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Prepared by: Duke L. Stone, Trustee, 7 Woodward Ct. Reisterstown, MD 21136-1835

Return To: Duke L. Stone, Trustee, 7 Woodward Ct. Reisterstown, MD 21136-1835

PIN NUMBERS: 9787-45-4157, 9787-45-6018, 9787-45-6160, 9787-45-7014, 9787-44-5908 LB

STATE OF NORTH CAROLINA

**SECOND AMENDMENT TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
OF SHADY NOOK COURT**

COUNTY OF ORANGE

WHEREAS, DUKE L. STONE, Trustee of the Duke L. Stone Living Trust dated May 22, 2001, is the owner in fee simple of the following described lots or parcels of land in Chapel Hill Township, Orange County, North Carolina and more particularly described as follows:

Lots 1 through 5 as shown on survey and Recombination Plat entitled "Old Lystra Rd, Duke L. Stone Trust Property" dated August 5, 2009 as prepared by Philip Post & Associates, and recorded in the Office of the Register of Deeds of Orange County in Plat Book 105, Page 154.

For a more complete description and Designation of Street Addresses for Lots 1 through 5, see attached "EXHIBIT A."

WHEREAS, Duke L. Stone, Trustee, (the "Developer"), for the purpose of creating and maintaining a quiet, restful and desirable development and for the protection of owners who build homes in said above-described development, does hereby covenant to and with the present and future owners of said lots as follows:

1. The above described lots shall be used for single-family residential purposes only; no dwelling may be erected, altered, placed or permitted to remain on any lot other than one single-family dwelling (and garage).
2. No lot shall be subdivided without the written consent of the Developer, Duke L. Stone, Trustee, his heirs, assigns or legal agent.
3. No dwelling, building, structure, outbuilding, fence, wall or improvement of any nature whatsoever (except for interior alterations to existing structures not

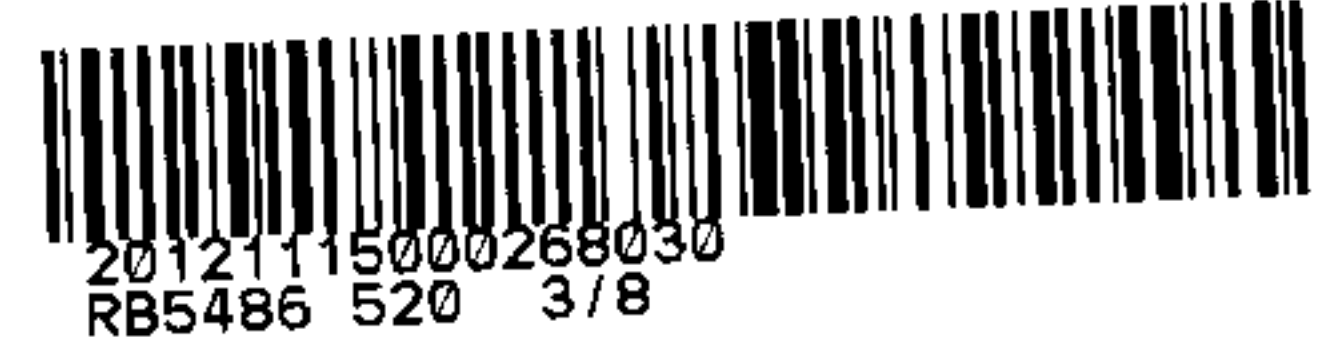


affecting the external structure of appearance of any improvement on any portion of the lot) shall be constructed on any lot until the plans for such construction shall have been approved in writing by the Developer, Duke L. Stone, Trustee, his heirs, assigns or legal agent. The plans submitted to the Developer for approval shall include:

- (a) the construction plans, specifications and description of materials, including all exterior colors (approval by the Developer or its agent) shall not constitute a basis for liability of the developer for any reason, including, without limitation:
 - (i) the failure of the plans to conform to any applicable building codes; or
 - (ii) inadequacy or deficiency in the plans resulting in defects in the improvements); and proposed landscaping (specifically including any clearing and/or tree removal and grading).

The developer's approval required hereinabove is a continuing approval with regard to all future alterations including exterior colors, and outbuildings installed after construction of the principal residence, until such time as the "Shady Nook Court Maintenance Association" is formed and becomes responsible for such ongoing approvals.

4. No plans for a one-story dwelling shall be approved unless the finished living area of such dwelling, exclusive of open porches and garages, measured from outside wall lines total to be at least 2300 square feet living area (as defined per NCAR measuring rules).
5. No plans for a two-story dwelling shall be approved unless the finished living area of such dwelling, exclusive of open porches and garages, measured from outside wall lines total to be at least 2800 square feet living area (as defined per NCAR measuring rules).
6. Each property shall have at least a double car garage, unless approval for a one car garage is provided by owners representing at least 75% (seventy-five percent) of lots in the subdivision.
7. Approval of the plans by Developer shall be based upon compliance with the provision of these restrictions, quality of workmanship and material harmony of external design with surrounding structures, locations or improvements with respect to topography and finished grade elevation, the effect of the construction on the outlook from the surrounding lots, the effect of the proposed construction on the natural tree growth and vegetation, and all other factors which in the sole reasonable opinion of the Developer shall affect the desirability or suitability of the proposed improvement. Approval shall be subject to the following provisions:



- (a.) Exterior construction materials shall be of “high quality” and shall be of stone, brick, high quality wood or cement siding or shake construction. For the purposes of providing an objective reference regarding the meaning of “high quality” as used in this paragraph, the homes in the neighborhood shall be of substantially similar quality to homes located in (i) the Chancellor’s View neighborhood located near Zapata Road in Chapel Hill and/or (ii) the Sun Forest neighborhood in Chapel Hill. The roof of the primary dwelling shall be shingled.

- (b.) Even if Shady Nook Court is not paved, driveways from Shady Nook Court to structures shall be either paved or shall be composed of a substance that:
 - (i) is bound in nature such that the driveway does not permit surface soil or gravel run-off onto Shady Nook Court and,
 - (ii) is aesthetic in appearance, consistent with the overall character of the neighborhood.

- (c.) Fencing shall be in compliance with existing local ordinances at the time of construction and shall be permitted only in the yard behind the frontal plane of the primary structure and such fencing shall be comprised of non-invasive shrubs as classified by the NC Extension Service, or high quality open faced fencing, not to exceed a height of five (5) feet. All fencing shall be consistent with the overall character of the neighborhood. Solid panel fencing shall be permitted only:
 - (i) along the Mount Carmel Church border of any properties or,
 - (ii) along any property line that is not shared with another property in the neighborhood, provided, however, that no such fencing shall be permitted along Shady Nook Court or Old Lystra Road. In no event shall any fencing obscure the views from driveways on adjacent properties.

- (d.) Ancillary storage and mechanical structures shall be of the same style, materials and quality of construction as the principal structure. No metal or temporary structures shall be permitted after the Certificate of Occupancy has been issued.

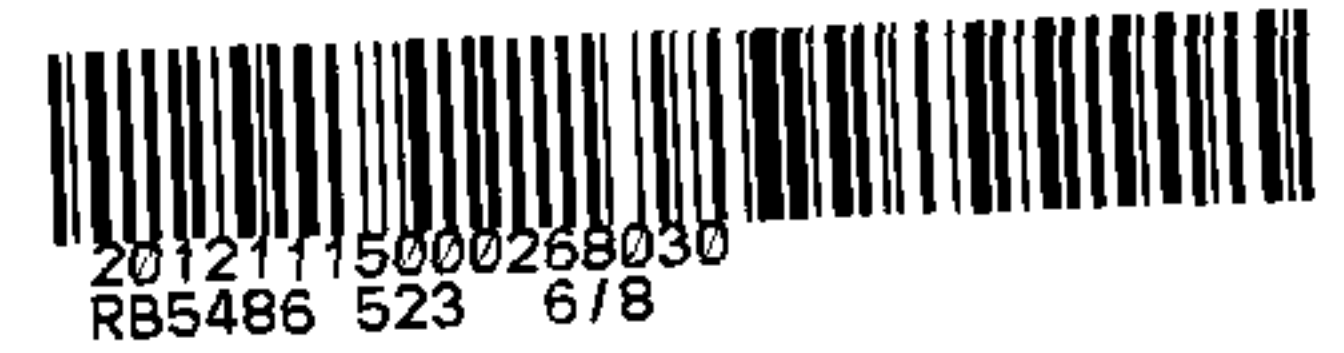
- (e.) Any pool shall be an in-ground pool, appropriately fenced and secured, as required by local ordinance.



- (f.) The landscaping of the lots shall be of a high quality and appropriate for the neighborhood.
 - (g.) Any application for variance of provisions listed above prior to the establishment of the Shady Nook Court Maintenance Association shall be subject to review and written approval of the Developer and each property owner. Following the establishment of the Shady Nook Court Maintenance Association, such provisions may be waived or amended by the vote of 75% (seventy-five percent) of the members of such association.
8. No animal, livestock (including pet pigs), or poultry of any kind shall be raised or bred on any lot except for dogs, cats, or other household pets which may be kept according to Orange County pet confinement rules and which are primarily indoor pets, provided they are not kept, bred, or maintained for any commercial purpose and provided they, nor their quarters, fencing or confinements become a nuisance or annoyance to the other lot owners.
 9. No part of any lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or other waste, and the same shall not be kept except in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No accumulation of trash, garbage, rubbish or waste shall be permitted, and all lots shall be kept in an orderly and sanitary condition at all times. The sole exception is chipped or shredded yard waste, properly composted or spread, providing that this does not become a nuisance or annoyance to the other lot owners.
 10. Each Lot shall be maintained free of tall grass, undergrowth, dead trees, weeds and trash, and generally free from any condition that would decrease the attractiveness of the Property. All cut trees, limbs, trunks, stumps and other waste must be completely removed from the premises, or properly chipped, shredded or composted, providing that this does not become a nuisance or annoyance to the other lot owners.
 11. No automobile, boat, motorized vehicle or equipment that is inoperable, unregistered, or unlicensed, will be allowed to remain on any lot and/or street for more than fifteen (15) days. No metal trailers, mobile homes, modular units, RV's, commercial cabs/trailers, or boats shall be parked on the property, in the driveway, or on Shady Nook Court, except for temporary delivery and repairmen's vehicles.
 12. No billboard or signs, except those suitable for sale of the lot, or those identifying the street address and/or owner's name (exclusive of advertisement for business or trade) shall be permitted or maintained on any lot.



13. All utilities serving an individual lot shall run underground at the expense of each individual lot owner.
14. Access from State Road 1915 (Old Lystra Road) to Lots 1, 2, 3, 4, and 5 shall over and across the proposed 30' private access Easement also known as Shady Nook Court to State Road 1915 (Old Lystra Road).
15. No illegal, noxious, or offensive activity shall be carried on upon the herein described lots nor shall anything be done on the lots herein described which may be or may become an annoyance or a nuisance to the neighborhood.
16. **ENFORCEMENT:** Enforcement shall be by proceeding at law or in equity, either to restrain violation or to recover damages against any covenant or restriction set forth herein. Failure to enforce any covenant or restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce the same.
17. **SEVERABILITY:** Invalidation of any of the provisions hereof by judgment or court order shall in no way effect of the other provisions which shall remain in full force or effect.
18. **DURATION:** These provisions are to run with the lots and shall be binding on all parties owning the lots and all persons claiming under them for a period of 30 years from the date these restrictions are recorded (or until April 1, 2042), after which said time, said covenants shall be automatically extended for additional periods of 10 years each, unless an instrument signed by at least 75% (seventy five percent) of the then owners of the similarly restricted lots has been recorded in which it is agreed otherwise.
19. **ROADS, RIGHTS-OF-WAY AND ROAD MAINTENANCE:** As a part of the consideration for their purchase of lots in subdivision, each of the owners, agree to bear their pro-rata share (i.e. per lot) of costs of the necessary expenses to:
 - a. maintain the private thirty-foot access easement in an all-weather state of good repair, including costs of mowing, shoulder maintenance, control of storm water runoff and erosion.
 - b. Until 75% (seventy-five percent) of lots in the subdivision have been sold, the Developer shall be responsible for contracting any road maintenance work and shall be responsible for any decision regarding the need for maintenance and the manner and extent of said maintenance, improvement or repair and shall collect from the other lot owners in the subdivision their pro-rata share of costs of said maintenance and repair on a quarterly basis. The Developer shall not permit the road or any area for which the



Developer is responsible for to fall into a state of neglect or disrepair. Notwithstanding anything herein, until the Shady Nook Court Maintenance Association is formed, any decision regarding paving Shady Nook Court that would have an aggregate cost to any individual property owner in excess of \$7,500 has to be approved by each property owner.

- c. Once 75% (seventy-five percent) of lots adjoining Shady Nook Court have been sold, the owners of the adjoining lots shall form a non-profit association to be denominated "Shady Nook Court Maintenance Association" which shall be an association comprised by the property owners. After formation, the Shady Nook Court Maintenance Association shall be responsible for making decisions regarding the overall maintenance and upkeep of the neighborhood and each property owner shall pay its pro-rata share of such expenses. Except as provided in this Declaration of Covenants, Conditions and Restrictions, decisions of the Shady Nook Court Maintenance Association shall be made on a majority basis, which such decisions shall include, but are not limited to:
 - (i) contracting for any road maintenance work or paving,
 - (ii) making decisions regarding the need for maintenance in the common areas of the neighborhood and the manner and extent of said maintenance or repairs and contracting for such maintenance; and,
 - (iii) collection from the other lot owners (excluding the Developer) their pro-rata share (i.e. per lot) of the costs of said maintenance. Each lot owner's pro-rata share of costs shall be a lien upon his lot until the same is extinguished through payment.

20. **VOTING THRESHOLDS.** For so long as Lot 5 is excluded from the obligations of this Declaration of Covenants, Conditions and Restrictions, any required vote shall consist only of the votes of owners of Lots 1-4 (described on Exhibit A hereto). In the event that Lot 5 shall, at any point, become subject to this Declaration of Covenants, Conditions and Restrictions, any required vote shall consist of the owner of Lots 1-5 and, at such point, the owner of Lot 5 shall be required to pay its pro-rata share of homeowner expenses, including its pro-rata share of expenses related to paving Shady Nook Court, if such road has been paved.

21. **AMENDMENTS TO COVENANTS.** Notwithstanding anything herein, prior to the establishment of the Shady Nook Court Maintenance Association, this Declaration of Covenants, Conditions and Restrictions may only be amended by the written approval of the Developer and each property owner. Following the establishment of the Shady Nook Court Maintenance Association, this Declaration of Covenants, Conditions and Restrictions may be amended by the vote of 75% (seventy-five percent) of the members of such association.



“EXHIBIT A”

Designation of Street Addresses for Lot Numbers 1 through 5:

Lot Number	Tract Number	PIN	Map	Street Address
1	776147	9787-45-4157	7.126.C.4	1001 Shady Nook Court
2	776148	9787-45-6018	7.126.C.4B	1011 Shady Nook Court
3	776149	9787-45-6160	7.126.C.4C	1020 Shady Nook Court
4	776150	9787-45-7014	7.126.C.4D	1010 Shady Nook Court
5	776151	9787-44-5908	7.126.C.4E	1000 Shady Nook Court



IN WITNESS WHEREOF, the Developer has caused these Restrictive Covenants to be signed in its corporate name, by its duly authorized officers, and its corporate seal affixed hereto, this the 14th day of November, 2012.

DUKE L. STONE, Trustee of the Duke L. Stone Living Trust dated May 22, 2001

BY: *Duke Stone*, trustee
Duke L. Stone, Trustee

**STATE OF MARYLAND
COUNTY OF BALTIMORE**

I, STEPHANIE M. HARRIS, a Notary public in and for said County and State, do hereby certify that **Duke L. Stone, Trustee**, personally appeared before me this day and acknowledged the foregoing instrument was signed in its for the purpose stated therein.

WITNESS my hand and notarial seal this 14th day of November, 2012.

Stephanie M. Harris
Notary Public

My Commission Expires: 1/23/13

