

Type: CONSOLIDATED REAL PROPERTY  
Recorded: 3/5/2021 8:19:52 AM  
Fee Amt: \$186.00 Page 1 of 55  
Pitt County, NC  
Lisa P. Nichols REG OF DEEDS

**BK 4064 PG 231 - 285**

**Prepared by and Return to:**

Jon P. Carr  
Jordan Price Law Firm  
1951 Clark Avenue  
Raleigh, North Carolina 27605

**Grantor Index:**

Westhaven South Homeowners Association, Inc.

STATE OF NORTH CAROLINA

COUNTY OF PITT

**AMENDMENT TO DECLARATION OF CONDITIONS, RESTRICTIONS, AND  
COVENANTS RUNNING WITH THE LAND  
FOR WESTHAVEN SOUTH HOMEOWNERS ASSOCIATION, INC.**

THIS AMENDMENT to Declaration of Conditions, Restrictions, and Covenants Running with the Land for Westhaven South Homeowners Association, Inc. (hereinafter, "Amendment") is made by Westhaven South Homeowners Association, Inc. (hereinafter, "Association");

WHEREAS, a Declaration of Conditions, Restrictions, and Covenants Running with the Land for the Westhaven South (Phase I) development is recorded in Book 2437, Pages 875-892 of the Pitt County Registry (the "Declaration");

WHEREAS, the Declaration provides that the Declaration may be amended by an instrument signed by not less than ninety (90%) percent of the Lot Owners;

WHEREAS, The North Carolina Planned Community Act, specifically, G.S. 47F-2-117, applies to the Association and the Declaration and permits the Declaration to be amended only by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven

submitted electronically by "Jordan Price Wall Gray Jones & Carlton"  
in compliance with North Carolina statutes governing recordable documents  
and the terms of the submitter agreement with the Pitt County Register of Deeds.

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WHEREAS, a Declaration of Conditions, Restrictions, and Covenants Running with the Land for the Westhaven South (Phase I) development is recorded in Book 2437, Pages 875-892 of the Pitt County Registry (the "Declaration");

WHEREAS, the Declaration provides that the Declaration may be amended by an instrument signed by not less than ninety (90%) percent of the Lot Owners;

WHEREAS, The North Carolina Planned Community Act, specifically, G.S. 47F-2-117, applies to the Association and the Declaration and permits the Declaration to be amended only by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven

percent of the votes in the association are allocated, or any large majority the Declaration specifies;

WHEREAS, the Association, by authority of its Board of Directors, submitted a Written Consent to Amend Declaration to all of the Lot Owners, which Written Consent proposed an Amendment to the Declaration;

WHEREAS, the Lot Owners have given their written consent to the Amendment to the Declaration and a Certificate of Adoption is attached hereto as Exhibit A and incorporated by reference herein;

WHEREAS, the Written Consents pursuant to which the Lot Owners provided their consent and written agreement for the Amendment are all attached hereto as Exhibit B and incorporated by reference.

NOW THEREFORE, the Association declares as follows:

1. The Declaration is hereby amended by rewriting Article IX, Section 3 to read as follows:

“Section 3: Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by the affirmative vote or written agreement of during the first twenty (20) year period by an instrument signed by not less than ninety (90%) sixty-seven (67%) percent of the Lot Owners. Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. The foregoing amendment process does not apply to any amendment to terminate the planned community. Any amendment must be recorded.”

2. The above-stated amendments become effective upon recordation with the Pitt County Register of Deeds. Except as specifically amended herein, the Declaration remains in full force and effect.

This the 28 day of January, 2021.

Westhaven South Homeowners Association, Inc.

By:

  
President

STATE OF NORTH CAROLINA

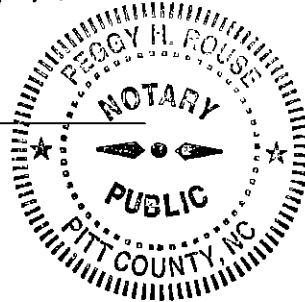
ACKNOWLEDGEMENT

COUNTY OF PITT

I, Peggy H Rouse, a Notary Public of the County and State aforesaid, certify that ~~George Swartz~~ Terrence Doyle, of whose identity I have personal knowledge, or of whose identity has been proven to me by the presentation of a drivers license, personally came before me this day and acknowledged that he/she is President of Westhaven South Homeowners Association, Inc., a North Carolina nonprofit corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President for the purposes stated therein. Witness my hand and official stamp or seal, this 28 day of January, 2021.

Peggy H Rouse  
Notary Public

My commission expires: Feb 03, 2025



**EXHIBIT A**

**Certificate of Adoption**

The Westhaven South Homeowners Association, Inc., by the authority of its Board of Directors, hereby certifies that the foregoing Amendment to the Declaration was approved by the required number of Lot Owners who provided written consent to the foregoing Amendment.

A total of 49 signed written consents in favor of the Amendment were received by the Association and there are a total of 52 Lots. Therefore, the Amendment was properly adopted by at least 90% of the Lot Owners.

This the 28 day of JANUARY, 2021.

Westhaven South Homeowners Association, Inc.

By:

  
Its Secretary

**EXHIBIT B**

**Signed Written Consents**

# Unofficial Note

- Attached is sample consent
- All consents are in HOA's governing documents physical file

Jon Carr

**WRITTEN CONSENT TO AMEND DECLARATION**

**Westhaven South Homeowners Association, Inc.**

TO: Lot Owners/members, Westhaven South Homeowners Association, Inc.  
DATE: \_\_\_\_\_  
RE: Written Consent to Act Upon Proposed Amendment to Declaration  
FROM: Board of Directors, Westhaven South Homeowners Association, Inc.

**PLEASE TAKE NOTICE THAT:** The Board of Directors of Westhaven South Homeowners Association, Inc. ("Association") proposes to amend the Declaration of Conditions, Restrictions and Covenants Running with the Land for Westhaven South as recorded in Book 2437, Pages 875-892 of the Pitt County Registry (the "Declaration"). This Written Consent is being delivered to each member of the Association. In order to approve the Amendment to the Declaration, a written consent approving the Amendment below must be received from at least 90% of the Lot Owners. While the Declaration states that a written instrument is required to amend the Declaration, the North Carolina Planned Community Act (the "Act"), specifically G.S. 47F-2-117, permits the Declaration to be amended only by affirmative vote or written agreement signed by lot owners of lots to which at least sixty-seven percent of the votes in the association are allocated, or any large majority the Declaration specifies. A summary of the Amendment is set forth below; the actual text of the proposed Amendment to the Declaration is attached and incorporated by reference. The Board of Directors unanimously recommends that you give written consent.

**Summary of Amendment:** To amend the Declaration to reduce the percentage of owners required to hereafter amend the Declaration from 90% to 67% and to conform the Declaration to the amendment provisions of the Act (GS 47F-2-117) in order to provide greater flexibility to the lot owners to amend the covenants, conditions and restrictions in the Declaration.

**THE UNDERSIGNED HEREBY CONSENTS TO THE AMENDMENT TO THE DECLARATION.**

Edmund Bond Small  
LOT OWNER/MEMBER SIGNATURE  
Edmund Bond Small  
TYPE OR PRINT YOUR NAME  
436 Cheltenham Dr.  
TYPE OR PRINT YOUR ADDRESS  
12-13-20  
DATE

Process to Consent: Please return your completed, original Written Consent by hand-delivery or mail to Westhaven South Homeowners Association, Inc., c/o Russell Property Management, 106 Regency Boulevard, Greenville, NC 27834. If you have any questions, please contact Amanda Blomefield, property manager, at [amanda@russellprm.com](mailto:amanda@russellprm.com).

**Text of Amendment:** The Declaration is proposed to be amended by rewriting Article IX, Section 3 to read as follows: "Section 3: Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended by the affirmative vote or written agreement of during the first twenty (20) year period by an instrument signed by not less than ninety (90%) sixty-seven (67%) percent of the Lot Owners. Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. ~~The foregoing amendment process does not apply to any amendment to terminate the planned community.~~ Any amendment must be recorded."

Note: Language proposed to be removed from the Declaration is ~~stricken~~ and language proposed to be inserted into the Declaration is underlined.