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Prepared By: Poyner & Spruill

MASTER DECLARATION OF COVENANTS AND RESTRICTIONS
OF THE PARKWAY COMMUNITY ASSOCIATION, INC.

THIS DECLARATION, made this 30th day of November, 1987, by Parkway Associates, a North Carolina General Partnership, Richland Properties, Inc., a North Carolina corporation, and The New Fortis Corporation, a North Carolina corporation, (hereinafter referred to as "Declarants").

W I T N E S S E T H

WHEREAS, Parkway Associates and Pulte Home Corporation are the owners of the property described on Exhibit "A" to this Declaration; and

WHEREAS, Richland Properties, Inc. is the owner of the property described on Exhibit "B" to this Declaration; and

WHEREAS, The New Fortis Corporation is the owner of the property described on Exhibit "C" to this Declaration; and

WHEREAS, Charles V. Moseley and wife, Carolyn Moseley, William K. Gobble and wife, Patricia B. Gobble, and William R. Owens and wife, Lynn Owens (the "Owens Group") is the owner of the property described on Exhibit "D" to this Declaration; and

WHEREAS, Pulte Home Corporation and the Owens Group have agreed to subject their portion of the Property to the provisions hereof subsequent to the recording of this Declaration; and

WHEREAS, the Declarants desire to create on that portion of the above properties described in Article II hereof a planned development community to be known as Parkway PUD, and to provide for the preservation of values, for the maintenance of common facilities and services, and for a vehicle for the administration and enforcement of covenants and restrictions; and

WHEREAS, Declarants have caused or will cause to be incorporated under the laws of the State of North Carolina, a non-profit corporation, Parkway Community Association, Inc., for the purpose of exercising the functions aforesaid, and which are hereinafter more fully set forth;

NOW, THEREFORE, Declarants declare that the real property described in Article II, and such additions thereto as may hereinafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, given, donated,

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leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments ("Assessments"), affirmative obligations, and liens (all hereinafter sometimes referred to as "the Covenants" or the "Covenants and Restrictions") hereinafter set forth.

ARTICLE I DEFINITIONS

The following words and terms when used in this Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to Parkway Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

(b) "Parkway PUD" shall mean and refer to the lands in Cary, North Carolina, which are shown as a part of Parkway PUD on the Declarants' Master Plan as revised from time to time.

(c) "Declarant" shall mean Parkway Associates, a North Carolina general partnership, Richland Properties, Inc., a North Carolina corporation, and The New Fortis Corporation, a North Carolina corporation, their successors and assigns.

(d) "Developer" shall mean, Parkway Associates, a North Carolina general partnership, Richland Properties, Inc., a North Carolina corporation, and The New Fortis Corporation, a North Carolina corporation, their successors and assigns.

(e) "Affiliate" shall mean any corporation owning more than fifty percent (50%) of the voting stock of a Declarant, or which is owned or controlled by the Declarant or the Developer, and any partnership or joint venture in which a Declarant or a Developer has fifty percent (50%) or more of the cash flow from such partnership or joint venture.

(f) The "Properties" shall mean and refer to the Existing property described in Article II hereof, and additions thereto, as are subjected to this Declaration or any Supplementary Declaration under the provisions of Article II hereof.

(g) "Owner" shall mean and refer to the Owner as shown by the Real Estate Records in the Register of Deeds Office of Wake County, North Carolina, whether it be one (1) or more persons, firms, associations, corporations, or other legal entities, of fee simple title to any Residential Lot situated upon the Properties but, notwithstanding any applicable theory of a deed of trust, shall not mean or refer to the mortgagee or holder of a deed of trust, its successors or assigns, unless and

pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or Tenant of an Owner. In the event that there is recorded in the Office of the Register of Deeds of Wake County, North Carolina, a long-term contract of sale covering any Lot or Parcel of land within the Properties, the Owner of such Lot or Parcel of land shall be the Purchaser under said contract and not the fee simple title holder. A long-term contract of sale shall be one where the Purchaser is required to make payments for the Property for a period extending beyond nine (9) months from the date of the contract and where the Purchaser does not receive title to the Property until all such payments are made, although the Purchaser is given the use of said Property.

(h) "Tenant" shall mean and refer to the lessee under a written agreement for the rent and hire of a Residential Unit in Parkway PUD.

(i) "Resident" shall mean and refer to each Owner and Tenant of a Residential Unit who resides in Parkway PUD.

(j) "Member" shall mean and refer to all those Owners and Tenants who are Members of the Association as defined in Section 1 of Article III.

(k) "Master Plan" shall mean and refer to the drawing which represents the conceptual plan for the future development of Parkway PUD. Since the concept of the future development of Parkway PUD is subject to continuing revision and change by the Declarants, present and future references to the "Master Plan" shall be references to the latest revision thereof.

(l) "Common Properties" shall mean and refer to those tracts of land designated as "Common Open Space" - "C.O.S." on recorded maps of the Properties with all improvements thereon which are deeded or leased to the Association. The term "Common Properties" shall also include any personal property acquired or leased by the Association if said property is designated a "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Members of the Association, their guests, and visiting members of the general public (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association.

(m) "Restricted Common Properties" shall mean and refer to those tracts of land with all improvements thereon which are designated as "Common Properties" or "Common Area" on any map of a portion of the Property which is under the control and jurisdiction of a "Sub-Association", as hereinafter defined,

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and which is reserved or restricted for the use of members of such Sub-Association.

(n) "Sub-Associations" shall be North Carolina non-profit corporations established by developers of places or portions of the Properties requiring an association to manage the affairs of its members and properties owned by or under the control of such Sub-Association, which definition shall also include each Association established in connection with any Sub-Master Declaration defined in (v) below.

(o) "Neighborhood Areas" shall mean various areas within Parkway PUD, each of which have been subjected to Additional Restrictive Covenants applied only to such area.

(p) "Neighborhood Covenants" shall mean the additional Restrictive Covenants applied only to a particular Neighborhood Area.

(q) "Board of Directors" shall mean those persons elected or appointed to act collectively as the directors of the Association.

(r) "Bylaws" shall mean the bylaws of the Association as they now or hereafter exist.

(s) "Institutional Lender" shall mean any bank, insurance company, trust company, real estate investment trust, savings and loan association, pension fund, or other first mortgage lender holding a first mortgage or deed of trust on any of the Property.

(t) "Residential Lot" shall mean all residential lots or units approved from time to time by the Town of Cary to be included within Parkway PUD for use as a site for a single-family detached dwelling, single-family duplex unit, single-family patio home (or zero lot line), single-family condominium unit, single-family townhouse unit, single-family cooperative apartment unit or single family-apartment unit.

(u) "Residential Units". The residential lots may herein be referred to from time to time as "Residential Units".

(v) "Sub-Master Declaration of Covenants and Restrictions" shall mean additional Declaration of Covenants and Restrictions placed on all or a portion of its respective property by each Declarant and which shall be applicable only to such Property.

(w) "Exempt Property" shall mean and refer to the following classifications of property within the Properties, which property shall be exempt only from the payment of dues.

(1) All land designated on the Master Plan for intended use, or by actual use if applicable, for indoor and outdoor recreational and community facilities owned and operated by the Declarants, the Declarants Affiliates, the Developer, the Developer's Affiliates, and the Association.

(2) All lands and any improvements thereon designated in any way as Common Properties; or Restricted Common Properties;

(3) All lands designated on the Master Plan as "Neighborhood Rec." areas.

(4) All lands designated on the Master Plan or on recorded plats as Dedicated Open Space, Common Open Space, Public Greenways, Greenways, Public Roads, and Open Space and any improvements thereon which are defined in subparagraph (1) of this paragraph (w);

(5) Property which is used for the maintenance, operation and service of facilities within Common Properties and Restricted Common Properties and facilities within Open Space Areas which are defined in subparagraph (1) of this paragraph (w);

(6) Property which is used for the maintenance, operation, and service of utilities within the Properties;

(7) All land utilized for church purposes.

ARTICLE II EXISTING PROPERTY AND ADDITIONS

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied, and used subject to this Declaration is described as follows:

All that tract or parcel of land, situate, lying and being in Wake County, North Carolina, which is more particularly described in Exhibits "A" (except that portion thereof owned by Pulte Home Corporation), "B", and "C," attached hereto and by specific reference made a part hereof.

All of the real property hereinabove described shall sometimes be referred to herein as the "Existing Property". The Declarants intend to develop the Existing Property in accordance

with a Master Plan prepared in its Planning Department and placed on display in its Reception and Sales Office, and other areas. The Declarants reserve the right to review and modify the Master Plan at its sole option from time to time based upon its continuing research and design program. The Master Plan shall not bind the Declarants, their successors and assigns, to adhere to the Master Plan in the development of the land shown thereon. Subject to its right to modify the Master Plan as stated herein, the Declarants shall convey to the Association certain properties designated on the Master Plan as properties which may be transferred to the Association, as, in the reasonable exercise of its discretion, it so chooses without regard to the relative location of such portions or sections within the overall plan. Once conveyed to the Association, these properties shall become Common Properties. The Declarants shall not be required to follow any predetermined sequence or order of improvements and development; and, it may bring within the plan of these Covenants additional lands, and develop the same before completing the development of the Existing Property. Other than as stated in this paragraph, the Declarants shall have full power to add to, subtract from, or make changes in the Master Plan regardless of the fact that such actions may alter the relative maximum potential voting strength of the various types of membership of the Association.

Section 2. Additions to Existing Property. Additional lands may become subject to, but not limited to, this Declaration in the following manner;

(a) Additions. During the period of development, which shall by definition extend from date of this Declaration to January 1, 1995, the Declarants, their successors and assigns (and the Owens Group and Pulte Home Corporation with respect to that portion of the Property described herein owned by them) shall have the right, without further consent of the Association, by Supplementary Declaration, to bring within the plan and operation of this Declaration additional property. Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times.

The additions authorized under this and the succeeding subsection shall be made by recording a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property. The Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Declarants, to reflect the different character, if any, of the added properties and as are not inconsistent with the plan of this Declaration,

but such modifications shall have no effect upon the Property described in Section 1, Article II above, or upon any other additions to the Properties.

(b) Other Additions. Upon approval in writing of the Association pursuant to a simple majority of the vote of those present at a duly called meeting, the owner of any property who desires to add such property to the plan and operation of this Declaration and to subject it to the jurisdiction of the Association, shall record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property.

The Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient which are not inconsistent with the plan or this Declaration, but such modifications shall have no effect upon the Property described in Section 1, Article II above, or upon any other additions to the Properties.

(c) Merger. Upon merger or consolidation of the Association with another association, as provided for in the By-Laws of the Association, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated association, or in the alternative, the properties, rights and obligations of another association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the Existing Property, together with the Covenants and Restrictions established upon any other properties, as one plan. No merger or consolidation shall effect any revocation, within the Existing Property, including, without limitation, the maximum limits on Assessments and dues of the Association, or any other matter substantially affecting the interests of Members of the Association, or Institutional Lender.

(d) Additional lands which become subject to this Declaration under the provisions of this Section 2 may in the future be referred to as a part of Parkway PUD. Also, the name Parkway PUD may be used by the Declarants to refer to other nearby properties not subject to this Declaration.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Each Declarant (so long as it owns a Residential Unit within Parkway PUD) shall be a Member of the Association, and any creditor of an Owner of a Residential

Unit who acquires title to the Properties or any portion thereof pursuant to foreclosure or any other proceeding or deed in lieu of foreclosure shall be a Member of the Association. Every Owner of a Residential Unit shall be a Member of the Association. The Association may issue to each Member a membership card which shall expire upon sale by such Owner of his property in Parkway PUD. Owners who are exempt from the payment of Assessments shall not be Members of the Association unless otherwise specified herein.

Section 2. Voting Rights. The Association shall have four (4) types of regular voting membership.

TYPE "A": Type "A" Members shall be all Owners of Residential Units, excluding Parkway Associates, their successors and assigns, of Property situated within the bounds of the property described on Exhibits "A" and "D," and each Type "A" Member shall be entitled to one (1) vote for each Residential Unit owned by such Member.

TYPE "B": Type "B" Members shall be all Owners of Residential Units, excluding Richland Properties, Inc., their successors and assigns, of Property situated within the bounds of the property described on Exhibit "B," and each Type "B" Member shall be entitled to one (1) vote for each Residential Unit owned by such Member.

TYPE "C": Type "C" Members shall be all Owners of Residential Units, excluding The New Fortis Corporation, their successors and assigns, of Property situated within the bounds of the property described on Exhibit "C," and each Type "C" Member shall be entitled to one (1) vote for each Residential Unit owned by such Member.

TYPE "D": Type "D" Members shall be the Declarant (Developer) and shall be entitled to three (3) votes for each Residential Unit owned by it.

Section 3. Governance. The Association shall be governed by a Board of Directors consisting of three (3) Members.

Section 4. Election of The Board of Directors. (a) The Type "A" Members together with the Type "D" Member Developer of the Property described on Exhibit "A" and "D" shall elect one (1) Director (Type "A" Director);

(b) The Type "B" Members together with the Type "D" Member Developer of the Property described on Exhibit "B" shall elect one (1) Director (Type "B" Director); and

(c) The Type "C" Members together with the Type "D" Member Developer of the Property described on Exhibit "C" shall elect one (1) Director (Type "C" Director).

(d) The method of electing directors shall be as determined by the respective Developers of the Properties described on Exhibits "A," "B," and "C"; provided, however, when any property entitling the Owner to membership in the Association is owned of record in the name of two (2) or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership, or if two (2) or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, all such Owners shall be Members of the Association. The vote for such Property shall be exercised as the Owners thereof determine, but in no event shall more than the number of votes specified in Section 2 of this Article III be cast for any Property, and no fractional vote shall be cast.

(e) The voting rights of any Owner may be assigned by said Owner to his lessee; provided, however, that the Owner may not assign to such lessee any vote or votes not attributable to the property actually leased by such lessee.

(f) Notwithstanding any provision in this Section 4, or in Section 8 of this Article III to the contrary, the right of the "Type D" Member to control the Board of Directors shall terminate not later than five (5) years after the conveyance of the first residential lot.

Section 5. Quorum Required for Any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of the members at an open meeting of the Association shall be as provided in Article III, Section 4 of the By-Laws.

Section 6. Proxies. All Members of the Association may vote and transact business at any meeting of the Association by proxy as provided in Article III, Section 5 of the By-Laws.

Section 7. Ballots by Mail. When required by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association, a statement of certain motions to be introduced for vote for the Members and a ballot on which each Member may vote for or against each such motion. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in Section 5 of this Article III. Provided, however, such ballots shall not be

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counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

Section 8. Voting Power - Board of Directors. The total voting power of the Board of Directors shall be 100%, and shall be distributed as follows:

- (a) Type "A" Director - 63%
- (b) Type "B" Director - 19%
- (c) Type "C" Director - 18%

ARTICLE IV
PROPERTY RIGHTS IN THE COMMON PROPERTIES:

Section 1. Members' Easements of Enjoyment in Common Properties. Subject to the provisions of these Covenants, the rules and regulations of the Association and any fees or charges established by the Association, and the provisions of Covenants, rules and regulations of "Sub-Associations" established within the Properties, every Member, and every guest and tenant of such Member, shall have a right of easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title of every parcel within the Properties.

As determined in the sole and uncontrolled discretion of the Board of Directors, certain Owners of Exempt Properties, and certain Tenants and guests, may have access to and enjoyment of the Common Properties subject to rules and regulations and user fees established by the Board of Directors.

Section 2. Title to Common Properties. The Declarants covenant for themselves, their successors and assigns, that they shall convey by deed to the Association, at no cost to the Association, and subject to (i) this Declaration of Covenants and Restrictions, (ii) all other restrictions and limitations of record at the time of conveyance, (iii) any restrictions, limitations conditions, or determinations as to the purposes and uses of the conveyed properties as stipulated in said deed, and (iv) any commitments by the Declarants to construct certain improvements thereon as stipulated in said deed, those Common Properties described in Section 4 of this Article IV hereof; except such Common Properties as are required to be deeded to the Town of Cary as designated in the Master Plan. Notwithstanding the foregoing, each Developer agrees to convey to the Town of Cary that portion of the Common Properties located on its portion of Parkway PUD as is required to be deeded to the Town of Cary on the Master Plan in a manner and sequence consistent with the development schedule of all Developers.

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Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its By-Laws, to borrow money from the Declarants or any lender for the purpose of improving and/or maintaining the Common Properties, and providing services authorized herein and in aid thereof to mortgage said properties provided, however, that any such mortgage is with the prior consent of two-thirds of the votes entitled to be voted by the Members of the Association, which consent may be evidenced by petition or by an affirmative vote of such two-thirds by Members voting in person or by proxy at a duly called meeting of the Association; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosures;

(c) The right of the Association to suspend the rights and easements of enjoyment of any Member or Tenant or guest of any Member for any period during which the payment of any Assessment against property owned by such Member remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any Assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the Assessment, and, provided that the Association shall not suspend the right to use any roads belonging to the Association subject to the rules, regulations and fees, if any, established by the Association for such use.

(d) The right of Declarants or the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility or drainage easements on any part of the Common Properties; and

(e) The right of the Association to give or sell all or any part of the Common Properties, including lease-hold interests, subject to (i) the provisions of this Declaration of Covenants and Restrictions and (ii) all other restrictions and limitations of record at the time of conveyance, to any public agency, authority, public service district, utility, or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided, however, that no such gift or sale of any parcel of land and improvements thereon, or determination as to the purposes or as to the conditions thereof, shall be effective unless such dedication, transfers, and determinations as to purposes and conditions shall be authorized by the affirmative vote of three-fourths (3/4) of the votes cast

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at a duly called meeting of the Association, subject to the quorum requirements established by Article III, Section 5, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent to every Member of the Association at least thirty (30) days prior to such meeting. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer of any parcel of land and improvements thereon affecting the Common Properties prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership. The gift or sale of any personal property owned by the Association shall be determined by the Board of Directors in its sole and uncontrolled discretion.

(f) The right of the Declarants or the Association to convey all or part of the Common Properties to the Town of Cary.

Section 4. The Declarants covenant for themselves, their successors and assigns, that it will convey to the Association the Common Property shown on each recorded "phase" or "section" map of the Properties prior to the conveyance of any Residential Lot or Unit shown on such map, and that, prior to January 1, 1995, they shall convey to the Association, at no cost to the Association, and subject to all the restrictions and limitations of the various Articles of this Declaration and any other restrictions and limitations of record, all properties designated as Common Properties on recorded maps of the Property.

ARTICLE V COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarants covenant, and each Owner of each Residential Unit within the Properties, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association: (a) Annual Assessments or charges; and (b) Special Assessments or charges for the purposes set forth in this Article, such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual and Special Assessments, together with such interest thereon and costs of collection thereof including a reasonable attorney's fee as hereinafter provided, shall be a charge and continuing lien on the real property and improvements thereon against which each such Assessment is made, and shall also be the personal obligation of the Owner of such property at the time when the Assessment first

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became due and payable. Co-owners shall be jointly and severally liable for the entire amount of the Assessment.

Section 2. Purpose of Assessments. The Annual Assessments levied by the Association shall be used exclusively for the purposes outlined in Article VI hereof.

Section 3. Application of "Maximum" Assessment. The Maximum Regular Annual Assessment, as set forth in subparagraph (a) of this Section 3 and as is automatically increased annually pursuant to the provisions of subparagraph (d) below, shall be levied by the Association. If, however, the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association may be properly funded by an Assessment less than the Maximum Regular Annual Assessment, it may levy such lesser Assessment.

If the Board of Directors shall levy less than the Maximum Regular Annual Assessment for any Assessment year and thereafter, during such Assessment year, determine that the important and essential functions of the Association cannot be funded by such lesser Assessment, the Board may, by a majority of voting power, levy a Supplemental Assessment. In no event shall the sum of the initial and Supplemental Assessments for that year exceed the applicable Maximum Regular Annual Assessment.

If the Board of Directors, by a majority of voting power, determines that the important and essential functions of the Association will not be properly funded in any one (1) year, or in any one (1) year and all subsequent years, it may request approval of a specified increase in the Maximum Regular Annual Assessment for either one (1) year only, or for that one (1) year and all subsequent years, by the vote of the Members at a duly called meeting of the Association, subject to the quorum requirements established by Article III, Section 5. Should the Members vote in favor of such proposed increase, it shall be deemed approved and may be levied by the Board. An increase in the Maximum Regular Annual Assessment for one (1) year only pursuant to the provisions hereof shall in no way affect the Maximum Regular Annual Assessment for subsequent years or increases thereof in subsequent years.

(a) From and after October 1, 1987, the Maximum Regular Annual Assessment shall be \$108.00 for each Residential Unit as shall be automatically increased in each instance by percentage as set forth in Section 3(d) of this Article, and as may be increased pursuant to the provisions set forth immediately above.

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(b) Assessments shall be payable monthly, on the first day of each month.

(c) The Board of Directors may authorize a billing agent to collect the Assessments provided for herein.

(d) From and after December 31, 1987, the Maximum Regular Annual Assessment shall be automatically increased each year by an amount of ten (10%) percent per year over the previous year.

(e) The dues for each Residential Unit shall be one-fourth (1/4) of the regular assessment until; (i) a Certificate of Occupancy for such Unit has been issued by the Town of Cary, or (ii) six months after a building permit has been issued for such Unit by the Town of Cary, which ever shall first occur. Commencing on the first day of the next month following the earlier happening of (i) or (ii) above, the full assessment then in effect shall commence for such Unit.

Section 4. Special Assessments for Improvements and Additions. In addition to the Maximum Regular Annual Assessments authorized by Section 3 hereof, the Association may levy Special Assessments for the following purposes:

(a) Construction, reconstruction, repair, or replacement of capital improvements upon the Common Properties, including the necessary fixtures and personal property related thereto;

(b) For additions to the Common Properties;

(c) To provide for the necessary facilities and equipment to offer the services authorized herein;

(d) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein;

(e) Such Special Assessment, before being charged, must have received the approval of the Members of the Association by the favorable vote of seventy-five (75%) percent of the votes cast at a duly called meeting of the Association, subject to the quorum requirements established by Article III, Section 5. The notice of such meeting shall include one (1) statement from those Directors favoring the Special Assessment and one (1) statement from those Directors opposing the Special Assessment, containing the reasons for those Directors' support and opposition for the Assessment. Neither statement shall exceed five (5) pages in length.

This provision shall be interpreted to mean that the Association may make in any one (1) year an Annual Assessment up to the maximum set forth in Section 3 of this Article V, plus an additional Special Assessment. Such Special Assessment in any one (1) year may not exceed a sum equal to the amount of the Maximum Regular Annual Assessment for such year except for emergency or repairs required as a result of storm, fire, natural disaster, or other casualty loss. The fact that the Association has made an Annual Assessment for an amount up to the Maximum Regular Annual Assessment shall not affect its right to make a Special Assessment during the year.

Section 5. Reserve Funds. The Association shall establish reserve funds from its Annual Assessments to be held in reserve in an interest drawing account or investments as a reserve for:

- (a) Major rehabilitation or major repairs;
- (b) For emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss;
- (c) Initial costs of any new service to be performed by the Association; and
- (d) For the periodic maintenance, repair, and replacement of improvements to the Common Properties and any Restricted Common Properties that it is obligated to maintain.

Section 6. Date of Commencement of Annual Assessments,
Due Date, Initial Units Subject to Assessment.

(a) Notwithstanding anything in the foregoing to the contrary, the Annual Assessments provided for herein shall commence no earlier than October 1, 1987, but not later than January 1, 1988.

(b) Developers agree among themselves, and with every other Owner of portions of the Parkway PUD Property, that beginning with the date Annual Assessments commence herein and continuing to the date such assessment becomes the obligation of the other Owners, they will pay to the Association the applicable Assessment for each Residential Unit based on the following number of Units:

- (i) Parkway Associates and the Owens Group - 1230 Units
- (ii) Richland Properties, Inc. - 370 Units
- (iii) The New Fortis Corporation - 341 Units

(iv) The number of Units referred to above is predicated on the number within each Property described on Exhibits A, B, C and D permitted by the Town of Cary under the Parkway PUD Master Plan as of the date of this Declaration, and should such numbers increase or decrease, Declarant's obligation shall increase or decrease accordingly.

Section 7. Duties of the Board of Directors. The Board of Directors of the Association shall fix the amount of the Annual Assessment. Written notice of Assessment shall thereupon be sent to every Member subject thereto.

Section 8. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; the Lien; Remedies of Association. If the Annual Assessment or any Special Assessment is not paid on or before five (5) days after the due date specified in Section 3(b) hereof, then such Assessment shall be deemed delinquent and shall (together with interest thereon at the maximum annual rate of 10% from the due date and cost of collection thereof including a reasonable attorney's fee as hereinafter provided) become a charge and continuing lien on the land and all improvements thereon against which such Assessment is made.

If the Assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owners personally and there shall be added to the amount of such Assessment the costs of preparing the filing of the Complaint in such action and a reasonable attorney's fee, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and a reasonable attorney's fee together with the costs of the action. Such personal obligation shall not pass to the successor in title to the land unless assumed by such successor, or is required by applicable law.

If the Board of Directors of the Association elects to utilize a Billing Agent to collect Assessments, interest which shall accrue on past-due sums will be the maximum interest rate which such agent may lawfully charge.

Section 9. Subordination of the Lien. The Lien of the Assessments provided for herein shall be subordinate to the lien of any first deed of trust now or hereafter placed upon any properties subject to Assessment. In the event a creditor acquires title to any property subject to Assessment pursuant to foreclosure or any other proceeding or deed in lieu of foreclosure, said creditor shall be subject only to Assessments accruing after such acquisition.

Section 10. Exempt Property. All Properties defined as "Exempt Property" in Article I(w) shall be exempt from the Assessment, charge and lien created herein.

Section 11. Annual Statements. The President, Treasurer, or such other Officer as may have custody of the funds of the Association shall annually, within ninety (90) days after the close of the fiscal year of the Association, prepare and execute under oath a general itemized statement showing the actual assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues, costs and expenses. It shall be necessary to set out in the statement the name of any creditor of the Association, provided, however, that this requirement shall be construed to apply only to creditors of more than One Thousand and no/100 (\$1,000.00) dollars. Such Officer shall furnish to each Member of the Association who may make request therefor in writing, a copy of such statement, within thirty (30) days after receipt of such request. Such copy may be furnished to such Member either in person or by mail. Any holder of a first mortgage on a lot(s) or unit(s) (and any Insurers or Guarantors of such first mortgage) shall be entitled upon written request to a financial statement for the immediately preceding fiscal year.

Section 12. Annual Budget. The Board of Directors shall prepare and make available to each Member of the Association, at least sixty (60) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for the following fiscal year. The fiscal books of the Association shall be available for inspection at all reasonable times.

Section 13. Working Capital Fund. (a) Within ninety (90) days after the recording of this Declaration, each Declarant and the Owens Group shall remit to the Association one-sixth (1/6) of its portion of the Annual Assessment set out in Section 3(e) of this Article V, and (b) simultaneously with the closing of the sale of each Residential Unit by Declarants and the Owens Group, the purchaser shall remit to the Association one-sixth (1/6) of the full annual assessment then in effect to be held as a working capital fund. The purpose of said fund is to insure that the Association Board will have adequate cash available to meet unforeseen expenses, and to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund shall not be considered advance payment of regular assessments.

ARTICLE VI
FUNCTIONS OF ASSOCIATION

Section 1. Maintenance of Properties. The Association shall be authorized to perform the following functions:

(a) Cleaning, landscaping and maintenance of the Cary Parkway and its associated bridges, pedestrian underpass(es) and medians, entrances to the Parkway PUD on Cary Parkway, its intersections with other roads within the PUD, and all dedicated Greenway and Open Space areas lying within fifty (50') feet of either side of the Cary Parkway right-of-way;

(b) Maintenance of Common Properties deeded to the Association;

(c) For providing any of the services which the Association is authorized to offer under Section 2 of this Article VI;

(d) For purposes set out in deeds by which Common Properties and Restricted Common Properties are conveyed to the Association, provided that such purposes shall be approved by the Board of Directors of the Association as set out in Section 4 of this Article VI; and

(e) For the maintenance, repair and replacement of the following signs;

(i) Major sign at Cary Parkway at its entrance to Parkway PUD off Old U.S. Highway #1,

(ii) Secondary signs at the entrance to Parkway PUD on West Chatham Street and on Cary Parkway at its north entrance to Parkway PUD,

(iii) All directional signs along Cary Parkway.

Section 2. Services. The Association shall be authorized (unless such is adequately provided by the State of North Carolina, the County of Wake or the Town of Cary), but not required, except as specified in Section 3 of this Article VI, to provide the following services:

(a) Cleaning and maintenance of all roads, roadways, parkways, sidewalks, and Common Properties deeded to the Association; and

(b) Landscaping and beautification of roads, roadways, parkways, sidewalks, and Common Properties deeded to the Association;

(c) Lighting of roads and sidewalks.

(d) The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this document;

(e) To take any and all actions necessary to enforce all Covenants and Restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any Covenants or Restrictions applicable to the Properties;

(f) To construct improvements on Common Properties for use for any of the purposes authorized in this Article, or as may be required to provide any of the services authorized in this Article;

(g) To provide administrative services, including, but not limited to legal, accounting, and financial; and communication services, including, but not limited to, community newsletters and newspapers to inform Members of activities, notices of meetings, referendums, and other issues and events of community interest;

(h) To provide liability and hazard insurance covering improvements and activities on the Common Properties;

(i) To construct signs and other standard features for use throughout the Properties.

(j) Perform the maintenance functions outlined in Section 1 of this Article VI.

Section 3. Minimum List of Functions and Services.

The "Minimum List of Functions and Services" shall establish and define the minimum level of functions and services which the Association must furnish or cause to be furnished to its Members. So long as the Declarants are engaged in the development of Properties which are subject to the terms of this Declaration, the Association shall not reduce the level of functions and services it furnishes to its Members below such minimum level without the prior written consent of Declarants. The "Minimum List of Functions and Services" is as follows:

(a) The Association shall provide or procure the administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration, the Articles of Incorporation of the Association, and the By-Laws of the Association, including, but not limited to, legal, accounting, financial, and communications services.

(b) The Association shall administer and enforce the covenants and restrictions established in this Declaration, including, but not limited to, the following:

- (1) The Association shall set Assessments, levy cash Assessments, notify the Members of such Assessments, and collect such Assessments.
- (2) The Association shall maintain and operate all Common Properties deeded to the Association;
- (3) The Association shall hold Annual Meetings, Special Meetings, elections for the Board of Directors as required, and give Members "proper notice" as required;
- (4) The Association shall prepare Annual Statements and Annual Budgets, and shall make the financial books of the Association available for inspection by Members at all reasonable times.

(c) The Association shall provide appropriate liability and hazard insurance coverage for improvements and activities on all Common Properties.

(d) The Association shall provide appropriate director's and officers' legal liability insurance, and indemnify persons pursuant to the provisions of the By-Laws of the Association.

(e) The Association shall keep a complete record of all its acts and corporate affairs.

(f) The Association shall perform the functions outlined in Section 1(a), (b), (d) and (e) of this Article VI and provide the services set out in Section 2 of this Article VI necessary to accomplish same.

(g) The Association shall provide regular and thorough maintenance and cleanup of all Common Properties deeded to it, including, but not limited to, mowing of grass, fertilization as needed, landscape maintenance as needed, pickup and disposal of trash, and painting, repairs to and replacement of all improvements as needed.

Section 4. Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified by the provisions of this Article except as specified in Section 3 of this Article VI. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the

Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association.

Section 5. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions and services; provided that any such mortgage is with the prior consent of two-thirds of the Members of the Association, which consent may be evidenced by petition or by an affirmative vote of two-thirds of the Association. Declarants may, but shall not be required to, make loans to the Association, subject to approval by Declarants of the use to which such loan proceeds will be put and the terms pursuant to which such loan will be repaid. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the level of the Annual Assessment below the limit of the Maximum Regular Annual Assessment at any time there are outstanding any amounts due Declarants as repayment of any loans made by Declarants to the Association without the express written consent of Declarants.

ARTICLE VII
ARCHITECTURAL CONTROL (SIGNS - BUFFER AREAS)

Section 1. Signs. Except as may be required by legal proceedings, no signs (including "For Sale" signs) shall be erected or maintained on any of the Property by anyone, including, but not limited to, a Property Owner, a tenant, a realtor, a contractor or a subcontractor, until the proposed sign size, color, content and location shall have been approved in writing by Declarant, or by an Architectural Review Board of the Association, the number and members of which shall be determined and appointed by the Board of Directors, if such review responsibility has been delegated to the Association by Declarants. Refusal of approval of a sign may be based upon any factor, including purely aesthetic considerations. Declarants, or the Review Board further reserve the right to promulgate and amend from time to time uniform sign regulations (the "Uniform Sign Regulations") which shall establish standard design criteria for all signs erected upon any Property in Parkway PUD.

Declarants and their agents or delegates shall have the right to enter upon any Property in Parkway PUD and summarily remove any sign erected in violation of these restrictions at the expense of the Property Owner.

Section 2. Buffer Areas. Except with the prior written approval of the Town of Cary all areas designated on the

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Master Plan as "Buffer Areas" shall be left in their undisturbed, natural state, and no improvements may be constructed, erected, placed or allowed to remain therein other than utility lines (and easements) and pedestrian and vehicular access ways (including streets and roads); provided, however, the Declarants, the Association, and any Property Owner adjoining such areas (subject to the approval of Declarants or their delegate) may plant trees, flowers and shrubs within such areas.

ARTICLE VIII
GENERAL PROVISIONS

Section 1. Duration. The Covenants and Restrictions of this Declaration and any Amendments thereto shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, Declarants, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon the expiration of said thirty (30) year period, this Declaration shall be automatically extended for successive periods of ten (10) years. The number of ten (10) year extension periods hereunder shall be unlimited, and this Declaration shall be automatically extended upon the expiration of the initial thirty (30) year period, or upon the expiration of each subsequent ten (10) year extension period, unless at a duly called meeting of the Association, fifty-one (51%) or more of the total vote entitled to be cast by all the Members of the Association shall vote in favor of terminating this Declaration at the end of its then current term. The presence at the meeting of Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership shall constitute a quorum. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given each member at least thirty (30) days in advance of said meeting. In the event that the Members of the Association vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the Resolution of Termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that Notice of such Meeting was given, the total number of votes of Members of the Association, the total number of votes required to constitute a quorum at a meeting of the Association, the total number of votes present at said meeting, the total number of votes necessary to adopt a Resolution terminating this Declaration, the total number of votes cast in favor of such Resolution, and the total number of votes cast against such Resolution. Said certificate shall be recorded in the Register of Deeds Office, Wake County, North Carolina, and may be relied upon for the correctness of the

facts contained therein as they relate to the termination of this Declaration.

Section 2. Amendments. All proposed Amendments to this Declaration shall be submitted to a vote of the Members at a duly called meeting of the Association subject to the quorum requirements established by Article III, Section 5, and any such proposed amendment shall be deemed approved if two-thirds (2/3) of the votes cast at such meeting vote in favor of such proposed amendment. Notice shall be given each Member at least thirty (30) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the members as set forth above, the President and Secretary of the Association shall execute an Addendum to this Declaration which shall set forth the Amendment, the effective date of the Amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such Amendment was adopted), the date of the meeting of the Association at which such Amendment was adopted, the date that notice of such meeting was given, the total number of votes required to constitute a quorum at a meeting of the Association, the total number of votes present at said meeting, the total number of votes cast for and against the Amendment, the number of votes necessary to adopt the Amendment, the total number of votes cast in favor of such Amendment and the total number of votes cast against the Amendment. Such Addendum shall be recorded in the Office of the Register of Deeds, Wake County, North Carolina.

So long as Declarants are entitled to elect a majority of the Members of the Board of Directors of the Association, no Amendment or Termination of this Declaration shall be made without the consent of Declarants; and until the end of the period of development no Amendment of this Declaration shall be made without the consent of Declarants which would have the affect of creating a disproportionate increase in the Maximum Regular Annual Assessment, the actual assessment levied, or any Special Assessment of any Class of Owners.

Notwithstanding the foregoing, Declarants, for so long as they shall retain control of the Board of Directors of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, with the consent and approval of VA or FHA, FHLMC and FNMA and without the consent of any Owner, in order to qualify the Association for tax-exempt status, to correct obvious errors and omissions herein, and to qualify for VA, FHA, FHLMC and FNMA approvals. Such amendment shall become effective upon the date of its recordation in the Wake County Registry.

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Section 3. Notices. Any notice required to be sent to any Member under the provisions of this Declaration shall be deemed to have been properly sent, and notice thereby given, when delivered personally or sent by mail, with the proper postage affixed, to the address of such Member. It shall be the obligation of each Member to immediately notify the Secretary of the Association in writing of any change of address.

Section 4. Enforcement. Enforcement of these Covenants and Restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any provision hereof, either to restrain violation or to recover damages, and against the land and to enforce any lien created by these Covenants; and failure by the Association or any Member or the Declarants to enforce any Covenant or Restriction herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 5. Severability. Should any Covenant or Restriction herein contained, or any Article, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by the adjudication of any Court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 6. Interpretation. The Board of Directors of the Association shall have the right to determine all questions arising in connection with this Declaration of Covenants and Restrictions, and to construe and interpret its provisions, and its determination, construction, or interpretation shall be final and binding. In all cases, the provisions of this Declaration of Covenants and Restrictions shall be given that interpretation or construction that will best tend toward the consummation of the general plan of improvements.

Section 7. Authorized Action. All actions which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

Section 8. Other Agreements. Notwithstanding anything contained herein to the contrary, all the provisions of these Covenants shall be subject to and conform with the provisions of:

(a) The Zoning Ordinances of the Town of Cary and County of Wake, North Carolina, and the rules and regulations promulgated thereunder, as may from time to time hereafter be amended or modified;

(b) The Master Plan for the development of Parkway PUD as may from time to time hereinafter be amended or modified;

None of the provisions of this Section (8) are or shall in any way be construed to be or to constitute a conveyance, transfer, disposition, waiver or relinquishment of any right, title, and interest of Declarants or the Association, as their respective rights, titles, and interests may appear, in and to or under any of the above referenced instruments or documents to or for the benefit of any other person, firm or corporation.

Section 9. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from Declarants and/or the Association contemplated under this Declaration, Declarants and/or the Association shall not be liable to an Owner or to any other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an Owner or such other person and arising out of or in any way relating to the subject matter of any such reviews, acceptances, inspections, permissions, consents or required approvals, whether given, granted, or withheld.

Section 10. Termination of Association. In the event that this Declaration be declared to be void, invalid, illegal, or unenforceable in its entirety, or in such a significant manner that the Association is not able to function substantially as contemplated by the terms hereof, for any reason, by the adjudication of any Court or other tribunal having jurisdiction over the parties hereto or if the Members of the Association should vote not to renew and extend this Declaration as provided for in Article VIII, Section 1, all Common Properties owned by the Association at such time shall be transferred to a Trustee appointed by the Superior Court of Wake County, North Carolina, which Trustee shall own and operate said Common Properties for the use and benefit of Owners within the Properties as set forth below:

(a) Each Residential Unit located within the Properties shall be subject to an Annual Assessment which shall be paid by the Owner of each such Residential Unit to Trustee. The amount of such Annual Assessment and its due date shall be determined solely by the Trustee, but the amount of such Annual Assessment on any Unit shall not exceed the amount actually assessed against that Unit in the last year that assessments

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were levied by the Association, subject to the adjustments set forth in subparagraph (b) immediately below;

(b) The Maximum Regular Annual Assessment which may be charged by Declarants or Trustee hereunder on any particular Lot or Parcel may be automatically increased each year by an amount of ten (10%) percent.

(c) Any past due Annual Assessment together with interest thereon at the maximum annual rate allowed by law from the due date and all costs of collection including reasonable attorney's fees shall be a personal obligation of the Owner at the time the Annual Assessment became past due, and it shall also constitute and become a charge and continuing lien on the Residential Unit and all improvements thereon, against which the Assessment has been made, in the hands of the then Owner, his heirs, devisees, personal representatives and assigns.

(d) The Trustee shall be required to use the funds collected as Annual Assessments for the operation, maintenance, repair, and upkeep of the Common Properties. The Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. The Trustee shall not have the obligations to provide for operation, maintenance, repair, and upkeep of the Common Properties once the funds provided by the Annual Assessment have been exhausted.

(e) The Trustee shall have the right to convey title to the Common Properties, and to assign its rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The Trustee shall have the power to dispose of the Common Properties free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by fifty-one (51%) percent of the Owners of property within the Properties or in the alternative shall be found to be in the best interests of the Owners of property within the Properties by the Superior Court of Wake County, North Carolina. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Properties, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair, and upkeep of such properties, then for the payment of any obligations distributed among the Owners of property within the Properties, exclusive of the Trustees, in a proportion Assessment on property owned by a particular Owner bears to the total Maximum Regular Annual Assessments for all property located within the Properties.

Section 11. Management and Contract Rights of Association. Declarants may enter into a contract with a Management company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. However, no such contract shall be binding upon the Association except through express adoption, or ratification of the terms and conditions of such contract. Any contract or lease entered into by Declarants or by the Association while the Declarants are in control thereof shall contain a provision allowing the Association to terminate such contract without justification or penalty after transfer of management by the Declarants to the Association.

Section 12. Rights of Noteholders.

(a) Any institutional holder of a first mortgage (and any Insurer or Guarantor of such first mortgage) on a Unit or Lot will, upon written request, be entitled to:

(i) Inspect the books and records of the Association during normal business hours,

(ii) Receive an annual financial statement (audited if required herein) of the Association within ninety (90) days following the end of its fiscal year,

(iii) Receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings,

(iv) Receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage,

(v) Receive written notice of any sixty-day delinquency in the payment of assessments or charges owed by the owner of any unit on which it holds the mortgage,

(vi) Receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owners' Association,

(vii) Receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders,

(viii) Be furnished with a copy of the master insurance policy; and

(ix) Receive a copy of any Supplementary Declaration which contains additions, provisions or modifications to

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the Declaration pursuant to the provisions of Article II, Section 2(a) hereof thirty (30) days prior to the recording of such Supplementary Declaration.

(b) Without the prior written consent of not less than 66% of Institutional Lenders, the Association may not:

(i) Abandon, partition, subdivide, encumber, sell or transfer (except "Exchanges" as permitted in Section 13 below) real estate or improvements which are owned by the Association for the benefit of all members.

(ii) Alter or amend the method of determining assessments that may be levied against an owner.

(iii) Use hazard insurance proceeds for losses to improvements located on Association property for other than the repair, replacement or reconstruction of such improvements.

Section 13. Exchange of Common Area. Notwithstanding any provision herein to the contrary, it is expressly provided that the Association may exchange with Declarants, as well as any other Owner, for fair value any portion of the Common Properties theretofore conveyed to the Association for additional property to be added to the Common Properties. Any such exchange and conveyance shall be subject to prior VA or FHA, FHLMC, and FNMA approval. Upon such exchange and conveyance, the area conveyed shall cease to be Common Properties and shall cease to be subject to the provisions of this Declaration relating to the Common Properties. Any area acquired by the Association pursuant to the foregoing language shall become Common Property and subject to the provisions of these covenants relating to the Common Property.

Section 14. VA or FHA, FHLMC, and FNMA Approval. As long as Declarants control the Board, or retains the right to do any of the following without the consent of the Members, such acts will require the prior approval of VA or FHA, FHLMC, and FNMA: Annexation of additional properties, dedication of Common Areas, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 15. Easements.

(a) Walks, Drives, Utilities, Etc. All Properties shall be subject to such easements for walkways, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone, streets and electric power lines, television antenna lines, other utilities; ingress, egress and regress and otherwise as shall be established by Declarants by recorded maps or

deeds of easement, and the Association shall have the power and authority to grant and establish further such easements upon, over, under and across the Property.

(b) Easement to Correct Drainage. For a period of twenty five (25) years from the date hereof, Declarants reserves an easement and right on, over and under any property comprising Parkway PUD to maintain and to correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonably necessary. After such action has been completed, Declarants shall restore the affected property to its original condition to the extent practicable. Declarants shall give reasonable notice of intent to take such action to all affected Owners.

(c) Easement to Wake County and Town of Cary. An easement is hereby established for municipal, state or public utilities serving Parkway PUD, their agents and employees over all Common Properties hereby or hereafter established for setting, removing, and reading utility meters, maintaining and replacing utility or drainage connections, and acting with other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection.

(d) Declarants and the Association reserve the right to subject the Property to a contract with Carolina Power and Light Company for the installation of above ground or underground electric cables and lines and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power and Light Company by the Owner of each Unit within said property.

(e) Declarants hereby reserve an easement of access to and over the Common Properties for the purpose of installing utilities and other improvements required or necessary in the proper development of Parkway PUD.

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IN WITNESS WHEREOF, Declarants have caused this instrument to be executed as of the day and year first above written.

PARKWAY ASSOCIATES, A North Carolina General Partnership

By: WESTMINSTER COMPANY, Partner

ATTEST:

Paul G. Gentry
Asst. Secretary

By *E.B. Hanley*
Senior Vice President

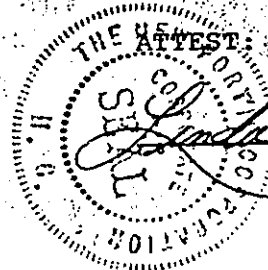
RICHLAND PROPERTIES, INC.



James F. Middleton Jr.
Secretary

By *James F. Middleton Jr.*
President

THE NEW FORTIS CORPORATION



James F. Middleton Jr.
Asst. Secretary

By *James F. Middleton Jr.*
President

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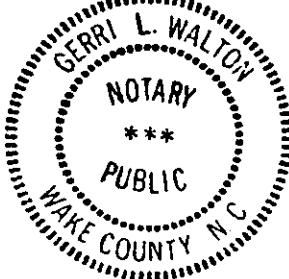
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NORTH CAROLINA

WAKE COUNTY

I, a Notary Public in the County and State aforesaid, certify that Brian C. Grynowski, personally came before me this day and acknowledged that he is Assistant Secretary of WESTMINSTER COMPANY, a North Carolina corporation, partner of Parkway Associates, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its Sr. Vice President, sealed with its corporate seal and attested by her as its Assistant Secretary.

WITNESS my hand and official stamp or seal, this 30th day of November, 1987.



Gerri L. Walton
Notary Public

My Commission Expires:

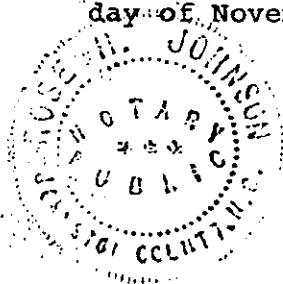
My Commission Expires 2-25-91

NORTH CAROLINA

WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that F.E. Skipper, personally came before me this day and acknowledged that he is Secretary of Richland Properties, Inc., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by him as its Secretary.

WITNESS my hand and official stamp or seal, this 30 day of November, 1987.



Rose H. Johnson
Notary Public

My Commission Expires:

3-9-91

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NORTH CAROLINA

WAKE COUNTY

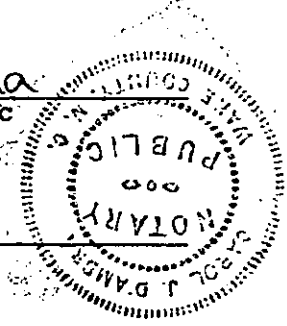
I, a Notary Public of the County and State aforesaid, certify that Linda P. Whitley personally came before me this day and acknowledged that she is Asst. Secretary of The New Fortis Corporation, a North Carolina corporation, and that by authority duly give and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by herself as its Asst. Secretary.

WITNESS my hand and official stamp or seal, this 30th day of November, 1987.

Carol J. D'Ambra
Notary Public

My Commission Expires:

My Commission Expires 12-31-92



NORTH CAROLINA — WAKE COUNTY

The foregoing certificate of Genie L. Walton -
Rose H. Johnson - Carol J. D'Ambra

Notary Public is

(are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof

KENNETH C. WILKINS, Register of Deeds

By Kenneth C. Wilkins
Register of Deeds

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EXHIBIT A

Lying and being in Cary and White Oak townships, and bounded on the north by High House Road (State Road 1615), on the east by Bond Park and Oxxford Hunt P.U.D., and being more particularly described as follows:

BEGINNING at an iron pipe in the southern margin of the new right of way of High House Road, said point being a common corner with property of Preston P.U.D. that is reserved for a school site, and said point having North Carolina Grid Coordinates of $y=742,896.262$ and $x=2,048,691.641$, and running thence with the southern margin of the new right of way of High House Road South 59 degrees 04 minutes 12 seconds East 181.382 feet to a point on the southern margin of said right of way; thence continuing with the southern margin of said right of way, along a curve to the left having a radius of 886.640 feet, an arc distance of 393.696 feet to a point on the southern margin of said right of way; thence continuing with the southern margin of said right of way South 84 degrees 30 minutes 46 seconds East 76.444 feet to a point on the southern margin of said right of way, a common corner with property of the Town of Cary, North Carolina; thence South 16 degrees 39 minutes 19 seconds East 219.267 feet to a new iron pipe; thence South 28 degrees 54 minutes 00 seconds East 89.601 feet to a new iron pipe; thence South 03 degrees 22 minutes 27 seconds East 305.847 feet to a new iron pipe; thence South 41 degrees 28 minutes 09 seconds East 161.579 feet to a new iron pipe; thence South 77 degrees 25 minutes 11 seconds East 75.285 feet to a new iron pipe; thence South 15 degrees 16 minutes 07 seconds East 165.816 feet to a new iron pipe; thence South 02 degrees 50 minutes 00 seconds East 122.712 feet to a new iron pipe; thence South 07 degrees 05 minutes 34 seconds East 133.900 feet to a new iron pipe; thence South 07 degrees 03 minutes 38 seconds East 69.703 feet to a new iron pipe; thence South 00 degrees 47 minutes 16 seconds East 117.519 feet to a point; thence South 15 degrees 01 minutes 19 seconds East 184.268 feet to a point; thence South 18 degrees 21 minutes 41 seconds East 219.102 feet to a point; thence South 16 degrees 58 minutes 57 seconds East 104.559 feet to an existing iron pipe; thence South 18 degrees 34 minutes 49 seconds East 501.660 feet to an existing iron pipe; thence South 27 degrees 53 minutes 57 seconds West 90.593 feet to an existing iron pipe; thence South 05 degrees 42 minutes 15 seconds East 118.181 feet to an existing iron pipe; thence South 22 degrees 56 minutes 49 seconds West 72.480 feet to an existing iron pipe; thence South 30 degrees 50 minutes 57 seconds West 118.694 feet to an existing iron pipe; thence South 18 degrees 08 minutes 23 seconds East 115.500 feet to a new iron pipe; thence South 05 degrees 36 minutes 42 seconds East 71.616 feet to an existing iron pipe; thence South 15 degrees 05 minutes 02 seconds East 74.510 feet to an existing iron pipe; thence South 06 degrees 37 minutes 20 seconds East 525.151 feet to an existing iron pipe; thence South 51 degrees 44 minutes 31 seconds West 216.890 feet to a point; thence South 29 degrees 13 minutes 09 seconds East 245.000 feet to a new iron pipe; thence North 08 degrees 03 minutes 51 seconds East 116.303 feet to a new iron pipe; thence North 49 degrees 34 seconds 06 minutes East 78.541 feet to a new iron pipe;

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thence North 74 degrees 00 minutes 08 seconds East 121.616 feet to a new iron pipe; thence North 42 degrees 45 minutes 13 seconds East 203.888 feet to a new iron pipe; thence South 66 degrees 26 minutes 02 seconds East 210.815 feet to a new iron pipe; thence South 62 degrees 56 minutes 02 seconds East 121.839 feet to a new iron pipe; thence South 02 degrees 48 minutes 57 seconds West 725.569 feet to an existing iron pipe; thence South 88 degrees 38 minutes 49 seconds East 169.229 feet to a point; thence South 11 degrees 19 minutes 42 seconds West 49.863 feet to an existing iron pipe; thence South 02 degrees 17 minutes 25 seconds East 106.541 feet to an existing iron pipe; thence North 50 degrees 37 minutes 10 seconds East 76.494 feet to an existing iron pipe; thence North 20 degrees 07 minutes 03 seconds East 57.118 feet to an existing iron pipe; thence North 62 degrees 14 minutes 44 seconds East 52.611 feet to an existing iron pipe; thence South 69 degrees 03 minutes 54 seconds East 63.929 feet to an existing iron pipe; thence South 40 degrees 57 minutes 35 seconds East 108.168 feet to an existing iron pipe; thence South 26 degrees 28 minutes 47 seconds East 139.918 feet to an existing iron pipe; thence South 02 degrees 17 minutes 10 seconds West 63.288 feet to an existing iron pipe; thence South 43 degrees 42 minutes 50 seconds East 49.850 feet to an existing iron pipe; thence South 46 degrees 16 minutes 03 seconds West 107.925 feet to an existing iron pipe; thence South 17 degrees 09 minutes 36 seconds West 61.931 feet to an existing iron pipe; thence South 86 degrees 35 minutes 36 seconds East 65.090 feet to an existing iron pipe; thence North 85 degrees 52 minutes 25 seconds East 73.013 feet to an existing iron pipe; thence South 09 degrees 09 minutes 57 seconds East 166.301 feet to an existing iron pipe; thence South 40 degrees 40 minutes 59 seconds West 72.613 feet to an existing iron pipe; thence South 46 degrees 30 minutes 54 seconds East 49.081 feet to an existing iron pipe; thence South 13 degrees 37 minutes 08 seconds West 109.418 feet to an existing iron pipe; thence South 28 degrees 50 minutes 42 seconds West 83.061 feet to an existing iron pipe; thence South 06 degrees 23 minutes 33 seconds West 169.949 feet to an existing iron pipe; thence South 22 degrees 41 minutes 30 seconds East 45.066 feet to an existing iron pipe; thence South 12 degrees 32 minutes 57 seconds West 72.331 feet to an existing iron pipe; thence South 85 degrees 41 minutes 35 seconds West 131.854 feet to an existing iron pipe; thence South 47 degrees 15 minutes 09 seconds East 61.599 feet to an existing iron pipe; thence South 33 degrees 23 minutes 07 seconds East 91.064 feet to an existing iron pipe; thence South 39 degrees 40 minutes 53 seconds West 119.622 feet to an existing iron pipe; thence South 27 degrees 49 minutes 37 seconds West 131.450 feet to an existing iron pipe; thence South 77 degrees 54 minutes 28 seconds West 82.325 feet to an existing iron pipe; thence South 06 degrees 46 minutes 51 seconds East 94.626 feet to an existing iron pipe; thence South 45 degrees 31 minutes 54 seconds West 105.494 feet to an existing iron pipe; thence South 33 degrees 14 minutes 22 seconds West 118.237 feet to an existing iron pipe; thence South 22 degrees 06 minutes 35 seconds West 80.952 feet to an existing iron pipe; thence South 41 degrees 44 minutes 35 seconds West 78.656 feet to an existing iron pipe;

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thence South 16 degrees 41 minutes 27 seconds West 65.029 feet to an existing iron pipe; thence North 62 degrees 05 minutes 13 seconds West 29.451 feet to a new iron pipe; thence South 01 degree 28 minutes 51 seconds West 199.996 feet to a point; thence South 17 degrees 28 minutes 28 seconds West 325.304 feet to a new iron pipe; thence South 39 degrees 18 minutes 38 seconds West 141.170 feet to a point; thence South 24 degrees 23 minutes 54 seconds East 150.335 feet to a new iron pipe; thence South 19 degrees 45 minutes 46 seconds West 186.260 feet to a new iron pipe; thence South 54 degrees 18 minutes 57 seconds West 254.039 feet to a point; thence along a curve to the right having a radius of 1374.944 feet, an arc distance of 143.297 feet to a point; thence along a curve to the left having a radius of 25.000 feet, an arc distance of 38.109 feet to a point; thence North 67 degrees 31 minutes 03 seconds East 253.337 feet to a point; thence along a curve to the left having a radius of 3437.506 feet, an arc distance of 29.981 feet to a point; thence South 02 degrees 07 minutes 57 seconds West 200.300 feet to a point; thence South 89 degrees 18 minutes 44 seconds East 527.080 feet to a point; thence South 01 degree 27 minutes 53 seconds West 576.887 feet to a point; thence South 69 degrees 48 minutes 43 seconds West 204.494 feet to a point; thence South 45 degrees 50 minutes 35 seconds West 51.591 feet to a point; thence South 73 degrees 06 minutes 53 seconds West 167.789 feet to a point; thence North 83 degrees 58 minutes 04 seconds West 192.222 feet to a point; thence South 70 degrees 05 minutes 29 seconds West 5.022 feet to a point; thence South 70 degrees 05 minutes 25 seconds West 53.023 feet to a point in the center line of Cary Parkway; thence with the center line of Cary Parkway, along a curve to the left having a radius of 1119.292 feet, an arc distance of 101.616 feet to a point in the center line of Cary Parkway; thence North 88 degrees 46 minutes 28 seconds West 59.639 feet to a point on the western margin of the right of way of Cary Parkway; thence with the western margin of the right of way of Cary Parkway, along a curve to the right having a radius of 1172.292 feet, an arc distance of 326.519 feet to a point on the western margin of said right of way; thence with the western margin of said right of way, North 09 degrees 25 minutes 53 seconds West 250.000 feet to a point on the western margin of said right of way; thence along the western margin of said right of way on a curve to the left having a radius of 1268.944 feet, an arc distance of 514.087 feet to a point on the western margin of said right of way; thence South 57 degrees 21 minutes 21 seconds West 136.881 feet to a point; thence North 82 degrees 40 minutes 09 seconds West 120.000 feet to a point; thence South 62 degrees 19 minutes 51 seconds West 170.000 feet to a point; thence North 27 degrees 40 minutes 09 seconds West 343.135 feet to a point; thence along a curve to the right having a radius of 206.040 feet, an arc distance of 233.280 feet to a point; thence North 37 degrees 12 minutes 06 seconds East 57.619 feet to a point; thence along a curve to the right having a radius of 30.00 feet, an arc distance of 47.124 feet to a point on the western margin of the right of way of Cary Parkway; thence along the western margin of the right of way of Cary Parkway, nine (9) lines as follows: (1) North 52 degrees 47 minutes 54 seconds West 170.001 feet; (2) along

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a curve to the right having a radius of 1889.190 feet, an arc distance of 1004.510 feet; (3) North 22 degrees 19 minutes 59 seconds West 250.000 feet; (4) along a curve to the left having a radius of 2933.242 feet, an arc distance of 490.019 feet; (5) North 31 degrees 54 minutes 18 seconds West 263.660 feet; (6) along a curve to the right having a radius of 2053.138 feet, an arc distance of 1903.752 feet; (7) North 21 degrees 13 minutes 19 seconds East 376.500 feet; (8) along a curve to the left having a radius of 1047.000 feet, an arc distance of 347.701 feet; and (9) North 02 degrees 11 minutes 40 seconds East 75.832 feet; thence North 87 degrees 05 minutes 11 seconds West 9.315 feet to an existing iron pipe; thence North 02 degrees 21 minutes 09 seconds East 126.207 feet to an existing iron pipe; thence North 03 degrees 04 minutes 09 seconds East 168.957 feet to an existing iron pipe; thence North 04 degrees 17 minutes 20 seconds East 100.550 feet to an existing iron pipe; thence North 04 degrees 17 minutes 26 seconds East 119.227 feet to an existing iron pipe; thence North 06 degrees 28 minutes 32 seconds East 80.866 feet to an existing iron pipe; thence North 06 degrees 28 minutes 10 seconds East 195.354 feet to an existing iron pipe; thence North 06 degrees 28 minutes 21 seconds East 156.162 feet to an existing iron pipe; thence North 06 degrees 36 minutes 09 seconds East 693.603 feet to an existing iron pipe; thence North 07 degrees 27 minutes 30 seconds East 233.444 feet to an existing iron pipe; thence North 08 degrees 21 minutes 52 seconds East 354.659 feet to an existing iron pipe; thence North 11 degrees 20 minutes 30 seconds East 103.232 feet to an existing iron pipe; thence North 07 degrees 29 minutes 41 seconds East 336.675 feet to an existing iron pipe; thence North 01 degree 12 minutes 50 seconds East 173.833 feet to the point of Beginning, and containing 305.9916 acres according to a survey of Kenneth Close, Inc.

Specifically excluded from the foregoing described property are the following tracts of property:

1. the property described on Exhibit D attached hereto and incorporated by reference (that being the same property described in a deed from Parkway Associates to Charles Vance Mosely et al. and recorded in the Wake County Registry in Book 4125, page 387.

2. Lying and being in the Parkway Planned Unit Development, Cary, Wake County, North Carolina, and bounded on the west by Cary Parkway and the south by a new road to be named YMCA Drive, and being more particularly described as follows: Beginning at a point on the northern margin of the right of way of YMCA Drive, said point having North Carolina Grid Coordinates of y=737,432.240 and x=2,049,063.633, a common corner with an area of Common Open Space as the same is designated on the Master Land Use Plan of the Parkway Planned Unit Development, and running thence with the northern margin of the right of way of YMCA Drive North 57 degrees 13 minutes 09 seconds West 99.094 feet to a point on the northern margin of the right of way of YMCA Drive; thence continuing with said northern margin of the right of way of YMCA Drive, on a curve

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to the left having a radius of 380.000 feet, an arc distance of 428.740 feet to a point on the northern margin of said right of way; thence continuing with the northern margin of said right of way South 58 degrees 05 minutes 44 seconds West 56.850 feet to a point on the eastern margin of the right of way of Cary Parkway; thence with the eastern margin of the right of way of Cary Parkway, along a curve to the right having a radius of 30.000 feet, an arc distance of 47.124 feet to a point on the eastern margin of said right of way; thence with the eastern margin of said right of way North 31 degrees 54 minutes 17 seconds West 77.350 feet to a point on the eastern margin of said right of way; thence with the eastern margin of said right of way, along a curve to the right having a radius of 1947.138 feet, an arc distance of 292.772 feet to a point on the eastern margin of said right of way, a common corner with an area of Common Open Space as shown on the Master Land Use Plan of Parkway Planned Unit Development; thence fourteen (14) lines with said Common Open Space as follows: (1) North 42 degrees 14 minutes 01 second East 155.717 feet to an existing iron pipe; (2) North 42 degrees 14 minutes 01 seconds East 153.311 feet to an existing iron pipe; (3) North 33 degrees 08 minutes 55 seconds East 222.850 feet to an existing iron pipe; (4) South 63 degrees 20 minutes 29 seconds East 132.117 feet to an existing iron pipe; (5) North 53 degrees 24 minutes 43 seconds East 140.530 feet to an existing iron pipe; (6) North 06 degrees 09 minutes 02 seconds West 155.645 feet to an existing iron pipe; (7) North 63 degrees 45 minutes 19 seconds East 132.749 feet to an existing iron pipe; (8) North 81 degrees 33 minutes 31 seconds East 150.750 feet to an existing iron pipe; (9) North 60 degrees 52 minutes 22 seconds East 62.759 feet to an existing iron pipe; (10) South 20 degrees 38 minutes 29 seconds East 205.413 feet to an existing iron pipe; (11) South 11 degrees 41 minutes 25 seconds West 98.904 feet to an existing iron pipe; (12) South 30 degrees 54 minutes 56 seconds East 161.137 feet to an existing iron pipe; (13) South 41 degrees 46 minutes 47 seconds East 46.255 feet to an existing iron pipe; and (14) South 24 degrees 36 minutes 15 seconds West 665.695 feet to the point of Beginning, and containing 14.6871 acres according to a survey by Kenneth Close, Inc.

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EXHIBIT "B"

BEGINNING at an iron pipe in the northern right-of-way of State Road 1011, said iron pipe having North Carolina Grid Coordinates: $n = 731,960.77$ and $e = 2,051,909.39$, and which pipe marks the eastern boundary of property now or formerly belonging to the State of North Carolina and which marks the center line of that certain 100 foot right-of-way conveyed to Carolina Power & Light Company by easement recorded in Book 2511, Page 20, Wake County Registry; runs thence with the eastern line of the property now or formerly belonging to the State of North Carolina North 03 degrees 45 minutes 55 seconds East 146.47 feet to an iron pipe; runs thence along and with the northern lines of property now or formerly belonging to the State of North Carolina and property described in deed recorded in Book 2328, Page 307, Wake County Registry, and property described in deed recorded in Book 2875, Page 01, Wake County Registry, North 89 degrees 01 minutes 08 seconds West 1,923.23 feet to an iron pipe; runs thence North 89 degrees 35 minutes 24 seconds West 510.89 feet to an iron pipe; runs thence along and with the eastern line of property now or formerly belonging to J. W. Lewis and described in deed recorded in Book 2106, Page 464, Wake County Registry, North 00 degrees 52 minutes 48 seconds East 616.00 feet to an iron pipe; runs thence with the southern line of property described in deed recorded in Book 2231, Page 175, Wake County Registry, North 89 degrees 22 minutes 54 seconds East 487.52 feet to an iron pipe; runs thence with the eastern line of property described in deed recorded in Book 2231, Page 175, Wake County Registry, North 01 degrees 16 minutes 34 seconds West 327.00 feet to a point; runs thence with the northern line of property described in deed recorded in Book 2231, Page 175, Wake County Registry, South 89 degrees 22 minutes 14 seconds West 246.95 feet to a point; runs thence the following courses and distances: North 70 degrees 58 minutes 18 seconds West 47.86 feet; North 79 degrees 28 minutes 42 seconds East 107.93 feet; North 01 degrees 57 minutes 42 seconds East 143.25 feet; North 16 degrees 21 minutes 47 seconds East 130.66 feet; North 77 degrees 31 minutes 25 seconds West 99.47 feet; North 81 degrees 52 minutes 10 seconds East 121.34 feet; North 24 degrees 39 minutes 32 seconds East 152.24 feet; North 44 degrees 26 minutes 51 seconds East 111.57 feet; North 17 degrees 37 minutes 14 seconds East 132.92 feet; North 10 degrees 56 minutes 31 seconds West 79.18 feet; North 47 degrees 53 minutes 58 seconds West 87.01 feet; North 89 degrees 32 minutes 17 seconds East 64.31 feet; North 11 degrees 22 minutes 52 seconds East 84.50 feet; and North 06 degrees 09 minutes 08 seconds West 238.12 feet to a point in the southern line of property now or formerly owned by J. W. Lewis described in deed recorded in Book 2106, Page 464, Wake County Registry; and shown on map recorded in Book of Maps 1945, Page 13, Wake County Registry; runs thence South 88 degrees 46 minutes 28 seconds East 370.63 feet to an iron pipe in the center line of the proposed Cary Parkway; runs thence with the center line of the proposed Cary Parkway on a curve to the left in a southeasterly direction to a point, said curve having a radius of 1119.29 feet and a curve length of 983.08 feet; runs thence South 77 degrees 04 minutes 51 seconds East 510.38 feet to a point; runs thence with the southwestern line of property now or formerly belonging to W. J. Booth as described in deed recorded in Book 1000, Page 544 and as shown on a map recorded in Book of Maps 1949, Page 45, Wake County Registry, and on a curve to the right in a southeasterly direction to a point, said curve having a radius of 1405.80 feet and a curve length of 1382.09 feet; runs thence South 20 degrees 45 minutes 07 seconds East 394.66 feet to a point in the northern right-of-way of State Road 1011; runs thence South 69 degrees 29 minutes 57 seconds West 917.32 feet to the point of BEGINNING, and containing 100.5317 acres according to a survey entitled "Property of Durham Life", drawn by Kenneth Close, Incorporated, land surveyor dated June, 1985 and March 24, 1986, and revised on September 4, 1986.

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EXHIBIT C

Tract 1

BEGINNING at a point in the northeastern edge of the 106-foot right-of-way of the proposed Cary Parkway, having North Carolina grid coordinates N=734,223.057 and E=2,050,442.259; runs thence with said right-of-way on a curve to the right having a radius of 1,066.29 feet, and an arc distance of 123.65 feet to a point; thence leaving said proposed right-of-way, runs North 70° 05' 25" East 5.02 feet to a point; runs thence South 83° 58' 04" East 192.22 feet to a point; runs thence North 73° 06' 53" East 167.79 feet to a point; runs thence North 45° 50' 35" East 51.59 feet to a point; runs thence North 69° 48' 43" East 204.49 feet to a point; runs thence South 01° 27' 53" West 260.14 feet to a point; runs thence South 88° 46' 28" East 832.91 feet to a point; runs thence South 28° 12' 54" West 253.34 feet to a point; runs thence South 13° 12' 05" West 276.95 feet to a point; runs thence South 88° 12' 43" West 268.69 feet to a point; runs thence North 77° 04' 51" West 214.62 feet to a point; runs thence South 28° 11' 03" West 51.43 feet to a point in the northern edge of the hereinabove described Cary Parkway; runs thence with said right-of-way on a curve to the right having a radius of 1,066.29 feet, and an arc distance of 881.03 feet to the place of BEGINNING, and being all of Lot M-7, containing 13.687 acres (exclusive of right-of-way), more or less, as shown on a survey entitled "A Part of Parkway, A Planned Unit Development" by Kenneth Close, Inc., dated June, 1985, and March 24, 1986,

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including revisions dated September 4, 1986, November 2, 1987, November 4, 1987, and November 13, 1987.

Tract 2

BEGINNING at a point, a northeast corner of Lot M-7 as shown on the hereinafter described survey, being South 88° 46' 28" East 1359.62 feet from a point in the northeastern margin of the proposed Cary Parkway having North Carolina grid coordinates N=734,223.057 and E=2,050,442.259; runs thence from said point of BEGINNING South 88° 46' 28" East 1283.37 feet to a point in the western edge of the right-of-way of Laura Duncan Road; runs thence with the western edge of the right-of-way of said road the following five courses and distances: 1) on a curve to the left having a radius of 800.13 feet, an arc distance of 264.24 feet to a point; 2) South 17° 41' 46" East 168.94 feet to a point; 3) on a curve to the right having a radius of 290.00 feet and an arc distance of 369.91 feet to a point; 4) South 55° 23' 14" West 226.86 feet to a point; and 5) South 58° 14' 59" West 168.21 feet to a point; thence leaving said right-of-way, runs North 64° 58' 20" West 1184.97 feet to a point; runs thence South 88° 12' 43" West 40.14 feet to a point in the eastern line of Lot M-7 as shown on the hereinafter described survey; runs thence with said line the following two courses and distances: (1) North 13° 12' 05" East 276.95 feet to a point; and (2) North 28° 12' 54" East 253.34 feet to the place of BEGINNING, and being all of lot M-5, containing 25.495 acres (exclusive of right-of-way), more or

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less, as shown on a survey entitled "a Part of Parkway, a Planned Unit Development" by Kenneth Close, Inc., dated June, 1985, and March 24, 1986, including revisions dated September 4, 1986, November 2, 1987, November 4, 1987, and November 13, 1987.

TRACT 3

BEGINNING at a point in the northern edge of the 106 foot right-of-way of the proposed Cary Parkway, being the following two courses and distances from a point in the northeastern right of way of the proposed Cary Parkway having North Carolina grid coordinates N=734,223.057 and E=2,050,442.259: (1) on a curve to the left having a radius of 1,066.29 feet and an arc distance of 881.03 feet; runs thence from said point of BEGINNING with the line of lot M-7 as shown on the hereinafter described survey the following three courses and distances: (1) North 28° 11' 03" East 51.43 feet to a point; (2) South 77° 04' 51" East 214.62 feet to a point; and (3) North 88° 12' 43" West 268.69 feet; runs thence with the southern line of lot M-5 as shown on the hereinafter described survey the following two courses and distances: (1) North 88° 12' 43" East 40.14 feet and (2) South 64° 58' 20" East 1,184.97 feet to a point in the western edge of the 60 foot right-of-way of Laura Duncan Road; runs thence with the edge of said right-of-way the following two courses and distances: (1) South 58° 14' 59" West 32.04 feet to a point; and (2) South 55° 23' 14" West 244.35 feet to a point where said Laura Duncan Road begins to curve into the right-of-way of the

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proposed Cary Parkway; runs thence on a curve to the right having a radius of 30.00 feet and an arc distance of 45.34 feet to a point in the northern edge of the proposed Cary Parkway; runs thence with the edge of said right-of-way the following three courses and distances: (1) on a curve to the left having a radius of 1,458.80 feet and an arc distance of 994.42 feet to a point; and (2) North 77° 04' 51" West 510.38 feet to a point and (3) on a curve to the right, said curve having a radius of 1066.29 feet and an arc distance of 27.13 feet to place of BEGINNING, and being all of that parcel of land designated as "Open Space" containing 4.416 acres (exclusive of road right-of-way), more or less, as shown on a survey entitled "a Part of Parkway, a Planned Unit Development" by Kenneth Close, Inc., dated June 1985, and March 24, 1986, including revisions dated September 4, 1986, November 2, 1987, November 4, 1987, and November 13, 1987.

TRACT 4

BEGINNING at a point in the northern edge of the 50 foot right-of-way of Marilyn Circle (proposed) having North Carolina grid coordinates N=733,638.509 and E=2,054,220.550; runs thence with the northern edge of said right-of-way the following four courses and distances: (1) on a curve to the right having a radius of 425.75 feet and an arc distance of 371.25 feet to a point; (2) North 62° 36' 51" West 244.67 feet to a point; (3) on a curve to the left having a radius of 506.87 feet and an arc

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distance of 398.82 feet to a point; and (4) South 72° 18' 14" West 10.0 feet to a point where the northern edge of said Marylyn Circle begins to curve into the eastern edge of the 50 foot right-of-way of Laura Duncan Road; runs thence on a curve to the right having a radius of 25.00 feet, and an arc distance of 39.27 feet to a point in the eastern edge of said Laura Duncan Road; runs thence with the edge of said right-of-way the following two courses and distances: (1) North 17° 41' 46" West 118.94 feet to a point; and (2) on a curve to the right having a radius of 750.13 feet and an arc distance of 247.73 feet to an iron pipe set in a southern line of certain property described in a deed recorded in Book 918, Page 541, Wake County Registry, and shown in Map Book 1945, Page 13, Wake County Registry; runs thence with the southern line of said property South 88° 46' 28" East 400.00 feet to an iron pipe found; runs thence with a western line of the same property North 2° 16' 41" East 861.22 feet to an iron pipe found having North Carolina grid coordinates N=735,017.446 and E=2,053,568.764, the same being in the southern line of property now or formerly belonging to Oxford Hunt as described in a deed recorded in Book 2215, Page 17, Wake County Registry and as shown in Map Book 1984, Page 264, Wake County Registry; runs thence with said property line North 89° 48' 33" East 660.03 feet to an iron pipe found in the western line of property now or formerly belonging to D. J. Martin as described in a deed recorded in Book 1360, Page 320, Wake County Registry; runs thence with said property line S 0° 20' 31" West 1,381.16 feet to an iron pipe set in the northern edge of the 50 foot

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right-of-way of Marylyn Circle (proposed), the place of BEGINNING, and being all of that tract or parcel of land consisting of 24.081 acres, more or less, as shown on a survey entitled "Property of New Fortis Corporation R-8 Parkway" by Kenneth Close, Inc., dated March 10, 1987.

TRACT 5

BEGINNING at a point in the southern edge of the 50-foot right-of-way of Marilyn Circle having North Carolina Grid Coordinates N = 733,584.351 and E = 2,054,220.227; runs thence South 00° 20' 31" West 291.51 feet to a point; runs thence North 88° 27' 55" West 646.83 feet to a point; runs thence South 01° 10' 22" West 270.06 feet to a point; runs thence South 86° 25' 11" West 388.33 feet to a point; runs thence North 64° 35' 10" West 401.21 feet to a point in the southeastern edge of the 50-foot right-of-way of Laura Duncan Road; runs thence with the said right-of-way the following two courses and distances: (1) North 55° 23' 14" East 333.05 feet to a point; and (2) on a curve to the left having a radius of 340.00 feet and an arc distance of 386.96 feet to a point where Laura Duncan Road begins to curve into the southern edge of the 50-foot right-of-way of Marilyn Circle; runs thence on a curve to the right having a radius of 25.00 feet and an arc distance of 35.83 feet to a point in the southern edge of said Marilyn Circle; runs thence with the said right-of-way the following four courses and distances: (1) North 72° 18' 14" East 13.44 feet to a point; (2) on a curve to the

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right having a radius of 456.87 feet and an arc distance of 359.48 feet to a point; (3) South 62° 36' 51" East 244.67 feet to a point; and (4) on a curve to the left having a radius of 475.75 feet and an arc distance of 404.32 feet to the point and PLACE OF BEGINNING, and being all of Parkway P.U.D. Parcel R-9, consisting of 12.5947 acres, more or less, according to a computation of a boundary by Kenneth Close, Inc.

jtf/tues/rrrl

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EXHIBIT "D"

Lying and being in the Town of Cary, White Oak and Cary townships,
Wake County, North Carolina, and more particularly described as follows:

TRACT I.

Beginning at an existing iron pipe having North Carolina Grid Coordinates of N = 738,077.698 and E = 2,050,552.968, said iron pipe being the Southwest corner of a .8053 acre tract conveyed to the Grantor by Oxxford Hunt Associates and described in a deed recorded in the Wake County Registry in Book 3881, Page 285, and running thence South 87 deg. 21 min. 35 sec. West 187.86 feet to an iron pipe; thence North 03 deg. 04 min. 50 sec. East 108.99 feet to an iron pipe; thence North 23 deg. 18 min. 29 sec. West 115.74 feet to an iron pipe; thence North 02 deg. 09 min. 23 sec. East 76.67 feet to an iron pipe; thence North 17 deg. 10 min. 37 sec. East 104.00 feet to an iron pipe; thence South 72 deg. 44 min. 34 sec. East 106.19 feet to an iron pipe; thence North 58 deg. 44 min. 44 sec. West 130.24 feet to an iron pipe; thence North 25 deg. 59 min. 44 sec. West 109.86 feet to an iron pipe; thence North 28 deg. 17 min. 18 sec. West 209.67 feet to an iron pipe; thence North 29 deg. 13 min. 09 sec. West 136.89 feet to an iron pipe; thence North 08 deg. 03 min. 51 sec. East 116.30 feet to an iron pipe; thence North 49 deg. 34 min. 06 sec. East 78.54 feet to an iron pipe; thence North 74 deg. 00 min. 08 sec. East 121.62 feet to an iron pipe; thence North 42 deg. 45 min. 13 sec. East 203.89 feet to an iron pipe; thence South 66 deg. 26 min. 02 sec. East 210.82 feet to an iron pipe; thence South 62 deg. 56 min. 02 sec. East a total of 121.84 feet to an iron pipe along the western boundary of Oxxford Hunt Subdivision; thence with the western boundary of Oxxford Hunt Subdivision South 02 deg. 48 min. 57 sec. West 725.57 feet to an iron pipe, the northwestern corner of the aforementioned property conveyed to the Grantor by Oxxford Hunt Associates; thence with the western boundary of said property, South 03 deg. 57 min. 27 sec. East 297.77 feet to the point of beginning, and containing 11.8844 acres according to a map entitled "Tracts M-1, R-3, and Part of R-4, Parkway PUD", the above-described property being tract R-3 as shown thereon, said map being dated 5/8/86 and prepared by Kenneth Close, Inc. Land Surveying.

TRACT II.

Beginning at an iron pipe having North Carolina Grid Coordinates of N = 738,444.051 and E = 2,049,247.670, and running thence North 52 deg. 08 min. 11 sec. East 128.75 feet to an iron pipe; thence North 53 deg. 20 min. 31 sec. East 178.38 feet to an iron pipe; thence North 30 deg. 56 min. 41 sec. East 80.87 feet to an iron pipe; thence South 61 deg. 01 min. 20 sec. East 61.37 feet to an iron pipe; thence North 24 deg. 31 min. 35 sec. West 78.16 feet to an iron pipe; thence North 32 deg. 42 min 25 sec. East 84.35 feet to an iron pipe; thence North 61 deg. 25 min. 24 sec. East 183.84 feet to an iron pipe; thence South 65 deg. 33 min. 46 sec. East 153.23 feet to an iron pipe; thence South 24 deg. 29 min. 45 sec. East 138.85 feet to an iron pipe; thence South 32 deg. 30 min 40 sec. East 182.58 feet to an iron pipe; thence South 17 deg. 44 min. 11 sec. East 122.12 feet to an iron pipe; thence South 10 deg. 00 min. 23 sec. West 135.10 feet to an iron pipe;

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Exhibit D, page 2

thence South 21 deg. 37 min. 07 sec. East 137.46 feet to an iron pipe; thence South 02 deg. 44 min. 35 sec. East 119.58 feet to an iron pipe; thence South 02 deg. 52 min. 04 sec. East .84 feet to an iron pipe; thence South 87 deg. 21 min 35 sec. West 709.92 feet to an iron pipe; thence North 41 deg. 50 min. 57 sec. West 104.27 feet to an iron pipe; thence North 30 deg. 58 min. 01 sec. West 136.92 feet to an iron pipe; thence North 11 deg. 37 min. 28 sec. East 93.90 feet to an iron pipe; thence North 20 deg. 40 min. 18 sec. West 140.67 feet to the point of beginning and containing 12.3415 acres according to a map entitled "Tracts of M-1, R-3, and Part of R-4, Parkway PUD", the above described tract being tract M-1 as shown thereon, said map being dated 5/8/86 and prepared by Kenneth Close, Inc., Land Surveying.

TRACT III.

Beginning at an existing iron pipe having North Carolina Grid Coordinates of N = 738,077.698 and E = 2,050,552.968, said point also being the southeastern corner of R-3 (Tract I described hereinabove), and also being the northeastern corner of that property described in a deed recorded in the Wake County Registry in Book 3339, page 271, and running thence with the eastern line of R-3, North 03 deg. 57 min. 27 sec. West 297.77 feet to an existing iron pipe on the eastern line of R-3 and a corner with Oxxford Hunt Subdivision; thence with the line of Oxxford Hunt Subdivision, South 88 deg. 38 min. 49 sec. East 169.23 feet to an existing iron pipe; thence South 11 deg. 19 min. 42 sec. West 49.86 feet to an existing iron pipe; thence South 02 deg. 17 min. 25 sec. East 106.54 feet to an existing iron pipe; thence South 47 deg. 01 min. 24 sec. West 79.86 feet to an existing iron pipe; thence South 45 deg. 28 min. 34 sec. West 118.75 feet to the point of Beginning, containing 0.8053 acres and being the tract denominated "A Part of R-4" according to a survey entitled "Tracts M-1, R-3, and Part of R-4, Parkway P.U.D." by Kenneth Close, Inc., Land Surveying, dated May 8, 1986.

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PREPARED BY AND MAIL TO:
MAUPIN, TAYLOR, ELLIS & ADAMS
POST OFFICE BOX 19764
RALEIGH, NORTH CAROLINA 27619

NORTH CAROLINA
WAKE COUNTY

DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
EVERGREEN

THIS DECLARATION, made on the date hereinafter set forth by THE NEW FORTIS CORPORATION, a North Carolina corporation, hereinafter referred to as the "Declarant;"

WITNESSETH: THAT WHEREAS, the Declarant is the owner of certain property lying within the Town of Cary, Wake County, North Carolina, which is more particularly described as Evergreen, Phase I as shown on a map recorded in Book of Maps 1987, Page 1936, Wake County Registry.

WHEREAS, said properties have been or will be subjected to a Declaration of Covenants, Conditions and Restrictions of the Parkway Community Association, Inc. (herein referred to as the Parkway Declaration).

WHEREAS, Declarant will convey the said properties, subject to certain additional protective covenants, 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 on all parties having or acquiring any right, title or interest in the described

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properties or any part thereof, and shall inure to the
benefit of each owner thereof.

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ARTICLE I

DEFINITIONS

Section 1. "Evergreen Association" shall mean and refer to EVERGREEN HOMEOWNERS ASSOCIATION, INC., 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 Evergreen Association.

Section 3. "Lot" shall mean and refer to any plot of land for use as a site for a single family detached residence shown upon any recorded map of a portion of the properties.

Section 4. "Member" shall mean and refer to every person or entity who holds membership in the Evergreen Association.

Section 5. "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 6. "Declarant" shall mean and refer to THE NEW FORTIS CORPORATION, and its successors and assigns to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as the Declarant may impose.

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Section 7. "Person" shall mean and refer to any individual, corporation, partnership, association, trustee, or other legal entity.

Section 8. "Building" shall mean and refer to a single family detached residential structure, constructed or erected on the Property.

Section 9. "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the Directors of the Evergreen Association, unless a contrary intent is evident.

Section 10. "Common Expenses" shall mean and include:

(a) All sums lawfully assessed by the Evergreen Association against its members;

(b) Expenses of administration, maintenance, repair, or replacement of the property which the Evergreen Association is obligated to maintain by the provisions of this Declaration;

(c) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws:

(d) Expenses agreed by the members to be common expenses of the Evergreen Association; and

Section 11. "Parkway Association" shall mean and refer to The Parkway Community Association, Inc., its successors and assigns.

Section 12. "Parkway Declaration" shall mean and refer to that Declaration of Covenants and Restrictions of

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the Parkway Community Association, Inc., which have been recorded or will be recorded in the Wake County Registry and all subsequent valid amendments thereto.

Section 13. "Evergreen Declaration" shall mean and refer to this Declaration of Protective Covenants, Conditions and Restrictions, and all subsequent valid amendments thereto.

Section 14. "Parkway Planned Unit Development". Parkway Planned Unit Development shall mean that property shown on the Land Use Concept Plan entitled "Parkway Planned Unit Development" filed with the Town of Cary as amended.

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation by Members. Except as provided in §2 of this Article, 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.

Section 2. Annexation by Declarant. If within 5 years of the date of incorporation of this Association, the Declarant should develop additional lands within the boundaries of the property described on Exhibit A attached hereto. Such additional lands may be annexed to said Properties without the assent of the Class A members:

Section 3. Method of Annexation. Annexation of additional Properties shall be accomplished by recording in the Wake County Registry a Declaration of Annexation, duly

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executed by the Declarant if the Declarant has the right to annex pursuant to Section 2 above (and by the Association if pursuant to Section 1 above), describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The additional lands shall be deemed annexed to the Properties on the date of recordation of the Declaration of Annexation, and in the case of an annexation by the Declarant, no action or consent on the part of the Evergreen Association or any other person or entity shall be necessary to accomplish the annexation except the Town of Cary if required by its ordinances.

ARTICLE III

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject to the Evergreen Declaration, including contract sellers, shall be a member of the Evergreen Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation; however, any creditor of an Owner of a lot who acquires title to the Property or any portion thereof pursuant to foreclosure or any other proceeding or deed in lieu of foreclosure shall be a member of the Association. 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

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Evergreen 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. Voting Classes. 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. 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 and no fractional vote may be cast with respect to any Lot.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article III, provided, that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs first:

(a) when the total votes outstanding in Class A membership equal the total votes outstanding in Class B

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membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in subparagraph (b) below, such 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 December 31, 1993.

Section 2. Suspension of Voting Rights. The right of any Member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations.

ARTICLE V

COVENANT FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and every other 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 agree to pay to the Evergreen Association:

(a) Annual assessments or charges which are common expenses; and

(b) Special assessments for capital improvements.

Notwithstanding any provision herein to the contrary the assessment for each Lot owned by Declarant

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shall be twenty-five percent (25%) of the assessment which would have otherwise been due.

Such assessments shall be fixed, established, and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Lot and improvements against which each such assessment is made. Each such assessment, together with such interest and costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of the Lot at the time the assessment fell due. The personal obligation of an owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them. All assessments shall be shared equally by the owners of each Lot, except as otherwise provided in this section.

Section 2. Purpose of Assessments. The annual assessment shall be used exclusively for promoting the recreation, health, safety, and welfare of the residents of Evergreen; enforcing these covenants and the rules of the Evergreen Association; and maintenance of buffer areas and landscape easement areas located on Lots as provided in Article VII, Sections 3 and 4 of this Declaration; and paying all Common Expenses.

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Section 3. Amount of Annual Assessment.

(a) Initial Annual Assessment. To and including December 31, 1988, the initial annual assessment shall not be in excess of \$48.00 per Lot, the exact amount of which shall be determined from time to time as provided in Subsection (d) of this Section 3.

(b) Increase by Evergreen Association. From and after December 31, 1988, the annual assessment effective for any year may be increased from and after January 1 of the succeeding year by the Board of Directors, without a vote of the membership, to an amount which may not exceed the previous year's assessment (or the previous year's revised assessment determined pursuant to subparagraph (c) below) plus Ten (10%) percent.

(c) Increase by members. From and after December 31, 1988, the annual assessment may be increased by a percentage greater than permitted by this Article by an affirmative 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 such purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting. The limitations herein set forth in subparagraphs (b) and (c) shall not apply to an increase in assessments undertaken as an incident to a merger or consolidation in which the Evergreen Association is authorized to participate under its Articles

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of Incorporation or to an increase in assessments necessary to cover the cost of hazard and/or liability insurance in the event the Evergreen Association is required to obtain such insurance on the areas it maintains.

(d) Criteria for Establishing Annual Assessment.

The Evergreen Association is required to set the annual assessment high enough to enable the Evergreen Association to establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the areas the Association is obligated to maintain. The Evergreen fund shall be maintained out of the annual assessments for Common Expenses as provided for in this article. In establishing the annual assessment for any assessment year, the Board of Directors shall set the annual assessment high enough to cover all current costs and expenses of the Evergreen Association, any accrued debts, and reserves for future needs.

(e) Decrease of Annual Assessment. The Board of Directors may decrease the annual assessment from time to time if in its opinion such decrease is prudent.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Evergreen Association, may levy, in any assessment year, a special assessment applicable to that year only for the purposes of defraying, in whole or in part, the costs of construction or reconstruction, unexpected repair, or replacement of a described capital improvement upon the property maintained by the Evergreen Association, including the necessary fixtures and personal

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property related thereto, and to provide for facilities and equipment necessary to offer the services authorized herein. Any such special assessment proposed by the Evergreen Association 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, setting forth the purpose of the meeting, shall be sent to all members not less than fifteen (15) days nor more than thirty (30) days in advance of the meeting. The amount of the proposed assessment need not be stated.

Section 5. Uniform Rate of Assessment. Both the annual assessment and special assessments must be fixed at a uniform rate for all Lots, on a per Lot basis, and may be collected on a monthly basis.

Section 6. Quorum for Any Action Authorized Under Sections 3 and 4. At the first meeting called, as provided in Section 3 and 4 of this Article, the presence at the meeting of members or of 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, subsequent meetings may be called, subject to the notice requirement 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 next preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the next preceding meeting.

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Section 7. Date of Commencement of Annual

Assessments: Due Dates. The annual assessments provided herein for Lots may be paid in monthly installments and the payment of such shall commence as to any Lot subject to this Declaration upon recording this Declaration. Assessments shall commence as to any Lot made subject to this Declaration pursuant to Article II herein upon recording the Declaration of Annexation which subjects such Lot to this Declaration. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year or the Association's fiscal year as the Board deems appropriate. 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 shall be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments:

Remedies of the Association. Any assessment or portion thereof which are not paid when due shall be delinquent. If the assessment or portion thereof is not paid within thirty (30) days after the due date, the same shall bear interest from the date of delinquency at the rate of nine percent

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(9%). The Association may bring an action against the owner personally obligated to pay the same, and interest, costs, late payment charges and reasonable attorney's fees of any such action shall be added to the amount of such assessment. If any law permits the filing of a lien and the foreclosure of such lien, or other similar action, as a method of enforcement of the Association's right to collect assessments, the Association may use such remedy. No owner may waive or otherwise escape liability for the assessment provided for herein by abandonment of his Lot.

Section 9. Subordination of Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. A sale or any transfer of any Lot shall not affect the assessment liens; provided, however, that the sale or transfer of any Lot pursuant to foreclosure of a first mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from the liability for any assessment thereafter becoming due or from the lien thereof.

Section 10. Two Months Assessments to be Collected at Closing. At the closing of each sale of a Lot, a sum shall be collected from the purchaser equal to the total assessment for such Lot for the succeeding two months and such sum shall be contributed to the capital reserve accounts of the Evergreen Association to be used by the

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Association to meet unforeseen expenditures. This contribution shall not be considered an advance against assessments to become due or a refundable deposit.

ARTICLE VI

MAINTENANCE OF PROPERTIES

Section 1. Maintenance of Lots.

If in the opinion of the Board, an Owner fails to maintain his Lot, buffer areas, or landscape easement areas located on a Lot as shown on a recorded map, in a neat and orderly condition or otherwise neglects his property and allows unsightly conditions to develop, the Board, after 30 days written notice to the Owner, may, but is not obligated to, take steps to remedy the problem. Such remedy may include, but shall not be limited to; the removal of debris or junked cars, the mowing of grass or cutting of brush and the painting or repair of structures located on the property. The Board may bill such Owner for all expenses incurred in correcting the problem. Every Owner by acceptance of a deed covenants to pay said bill. Failure to pay said bill shall allow the Board to file an action to collect the unpaid amount and such action may result in a lien against the Lot.

Section 2. Buffer Areas. The buffer areas located on Lots shown on recorded maps shall remain in an undisturbed, natural state. The Evergreen Association may, but is not obligated to, plant trees and shrubs in the buffer areas. All lots on which buffer areas are located

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are subject to an easement in favor of the Evergreen Association and the Parkway Association for ingress and egress, to plant trees and shrubs and to enforce the provisions of the Evergreen Declaration and Parkway Declaration as to the buffer areas. The cost of such maintenance shall be a Common Expense, which shall be paid from funds supplied from the annual assessment. An owner of Lot on which a buffer area is located may plant trees and shrubs in the buffer area only with the prior written approval of the Evergreen Association or an architectural committee.

Section 3. Landscape Easement Areas. Certain Lots in Evergreen are subject to a landscape easement as shown on recorded maps. Such landscape easement is in favor of the Association for ingress and egress over such Lot and for planting and maintenance of the areas. The cost of such maintenance shall be a Common Expense, which shall be paid from funds supplied from the annual assessment. The Owner of a Lot subject to the landscape easement may plant trees or shrubs in the landscape easement area only with prior written approval of the Evergreen Association or an architectural committee.

Section 4. Medians. Medians located on public streets will not be owned by the Evergreen Association; however, the maintenance of the medians shall be supervised by the Evergreen Association. The cost of such maintenance

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shall be a Common Expense, which shall be paid from funds supplied from the annual assessment.

Section 5. Entrance Signs. Certain Lots in Evergreen are subject to an easement for an entrance sign as shown on recorded maps. Any Lot subject to a sign easement is also subject to an easement in favor of the Association for ingress, egress and maintenance of the sign. The entrance sign shall be the property of the Association. The cost of maintenance of the entrance sign shall be a Common Expense and funds for such maintenance shall be supplied from the annual assessment.

ARTICLE VII

ARCHITECTURAL CONTROL & INSPECTION

Except for initial improvements by Declarant, no construction, erection, or installation of any improvements, including, but not limited to, residences, outbuildings, fences, walls, screens (whether by plants or structures) and other structures, shall be undertaken upon the Properties unless the plans and specifications therefor, showing the nature, kind, shape, height, materials and location of the proposed improvements shall have been submitted to the Declarant or its agent and expressly approved in writing. No subsequent alteration or modification of any existing improvements nor construction, erection, or installation of additional improvements may be undertaken on any of the Properties without prior review and express written approval

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of the Board of Directors of the Evergreen Association, or by an architectural committee.

In general, no exterior alterations or additions to buildings or garages shall be considered for approval unless such alterations or additions are in harmony with existing structures, as to style, shape, color and size. However, this section shall not be construed to mean that the Architectural committee or Board shall have to approve a proposed alteration or addition that meets the above criteria.

In general, the construction of fences, walls, or other structures and planting of screens will not be permitted if in the opinion of the Declarant, Board, or architectural committee, as applicable, such construction or planting constitutes an unreasonable obstruction of the view of another owner.

Generally, approval or disapproval should be issued within thirty days. In the event that the Declarant or the Evergreen Association, as the case may be, fails to approve or disapprove the site or design of any proposed improvements within sixty (60) days after plans and specifications therefore have been submitted and received, approval will not be required, and the requirements of this Article will be deemed to have been fully met; provided, that the plans and specifications required to be submitted shall not be deemed to have been received by the Declarant or the Evergreen Association if they contain erroneous data

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or fail to present adequate information upon which the Declarant or the Evergreen Association, as the case may be, can arrive at a decision.

The Declarant and/or the Evergreen Association (as applicable) shall have the right, at its election, but shall not be required, to enter upon any of the Properties during site preparation or construction, erection, or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE VIII

RULES AND REGULATIONS

The Board of Directors of the Evergreen Association shall have the power to formulate, amend, publish, and enforce reasonable rules and regulations concerning the use and enjoyment Lots lying within Evergreen. Such rules and regulations, along with all policy resolutions and policy actions taken by the Board of Directors, shall be recorded in a Book of Resolution which shall be maintained in a place convenient to the owners and available to them for inspection during normal business hours.

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ARTICLE IX

PROTECTIVE COVENANTS

Section 1. Lot Size. A Lot shall have a width at the minimum building set back line and an area, that meets the minimum requirements of the ordinances of the Town of Cary. No recombination of Lots shall increase the number of Lots above the number existing before recombination, except as hereinafter set forth.

Section 2. Land Use. No Lot shall be used except for residential purposes; provided, however, that nothing herein shall prevent the conversion of portions of Lots to public or private streets. No building shall be erected, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling.

Section 3. Building Location. No building shall be located nearer than 10 feet to any road right of way. Dwellings shall not be located nearer to one another than 15 feet. For the purpose of this covenant, eaves, steps and open porches shall not be construed as a part of the building. The Declarant or the Evergreen Association reserve the right to waive a violation of the setback requirements provided herein. The waiver must be in writing and recorded in the Wake County Registry.

Section 4. Temporary Structure. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently.

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Section 5. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets may be kept, subject to the rules and regulations of the Evergreen Association, provided that they are not kept, bred or maintained for any commercial purpose. If dogs, cats or other household pets are kept outdoors, such animals shall be kept in the rear yard, enclosed by a fence approved by the Evergreen Association.

Section 6. Garbage Cans. Garbage cans shall be kept in the rear yard and not visible from the street except on trash pick-up days.

Section 7. Mail Box Posts. All mail box support posts shall be of material and design as initially approved by Declarant or architectural committee.

Section 8. Signs. No sign of any kind, except an owner and street number identification, shall be displayed to the public's view on any Lot except one professional sign of not more than 5 square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sale period. The Declarant or the Evergreen Association shall have the right to enter any Lot and summarily remove any sign which violates this provision if the violation has not been removed after 5 days, written notice to the Lot Owner.

Section 9. Prohibition of Television Antennae, Satellite Dishes and Clotheslines. Television antennae,

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satellite dishes, and outdoor clotheslines are prohibited on the Property unless approved in writing by the Evergreen Association or an architectural committee.

Section 10. Fences. No fence of any kind may be erected on Lots adjacent to the Cary Parkway. Fences of a type specified and approved by the Declarant or architectural committee may be erected in the rear yard of Lots not adjacent to the Cary Parkway.

Section 11. Parking. Parking of all vehicles of any type on Lots shall be governed by the Rules and Regulations established by the Association as provided in Article IX of this Declaration.

Section 12. Vehicles. No junked or disabled vehicles may be stored on any Lot or street. No maintenance or repair may be performed on any vehicle except in an enclosed garage attached to a dwelling. No boats, trailers, or unlicensed vehicles of any kind shall be parked on any Lot or street.

Section 13. Burning. Burning of trash on any lot is prohibited.

Section 14. Buffer Areas. Subject to the provisions of the Parkway Declaration and the Evergreen Declaration areas designated as buffer areas on recorded maps shall be left in their undisturbed, natural state. No improvements may be placed, erected or constructed on the buffer areas.

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Section 15. Landscape Easement Areas. No improvements may be placed, erected or constructed in areas designated as "landscape easement" areas on recorded maps other than those constructed by the Declarant or approved in writing by the Declarant or the Evergreen Association.

Section 16. Cary Parkway. No lot shall have direct vehicular access to the Cary Parkway.

ARTICLE X

RIGHTS OF FIRST MORTGAGEES AND INSURERS OF FIRST MORTGAGES

Any institutional holder of a first mortgage on a Lot will, upon request in writing to the Evergreen Association, be entitled to (a) inspect the books and records of the Evergreen Association during normal business hours, (b) receive written notice of all meetings of the Evergreen Association and the right to designate a representative to attend all such meetings (c) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage, (d) receive written notice of any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot on which it holds the mortgage, (e) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Evergreen Association, (f) receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders, (i) be furnished with a copy of any

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insurance policy owned by the Evergreen Association and (j) receive an audited financial statement for the preceding fiscal year. The Evergreen Association may require the payment of expenses incurred in preparing copies and mailing of documents furnished to first mortgage holders pursuant to this Article.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Enforcement. The Evergreen Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenant, reservations, liens, and charters now or hereafter imposed by the provisions of this Declaration, and the Parkway Declaration as it applies to Evergreen. Failure by the Evergreen 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. Insurance. In the event the Evergreen Association becomes the owner of any buildings or other improvements or personal property the Board of Directors shall obtain hazard insurance in an amount equal to the maximum insurable replacement value as determined by the Board of Directors. In the event the Evergreen Association becomes the owner of any real property, the Board of Directors of the Evergreen Association shall obtain liability insurance coverage on the Common Area in the

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amount of \$1,000,000 for bodily injury and property damage for any single occurrence or if such coverage is not reasonably available, in an amount deemed appropriate by the Board of Directors. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Evergreen Association as a Common Expense from the annual assessment.

The Evergreen Association shall maintain blanket fidelity bonds for all officers, directors and all other persons handling or responsible for funds of or administered by the Evergreen Association. The fidelity bonds shall name the Evergreen Association as the obligee and the premiums should be paid as a common expense by the Evergreen Association. The fidelity bond should cover the maximum funds that will be in the custody of the Evergreen Association at any given time during the term of the bond. In any event, the fidelity bond must at least equal the sum of three months assessments on all lots plus reserve funds.

The Board may secure Officers and Directors insurance in such amounts as the Board deems appropriate. Premiums shall be paid by the Evergreen Association as a Common Expense from of the annual assessment.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect..

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Section 4. FHA/VA Approval. Notwithstanding any provisions in this instrument to the contrary, as long as there is a Class B membership, and if Declarant desires to qualify sections of this subdivision for Federal Housing Administration or Veterans Administration approval (but not otherwise), the following actions will require the prior approval of Federal Housing Administration or the Veterans Administration, if approval is required by these agencies: Annexation of additional properties, amendment of this Declaration of Covenants, Conditions and Restrictions, merger and consolidations and dissolution.

Section 5. Amendment. The covenants, conditions and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for an unlimited number of successive periods of ten (10) years each. This Declaration may be amended by an instrument signed by the owners of not less than sixty six and two thirds percent (66 2/3%) of the Lots that have been made subject to this Declaration.

Furthermore, the Declarant, for so long as it controls the Board, and thereafter, the Board of Directors, may amend this Declaration without the consent of the owners and hereby reserves the right to act on behalf of the owners to conform this Declaration to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots therein for

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mortgage or improvement loans made, guaranteed or insured by a governmental agency, including, without limitation, Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, Housing and Urban Development and Federal Home Loan Mortgage Corporation, or to comply with the requirements of law or regulations of any governmental corporation or agency regarding purchase of mortgage interests in Lots by such agency. A letter from any such agency stating that a change is desired or necessary in order to qualify the Property or any Lots for loans eligible to be guaranteed by, insured by or purchased by such agency, shall be sufficient authority for the amendment of this Declaration.

Such amendment shall be executed in the name of the Association by the President (or Vice-President) and by the Secretary (or Assistant Secretary) of the Association and recorded in the Office of the Register of Deeds of Wake County.

Section 6. Certification of Amendment. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of the Evergreen 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

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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 Evergreen 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 EVERGREEN

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

EVERGREEN HOMEOWNERS
ASSOCIATION, INC.

BY: _____
President

ATTEST:

Secretary

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

All amendments shall be effective from the date of recordation in the Wake County Registry, provided, however, that no such amendment shall be valid until it has been indexed in the name of the Evergreen Association. When any

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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 Evergreen.

Section 7. Restrictions Against Association
Entering Into Contracts. Furthermore, the Evergreen Association, shall not enter into contracts or leases (including a management contract) either directly or indirectly unless there is a right of termination of any such contract or lease, without cause, which is exercisable without penalty at any time upon not more than 30 days notice to the other party thereto and if a professional management contract, such contract may not extend beyond a term of 3 years.

Section 8. Conflict of Declarations. In the event of a conflict between the provisions of this Declaration and matters intended to be dealt with by the Parkway Declaration, the provisions of the Parkway Declaration shall take precedence and be controlling.

Section 9. Books and Records. Current copies of the Declaration, Bylaws, rules and regulations and books of the Evergreen Association shall be available during normal business hours for inspection and copying by Lot owners.

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ARTICLE XII

EASEMENTS

Section 1. Walks, Drives, Parking Areas and Utilities. All of the Property shall be subject to such easements for driveways, walkways, parking areas, water lines, irrigation systems, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television antenna lines, cable television and other public utilities as shall be established prior to subjecting the Property to this Declaration by the Declarant.

The Declarant reserves the right to subject the real property covered by this Declaration to a contract with a power and light company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to the power and light company by the owner of each building.

Declarant reserves the right to subject Lots, prior to the sale of such Lots, to a joint driveway easement to provide such Lots with access to a public right-of-way.

Section 2. Drainage and Utilities. Easements for installation and maintenance of utilities and drainage facilities are reserved over the rear ten feet of each lot. In the event that the Owner of any Lot shall acquire land adjacent to and in the rear of such Lot, such Lot Owner may relocate the easement herein established over the rear line to conform to the increase in the size of his Lot, provided that alteration in drainage does not thereby adversely the

BK 158 PG 0349

affect the drainage of any other Lot or interfere with the rights of the Owners of other property within this subdivision to services rendered by the easement herein created. Such relocated easement shall be the same width as the original easement.

Section 3. Emergencies. Every Lot shall be subject to an easement for entry by the Evergreen Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot and that endangers any building or portion of the Common Area.

Section 4. Easement for Governmental Agencies. An easement is hereby established over the Lots for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

Section 5. Buffer Areas, Landscape Easements, Sign Easements. All Lots are subject to easements for ingress and egress for purposes of planting and maintaining buffer areas, landscape easement areas and sign easement areas as shown on recorded maps and as provided in Article VII of this Declaration.

Section 6. Encroachment. All Lots shall be subject to easements for the encroachment of initial

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improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach, including, without limitation, such items as overhanging eaves, gutters, downspouts, exterior storage rooms and walls. If any encroachment shall occur subsequent to subjecting the Property to this Declaration as a result of settling or shifting of any Building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every Lot shall be subject to an easement for entry and encroachment by the Declarant for a period not to exceed eighteen (18) months following conveyance of a Lot to an Owner for the purpose of correcting any problems that may arise regarding grading and drainage. The Declarant, upon making entry for such purpose, shall restore the affected Lot or Lots to as near the original condition as practicable.

Section 7. Easement for Construction Purposes.

The Declarant reserves an easement for ingress and egress over Lots for purposes of constructing buildings on adjacent Lots and performing activities related to the construction of buildings on adjacent Lots.

BK4158PG0351

IN WITNESS WHEREOF, the undersigned, being the
Declarant herein, has executed this instrument this the 23rd
day of November, 1987.

THE NEW FORTIS CORPORATION

BY: [Signature]
President

ATTEST
[Signature]
Asst. Secretary
(Corporate Seal)
NORTH CAROLINA
WAKE COUNTY

I, the undersigned, a Notary Public in and for
said State and County, do hereby certify that
Linda P. Whitley personally appeared before me this day
and acknowledged that she is Asst. Secretary of THE NEW
FORTIS CORPORATION, and that by authority duly given and as
the act of the corporation, the foregoing instrument was
signed in its name by its President, sealed with its
corporate seal, and attested by herself as its Assistant
Secretary.

WITNESS my hand and notarial seal this the 23rd day
of November, 1987.

CAROL J. D'AMBRA
NOTARY
My Commission Expires:
My Commission Expires 10-22-92
sal/1eb40

Carol J. D'Ambra
Notary Public

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of _____

Carol J. D'Ambra
Notar(y) Public is

(are) certified to be correct. This instrument and this certificate are duly registered at the date and time
and in the book and page shown on the first page hereof

KENNETH C. WILKINS, Register of Deeds

By Kenneth C. Wilkins
Deputy Register of Deeds

BK4158PG0352

EXHIBIT A TO DECLARATION OF PROTECTIVE COVENANTS,
CONDITIONS, AND RESTRICTIONS FOR EVERGREEN

BEGINNING at a point having North Carolina Coordinates North = 734,223.057, East = 2,050,442.259; runs thence along and with the northern edge of the 106 foot right of way of the proposed Cary Parkway on a curve to the right, said curve having a radius of 1,066.29 feet and an arc length of 123.65 feet; thence leaving said right of way North 70° 05' 25" East 5.02 feet to a point; thence South 83° 58' 04" East 192.22 feet to a point; thence North 73° 06' 53" East 167.79 feet; thence North 45° 50' 35" East 51.59 feet to a point; thence North 69° 48' 43" East 204.49 feet to a point; thence South 01° 27' 53" West 260.14 feet to a point; thence South 88° 46' 28" East 832.91 feet to a point; thence along and with the western edge of Lot M-5 South 28° 12' 54" West 253.34 feet to a point; thence South 13° 12' 05" West 276.95 feet to a point; thence leaving the line of Lot M-5 South 88° 12' 43" West 268.69 feet to a point; thence North 77° 04' 51" West 214.62 feet; thence South 28° 11' 03" West 51.43 feet to a point; thence along and with the northern edge of the 106 foot right of way of the proposed Cary Parkway on a curve to the right, said curve having a radius of 1,066.29 feet and an arc length of 881.03 feet to the point and place of beginning, and being approximately 13.687 acres designated as Lot M7 as shown on a map entitled "A Part of Parkway" by Kenneth Close, Inc. dated March 24, 1986, last revised November 13, 1987.

SAVE AND EXCEPT all of that area designated as "Common Open Space" as shown on a map recorded in Book of Maps 1987, page 1936, entitled Evergreen Phase I, Parkway PUD by Dewberry and Davis, dated August 1987.

lhs/JWM/jwm9

115-120887-18

000162
NORTH CAROLINA
WAKE COUNTY

PRESENTED
FOR
REGISTRATION

67 DEC 14 PM 2:04

KENNETH J. JENNINGS
REGISTER OF DEEDS
WAKE COUNTY

Mail To: ROBERT W. WILSON, JR.
P.O. BOX 10098
RALEIGH, NC 27605-0098
Prepared By: Poyner & Spruill

THIS AMENDMENT entered into this 9th day of December 1987, by PARKWAY ASSOCIATES, a North Carolina general partnership, RICHLAND PROPERTIES, INC., a North Carolina corporation, and THE NEW FORTIS CORPORATION, a North Carolina corporation (hereinafter referred to as "Declarants")

W I T N E S S E T H:

WHEREAS, by Declaration dated November 30, 1987 and recorded in Book 4158, Page 268 of the Wake County Registry (the "Declaration"), Declarants subjected the Properties described therein to certain covenants, conditions and restrictions governing the use thereof; and

WHEREAS, Declarants desire to amend said Declaration recorded in Book 4158, Page 268 of the Wake County Registry as hereinafter set forth, and;

WHEREAS, this amendment is required by the Veterans Administration ("VA") and has been approved by FHA, VA and the Town of Cary as will appear in the corporation records of Declarants.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein, Declarants do hereby amend said Declaration recorded in Book 4158, Page 268, Wake County Registry as follows:

DL166PG0275

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BK 4:166FG0276

(1) ARTICLE IV is amended as follows:

(a) Section 3(a) is amended by deleting the provisions permitting the Association to borrow money from Declarants.

(b) Section 3(c) is amended to provide as follows:

(c) The right of the Association to suspend the right to vote and the right to use that portion of the Properties designated as "Common Open Space" - "C.O.S." of any Member or Tenant or guest of any Member for any period during which the payment of any Assessment against property owned by such Member remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any Assessment or a breach of the rules and regulations of the Association shall not suspend the right to use any roads belonging to the Association subject to the rules, regulations and fees, if any, established by the Association for such use.

(2) Article V is amended as follows:

a) Section 3, second paragraph is amended to provide as follows:

If the Board of Directors shall levy less than the Maximum Regular Annual Assessment for any Assessment year and thereafter, during such Assessment year, determine that the important and essential functions of the Association cannot be funded by such lesser Assessment, the Board may, by a majority of voting power (subject to an affirmation vote of 2/3 of each Type of Members), levy a Supplemental Assessment. In no event shall the sum of the initial and Supplemental Assessments for that year exceed the applicable Maximum Regular Annual Assessment.

115-120887-18

BKL 166FG0277

(b) Section 8 is amended by deleting the last paragraph thereof.

(3) Article VI, Section 5 is amended by deleting the provisions allowing the Association to borrow money from Declarants.

(4) Article VIII is amended as follows:

(a) Section 1 is amended to provide the requirement of a 2/3 vote of each Type of Member to terminate the Declaration.

(b) Section 2 is amended to provide the requirement of a 2/3 vote of each Type of Member to amend the Declaration.

(c) Section 10(f) is amended by deleting "fifty-one percent (51%) of the Owners of Property within the Properties" beginning in the fourth line thereof, and inserting in lieu thereof "2/3 vote of each Type of Member."

(d) Section 13 is deleted.

(e) Section 15(b) is amended by deleting "twenty-five (25) years" and inserting in lieu thereof "ten (10) years."

(f) An additional section is added as follows:

Section 16. Member Type Approvals. In all provisions in this Declaration, the Articles of Incorporation and By-laws of the Association which require approval of a percentage of Members, such shall mean the percentage of each Type of Member.

115-120887-18

BK 166PG0278

IN WITNESS WHEREOF, Declarants have caused this instrument to be executed as of the day and year first above written.

PARKWAY ASSOCIATES, a North
Carolina General Partnership
By: WESTMINSTER COMPANY, Partner

By E.B. Hensley
Smier - Vice President

RICHLAND PROPERTIES, INC.

By James I. Middleton
President

THE NEW FORTIS CORPORATION

By [Signature]
Vice President

NORTH CAROLINA
WAKE COUNTY

I, a Notary Public in the County and State aforesaid, certify that WANDA L. EARP personally came before me this day and acknowledged that she is Assistant Secretary of WESTMINSTER COMPANY, a North Carolina corporation, partner of Parkway Associates, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its Sr. Vice President, sealed with its corporate seal and attested by her as its Assistant Secretary.

WITNESS my hand and official stamp or seal, this 9th day of December, 1987.

115-120887-18

BK 166PG0279



Jean J. Helms
Notary Public

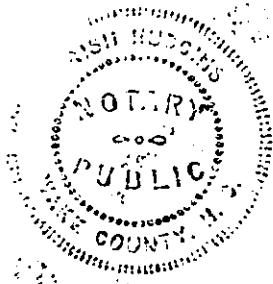
My Commission Expires:
6-3-90

NORTH CAROLINA

WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that Floyd E. Skipper personally came before me this day and acknowledged that he is Secretary of RICHLAND PROPERTIES, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Floyd E. Skipper President, sealed with its corporate seal and attested by Floyd E. Skipper as its Secretary.

WITNESS my hand and official stamp or seal, this 9th day of December, 1987.



Irish Hudgins
Notary Public

My Commission Expires:
3-29-92

NORTH CAROLINA

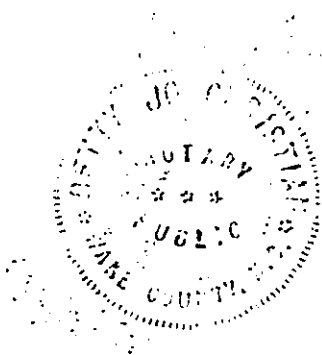
WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that Linda P. Whitley personally came before me this day and acknowledged that she is Asst. Secretary of THE NEW FORTIS CORPORATION, a North Carolina corporation, and that by authority duly give and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by herself as its Assistant Secretary.

WITNESS my hand and official stamp or seal, this 9th day of December, 1987.

115-120887-18

BK 166 PG 0280



Betty Jo Christian
Notary Public

My Commission Expires:

1/20/88

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of

Josh Hodgins

Betty Jo Christian

Notary Public is

(are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof

KENNETH C. WILKINS, Register of Deeds

By

Dana L. Boone
Asst. / Deputy Register of Deeds

Prepared by and Return To: Maupin Taylor Ellis & Adams, P.A.
Post Office Drawer 19764
Raleigh, North Carolina 27619

STATE OF NORTH CAROLINA
COUNTY OF WAKE

DECLARATION OF ANNEXATION OF
EVERGREEN, PHASE II, BOOK OF MAPS
1988, PAGE 289, WAKE COUNTY
REGISTRY

THIS DECLARATION OF ANNEXATION, made on this 5th day of
April, 1988, by THE NEW FORTIS CORPORATION, a North
Carolina corporation, hereinafter referred to as "Declarant";

W I T N E S S E T H:

THAT WHEREAS, Declarant has heretofore executed and caused
to be recorded an instrument entitled "Declaration of Protective
Covenants, Conditions and Restrictions for Evergreen", having
been recorded in Book 4158, Page 0315, Wake County Registry said
document being referred to herein as the "Declaration"; and

WHEREAS, Article II, Section 2 of the Declaration, provides
that Declarant, may annex to the Properties the additional lands
described in Section 2 of Article II of the Declaration by
recording in the Wake County Registry a declaration of
annexation, duly executed by Declarant, describing the lands
annexed and incorporating the provisions of the Declaration
either by reference or by fully setting out said provisions
therein. The additional lands shall be deemed annexed to the
Properties on the date of recordation of the declaration of
annexation, and no action or consent on the part of the
Association or any other person or entity shall be necessary to
accomplish the annexation; and

NOW, THEREFORE, Declarant hereby declares that all of Phase
II, which specifically includes Waxmyrtle Court and Mint Court
but excluding that area designated as "Common Open Space", as

BK4234PG0235

000178

88 APR -7 PM 1:48

PRESENTED
FOR
REGISTRATION

RECEIVED
WAKE COUNTY
CLERK'S
OFFICE

shown on a map recorded in Book of Maps 1988, Page 289, Wake County Registry, are hereby annexed to the Properties as permitted by the Declaration, whereby all of the foregoing areas are now subject to the terms, requirements and conditions of the Declaration, and are entitled to all of the benefits of the Declaration.

IN TESTIMONY WHEREOF, the Declarant has executed this instrument on the day and year first above written by authority of its Board of Directors.

ATTEST:

THE NEW FORTIS CORPORATION

Linda P. Whitley
 (CORPORATE SEAL)
 Secretary

By: *[Signature]* Vice President

STATE OF NORTH CAROLINA
 COUNTY OF WAKE

I, the undersigned, a Notary Public in and for the said State and County, do hereby certify that Linda P. Whitley personally appeared before me this day and acknowledged that she is Assistant Secretary of THE NEW FORTIS CORPORATION, a corporation, and that by authority duly given as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by her self as its Assistant Secretary.

WITNESS my hand and notarial seal this 5th day of April, 1988.

Lisa M. Bell (Spence)
 Notary Public

My Commission Expires: 04-11-91

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of _____

Lisa M. Bell (Spence)
 Notar(y)(ies) Public is
 (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof

KENNETH C. WILKINS, Register of Deeds

By *[Signature]*
 Asst. / Deputy Register of Deeds

BK4477PG0258

NORTH CAROLINA

WAKE COUNTY

PRESENTED
FOR

JOINT DRIVEWAY AND CROSS ACCESS DECLARATION,

LOTS 44 THROUGH 49, EVERGREEN PHASE II,
89 APR 24 PM 0055 OF MAPS 1989, PAGE 111,
WAKE COUNTY REGISTRY

KENNETH J. WALKINS
REGISTER OF DEEDS
WAKE COUNTY

THIS JOINT DRIVEWAY AND CROSS ACCESS DECLARATION made
this the 18 day of April, 1989, by THE NEW FORTIS CORPORATION,
a North Carolina corporation, ("Fortis").

Fortis is the owner of Lots 44 through 49, Evergreen,
Phase II (the "Lots") as shown on a map recorded in Book of Maps
1989, Page 111, Wake County Registry. Fortis hereby declares the
"Lots" shall be sold subject to the following covenants,
easements, conditions and restrictions, all of which are for the
purpose of benefiting the Lots, and which shall run with the
title to the Lots and be binding on all parties having any right,
title or interest therein. The term "Owner(s)" includes Fortis
and its successors in title to the Lots.

1. The above-referenced map shows a joint driveway
labelled "Drive and Utility Easement" (the "Joint Driveway")
located partially on each of the Lots and more particularly
described as follows:

BEGINNING at a point in the right-of-way of a
cul-de-sac at the western end of Waxmyrtle
Court, said point being located on a curve
having a radius of 46.50 feet and an arc
distance of 25.83 feet from the southwestern
corner of Lot 50, Evergreen Subdivision,
Phase II, as shown on a map recorded in Book
of Maps 1989, page 111, Wake County Registry;
thence from said point North 57° 10' 16" West
87.22 feet to a point; North 58° 18' 23" West
31.68 feet to a point; South 28° 57' 02" West
20.31 feet to a point; South 57° 56' 60" East
29.68 feet to a point; South 57° 41' 13" East
88.21 feet to a point in the western
right-of-way of the aforementioned
cul-de-sac; runs thence with said
right-of-way on a curve to the right having a

radius of 46.50 feet and an arc distance of 19.85 feet to the point of BEGINNING, and being a driveway and utility easement as shown on a survey dated October 21, 1988, and revised January 10, 1989, by Dewberry & Davis (Garry C. Vanpool, RLS), entitled "Recombination Survey, Evergreen Subdivision, Phase II, Lots 44 thru 54".

2. The Joint Driveway is a private driveway for the benefit of the Owners of each Lot to provide vehicular and pedestrian access, ingress and egress to and from the Lots to the public streets.

3. A perpetual easement is hereby established within the Joint Driveway for vehicular and pedestrian ingress and egress for the benefit of the Owners and their assigns, tenants, guests, invitees and mortgagees to and from the Lots to the public streets.

4. The Joint Driveway shall be maintained by the Owners in a manner and quality in keeping with the neighborhood known as Evergreen and the cost of such maintenance shall be shared equally by the Owners.

5. If damage to the Joint Driveway is caused by the negligence or fault of an Owner, that Owner shall be solely responsible for the cost of repairing the Joint Driveway.

6. Each Owner shall keep the Joint Driveway clear of debris or other obstacles and automobiles so that there is unobstructed access to each of the Lots.

7. The rights established herein are subject to the right of the Town of Cary and other utility providers to install and maintain utilities, drainage facilities and other services to serve the Lots (herein "Utilities") upon, over, under, through

and across the Joint Driveway. It is the duty of the Owners to replace any disturbed ground and to repair any damage to the Joint Driveway which may occur during the installation or maintenance of such Utilities.

8. If a water or sewer line located beneath the Joint Driveway is in need of repair and serves a particular Lot, it shall be the duty of the Lot Owner served by the water or sewer line in need of repair to repair any damage to the Joint Driveway which may occur during the maintenance or repair of such water or sewer lines.

9. If any Owner fails to provide the contribution for maintenance as required by this Declaration, the other Owners may provide the maintenance and shall be entitled to immediate reimbursement. The Owners may bring an action at law or in equity against the non-contributing Owner to recover the cost of such maintenance, including attorneys' fees, and to enforce the terms of this Declaration.

10. In the event the Owners obtain an alternative means of access to a public street, this Declaration may be terminated by a written instrument signed by each Owner and recorded in the Wake County Register of Deeds Office.

11. This Declaration shall be binding upon and inure to the benefit, respectively of the Owners and the future Owners of the Lots.

IN TESTIMONY WHEREOF, Fortis has caused this instrument to be executed in its corporate name by its duly authorized

officers, attested by its Secretary and its corporate seal
hereunto affixed this the day and year first above written.

THE NEW FORTIS CORPORATION

By: [Signature] J.P.

ATTEST:

Carol J. D'Ambra
Secretary

NORTH CAROLINA

WAKE COUNTY

I, the undersigned, a Notary Public in and for the
said State and County, do hereby certify that Carol J.
D'Ambra personally appeared before me this
day and acknowledged that she is Assistant Secretary of
THE NEW FORTIS CORPORATION, a corporation, and that by
authority duly given as the act of the corporation, the
foregoing instrument was signed in its name by its
Vice President, sealed with its corporate seal, and
attested by her self as its Assistant Secretary.

WITNESS my hand and notarial seal this the 18th

day of April, 1989.



Kelly A. Underwood
Notary Public

My Commission Expires:

3/7/94

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of Kelly A. Underwood

Notar(y)(ies) Public is

(are) certified to be correct. This instrument and this certificate are duly registered at the date and time
and in the book and page shown on the first page hereof.

KENNETH G. WILKINS, Register of Deeds

Kenna R. Cooke