

Prepared by: Bratcher Adams Folk PLLC

Return to: Flowers Plantation Foundation, Inc., 4880 NC Hwy 42 East, Clayton, NC 27527

STATE OF NORTH CAROLINA  
COUNTY OF JOHNSTON

**AMENDMENT TO DEVELOPMENT AGREEMENT  
FOR FLOWERS PLANTATION**

This Amendment to Development Agreement for Flowers Plantation (this "Amendment") is made and entered into as of the date set forth in the notary acknowledgment on the following page, by Rebecca D. Flowers, an individual (formerly known as Rebecca Flowers Finch), hereinafter referred to as "Declarant", DWF Development, Inc., a North Carolina corporation ("DWF") and by Flowers Plantation Foundation, Inc., a North Carolina nonprofit corporation (the "Foundation"), with respect to whatever rights, if any, the Foundation may have as a Declarant or otherwise under the "Declaration" (as defined herein).

**WITNESSETH:**

WHEREAS, Declarant executed (i) that certain Development Agreement for Flowers Plantation which is recorded in Deed Book 1615, Page 601, et seq., Johnston County Registry, on July 11, 1997, as amended and supplemented from time to time (the "Declaration"); and (ii) that certain Amendment to Development Agreement for Flowers Plantation which is recorded in Book 1970, Page 599, Johnston County Registry (the "Architectural Guidelines"); and

WHEREAS, Section 5(d) of the Declaration provides that the Declaration may be amended "unilaterally" by Declarant "so long as Declarant owns at least 5% of the property described in Exhibit A" to the Declaration; and

WHEREAS, Declarant currently owns property described in Exhibit A to the Declaration; and

WHEREAS, the Declarant now wishes to amend the Declaration to enact additional use restrictions for certain residential neighborhoods;

NOW, THEREFORE, pursuant to the provisions of Section 5(d) of the Declaration, Declarant hereby amends the Declaration and the Architectural Guidelines as follows with

regard to the following neighborhoods only (the "Subject Neighborhoods"):

Pineville West: Book 3233, Page 603, Johnston County Registry  
Pineville East: Book 3233, Page 657, Johnston County Registry  
Pineville East Cottages: Book 3341, Page 575, Johnston County Registry  
Palmetto Place: Book 3744, Page 700, Johnston County Registry  
Pineville East Estates: Book 3275, Page 522, Johnston County Registry  
Peachtree: Book 4053, Page 763, Johnston County Registry  
Longleaf: Book 4131, Page 347, Johnston County Registry  
Wilders Woods: Book 4202, Page 850, Johnston County Registry  
Chatham: Book 4361, Page 944, Johnston County Registry  
The Nine: Book 4394, Page 856, Johnston County Registry  
Poplar Woods: Book 4512, Page 167, Johnston County Registry  
South Quarter: Book 4589, Page 138, Johnston County Registry  
Sweetgrass: Book 4566, Page 682, Johnston County Registry  
Evergreen: Book 4682, Page 317, Johnston County Registry  
Cottages at Evergreen: Book 5164, Page 444, Johnston County Registry  
North Village: Book 4709, Page 540, Johnston County Registry  
Forge Creek: Book 5111, Page 249, Johnston County Registry

The following restrictions shall apply to all of the Subject Neighborhoods until such time as they are amended, modified, repealed or limited pursuant to the Declaration.

1. Restricted Activities. The following activities are prohibited within the Subject Neighborhoods unless expressly authorized by, and then subject to such conditions as may be imposed by, the Declarant:

(a) Any activity which tends to cause an unclean, unhealthy or unsafe condition to exist outside of enclosed structures on the Unit;

(b) Any activity which emits foul or obnoxious odors, fumes, dust, smoke, or pollution outside the Unit or which creates noise, unreasonable risk of fire or explosion, or other conditions which are a nuisance provided, nothing herein shall preclude normal and customary operation of any restaurant;

(c) Any activity which violates local, state or federal laws or regulations;

(d) Outside burning of trash, leaves, debris or other materials;

(e) Outdoor storage of goods, materials, or equipment, except that (1) outdoor storage of building materials shall be permitted during construction on the Unit on which such materials are being stored; and (2) outdoor retail displays shall be permitted; and (3) and outdoor dining facilities shall be permitted;

- (f) Fishing, swimming, boating, use of personal flotation devices, or other active use of lakes, ponds, streams or other bodies of water within the Subject Neighborhoods or the Community. Declarant shall not be responsible for any loss, damage, or injury to any person or property arising out of the authorized or unauthorized use of lakes, ponds, streams or other bodies of water within the Subject Neighborhoods or the Community;
- (g) Any activity which would constitute a public or private nuisance;
- (h) Use or discharge of any radio, loudspeaker, horn, whistle, bell, or other sound device so as to be audible to occupants of other Units, except alarm devices used exclusively for security purposes;
- (i) Use and discharge of firecrackers and other fireworks;
- (j) Dumping grass clippings, leaves or other debris, petroleum products, fertilizers, or other potentially hazardous or toxic substances in any drainage ditch, stream, pond, or lake, or elsewhere within the Subject Neighborhoods, except that fertilizers may be applied to landscaping on Units provided care is taken to minimize runoff; and Declarant and Builders may dump and bury rocks and trees removed from a building site on such building site;
- (k) Subdivision of a Residential Unit into two or more Units, or changing the boundary lines of any Residential Unit after a subdivision plat including such Residential Unit as has been approved and Recorded, except that Declarant shall be permitted to subdivide or replat Units which it owns;
- (l) Use of any Unit for operation of a timesharing, fraction-sharing, or similar program whereby the right to exclusive use of the Unit rotates among participants in the program on a fixed or floating time schedule over a period of years;
- (m) Discharge of firearms; provided, the Board shall have no obligation to take action to prevent or stop such discharge;
- (n) On-site storage of gasoline, heating, or other fuels on Residential Units, except, that a reasonable amount of propane gas and fuel may be stored on each Unit for emergency purposes and operation of gas cooking grills, lawn mowers and similar tools or equipment, and the Foundation shall be permitted to store fuel for operation of maintenance vehicles, generators, and similar equipment. This provision shall not apply to any underground fuel tank authorized pursuant to the Declaration;
- (o) Use of any Residential Unit for a business, trade, garage sale, moving sale, rummage sale, or similar activity, except that an Owner or occupant residing in a Residential Unit may conduct business activities within the Residential Unit so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the Unit; (ii) the business activity conforms to all zoning requirements for Johnston County as applicable; (iii) the business activity does not involve door-to-door solicitation of residents of the Subject Neighborhoods; (iv) the business activity does not, in the Board's reasonable judgment, generate a level of vehicular or pedestrian traffic or a number of vehicles

being parked in the Subject Neighborhoods which is noticeably greater than that which is typical of Residential Units in which no business activity is being conducted; and (v) the business activity is consistent with the residential character of the residential neighborhoods within the Subject Neighborhoods and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the Subject Neighborhoods, as may be determined in the sole discretion of the Declarant.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

Leasing of a Unit shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by Declarant or a Builder approved by Declarant with respect to its development and sale of Units or its use of any Units which it or any Declarant Affiliate owns within the Subject Neighborhoods;

(p) Capturing, trapping or killing of wildlife within the Subject Neighborhoods, except in circumstances posing an imminent threat to the safety of persons within the Subject Neighborhoods;

(q) Any activities which materially disturb or destroy the vegetation, wildlife, wetlands, or air quality within the Subject Neighborhoods or which use excessive amounts of water or which result in unreasonable levels of sound or light pollution;

(r) Operation of motorized vehicles (with the exception of certain electric or battery-powered vehicles operated by licensed drivers as approved by the Foundation on a case-by-case basis) on pathways or trails maintained by the Foundation;

(s) Overnight or regular parking of commercial vehicles or equipment, motor homes, recreational vehicles, golf carts, boats and other watercraft, trailers, stored vehicles or inoperable vehicles in places other than enclosed garages or such other areas, if any, as the Board may designate within the Common Area; provided, the Board may (but shall not be obligated to) grant permission for visitors to temporarily park such vehicles overnight on driveways or streets for a period not to exceed seven days or nights while visiting the occupants of a Unit;

(t) Any construction, erection, placement, or modification of any thing, permanently or temporarily, on the outside portions of the Unit, whether such portion is improved or unimproved, except as specifically authorized in Paragraph 3(d) of this Amendment and otherwise in strict compliance with the provisions of the Declaration. This shall include, without limitation, signs, swing sets and similar sports and play equipment; clotheslines; garbage cans; woodpiles; swimming pools; docks, piers and similar structures; and hedges, walls, dog runs, animal pens, or fences of any kind. Portable basketball goals shall be required to be stored in the rear of each property and screened from view when not in use. No permanent basketball goals may be installed

without the prior approval of Declarant or its designated ARC as to their appearance and location.

2. Prohibited Uses. In addition to uses which are inconsistent with applicable zoning or are prohibited or restricted by other recorded covenants, conditions, restrictions or easements, the following uses are prohibited within the Subject Neighborhoods:

- (a) trailer courts, mobile home parks, and recreation vehicle campgrounds;
- (b) oil, gas or mineral exploration; drilling, boring, excavation, development, refining, quarrying, or mining operations, and all construction and equipment incident thereto; and oil or gas wells or related equipment or facilities, except that nothing herein shall preclude the operation of automobile service stations or water wells, to the extent permitted under the Architectural Guidelines;
- (c) junk yards, scrap metal yards, automobile used parts and/or dismantling operations and sanitary landfills, except that nothing herein shall preclude recycling centers established solely for the collection and sorting of household recyclable materials provided that the same are not unsightly;
- (d) commercial excavation of building or construction materials, except in the usual course of construction of improvements;
- (e) dumping, storage, disposal, incineration, treatment, processing or reduction of garbage, or refuse of any nature, except as is incidental to the use, operation and ownership of any property (or a portion thereof) in accordance with this Declaration and in a manner which is not unsightly and does not result in noxious odors emitting from the subject property;
- (f) lumberyards, sawmills, or outdoor storage of building or construction materials (except in the usual course of construction on the site where stored);
- (g) flea markets, and ongoing fire and bankruptcy sale operations;
- (h) truck terminals and truck stop-type facilities (specifically excluding loading docks and similar facilities incidental to the use, operation and ownership of any property or a portion thereof in accordance with this Declaration);
- (i) massage parlors, and any establishment which offers entertainment or service which includes nude or partially dressed male or female persons;
- (j) any industrial use; and
- (k) "adult entertainment uses," which terms shall mean, for the purposes of this Declaration, any theater or other establishment which shows, previews, or prominently displays, advertises, or conspicuously promotes for sale or rental: (i) movies, films, videos, magazines, books, or other medium (whether now or hereafter developed) which is rated "X" by the movie production industry (or any successor rating established by the movie production industry) or is otherwise of a pornographic or obscene nature; or (ii) sexually explicit games, toys, devices, or

similar merchandise.

3. Prohibited Conditions

The following shall be prohibited in the Subject Neighborhoods:

(a) Plants, animals, devices or other things of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant, or of a nature as may diminish or destroy the enjoyment of the Subject Neighborhoods;

(b) Structures, equipment or other items on the exterior portions of a Unit which have become rusty, dilapidated or otherwise fallen into disrepair; and

(c) Sprinkler or irrigation systems or wells of any type which draw upon water from lakes, creeks, streams, rivers, ponds, wetlands, canals, or other ground or surface waters within the Subject Neighborhoods, except that Declarant shall have the right to draw water from such sources and the Declarant may, in its discretion, approve a private water well on certain Units which the Declarant determines to be of sufficient size to accommodate a well without adversely impacting neighboring property;

(d) With exception to the Federal Communications Commissions Restrictions identified in the Telecommunications Act of 1996: Satellite dishes, antennae and similar devices for the transmission of television, radio, satellite, or other signals of any kind, except that: (i) Declarant shall have the right, without obligation, to erect or install and maintain any such apparatus for the benefit of all or a portion of the Subject Neighborhoods, and (ii) antennae or satellite dishes designed to receive direct broadcast satellite service which are one meter or less in diameter; (b) antennae or satellite dishes designed to receive video programming services via multi-point distribution services which are one meter or less in diameter or diagonal measurement; or (c) antennae or satellite dishes designed to receive television broadcast signals ("Permitted Devices") shall be permitted, provided that any such Permitted Device is placed in the least conspicuous location on the Unit in which an acceptable quality signal can be received and is screened from the view of adjacent Units, streets, roads and Common Area in a manner consistent with the Community-Wide Standard and the Architectural Guidelines.

4. Leasing of Units. "Leasing," for purposes of this Paragraph, is defined as regular, exclusive occupancy of a Unit by any person, other than the Owner for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument. All leases shall be in writing and shall have an initial term of at least six months. Notice of any lease, together with such additional information as may be required by the Board, shall be given to the Board by the Unit Owner within 10 days of execution of the lease. The Owner must make available to the lessee copies of the Declaration, By-Laws, and the Restrictions and Rules.

Pursuant to Section 5(d) of the Declaration, no member approval is required for this amendment to be effective. Except as specifically amended herein, the Declaration shall remain and continue in full force and effect.

[signatures on following pages]

IN WITNESS WHEREOF, the undersigned Declarant, DWF and the Foundation have caused this instrument to be executed as of the day and year indicated in the acknowledgement block below.

DWF Development, Inc., a North Carolina corporation

By: Rebecca D. Flowers

Name: Rebecca D. Flowers

Title: President

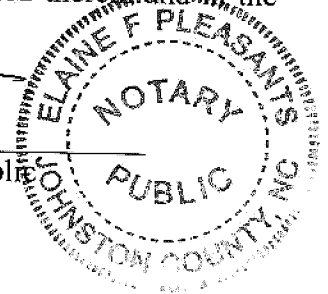
STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: **Rebecca D. Flowers.**

Date: 10/7/20

Elaine F. Pleasants  
Official Signature of Notary Public



Elaine F. Pleasants  
Notary printed or typed name

My commission expires: 5/13/23



IN WITNESS WHEREOF, the undersigned Declarant and Foundation have caused this Amendment to be executed as of the day and year indicated in the acknowledgement block below.

DECLARANT

Rebecca D. Flowers  
Rebecca D. Flowers, as individual

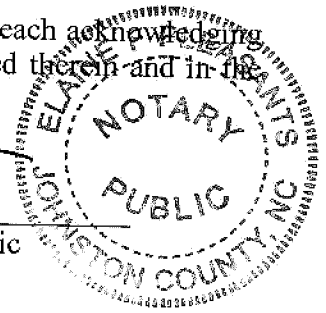
STATE OF NORTH CAROLINA

COUNTY OF JOHNSTON

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Date: 10/1/20

Elaine F. Pleasants  
Official Signature of Notary Public



Elaine F. Pleasants  
Notary printed or typed name

My commission expires: 5/13/23

IN WITNESS WHEREOF, the undersigned Declarant and Foundation have caused this Amendment to be executed as of the day and year indicated in the acknowledgement block below.

FOUNDATION

Flowers Plantation Foundation, Inc., a North Carolina corporation

By: Rebecca D. Flowers  
Name: Rebecca D. Flowers  
Title: President

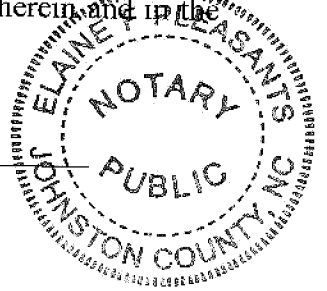
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