

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR DOVER SQUARE

THIS DECLARATION is made this 21st day of October, 1985 by BOB DIXON BUILDER, INC., a Georgia Corporation, having its principal office at 695 N. Jeff Davis Drive, Fayetteville, Fayette County, Georgia (hereinafter sometimes referred to as "the Declarant").

W I T N E S S E T H:

WHEREAS, Declarant is the owner in fee simple of certain real property set forth and described in Exhibit "A" (such real property hereinafter sometimes referred to as the "subject property"), such Exhibit being attached hereto and by reference made a part hereof; and

WHEREAS, Declarant is desirous of subjecting the subject property to the provisions of this Declaration in order to create a residential fee simple cluster home development.

NOW, THEREFORE, the Declarant hereby declares that the real property described in Exhibit "A" attached hereto, including the improvements constructed on or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied, and mortgaged or otherwise encumbered subject to the covenants conditions, restrictions, easements, assessments, and liens hereinafter set forth, which are expressly made for the purpose of protecting the value and desirability of the subject property, and shall run with the title to the subject property and be binding upon any and all persons and entities having any right, title, or interest in all or any portion of the subject property, together with their respective heirs, legal representatives, successors, and assigns and shall inure to the benefit of each and every owner of all or any portion thereof.

ARTICLE I
DEFINITIONS

Unless the context shall prohibit, certain words used in his Declaration shall have the definitional meaning set forth as follows:

- (a) "Association" shall mean and refer to Dover Square Homeowners Association, Inc.
- (b) "Board" shall mean and refer to the Board of Directors of the Association.
- (c) "Common property" there shall be no common property or common areas.
- (d) "Community" shall mean and refer to that certain real property and interests therein described in Exhibit "A" attached hereto, and such additions thereto as may be made by supplemental declarations of other real property.
- (e) "Community-Wide Standard" shall mean the standard of conduct, maintenance, or other activity generally prevailing in the community. Such standards may be more specifically determined by the Board of Directors of the Association.
- (f) "Declarant" shall mean and refer to BOB DIXON BUILDER, INC., a Georgia Corporation, and its successors in title and assigns, provided any such successors in title or assignee shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portion of the subject property, and provided further that in the instrument of conveyance to any such successor in title or assignee, such successor in title or assignee is designated as the "Declarant" hereunder by the Grantor of such conveyance, and such designation shall be consented to in writing by the Citizens and Southern National Bank so long as the Deed to Secure Debt executed by the Declarant herein in favor of Citizens and

Southern National Bank, dated 12-2-83, and recorded in Deed Book 295 Page 190, Fayette County, Georgia Records, remains outstanding and unsatisfied. Further, upon such designation of such successor Declarant in an instrument of conveyance by the instant Declarant as Grantor, all rights of the instant Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the subject property there shall be only one person or legal entity entitled to exercise the rights and powers of "Declarant" hereunder at any one point in time. Notwithstanding the above, should the Citizens and Southern National Bank acquire by exercise of the Power of Sale contained in the previously described Deed to Secure Debt or by the execution of a Deed in Lieu of Foreclosure by the instant Declarant in favor of such institution it may, at its option without the requirement of any written designation of the Declarant herein, become the sole Declarant.

(g) "Dwelling" shall mean the single-family attached house, including garage, which is located upon a unit.

(h) "Majority" shall mean those eligible votes, Owners, or other group as the context may indicate totaling more than fifty (50%) percent of the total eligible number.

(i) "Mortgage" shall mean any mortgage, Deed to Secure Debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(j) "Mortgagee" shall mean the holder of a mortgage.

(k) "Owner" shall mean and refer to the record owner, whether one or more persons, of the fee simple title to any unit or proposed unit located within the community, excluding, however, any person or entity holding such interest merely as security for the performance or satisfaction of any obligation.

(l) "Person" shall mean any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

(m) "Single Entire Cluster Home Structure" shall mean a structure located on the subject property which contains within such structure two (2) or more adjoining dwellings.

(n) "Unit" shall mean a portion of the community intended for fee simple ownership and use as permitted in this Declaration and as shown on the plat for Dover Square, or amendments thereto, recorded in Plat Book 16, Page 102, Fayette County, Georgia Records. The ownership of each unit shall include, whether or not separately described, all of the right, title and interest of an owner in the common property, which shall include, without limitation, membership in the Association. Each unit shall for all purposes constitute real property which may be owned in fee simple and which may be conveyed, transferred, or encumbered in the same manner as any other real property. Each owner shall be entitled to the exclusive ownership and possession of his or her unit, subject to this Declaration. A unit shall consist of a dwelling, the driveway, and the lot upon which the dwelling is constructed as depicted on the plat of survey referred to above.

ARTICLE 2

PROPERTY SUBJECT TO THIS DECLARATION

Section 1. Property Hereby Subjected to this Declaration. The real property which is by the recordation of this Declaration subjected to the covenants, conditions, and restrictions hereinafter set forth and which, by virtue of the recordation of this Declaration shall be held, transferred, sold, conveyed, used, occupied, mortgaged, or otherwise encumbered subject to this Declaration is the real property described in Exhibit "A" attached hereto and by this reference made a part hereof.

Section 2. Other Property. Only the real property described in Section 1 of this Article 2 is hereby made subject to this Declaration; provided, however, by one or more supplemental Declarations the Declarant and the Association shall have the right, but not the obligation, to subject other real property to this Declaration within a reasonable period of time.

ARTICLE 3

ASSOCIATION MEMBERSHIP AND VOTING RIGHTS

Section 1. Membership. The Declarant and every person who is a record owner of a fee or undivided fee interest in any unit that is subject to this Declaration shall be deemed to have a membership in the Association. The foregoing is not intended to include mortgagees and the giving of a security interest shall not terminate the owners membership. No owner, whether one or more person, shall have more than one membership vote per unit. In the event of multiple owners of a unit, votes and rights of use and enjoyment shall be provided in this Declaration and in the By-Laws. Membership shall be appurtenant to and may not be separated from ownership of any unit.

Section 2. Classes of Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B", as follows:

(a) Class "A". Class "A" members shall be owners, within the exception of the Declarant, owning fee simple title to any unit during which period of ownership more than twenty (20%) percent of the completed or proposed units as depicted on a plat of survey for Dover Square recorded in Plat Book 16, Page 102, Fayette County, Georgia Records, is owned by the Declarant herein. Class "A" members shall have no voting rights in the Association. Upon ownership of eighty (80%) percent or more of the completed or proposed units by persons other than the Declarant, all class "A" memberships shall automatically convert into class "B" membership.

(b) Class "B". Class "B" membership shall consist of only the Declarant for so long as he holds title to more than twenty (20%) percent of the completed or proposed units. Upon the Declarant holding title to twenty (20%) percent or less of the completed or proposed units, Class "B" membership shall consist of all unit owners, including the "Declarant, for so long as the Declarant holds legal title to a proposed or completed unit or units. Each Class "B" member shall be entitled to one vote for each unit owned. When more than one person holds an ownership interest in any unit, the vote for such unit shall be exercised as those owners themselves determine and advise the Secretary prior to any meeting. In the absence of such advice, the unit's vote shall be suspended in the event that more than one person seeks to exercise it.

ARTICLE 4

ASSESSMENTS

Section 1. Purpose of Assessment. The Assessments provided for herein shall be used for the general purposes of promoting the safety, welfare, common benefit and enjoyment of the owners and occupants of units, including certain maintenance of the subject property, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each owner of any unit, by acceptance of a Deed therefore, whether or not it shall be so expressed in such Deed, covenants and agrees to pay to the Association:

a) Annual assessments or charges (payable as the Association determines);

(b) Special assessments, such assessments to be established and collected as hereinafter provided; and

(c) Specific assessments against any particular unit which are established pursuant to terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration.

All such assessments, together with late charges, interest (not to exceed the maximum legal rate) costs, and reasonable attorney fees actually incurred, shall be a charge on the land and shall be a continuing lien in favor of the Association upon the unit against which each assessment is made. Each such assessment, together with late charges, interest, costs, and reasonable attorney fees actually

incurred, shall also be the personal obligation of the person who was the owner of such unit at the time that the assessment fell due. Each owner shall be personally liable for his or her portion of each assessment coming due while he or she is the owner of a unit, and his or her Grantee shall be jointly and separately liable for his or her portion of each assessment coming due while he or she is the owner of a unit, and his or her Grantee shall be jointly and separately liable for such portion thereof as may be due and payable at the time of the conveyance; provided, however, the liability of a Grantee for the unpaid assessments of its Grantor shall not apply to any first mortgage holder taking title through foreclosure proceedings or deed in lieu of foreclosure.

Assessments shall be paid at a uniform rate per unit in such manner and on such date as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days written notice, of annual assessment for delinquents. Unless otherwise provided by the Board, the assessment shall be paid in monthly installments.

Section 3. Computation. It shall be the duty of the Board to prepare a budget covering the estimated costs of operating the Association during the coming year, which shall include a capital contribution of reserve in accordance with a capital budget separately prepared. The Board shall cause the budget and the assessments to be levied against each Unit for the following year to be delivered to each member at least thirty (30) days prior to the end of the current fiscal year. The budget and the assessment shall become effective unless disapproved at an Owners' meeting by a majority of the Class "B" members. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed budget or the Board fails for any reason to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, and provided herein, the budget in effect for the then current year shall continue for the succeeding year.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments in any year. So long as the total amount of special assessments allocable to each unit does not exceed the sum of Two Hundred Forty and no/100 (\$240.00) Dollars in any one fiscal year, the Board may impose the special assessment. Any special assessment which would cause the amount of special assessments allocable to any unit to exceed this limitation shall be effective only if approved by a majority of the Class "B" members. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5. Priority of Lien for Assessments. The lien for assessments shall be superior to all other liens and encumbrances upon a unit, except for (a) liens of ad valorem taxes; or (b) liens for all sums unpaid on a first mortgage secured by the unit, and all amounts advanced pursuant to such mortgage and secured thereby in accordance with the terms of such instrument.

All other persons acquiring liens or encumbrances on any unit after this Declaration shall have been recorded in the deed records of Fayette County, Georgia, shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent be specifically set forth in the instruments creating such liens or encumbrances.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If the assessment is not paid

within thirty (30) days a lien, as herein provided, shall attach and, in addition, the lien shall include interest, not to exceed the maximum legal rate, on the principal amount due, all late charges from the date first due and payable, all costs of collection, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after sixty (60) days, the Association may, as the Board shall determine, institute suit to collect such amounts and foreclose its lien. Each owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other owners. The Association, acting on behalf of the owners, shall have the power to bid on the unit at any foreclosure sale or to acquire, hold, lease, mortgage, or convey the same. No owner may waive or otherwise except liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the unit. All payments shall be applied first to costs and attorney's fees, then to late charges, then interest and then to delinquent assessments.

Section 7. Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Units then completed and subject to this Declaration on the first day of the month following the conveyance of the first unit by the Declarant to a Class "A" member and shall be due and payable in a manner and on a schedule as the Board of Directors may provide. The first annual assessment shall be adjusted according to the number of months then remaining in that fiscal year. The date any unit becomes subject to assessment hereunder shall be the date on which the later of the following occurs

- (a) the unit becomes subject to this Declaration; or
- (b) the appropriate official of Fayette County, Georgia, issues a certificate of occupancy or its equivalent stating that the unit is substantially complete and available for occupancy.

Section 8. Assessments by Declarant.

(a) After the commencement of assessment payments as to any unit, Declarant covenants and agrees to pay the full amount of the annual assessment for each occupied unit it owns; notwithstanding anything contained herein to the contrary, the Declarant shall be required to pay only twenty-five (25%) of the annual assessment for each completed but unoccupied unit that it owns.

(b) Notwithstanding anything to the contrary herein, the Declarant may contribute assessments due from it in services or materials or a combination of services and materials, rather than in money, (herein collectively called "in kind contribution"). The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution. If the Declarant and the Association disagree as to the value of any contribution, the Declarant shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like service and furnishing like materials from three (3) independent contractors approved by the Declarant who are in the business of providing such services and materials. If the Association and the Declarant are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

ARTICLE 5
MAINTENANCE

Section 1. Association's Responsibility. The Association shall sod (and/or seed), water, fertilize and maintain the front lawns of all completed units, and seed, fertilize and maintain the rear lawns of all completed units. The cost of such maintenance shall be

included in the annual budget of the Association and the pro-rated cost included in the assessment against each unit owner.

Section 2. Owner's Responsibility. All maintenance of the dwelling and the driveway, which is part of the unit, shall be the responsibility of the owner thereof. Such maintenance shall be consistent with this Declaration, including, but not limited to, specifically, Article 6, Section 15, concerning architectural standards. In addition, the owner shall maintain all pipes, lines, ducts, conduits, or other apparatus which serve only the unit, whether located within or without a unit's boundaries (including all gas, electricity, water, sewer, or air conditioning pipes, lines, ducts, conduits, or other apparatus serving only the unit). Each owner shall maintain a current termite treatment guarantee from an approved Georgia licensed pest control company insuring that said unit is free from infestation of wood destroying organisms. In the event that the Board of Directors of the Association determines that (a) any owner has failed or refused to discharge properly his obligations with regard to the maintenance, repair, or replacement of items for which he is responsible hereunder, is caused through the willful or negligent act of an owner, his or her family, guests, lessees, or invitees, and is not covered or paid for by insurance, in whole or in part, then the Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the owner written notice of the Association's intent to provide such necessary maintenance, repair, or replacement, at owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. The owner shall have ten (10) days within which to complete such maintenance, repair, or replacement, or, in the event that such maintenance, repair, or replacement is not capable of completion within a ten (10) day period, to commence such work which shall be completed within a reasonable time. If any owner does not comply with the provisions hereof, the Association may provide any such maintenance, repair or replacement at owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such owner is subject and shall become a lien against such owner's unit.

ARTICLE 6

USE RESTRICTIONS AND RULES

Section 1. General. The Board of Directors may, from time to time, without consent of the members, promulgate, modify, or delete use restrictions and rules and regulations applicable to the units. This authority shall include, but shall not be limited to, the right to limit the type and size and to set the maximum and minimum speeds of vehicles within the community. The Association shall also have the authority to impose all other necessary traffic and parking regulations and to restrict the maximum noise levels of vehicles in the community. Such regulations and use restrictions shall be binding upon all owners and occupants until and unless overruled, cancelled, or modified in a regular or special meeting by the vote of Class "B" members holding a majority of the total votes in the Association.

Section 2. Use of Units. All units shall be used for single-family residential purposes exclusively. No business or business activity shall be carried on or upon any unit or in any dwelling at any time except with the written approval of the Board. Leasing of a unit shall not be considered a business or business activity.

Section 3. Fences. No fences, hedges, walls, or any improvements or structures of any type shall be erected or maintained upon any unit, except as are installed at the direction of the Declarant in the initial construction of the improvements located on the subject property, or as approved by the Association's Board of Directors. In addition, movable or decorative items, including, but

not limited to swing sets, playground equipment, portable swimming pools, lawn furniture, statues, bird baths, or animal feeders shall not be placed or maintained upon a unit without the prior written consent of the Board. It is expressly acknowledged and agreed by all parties concerned that this Section is for the mutual benefit of all owners and is necessary for the protection of said owners.

Section 4. Outbuildings. No trailer, tent, shack, carport, barn, detached garage, or other outbuilding may be erected or maintained on any portion of the Community at any time, either temporarily or permanently. However, if prior written consent is given by the Board in accordance with Section 15 of this Article and all other relevant provisions contained herein, a storage building may be erected upon a unit. Such building shall remain, however, only with the continuing consent of the Board and shall be subject to all rules, regulations, and requirements of the Association.

Section 5. Signs. No sign of any kind, except for one (1) "For Rent" or "For Sale" sign per unit of not more than two (2) feet by two (2) feet, shall be erected by an owner within the community without the written consent of the Board. The Board shall have the right to erect reasonable and appropriate signs. The Declarant, for so long as any completed or proposed unit is owned by it, shall be expressly exempt from the foregoing sign prohibition.

Section 6. Parking. No owner or occupant shall, without the prior written consent of the Board, park his or her boat, boat trailer, camper, truck, van, motorcycle, or recreational vehicle on any portion of the community other than in the garage which is part of the unit. Garage doors shall remain closed at all times, except for necessary use, ingress, and egress. Parking on streets within the community, except for emergency and guest parking, is prohibited. No cars or trucks shall be parked on unit driveways so as to block and/or interfere with the use of the sidewalks in the community. No inoperable vehicles of any kind shall be allowed to remain on any portion of the subject property other than in the owner's closed garage.

Section 7. Animals and Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any part of the community, except that no more than a total of two (2) dogs, cats or other household pets may be kept by an owner in his or her respective unit, provided that they are not kept, bred, or maintained for any commercial purpose and do not endanger the health of or unreasonably disturb the owner or occupants of any other units. Notwithstanding this provision, no pet enclosures shall be erected, placed, or permitted to remain on the subject property. The keeping of pets and their ingress, egress, and travel upon the common elements shall be subject to such rules and regulations as may be issued by the Board of Directors. If an owner or occupant fails to abide by the rules and regulations and/or covenants applicable to pets, the Board of Directors may bar such pet from use or travel upon the common elements or subject such use or travel to a user fee. In addition, any pet which endangers the health of any owner or resident of a unit or which creates a nuisance or an unreasonable disturbance, as may be determined in the sole discretion of the Board, must be permanently removed from the community upon seven (7) days' written notice by the Board.

Section 8. Window Coverings. Any portion of an interior window covering, such as a drapery, curtain, shade or shutter which is visible from the exterior of the dwelling shall be white or off-white in color and shall not be of a reflective material. All windows which are on the same floor or level as the front entry door to a dwelling and/or which are visible from any street shall have interior window covers or treatments which meet this requirement.

Section 9. Clotheslines. No outside clothesline shall be permitted on any unit.

Section 10. Rubbish, Trash, and Garbage. All rubbish, trash, and garbage shall be regularly removed from every unit. No such material shall be kept or stored, either temporarily or permanently, on the outside of any dwelling.

Section 11. Antennas. No exterior television or radio antennas of any kind shall be placed, allowed, or maintained upon any portion of the subject property without the prior written consent of the Board. The Association may by majority vote of Class "B" members elect to erect an (areal) for a master antenna system, should any such master system or systems be utilized by the Association and require any such exterior antenna.

Section 12. Nuisance. It shall be the responsibility of each owner to prevent the development of any unclean, unhealthy, unsightly, or unkempt condition on his or her unit, including the dwelling on the unit. No unit shall be used, in whole or in part, for the storage of any property or thing that will cause such unit to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept upon any unit that will emit foul or obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort, or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on or upon any unit, nor shall anything be done thereon tending to cause excessive noise, embarrassment, discomfort, annoyance, or nuisance to any person owning or using any property adjacent to the unit. There shall not be maintained any plants or animals or device or thing 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 community.

Section 13. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, or unkempt conditions, shall not be undertake in any part of the community.

Section 14. Exterior Color of Unit. Every unit owner shall be required to paint, or have painted, the exterior of his or her dwelling a minimum of once every five (5) years. Any unit owner desirous of painting his dwelling shall consult with the owner or owners of the dwellings contained, along with his or her dwelling, within a single entire cluster home structure. All such dwelling combined within a single entire cluster home structure shall be painted within the same time period not exceeding three (3) months and shall be painted either the same color or, if approved by the Board, such colors as compliment the appearance of the adjoining dwellings. All painting shall be performed by, or at the direction of, each unit owner and each such unit owner shall be responsible for the costs incurred in painting his or her dwelling. In the event of a disagreement between unit owners as to color or time of painting the dispute shall be resolved by majority vote of Class "B" members of the Association and such decision shall be binding upon the subject unit owners. Any replacing or repairing of the roof of a unit shall be covered by these aesthetic restrictions, however, nothing contained herein shall require that the roof must be replaced every five years. All unit owners acknowledge that this section is for the benefit of unit owners and is necessary for the protection of the unit owners.

Section 15. Architectural Standards. No exterior construction, alteration, addition, or erection of any nature whatsoever shall be commenced or placed upon any part of the community, except such as is installed by the Declarant or as is approved in accordance with this Section. No exterior construction, addition, change, or alteration shall be made unless and until the plans and specifications showing

- (ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;
- (iii) that no policy may be cancelled, invalidated, or suspended on account of any one or more individual owners;
- (iv) that no policy may be cancelled, invalidated, or suspended on account of any defect or the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be affected by the Association, its manager, any owner or mortgagee;
- (v) that any "other insurance" clause in any policy exclude individual owners' policies from consideration; and
- (vi) that no policy may be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

In addition to the other insurance required by this Section, the Board shall obtain workmen's compensation insurance, if and to the extent necessary, to satisfy the requirements of applicable laws, and a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds. The amount of fidelity coverage shall equal three (3) months aggregate assessment on all units plus the reserve fund. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association. The Association shall also obtain constructive code endorsements, steam boiler coverage, and flood insurance, if and to the extent necessary to satisfy the requirements of the Federal Home Loan Mortgage Association (FHLMC) the Federal National Mortgage Association (FNMA), the Veterans' Administration (VA), or the Federal Housing Administration (FHA)

Section 2. Insurance Maintained by the Unit Owner. By virtue of taking title to a unit subject to the terms of this Declaration, each owner covenants and agrees with all other owners and with the Association that each individual owner shall carry blanket all-risk casualty insurance on the dwelling and a liability policy covering damage or injury occurring on a unit. The casualty insurance shall cover loss or damage by fire or other hazards, including extended coverage, vandalism, and malicious mischief, and shall be in an amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard. The owner shall name the Association as an additional insured and shall deliver to the Association a duplicate original of all policies covering any part of the unit. A policy shall be in effect at all times. Authority to adjust losses under policies obtained by an owner shall be vested in the owner; however, repair or reconstruction of the damaged or destroyed property is to be performed according to the requirements of Section 3 of this Article 7. The Association shall have the right, but not the obligation, at the expense of the owner; if the owner fails to provide a valid policy to the Association with a prepaid receipt upon or before the expiration of any policy. If the Association does acquire insurance on behalf of any owner, the cost thereof shall be assessed against the owner and the unit as a specific assessment.

Section 3. Damage and Destruction.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or part of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this paragraph, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty.

the nature, kind, color, shape, height, materials, and location shall have been submitted in writing to and approved by the Board. The Board may promulgate written guidelines for the exercise of this review.

The Board shall be the sole arbiter of such plans and may withhold approval for any reason, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its representatives shall have the right, during reasonable hours, to enter upon any unit to inspect any unit and any improvements thereon for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such person or persons shall not be deemed guilty of trespass by reason of such entry. In the event said Board or its designee fails to approve or to disapprove such design and location within sixty (60) days after the plans and specifications have been submitted to it, approval will not be required, and this Section will be deemed to have been fully complied with.

ARTICLE 7

INSURANCE AND CASUALTY LOSSES

Section 1. Insurance Maintained by the Association. The Board shall obtain a public liability policy covering the Association and its members for all damage or injury caused by the negligence of the Association or any of its members or agents, and, if reasonably available, directors' and officers' liability insurance. The public liability policy shall have a combined single limit of at least One Million (\$1,000,000.00) Dollars.

Premiums for all insurance policies shall be common expenses of the Association. Each policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance equals the requirements regarding insurance ascertained herein or as promulgated by the Board.

All such insurance coverage obtained by the Board shall be written in the name of the Association and, where required, as further identified in subparagraph (b) below, as trustee for the respective benefitted parties. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company licensed to do business in Georgia and holding a rating of XI or better in the Financial Category as established by A.M. Best Company, Inc., if available, or, if not available, the most nearly equivalent rating.

(b) All liability policies shall be for the benefit of the unit owners.

(c) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(d) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual owners, occupants, or their mortgagees, and the insurance carried by the Association shall be primary.

(e) All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons, at least one of whom must be in the real estate industry and familiar with construction in the Fayette County, Georgia, area.

(f) The Board shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the owners and their respective tenants, servants, agents, and guest;

(b) Repair and Reconstruction. Any damage or destruction of any improvement insured by the Association or required to be insured by a unit owner shall be repaired or reconstructed unless, within sixty (60) days after the casualty, the first mortgage holders of over fifty (50%) percent of the units, seventy-five (75%) percent of the Class "B" members, and the Declarant (provided it is still the owner of any of the subject property) agree that the repair or reconstruction need not take place. Such repair or reconstruction must be in accordance with the original plans and specifications.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's members, levy (a) a special assessment against all owners in proportion to the number of units owned by such owners, if the insurance is that of the Association; or (b) a specific assessment against the affected owner(s), if the insurance is that to be maintained by the unit owner and the unit owner does not voluntarily provide such additional monies. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction, such excess shall be (a) deposited to the benefit of the Association, if it arises from insurance maintained by the Association; or (b) distributed to the owner or his or her mortgagee as their interests may appear, if it arises from insurance maintained by the owner.

ARTICLE 8 CONDEMNATION

In the event that a taking pursuant to condemnation proceedings includes part or all of a dwelling, the dwelling shall be repaired and restored unless otherwise agreed as determined by the provisions of Article 7, Section 3, subparagraph (b). If repair or restoration of the property is not feasible, then the award shall be used to clear the unit of all debris and return it to substantially the natural state in which it existed prior to construction of the dwelling. In either case, the remainder of the award shall be disbursed to the unit owner and the mortgagee of the unit, as their interests appear.

ARTICLE 9 MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders of first mortgages on units in the community. The provisions of this Article apply to both this Declaration and to the By-Laws.

Section 1. Notices of Action. An institutional holder, insurer, or guarantor of a first mortgage, who provides a written request to the Association (such request to state the name and address of such holder, insurer, or guarantor and the unit number securing the mortgage, thereby becoming an "eligible holder"), shall be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any unit on which there is a first mortgage held, insured, or guaranteed by such eligible holder;

(b) any delinquency in the payment of assessments or charges owned by an owner of a unit subject to the mortgage of such eligible holder, where such delinquency has continued for a period of sixty (60) days, provided however, notwithstanding this provision, any holder of a first mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an owner of any obligation under the Declaration or By-Laws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation, or material modification of any insurance policy maintained by the Association;

(d) any proposed action which would require the consent of a specified percentage of mortgage holders;

(e) any proposed amendment to the covenants, conditions, and restrictions in force upon the subject property; and

(f) any proposed termination of this fee simple cluster home development.

Section 2. Special FHLMC, FNMA, FHA, VA Provision. So long as required by the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Federal Housing Authority (FHA), or the Veterans Administration (VA), the following provisions apply in addition to and not in lieu of the foregoing. Unless two-thirds (2/3) of the first mortgagees give their consent, the Association shall not:

(a) change the method of determining the obligations, assessments, dues, or other charges which may be levied against an owner;

(b) by act or omission change, waive, or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of units (the insurance and amendment of architectural standards, procedures, rules, and regulations or use restrictions shall not constitute a change, waiver, or abandonment within the meaning of this subsection);

(c) fail to maintain fire and extended coverage insurance, as required by this Declaration;

(d) use hazard insurance proceeds for any property losses for other than the repair, replacement or reconstruction of such property;

(e) terminate this fee simple cluster home development after a partial casualty loss or condemnation taking; or

(f) voluntarily terminate this fee simple cluster home development for any reason whatsoever.

Nothing contained in this section shall be construed to reduce the percentage vote that must otherwise be obtained under the provisions of this Declaration for any of the acts set out in this section.

Section 3. Notice to Association. Each unit owner shall be obligated to furnish to the Association the name and address of the holder of any mortgage encumbering such owner's unit.

Section 4. Veterans Administration Approval. If any unit is subject to a mortgage guaranteed by the Veterans Administration and as long as the Declarant is a member of the Association, the following actions will require approval of the Veterans Administration annexation of additional properties, dedication of common property, and amendment of this Declaration.

ARTICLE 10 EASEMENTS

Section 1. Easement for Ingress and Egress. Every owner holding title to a dwelling situated between and adjoining by fire walls two other dwellings located within the same single entire cluster home structure shall have an easement for ingress and egress from his or her front lawn to and from the rear lawn of his or her dwelling over and across the front and side lawn of the adjoining dwellings. Such easement shall be for a width not exceeding five (5) feet, and shall be over such property providing the shortest route to his or her rear lawn from his or her front lawn that does not entail a route over and across any improvements, trees, shrubs, etc.

Section 2. Easements for Utilities. There is hereby reserved to the Association blanket easements upon, across, above and under all property within the community for access, ingress, egress, installation, repairing, replacing, and maintaining all utilities serving the community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system,

or water sprinkler system which the Association might decide to have installed to serve the community. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining all utilities serving the community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity, as well as storm drainage and any other service such as, but not limited to, a master television antenna system, cable television system, security system, or water sprinkler system which the Association might decide to have installed to serve the community. It shall be expressly permissible for the Association or its designee, as the case may be, to install, repair, replace, and maintain or to authorize the installation, repairing, replacing, and maintaining of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 3. Easement for Entry. The Association shall have an easement to enter into any unit for emergency, security, safety, and for other purposes reasonably necessary for the proper maintenance and operation of the community, which right may be exercised by the Board, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the owner. It is intended that this right of entry shall include the right of the Association to enter a unit to cure any condition which may increase the possibility of a fire or other hazard in the event an owner fails or refuses to cure the condition upon request by the Board.

Section 4. Easement in Fire Walls. Every unit owner shall have a reciprocal easement in the fire wall or fire walls connecting his dwelling to the dwelling or dwellings situated on the units adjacent to and adjoining his or her unit. Such easement shall specifically be in and to the portion of the fire wall(s) not situated on his or her unit and shall be for the support and safety of his or her dwelling.

ARTICLE II SALES AND LEASES

✓ In order to assure a community of congenial owners and thus protect the value of the units, the sale or leasing of a unit by any owner (other than as herein provided for certain mortgagees and Declarant) shall be subject to the following provisions so long as the property shall be owned in accordance with the terms and conditions of this Declaration:

Section 1. Notice. Any owner intending to sell or lease his or her unit shall give notice in writing to the Board of such intention, stating the name and address of the intended purchaser or lessee, the terms of the proposed transaction, and such other information as the Board may reasonably require. The Board shall have authority to make and to enforce reasonable rules and regulations in order to enforce this provision, including the right to impose fines constituting a lien upon the unit sold or leased.

Section 2. General. Units may be rented only in their entirety; no fraction or portion may be rented. All leases and lessees are subject to the provisions of the Declaration and By-Laws. All rentals must be for a term of not less than one (1) year. The unit owner must make available to the tenant copies of the Declaration, By-Laws, and rules and regulations of the Association. Any lease of a unit in the community shall be deemed to contain the following provisions, whether or not expressly therein stated, and each owner covenants and agrees that any lease of a unit shall contain the following language and agrees that if such language is not expressly contained therein, then such language shall be

incorporated into a lease by existence of this covenant on the unit. Any lessee, by occupancy in a unit, agrees to the applicability of this covenant and incorporation of this covenant and the following language into the lease:

(a) Enforcement. Lessee acknowledges that the Association may bring an action against lessee to recover sums due for damages or injunctive relief or may impose any other sanction authorized by the Declaration and By-Laws, as they may be amended from time to time, or available at law or equity, including, but not limited to, all remedies available to a landlord upon breach or default of a lease agreement by the lessee. Failure by the Association to enforce any of its rights shall in no event be deemed a waiver of the right to do so thereafter.

(b) Compliance with Declaration, By-Laws, and Rules and Regulations. Lessee shall comply strictly with all provisions of the Declaration, By-Laws, and with the administrative rules and regulations adopted pursuant thereto, as any of the foregoing may be lawfully amended from time to time. Lessee shall control the conduct of his or her family and guests in order to assure compliance with the foregoing and shall indemnify and hold lessor and the Association harmless for any such person's failure to comply. Lessee acknowledges that the violation by Lessee or any occupant or person living with lessee of any provision of the Declaration, By-Laws, or rules and regulations adopted thereunder shall constitute a default under this lease.

(c) Liability for Assessments. Upon request by the Association, lessee shall pay to the Association all unpaid annual assessments and special assessments, as lawfully determined and made payable during and prior to the term of this Agreement and any other period of occupancy by lessee; provided, however, lessee need not make such payments to the Association in excess of or prior to the due dates for monthly rental payments unpaid at the time of the Association's request. All payments made to the Association shall reduce by the same amount lessee's obligation to make monthly rental payments to lessor under the lease. If lessee fails to comply with the Association's request to pay assessments, lessee shall pay to the Association all late or delinquent charges, fines, interest, and costs of collection, including, but not limited to, reasonable attorney's fees actually incurred, to the same extent lessee would be required to make such payments to the Association if lessee were the owner of the premises during the term of this Agreement and any other period of occupancy by lessee.

(d) Subordination of Rights. Lessee's rights shall be subject and inferior to all rights of the Association and any bona fide mortgage or deed to secure debt which is now or may hereafter be placed upon the premises by lessor.

Section 3. Attorney's Fees and Costs. In the event the Association proceeds to evict the lessee, any costs, including attorney's fees and court costs, associated with the eviction shall be specially assessed against the unit and the owner thereof, such being deemed hereby as an expense which benefits the leased unit and the owner thereof.

Section 4. Violation by Lessee. Any lessee charged with a violation of the Declaration, By-Laws, or rules and regulations is entitled to the same rights to which the owner is entitled as provided in the Association's By-Laws.

Section 5. Applicability. Notwithstanding anything to the contrary herein contained, the provisions of this Article shall not impair the right of any first mortgagee to:

- (a) foreclose or take title to a unit pursuant to remedies contained in any mortgage;
- (b) take a deed or assignment in lieu of foreclosure; or
- (c) sell, lease, or otherwise dispose of a unit acquired by the mortgagee.

ARTICLE 12
DECLARANT RIGHTS

Section 1. Easements. Notwithstanding any provisions contained in this Declaration to the contrary, Declarant hereby expressly reserved unto itself and its successors and assigns a non-exclusive, perpetual right, privilege, and easement with respect to the community for the benefit of Declarant, its successors and assigns over, under, in and/or on the community, without obligation and without charge to Declarant, for the purposes of construction, installation, relocation, development, sale, lease, maintenance, repair, replacement, use and enjoyment, and/or otherwise dealing with the community and the additional property. The reserved easement shall constitute a burden on the title to the community and specifically includes, but is not limited to:

(a) the right of access, ingress, and egress for vehicular and pedestrian traffic over, under, on, or in the community; and the right to tie into any portion of the community with driveways, parking areas, and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee for so doing), replace, relocate, maintain, and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer, and drainage lines and facilities constructed or installed in, on, under and/or over the community; and

(b) the right to construct, install, replace, relocate, maintain, repair, use, and enjoy signs, model residences, and sales offices in the community.

(c) No rights, privileges, and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the community, but shall be held independent of such title, and no such right, privilege, or easement shall be surrendered, conveyed, or released unless and until and except by delivery of a quit-claim deed from Declarant releasing such right, privilege, or easement by express reference thereto.

Section 2. Directors Appointed by Declarant. The Directors shall be selected by the Declarant acting in its sole discretion and shall serve at the pleasure of the Declarant, so long as the Declarant is a Class "B" member, unless the Declarant shall earlier surrender this right to select Directors. The Directors selected by the Declarant need not be owners or residents in the community. The names of the initial Directors selected by the Declarant are set forth in the Articles of Incorporation of the Association.

Section 3. Veto. So long as the Declarant is a Class "B" member, the Declarant shall have a veto power over all actions of the Board, as is more fully provided in this section. This veto power shall be exercisable only by Declarant or its successors and assigns who specifically take this power in a recorded instrument.

Section 4. Sale or Lease of Units by Declarant. Notwithstanding anything to the contrary contained herein, Declarant shall have the right to sell or lease units and to erect and maintain signs to facilitate such sales or leases as it, in its sole discretion, deems appropriate and shall not be required to comply with the provisions of this Declaration regarding signs and sales and leases.

Section 5. Notices. Any notice required to be given Declarant shall be effective on receipt and shall be sent registered or certified mail, return receipt requested, or personally delivered, addressed as follows or addressed as designated by an entity which becomes Declarant pursuant to Article I(f) above:

BOB DIXON BUILDER, INC.

695 N. Jeff Davis Drive

Fayetteville, Georgia 30214

Section 6. Contracts Executed During Declarant Control. All

contracts or leases executed by or on behalf of the Association prior to extinguishment of the Declarant's veto power shall contain a termination clause permitting the Association to terminate the contract or lease at any time after extinguishment of the Declarant's veto power, without cause and without penalty, upon not more than ninety (90) days' written notice.

ARTICLE 13

ASSOCIATION OBLIGATIONS

The Association shall make available to unit owners, lenders, insurers of any first mortgages, prospective purchasers and lessees of any dwellings current copies of this Declaration, the By-Laws and other rules and regulations which this fee simple cluster home development is subject to. Further, upon request, the Association shall provide to any such person or institution a copy of the most recent annual audited financial statement of the Association.

ARTICLE 14

GENERAL PROVISIONS

Section 1. Enforcement. Each owner and every occupant of a unit shall comply strictly with the By-Laws, the rules and regulations, and the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions, and restrictions set forth in this Declaration and in the deed to his or her unit, if any. The Board may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the By-Laws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board on behalf of the Association, or, in a proper case, by an aggrieved owner. Failure by the Association or any owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Self Help. In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a unit to abate or remove, using such force as may be reasonably necessary, an erection, thing or condition which violates this Declaration, the By-Laws, the rules and regulations, or the use restrictions. Unless an emergency situation exists, the Board shall give the violating unit owner ten (10) days' written notice of its intent to exercise self-help. All costs of self-help, including reasonable attorney's fees actually incurred shall be assessed against the violating unit owner and shall be collected as provided for herein for the collection of assessments.

Section 3. Duration. The provisions of this Declaration shall run with and bind the subject property and shall be and remain in effect perpetually to the extent permitted by law; provided, however, so long as Georgia law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, and such provisions may be renewed or extended, in whole or in part, beyond the initial period permitted by such law, provided such renewal or extension is approved by at least a majority of the votes which the Class "B" members of the Association present or represented by proxy are entitled to cast at a meeting duly called for such purpose. Further, no such renewal or extension shall be effective unless there is filed for record in the Office of the Clerk of the Superior Court of Fayette County, Georgia, on or before the effective date thereof an instrument executed by the President and Secretary of the Association which shall state the terms of such renewal or extension and which shall contain a certification by such Secretary that such extension and renewal was duly approved by the Class "B" members of the Association. Every purchaser or grantee of any interest in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this section.

All that tract or parcel of land lying and being in Land Lot 12/ of the 7th District of Fayette County, Georgia and being more particularly described as follows:

Book 361 Page 688

BEGINNING at an iron pin on the north line of the right of way of State Route 54 (said iron pin being located south $72^{\circ} 00' 16''$ west 50' from the corner formed by the intersection of the north line of the right of way of State Route 54 (a road having an 80' right of way) with the west line of the right of way of Flat Creek Road (a road having an 80' right of way), if said street lines were extended to form an angle instead of a truncated curve; running thence south $72^{\circ} 00' 16''$ west along the north line of the right of way of State Route 54 a distance of 454.52' to a point; continuing thence in a generally westerly direction along the northerly line of the right of way of State Route 54 and along the arc of a curve having a radius of 2,961.12' a distance of 335.50' to a point; running thence north $10^{\circ} 34' 27''$ west a distance of 225.39' to a point; running thence south $66^{\circ} 30' 29''$ west a distance of 104' to a point; running thence north $23^{\circ} 29' 10''$ west a distance of 322.66' to a point (the line thus described being the same property line as shown on the plat of survey prepared for The City of Peachtree City by J. R. Wood Surveyors and Planners, Inc. dated May 5, 1979); running thence north $43^{\circ} 57' 07''$ west a distance of 78.02' to a point; running thence north $27^{\circ} 41' 43''$ east a distance of 85' to a point; running thence north $49^{\circ} 24' 54''$ east a distance of 255.62' to a point (the line thus described being the same property line as shown on the plat of survey of The Arbors Subdivision prepared by Kenneth B. Piper, R.L.S., dated October 30, 1981); running thence north $39^{\circ} 52' 09''$ east a distance of 602.38' to a point on the westerly side of the right of way of Flat Creek Road (the line thus described being the same property line as shown on the plat of survey of The Arbors Subdivision prepared by Kenneth B. Piper, R.L.S., dated October 30, 1981); running thence south $32^{\circ} 22' 46''$ east along the westerly side of the right of way of Flat Creek Road a distance of 570.11' to a point; continuing thence in a generally southerly direction along the westerly side of the right of way of Flat Creek Road and along the arc of a curve having a radius of 681.91' a distance of 205.97'; continuing thence south $18^{\circ} 20' 03''$ east along the westerly side of the right of way of Flat Creek Road a distance of 259.96' to a point; running thence south $26^{\circ} 50' 06''$ west 70.50' to a point on the north side of the right of way of State Route 54 and the POINT OF BEGINNING; containing 17.011 acres and being the same property as is shown on that certain plat of survey dated January 20, 1984, prepared for Peachtree City Development Corp. by J. R. Wood Registered Land Surveyor No. 2084; said plat by this reference being incorporated herein and made a part hereof, (hereinafter referred to as the "Property").

EXHIBIT "A"

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provisions hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the units subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase mortgage loans on the units subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to insure mortgage loans on the units subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any owner's unit unless any such unit owner shall consent thereto in writing. Further, so long as Class "A" membership exists, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially or adversely affect the substantive rights of any unit owner hereunder, nor shall it adversely affect title to any unit without the consent of the affected unit owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of at least a majority of the Class "B" members and the consent of the Declarant, so long as the Declarant owns any of the subject property. Amendments to this Declaration shall become effective upon recordation in the Fayette County, Georgia records, unless a later effective date is specified therein.

Section 5. Partition. The common property shall remain undivided, and no unit owner nor any other person shall bring any action for partition or division of the whole or any part thereof without the written consent of all owners of all portions of the property, including, but not necessarily limited to, the units located within the community.

Section 6. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 7. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effective without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 8. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 9. Perpetuities. If any of the covenants, conditions, restrictions, or other provisions of this Declaration shall be unlawful, void, or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth, Queen of England.

Section 10. Indemnification. The Association shall indemnify every officer and director against any and all expenses, including counsel fees, imposed upon or reasonably incurred by any officer or director in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or

having been an officer or director. The officers and directors shall not be liable for any mistake of judgment, negligent or otherwise, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association (except to the extent that such officers or directors may also be members of the Association), and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director, or former officer or director, may be entitled. The Association shall maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

Section 11. Books and Records.

(a) Inspection by Members and Mortgages. This Declaration, the By-Laws, copies of rules and use restrictions, membership register, books of account, and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by any member of the Association or by his duly appointed representative and by holders, insurers, or guarantors of any first mortgage at any reasonable time and for a purpose reasonably related to his or her interest as a member or holder, insurer, or grantor of a first mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

- (i) notice to be given to the custodian of the records;
- (ii) hours and days of the week when such an inspection may be made; and
- (iii) payment of the cost of reproducing copies of documents.

(c) Inspection by Directors. Every Director shall have the absolute right and any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Director includes the right to make extra copies of documents at the reasonable expense of the Association.

Section 12. Audit. An audit of the accounts of the Association shall be made annually in the manner as the Board may decide; provided, however, after having received the Board's audit at the annual meeting, the Class "B" members, by a majority vote, may require that the accounts of the Association be audited as a common expense by a public accountant.

IN WITNESS WHEREOF, the undersigned, being the duly appointed officers of Declarant herein, have executed this instrument and affixed the corporate seal this 21st day of October, 1985.

BOB DIXON BUILDER, INC

BY:

ATTEST:

(CORPORATE SEAL)

Signed, sealed, and delivered
this 21st day of October

1985, in the presence of: GEORGIA, Fayette County
Clerk's Office Superior Court

WITNESS

NOTARY PUBLIC

My Commission Expires Feb. 20, 1988

Filed for record Oct 21 1985

Recorded in Book 361 Page 662
This 22 day of Oct 1985

W. A. Ballard BOOK 361 PAGE 676
Clerk

Cross Index Deed Book 361, Page 662
Deed Book 1103, Page 358

STATE OF GEORGIA
COUNTY OF FAYETTE

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR DOVER SQUARE**

WHEREAS, Bob Dixon Builder, Inc., a Georgia Corporation, filed a Declaration of Covenants, Conditions and Restrictions for Dover Square recorded in Deed Book 361, Page 662, et.seq. Fayette County, Georgia records; and

WHEREAS, Article 14, Section 4 of the Declaration permits the Class B Members to amend the Declaration any time upon the affirmative vote or written consent, of any combination thereof, of at least a majority of the Class "B" Members; and

WHEREAS, at least a majority of the Class "B" Members have approved the following amendment;

NOW THEREFORE, the Declaration is amended as follows:

1.

Article 6 is amended by deleting Section 14 in its entirety and replacing it with the following:

Section 14. Exterior Color of Unit. Every unit owner shall be required to paint, or have painted, the exterior of his or her dwelling a minimum of once every seven (7) years. Any unit owner desirous of painting his dwelling shall consult with the owner or owners of the dwellings contained, along with his or her dwelling, within a single entire cluster home structure. All such dwelling combined within a single entire cluster home structure shall be painted within the same time period not exceeding three (3) months and shall be painted either the same color or, if approved by the Board, such colors as compliment the appearance of the adjoining dwellings. All painting shall be performed by, or at the direction of, each unit owner and each such unit owner shall be responsible for the costs incurred in painting his or her dwelling. In the event of a disagreement between unit owners as to color or time of painting the dispute shall be resolved by a majority vote of Class "B" members of the Association and such decision shall be binding upon the subject unit owners. Any replacing or repairing of the roof of a unit shall be covered

the Lot shall automatically be converted to Restricted Leasing Status. Open Leasing Status may also be conferred upon a Lot as provided in subparagraph (b) below.

iii) Restricted Leasing Status shall subject a Lot to the restrictions on leasing contained in subparagraph (b) below. All Lots which are not being leased on the date that this Declaration is recorded in the Fayette County, Georgia records shall be in Restricted Leasing Status unless converted to Open Leasing Status as provided in subparagraph (b) below.

(b) General. No Owner of a Lot in Restricted Leasing Status may lease his or her Lot if seven (7) Lots in the Property are in Open Leasing Status, except as provided in subparagraph (c) below for cases of undue hardship. Any Owner of a Lot in Restricted Leasing Status may apply in writing to the Board of Directors for conversion to Open Leasing Status in accordance with rules and regulations promulgated by the Board of Directors. Upon receipt of such written application, the Lot shall be placed at the end of a waiting list for conversion to Open Leasing Status. At such times as less than seven (7) Lots are in Open Leasing Status, the Board shall notify the Owner of the Lot at the top of the waiting list of its conversion to Open Leasing Status, and such Owner shall have ninety (90) days within which to lease the Lot or it shall automatically revert to Restricted Leasing Status. Any Lot in Open Leasing Status shall automatically be converted to Restricted Leasing Status if the Lot is not subject to an approved lease for ninety (90) or more consecutive days.

(c) Undue Hardship. Notwithstanding the provisions of subparagraph (b) above, the Board of Directors shall be empowered to allow reasonable leasing of a Lot upon application in accordance with this Paragraph to avoid undue hardship, including, but not limited to, (1) where a Lot Owner must relocate his or her residence outside the Atlanta metropolitan area and cannot, within six (6) months from the date that the Lot was placed on the market, sell the Lot for a price no greater than the current appraised market value, after having made reasonable efforts to do so; (2) where the Owner dies and the Lot is being administered by his or her estate; and (3) where the Owner takes a leave of absence or temporarily relocates and intends to return to reside in the Lot, in which case the Lot Owner must reapply every year for renewal of the hardship exception. Those Owners who have complied with this subparagraph (c), have demonstrated that the inability to lease their Lot would result in undue hardship, and have obtained the requisite written approval of the Board may lease their Lots for such duration as the Board reasonably determines is necessary to prevent undue hardship.

Any Owner who believes that he or she must lease his or her Lot to avoid undue hardship shall submit a written application to the Board setting forth the circumstances necessitating the leasing and such other information as the Board may reasonably require. Leasing in the case of undue hardship shall be permitted only upon the Board's written approval of the Owner's application. When an application is approved, the Owner shall provide the Board with the name and phone number of the lessee and the Owner's address other than at the Property and other such information as the Board may reasonably require within ten (10) days after a lease has been signed by both parties.

(d) Notice. Within ten (10) days after entering into a sales contract or lease of a Lot, the Owner shall provide the Board of Directors with the name and phone number of the purchaser or lessee and the names of all other people occupying the Lot, the Owner's address other than at the Property, and such other information as the Board may reasonably require. Notwithstanding anything in the Declaration to the contrary, failure to provide the above information to the Board within ten (10) days after entering into the sales contract or lease of a Lot may result in a fine against the Owner for each day that the information is not provided to the

STATE OF GEORGIA

FILED & RECORDED
FAYETTE COUNTY, GA.

Cross Reference: Deed Book 361
Page 662

COUNTY OF FAYETTE

'96 OCT 31 AM 11 05

W.A. BALLARD, CLERK

BOOK 1103 PAGE 358

**AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR DOVER SQUARE**

WHEREAS, Bob Dixon Builder, Inc., a Georgia Corporation, filed a Declaration of Covenants, Conditions and Restrictions for Dover Square recorded in Deed Book 361, Page 662, et seq. of the Fayette County, Georgia, Land Records; and

WHEREAS, Article 14, Section 4 of the Declaration permits the Class B Members to amend the Declaration any time upon the affirmative vote or written consent or any combination thereof of at least a majority of the Class B Members; and

WHEREAS, at least a majority of the Class B Members have approved the following amendment;

NOW, THEREFORE, the Declaration is amended as follows:

1.

Article 11 is amended by deleting Section 1 in its entirety and replacing it with the following:

Section 1. **SALES AND LEASING**

In order to protect the equity of the individual Lot Owners at Dover Square, to carry out the purpose for which the Property was formed by preserving the character of the Property as a homogenous residential community of predominantly owner-occupied homes and by preventing the Property from assuming the character of a renter-occupied apartment complex, and to comply with the eligibility requirements for financing in the secondary mortgage market insofar as such criteria provide that the project be substantially owner-occupied, the sale or leasing of Lots shall be governed by the restrictions imposed by this Paragraph.

(a) **Definitions.**

i) **Leasing** shall mean the regular occupancy of a Lot 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.

ii) **Open Leasing Status** shall authorize a Lot to be leased at any time. Each Lot at Dover Square which is being leased on the date that this Declaration is recorded in the Fayette County, Georgia records shall have Open Leasing Status until the Lot is sold at which time the Lot shall automatically be converted to Restricted Leasing Status. Unless so converted to Restricted Leasing Status, the Lot shall be in Open Leasing Status until such time as title is conveyed to any person or entity other than the person or entity holding record title on the date that this Declaration is recorded in the Fayette County, Georgia records, after which conveyance

Nothing herein shall be construed as giving any party the right to approve or disapprove
1 lessee.

2.

BOOK 1103 PAGE 360

Article 11 is amended by adding the following Section-6:

Section 6. Applicability of this Article. Leases existing on the date which this Declaration is recorded in the Fayette County, Georgia records shall not be subject to the terms of this Article; such leases may continue in accordance with the terms of the Original Declaration as it existed prior to the recording date of this Declaration. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Article. Any Owner of a Lot which is leased on the effective date of this Declaration shall place on file with the Board of Directors a copy of the lease agreement in effect within thirty (30) days of the date on which this Declaration is recorded in the Fayette County, Georgia records.

IN WITNESS WHEREOF, the undersigned officers of the Dover Square Homeowners Association, Inc. hereby certify that the above amendment to the Declaration was duly adopted by the required majority of the Association and its membership.

This 25th day of October, 1996

DOVER SQUARE HOMEOWNERS ASSOCIATION, INC.

By:

President

Attest:

Secretary

Signed, sealed, and delivered this
25th day of October, 1996.

Peggy P. Fair
Witness

Corinne B Baker
Notary Public

My Commission Expires:

[NOTARY SEAL]

