DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
VILLAGE GREEN SUBDIVISION
Book of Maps 1974, Vol. II, Page 220
Wake County Registry

THIS DECLARATION, made on the date hereinafter set forth by Village Green Associates, hereinafter referred to as "Declarant",

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain real property in Cary, County of Wake, State of North Carolina, consisting of 12.41 acres, more or less, according to a survey entitled "Phase I, Village Green Subdivision, Cary, North Carolina" by Bass, Nixon and Kennedy, Inc., Consulting Engineers, 7416 Chapel Hill Road, Raleigh, North Carolina 27606, dated May 21, 1974, and being more particularly described in Exhibit A, which is attached hereto and made a part hereof.

AND WHEREAS, Declarant will convey the said properties, subject to certain protective convenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property. These easements, covenants, restrictions, and conditions shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Village Green Homeowners Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the members of the Association, including such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 7. "Declarant" shall mean and refer to Village Green Associates, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional property shall require the assent of two-thirds (2/3) of the Class A membership and two-thirds (2/3) of the Class B membership, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 2. Provided, however, if within ten (10) years of the date of incorporation of this Association, the Declarant should develop additional lands, of approximately sixteen (16) acres, more or less, within the boundaries shown on the master plan of Village Green Subdivision, as prepared by Jerry Turner & Associates and such additional lands may be annexed by the Declarant to said properties without the assent of the Class A members; provided, however, the development of the additional lands described in this section shall be in accordance with the general plan pertaining to the properties herein described

for the first Phase. If such plans are in material variance and thus not in accordance with the general plan on file the development of the additional lands must have the assent of two-thirds (2/3) of the Class A membership who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. At this meeting, the presence of members or of proxies entitled to cast sixty percent (60%) of all of the votes of the Class A membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

ARTICLE III

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership. The Board of Directors may make reasonable rules relating to the proof of ownership of a Lot in this Subdivision.

ARTICLE IV

VOTING RIGHTS

Section 1. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article III. When more than one person holds such interest in any Lot, all such persons shall be members and the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant and only the Declarant. The Class B member shall be entitled to four (4) votes for each Lot in which it holds the interest required for membership by Article III, until such Lot is first sold or leased; provided that, the Class B membership of the Declarant shall cease and be converted to Class A membership and entitle the Declarant to one vote for each Lot in which it holds the interest required for membership under this Section, upon the happening of either of the following events, whichever occurs first:

(a) When the total votes outstanding in Class A membership equals or exceeds the total votes outstanding in the Class B membership; provided that, the Class B membership shall be reinstated if thereafter and before the time stated in Subparagraph (b) below, additional lands are annexed to the Properties without the assent of Class A members on account of the development of such

additional lands by the Declarant, all as provided for in Article II, Section 2 above, or;

(b) On July 1, 1984.

Section 2. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and according to the provisions of Article V, Section 1(d).

ARTICLE V

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment in the Common Areas: Every member shall have a right and easement of enjoyment in and to the Common Area in each and every Phase of the properties, and such cross-easement shall be appurtenant to and shall pass with the title to every assessed Lot, subject to the following provisions:

(a) The right of the Association to limit the number of guests of members;

(b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(c) The right of the Association, in accordance with its Articles and By-Laws, to borrow money for the purpose of improving the Common Area and facilities and, in aid thereof, to mortgage said property, (the rights of such mortgageein said properties to be subordinate to the rights of the homeowners hereunder);

(d) The right of the Association, as provided in its By-Laws, to suspend the rights to the use and enjoyment of the recreational facilities by a member for any period during which any assessment against his Lot remains unpaid, and for any period not to

exceed thirty (30) days for any infraction of its published rules and regulations;

(e) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members; provided that, no such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the Class A membership and two-thirds (2/3) of the votes of the Class B membership, if any, has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than thirty (30) days nor more than sixty (60) days in advance;

(f) The right of the individual members to the exclusive use of parking spaces as provided in this Article; and

(g) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure.

Section 2. Delegation of Use. Any member may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey, prior to the conveyance of the first lot, within each Phase, fee simple title to the Common Area, to the Association, free and clear of all encumbrances and liens, except construction loan deed of trust, utility easements,

rights of way created dedicated or reserved, other easements of record, if any, and taxes prorated through the time of conveyance.

Section 4. Parking Rights. Ownership of each Lot shall entitle the owner or owners thereof to the use of not more than two automobile parking spaces, which shall be as near and convenient to said Lot as reasonably possible, together with the right of ingress and egress in and upon said parking areas. The Association shall permanently assign two vehicular parking spaces for each dwelling, such space to be as near the dwelling to which it is assigned as is reasonably possible. The Association may regulate the parking of boats, trailers and other such items on the Common Area. No boats or trailers shall be parked within the right of way of any public street in or adjacent to Village Green Subdivision or in any automobile parking spaces.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agrees to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established, and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest, costs and reasonable attorney's fees incurred in the collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment

is made. Each such assessment, together with such interest, costs, and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties, the enforcement of these covenants and the rules of the Association and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas, and of the homes situated upon the Properties.

Section 3. Annual Assessment.

(a) The maximum annual assessment shall be as follows:

(1) Until January 1, 1975, the maximum annual assessment shall be Two Hundred Sixty-four Dollars ($264.00) per Lot.

(2) From and after January 1, 1975, the maximum annual assessment may be increased, effective January 1 of each year, without a vote of the membership, in an amount not to exceed six percent (6%) above the maximum assessment for the previous calendar year.

(3) From and after January 1, 1975, the maximum annual assessment may be increased above six percent (6%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy at a meeting duly called

for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting.

(b) After consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum; provided however, any excess of the annual assessment for any particular year, other than reserves for future capital expenditures, remaining after payment of all current expenses of the Association for that same year shall, on a prorata basis, either be: (i) returned, within three (3) months after the close of the assessment year, to the members or (ii) credited against the annual assessment due from each member for the next succeeding year of operations of the Association.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including the necessary fixtures and personal property related thereto; provided any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting

forth the purpose of the meeting; provided further, any and all such special assessments and all other reserves, previously set aside for future capital expenditures, shall be treated for all purposes as capital contributions by the members to the Association, and all such special assessments and/or reserves shall be maintained by the Association in a separate Association trust account and not comingled with annual assessments, said trust account funds to be used solely for future capital expenditures and not for current maintenance and repair.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots owned by members other than the Declarant, and may be collected upon a monthly basis by the Association.

Section 6. Quorum for Any Action Authorized Under Sections 3 and 4. At the first meeting called, as provided in Sections 3 and 4 hereof, the presence at the meeting of members or proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement as set forth in Sections 3 and 4, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots, on the first day of the first month following the issuance by the Town of Cary, North Carolina, of a permit

authorizing the use and occupancy of the proposed "meeting" house. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates of the assessment shall be established by the Board of Directors. The Association shall upon demand, at any time, furnish a certificate, in writing and signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid. A charge of Ten ($10.00) Dollars may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Nonpayment of Assessment: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. Interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages. Sale

or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) All properties dedicated to and accepted by a local public authority; (b) The Common Area; (c) All properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina; and (d) All Lots owned by the Declarant. Except as herein provided, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VII

INSURANCE

Insurance coverage on each Lot shall be governed by the following provisions:

Section 1. Ownership of Policies. Every owner of a Lot shall purchase an insurance policy, on account of said Lot, for the benefit of the Owner and his mortgagee, as their respective interests may appear, the coverage of said policy or policies being specified below. In addition, Owners may, at their option, obtain insurance coverage at their own expense upon their personal property and for their personal liability and living expense and such other coverage as they may desire.

Section 2. Coverage. All buildings and improvements upon the Lot shall be insured in an amount equal to the maximum

insurable replacement value as determined annually by the owner with the assistance of the insurance coverage providing such coverage. Such coverage shall provide protection against:

(a) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and

(b) such other risks as from time to time shall be customarily covered with respect to buildings and improvements similar in construction, location, and use as the building on the Lot.

Section 3. Premium. Premiums upon insurance policies purchased by the Owner shall be paid directly by the Owner to the insurance company providing coverage and shall not be paid as part of the annual assessment pertaining to that Lot.

Section 4. Proceeds. All insurance policies purchased by the Owner shall be for the benefit of the Owner and his mortgagee, as their interest may appear, and shall provide that all proceeds thereof shall be payable to the owner as the insured.

Section 5. Damage and Destruction. Damage to or destruction of any improvement or building located on a Lot shall be promptly repaired and restored by the Owner using the proceeds of insurance on the building for that purpose and the Owner shall be responsible for any deficiency. All reconstruction or repairs shall be in accordance with the Plans and Specifications of the original improvements; and if not, then according to Plans and Specifications approved by the Board of Directors or Architectural Control Committee, if any, which modified Plans and Specifications shall be filed as an Amendment to this Declaration.

ARTICLE VIII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots and all reconstruction or extensions of such walls shall constitute party walls, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support in below-ground construction and of liability for property damage due to negligence, willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Right of Owners. The owner of any Lot may construct, reconstruct or extend a party wall in any direction (subject to and within the limitations or architectural control and other limitations of these covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be

done expeditiously. Upon completion of such construction, such owner shall restore the adjoining lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably possible.

Section 5. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 6. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 7. Certification by Adjoining Property Owner That No Contribution is Due. If any owner desires to sell his property, he may, in order to assure a prospective Purchaser that no adjoining property owner has a right to contribution as provided in this Article VII, request of the adjoining property owner or property owners a certification that no right of contribution exists, whereupon it shall be the duty of each adjoining property owner to make such certification immediately upon request and without charge; provided however, that where the adjoining property owner claims a right of contribution, the certification shall contain a recital of the amount claimed.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose a third, and the decision by a majority of all the arbitrators shall be conclusive and binding upon all parties and subject to enforcement in any court of law or equity.

ARTICLE IX

ARCHITECTURAL CONTROL

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

ARTICLE X

EXTERIOR MAINTENANCE

Section 1. In addition to maintenance of the Common Area, except as hereinafter provided, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace, maintain and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements; provided, however, such exterior maintenance shall not include glass surfaces and, provided further, each lot owner shall, at his sole expense, be responsible for the maintenance of all vegetation within the rear yard area of his lot, including all shrubs, trees, grass and flowers. In addition, with the prior written approval of the Association,

the owner of any lot may, at his sole expense, plant trees, shrubs, flowers and grass in the front and rear yard areas of his lot and may also maintain all of his front yard area, provided that such activities do not hinder the Association in performing its maintenance of the exterior of the house and yard areas. No such maintenance by a lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for such period as the Association may determine. The Association shall have such easement and access to a lot as will permit it to maintain such lot as provided in this Article X.

Section 2. In the event that the need for maintenance or repair is caused through the willful or negligent act or nonaction of the Owner, his family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

Section 3. As a matter of information to future members of this Association, the Declarant wishes to make it known that it is a part of the original plan of development to construct a variety of dwellings with a variety of exteriors in order to avoid monotony and achieve a harmony of design and textures. All members of the Association will be benefitted by the variety of exteriors and, therefore, the Association should provide exterior maintenance and make a uniform rate of charge, without regard to the actual cost of maintenance of each dwelling.

ARTICLE XI

USE REGULATIONS AND RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the yard space of each lot and the Common Areas.

Section 2. Use of Properties. No portion of the Properties (except for a temporary office of the Declarant and/or model houses used by the Declarant) shall be used except for residential purposes and for purposes incidental or accessory thereto.

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

Section 4. Signs. No sign of any kind larger than one (1) square foot shall be displayed to the public view on any lot, except temporary signs advertising the property for sale or rent and temporary signs erected by Declarant in connection with the construction, lease or sale of buildings and lots.

Section 5. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot, except that one dog, cat or other usual household pet may be kept by each lot owner; provided it is not raised, bred or kept for any commercial purpose and, provided further, that it is kept leashed when outside the boundaries of any lot and walked only in areas designated by the Association.

Section 6. Sight Obstruction. No fence, wall, tree, hedge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffice.

Section 7. Windows and Drapes. All windows must be draped and/or shaded and only white shades may be used and all drapes must be lined with a white material.

Section 8. Clothes Lines and Antennas. Unless otherwise agreed by the Declarant, no clothes line or antenna shall be erected or displayed on any unit or grounds serving such unit.

ARTICLE XII

EASEMENTS

All of the Properties, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television cables, and other utilities, public or private, as shall be established by the Declarant or its predecessors in title, prior to the subjecting of the Properties to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under and across the Common Areas conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Properties.

All Lots shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves, gutters and downspouts and walls; provided that, any damage resulting from the installation of said easements shall be promptly repaired or replaced by the Declarant.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law

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

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

Section 3. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, and assigns. The covenants, conditions and restrictions of this Declaration may be amended by an instrument signed by not less than the Owners of ninety percent (90%) of the Lots.

If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days do the following:

(a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots. (For this purpose, the Board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined);

(b) Attach to the amendment a certification as to its validity, which certification shall be executed

by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT
TO COVENANTS, CONDITIONS AND RESTRICTIONS OF
VILLAGE GREEN SUBDIVISION

By authority of its Board of Directors, Village Green Homeowners Association hereby certified that the foregoing instrument has been duly executed by the Owners of _____ percent of the Lots of Village Green Subdivision and is, therefore, a valid amendment to the existing covenants, conditions and restrictions of Village Green Subdivision.

VILLAGE GREEN HOMEOWNERS ASSOCIATION

By _____

ATTEST:

_____
Secretary

(c) Immediately, and within the thirty (30) day period aforesaid, cause the amendment to be recorded in the Wake County Registry.

All amendments shall be effective from the date of recordation in the Wake County Registry; provided however, no such amendment shall be valid until is has been indexed in the name of this Association. When any instrument purporting to amend the covenants, conditions and restrictions has been certified by the Board of Directors, recorded and indexed as provided by this Section, it shall be conclusively presumed that such instrument constitutes a valid amendment as to all persons thereafter purchasing any Lots in Village Green Subdivision.

Section 5. Notices. Any notice required to be sent to any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as a member or Owner on the records of the Association at the time of such mailing.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this instrument this 31st day of May, 1974.

VILLAGE GREEN ASSOCIATES

T.M.C., INC., General Manager

By _____
President, T.M.C., INC.

ATTEST:

_____
Secretary, T.M.C., Inc.

NORTH CAROLINA

WAKE COUNTY

I, Alice B. Young, Notary Public, do hereby certify that James T. McCabe, Jr. came before me this day and acknowledged that T.M.C., Inc. is General Manager of Village Green Associates, a North Carolina General Partnership, that he is Secretary of T.M.C., Inc., and that by authority duly given by the Partnership, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by himself as its Secretary.

WITNESS my hand and notarial seal, this 31st day of May, 1974.

Alice B. Young
Notary Public

My Commission Expires:
7/31/78

ALICE B. YOUNG NOTARY PUBLIC WAKE COUNTY, N.C.

NORTH CAROLINA—WAKE COUNTY
The foregoing certificate — of Alice B. Young
Notary(ies) Public is (are) certified to be correct. This instrument was presented for registration and recorded in this office in Book 2249 Page 292
This 31 day of May, 1974, at 4:20 o'clock P M.
A. ROWLAND, Register of Deeds.
By D. G. Evans
Deputy Register of Deeds

EXHIBIT A

BEGINNING at a point in the northern right-of-way line of Village Green Way, said beginning point being located along an arc 54.38 feet, having a radius of 168.38 feet as it curves to the left in a northeasterly direction, from a control corner in the northern right-of-way line of Village Green Way, thence North 23 degrees 16 minutes West 232.28 feet in common line with the property (now or formerly) of T.M.C., Inc. to a point; thence continuing along said common line North 35 degrees 03 minutes 50 seconds East 138.06 feet to a point; thence continuing along said common line North 62 degrees 32 minutes 50 seconds East 188.03 feet to a point; thence continuing along said common line North 11 degrees 58 minutes 20 seconds East 124.67 feet to a point; thence continuing along said common line North 69 degrees 42 minutes 20 seconds East 150 feet to a point; thence continuing along said common line North 69 degrees 29 minutes 40 seconds East 221.52 feet to a point; thence continuing along said common line along an arc 51.40 feet, having a radius of 55 feet as it curves to the right in a southeasterly direction to a point; thence continuing along said common line North 32 degrees 00 minutes East 112.78 feet to a point; thence continuing along said common line North 56 degrees 35 minutes 50 seconds East 67 feet to a point; thence continuing along said common line South 86 degrees 35 minutes East 115.56 feet to a point, a common corner with the property of T.M.C., Inc. and in common line with the property of the State of North Carolina; thence continuing along said common line with the property of the State of North Carolina South 03 degrees 25 minutes West 1061.87 feet to a point, a common corner with the property of Oxford Square Associates and the State of North Carolina; thence along the common property line of Oxford Square Associates North 47 degrees 08 minutes 50 seconds West 261.00 feet to a point; thence continuing along the common property line of Oxford Square Associates North 65 degrees 11 minutes 32 seconds West 125.00 feet to a point; thence continuing along the common property line of Oxford Square Associates North 79 degrees 58 minutes 20 seconds West 158 feet to a point; thence continuing along the common property line of Oxford Square Associates South 58 degrees 12 minutes 55 seconds West 121.68 feet to a point in the eastern right-of-way of Village Green Way; thence continuing in the right-of-way of Village Green Way along an arc 65.14 feet, having a radius of 90 feet as it curves to the left in a northwesterly direction to a point in the right-of-way line of Village Green way; thence continuing in said right-of-way along an arc 92.04 feet, having a radius of 90 feet, as it curves to the left in a northwesterly direction to a point in said right-of-way; thence continuing in said right-of-way along

an arc 24.63 feet, having a radius of 90 feet as it curves to the left in a southwesterly direction to a point in said right-of-way; thence continuing in said right-of-way along an arc 61.41 feet having a radius of 168.38 feet as it curves to the right in a northwesterly direction to the point and place of beginning, the same containing 12.41 acres according to a survey entitled "Village Green Subdivision, Phase I, Cary, North Carolina" by Bass, Nixon and Kennedy, Inc., Consulting Engineers, dated May 21, 1974, and recorded in Book of Maps 1974, Page 220, Volume II of the Wake County Registry, and being the same property conveyed to T.M.C., Inc. to Village Green Associates by deed recorded in Book 2247, Page 592, of the Wake County Registry and a portion of the same property conveyed to Village Green Associates by T.M.C., Inc. by deeds recorded in Book 2164, Page 299 and Book 2150, Page 467 of the Wake County Registry.

This conveyance is subject to the right-of-way of Kensington Drive as shown on said survey entitled "Village Green Subdivision, Phase I, Cary, North Carolina" by Bass, Nixon and Kennedy, Inc., Consulting Engineers, dated May 21, 1974, and recorded in Book of Maps 1974, Page 220, Volume II, Wake County Registry.