



Doc No: 20056836
Recorded: 12/03/2019 10:02:12 AM
Fee Amt: \$26.00 Page 1 of 10

Pender County North Carolina
Sharon Lear Willoughby, Register of Deeds
BK **4698** PG **2916 - 2925 (10)**

STATE OF NORTH CAROLINA
COUNTY OF PENDER

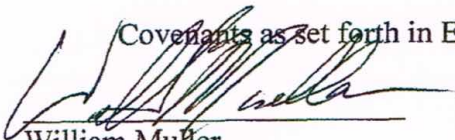
**AFFIDAVIT REGARDING VOTES
FOR AMENDMENT OF
DECLARATION OF RESTRICTIVE
COVENANTS FOR OLDE POINT
DEVELOPMENT**

I, WILLIAM MULLER, being duly sworn hereby make the following statements of fact regarding the casting of votes for the Amendment of the Declaration of Restrictive Covenants for Phases I and II of the OLDE POINT Development, Pender County, North Carolina.

1. I am above the age of eighteen and am competent to testify.
2. I am currently the President of the Olde Point Property Owner's Association, Inc.
3. I am informed and believe that there are 535 lots and 507 eligible owners in the Olde Point Development that are subject to the original set of the Declaration of Restrictive Covenants together with all amendments thereto as currently recorded in Book 481, Page 14 of the Pender County Register of Deeds with amendments recorded at Book 745, Page 422; Book 1528, Page 151; and Book 1703, Page 052 of said Register of Deeds.

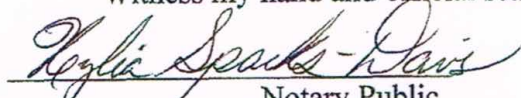
✓
HODGES COXE POTTER
& PHILLIPS, LLP

4. In my capacity as President, the Board of Directors for the Olde Point Property Owner's Association, Inc., sent ballots to all of the lot owners for the purpose of making changes to the Declaration of Restrictive Covenants to be recorded on or before January 1, 2020 and to be effective beginning January 1, 2020 until otherwise amended.
5. I have attached to this affidavit an exact copy of the Amendment of the Declaration of Restrictive Covenants that was sent out to all the property owners as Exhibit A.
6. I have attached to this affidavit as Exhibit B, all ballots signed by property owners and voting to change, amend or revoke, in whole or in part, the Declaration of Restrictive Covenants as set forth in Exhibit A.
7. The attached ballots constitute a majority of the eligible owners of lots voting to change, amend, or revoke, each section of the Declaration of Restrictive Covenants as set forth in Exhibit A.


William Muller

I, Xylia Sparks-Davis a Notary Public of the County and State aforesaid, certify that William Muller personally appeared before me this day and stated that he is the President of Olde Point Property Owner's Association, and, being authorized to do so, executed the foregoing Affidavit.

Witness my hand and official seal, this the 13th day of November, 2020-19


_____, Notary Public

My Commission expires:

Sept. 14, 2021



STATE OF NORTH CAROLINA

COUNTY OF PENDER

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF POLITICAL SIGNS
AMENDMENT OF DECLARATION OF RESTRICTIVE COVENANTS**

**OLDE POINT DEVELOPMENT
PHASE I AND PHASE II**

This AMENDMENT OF DECLARATION OF RESTRICTIVE COVENANTS is made and entered into this 1st day of January 2020 by the Owners of a majority of the lots in Phase I and Phase II of the OLDE POINT Development, Pender County, North Carolina, a Planned Community created prior to January 1, 1999, as further defined herein; and further joined by the OLDE POINT PROPERTY OWNER'S ASSOCIATION, INC. (Hereinafter "Association"), a North Carolina not for profit corporation operating in Pender County, North Carolina, which has also approved these amendments.

WHEREAS, the original Restrictive Covenants for Olde Point Development were effective on March 12, 1975 recorded in Book 481, Page 14 of the Pender County Register of Deeds and they were made by Olde Point Development Inc., the owner and developer of the property referred to as Olde Point Development. Olde Point Development, Inc. has been superseded by Olde Point Associates, Inc., which corporation now owns zero (0) lots within the Phase I and Phase II areas. Olde Point Property Owners Association, Inc. revised the original Restrictive Covenants, effective January 1, 1990 by a majority vote of the Phase I and Phase II property owners recorded in Book 745, Page 422 of said Register of Deeds, and again revised the original Restrictive Covenants, effective January 1, 2000 by a majority vote of the Phase I and Phase II property owners recorded in Book 1528 Page 151 of said Register of Deeds. Olde Point Property Owners Association, Inc. again revised the Restrictive Covenants on May 4, 2001 recorded in Book 1703 Page 052 of the Pender County Register of Deeds.

WHEREAS, in order to provide for a uniform development of the properties within the Phase I and Phase II areas, so as to preserve their value and to protect the present and future owners of lots thereof, for itself, its successors and assigns, these covenants are hereby amended by formal vote of a majority of the lot owners with said ballots hereby attached as a written instrument as Exhibits to this amendment with said action further being recorded in the Minutes of the meeting of the Association on the _____ day of _____, 2019. All prior Declarations and Covenants are hereby superseded in their entirety by these Amended Restrictive Covenants. The amended restrictions and covenants, in their entirety, which apply to said property, are the following:

1. DEFINITIONS

As used in this Declaration of Restrictive Covenants, the following terms shall mean:

(a) "OPD" means Olde Point Development, Inc., the Owner and Developer, and its successors and assigns, or in the event there is no Owner or Developer, or successor or assign, means the Olde Point Property Owners Association, Inc. hereinafter called the Association.

(b) "Developer" is used interchangeably with the term "OPD" to refer to Olde Point Development, Inc., the Owner and the Developer, its successors and assigns.

(c) "Record or Recording" refers to record or recording with the Register of Deeds for Pender County, North Carolina.

(d) "Subdivision" means the portion of the property which has been or is to be subdivided into residential lots.

(e) "Property" generally means the lands specifically set forth in subparagraph (f) and (g) herein as Olde Point Development, Pender County, North Carolina.

(f) "Phase I" means the portion of the property recorded in the Pender County Registry as:

Section 1, Lots 1 thru 24, recorded in Book 11 Page 35.

Section 2, Lots 35 thru 61, recorded in Book 11 Page 50.

Section 3, Lots 1 thru 20, recorded in Book 11 Page 66.

(Lots 21 thru 33 were revised and replatted as a part of Section 4)

Section 4, Lots 1 thru 72, recorded in Book 13 Page 12.

Section 5, Lots 4 thru 87, recorded in Book 20 Page 30.

Section 5A, Lots 1 thru 18, recorded in Book 24 Page 13.

"Phase I" does not include Section 1, Lots 1 through 24; The Bluffs, Lots 1 through 10; and Olde Point Section VI, Lots 1 through 75.

"Phase I" containing approximately 167 acres was conveyed to OPD by deed recorded in Book 436, Page 5 of said Registry.

(g) "Phase II" means the portion of the property presently being developed which will include eight (8) additional sections with a total of 351 lots located on that certain tract of land which was conveyed to OPD by deed recorded in Book 474, Page 291 and also in Book 13 Page 68, Slide 220 of the Pender County Registry.

"Phase II" does not include all lots in Olde Point Section VII, Olde Point Estates and Golf Terrance, all of which are governed by separate restrictive covenants.

(h) "Residential lots" or "lots" means those portions of the property specifically allocated, platted and/or recorded, or to be platted and recorded as lots for sale and/or used as single family residences.

(i) "Restrictions" shall mean the restrictions and covenants set forth in this Declaration of Restrictive Covenants, or as said restrictions may be amended from time to time.

(j) "Association" shall mean Olde Point Property Owner's Association, Inc., a North Carolina non-profit corporation incorporated in accordance with the requirements of Chapter 55A of the North Carolina General Statutes, of which each owner of a lot subject to these restrictions is entitled to membership.

(k) "Architectural Control Committee" shall mean the committee established by these covenants to review all building plans, plot plans, site improvements plans, and to approve or disapprove the

same in accordance with the restrictions herein set forth and to perform such duties as may be delegated or authorized herein. The Architectural Control Committee (ACC) is a committee of the Olde Point Property Owner's Association, Inc. (Association), and as such operates under the direction and control of the Board of Directors of the Association. Said Committee shall be composed of six (6) members, three (3) of whom the Board of Directors of the Association may designate, and three (3) of which shall be elected by a majority of the members. Members will be elected or designated for terms of up to three (3) years. The Association will provide monetary and administrative support to the Committee as the Board of Directors of the Association shall determine to be prudent within the purposes and resources of the Association. In the event a decision by the Architectural Control Committee is split and decided by not more than a single vote majority, then the decision may be appealed within thirty (30) days to the Board of Directors of the Association which will then succeed to the powers and authorities of the Architectural Control Committee for the specific matter appealed.

The ACC Board may add alternates to the Committee, whose terms will run concurrently for each calendar year. Each alternate has the right to vote in the absence of the member of the Committee being substituted for in any matter brought before the ACC.

2. APPLICABILITY

These restrictions shall apply to all residential lots in Phase I or in Phase II to the Property sold after March 12, 1975.

3. RESERVATIONS

It is acknowledged that Olde Point Development, Inc. has reserved unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right, on, over, and under the ground to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains and other suitable equipment for the purpose of providing electricity, telephones, gas, sewer, water or other public conveniences or utilities to the lot owners. Such rights may be exercised by any licensee of the corporation, but this reservation shall not be considered an obligation of the corporation to provide or maintain any such utility or service.

4. BUILDING AND SITE IMPROVEMENTS

(a) No building, fence, wall, bulkheading, dock or other structure shall be erected or placed on any residential lot, nor shall the grade or elevation or physical characteristics of any lot, or portion thereof, be altered in any way whatsoever, until the proposed building plans, specifications, exterior colors and finishes, and the construction schedule have been approved in writing by the Architectural Control Committee. Site and grading plans shall show the proposed location of such buildings or structures, drives, parking areas and proposed alterations to the grade, elevation or physical characteristics of the site (alteration of surface drainage from construction of the building or structure shall not disturb or adversely impact neighboring properties). Without prior written consent of the Architectural Control Committee, no changes or deviations in or from such plans or specifications as approved shall be made. No alterations in the exterior appearance of any building, fence or structure, or changes in the grade, elevation or physical characteristics of any lot shall be made without like approval by the Architectural Control Committee. One (1) copy of all plans and related data shall be furnished the Architectural Control Committee for review. The Architectural Control Committee shall not be responsible for any structural or other defects in plans and specifications submitted to it or in any structure erected according to such plans and specifications.

(b) Owners shall maintain their lots free of natural or unnatural refuse or unsightly objects such as fallen or dead trees, garbage, garbage cans, or trash of any kind.

(c) Burning on lots that are being cleared and/or prepared for building, or burning during construction, is not allowed. Only vegetation may be burned by property owners and no burning may be done without a permit issued by the county

5. APPROVAL OF PLANS

(a) No house plan will be approved unless the proposed house, if one story, shall have a minimum of 1,800 square feet of enclosed dwelling area, or if two stories, shall have a minimum of 2,250 square feet of enclosed dwelling area, of which a minimum of 1,500 square feet shall be the first story, unless specifically exempted by the Architectural Control Committee. The term "enclosed dwelling area" as used in the minimum requirements shall be the total enclosed area within a dwelling; provided, however, that such term does not include garages, terraces, decks, open porches, and like areas; provided further, that shed type porches, even though attached to the house are specifically excluded from the definition of the aforesaid term "enclosed dwelling area." In addition, no building constructed after the date of this Declaration can exceed 35 feet in height from the dwelling front ground level. No manufactured homes are allowed.

(b) No building shall be built within 15 feet of the boundary of an adjacent lot. Since the establishment of inflexible building setback lines for location of houses on lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines are established by these Restrictions. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other building upon any lot shall be controlled by and must be approved absolutely by the Architectural Control Committee. The Architectural Control Committee shall have the authority to issue approval of plans so long as such variation is no more than ten percent (10%) (1.5 ft.) of the setbacks as set forth in these restrictions.

(c) The exterior of all houses, structures, pools, ponds or fences or other required approvals must be completed within twelve (12) months from the date of approval of plans. If construction has not started within the 12 month time frame, plans must be re-submitted to the ACC for renewed approval.

(d) No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any lot other than a single family dwelling not to exceed two (2) stories in height, unless the Architectural Control Committee approves, in writing a structure of more than two (2) stories pursuant to Paragraphs 4(a) and 5(a) hereof, single story accessory building limited in size to an external footprint of 320 square feet provided the use of such dwelling or accessory building does not, in the opinion of the Architectural Control Committee, overcrowd the site, and, provided further, that such buildings are not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building. All additional buildings must be architecturally consistent with the house and the character of the neighborhood.

(e) All service utilities, fuel tanks, clothes lines, trash, and garbage containers may be enclosed with a screen specifically constructed and approved by the ACC for those purposes, so as to preclude the same from causing an unsightly view from the highway, street, or way within the subdivision, or from any other residence within the subdivision.

(f) Garage or carport parking for not less than two (2) passenger automobiles must be provided on each lot prior to the occupancy of any dwelling constructed on said lot, which parking areas and the driveways thereto shall be constructed of concrete, brick, asphalt, or crushed stone.

(g) No trees greater than 6 inches in diameter may be removed during construction within the setback areas of the property without specific approval from the Architectural Control Committee and clear cutting of trees is prohibited.

6. RESIDENTIAL USE

- (a) All lots shall be used for residential purposes exclusively. No business employing persons, other than the lot owner, and no manufacturing, repair, or processing business may be conducted in any house, structure, or on a lot in Phase I or Phase II of Olde Point. The dwelling on each lot is limited to one (1) single family home.
- (b) No trailer, tent or other structure of a temporary character shall be placed upon any lot at any time, provided, however, that this prohibition shall not apply to shelters used by the contractor during the construction of the main dwelling house, it being clearly understood that these latter temporary shelters may not at any time be used as residences, or be permitted to remain on the lot for more than one (1) week after the completion of the construction. Workers' shelters and trailers, are permitted during remodeling but such structures/trailers, etc. must be removed within one week of the finish of remodeling.
- (c) Boats and boat/utility trailers may be parked on an owner's lot so as to be unobtrusive from the road, such as behind or beside the dwelling or other main structure. Boats and trailer may not be parked curbside.
- (d) Mobile homes may not be parked or located at any place within the subdivision.
- (e) Recreation Vehicles, Travel Trailers or Box Trailers may not be parked on any lot or at curbside, except for brief periods for routine loading/unloading/cleaning and except for instances of short visits by bona fide guests.
- (f) Owners of lots shall provide that construction equipment will be moved from any lot within ten days of completion of construction.
- (g) Personal automobiles/pickup trucks shall not routinely be parked off of established Driveways / pull-offs.
- (h) Commercial vehicles larger than standard size pickup trucks or vans shall be kept in garages or screened from view

7. MAINTENANCE

- (a) It shall be the responsibility of each lot owner to prevent the development of any unclean or unsightly condition of buildings or grounds on such lot which would tend to substantially decrease the beauty of the neighborhood as a whole, or the specific area. Unsightly, inoperative, junk vehicles, or unregistered cars; trucks, tractors, open trailers cannot be stored on the property unless they are garaged and out of sight. Lot owners are responsible for the proper maintenance and repair of all structures on their lots.
- (b) No shrub or hedge planting, which obstructs the sight line view of approaching vehicles, shall be permitted on any corner lot. Foliage must be maintained at a level sufficient to prevent obstruction of view of approaching traffic.
- (c) No noxious or offensive trade shall be carried on upon any lot, nor shall anything be done thereon to cause embarrassment, discomfort, annoyance, or nuisance to the neighborhood. There shall not be maintained any plants or animals, nor device or thing of any sort whose normal activities or existence is in any way noxious, dangerous, unsightly or unpleasant so as to diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof.
- (d) RENTAL PROPERTY - Owners of property in Phase I or Phase II that is rented out remain responsible for the condition of their property and must ensure that their renters comply with all applicable Restrictions contained in these Restrictive Covenants. Property owners are responsible

for monitoring and insuring that their rental property is used only as a single family dwelling.

8. VIOLATIONS

In the event that any lot owner shall fail or refuse to keep such premises free from underbrush, refuse piles, unsightly growth or dead trees, then the Architectural Control Committee may, after obtaining a court order, designate someone to enter upon such lands and remove the same at the expense of the owner, and such entrance shall not be deemed a trespass, and in the event of such removal a lien shall arise and be created in favor of the Olde Point Property Owner's Association, Inc./Architectural Control Committee for the full amount of the cost thereof chargeable to such lot, including collection costs, and such amounts shall be due and payable within thirty (30) days after the owner is billed therefore. Such lien shall be enforceable by Court proceedings as provided by law for enforcement of liens. If a lot owner is legally responsible for damages inflicted on any common area, the Olde Point Property Owners Association may itself cause the repairs to be made and recover damages from the responsible lot owner. In addition, any violation to the provisions of Section 5(g) above will require the property owner to plant an equal number of trees of diameter equal or greater than 6 inches within the construction time of the home as stipulated in Section 5(c) above.

9. HOUSEHOLD PETS

No horses, cattle, swine, or other livestock, or poultry, or animals of any kind shall be raised, boarded or kept on any lot, except that dogs, cats, or other household pets may be kept provided that they are not kept, boarded or maintained for any commercial purpose. Owners of household pets shall control them at all times either to within the boundaries of the owner's property, or by leash or similar physical restraint when off the owner's property. All owners or guardians of pets are requested to avoid walking their pet on property where there is a residence. If any pet leaves litter on any residential property in Olde Point other than the pet owners property, the said pet owners are required to clean up the litter. Pens for household pets shall not be obtrusive from the road.

10. SIGNS, ANTENNAS, AND APPURTENANCES

(a) No sign or billboard of any description shall be displayed on any lot, other than private name plates or signs for identification of the its residents, of not more than two (2) square feet, and signs advertising the property "FOR RENT" or "FOR SALE" of nor more than five (5) square feet, and as the Architectural Control Committee may have approved. The "FOR RENT" or "FOR SALE" signs should be placed parallel to the road and at least fifteen (15) back from the edge of the road. Directional signs are not permitted at any time except in the case of an open house, in which event the signs must be removed by the end of the day of the open house. Political signs are prohibited more than 45 days prior to an election and must be removed 7 days after the election.

(b) No antenna used to receive direct broadcast satellite services or used to receive video programming services via multipoint distributions services greater than one meter in diameter shall be located on any lot or external to any structure on any lot. Any antenna or satellite dish may be installed if it is mounted in an unobtrusive and aesthetically pleasing manner and location.

(c) No fences shall be located on any lot except as have been approved by the Architectural Control Committee. Fences are generally discouraged except for special circumstances such as safety around swimming pools. All pools must be in-ground flush with adjacent natural or constructed grade and approved by the Architectural Control Committee. Invisible fencing is recommended for dogs. Restricted approvals of fences are subject to the following strict requirements and conditions:

1. Chain-link, wire or chicken wire fences are prohibited.
2. Approved materials for fences shall be wrought iron or other low maintenance materials

3. All location, design, construction and materials must be approved in writing in advance by the Architectural Control Committee.
4. The fence shall be no closer than three (3) feet to adjacent property lines and no closer than fifty (50) feet to golf course boundaries subject to exemption granted by the Architectural Control Committee.
5. Four (4) foot minimum height fences are mandatory for pool enclosures as required by State and Pender County ordinances.

(d) No separate newspaper boxes are permitted. Newspaper boxes should be combined with mail boxes on one post.

11. SUBDIVIDING

No lot shall be subdivided, or its boundary lines changed except with the prior consent of the Association.

12. ENFORCEMENT

In the event of a violation or breach of any of these restrictions by any lot owner, or agent of such owner, the Association, its successors or assigns, or the owner of any lot in Phase I or Phase II, or any of them jointly or severally, shall have the right to proceed at law or equity to compel a compliance with the terms hereof, or to prevent the violation or breach. In addition to the foregoing, the Association, its successors or assigns shall have the right, whenever there shall have been built on any lot any structure which is in violation of these restrictions, to enter upon such property where such violation exists, and summarily abate or remove the same, at the expense of the owner, if after thirty (30) days written notice of such violation, which shall not have been corrected by the owner and a court order obtained by the Association. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, restriction, or condition herein contained, however long continued, shall not be deemed a waiver of the right to do so thereafter as to the same breach, or as to a breach occurring prior or subsequent thereto, and shall not bar or effect its enforcement.

13. FIREARMS

NO FIREARMS MAY BE DISCHARGED WITHIN THE SUBDIVISION.

14. EASEMENTS OF ACCESS AND OPEN SPACE

(a) Each and every lot owner is hereby granted an easement to pass over, use and enjoy open spaces now or subsequently designated on recorded plats as community open space, and all roads, bridges, and rights-of-way, provided, however, that the Association, its successors or assigns, shall retain the right to establish rules or regulations for the use and enjoyment of all such property; and provided further that all such rules and regulations shall be subject to the approval of the Architectural Control Committee.

(b) The Association has reserved the right to erect and maintain utilities, drainways and other public conveniences in common lands, including the right to cut any trees, bushes or shrubbery, make any grading in the soil, build buildings or take any similar action reasonable and necessary or desirable to provide economical and safe installation of service. Such rights may be exercised by a licensee of the Association.

(c) The Association has reserved to itself, its successors and assigns, the right to construct, lease, operate and manage any club, marina, or other like facility with associated amenities, upon any of the property not designated as a residential lot for the mutual enjoyment of the owners and to establish reasonable fees, rules and regulations for the use thereof.

15. ABSENCE OF DEDICATION TO PUBLIC USE

Nothing in these restriction, nor in the recording of any plat or deed pursuant hereto, shall dedicate (or be deemed to dedicate) to public use any of the streets, bridges, common land or other grounds within Olde Point Development.

16. INVALIDATION

The invalidation by any court, agency or legislation of any provision in these restrictions shall in no way effect any of the other provisions of these restrictions, but the same shall remain in full force and effect.

17. MEMBERSHIP IN THE ASSOCIATION

(a) It shall be mandatory for all owners of lots in Phase I(exclusive of Section 1, Lots 1 through 24; The Bluffs, Lots 1 through 10; and Olde Point Section VI, Lots 1 through 75); and Phase II(exclusive of all lots in Olde Point Section VII, Olde Point Estates and Golf Terrance, all of which are governed by separate restrictive covenants) of the Olde Point Development to be members of the Association and thus subject to all bylaws, rules and regulations adopted by said Association.

(b) Annual assessments for common expenses are to be assessed on each lot subject to these covenants in the amount of \$50.00 per year to be paid when billed by the Association. Dues may be modified by vote of the membership of the Association as set forth in the Association bylaws. Each lot represented shall have one (1) vote in all matters requiring a formal vote by members of the association, and only lot owners who are current with their dues payments are considered members in good standing and eligible to vote. Interest and/or late fees may be charged to overdue accounts at the discretion of the Board

18. BYLAWS

The Association has the power to adopt and amend bylaws and rules and regulations. The current applicable Bylaws are those originally amended and adopted on.

19. COVENANTS RUN WITH THE LAND

All covenants, restrictions and affirmative obligations set forth in these restrictions shall run with the land and shall be binding on all purchasers of lots in said subdivision, their successors and assigns, until January 1, 2030 after which time all said covenants shall automatically be extended for successive periods of ten (10) years, unless an instrument signed by a majority of the then owners of lots has been recorded, agreeing to change, amend or revoke said covenants in whole or in part.

20. ATTORNEY'S FEES

In any action to enforce the provisions of these Restrictive Covenants, Articles of Incorporation of the Association, Bylaws, or duly adopted Rules or Regulations, the court may award reasonable attorney's fees to the prevailing party.