

WAKE COUNTY, NC 96  
LAURA M RIDDICK  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
08/23/2016 14:17:23

BOOK:016503 PAGE:01278 - 01308

(Return to White Oak Properties, Inc., 21 Glenwood Avenue, Raleigh, NC, 27603)  
NORTH CAROLINA

DECLARATION OF CONDOMINIUM

WAKE COUNTY

THIS DECLARATION OF CONDOMINIUM is made and entered into the 23 day of August, 2016, by White Oak St. Mary's LLC, a North Carolina Limited Liability Company, ("Declarant"), pursuant to the provisions of Chapter 47C of the North Carolina General Statutes.

1. ESTABLISHMENT.

Declarant is the owner in fee simple of real property in Wake County, North Carolina, more particularly described in Paragraph 2 below; and

Declarant intends to renovate and remodel a five story building currently existing on the Property (as defined herein) containing a maximum of thirty five (35) residential condominium units and to sell and convey the same to various purchasers subject to the covenants, conditions and restrictions hereinafter set forth; and

Declarant intends and desires by the filing of this Declaration of Condominium to submit the property described in Paragraph 2 below and improvements to be constructed thereon together with all of the appurtenances thereto to the provisions of Chapter 47C of the North Carolina General Statutes, (NORTH CAROLINA CONDOMINIUM ACT), and hereby declares the same to be known and identified as "1300 ST. MARY'S, a condominium." Declarant will convey said property subject to certain protective covenants, conditions and restrictions as hereinafter set forth.

2. PROPERTY DESCRIPTION.

All that certain property situated, lying and being in Wake County, North Carolina, and being more particularly described on the schedule marked Exhibit "A" attached hereto and incorporated herein by reference (the "Property"), together with the improvements to be constructed thereon as referenced in Exhibit "B", including complete descriptions and plans of the units with their respective locations and dimensions. A more specific description can be found in Condominium File CM7014 Wake County Registry which is incorporated herein by reference. Such plans bear a verified statement that they are an accurate copy of the building plans.

3. FORM OF ADMINISTRATION.

The property of the Condominium and its business shall be managed, controlled, directed and administered by the 1300 St. Mary's Condominium Homeowners Association Inc. (hereinafter the "Association") as provided in the Articles of Incorporation and By-Laws of the Association, which Articles of Incorporation and By-Laws are attached hereto as Exhibits "C" and "D" and made a part hereof. Each Unit Owner shall be member of the Association.

All powers granted in this Declaration or the By-Laws to the Association shall be exercisable by the Board of Directors, except as expressly provided in the Declaration, the By-Laws, or Chapter 47C of the North Carolina General Statutes.

Declarant shall transfer control of the Association to the Unit Owners on or before November 1, 2016.

#### 4. UNIT DESIGNATION.

Declarant does hereby establish within the Property thirty five (35) units, and does hereby designate all such units for separate ownership. Each unit owner's interest in the estate will be held in fee simple. Each unit is identified by a specific numerical designation with a separate street address as shown on Exhibit "B1". Each unit is bounded both as to horizontal and vertical boundaries by the interior surface of its perimeter walls, ceilings, and floors, which are shown on the aforesaid plans filed in the Wake County Registry. Mechanical equipment, stairways, and appurtenances located within any unit and designed to serve only that unit shall be a part of the unit.

Each Unit Owner has an unrestricted right of ingress and egress to his or her unit, unless same is limited as a result of special uses noted in paragraph 12 herein. This right shall be perpetual and it shall pass with the unit estate as transfers of unit ownership might occur. Any conveyance, encumbrance, judicial sale or other transfer (voluntary or involuntary) of an individual interest in the common elements will be void unless the unit to which that interest is allocated is also transferred.

#### 5. PARTY WALLS.

The walls, flooring and ceilings connecting adjacent units are "party walls" and are situated on or about the boundary line separating units. In the case of any walls, flooring and ceilings that are herein described as party walls, all furring, wallboard, paneling, tiles, wallpaper, paint, finished flooring and any other materials constituting any part of the finished flooring, and any other materials constituting any part of the finished surfaces thereof are a part of the unit and all other portions of such walls, floors or ceilings are a part of the common elements, pursuant to GS 47C-2-102(1).

Each wall which is built as a part of the original construction of a unit and placed on the dividing line between the units shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use. Notwithstanding any other provisions of this Declaration, a Unit Owner who by his negligent or willful act causes a party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

#### 6. COMMON AREAS AND FACILITIES.

The common areas and facilities consist of all parts of the multi-unit building situated on the Property other than individual units therein. The Association shall have the responsibility for maintaining the common areas and facilities. The common areas and facilities shall include without limitation the following:

- (a) The land on which the building is erected and all land described in Paragraph 2 above.
- (b) All foundations, columns, girders, beams, supports and other structural members.
- (c) The roof and all exterior walls and interior walls except those partition walls and all ceilings, floors, and stairways wholly within a unit.
- (d) All central appurtenant installments for operations and for services such as power, lights, telephone, security system, cable TV, elevator, cold water for common building usage, heat and air conditioning for common

building usage, including pipes, ducts, wiring, cables and conduits, whether located in common areas or in units and all other central mechanical equipment spaces.

(e) All waterlines, storm drainage pipes and structures, sanitary sewer pipes and sanitary sewer system.

(f) All of the parts of the property and all apparatus installations existing in the building or upon the property for common use necessary or convenient to the existence, maintenance, or safety of the property.

(g) All landscaping and all other site improvements including, but not limited to, trash collection areas and equipment related thereto; all designated recreation areas (if any); all driveways, alleys and sidewalks; all unassigned parking spaces on the Property; and all equipment rooms, lobbies and lobby closets (if any).

#### 7. LIMITED COMMON AREAS AND FACILITIES.

Limited Common Areas and Facilities shall mean and include those common areas and facilities reserved for use by a certain Unit or Units to the exclusion of other Units, including any deck, open porch, patio, and stoop, steps which directly connect the unit to the public sidewalk, balcony, garage or any assigned parking spaces on the Property. Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy such Limited Common Areas and Facilities as are associated with such Unit Owner's Unit. The Declarant shall have the exclusive right to assign each parking space in the condominium parking facilities and each storage space on the first floor and in the garage building. Until such time as they are allocated to a specific Unit, parking spaces and storage spaces shall remain under the exclusive control of the Declarant, and the Declarant may sell, lease, and/or transfer the right to use said parking spaces and storage spaces in Declarant's sole discretion. The cleanliness and orderliness of the Limited Common Areas and Facilities shall be the responsibility of the individual Unit Owner, but the responsibility for maintenance, painting, repair and replacement thereof, together with control over the exterior decoration of same, shall be and remain with the Association. Some Unit Owners may have more or less Limited Common Areas than others. There are no Limited Common Areas and Facilities except as provided in this Paragraph 7.

#### 8. PERCENTAGE OF OWNERSHIP IN COMMON AREAS.

Each unit shall have a fee simple undivided ownership interest in the common areas as more specifically set forth in Exhibit B2 attached herewith. Except as provided in Paragraphs 22 and 24 of this Declaration, the percentage of common area per unit shall not be changed without the unanimous consent of the owners herein.

Every owner of a Unit shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit which is subject to assessment.

Each Unit together with its undivided interests in the common areas and facilities, shall, for all purposes be and is hereby declared to be, and to constitute a separate parcel of real property and the Unit Owner thereof shall be entitled to the exclusive ownership and possession of his unit subject only to the covenants, restrictions, and easements herein and by the By-Laws, rules, regulations and resolutions adopted pursuant thereto.

#### 9. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS.

The Declarant, for each unit owned within the Property, hereby covenants, and each owner of any unit by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association the annual assessments or common charges to be established and collected as hereinafter provided. All units will be allocated full assessments no later than sixty days after the first unit is conveyed.

The annual and special assessments, together with the interest, and costs and reasonable attorney's fees incurred in the collection thereof, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest and costs and reasonable attorney's fees incurred in the collection thereof, shall also be the personal obligation of the person (or persons) who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

DR0100001 001201

The assessments levied by the Association shall be used exclusively to promote and protect the recreation, health, safety, and welfare of the residents, for the improvement and maintenance of the common areas and facilities, the building and improvements situated upon the Property, and to pay ad valorem taxes and public improvement assessments levied against the common areas. The assessments shall not cover any charges due to be paid to associations to which the Association is subordinate.

Any lien for delinquent common expense assessments or other charges that the Association has on a unit will be subordinate to a first mortgage on the unit, if the mortgage was recorded before the delinquent assessment was due. Any such lien for a common expense assessment will not be affected by the sale or transfer of the unit estate, unless a foreclosure of a first mortgage is involved, in which case the foreclosure will extinguish the lien for any assessments that were payable before the foreclosure sale, but will not relieve any subsequent Unit Owner from paying further assessments.

#### 10. WORKING CAPITAL FUND.

A working capital fund shall be established by the Declarant in order to meet unforeseen expenditures or to purchase any additional equipment or services. The working capital fund shall be initially funded by the Declarant in an amount equal to two months of the estimated common charges for each unit. The Declarant is expressly prohibited from using the working capital funds to defray any of its expenses, reserve contributions or construction costs or to make up any budget deficits while it is in control of the Association. Each unit's share of the working capital fund shall be collected at the time the sale of the unit is closed. Any amounts paid into this fund shall not be considered as advance payments of regular assessments. At such time that each unit's share of the working capital fund is paid in by a Unit Owner as provided herein, the Declarant shall be reimbursed out of the working capital fund for that amount previously paid by the Declarant to the working capital fund on behalf of the unit. The working capital fund shall be transferred to the Association for deposit to a segregated fund when control of the Association is transferred to the Unit Owners by the Declarant.

#### 11. AMOUNT OF LIEN.

The lien for each unit as described in Paragraph 9 above shall be based on the percentage share in common areas as described in Paragraph 8 above. Said lien shall be perfected upon filing in the Office of the Clerk of Superior Court, Wake County, North Carolina.

The Grantee of a unit shall be jointly and severally liable with the Grantor for all unpaid assessments against the latter for his proportionate share of the common expenses up to the time of the grant or conveyance, without prejudice to the Grantee's right to recover from the Grantor the amounts paid by the Grantee therefor. However, any such Grantee shall be entitled to a statement from the manager or Board of Directors, as the case may be, setting forth the amount of the unpaid assessments against the Grantor and such Grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessment in excess of the amount therein set forth.

12. USE OF BUILDING. The use of the property of the condominium shall be in accordance with the following provisions:

The building and each of the units (35 total) shall be used only for residential purposes.

A limited number of enclosed parking garages, if any, located on the Property shall be assigned to certain Unit Owners.

The use of the building and units are further restricted by the By-Laws of the Association. No unit may be subdivided into smaller units or any portions thereof sold or otherwise transferred without first amending the By-Laws to show the changes in the units to be effected thereby.

No more than two persons over the age of eighteen unrelated by blood or marriage shall reside in any single unit for more than thirty consecutive days in any one calendar year.

The common areas and facilities shall be used only for the purposes for which they are intended and the furnishing of services for the enjoyment of the units.

No noxious or offensive activity shall be conducted upon any unit nor shall anything be done thereon which may be or may become an annoyance or nuisance or shall interfere with the peaceful possession or quite enjoyment of property by Unit Owners.

No animals, livestock or poultry of any kind shall be kept or maintained on any unit or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. All household pets shall be kept on a leash at all times when outside the units.

No outside radio or television antennas, including satellite dishes or receivers, shall be erected on any unit unless and until permission for the same has been granted by the Association.

No signs shall be permitted on or about the units. No signs shall be installed on the building face.

All window coverings (i.e., curtains, blinds, draperies, shades, etc.) shall be installed and maintained in accordance with rules and regulations created by the Association to regulate same.

Unit Owners shall not park or store any boat, camper, trailer, trailer vehicle, or similar vehicle anywhere on the premises. No trucks shall be permitted except for standard 2-ton or less pickup trucks or smaller sized trucks.

Any lease or rental agreements involving the units shall be in writing and shall be subject to the requirements of the Association documents and Association rules and regulations governing same.

### 13. PERSON TO RECEIVE SERVICE OF PROCESS.

G. Roland Gammon, III is hereby designated to receive service of process in any action which may be brought against or in relation to this condominium. The address of such person is: Twenty One Glenwood Avenue, Suite 203, Raleigh, NC, 27603. The person so designated to receive service of process may be changed by the Board of Directors.

### 14. EASEMENTS.

Each Unit Owner shall have an easement in common with all other owners over all other units to use all pipes, wires, ducts, cables, conduits, public utilities and other common facilities located in any of the other units and serving each unit. Except as provided in Paragraph 12, the Declarant hereby conveys to each Unit Owner an easement and right of access to any and all common areas, open spaces, yards and parking areas for the common use of all owners. The Association shall have the right to establish the rules and regulations pursuant to which the owner of any unit, and family, guests and invitees may be entitled to use the common areas.

Each unit shall be subject to an easement in favor of the other owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving other units located in such unit. The Board of Directors shall have the right of access to each unit to inspect the same, to remove violations therefrom and maintain, repair, or replace facilities contained therein or which serve other units in the building. Each Unit Owner shall specifically have an easement to maintain all components of the heating and air conditioning system serving his unit in their present location as shown in the plan attached hereto.

The Board of Directors may hereafter agree that easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair, and replace water lines, pipes, sewer lines, telephone wires and electrical conduits, wires over, under and along any portion of the common areas in each unit hereby grants the Board of Directors irrevocable power of attorney to execute, acknowledge, and record for and in the name of each Unit Owner such instruments as may be necessary to effectuate the foregoing. An easement is hereby established over all common areas for the benefit of applicable governmental agencies for the setting, removing, and reading of water meters, maintaining and replacing water, drainage and drainage facilities, fire fighting, law enforcement, garbage collection and the delivering of mail.

All water lines which serve the development not located in public street rights-of-way and all sewer lines which serve the development and not located in either public street right-of-way shall be owned and maintained by the Association.

#### 15. DISCLAIMER BY CITY OF RALEIGH

Pursuant to its Municipal Code, the City of Raleigh refuses to be responsible for failing to provide any emergency or regular public service to such developments or their occupants when such failure is due to the lack of access to certain roads or streets that are not public due to inadequate design or construction, blocking of access routes or any other factor within the control of the Declarant, Association, or occupants. The Raleigh Fire Department has similar policies and thereby refuses to be responsible for failing to provide any emergency or regular service to such developments or their occupants when such failure is due to the lack of access to certain roads or streets that are not public due to inadequate design or construction, blocking of access routes or any other factor within the control of the Declarant, Association, or occupants.

Accordingly, the Board of Directors is hereby empowered to make all efforts to assure that there is adequate access to all units and shall not allow any blocking of access or defects in access to remain uncorrected.

#### 16. PARTITIONING.

The common areas and facilities shall not be divided nor shall any right to a partition thereof exist. Nothing herein contained ever shall be deemed to prevent ownership of a condominium unit by the entireties, jointly or in common or in other form permitted by law.

#### 17. DAMAGE, DESTRUCTION AND CONDEMNATION.

Except as herein provided, upon receipt of insurance proceeds, damage to or destruction of the building shall be promptly repaired and restored by the Board of Directors. If the cost of such repair and restoration exceeds the amount of insurance proceeds received by the Association, the Unit Owners shall be liable for assessment of any deficiency; provided, however, each Unit Owner shall be responsible for payment of the costs and repairs to his Unit that are not covered by insurance due to the applicability of any deductible provision, and if more than one unit is damaged, the affected Unit Owners shall pay the cost of the deductible in proportion to the damages sustained. Notwithstanding the foregoing if the building be more than two-thirds destroyed by fire or any other casualty or the same taken by condemnation and the owners of 67% of the units and 51% of the votes of units estates that are subject to mortgages held by eligible mortgage holders resolve not to proceed with reconstruction or restoration, then in that event, the property shall be deemed to be owned as tenants in common by the Unit Owners and subject to the provisions of North Carolina General Statutes Section 47C-2-118 as the same exists as the date hereof.

Implied approval by an eligible mortgage holder shall be assumed when an eligible mortgage holder fails to submit a response to any written proposal within sixty (60) days after it receives proper notice of the proposal, provide the notice was delivered by certified mail or registered mail with a "return receipt" requested.

In any related proceedings, negotiations, settlements or agreements, the Association shall be designated to represent the Unit Owners. In such event, each Unit Owner shall appoint the Association as an attorney-in-fact for this purpose. The Association shall appoint an Insurance Trustee to act on behalf of the Unit Owners in connection with the settlement of any condemnation awards or insurance claims and to administer the allocation of proceeds among the various interested parties.

Any losses, awards or proceeds from the condemnation, destruction or liquidation of all or a part of the property shall be payable to the Association's Insurance Trustee for the benefit of the Unit Owners and their mortgage holders. Any distribution of funds in connection with the termination of the project shall be made based on the relative value of each unit and in accordance with the formula that is used to determine the Unit Owner's individual interest in the common elements.

DR010303F 001204

Any reconstruction or repair shall be in accordance with the plans and specifications of the original building, portions of which are attached hereto.

#### 18. INSURANCE.

The insurance which shall be carried upon the property shall be governed by the following provisions:

(i) Casualty or physical damage insurance shall be carried in an amount equal to the full replacement value (i.e., 100% of full "replacement cost") of all buildings and all improvements on the Property owned either by the Association or the Unit Owners and all personal property included within the Property described in Exhibit "A" hereto, except such personal property as may be owned by the Unit Owners with a replacement cost endorsement and an inflation guard endorsement, without deduction or allowance for depreciation (as determined annually by the Board of Directors with the assistance of the insurance company affording such coverage), such coverage to afford protection against at least the following:

(a) loss or damage by fire or other hazards covered by the standard coverage endorsement together with coverage for common expenses with respect to condominium units during any period of repair or reconstruction; and

(b) such other risks as from time to time customarily shall be covered with respect to buildings similar to the building in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm and water damage, subject to such deductible amounts not in excess of Two Thousand Five Hundred Dollars (\$2,500.00) as the Board of Directors shall determine. All Casualty Insurance policies shall be purchased by the Association for the benefit of the Association, the Unit Owners and their respective mortgagees, as their interests may appear and shall provide (a) for the issuance of certificates of insurance with mortgagee endorsements to the holders of mortgages on the Units, if any, and (b) that the insurer waives its rights of subrogation against the Unit Owners, Occupants and the Unit Owners Association. All casualty insurance policies shall provide that all proceeds payable as a result of casualty losses shall be paid to the Board of Directors as trustees, for each of the Unit Owners in the percentages established in this Declaration for the purposes elsewhere stated herein, and for the benefit of the Association, the Unit Owners, and their respective mortgagees as their interests may appear.

(ii) The Association shall insure itself, the members of the Board, the Unit Owners, and the Occupants against liability for personal injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Condominium Project or any portion thereof, including, without limitation, water damage, legal liability, hired automobile, non-owned automobile and off-premises employee coverage, such insurance to afford protection in such amount and with such coverage as shall be deemed necessary by the Association. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner. In the event the insurance effected by the Association on behalf of the Unit Owners and Occupants against liability for personal injury or property damage arising from or relating to this Condominium Project shall, for any reason, not fully cover any such liability, the amount of any deficit shall be a Common expense to the Unit Owners, and any Unit Owners who shall have paid all or any portion of such deficiency in an amount exceeding his proportionate share thereof based on his percentage of interest in the common areas shall have a right of contribution from the other Unit Owners according to their respective percentage of interest in the common areas. Notwithstanding the foregoing, in the event a covered loss arises out of a condition located wholly within a unit, the Owner of said unit shall be solely responsible for any applicable deductible. If not promptly paid, the Association may assess the Unit Owner and the same shall become a lien against the unit as provided herein.

(iii) Premiums upon insurance policies purchased by the Association shall be paid by the Association at least thirty (30) days prior to the expiration date of such policies and shall be assessed as Common expenses.

(iv) All insurance policies shall be written with a company or Companies licensed to do business in the State of North Carolina and holding a rating of "A+" or better in Best's Insurance Guide.

(v) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors or its authorized representative.

(vi) In no event shall the insurance coverage obtained and maintained pursuant to the requirements hereof be brought into contribution with insurance purchased by the Owners of the condominium units or their mortgagees, as herein permitted, and any "no other insurance" or similar clause in any policy obtained by the Unit Owners Association pursuant to the requirements hereof shall exclude such policies from consideration.

(vii) All policies shall provide that such policies may not be canceled or substantially modified without at least thirty (30) days prior written notice to any and all insureds named thereon, including any and all mortgagees of the condominium units.

(viii) All policies of casualty insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Board of Directors (or any Insurance Trustee) or when in conflict with the provisions of this Declaration or the provisions of the North Carolina Unit Condominium Act as the same may be in force from time to time.

(ix) All policies of insurance shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Board of Directors thereof, the Owners of any condominium unit and/or their respective agents, employees or invitees, and any defenses based upon co-insurance or invalidity arising from the acts of the insureds.

(x) Notwithstanding anything herein to the contrary, in the event of a loss covered by the insurance described in Article 18(i) of this Declaration, each Unit Owner shall be responsible for payment of the costs and repairs to his Unit that are not covered by insurance due to the applicability of any deductible provision, or if more than one unit is damaged, the affected Unit Owners shall pay the cost of the deductible in proportion to the damages sustained. If not promptly paid, the Association may assess the Unit Owner(s) and the same shall become a lien against the unit(s) as provided herein.

#### 19. UNIT OWNERS POLICIES OF INSURANCE.

The Unit Owner of any condominium unit shall obtain and keep in force, at the Unit Owner's expense, a condominium unit owners insurance policy (an HO-6 policy or a policy providing equivalent coverage). Said policy shall at a minimum provide coverage for (i) any improvements and betterments to the unit made or acquired at the expense of the Unit owner and (ii) any gap insurance that may exist by virtue of the deductible applicable to the Association's master insurance policy maintained pursuant to Article 18(i). It is recommended that Unit Owners also obtain coverage in sufficient amounts to insure against loss or damage to personal property used in or incidental to the occupancy of the condominium unit, additional living expenses, vandalism or malicious mischief, theft, personal liability and the like. Every Unit Owner shall provide to the Board of Directors upon request a copy of the Unit Owner's policy of insurance or other certificate of coverage evidencing the existence of the insurance required herein.

#### 20. UNITS SUBJECT TO DECLARATION.

All present and future owners, tenants, occupants of units and employees of owners and tenants shall be subject to, benefited by and shall comply with the provisions of this Declaration, by the By-Laws and any rules and regulations as may be adopted in accordance with the By-Laws. In accordance herewith, the Declaration, By-Laws and rules and regulations may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, By-Laws, and any rules and regulations which may be adopted are accepted and ratified by such owner, tenant, or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though provisions were made a part of each and every deed, conveyance or lease. When there are unsold units in the project, the Declarant also

shall enjoy the same rights and assume the same duties under this Declaration as they relate to each unsold unit but for the payment of assessments on unsold and unoccupied units (see Paragraph 9).

## 21. CONSTRUCTION.

In interpreting any and all provisions of this instrument, the Exhibits attached hereto and subsequent deeds and deeds of trust covering individual units, the actual location of the unit shall be deemed conclusively to be the property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally or vertically, from the locations indicated in Condominium File ~~C-17046~~ Wake County Registry or in minor variations in the description of the unit contained herein. To the extent that such minor deviations in location do or shall exist, a valid easement therefor and for the maintenance thereof does and shall exist.

## 22. AMENDMENT.

The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended only by the affirmed vote of or a written agreement signed by Unit Owners of units to which at least sixty-seven (67%) of the votes in the Association are allocated.

Amendments of a material nature shall be agreed to by Unit Owners of units to which at least sixty-seven percent (67%) of the votes in the Association are allocated and by eligible mortgage holders who represent at least fifty-one percent (51%) of the votes of units that are subject to mortgages held by eligible mortgage holders. The term "eligible mortgage holders" shall mean those holders of a first mortgage on a condominium unit who have submitted a written request that the Association notify them of any proposed action requiring the consent of a specified percentage of eligible mortgage holders.

No amendment to the Declaration shall be effective until duly recorded in the Office of the Register of Deeds of Wake County, North Carolina. Upon recording, all Unit Owners and their successors and assigns shall be bound by said amendment.

A material change shall be considered as one which changes any of the following:

- voting rights;
- increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or the priority of assessment liens;
- reductions in reserves for maintenance, repair, and replacement of common elements;
- responsibility for maintenance and repairs;
- reallocation of interests in the general or limited common elements or rights to their use;
- redefinition of any unit boundaries;
- convertibility of units into common elements or vice versa;
- expansion or contraction of the project, or the addition, annexations, or withdrawal of property to or from the project;
- hazard or fidelity insurance requirements;
- imposition of any restrictions on the leasing of units;

- imposition of any restrictions on a Unit Owner's right to sell or transfer his or her unit;
- a decision by the Association to establish self-management if professional management had been required previously by Association documents or by an eligible mortgage holder;
- restoration or repair of the project (after damage or partial destruction) in a manner other than that specified in the documents; or
- any provisions that expressly benefit mortgage holders, insurers or guarantors.

Implied approval by an eligible mortgage holder shall be assumed when an eligible mortgage holder fails to submit a response to any written proposal for an amendment within sixty (60) days after it receives proper notice of the proposal, provided the notice was delivered by certified mail or registered mail with a "return receipt" requested.

This Declaration may further be unilaterally amended by the Declarant for the purpose of recording a verified statement of a registered architect or licensed professional engineer certifying that the plans heretofore filed or being filed simultaneously with such amendment fully depicting the layout, ceiling and floor elevations, unit numbers and dimensions of the units as built.

### 23. RIGHTS OF CONDOMINIUM MORTGAGE HOLDERS, INSURERS OR GUARANTORS

Upon receipt of written request by a holder, insurer or guarantor of a mortgage on any unit in the project, the Association shall furnish timely written notice regarding the following:

- any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage;
- any 60-day delinquency in the payment of assessments or charges owed by the Unit Owner of any unit on which it holds the mortgage;
- a lapse, cancellation or material modification of any insurance policy maintained by the Association; and
- any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

Any interested mortgage holder, insurer, or guarantor shall send a written request to the Association stating both its name and address and the unit number or address of the unit on which it has (or insurers or guarantees) the mortgage.

### 24. ARBITRATION.

The Association, the Board of Directors and each Unit Owner, by accepting a deed to a unit, agrees that any party may require that any unresolved matter between the parties be submitted to binding arbitration pursuant to the Uniform Arbitration Act set forth in N.C. Gen. Statute 1-567.1 et seq. as the same shall be amended from time to time. The fees and expenses of arbitration shall be paid as set forth in the award and shall not be common expense unless all Unit Owners so agree in writing or unless such award is to be paid by the Association.

### 25. SEVERABILITY.

The invalidity of any provisions of the Declaration shall not be deemed to impair or affect in any manner the validity and enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provisions had never been included herein.

26. WAIVER.

No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

27. GOVERNING LAW.

This Declaration and the By-Laws attached hereto shall be construed and controlled by and under the laws of the State of North Carolina.

28. DEFINITION.

Any terms used herein which are defined in the North Carolina Condominium Act shall have the meaning specified in the Act unless a contrary intention fairly appears.

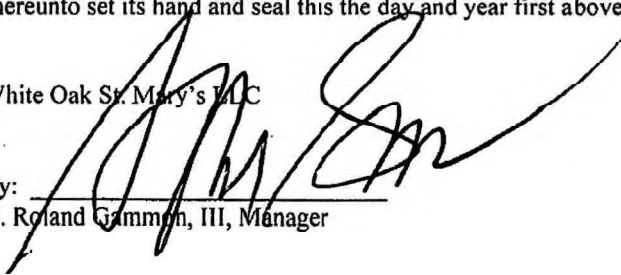
29. RESERVATION OF DECLARANT RIGHTS.

Declarant reserves the following special Declarant rights for the Property:

- a) To combine or reconfigure the interior dimensions of Units within the condominium such that the resultant number of units might be more or less than thirty five (35) provided that in so doing, no changes shall extend beyond the exterior of the building.
- b) To file amended or supplemental instruments to make this Declaration of Condominium applicable to such changes or reconfiguration of Units.
- c) To change the percentage of interest in the common areas and facilities allocated to each unit based upon the results of its combining or reconfiguring Units as provided herein.

IN WITNESS WHEREOF, the Declarant has hereunto set its hand and seal this the day and year first above written.

White Oak St. Mary's LLC

By:   
G. Roland Gammon, III, Manager

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I certify that the following person personally appeared before me this day, acknowledging to me that to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: G. Roland Gammon, III, Manager of White Oak St. Mary's LLC.

Date: 8/23/16



Signature of Notary Public: Lisa Knox Rose

Printed/Typed Name of Notary: Lisa Knox Rose

My Commission Expires: 10/05/2018

Declaration of Condominium  
Exhibit A

## PROPERTY DESCRIPTION

BEGINNING at a point on the new eastern right of way line of St. Mary's Street, which point forms the southwestern corner of that parcel of land conveyed to Thirteen Thirty Corporation by deed recorded in Book 1424, Page 455, Wake County Registry, thence along said Thirteen Thirty Corporation property line South 77 degrees 15 minutes East a distance of 235 feet to a point, which point forms the southeasterly corner of said Thirteen Thirty Corporation property; thence South 12 degrees 45 minutes West a distance of 20 feet to a point; thence South 7 degrees 41 minutes West a distance of 298.8 feet to a point in the new northern right of way line of Wade Avenue; thence along said new northern right of way line of Wade Avenue South 87 degrees 34 minutes West a distance of 174 feet to a point at the intersection of the new eastern right of way line of St. Mary's Street and the new northern right of way line of Wade Avenue; thence along the new eastern right of way line of St. Mary's Street the following courses and distances: North 23 degrees 4 minutes West a distance of 71.7 feet, North 13 degrees 34 minutes East a distance of 30 feet, North 11 degrees 57 minutes East a distance of 50 feet, North 9 degrees 49 minutes East a distance of 5.0 feet, North 6 degrees 52 minutes West a distance of 92 feet, North 8 degrees 23 minutes East a distance of 10 feet, North 4 degrees 38 minutes East a distance of 100 feet and North 0 degrees 41 minutes East a distance of 25 feet to the point and place of BEGINNING.

Together with a perpetual, unobstructed and non-exclusive right of way for ingress and egress to and from the lands described hereinabove over and along a strip of land 235 feet in length and 20 feet in width immediately adjacent to and bounding the northern line of the land herein described, said right of way being the same conveyed to Raleigh Doctors Building, Inc. by deed recorded in Book 1559, Page 684 of the Wake County Registry.

Description of Building and Units

**1300 St. Mary's Street** is a single building containing a total of thirty-five (35) residential condominium units of varying sizes situated in Raleigh, North Carolina. The property is located at the northeast corner of the intersection of Wade Avenue and St. Mary's Street. The five story building is a complete renovation and modernization of a former commercial office building. The building frame—beams, columns, roof and floors are constructed of concrete. The exterior is principally cementitious panels with some brick masonry. The roof is a rubber membrane. HVAC systems are electric heating and air conditioning.

Unit Designation and Address

|                  |                                                                                                                      |
|------------------|----------------------------------------------------------------------------------------------------------------------|
| Unit sizes vary. | Each unit has immediate access to the common areas as follows:                                                       |
| Stairwells:      | Two                                                                                                                  |
| Elevators:       | One                                                                                                                  |
| Surface parking: | Located in a surface lot which surrounds the building plus there are nine individually owned garages on the premises |
| Amenity:         | A small pool is provided for the benefit of the unit owners and their guests.                                        |

Unit addresses are shown on Exhibit B1.

**1300 St. Mary's Condominium Homeowners Association Inc.**  
**Exhibit B1 Unit Addresses**

|                               |     |                    |
|-------------------------------|-----|--------------------|
| 1300 St. Mary's Street Unit-- | 101 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 103 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 201 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 202 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 203 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 204 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 205 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 206 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 207 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 208 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 209 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 301 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 302 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 304 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 305 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 306 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 307 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 308 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 309 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 401 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 402 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 403 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 404 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 405 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 406 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 407 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 408 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 409 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 501 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 503 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 504 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 505 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 506 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 507 | Raleigh, NC, 27605 |
| 1300 St. Mary's Street Unit-- | 508 | Raleigh, NC, 27605 |

**1300 St. Mary's Condominium Homeowners Association Inc.**  
**Exhibit B2: Schedule of Percentage Ownership of Common Areas**

| <b>Unit #</b> | <b>Approx.<br/>Unit SF</b> | <b>% of<br/>total SF</b> |
|---------------|----------------------------|--------------------------|
| 101           | 1,695                      | 4.232%                   |
| 103           | 1,474                      | 3.680%                   |
| 201           | 1,229                      | 3.069%                   |
| 202           | 916                        | 2.287%                   |
| 203           | 916                        | 2.287%                   |
| 204           | 1,229                      | 3.069%                   |
| 205           | 530                        | 1.323%                   |
| 206           | 1,165                      | 2.909%                   |
| 207           | 760                        | 1.898%                   |
| 208           | 1,151                      | 2.874%                   |
| 209           | 1,324                      | 3.306%                   |
| 301           | 1,229                      | 3.069%                   |
| 302           | 1,832                      | 4.574%                   |
| 304           | 1,229                      | 3.069%                   |
| 305           | 530                        | 1.323%                   |
| 306           | 1,165                      | 2.909%                   |
| 307           | 760                        | 1.898%                   |
| 308           | 1,151                      | 2.874%                   |
| 309           | 1,324                      | 3.306%                   |
| 401           | 1,472                      | 3.675%                   |
| 402           | 916                        | 2.287%                   |
| 403           | 916                        | 2.287%                   |
| 404           | 1,229                      | 3.069%                   |
| 405           | 530                        | 1.323%                   |
| 406           | 1,165                      | 2.909%                   |
| 407           | 760                        | 1.898%                   |
| 408           | 760                        | 1.898%                   |
| 409           | 1,472                      | 3.675%                   |
| 501           | 2,388                      | 5.963%                   |
| 503           | 916                        | 2.287%                   |
| 504           | 1,229                      | 3.069%                   |
| 505           | 530                        | 1.323%                   |
| 506           | 1,165                      | 2.909%                   |
| 507           | 760                        | 1.898%                   |
| 508           | <u>2,232</u>               | <u>5.573%</u>            |
|               | <u>40,049</u>              | <u>100%</u>              |