

PREPARED BY ORANGE COUNTY PLANNING DEPARTMENT
ORANGE COUNTY
NORTH CAROLINA

Return to: W. T. Durham, 102 Braswell Court,
Chapel Hill, N. C. 27514

DECLARATION OF DEVELOPMENT
RESTRICTIONS AND REQUIREMENTS

BOOK 854 PAGE 120

RECORDED CONCURRENTLY WITH
PHASE I FINAL PLAT DURHAM ESTATES SUBDIVISION
PLAT BOOK/PAGE 85/27

OWNER: W. T. Durham

This DECLARATION, made this 24 day of MAY,
1990, by W. T. Durham, the owner of the property described in the
Property Description section of this declaration, hereinafter called
Declarant.

WITNESSETH

Declarant agrees for himself/herself/itself and with any and
all persons, firms or corporations hereinafter acquiring any of the
property described in the Property Description section of this
declaration, that the same shall be subject to the following
restrictions, conditions, and covenants relating to the use and
occupancy thereof, which restrictions, conditions, and covenants shall
run with the said property and inure to the benefit of and be binding
upon the heirs, successors, and assigns of Declarant and other acquiring
parties and persons.

PROPERTY DESCRIPTION

Being all of lots 5 through 10 as shown on the plat entitled
"Phase I Final Plat - Durham Estates Subdivision", dated March 5,
1990, as drawn by Alois Callemyn, R.L.S., and recorded in Plat
Book 55, Page 27, Orange County Registry, hereinafter "the
property" or "the subdivision".

SETBACKS

A setback of 40 feet shall be maintained as measured from the edge
of the road and utility right-of-way. Side and rear yards shall
be a minimum of 20 feet. Through the architectural approval
process a variance of up to 25% of any setback may be granted.

Exceptions to the setback requirement include certain
architectural features (such as corners, eaves, and gutters), an
unenclosed balcony or fire escape, and an attached private garage
or carport. See Section 6.6 of the Orange County Zoning
Ordinance, available at the Planning Department for specific
regulations relating to these exceptions.

RECEIVED
1990 MAY 24 AM 11:28
ORANGE COUNTY LAND RECORDS

BOOK 854 PAGE 121

IMPERVIOUS SURFACE CALCULATION

An impervious surface is a surface composed of any material which
impedes or prevents the natural infiltration of water into the
soil. Such surfaces shall include any concrete or asphalt
surface. These would include, but not be limited to, streets and
parking areas, sidewalks, patios and structures which cover the
land.

In order to promote infiltration of stormwater runoff into the
soil and to minimize direct and immediate runoff into streams and
water supply impoundments, impervious surface ratios are required
for all subdivisions located within a protected watershed.
Modifications of the Impervious Surface Ratios may be requested,
as a Class A Special Use. No modification granted shall exceed
the designated ratios for the Protected Watershed (PW-11 District
by more than five percent (5%).

Impervious surface calculations for an individual development
shall be cumulative for original construction and any subsequent
additions.

The property within the Durham Estates Subdivision is in the Rural
Buffer zoning district and University Lake Watershed overlay. The
impervious surface for each lot shall not exceed 12% of the lot.
The permitted square footage for impervious surface on each lot is
calculated as follows:

Lot 5: 15,000 sf
Lot 6: 16,477 sf
Lot 7: 15,000 sf
Lot 8: 15,000 sf
Lot 9: 15,000 sf
Lot 10: 10,000 sf

LANDSCAPING AND BUFFERS

Existing trees shall be preserved to satisfy the landscaping
requirements pursuant to Section IV-B-8-d-1 of the Subdivision
Regulations.

Clear cutting of trees is prohibited. No trees measuring twelve
(12) inches or more in diameter at a point four and one half (4.5)
feet above the ground shall be cut. Clearing of trees is allowed
only for location of buildings, driveways, septic systems, and
garden areas.

A Type D Land Use Buffer shall be provided along the Duke Power
transmission line along the north side of the subdivision. The
buffer shall be 50 feet in width and provide sufficient vegetation
to meet the standards of Section IV-B-8-e. The existence of the
buffer shall be noted on the plat.

A Type A Land Use Buffer shall be provided along Dairyland Road
(SR 1112). The buffer shall be 30 feet in width and provide
sufficient vegetation to meet the standards of Section IV-B-8-e.
The existence of the buffer shall be noted on the plat.

The 100-year floodplain of Morgan Creek shall be labeled on the Final Plat.

A stream buffer shall be provided along Morgan Creek. The width of the buffer shall be stated on the face of the plat. Development restrictions within the buffer shall be specified as stated: No building, structures, wells, or septic fields are permitted in the drainage easements or stream buffer as shown. The stream buffer shall remain in its natural state as required by Article 6.23.1.

OTHER RESTRICTIONS:

Location of sewage disposal systems may restrict the size and location of improvements on each lot.

Lots 6, 7, 8, and 9 shall access Lumley Drive.

Additional easements are as follows and as shown on the plat described in the PROPERTY DESCRIPTION section of this declaration.

- Existing powerline easements.
- A 30' easement between lots 7 and 8 for access to lot 6.

OTHER RELATED DOCUMENTS

- ☒ Declaration of Restrictive Covenants for Durham Estates Subdivision (DB _____)
- ☒ Deed to Orange County for Parkland Dedication (DB _____)

DURATION OF RESTRICTIONS

The restrictions imposed by this Declaration shall remain in full force and effect and cannot be amended, altered, or revoked except by the official legislative or administrative action of Orange County or another governmental unit with jurisdiction over the property.

IN WITNESS WHEREOF, Declarant has caused this instrument to be signed and sealed on the day and year first written above.

By: W. T. Durham
W. T. Durham

NORTH CAROLINA

ORANGE COUNTY

I, JANE A. GARRETT, Notary Public for said County and State, certify that W. T. Durham personally came before me this day and acknowledged that he is the owner of this property, and the due execution of the foregoing instrument.

Witness my hand and official seal, this the 24TH day of MAY, 1990.

Jane A. Garrett
Notary Public



My commission expires: 16 NOVEMBER, 1991.

NORTH CAROLINA - ORANGE COUNTY

The foregoing certificate(s) of _____
Jane A. Garrett,

A Notary ~~(or Notary)~~ Public of the designated Governmental units is ~~(are)~~ certified to be correct. Filed for registra-

tion this the 24th day of May, 1990, at 3:56 o'clock, PM
in Record Book 854 Page 120

Return: _____

Betty June Hayes, Register of Deeds
By: [Signature]
Assistant/Deputy
Register of Deeds

Prepared by and return to: C. D. Hogue, III, Attorney at Law, 110 West Margaret Lane, Hillsborough, North Carolina 27278. MDOC DES-RCS 1-3-90 USER 1.
Declarant's address:

STATE OF NORTH CAROLINA

RESTRICTIVE COVENANTS

COUNTY OF ORANGE

FOR
DURHAM ESTATES SUBDIVISION

KNOW ALL MEN BY THESE PRESENTS that WILLIAM T. DURHAM (divorced), hereinafter called Declarant, does hereby covenant and agree with all persons purchasing lots from it within the area designated as DURHAM ESTATES SUBDIVISION as shown on a map recorded in the Orange County Registry in Plat Book 55 at page 27, that all of the lots in the said area shall be and are hereby made subject to the following covenants and restrictions as to the use thereof, which covenants and restrictions shall run with the land by whomever owned, to wit:

1. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one single family residence and its customarily accessory buildings and uses, and one barn. No duplex houses, apartments, commercial or industrial buildings shall be constructed within the area. This provision shall not be interpreted to preclude the provision of servant's quarters or rooms incidental to the residence and garage structure, nor does it preclude the inclusion of one small light housekeeping apartment within the residential structure, nor does it preclude gardens, one outdoor tennis court, one basketball court, and pastures not greater in size than 60 percent the total land area of said lot.

2. No residence can be erected on less than one lot and no lot as shown on the recorded plat shall be subdivided except that two lot owners may subdivide a lot between them, but only one residence shall be built on the combined original lot and the subdivided portion of any lot; provided, further, that adjoining property owners may adjust a common boundary line by the sale or exchange of property between such owners, so long as such sale or exchange conforms in all respects with the Zoning Ordinances of the County of Orange and all other provisions of these restrictive covenants.

3. The minimum size of dwelling structures within this area shall be TWO THOUSAND SQUARE FEET of heated and finished living area excluding basement. A two story structure shall have no less than ONE THOUSAND FEET on its first floor in complying with this paragraph.

4. No building or part of a building other than steps, overhanging eaves or cornices shall extend nearer than 60 feet from the edge of the right-of-way

890 MAY 24 PM 2:44

of North Carolina State Road No. 1112 and British Lane as shown on said subdivision plat or 40 feet from any other lot line. Through the architectural approval process a variance of up to 25% of any setback may be granted.

5. 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 temporary residence.

6. No swine, chickens, ducks, geese, or cattle, may be kept on the property; other animals including up to one horse for each full acre owned may be kept on homesites under reasonable regulations of control and sanitation, provided they do not become a nuisance to other owners in the development, and further provided that they are not kept, bred, or maintained for any commercial purpose. All owners shall comply with the Animal Control Ordinance for Orange County.

7. Where no municipal or other properly engineered and constructed sewerage line is available, all sewage disposal shall be by septic tank meeting the approval of the appropriate municipal authorities.

8. This conveyance is made and accepted subject to any easements or rights-of-way that may have been granted for power, light, and telephone lines and drainage facilities, or as shown on the recorded plat of DURHAM ESTATES SUBDIVISION.

9. Garbage containers will be concealed from public view, except on collection days. Trailers, motor homes, junk cars, boats, fuel tanks may not be visible from adjacent property or roads adjacent to the property.

10. No metal or vinyl siding shall be allowed on any house or other building built within the subdivision; stucco, brick, or stone veneer must be used on the foundation of any house built within this subdivision.

No dwelling house, building, fence or other structure of any kind shall be erected, placed or altered on any building lot in this area until the building plans and specifications have been approved in writing by the Declarant herein so long as he owns property in the subdivision or until he resigns by sending written notice to all other lot owners. Said plans shall show floor elevation, drainage and grades, driveways and walks, and the location of said building as to conformity and harmony of exterior design with existing structures in the area, and as to location of the building with respect to topography and the finished ground elevation and orientation relative to neighboring structures. In the case of death, resignation, or inability to serve of the Declarant, his successors, as named by the process set out herein, shall have authority to

approve or disapprove such design or location. If the aforesaid Declarant or his authorized successors fail to approve or disapprove a design or location within thirty days after plans, specifications, and plat plans have been submitted in writing, or in any event, if no suit to enjoin the erection, placement or alteration of such building has been commenced prior to the completion thereof, such approval of said design or location so submitted will not be required. After Declarant no longer has architectural control the then record owners of a majority of the lots which are subject to the covenants herein set forth may designate in writing duly recorded in the Office of the Register of Deeds of Orange County their authorized representatives who thereafter shall have all the powers subject to the same limitations delegated herein to the aforesaid Declarant, the said recorded writing shall set forth an address to which plans must be delivered. If there is more than one owner of a lot, these owners shall be entitled to only one vote.

11. Three rail wood fences are allowed to be constructed within any setback of the subdivision as set out herein; one strand of barbed or electrified wire may be run inside the top rail in order to protect the top rail; no other sort of fencing is allowed within the setbacks established herein in paragraph 4 above.

12. It is expressly understood and agreed between the owners of DURHAM ESTATES SUBDIVISION and all subsequent purchasers of lots therein that all covenances of lots in DURHAM ESTATES SUBDIVISION are made subject to the foregoing covenants, conditions, and restrictions, and that they are for the protection and general welfare of the development and shall be covenants running with the land and binding upon all parties buying lots in DURHAM ESTATES SUBDIVISION. These covenants, conditions and restrictions shall remain in full force and effect through the 1st day of January, 2000, after which said covenants shall be automatically extended for successive periods of ten years unless by vote of three-fourths of the then owners of the lots in the DURHAM ESTATES SUBDIVISION it is agreed otherwise. Prior to the 1st day of January, 2000, these provisions may be amended at any time by the Declarant so long as one-half of the owners of real estate in DURHAM ESTATES SUBDIVISION also consent in writing; after the 1st day of January, 2000, these provisions may be amended at any time by written agreement of three-fourths of the owners of real estate in DURHAM ESTATES SUBDIVISION. All owners of a single lot shall together have one (1) vote for the purposes of this paragraph.

13. It is further stipulated and agreed that the owners of property in DURHAM ESTATES SUBDIVISION and their heirs, successors or assigns, may enforce the above restrictive covenants and agreements by injunction and that this shall not be in exclusion of, but in addition to, other remedies available in law.

14. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

15. For the purposes of these restrictions singular shall include the plural, masculine shall include feminine and neuter, and vice-versa as the meaning may require.

IN WITNESS WHEREOF, Declarant, has set his hand and seal, this the _____ day of _____, 1990.

William T. Durham {SEAL}

STATE OF NORTH CAROLINA, COUNTY OF

I, Judy D Smith, a Notary Public in and for the State of California, do hereby certify that WILLIAM T. DURHAM (divorced), Declaration of Personal Appearance before me this day and acknowledged the foregoing deed, for the intents and purposes therein expressed.

WITNESS my hand and notarial seal, this 16 day of

NOTARY PUBLIC

My Commission Expires: My Commission Expires June 27, 1934

STATE OF NORTH CAROLINA, Orange COUNTY.

The foregoing certificate(s) of Judy D. Smith A
Notary (~~XXXXXXX~~) Public of the designated governmental unit is (~~xxx~~)
certified to be correct. Filed for registration this the 24th day of
May, 1990, at 3:58 P.M. o'clock, in Record Book 854 Page 127.
Betty June Hayes, Register of Deeds,
By: Wanda B. Board Assistant, Deputy Register of Deeds

Register of Deeds,
Register of Deeds

Mail To: Grantee.
Prepared by: C. D. Hogue, III, Attorney at Law, 110 W. Margaret Lane,
Hillsborough, NC 27278. MDOC DURHAM 1-3-90 USER 1

WARRANTY DEED

STATE OF NORTH CAROLINA, ORANGE COUNTY.

THIS DEED, made this _____ day of _____, 1990, by and between
WILLIAM T. DURHAM (divorced), of _____ County, North Carolina,
hereinafter called Grantor, and THE COUNTY OF ORANGE, a Body Politic and
Corporate, hereinafter called Grantee, whose permanent mailing address is: P.
O. Box 8181, Hillsborough, North Carolina 27278, ATTENTION: Beverly Blythe.

WITNESSETH: That the Grantor, for and in consideration of the sum of TEN
DOLLARS and other good and valuable considerations to him in hand paid by the
Grantee, the receipt whereof is hereby acknowledged, has given, granted,
bargained, sold, and conveyed, and by these presents does give, grant, bargain,
sell, convey and confirm unto the Grantee, his heirs and/or successors and
assigns, premises in Chapel Hill Township, Orange County, North Carolina,
described as follows:

That crosshatched portion of property entitled "PROPOSED PASSIVE
RECREATION AREA" as shown on the plat entitled "DURHAM ESTATES SUBDIVISION"
dated November 14, 1989, drawn from the survey by Alois Callemyn, Registered
Surveyor. Together with a right of ingress, egress, and regress over and on
the 60-foot wide strip running from the northern boundary of said proposed
passive recreation area to North Carolina Secondary Road No. 1112.

The proposed passive recreation area is more particularly described as
follows: BEGINNING at a point located in the westernmost corner of Lot 6 of
the said plat and running thence South 16° 13' 35" East 85.09 feet; thence
South 46° 20' 54" East 273.54 feet; thence South 04° 02' 49" East 161.05 feet;
thence South 56° 16' 53" East 200 feet; thence South 16° 13' 35" East 130.00
feet; thence South 08° 23' 12" West 119.18 feet to a point in the southernmost
corner of lot 7 as shown on the aforesaid plat and running thence South 56° 32'
31" West approximately 280 feet, more or less, to a computed point as shown on
said plat; thence North 08° 23' 12" East 439.60 feet to a point; thence North
56° 16' 53" West 85.36 feet; thence North 04° 02' 49" East 167.69 feet; thence
North 46° 20' 54" West 261.45 feet; thence North 16° 13' 35" West 114.22 feet;
thence North 85° 59' 09" East 61.39 feet to the point and place of the
BEGINNING.

The 60-foot wide pedestrian easement is more particularly described as
being that portion of the property of the Grantor not lying within the
boundaries of the proposed passive recreation area herein conveyed and lying to
the North and East within 60 feet of the line described as follows: BEGINNING
at the northwesternmost corner of said proposed passive recreation area and
running thence South 85° 59' 09" West 125.34 feet; thence North 53° 57' 50"
West 86.97 feet; thence North 34° 31' 49" West 369.68 feet; thence North 20°
19' 34" West 214.64 feet; thence North 42° 26' 01" West 129.27 feet to a point
in the centerline of North Carolina Secondary Road No. 1112.

This property by this conveyance to Orange County is hereby perpetually
dedicated to the public for recreation and access thereto.

TO HAVE AND TO HOLD the above described premises, with all the
appurtenances thereunto belonging, or in any wise appertaining, unto the
Grantee, his heirs and/or successors and assigns forever.

And the Grantor covenants that he is seized of said premises in fee, and
has the right to convey the same in fee simple; that said premises are free
from encumbrances (with the exceptions above stated, if any); and that he will
warrant and defend the said title to the same against the lawful claims of all
persons whomsoever.

When reference is made to the Grantor or Grantee, the singular shall
include the plural and the masculine shall include the feminine or the neuter.

IN WITNESS WHEREOF, The Grantor has hereunto set his hand and seal, the
day and year first above written.

WILLIAM T. DURHAM {SEAL}

STATE OF NORTH CAROLINA, COUNTY OF _____

I, _____, a Notary public in and for said County and State, do hereby certify that WILLIAM T. DURHAM (divorced), Grantor, personally appeared before me this day and acknowledged the due execution of the foregoing deed.

WITNESS my hand and notarial seal, this _____ day of _____, 1990.

My commission expires: _____

NOTARY PUBLIC

STATE OF NORTH CAROLINA, _____ COUNTY.

The foregoing certificate(s) of _____ is
(are) certified to be correct. This instrument was presented for registration
this _____ day of _____, 1990, at _____ A.M., P.M., and duly
recorded in the office of the Register of Deeds of _____ County,
North Carolina, in Book _____, Page _____.

This the _____ day of _____, A.D., 19____.

By: _____

Register of Deeds

Assistant, Deputy Register of Deeds

Such dedication shall be effected by the recording in the Orange County Registry of an offer of dedication signed by the all owners of a majority of the lots in said Property.

ARTICLE 7. This Agreement shall run with and be appurtenant to the said Property and shall be binding on the heirs, successors, and assigns of each record owner of the said property.

ARTICLE 8. This Agreement shall remain in full force and effect as to the private road or any portion thereof until such time as said roads or any portion thereof is maintained by a governmental body and any portion of said roads not maintained by a governmental body shall remain subject to this Agreement.

ARTICLE 9. This Agreement is to establish the maintenance of the private road when subject to residential use. If any owner liable under this Agreement shall cause any extraordinary wear and tear of the private road by building, well drilling, or other heavy use, said owner shall be responsible to pay such extraordinary cost of maintenance as caused by said use as shall be agreed between all owners. If the responsibility for such extraordinary costs of maintenance are not agreed between the owners at an owner's meeting as called above, said costs shall be subject to binding arbitration as set out in ARTICLE 3 above.

IN WITNESS WHEREOF, the Declarant, has set his hand and seal this the ____ day of _____, 1990.

WILLIAM T. DURHAM {SEAL}

STATE OF NORTH CAROLINA, COUNTY OF _____

I, _____, a Notary public in and for said County and State, do hereby certify that WILLIAM T. DURHAM (divorced), personally appeared before me this day and acknowledged the due execution of the foregoing restrictions, for the intents and purposes therein expressed.

WITNESS my hand and notarial seal, this _____ day of _____, 1990.

My commission expires: _____

NOTARY PUBLIC

STATE OF NORTH CAROLINA, _____ COUNTY.

The foregoing certificate(s) of _____ A
Notary (or Notaries) Public of the designated governmental unit is (are)
certified to be correct. Filed for registration this the _____ day of
_____, 1990, at _____ o'clock, in Record Book _____ Page _____.

By: _____
Register of Deeds Assistant, Deputy Register of Deeds