

RECORDED
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*See Supplementary
Rest. Bk 973/230
See 1st Amend.
Bk 973/232
See 2nd Amend.
1030-267*

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STATE OF NORTH CAROLINA
COUNTY OF UNION

DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CANTERFIELD CREEK

THIS DECLARATION, made on the date hereinafter set forth by
SHEA HOMES, L.L.C., a North Carolina limited liability company
hereinafter referred to as "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is the owner of the real property
described in Section 1 of Article II of this Declaration, which
real property is a portion of a residential development known as
Canterfield Creek; and

WHEREAS, Declarant desires to insure the attractiveness of
entrances into Canterfield Creek, including the area within the
right-of-way of Joe Kerr Road between the curb and rear lot lines
of lots in Canterfield Creek, and the Common Area containing
amenities, including swimming pool, cabana, picnic areas, trails
and walking paths, foot bridges, paths and ponds and to prevent
any future impairment thereof; to prevent nuisances; to preserve,
protect and enhance the values of the said property and to
provide for the maintenance of the landscape easements containing
portions of the subdivision entrance monuments, Pond Maintenance
Easement adjacent to the ponds, Common Area Access and Common
Area; the maintenance of the medians located throughout
Canterfield Creek, including within the right-of-way of
Canterfield Drive at the intersection of Canterfield Drive and
Joe Kerr Road; in order to accomplish these objectives, deems it
advisable to subject the real property described in Section 1 of
Article II, together with such additions as may hereafter be made
thereto (as provided in Article II) to the covenants, conditions,
restrictions, easements, charges and liens hereinafter set forth;
and

WHEREAS, Declarant deems it desirable in order to insure the
efficient preservation, protection and enhancement of the values
in Canterfield Creek and the residents' enjoyment of the specific
rights, privileges and easements in the Common Areas that an
organization be created to which will be delegated and assigned
the powers of maintaining the Common Area, Landscape Easements,
Pond Maintenance Easements and Common Area Access Easements,

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administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter imposed; and

WHEREAS, Declarant has caused to be created for the purposes aforesaid, a North Carolina non-profit corporation under the name and style of Canterfield Creek Homeowners Association of Union, Inc.

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 owned, held, transferred, sold, conveyed, and occupied subject to the following covenants, conditions, restrictions, easements, charges and liens which shall run with the real property (except as provided in Article V, Section 10 hereafter) and be binding upon and inure to the benefit of all owners thereof, their heirs, personal representatives, successors and assigns.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Canterfield Creek Homeowners Association of Union, Inc., 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 a fee simple title to any lot which is a part of the properties, including contract sellers and owners of an equity of redemption, but excluding those having such interest in a lot solely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to the "Existing Property" described in Article II, Section 1 hereof 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. "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 any common area, common open space, streets, walkways or easements shown on any recorded map. In the event any lot is increased or decreased in size by resubdivisions, through recordation of new subdivision plats, any such newly platted lot shall thereafter constitute a lot for the purposes of this Declaration.

Section 5. "Declarant" shall mean and refer to SHEA HOMES, L.L.C., a North Carolina limited liability company and those of

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its successors and assigns, if any, to whom the rights of Declarant hereunder are expressly transferred hereafter, in whole or in part, and subject to the terms and conditions as the Declarant may impose.

Section 6. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 7. "Common Area" shall mean and refer to the areas designated "Common Area," "Common Open Space," "Green Space" (or different language with similar meaning) on map(s) of the Properties recorded in the Union County Public Registry and all real property, easements and improvements thereon, owned or held in trust for the benefit of the Association for the common use and enjoyment of its members.

Section 8. "Landscape Easement" shall mean and refer to any easement designated "Landscape Easement", "Sign and Landscape Easement", "20' Landscape and Maintenance Easement" or similar wording with the same meaning on any plat of the property described on Schedule A attached hereto and duly recorded in the Union County Public Registry in accordance with the provisions of this Declaration. The "Landscape Easement" shall be in favor of the Association and shall be for the construction, maintenance, repair, replacement of the entrance monuments and landscaping within the Landscape Easement and for the purposes set forth in Article X hereof.

Section 9. "Pond Maintenance Easement" shall mean and refer to any easement designated "Pond Maintenance Easement", "10' Access and Pond Maintenance Esmt." or similar wording with the same meaning on any plat of the property described on Schedule A attached hereto and duly recorded in the Union County Public Registry in accordance with the provisions of this Declaration. The "Pond Maintenance Easement" shall be in favor of the Association and shall be for the maintenance of the ponds, their beds, dams, spillways and other areas with the "Pond Maintenance Easement" and for the purposes set forth in Article IV hereof.

Section 10. "Common Area Access Easement" shall mean and refer to any easement designated "Common Area Access Easement" on any plat of the property described on Schedule A attached hereto and duly recorded in the Union County Public Registry in accordance with the provisions of this Declaration. The Common Area Access Easement shall be in favor of the Association and its members to provide access to the Common Area.

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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 Union County, North Carolina and is shown on map recorded in Plat Cabinet E at File No. 356 in the Office of the Register of Deeds for Union County.

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

Section 2. Additions to Existing Property. Additional property may be brought within the scheme of this Declaration and the jurisdiction of the Association in the following ways:

(a) Additional land within the area described in the metes and bounds description attached hereto as Schedule A and incorporated herein by reference may be annexed to the Properties by Declarant or its designated assign 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 ten (10) years after the date of this instrument.

(b) Additional residential property, 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, if any, 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 homous 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 Subsection (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

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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 modification of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect only the different character 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. Each Class A lot shall entitle the Owner(s) of said lot to one (1) vote. 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 vote appurtenant to said lot shall be exercised as they, among themselves, determine.

(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 paragraphs (1) or (2) below. The Declarant shall be entitled to three (3) votes for each Class B lot owned by Declarant.

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 equals the total number of votes appurtenant to the Class B lots; provided, that the Class B lots shall be reinstated with all rights, privileges and responsibilities of such Class, if, after conversion of the Class B lots to Class A lots hereunder, additional land containing lots is annexed to the existing property pursuant to Article II above, thus making the Declarant the owner, by virtue of the newly created lots and of other lots owned by Declarant, of a sufficient number of Class B lots to cast a majority of votes (it being hereby stipulated that the conversion and reconversion shall occur automatically as often as the foregoing facts shall occur); or (2) On December 31, 2005, whichever event shall first occur.

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When the Class B lots cease to exist and are converted to Class A lots, Declarant shall have the same voting rights as other owners of Class A lots.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Owner's Easement of Enjoyment. Except as limited by Section 2 of this Article IV, every Lot Owner shall have a right and easement of enjoyment in and to the Common Area established initially and in all future Stages or Sections of the development, which right and easement shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees for the use of any facility situated upon the Common Area and to limit the use of said facilities to Lot Owners who occupy a residence on the Properties, and to their families, tenants, and guests as provided in Section 2 of this Article IV;

(b) The right of the Association to suspend the voting rights and rights of a Lot Owner to the use of the facilities 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, including CATV, 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 Property.

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

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(e) The right of the Association to establish rules and regulations governing the use of the common Area or portions thereof.

Section 2. Delegation of Use.

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

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

(c) Guests. Facilities located on common areas situated within the Project may be utilized by guests of Lot Owners, tenants or contract purchasers subject to such rules and regulations governing said use of the Association as may be established by the Board of Directors.

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 in Use 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 capital improvements; such assessments to be established and collected as hereinafter provided. Any such assessment or charge, together with interest, costs and reasonable attorney 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 fees, shall also be the personal or corporate obligation of the person(s), firm(s), or corporation(s) owning such property at the time when the assessment fell due, but such personal obligation shall not be imposed upon such Owners' successors in title unless expressly assumed by them. Although unpaid assessment charges are not the personal obligation upon such Owner's successors in title unless expressly assumed by the successors in title, the unpaid assessment charges continue to be a lien upon the property against which the assessment has been made.

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Section 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents of the Properties, the enforcement of these Covenants and the rules of the Association, and in particular for the improvement, and maintenance of the Properties and Common Area and providing the services and facilities devoted to this purpose and related to the appearance of the Landscape Easements and Common Area and any other areas maintained by the Association, including but not limited to, the cost of repair, replacement, materials, management and thereto, the cost of labor, equipment, materials, management and supervision thereof, the payment of taxes assessed 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.

Without limiting the generality of the above-described purposes, the assessments levied by the Association may be used as follows:

- (a) to repair and maintain the Landscape Easement Areas, including the erection and maintenance of signage, planters, irrigation, lighting and landscaping on the Landscape Easement Areas and to provide and pay for utility charges for irrigation and lighting of the signage located thereon;
- (b) to keep the Landscape Easement Areas clean and free from debris, to maintain same in a clean and orderly condition and to maintain the landscaping thereon in accordance with the highest standards for private parks, including any necessary removal and replacement of landscaping and repair of irrigation systems;
- (c) to keep the Common Areas, including the areas where the pool and cabana are located, clean and free from debris, to maintain the same in a clean and orderly condition and to maintain the landscaping thereon in accordance with the highest standards for private parks, including any necessary removal or replacement of landscaping;
- (d) to repair and maintain the Common Area, including the pool, cabana and parking area;
- (e) to repair and maintain the landscaping in the medians through the Properties and to maintain the strip of property lying within the right-of-way of Joe Kerr Road between the curb or pavement of Joe Kerr Road and the rear lines of the Common Area adjacent to the right-of-way of Joe Kerr Road.
- (f) to maintain the Pond Maintenance Easements to the same standard as the adjacent Common Area with the remaining portions of ponds located thereon and to maintain Common Area

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Access Easements to the standard as determined by the Board of Directors to provide access to the Common Areas.

(g) to pay all ad valorem taxes levied against the Common Areas and any other property owned by the Association;

(h) to pay the premiums on all insurance carried by the Association pursuant hereto or pursuant to the Bylaws;

(i) to pay all legal, accounting and other professional fees incurred by the Association in carrying out its duties as set forth herein or in the Bylaws;

(j) to maintain contingency reserves as to the amounts described in subsections (a) through (e) above in amounts determined by the Board of Directors and

(k) to promote the recreation, health, safety and welfare of the residents in Canterfield Creek as it relates to this Association.

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 not be in excess of \$175.00 per Class A lot and \$58.34 per Class B lot, except as otherwise provided herein. Upon completion of the pool and cabana as indicated by the opening of same for use by Owners, the maximum annual assessments shall increase to an amount not in excess of \$350.00 per Class A lot and \$116.67 per Class B lot, except as otherwise provided herein, and such higher assessment shall be prorated for the remainder of the calendar year in which the pool and cabana have been open.

(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 by the Board of Directors 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 following without a vote of the membership: (1) 10% of the maximum assessment for the previous year or (2) if the increase in the CPI index is greater than 10% for the preceding year, the percentage increase shall be the increase in the CPI index.

(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 apportioned to each class of lots (Class A and Class B), cast in person or by proxy, at a meeting duly called for this purpose.

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(c) Any annual assessment established by the Board of Directors shall continue thereafter from year to year as the annual assessment until changed by said Board.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, special assessment(s) for the purpose of defraying, in whole or in part, the cost of any construction, repair, replacement of and additions or improvements to capital improvement(s) upon any Common Area. Any such Special Assessment shall be in the same ratio between Class A and Class B. lots as set forth in the first paragraph of Section 3 hereinabove.

Section 5. Assessment Rate. Except for the difference between assessments for Class A and Class B lots, both annual and special assessments must be fixed at a uniform rate for all lots and shall be payable in advance and collected on an semi-annual basis or as determined by the Board.

Section 6. Notice of 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 Sections 3 and 4 of this Article shall be sent to all Members no less than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty (60%) percent of all the votes appurtenant to 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 or requirement, and if the same is called for a date not later than sixty (60) days after the date of the first meeting, the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Date: Certificate of Payment. The annual assessment provided for herein shall commence as to all lots subject to this Declaration on October 1, 1996, and for new lots subjected to this Declaration by a supplemental declaration after October 1, 1996, on the first day of the month following the recordation of such supplemental declaration. The amount of the assessment shall change when the status of the lot (Class A or Class B) changes. The first annual assessment shall be subject to the limit of the "maximum annual assessment" set forth in Section 3 of this Article and 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

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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.

Notwithstanding Sections 1 and 7 hereof, the Declarant may, at its election, postpone, in whole or in part, the date on which the assessment shall commence provided that the Declarant maintains the Landscape Easements and the Common Areas for which no assessment is being collected during the period of such postponement. Declarant may also, at its election, collect a lesser amount of assessment until the pool and cabana have been constructed on the Common Area.

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 a minimum rate of eight (8) percent per annum or at the rate established by the Board of Directors at the beginning of the fiscal year of the Association, whichever is less. 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 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 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 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 first mortgage or 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 non-profit 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.

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ARTICLE VI

EASEMENTS

Easements for installation and maintenance of driveway, walkway, parking area, water line, gas line, cable television, 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 feet in width for such purposes are reserved over, under and through and along the rear lot lines of all lots shown on recorded plats, and easements five feet in width for such purposes are reserved over, under and through and along all side lot lines of all lots shown on recorded plats, as well as temporary easements five feet in width along the front lot lines for construction, maintenance and repair purposes. 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. 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, delivery and maintenance of public utilities, or which may obstruct or 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 VII

USE RESTRICTIONS

Section 1. Land Use and Building Type. All lots in the tract shall be known and described as residential lots. No structure shall be erected, altered, placed or permitted to remain on any residential building plot other than one detached single family dwelling, not to exceed two and one-half (2 1/2) stories in height as viewed from the front elevation of the house, and a private garage for not more than three (3) cars and other outbuildings incidental to residential use of the plot. This section shall not prevent the use of model homes and construction trailers during the construction of residences within the subdivision.

Section 2. Building Setbacks. No building shall be erected on any residential lot nearer to any street line than the building setback lines shown on the recorded map, and with respect to a corner lot no residence or other building shall be located nearer to the side street line than the building setback

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lines shown on the recorded map. With respect to corner lots the front lot line shall be deemed the street line having the shorter frontage, and any residence erected on such corner lot shall face the front lot line, unless Declarant, at its discretion, approves the facing of the residence towards the intersection of the two streets. No building, garage, carport, or other accessory building and structure incidental to the residential use of the lots shall be located nearer to a side lot line than permitted by Marvin/Union zoning ordinances as such ordinances change from time to time. For purposes of determining compliance or noncompliance with the foregoing building line requirements, porches, terraces, eaves, wing-walls, and steps extended beyond the outside wall of a structure shall not be considered as part of the structure; provided, however, that this provision shall not be construed to authorize or permit encroachment of any structure upon any easement shown on the recorded plat or reserved herein or upon any other lot.

Section 3. Fences. No fence or wall shall be erected on any building plot closer to any street right-of-way than the building setback lines shown upon the recorded map and no fence may be higher than six (6) feet tall. Chain link is not permitted, except that 2"x4" mesh may be used with split rail fencing to contain children and animals within the yard. Perimeter fencing shall not have more than 70% of any of its surface closed as viewed from a point on a line of sight perpendicular to the line formed by the line of the fence. A wall constructed of brick or stone masonry and used in lieu of a fence is exempt from the openness test. Fencing of a more solid or privacy nature may be used around patios, wood decks, or pools as privacy screens, said privacy fencing may be located at a distance no greater than fifteen (15) feet from the edge or circumference of the patio, deck or pool area being screened. The fencing restrictions in this paragraph and paragraph 2 hereof shall not be applicable to lots owned by Declarant.

Section 4. Lot Area. No residential structure shall be erected or placed on any building plot, which plot has an area of less than the square footage or a width of less than the width at the front building setback line permitted by Marvin/Union Zoning Ordinances.

Section 5. Temporary Structures and Parking. No residence of a temporary nature shall be erected or allowed to remain on any lot, and no trailer, basement, shack, tent, garage, barn or any other building of a similar nature shall be used as a residence on any lot, either temporarily or permanently. No boat, trailer, recreational vehicle, camper, camper truck or commercial vehicle shall be parked, stored or left in any driveway or on any other part of a lot unless the same are fully enclosed within the garage located on the lot. This restriction shall not apply to sales trailers, construction trailers, or

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other vehicles, which may be used by Declarant and its agents and contractors in the conduct of their business. No boat, truck, trailer, camper, recreational vehicle or tent shall be used as living or dwelling area within the Properties. No repairs to or maintenance of any automobile or other vehicle shall be made or performed on any driveway within the Properties, except in the case of emergency.

Section 6. Nuisances. No noxious or offensive trade or activity shall be carried on upon any lot nor shall any thing be done thereon which may be or become an annoyance or nuisance to the neighborhood. 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 that they are not kept or maintained for commercial purposes. The number of household pets generally considered to be outdoor pets such as dogs and cats shall not exceed three in number except for newborn offspring of such household pets which are under (9) months in age. No savage or dangerous animals shall be kept or maintained on any lot or in any dwelling.

Section 7. Dwelling Size. The minimal heated square footage of a dwelling may not be less than 1900 square feet of heated area.

Section 8. Metal Garages, Carports, Buildings, Accessory Structures and Above Ground Pools. No metal carport, metal garage, metal building or metal accessory structure of any kind shall be erected on any lot or attached to any residence building located on the lot. No above ground pools may be constructed, placed or permitted to remain on any lot.

Section 9. Easements. Easements for installation, maintenance and repair of utilities and cable television (CATV) and drainage facilities are reserved as shown on the recorded map and over the rear ten (10) feet and each side five (5) feet of every lot. Within the easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of the utilities, or which may change the direction of flow of drainage channels, the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvements for which a public authority or utility company is responsible. The party hereto reserves the right to create and impose additional easements or rights of way over unsold lot or lots for street, drainage, and utility installation purposes by the recording of appropriate instruments and such shall not be construed to invalidate any of these covenants.

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Section 10. Signs. Unless approved by the Architectural Control Committee, no sign of any kind shall be displayed to the public view on any lot except one sign of not more than six (6) square feet advertising the property for sale or rent or signs used by a Declarant, or its designated assigns, to advertise the property during the construction and sales period.

Section 11. Unintentional Violations In the event of the unintentional violation of any of the building line restrictions set forth herein, Declarant, or its designated assigns, reserves the right, by and with the mutual written consent of the owner or owners for the time being of such lot, to change the building line restriction set forth in the instrument provided, however, that such change shall not be in violation of any provisions of the zoning provisions of the City of Charlotte or County of Mecklenburg.

Section 12. Satellite Dishes or Discs. No radio or television transmission or reception towers, antennas, or discs shall be erected on a lot unless approved by the Board or architectural control committee pursuant to Article IX hereof.

Section 13. Maintenance of Lot. Each owner shall keep his lot in an orderly condition and shall keep the improvements thereon in a suitable state of repair, promptly repairing any damage thereto by fire or other casualty. No clothesline may be erected or maintained on any lot. No lot shall be used in whole or in part for storage of rubbish of any character whatsoever and no trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any lot outside an enclosed structure; provided however, that the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other debris for collections by governmental or other similar garbage and trash removal units.

ARTICLE VIII

INDEMNIFICATION OF OFFICERS AND DIRECTORS

The Association shall indemnify any and all persons who may serve or whom have served at any time as directors or officers of the Association against any and all expenses, including amounts paid upon judgments, counsel fees and amounts paid in settlement (before or after suit is commenced), actually and necessarily incurred by such persons in connection with the defense or settlement of any claim, action, suit or proceeding in which they, or any of them, are made parties, or a party, which may be asserted against them or any of them, by reason of being or having been directors or officers or a director or an officer of the Association, except in relation to matters as to which any such director or officer or former director or officer or person shall be adjudged in any action, suit, or proceeding guilty of

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willful and intentional negligence or misconduct in the performance of his or her duties to the Association. Provided, however, that in the event of a settlement, the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interest of the Association.

The provisions hereof shall be in addition to and not exclusive of any and all other rights to which any director or officer may otherwise be entitled under any law, By-law, agreement, vote of Association Members or otherwise. In the event of death of any officer or director, the provisions hereof shall extend to such person's legal heirs, representatives, successors and assigns. The foregoing rights shall be available whether or not such person or persons were in fact directors or officers at the time of incurring or becoming subject to such expenses, and whether or not the proceeding, claim, suit or action is based on matters which antedate the adoption of this By-Law.

ARTICLE IX

ARCHITECTURAL CONTROL

Section 1. Architectural Committee. Except for improvements made upon the property by Declarant or except as otherwise provided under this Declaration, no building, fence, wall or other structure or improvement shall be commenced, erected or maintained upon the property nor shall any exterior addition to or change or alterations therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony or external design and location in relation to surrounding structures and topography by the Architectural Committee. For purposes of this Article IX, a representative of Declarant shall function as the Architectural Committee (the "Committee") so long as Declarant shall own any lot and does not surrender its right to appoint the representative as a member of the Committee. After Declarant no longer owns any lot, the Board of Directors of the Association shall appoint the members of the Committee to carry out the functions set forth in this Article. In the event the 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.

Section 2. Definitions. For purposes of this Article IX, the following terms shall have the following meanings unless the context clearly requires a different meaning:

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(a) "accessory building" means every detached garage, carport, tool shed, storage or utility building, detached guest quarters, detached servants' quarters or other similar building constructed on a lot or incidental thereto which is not a dwelling;

(b) "building" means an accessory building or dwelling;

(c) "dwelling" means a building constructed for single family residential use but excluding detached servants' quarters and guest quarters; and

(d) "improvement" or "structure" means a building, wall, fence, deck, patio, planter, statuary, terrace, swimming pool, tennis court, television and radio antennae, towers, dishes and discs or anything else constructed or placed on a lot.

Section 3. General Guidelines. The placement and construction of an improvement on any lot shall be subject to the following general requirements:

(a) Since the establishment of standard inflexible building set back lines for location of dwellings on lots tends to force construction of dwellings both directly behind and directly to the side of other dwellings with detrimental effects on privacy, preservation of important trees, etc, no specific setback lines are established by these covenants except as shown on the Map, which comply with the regulations and guidelines of the applicable governmental authorities. In order to assure, however, that location of dwellings will be staggered where practical and appropriate, so that the maximum amount of view will be available to each dwelling; that all structures will be located with regard to the topography of each individual lot, taking into consideration the elevation contours of the lot, the location of large trees and fields and similar considerations, the Declarant reserves unto itself, its successors and assigns, the right to control absolutely and solely to decide the precise site and location of any structure, improvement and utilities upon all lots and every lot within the property; provided, however, that such location shall be determined only after reasonable opportunity is afforded the Owner to recommend a specific site and in any event all buildings shall be constructed beyond the minimum set back lines established on the Map.

(b) All storage areas and facilities must be screened and hidden from view.

(c) Unless specifically otherwise approved in writing by the Committee, all structures constructed or placed on any lot shall be built of substantially new materials and no used structures shall be relocated on any such lot.

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(d) All structures approved by the Committee must be completed within one (1) year after the receipt of such approval; provided, however, the Committee may waive this requirement if construction delays have been caused by strikes, war, fire, acts of God or other events which render the completion of construction within such time impossible.

(e) All driveways, turning areas and parking areas shall be paved and must be completed prior to the occupancy of any dwelling on the lot. If any driveway is to cross a drainage ditch, the Owner will be required to install, at his own expense, all necessary culverts and coverings prior to the commencement of any other construction on the lot. The installation of the culvert and any covering must be approved by the Committee and by any local, state, or other governing agency or authority.

(f) The Committee shall have the right to approve or disapprove the design and construction of all mailboxes.

Section 4. Approval of Plans, Specifications, and Construction. In addition to the requirements imposed by all applicable governmental agencies governing the issuance of building permits and certificates of occupancy, no structure shall be erected on any lot without the approval of the Committee as provided in this section.

(a) Prior to commencing any construction or reconstruction on a lot, the Owner thereof shall submit to the Committee one set of all building plans and specifications (the "Plans") covering such construction which have been prepared by a qualified registered architect or reviewed, approved and sealed by a registered architect for the specific use of the Owner submitting the same, together with the review fee approved by the Board of Directors of the Association. The Plans shall contain the following: (i) foundation plans, (ii) elevation drawings of all exterior walls, (iii) roof plan, (iv) plot plan showing location and orientation of all structures proposed to be built on the lot, (v) the square footage of the proposed structures on a floor by floor basis, (vi) a list and description of all proposed building materials, and (vii) the location of any driveway, and, where the driveway is to cross a drainage ditch adjacent to any roadway, the installation of the culvert and covering to be used under the proposed driveway.

(b) The Committee shall have the absolute and exclusive right to refuse to approve the proposed plans. In passing upon such Plans, the Committee may take into consideration the suitability and desirability of the proposed construction and the proposed materials to the lot involved, and the harmony of the external design with the natural features and the existing structures of the surrounding neighborhood and the appearance of such proposed improvements as viewed from neighboring lots.

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Refusal to approve the proposed Plans may be based by the Committee on any grounds, including purely aesthetic considerations. If the Committee approves the construction of such improvements, it shall issue a letter evidencing such approval. No alterations in the external appearance of any structure shall be made without approval by the Committee as provided herein; provided, however, that no approval by the Committee granted hereunder shall constitute or be construed as approval by Declarant or any other person of the structural stability or quality of any structure.

(c) Upon completion of approved construction, the Committee shall inspect the construction to insure that the approved Plans were complied with by the Owner. If the construction is approved by the Committee and the Owner so requests, the Committee will issue to the Owner a letter of compliance. The letter of compliance shall be issued by the Committee without fee; provided, however, that in the event that the Committee's first inspection of the construction reveals deviations or deficiencies from the approved Plans, the Committee may charge a fee of \$50 or the amount approved by the Board of Directors of the Association for every subsequent inspection which is necessary to insure compliance with the approved Plans. Any such fee must be paid before the issuance of the compliance letter.

Section 5. Declarant Exempt from Approval. Notwithstanding any provisions to the contrary, the provisions of this Article IX shall have no application to the development, improvements, maintenance and repair of the Properties by Declarant or by the Association, and neither the Board of Directors, nor the Committee shall have any power or authority to review or require modifications in plans and specifications for construction or installation of improvements by Declarant.

ARTICLE X

LANDSCAPE EASEMENTS

The Association, its successors and assigns, shall have a "Landscape Easement" over those portions of the Lots located adjacent or near the intersection of Canterfield Drive and Joe Kerr Road designated "Landscape and Wall Easement" on the recorded map(s) of Canterfield Creek. The Landscape Easement shall be for the construction, maintenance, repair and replacement of subdivision entrance monuments, repair and irrigation and lighting systems, and landscaping. The Owners of said lots shall maintain the area around the improvements not maintained or landscaped pursuant to this easement. No fences, structures, driveways, plantings, swings or other objects or improvements shall be permitted in such easement without the Declarant's and Association's prior written consent. The

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reservation of this easement imposes no obligation on Declarant, its successors and assigns, to continue to maintain the entrance monuments and landscaping.

ARTICLE XI

POND MAINTENANCE EASEMENTS AND RESTRICTIONS

Section 1. Pond Maintenance Easement. The Association, its successors and assigns, shall have a "Pond Maintenance Easement" over those portions of the Lots adjacent to ponds, designated "Pond Maintenance Easement" on any map of Canterfield Creek recorded in the Union County Public Registry or as shown on the map attached hereto as Schedule B. The Pond Maintenance Easement shall be for the purpose for providing for the maintenance of the ponds including dam, spillway, pipes, pond beds and ponds themselves. The Association shall at all times have the right of access for its employees, agents and subcontractors over the Pond Maintenance Easements for the purpose of maintaining, repairing, reconstructing, replacing any dams, or any parts thereof, and any and all conduits, culverts, spillways, or pipes connected therewith or leading therefrom, the pond beds, and the ponds themselves and the streambed, banks and area adjacent to the streambed leading down stream from the pond. The reservation of this easement imposes no obligation on Declarant, its successors and assigns, to continue to maintain the Pond Maintenance Easements.

Section 2. Pond Restrictions.

- (a) No docks, piers, floats or improvements of any kind are to be established on or placed within the Pond Maintenance Easements, provided however, that this restriction shall not prevent an Owner from landscaping portions of the Pond Maintenance Easement area located outside the existing ponds and pond beds and provided further that the maintenance of any such landscaping shall be the responsibility of the individual Owner and not the Association, and the Association shall not be responsible for any damage to any such landscaping caused by the Association's maintenance of the Pond Maintenance Easement.
- (b) No water craft of any kind shall be allowed to be operated within the ponds.
- (c) No swimming or wading shall be allowed in the ponds.
- (d) In addition, the use of the ponds shall be subject to any rules or regulations established by the Board of Directors.

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ARTICLE XII

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. 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. Amendment. The covenants and restrictions of this Declaration shall run and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or altered by a vote of seventy-five (75%) percent of a vote of the Owners after the expiration of said twenty-five (25) year period. This Declaration may be amended during the first twenty-five year period by an instrument signed by the Owners of not less than eighty (80%) percent of the lots, and thereafter by an instrument signed by the Owners of not less than seventy-five (75%) percent of the lots. Any amendment must be properly recorded. For the purpose of this section, additions to existing property as provided in Article II, Section 2 hereof shall not constitute an "amendment".

Section 4. FHA/VA Approval. In the event the Declarant has arranged for and provided purchasers of lots with FHA insured mortgage loans, then 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 Department of Veterans Affairs: annexation of additional properties, other than as provided in Article II, Section 2 hereof, deed of common area to persons other than the Homeowners Association and amendment of this Declaration of Covenants, Conditions and Restrictions.

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IN WITNESS WHEREOF, Declarant has caused this instrument to be executed this 2 day of August, 1996.

SHEA HOMES, L.L.C.

(SEAL)

BY:

Edmund H. Shea, III (SEAL)
EDMUND H. SHEA, III, Member

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

I, Nancy D. Shear, a Notary Public for the County and State aforesaid, do hereby certify that EDMUND H. SHEA, III, member of SHEA HOMES, L.L.C., a North Carolina limited liability company personally appeared before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and official seal this 2nd day of August, 1996.

Nancy D. Shear
Notary Public

My Commission Expires:

1-28-01

The foregoing certificate(s) of Nancy D. Shear,
Secretary, JR. of Meck. Co. NC

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: Monique H.
Register of Deeds Assistant/Deputy
Union County, NC

99.rca 8/2/96

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SCHEDULE A

lying and being in Sandy Ridge Township, Union County, North Carolina and being more particularly described as follows:

TRACT ONE:

BEGINNING at a point in the right-of-way of Joe Kerr Road, said beginning point being located at the common front corner of the property conveyed to Burton E. Ezzell by deed recorded in Book 271 at page 698 in the Union County Public Registry and the property conveyed to Sam W. Craver, Jr. and wife by deed recorded in Book 337 at page 771 in said Registry; and running thence from said BEGINNING point with two of Ezzell's lines (now or formerly) as follows: (1) S 41-43-32 W 161.18 feet to an iron and (2) S 84-18-43 W 475.81 feet to an iron; thence N 29-51-34 W 354.07 feet to an iron; thence N 73-57-00 E 242.03 feet to a point in Joe Kerr Road right-of-way; thence a line partially in the Joe Kerr Road right-of-way, N 50-26-58 W 808.63 feet to an iron; thence N 27-45-35 E 1,812.68 feet to a point; thence S 48-59-52 E 568.0 feet to an iron; thence N 28-17-13 E 753.64 feet to an iron; thence N 21-13-01 E 922.31 feet to a point; thence with the line of FCI Realty & Management, Inc., S 15-47-32 E 861.78 feet to a stone, a common corner of the FCI Realty and the J. L. Crist, Jr. properties; thence with the Crist property, S 18-02-25 E 1,178.60 feet to a stone, a corner of the Craver property; thence with the Craver property lines two calls and distances as follows: (1) S 43-24-02 W 1,387.00 feet to an iron; and (2) S 41-43-32 W 694.85 feet to the point or place of BEGINNING and containing 97.55 acres, all as shown on a boundary survey for Shea Homes prepared by F. Donald Lawrence & Associates, P.A. and dated May 16, 1995.

TOGETHER WITH that certain tract conveyed to Shea Homes, L.L.C. by deed recorded in Book 797 at Page 369 in the Union County Public Registry and being more particularly described as follows:

BEGINNING at a point located at a corner of the property conveyed to Shea Homes, L.L.C. by deed of Lucky Realty dated May 10, 1995, and recorded in Book 787 at Page 532 in the Union County Public Registry, said beginning point being located N 27-45-35 E 1,812.68 feet from an iron at the westernmost corner of the property so conveyed; and running thence from said BEGINNING point, a new line, N 27-45-35 E 148.87 feet; thence another new line, N 66-55-13 E 852.64 feet to a point in a boundary on the property described in the aforesaid Lucky Realty deed; thence three lines with the property described in that deed as follows: (1) S 21-13-01 W 187.74 feet to an iron; (2) S 28-17-13 W 753.64 feet to an iron and (3) N 48-59-52 W 568.0 feet to the point or place of BEGINNING; containing 7.06 acres, as shown on a boundary survey for Shea Homes, L.L.C. prepared by F. Donald Lawrence & Associates, P.A. dated June 5, 1995, (revised June 6, 1995.);

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TRACT TWO

Any of the property located adjacent to any portion of the Tract One property or located within one-half mile of the Tract One property, including but not limited to the property owned by Reunion Land Company, now or formerly, which is located to the north and west of the Tract One property.