Feb, 2003, at 3:30 o'clock P.m.

Judy G. Paice  
Register of Deeds

By: MARY B. WILSON - CLERK