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NORTH CAROLINA  
DAVIDSON COUNTY

DECLARATION OF CONDOMINIUM  
FOR  
HEDGECK PLACE

JOHN KAVANAGH COMPANY, a North Carolina corporation with its principal place of business in Guilford County, North Carolina (hereinafter referred to as "Declarant") does hereby make, declare and establish this Declaration of Condominium as and for the plan of dwelling ownership of **HEDGECK PLACE CONDOMINIUMS**, being the property and improvements hereinafter described.

I.

ESTABLISHMENT OF CONDOMINIUM

Declarant is the owner of the fee simple title to that certain real property situated in Abbotts Creek Township, Davidson County, State of North Carolina, which property is shown as Map 1, Building #1 on **Exhibit "A"** attached hereto and incorporated herein by reference, and on which property there have been constructed one (1) 3-story building containing a total of twelve (12) condominium living units and their supporting facilities, areas designated for parking spaces, and other appurtenant improvements. The building is of wood frame construction as more particularly shown on Exhibit "A" hereto. There is no basement. Declarant does hereby submit the above-described property and improvements to condominium ownership under the provisions of Chapter 47C of the General Statutes of North Carolina (North Carolina Condominium Act), and hereby declares the same to be a condominium to be known and identified as "Hedgecock Place Condominium," sometimes hereinafter referred to as the "Condominium." It is the intent of Declarant that the provisions of this Declaration in all respect conform and comply to the requirements set forth in the North Carolina Condominium Act. To the extent any provision contained herein does not conform or comply with the North Carolina Condominium Act, the provisions of the Act shall control.

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## II.

### SURVEY AND DESCRIPTION OF IMPROVEMENTS

Annexed hereto and expressly made a part hereof as Exhibit "A." consisting of 3 pages, is a survey of the land and graphic descriptions and plans of the improvements constituting the Condominium (the "Condominium Plan"), identifying the Units and Common Elements, as said terms are hereinafter defined, and their respective locations, approximate dimensions and principal building materials. Each Unit has been assigned an Identifying Number on said Exhibit "A," and no Unit bears the same Identifying Number as any other Unit. The Condominium Plan is recorded in Condominium Plat Book 1, Pages 60-62, in the Office of the Register of Deeds, Davidson County, North Carolina (the "Davidson County Registry").

## III.

### DEFINITIONS

The Condominium consists of Units and Common Elements, as said terms are hereinafter defined.

A. Units as the term is used herein shall mean and comprise the twelve (12) separately identified Units that are designated in Exhibit "A" to this Declaration, excluding, however, all spaces and improvements lying:

1. Beneath the subflooring material of all floors;
2. Beneath the interior surfacing material of all perimeter walls, interior bearing walls and/or bearing partitions;
3. Above the interior surfacing material of the ceilings;

and further excluding all pipes, ducts, wires, conduits and other facilities for the furnishing of utilities and other services to Units and Common Elements up to and including the point of entry of such pipes, ducts, wires and conduits through the interior surfacing material for walls and ceilings and subflooring surfacing material for floors. All pipes, ducts, wires, conduits and other such facilities shall become a part of the respective Units at such point of entry.

As shown on Exhibit "A," immediately to the rear of certain Condominium Units there is either a patio (first floor Units) or a balcony (second and third floor Units). Each such patio or balcony is a part of the Unit to which it is attached. The Storage Areas and the Water Heater Areas located to the rear of each Unit are also a part of the respective Unit which they adjoin, as shown on Exhibit "A." All fireplaces, including dampers, are a part of the respective Unit which they serve. All chimneys shall be part of the Common Elements, as defined below.

B. Common Elements shall mean and comprise: (i) all of the real property, improvements and facilities of the Condominium other than the Units; and, (ii) all personal property held and maintained for the use and enjoyment of all the Unit Owners. The parking



areas and walkways which are Common Elements of the Condominium are as depicted on the Condominium Plan.

Recorded maps or plats of the Condominium may identify "COMMON RECREATIONAL AREAS," which, if shown, are areas required by the City of High Point to be designated. Declarant reserves the right, but not the obligation, to place and construct decking, a gazebo, picnic areas, picnic tables, grills, and/or other similar improvements within these areas and any other portions of the Common Elements, which improvements, if so placed and constructed, shall become part of the Common Elements of the Condominium. **NO OTHER RECREATIONAL AMENITIES EXIST OR ARE PROPOSED TO BE CONSTRUCTED BY DECLARANT AS PART OF THE CONDOMINIUM.** Pursuant to rules and regulations from time to time promulgated by the Association, upon request and after such notice as the rules and regulations may require, the Association, in the sole discretion of the Association's Executive Board or its designee, may allow a Member of the Association exclusive use of all or certain portions of any such decks, gazebo, picnic areas, picnic tables, grills, and/or other similar improvements or areas which may be a part of the Common Elements for private events for a period not to exceed twenty-four (24) hours. Such rules and regulations may require that fees and/or deposits be paid to the Association in connection with such exclusive private use. Any damage to the Common Elements or any improvements located thereon during any such private event and any liability incurred by the Association as a result thereof not covered by insurance maintained by the Association (including any deductible) shall be the personal obligation of the Member or Members (joint and several) reserving such portions of the Common Elements and if not paid within thirty (30) days of written demand therefor shall be subject to collection by the Association in accordance with the provisions of Article XXVI hereof.

C. Certain portions of the Common Elements are reserved for the use of a particular Unit or Units to the exclusion of other Units and are designated as "Limited Common Elements." Limited Common Elements and the Units to which they are reserved are as follows:

1. Any shutters, awnings, window boxes, doorsteps, stoops and all exterior doors, window frames, panes and screens designed to serve a single Unit but located outside the Unit's boundaries are allocated exclusively for the use of that Unit.

2. Any entrance breezeway, stairway, elevator, hall and landing located in any building is reserved for the use of and allocated to the Unit Owners of Units in that building, their families, guests, invitees and lessees.

D. To the extent any Unit or Common Element encroaches on any other Unit or Common Element as a result of the construction, reconstruction, repair, shifting, settlement or movement of any portion of the improvements, a valid easement for the encroachment shall exist for so long as the encroachment exists.

E. The terms "Allocated Interests," "Association," "Common Elements," "Common Expenses," "Common Expense Liability," "Condominium," a "declarant," "Declaration," "Development Rights," "Executive Board," "Identifying Number," "Limited Common Element," "Residential Purposes," "Special Declarant Rights," "Unit," "Unit Owner," and "Lessee," unless it is plainly evident from the content of this Declaration that a different meaning is intended,



shall, as used herein, have the meaning set out in Section 47C-1-103 of Chapter 47C of the General Statutes of North Carolina, known as the North Carolina Condominium Act, as that statute exists as of the date of the filing of this Declaration.

#### IV.

#### OWNERSHIP OF UNITS AND ALLOCATED INTEREST IN COMMON ELEMENTS

Each Unit shall be conveyed and treated as an individual property capable of independent use and fee simple ownership, and the Unit Owner of each Unit shall also own, as an appurtenance to the ownership of each said Unit, an Allocated Interest in the Common Elements. The Allocated Interest appurtenant to each Unit as of the date of this Declaration is as set out in Exhibit "B" attached hereto and made a part hereof. The Allocated Interest in the Common Elements appurtenant to each Unit as shown in said Exhibit has been determined by dividing the Common Elements equally among all Units of the Condominium on the date of this Declaration.

#### V.

#### DEVELOPMENT RIGHTS

A. Addition of Real Estate to Condominium: Creation of Additional Units. Common Elements and Limited Common Elements. Declarant hereby reserves the right for seven (7) years from the date of recording of this Declaration to add additional real estate to the Condominium, and to create upon such additional real estate additional Units, Common Elements and Limited Common Elements, all without the consent of any Unit Owner or mortgagee. In the event Declarant elects to create additional Units either by adding additional real estate to the Condominium, such expansion could result in the addition of up to eighty-four (84) additional Units. The total number of Units in the Condominium shall not exceed ninety-six (96). Additional real estate, if added to the Condominium, will be located within the land described in Exhibit "C" attached hereto and incorporated herein by reference. Declarant shall have no obligation of any kind to add any or all of the additional real estate described herein to the Condominium. The types of buildings and the architectural style, size and construction quality of any Units added to the Condominium pursuant to this Article V, Section A shall be similar to the existing Condominium building and Units; provided, however, the types of buildings and the architectural style and size of any Units added to the Condominium may be varied by the Declarant with the prior approval of each, if any, of the following which holds, insures or guarantees any mortgage on any Unit in the Condominium: the Department of Housing and Urban Development ("HUD"), the Federal National Mortgage Association ("FNMA"), the Federal Home Loan Mortgage Corporation ("FHLMC") and the Department of Veterans Affairs ("VA").

The lien of any deed of trust or mortgage encumbering any portion of any property added to the Condominium pursuant to this Paragraph shall be subordinated to the terms and provisions of this Declaration. Declarant shall pay (or if disputed, bond) all taxes and other assessments imposed on any property added by Declarant to the Condominium pursuant to this Paragraph covering any period prior to the addition of such property. In addition, Declarant shall promptly



satisfy or bond any lien arising from the construction of improvements by Declarant and imposed on any portion of the Condominium other than Units owned by Declarant. All improvements intended as additional units, Common Elements and Limited Common Elements shall be substantially complete prior to the annexation of such improvements.

In the event Declarant elects to add additional real estate to the Condominium and thereby creates additional Units, then the Allocated Interest in the Common Elements appurtenant to each Unit will change. The proportional interest in the Common Elements appurtenant to each Unit will be determined by dividing the Common Elements equally among all Units of the Condominium, including all additional Units created pursuant to this paragraph. In the event Declarant elects to add additional real estate to the Condominium, Declarant shall, in each instance, file an amendment to this Declaration stating the Allocated Interest in the Common Elements appurtenant to each Unit then a part of the Condominium at the time of such filing, including any additional Units thereby created.

B. Method of Exercising Development Rights. In the event Declarant exercises any of its development rights under Paragraphs A of this Article, Declarant shall prepare, execute with the same formalities as a deed, and record an amendment to this Declaration in the Davidson County Registry, such amendment to refer specifically to the recording data identifying this Declaration. Such amendment shall assign an Identifying Number to any new Unit created thereby, describe any new Common Elements and Limited Common Elements created thereby and, in the case of the latter, designate the Unit(s) to which such Limited Common Elements are reserved.

In addition to the execution and recordation of the amendment to the Declaration described above, Declarant shall record in the Davidson County Registry, either new plats and plans of the Condominium evidencing the changes effected by Declarant's exercise of its development rights, or new certifications of the plats and plans previously recorded if the Condominium continues to conform to those plats and plans.

Each Unit Owner shall be deemed by his acceptance of the deed to a Unit to have consented to the Development Rights reserved in this Article and to any amendments previously or thereafter executed by Declarant pursuant to this Article and to Article XXIX hereof. Except as provided in this Declaration, the Allocated Interest in the Common Elements appurtenant to each Unit shall not be changed except with the unanimous consent of all Unit Owners and the consent of at least two-thirds (2/3rds) of the holders of first mortgage or deed of trust liens on the Units (based on one (1) vote for each first mortgage or deed of trust lien held).

Any and all of the Development Rights reserved under this Article V may be exercised as to any, all or none of the real estate described in Exhibit "C" of this Declaration, at different times and from time to time, and in any sequence, all in the sole discretion of the Declarant.

C. Rights of HUD, FNMA, FHLMC and VA. Except as otherwise herein provided with respect to the addition by Declarant of the land described in Exhibit "C," no additional property may be added to the existing Condominium without the prior written consent of each of the following which holds, insures or guarantees any mortgage on any Unit in the Condominium: HUD, FNMA, FHLMC and VA.

## VI.

### RESTRICTIONS AGAINST FURTHER SUBDIVIDING OF UNITS: REALLOCATION OF LIMITED COMMON ELEMENTS: SEPARATE CONVEYANCE OF COMMON ELEMENT INTEREST PROHIBITED

No Unit may be divided, subdivided or partitioned, except with the unanimous consent of all Unit Owners, the consent of at least two-thirds (2/3rds) of the holders of first mortgage or deed of trust liens on the Units (based on one (1) vote for each first mortgage or deed of trust lien held), and the consent of all holders of mortgage or deed of trust liens on the Unit(s) to be divided, subdivided or partitioned. If any Unit is subdivided in accordance with the foregoing provisions, the Association shall cause to be filed an amendment to this Declaration reallocating the Allocated Interest appurtenant to the original Unit between or among the new Units created by the subdivision of the Unit in proportion to the number of square feet of heated floor area contained in each new Unit.

Limited Common Elements may be reallocated by two or more Unit Owners by an amendment to the Declaration executed by all Unit Owners between or among whose Units the reallocation is made. The Association, at the expense of such Unit Owners, shall prepare and record the executed amendment in the names of the Unit Owners executing same, in the same manner as a deed, in the Davidson County Registry.

Except as otherwise provided in this Declaration, the Allocated Interest in the Common Elements declared to be an appurtenance to each Unit shall not be conveyed, devised, encumbered or otherwise dealt with separately from said Unit, and the Allocated Interest in the Common Elements appurtenant to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such Allocated Interest is not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any conveyance, encumbrance, judicial sale or other voluntary or involuntary transaction which purports to grant any right, interest or lien in, to or upon a Unit shall be null, void and of no effect insofar as the same purports to affect any interest in a Unit and its Allocated Interest in Common Elements, unless the same purports to convey, devise, encumber or otherwise trade or deal with the entire Unit. Any instrument conveying, devising, encumbering or otherwise dealing with any Unit, which describes said Unit by the Identifying Number assigned thereto in Exhibit "A" without limitation or exception, shall be deemed and construed to affect the entire Unit and its Allocated Interest in the Common Elements. Nothing herein contained shall be construed as limiting or preventing ownership of any Unit and its Allocated Interest in the Common Elements by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety.

## VII.

### THE CONDOMINIUM SUBJECT TO RESTRICTIONS

The Units, Common Elements and Limited Common Elements shall be, and the same are hereby declared to be, subject to the restrictions, easements, conditions and covenants prescribed



and established herein governing the use thereof and setting forth the obligations and responsibilities incident to ownership of each Unit and its Allocated Interest in the Common Elements, and said Units, Common Elements and Limited Common Elements are further declared to be subject to the restrictions, easements, conditions and limitations now of record affecting the land and improvements of the Condominium.

Listed below is the recording data for all easements and licenses which have been recorded prior to this Declaration and which now affect the Condominium or which affect the property which may become a part of the Condominium by virtue of the exercise of the Development Rights set out in Article V hereof:

1. Right of Way Agreement to the North Carolina Department of Transportation recorded in Book 1254, Page 1516, Davidson County Registry.
2. Right of Way Easements to Colonial Pipeline Company recorded in Book 370, Page 125 and Book 558, Page 809, Davidson County Registry.
3. Right of Way to Duke Power Company recorded in Book 572, Page 123, Davidson County Registry.
4. Sanitary Sewer Easement Agreement between Shugart Enterprises, LLC and Kavanagh Associates, Inc. recorded in Book 1315, Page 1829, Davidson County Registry.
5. Deed of Easement between High Point Soccer Association, Inc. d/b/a Piedmont Soccer Alliance and Richard L. Orr, Jr. recorded in Book 1163, Page 0033, Davidson County Registry.
6. Right of Way to North Carolina Department of Transportation recorded in Book 5264, Page 1108, Guilford County Registry.
7. Sewer Line Easement between High Point Soccer Association, Inc. d/b/a Piedmont Soccer Alliance and Shugart Management, Inc. recorded in Book 1418, Page 0849, Davidson County Registry.
8. Warranty Deed conveying 60 foot right of way from High Point Soccer Association, Inc. d/b/a Piedmont Soccer Alliance to Richard L. Orr, Jr. recorded in Book 1399, Page 1903, Davidson County Registry.
9. Easements and rights of way as shown on Plats recorded in Plat Book 34, Page 37 and Plat Book 36, Page 61, Davidson County Registry.

In addition, as provided in Article X below, Hedgecock Place Condominium Homeowners Association, Inc., hereinafter identified, shall have the authority and power to grant easements, leases, licenses and concessions through, over or with respect to the Common Elements for public utilities or other public purposes consistent with the intended use of the Common

Elements by the Condominium and reasonably necessary to the ongoing development and operation of the Condominium, without a vote or the consent of the Unit Owners; provided, however, no such grant shall unreasonably interfere with or obstruct the Owners' right of ingress to and egress from the Units. Also, as provided in Article XII below, Declarant has reserved certain special declarant rights and, in connection therewith, has reserved certain easements to facilitate the exercise of such rights.

#### VIII.

##### PERPETUAL NON-EXCLUSIVE EASEMENT IN COMMON ELEMENTS: CONVEYANCE OR ENCUMBRANCE OF COMMON ELEMENTS

The Common Elements shall be, and the same are hereby declared to be, subject to a perpetual non-exclusive easement in favor of all of the Unit Owners for their use and the use of their immediate families, guests and invitees, for all proper and normal purposes, including, without limitation, ingress to and egress from each Unit, and for the furnishing of services and facilities for which the same are reasonably intended, for the enjoyment of said Unit Owners. Notwithstanding the foregoing or anything provided herein to the contrary, Hedgecock Place Condominium Homeowners Association, Inc. shall have the exclusive right to establish the rules and regulations pursuant to which a Unit Owner, his family, guests and invitees, may be entitled to use the Common Elements, including, without limitation, the right to make permanent and temporary assignments of parking spaces, the right to restrict or prohibit the parking of recreational and/or commercial vehicles in the Common Elements and the right to restrict the number type and size of domestic pets and to promulgate rules concerning pet ownership.

Except in accordance with the provisions of Section 47C-3-112 of the North Carolina Condominium Act and with the consent of the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interests in the Common Elements (including the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interest in the Common Elements not allocated to a declarant) and the consent of at least two-thirds (2/3rds) of the holders of first mortgage or deed of trust liens on the Units (based on one (1) vote for each first mortgage or deed or trust lien held), no portion of the Common Elements may be abandoned, partitioned, subdivided, encumbered, sold, conveyed or otherwise transferred. No conveyance or encumbrance of the Common Elements pursuant to Section 47C-3-112, however, shall deprive any Unit of its rights of access or support. Notwithstanding anything herein to the contrary, the Association shall have the authority and power to grant easements, leases, licenses and concessions through, over or with respect to the Common Elements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Condominium and reasonably necessary to the ongoing development and operation of the project, without a vote or the consent of the Unit Owners or the holders of first mortgage or deed of trust liens; provided, however, no such grant shall unreasonably interfere with or obstruct the Owners' right of ingress to and egress from the Units.



IX.

RESTRAINT UPON SEPARATION AND PARTITION OF COMMON ELEMENTS

Recognizing that the proper use of a Unit by its Unit Owner(s) is dependent upon the use and enjoyment of the Common Elements in common with the Unit Owners of all other Units, and that it is in the interest of all Unit Owners that the ownership of the Common Elements be retained in common by the Unit Owners, it is hereby declared that the Allocated Interest in the Common Elements appurtenant to each Unit shall remain undivided and no Unit Owner shall bring or have any right to bring any action for partition or division.

X.

ADMINISTRATION OF THE CONDOMINIUM BY HEDGECOCK PLACE  
CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.

To efficiently and effectively provide for the administration of the Condominium by the Unit Owners, a nonprofit North Carolina corporation known and designated as Hedgecock Place Condominium Homeowners Association, Inc. (the "Association") has been organized, and said corporation shall administer the operation and management of the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and Bylaws. The Unit Owner(s) of each Unit shall automatically become members of said corporation upon his, their or its acquisition of an ownership interest in title to any Unit and its Allocated Interest in the Common Elements, and the membership of such Unit Owner(s) shall terminate automatically upon such Unit Owner(s) being divested of such ownership interest in the title to such Unit, regardless of the means by which such ownership may be divested. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance, to membership in said corporation or to any of the rights or privileges of such membership except as set forth in Article XXXI hereof. In the administration of the operation and management of the Condominium, the Association shall have and is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and to collect assessments in the manner hereinafter provided, to pay any taxes assessed against the Common Elements to the extent that the Association is legally obligated to pay such taxes, and to adopt, promulgate and enforce such rules and regulations governing the use of the Units and Common Elements as the Executive Board of the Association may deem to be in the best interests of the Association, including, without limitation, the right to make permanent and temporary assignments of parking spaces, the right to restrict or prohibit the parking of recreational and/or commercial vehicles in the Common Elements and the right to restrict the number type and size of domestic pets and to promulgate rules concerning pet ownership. In addition, the Association shall have and is hereby granted the authority and power to grant easements, leases, licenses and concessions through, over or with respect to the Common Elements for public utilities or other public purposes consistent with the intended use of the Common Elements by the Condominium without a vote or the consent of the Unit Owners, upon and subject to such terms and conditions as the Association in its sole discretion deems appropriate.



The Executive Board of the Association shall cause to be maintained at the office of the Association a file containing current copies of this Declaration, the Articles of Incorporation and the Bylaws of the Association, any Rules and Regulations applicable to the Condominium, and other books, records and financial statements of the Association. Such file and the documents and information contained therein shall be available for inspection, upon request, during normal business hours, to all Unit Owners, lenders, holders and insurers of first mortgages or deeds of trust on any Unit, and prospective purchasers, all of whom may also, upon request and payment of a reasonable charge determined by the Executive Board, obtain copies thereof.

## XI.

### RESIDENTIAL USE RESTRICTIONS APPLICABLE TO UNITS

Except as provided in Paragraph A of Article XII hereof, each Unit is hereby restricted to residential use by the Owner thereof, his immediate family, guests, invitees and lessees. Any lease or rental agreement for a Unit shall be in writing and shall have an initial term of at least thirty (30) days, unless the prior written approval of the Executive Board shall be had and obtained. Such leases shall provide that the terms of the lease are subject to the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and the rules and regulations of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the terms of the lease. The Executive Board shall be furnished with a copy of all leases. No Owner of any Unit shall permit the use of his Unit for transient hotel or commercial purposes. Corporate or partnership members, other than the Declarant, shall permit the use of a Unit owned by it only by its principal officers, directors or partners, or other guests or lessees. Such corporate or partnership member shall annually sign and deliver to the Association a written statement designating the name of the party (or parties) entitled to use such Unit, together with a written covenant of such party in favor of the Association whereby the party agrees to comply with the terms and provisions of this Declaration and with the rules and regulations which may be promulgated by the Association from time to time and acknowledging that the party's right to use such Unit shall exist only so long as the corporation or partnership shall continue to be a member of the Association. Upon demand by the Association to any corporate or partnership member to remove a party for failure to comply with the terms and provisions of this Declaration and/or the rules and regulations of the Association, the corporate or partnership member shall forthwith cause such party to be removed, failing which, the Association, as agent of the Unit Owner, may take such action as it may deem appropriate to accomplish such removal, and all such action by the Association shall be at the cost and expense of the Unit Owner who shall reimburse the Association therefor upon demand, together with such attorneys' fees as the Association may have incurred in the process of removal.

## XII.

### SPECIAL DECLARANT RIGHTS

A. Sales and Management Offices; Model Units; Advertising on Common Elements. Declarant shall have the right to maintain a sales office, a management office, and Unit models in Units owned by Declarant and to display advertising signs upon the Common Elements during



the period of Unit sales. Any such offices, model Units or signs may be located within such Units and upon such portions of the Common Elements as Declarant shall select, and Declarant shall have the right at any time and from time to time to relocate any offices, model Units or signs from their previous location to another location. Such rights shall terminate when all Units in all phases of the Condominium are sold.

B. Easements through Common Elements. Declarant shall be deemed to have such easements on, across and over the Common Elements as shall be reasonably necessary for the exercise of any of the Development Rights set out in Article V of this Declaration or the Special Declarant Rights reserved in this Article, or as may be reasonably necessary in the discharge of any obligations imposed on Declarant by this Declaration or under the North Carolina Condominium Act.

C. Declarant's Obligation to Restore. At such time as Declarant shall cease to offer any Unit for sale, Declarant shall promptly remove all advertising signs from the Common Elements and restore any damage to the Common Elements caused by the signs or their removal. In addition, Declarant shall be responsible for repairing any damage caused to the Common Elements arising from the exercise by Declarant of its easement rights reserved in Paragraph B above.

### XIII.

#### USE OF COMMON ELEMENTS SUBJECT TO RULES OF ASSOCIATION

The use of Common Elements, including the Limited Common Elements, by the Unit Owners, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may be hereafter prescribed and established by the Association.

### XIV.

#### THE CONDOMINIUM TO BE USED FOR LAWFUL PURPOSES: RESTRICTION AGAINST NUISANCES

No immoral, improper, offensive or unlawful use shall be made of any Unit or of the Common Elements, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed. No Unit Owner shall permit or suffer anything to be done or kept in his Unit or on the Common Elements, including any Limited Common Elements, which will increase the rate of insurance on the Condominium, or which will obstruct or interfere with the rights of other occupants of the Condominium or annoy them by unreasonable noises, nor shall any Unit Owner undertake any use or practice which shall create and constitute a nuisance to any other Unit Owner, or which interferes with the peaceful possession and proper use of any other Unit or the Common Elements. Each Unit Owner shall be deemed by his acceptance of the deed to a Unit to have expressly waived any claim against Declarant for any violation of this provision, except to the extent such provision is violated by Declarant or by Declarant's agent, and any claim against the

Association for any violation of this provision, except to the extent such provision is violated by the Association or the Association's agent.

XV.

RIGHT OF ENTRY IN EMERGENCIES

In case of any emergency originating in or threatening any Unit or the Common Elements, the Executive Board of the Association, or any other person authorized by it, or the managing agent, shall have the right to enter any Unit, regardless of whether the Unit Owner is present at the time of such emergency, and any portion of the Common Elements for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

XVI.

RIGHT OF ENTRY FOR MAINTENANCE

Whenever it may be necessary to enter any Unit or any portion of the Common Elements for the purpose of performing any maintenance, alteration or repair required or permitted hereunder to be performed by the Association, the Association and its authorized agent(s) shall have the right to enter any such Unit and portion of the Common Elements, provided that the entry shall be made only at reasonable times and in the case of entry into a Unit, with reasonable advance notice.

XVII.

LIMITATION UPON RIGHT OF UNIT OWNERS TO ALTER AND MODIFY UNITS;  
NO RIGHT TO ALTER COMMON ELEMENTS

A. A Unit Owner may make improvements or alterations to his Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium.

B. A Unit Owner may, after acquiring an adjoining Unit and obtaining the written consent of the Executive Board, remove or alter any intervening partition or create apertures therein, even if the partition is a Common Element, if such acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium. Such removal of partitions or creation of apertures as described in this paragraph is not an alteration of Unit boundaries.

C. The Association, through the Executive Board (or its Architectural Control Committee), shall regulate the external design, appearance, use, location and maintenance of the Condominium and of improvements thereon in such a manner so as to preserve and enhance values and to maintain a harmonious relationship among structures and the natural vegetation and topography. No Unit Owner shall cause any improvements, alterations, repairs or changes to be made to the exterior of the Condominium (including painting or other decoration, the installation of electrical wiring, television or radio antennae or any other objects or devices



which may protrude through the walls or roof of the Condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first had and obtained. No Unit Owner shall cause any object to be fixed to the Common Elements (including the location or construction of fences and the planting or growing of flowers, trees, shrubs or any other vegetation) or to any Limited Common Elements or in any manner change the appearance of the Common Elements or Limited Common Elements without the written consent of the Association being first had and obtained.

Any Unit Owner desiring to make any improvement, alteration or change described above shall submit the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the same, to the Executive Board which shall evaluate such plans and specifications in light of the purpose of this Article as set forth above. As a condition to the granting of approval of any request made under this Article, the Association may require that the Unit Owner requesting such change be liable for any cost of maintaining, repairing and insuring the approved alteration. If such condition is imposed, the Unit Owner shall evidence his consent thereto by a written document in recordable form satisfactory to the Association. Thereafter, the Unit Owner, and any subsequent Owner of the Unit, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree that the cost of maintaining, repairing and insuring such alteration shall be a part of the annual assessment or charge set forth in Article XXVI, and subject to the lien rights described in said Article.

#### XVIII.

#### RIGHT OF ASSOCIATION TO ALTER AND IMPROVE COMMON ELEMENTS AND ASSESSMENT THEREFOR

The Association shall have the right to make or cause to be made such alterations or improvements to the Common Elements (including the right to grant and establish upon, over and across the Common Elements such easements as are necessary or desirable for providing service or utilities to the Units and the Common Elements) which do not materially prejudice the rights of any Unit Owner in the use and enjoyment of his Unit, provided the making of such alterations and improvements are approved by the Executive Board of the Association, and the cost of such alterations or improvements shall be Common Expenses to be assessed and collected from all Unit Owners. However, where any alterations and improvements are exclusively or substantially for the benefit of the Unit Owner(s) of certain Unit(s) requesting the same, then the cost of making, maintaining, repairing and insuring such alterations or improvements shall be assessed against and collected solely from Unit Owner(s) of the Unit(s) exclusively or substantially benefitted, the assessment to be levied in such proportion as may be determined by the Executive Board of the Association.

#### XIX.

#### MAINTENANCE AND REPAIR OF UNITS BY UNIT OWNERS

Every Unit Owner shall perform promptly all maintenance and repair work within his Unit which, if omitted, would affect the Condominium, either in its entirety or in a part belonging to other Unit Owners, every Unit Owner being expressly responsible for the damages



and liability which his failure to do so may engender. Each Unit Owner shall be liable and responsible for the maintenance, repair and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans or other appliances or equipment, including any utility fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his Unit. Each Unit Owner shall further be responsible and liable for the maintenance, repair and replacement of the exterior surfaces of any and all walls, ceilings and floors within his Unit including painting, decorating and furnishings, and all other accessories which such Owner may desire to place or maintain in his Unit. Whenever the maintenance, repair and replacement of any item for which a Unit Owner is obligated to maintain, replace or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement except that such Unit Owner shall be, in said instance, required to pay such portion of the costs of such maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance or by any other reason, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

If a Unit Owner fails to perform any maintenance or repair within his Unit which, if omitted, would affect the Condominium either in its entirety or in a part belonging to other Unit Owners, the Association may perform such maintenance as it deems necessary, twenty days (20) after giving written notice to such Unit Owner of the necessary maintenance. The cost of such maintenance performed by the Association shall be assessed exclusively against such Unit Owner and the assessment shall be the personal obligation of such Unit Owner and a lien against such Unit to the same extent provided under Article XXVI of this Declaration.

## XX.

### MAINTENANCE AND REPAIR OF COMMON ELEMENTS BY THE ASSOCIATION

The Association shall be responsible for the maintenance, repair and replacement of all of the Common Elements, including those portions thereof which contribute to the support of the buildings, and all conduits, ducts, plumbing, wiring and other facilities located in the Common Elements for the furnishing of utility and other services to the Units and said Common Elements, and should any incidental damage be caused to any Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Elements, the Association shall, at its expense, repair such incidental damage. The Association shall be deemed to have such easements on, across and over the Common Elements as shall be reasonably necessary in the exercise and discharge of its maintenance rights and obligations reserved and imposed by this Declaration or under the North Carolina Condominium Act. Whenever the maintenance, repair and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a Unit Owner, his immediate family, guests or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair or replacement and the Unit Owner who is responsible for the act causing the damage (whether done by himself or by his family, guests or invitees) shall be required to pay such portion of the cost of such



maintenance, repair and replacement as shall, by reason of the applicability of any deductibility provision of such insurance or by any other reason, exceed the amount of the insurance proceeds applicable to such maintenance, repair or replacement.

The Association shall maintain any retention or detention ponds and any erosion control devices located on the Common Elements that are required to be maintained by the governmental office(s) having jurisdiction for watershed protection as directed by such governmental office(s).

The assessments levied by the Association shall be used as required or deemed appropriate by the Association for the repair and/or maintenance of such ponds and erosion control devices. Repairs and maintenance shall include, but shall not be limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management, and supervision. Assessments shall also provide for the procurement and maintenance of insurance in accordance with the provisions of this Declaration and the Articles and Bylaws of the Association, the provision of adequate reserves for the replacement of major structures incorporated into such ponds and erosion control devices, and such other needs as may arise relating to the same. If the Association is dissolved or ceases to exist, the Unit Owners of record at the time of required maintenance shall be jointly and severally liable for any and all costs of such maintenance.

## XXI.

### INSURANCE. AUTHORITY TO PURCHASE

Insurance policies upon the Condominium (other than title insurance) shall be purchased by the Association in its name for the use and benefit of the Unit Owners and their respective mortgagees, as their interest may appear. The policies may also be issued in the name of an authorized representative of the Association, including any insurance trustee with whom the Association has entered into an insurance trust agreement, or any successor trustee, as insured, for the use and benefit of the Unit Owners. Loss payable shall be in favor of the Association (or insurance trustee), as a trustee, for each Unit Owner and each such Unit Owner's mortgagee. The Association or insurance trustee shall hold any insurance proceeds in trust for the Unit Owners and lienholders as their interests may appear. Each Unit Owner shall be deemed to have appointed the Association or any insurance trustee or any substitute insurance trustee as his or her attorney-in-fact for the purpose of purchasing and maintaining such insurance, including: the collection and appropriate disposition of the proceeds thereof; the negotiation of losses and execution of releases of liability; the execution of all documents; and the performance of all other acts necessary to accomplish such purposes. All such policies shall provide for the issuance of certificates or memoranda of insurance to the Association and, upon written request, to any Unit Owner and to any mortgagee or beneficiary under a deed of trust, such certificate or memoranda of insurance to be properly endorsed to contain the standard mortgage clause, or equivalent endorsement (without contribution), which is commonly accepted by private institutional mortgage investors in the area in which the property is located and which appropriately names FNMA and the FHLMC if such corporations are holders of first mortgages on Units within the Condominium.

Such insurance policies must provide that:

1. Each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;

2. The insurer waives its right to subrogation under the policy against any Unit Owner, members of his household, the Association and their respective servants, agents and guests;

3. No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy; and

4. If, at any time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy described in this Article, the Association's policy provides primary insurance.

5. The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, to each Unit Owner and to each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

6. The insurer recognizes any Insurance Trust Agreement entered into by the Association.

So long as FNMA or FHLMC hold, insure or guarantee any first lien mortgage on Units in the Condominium, policies are unacceptable where: (i) under the terms of the insurance carrier's charter, bylaws, or policy, contributions or assessments may be made against borrowers, FNMA, FHLMC, or their designee; (ii) by the terms of the carrier's charter, bylaws or policy, loss payments are contingent upon action by the carrier's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent FNMA, FHLMC or borrowers from collecting insurance proceeds.

Each Unit Owner may obtain insurance, at his own expense, affording coverage upon his Unit, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above if the same is available.

## XXII.

### INSURANCE COVERAGE TO BE MAINTAINED: USE AND DISTRIBUTION OF INSURANCE PROCEEDS

A. Commencing not later than the time of the first conveyance of a Unit to a person other than a declarant, the following insurance coverage shall be maintained in full force and effect by the Association covering the operation and management of the Condominium with a generally acceptable insurance carrier:



1. Single entity condominium casualty insurance covering the Common Elements and Units, except such personal property as may be owned by the Unit Owners, shall be procured in an amount equal to 100% of the current replacement cost (exclusive of excavation, foundations, streets and parking facilities) as determined annually by the insurance company affording such coverage. Such policy shall contain an Agreed Amount Endorsement or an Inflation Guard Endorsement, if available. By way of illustration and not of limitation, such casualty insurance shall cover fixtures, installations or additions, or equal replacements thereof, comprising a part of the building within each individual Unit (as that term is defined in Article III hereof) in accordance with the original Condominium plans and specifications and shall include fixtures, equipment and other property within the Units which are customarily financed by a first lien mortgage on the Unit. In determining the amount of coverage for such fixtures, installations or additions, the Executive Board of the Association shall annually set the standard allowance for such items as carpeting, bathroom and kitchen cabinets, wall covering, vinyl floor covering, ceramic tile, kitchen appliances, bookshelves, etc., which were included in the original Condominium plans and/or are customarily financed by a first lien mortgage on the Unit. By way of illustration and not of limitation, such casualty insurance shall not cover furniture, furnishings or other household or personal property owned by, used by or in the care, custody, or control of a Unit Owner (whether located within or without the Unit), or fixtures, installations or additions that are placed in an individual Unit by a Unit Owner thereof at his expense. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; (b) such other risks as from time to time customarily shall be covered with respect to buildings similar in construction, location and use, including, but not limited to, vandalism and malicious mischief; and (c) such other risks, if any, as are commonly required to be covered by prudent institutional mortgage investors in the area in which the Condominium is located.

2. A comprehensive policy of public liability insurance covering all of the Common Elements and public ways of the Condominium in amounts generally required by private institutional mortgage investors for condominiums similar in construction, location and age, but in no event less than One Million Dollars (\$1,000,000.00), for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against legal liability of the insureds against property damage (including water damage, if available), bodily injuries and deaths of persons in connection with the operation, maintenance or use of the common elements, liability for non-owned and hired automobiles, liability arising out of lawsuits related to employment contracts of the Association and such other risks customarily covered with respect to condominiums similar in construction, location and age. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Unit Owners as a group to individual Unit Owners.

3. The Executive Board shall maintain fidelity coverage against dishonest acts by the Association's officers, Executive Board members, trustees and employees, and all others who are responsible for handling funds of the Association. If the Association employs a professional property management person or firm to manage the

Association and to receive and disburse the monies of the Association, then such professional management person or firm shall have adequate fidelity coverage against dishonest acts and the existence of such coverage shall satisfy the requirement of this paragraph.

Any such fidelity bonds shall name the Association as an obligee; shall be written in an amount not less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond (but in no event shall the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate assessments on all Units plus reserve funds); shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; and shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to the Association and to any Institutional Lender who has given the notice required under Article XXXI of this Declaration.

4. Any other insurance coverage required by law.

B. Insurance policies carried pursuant to subsections A(1) and A(2) of this Article must provide that:

1. Each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;

2. The insurer waives its right to subrogation under the policy against any Unit Owner or members of his household;

3. No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy and coverage is not prejudiced by any act or neglect of an individual Unit Owners which is not in the control of the Unit Owners collectively; and

4. If, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

C. Premiums upon insurance policies purchased by the Association shall be paid by the Association as Common Expenses to be assessed and collected from all of the Unit Owners in proportion to each Unit's share of the Allocated Interests, unless otherwise specifically allocated by the Executive Board, in its sole discretion.

D. If the insurance described in this Article is not reasonably available, in the sole determination of the Executive Board of the Association, the Executive Board shall promptly cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.



E. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees, as their respective interests may appear, and shall provide that all proceeds payable as a result of casualty losses shall be paid to the Association. The Association shall hold such proceeds in trust for the benefit of the Association, the Unit Owners and their respective mortgagees, to be utilized and distributed as set out in Article XXIII of this Declaration.

F. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held for the mortgagee and the Unit Owner as their interests may appear.

G. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, the Association's authorized representative, including any trustee with whom the Association may enter into any insurance trust agreement or any successor to such trustee, who shall have exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish this purpose.

### XXIII.

#### RECONSTRUCTION OR REPAIR OF CASUALTY DAMAGE

A. If any part of the Condominium for which the Association is required to maintain insurance pursuant to North Carolina General Statutes § 47C-3-113 shall be damaged by casualty, the damaged area shall be reconstructed or repaired by the Association unless:

1. The Condominium is terminated as provided in Article XXVIII hereof; or
2. Repair or replacement would violate any state or local health or safety statute or ordinance; or
3. The Unit Owners, by a vote of the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interests in the Common Elements (including the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interest in the Common Elements not allocated to a declarant and one hundred percent (100%) of the Owners of Units which shall not be rebuilt or whose Limited Common Elements shall not be restored) and the holders of first mortgage or deed of trust liens on the Units, by a vote of at least two-thirds (2/3rds) of such holders (based on one (1) vote for each first mortgage or deed of trust lien held), determine not to rebuild or restore all or any portion of the damaged area.

B. In the event the Condominium is terminated, insurance proceeds shall be distributed to the Unit Owners and their mortgagees as their interests may appear, in proportion to the respective interests in the Common Elements of the Unit Owners and their mortgagees as set forth in Paragraph D of Article XXVIII of this Declaration.

C. Any reconstruction or repair after an insured casualty or a partial condemnation shall be performed substantially in accordance with the plans and specifications contained herein

and on file with and approved by the City of High Point or other appropriate local governmental authority unless new plans and specifications are approved by a vote of the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interests in the Common Elements (including the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interest in the Common Elements not allocated to a declarant and one hundred percent (100%) of the Owners of Units to be reconstructed or repaired pursuant to such new plans and specifications) and the holders of first mortgage or deed of trust liens on the Units, by a vote of at least two-thirds (2/3rds) of such holders (based on one (1) vote for each first mortgage or deed of trust lien held).

D. If the damage is only to those parts of one or more Units for which the responsibility for maintenance and repair is that of such Unit Owner(s), then such Unit Owner(s) shall be responsible for reconstruction and repair after casualty. In all other instances, the responsibility of reconstruction and repair after casualty shall be that of the Association.

E. Immediately after the casualty causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Executive Board deems necessary or appropriate.

F. When the damage is to both Common Elements and Units or to Common Elements only, the insurance proceeds shall be payable to the Association and shall be applied first to the cost of repairing the Common Elements, then to the cost of repairing the Units.

G. In the event the Unit Owners determine, pursuant to Paragraph A of this Article, that less than all of the damaged area is to be repaired or restored, the insurance proceeds shall be utilized and/or distributed as follows:

1. Proceeds attributable to damaged Common Elements shall be used to restore such Common Elements to a condition compatible with the remainder of the Condominium;

2. Proceeds attributable to Units and to Limited Common Elements which are not to be rebuilt or restored shall be distributed to the Unit Owners and mortgagees of Units which are not to be rebuilt or restored and to the Unit Owners and mortgagees of the Units appurtenant to the damaged Limited Common Elements which are not to be rebuilt or restored, in proportion to the damage to such Units and/or Limited Common Elements; and

3. Any remaining proceeds shall be distributed among all Unit Owners and mortgagees, as their interests may appear, in proportion to the Allocated Interests appurtenant to each Unit.

H. Each Unit Owner shall be deemed to have delegated to the Executive Board of the Association his right to adjust with insurance companies all losses under policies purchased by the Association.



I. All remittances to Unit Owners and their mortgagees shall be payable jointly to them.

J. In the event that Unit Owners vote not to rebuild a damaged Unit, that Unit's Allocated Interest in the Common Elements shall be automatically reallocated among the remaining Units at the time of such vote, in proportion to each remaining Unit's (exclusive of the damaged Unit) respective Allocated Interest prior to the casualty. The Association shall prepare, execute and record an amendment to the Declaration reflecting such reallocation.

#### XXIV.

#### CONDEMNATION OF COMMON ELEMENTS OR UNITS

The provisions of Section 47C-1-107 of the North Carolina Condominium Act, as the same is in effect from time to time, shall control the distribution of any condemnation award arising from the acquisition by eminent domain of any portion of the Condominium and any reallocation of a Unit's Allocated Interest necessitated by such acquisition. To the extent any award arising from the condemnation of any portion of the Common Elements is payable to the Association pursuant to applicable law, the Association shall represent the Unit Owners in the condemnation proceedings or in negotiations, settlements and agreements with the condemning authority for the acquisition of the such Common Elements by the condemning authority and each Unit Owner shall be deemed to have appointed the Association as his or her attorney-in-fact for such purposes. In such event the Association may appoint a Trustee to act on behalf of the Unit Owners in carrying out the above functions in lieu of the Association. In the event of such a taking or acquisition of part or all of the Common Elements by a condemning authority, any award shall be paid to the Association or its Trustee, to be held in trust for the Unit Owners and their first mortgage holders as their interest may appear, in proportion to the respective interests of the Unit Owners and their mortgagees as set forth in Paragraph D of Article XXVIII of this Declaration; provided, however, any portion of the award attributable to the condemnation of a limited common element must be apportioned among the Unit Owners of the Units to which that Limited Common Element is attached and their mortgagees.

#### XXV.

#### ASSOCIATION TO MAINTAIN REGISTER OF UNIT OWNERS AND MORTGAGEES

The Association shall at all times maintain a register setting forth the names of the Unit Owners. In the event of the sale or transfer of any Unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Unit, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Unit. Further, each Unit Owner shall notify the Association of the names of the parties holding any mortgage or mortgages on his Unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any Unit may, if he so desires, notify the Association of the existence of any mortgage or mortgages held by such party on any Unit and, upon receipt of such notice, the Association shall register in its records all pertinent information relating thereto.

XXVI.

ASSESSMENTS: LIABILITY, LIEN AND ENFORCEMENT

The Association is given the authority to administer the operation and management of the Condominium, it being recognized that the delegation of such duties to one entity is in the best interest of the Unit Owners. To administer properly the operation and management of the Condominium, the Association will incur for the mutual benefit of all of the Unit Owners, costs and expenses which are sometimes herein referred to as "Common Expenses." To provide the funds necessary for such proper operation, management and capital improvement, the Association has been granted the right to make, levy and collect assessments against the Unit Owners and their Units. In furtherance of this grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation, management of and capital improvements to the Condominium, the following provisions shall be operative and binding upon all Unit Owners.

A. Unless specifically otherwise provided for in this Declaration, all assessments made by the Association shall be in such an amount that any assessment levied against a Unit Owner and his Unit shall bear the same ratio to the total assessment made against all Unit Owners and their Units as the Allocated Interest in the Common Elements appurtenant to each Unit bears to the total Allocated Interest in the Common Elements appurtenant to all Units; provided, however, that any portion of the Common Expense which, in the opinion of the Executive Board, was incurred on behalf of or benefitted fewer than all Unit Owners may be assessed solely against the Unit Owners so benefitted, in such proportions as the Executive Board, in its sole discretion, shall determine.

In the event utility services which are provided to Unit Owners are charged to and paid for by the Association, the cost of such utilities shall be a part of the Common Expenses and levied against each Unit Owner in proportion to his Unit's share of the Allocated Interest, or in such other proportions as the Executive Board, in its sole discretion, shall determine.

B. Assessments provided for herein shall be payable in monthly installments as determined by the Executive Board of the Association. Such assessments shall commence for each Unit on the first day of the first month following the recordation of this Declaration in the Davidson County Registry.

C. In addition to the annual assessment authorized above, the Executive Board may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Elements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of Unit Owners of Units to which two-thirds (2/3rds) of the Allocated Interest in the Common Elements are assigned, voting in person or by proxy at a meeting duly called for such purpose.

D. The Executive Board of the Association shall establish an annual budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the Condominium, the fiscal year shall commence with the closing of



the sale of the first Unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, and the budget shall take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Executive Board shall keep separate, in accordance with paragraph "G" of this Article XXVI, items relating to operation and maintenance from items relating to capital improvements. Within thirty (30) days after adoption of the budget by the Executive Board, the Executive Board shall provide a copy of said budget or a summary thereof to each Unit Owner and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than 14 nor more than 30 days after mailing of the budget or summary to the Unit Owners. There shall be no requirement that a quorum be present at the meeting. The budget is deemed ratified unless at the meeting the Unit Owners entitled to cast sixty-seven percent (67%) of the votes of the Association rejects the budget. In the event the Executive Board fails to propose a budget or the proposed budget is rejected the annual budget last ratified shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Executive Board.

E. Until December 31st of the year in which the first Unit is conveyed to Unit Owner other than Declarant, the maximum annual assessment shall be **One Thousand Fifty Six and No/100 Dollars (\$1,056.00)** per Unit payable in monthly installments of **Eighty-Eight and No/100 Dollars (\$88.00)**, in advance. From and after January 1 of the year immediately following the conveyance of the first Unit to a Unit Owner other than Declarant, the maximum annual assessment may be increased each year not more than ten percent (10%) above the maximum assessment for the previous year without a vote of the membership of the Association. From and after January 1 of the year immediately following the conveyance of the first Unit to a Unit Owner other than Declarant, the maximum annual assessment may be increased above ten percent (10%) by a vote of the Unit Owners to whom sixty-seven percent (67%) or more of the Allocated Interest in the Common Elements have been assigned who are voting in person or by proxy, at a meeting duly called for such purpose.

F. The Executive Board of the Association, in establishing the annual budget for operation, management and maintenance of the Condominium, shall designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the Common Elements which the Association is obligated to maintain (the "Capital Improvement Fund"). This Fund shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the Common Elements, as well as the replacement of portions of the Common Elements. The amount to be allocated to the Capital Improvement Fund shall be established by the Executive Board so as to collect and maintain a sum reasonably necessary to anticipate the need for replacement of Common Elements. The amount collected for the Capital Improvement Fund may be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to Common Elements. Any interest earned on monies in the Capital Improvement Fund may, in the discretion of the Executive Board of the Association, be expended for current operation and maintenance. Each Unit Owner shall be deemed to own a portion of the Capital Improvement Fund equal to his Units Allocated Interest in the Common Elements and the Association shall



annually notify each Unit Owner of the amount of his balance in the Capital Improvement Fund. However, such balance shall not be subject to withdrawal by a Unit Owner.

G. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the Bylaws of the Association. As monies for any assessment are paid to the Association by any Unit Owner, the same may be commingled with monies paid to the Association by the other Unit Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom or from the leasing or use of Common Elements, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Unit. When a Unit Owner shall cease to be a member of the Association by reason of his divestment of ownership of such Unit, by whatever means, the Association shall not be required to account to such Unit Owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such Unit Owner, as all monies which any Unit Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Condominium.

H. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days of the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the rate of twelve percent (12%) per annum until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to Association. Any assessment levied pursuant to this Declaration, or any installment thereof, which is not paid within ten (10) days after it is due, shall be subject to such reasonable late charge per month for each monthly assessment in arrears as the Executive Board may from time to time fix. All monies owing to the Association shall be due and payable at the main office of Association in the State of North Carolina.

I. The Unit Owner(s) of each Unit shall be personally liable, jointly and severally, to the Association for the payment of all assessments, regular or special, which may be levied by the Association against such Unit while such party or parties are Unit Owner(s). In the event that any Unit Owner(s) are in default in payment of any assessment or installment thereof owed to the Association, such Unit Owner(s) shall be personally liable, jointly and severally, for interest on such delinquent assessment or installment thereof as above provided, and for all late charges and costs of collecting such assessment or installment thereof and interest thereon, including a reasonable attorneys' fee, whether suit be brought or not.

J. No Unit Owner may exempt himself from liability for any assessment levied against him or his Unit by waiver of the use of enjoyment of any of the Common Elements, or by abandonment of the Unit or in any other way.

K. Recognizing that proper operation and management of the Condominium requires the continuing payment of costs and expenses therefor, and that such proper operation and



management results in benefit to all of the Unit Owners, and that the payment of such Common Expenses represented by the assessments levied and collected by the Association is necessary in order to preserve and protect the investment of each Unit Owner, the Association is hereby granted a lien upon each Unit and its appurtenant Allocated Interest, which lien shall secure and does secure the monies due for all assessments now or hereafter levied against the Unit Owner of each such Unit, which lien shall also secure interest, if any, which may be due on the amount of any delinquent assessments owing to the Association, and which lien shall also secure all late charges, fines and all costs and expenses, including reasonable attorneys' fees, which may be incurred by the Association in enforcing this lien upon said Unit and its appurtenant Allocated Interest in the Common Elements. The lien granted to the Association may be foreclosed in the same manner that real estate deeds of trust and mortgages may be foreclosed under power of sale under the laws of the State of North Carolina, and in any suit for the foreclosure of said lien, the Association shall be entitled to a reasonable rental from the Unit Owner of any Unit from the date on which the payment of any assessment or installment thereof became delinquent, and shall be entitled to the appointment of a receiver for said Unit. The lien granted to the Association shall further secure such advances for taxes, and payments on account of superior mortgages, liens or encumbrances which may be required to be advanced by the Association in order to preserve and protect its lien, and the Association shall further be entitled to interest at the rate of twelve percent (12%) per annum on any such advances made for such purpose. All persons, firms or corporations who shall acquire, by whatever means, any interest in the ownership of any Unit, or who may be given or acquire a mortgage, lien or other encumbrance thereon, are hereby placed on notice of the lien rights granted to the Association, and shall acquire such interest in any Unit expressly subject to such lien rights.

L. The lien herein granted unto the Association shall be enforceable from and after the time of recording a claim of lien in the Office of the Clerk of Superior Court of Davidson County, North Carolina, in the manner provided by Article 8 of Chapter 44 of the North Carolina General Statutes, which claim shall state the description of the Unit encumbered thereby, the name of the record owner(s), the amount due and the date when due. The claim of lien shall be recordable any time after default and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include only assessments which are due and payable when the claim of lien is recorded, plus interest, fees, charges, late charges, fines, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, it shall be satisfied of record.

The lien provided for herein shall be subordinate to: (i) any liens and encumbrances recorded before the docketing of the lien (including any mortgage or deed of trust); and (ii) liens for real estate taxes and other governmental assessments or charges against the Unit. In addition, the lien provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Any person, firm or corporation acquiring title to any Unit and its appurtenant Allocated Interest in the Common Elements by virtue of any foreclosure of a first deed of trust, deed in lieu of foreclosure of a first deed of trust or judicial sale relating to a first deed of trust, shall be liable and obligated only for assessments as shall accrue and become due and payable for said Unit and its Allocated Interest in the Common Elements subsequent to the date of acquisition of such title,



and it shall not be liable for the payment of any assessments which were in default and delinquent at the time it acquired such title. In the event of the acquisition of title to a Unit by foreclosure, deed in lieu of foreclosure or judicial sale, any assessment or assessments as to which the party so acquiring title shall not be liable shall be absorbed and paid by all Unit Owners as a part of the Common Expense, including such purchaser, its heirs, successors and assigns, although nothing herein contained shall be construed as releasing the party liable for such delinquent assessment from the payment thereof or the enforcement of collection of such payment by means other than foreclosure.

M. Whenever any Unit may be leased, sold or mortgaged by the Unit Owner(s) thereof, the Association, upon written request of the Unit Owner(s), shall furnish to the proposed lessee, purchaser or mortgagee, a statement verifying the status of payment of any assessment which shall be due and payable to the Association on account of such Unit. Such statement shall be executed by any officer of the Association, and any lessee, purchaser or mortgagee may rely upon such statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by such statement.

In the event that a Unit is to be leased, sold or mortgaged at the time when payment of any assessment against such Unit and its Unit Owner(s) due to the Association shall be in default (whether or not a claim of lien has been recorded by the Association), then the rent, proceeds of such purchase or mortgage proceeds shall be applied by the lessee or purchaser first to payment of any then delinquent assessment or installments thereof due to the Association before the payment of any rent, proceeds of purchase or mortgage proceeds to any Unit Owner who is responsible for payment of such delinquent assessment.

N. Institution of a suit at law to attempt to effect collection of the payment of any delinquent assessment shall not be deemed to be an election by the Association which shall prevent it from thereafter seeking, by foreclosure action, enforcement of the collection of any sums remaining owing to it, nor shall proceeding by foreclosure to attempt such collection be deemed to be an election precluding the institution of a suit at law to collect any sum then remaining owing to Association.

O. In any voluntary conveyance of a Unit, the purchaser thereof shall not be personally liable for any unpaid assessments owed by the seller prior to the time of such voluntary conveyance.

P. In order to help insure that the Association will have sufficient monies available to meet unforeseen expenditures, to purchase any additional equipment or services or for long-term capital improvements and repairs to the Condominium, the Association has established a working capital fund. At the time of the closing of the first sale of each Unit to a purchaser other than Declarant, the purchaser thereof shall pay into such fund an amount equal to two-twelfths ( $2/12$ ths) of the current annual assessment established by the Association. No such payments made into the working capital fund shall be considered advance or current payment of regular assessments. The working capital fund shall be maintained by the Association as a segregated fund. The working capital fund shall not be available for use by Declarant to defray any of its expenses, reserve contributions, or construction costs or to make up any budget deficits while Declarant is in control of the Association. All monies paid into the working capital fund shall be



held and administered by the Association in accordance with the terms of this Declaration and the Bylaws. All monies paid into the working capital fund shall be held and administered by the Association in accordance with the terms of this Declaration and the Bylaws.

## XXVII.

### COMMON SURPLUS

"Common Surplus," meaning all funds and other assets of the Association (including excess of receipts of the Association, including but not limited to assessments, rents, profits and revenues from whatever source) over amount of the Common Expenses, shall be owned by the Unit Owners in the same proportion that the Allocated Interest in Common Elements appurtenant to each Unit Owner's Unit bears to the total of all Allocated Interest in Common Elements appurtenant to all Units. The Common Surplus shall be held by the Association in the manner prescribed in, and subject to, the terms, provisions and conditions of this Declaration; provided, however, that the Association shall have the sole discretion as to whether any distribution of Common Surplus should be made to Unit Owners and, if so, when. Nothing in this Article shall require periodic distributions of Common Surplus. Except for distribution of any insurance indemnity herein provided, or upon termination of the Condominium, any attribution or distribution of Common Surplus which may be made from time to time shall be made to the then current Unit Owners in accordance with their Allocated Interest.

## XXVIII.

### TERMINATION

The Condominium shall be terminated, if at all, in the following manner:

A. Except in the case of a taking of all of the Units by eminent domain, the termination of the Condominium may be effected only by the agreement of the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interests in the Common Elements (including the Unit Owners to which are allocated at least eighty percent (80%) of the Allocated Interest in the Common Elements not allocated to a declarant), expressed in a termination agreement to that effect executed in the same manner as a deed; and, provided, that the holders of at least two-thirds (2/3rds) of all first mortgage or deed of trust liens affecting the Units (based on one (1) vote for each first mortgage or deed of trust lien held) consent thereunto, or agree, in either case by instrument duly recorded, that their liens be transferred to the percentage of the Allocated Interest of the Unit Owner in the Condominium as provided in subparagraph "C" below, and provided further that so long as a declarant retains the right to designate and select a majority of the persons who shall serve as members of each Executive Board of the Association, Declarant consents thereto in writing by instrument duly recorded. The termination agreement shall become effective when it has been recorded in the public records of Davidson County, North Carolina, and shall specify a date after which it will be void unless then recorded.

B. Following termination of the Condominium, the Association, on behalf of the Unit Owners, may contract for the sale of real estate in the Condominium, but such contract shall

not be binding on the Unit Owners until approved by unanimous agreement of all Unit Owners and the termination agreement described in Paragraph A above reflects such approval and is recorded as required. For purposes of any such sale following termination, title to that real estate, upon approval of sale, shall be deemed vested in the Association as trustee for those holding an interest in the Units and the Common Elements. Thereafter, the Association shall have all powers necessary and appropriate to effect the sale. Until the sale has been concluded and the proceeds thereof distributed, the Association shall continue in existence with all powers vested in the Association before the termination. Proceeds of the sale must be distributed to the Unit Owners and lienholders, as their interests may appear, in proportion to the respective interests in the Common Elements of the Unit Owners and their mortgagees as set forth in Paragraph D of this Article. All remittances to Unit Owners and lienholders shall be payable jointly to them. Unless otherwise specified in the termination agreement, as long as the Association is deemed to hold title to the real estate, each Unit Owner and his successors in interest shall have an exclusive right to occupancy of the portion of the real estate that formerly constituted his Unit. During the period of that occupancy, each Unit Owner and his successors in interest shall remain liable for all assessments and other obligations imposed on Unit Owners by law and under this Declaration.

C. In the event the real estate constituting the Condominium is not to be sold following termination, title to the Common Elements and to all real estate in the Condominium shall vest in the Unit Owners as tenants in common in proportion to each Unit's Allocated Interest, and all liens on such Units shall shift accordingly. While such tenancy in common exists, each Unit Owner and his successors in interest shall have an exclusive right to occupancy of the property that formerly constituted his Unit.

D. The respective ownership interests of Unit Owners described in this Article XXVIII are as follows:

1. Except as provided in subparagraph 2 below, the respective interest of a Unit Owner is the fair market value of such Unit Owner's Unit, Limited Common Elements and such Unit's Allocated Interest in the Common Elements immediately before the termination, as determined by one or more independent appraisers selected by the Association. The appraisals shall be distributed to the Unit Owners and shall become final unless disapproved within thirty (30) days after distribution by Unit Owners of Units to which twenty-five percent (25%) of the votes in the Association are allocated. The proportion of any Unit Owner's interest to that of all Unit Owners is determined by dividing the fair market value of that Unit Owner's Unit, Limited Common Elements and such Unit's Allocated Interest in the Common Elements by the total fair market values of all the Units and Common Elements.

2. If any Unit or any Limited Common Element is destroyed to the extent that an appraisal of the fair market value thereof prior to destruction cannot be made, the interest of each Unit Owner shall be the Allocated Interest appurtenant to his Unit immediately before termination.



XXIX.

AMENDMENT OF DECLARATION OF CONDOMINIUM

This Declaration of Condominium may be amended in the following manner:

A. An Amendment or Amendments to this Declaration of Condominium may be proposed by the Executive Board of the Association acting upon a vote of a majority of the Executive Board members, or by Unit Owners of Units to which at least fifty percent (50%) of the votes in the Association are allocated, whether meeting as members or by instrument in writing signed by them. Upon any Amendment or Amendments to this Declaration of Condominium being proposed by the Executive Board or members, such proposed Amendment or Amendments shall be transmitted to the President of the Association, or other officer of the Association in the absence of the President, who shall thereupon call a Special Meeting of the Members of the Association for a date not sooner than ten (10) days nor later than fifty (50) days from receipt by him of the proposed Amendment or Amendments. It shall be the duty of the Secretary to give to each member written or printed notice of such Special Meeting, stating the time and place thereof, and reciting the proposed Amendment or Amendments in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than fifty (50) days before the date set for such Special Meeting. If mailed, such notice shall be deemed to be properly given when deposited in the United States Mail addressed to the member at his Post Office address as it appears on the records of the Association, the postage thereon prepaid. Any member may, by written waiver of notice signed by such member, waive such notice, and such waiver, when filed in the records of the Association, whether before or after the holding of the meeting, shall be deemed equivalent to the giving of notice to such member. Except in the cases of amendments that may be executed by a declarant pursuant to the exercise of the Development Rights reserved in Article V hereof and except to the extent any larger majority is expressly required by the North Carolina Condominium Act or this Declaration, this Declaration may be amended only by the affirmative vote of, or a written agreement signed by, the Unit Owners of Units to which at least seventy-five percent (75%) of the votes of the Association are allocated. In addition, so long as a declarant retains the right to designate and select a majority of the persons who shall serve as members of each Executive Board of the Association, any amendment to this Declaration shall require the consent and joinder of such declarant(s). Upon adoption such Amendment or Amendments to this Declaration of Condominium shall be transcribed and certified by the President and Secretary of the Association as having been duly adopted. An original of such Amendment or Amendments, so certified and executed on behalf of the Association and, if required, executed by declarant(s), with the same formalities as a deed, shall be recorded in the Public Records of Davidson County, North Carolina. Such Amendment or Amendments shall specifically refer to the recording data identifying the Declaration of Condominium and shall become effective upon recordation. Thereafter, a copy of said Amendment or Amendments in the form in which the same were placed of record by the officers of the Association shall be delivered to all Unit Owners, but delivery of a copy thereof shall not be a condition precedent to the effectiveness of such Amendment or Amendments.



B. Declarant shall have the right to file amendments to this Declaration pursuant to Article V hereof, without the consent or joinder of any Unit Owners or their mortgagees. In addition, notwithstanding anything herein to the contrary, Declarant may at anytime unilaterally amend this Declaration to terminate or restrict any right reserved hereunder by Declarant and Declarant, so long as Declarant retains the right to appoint a majority of the Executive Board members, may amend this Declaration to make any changes required by the VA, HUD, FNMA or FHLMC in order to obtain the approvals necessary for purchasers of Lots to obtain VA, HUD, FNMA or FHLMC financing.

C. Except to the extent expressly permitted or required by the North Carolina Condominium Act or by other provisions of this Declaration, no amendment to this Declaration may create or increase special Declarant rights, increase the number of Units, or change the boundaries of any Unit, the Allocated Interest appurtenant to a Unit, or the uses to which any Unit is restricted, without the unanimous consent of all of the Owners of all Units and the consent of Institutional Lenders holding first mortgages or deeds of trust on the Units required pursuant to Article XXIX hereof.

D. Except for Amendments filed by Declarant pursuant to the exercise of Development Rights reserved in Article V hereof, no material alteration, amendment or modification of this Declaration, the Articles of Incorporation or Bylaws of the Association shall become effective without the prior written consent of the Institutional Lenders (as hereinafter defined) who represent at least fifty-one percent (51%) of the votes of the Units that are subject to mortgages held by Institutional Lenders. Any change to the provisions of this Declaration, the Articles of Incorporation or Bylaws that affects any of the following shall be deemed material: voting rights; assessments, assessment liens, or the priority of assessment liens; reserves for maintenance, repair, and replacement of Common Elements; responsibility for maintenance and repairs; reallocation of interests in the Common Elements or Limited Common Elements, or rights to their use; redefinition of any Unit boundaries; convertibility of Units into Common Elements or vice versa; expansion or contraction of the Condominium, or the addition, annexation or withdrawal of property to or from the Condominium; boundaries of any Unit; insurance or fidelity bond requirements; imposition of any restrictions on leasing of Units; imposition of any restrictions on a Unit Owner's right to sell or transfer his or her Unit; a decision by the Association to establish self management; restoration or repair of the Condominium (after damage or partial condemnation) in a manner other than that specified herein; or any provisions that expressly benefit Institutional Lenders.

E. No alteration, amendment or modification of the rights and privileges granted and reserved hereunder in favor of Declarant shall be made without the written consent of Declarant being first had and obtained.

XXX.

#### REMEDIES IN EVENT OF DEFAULT

The Unit Owner(s) of each Unit shall be governed by and shall comply with the provisions of this Declaration, and the Articles of Incorporation and Bylaws of the Association, as any of the same are now constituted or as they may be amended from time to time. A default



by any Unit Owner shall entitle the Association or the Unit Owner of any other Units to the following relief:

A. Failure to comply with any of the terms of this Declaration of Condominium or other restrictions and regulations contained in the Articles of Incorporation or Bylaws of the Association, or which may be adopted pursuant thereto, shall be grounds for relief including without limitation an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof. Such relief may be sought by the Association, in the sole discretion of its Executive Board, or, if appropriate, by an aggrieved Unit Owner.

B. As provided herein and in the Bylaws of the Association, each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by that of any member of his family, or his or their guests, employees, agents or lessees, but only to the extent that such expense is not met by the proceeds of insurance carried by the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances. Nothing herein contained, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation.

C. The Bylaws of the Association provide that the Association may fine a Unit Owner in an amount not to exceed One Hundred Fifty Dollars (\$150.00) for each violation of this Declaration, the Bylaws or the rules and regulations of the Association, or may assess liability against a Unit Owner in an amount not to exceed Five Hundred Dollars (\$500.00) for any occurrence of damage to Common Elements caused by a Unit Owner which is not covered by the Association's insurance. As set forth in the Bylaws, a hearing for the accused Unit Owner must be held before an adjudicatory panel appointed by the Association, which panel shall accord to the party charged with the violation: (i) notice of the charge; (ii) opportunity to be heard and to present evidence; and (iii) a notice of the decision. Any such fine or liability assessment shall be both the personal obligation of the Unit Owner against whom the fine is assessed and a lien upon the Unit of such Unit Owner and its appurtenant Allocated Interest, to the same extent as the assessments described in Article XXVI hereof.

D. If damage is inflicted on any Unit by an agent of the Association acting within the scope of his activities as such agent, the Association shall be liable to repair such damage or to reimburse the Unit Owner for the cost of repairing such damages. The Association shall also be liable for any losses to the Unit Owner.

E. In any proceeding arising because of an alleged default by a Unit Owner, the Association, if successful, shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees as may be determined by the Court.

F. The failure of the Association or any Unit Owner to enforce any right, provision, covenant or condition which may be granted by this Declaration or the other above mentioned

documents shall not constitute a waiver of the right of the Association or of the Unit Owner to enforce such right, provision, covenant or condition in the future.

G. All rights, remedies and privileges granted to the Association or the Unit Owners, pursuant to any terms, provisions, covenants or conditions of the Declaration or other above mentioned documents, shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available to such party at law or in equity.

H. The failure of Declarant to enforce any right, privilege, covenant or condition which may be granted to it by this Declaration or other above mentioned document shall not constitute a waiver of the right of Declarant to thereafter enforce such right, provision, covenant or condition in the future.

I. The failure of an Institutional Lender or Institutional Lenders, as said term is herein defined, to enforce any right, provision, privilege, covenant or condition which may be granted to it or them by this Declaration or other above-mentioned documents, shall not constitute a waiver of the right of said party or parties to thereafter enforce such right, privilege, covenant or condition in the future.

J. Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Elements or assessments for public improvements to the Common Elements, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount proportionate to each Owner's Allocated Interest. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns upon the filing of a claim of lien in the Office of the Clerk of Superior Court of Alamance County, North Carolina, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

#### XXXI.

#### RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS. HUD, VA, FNMA AND FHLMC

A. Rights of Institutional Lenders. Except as otherwise herein provided with respect to the addition by Declarant of the land described in Exhibit "C," no additional property may be added to the existing Condominium without the prior written consent of each of the following which holds, insures or guarantees any mortgage on any Unit in the Condominium: HUD, FNMA, FHLMC and VA. "Institutional Lender" or "Institutional Lenders," as the terms are used herein, shall mean and refer to banks, savings and loan associations, insurance companies, other firms or entities customarily affording, holding, insuring or guaranteeing loans secured by first liens on residences, the Department of Veterans Affairs, the Federal Housing Administration, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and other eligible insurers and governmental guarantors having given notice to the Association as hereinafter provided. In addition to any other rights set forth in this Declaration,



so long as any Institutional Lender or Institutional Lenders shall hold any first mortgage upon any Unit or Units, or shall be the owner of any Unit or Units, and shall have given notice to the Association as set forth below, such Institutional Lender or Institutional Lenders shall have the following rights:

1. To be given timely written notice of any proposed amendment to this Declaration or the Articles or the Bylaws of the Association effecting a change in: (1) the boundaries of any Unit or the easement rights appertaining thereto; (2) the interests in the general or limited common elements appertaining to any unit or the liability for common expenses appertaining thereto (except for changes in appurtenant interest resulting from additions of land by Declarant pursuant to Article V of this Declaration ); (3) the number of votes in the Association appertaining to any Unit or (4) the purposes to which any Unit or the Common Elements are restricted.

2. To be given timely written notice of any proposed action that requires the consent or approval of a specified percentage of Institutional Lenders.

3. To be given timely written notice of any proposed termination or abandonment of the Condominium, or any decision to terminate professional management of the Association and assume self-management by the Association.

4. To be given notice of any condemnation loss or casualty loss which affects a material portion of the Condominium or a material portion of the Unit on which it holds, insures or guarantees a mortgage or deed of trust.

5. To be given timely written notice of any delinquency in the payment of any assessment or charge owed by an Owner of a Unit subject to a Mortgage of such Institutional Lender which delinquency remains uncured for a period of sixty (60) days.

6. To be given timely written notice of any lapse, cancellation or material modification of any insurance policy maintained by the Association pursuant to the provision of this Declaration or the Articles or Bylaws of the Association.

Whenever any Institutional Lender desires to avail itself of the provisions of this Declaration, it shall furnish written notice thereof to the Association at the address shown in the Articles of Incorporation, identifying the Unit or Units upon which such Institutional Lender holds any mortgage or mortgages, or identifying any Units owned by it, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

B. Additional Rights of HUD, FNMA, FHLMC and VA. Upon written request from HUD, FNMA, FHLMC and VA, the Association shall be required to prepare and furnish within a reasonable time an audited financial statement of the Association for the preceding fiscal year.

XXXII.

RIGHT OF DECLARANT TO REPRESENTATION ON  
EXECUTIVE BOARD OF THE ASSOCIATION

Except as otherwise set forth in paragraphs A. and B. below, for a period ending one hundred twenty (120) days after the conveyance of seventy-five percent (75%) of the units (including units which may be created pursuant to Special Declarant Rights; i.e., seventy-five percent (75%) of ninety-six (96) units) to Unit Owners other than a declarant, but in any event no longer than two (2) years after Declarant has ceased to offer Units for sale in the ordinary course of business, two (2) years after the last exercise of any Development Rights set out in Article V of this Declaration or seven (7) years from the date of recording of this Declaration, whichever occurs first, Declarant shall have the right to designate and select all of the persons who shall serve as members of each Executive Board of the Association.

A. Not later than 60 days after conveyance of twenty-five percent (25%) of the units (including units which may be created pursuant to Special Declarant Rights; i.e., twenty-five percent (25%) of ninety-six (96) units) to Unit Owners other than a declarant, at least one member and not less than twenty-five percent (25%) of the members of the Executive Board shall be elected by Unit Owners other than the Declarant.

B. Not later than 60 days after conveyance of fifty percent (50%) of the units (including units which may be created pursuant to Special Declarant Rights; i.e., fifty percent (50%) of ninety-six (96) units) to Unit Owners other than a declarant, not less than thirty-three percent (33%) of the members of the Executive Board shall be elected by Unit Owners other than the declarant.

In the event of dissolution of Declarant at a time when it is the Unit Owner of a Unit, then the rights of the Declarant under this Article shall pass to and may be exercised by its successors receiving ownership of any such Unit in dissolution.

Whenever Declarant shall be entitled to designate and select any person or persons to serve on any Executive Board of the Association, the manner in which such person or persons shall be designated shall be as provided in the Articles of Incorporation and/or Bylaws of the Association, and Declarant shall have the right to remove any person or persons selected by it to act and serve on said Executive Board and to replace such person or persons with another person or other persons to act and serve in the place of any member or members of the Executive Board so removed for the remainder of the unexpired term of any member or members of the Executive Board so removed. Any Executive Board Member designated and selected by Declarant need not be a resident in the Condominium. However, Declarant shall be responsible for the payment of any assessments which may be levied by the Association against any Unit or Units owned by

the said Declarant, and for complying with the remaining terms and provisions hereof in the same manner as any other Unit Owner.



XXXIII.

SEVERABILITY

In the event that any of the terms, provisions or covenants of this Declaration are held to be partially or wholly invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner whatsoever any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants held to be partially invalid or unenforceable.

XXXIV.

LIBERAL CONSTRUCTION

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of Condominium ownership. Throughout this Declaration wherever appropriate the singular shall include the plural and the masculine gender shall include the feminine or neuter. The Article headings are for convenience of reference only and shall not be considered terms of this Declaration.

XXXV.

DECLARATION OF CONDOMINIUM BINDING ON ASSIGNS  
AND SUBSEQUENT UNIT OWNERS

The restrictions and burdens imposed by the covenants of this Declaration are intended to and shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit and its appurtenant undivided interest in Common Elements. This Declaration shall be binding upon Declarant, its successors and assigns, and upon all parties who may subsequently become Unit Owners, and their respective heirs, legal representatives, successors and assigns.

XXXVI.

AGENT FOR SERVICE OF PROCESS

The following named individual is designated as the person to receive service of process for the Association: B. John Kavanagh, 1810 Pembroke Road, Greensboro, North Carolina, 27408.

XXXVII.

CONTRACT RIGHTS OF ASSOCIATION

The undertakings and contracts entered into by or on behalf of the Association (including contracts for the management of the Condominium) during the time Declarant has the right to appoint a majority of the members of the Executive Board of the Association shall be binding

upon the Association in the same manner as though such undertakings and contracts had been entered into by or on behalf of the Association after the Executive Board duly elected by the membership of the Association takes office; provided, however that (1) any management contract, employment contract, or lease of recreational or parking areas or facilities, (2) any other contract or lease between the Association and a declarant or an affiliate of a declarant, or (3) any contract or lease that is not bona fide or was unconscionable to the Unit Owners at the time entered into under the circumstances then prevailing, may be terminated by the Association without penalty at any time after the Executive Board a majority of the members of which are elected by the Unit Owners takes office, effective upon written notice to the other party. Notice of the substance of the provisions of this Article shall be set out in each contract entered into by or on behalf of the Association during the time Declarant has the right to appoint a majority of the members of the Executive Board of the Association.

IN WITNESS WHEREOF, JOHN KAVANAGH COMPANY has caused these presents to be executed in its name by its \_\_\_\_\_ President, attested by its Asst. Secretary and its corporate seal to be hereunto affixed, this 11th day of November, 2003.

ATTEST:

JOHN KAVANAGH COMPANY

By: [Signature] (SEAL)  
President

Lisa N. Whitaker  
Asst Secretary

[Corporate Seal]





NORTH CAROLINA

Randolph COUNTY

I, Harriet V. Ratcliffe, a Notary Public, do hereby certify that Lisa K. Whitaker personally appeared before me this day and acknowledged that he/she is the Asst. Secretary of **JOHN KAVANAGH COMPANY**, a North Carolina corporation, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal, and attested by him/herself as its Asst. Secretary.

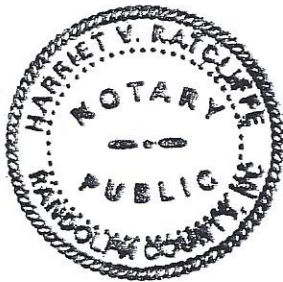
WITNESS my hand and official seal this 11th day of November, 2003.

Harriet V. Ratcliffe  
Notary Public

My Commission Expires:

5-1-2005

[Notary Seal/Stamp]




North Carolina—Davison County  
The foregoing (or annexed) certificate(s) of Harriet V. Ratcliffe  
James B. Janclosh  
Notary Public (Notaries Public) is certified to be correct  
this 23 day of Dec 2003  
Rene W. Callicutt, Register of Deeds  
Mary E. Hodder Deputy


BRANCH BANKING AND TRUST COMPANY as the holder of an existing loan secured by the Deed of Trust recorded in Book 1317, Page 0275, in the Office of the Register of Deeds, Davidson County, North Carolina (the "Deed of Trust"), which Deed of Trust encumbers the "Annexation Property" herein described, and **BB&T Collateral Service Corporation** as the Trustee under the Deed of Trust, join in the execution of this instrument for the purpose of subjecting the aforesaid Deed of Trust to the terms and provisions of this Declaration of Condominium for Hedgecock Place.

BRANCH BANKING AND TRUST COMPANY

ATTEST:

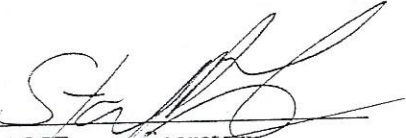
  
ASST. Secretary  
STANLEY P GUNTER

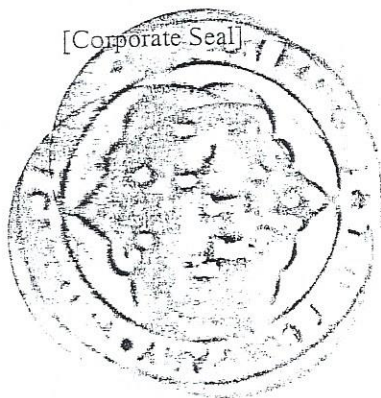


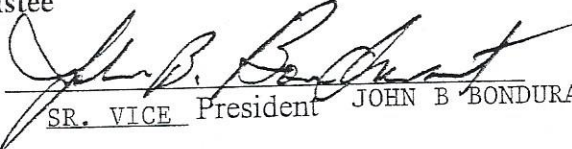
By:   
VICE President J M MORROW JR.

BB&T COLLATERAL SERVICE CORP.  
Trustee

ATTEST:

  
ASST Secretary  
STANLEY P GUNTER



By:   
SR. VICE President JOHN B BONDURANT



NORTH CAROLINA

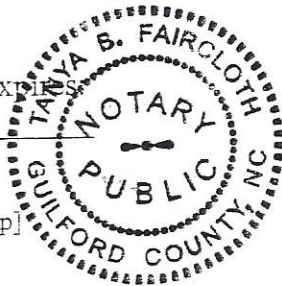
GUILFORD COUNTY

I, THE UNDERSIGNED, a Notary Public, do hereby certify that STANLEY P GUNTER personally came before me this day and acknowledged that he/she is the ASST Secretary of **BRANCH BANKING AND TRUST COMPANY**, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its VICE President, sealed with its corporate seal, and attested by him/herself as its ASST Secretary.

WITNESS my hand and official seal this 28 day of OCTOBER, 2003.

My Commission Expires  
6-18-07

[Notary Seal/Stamp]



Tanya B. Faircloth  
Notary Public

NORTH CAROLINA

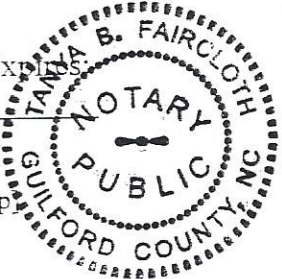
GUILFORD COUNTY

I, THE UNDERSIGNED, a Notary Public, do hereby certify that STANLEY P GUNTER personally came before me this day and acknowledged that he/she is the ASST Secretary of **BB&T Collateral Service Corp., Trustee**, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its VICE President, sealed with its corporate seal, and attested by him/herself as its ASST Secretary.

WITNESS my hand and official seal this 28 day of OCTOBER, 2003.

My Commission Expires  
6-18-07

[Notary Seal/Stamp]



Tanya B. Faircloth  
Notary Public





2 OF 3

Signed \_\_\_\_\_ PHH  
 Attest: \_\_\_\_\_ SEC

Approved by the Planning Department of the City of High Point, North Carolina on the \_\_\_\_\_ day of \_\_\_\_\_

Planning Director	Date
-------------------	------

This survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.

**SUBMITTER'S**

Page \_\_\_\_\_, etc.(Other), that the bound-  
aries and meanings are clearly indicated as given from in-  
formation found in Book \_\_\_\_\_ Page \_\_\_\_\_  
that the ratio of precision as calculated is 1:  
\_\_\_\_\_ but the data as prepared are indicated with 5:1-5:2-5:3  
as combined. Indicate my original hypothesis, representation  
number and Seal this \_\_\_\_\_ day of \_\_\_\_\_  
A.D. 20 \_\_\_\_\_

# Pragmatics of Theory Development

## A History Public at the County and State level, with

acknowledged the execution of the foregoing instrument

day of \_\_\_\_\_, 20\_\_\_\_

Century Public

bioRxiv preprint doi: <https://doi.org/10.1101/2019.05.20.246400>; this version posted May 20, 2019. The copyright holder for this preprint (which was not certified by peer review) is the author/funder, who has granted bioRxiv a license to display the preprint in perpetuity. It is made available under aCC-BY-NC-ND 4.0 International license.

The foregoing certificate(s) is/are

# A Nuclear Protein of and is Involved in

Table 1

## Canada's Register of Nurses

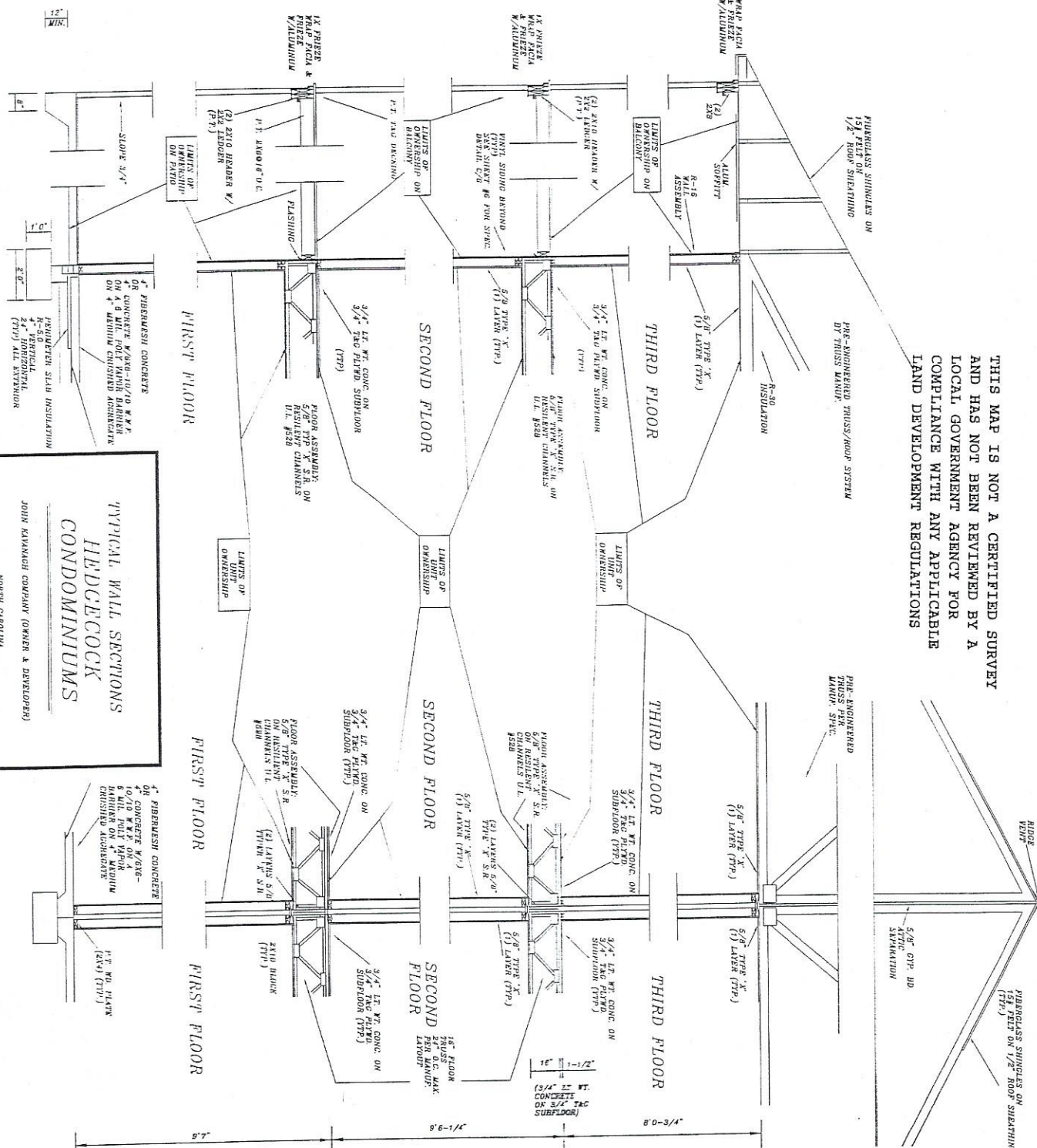
This plan does not require a certificate of approval by

00000000 (07.

Planning Director

THIS MAP IS NOT A CERTIFIED SURVEY  
AND HAS NOT BEEN REVIEWED BY A  
LOCAL GOVERNMENT AGENCY FOR  
COMPLIANCE WITH ANY APPLICABLE  
LAND DEVELOPMENT REGULATIONS

Exhibit "A" Condominium Plat Book 1, Page 6



EXTERIOR WALL SECTION  
SCALE:  $\frac{3}{8}'' = 1'-0''$

TYPICAL WALL SECTIONS  
 HEDGECOCK  
 CONDOMINIUMS

COMMON WALL SECTION  
SCALE: 3/8" = 1' 0"

**JOHN KIMMICH COMPANY (OWNER & DEVELOPER)**  
NORTH CAROLINA      DAVIDSON COUNTY  
ABOTS CREEK TOWNSHIP      SCALE: AS SHOWN  
DATE: AUGUST 26, 2003

**EVANS ENGINEERING INCORPORATED**  
(ENGINEERS, PLANNERS, SURVEYORS)  
27407 CANTON ROAD      KAN. (316) 846 4874  
GARDENBURG, MISSOURI 64747  
PHONE: (316) 854 4471

TRACT 605 JOE JOHNSON PLY-AL-HEDGE-BLDO-1200

COMMON WALL SECTION  
SCALE 3/8" = 1' 0"



## EXHIBIT "B"

<u>UNIT NO.</u>	<u>BUILDING</u>	<u>ALLOCATED INTERESTS IN COMMON AREAS AND FACILITIES</u>
1A	Map 1, Building #1	8.33
1B	Map 1, Building #1	8.33
1C	Map 1, Building #1	8.33
1D	Map 1, Building #1	8.33
2A	Map 1, Building #1	8.33
2B	Map 1, Building #1	8.33
2C	Map 1, Building #1	8.33
2D	Map 1, Building #1	8.33
3A	Map 1, Building #1	8.34
3B	Map 1, Building #1	8.34
3C	Map 1, Building #1	8.34
3D	Map 1, Building #1	<u>8.34</u>
		100.00

Pursuant to Paragraph A of Article V of this Declaration, additional real estate may be added to the Condominium, to create additional Units, Common Elements and Limited Common Elements. In the event of such additions, the Allocated Interest in Common Elements will Change and shall be set forth in an amendment to the Declaration.

## EXHIBIT "C"

### TRACT ONE

**BEGINNING** at an EIP, said EIP being located North 02° 47' 50" East 11.24 feet from an EIP located in the southwestern corner of Lot 45 as shown on Plat Book 14 at Page 25, thence from said EIP, the TRUE POINT AND PLACE OF BEGINNING, with the northern margin of the right-of-way of Hedgecock Road (S.R. #1892, a 72' R/W) the following three bearing breaks: North 79° 57' 16" West 248.59 feet to an EIP, North 70° 47' 25" West 181.74 feet to an EIP, and North 67° 40' 32" West 150.29 feet to a NIP located in the northeastern corner of the intersection of Hedgecock Road and Old Plank Road (a 56' public R/W); thence North 31° 43' 29" West 31.84 feet to a NIP in the southeastern corner of a new road (not named), D.O.T. Proj: U-1767Y, a 60' R/W, as recorded in Deed Book 1254 at Page 1516; thence with the margin of the right-of-way of said new road the following two bearing breaks: North 04° 42' 41" East 168.02 feet to a NIP, and along a curve to the right having a radius of 459.00 feet and a chord bearing and distance of North 29° 04' 47" East 422.85 feet to a point; thence leaving the margin of the right-of-way of said new road South 33° 27' 58" East 10.00 feet to a point; thence North 58° 10' 56" East 26.26 feet to a point; thence North 30° 08' 29" West 1.56 feet to a point; thence along the southern line of property now or formerly owned by High Point Soccer Association as recorded in Deed Book 1157 at Page 888 South 87° 12' 48" East 360.67 feet to an EIP, said EIP being located in the western line of property now or formerly owned by Coy O. Willard, Jr., as recorded in Deed Book 3622 at Page 0234; thence South 02° 45' 48" West 24.66 feet to an EIP on line and South 02° 45' 48" West 48.50 feet to an EIP on line located in the southwestern corner of the Willard property, and the northwestern corner of property now or formerly owned by Coy O. Willard, Jr., as recorded in Deed Book 3211 at Page 0172 and as shown on Plat Book 42 at Page 58; thence with Willard's western line South 02° 45' 48" West 502.31 feet to an EIP on line in Willard's southwestern corner and the northwestern corner of Lot 45 of property now or formerly owned by Richard L. Dunavan as recorded in Deed Book 4261 at Page 1481 and as shown on Plat Book 14 at Page 25; thence with Dunavan's western line South 02° 45' 48" West 139.01 feet to an EIP, said EIP being located in the northern margin of the right-of-way of Hedgecock Road, the point and place of BEGINNING, containing 8.21 acres according to a Boundary and Topographic Survey for Kavanagh Associates, prepared by Evans Engineering, Inc., denoted as PROJ: 605-306, and dated May 6, 2002.

### TRACT TWO

**BEGINNING** at an EIP Control Corner, said EIP Control Corner being located North 49° 34' 34" East 867.28 feet from Tie to P.K. Nail at C/L intersection of Old Plank Road and Hedgecock Road and said EIP Control Corner being located in the line between Davidson County and Guilford County and said line being located in the northeast corner of property now or formerly owned by Kavanagh Associates, Inc. as recorded in Deed Book 1317 at Page 0272, thence with Kavanagh's line North 87° 12' 48" West 360.67 feet to a point; thence North 30° 08' 29" West 8.44 feet to a point located in the southern margin of the right-of-way of Old Plank Road; thence with the southern margin of the right-of-way of Old Plank Road along a curve to the right having a radius of 459.00 feet and a chord bearing and distance of North 77° 18' 02" East 275.18 feet to a point; thence continuing with the southern margin of the right-of-way of Old Plank Road along a curve to the right having a radius of 459.00 feet and a chord bearing and distance of South



78° 56' 08" East 101.07 feet to a NIP, said NIP being located in the northwestern corner of property now or formerly owned by Coy O. Willard, Jr. as recorded in Deed Book 3622 at Page 0234; thence South 02° 44' 06" West 66.01 feet to an EIP Control Corner, the point and place of beginning, containing 0.528 acres (23,014 sq. ft.), according to a Survey for Kavanagh Associates, Inc. prepared by Evans Engineering, Incorporated, denoted as PROJ:817-01, and dated May 30, 2003.