

WAKE COUNTY, NC 3
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
08/08/2012 AT 08:40:03

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DECLARATION
OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS
FOR
DOROTHEA GARDENS

Prepared by and return to: Benjamin H. Hervey, Hervey & Hervey P.A.
701 E. Chatham St., Ste. 205, Cary, NC 27511
(Box 242)

THIS DECLARATION, made on the date hereinafter set forth by **Cityspace Homes, LLC and HM International Holdings, LLC** with their principal offices located at 514-338 Daniels Street, Raleigh, NC 27605 hereinafter collectively referred to as “Declarant”.

WITNESSETH :

WHEREAS, Declarant is the owner of certain parcels of property in the City of Raleigh, County of Wake, State of North Carolina, commonly referred to as “Dorothea Gardens”, which is more particularly described on Exhibit “A” attached hereto;

WHEREAS, it is the desire and intention of Declarant (as defined herein) to impose on that Property described in Exhibit “A” attached hereto restrictions, conditions, easements, covenants and agreements under a general plan or scheme of improvement for the benefit of all Property herein described and the future owners thereof; and,

WHEREAS, the Property shall be comprised of single family residential lots and associated open space.

NOW, THEREFORE, Declarant hereby declares that all of the Property described on Exhibit “A” shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the Property and be binding on all parties having any right, title or interest in the described Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Articles" shall mean the Articles of Incorporation of the Association as filed with the Secretary of State, State of North Carolina, as the same may be from time to time amended.

Section 2. "Association" shall mean and refer to the Dorothea Gardens Community Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 3. "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 4. "Bylaws" shall mean the document for governance of the Association as adopted initially by the Board and as amended by the Members.

Section 5. "Common Properties" shall mean all real property and any improvements constructed thereon, if any, owned by the Association for the common use and enjoyment of the Owners or members of the Association, as may be designated on any subdivision map of the Property or by the Association. Specifically, Common Properties shall include but not be limited to those areas designated on any recorded map of the Subdivision as "Open Space", "Future Amenities" and "Utility Easements", and any other area identified as "Common Space by the Board.

Section 6. "Common Expenses" shall mean and include, as applicable:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses for maintenance of the Common Properties, any landscaping performed by the Homeowners Association whether or not it is located in Dorothea Gardens or adjacent property and, as determined by the Homeowners Association or the Board, maintenance within any of the easements, cross access areas and any amenities as provided in this Declaration;
- (c) Expenses of administration, maintenance, repair, or replacement of the Common Properties and cross access areas, and the expenses of maintenance of any sign, lighting, irrigation, berms, fences buffers and landscaping located on any of the Common Properties, or any landscaping on adjacent property that is maintained for the overall beautification for Dorothea Gardens, and any easements within Dorothea Gardens.
- (d) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;
- (e) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase; or as the Association may deem appropriate to purchase;
- (f) Ad valorem taxes and public assessment charges lawfully levied against Common Properties;
- (g) The expense of the maintenance of private drainage and utility easements and facilities located therein which are within the boundaries of the Property, cross Common Properties of the Property and serve both the Property and lands adjacent thereto;

- (h) The expense of the maintenance of all easements and landscaping and improvements thereon, conveyed to the Association;
- (i) Unpaid assessment following the foreclosure of a first mortgage or first deed of trust;
- (j) Any other expenses determined by the Board or approved by the members to be common expenses of the Association.

Section 7. “Declarant” shall mean and refer to Cityspace Homes, LLC and HM International Holdings, LLC, both North Carolina limited liability companies, as well as their successors and assigns, if Declarant shall make an express conveyance of its rights as developer hereunder to such successor or assign. Any action of the Declarant referred to herein shall mean an action collectively taken by or approved by Cityspace Homes, LLC and HM International Holdings, LLC unless otherwise stated.

Section 8. “Lot” shall mean and refer to any plot or Tract of land shown upon any recorded subdivision map of the Property and/or identified on Exhibit A, as such map or maps may be from time to time be amended or modified, for detached single-family residential use, designated for residential use and for separate ownership and occupancy.

Section 9. “Member” shall mean and refer to every person or entity that holds membership in the Association.

Section 10. “Notice” required to be given herein shall be in writing and mailed by U.S. mail, postage prepaid, first class to the address of any Member on the records of the Association or shall be hand delivered to the Member.

Section 11. “Owner” or “Lot 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 Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. A consumer-occupant Lot owner is a Lot owner who occupies the residence on the Lot or purchases a lot for rental.

Section 12. “Person” shall mean and refer to any individual, corporation, partnership, association, trustee or other legal entity.

Section 13. “Property” shall mean and refer to that certain real property hereinbefore described on Exhibit "A" hereto attached, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners’ Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Properties together with and including the right of access, ingress and egress, on and over the Common Properties, all of which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights and the right to use the recreational or other Common Element facilities, if any, by an Owner for any period during which any assessment against his Lot remains unpaid, and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(b) the right of the Association to dedicate, sell, lease or transfer all or any part of the Common Properties, or any interest therein, to any public agency, authority, or utility, or to any other person for such purposes and subject to such conditions as may be agreed upon by the Members. No such dedication, sale, lease or transfer shall be effective unless it has been approved by four-fifths (4/5) of each class of members and an instrument of dedication, sale, lease, or transfer properly executed by the Association has been recorded and provided the dedication, sale, lease or transfer is in compliance with applicable governmental regulations. On such instrument the Secretary of the Association shall certify that four-fifths (4/5) of each class of members have approved the dedication, sale, lease or transfer and that certificate may be relied upon by any third party without inquiry and shall be conclusive as to any grantee, its successors or assigns; provided, however, conveyances for general utility purposes, as specified herein, may be made by the Association without consent of the members. Notwithstanding the foregoing, the Declarant may recombine any portion of the Common Properties with a Lot pursuant to the terms of Article VII, Section 16 herein and in accord with applicable governmental regulations and upon approval by the appropriate governmental authority;

(c) the right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Properties and facilities and in aid thereof to mortgage the Common Properties, and the rights of such mortgagee in the Common Properties shall be subordinate to the rights of the members hereunder;

(d) the right of the Association in accordance with its Articles of Incorporation or Bylaws to impose rules and regulations for the use and enjoyment of the Common Properties and improvements thereon, which rules and regulations may further restrict the use of the Common Properties.

(e) the right of Owners of Lots on additional lands annexed to the Property initially, or subsequently, to the easements of enjoyment and rights of ingress, egress and access, as specified above, to the initial Property and all lands included in subsequent phases.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Properties to the members of his family, his tenants, or contract purchasers who reside on the Property, but may not delegate or assign responsibility for the actions of those to whom such right is delegated.

Section 3. Title to the Common Properties. While reserving the right to build and own facilities on the Common Properties and to charge reasonable fees for use of said facilities, the Declarant hereby covenants for itself, its heirs and assigns, that prior to the conveyance of the last lot within Dorothea Gardens, it will convey fee simple title to the Common Properties located within the Property to the Association, free and clear of all encumbrances and liens, except for encumbrances of utility, service, access, storm drainage and other similar service or utility easements. The Association shall be deemed to accept such Common Properties for ownership and maintenance as necessary.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every record Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members; however, the vote for such Lot shall be exercised as they among themselves determine, or as set forth in the Bylaws, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting is prohibited. In the event that two or more Lots are recombined to form one Lot, the owner of the new Lot shall only be entitled to one vote for the new Lot. Likewise, in the event that one Lot is subdivided to form two or more Lots, the owners shall be entitled to one vote per new Lot.

Class B. The Class B Member shall be the Declarant and Declarant shall be entitled to ten (10) votes for each lot as may be developed within the Property. (which property Declarant presently owns, and contemplates developing as additional subdivision lots) under applicable zoning ordinances and regulations, as they may be amended from time to time, if fully developed to maximum density under such ordinances and regulations. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; however, the Class B membership shall be reinstated if thereafter, and before the time stated in subparagraph (b) below, additions are made to the Properties sufficient to give the Class B membership a total number of votes to exceed those of the Class A membership; or,

(ii) Ten (10) years from the date this Declaration is recorded in the Office of the Register of Deeds, Wake County, North Carolina

Section 3. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and the Articles and Bylaws of the Association and according to the provisions of Article II, Section 1(b) herein.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant, and agree to pay to the Association: (1) annual assessments or charges which are Common Expenses, and (2) special assessments for extraordinary maintenance and capital improvements, (3) special assessments for purchase, construction or reconstruction of improvements; and (4) to the appropriate governmental taxing authority, a pro rata share of assessments for public improvement to the Common Properties and public roads if the Association shall default in payment thereof. The annual and special assessments, together with interest and costs, and reasonable attorney's fees for collection, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

The Association shall also have the authority, through the Board of Directors to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any of the provisions of this Declaration which breach shall require the expenditure of time and money or both, by the Association for repair or remedy.

Each Owner covenants for himself, his heirs, successors and assigns, to pay each assessment levied by the Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the payment of such assessment shall be in default and the amount thereof become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the paying of Common Expenses; and, in particular, but not limited to, for the acquisition, improvement and maintenance of Property, services, amenities and facilities, and for the use and enjoyment of the Common Properties, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Properties, the providing for security to the Property, the procurement and maintenance of insurance in accordance with the Bylaws or as deemed appropriate by the Board, the employment of counsel, accountants and other professionals for the Association when necessary, for purposes permitted by the Planned Community Act in Chapter 47 of the General Statutes of North Carolina, and for such other needs as may arise.

Section 3. Amount of Assessment.

(a) Initial Maximum Assessment. To and including December 31, 2012, the maximum annual assessment shall not exceed One Hundred Fifty and no/100 Dollars (\$150.00) per Lot payable annually, and could change with 60 days written notice

(b) Increase by Association. From and after December 31, 2012, the annual assessment imposed by this Association, initially One Hundred Fifty and no/100

Dollars(\$150.00) effective for any year (including 2012) may be increased effectively from and after January 1 of the succeeding year by the Board of Directors, by a percentage which may not exceed twenty (20%) percent. Any budget increasing assessments by less than twenty percent (20%), is ratified unless ninety percent (90%) of the total vote of each class of Members vote to reject the budget at a duly called meeting. The Board of Directors, at its option may declare that a special Refurbishment Assessment be levied against all Lots, unless ninety percent (90%) of the total vote of each class of Members vote to reject it. The Refurbishment Assessment shall be in an amount not to exceed Two Hundred and Fifty and no/100 Dollars (\$250.00) per Lot and may be levied no more than once every five (5) years from the date of the recording of this Declaration. The Refurbishment Assessment shall be used to pay for the cost of enhancing, refurbishing or repairing portions of the Common Properties such as, but not limited to entryway features, lighting and landscaping and the like.

(c) Increase by Members. From and after December 31, 2012, the annual assessment may be increased by a percentage greater than permitted by section 3(b) above 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. The limitations herein set forth shall not apply to any increase in assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(d) Criteria for Establishing Annual Assessment. In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs.

(e) Board Authority. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(f) Declarant Expenses. Until such time as Declarant shall no longer control the Board, Declarant may loan to the Association funds to cover the expenses not otherwise covered by the assessment hereunder.

(g) Attorney's Fees. There shall be an approval by the majority of the votes of the members prior to making a special assessment for attorney's fees or prior to incorporating attorney's fees (other than those typically incurred in the normal management of the Subdivision) into the annual budget on which the annual assessment is based.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, restoration, repair or replacement of a capital improvement upon the Common Properties, any extraordinary maintenance, including vegetation, fixtures and personal property related thereto and any property for which the Association is responsible, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose. Provided, however, the Board of Directors, at its option may declare that a Special Capital Assessment be levied against all Lots, unless ninety percent (90%) of the total vote of each class of Members vote to reject it. The Special Capital Assessment shall be in an amount not to exceed Five Hundred and no/100 Dollars (\$500.00) per Lot and may be levied in emergency situations only, no more than once every five (5) years from the date of the recording of this Declaration. The Special Capital Assessment shall be used to defray the cost of any construction, reconstruction, restoration, repair or replacement of a capital improvement upon the Common Properties. This assessment may not be used for any other purposes including litigation involving the Association.

Section 5. Replacement Reserve. Out of the Common Expenses assessment, the Board shall create and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Properties and any limited common properties which the Association may be obligated to maintain.

Section 6. Notice and Quorum for Any Action Authorized Under Section 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all members not less than 10 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence 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 present, another meeting may be called subject to a minimum seven (7) day, maximum twenty-one (21) day notice requirement, and the required quorum at the subsequent meeting shall be one-half (2) of the required quorum at the preceding meeting. If at a second meeting, the requirement of one-half of the required quorum is not met, then in a subsequent meeting the requirement shall be one-half (1/2) of the required quorum and successive meetings may be held until a quorum is maintained by successively halving the quorum requirement of the prior meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and shall be collected on an annual basis or other periodic basis established by the Board.

Section 8. Date of Commencement of Annual Assessments; Due Dates; Initial Working Capital. The annual assessments provided for herein shall commence as to all Lots at the time of recording of a deed from the Declarant to the initial property owner. Provided, however, that Lots owned by a builder other than the Declarant, of the initial improvements on the Lot ("Builder") shall be assessed at a rate of twenty-five percent (25%) of the amount of the assessment due. The assessments on Lots owned by a Builder shall accrue each month that the Builder owns the Lot and shall not be required to be paid by the Builder until the date of closing of the sale of a Lot from a Builder to a consumer-occupant Lot Owner or the date of rental of a Lot from a Builder. A consumer-occupant Lot Owner shall pay the pro-rata amount of the full annual assessment from the date of closing on any Lot until the first day of the first calendar year following closing of that sale or until the end of such period as the Association chooses to collect the Assessments. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge if it deems appropriate, furnish a certificate 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 issuance.

In addition to the regular assessments to be charged and paid hereunder, each consumer-occupant Lot owner shall, at the time of the initial sale of a Lot by a builder to that consumer-occupant Lot owner, pay to the Association a sum equal to One (1) Year's assessment on that Lot as additional working capital of the Association. These amounts need not be segregated but may be commingled with regular assessment funds. This working capital amount shall be paid by the consumer-occupant Lot Owner notwithstanding the fact that Declarant may have made prior regular assessment payments to the Association on the Lot being sold pursuant to the provisions of the first sentence hereunder.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment levied against a Lot and not paid within thirty (30) days after the due date shall be delinquent, in default, shall be subject to a late charge of Twenty-five and no/100 DOLLARS (\$25.00) per month and shall constitute a lien on that Lot when a claim of lien is filed with the Clerk of Court in Wake County, North Carolina in the manner set forth in N.C. Gen. Stat. § 47F-3-116(g). For any lot in default, the Association may bring an action at law against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, or foreclose the lien against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot.

The lien herein granted unto the Association shall be enforceable pursuant to Article 2A of Chapter 45 of the General Statutes from and after the time of recording a Claim of Lien in the Office of the Clerk of Superior Court in the County in which the Property is located in the manner provided therefore by Article 8 of Chapter 44 of the North Carolina General Statutes, which claim shall state the description of the Lot encumbered thereby, the name of the record owner, the amount due and date when due. The claim of lien shall be recordable any time after thirty (30) days after the due date of the assessment or any installment thereof and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include all assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

Section 10. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage or deed of trust and ad valorem taxes on said Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to such mortgage, first deed of trust, or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but shall not abate the personal obligation of the prior owner. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and any portion of the Property owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

ARCHITECTURAL CONTROL

No site preparation (including, but not limited to grading, elevation work, landscaping, sloping or tree work) or initial construction, erection or installation of any improvements, including but not limited to, buildings, fences, signs, walls, bulkheads, screens, landscaping, plantings, equipment, swimming pools, or other structures shall be commenced, erected, placed, altered or maintained upon any lot, until the plans and specifications showing the nature, kind, shape, height, materials, exterior colors, siding, location and elevations of the proposed improvements relative to their existing and future septic field disposal areas, landscaping or plantings shall have been submitted to, and approved in writing by, as to harmony of external design and location in relation to surrounding structures and topography, an Architectural Committee composed of no fewer than three

(3) persons and no more than eleven (11) persons appointed by the Declarant through and until the date that is five (5) years after commencement of development of the Subdivision, or such earlier date as determined by Declarant in its sole discretion; initial construction on all Lots shall be reviewed and approved by the Declarant until the sale of the final Lot in the Subdivision by the Declarant. After such dates, the Architectural Committee shall be composed of no fewer than three (3) persons and no more than eleven (11) persons, and shall be appointed by the Board. In the event the Architectural Committee fails to approve or disapprove such submission made by any Lot Owner within thirty (30) days after said plans and specifications have been received by the Committee, approval will be deemed to have been approved. Any plans and specifications that contain inaccurate or missing data or information when submitted shall not be deemed to be approved notwithstanding any prior approval by the Committee.

Upon request, the Association, on behalf of the Architectural Committee, shall provide any Owner with a letter stating that any such work, plans and specifications, landscaping or plantings have been approved, and the letter may be relied upon by third parties.

Approval or disapproval by the Architectural Committee of such plans, location or specifications may be based upon any grounds, including purely aesthetic and environmental, which in the sole discretion of the Committee, it shall deem sufficient. Neither the Association, Board, nor the Architectural Committee shall be responsible for any defects in the plans and specifications submitted to it or in any structure erected or improvements made on any Lot.

The Board and the Architectural Committee, or their appointed agents, shall have the right, at their election, but shall not be so required, to enter upon any of the Lots 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.

The Architectural Committee shall have the power to grant, and may allow, variances of, and adjustments of, the restrictions established herein in order to overcome practical difficulties and prevent unnecessary hardships in application of the restrictions contained herein; provided, however, that variances or adjustments are done in conformity with the intent and purposes hereof; and, provided also, that in every instance such variance or adjustment will not be materially detrimental or injurious to other Lots in the immediate neighborhood. Variances and adjustments may be of the height, size, and setback requirements, pursuant to the terms herein, but shall not be limited thereto. No variance shall be permitted if it violates governmental minimum standards. Notwithstanding the foregoing, Declarant shall have the power to grant the above variances and adjustments so long as Declarant has the authority to appoint members to the Architectural Committee.

In the event of the grant of any variance in the restrictions established herein, the Declarant for so long as the Declarant has the authority to appoint members to the Architectural Committee, and thereafter the Association on behalf of the Architectural Committee shall execute a document acceptable in substance to the Association attesting to such grant and the specific nature thereof in form suitable for recording, so that the Lot Owner may record the document in the Registry of the County in which the Lot is located. Such document shall be prepared at the cost of the Lot Owner and shall be binding upon the Declarant, the Association, its successors and assigns, and other Lot Owners and may be relied upon by third parties to evidence the variance approval.

Any purchaser of a lot or institution financing a lot shall rely on the foregoing statement.

The Association, so long as Declarant has authority to appoint members to the Architectural Committee, shall defer architectural approvals and grants of variances to Declarant unless Declarant has voluntarily relinquished control of the Association.

ARTICLE VI

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional property, except as provided in Section 2 of this Article VI, 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, present in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than 15 days nor more than 30 days in advance of the meeting setting forth the purposes of the meeting. The presence of Members or of proxies entitled to cast sixty percent (60%) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to a notice requirement of a minimum of seven (7) days and a maximum of twenty-one (21) days and the required quorum shall be one-half (2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership or two-thirds (2/3) of the Class B membership are not present in person or by proxy, Members not present may give their written assent to the action taken thereat. Subsequent meetings may be held reducing the quorum requirement by one-half at each meeting until a quorum is attained.

Section 2. If within ten (10) years of the date this Declaration is recorded in the office of the Register of Deeds of Wake County, North Carolina, the Declarant should develop additional land which Declarant owns or may hereafter acquire, which land is contiguous or near the boundaries of the Property, or such other land as Declarant may hereafter acquire contiguous or near the additional land, which additional land has been subjected to this Declaration, such land may be annexed by the Declarant without the consent of members; and, in doing so, Declarant may file and record such amendments to this Declaration as are necessary without the consent of the members in order to subject such additional lands to the terms of this Declaration and the jurisdiction of the Association.

Section 3. Annexation of additional lands shall be accomplished by recording in the Office of the Register of Deeds in the county in which the Property is located, a Declaration of Annexation, duly 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 Property 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 Association or any other person or entity shall be necessary to accomplish the annexation except any local governmental authority if required by its ordinances.

Section 4. Subsequent to recordation of the Declaration of Annexation by the Declarant, the Declarant shall deliver to the Association one or more deeds conveying any Common Properties within the lands annexed free and clear of all encumbrances and liens except for encumbrances of utility services, access, storm drainage and other similar service or utility easements. The Association shall be deemed to accept such Common Properties for ownership and maintenance as necessary.

Section 5. Should Declarant elect to annex any additional property and accordingly to subject such property to the terms and conditions of this Declaration, Declarant reserves the right to alter the restrictions contained in Sections 1 and 2 of Article VIII herein. The addition of property

authorized under this paragraph may increase the cumulative maximum number of lots authorized in the properties, and, therefore, may alter the relative maximum potential voting strength of the various types of membership of the Association.

ARTICLE VII

USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Properties. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Use of Property. No portion of the Property (except for a temporary office of the Declarant and building models used by Declarant shall be used except for single-family residential purposes and for purposes incidental or accessory thereto.

No trade or business of any kind shall be conducted upon any Lot or part thereof, except as may be approved by the Board of Directors on a case-by-case basis after petition by an Owner. Provided however, that any such approved business must be conducted entirely within the confines of the house of an Owner and must not create, among other things, a nuisance to the neighbors, or create among other things, excessive noise, traffic, odors or unpleasant appearances. Once permission is granted by the Board of Directors for such a business, the Board of Directors automatically retains the right to terminate approval of such business for violation of the above conditions or any other conditions stated in the Board's initial approval and the Owner shall terminate such business within thirty (30) days after receipt of notice from the Board.

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

Section 4. Goals and Recreational Equipment. Temporary recreational equipment i.e. swing sets must be located in the back yard and must be constructed of natural materials of wooden construction the base of which is not to exceed 64 sq. ft and must be approved by the Architectural Committee prior to construction.

Section 5. Animals. No stable, dog run, poultry house or yard or other similar structure shall be constructed or allowed to remain on any Lot, nor shall livestock of any nature or classification whatsoever be kept or maintained on any Lot without the express written permission of the Association first had and obtained. However, a reasonable number of household pets as determined by the Board of Directors of the Association shall be permitted, provided they are not raised for commercial purposes. For purposes of these covenants, no more than three (3) dogs and three (3) cats shall be considered reasonable. All pets must be leashed at all times when outside the house unless they are confined in an enclosed area. Owners must immediately clean up pet waste at any location in Dorothea Gardens and any location adjacent to Dorothea Gardens.

Section 6. Insurance. Nothing shall be kept, and no activity shall be conducted, on the Property which will increase the rate of insurance applicable to residential use for the Property or any Lots. No Owner shall do or keep anything, nor cause or allow anything to be done or kept, on his Lot or on the Common Properties which will result in the cancellation of insurance on any portion of

the Property, or Lots therein, or which will be in violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common Properties.

Section 7. Offensive Behavior. No immoral, improper, offensive, or unlawful use shall be made of the Property, or any part thereof. All laws, orders, rules, regulations, ordinances, or requirements of any governmental agency having jurisdiction thereof, relating to any Lot or any portion of the Property, shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain such portion of the Property.

Section 8. Business. No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any Lot except as provided for in Article VII, Section 2 hereinabove, except that the Declarant or its agents may use any unsold Lots for sales or display purposes, Declarant may maintain a sales or rental office on the Property.

Section 9. Signs. Any signs, other than temporary political signs and for sale or for rent signs, shall be displayed in public view, must be approved by the board. No sign shall be nailed to trees or telephone poles

Section 10. Fences, Walls, and Hedges. Fences are subject to the complete jurisdiction of the Architectural Committee, as to location, style, materials, finish and height. As used herein, fences shall include walls, barricades, shrubbery, or other impediments to reasonable mobility and visibility. Prior to the construction of any fence, plans showing the location and specifications of said fence shall be submitted to the Architectural Committee for review. Approval of the fence shall be at the sole discretion of the Architectural Committee and construction of any fence shall not begin until the approval of the Architectural Committee is obtained.

Section 11. Alterations. No person shall undertake, cause, or allow any alteration, removal of trees and vegetation, or construction in or upon any portion of the Common Properties except at the direction or with the express written consent of the Association.

Section 12. Common Properties Use. The Common Properties shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the Property, subject to any rules or regulations that may be adopted by the Association pursuant to its Bylaws.

Section 13. Parking. No boats, trailers, campers, motorhomes, commercial trucks or tractors shall be parked on any Lot, on the Common Properties, or on any right of way of any roads or streets within the Property or adjoining the Property by any Lot Owner, its family members, tenants or contract purchasers, except inside an enclosed garage located on a Lot or in a specified storage area established by the Association or except as otherwise may be permitted by Rules and Regulations of the Association. Delivery and maintenance vehicles are permitted. Notwithstanding the foregoing, this prohibition shall not apply to contractor's trucks and vehicles during the construction of any dwelling, it being clearly understood that contractor's trucks and vehicles shall be permitted to park on the roads and streets within the Property until completion of any dwelling.

Section 14. Trailers, etc. No trailer, tent, mobile home, or other structure of a temporary character shall be placed upon any Lot at any time, provided, however, that this prohibition shall not apply to shelters or storage units used by the contractor during the construction of a dwelling, it being clearly understood that these latter temporary shelters may not, at any time, be used as residences or permitted to remain on the Lot after completion of construction.

Section 15. Fuel Tanks. No fuel tanks or similar storage receptacles may be exposed to view.

Section 16. Subdividing. No Lot shall be subdivided, or its boundary lines changed except with the prior written consent of the Declarant during the period of Declarant control of the Association and thereafter by the Board. However, the Declarant hereby expressly reserves unto itself, and to any successor to which Declarant makes a specific assignment of this right, the right to replat any two (2) or more Lots it owns and/or Common Properties (so long as replatting of the Common Properties conforms with applicable governmental regulations and upon approval by the appropriate governmental authority) shown on the plat of any subdivision of the Property in order to create one or more modified Lots; to recombine one or more Lots it owns and/or Common Properties to create a larger Lot; to eliminate from this Declaration Lots that are not otherwise buildable or Lots it owns and/or Common Areas that are needed for access to any area of the Property or are needed for stormwater control measures or access areas, and to take such steps as are reasonably necessary to make such replatted Lots suitable and fit as a building site or access area or roadway, said steps to include, but not to be limited to the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of the said replatted Lots. If any of the Common Properties is recombined with a Lot, the Association shall execute all necessary documents to effect the recombination, and substitute other Common Properties approved by the Planning Director of the City of Raleigh.

Section 17. Delivery Receptacle. No mail box, paper box or other receptacle of any kind for use in the delivery of mail, newspapers, magazines or similar material shall be erected or located on any Lot unless and until the size, location, design and type of material for the receptacle shall have been approved by the Board or the architectural committee.

Section 18. Antennae. With exception to the Federal Communications Commissions Restrictions identified in the Telecommunications Act of 1996, the following applies: Exterior radio and television antennae, aerials, disks and dishes for reception of commercial broadcasts shall not be permitted on any Lot and no other aerials, disks and dishes (for example, without limitation, amateur short wave or ship to shore) shall be permitted on any Lot without permission of the Board as to design, appearance and location or pursuant to Regulations issued for that purpose.

Section 19. Construction Limitations. During construction, all vehicles involved, including those delivering supplies, must enter the Lot on a driveway only as approved by the Board so as not to damage unnecessarily trees, street paving and curbs. During construction, builders must keep the homes, garages, and building sites clean and free of debris. All building debris, stumps, trees, etc., must be removed from each Lot by builder as often as necessary to keep the house and Lot attractive. Such debris will not be dumped in any area of the Property.

Section 20. Firearms; Hunting Prohibited. Firearms, either concealed or unconcealed, shall not be permitted on any Common Properties. There shall be no discharging of firearms, guns or pistols of any kind, caliber, type, or method of propulsion; and no hunting of any type shall be carried on or conducted on the Property.

Section 21. Drying Areas. Clotheslines or drying yards are encouraged as a green energy practice, in rear yards area that are not visible from the street, but shall not be located upon any Lot within view of the street without the prior written consent of the Board, which consent may be conditioned or withheld in the sole discretion of the Board, or as set forth in Regulations established for that purpose.

Section 22. Maintenance. Subject to any other applicable terms of this Declaration, the Owner of each portion of The Property, at such Owner's sole cost and expense, shall Maintain its

portion of The Property, including improvements thereon, in a safe, clean and attractive condition at all times, including the following thereon:

- (a) Prompt removal of all litter, trash, refuse and wastes;
- (b) Tree and shrub pruning and removal of dead or diseased trees, shrubs and other plant material;
- (c) Maintenance of flower and plant gardens;
- (d) Maintenance of exterior lighting and mechanical facilities;
- (e) Maintenance of parking areas and driveways that are not part of the shared Cross Access Easements. The Cross Access Easements drives shall be properly maintained and repaired as necessary by the Association;
- (f) Maintenance of all Improvements thereon;
- (g) Maintaining adequate soil erosion controls;
- (h) To the extent not adequately maintained by the City, the Association or a public utility provider, Maintenance of the sidewalk, driveway, driveway apron and utility laterals serving each Owner's portion of The Property. Each Owner also shall provide snow and ice removal for any sidewalks located adjacent to such Owner's portion of The Property.
- (i) Each Owner shall keep their Lot in a clean and well-kept condition. Children's toys, such as bicycles, sports equipment and any other recreational equipment shall not be left out overnight so that such items are visible from the street.

Each Owner shall perform the foregoing responsibilities in a manner that does not reasonably disturb or interfere with the reasonable enjoyment by the other Owners of their portions of The Property.

If any Owner fails to perform any of the foregoing Maintenance Responsibilities, then the Association may give such Owner written notice of the failure and such Owner must, within ten (10) days after such notice is given by the Association, perform the required Maintenance. If any such Owner fails to perform the required Maintenance within the allotted time period, then the Association, acting through its authorized agent or agents, shall have the right and power, but not the obligation, to enter such Owner's portion of The Property and perform such Maintenance without any liability to any Person for damages for wrongful entry or trespass. Such Owner shall be liable to the Association for the expenses incurred by the Association in performing the required Maintenance, and shall reimburse the Association for such expenses within thirty (30) days after the Association mails or delivers to such Owner an invoice therefor. If the Owner fails to reimburse the Association as required, the Association shall have the same rights and remedies for collection of the amount as provided in Article IV, Section 9 herein for collections of delinquent Assessments.

Section 23. Independent Covenants. Each and every covenant and restriction contained herein shall be considered to be an independent and separate covenant and agreement, and in the event any one or more of said covenants or restrictions shall, for any reason, be held to be invalid, or unenforceable, all remaining covenants and restrictions shall nevertheless remain in full force and effect.

Section 24. Additional Restrictions. Declarant may include in any contract or deed hereafter made any additional covenants and restrictions that are not inconsistent with and which do not diminish the covenants and restrictions set forth herein.

Section 25. Undisturbed Open Space. No impervious surface, land-disturbing activity, encroachment construction or erection of any structure, nor removal of vegetation shall occur within undisturbed open space areas without approval from the Board.

Section 26. Rental of Dwellings Prohibited in First Year. No rental of homes will be permitted in the first year of ownership for all homes purchased in 2012, 2013 and 2014.

ARTICLE VIII
BUILDING RESTRICTIONS

Section 1. Square Footage. There will be no minimum square foot regulations. No house will be greater than 3000 sqft. The term “enclosed dwelling area” as used in this Section 1 shall mean the total enclosed area within a dwelling subject to heating and cooling and the garage space. The term specifically does not include terraces, open porches, decks, stoops and like areas regardless of heating or cooling.

Section 2. Setback Lines. Setbacks will be set according to historic precedent as established by the maps depicting the original houses in the neighborhood as interpreted by the architectural board.

Section 3. Height No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any detached single-family residential that exceeds two ½ stories in height.

Section 4. Multi-Family Use. No multiplex residence or apartment house shall be erected or placed on, or allowed to occupy, any detached single-family residential Lots, and no dwelling once approved and constructed shall be altered or converted into a multiplex residence or apartment house, unless prior written consent is first obtained from the Board.

Section 5. Remedies. If during construction, or up to fourteen (14) days after the certificate of occupancy is issued, the Board determines that the finished dwelling does not comply with the submitted and approved plans and specifications, the Board retains the right to make the necessary changes at owner’s expense to comply with the approved plans and specifications, the right to treat such charge or cost as an assessment, the right to file under the North Carolina lien laws as described in Article IV, Section 9 herein, a notice of liens for any costs incurred, and the further right to resort to all remedies provided under the laws of North Carolina for the recovery of such costs and the expenses of collection, including without limitation, reasonable attorneys’ fees. Any changes in plans or specifications must first be reapproved by the Declarant in accordance with procedure herein specified in Article V.

Section 6. Trash Receptacles. Each Lot Owner shall provide receptacles for garbage in a screened area constructed of materials compatible to those used on the dwelling not generally visible from the road.

Section 7. Parking Spaces. Each Lot Owner shall provide a parking plan. Two off street parking space shall be provided for each dwelling. One off street parking space may be used if the

architectural review board determines two spaces would be impractical and if off street parking is permissive under applicable ordinances and zoning regulations.

Section 8. Storm Drainage. Each Lot Owner shall maintain the drainage devices on its Lot which exclusively serve that Lot at its own expense. Furthermore, each Lot Owner shall not allow the diversion or concentration of stormwater runoff without the prior written approval of the Architectural Committee, and no drainage diversion or structure may be constructed in violation of any North Carolina Department of Transportation regulation.

Section 9. Vinyl and Aluminum Siding, Soffit and Facia are Prohibited.

Section 10. Windows. Windows must be constructed of wood or paintable composite materials. Steel, aluminum, or vinyl windows are not permitted. Mullions, if any, must be on the surface and cast shadow lines. Windows shall not have mullions between the panes of glass.

Section 11. Design Standards All homes within Dorothea Gardens are also subject to the Dorothea Gardens Architectural Review Guidelines.

ARTICLE IX

EASEMENTS

Section 1. Utility Easements. All of the Property, including Lots and Common Properties, shall be subject to such easements for driveways, walkways, parking areas, water lines, sewer lines, storm drainage, gas lines, telephone and electric power line and other public utilities as shall be established by the Declarant or by his predecessors in title, prior to the subjecting of the Property to this Declaration; and the Association shall have the power and authority to grant and establish upon, over, under and across the Common Properties conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Property without approval of the membership as provided in the Articles of Incorporation and this Declaration.

Section 2. Easement for the Benefit of Governmental Authorities. An easement is hereby established for the benefit of any governmental authority having jurisdiction over the Property, or other governmental agency, over all Common Properties for the setting, removing and reading of water meters (which shall be separate for each Lot), maintaining and replacing water, sewage and drainage facilities, for police protection, fire fighting and garbage collection and the rendering of such other services as are appropriate and necessary for the use and enjoyment of the Property. In no case shall the governmental authority or other responsible agency, be responsible for failing to provide any emergency or regular fire, police, or other public service to the Property or to any of its occupants when such failure is due to the lack of access to such area due to inadequate design or construction, blocking of access routes, or any other factor within the control of the Declarant, the Association, the Owners or occupants. All conveyances of any portion of the Property shall be subject to these limitations on the governmental authorities responsibilities.

Section 3. Utility Easements There is hereby reserved an easement across each Lot designated for detached single-family residential use for the purpose of installation, repair, maintenance, erection, construction and inspection of water lines, sewer lines, gas lines, electric lines, telephone lines, cablevision lines or other such utility or service lines and for drainage cuts and storm sewer lines.

Section 4. Recorded Easements. There are hereby reserved easements as shown on the recorded map or maps of the subdivision, if any. In the event of a conflict in the width of any easement reserved herein or on the recorded map, the wider easement shall prevail.

Section 5. Drainage Easement. Declarant does hereby grant and convey to the Association as Common Properties, for the use and benefit of the Owners, a perpetual, non-exclusive easement for the use, drainage, inspection, maintenance, repair, reconstruction and replacement of the stormwater control measures on, over and upon any portion of the Property not owned in fee by the Association such as private drainage easements on which stormwater control measures are located and on, over and upon such other portions of the Property reasonably necessary to conduct such inspection, maintenance, repair, reconstruction, and replacement of the stormwater control measures and for ingress, egress and regress to and from the stormwater control measures.

Section 6. Sign & Wall Easements and Sight Triangles. Declarant does hereby grant and convey to the Association as Common Properties, for the use and benefit of the Owners, a perpetual, non-exclusive easement for the use, inspection, maintenance, repair, reconstruction and replacement of and signage and/or walls on, over and upon across any portion of the Property not owned in fee by the Association reasonably necessary to conduct such inspection, maintenance, repair, reconstruction, and replacement of the signage and wall and for ingress, egress and regress to and from the Open Space.

Section 7. Ground Disturbance. These reservations of easements expressly include the right to cut any trees, bushes, shrubs or growth, the grading, cutting or ditching of the soil and any other action necessary to complete installation.

Section 8. Priority and Amendment of Easements. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Lots, and the Common Properties, as the case may be, superior to all other encumbrances which may hereafter be applied against or in favor of the Property or any portion thereof. Amendments of the easements contained in this Declaration shall not be valid unless and until approved by and executed by (a) the owners of the properties and Lots both benefited and burdened by the easement and (b) the percentages of membership approval as set out in Article XII, Section 3 of this Declaration, and such amendment is recorded in the Wake County Registry.

Section 9. Declarant Easement. If any encroachment shall occur subsequent to subjecting the Property to this Declaration, 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 thirty-six (36) months following conveyance of a Lot to an Owner for the purpose of correcting any problems that may arise regarding utilities, 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 10. Courtyard Easements and Courtyard Areas. Some Lots within Dorothea Gardens will be subject to a Courtyard Easement. In situations where the location of the dwelling located on a Lot create a space that is too small for a Lot Owner to make practical use of an area, a Courtyard Easement will be established in order to grant the adjacent Lot Owner use of that area. The entire area shall be known as a Courtyard Area as shown on Exhibit B attached hereto. The documents establishing the Courtyard Easements will be recorded separately from this Declaration. There are certain restrictions on the use of the land that is subject to a Courtyard Easement and the Courtyard Areas. The use of the Courtyard Easement by the benefiting Lot Owner can not interfere with the use and enjoyment of the dwelling of the burdened Lot Owner. Nor can the benefiting Lot

Owner use the Courtyard Easement in such a way that causes a negative impact on the value of the burdened Lot. The benefiting Lot Owner must maintain the Easement Area and the Courtyard Area, including all lawn maintenance and dividing fences, and shall keep the Courtyard Easement and Courtyard Area in a neat and orderly condition at all times. The benefited Lot Owner shall not construct anything, either temporary or permanent in nature, within the Courtyard Easement or the Courtyard Area. The only items allowed to be constructed in the Courtyard Areas are fences that shall run along the boundary lines of the Courtyard Areas that are not bounded by dwellings. The burdened Lot Owner shall have access to the Courtyard Easement in order to perform maintenance on the dwelling located on their Lot, but for no other reason. In addition to other remedies available to the Association for the enforcement of the restrictions and covenants contained herein, the Association shall have the right to levy a fine against a Lot Owner for the non-compliance of the obligations contained in this Section 10 in the amount required to bring the offending condition in compliance. The Association shall have the right to treat such fine or charge as an assessment, the right to file under the North Carolina lien laws as described in Article IV, Section 9 herein, a notice of liens for any costs incurred, and the further right to resort to all remedies provided under the laws of North Carolina for the recovery of such costs and the expenses of collection, including without limitation, reasonable attorneys' fees. The Board of Directors shall have the right to adopt reasonable Rules and Regulations governing the use and maintenance of the Courtyard Easements and Courtyard Areas.

Section 11. Emergencies. Every Lot shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot that endangers any building or any portion of the Common Properties.

ARTICLE X

INSURANCE

Section 1. Insurance to be Maintained by the Association. The following insurance coverage shall be maintained in full force and effect by the Association:

- (a) Public liability in any amount not less than one million dollars and property damage insurance of not less than eighty percent (80%) of the replacements cost in such form as shall be required by the Association.
- (b) All liability insurance shall contain cross-liability endorsements to cover liability of the Owners as a group to an individual Owner.
- (c) Such other insurance coverage as it may determine to be desirable and necessary.
- (d) If deemed necessary by the Board, fidelity bonds for those officers or employees having control over Association funds.
- (e) Other insurance required by law.

Section 2. Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and charged ratably to Owners as an assessment according to the applicable provisions of this Declaration.

Section 3. Insurance Beneficiaries. All such insurance policies shall be purchased by the Association for the benefit of the Association and the Owners.

ARTICLE XI

RIGHTS OF INSTITUTIONAL LENDERS

Section 1. Rights Reserved to Institutional Lenders. “Institutional Lender” or “Institutional Lenders”, as the terms are used herein, shall mean and refer to banks, savings and loan associations, savings banks, insurance companies, U. S. Department of Veterans Affairs, Federal Housing Authority, Federal National Mortgage Association and other reputable mortgage lenders and guarantors and insurers of such first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any mortgage upon any Lot, or shall be the Owner of any Lot, such Institutional Lender or Institutional Lenders shall have the following rights:

- (a) To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such Financial Statement and Report to be furnished by April 15 of each calendar year.
- (b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and Bylaws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meetings.
- (c) To be given notice of default in the payment of assessments by any Owner of a Lot encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing to the Association.
- (d) To inspect the books and records of the Association and the Declaration, Bylaws and any Rules and Regulations during normal business hours, and to obtain copies thereof.
- (e) To be given notice by the Association of any substantial damage to any part of the Common Properties.
- (f) To be given notice by the Association if any portion of the Common Properties, is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Whenever any Institutional Lender, guarantor or insurer desires the benefits of the provisions of this section requiring notice to be given or to be furnished a financial statement, such Lender shall serve written notice of such fact upon the Association by Registered Mail or Certified Mail addressed to the Association and sent to its address stated herein, or to the address of the Property, identifying the Lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any Lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidity 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.

Section 3. General Amendments. 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 during the first twenty (20) year period by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners.

Section 4. Amendments Permitted Without Membership Approval. The following amendments may be effected by the Declarant, or the Board, as the case may be, without consent of the members:

- (a) Prior to the sale of the first Lot, this Declaration may be amended by the Declarant.
- (b) The Declarant, shall have the right to unilaterally amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale in such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of Property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, U.S. Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.
- (c) The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any Owner, to qualify the Association or the Property, or any portion thereof, for tax-exempt status.

- (d) The Declarant for so long as it has control of the Board may amend this Declaration to include any platting change of the Property as permitted herein or to make amendments correcting minor typographical errors or other similar clerical errors.

Section 5. Governmental Authority Amendments. No amendment which would change or delete any provision herein required by any governmental authority shall become effective until submitted to and approved by that authority; provided, however, if that authority fails to approve or disapprove such amendment within thirty (30) days after the same has been submitted to it, such approval shall not be required and this covenant shall be deemed to have been fully complied with.

Section 6. Recordation. No amendment shall be effective until recorded in the County in which the Property is located.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 7th day of August, 2012.

Cityspace Homes, LLC

By: [Signature]
Richard L. Johnson II, Manager

State of North Carolina - County of Wake

I, the undersigned Notary Public of the County and State aforesaid, certify that **Richard L. Johnson II**, Manager of Cityspace Homes, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the limited liability company.

Witness my hand and official stamp or seal, this 7th day of August, 2012.

[Signature]
Notary Public
My Commission Expires: 9-7-2013

BENJAMIN H HERVEY
NOTARY PUBLIC
WAKE COUNTY, NC
My Commission Expires 9-7-2013

HM International Holdings, LLC

By: *[Signature]*
Jerry A. Hailey, Jr., Manager

State of North Carolina - County of Wake

I, the undersigned Notary Public of the County and State aforesaid, certify that **Jerry A. Hailey, Jr.**, Manager of HM International Holdings, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the limited liability company.

Witness my hand and official stamp or seal, this 7th day of August, 2012.

[Signature]
Notary Public
My Commission Expires: 9-7-2013

BENJAMIN H HERVEY
NOTARY PUBLIC
WAKE COUNTY, NC
My Commission Expires 9-7-2013

CONSENT AND SUBORDINATION OF LENDER

John Sigma Chamblee, Jr. (the "Lender"), the Beneficiary under those certain deeds of trust recorded in Book 14802, Page 107 and Book 14802, Page 113, Wake County Registry, (the "Deeds of Trust") and Benjamin H. Hervey, the Trustee under the Deeds of Trust hereby agree that (i) they have consented to the recordation of the Declaration to which this Consent and Subordination of Lender is attached (the "Declaration") and to the terms and provisions hereof, (ii) the lien and security interest created by the Deeds of Trust are hereby subordinated to the Declaration and (iii) a foreclosure, conveyance in lieu of foreclosure or other exercise by Lender of any of its remedies under the Deeds of Trust shall not result in a termination, extinguishment or loss of the rights and privileges granted pursuant the Declaration but shall merely vest in Lender the rights, duties and restrictions set forth therein.

Lender:

[Signature]
John Sigma Chamblee, Jr.

State of North Carolina - County of Wake

I, the undersigned Notary Public of the County and State aforesaid, certify that John Sigma Chamblee, Jr. personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this 7th day of August, 2012.

[Signature]
Notary Public
My Commission Expires: 9-7-2013

BENJAMIN H HERVEY
NOTARY PUBLIC
WAKE COUNTY, NC
My Commission Expires 9-7-2013

Trustee:

[Signature]
Benjamin H. Hervey

State of North Carolina - County of Wake

I, the undersigned Notary Public of the County and State aforesaid, certify that Benjamin H. Hervey, Trustee personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this 7th day of August, 2012.

[Signature]
Notary Public
My Commission Expires: 11-25-2012

TANYA D. HERVEY
NOTARY PUBLIC
WAKE COUNTY, NC
My Commission Expires 11-25-2012

CONSENT AND SUBORDINATION OF LENDER

HM International Holdings LLC (the "Lender"), the Beneficiary under that certain deed of trust recorded in Book 14314, Page 1901, Wake County Registry, (the "Deed of Trust") and Benjamin H. Hervey, the Trustee under the Deed of Trust hereby agree that (i) they have consented to the recordation of the Declaration to which this Consent and Subordination of Lender is attached (the "Declaration") and to the terms and provisions hereof, (ii) the lien and security interest created by the Deed of Trust are hereby subordinated to the Declaration and (iii) a foreclosure, conveyance in lieu of foreclosure or other exercise by Lender of any of its remedies under the Deed of Trust shall not result in a termination, extinguishment or loss of the rights and privileges granted pursuant the Declaration but shall merely vest in Lender the rights, duties and restrictions set forth therein.

Lender:

HM International Holdings, LLC

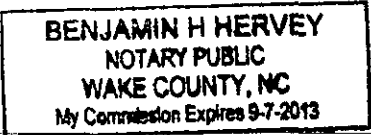
By: [Signature]
 Jerry A. Hailey, Jr., Manager

State of North Carolina - County of Wake

I, the undersigned Notary Public of the County and State aforesaid, certify that **Jerry A. Hailey, Jr.**, Manager of HM International Holdings, LLC, a North Carolina limited liability company, personally appeared before me this day and acknowledged the execution of the foregoing instrument on behalf of the limited liability company.

Witness my hand and official stamp or seal, this 7th day of August, 2012.

[Signature]
 Notary Public
 My Commission Expires: 9-7-2013



Trustee:

[Signature]
 Benjamin H. Hervey

State of North Carolina - County of Wake

I, the undersigned Notary Public of the County and State aforesaid, certify that **Benjamin H. Hervey**, Trustee personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this 7th day of August, 2012.

[Signature]
 Notary Public
 My Commission Expires: 11-25-2012

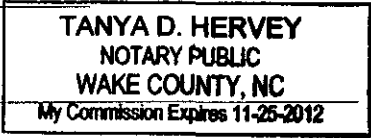


Exhibit A

Tract 1: 610 Dorothea Drive (REID 0054657)

BEING all of Lot 11, Block 6, of the Rex Hospital Land, and being 610 Dorothea Drive in Raleigh, North Carolina, as shown on Tax Map CO11-C0030-0029 and being the “Second Tract” of real property as described by deed recorded in Book 8299, Page 2678, Wake County Registry.

Tract 2: 612 Dorothea Drive (REID 0006797)

BEGINNING at a point in the northern boundary line of Dorothea Drive (formerly W. Cannon Street), Raleigh, North Carolina, 326.4 feet west of its intersection with South Saunders Street; runs thence northwardly 200 feet to a point; thence westwardly 25.4 feet to a point; thence southwardly along the dividing line between lots 5 and 6, 199.9 feet to a point on the north side of Dorothea Drive; thence eastwardly along the northern boundary line of Dorothea Drive 20.7 feet to the point of BEGINNING, and being Lot No. 6 of the property of the Parker-Hunter Realty Company, purchased by W.B. Barrow and surveyed and mapped by R.G. Ball, C.E., in April, 1923. See map of Rex Hospital property in Book 125, Page 199, Wake County Registry.

Tract 3: 614 Dorothea Drive (REID 0029505)

BEGINNING at a point in the northern boundary line of Dorothea Drive (formerly W. Cannon Street), Raleigh, North Carolina, 347.1 feet west of its intersection with South Saunders Street; runs thence northwardly 199.9 feet; thence westwardly 25.6 feet; thence southwardly 199.7 feet to the northern boundary line of Dorothea Drive; thence eastwardly with Dorothea Drive 27.6 feet to the point of BEGINNING, and being Lot No. 5 of the property purchased by the Parker-Hunter Realty Company from W.B Barros, and surveyed and mapped by R.G. Ball, said deed being recorded in Book 416, Page 138, in the office of the Register of Deeds for Wake County, North Carolina, and being the same property conveyed to the Grantor by deed recorded in Book 7818, Page 525 of the Wake County Registry.

Tract 4: 616 Dorothea Drive (REID 0289265)

BEGINNING at an iron pipe set in the Northern line of Dorothea Drive (formerly W. Cannon Street), the Southwest corner of C.W. Holland; runs thence along the Northern right of way line of Dorothea Drive, North 83 degrees, 24 minutes, 45 seconds West 26.23 feet to an existing iron pipe; runs thence along the Eastern line of Lot 3, North 04 degrees, 51 minutes, 36 seconds East 198.47 to an iron pipe set; runs thence South 83 degrees, 23 minutes, 38 seconds East 26.70 feet to an existing iron pipe; runs thence along the Western line of C.W. Holland South 04 degrees, 59 minutes, 44 seconds West 198.44 feet to an iron pipe in the Northern right of way line of Dorothea Drive, the point and place of BEGINNING, and being Lot 4 of the property of the Parker-Hunter Realty Company according to survey of R.G. Ball. Reference is also made to survey and plat prepared by Barry L. Scott, RLS, dated March 6, 1997.

Tract 5: 618 Dorothea Drive (REID 0289264)

BEGINNING at a point in the northern line of Dorothea Drive (formerly W. Cannon Street), Raleigh, North Carolina, 374.7 feet West of its intersection with South Saunders Street; thence running northwardly 199.7 feet; thence westwardly 80.1 feet; thence southwardly 198.8 feet to the northern boundary line of Dorothea Drive; thence eastwardly with said northern line of Dorothea Drive 78.7 feet to the point and place of BEGINNING, being all of Lots 2, 3, and 4 of the property of the Parker-Hunter Realty Company according to survey of R. G. Ball;

SAVE AND EXCEPT the following two tracts of land:

First Save and Except Tract:

BEGINNING at an iron pipe set in the Northern line of Dorothea Drive, the southwest corner of C.W. Holland; runs thence along the Northern right of way line of Dorothea Drive, North 83 degrees, 24 minutes, 45 seconds West 26.23 feet to an existing iron pipe; runs thence along the Eastern line of Lot 3, North 04 degrees, 51 minutes, 36 seconds East 198.47 feet to an iron pipe set; runs thence South 83 degrees, 23 minutes, 38 seconds East 26.70 feet to an existing iron pipe; runs thence along the Western line of C.W. Holland South 04 degrees, 59 minutes, 44 seconds West 198.44 feet to an iron pipe in the Northern right of way line of Dorothea Drive, the point and place of BEGINNING, and being Lot 4 of the property of the Parker-Hunter Realty Company according to survey of R. G. Ball. Being the same property conveyed to Charles WM. Holland Family Limited Partnership by deed recorded in Book 10618, Page 2522, Wake County Registry.

Second Save and Except Tract:

BEGINNING at an iron pipe in the northern right of way line of Dorothea Drive, said iron pipe being the southeast corner of Lot 1, and being located South 83 degrees, 24 minutes, 45 seconds East 29.56 feet from the southeast corner of the property now or formerly owned by M. H. Green and M. L. Green; runs thence along the northern right of way line of Dorothea Drive South 83 degrees, 24 minutes, 45 seconds East 26.23 feet to an iron stake, the corner of Lot 3; runs thence along the western line of Lot 3, North 4 degrees, 43 minutes, 28 seconds East 198.49 feet to an iron pipe; runs thence along the line of the property now or formerly owned by G. J. Pinto North 83 degrees 23 minutes, 38 seconds West 26.7 feet to an iron pipe, the northeast corner of Lot 1; runs thence along the eastern line of Lot 1 southwardly 198.8 feet more or less, to an iron pipe, the point and place of BEGINNING, being all of Lot 2, Parker Hunter Realty Company Property. Being the same property conveyed to US Bank National Association by deed recorded in Book 10896, Page 152, Wake County Registry.

Tract 6: 628 Dorothea Drive (REID 0039499)

BEGINNING at a point in the northern boundary line of Dorothea Drive (formerly West Cannon Street), Raleigh, North Carolina 453.2 feet west of its intersection with S. Saunders Street; runs thence northwardly 198.8 feet; thence westwardly 24.9 feet; thence southwardly 198.5 feet to the northern boundary line of said Dorothea Drive; thence eastwardly with said Dorothea Drive 29.55 feet to the point of BEGINNING, and being Lot 1 of the property of The Parker Hunter Realty Company.

Exhibit B

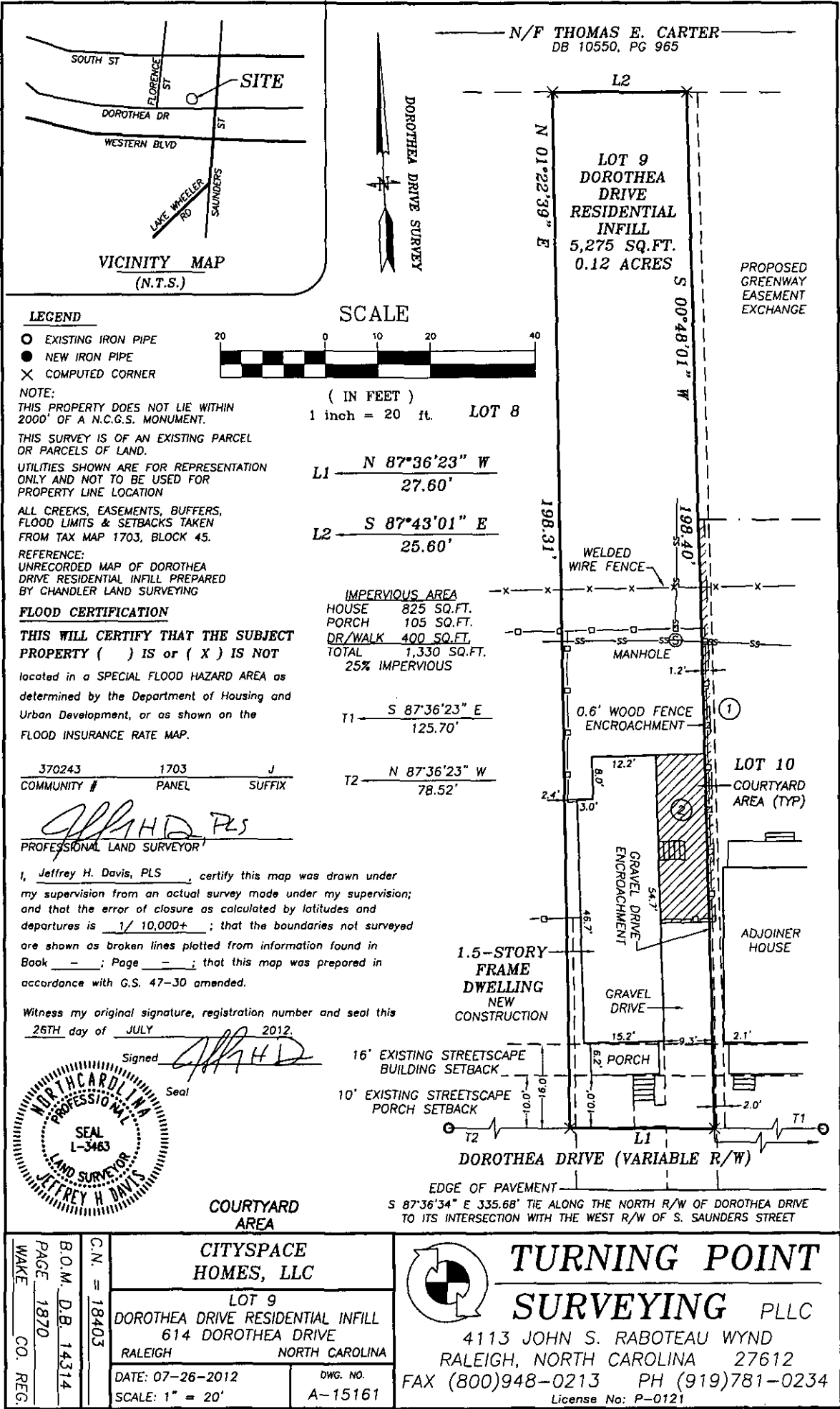
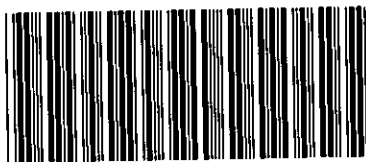


Exhibit B

Description of Courtyard Area for 614 Dorothea Drive (Tract 3 herein):

Starting at a point on the northern right of way of Dorothea Drive a common corner of lots 9 & 10 Line Course: N 00-48-01 E Length: 39.57 to the point of beginning, thence thence the following courses and distances:
Line Course: N 89-15-12 W Length: 9.29
Line Course: N 00-44-48 E Length: 32.00
Line Course: S 89-15-12 E Length: 9.32
Line Course: S 00-48-01 W Length: 32.00
Area: 298 sq.ft.



BOOK:014876 PAGE:00420 - 00449

Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.



Wake County Register of Deeds
Laura M. Riddick
Register of Deeds

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