

Hold by: John M. Davis

BK 4197 PG 0445

NORTH CAROLINA  
WAKE COUNTY

JOINT DRIVEWAY AND CROSS ACCESS DECLARATION,  
LOTS 2 THROUGH 5, EVERGREEN PHASE I,  
BOOKS OF MAPS 1987, PAGE 1936,  
WAKE COUNTY REGISTRY

THIS JOINT DRIVEWAY AND CROSS ACCESS DECLARATION made  
this the 11<sup>th</sup> day of February, 1988 by THE NEW FORTIS  
CORPORATION, a North Carolina corporation, ("Fortis").

Fortis is the owner of Lots 2 through 5, Evergreen,  
Phase I (the "Lots") as shown on a map recorded in Book of Maps  
1987, Page 1936, Wake County Registry. Fortis hereby declares  
the "Lots" shall be sold subject to the following covenants,  
easements, conditions and restrictions, all of which are for the  
purpose of benefiting the Lots, and which shall run with title to  
the Lots and be binding on all parties having any right, title or  
interest therein. The term "Owner(s)" includes Fortis and its  
successors in title to the Lots.

1. The above-referenced map shows a joint driveway  
labelled "Drive and Utility Easement" (the "Joint Driveway")  
located partially on each of the Lots and more particularly  
described as follows:

BEGINNING at a point in the western edge of a  
cul-de-sac known as Londonplain Court, said point being  
located North 36° 00' 53" West 21.99 feet from the  
northeastern corner of Lot 2 as shown on Book of Maps  
1987, Page 1936, Wake County Registry; runs thence from  
said beginning point North 88° 01' 30" West 3.96 feet  
to a point; runs thence North 70° 02' 43" West 78.43  
feet to a point; runs thence North 54° 26' 34" West  
6.81 feet to a point in the southeastern line of Lot 4  
as shown on the above-referenced map; runs thence with  
the southeastern line of Lot 4 North 58° 10' 37" East  
12.00 feet to a point, the southeastern corner of Lot  
4; runs thence with the eastern line of Lot 4 North 19°  
53' 07" West 2.48 feet to a point; runs thence South  
78° 19' 15" East 46.78 feet to a point; runs thence  
South 68° 53' 11" East 26.53 feet to a point in the  
right of way of Londonplain Court; runs thence with the

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right of way of Londonplain Court in a southerly direction on a curve to the left, said curve having a radius of 46.50 feet and in an arc length of 12.14 feet to a point, a common corner of Lots 2 and 5 as shown on the above-referenced map; runs thence continuing with the right of way of Londonplain Court in a southerly direction on a curve to the left, said curve having a radius of 46.50 feet and an arc length of 8.79 feet to the point of beginning as shown on a survey dated January 27, 1988 by Dewberry and Davis, Engineers, entitled "Evergreen Phase I Driveway and Utility Easement Lots 2, 3, 4 and 5".

2. The Joint Driveway is a private driveway for the benefit of the Owners of each Lot to provide vehicular and pedestrian access, ingress and egress to and from the Lots to the public streets.

3. A perpetual easement is hereby established within the Joint Driveway for vehicular and pedestrian ingress and egress for the benefit of the Owners and their assigns, tenants, guests, invitees and mortgagees to and from the Lots to the public streets.

4. A perpetual easement is hereby established within the Joint Driveway for the benefit of the Owners of Lots 3 and 4 for the purpose of maintaining and repairing water lines located beneath the Joint Driveway serving Lots 3 and 4. It shall be the duty of the Lot Owner served by the waterline in need of repair to repair any damage to the Joint Driveway and to replace any disturbed ground which may occur during the maintenance or repair of said waterline.

5. The Joint Driveway shall be maintained by the Owners in a manner and quality in keeping with the neighborhood known as Evergreen and the cost of such maintenance shall be shared equally by the Owners.



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6. Each Owner shall keep the Joint Driveway clear of debris or other obstacles and automobiles so that there is unobstructed access to each of the Lots.

7. If any Owner fails to provide the contribution for maintenance as required by this Declaration, the other Owners may provide the maintenance and shall be entitled to immediate reimbursement. The Owners may bring an action at law or in equity against the non-contributing Owner to recover the cost of such maintenance, including attorneys' fees, and to enforce the terms of this Declaration.

8. The rights established herein are subject to the right of the Town of Cary/ <sup>and other utility providers</sup> to install and maintain utilities, drainage facilities and other services to serve the Lots (herein "Utilities") upon, over, under, through and across the area designated as "Drive and Utility easement". It is the duty of the Owners to replace any disturbed ground and to repair any damage to the Joint Driveway which may occur during the installation or maintenance of such Utilities.

9. In the event the Owners obtain an alternative means of access to a public street, this Declaration may be terminated by a written instrument signed by each Owner and recorded in the Wake County Register of Deeds Office.

10. This Declaration shall be binding upon and inure to the benefit, respectively of the Owners and the future Owners of the Lots.

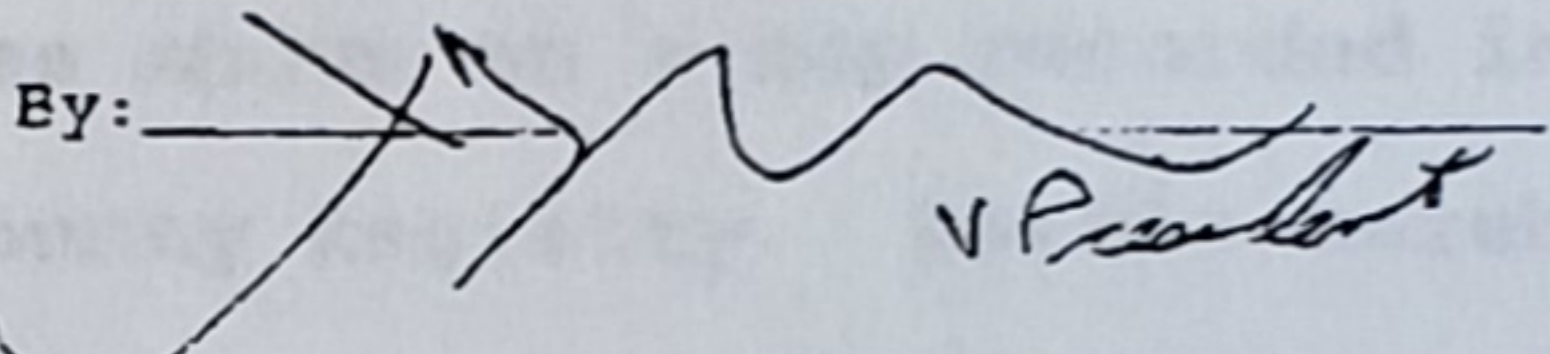
IN TESTIMONY WHEREOF, Fortis has caused this instrument to be executed in its corporate name by its duly authorized

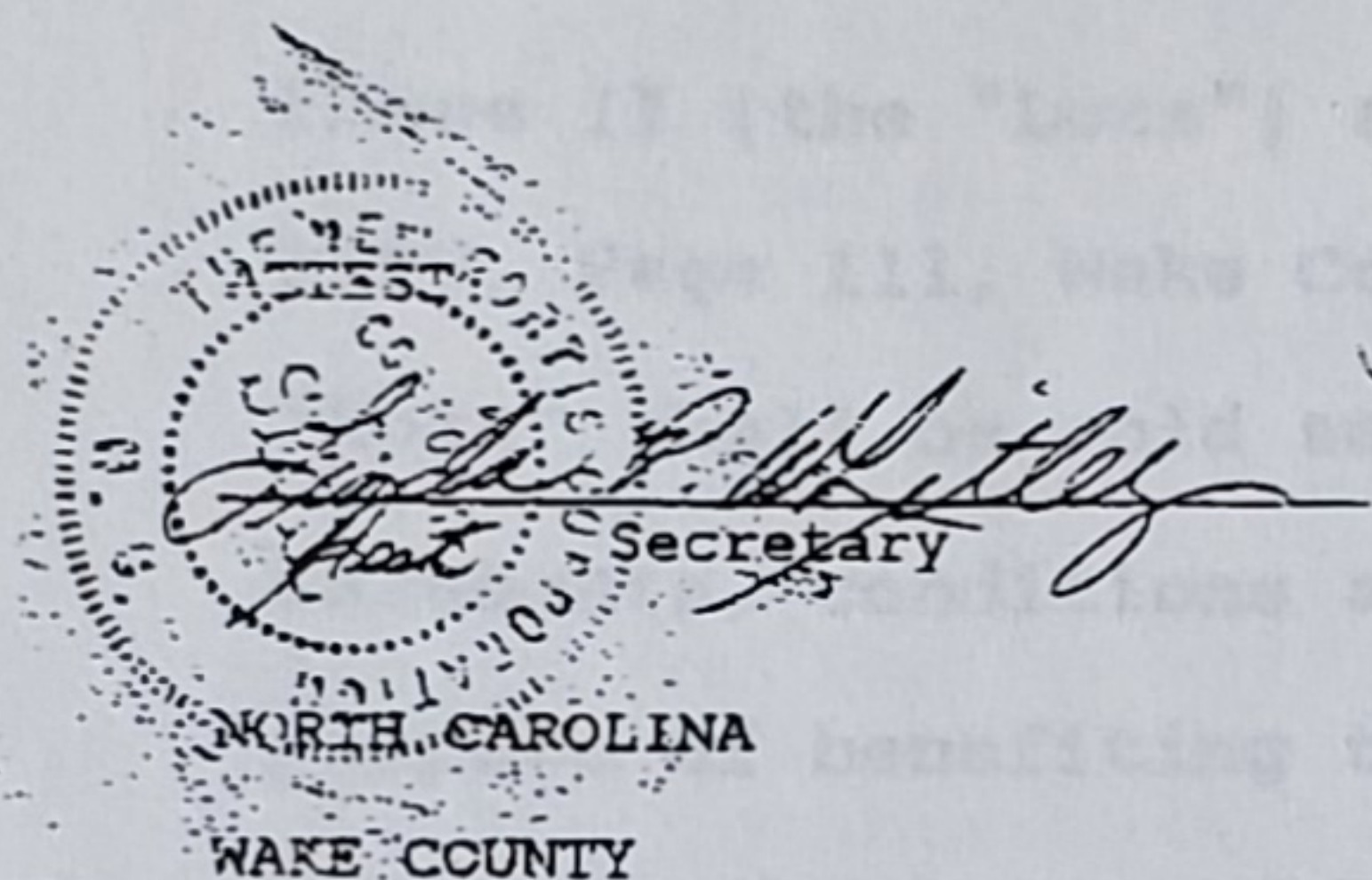


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officers, attested by its Secretary and its corporate seal  
hereunto affixed this the day and year first above written.

THE NEW FORTIS CORPORATION

By: 



I, the undersigned, a Notary Public in and for the  
said State and County, do hereby certify that Linda P. Whiting  
\_\_\_\_\_ personally appeared before me this  
day and acknowledged that she is Asst Secretary of  
THE NEW FORTIS CORPORATION, a corporation, and that by  
authority duly given as the act of the corporation, the  
foregoing instrument was signed in its name by its  
\_\_\_\_\_ President, sealed with its corporate seal, and  
attested by her self as its Asst Secretary

WITNESS my hand and notarial seal this the 4  
day of February, 1988.

Alice Q. Hutchins  
Notary Public

My Commission Expires:

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ALICE Q. HUTCHINS  
NOTARY PUBLIC  
WAKE COUNTY, N.C.  
My Commission Expires October 16, 1990

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate \_\_\_\_\_ of Alice Q. Hutchins

\_\_\_\_\_  
Notary(y)(ies) Public is  
(are) certified to be correct. This instrument and this certificate are duly registered at the date and time  
and in the book and page shown on the first page hereof

KENNETH C. WILKINS, Register of Deeds

By: Charles C. Smith

Asst / Deputy Register of Deeds