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DECLARATION OF CONDOMINIUM

SEAGATE VILLAGE, A CONDOMINIUM, PHASE 1

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**RETURNED TO
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**NORTH CAROLINA
NEW HANOVER COUNTY**

**DECLARATION OF CONDOMINIUM
FOR
SEAGATE VILLAGE, A CONDOMINIUM, PHASE 1**

THIS DECLARATION and the exhibits which are attached hereto and made a part hereto by this reference are made and executed this 21st day of May, 2002, by **JOSHUA HOLDINGS, LLC**, a North Carolina Limited Liability Company, and **STAR-RIDE, LLC**, a North Carolina Limited Liability Company, hereinafter collectively called the "Declarant", for themselves, their successors, grantees and assigns, pursuant to the provisions of the North Carolina Condominium Act (N.C.G.S. Chapter 47C)(the "Act").

WITNESSETH:

WHEREAS, the Declarant is the owner in fee simple of a certain tract of real property (the "Property") situated in New Hanover County, North Carolina, more particularly described on Exhibit "A" attached hereto and made a part hereof, together with all improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real property; and

WHEREAS, the Declarant desires to submit all of the property described on Exhibit "A" to the Act.

NOW, THEREFORE, the Declarant, as the owner of the property, hereby declares as follows:

ARTICLE I

DEFINITIONS

When used herein the following terms shall have the following meanings:

1.1 Act. The North Carolina Condominium Act (N.C.G.S. Chapter 47C).

1.2 Affiliate of a Declarant. Any person who controls, is controlled by or is under common control with the Declarant. A person "controls" the Declarant if the person (i) is a member or manager of the Declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing, more than twenty percent (20%) of the voting interests in the Declarant. A person "is controlled by" the Declarant

if the Declarant (i) is a general partner, officer, director, or employer of the person; (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent (20 %) of the voting interests in the persons; (iii) controls in any manner the election of a majority of the directors of the person; or (iv) has contributed more than twenty percent (20%) of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

1.3 Allocated interests. The undivided interests in the common elements, the common expense liability and votes in the association allocated to each unit.

1.4 Association or Unit Owners' Association. As used herein it shall mean and refer to SEAGATE VILLAGE OWNERS ASSOCIATION, INC., a North Carolina Nonprofit Corporation, which was organized under N.C.G.S. Section 47C-3-101.

1.5 Common Elements. All portions of the Condominium not encompassed and included within the Condominium Units. Limited Common Elements are Common Elements.

1.6 Common Expenses. Expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.7 Common Expense Liability. The liability for common expenses allocated to each Unit pursuant to N.C.G.S. Section 47C-2-107.

1.8 Condominium. The condominium created by this Declaration.

1.9 Declarant. Any person or group of persons acting in concert who (i) as part of a common promotional plan offers to dispose of his or its interest in a unit not previously disposed of or (ii) reserves or succeeds to any special declarant right. As used herein, the term "Declarant" shall mean and refer to **JOSHUA HOLDINGS, LLC**, and **STARRIDE, LLC**, their successors and assigns, as the owners of the property. The rights of a person or entity as Declarant under this Declaration of Condominium and By-Laws of the Association shall be subject to all limitations and consents as shall be hereinafter set out in this Declaration.

1.10 Declaration. The Declaration of Condominium for **SEAGATE VILLAGE, A CONDOMINIUM, PHASE 1**, and any and all amendments hereto.

1.11 Development Rights. Any right or combination of rights reserved by the Declarant in this Declaration to create Units, Common Elements or Limited Common Elements within the condominium; to subdivide Units or convert Units into Common Elements; or to add or withdraw real estate from the condominium.

1.12 Dispose or Disposition. A voluntary transfer to a purchaser of any legal or equitable interest in a Unit, but not a transfer or release of a security interest.

1.13 Executive Board. The body, regardless of name, designated in the Declaration to act on behalf of the Association. It shall be designated herein as the "Board of Directors" or "Board".

1.14 Identifying Number. A symbol or address that identifies only one Unit in the Condominium.

1.15 Institutional Lender. Banks, savings and loan associations, mortgage companies, mortgage insurers, mortgage guarantors, insurance companies, other firms or entities customarily affording loans secured by first liens on residences, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and eligible insurers and governmental guarantors.

1.16 Lessees. The party entitled to present possession of a leased Unit whether a lessee, sublessee or assignee.

1.17 Limited Common Elements. A portion of the common elements allocated by this Declaration or by operation of N.C.G.S. Section 47C-2-102(2) or (4) for the exclusive use of one or more but fewer than all of the units. As used herein, the term "Limited Common Elements" shall also mean and refer to the following:

A. Limited Common Elements as may be shown on the Plats and Plans recorded in Condominium Plat Book 12, Pages 346 et seq., New Hanover County Registry, or as shown on Exhibit "B" to this Declaration or otherwise by the Declarant.

1.18 Occupant. Any person or persons in possession of a Unit including unit owners, the family members, lessees, guests and invitees of such person or person and family members of such guests and invitees of such lessees.

1.19 Person. A natural person, corporation, limited liability company, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity.

1.20 Property. The real estate described on Exhibit "A" hereto attached, and the real estate described on Exhibit "A-1" hereto attached, if added by the Declarant pursuant hereto, together with all improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

1.21 Purchaser. Any person, other than the Declarant or a person in the business of selling real estate for his own account, who by means of a voluntary transfer acquires a legal or equitable interest in a Unit other than (i) a leasehold interest (including renewal options) of less than five years, or (ii) as security for an obligation.

1.21 Residential purposes. Use for dwelling or recreational purposes, or both.

1.22 Security for an Obligation. The vendor's interest in a contract for deed, mortgagee's interest in a mortgage, trustee's interest in a deed of trust, purchaser's interest under a Sheriff's certificate of sale during the period of redemption or the holder's interest in a lien.

1.23 Security Holder. Any person owning a Security for an obligation in a Unit.

1.24 Special Declarant Rights. Rights reserved herein and in the By-Laws for the benefit of the Declarant to complete improvements indicated on Plats and Plans filed with the Declaration (N.C.G.S. Section 47C-2-109); to exercise any development right (N.C.G.S. Section 47C-2-110); to maintain sales offices, management offices, signs advertising the condominium, and models (N.C.G.S. Section 47C-2-115); to use easements through the common elements for the purpose of making improvements within the condominium or within real estate which may be added to the condominium (N.C.G.S. Section 47C-2-116); to make the condominium part of a larger condominium (N.C.G.S. 47C-2-121); or to appoint or remove any officer of the Association or any executive board member during any period of declarant control (N.C.G.S. Section 47C-3-103 (d)).

1.25 Unit. A physical portion of the Condominium designed for separate ownership or occupancy, together with its percentage of undivided interest in the Common Elements as set forth in Exhibit "C". Each Unit is designated and delineated in the Plats and Plans. All Units shall be used for residential purposes as herein defined.

1.26 Unit Boundaries. Except for those Units containing additional unenclosed areas for the optional future construction of garages, decks, or patios, the boundaries of each Unit, both as to vertical and horizontal planes, as shown on the plats and plans, are the undecorated surfaces of the perimeter walls, unfinished and unscreened surfaces of the screened walls of the porches, exterior doors and exterior windows facing the interior of the Unit, the undecorated surface of the ceiling facing the interior of the Unit, and the topmost surfaces of the sub-flooring. The Unit shall accordingly include the decoration on all such interior and topmost surfaces, including, without limitation, all of the paneling, tiles, wallpaper, paint, finished flooring, screening on the porches, and any other materials constituting any part of the decorated surfaces thereof, and also includes all spaces, interior partitions and all fixtures and improvements within the Unit boundaries as defined in the first sentence of this Paragraph 1.26. The delineation between items which are part of the Unit and items which are part of the Common Elements shall be as set out in N.C.G.S. Section 47C-2-102. For those Units containing additional unenclosed

areas for the optional future construction of garages, decks, or patios, the additional un-enclosed areas of the Unit shall extend from the surface of the area within the perimeters of the additional areas of the Unit as shown on the aforesaid plat up to and including a cubical of space twenty (20) feet above the surface and perpendicular to the boundaries of the additional areas of the Unit extended upward to form a square or rectangular cube of enclosed space. Any garage, deck, patio, or any other structure constructed within the confines of the said additional areas shall be and become an integral part of the said Unit. If such structures are constructed as herein provided, the unit boundary shall then be the undecorated surfaces of the perimeter walls, unfinished and unscreened surfaces of the screened walls of the porches, exterior doors and exterior windows facing the interior of the Unit, the undecorated surface of the ceiling facing the interior of the Unit, and the topmost surfaces of the sub-flooring or concrete.

1.27 Unit Owner. The Declarant or other person who owns a Unit in fee simple, but does not include a person having an interest in a Unit solely as security for an obligation.

ARTICLE II

SUBMISSION OF PROPERTY TO THE ACT

2.1 Submission. Declarant hereby submits the Property to the Act.

2.2 Name. The Property shall hereafter be known as **SEAGATE VILLAGE, A CONDOMINIUM, PHASE 1.**

2.3 Division of Property into Separately Owned Units. Declarant, pursuant to the Act, and to establish a plan of condominium ownership for the Condominium, does hereby divide the Property into four (4) units as shown on the Plats and Plans and does hereby designate all such Units for separate ownership.

2.4 Limited Common Elements. The Limited Common Elements serving or designed to serve each Unit are hereby allocated solely and exclusively to each such Unit as described in Section 1.17.

2.5 Plats and Plans. The plat of the Condominium is recorded in Condominium Plat Book 12 at Pages 346 et seq., New Hanover County Registry. The plat complies with N.C.G.S. Section 47C-2-109.

2.6 Encumbrances. The liens, defects and encumbrances on the Property to which the rights of Unit Owners and Occupants are hereby made subject are set out on Exhibit "D" attached hereto.

2.7 Condominium Ordinance. The Condominium is not subject to any zoning, subdivision, building code, or other real estate use law, ordinance or regulation (ii) imposing conditions or requirements upon a condominium that are not imposed upon substantially similar developments under a different form of ownership. This statement is made pursuant to N.C.G.S. Section 47C-1-106 for the purpose of providing marketable title to the Units in the Condominium.

2.8 Declarant's Right to Add Additional Real Estate. Declarant expressly reserves the right to add the additional real estate to the Condominium, and in connection therewith to reallocate the allocated interests in the common elements to each Unit. All or part of the additional real estate identified and described on Exhibit "A-1" may be added to the Condominium at different times and in different phases but no later than December 31, 2009. No assurances are made in regard to the order in which such portions may be added. Declarant shall have no duty or obligation of any kind to add any or all of the additional real estate. The method of adding the additional real estate to the Condominium shall be pursuant to N.C.G.S. Section 47C-2-110.

ARTICLE III

THE MANAGEMENT OF THE CONDOMINIUM

3.1 Organization of Unit Owners' Association. A unit owners' association known as **SEAGATE VILLAGE OWNERS ASSOCIATION, INC.**, a North Carolina Nonprofit Corporation, has been organized to manage the Condominium. The Association is hereby granted the authority to enforce the provisions of this Declaration, to levy and collect assessments as hereinafter provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Units and the Common Elements as the Board of Directors of the Association deems in the best interests of the Association.

3.2 Powers of Unit Owners Association. The Association shall have the powers set forth in N.C.G.S. Section 47C-3-102, subject to the restrictions set forth in N.C.G.S. Section 47C-3-102(b).

3.3 Board of Directors and Officers. Except as provided in the By-Laws, the members of the Board of Directors and the Officers shall be governed by the terms and conditions set forth in N.C.G.S. Section 47C-3-103.

3.4 Management Agreements. Any management agreement between the Declarant or the Association and a professional manager or any other agreement providing for services of the developer, sponsor, or Declarant shall not exceed a term of three (3) years and shall be subject to renewal by the consent of both parties and shall be consistent with Section 17.12 of this Declaration.

ARTICLE IV

EASEMENTS

4.1 Encroachments. If, by reason of the construction, reconstruction, rehabilitation or alteration of the improvements comprising a part of the Property, any part of the Common Elements now or hereafter encroaches upon any part of any Unit, or any part of any Unit now or hereafter encroaches upon any part of the Common Elements, or upon any part of another Unit, an easement for the continued existence and maintenance of each such encroachment is hereby declared and granted and shall continue for so long as each encroachment exists, subject to the terms of N.C.G.S. Section 47C-2-114. However, in no event shall an easement for such encroachment be created if the encroachment is detrimental to or interferes with the reasonable use and enjoyment of the Common Elements or Units so encroached upon.

4.2 Easements Through Walls. Easements are hereby declared and granted to the Association and to such persons as are authorized by the Association to install, lay, maintain, repair and replace any chutes, flues, ducts, vents, pipes, wires, conduits and other utility installations and structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the boundaries of any Unit.

4.3 Easements in Common Elements. The Common Elements shall be, and the same are hereby, declared to be subject to a perpetual non-exclusive easement in favor of all Unit Owners for use by them and their immediate families, guests and invitees for all proper and normal purposes and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of said Unit Owners. Notwithstanding the above, the Association or the Declarant shall have the exclusive right to establish the rules and regulations pursuant to which the Unit Owners may be entitled to use the Common Elements, including the right to make permanent and temporary assignments of unassigned parking spaces and to establish regulations concerning the use thereof. The Declarant and the Association shall have the right to grant permits, licenses and easements over the Common Elements, for utilities, roads and other purposes necessary for the proper operation of the Property.

4.4 Easements to Repair, Maintain, Restore and Reconstruct. Wherever in, and whenever by, this Declaration, the By-Laws of the Association, or of the Act, a Unit Owner, the Association, the Board, or any other person is authorized to enter upon a Unit or the Common Elements to repair, maintain, restore or reconstruct all or any part of a Unit or the Common Elements, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstruction are hereby declared and granted.

4.5 Declarant's Easement. Pursuant to N.C.G.S. Section 47C-2-116, Declarant hereby reserves such easements through the Common Elements as may be reasonably necessary to discharge its obligations, exercise Special Declarant Rights and complete the development and construction of the Condominium. The easements shall exist as long as reasonably necessary for such purposes.

4.6 Utility Easements. Easements are reserved throughout the condominium property, units, and common elements, as may be required for the installation, maintenance, repair, and replacement of all sewer, water, electrical power and telephone lines, water meters, water distribution machinery, pipes, mains, conduits, poles, transformers, and any and all other equipment or machinery necessary or incidental to the proper functioning of any utility services in order to adequately serve the Units. This Declaration is subject to easements of record.

4.7 Easements for Emergency Vehicles. All lawful agencies of the City of Wilmington, New Hanover County, the State of North Carolina, and the United States Government shall have a perpetual nonexclusive easement to enter upon all roadways and driveways for purposes of maintaining the safety, health, welfare, police and fire protection of the citizens of the City of Wilmington, New Hanover County, and the State of North Carolina, including the residents of the Condominium.

4.8 Easement to Run With Land. All easements and rights described in this Article are appurtenant easements running with the land and, except as otherwise expressly provided in this Article, shall be perpetually in full force and effect and shall inure to the benefit of and be binding upon the Declarant, the Association, Unit Owners, Occupants, Security Holders and any other persons having any interest in the Condominium or any part thereof. The Condominium and every part thereof shall be conveyed and encumbered subject to and together with all of the easements and rights described in this Article, whether or not specifically mentioned in any such conveyance or encumbrance.

ARTICLE V

EMERGENCY RIGHT OF ENTRY

5.1 In case of any emergency originating in or threatening any Condominium Unit, regardless of whether the Owner is then present, the Board of Directors of the Association, or any other person authorized by it, or the Managing Agent, shall have the right to immediately enter the Unit to remedy or abate the cause of the emergency.

ARTICLE VI

RESTRICTIONS

6.1 Compliance Requirements. Each Unit Owner and Occupant shall comply with all applicable provisions of the Act, this Declaration, the By-Laws, and the rules and regulations promulgated by the Board or the Association, as amended. Failure to comply shall be grounds for an action by the Association, an aggrieved Unit owner or any person adversely affected for recovery of damages, injunction or other relief.

6.2 Use Restrictions.

(a) **Residential Purposes only.** The Units shall be occupied and used By Unit Owners and Occupants for residential purposes only.

(b) **Signs.**

(1) **By Unit Owners.** No “For Sale” or “For Rent” signs or other window displays or advertising shall be maintained or permitted by any Unit Owner or Occupant on any part of the Condominium without the prior written consent of the Board.

(2) **By Declarant.** Declarant may maintain signs on the Common Elements advertising the Condominium until all Units have been conveyed to owners other than Declarant. Declarant shall remove all signs not later than thirty (30) days after all of the Units have been conveyed to owners other than Declarant and shall repair all damage done by removal of such signs. All such signs must comply with all applicable federal, state and local laws and ordinances.

(c) **Obstruction of Ways.**

(1) Common sidewalks, driveways, entrances or passageways shall not be obstructed or used by any Unit Owner for any purpose other than ingress to and egress from the Units.

(2) Unit Owners, members of their families, their guests, residents, tenants and/or lessees shall not use sidewalks, driveways, entrances or passageways as play areas.

(d) **Personal Property in Common Elements.** Except as to the areas termed Limited Common Elements, no article of personal property shall be placed on or in any of the Common Elements except for those articles of personal property which are the common property of all of the Unit Owners.

(e) **Parking of Vehicles.** No vehicle belonging to or being under the control of a Unit Owner or a member of the family or a guest, tenant, lessee or employee of a Unit Owner shall be parked in such manner as to impede or prevent ready access to any entrance to or exit from a building. Vehicles shall only be parked in marked parking spaces and not on any grassed or landscaped areas.

- (f) **Disturbances.** Unit Owners and Occupants shall exercise reasonable care to avoid making or permitting to be made loud, disturbing or objectionable noises and in using, playing, or permitting to be used or played musical instruments, radios, phonographs, television sets, amplifiers and any other instruments or devices in such manner as may disturb or tend to disturb Unit Owners, tenants or Occupants of other Units.
- (g) **No Liability for Storage of Articles.** The Association assumes no liability for, nor shall it be liable for, any loss or damage to articles stored in the Common Elements or other storage areas.
- (h) **Plants.** No Unit Owner shall remove plants of any description from the Property without the prior written consent of the Board of Directors. Any Unit Owner wishing to plant flowers, trees, or shrubs outside of his limited common area must obtain written permission from the Association.
- (i) **No Subdivision of Units.** Except for the subdivision of Units by Declarant pursuant to N.C.G.S. Section 47C-2-110, no Unit may be subdivided into a smaller dwelling unit or added to or incorporated into any other Unit except with the unanimous written approval of all members of the Association. Any such permitted subdivision of Units shall be pursuant to N.C.G.S. Section 47C-2-113.
- (j) **Allocation of Common Elements, Interests, Votes and Common Expense Liabilities.** The allocation of Common Elements, Interests, Votes and Common Expenses liabilities shall be pursuant to N.C.G.S. Section 47C-3-107 and as set forth on Exhibit "C" attached hereto and incorporated herein by reference. Each Unit in the Condominium shall have appurtenant thereto an Allocated Interest in the Common Elements and Common Expense Liability equal to the share of every other Unit, except for minor deviations due to rounding off of percentages. Each Residential Unit will have one vote in the Association. Nothing herein contained shall be construed as limiting or preventing ownership of any Condominium Unit and its appurtenant undivided interest in the Common Elements by more than one person or entity as tenants in common, joint tenants or as tenants by the entireties. The Allocated Interests are subject to reallocation as provided in Section 18 below.
- (k) **Conveyance or Encumbrance of Common Elements.** Any conveyance or encumbrance of the Common Elements shall be pursuant to N.C.G.S. Section 47C-3-112.

- (1) **No Immoral Purposes.** No immoral, improper, offensive or unlawful use shall be made of any Unit or of the Common Elements, or any part thereof; and all laws, ordinances and regulations of all governmental authorities having jurisdiction of the Condominium shall be observed.
- (m) **Units Owned by Corporations.** A Corporate member other than the Declarant shall restrict use of its Units to its principal officers or directors or their guests, or to lessees. Such corporate member shall annually sign and deliver to the Association a written statement naming the parties entitled to use its Units, together with a written covenant of the user agreeing to comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations and acknowledging that the right of use shall exist only so long as the corporation remains a member of the Association. Upon demand by the Association for any reason, the corporate member shall promptly remove the user within ten (10) days of receipt of notice, failing which the Association, as agent of the Unit Owner, may take whatever actions it deems appropriate to remove the user. All costs incident to such action, including court costs and attorney's fees, shall be assessed against the Unit and Unit Owner involved, and shall become a lien against such Unit, to the same extent allowed under Article VII of this Declaration.
- (n) **Alterations/Structural Modifications.** Except as hereinafter provided, without the prior written consent of Declarant or the Association, no Unit Owner shall permit any alteration or structural modification to their Unit. Such consent may be withheld if the Declarant or a majority of the Board of Directors determines, **in their sole and absolute discretion**, that the modification or alteration would in any manner adversely affect the Condominium or any Unit Owner. Except as hereinafter provided, no Unit Owner shall cause any modifications or alterations to be made to the exterior of the Condominium, including painting or other decoration, or the installation of electrical wiring, television or radio antennae, machines or air conditioning units, which may protrude through the walls or roof of the condominium, or in any manner change the appearance of any portion of the building not within the walls of each Condominium Unit. No construction, alteration, or installation may be commenced until the Declarant or the Association approves of the plans and specifications, and the Declarant or the Association shall have the absolute and unqualified right to reject any proposed construction, installation, or alteration which fails to qualify under the specifications contained herein.

As herein provided, and as provided on the plat, the Declarant has established Additional Areas adjacent to some of the Units for the future construction, by the Unit Owner, of garages, decks, and patios. As hereinbefore provided in Paragraph 1.26, the airspace within these additional areas, up to a height of 20 feet, shall be a part of the Unit to which they adjoin. At the option of the Unit Owner, the Unit Owner may construct a garage, deck, patio, or other structure, if approved by the Declarant, or after the expiration of the Declarant Control Period, by the Board of Directors of the Association or an Architectural Control Committee established by the Board of Directors for the purpose of reviewing, approving, or denying such proposed construction. Any construction within the areas contemplated herein shall be subject to the following procedures, criteria, and requirements:

1. Until all units are sold, the Declarant shall have total discretionary review over all proposed alterations or construction. The Unit Owner shall provide for Declarant's review copies of all plans and construction blueprints, site drawings, materials lists, names of the general contractor and any subcontractors, proposed impact on existing utility lines and proposed methods of locating utilities or relocating any existing utility lines, impact on surrounding properties and common areas, construction timetable, and any other information that the Declarant shall request.
2. The Declarant shall have 30 days to review all documentation provided by the Unit Owner, which period shall begin upon Declarant's receipt of all documentation and information requested by Declarant. The Declarant, in its sole and absolute discretion, for any reason whatsoever, may reject, request modifications, or approve the proposed construction.
3. If the construction is approved by the Declarant, the Owner must must obtain all building permits required for the construction project. All construction must be performed pursuant to the applicable government building codes and must be properly inspected by the local building inspectors during construction.
4. Any expenses for the location or relocation of utility lines and any costs for any damages caused to the common areas or any units shall be immediately paid by the Unit Owner.
5. All construction shall be performed so as to have minimal impact on the other unit Owners. The Declarant shall have the right to establish allowable hours and times for construction activity and the violation of any requests by Declarant shall be grounds

for the immediate termination of the construction project. The failure to comply with the plans and documentation as approved by the Declarant shall also be grounds for immediate cessation of the construction project.

6. In the event that the proposed construction should join the roof of the existing structure, the Owner shall be required to re-roof the entire side of the building that will be tied in to the new construction, and such re-roofing must match the existing roofing.
 7. All construction must be properly tied on to the existing construction as required by the applicable building codes. All work shall be done in a good and workmanlike manner.
 8. Upon the sale of all of the units in all phases of the Condominium, all of the approvals required herein shall be the authority of the Board of Directors of the Association or an Architectural Review Committee established by the Board. At such time, all references in this Section (n) shall then mean and refer to the Board of Directors or the Architectural Review Committee.
- (o) **Sales Offices.** Other provisions of this Declaration or the By-Laws notwithstanding, Declarant may maintain offices for the sale of units in the Condominium and models, all pursuant to N.C.G.S. Section 47C-2-115. **Unit Numbers 310 and 216B shall be used initially as models and/or sales offices.** Declarant shall have the right to (1) relocate, discontinue and reestablish within the Condominium any such offices or models until all Units have been conveyed to Unit Owners other than a Declarant; and (2) change the use of such offices or models, provided that they shall be used only for sales purposes or models. The total number of such offices or models maintained at any time by a Declarant shall not exceed the number set out above, and the size of any such relocated or reestablished offices or models shall not exceed the size of the largest Unit in the Condominium.
- (p) **Management Office.** Other provisions of this Declaration or the By-Laws notwithstanding, the Declarant may maintain an office in the Condominium for management of the Condominium pursuant to N.C.G.S. Section 47C-2-115.

6.3 Hazardous or Unlawful Use or Waste. Nothing shall be done to or kept in any Unit or on or about the Common Elements or Limited Common Elements that will increase any rate of, or result in the cancellation of, insurance maintained with respect to the Condominium, or that would be in violation of any law, or that will result in the commitment of waste (damage, abuse or destruction) to or in any Unit or the Common Elements or Limited Common Elements.

6.4 Alterations to Units. A Unit may be altered pursuant to the provisions of N.C.G.S. Section 47C-2-111 and pursuant to this Declaration. The boundaries between adjoining Units may be relocated pursuant to N.C.G.S. Section 47C-2-112.

6.5 Alterations to Common Elements. No Unit Owner or Occupant, except Declarant during the Declarant Control Period, shall alter or construct anything upon or remove anything from the Common Elements or paint, decorate, landscape or adorn any portion of the Common Elements without the prior written consent of the Board.

6.6 Rules and Regulations. In addition to these covenants, Rules and Regulations not in conflict herewith and supplementary hereto may be promulgated and amended from time to time by the Board or the Association, as more fully provided in the By-Laws.

6.7 Covenants To Run with Land. Each Unit Owner and Occupant shall be subject to all restrictions, conditions and covenants of this declaration, all of which shall be deemed to be covenants running with the land binding every person having any interest in the Property and inuring to the benefit of all such persons.

6.8 No boats, trailers, bicycles, scooters, baby carriages, or similar vehicles or toys or other personal articles shall be allowed to stand in any of the Common Elements.

6.9 Each Unit Owner shall keep their Unit in a good state of preservation and cleanliness and shall not sweep or throw or permit to be swept or thrown therefrom, or from the doors or windows thereof, any dirt or other substance.

6.10 No shades, window treatments, awnings, window guards, ventilators, fans, or air conditioning devices shall be used in or about the units except as shall have been approved by the Board.

6.11 All garbage and refuse from the Units shall be deposited with care in garbage containers intended for such purposes, only at such times and in such manner as the Board may direct.

6.12 No bird or animal shall be kept or harbored in any Unit or on the Property unless the same in each instance is expressly permitted in writing by the Board that shall publish a standard guideline for permitting of animals. In no event shall dogs be permitted in any of the Common Elements unless carried or on a leash. The unit owner shall indemnify the Association and hold it harmless against any loss or liability of any kind or character whatsoever arising from or growing out of having any animal in the Unit or on the Property. Any animal waste left on the common elements by a permitted animal shall be immediately cleaned up by the owner of the animal.

6.13 No industry, business, trade, occupation, or profession of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, or otherwise, shall be conducted, maintained, or permitted in any Unit on any part of the Property.

6.14 All radio, television or other electrical equipment of any kind or nature installed or used in each Unit shall fully comply with all rules, regulations, requirements, or recommendations of the Board of Fire Underwriters and the public authorities having jurisdiction, and the Unit owner alone shall be liable for any damage or injury caused by any radio, television, or other electrical equipment in such Unit.

6.15 The agents of the Board and any contractor or workman authorized by the Board may enter any room or unit in the building at any reasonable hour of the day after notification (except in case of emergency) for the purpose of inspecting such Unit for the presence of any vermin, insects, or other pests and for the purpose of taking such measures as may be necessary to control or exterminate any such vermin, insects or other pests.

6.16 All damage to the Units caused by the moving or carrying of any article therein shall be paid by the Unit Owner responsible for the presence of such article.

6.17 The Unit Owners shall not be allowed to put their names on any entry of the Units except in the proper places provided for such purpose.

6.18 White window and door treatments must be installed by each Unit Owner on all windows and glass doors of their unit and must be maintained in such windows and doors at all times.

6.19 Any damage to the buildings, recreational facilities, or other Common Elements or equipment caused by the Unit Owners, their children, or their guests shall be repaired at the expense of the Unit Owner or Unit Owner parent.

6.20 No motor vehicles without a current inspection certificate, or any other type of junked or non-operable motor vehicle shall be permitted on the Common Elements or Limited Common Elements. Any drips or spills from any vehicles must be immediately cleaned up by the owner of the vehicle. If such owner shall fail to remove such drips or spills, the costs of removal and repair of the area of the parking area or driveway affected by the drip or spill shall be charged to the responsible Unit Owner and collected by the Association in the same manner as a regular or special assessment.

6.21 These use restrictions may be amended to or repealed at any time by the Association in accordance with the Act, this Declaration, and the By-Laws.

ARTICLE VII

ASSESSMENTS

7.1 Budget.

- (a) **Adoption by Board.** The Board of Directors of the Association shall establish, in advance, an Annual Budget for each fiscal year, which shall correspond to the calendar year, except that in the initial year of operation the fiscal year shall commence with the closing of the sale of the first Unit or with the decision by the Board to make Common Expense assessments, whichever is later. The budget shall project all expenses for the forthcoming year required for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves. It shall take into account projected anticipated income, which is to be applied in reduction of the amount required to be collected as an assessment each year. The Board of Directors shall keep items relating to operations and maintenance separate from items relating to capital improvements, included as Common Expenses shall be the cost of maintaining leaseholds, memberships and other possessory or use interests in lands or facilities to provide enjoyment, recreation or other use or benefit to Unit Owners, all as may be now or hereafter acquired by lease or agreement in form and content, and containing provisions satisfactory to the Board of Directors.
- (b) **Copy to Unit Owners.** Upon adoption of the budget by the Board of Directors, a copy of it shall be delivered to each Unit Owner, and the assessment for that year shall be established based upon it. However, the failure of the Board, or delay by it, in preparing the Budget, or its failure to deliver a copy of the Budget to each Unit Owner, shall not affect the liability of any Unit Owner to pay assessments whenever the same shall be determined and levied by the Board.
- (c) **Funds and Reserves.** The Board of Directors shall designate in the Budget sums to be collected from assessments and maintained as a reserve to cover repairs, replacements and other general operating expenses, maintenance items and working capital. **WHEN TITLE IS CONVEYED TO A UNIT OWNER FROM THE DECLARANT, THE UNIT OWNER SHALL CONTRIBUTE TO THE ASSOCIATION, AS A NONRE-FUNDABLE WORKING CAPITAL ASSESSMENT, AN AMOUNT EQUAL TO THREE MONTHS COMMON EXPENSE ASSESSMENTS.** Such funds shall be used solely for initial operating and capital Expenses of the Association, such as pre-paid insurance, supplies, maintenance of the Common Elements, furnishings and equipment and similar

matters. Upon selection of the regular management agent, the interim management agent shall pay all unused funds to the account of the Association and provide an accounting of all revenues and expenditures. Amounts paid into the working capital fund are not to be considered as advance payment of regular assessments. All monies collected by the Association shall be treated as the separate property of the Association and may be applied by the Association to the payment of any expense of operating and managing the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, and the By-Laws. Monies so paid to the Association by any Unit Owner may be commingled with monies paid to it by the other Unit Owners.

7.2 Assessments for Common Expenses.

- (a) Until the Association makes a Common Expense assessment, the Declarant shall pay all of the Common Expenses. After any assessment has been made by the Association, assessments thereafter must be made at least annually, and such assessment shall be payable in annual, quarterly, monthly or such other installments and at such times as may be determined by the Board of Directors, but at least annually. Unit Owners shall be subject to assessment by the Board of Directors upon acquiring title to their Unit. The Declarant shall not be liable for assessments for unsold Units contemplated by this Declaration until such time as said Unit is (i) completed and a certificate of occupancy is issued therefor; and (ii) occupied or used for model, sales or other purposes by the Declarant, or (iii) offered or used for rental purposes by the Declarant. No Unit Owner may exempt himself from liability for any assessment levied against him and his Unit by waiver of the use or enjoyment of any of the Common Elements, or by abandonment of the Unit, or in any other way.
- (b) Except for assessments under subsections (c), (d), and (e), all Common Expenses must be assessed against all the Units in accordance with the allocations set forth in Exhibit "C" of the Declaration pursuant to N.C.G.S. Section 47C-2-107(a). Any past due Common Expense assessment or installment shall bear interest at the maximum legal rate then in effect, not to exceed the rate of eighteen percent (18%) per annum.
- (c) Assessments shall be allocated as follows:
 - (1) any Common Expense associated with maintenance, repair or replacement of a Limited Common Element must be assessed equally against the Units to which that Limited Common Element is assigned.
 - (2) any Common Expense or portion thereof benefiting fewer than all of the Units must be assessed exclusively against the Units benefited, in such shares as the Association shall deem equitable. All expenses in-

curred by the Association for the maintenance or repair of, or other matters relating to, the garages, patios, and decks that are constructed in the additional areas adjacent to some of the Units shall be assessed exclusively against the Unit or Units to which such garages, patios, or decks have been added as herein provided. Until such garage, deck, or patio is constructed, the landscaping of such additional area shall be maintained by the Association in the same manner as for the common areas and no additional assessment shall be assessed against the Unit Owner for the cost of such landscaping and landscaping maintenance.

(d) Assessments to pay a judgment against the Association pursuant to N.C. G.S. Section 47C-3-117(a) may be made only against the Units in the Condominium at the time the judgment was entered, in proportion to their common expense liabilities.

(e) If any Common Expense is caused by the misconduct of any Unit Owner, the Association may assess that expense exclusively against his Unit.

(f) If Common Expense liabilities are reallocated, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

7.3 Board's Authority to Levy Additional Assessments. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are or may prove to be insufficient to pay the costs of operation and management of the Condominium, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessments as it may deem necessary.

7.4 Assessment Roll and Certificate. All assessments shall be set forth upon a roll of the Units, which shall be available in the office of the Association for inspection at all reasonable times by members, security holders and their duly authorized representatives. The roll shall include, for each Unit, the name and address of each member, all assessments levied and the amount of all assessments unpaid. The Association, upon written request, shall furnish to a Unit Owner, or his authorized agent, a recordable certificate setting forth the amount of unpaid assessments currently levied against his Unit. The certificate shall be furnished within seven (7) business days after receipt of the request and shall be binding upon the Association and all Unit Owners. The Board may charge a reasonable fee for issuance of such certificate.

7.5 Payment of Assessments. All monies owed to the Association shall be payable at its main office. Any assessment or installment thereof due to the Association shall be in default if not paid within thirty (30) days of the due date for payment. However, the failure of the Board, or its delay, in levying assessments shall not constitute a waiver or release of the members' obligation to pay assessments when the same shall be determined and levied by the Board. Also, any deficiencies or inadequacies in the procedure followed by the Board in levying an assessment shall not in any way affect its validity or the obligation of members to pay such assessment.

7.6 Lien for Assessments.

- (a) Any assessment levied against a Unit remaining unpaid for a period of thirty (30) days or longer shall constitute a lien on that Unit when filed of record in the Office of the Clerk of Superior Court of New Hanover County in the manner provided therefor by Article 8 of Chapter 44 of The North Carolina General Statutes. The Association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes. Fees, charges, late charges, fines and interest charged pursuant to N.C.G.S. Section 41C-3-102(10), (11) and (12), N.C.G.S. Section 47C-3-107(d) and N.C.G.S. Section 47C-3-107A are enforceable as assessments under this Section. In addition, if any action is taken by the Association to foreclose a lien on a Unit because of unpaid assessments, the Unit Owners shall be required to pay a reasonable rent for the use of the Unit during the period of redemption from such foreclosure, and the Association shall be entitled to the appointment of a receiver to collect the same.
- (b) The lien under this Section is prior to all other liens and encumbrances on a Unit except (i) liens and encumbrances (specifically including, but not limited to, a mortgage or deed of trust on the Unit) recorded before the docketing of the lien in the office of the Clerk of Superior Court, and (ii) liens for real estate taxes and other governmental assessments or charges against the Unit. This subsection does not affect the priority of mechanics' or materialmen's liens.
- (c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three years after the docketing thereof in the Office of the Clerk of Superior Court of New Hanover County.
- (d) This Section does not prohibit actions to personally recover sums for which subsection (a) creates a lien or prohibit the Association taking a deed in lieu of foreclosure, and the Association is specifically granted the authority to file a personal action for collection of such sums due against the Unit Owner.
- (e) A judgment, decree or order in any action brought under this Section must include costs and reasonable attorney fees for the prevailing party.
- (f) Where the holder of a first mortgage or first deed of trust of record, or other purchaser of a unit, obtains title to the Unit as a result of foreclosure of a first mortgage or first deed of trust, such purchaser, and their heirs, successors and assigns, shall not be liable for assessments against such unit which became due prior to acquisition of title to such Unit by

such purchaser. Such unpaid assessments shall be deemed to be Common Expenses collectible from all the Unit Owners including such purchaser, and their heirs, successors and assigns.

7.7 Other Liens Affecting the Condominium.

- (a) A judgment for money against the Association is not a lien on the Common Elements but, if docketed, is a lien in favor of the judgment lienholder against all of the Units in the Condominium at the time the judgment was entered. No other property of a Unit Owner is subject to the claims of creditors of the Association.
- (b) Notwithstanding the provisions of subsection (a), if the Association has granted a security interest in the Common Elements to a creditor of the Association pursuant to N.C.G.S. Section 47C-3-112, the holder of that security interest must exercise its right against the Common Elements before its judgment lien on any Unit may be enforced.
- (c) Whether perfected before or after the creation of the Condominium, if a lien other than a deed of trust or mortgage, including a judgment lien or lien attributable to work performed or materials supplied before creation of the Condominium, becomes effective against two or more Units, the Unit Owner of an affected Unit may pay the lienholder the amount of the lien attributable to his Unit, and the lienholder, upon receipt of payment, promptly shall deliver a release of the lien covering that Unit. The amount of the payment must be proportionate to the ratio which that Unit Owner's Common Expense liability bears to the Common Expense liabilities of all Unit Owners whose Units are subject to the lien. After payment, the Association may not assess or have a lien against that Unit Owner's Unit for any portion of the Common Expenses incurred in connection with that lien.
- (c) A judgment against the Association shall be indexed in the name of the Condominium and the Association and, if so indexed, is notice of the lien against the Units.

7.8 Statement to Prospective Purchaser. Whenever any Condominium Unit may be leased, sold or mortgaged, the Association, upon written request of the Unit Owner, shall furnish to the proposed lessee, purchaser or mortgagee a statement verifying the payment status of any assessment due and payable to the Association by the Unit Owner. The statement shall be executed by a duly authorized officer of the Association. Any lessee, purchaser or mortgagee may rely upon the statement in concluding the proposed lease, purchase or mortgage transaction, and the Association shall be bound by any such properly authorized and executed statement. If a Condominium Unit is to be leased, sold or mortgaged at a time when payment of any assessment against the Unit Owner and Unit is in default (whether or not a Claim of Lien has been recorded by the Association),

then the rent, purchase or mortgage proceeds shall be applied by the lessee, purchaser or mortgagee first to payment of any then delinquent assessment or installments thereof before the payment of any such proceeds to the Unit Owner responsible for payment of the delinquent assessment.

ARTICLE VIII

MAINTENANCE

8.1 Maintenance of Common Elements.

- (a) **By the Association.** The replacement, maintenance, repair, alteration, and improvement of the Common Elements shall be the responsibility of the Association, and the cost thereof shall be a Common Expense to the extent not paid by Unit Owners. All damage caused to a Unit by any work on or to the Common Elements done by or for the Association shall be repaired by the Association, and the cost thereof shall be a Common Expense. Until a garage, deck, patio, or other approved structure shall be built upon the additional areas provided on the plat for such purposes, the Association shall landscape such areas and the cost of same and for the continued maintenance of such landscaping shall be assessed as a Common expense against all of the Unit Owners.
- (b) **By Unit Owners.** Each Unit Owner shall pay all costs to repair and replace all portions of the Common Elements that may become damaged or destroyed by reason of his intentional acts or the intentional acts of any Occupant of his Unit. Such payment shall be made upon demand by the Association, and any unpaid amount shall be assessed against the Unit Owner and his Unit, and shall become a lien on such Unit, to the same extent provided in Article VII above.

8.2 Maintenance of Units. Each Unit Owner shall (i) maintain his Unit at all times in a good and clean condition and repair and replace, at their expense, all portions of their Unit; (ii) perform their responsibilities in such manner as not to unreasonably disturb other Occupants; (iii) promptly report to the Board, or its agents, any defect or need for repairs the responsibility for which is that of the Association; and (iv) to the extent that such expense is not covered by the proceeds of insurance carried by the Association, pay all costs to repair and replace any portion of another Unit that has become damaged or destroyed by reason of his own acts or omissions or the acts or omissions of any Occupant of his Unit. Such payment shall be made upon demand by the Unit Owners of such other Units. Nothing herein contained shall modify any waiver by insurance companies of rights of subrogation.

8.3 Common Expenses Associated with Limited Common Elements or Benefiting Less Than All Units. Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against the Unit, or in equal shares to the Units, to which such Limited Common Element was allocated at the time the expense was incurred. In addition, the Association may assess any Common Expense benefiting less than all of the Units against the Units benefited in proportion to their Common Expense liability.

8.4 Waiver of Claims. Except only as provided in Sections 8.1(b) and 8.3, the Association agrees that it shall make no claim against a Unit Owner or Occupant, and each Unit Owner and Occupant agrees that he shall make no claim against the Association, the members of the Board, officers of the Association, or employees or agents of any thereof, or against any manager retained by the Board, or his or its officers, directors, employees or agents, or other Unit Owners or Occupants, for any loss or damage to any of the Property, or to a unit or personal property therein, even if caused by the omission or neglect of any one or more such persons, and all such claims are hereby waived and released; provided, that this waiver shall not apply to any such loss or damage due to intentional acts; provided, however, that the foregoing waivers shall not apply if the application thereof invalidates any policy of insurance of any parties to such waivers, now or hereafter issued.

8.5 Right of Entry.

- (a) **By the Association.** The Association, and any person authorized by the Association, may enter any Unit, or any of the Limited Common Elements in case of any emergency or dangerous condition or situation originating in or threatening that Unit or any of the Limited Common Elements. The Association, and any person authorized by the Association, after reasonable notice to a Unit Owner or Occupant, may enter that Unit or any of the Limited Common Elements for the purposes of performing any of the Association's duties or obligations or exercising any of the Association's powers under the Act, this Declaration, or the By-Laws with respect to that or any other Unit, any Limited Common Elements or the Common Elements. Notwithstanding anything herein to the contrary, the Association shall be responsible for the repair of any damage caused by the Association or its authorized person to the entered Unit, and the cost thereof shall be a Common Expense. All such entries shall be made and done so as to cause as little inconvenience as possible to the Unit Owner and occupant of the entered Unit or any portion of the Limited Common Elements allocated to the Unit Owner.

- (b) **By Unit Owners.** Each Unit Owner and Occupant shall allow other Unit Owners and Occupants, and their representatives, to enter their Unit, or Limited Common Elements allocated to their Unit, when reasonably necessary for the purpose of altering, maintaining or repairing the Unit of the Owner or Occupant requesting such entry, or performing the duties and obligations under the Act, this Declaration or the By-Laws of the Unit Owner or Occupant making such entry, provided that requests for entry are made in advance and that such entry is at a time convenient to the Unit Owner or the Occupant whose Unit or Limited Common Element is to be entered. In case of an emergency or dangerous condition or situation, such right of entry shall be immediate. Notwithstanding anything herein to the contrary, the person making such entry shall be responsible for repair of any damage caused by such person to the entered Unit or Limited Common Element.

ARTICLE IX

CASUALTY DAMAGE

9.1 **Damage to Common Elements.** If any part of the Common Elements is damaged by casualty, the determination of not to reconstruct or repair the same shall be made as follows:

- (a) "Partial destruction" shall mean destruction rendering fewer than two thirds (2/3) of the Condominium Units untenable. In the event of partial destruction, the Common Elements shall be reconstructed or repaired unless the Condominium is terminated by the unanimous act of all Unit Owners at a meeting of the members of the Association called prior to commencement of such reconstruction or repair.
- (b) "Total destruction" shall mean destruction rendering two thirds (2/3) or more of the Condominium Units untenable. In the event of total destruction, the Common Elements shall not be reconstructed or repaired if at a meeting called within thirty (30) days after the occurrence of the casualty or if by such date the insurance loss has not been finally adjusted, then within thirty (30) days thereafter, Unit Owners who in the aggregate own eighty percent (80%) or more of the Condominium Units vote against reconstruction or repair.

- (c) Any such reconstruction or repair shall be substantially in accordance with the plans and specifications prepared for the Condominium. Encroachments upon or in favor of Units created as a result of such reconstruction or repairs shall not constitute a claim or basis of a proceeding or action by the Unit Owner upon whose property such encroachment exists, provided the reconstruction was either substantially in accordance with the original plans and specifications or as the building was originally constructed. Such encroachments shall be allowed to continue for so long as the building stands.

9.2 Damage to Unit. If the damage is only to those parts of one or more Units for which the responsibility for maintenance and repair is that of the Unit Owner, then the Unit Owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility for reconstruction and repair after casualty shall be that of the Association as follows:

- (a) Immediately after the casualty causing damage to property for which the Association has the responsibility for maintenance and repair, the Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board of Directors desires.
- (b) When the damage is to both Common Elements and Units the insurance proceeds shall be applied first to the costs of repairing the Common Elements and the balance to the Units.

9.3 Adjustment of Losses. Each Unit Owner shall be deemed to have delegated to the Board of Directors their right to adjust with insurance companies all losses under policies purchased by the Association, except in any case where the damage is restricted to one Unit.

ARTICLE X

INSURANCE

10.1 Maintained By Association. Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall maintain, to the extent available:

- (a) Casualty insurance covering the buildings and all improvements upon the land and all personal property included within the Condominium, except such personal property as may be owned by the Condominium Unit Owners, shall be procured in an amount equal to 100% of the current replacement cost (exclusive of exca-

vation, foundations, streets and parking facilities) as determined annually by the insurance company affording such coverage. Such policy shall contain an Agreed Amount Endorsement or an Inflation Guard Endorsement, if available. By way of illustration and not of limitation, such casualty insurance shall cover fixtures, installations or additions, or equal replacements thereof, comprising a part of the building within each individual Condominium Unit (as that term is defined in Sections 1.25 and 1.26 of Article I hereof) in accordance with the original Condominium plans and specifications. In determining the amount of coverage for such fixtures, installation or additions, the Executive Board of the Association shall annually set the standard allowance for such items as carpeting, bathroom and kitchen cabinets, wall covering, vinyl floor covering, ceramic tile, kitchen appliances, bookshelves, etc., which were included in the original condominium plans and specifications. By way of illustration and not of limitation, such casualty insurance shall not cover furniture, furnishings or other household or personal property owned by, used by or in the care, custody or control of a Condominium Unit Owner (whether located within or without the Unit), or fixtures, installations or additions that are placed in an individual Condominium Unit by the Owner thereof at their expense. Such coverage shall afford protection against: (a) loss or damage by fire and other hazards covered by the standard extended coverage endorsement; and (b) such other risks as from time to time customarily shall be covered with respect to buildings similar to construction, location and use, including, but not limited to, vandalism and malicious mischief.

- (b) A comprehensive policy of public liability insurance insuring the Association in an amount not less than One Million Dollars (\$1,000,000.00) for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against liability for non-owner and hired automobiles and liability for property of others, and, if available, may include coverage for water damage.
- (c) The Executive Board shall maintain fidelity coverage against dishonest acts by the Association's officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. If the Association employs a professional property management person or firm to manage the Association, then such professional management person or firm shall have adequate fidelity coverage against dishonest acts and the existence of such coverage shall satisfy the requirement of this paragraph. If the Association elects to manage its own affairs and directly receive and disburse its own funds (or, if in addition to professional manage-

ment, the officers or directors of the Association can and do directly receive or disburse the monies of the Association) then the Executive Board shall provide the coverage set forth in this paragraph.

Any such fidelity bonds shall name the Association as an obligee; shall be written in an amount equal to at least 150% of the estimated annual operating expenses of the Association, including reserves; shall contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression; and shall provide that they may not be canceled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days prior written notice to the Association and to any Institutional Lender who has given the notice required under Article XIX of this Declaration.

- (d) All liability insurance shall contain cross-liability endorsements to cover liabilities of the Condominium Unit Owners as a group to a Condominium Unit Owner.

10.2 Nonavailability of Insurance. If the insurance described hereinabove is not reasonably available, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners.

10.3 Contents of Insurance Policies. Insurance policies carried pursuant hereto must provide that:

- (a) each Unit Owner is an insured person under the policy with respect to liability arising out of his interest in the Common Elements or membership in the Association;
- (b) no act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will preclude recovery under the policy; and
- (c) if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

10.4 Payment of Insurance Proceeds. Any loss covered by the property policies referenced hereinabove shall be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interests may appear. Subject to the provisions of Section 10.7, the proceeds shall be disbursed first for the repair or restoration of the damaged property, and Unit Owners and lienholders are not entitled to receive

payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated.

10.5 Unit Owner's Insurance. An insurance policy issued to the Association does not prevent a Unit Owner from obtaining insurance for his own benefit.

10.6 Certificates of Insurance. An insurer that has issued an insurance policy under this Section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Unit Owner, mortgagee or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each unit Owner and each mortgagee or beneficiary under a deed of trust to whom certificates or memoranda of insurance have been issued at their respective last known addresses.

10.7 Repair or Replacement of Damage. Any portion of the Condominium for which insurance is required under this Section, which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (1) the Condominium is terminated, (2) repair or replacement would be illegal under any State or local health or safety statute or ordinance or (3) the Unit Owners decide not to rebuild by an eighty percent (80%) vote, including one hundred percent (100%) approval of Owners of Units not to be rebuilt or Owners assigned to Limited Common Elements not to be rebuilt. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Condominium is not repaired or replaced, (1) the insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (2) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt shall be distributed to the Owners of those Units and the Owners of the Units to which those Limited Common Elements were allocated or to lienholders, as their interest may appear, and (3) the remainder of the proceeds shall be distributed to all the Unit Owners or lienholders, as their interest may appear, in proportion to their Common Element interest. If the Unit Owners vote not to rebuild any Unit, that Unit's allocated interests are automatically reallocated upon the vote as if the Unit had been condemned under N.C.G.S. Section 47C-1-107(A), and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting the reallocation. Notwithstanding the provisions of this subsection, N.C.G.S. 47C-2-118 governs the distribution of insurance proceeds if the Condominium is terminated.

10.8 Payment of Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association and charged as common expense.

10.9 Mortgagee's Rights. In the event a mortgagee endorsement has been issued as to a Condominium Unit, the share of the Condominium Unit Owner shall be held for the mortgagee and the Condominium Unit Owner as their interests may appear, but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of reconstruction or repair.

ARTICLE XI

CONDEMNATION

11.1 In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the same shall be repaired or restored, and the awards paid on account thereof shall be used and applied, in accordance with N.C.G.S. Section 47C-1-107.

ARTICLE XII

SPECIAL DECLARANT RIGHTS

12.1 **Reservation of Rights.** Declarant hereby reserves all Special Declarant Rights and Development Rights pursuant to N.C.G.S. Section 47C-2-105(a)(8), (9) and (10) and Section 47C-2-110, specifically including the right to add additional phases to the condominium by the recordation of a Supplemental Declaration or Declarations subjecting said additional phases to the provisions of this Declaration. Any or all of such Special Declarant Rights and Development Rights may be exercised as to any portion or all of the Property, as hereinafter defined, and must be exercised, if at all, within seven (7) years from the date of recording of this Declaration; and provided, however, that Declarant's right to use Units owned or leased by it as sales or model Units shall continue so long as Declarant owns at least one (1) Unit.

12.2 **Transfer of Rights.** The transfer of Special Declarant Rights and Development Rights shall be done pursuant to N.C.G.S. Section 47C-3-104.

ARTICLE XIII

DECLARANT CONTROL PERIOD

13.1 **Declarant Representation on Board.** The Declarant or affiliate of Declarant will exercise the right to appoint and remove members of the Board until the end of the period of Declarant control as specified in Paragraph 13.2. Not later than the termination of any period of Declarant control, the Unit Owners shall elect a Board of Directors of at least three (3) members, at least a majority of whom must be Unit Owners, a spouse of a Unit Owner, or an officer of a corporate Unit Owner. The Board of Directors shall elect the officers. The members of the Board of Directors and the officers shall take office upon election.

13.2 **Termination of Declarant Rights.** The period of Declarant control terminates no later than the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the Units (including Units which have been created pursuant to Special Declarant Rights) to Unit Owners other than a Declarant; (ii) two years after all Declarants

have ceased to offer Units for sale in the ordinary course of business; or (iii) two years after any development right to add new Units was last exercised; or (iv) seven (7) years after the recording at this Declaration. The Declarant may voluntarily surrender the right to appoint and remove officers and members of the Board of Directors before termination of that period, but in that event it may require, for the duration of the period of Declarant control, that specified actions of the Association or the Board of Directors, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective. Notwithstanding the above provisions, Declarant shall retain all rights of architectural control until all units have been sold.

13.3 Dissolution Of Declarant. In the event of dissolution of the Declarant at a time when it is the Owner of at least one Unit in the Condominium, then the rights of the Declarant shall pass to and may be exercised by its successors receiving ownership of any such Condominium Unit in dissolution.

ARTICLE XIV

AMENDMENT

14.1 The Declarant reserves the right to amend this Declaration of Condominium without the joinder or consent of the Association or the Unit Owners for the purpose of (1) exercising any Development Rights or Special Declarant Rights reserved to the Declarant herein, (2) for the purpose of correcting any errors or ambiguities in this Declaration, or (3) for the purpose of adding provisions or changing the provisions herein to qualify the Condominium for FHA, VA, FANNIE MAE, or other government lending programs. Otherwise, this Declaration may be amended only pursuant to N.C.G.S. Section 47C-2-117.

ARTICLE XV

TERMINATION

15.1 Termination of the Condominium shall be pursuant to N.C.G.S. Section 47C-2-118.

ARTICLE XVI

DEFAULT

16.1 Remedies. Each Unit Owner shall comply with the provisions of this Declaration, the By-Laws, and the Rules and Regulations of the Association, as they may be amended from time to time. The failure of any Unit Owner to so comply shall entitle the Association and/or other Unit Owners to an action for monetary damages, injunctive relief, foreclosure of lien or any combination thereof.

16.2 Notice of Default and Failure to Cure. In the event of default, the Board shall serve upon or mail to the defaulting member, and to each First Mortgagee of that member's Unit when required by the Declaration, a written notice specifying the nature of the default, the cure thereof and the time within which the cure shall be effected. Within the time limit specified in the notice, the defaulting member may cure the default or serve upon or mail a written notice to the Board requesting a hearing before the Board. If a hearing is so requested, the Board shall thereafter serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a notice specifying the time and place for such hearing. At the hearing, the Board shall take such evidence and hear such testimony as it deems necessary or desirable. The Board shall not exercise any remedies to obtain relief from the default until the hearing is over and the Board has made its determination and served upon or mailed the same to the defaulting member and each such First Mortgagee. The hearing may be continued from time to time as determined by the Board. Upon taking such evidence and hearing such testimony, the Board, at the hearing or at such later time, shall determine, in writing, and at its sole option, to waive the default in whole or in part, to extend the time within which the default may be cured or to proceed immediately to levy a fine or penalty, or to exercise any one or more of the remedies available to the Board due to such default. The Board shall serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a copy of its determination. If the defaulting member (i) does not cure the default or request a hearing within the time limit specified in the original notice of default given pursuant to this Section, or (ii) so requests a hearing, but fails to cure the default (to the extent not waived by the Board) within the extended time, if any, granted by the Board after hearing, then the Board shall serve upon or mail to the defaulting member, and to each such First Mortgagee which was entitled to notice of the default as above provided, a written notice of such member's failure to effect a cure, and the Board may then proceed to take such action as it deems necessary to obtain relief.

16.3 Remedy of Abatement in Addition to Other Remedies. In the event a member fails to effect the cure specified by the Board within the time period set out in (i) or (ii) of Section 16.2 hereof, whichever is applicable, where the default is a structure, thing or condition existing in or on the premises of the member's Unit, the Board, or its duly authorized representative, shall have the right to enter upon the premises of the member's Unit in which, on which, or as to which, such default exists and summarily to abate and remove, at the defaulting member's expense (and levy an assessment therefor as provided in this Declaration), the structure, thing, or condition constituting the default, and the Board, the Association and their agents, employees and representatives shall not thereby be deemed guilty of any manner of trespass.

16.4 Injunction. Any person or class of persons entitled to seek relief for any such default or failure may obtain a temporary restraining order, injunction or similar relief, without first using the procedure established by Section 16.2 hereof, if such default or failure created an emergency or a situation dangerous to persons or property.

16.5 Recovery of Attorneys' Fees and Costs. In any proceeding arising because of an alleged default by a member, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees as may be allowed by the court, with interest thereon at the lower of (i) 4% over the prime rate announced by Bank of America, N.A., at the time the costs are incurred and (ii) the highest rate allowed by law at the time the costs are incurred, from the dates such costs are incurred until paid.

16.6 No Waiver.

- (a) **By the Association or a Unit Owner.** The failure of the Association or of a Unit Owner to enforce any right or covenant granted by this Declaration or any of the other above-mentioned documents shall not constitute a waiver of the right of the Association or Unit Owner to enforce such right or covenant in the future.
- (b) **By Declarant.** The failure of the Declarant to enforce any right or covenant granted to it by this Declaration or any of the above mentioned documents shall not constitute a waiver of the right of the Declarant to enforce such right or covenant in the future.
- (c) **By Institutional Lender.** The failure of an Institutional Lender to enforce any right or covenant granted to it by this Declaration or any of the other above-mentioned documents shall not constitute a waiver of the right of said Lender to enforce such right or covenant in the future.

16.7 Remedies Cumulative. All rights and remedies granted to the Association or to Unit Owners pursuant to the Declaration or any of the other abovementioned documents shall be deemed to be cumulative, and the exercise of any one or more of such rights and remedies shall not constitute an election of remedies or preclude the party exercising the same from exercising such other and additional rights or remedies as may be available to them at law or in equity.

16.8 Assessment Liens. Assessment liens shall be enforced pursuant to Article VII hereof and not pursuant to this Article.

ARTICLE XVII

GENERAL PROVISIONS

17.1 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan of condominium ownership.

17.2 Conflict with Act. Should any of the terms, conditions, provisions, paragraphs or clauses of this Declaration conflict with any provisions of the Act, the provisions of the Act shall control unless the Act permits the Declaration to override the Act, in which event this Declaration shall control.

17.3 Conflict with By-Laws. In the event of a conflict between the provisions of this Declaration and the By-Laws, the Declaration prevails, except to the extent this Declaration is inconsistent with the Act and the Act prohibits the provision in the Declaration, in which case the By-Laws prevail.

17.4 Severability. All provisions of this Declaration are severable. The invalidity of any covenant, restriction, condition, limitation, provision, paragraph or clause of this Declaration, or of any part of the same or the application thereof to any person or circumstance, shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Declaration, or the application of any such covenant, restriction, condition, limitation, provision, paragraph or clause to any other person or circumstances.

17.5 Covenants Run with Land. The covenants of this Declaration are intended to and shall constitute covenants running with the land and shall constitute an equitable servitude upon each Condominium Unit and its appurtenant undivided interest in the Common Elements.

17.6 Binding Effect. This Declaration shall be binding upon the Declarant, its successors and assigns, and upon all parties who may subsequently become Unit Owners and their respective heirs, legal representatives, successors and assigns.

17.7 Gender. Whenever appropriate, singular may be read as plural, plural may be read as singular, and the masculine gender may be read as the feminine or neuter gender.

17.8 Captions. The captions herein are only for convenience and reference and do not define, limit or describe the scope of this Declaration or the intent of any provision.

17.9 Agent for Service of Process. The following named individual is designated as the person to receive service of process for the Association:

Candice O. Alexander
PO Box 3167
Wilmington, NC 28406

17.10 Register of Owners. The Association shall maintain a Register of the names of all Unit Owners. In the event of the sale or transfer of any Condominium Unit, the purchaser or transferee shall notify the Association in writing of their interest in the Unit, together with such recording information as shall be pertinent to identify the instrument of conveyance.

17.11 Tort and Contract Liability. The tort and contract liability of the Declarant, the Association and the Unit Owners shall be as set forth in N.C.G.S. Section 47C-3-111.

17.12 Termination of Declarant's Contracts. Pursuant to N.C.G.S. Section 47C-3-105, if entered into by or on behalf of the Association before the Board of Directors elected by the Unit Owners pursuant to Section 47C-3-103(f) takes office, (1) any management contract, employment contract or lease of recreational or parking areas or facilities, (2) any other contract or lease between the Association and a Declarant or an affiliate of a Declarant, or (3) any contract or lease that is not bona fide or was unconscionable to the Unit Owners at the time entered into under the circumstances then prevailing may be terminated without penalty by the Association at any time after the Board elected by the Unit Owners pursuant to Section 47C-3-103(f) takes office upon not less than ninety (90) days' notice to the other party. Notice of the substance of the provisions of this Section shall be set out in each contract entered into by or on behalf of the Association before the Board elected by the Unit Owners pursuant to Section 47C-3-103(f) takes office. Failure of the contract to contain such a provision shall not affect the rights of the Association under this Section. This Section does not apply to any lease, the termination of which would terminate the Condominium or reduce its size, unless the real estate subject to that lease was included in the Condominium for the purpose of avoiding the right of the Association to terminate a lease under this Section.

17.13 Arbitration of Disputes. If any dispute arises between the Declarant and any Unit Owners, either individually or as a group, which cannot be resolved within thirty (30) days after it is made known by the complaining party, it shall be submitted to a Board of Arbitration comprised of one arbitrator chosen by the Declarant, one arbitrator chosen by the Unit Owners and a third arbitrator chosen by the two arbitrators previously chosen. The decision of the arbitrators shall be final and binding on all parties concerned and their heirs, successors, personal representatives or assigns. If the arbitrators' decision is unfavorable to the Declarant, at the option of Declarant its maximum liability shall be the repurchase of the Unit from the original owner at the original price paid by said owner, and said liability shall be extended only to the original owner of a Unit.

17.14 Declarant's Unit and Privileges. The Declarant retains the right to be the owner of any unsold units subject to the same restrictions as are imposed upon all other Unit Owners. The Declarant, as Unit Owner, shall contribute to the Common Expenses in the same manner as other Unit Owners; provided, however, the Declarant may rent any of the Units on any basis, notwithstanding anything herein to the contrary.

17.15 No Right of First Refusal. The right of a Unit Owner to sell, transfer, mortgage or otherwise convey his interest in his Unit shall not be subject to any right of first refusal.

17.16 Merger or Consolidation of Condominium. Any merger or consolidation of this Condominium with any other condominium shall be pursuant to N.C.G.S. Section 47C-2-121.

17.17 Leasing. Any lease or rental agreement for a Unit must be in writing and shall be subject to this Declaration and the By-Laws. No Unit may be leased or rented for a period less than 30 days.

17.18 Exhibits. Exhibits "A", "A(1)", "B", "C", "D", "E", "F", and "G" attached hereto are hereby made a part hereof.

ARTICLE XVIII

COMMON ELEMENT REALLOCATION

If the additional real estate is added to the Condominium, the ownership interest in the Common Elements and the liability for common expenses for each unit shall be re-allocated on a proportionate basis. Each Unit located in the additional real estate shall be allocated one vote on the same basis as units in Phase I. The effective date for a reallocation shall be the date of recordation of the amendment to this Declaration. The effective date for the assignment of assessments for common expenses against the additional units shall be the date the Board of Directors levies an assessment against the said Units.

ARTICLE XIX

RIGHTS OF INSTITUTIONAL LENDERS

19.1 Availability of Condominium Documents, Books, Records and Financial Statements. The Association shall, upon request and during normal business hours, make available for inspection by Unit Owners and the Institutional Lenders on any Unit, current copies of the Declaration, the By-Laws, other rules and regulations governing the Property and/or the Association and the books, records and financial statements of the Association. The Association shall provide an audited financial statement for the preceding fiscal year if requested in writing by an Institutional lender. The Association shall, upon request and during normal business hours, make available for inspection by prospective purchasers of Units, current copies of the Declaration, By-Laws, other rules and regulations governing the Property and Association and the most recent annual audited financial statement (if one is prepared).

19.2 Consent of Action. The Association and any aggrieved Unit Owner shall have a right of action against Unit Owners and any aggrieved Unit Owner shall have a right of action against the Association for failure to comply with the provisions of this Declaration, the By-Laws and the rules, regulations, and decisions of the Association made pursuant to authority granted to the Association in this Declaration and the By-Laws.

19.3 Consent of First Mortgagees. This Section 19.3 shall be effective only if, at the time this Section would apply, at least one Unit is subject to financing. Any decision to terminate the condominium for reasons other than substantial destruction or condemnation of the property shall require the prior written consent of Eligible Mortgage Holders, as defined in Section 19.6 hereof, representing at least 67% of the votes allocated to Units subject to First Mortgages held by Eligible Mortgage Holders, or such greater requirements specified by the Act. Any amendment to the Declaration or By-Laws which changes any of the following shall require the prior written consent of Unit Owners holding at least 67% of the total votes in the Association and of Eligible Mortgage Holders representing at least 51% of the votes allocated to Units subject to First Mortgages held by Eligible Mortgage Holders, or such greater requirements specified by the Act or hereunder:

- (a) voting rights;
- (b) assessments, assessment liens or priority of assessment liens;
- (c) reserves for maintenance, repair and replacement of Common Elements;
- (d) responsibility for maintenance and repairs;
- (d) reallocation of interests in the Common Elements or Limited Common Elements or rights to their use;
- (f) redefinition of any Unit boundaries;
- (g) convertibility of Units into Common Elements or Common Elements into Units;
- (h) expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- (i) insurance or fidelity bonds;
- (j) leasing of Units;
- (k) imposition of any restrictions on a Unit Owner's right to sell, transfer or otherwise convey his Unit;
- (l) a decision by the Association to establish self-management when professional management had been required previously by any Eligible Mortgage Holder;

- (m) restoration or repair of the Condominium (after hazard damage or destruction or partial condemnation) in a manner other than that specified in this Declaration or the By-Laws;
- (n) any action to terminate the legal status of the Condominium after substantial damage or destruction or condemnation; or
- (o) any provisions that expressly benefit Institutional Lenders.

19.4 Consent of Institutional Lender or Unit Owners. This Section 19.4 shall be effective only if, at the time this section would apply, at least one Unit is subject to Institutional Lender financing. Unless Institutional Lenders holding at least 67% of the votes allocated to Institutional Lenders (except Institutional Lenders having one vote per Unit financed), or such higher percentage as is required by law, of the Institutional Lenders (based upon one vote for each First Mortgage owned) and Unit Owners (other than a Declarant) holding at least 67% of the total votes in the Association have given their prior written approval, or such greater requirements specified in the Act or hereunder have been satisfied, the Association shall not be entitled to:

- (a) by act or omission, seek to abandon or terminate the Condominium for reason other than substantial destruction or condemnation;
- (b) change the pro rata interest or obligations of any Unit for the purpose of:
 - (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or
 - (ii) determining the pro rata share of ownership of each Unit in the Common Elements;
- (c) partition or subdivide any Unit;
- (d) by act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the Common Elements. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this clause);
- (e) use hazard insurance proceeds for losses to any part of the Condominium (whether to Units or to Common Elements) for other than repair, replacement or reconstruction thereof.

19.5 Notice. Each Institutional Lender, upon written request stating its name and address and describing the Unit encumbered by the Institutional Lender shall be entitled to timely written notification by the Association of (i) any proposed action which requires consent of a specified percentage of Institutional Lenders; (ii) any condemnation or casualty loss that affects either a material portion of the Condominium or the Unit securing its First Mortgage; (iii) any 60-day delinquency in the payment of assessments or charges owed by the Unit Owner of the Unit on which the institutional Lender held its First Mortgage or in the performance of any obligation under this Declaration or the By-Laws by said Unit Owner; or (iv) any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

19.6 Eligible Mortgage Holders. Each Institutional Lender who holds a mortgage on a Unit who has requested the Association to notify them of any proposed actions that require the consent of a specific percentage of the Eligible Mortgage holders shall be considered an Eligible Mortgage Holder. With respect to amendments that require consent under Sections 19.3 or 19.4 of the Declaration, implied approval of the Eligible Mortgage Holder will be assumed when the Eligible Mortgage holder fails to submit a response to any written proposal for an amendment or action within 30 days after it received notice of the proposal by certified mail or registered mail, return receipt requested.

19.7 Rights of Institutional Lenders; Insurance Proceeds or Condemnation Awards. With respect to First Mortgages held by or for the Benefit of Institutional Lenders, no provision of this Declaration or the By-Laws shall be deemed to give to a Unit Owner, or any other party, priority over any rights of an Institutional Lender pursuant to its First Mortgage on said Unit Owner's Unit in the case of a distribution to said Unit Owner of insurance proceeds or condemnation awards for losses to or taking of Unit and/or Common Elements.

IN WITNESS WHEREOF, the undersigned limited liability companies have caused this instrument to be signed in their names by their duly authorized managers, the day and year first above written.

JOSHUA HOLDINGS, LLC

By: Candice D. Alexander (SEAL)
Manager

STARRIDE, LLC

By: Candice D. Alexander (SEAL)
Manager

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, Daniel D. Mahn, a Notary Public for the County and State aforesaid, certify that Candice O. Alexander, Manager of **JOSHUA HOLDINGS, LLC**, a North Carolina Limited Liability Company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for and on behalf of the Limited Liability Company. Witness my hand and official seal, this 21st day of May, 2002.

Commission Expiration:
October 16, 2005


Notary Public

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

I, Daniel D. Mahn, a Notary Public for the County and State aforesaid, certify that Candice O. Alexander, Manager of **STARRIDE, LLC**, a North Carolina Limited Liability Company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this 21st day of May, 2002.

Commission Expiration:
October 16, 2005


Notary Public

EXHIBIT A

Being all of SEAGATE VILLAGE, A CONDOMINIUM, PHASE 1, as shown on that plat recorded in Condominium Plat Book 12, at Page 346, of the New Hanover County Registry, reference to which plat is hereby made for a more particular description.

Exhibit A(1)

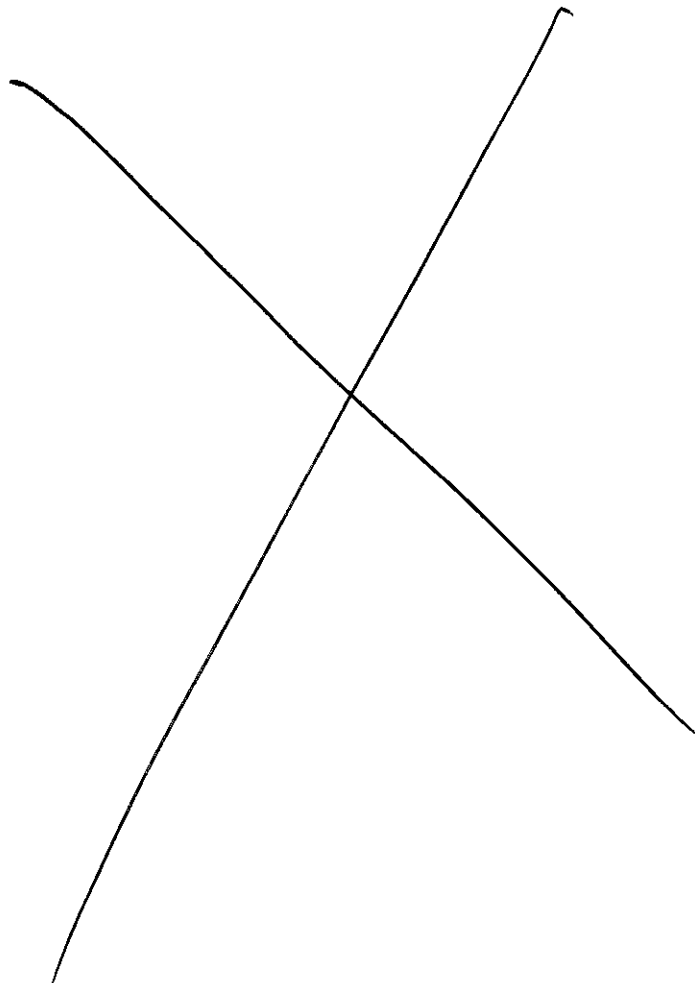
Additional Real Estate

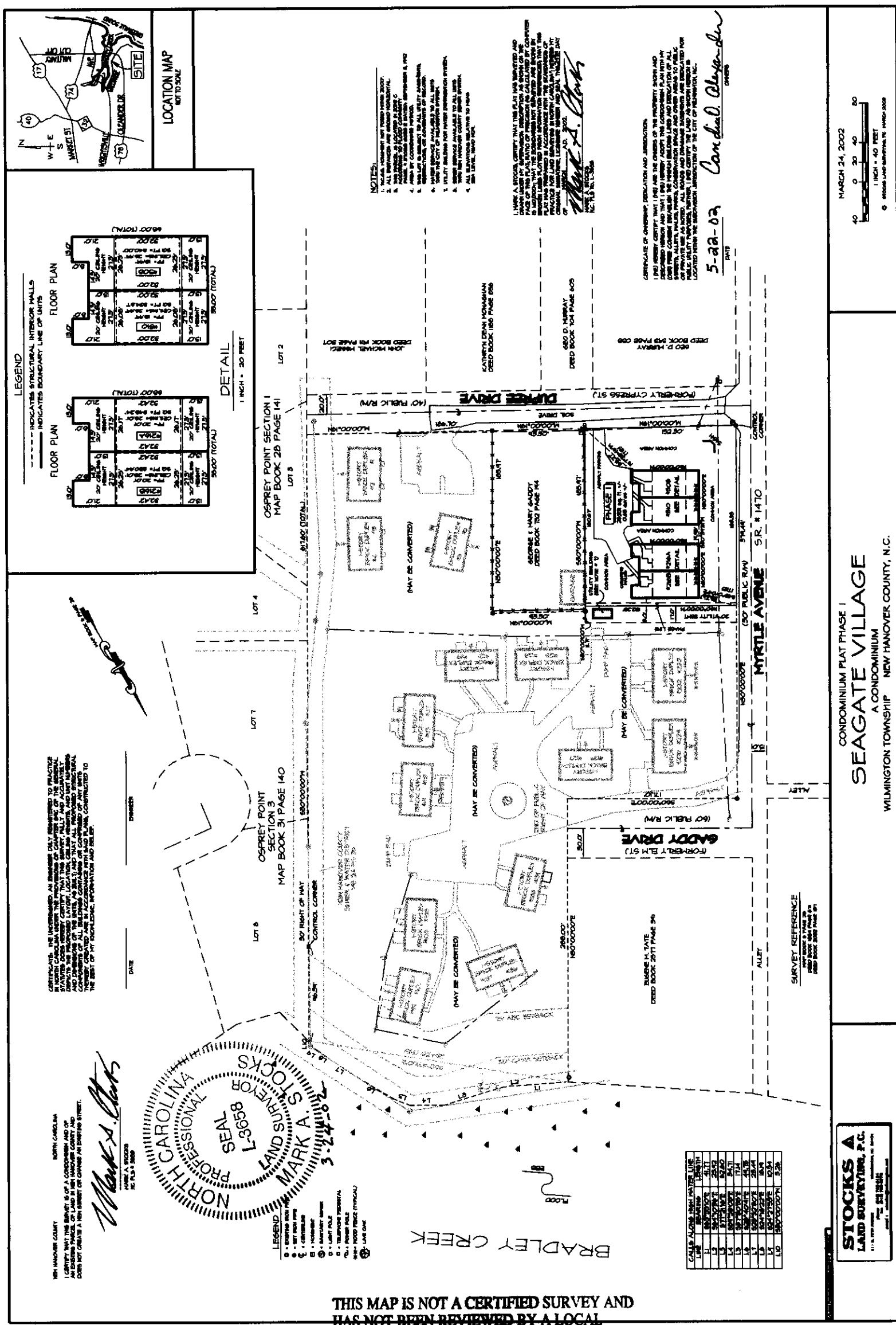
Located in Harnett Township, New Hanover County, North Carolina. BEGINNING at the point of intersection of Dupree Drive (formerly Cypress Street 40 foot right of way) with the Eastern right of way line of Myrtle Avenue (30 foot right of way) and running thence from said beginning point with the Eastern right of way line of Myrtle Avenue North 30 degrees 00 minutes East 379.49 feet to a point in the Southern right of way line of Gaddy Drive (formerly Elm Street 60 foot right of way); running thence with the southern right of way line of Gaddy Drive South 60 degrees 00 minutes East 171.1 feet to a point in the southern right of way of Gaddy Drive; running thence North 30 degrees 00 minutes East 288.0 feet to a point on the Southern edge of Bradley Creek; running thence with the southern edge of Bradley Creek as it meanders to a point that is located South 50 degrees 47 minutes East 264.55 feet from the preceding point; running thence with the western line of G. F. Herring property as described in Book 664, at Page 571, of the New Hanover County Registry, South 30 degrees 00 minutes West 617.6 feet to a point in the northern right of way line of Dupree Drive; running thence with the northern right of way line of Dupree Drive North 61 degrees 00 minutes West 186.7 feet to a point; running thence North 30 degrees 00 minutes East 185.965 feet to a point; running thence North 61 degrees 00 minutes West 93.3 feet to a point; running thence South 30 degrees 00 minutes West 185.965 feet to a point in the northern right of way line of Dupree Drive; running thence with the northern right of way line of Dupree Drive North 61 degrees 00 minutes West 152.3 feet to the point of beginning. The same being all of Lots 13, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, and 25, division of property for L. D. Gaddy, map of same being recorded in Map Book 6 at Page 26 of the New Hanover County Registry.

Being the same property described in deeds recorded in Book 1292, Page 1498, and Book 1292, Page 1501, of the New Hanover County Registry.

EXHIBIT B

Plat and Plans For SEAGATE VILLAGE, A CONDOMINIUM, PHASE 1





CONDOMINIUM PLAT PHASE I
SEAGATE VILLAGE
A CONDOMINIUM
WILMINGTON TOWNSHIP NEW HANOVER COUNTY, N.C.

MARCH 24, 2002
1 INCH = 40 FEET
© STOCKS A LAND SURVEYING, P.C. MARCH 2002

STOCKS A
LAND SURVEYING, P.C.
111 S. 17TH STREET
FARMINGTON, NC 27834
TEL: 919.286.1111
FAX: 919.286.1112

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

EXHIBIT C

SEAGATE VILLAGE, A CONDOMINIUM, PHASE 1

PERCENTAGES OF UNDIVIDED INTEREST AND VOTES

Unit	% of Common Expenses	% of Undivided Interest	Votes
216A	25.00%	25.00%	1
216B	25.00%	25.00%	1
308	25.00%	25.00%	1
310	25.00%	25.00%	1

EXHIBIT D

SEAGATE VILLAGE, A CONDOMINIUM, PHASE 1

LIENS, DEFECTS AND ENCUMBRANCES

- a) Building and zoning laws and ordinances and state and federal regulations.
- b) The terms and provisions of the Declaration of Condominium of SEAGATE VILLAGE, A CONDOMINIUM, PHASE 1, and the Article of Incorporation and By-Laws of SEAGATE VILLAGE OWNERS ASSOCIATION, INC.
- c) Utility easements and other easements of record in the New Hanover County Registry.
- d) New Hanover County and the City of Wilmington ad valorem property taxes.
- e) Unit Owners' assessments payable to SEAGATE VILLAGE OWNERS ASSOCIATION, INC.

Exhibit E

**BY-LAWS
OF
SEAGATE VILLAGE OWNERS ASSOCIATION, INC.**

**A corporation not for profit under the
laws of the State of North Carolina**

**ARTICLE I
General Provisions**

Section 1. IDENTITY: These are the By-Laws of SEAGATE VILLAGE OWNERS ASSOCIATION, INC., a nonprofit corporation organized pursuant to the laws of the State of North Carolina; the Articles of Incorporation for which have been recorded in Book _____, at Page _____, in the Office of the Register of Deeds of New Hanover County, North Carolina.

Section 2. INCORPORATION: The provisions of these By-Laws supplement and are enacted pursuant to the provisions of the above referenced Articles of Incorporation and are applicable to the record owners of Units in SEAGATE VILLAGE, A CONDOMINIUM, as shown upon those plats recorded in Condominium Plat Book 12, at Pages 346 and 347, of the New Hanover County Registry.

Section 3. APPLICATION: These By-laws shall, in conjunction with the above referenced Articles of Incorporation govern the affairs, rights, privileges, duties and obligations of the Association, all owners, the Developer, all mortgagees, beneficiaries under Deeds of Trust, Lessees and occupants of all units subject hereto, their employees and all others who may use or enjoy any of the property subjected hereto, and the acceptance of a Deed for or conveyance of, or the succeeding to title to, or the entering into a lease for, or the actual occupancy of, or use of a unit and the common areas by any of the above shall constitute an acceptance by the same of the provisions of these By-Laws, the Rules and Regulations enacted pursuant hereto and the provisions of the herein above referenced Articles, and an agreement to comply with and abide by the same.

Section 4. PRINCIPAL OFFICE: The principal office of the Association and of the Board of Directors shall be located at 110 Hinton Avenue, Wilmington, North Carolina 28403, or as from time to time may be designated by the Board of Directors of the Association.

Section 5. REGISTERED OFFICE: The registered office of the Corporation required by law to be maintained in the State of North Carolina may be, but need not be, identical with the principal office. The registered office shall be located at 110 Hinton Avenue, Wilmington, NC 28403, New Hanover County.

ARTICLE II Membership

Section 1. This corporation shall be a non-profit corporation organized and existing under all Laws of the State of North Carolina, being governed by a Board of Directors as set forth in Article III of these By-laws, and shall be with voting members.

Section 2. QUALIFICATION: Any person or corporation owning a unit in SEAGATE VILLAGE, A CONDOMINIUM shall be a member of the Corporation.

Section 3. RECORDS: The Secretary of the Association shall maintain at the principal office of the Association a register of all the current owners of memberships in the Association and the mailing address of each owner and of all mortgagees or beneficiaries under Deeds of Trust of all such lots.

Section 4. VOTING RIGHTS: If a membership is owned by one (1) person his right to vote shall be established by the record title to his lot. If a membership is owned by more than one (1) person, or is under lease, the person entitled to cast the vote for such membership shall be designated by a certificate signed by all of the record owners of such membership and filed with the Secretary of the Association. If a membership is owned by a corporation, the person entitled to cast the vote for that membership shall be designated by a certificate signed by the President or Vice President and attested by the Secretary or the Assistant Secretary of such corporation and filed with the Secretary of the Association. If a membership is owned by a partnership, whether general or limited, or a joint venture, the certificate designating the voting member shall be signed by all partners or joint venturers, as the case may be. Such certificates shall be valid until revoked or superseded by a subsequent certificate or until a change occurs in the ownership of the membership concerned. A certificate designating the person entitled to cast the vote of a membership may be revoked by any owner of such membership. If such a certificate is not on file, the vote of such membership shall not be considered in determining the requirements for a quorum nor for any other purpose under these By-Laws.

Section 5. MORTGAGEES AND TRUSTEES UNDER DEEDS OF TRUST: In the event that any such lot is conveyed by mortgage or by Deed of Trust, then the rights, duties, obligations, powers and privileges appurtenant to the membership appurtenant to such lot shall be exercised by the owner of the equity in the lot, and not by the mortgagee under any mortgage or the trustee or beneficiary under any Deed of Trust against such lot.

Section 6. ANNUAL MEETINGS: The annual meetings of the Association shall be held on the first Saturday in June of each year unless such date shall occur on a legal holiday, in which event, the meeting shall be held on the next succeeding business day. The purpose of the annual meeting shall be for the election of the Directors of the Association for the succeeding year and for the transaction of any and all business of the Association as may properly come before the meeting.

Section 7. SPECIAL MEETINGS: It shall be the duty of the President to call a special meeting of the membership if so directed by resolution of the Board of Directors or upon a petition calling for a special meeting presented to the Secretary of the Association and signed by at least thirty-three (33%) of the owners of memberships in the Association. The notice of any special meeting shall state the time, place, and purpose of the meeting. No business shall be transacted at a special meeting except as stated in the notice.

Section 8. NOTICE OF MEETINGS: The Secretary shall mail to each owner of a membership in the Association notice of each annual or special meeting of the membership at least ten (10) days but not more than sixty (60) days prior to such meeting stating the purpose thereof as well as the time and place where it is to be held. Said notice shall be mailed to the address which the owner of each membership has designated to the Secretary and maintained by the Secretary on his current register of owners. The mailing of a notice of a meeting in the manner provided in this section shall be considered service of notice.

Section 9. ADJOURNMENT OF MEETINGS: If any meeting of the membership cannot be held because a quorum has not attended, a majority of the membership who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not more than forty-eight (48) hours from the time the original meeting was called.

Section 10. QUORUM: A quorum at all membership meetings shall consist of persons representing and entitled to cast the vote appurtenant to at least fifty-one percent (51%) of the memberships in the Association. The acts approved by a majority of the votes present at a meeting at which a quorum is present shall constitute the acts of the membership, except when approval by a greater

number of members is required by the Declaration, these By-laws or by law; but those present at any meeting, though less than a quorum, may adjourn said meeting to a future time.

Section 11. PROXIES: The vote appurtenant to each membership may be cast by the person designated as entitled to cast such vote by proxy. The designation of any such proxy shall be made in writing to the Secretary, and shall be revocable at any time by written notice to the Secretary by the owner of the membership to which said vote is appurtenant. Such proxy shall be valid only for the particular meeting designated in the proxy and must be filed with the Secretary before the appointed time of the meeting or any adjournment of such meeting.

Section 12. PLACE OF MEETING: Meetings of the Association's membership shall be held at the principal office of the Association or at such other suitable place convenient to the membership as may be designated by the Board of Directors.

Section 13. ORDER OF BUSINESS: The order of business at all meetings of the Association shall be as follows: (a) roll call; (b) proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) reports of Board of Directors; (f) reports of committees; (g) election of members of the Board of Directors, if necessary; (h) unfinished business; and (i) new business.

ARTICLE III

Board of Directors

Section 1. GENERAL POWERS: The business and affairs of the Corporation shall be managed by the Board of Directors.

Section 2. NUMBER, TERM AND QUALIFICATION: The affairs of the Corporation shall be managed by a Board of three (3) Directors. Each Director shall continue in office until the annual meeting of the membership held next after his election and until his successor shall have been elected and qualified or until his death or until he shall resign or shall have become disqualified or removed from office. Each Director shall be an owner or spouse of an owner of one of the Units in SEAGATE VILLAGE, A CONDOMINIUM, and in the case of partnership owners, shall be a member or employee of such partnership, and in the case of corporate owners, shall be an officer, shareholder, or employee of such corporation, and in the case of fiduciary owners, shall be the fiduciary, or an officer or employee of such fiduciary.

Section 3. ELECTION OF DIRECTORS: Except for the first Board of Directors, which is appointed in the Articles of Incorporation, and subject to the provisions of Article VII hereof, the election of the Board of Directors shall be conducted in the following manner: (a) election of Directors shall be held at the annual meeting of the membership; (b) nominations for Directorships shall be made from the floor by the membership or by the Board of Directors; (c) the election shall be by written ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast, each person representing a membership entitled to vote being entitled to cast one (1) vote for each of as many nominees as there are Directorships to be filled. There shall be no cumulative voting.

Section 4. REMOVAL OF DIRECTORS: Except for the first Board of Directors, which is appointed in the Articles of Incorporation, any Director may be removed by concurrence of two-thirds (2/3) of the votes of the membership of the Association present at a special meeting of the membership called for the consideration of such removal. The vacancy in the Board of Directors so created shall be filled by a vote of the members of the Association at the same meeting.

Section 5. ORGANIZATION MEETING: The organizational meeting of a newly elected Board of Directors shall be held within ten (10) days of their election at such place and time as shall be fixed by the Directors at the meeting at which they were elected, and no further notice of the organizational meeting shall be necessary.

Section 6. REGULAR MEETINGS: Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the members of the Board of Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of the regular meeting of the Board of Directors shall be given to each member of the Board of Directors, by personal delivery, mail or telegraph, at least five (5) business days prior to the day named for such meetings.

Section 7. SPECIAL MEETINGS: Special meetings of the Board of Directors may be called by the President of the Association on five (5) business days notice to each member of the Board of Directors, given by mail or telegraph, which notice shall state the time, place, and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notices on the written request of any member of the Board of Directors.

Section 8. WAIVER OF NOTICE: Any member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors, in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a member of the Board of Directors at any meeting of the Board shall constitute

a waiver of notice by him of the time and place thereof. If all of the members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 9. QUORUM: At all meetings of the Board of Directors a majority of the members thereof shall constitute a quorum for the transaction of business, and the votes of a majority of the members of the Board of Directors present at such a meeting at which a quorum is present shall constitute the decision of the Board of Directors. If at any meeting of the Board of Directors there shall be less than a quorum present, a majority of those present may adjourn the meeting from time to time. At the next meeting, following such adjourned meeting, at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 10. COMPENSATION: No member of the Board of Directors shall receive any compensation from the Association for acting as such.

Section 11. JOINDER IN MEETING BY APPROVAL OF MINUTES: The joinder of a Director in the action of a meeting by signing and concurring with the minutes of that meeting shall constitute the presence of such Director at such meeting for the purpose of determining a quorum.

Section 12. PRESIDING OFFICER AT DIRECTORS' MEETINGS: The presiding officer of a Directors' meeting shall be the President of the Association. In the absence of the President, the Vice-President shall serve as presiding officer. In the absence of the presiding officer, the Directors present shall designate one (1) of their number to preside.

Section 13. ORDER OF BUSINESS AT DIRECTORS' MEETINGS: The order of business at Directors' meetings shall be: (a) the calling of the roll; (b) the proof of due notice of the meeting; (c) reading and disposal of any unapproved minutes; (d) the reports of officers and committees; (e) the election of officers; (f) unfinished business; (g) new business; and (h) adjournment.

Section 14. POWERS AND DUTIES: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association except such powers and duties as by law or by these By-Laws may not be delegated to the Board of Directors by the membership of the Association.

Section 15. LIABILITY OF THE BOARD OF DIRECTORS: The members of the Board of Directors shall not be liable to the Association or any of its members for any mistake of judgment, negligence, or otherwise except for their own individual willful misconduct or bad faith. The members of the Association shall indemnify and hold

harmless each member of the Board of Directors against all contractual liability to others arising out of contracts made by the Board of Directors on behalf of the Association unless any such contract shall have been made in bad faith or contrary to the provisions of the Articles of Incorporation, or these By-Laws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association. It is also intended that the liability of any member of the Association arising out of any contract made by the Board of Directors or out of the indemnity in favor of the members of the Board of Directors shall be limited to such proportions of the total liability thereunder as his interest in the Association bears to the interest of all members of the Association in the Association. Every agreement made by the Board of Directors on behalf of the Association shall provide that the members of the Board of Directors are acting only as agents for the Association and shall have no personal liability thereunder (except as members of the Association), and that each member of the Association's liability thereunder shall be limited to such proportion of the total liability thereunder as his interest in the Association bears to the interest of all members in the Association.

Section 16. FIDELITY BONDS: The Board of Directors shall obtain adequate fidelity bonds for all officers and employees of the Association. The premiums on such bonds shall constitute an expense of operating the affairs of the Association.

ARTICLE IV Officers

Section 1. DESIGNATION: The principal officers of the Association shall be the President, the Vice President, the Secretary, and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint such other officers as in its judgment may be necessary. The President and Vice President must be members of the Board of Directors. All other officers need not be members of the Association.

Section 2. ELECTION OF OFFICERS: Officers shall be elected annually by the Board of Directors at the organizational meeting of each new Board of Directors and until their successors are elected.

Section 3. REMOVAL OF OFFICERS: Upon the affirmative vote of a majority of the members of the Association or members of the Board of Directors, any officer may be removed, either with or without cause; and his successor may be elected at any regular meeting of the Board of Directors or at any special meeting of the Board of Directors called for such purpose.

Section 4. PRESIDENT: The President shall be the chief executive officer of the Association. He shall preside at all meetings of the membership and at all meetings of the Board of Directors. He shall have all of the general powers and duties which are incident to the office of President of a corporation organized under the Business Corporation Laws of the State of North Carolina, including, but not limited to, the power to appoint from among the membership any committee which he deems appropriate to assist in the conduct of the affairs of the Association.

Section 5. VICE PRESIDENT: The Vice President shall take the place of the President and perform his duties whenever the President shall be absent or unable to act. If neither the President or Vice President is able to act, the Board of Directors shall appoint some other member of the Board of Directors to act in the place of the President, on an interim basis. The Vice President shall also perform such other duties as shall from time to time be imposed upon him by the Board of Directors or by the President.

Section 6. SECRETARY: The Secretary shall keep the minutes of all meetings of the membership and the Board of Directors; he shall have charge of all books, papers, accounts, and records of the Board of Directors as the Board of Directors may direct; and he shall, in general, perform all of the duties incident to the office of Secretary of a corporation organized under the Business Corporation laws of the State of North Carolina.

Section 7. TREASURER: The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of accounts showing all receipts and disbursements, and for the preparation of all required financial statements. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Board of Directors, in such depositories as may from time to time be designated by the Board of Directors, and he shall, in general, perform all of the duties incident to the office of Treasurer of a corporation organized under the Business Corporation Laws of the State of North Carolina.

Section 8. COMPENSATION: No officer shall receive any compensation from the Association for acting as such. However, the Board of Directors may appoint a manager to handle the day to day affairs of the Association, and may establish a rate of compensation and salary for each.

Section 9. EXECUTION OF INSTRUMENTS: All instruments, including, but not limited to, agreements, contracts, Deeds or Leases of the Association shall be executed in the name of the Association by the President, Vice President, or Assistant Vice-President and attested to by the Secretary or Assistant Secretary of the Association. All checks of the Association are to be

executed by such person or persons as may be designated by the Board of Directors.

ARTICLE V

Operation of the Association

Section 1. RULE MAKING: The Board of Directors shall promulgate and establish, for the overall safety of the members, their guests and invitees, reasonable rules and regulations governing the use, enjoyment, maintenance, repair of and additions or alterations to the condominium.

Section 2. FISCAL MANAGEMENT: The Board of Directors shall, from time to time, and at least annually, prepare a budget for the Association, determining the projected annual costs to the Association of performing all of the duties of and fulfilling all of the obligations of the Association. These costs shall include all of the costs incurred by the Association in the performance of those duties and obligations outlined in the Articles of Incorporation, applicable to the development, and in the Declaration of Condominium, as well as the costs necessary for the efficient management of the Association (including amounts for an operations reserve and a capital improvements reserve, if deemed necessary by the Board of Directors). The budget, so prepared, shall be submitted to the membership of the Association for approval at the annual meeting of the membership. The proposed budget must be approved by a vote of at least fifty-one percent (51%) of the votes of the entire membership of the Association, represented in person or by proxy at such meeting.

Subsection 2.1 - ANNUAL ASSESSMENTS: After approval of the proposed budget of the Association, the Board of Directors shall assess each Unit within the condominium subject hereto an equal amount of the projected annual costs to the Association as described hereinabove. The Board of Directors shall cause the Secretary of the Association to provide each member of the Association a statement of the annual assessment against his Unit in writing, stating the date payment thereof is due at least thirty (30) days prior to the due date. All assessments shall be due and payable on such date and in such installments, if allowed, as the Board of Directors may determine.

Subsection 2.2 - NATURE AND ENFORCEMENT OF ASSESSMENTS: The nature and enforcement of the collection of assessments is set forth in the Declaration of Condominium, which is recorded in the New Hanover County Registry.

Subsection 2.3 - SUBORDINATION: The lien for unpaid assessments provided for hereinabove shall be subordinate to the lien of any first mortgage or first Deed of Trust against any lot.

Section 3. RECORDS AND AUDITS: The Board of Directors shall keep detailed records of the action of the Board of Directors, minutes of the meetings of the Board of Directors, minutes of the meeting of the membership of the Association and financial records and books of accounts of the Association, including a chronological listing of receipts and expenditures, as well as a separate account for each lot which, among other things, shall contain the amount of each annual assessment, and other assessments, against each lot, the date when due, the amount paid thereon, and the balance remaining unpaid. A written report summarizing all receipts and expenses of the Association shall be rendered by the Board of Directors to all members of the Association at least semi-annually. In addition, an annual report of the receipts and disbursements of the Association shall be rendered by the Board of Directors to all members of the Association who have requested the same, promptly but after the end of each fiscal year. Each member of the Association shall be permitted to examine all of the books and accounts of the Association at reasonable times on business days, but not more than once a month.

ARTICLE VI Parliamentary Rules

Robert's Rules of Order (latest edition) shall govern the conduct of all Association meetings, not in conflict with the Articles of Incorporation, the Amended Declaration of Restrictions, and these By-Laws.

ARTICLE VII Amendments

These By-laws may be amended by the affirmative vote of 2/3 of the members of the corporation.

ARTICLE VII Miscellaneous

Section 1. NOTICES: All notices to the Board of Directors shall be sent by registered mail, return receipt requested, to the principal office of the Board of Directors. All notices to owners shall be sent by first class mail to such addresses as may have been designated by such owners in writing to the Secretary of the Association. All notices to mortgagees of or beneficiaries under Deeds of Trust against lots shall be sent by registered mail, return receipt requested, to their respective addresses designated by them in writing to the Secretary of the Association. All

notices, if received, as proven by the return receipt, shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

Section 2. WAIVER OF NOTICE: Whenever any notice which is required to be given to any member, Director, or officer of the Association by the provisions of the North Carolina Nonprofit Corporation Act, the provisions of the Articles of Incorporation, or these By-Laws, is waived in writing, signed by the person or entities entitled to such notice, whether before or after the time stated therein, such shall be equivalent to the giving of such notice.

Section 3. INVALIDITY: The invalidation of any provision of these By-Laws by any court, agency, or legislature shall in no way affect the validity of any other provision of these By-Laws, and the same shall remain in full force and effect.

Section 4. CAPTIONS: The captions herein used are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of these By-Laws, or the intent of any provision thereof.

Section 5. GENDER: The use of the masculine gender in these By-Laws shall be deemed to include the feminine gender and the neuter gender and the use of the singular shall be deemed to include the plural, whenever the context so requires.

Section 6. WAIVER: No restriction, condition, obligation or provision contained in these By-Laws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches thereof which may occur.

Section 7. FISCAL YEAR: The fiscal year of the Association shall be the calendar year.

Section 8. SEAL: The seal of the Association shall be in such form as shall be approved from time to time by the Board of Directors of the Association.

Section 9. CONTRACTS: The Board of Directors may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument on behalf of the Corporation, and such authority may be general or confined to specific instances.

Section 10. LOANS: No loans shall be contracted on behalf of the Corporation, and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the members. Such authorization may be general or confined to specific instances.

Section 11. CHECKS AND DRAFTS: All checks, drafts or other orders for the payment of money issued in the name of the corporation shall be signed by such officer or officers, agent or agents of the Corporation, and in such manner as shall from time to time be determined by resolution of the Board of Directors.

Section 12. DEPOSITS: All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such depositories as the Board of Directors shall direct.

IN WITNESS WHEREOF, the foregoing By-laws were adopted as the By-laws of SEAGATE VILLAGE OWNERS ASSOCIATION, INC., at the first meeting of the Board of Directors on the ____ day of _____, 2002.

Director (SEAL)

Director (SEAL)

Director (SEAL)



REBECCA T. CHRISTIAN
REGISTER OF DEEDS, NEW HANOVER
JUDICIAL BUILDING
316 PRINCESS STREET
WILMINGTON, NC 28401

Filed For Registration: 05/24/2002 02:24:03 PM
Book: RE 3309 Page: 571-630
Document No.: 2002026313
DECL 60 PGS \$188.00

Recorder: MARVIS ANN STORER

State of North Carolina, County of New Hanover

The foregoing certificate of DANIEL D MAHN Notary is certified to be correct. This 24TH of May 2002

REBECCA T. CHRISTIAN , REGISTER OF DEEDS

By: Marvis Ann Storer
Deputy/Assistant Register of Deeds

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