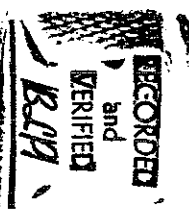


See Restrictions
Bk. 811 p. 435

Supplemental
Book 138/129
Pg. 12/1



Mailed to: Alvin Carson
6407 Idlewild Rd, Suite 100
Charlotte, NC 28212

Filed for record 8-19-93
Date 8-19-93
Time 1:40 o'clock P. M.
JUDY G. PRICE, Register of Deeds
Mecklenburg County, North Carolina

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
BROOKSTONE VILLAGE

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this the 19th day of February, 1993, by Brooktree Village Corporation, a North Carolina corporation, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of the real property which is described in Article II hereof, and desires to create thereon an exclusive residential community of single-family houses to be named BROOKSTONE VILLAGE; and

WHEREAS, Declarant desires to insure the attractiveness of the subdivision and to prevent any future impairment thereof, to prevent nuisances, to preserve, protect, and enhance the values and amenities of all properties within the subdivision and to provide for the maintenance and upkeep of the Common Area, as hereinafter defined; and, to this end desires to subject the said real property to the covenants, conditions, restrictions, easements, charges, and liens hereafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Declarant has incorporated or will incorporate under North Carolina law Brookstone Village Homeowners Association, as a non-profit corporation for the purpose of exercising and performing the aforesaid functions;

NOW, THEREFORE, Declarant, by this Declaration of Covenants, Conditions, and Restrictions, does declare that all of the property described in Article II hereof is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions, restrictions, easements, charges, and liens set forth in this 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. "Homeowners Association" shall mean and refer to Brookstone Village Homeowners Association, a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record

owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding Declarant and those having such interests merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the property described in Article II hereof, and any additions thereto as are or shall become subject to this Declaration and brought within the jurisdiction of the Homeowners Association.

Section 4. "Common Area" shall mean all real property owned by the Homeowners Association for the common use and enjoyment of the owners. Common Area within the Properties shall be shown on the Plat of Brookstone Village recorded or to be recorded in the Union County Public Registry and designated thereon as "Common Areas," but shall exclude all lots as hereinafter defined and public streets dedicated and accepted in accordance with Article IV, Section 3.

Section 5. "Lot" shall mean and refer to any numbered plot of land, with delineated boundary lines, appearing on any recorded subdivision map of the Properties with the exception of the Common Area and public streets dedicated and accepted in accordance with Article IV, Section 3.

Section 6. "Declarant" shall mean and refer to Brooktree Village Corporation and 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 purpose of causing residence building(s) to be constructed thereon, and any such successor in title to Brooktree Village Corporation 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 unconveyed), but no longer.

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

ARTICLE II

PROPERTY SUBJECT TO THIS DECLARATION AND WITHIN THE JURISDICTION OF THE HOMEOWNERS ASSOCIATION

Section 1. The real property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration, and shall be within the jurisdiction of the Homeowners Association is located in Union County, North Carolina, and is more particularly described on maps recorded at plat Cabinet D Files 249 and 250 of the Union Public Registry.

Section 2. Additions to Existing Property. Additional land may be brought within the scheme of and made subject to this Declaration and the Homeowners Association in the following manner:

(a) All or part of the land within the area described in the metes and bounds description attached hereto as Exhibit A, owned by Declarant and incorporated herein by reference may be added to the Properties by Declarant, in future stages of development, without the consent of any other lot owner or owners, provided that said additions must occur within six (6) years after the date of this instrument; provided that so long as Class B lots remain, annexation of additional properties shall require HUD/VA prior approval, as well. Declarant, in its sole discretion, may remove all or part of the property from the description, attached hereto as Exhibit "A", at any time prior to its addition by filing a written declaration of removal in the Union Public Registry;

(b) The additions authorized under subsection (a) above shall be made by the recordation of Supplemental Declarations of Covenants, Conditions, and Restrictions which shall be signed by the Declarant, shall specify the land to be added to the Properties and shall evidence HUD/VA approval, if necessary. From and after the recordation of a supplemental Declaration, the additional land specified therein shall be fully subject to this Declaration and to the benefits, agreements, restrictions and obligations set forth herein as if it had been a part of the Properties at the time this Declaration was recorded.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a lot which is subject to assessment shall be a Member of the Homeowners Association. Membership shall be apurtenant to and may not be separated from ownership of any lot which is subject to assessment. Every Owner shall notify the Homeowners Association of the Owner's acquisition of title to a lot within fifteen (15) days after title is acquired.

Section 2. The voting rights of the membership shall be apurtenant to the ownership of the lots. There shall be two classes of lots with respect to voting rights and assessments:

(a) Class A lots. Class A lots shall be all lots except Class B lots as the same are hereinafter defined. Each Class A lot shall entitle the Owner(s) of said lot one vote. When more than one person owns an interest (other than a leasehold or a security interest) in any lot, all such persons shall be Members and the voting rights apportioned to said lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any one Class A lot.

(b) Class B lots. Class B lots shall be all lots owned by Declarant which have not been converted to Class A lots as provided in (1) or (2) below. The Declarant shall be entitled to three votes for each Class B lot owned by it. The Class B lots shall cease to exist and shall be converted to Class A lots:

- (1) When the total number of votes apportioned to the Class A lots equal the total number of votes apportioned to the Class B lots, or
- (2) On March 31, 1999, whichever is earlier.

Section 3. Notwithstanding the provisions of Section 1 and Section 2 above, the total votes cast by any non-resident Owners, other than the Declarant, shall not exceed forty-nine percent (49%) of all votes cast on any matter for action by the Owners or the Homeowners Association.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, which shall be apportioned to and pass with the title to every lot, subject to the following provisions:

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

(b) The right of the Homeowners Association to suspend the voting rights and rights to the use of the recreational facilities 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 Homeowners 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 (1) the Members entitled to at least two-thirds (2/3) of the votes appurtenant to Class A lots and at least two-thirds (2/3) of the votes appurtenant to Class B lots consent to such dedication or transfer and signify their consent and agreement in a signed and recorded written instrument; and (2) the dedication is approved by HUD/VA so long as Class B lots remain. This subsection shall not preclude the Board of Directors of the Homeowners Association or others 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, in the sole opinion of such Board, such easements do not interfere with the use and enjoyment of the Properties or are necessary for the convenient use and enjoyment of the Properties.

(d) The right of the Homeowners Association, with the written assent of the Members entitled to at least two-thirds (2/3) of the votes appurtenant to Class A lots and at least two-thirds (2/3) of the votes appurtenant to Class B lots to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

Section 2. Delegation of Use.

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

(b) Tenants or Contract Purchasers. The right and easement of enjoyment granted to every Owner in

(1780)

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 Union County, North Carolina; provided that no such delegation shall relieve the Owner of his responsibilities and obligations under this Declaration and the Owner shall remain fully responsible for the acts or omissions of any tenant or contract purchaser.

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

Section 3. Ownership of Common Areas. Declarant shall convey the Common Areas to the Association free and clear of all liens and encumbrances. Notwithstanding the recordation of any map or any other action by Declarant or the Association, all Common Areas, including cul-de-sacs and roads, if any, shall remain private property and shall not be considered as dedicated to the use and enjoyment of the public; provided, however, that the Declarant or the Association may offer such cul-de-sacs and roads for dedication to the appropriate governmental authorities. For so long as Class B lots remain, HUD/VA prior approval shall be required for any dedication of Common Area. If accepted for dedication by such government authorities, then the cul-de-sacs or roads shall then be considered dedicated to the use and enjoyment of the public.

Section 4. Owners' Easements for Ingress and Egress. To the extent that cul-de-sacs and roads have not been dedicated to the use and enjoyment of the public sufficient to provide access to a lot, every lot shall be conveyed with and each Owner is hereby granted a perpetual, non-exclusive easement over any cul-de-sac or roadway which may be constructed by the Declarant and conveyed to the Association as part of the Common Area for the purpose of providing access to and from each lot. Upon dedication and acceptance of such cul-de-sacs and roadways, these easement rights shall terminate with respect thereto.

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 Homeowners Association: (1) annual assessments and (2) special assessments, such assessments to be established and collected as hereinafter provided. Any such assessment, 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 be a charge on the land and 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 Homeowners Association shall be used to promote the recreation, health, safety, and welfare of the residents of the Properties in connection with the use and enjoyment of the Common Area, including, but not limited to, the cost of maintenance, repair, replacement, or 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 Bylaws, the employment of attorneys to represent the Homeowners 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 ninety-six dollars (\$96.00) per Class A lot and twenty-four dollars (\$24.00) per Class B 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 above established may be increased by the Board of Directors, effective January 1 of each year, without a vote of the membership, but subject to the limitation that 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 all Cities over the immediately preceding twelve (12) month period which ended on the previous October 1. The CPI for the base period of October 1, 1992 is (141.3 = 100).

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, said maximum annual assessments may be increased without limitation, if such increase is approved by a two-thirds (2/3) vote of members present

in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may permit the annual assessment to be paid in installments but the ratio of the assessment established for each Class A Lot to the assessment established for each Class B Lot shall always be four to one.

Section 4. Special Assessments. In addition to the annual assessments authorized above, the Homeowners Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or part, any operating cost deficit or other expense for which annual assessments receipts are insufficient or 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. Both annual and special assessments must be fixed at a uniform rate for all Lots within each class and shall be collected on a monthly basis.

Section 6. Notice and Quorum for Any Action Authorized Under Section 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 percent (60%) of the votes apportioned to each Class of Lots (Class A and Class B) shall constitute a quorum. If the required quorum is not present, another meeting may be called for the same purpose and 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 to the Homeowners Association of the Common Area.

At least thirty (30) days before January 1 of each year, the Board of Directors shall fix the amount of monthly assessments against each Lot for the next year and at least fifteen (15) days before January 1 shall send written notice of such fixed assessment to every Owner subject thereto. Failure of the Board of Directors or the Homeowners Association to fix the amount of

annual assessment or to notify any Owners shall not relieve any Owner of the obligation to pay assessment when due. The due dates for the payment of annual and special assessments shall be established by the Board of Directors. The Homeowners Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Homeowners Association setting forth whether the assessments on a specified lot have been paid.

Section 8. Effect of Nonpayment of Assessment: Remedies of the Homeowners Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of sixteen percent (16%) or the maximum interest rate permitted to be legally charged under the laws of the State of North Carolina at the time of such delinquency, whichever is greater. In addition to such interest charge, the delinquent Owner shall also pay such late charge as may have been theretofore established by the Board of Directors of the Homeowners Association to defray the costs of late payment. The Homeowners Association may bring an action at law against the Owner personally obligated to pay the same and/or foreclose the lien against the lot by action or by power of sale to the extent permitted under North Carolina law, and interest, late payment fees, 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 first mortgage, or first deed of trust on a lot. 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 first mortgage or first deed of trust, pursuant to a foreclosure thereof, shall extinguish the lien of such assessments to the extent the assessments became due prior to such sale or transfer. No such sale or transfer shall relieve such lot from liability for any assessment thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or first deed 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 dwelling use shall be exempt from said assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall, structure or other improvement shall be commenced or maintained upon the Properties, nor shall any exterior addition, change or alteration be made, including, without limitation, the erection of antennas, aerials or awnings or the placement of reflective or other material in windows until detailed plans and specifications showing the nature, kind, shape, heights, materials, colors, and location of the same shall have been submitted to and approved in writing by the Board of Directors of the Homeowners Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board. The Board or architectural control committee shall review the plans and specifications to determine if the external design and location of the proposed improvement is in harmony with surrounding structures and topography. The Board may, but is not required, to adopt more specific guidelines for architectural review and may revoke or amend guidelines previously adopted at any time. 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. No action or inaction by the Board of Directors or the architectural control committee with respect to a specific improvement, addition or alteration made or proposed shall operate as waiver or estoppel with respect to any later submission or proposal. The Homeowners Association shall have the right to charge a reasonable fee for receiving such application in an amount not to exceed twenty-five dollars (\$25.00). Neither the Board of Directors nor the architectural control committee shall approve any alterations, decorations, or modifications which would jeopardize or impair the soundness, safety, or appearance of any lot or the Common Area. 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

USE RESTRICTIONS

Section 1. Land Use. All lots shall be known and described as residential lots. Lots are to be used exclusively for single-family residential purposes and are devoted exclusively to dwelling use. No structure shall be erected, altered, placed, or permitted to remain on any residential building lot other than a single-family dwelling, not to exceed two and one-half stories in

height and a private garage for each unit for not more than three cars and other accessory structures customarily incidental to the above described use of the lot.

Section 2. Building Lines. No building shall be located nearer to the front or side lines than the building setback lines shown on the recorded plat, if such lines are shown. In any event, no building shall be placed nearer to any front, side, or rear setback line as required by the Union County Zoning Ordinances or any other applicable zoning ordinance.

Unintentional violations not exceeding ten percent (10%) of the minimum building line requirements set forth shall not be considered a violation of this section.

Section 3. Subdivision of Lots. No person or entity may subdivide or resubdivide any lot or lots without the prior written consent of the Declarant.

Section 4. Size of Structure. No residential structure shall be erected or placed having a total finished heated area of less than one thousand heated square feet (1,000) in addition to a single car garage of standard size.

Unintentional violations not exceeding ten percent (10%) of the minimum square footage requirements herein set forth shall not be considered a violation of this section.

Section 5. Temporary Structures. No structure of a temporary nature shall be erected or allowed to remain on any lot unless and until permission for the same has been granted by the Homeowners Association, or its designated agent or representative. This section shall not be applicable to temporary construction trailers, sales offices, and material storage facilities used during construction.

Section 6. Use of Common Area. The Common Area shall not be used in any manner except as shall be set forth in this Declaration or shall be approved or specifically permitted by the Homeowners Association.

Section 7. Clothes Drying. No drying or airing of any clothing or bedding shall be permitted outdoors on any lot or in any other unenclosed area (including patios) within the properties other than between the hours of 8:00 A.M. and 5:00 P.M. on Monday through Friday and 8:00 A.M. and 1:00 P.M. on Saturdays (except when any such day shall fall on a holiday) and clothes hanging devices such as lines, reels, poles, frames, etc. shall be stored out of sight other than during the times and days aforementioned.

Section 8. Regulations. Reasonable regulations governing

the use of the Common Area may be made and amended from time to time by the Board of Directors of the Homeowners Association. All such regulations and amendments thereto shall be approved by a majority vote of Owners voting in person or by proxy at the annual meeting or a special meeting called for that purpose before the same shall become effective. Copies of such regulations and amendments thereto shall be furnished to each Member by the Homeowners Association upon request.

Section 9. Nuisances. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereof which may be or become an annoyance or nuisance to the neighborhood.

Section 10. Residence. No trailer, basement, tent, shack, garage, barn, or other outbuilding erected on the tract shall be at any time used as a dwelling or residence, temporarily or permanently, nor shall any structure of a temporary character be used as a dwelling or residence.

Section 11. Radio and Television Antennas. No free standing radio or television or electronic reception towers, antennas, dishes or disks shall be erected on any lot. Only radio and television antennas not exceeding fifteen (15) feet in height above the roof line of the residence and only dishes or disks not exceeding four (4) feet in diameter and not visible from any point on the street in front of the residence shall be permitted.

Section 12. Harmony of Structures. No structure shall be constructed or moved onto any lot unless it shall conform to and be in harmony with existing structures on the properties.

Section 13. Easements. A perpetual easement is reserved over the rear 10 feet of each lot for utility installment and maintenance and/or as shown on recorded map. A perpetual easement is reserved over the side 5 feet and rear 10 feet of each lot for public storm drain and/or as shown on recorded map.

Section 14. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot; one sign of not more than five square feet, advertising the property for sale or rent; or signs used by a builder to advertise the property during the construction and sales period.

Section 15. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats, or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

Section 16. Trash Disposal. All rubbish, trash, garbage, or waste of any kind shall be kept in sanitary containers and shall in no event be placed on Common Area. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

Section 17. Fences. No chain link fence shall be erected on any Lot, and no fences shall be erected on any Lot closer to any street line than the building setback line shown on the recorded map, nor shall any fence be erected except in accordance with the architectural control provisions of Article VI hereof. Provided, however, that notwithstanding anything contained in this Section or elsewhere to the contrary, Declarant may install decorative fencing on any Lot used by it containing a model home.

Section 18. Sight Line Limitations. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

Section 19. Parking of Vehicles. No truck over one ton, school bus, camper, trailer, boat or boat trailer, recreation vehicles, nor any other vehicle and craft or watercraft shall be parked in the street, in a driveway, in the front yard, in a side yard, or in the back yard of any Lot except as expressly permitted by the Board of Directors, the architectural control committee or its designated subcommittee.

Section 20. Mailboxes. No masonry mailbox supports shall be permitted.

Section 21. Basketball Goal Support. No basketball goal supports shall be erected or placed within any street right of way.

ARTICLE VIII

EASEMENTS

Easements for the installation and maintenance of fences, driveways, walkways, parking areas, water lines, gas lines, telephone, cable TV, electric power lines, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plat and as further described in Article VII, Section 13 of this instrument. Within any such easements above provided for, no structure, planting, or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements.

Declarant, its successors and assigns, hereby reserves and shall have temporary easements for itself, its agent and employees over the Common Area to facilitate construction of living units and related improvements to be completed in developing the Properties.

ARTICLE IX GENERAL PROVISIONS

Section 1. Enforcement. The Homeowners 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. In any such action, the court may award reasonable attorney's fees to the prevailing party. Failure by the Homeowners Association or any Owner to enforce any covenant or restriction herein contained shall in no way be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity 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.

Section 3. Effect of Restrictions and Amendment. The covenants and restrictions of this Declaration shall bind only to the land specifically herein described and shall run with and bind the land. This Declaration may be amended prior to March 31, 2013 by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots and by the Declarant, so long as the Declarant still owns any lots, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be properly recorded. For so long as Class B Lots remain, any amendment

Section 4. FHA/VA Approval. In the event the Declarant has arranged for and provided purchasers of lots with FHA/VA insured mortgage loans, then as long as Declarant is vested with title to two or more undeveloped lots subject to this Declaration of Covenants, Conditions and Restrictions, amendment of this Declaration of Covenants, Conditions and Restrictions will require the prior approval of the Federal Housing Administration or the Veterans Administration.

IN WITNESS WHEREOF, the undersigned, Brooktree Village Corporation, Declarant by virtue of the provisions of the preamble of the aforesaid Declaration of Covenants, Conditions, and Restrictions, has caused this instrument to be executed by its President, attested by its Secretary, and its corporate seal to be hereunto affixed, the day and year first above written.

BROOKTREE VILLAGE CORPORATION

By: Alan B. Curren
President



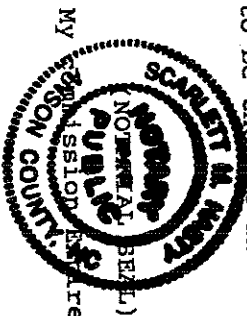
ATTEST:
[Signature]
Secretary
(CORPORATE SEAL)

STATE OF NORTH CAROLINA

COUNTY OF Union

This 19th day of January, 1993,
personally came before me Alan B. Curren, who,
being by me duly sworn, says that he is Declarant to the
of BROOKTREE VILLAGE CORPORATION, that the seal affixed to the
foregoing instrument in writing is the corporate seal of the
Corporation, and that said writing was signed and sealed by him,
in behalf of said Corporation, by its authority duly given. And
the said Secretary acknowledged the said writing
to be the act and deed of said Corporation.

Scarlett M. Hasty
Notary Public



My Commission Expires 7-19-97

NORTH CAROLINA - Union County Scarlett M. Hasty
The foregoing certificate(s) of Notary Public of Philon C. N.C.

is (are) certified to be correct. This instrument was presented for registration and recorded in this office at Book 610 Page 775
this 19th day of February, 1993 at 1:40 o'clock P. M.
By: Ally & Madeline Asst/Deputy

ONELL L. PLYLER, REGISTER OF DEEDS

BEGINNING at an existing iron pin with North Carolina grid coordinates of Northing 488,599.70 and an Easting of 1,510,167.17, a corner of the property shown on a recorded map in the Union County Public Registry in Plat Cabinet C, File 633; thence along the most western line of said record map S 12-22-53 W 2,041.48' to a set nail in the asphalt of Unionville-Indian Trail Road (SR 1367) and passing an iron pin at a 2,008.76' on the right of way of said road (60' total right of way width); thence within the 60' right of way of said road the following three(3) calls: (1) N 86-45-49 W 66.25' to a point; thence (2) S 89-33-20 W 200.76' to a point; thence (3) S 84-11-20 W 478.95' to a set nail in the asphalt marking the southeastern corner of Brooks Howard Younts & Hattie G. Younts property recorded in Deed Book 92 Page 537 of the Union County Public Registry; thence along the most eastern line of said property the following three(3) calls: (1) N 12-05-54 W 806.42' (passing an iron at 30.04' on said right-of-way) to an existing iron pin; thence (2) N 27-41-17 E 423.89' to an existing iron pin; thence (3) N 22-39-59 W 683.13' to an existing iron pin marking the most northern corner of said Younts property and lying in the most southern line of Robert Keith Ross & Wf. Mildred H. Ross property recorded in Deed Book 530 page 187 of the Union County Public Registry; thence following said property the following two(2) calls (1) N 16-36-22 E 36.11' to an existing iron pin; thence (2) N 60-32-31 W 369.12' to an existing iron pin marking a common corner with the said Ross property and John Keith Ross & Mildred Y. Ross property recorded in Deed Book 252 Page 335 of the Union County Public Registry; thence with the John Keith Ross line N 60-29-31 W 299.26' to a set iron being located S 60-29-31 E 4.85' from an old iron pin at an old fence post, said set iron also being located N 59-24-41 E 3.36' from an existing iron pin in the pasture of John Keith Ross, said point also marking the southwestern corner of the N.A. Mathisen property now being developed under the name of Lake Park Subdivision; thence with said subdivision line N 59-15-44 E 1,613.99' to a set iron pin being a corner of an undeveloped area shown on a plat recorded in plat Cabinet C, File 825 of the Union County Public Registry; thence with said record map S 16-46-31 E 97.97' to an existing iron pin marking the north-western corner of Lot 27 of said record map; thence leaving said record map S 31-28-45 E 362.34' to an existing pin marking a corner in the most western line of Lot 19 as shown on a plat recorded in Plat Cabinet C, File 634 of the Union County Public Registry said iron also marking the northeastern corner of Lot 16 as shown on a plat recorded in Plat Cabinet C, File 727 of the Union County Public Registry; thence with the most northern line of Lots 16,15, and 14 of said record map S 18-40-53 W 523.43' to an existing iron pin, the western most corner of said Lot 14; thence continuing with the most southern line of Lots 14,13, and 12 of said record map for a portion of the distance, S 85-27-49 E 552.60' to the point and place of beginning containing 69.44 Acres more or less according to a survey by F. Donald Lawrence and Associates dated April 24, 1992 and being the same property conveyed to Richard I. McHenry by Deed 410 Page 187 recorded at the Union County Public Registry.

RECORDED
and
VERIFIED
BCS

BK738PG729

PREPARED BY AND RETURN TO: Delaney and Sellers,
P.A., 410 Cameron-Brown Building, 301 South
McDowell Street, Charlotte, NC 28204-2686

004101

FIRST SUPPLEMENTAL DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF BROOKSTONE VILLAGE

*Reference
to Book*

THIS SUPPLEMENTAL DECLARATION is executed this the 21st day of September, 1994, by Brooktree Village Corporation, a North Carolina corporation (hereinafter referred to as "Declarant") for itself, its successors and assigns pursuant to North Carolina law and specifically Article II, Section 2 (a) of the Declaration of Covenants, Conditions and Restrictions for Brookstone Village recorded in Book 610, at Page 775, of the Union County Public Registry on February 19, 1993 (hereinafter referred to as the "Declaration").

W I T N E S S E T H:

WHEREAS, Declarant has heretofore imposed the Declaration upon Phase I of the residential development known as BROOKSTONE VILLAGE;

WHEREAS, the Declaration provides in Article II, Section 2 (a) that "all or part of the land within the area described in the metes and bounds description attached hereto as Exhibit A . . . may be added to the Properties by Declarant in future stages of development, without the consent of any other lot owner or owners"

WHEREAS, the Declarant desires to incorporate Brookstone Village, Phase II as the same is shown on a plat recorded in Plat Cabinet D, at Page 710 and 711, of the Union County Public Registry, into the Properties subject to the Declaration, Phase II being a part of the property described in Exhibit A to the Declaration.

NOW, THEREFORE, pursuant to the provisions of Article II, Section 2 of the Declaration of Covenants, Conditions and Restrictions of Brookstone Village, Declarant does hereby annex and incorporate Brookstone Village, Phase II as the same is shown on the maps on file in Plat Cabinet D, at Page 710 and 711 of the Union County Public Registry, into the property which is subject to the Declaration of Covenants, Conditions and Restrictions for the Declaration of Covenants, Conditions and Restrictions for Brookstone Village recorded in Book 610, at Page 775, of the Union County Public Registry, to the end that Brookstone Village, Phase II as aforesaid shall be subject to and within the scheme of the Declaration and within the jurisdiction of the homeowners association identified in the Declaration and to the further end that all present and future owners of all lots shown on the plats recorded in Plat Cabinet D at Pages 710 and 711, in the Union County Public Registry, shall be subject to the terms and conditions of the Declaration and shall have the rights and privileges therein set out.

Filed for record 9-23-94
Date 9-23-94
Time 12:01 o'clock P. M.
JUDY G. PRICE, Register of Deeds
Union County, Monroe, North Carolina

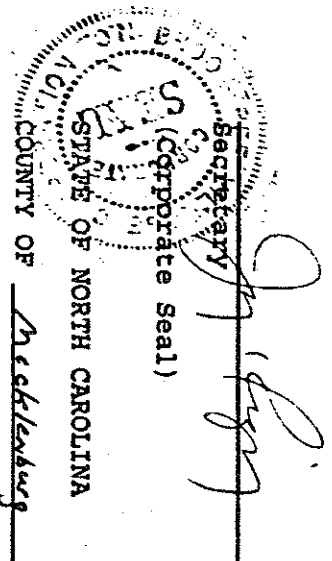
BK 738PG730

The annexation and incorporation of Phase II as detailed herein has been approved by HUD/VA as evidenced by Exhibit A which is attached hereto and incorporated by reference herein.

IN WITNESS WHEREOF, Brooktree Village Corporation has caused this instrument to be executed as of the day and year first above written.

BROOKTREE VILLAGE CORPORATION

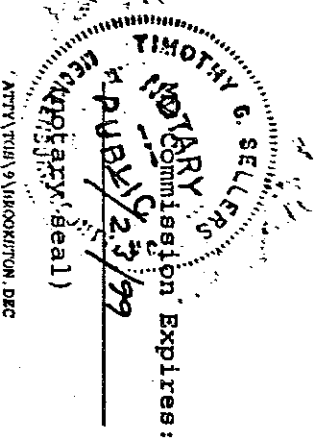
BY: *Charles A. Williams*
President



COUNTY OF Mecklenburg

This the 21st day of September, 1994, personally appeared before me Jerry C. Rigley, who being by me duly sworn says that he is the Secretary of BROOKTREE VILLAGE CORPORATION, and that the seal affixed to the foregoing instrument in writing is the corporate seal of the corporation and that said instrument was signed and sealed by him, in behalf of said Corporation, by its authority duly given, and the said Jerry C. Rigley acknowledged the said writing to be the act and deed of the Corporation.

Timothy G. Sellers
Notary Public



The foregoing certificate(s) of Timothy G. Sellers, Notary Public of MEK Co. N.C.

is/are certified to be correct. This instrument and certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

Judy G. Price BY: *Judy G. Price*
Register of Deeds Assistant/Deputy RD
Union County, NC



BK 738PG 731

EXHIBIT A
U.S. Department of Housing and Urban Development

Greensboro Office, Region IV
2306 West Meadowview Road
Greensboro, North Carolina 27407
September 19, 1994

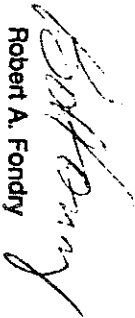
Delaney and Sellers, P.A.
Attorneys at Law
Attention: Timothy G. Sellers
301 South McDowell Street
Charlotte, NC 28204-2686

Dear Mr. Sellers:

We have reviewed the proposed First Supplemental Declaration of Covenants,
Conditions and Restrictions of Brookstone Village.

HUD/FHA has no objection to the annexation of Brookstone Village, Phase II to
the declaration recorded in Book 610, at Page 75, of the Union County Public
Registry.

Very sincerely yours,


Robert A. Fondry
Chief
Valuation Branch