

BK 5557 PG 1370 - 1375

Prepared by and return to: Goosmann Rose Colvard & Cramer, P.A. (Box 81) (17-1857)

**State of North Carolina
County of Buncombe**

**Declaration of Terms, Conditions,
Restrictions and Protective Covenants
for The Creek at Concord**

This Declaration of Terms, Conditions, Restrictions and Protective Covenants for The Creek at Concord ("Covenants") is made and entered into this the 7 day of June, 2017 by and between Herta G. Suess, Trustee of the Herta G. Suess Revocable Trust dated December 16, 1997, a one-third (1/3) undivided interest; Carolyn L. Suess, Trustee of the Carolyn L. Suess Living Trust dated May 6, 2013, a one-third (1/3) undivided interest and Keri Suess, Trustee of the Keri Suess Revocable Trust dated June 19, 2014, a one-third (1/3) undivided interest, each as tenants in common (collectively, "Developer") and all future Lot Owners of those lots comprising The Creek at Concord as shown on that plat recorded in Plat Book 162, at Page 71 of the Buncombe County, NC Register's Office ("Subdivision").

Witnesseth:

That Whereas, Developer is the owner of that certain property in Buncombe County, North Carolina, being all of Lot 1, Lot 2 and Lot 3 (said three lots being herein the "Property" and/or "Subdivision") as shown on that plat recorded in Plat Book 162, at Page 71 of Buncombe County, NC Register's Office (herein "Plat") (the said three lots as shown on said Plat being and comprising the "Subdivision"); and

Whereas, the Developer desires for the protection and benefit of all persons who may hereafter become owners of said Lots, whether improved or unimproved located within the Subdivision be developed with limitations, restrictions and uses; and

Whereas, these Covenants are to run with the Subdivision and shall be binding upon all parties purchasing Lots and all persons claiming by, through or under Developer until May 1, 2032 at which time said Covenants shall be automatically extended for successive periods of ten (10) years unless by vote of majority of persons then owning Lots within the Subdivision it is agreed to change these covenants in whole or in part.

Now Therefore, the Developer does hereby make the following declaration as to limitations, restrictions and uses to which the above-described Lots and Property shall be and are hereby subjected:

1. **Uses.** The Lots shall be used for a single family residential purposes and no business or commercial activity or commercial structure will be permitted. This restriction shall not be construed so as to disallow private home offices that are not open to the general public as such. Home offices for private use are allowed.

Submitted electronically by "Brock Law Firm, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Buncombe County Register of Deeds.

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2. Architectural Control. Other than the primary residence constructed upon the Lot, no additional attached or unattached building, structure or fence shall be allowed on a Lot without the prior written consent of the Developer. The Developer is hereby vested with and the Developer does hereby reserve architectural control over all such buildings, structures and fences for so long as the Developer owns a Lot. Thereafter, this restriction shall be deemed to expire and be of no further force or effect.

3. Prohibited Structures, Storing and Parking. Except as to Developer, no utility trailer, mobile home, modular home, tent, shack, or other outbuilding shall be allowed on a Lot, at any time, used as a residence, either temporarily or permanently, nor shall any building be moved onto a Lot. No trade materials or inventories may be stored upon a Lot. No travel trailer shall be stored upon a Lot unless the same is properly screened from view of the Private Drive, as set forth herein. No basement, detached garage, guest house, carport or shed shall be allowed on a Lot without the prior written consent of the Developer for so long as the Developer owns a Lot; thereafter, this restriction shall be deemed to expire and be of no further force or effect.

4. Nuisance and other Prohibitions. No noxious or offensive activity shall be allowed upon or carried on a Lot, nor shall anything be done thereon which may become a nuisance to the neighborhood. No disabled, abandoned or unlicensed vehicles shall be permitted on a Lot, nor shall any vehicle be stored thereon.

5. Livestock and Other Animals. No animals or livestock of any kind shall be raised, bred or kept on a Lot, except that animals commonly known as household pets may be kept on a Lot provided that they are not kept, bred, or maintained for any purposes other than as household pets. Kennel operations shall not be permitted. A kennel is defined as housing for more than three (3) animals of any kind. In no event shall any dog or pet be kept on or allowed upon a Lot if such dog or pet is or is commonly known to be of pit bull, Rottweiler or similar breed or any mixture thereof.

6. Subdivision of Lot. No Lot shall be subdivided so as to create an additional building lot.

7. Garbage and Trash. No Lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. No tank for the storage of fuel shall be erected above ground.

8. Above Ground Pools. No private swimming pool shall be erected above ground on any Lot.

9. Grass and Weeds. Grass and Weeds are to be maintained on each Lot so as to prevent an unsightly or unsanitary condition and should not exceed six (6) inches in height. This is an obligation of the owner of a Lot and is to be done at the owner's expense.

10. Fences. Fencing is permitted only if constructed of decorative wood materials or standard privacy fence material; provided that no fence shall be erected on any Lot without the prior written consent of the Developer for so long as the Developer owns a Lot. This also applies to any type of fencing for a pet enclosure. Barbed wire, chicken wire or any similar fencing shall not be permitted on any Lot. No fence shall extend into the front of a residence or into the side yard of a Lot. No fence shall extend beyond the rear corner of the residence constructed upon a Lot.

11. Utility Easement. A utility easement twenty (20) feet in width is hereby reserved for the benefit of all Lots as shown on the Plat along the each side lot line; said easement being ten (10) feet on either side of such side lot line. Furthermore a utility easement fifteen (15) feet in width is hereby reserved for the benefit of all Lots along the front and rear of each Lot as shown on the Plat. The front lot line of each lot being defined herein as the northernmost lot line of each Lot. Said easement shall be for the purpose of installing, maintaining and repairing utility services. The easement area shall be restored to the condition which existed immediately prior to any such installation,

maintenance or repair.

12. Private Drive and Maintenance. Each Lot is conveyed together with and subject to the benefits and burdens of that non-exclusive appurtenant easement and right of way shown as that "Private Drive 30' Easement for Access to Lots 2 & 3" on the Plat. All Lot owners do hereby covenant and agree to maintain said easement and right of way with proper drainage on both sides of the Drive and with adequate pavement or gravel sufficient to keep the Drive in a stable condition, free of ruts and potholes so as to allow for comfortable passage by any type of motor vehicle in all kinds of weather over and across the Drive to and from their Properties to the nearest State maintained road, more commonly known as Concord Road (NCSR # 3150). Maintenance shall be shared on a pro rata basis among all other Lot owners as the parties may from time to time agree is necessary. If the Drive, easement and right of way shall be damaged due to construction equipment or as a result of the installation or repair of utility services, then the party undertaking such construction or utility work shall be individually responsible and liable to return the Drive, easement and right of way to at least as good a condition which existed immediately prior to such damage or work.

13. Modification and Amendment. The Developer does hereby reserve the right to modify or amend the terms and conditions of this Declaration and to subdivide or reconfigure any Lot or Lots in their sole and absolute discretion without the consent of or joinder by any other Lot owner.

14. Successors. This Declaration and the terms, restrictions and conditions hereof shall be binding upon the Developer and upon each Lot owner and upon their respective heirs, successors and assigns and shall be deemed to benefit and burden the title to each Lot and run with the title to each Lot.

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Signature Page Attached Hereto


Signature Page
for
Declaration of Terms, Conditions, Restrictions and Protective Covenants
for
The Creek at Concord

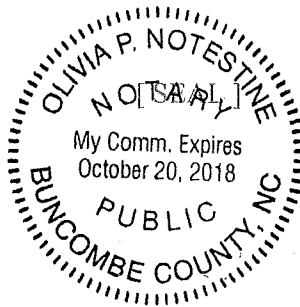
Developer: **Carolyn L. Suess Living Trust**
 dated May 6, 2013

By: 
 Carolyn L. Suess, Trustee

State of North Carolina
County of Buncombe

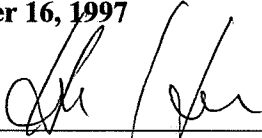
I, a Notary Public of the State and County aforesaid, certify that the following person personally appeared before me this day, acknowledging to me that she signed the foregoing document for the purpose stated therein and in the capacity indicated: **Carolyn L. Suess, Trustee of the Carolyn L. Suess Living Trust dated May 6, 2013.** Witness my hand and official seal, this 2 day of JUNE, 2017.


Olivia P. Notestine, Notary Public
Commission Expiration: October 20, 2018



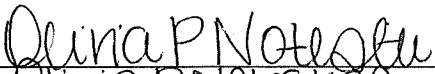
Signature Page
for
Declaration of Terms, Conditions, Restrictions and Protective Covenants
for
The Creek at Concord

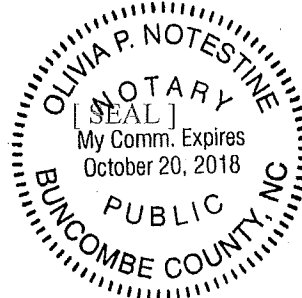
Developer: **Herta G. Suess Revocable Trust**
 dated December 16, 1997

By: 
 Herta G. Suess, Trustee

State of North Carolina
County of Buncombe

I, a Notary Public of the State and County aforesaid, certify that the following person personally appeared before me this day, acknowledging to me that she signed the foregoing document for the purpose stated therein and in the capacity indicated: **Herta G. Suess, Trustee of the Herta G. Suess Revocable Trust dated December 16, 1997.**
Witness my hand and official seal, this 2 day of JUNE, 2017.


Olivia P. Notestine, Notary Public
Commission Expiration: October 20, 2018



**Signature Page
for
Declaration of Terms, Conditions, Restrictions and Protective Covenants
for
The Creek at Concord**

**Developer: Keri Suess Revocable Trust
dated June 19, 2014**

By: *Keri Suess*
Keri Suess, Trustee

**State of North Carolina
County of Buncombe**

I, a Notary Public of the State and County aforesaid, certify that the following person personally appeared before me this day, acknowledging to me that she signed the foregoing document for the purpose stated therein and in the capacity indicated: **Keri Suess, Trustee of the Keri Suess Revocable Trust dated June 19, 2014**. Witness my hand and official seal, this 6 day of June, 2017.

 Peter A McCranie Jr
Peter A. McCranie Jr., Notary Public
Commission Expiration: 9/9/17

