

BOOK 455 PAGE 605

Reviewed
for RecdDECLARATION OF COVENANTS,
CONDITIONS & RESTRICTIONS

HUNLEY CREEK

RECORDED
AND
VERIFIED
2/11/09

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS made this the 20th day of June, 1989, by FAIRVIEW DEVELOPERS, INC., a North Carolina corporation, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of the real property shown on maps of HUNLEY CREEK, which maps are recorded in Plat Cabinet C, File 291 and File 292, in the Union County Registry, which property is more particularly described in Section I of Article II hereof, and desires to create thereon an exclusive residential community of single-family homes to be named HUNLEY CREEK; 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 real property shown upon the aforesaid map, together with such additions as may hereafter be made thereto 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 deemed it desirable for the efficient preservation, protection, and enhancement of the values and amenities in said subdivision and to insure the residents enjoyment of the specific rights, privileges and easements in the Common Area, as herein defined, and to provide for the maintenance and upkeep of the Common Area, to create an organization to which will be delegated and assigned the powers of owning, maintaining, and administering the Common Area and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Declarant has incorporated under North Carolina law HUNLEY CREEK 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 shown on the aforesaid map of HUNLEY CREEK and such additions thereto as may be hereafter made, pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, and occupied subject to the covenants, conditions and 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 insure to the benefit of each owner thereof.

476-380 Award

REFERENCE HEREBY

MADE TO: Book 446 - Supp

Drawn By and Noted: Henry B. Smith, Jr. P.A.
Supplementing Declaration's Covenants, Conditions Page 379 and
and Restrictions Book 4173 Page 380 and

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ARTICLE I

DEFINITIONS

Section 1. "Homeowners Association" shall mean and refer to HUNLEY CREEK 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 those having such interests merely 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 brought within the jurisdiction of the Homeowners Association under the provisions of Article II hereof.

Section 4. "Common Area" shall mean all real property and improvements (including a pool, cabana and playground) thereon owned by the Homeowners Association for the common use and enjoyment of the owners which Declarant will construct on the common property. Common Areas, with respect to the property subject to this Declaration, shall be shown on the various plats of record or to be recorded in the Union County Public Registry and designation thereof as "Common Areas," but shall exclude all lots as hereinafter defined and all public streets shown thereon. "Common Area" shall include all private streets shown on such plat or plats hereinafter recorded in the Union County Public Registry. The Common Area to be owned by the Association will be deeded to the Association prior to the conveyance of the first lot by a Declarant to an Owner/Member (Class A lot).

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.

Section 6. "Declarant" shall mean and refer to FAIRVIEW DEVELOPERS, INC. 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 FAIRVIEW DEVELOPERS, INC. 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.

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ARTICLE II

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

ADDITIONS THERETO

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration, and within the jurisdiction of the Homeowners Association is located in Union County, North Carolina, described as follows:

BEING all of the property shown on maps recorded in Plat Cabinet C, File 291 and File 292 in the Union County Public Registry.

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

(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 existing property by Declarant, in future stages or development, without the consent of the Owners, the Homeowners Association or its Members, provided that said annexations must occur within six (6) years after the date of this instrument. Declarant may remove all or any property from the Schedule A description prior to its annexation by filing a written declaration of removal in the Union County Public Registry;

(b) The additions authorized under Subsection (a) above shall be made by filing of record Supplementary Declarations of Covenants, Conditions, and Restrictions with respect to the additional properties which shall extend the scheme of this Declaration and the jurisdiction of the Homeowners Association to such properties and thereby subject such additions to the benefits, agreements, restrictions, and obligations set forth herein, including, but not limited to, assessments as herein determined, to pay for the Homeowners Association's expenses. Notwithstanding the above, Declarant reserves the right to vary the use restrictions contained in Article VII so long as the changes are more restrictive and not less restrictive than set forth herein.

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 apportioned to and may not be separated from ownership of a lot which is subject to assessment.

Section 2. The voting rights of the membership shall be apportioned to the ownership of the lots. There shall be two classes of lots with respect to voting rights and a third class of lots without voting rights or membership in the Homeowners Association.

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(a) Class A Lots.

Class A Lots shall be all lots except Class B Lots and Class C Lots as the same are hereinafter defined. Each Class A Lot shall entitle the Owner(s) of said Lot one (1) 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 appurtenant 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 (3) 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 appurtenant to the Class A Lots equal the total number of votes appurtenant to the Class B Lots, or
- (2) On April 1, 1991, whichever is earlier.

(c) Class C Lots.

Class C Lots shall be all Lots not owned by Declarant, the Owners of which have elected not to become members of the Homeowners Association and whose Lots are not subject to assessment pursuant to the provisions of Article V hereof.

Section 3. In the event that the Member owner of any residence ceases to occupy that residence as his own personal living quarters or in the event that any property within the development is leased for rental purposes to tenants, then, in such event, the vote as expressed by rental tenants, if voted in a block, shall not be entitled to any weight greater than forty-nine per cent (49%) on any matter pending before the Homeowners Association.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Member's Easement of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Area, which shall be appurtenant to and pass with the title to every Lot, subject to assessment, subject to the following:

(a) The right of the Homeowners Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area and to limit the use of said facilities to Members 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

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rights and rights to use of the recreational facilities of a Member 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 purpose 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 two-thirds (2/3) of the votes appurtenant to each Class of Lots (Class A and Class B) agree to such dedication or transfer and signify their agreement by a signed and recorded written instrument, provided that this subsection shall not preclude the Board of Directors of the Homeowners Association from granting easements to public authorities 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;

(d) The right of the Homeowners Association, with the written assent of Members entitled to at least two-thirds (2/3) of the votes appurtenant to each Class of Lots (Class A and Class B), 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 Member in Section 1 of this Article IV may be exercised by members of the Member's family who occupy the residence of the Member 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 Member in Section 1 of this Article may be delegated by the Member 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.

(c) Guests. Recreational facilities situated upon the Properties may be utilized by guests of Members, 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.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENT, EXCEPTIONS

Section 1. Exception for Class C Lots. This Article shall not apply to the Owners of those Lots who elect not to become Members of the Homeowners Association upon acceptance of a deed therefor from a Declarant. Such election shall be inscribed upon the deed from a Declarant to such Owner and subsequent acceptance of such Owner into membership of the Homeowners Association shall be subject to such fees, charges and conditions as may be established by

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the Board of Directors of the Homeowners Association, from time to time.

Section 2. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each lot owned within the Properties, except Class C Lots as described in Section 1 above, hereby covenants with each Owner of any other 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) monthly assessment or charges and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. Any such assessment or charges, together land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees shall also be the personal obligation of the Member 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 exclusively 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 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 By-Laws, the employment of attorneys to represent the Homeowners Association, when necessary, and such other needs as may arise.

Section 3. Maximum Monthly Assessment. Until January 1 of the year immediately following the conveyance of the first lot subject to assessment to an Owner, the maximum annual assessment shall be \$10.00 per Class A lot and \$2.50 per Class B lot. On the first day of the month immediately following the completion of the swimming pool, cabana and playground, the maximum annual assessment shall be \$250.00 per Class A lot and \$62.50 per Class B lot.

(a) From and after January 1 of the year immediately following the conveyance of the first lot subject to assessment to an Owner, the maximum monthly assessment above established may be increased, 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.)

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an Owner, said maximum monthly assessments may be increased without limitation, if such increase is approved by Members entitled to no less than two-thirds (2/3) of the votes (appurtenant to each voting class of lots) represented in person or by proxy at a meeting duly called for this purpose.

(c) The Board of Directors may fix the monthly assessments at an amount not in excess of the maximum, but the ratio of the assessment

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established for each Class A lot to the assessment established for each Class B lot shall always be four (4) to one (1).

Section 4. Special Assessments for Capital Improvements. In addition to the monthly 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 in part, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the Common Area, including fixtures, 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 monthly and special assessments must be fixed at a uniform rate for all lots within each class and may 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 per cent (60%) of the votes appurtenant 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 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 Monthly Assessment; Due Dates; Certificate of Payment. The monthly assessments provided for herein shall commence as to all lots subject to assessment 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 the 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 Member subject thereto. The due dates for the payment of monthly 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 Assessments; 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 eight per cent (8%) per annum 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 Member shall also pay such late charge as may have been therefore established by the Board of Directors of the Homeowners Association to defray

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the costs of late payment. The Homeowners Association may bring an action at law against the Member personally obligated to pay the same or foreclose the lien against the property, and interest, late payment fee, costs, and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Member 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 subordinated to the lien of any first mortgage, mortgages, first deed of trust, or deeds of trust on a lot. Sale or transfer of any lot which is subject to any mortgage or deed of trust, pursuant to the 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 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 mortgage, mortgages, deed of trust, or deeds of trust.

ARTICLE VI

ARCHITECTURAL CONTROL

As to all lots, no building, fence, wall, or other structure shall be commenced or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made, including the erection of antennas, aerials, awnings, the placement of reflective or other material in the windows of a Homeowners Unit or other exterior attachment, until the plans and specifications showing the nature, kind, shape, heights, materials, and location of same shall have been submitted and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Homeowners Association, or by an Architectural Control Committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have submitted to it, approval will not be required, and this Article will be deemed to have been fully complied with. The Homeowners Association shall have the right to charge a reasonable fee for receiving such application in an amount not to exceed \$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 the Development.

ARTICLE VII

USE RESTRICTIONS AS TO ALL LOTS

Section 1. Land Use. 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 a single-family

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dwelling not to exceed two and one-half stories in height and a private garage for each unit for not more than two cars and other accessory structures customarily incidental to the 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 per cent (10%) of the minimum building line requirements herein set forth shall not be considered a violation of this Section.

Section 3. Subdivision of lots. No person or entity may subdivide or re-subdivide any lot or lots without the prior consent of the Declarant.

Section 4. Size of Structure. No residential structure shall be erected or placed having a finished ground floor area of less than 1,500 square feet.

Unintentional violations not exceeding ten per cent (10%) of the minimum foot 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 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 be 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 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; provided, however, that all such regulations and amendments thereto shall be approved by a majority vote of the Owners 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

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become an annoyance or nuisance to the neighborhood. No offensive noises from off-road vehicles, trail bikes and like vehicles.

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

Section 11. Satellite Dish Antennas. No satellite dish antenna shall be erected, installed, or in any way placed on any lot.

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 in the tract.

Section 13. Easements. A perpetual easement is reserved over the rear ten (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 five (5) feet and rear ten (10) feet of each lot for public storm drain and/or as shown on record map.

Section 14. Signs. No sign of any kind shall be displayed to the public view on any lot except (1) professional sign of not more than one (1) square foot; one sign of not more than five (5) 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 and are confined to the property or kept on a leash.

Section 16. Trash Disposal. No lot shall be used or maintained as a dumping ground for rubbish, trash, garbage, or waste and same shall not be kept except in sanitary containers. 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 fences shall be erected on any lot nearer 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.

Section 18. Sight Line Limitations. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two (2) and six (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 ten (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

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Foliage line is maintained at sufficient height to prevent obstruction of such sight line.

IT IS EXPRESSLY UNDERSTOOD AND AGREED by the parties hereto that the foregoing covenants, conditions, and restrictions shall be held to bind only the land specifically herein described, shall run with the land, and shall bind on all parties hereto and persons claiming under them, until January 1, 2009, at which time said covenants and restrictions shall, at the option of the parties of the first part, their successors and assigns, and the owner or owners for the time being of the lots of land described terminate.

If the parties hereto, any of them, or their heirs or assigns shall violate any of the covenants or restrictions contained in this Article before January 1, 2009, it shall be lawful for any other person or persons owning any other lots in the said development or subdivision to prosecute any proceedings at law or in equity against the persons or person violating or attempting to violate any such covenants or restrictions and either to prevent them or him so doing or to recover damages or other damages for such violations.

Invalidation of any one of the covenants contained in this Article by judgment or court order shall in no wise effect any of the other provisions which shall remain in full force and effect.

It is distinctly understood and agreed that nothing contained in this Article shall be taken and construed as imposing any conditions or restrictions upon any of the remaining land of Fairview Developers, Inc. not specifically covered by these restrictions.

ARTICLE VIII

EASEMENTS

Easements for the installation and maintenance of driveway, walkway, parking area, water line, gas line, telephone, electric power line, sanitary sewer and storm drainage facilities and for other utility installations are reserved as shown on the recorded plat. The Homeowners Association may reserve and grant easements for the installation and maintenance of sewerage, utility, and drainage facilities over the Properties and maintenance of sewerage, IV, Section 1(c) 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 of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements.

Declarant, its successors and assigns, hereby reserve and shall have temporary easements for itself, its agents and employees over all Common Area for the purpose of construction living units and related improvements thereon, including completing development of the Properties.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Enforcement. The Homeowners Association, or any Owner, shall

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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 Homeowners 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.

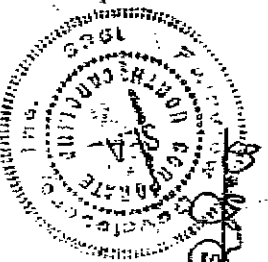
Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by the Owners of not less than ninety per cent (90%) of the lots and 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 per cent (75%) of the lots. Any amendment must be properly recorded. For the purpose of this section, additions to existing property, as provided for in Article II, Section 2, hereof, shall not be deemed an "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 any Class B lot exists, as provided in Article III hereof, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, other than as provided in Article II, Section 2, hereof, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, FAIRVIEW DEVELOPERS, INC., Declarant by virtue of the provisions of Article I, Section 6, 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.

ATTEST:

FAIRVIEW DEVELOPERS, INC.

By: Donald C. Jack
PresidentRobert F. M.
Secretary

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NORTH CAROLINA

UNION COUNTY

I, Sharon A. Mitchum, a Notary Public, do hereby certify that Sharon A. Mitchum personally appeared before me this day and acknowledged that he is the Secretary of FAIRVIEW DEVELOPERS, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by Sharon as its Secretary.

Witness my hand and notarial seal, this 30th day of June, 1989.

Sharon A. Mitchum
Notary Public



NORTH CAROLINA - Union County Sharon A. Mitchum
The foregoing certificate of

Notary Public of Union Co., N.C.

is ~~not~~ certified to be correct. This instrument was presented for registration and recorded in this office at Book 456 Page 605
this 29 day of June, 1989 at 3:15 o'clock P. M.

ONEIL PLYLER, REGISTER OF DEEDS

By: Deputy M. Ayler
As Deputy

SCHEDULE A

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BEGINNING at the intersection of the center lines of Lawyers Road and Stevens Mills Road and runs thence with the center line of Stevens Mill Road South 26-05-21 West 50.01 feet, South 19-38-47 West 49.98 feet, South 11-17-53 West 59.71 feet, South 08-06-38 West 546.06 feet, South 08-32-27 West 36.61 feet, South 10-07-14 West 50 feet, South 12-52-56 West 50.01 feet, South 15-47-28 West 49.99 feet, South 18-09-15 West 50.01 feet, South 19-39-39 West 64.27 feet, South 20-06-26 West 225.24 feet, South 19-09-42 West 100.00 feet, South 16-33-19 West 100.02 feet, South 14-12-20 West 100.03 feet, South 12-10-29 West 100.01 feet, South 10-30-46 West 27.57 feet, South 10-40-33 West 146.60 feet, South 10-45-43 West 49.99 feet, South 11-00-17 West 50.2 feet, South 11-57-57 West 50 feet, South 14-21-34 West 50.01 feet, South 17-46-07 West 50 feet, South 22-11-54 West 49.99 feet, South 26-59-51 West 50 feet, South 30-12-11 West 99.99 feet, South 31-48-13 West 100 feet, South 32-36-38 West 1.17 feet; thence leaving said road North 55-30-00 West 278.22 feet; thence South 34-37-09 West 25.81 feet; thence North 55-30-00 West 186.01 feet; thence South 34-37-09 West 216 feet to a point on the northern right of way of Burnt Mill Run; thence with said right of way line North 55-30-00 West 21.75 feet; thence South 34-30-00 West 50 feet; thence crossing said street South 30-48-13 West 100.20 feet; thence South 34-37-06 West 200 feet; thence South 38-48-06 West 102.44 feet; thence South 29-45-57 West 50 feet; thence South 29-10-33 West 240.81 feet; thence North 57-08-36 West 102.04 feet; thence South 17-51-20 West 323.45 feet; thence South 22-30-49 West 151.08 feet; thence South 32-47-08 West 87.78 feet; thence South 18-50-01 West 141.74 feet; thence North 75-10-28 West 222.54 feet; thence with the arc of a circle having a radius of 445 feet to the right (East) an arc distance of 22.53 feet; thence North 72-03-50 West 407.31 feet to a point in the center of Goose Creek; thence with the center of said Creek North 02-29-12 East 147.51 feet, North 21-03-51 East 135.75 feet, North 45-07-27 East 344.60 feet, North 08-42-57 West 346.63 feet, North 23-56-18 West 167.67 feet, North 23-38-52 West 171.34 feet, North 19-51-22 West 243.50 feet, North 15-28-46 East 95.20 feet, North 27-17-43 West 75.24 feet, North 89-09-05 West 159.63 feet, South 53-01-03 West 143.21 feet, North 53-21-17 West 158.99 feet, North 65-02-15 West 295.04 feet, North 53-21-17 West 325.87 feet, North 25-52-42 West 71.55 feet; thence leaving said Creek North 24-59-50 East 1,012.87 feet; thence North 83-23-22 East 372.66 feet; thence North 84-04-22 East 882.15 feet; thence North 69-39-46 East 167.31 feet; thence North 68-48-16 East 134.05 feet; thence North 68-54-55 East 274.14 feet; thence North 68-03-31 East 349.17 feet; thence North 69-39-02 East 262.82 feet; thence North 49-23-35 East 311.60 feet to a point in the center of Lawyers Road; thence with the center line thereof South 51-07-43 East 74.90 feet, South 49-27-10 East 99.98 feet, South 47-45-00 East 99.99 feet, South 44-55-55 East 99.97 feet, South 43-09-40 East 99.99 feet, South 41-30-21 East 120.85 feet to the point of BEGINNING.