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REAL ESTATE PAGE  
BOOK

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REGISTRATION

1973 Oct 2 AM 10 25

REGISTERED UNDER  
RECORDS OF DEEDS  
HECKLENSBURG CO. N.C.

1973 Oct 2 AM 10 25

DECLARATION  
OF

COVENANTS, CONDITIONS AND RESTRICTIONS  
OF DEEDS  
HECKLENSBURG CO. N.C.

11

Drawn By: Robert E. Perry, Atty

THIS DECLARATION, made on the date hereinafter set forth,  
by JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC. and  
ALTA ENTERPRISES, INC., a joint adventure trading as WALNUT  
PROPERTIES, hereinafter collectively referred to as "Declarant",

WITNESSETH:

WHEREAS Declarant is the owner of the real property  
described in Section 1 of Article II of this Declaration and  
desires to create thereon an exclusive residential community to be  
named Walnut Creek, with permanent parks, play areas, open spaces,  
walkways and other facilities for the benefit of the said community  
through the granting of specific rights, privileges and easements  
of enjoyment which may be shared and enjoyed by all residents of  
Walnut Creek; and

WHEREAS, Declarant desires to insure the attractiveness of  
the individual lots and community facilities within Walnut Creek and  
to prevent any future impairment thereof, to prevent nuisances, to  
preserve, protect and enhance the values and amenities of the said  
property and to provide for the maintenance of the said parks, play  
areas, open spaces, walkways and other community facilities; and, to  
this end, desires to subject the real property described in Section I  
of Article II together with such additions as may hereafter be made  
thereto (as provided in Article II) to the covenants, conditions, res-  
trictions, easements, charges and liens hereinafter set forth, each and  
all of which is and are for the benefit of said property and each  
owner thereof; and

WHEREAS, Declarant has deemed it desirable, for the efficient  
preservation, protection and enhancement of the values and amenities  
in Walnut Creek and to insure the residents enjoyment of the specific  
rights, privileges and easements in the community properties and  
facilities, to create an organization to which should be delegated and  
assigned the powers of owning, maintaining and administering and  
enforcing the covenants and restrictions and collecting and disbursing  
the assessments and charges hereinafter created; and

3624 0240

WHEREAS, Declarant has incorporated under the laws of the State of North Carolina, as a non-profit corporation, Walnut Creek Homes Association, for the purpose of exercising the functions aforesaid within Walnut Creek.

NOW THEREFORE, the Declarant declares that the real property described in Section 1 of Article II, and such additions thereto as may hereafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens which shall run with the real property and be binding on all parties having any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

#### ARTICLE I

#### DEFINITIONS

Section 1. "Association" shall mean and refer to Walnut Creek Homes Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the "Existing Property" and any additions thereto, as are or shall become subject to this Declaration and any Supplementary Declaration under the provisions of Article II hereof.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

All of that land designated "Common Open Space" (or alternatively designated "Common Area") on any plats entitled "Walnut Creek" and hereinafter recorded in the Mecklenburg Public Registry, there being no such Common Open Space in Stage 1 recorded in Map Book 17 at page 195 in the Registry.

Section 5. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown upon any recorded

subdivision map of the Properties with the exception of (1) any Common Area shown any recorded map, (2) land reserved and designated for commercial use, and (3) land reserved and designated for the exclusive common use of either the owners of single-family attached homes (also referred to as cluster homes) or the occupants of multi-family apartment buildings. In the event any Lot is increased or decreased in size by resubdivision, the same shall nevertheless be and remain a Lot for the purposes of this Declaration. Land reserved and designated for the construction of multi-family apartment building thereon likewise shall be deemed a Lot within the meaning of this Declaration, and if any subdivision or resubdivision of that area shall be effected by conveyance (including conveyance by deed of trust), recordation of plat(s) or otherwise, each Lot derived from each subdivision and each resubdivision shall be a Lot if the same shall be of sufficient size and otherwise qualified by this Declaration and by zoning ordinances to accommodate the construction of two or more private dwelling units thereon.

Section 6. "Declarant" shall mean and refer to John Crosland Company, Carolina Financial Services, Inc. and Alta Enterprises, Inc., a joint adventure trading as Walnut Creek Developers. The term "Declarant" shall also mean and refer to any person, firm or corporation which shall hereafter become vested, at any given time, with title to two or more undeveloped Lots for the purposes of causing residence building(s) to be constructed thereon, and any such successor in title to said joint adventurers shall be a Declarant during such period of time as said party is vested with title to two or more such Lots (whether undeveloped, or developed and un conveyed), but no longer.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Multi-family Apartment Building" shall mean a residential building constructed in the area reserved and designated for multi-family apartment buildings and designed to contain under one roof more than one private dwelling unit.

Section 9. "Single-family Attached Cluster Homes" shall mean a single-family residence attached to one or more other single-family residences by a common wall or walls but standing upon a Lot, the title to which is vested in the owner of such residence.

## ARTICLE II

### PROPERTY SUBJECT TO THIS DECLARATION: ADDITIONS THERETO

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed, and occupied

subject to this Declaration, irrespective of whether there may be additions thereto as hereinafter provided, is located in Pineville Township, Mecklenburg County, North Carolina; said property being more particularly described as that certain parcel of land shown on the plat entitled "Walnut Creek, Phase II-A," recorded in Map Book 17 at page 195 in the Mecklenburg Public Registry.

This property shall be herein referred to as "Existing Property."

Section 2. Additions to Existing Property. Additions may be made in any of the following ways:

(a) Additional land within the area described in the notes and bounds description attached hereto as SCHEDULE A, and incorporated herein by reference, may be annexed to the Properties by Declarant and brought within the scheme of this Declaration and within the jurisdiction of the Association, in future stages of development, without the consent of the Association or its members; provided, however, that said annexations, if any, must occur within twelve (12) years after the date of this instrument and provided further that the FHA or the VA determine that any such annexation is in accord with the general plan heretofore approved by them.

(b) Additional residential property (and common area), outside of the area described in the aforementioned SCHEDULE A may be annexed to the Properties and brought within the scheme of this Declaration and the jurisdiction of the Association with the consent of the members entitled to at least two-thirds (2/3) of the votes appurtenant to all Class A Lots and at least two-thirds (2/3) of the votes appurtenant to all Class B Lots, as hereinafter defined in Article III, Section 2. The Association may participate in mergers or consolidations with other non-profit corporations organized for the same or similar purposes as the Association, thereby adding to the Association, or to a surviving homes association, the properties, rights and obligations of the non-profit corporation with which it merges or consolidates. Any such merger or consolidation shall have the assent of the members as provided above in this subsection (b), and no such merger or consolidation shall revoke, change or add to any of the provisions of this Declaration except as herein provided.

(c) The additions authorized under subsections (a) and (b) shall be made by filing of record Supplementary Declarations of Covenants, Conditions and Restrictions with respect to the additional properties which shall extend the scheme of this Declaration and the jurisdiction of the Association to such properties and thereby subject such additions to assessment for their just share of the Association's expenses. Said Supplementary Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the provisions of this Declaration.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The voting rights of the membership shall be appurtenant to the ownership of the Lots. There shall be two classes of Lots with respect to voting rights:

(a) Class A Lots. Class A Lots shall be all Lots except Class B Lots as the same are hereinafter defined. The voting rights appurtenant to the Class A Lots shall be as follows:

(1) Multi-Family Apartment Buildings. Each Lot used for the development thereon of multi-family apartment building(s) shall entitle the owner(s) of said Lot to one-half (1/2) of one vote for each completed private dwelling unit within the apartment building(s) located upon said Lot. To qualify as "completed" the private dwelling unit within the apartment building must be occupied, available for immediate occupancy, or temporarily unavailable for immediate occupancy on account of repairs, maintenance work or restoration. A Lot reserved and designated for the development of multi-family apartment building(s) but not containing at least two completed private dwelling units shall be allotted one (1) vote.

(2) Single-Family Attached Cluster Homes. Each Lot designated as a Lot on which a single-family attached cluster home is or may be constructed shall entitle the owner(s) of said Lot to three-fourths (3/4) of one vote.

(3) Single-Family Detached Homes. Each Lot designated as a Lot on which a single-family detached home is or may be constructed shall entitle the owner(s) of said Lot to one (1) vote.

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(4) When more than one person owns an interest (other than a leasehold or security interest) in any Lot, all such persons shall be members and the voting rights appurtenant to said Lot shall be exercised as they, among themselves, determine. The votes appurtenant to any one Lot shall be limited as provided in (1), (2) and (3) above regardless of the number of persons owning an interest in such Lot.

(5) Notwithstanding any other provisions of this Section, at no time shall the total number of votes appurtenant to the multi-family apartment Lots equal or exceed the total number of votes appurtenant to the single-family detached home Lots, and if it shall appear at any time that the voting formulae above established shall result in the owner of multi-family Lots being privileged to cast in the aggregate as many as, or more votes than the aggregate of the single-family detached Lot owners, the votes appurtenant to the single-family detached home Lots shall be totaled, and the aforesaid total, diminished by one vote, shall be apportioned among the multi-family Lots, with the owners of said multi-family Lots thereafter casting the votes so apportioned among them in lieu of the votes they would have been privileged to cast under the aforesaid formulae, except that at any time the ratio between multi-family and single-family detached home Lots shall change, the computation of votes appurtenant to the multi-family Lots shall be reapportioned.

(b) Class B Lots. Class B Lots shall be all Lots owned by Declarant (excluding multi-family apartment Lot(s) described in (a) (1) of this Section) which have not been converted to Class A Lots as provided in (1) or (2) below. The Declarant shall be entitled to three (3) votes for each Class B Lot reserved and designated for the development of a single-family attached cluster home. The Class B Lots shall cease to exist and shall be converted to Class A Lots,

(1) when the total number of votes appurtenant to the Class A Lots (excluding any votes appurtenant to multi-family apartment Lot(s) described in (a) (1) of this Section) equals the total number of votes appurtenant to the Class B Lots; or

(2) upon December 1, 1977;

whichever occurs earlier.

#### ARTICLE IV

#### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area established in future Stages of the development, which right

and easement shall be appurtenant to and shall pass with the title to every Lot, including Lots in Stage I, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area and to limit the use of said recreational facilities to Owners who occupy a residence on the Properties as their principal residence in Mecklenburg County, North Carolina, and to their families, tenants, contract purchasers and guests as provided in Section 2 of this Article.

(b) The right of the Association to suspend the voting rights and enjoyment rights of an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless the members entitled to at least three-fourths (3/4) of the votes appurtenant to all Class A Lots and at least three-fourths (3/4) of the votes appurtenant to all Class B Lots agree to such dedication or transfer and signify their agreement by a signed and recorded written document, provided that this subsection shall not preclude the Board of Directors of the Association from granting easements for the installation and maintenance of sewerage, utilities and drainage facilities upon, over, under and across the Common Area without the assent of the membership when such easements, in the opinion of said Board, are requisite for the convenient use and enjoyment of the Properties.

Section 2. Delegation of Use.

(a) Family. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be exercised by members of the Owner's family who occupy the residence of the Owner within the Properties as their principal residence in Mecklenburg County, North Carolina.

(b) Tenants or Contract Purchasers. The right and easement of enjoyment granted to every Owner in Section 1 of this Article may be delegated by the Owner to his tenants or contract purchasers who occupy a residence within the Properties, or a portion of said residence, as their principal residence in Mecklenburg County, North Carolina.

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(c) Guests. Recreational facilities situated upon the Properties may be utilized by guests of Owners, tenants or contract purchasers subject to rules and regulations of the Association, as may be established by the Board of Directors, governing said use.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for the capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including but not limited to the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed against the Common Area, the procurement and maintenance of insurance in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be -----  
TWO HUNDRED FORTY AND NO/100-----  
\$ 240.00 ) Dollars per Lot.



(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased, effective January 1 of each year, without a vote of the membership but subject to the limitation that the percentage of any such increase shall not exceed the percentage increase, if any, in the Consumer Price Index (published by the Department of Labor, Washington, D. C.) for the preceding month of July.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased without limitation if such increase is approved by no less than two-thirds (2/3) of the votes appurtenant to each class of Lots (Class A and Class B), cast in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association 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 a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the same assent of the members as provided in Section 3(b) of this Article.

Section 5. Assessment Rate. The annual and special assessments for the Lots within the Properties shall be fixed at the following rates:

(a) Single-Family Detached Homes. Each lot designated as a Lot on which a single-family detached home is or may be constructed shall be assessed at a rate of One Hundred Per Cent (100%) of any annual or special assessment fixed or levied pursuant to Section 3 or Section 4 of this Article (said annual or special assessment being referred to in this Section as "the assessment").

(b) Single-Family Attached Cluster Homes. Each lot designated as a Lot on which a single-family attached cluster home is or may be constructed shall be assessed at a rate of Seventy-Five Per Cent (75%) of "the assessment."

(c) Multi-Family Apartment Building. Each lot used for the development thereon of multi-family apartment building(s) shall,

upon the completion of two or more private dwelling units in said building(s), be assessed for each completed private dwelling unit, and each such unit shall be assessed at a rate of Fifty Per Cent (50%) of "the assessment." To qualify as "completed," the private dwelling unit within the multi-family apartment building must be occupied, available for immediate occupancy, or temporarily unavailable for immediate occupancy on account of repairs, maintenance work or restoration. Prior to the completion of two private dwelling units within the multi-family apartment building(s) upon a Lot (multi-family apartment building Lot), said Lot shall be assessed at a rate of One Hundred Per Cent (100%) of "the assessment."

Section 6. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast Sixty Per Cent (60%) of all the votes appurtenant to each Class A Lots and Class B Lots shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments; Due Dates; Certificate of Payment. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of the annual assessment against each Lot and at least fifteen (15) days before January 1 of each year shall send written notice of each assessment to every Owner subject thereto. The due dates for the payment of annual and special assessments shall be established by the Board of Directors. The association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of Six Per Cent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the

property, and interest, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages.

The liens provided for herein shall be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust. Sale or transfer of any Lot shall not affect any assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust.

Section 10. Exempt Property.

All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to swelling use shall be exempt from said assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article will be deemed to have been fully

complied with. The Association shall have the right to charge a reasonable fee for receiving each application in an amount not to exceed Twenty-Five Dollars (\$25). Provided that nothing herein contained shall be construed to permit interference with the development of the Properties by the Declarant in accordance with its general plan of development.

#### ARTICLE VII

##### EXTERIOR MAINTENANCE

In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject notwithstanding the provisions of Section 5, Article V, of this Declaration.

#### ARTICLE VIII

##### USE RESTRICTIONS

Section 1. Land Use. All Lots shall be used for residential purposes only.

Section 2. Nuisance. No noxious or offensive activity shall be conducted upon any Lot or in any dwelling, nor shall anything be done thereon or therein which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided they are not kept or maintained for commercial purposes.

Section 4. Clothes Drying. No drying or airing of any clothing or bedding shall be permitted outdoors on any Lot or on any other unenclosed area within the Properties other than between the hours of 8 a.m. and 5 p.m. on Monday through Friday and 8 a.m. and 1 p.m. on Saturdays (except when any such day shall fall upon a holiday) and clothes hanging devices such as lines, reels, poles, frames, etc., shall be stored out of sight other than during the times aforementioned.

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ARTICLE IX

EASEMENTS

Easements for installation and maintenance of driveway, walkway, parking area, water line, gas line, telephone, electric power line, sanitary sewer and storm drainage facilities, and for other utility installations, are reserved as shown on the recorded plat. Further, easements ten (10) feet in width for such purposes are reserved along the rear Lot lines of all Lots shown on the recorded plat and easements five (5) feet in width for such purposes are reserved along all side Lot lines of all Lots shown on the recorded plat. In the event it is determined that other and further easements are required over any Lot or Lots in locations not shown on the recorded plat and not along rear or side lot lines, such easements may be established by the Declarant, except that if any such easements are reserved or established after the conveyance of a Lot or Lots to be affected thereby, the written assent of the owner or owners of such Lot or Lots and of the trustees and mortgagees in deeds of trust constituting a lien thereon shall be required. The Association may reserve and grant easements for the installation and maintenance of sewerage, utility and drainage facilities over the Common Area as provided in Article IV, Section 1(c). Within any such easements above provided for, no structure, planning or other material shall be placed or permitted to remain which may interfere with the installation of sewerage disposal facilities and utilities, or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

REAL ESTATE PAGE  
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Section 3. Amendment. The covenants and restrictions of this Declaration shall run and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for the successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than Ninety Per Cent (90%) of the Lots, and thereafter by an instrument signed by the Owners of not less than Seventy-Five (75%) Per Cent of the Lots. Any amendment must be properly recorded. For the purposes of this section additions to existing property as provided for in Article II, Section 2 hereof shall not constitute an "Amendment".

Section 4. FHA/VA Approval. As long as any Class B Lot exists, as provided in Article III hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration; Annexation of additional properties, dedication of Common Area, and Amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC. and ALTA ENTERPRISES, INC., a joint venture trading as WALNUT PROPERTIES, have caused this instrument to be executed by their <sup>vice,</sup> ~~Exec. Vice~~ Presidents and attested to by their Asst ~~and~~ Secretaries and their corporate seals to be hereunto affixed this 1 day of October, 1973.

WALNUT PROPERTIES

BY: JOHN CROSLAND COMPANY

By: John Crossland  
President

BY: CAROLINA FINANCIAL SERVICES, INC.

By: J. M. Stewart  
Ex. V - President

BY: ALTA ENTERPRISES, INC.

By: H. W. ...  
President

Attest:

Kathleen B. Steiger  
Secretary

Attest:

Frank W. ...  
Secretary

Attest:

Jack O. London Jr  
Asst. Secretary

REUASTATE PAGE BOOK  
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NORTH CAROLINA  
MECKLENBURG COUNTY

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CHARLES H. ARMOUR  
REGISTERING DEEDS  
MECKLENBURG COUNTY, N.C.

AMENDMENT TO  
SUPPLEMENTARY DECLARATION  
ON  
COVENANTS, CONDITIONS AND RESTRICTIONS 42

THIS AMENDMENT TO SUPPLEMENTARY DECLARATION of Covenants, Conditions and Restrictions, made this 20th day of April, 1975, by JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC. and ALTA ENTERPRISES, INC., a joint adventure trading as Walnut Properties, and John Crosland Company, hereinafter collectively referred to as "Declarant" and the owners of all of the lots in Walnut Creek subdivision heretofore conveyed;

W I L D E R E S S :

THAT WHEREAS, Declarant is the owner of the real property described on the Maps of Walnut Creek, Section 11 A, which Maps are recorded in Map Book 17 at page 195 and Map Book 17 at page 239 in the Mecklenburg Public Registry; and

WHEREAS, by Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3736 at page 292 in the Mecklenburg Public Registry, the Walnut Creek Swim and Racket Club was created and certain covenants, conditions and restrictions related thereto were thereby imposed on the real property described therein; and

WHEREAS, the aforesaid Declaration was made in order to provide for the maintenance and preservation of Limited Common Area owned by the Walnut Creek Swim and Racket Club; and

WHEREAS, Declarant A.J. all of the purchasers of lots from Declarant has deemed it advisable to amend said Supplementary Declaration by changing the description of the Limited Common Area as described in Exhibit B thereto;

NOW, THEREFORE, Declarant and all of the owners of lots in Walnut Creek subdivision as the same is shown on Maps recorded in Map Book 17 at pages 195 and 239 in the Mecklenburg Public Registry, do hereby amend Supplementary Declaration of Covenants, Conditions and Restrictions, recorded in Book 3736 at page 292 in the Mecklenburg Public Registry by deleting from said Supplementary Declaration the mere and bounds description contained in Schedule B which describes the "Limited Common Area" to be owned by the Walnut Creek Swim and Racket Association at the time of conveyance of the first lot and substituting therefor the following new description:

Beginning at the point where the southerly right-of-way of the margin of Hackberry Lane intersects the easterly margin of the right-of-way of Painted Tree Road, as shown on map recorded in Map Book 17 at page 195 in the Mecklenburg Public Registry; thence along the easterly margin of the right-of-way of Painted Tree Road (proposed) as follows: (1) S. 13-25 E. 250 feet to a point (2) with the arc of a circular curve to the right, having a radius of 351.12 feet, an arc distance of 129.71 feet to a point (3) S. 7-45 W. 358.0

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feet to a point (4) with the arc of a circular curve to the left, having a radius of 193.05 feet, an arc distance of 117.64 feet to a point (5) S. 26-48-26 E. 772.24 feet to a point (6) with the arc of a circular curve to the right, having a radius of 373.22 feet, an arc distance of 469.91 feet to a point (7) S. 45-10 W. 511.75 feet to a point (8) with the arc of a circular curve to the right, having a radius of 195.62 feet, an arc distance of 84.0 feet to the point or place of beginning; thence S. 8-29-30 E. 172.95 feet to a point; thence S. 37-30 E. 107.0 feet to a point; thence S. 20 E. 20 feet to a point; thence S. 74-58-17 W. 497.75 feet to a point; thence N. 7-00-50 W. 64.0 feet to a point; thence N. 45-40 E. 296.24 feet to a point; thence N. 17-35-10 E. 140.74 feet to a point in the southerly margin of Painted Tree Road (proposed); thence with said margin in a westerly direction with the arc of a circular curve to the left having a radius of 193.62 feet, an arc distance of 139.56 feet to the point or place of beginning.

The parties to this agreement further covenant and agree to a change in the name of the Association from Walnut Creek Swim and Racket Association to Painted Tree Swim and Racket Association and Article 1, Section 1 of the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions is hereby amended to effect said name change.

In all other respects, the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions shall remain unchanged and is hereby approved, ratified and affirmed.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed as of the day and year first above written.

WALNUT PROPERTIES

By: [Signature]  
JOHN CROSLAND COMPANY  
VICE President

By: [Signature]  
CAROLINA FINANCIAL SERVICES, INC.  
President

By: [Signature]  
ALTA ENTERPRISES, INC.  
President

By: [Signature]  
JOHN CROSLAND COMPANY  
VICE President

By: [Signature]  
Frederick B. Files  
(SEAL)

By: [Signature]  
Sandra C. Files  
(SEAL)

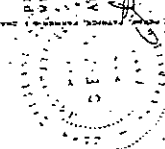
By: [Signature]  
William Ellis Murray  
(SEAL)

Attest: [Signature]  
Secretary

Attest: [Signature]  
Secretary

Attest: [Signature]  
Secretary

Attest: [Signature]  
Secretary



(Continued on page 3)

Schedule A attached to said Supplementary Declaration and substituting therefore the following new description for the description contained therein:

Lying and being in Pinoville Township, Mecklenburg County, North Carolina and being more particularly described as follows:

BEGINNING at a point on the westerly line of the alley-foot right-of-way of Carmel Road Extension, said beginning point being located 136.41 feet in a northeasterly direction along the easterly margin of said Carmel Road Extension from the point of intersection of the northeasterly margin of the right-of-way line of Painted Tree Road, if extended, and the easterly margin of the right-of-way line of Carmel Road Extension, if extended, said point also being located North 35 degrees 03 minutes 12 seconds East 173.03 feet from the aforesaid intersection; thence from said beginning point South 58 degrees 45 minutes 20 seconds East 676.91 feet to a point; thence South 00 degrees 00 minutes East 381.97 feet to a point; thence South 18 degrees 16 minutes East 130.60 feet to a point; thence South 9 degrees 38 minutes West 489 feet to a point; thence South 28 degrees 10 minutes West 397.0 feet to a point; thence South 11 degrees 36 minutes 50 seconds West 80.18 feet to a point; thence South 0 degrees 35 minutes 30 seconds East 57.19 feet to a point; thence South 15 degrees 11 minutes 40 seconds East 245.01 feet to a point; thence South 36 degrees 27 minutes 40 seconds East 105.70 feet to a point; thence South 41 degrees 42 minutes 10 seconds East 500.00 feet to a point; thence South 1 degree 00 minutes East 160.0 feet to a point; thence South 43 degrees 00 minutes West 370.0 feet to a point; thence South 8 degrees 00 minutes West 210.0 feet to a point; thence South 60 degrees 30 minutes West 120.0 feet to a point; thence South 72 degrees 30 minutes West 240.0 feet to a point; thence South 74 degrees 20 minutes West 880.0 feet to a point; thence North 15 degrees 45 minutes West 210.0 feet to a point; thence South 46 degrees 13 minutes 40 seconds West 780.93 feet to a point; thence North 45 degrees 50 minutes West 870.0 feet to a point; thence North 87 degrees 10 minutes West 215.0 feet to a point; thence North 31 degrees 10 minutes East 300.0 feet to a point; thence North 10 degrees East 240.0 feet to a point; thence North 80 degrees 00 minutes East 210.0 feet to a point; thence North 21 degrees 15 minutes East 175.0 feet to a point; thence North 8 degrees 30 seconds West 585.0 feet to a point; thence North 80 degrees 33 minutes 10 seconds East 235.0 feet to a point; thence North 12 degrees 30 minutes East 661.06 feet to a point; thence North 4 degrees 30 minutes West 320.0 feet to a point; thence North 85 degrees 30 minutes East 350.0 feet to a point; thence along the arc of a circular curve to the left having a radius of 1300.34 feet an arc distance of 1220.09 feet to the point of BEGINNING containing 157.70 acres.

In all other respects, the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions, as heretofore amended, is hereby approved, ratified and affirmed.

*Signature*

NDOT/ CAROLINA  
MECKLENBURG COUNTY

RECEIVED FOR REGISTRATION  
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MECKLENBURG COUNTY REC'D

THIRD AMENDMENT TO SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS.

THIS THIRD AMENDMENT TO SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS, made this 26th day of January, 1977, by JOHN CROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC., and ALTA ENTERPRISES, INC., a joint venture trading as WALNUT PROPERTIES, and John Crosland Company (herein, collectively referred to as "Declarant") and the undersigned individual signatory parties hereto, all together and collectively being not less than ninety (90%) percent of the owners of all lots in the hereinafter referred to Walnut Creek Subdivision:

W I T N E S S E S :

THAT WHEREAS, Declarant and Owners are the owners of the real property described on the Maps of Walnut Creek, which Maps are recorded in Map Book 17 at Pages 195, 219, 405, 578 and Map Book 18 at Page 8 in the Mecklenburg Public Registry; and

WHEREAS, by Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3736 at Page 292 in the Mecklenburg Public Registry, the Walnut Creek Swim and Racquet Association was created and certain covenants, conditions and restrictions related thereto were thereby imposed on the real property described therein; and

WHEREAS, by Amendment to Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3732 at Page 383 in the Mecklenburg Public Registry, the aforesaid Supplementary Declaration was amended to correct the description of the Limited Common Area and to change the name of Walnut Creek Swim and Racquet Association to Painted Tree Swim and Racquet Association ("the Association"); and

WHEREAS, by Second Amendment to Supplementary Declaration of Covenants, Conditions and Restrictions, recorded in Book 3804 at Page 264 in the Mecklenburg Public Registry, the aforesaid Supplementary Declaration was amended to add certain Limited Common Areas to the Association's property and to make certain technical changes as required by the Veterans Administration and the Department of Housing and Urban Development; and

WHEREAS, Declarant and other undersigned Owners of Lots located within Walnut Creek subdivision have deemed it advisable to add certain areas to the property which may be annexed by Declarant and made subject to the aforesaid Supplementary Declaration of Covenants, Conditions and Restrictions.

NOW, THEREFORE, Declarant and the other undersigned Owners of Lots in Walnut Creek subdivision as same are shown on maps thereof recorded in Map Book 17 at Pages 195, 219, 405, 578 and Map Book 18 at Page 8 in the Mecklenburg Public Registry, do hereby further amend Supplementary Declaration of Covenants, Conditions and Restrictions recorded in Book 3736 at Page 292 in the Mecklenburg Public Registry by deleting the description set forth in



NORTH CAROLINA  
HICKLENBURG COUNTY  
REGISTERED UNDER  
RECORDING ACT  
REGISTERED UNDER  
RECORDING ACT

SUPPLEMENTARY DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

THIS SUPPLEMENTARY DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS, made this 7th day of February, 1975, by JOHN GROSLAND COMPANY, CAROLINA FINANCIAL SERVICES, INC., and ALTA ENTERPRISES, INC., a joint adventure trading as Walnut Properties, and John Grosland Company, hereinafter collectively referred to as "Declarant";

WHEREAS, Declarant is the owner of the real property described on the Map of Walnut Creek, Section 11 A, which Map is recorded in Map Book 17 at Page 135 and Map Book 17 at Page 235 in the Rockleburg Public Registry said property and property for the exclusive use of the owners of said property and property annexed thereto as hereinafter provided; and

WHEREAS, by Declaration of Covenants, Conditions and Restrictions recorded in Book 3624 at Page 239 in the Rockleburg Public Registry and added by instrument recorded in Book 3734 at Page 324 in the Rockleburg Public Registry, the exclusive residential community of Walnut Creek was created and certain covenants, conditions and restrictions were thereby imposed; and

WHEREAS, the aforesaid Declaration was made in order to provide for the maintenance and preservation of the parks, play areas and open spaces owned by the Walnut Creek Homes Association; and

WHEREAS, the single family detached housing portion of said Walnut Creek will have permanent community property and recreational facilities for the exclusive use and benefit of residents of single family detached houses located on the same; and

WHEREAS, Declarant has deemed it advisable to create an organization to own, maintain and manage the exclusive community properties and recreational facilities appurtenant to said single family houses and to perform services and to enforce covenants and restrictions exclusively applicable to the residents thereof, and Declarant, therefore, has incorporated under North Carolina law as a non-profit corporation, Walnut Creek Swim and Racket Association, for the purpose of exercising the aforesaid functions.

NOW, THEREFORE, Declarant, by this Supplementary Declaration of Covenants, Conditions and Restrictions does declare that Walnut Creek, Section 11 A, as aforesaid, and such additions thereto as may be hereafter made pursuant to Article II hereof, shall be held, transferred, sold, conveyed and occupied in and shall be subject to the covenants, conditions, restrictions, easements, charges and liens set forth in this Supplementary Declaration which shall run with the real property and be binding on all parties owning any right, title or interest in said real property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I  
DEFINITIONS

Section 1. "Association" shall mean and refer to Walnut Creek Swim and Racket Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" shall mean and refer to the "existing Property" and any additions thereto, as are or shall become subject to this Supplementary Declaration under the provisions of Article II hereof.

Section 4. "Limited Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and designated as a "Limited Common Area" or "Limited Recreational Facility" on any plat of Walnut Creek, Sections I and II duly recorded in the Rockleburg Public Registry in accordance with the provisions of this Declaration; the Limited Common Area to be owned by the Association at the time of the conveyance of the first lot is described by metes and bounds on Schedule B attached hereto and incorporated herein by reference.

Section 5. "Lot" shall mean and refer to any plot of land, with delineated boundary lines, shown upon any recorded subdivision map of the properties with the exception of (1) any Common Area or Common Open Space shown on any records map; (2) land reserved and designated for commercial use, and (3) land reserved and designated for the exclusive common use of the Owners of single-family houses.

Section 6. "Declarant" shall mean and refer to John Grosland Company, Carolina Financial Services, Inc. and Alta Enterprises, Inc., a joint adventure trading as Walnut Properties and John Grosland Company. The term "Declarant" shall hereafter refer to any person, firm or corporation which shall hereafter become vested, at any given time, with title to two or more undeveloped lots for the purpose of constructing residence building(s) to be constructed thereon, and any such successor in title to Declarant defined as aforesaid shall be a Declarant during such period of time as said party is vested with title to two or more such lots so long as improvement constructed thereon are unoccupied (whether undeveloped, or developed and unoccupied), but no longer.

Section 7. "Declarant" shall mean and refer to John Grosland Company, Carolina Financial Services, Inc. and Alta Enterprises, Inc., a joint adventure trading as Walnut Properties and John Grosland Company. The term "Declarant" shall hereafter refer to any person, firm or corporation which shall hereafter become vested, at any given time, with title to two or more undeveloped lots for the purpose of constructing residence building(s) to be constructed thereon, and any such successor in title to Declarant defined as aforesaid shall be a Declarant during such period of time as said party is vested with title to two or more such lots so long as improvement constructed thereon are unoccupied (whether undeveloped, or developed and unoccupied), but no longer.