

Hold: Husley, Barrow & Bogley

BOOK 2818 PAGE 121

PRESENTED
FOR
REGISTRATION

FEB 29 11 44 AM '80

R.B. WHEATZ, JR.
REGISTER OF DEEDS
WAKE COUNTY, N.C.

NORTH CAROLINA

WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PECAN TOWNES
SUBDIVISION, PHASE ONE, BOOK OF
MAPS 1980, PAGE 219, WAKE COUNTY
REGISTRY.

THIS DECLARATION, made on the date hereinafter set
forth by Bern Bullard Industries, Inc., hereinafter referred
to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in
Raleigh Township, County of Wake, State of North Carolina,
which is more particularly described as:

BEGINNING at a stake in the northern right-of-way
line of Timber Ridge Drive, said stake being located
approximately 100 feet in a westerly direction from
the point where Forest Oaks Drive begins to intersect
with Timber Ridge Drive; runs thence North 03° 41' 17"
East 352.0 feet to a stake; runs thence South 78° 00'
East 131.0 feet to a stake; runs thence South 04° 50'
East 179.0 feet to a stake; runs thence South 59° 35'
East 103.84 feet to a stake; runs thence South 06° 25'
East 74.84 feet to a stake on the northern right-of-way
line of Forest Oaks Drive; runs thence continuing along
the northern right-of-way line of Forest Oaks Drive in
a southwesterly direction on a radius of 369.36 feet,
a distance of 170.55 feet to a stake on the northern
right-of-way line of Forest Oaks Drive; runs thence
along the northern right-of-way line of Forest Oaks
Drive and Timber Ridge Drive on a radius of 25.0 feet,
a distance of 33.62 feet to a stake on the northern
right-of-way line of Timber Ridge Drive; runs thence in
a northwesterly direction along the northern right-of-
way line of Timber Ridge Drive on a radius of 329.94
feet, a distance of 92.25 feet to the point and place
of BEGINNING, according to a map of "Pecan Townes,
Phase One" by Bass, Nixon & Kennedy, Inc. Consulting
Engineers, dated November 15, 1979, as recorded in Book
of Maps 1980, page 219, Wake County Registry, North
Carolina.

AND WHEREAS, Declarant will convey the said properties,
subject to certain protective covenants, conditions, restric-
tions, reservations, liens and changes as hereinafter set
forth:

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Pecan Townes Homeowners Association, its successors and assigns.

Section 2. "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 part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Bern Bullard Industries, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area 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 charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities 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;

(c) Upon proper notice to the City of Raleigh's Planning Office the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

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

(e) The right of the individual members to the exclusive use of parking spaces as provided in this Article.

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

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

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

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

ARTICLE III

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record by the Association, including contract sellers, shall

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

ARTICLE IV

VOTING RIGHTS

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

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. 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:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On January 1, 1984.

Section 2. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules

and regulations and according to the provisions of Article II, Section 1(b).

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, 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, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties, including but not limited to, the payment of insurance premiums, local taxes and public assessments on the Common Area, the enforcement of these Covenants and the rules of the Association, and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Properties.

Section 3. Basis and Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Fifty Dollars (\$450.00) per Lot.

(a) From and after January 1, 1981, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, plus ten percent (10%) of such rise, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.

(b) From and after January 1, 1981, the maximum annual assessments may be increased above that established by the Consumer Price Index (or such Index as may succeed the Consumer Price Index) formula by a vote of the members for the next succeeding five years and at the end of each such period of five years, for each succeeding period of five years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction,

repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-third (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to the members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 5: Special Assessments for the Purchase and Reconstruction of Townhomes. In the event that any townhome located on the Property is substantially destroyed by fire or other hazard, the owner shall give written notice to the Association within thirty (30) days following such destruction of whether he intends to repair or reconstruct the townhome; and if the owner fails to give such notice to the Association, it shall be conclusively considered, for purposes of this Section, as notice that he does not intend to repair or reconstruct the townhome. If the owner elects not to repair or reconstruct the townhome, the Association shall have the first right and option to purchase such unit in the manner hereinafter provided. The purchase option shall be effective for a period of ninety (90) days following notice of the owner's election not to repair or reconstruct.

(a) Exercise of Option. The Board of Directors shall appoint a committee, or shall designate an existing committee of the Association, to determine whether failure to reconstruct the damaged townhome will result in substantial pecuniary injury to the Association or diminution in value of the remaining property. The committee may employ such persons, including, but not limited to, real estate appraisers, realtors, architects, and engineers, as are reasonably necessary to make its determination, and shall report its conclusions, with supporting data, in writing to the Board within fifteen (15) days. The report shall set forth such

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matters as the Board and committee deem pertinent, but shall contain estimates of the pecuniary injury and diminution in value along with an estimate of cost of purchase and reconstruction of the townhome.

If the Board of Directors determines that it would be advantageous to the Association and/or to the remaining property to purchase and reconstruct the townhome, it shall call a special meeting by giving written notice thereof, setting forth the purpose of the meeting, to all members within seven (7) days following submission of the committee report. The special meeting of members shall be held not less than seven (7) days nor more than fifteen (15) days following notice to members. Upon an affirmative vote of at least sixty-six and two-thirds percent (66 2/3%) of each class of membership present and voting, the Board will be authorized to purchase and reconstruct the townhome and to assess all lots equally for all costs and expenses arising out of the purchase and repair or reconstruction of the townhome. The Board may require that the assessment be paid in a lump sum; in installments during an assessment year; or over a period of two (2) or more assessment years, as the Board, in its discretion, shall determine to be appropriate.

Such assessment shall be in addition to, and not in lieu of, the annual assessments provided for in Section 3 or the special assessments provided for in Section 4 of this Article.

(b) Determination of Value. The owner of the townhome shall convey marketable title thereto to the Association upon payment to the owner by the Association of the fair market value of the lot and townhome in its damaged condition as determined by a MAI appraiser selected by the owner and approved by the Board. In

the event that the Board and the owner are unable to agree upon an appraiser, each shall select a MAI appraiser and the two (2) appraisers so selected shall select a third MAI appraiser, and the three (3) appraisers shall jointly appraise and determine the fair market value of the lot and townhome in its damaged condition. Each party shall pay the fee of the appraiser selected by it or him, and each party shall pay one-half (1/2) of the fee of the third appraiser. If the Board and the owner agree upon a single appraiser, each shall pay one-half (1/2) the cost of the appraisal.

(c) Application of Insurance Proceeds. The owner of the townhome, prior to the conveyance to the Association, shall apply or cause to be applied so much of the proceeds of any hazard insurance paid by reason of the damage or destruction of the townhome as shall be necessary to pay all liens, mortgages, deeds of trust, taxes, and encumbrances upon the lot so that the fee simple marketable title thereto may be conveyed free and clear of all liens and encumbrances. If the insurance proceeds are not sufficient to pay all liens, encumbrances, and obligations upon the lot, the purchase price shall be reduced by an amount adequate to pay any such deficiency.

(d) Failure to Exercise Option. If the Association does not exercise the purchase option herein provided for, the owner may retain the lot or may transfer or convey it, upon such terms and conditions as he may elect, to any person, to be used solely as a site or an attached, single-family townhome unit. The reconstructed or repaired townhome unit shall be substantially identical to the destroyed townhome unit, unless a change shall be approved by the Board, and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction.

(e) Retention by Owner. If a townhome is not habitable by reason of damage, and the owner gives notice of his election to repair or reconstruct the townhome, the obligation of the owner to pay annual assessment installments shall be suspended either for a

period of ninety (90) days or until the townhome is restored to a habitable condition, whichever shall first occur. In the event a townhouse is damaged or destroyed, and the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean, and safe condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the townhome until paid by the owner, unless the townhome is thereafter acquired by the Association.

(f) Reconstruction by the Association. Upon acquisition of title to the townhome, the Association is authorized to arrange such financing and execute such notes, mortgages, deeds of trust, and other instruments, to enter into such contracts, and to do and perform such other matters and things as are necessary to accomplish the reconstruction of the townhome; provided, however, that only that townhome which is to be reconstructed shall stand as security for any liens, mortgages, or obligations arising out of the purchase or reconstruction of the townhome, and no other portion of the property, including the limited common area and facilities, shall be pledged; hypothecated, mortgaged, deeded in trust, or otherwise given as security for any obligations arising out of said purchase or reconstruction, and no member shall be required to become personally obligated therefor.

The Association shall hold title to the lot and improvements for the benefit of all members. The Board may lease or sell the lot and improvements upon such terms and conditions as it, in its discretion, deems most advantageous to the members. The lease rental shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations on or secured by the lot; (2) to the maintenance, upkeep, and repair of the townhome; (3) to payment or repayment to the members, pro rata, of the special assessment, if any, for purchase and reconstruction of the townhome; and (4) to the general expenses of the

Association. Any payment or repayment to members of the special assessment may be in cash or may be applied to the annual assessment due or to become due.

(g) Application of Declaration and Bylaws. Any town-home which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the Bylaws of the Association.

Section 6. Quorum for any Action Authorized Under Sections 3 and 4. At the first such meeting called, as provided in Sections 3 and 4 hereof, 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 the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 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 may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyances of the Common Area. 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, furnish a certificate signed by an officer of the

Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusial evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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. 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. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all

properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall, antenna, clothesline, or other structure shall be commenced, erected, or maintained upon the property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the said improvements or alterations shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by their Architectural Control Committee. In the event that the said Board or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with; provided, that the plans and specifications required to be submitted shall not be deemed to have been received if they contain erroneous data or fail to present accurate information upon which the Board or its committee can arrive at a decision.

The said Board or its committee shall have the right, at its election, to enter upon any lot during construction, erection, or installation of improvements or alterations to inspect the work being undertaken in order to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE VII

PARTY WALLS

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

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

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

Section 4. The owner of any Lot may construct, reconstruct or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

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

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

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

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

ARTICLE VIII

MAINTENANCE OF ACCESS ROUTES

In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service to such developments or their occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, homeowners association, or occupants.

The Association shall have the authority to maintain and repair inadequate access routes and to prevent blocking of access routes to and from the Properties.

ARTICLE IX

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 front yard space of each lot and the Common Areas.

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

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

ARTICLE X

EASEMENTS

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

All Lots shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves, gutters and downspouts and walls.

ARTICLE XI

EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces. Further, the owner of any lot may at his election plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions or all of his rear yard provided that such maintenance by the owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. No such maintenance by a lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association, any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

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

In no event shall the Association provide interior maintenance of structures not owned by the Association.

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. Insurance. Every owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full insurable value of his townhome except that the amount shall not be required to exceed the replacement cost of the townhome. An owner shall exhibit to the Board, upon demand, evidence that such insurance is in effect. If any owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the owner and shall constitute a lien against his lot until paid.

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

Section 4. 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 during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five

percent (75%) of the Lot Owners. Any amendment must be recorded. Prior to recordation of any Amendment, the Association shall receive approval from the City of Raleigh Attorneys Office unless the City of Raleigh Attorneys Office has failed to comment thirty (30) days after receiving the proposed Amendment.

Section 5. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days do the following:

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

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF PECAN TOWNES SUBDIVISION

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

PECAN TOWNES SUBDIVISION

By: _____

President

ATTEST:

Secretary

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

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

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 27th day of March, 1980.

BERN BULLARD INDUSTRIES, INC.

By:

Bernard Bullard Jr.
President



Bullard Page (Rhodes)
Secretary

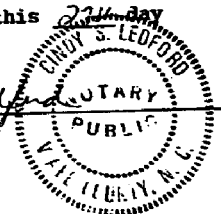
NORTH CAROLINA

WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that Barbara Bullard Page (Rhodes) personally came before me this day and acknowledged that she is the Secretary of BERN BULLARD INDUSTRIES, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by Barbara Bullard Page (Rhodes) as its Secretary.

WITNESS my hand and official stamp or seal, this 27th day of March, 1980.

Cindy S. Ledford
Notary Public



My Commission Expires:

July 12, 1980

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate

of Cindy S. Ledford

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

R. B. McKENZIE, JR., Register of Deeds

By James B. Johnson
Deputy Register of Deeds

DRAWN BY: Gulley, Barrow & Boxley
HOLD FOR: Gulley, Barrow & Boxley

PRESENTED
FOR
REGISTRATION

JUN 12 3 39 PM '80

BOOK 2834 PAGE 846

R.H. MCENZIE, JR.
REGISTER OF DEEDS
WAKE COUNTY, N.C.

NORTH CAROLINA
WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PECAN TOWNES
SUBDIVISION, PHASE II-A, BOOK OF
MAPS 1980, PAGE 421, WAKE COUNTY
REGISTRY.

THIS DECLARATION, made on the date hereinafter set
forth by Bern Bullard Industries, Inc., hereinafter referred
to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in
Raleigh Township, County of Wake, State of North Carolina,
which is more particularly described as:

BEGINNING at an iron pipe on the eastern property
line of Fox Run Subdivision, Section IV as recorded
in Book of Maps 1972, Page 105, Wake County Registry,
said iron pipe also being located approximately
360 feet in a northerly direction from Timber
Ridge Drive, and said iron pipe also being a
common corner with the northwestern corner of
Pecan Townes - Phase One as recorded in Book of
Maps 1980, Page 219, Wake County Registry; runs
thence North 03° 41' 17" East 7.08 feet to an iron
pipe; runs thence North 08° 24' 30" East 66.90
feet to an iron pipe; runs thence North 15° 16'
50" East 84 feet to an iron pipe; runs thence
South 76° 00' East 131 feet to an iron pipe; runs
thence South 49° 00' East 54 feet to an iron pipe;
runs thence South 44° 00' West 80 feet to an iron
pipe; runs thence South 72° 00' East 116.5 feet to
an iron pipe; runs thence South 16° 40' East
161.85 feet to an iron pipe; runs thence South 56°
30' West 131.84 feet to an iron pipe; runs thence
North 59° 35' West 56.5 feet to an iron pipe; runs
thence North 04° 50' West 179.0 feet to an iron
pipe; runs thence North 78° 00' West 131.0 feet to
an iron pipe, the point and place of BEGINNING,
and containing 1.26 acres, according to a plat
designated as "Pecan Townes, Phase II-A", by
Bass, Nixon & Kennedy, Inc., Consulting Engineers,
dated June 3, 1980, as recorded in Book of Maps
1980, Page 421, Wake County Registry, Wake
County, North Carolina.

AND WHEREAS, Declarant will convey the said properties,
subject to certain protective covenants, conditions, restric-
tions, reservations, liens and changes as hereinafter set forth:

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Pecan Townes Homeowners Association, its successors and assigns.

Section 2. "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 part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Bern Bullard Industries, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area 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 charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities 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;

(c) Upon proper notice to the City of Raleigh's Planning Office the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

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

(e) The right of the individual members to the exclusive use of parking spaces as provided in this Article.

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

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

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

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

ARTICLE III

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record by the Association, including contract sellers, shall

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

ARTICLE IV

VOTING RIGHTS

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

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. 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:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On January 1, 1984.

Section 2. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules

and regulations and according to the provisions of Article II, Section 1(b).

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, 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, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties, including but not limited to, the payment of insurance premiums, local taxes and public assessments on the Common Area, the enforcement of these Covenants and the rules of the Association, and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Properties.

Section 3. Basis and Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Fifty Dollars (\$450.00) per Lot.

(a) From and after January 1, 1981, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, plus five percent (5%) of such rise, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.

(b) From and after January 1, 1981, the maximum annual assessments may be increased above that established by the Consumer Price Index (or such Index as may succeed the Consumer Price Index) formula by a vote of the members for the next succeeding five years and at the end of each such period of five years, for each succeeding period of five years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction,

repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-third (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to the members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Special Assessments for the Purchase and Reconstruction of Townhomes. In the event that any townhome located on the Property is substantially destroyed by fire or other hazard, the owner shall give written notice to the Association within thirty (30) days following such destruction of whether he intends to repair or reconstruct the townhome; and if the owner fails to give such notice to the Association, it shall be conclusively considered, for purposes of this Section, as notice that he does not intend to repair or reconstruct the townhome. If the owner elects not to repair or reconstruct the townhome, the Association shall have the first right and option to purchase such unit in the manner hereinafter provided. The purchase option shall be effective for a period of ninety (90) days following notice of the owner's election not to repair or reconstruct.

(a) Exercise of Option. The Board of Directors shall appoint a committee, or shall designate an existing committee of the Association, to determine whether failure to reconstruct the damaged townhome will result in substantial pecuniary injury to the Association or diminution in value of the remaining property. The committee may employ such persons, including, but not limited to, real estate appraisers, realtors, architects, and engineers, as are reasonably necessary to make its determination, and shall report its conclusions, with supporting data, in writing to the Board within fifteen (15) days. The report shall set forth such

matters as the Board and committee deem pertinent, but shall contain estimates of the pecuniary injury and diminution in value along with an estimate of cost of purchase and reconstruction of the townhome.

If the Board of Directors determines that it would be advantageous to the Association and/or to the remaining property to purchase and reconstruct the townhome, it shall call a special meeting by giving written notice thereof, setting forth the purpose of the meeting, to all members within seven (7) days following submission of the committee report. The special meeting of members shall be held not less than seven (7) days nor more than fifteen (15) days following notice to members. Upon an affirmative vote of at least sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of each class of membership present and voting, the Board will be authorized to purchase and reconstruct the townhome and to assess all lots equally for all costs and expenses arising out of the purchase and repair or reconstruction of the townhome. The Board may require that the assessment be paid in a lump sum; in installments during as assessment year; or over a period of two (2) or more assessment years, as the Board, in its discretion, shall determine to be appropriate.

Such assessment shall be in addition to, and not in lieu of, the annual assessments provided for in Section 3 or the special assessments provided for in Section 4 of this Article.

(b) Determination of Value. The owner of the townhome shall convey marketable title thereto to the Association upon payment to the owner by the Association of the fair market value of the lot and townhome in its damaged condition as determined by a MAI appraiser selected by the owner and approved by the Board. In

the event that the Board and the owner are unable to agree upon an appraiser, each shall select a MAI appraiser and the two (2) appraisers so selected shall select a third MAI appraiser, and the three (3) appraisers shall jointly appraise and determine the fair market value of the lot and townhome in its damaged condition. Each party shall pay the fee of the appraiser selected by it or him, and each party shall pay one-half (1/2) of the fee of the third appraiser. If the Board and the owner agree upon a single appraiser, each shall pay one-half (1/2) the cost of the appraisal.

(c) Application of Insurance Proceeds. The owner of the townhome, prior to the conveyance to the Association, shall apply or cause to be applied so much of the proceeds of any hazard insurance paid by reason of the damage or destruction of the townhome as shall be necessary to pay all liens, mortgages, deeds of trust, taxes, and encumbrances upon the lot so that the fee simple marketable title thereto may be conveyed free and clear of all liens and encumbrances. If the insurance proceeds are not sufficient to pay all liens, encumbrances, and obligations upon the lot, the purchase price shall be reduced by an amount adequate to pay any such deficiency.

(d) Failure to Exercise Option. If the Association does not exercise the purchase option herein provided for, the owner may retain the lot or may transfer or convey it, upon such terms and conditions as he may elect, to any person, to be used solely as a site or an attached, single-family townhome unit. The reconstructed or repaired townhome unit shall be substantially identical to the destroyed townhome unit, unless a change shall be approved by the Board, and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction.

(e) Retention by Owner. If a townhome is not habitable by reason of damage, and the owner gives notice of his election to repair or reconstruct the townhome, the obligation of the owner to pay annual assessment installments shall be suspended either for a

period of ninety (90) days or until the townhome is restored to a habitable condition, whichever shall first occur. In the event a townhouse is damaged or destroyed, and the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean, and safe condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the townhome until paid by the owner, unless the townhome is thereafter acquired by the Association.

(f) Reconstruction by the Association. Upon acquisition of title to the townhome, the Association is authorized to arrange such financing and execute such notes, mortgages, deeds of trust, and other instruments, to enter into such contracts, and to do and perform such other matters and things as are necessary to accomplish the reconstruction of the townhome; provided, however, that only that townhome which is to be reconstructed shall stand as security for any liens, mortgages, or obligations arising out of the purchase or reconstruction of the townhome, and no other portion of the property, including the limited common area and facilities, shall be pledged, hypothecated, mortgaged, deeded in trust, or otherwise given as security for any obligations arising out of said purchase or reconstruction, and no member shall be required to become personally obligated therefor.

The Association shall hold title to the lot and improvements for the benefit of all members. The Board may lease or sell the lot and improvements upon such terms and conditions as it, in its discretion, deems most advantageous to the members. The lease rental shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations on or secured by the lot; (2) to the maintenance, upkeep, and repair of the townhome; (3) to payment or repayment to the members, pro rata, of the special assessment, if any, for purchase and reconstruction of the townhome; and (4) to the general expenses of the

Association. Any payment or repayment to members of the special assessment may be in cash or may be applied to the annual assessment due or to become due.

(g) Application of Declaration and Bylaws. Any town-home which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the Bylaws of the Association.

Section 6. Quorum for any Action Authorized Under Sections 3 and 4. At the first such meeting called, as provided in Sections 3 and 4 hereof, 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 the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 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 may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyances of the Common Area. 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, furnish a certificate signed by an officer of the

Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusial evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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. 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. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all

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properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall, antenna, clothesline, or other structure shall be commenced, erected, or maintained upon the property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the said improvements or alterations shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by their Architectural Control Committee. In the event that the said Board or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with; provided, that the plans and specifications required to be submitted shall not be deemed to have been received if they contain erroneous data or fail to present accurate information upon which the Board or its committee can arrive at a decision.

The said Board or its committee shall have the right, at its election, to enter upon any lot during construction, erection, or installation of improvements or alterations to inspect the work being undertaken in order to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE VII

PARTY WALLS

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

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

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

Section 4. The owner of any Lot may construct, reconstruct or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

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

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

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

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

ARTICLE VIII

MAINTENANCE OF ACCESS ROUTES

In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service to such developments or their occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, homeowners association, or occupants.

The Association shall have the authority to maintain and repair inadequate access routes and to prevent blocking of access routes to and from the Properties.

ARTICLE IX

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 front yard space of each lot and the Common Areas.

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

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

ARTICLE X

EASEMENTS

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

All Lots shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves, gutters and downspouts and walls.

ARTICLE XI

EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces. Further, the owner of any lot may at his election plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions or all of his rear yard provided that such maintenance by the owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. No such maintenance by a lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association, any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

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

In no event shall the Association provide interior maintenance of structures not owned by the Association.

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. Insurance. Every owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full insurable value of his townhome except that the amount shall not be required to exceed the replacement cost of the townhome. An owner shall exhibit to the Board, upon demand, evidence that such insurance is in effect. If any owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the owner and shall constitute a lien against his lot until paid.

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

Section 4. 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 during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five

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percent (75%) of the Lot Owners. Any amendment must be recorded. Prior to recordation of any Amendment, the Association shall receive approval from the City of Raleigh Attorneys Office unless the City of Raleigh Attorneys Office has failed to comment thirty (30) days after receiving the proposed Amendment.

Section 5. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days do the following:

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

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF PECAN TOWNES SUBDIVISION

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

PECAN TOWNES HOMEOWNERS ASSOCIATION

By: _____ President

ATTEST:

Secretary

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

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

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 12th day of

June, 1980.

BERN BULLARD INDUSTRIES, INC.

By: Bernie F. Bullard

President



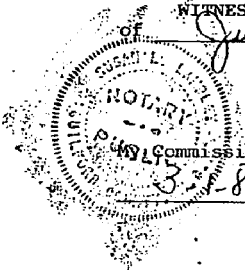
Secretary

NORTH CAROLINA

WAKE COUNTY

I, a Notary Public of the County and State aforesaid, certify that Ken J. Bullard personally came before me this day and acknowledged that he is the Asst Secretary of BERN BULLARD INDUSTRIES, INC., a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by Ken as its Asst Secretary.

WITNESS my hand and official stamp or seal, this 12th day of June, 1980.



Susan L. Lampley
Notary Public

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate of Susan L. Lampley,
Wake County Notary

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

R. B. MCKENZIE, JR., Register of Deeds

By John B. Johnson
Deputy Register of Deeds

Hold for: Gulley, Barrow & Boxley

PRESENTED
FOR
REGISTRATION

BOOK 2915 PAGE 518

NORTH CAROLINA 4 53 PM '81

WAKE COUNTY R.C. HARRIS, JR.
REGISTERED CLERK
WAKE COUNTY, N.C.

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PECAN TOWNES
SUBDIVISION, PHASE II-B, BOOK OF
MAPS 1981, PAGE 266, WAKE COUNTY
REGISTRY.

THIS DECLARATION, made on the date hereinafter set
forth by Bern Bullard Industries, Inc., hereinafter referred
to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in
Raleigh Township, County of Wake, State of North Carolina,
which is more particularly described as:

BEGINNING at an iron pipe on the eastern property
line of Fox Run Subdivision, Section IV, as
recorded in Book of Maps 1972, Page 105, Wake
County Registry, said iron pipe having North
Carolina grid coordinates Y=768,190.57 and X=
2,116,860.10, and said iron pipe being located
approximately 661 feet in a northerly direction
from Timber Ridge Drive, runs thence South 62° 50'
East 164.68 feet to an iron pipe; runs thence
North 27° 10' East 68 feet to an iron pipe; runs
thence South 62° 50' East 145.5 feet to an iron
pipe; runs thence South 27° 10' West 252.5 feet to
an iron pipe; runs thence North 72° 00' West 28.5
feet to an iron pipe, runs thence North 72° 00'
West 116.5 feet to an iron pipe; thence North 44°
00' East 80 feet to a iron pipe; thence North 49°
00' West 54 feet to an iron pipe; thence North 76°
00' West 131 feet to an iron pipe located in the
eastern property line of Fox Run Subdivision,
Section IV, according to plat thereof recorded in
Book of Maps 1972, Page 105, Wake County Registry;
runs thence along the eastern property line of Fox
Run Subdivision, North 15° 16' 50" East 78.83 feet
to an iron pipe, runs thence North 29° 58' 30"
East 58.53 feet to an iron pipe; runs thence North
41° 30' 35" East 12.75 feet to the point and place
of Beginning, and containing 1.3585 acres, accord-
ing to a plat designated as "Pecan Townes, Phase
II-B", by Bass, Nixon & Kennedy, Inc., Consulting
Engineers, dated February 27, 1981, as recorded in
Book of Maps 1981, Page 266, Wake County Registry,
Wake County, North Carolina.

AND WHEREAS, Declarant will convey the said properties,
subject to certain protective covenants, conditions, restric-
tions, reservations, liens and changes as hereinafter set
forth:

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Pecan Townes Homeowners Association, its successors and assigns.

Section 2. "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 part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Bern Bullard Industries, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area 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 charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities 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;

(c) Upon proper notice to the City of Raleigh's Planning Office the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

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

(e) The right of the individual members to the exclusive use of parking spaces as provided in this Article.

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

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

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

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

ARTICLE III

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record by the Association, including contract sellers, shall

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

ARTICLE IV

VOTING RIGHTS

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

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. 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:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On January 1, 1984.

Section 2. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules

and regulations and according to the provisions of Article II, Section 1(b).

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, 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, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties, including but not limited to, the payment of insurance premiums, local taxes and public assessments on the Common Area, the enforcement of these Covenants and the rules of the Association, and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Properties.

Section 3. Basis and Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Fifty Dollars (\$450.00) per Lot.

(a) From and after January 1, 1981, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, plus five percent (5%) of such rise, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.

(b) From and after January 1, 1981, the maximum annual assessments may be increased above that established by the Consumer Price Index (or such Index as may succeed the Consumer Price Index) formula by a vote of the members for the next succeeding five years and at the end of each such period of five years, for each succeeding period of five years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction,

repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-third (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to the members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Special Assessments for the Purchase and Reconstruction of Townhomes. In the event that any townhome located on the Property is substantially destroyed by fire or other hazard, the owner shall give written notice to the Association within thirty (30) days following such destruction of whether he intends to repair or reconstruct the townhome; and if the owner fails to give such notice to the Association, it shall be conclusively considered, for purposes of this Section, as notice that he does not intend to repair or reconstruct the townhome. If the owner elects not to repair or reconstruct the townhome, the Association shall have the first right and option to purchase such unit in the manner hereinafter provided. The purchase option shall be effective for a period of ninety (90) days following notice of the owner's election not to repair or reconstruct.

(a) Exercise of Option. The Board of Directors shall appoint a committee, or shall designate an existing committee of the Association, to determine whether failure to reconstruct the damaged townhome will result in substantial pecuniary injury to the Association or diminution in value of the remaining property. The committee may employ such persons, including, but not limited to, real estate appraisers, realtors, architects, and engineers, as are reasonably necessary to make its determination, and shall report its conclusions, with supporting data, in writing to the Board within fifteen (15) days. The report shall set forth such

matters as the Board and committee deem pertinent, but shall contain estimates of the pecuniary injury and diminution in value along with an estimate of cost of purchase and reconstruction of the townhome.

If the Board of Directors determines that it would be advantageous to the Association and/or to the remaining property to purchase and reconstruct the townhome, it shall call a special meeting by giving written notice thereof, setting forth the purpose of the meeting, to all members within seven (7) days following submission of the committee report. The special meeting of members shall be held not less than seven (7) days nor more than fifteen (15) days following notice to members. Upon an affirmative vote of at least sixty-six and two-thirds percent (66 2/3%) of each class of membership present and voting, the Board will be authorized to purchase and reconstruct the townhome and to assess all lots equally for all costs and expenses arising out of the purchase and repair or reconstruction of the townhome. The Board may require that the assessment be paid in a lump sum; in installments during as assessment year; or over a period of two (2) or more assessment years, as the Board, in its discretion, shall determine to be appropriate.

Such assessment shall be in addition to, and not in lieu of, the annual assessments provided for in Section 3 or the special assessments provided for in Section 4 of this Article.

(b) Determination of Value. The owner of the townhome shall convey marketable title thereto to the Association upon payment to the owner by the Association of the fair market value of the lot and townhome in its damaged condition as determined by a MAI appraiser selected by the owner and approved by the Board. In

the event that the Board and the owner are unable to agree upon an appraiser, each shall select a MAI appraiser and the two (2) appraisers so selected shall select a third MAI appraiser, and the three (3) appraisers shall jointly appraise and determine the fair market value of the lot and townhome in its damaged condition. Each party shall pay the fee of the appraiser selected by it or him, and each party shall pay one-half (1/2) of the fee of the third appraiser. If the Board and the owner agree upon a single appraiser, each shall pay one-half (1/2) the cost of the appraisal.

(c) Application of Insurance Proceeds. The owner of the townhome, prior to the conveyance to the Association, shall apply or cause to be applied so much of the proceeds of any hazard insurance paid by reason of the damage or destruction of the townhome as shall be necessary to pay all liens, mortgages, deeds of trust, taxes, and encumbrances upon the lot so that the fee simple marketable title thereto may be conveyed free and clear of all liens and encumbrances. If the insurance proceeds are not sufficient to pay all liens, encumbrances, and obligations upon the lot, the purchase price shall be reduced by an amount adequate to pay any such deficiency.

(d) Failure to Exercise Option. If the Association does not exercise the purchase option herein provided for, the owner may retain the lot or may transfer or convey it, upon such terms and conditions as he may elect, to any person, to be used solely as a site or an attached, single-family townhome unit. The reconstructed or repaired townhome unit shall be substantially identical to the destroyed townhome unit, unless a change shall be approved by the Board, and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction.

(e) Retention by Owner. If a townhome is not habitable by reason of damage, and the owner gives notice of his election to repair or reconstruct the townhome, the obligation of the owner to pay annual assessment installments shall be suspended either for a

period of ninety (90) days or until the townhome is restored to a habitable condition, whichever shall first occur. In the event a townhouse is damaged or destroyed, and the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean, and safe condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the townhome until paid by the owner, unless the townhome is thereafter acquired by the Association.

(f) Reconstruction by the Association. Upon acquisition of title to the townhome, the Association is authorized to arrange such financing and execute such notes, mortgages, deeds of trust, and other instruments, to enter into such contracts, and to do and perform such other matters and things as are necessary to accomplish the reconstruction of the townhome; provided, however, that only that townhome which is to be reconstructed shall stand as security for any liens, mortgages, or obligations arising out of the purchase or reconstruction of the townhome, and no other portion of the property, including the limited common area and facilities, shall be pledged, hypothecated, mortgaged, deeded in trust, or otherwise given as security for any obligations arising out of said purchase or reconstruction, and no member shall be required to become personally obligated therefor.

The Association shall hold title to the lot and improvements for the benefit of all members. The Board may lease or sell the lot and improvements upon such terms and conditions as it, in its discretion, deems most advantageous to the members. The lease rental shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations on or secured by the lot; (2) to the maintenance, upkeep, and repair of the townhome; (3) to payment or repayment to the members, pro rata, of the special assessment, if any, for purchase and reconstruction of the townhome; and (4) to the general expenses of the

Association. Any payment or repayment to members of the special assessment may be in cash or may be applied to the annual assessment due or to become due.

(g) Application of Declaration and Bylaws. Any town-home which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the Bylaws of the Association.

Section 6. Quorum for any Action Authorized Under Sections 3 and 4. At the first such meeting called, as provided in Sections 3 and 4 hereof, 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 the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 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 may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyances of the Common Area. 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, furnish a certificate signed by an officer of the

Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusial evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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. 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. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all

properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall, antenna, clothesline, or other structure shall be commenced, erected, or maintained upon the property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the said improvements or alterations shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by their Architectural Control Committee. In the event that the said Board or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with; provided, that the plans and specifications required to be submitted shall not be deemed to have been received if they contain erroneous data or fail to present accurate information upon which the Board or its committee can arrive at a decision.

The said Board or its committee shall have the right, at its election, to enter upon any lot during construction, erection, or installation of improvements or alterations to inspect the work being undertaken in order to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE VII

PARTY WALLS

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

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

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

Section 4. The owner of any Lot may construct, reconstruct or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

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

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

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

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

ARTICLE VIII

MAINTENANCE OF ACCESS ROUTES

In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service to such developments or their occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, homeowners association, or occupants.

The Association shall have the authority to maintain and repair inadequate access routes and to prevent blocking of access routes to and from the Properties.

ARTICLE IX

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 front yard space of each lot and the Common Areas.

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

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

ARTICLE X

EASEMENTS

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

All Lots shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves, gutters and downspouts and walls.

ARTICLE XI

EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces. Further, the owner of any lot may at his election plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions or all of his rear yard provided that such maintenance by the owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. No such maintenance by a lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association, any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

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

In no event shall the Association provide interior maintenance of structures not owned by the Association.

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. Insurance. Every owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full insurable value of his townhome except that the amount shall not be required to exceed the replacement cost of the townhome. An owner shall exhibit to the Board, upon demand, evidence that such insurance is in effect. If any owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the owner and shall constitute a lien against his lot until paid.

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

Section 4. 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 during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five

percent (75%) of the Lot Owners. Any amendment must be recorded. Prior to recordation of any Amendment, the Association shall receive approval from the City of Raleigh Attorneys Office unless the City of Raleigh Attorneys Office has failed to comment thirty (30) days after receiving the proposed Amendment.

Section 5. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days do the following:

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

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF PECAN TOWNES SUBDIVISION

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

PECAN TOWNES HOMEOWNERS ASSOCIATION

By: _____

President

ATTEST:

Secretary

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

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

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 8th day of April, 1981.

BERN BULLARD INDUSTRIES, INC.

By: Bernie F. Bullard
President

ATTEST:

[Signature]
Asst Secretary

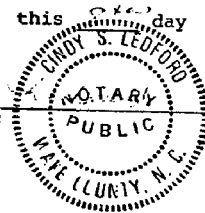
NORTH CAROLINA

WAKE COUNTY

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

WITNESS my hand and official stamp or seal, this 2nd day of April, 1981.

Cindy S. Ledford
Notary Public



My Commission Expires:

July 17, 1982

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate is of Cindy S. Ledford

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

R. B. McKENZIE, JR., Register of Deeds

By [Signature]
Register of Deeds

Drawn By & Hold For: H. Spencer Barrow

BOOK 3208 PAGE 426

NORTH CAROLINA
WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PECAN TOWNES
SUBDIVISION, PHASE III-A, BOOK OF
MAPS 1983, PAGE 1171, WAKE COUNTY
REGISTRY.

THIS DECLARATION, made on the date hereinafter set
forth by Bern Bullard Industries, Inc., hereinafter referred
to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in
Raleigh Township, County of Wake, State of North Carolina,
which is more particularly described as:

BEGINNING at a point in the eastern line of Lot 141,
Section IV, Fox Run Subdivision, as shown on plat of
same recorded in Book of Maps 1972, Volume 1, Page 103,
Wake County Registry, said point having North Carolina
Grid Coordinates (Y=768,190.57 and X=2,116,860.10);
runs thence North 41° 30' 35" East 171.00 feet to a
point on the eastern lot line of Lot 171, Section IV,
Fox Run Subdivision; runs thence South 48° 29' 25" East
187.00 feet to a point; runs thence South 04° 26' 36" East
60.29 feet to a point; runs thence North 62° 50' 10" West
90.45 feet to a point; runs thence South 27° 10' 10" West
68.00 feet to a point; runs thence North 62° 50' 10" West
164.68 feet to the point and place of BEGINNING,
containing .6000 acres and being the same property as
shown on the plat entitled "Pecan Townes, Phase III-A",
dated August 31, 1983, prepared by Bass, Nixon & Kennedy,
Inc., Consulting Engineers, and recorded in Book of
Maps 1983, Page 1171, Wake County Registry, Wake County,
North Carolina.

AND WHEREAS, Declarant will convey the said properties,
subject to certain protective covenants, conditions, restric-
tions, reservations, liens and changes as hereinafter set
forth:

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

PRESENTED
FOR
REGISTRATION

Dec 2 11 14 AM '83

KENNETH A. WILKINS
REGISTERED CLERK

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Pecan Townes Homeowners Association, its successors and assigns.

Section 2. "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 part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Bern Bullard Industries, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area 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 charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities 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;

(c) Upon proper notice to the City of Raleigh's Planning Office the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

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

(e) The right of the individual members to the exclusive use of parking spaces as provided in this Article.

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

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

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its heirs and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances and liens, except utility easements.

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

ARTICLE III

MEMBERSHIP

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

ARTICLE IV

VOTING RIGHTS

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

Class A. Class A members shall be all those Owners as defined in Article III with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article

III. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. 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:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) On January 1, 1984.

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

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, 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, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such

property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties, including but not limited to, the payment of insurance premiums, local taxes and public assessments on the Common Area, the enforcement of these Covenants and the rules of the Association, and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Properties.

Section 3. Basis and Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Fifty Dollars (\$450.00) per Lot.

(a) From and after January 1, 1984, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, plus five percent (5%) of such rise, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.

(b) From and after January 1, 1984, the maximum annual assessments may be increased above that established by the Consumer Price Index (or such Index as may succeed the Consumer Price Index) formula by a vote of the members for the next succeeding five years and at the end of each such period of five years, for each succeeding period of five years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply

to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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

Section 4. Special Assessments for Capital Improvements.

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

Section 5. Special Assessments for the Purchase and Reconstruction of Townhomes. In the event that any townhome located on the Property is substantially destroyed by fire or other hazard, the owner shall give written notice to the Association within thirty (30) days following such destruction of whether he intends to repair or reconstruct the townhome; and if the owner fails to give such notice to the Association, it shall be conclusively considered, for purposes of this Section, as notice that he does not intend to repair or reconstruct the townhome. If the owner elects not to repair or reconstruct the townhome, the Association shall have the first right and option to purchase such unit in the manner hereinafter provided. The purchase option shall be effective for a period of ninety (90) days following notice of the owner's election not to repair or reconstruct.

(a) Exercise of Option. The Board of Directors shall appoint a committee, or shall designate an existing committee of the Association, to determine whether failure to reconstruct the damaged townhome will result in substantial pecuniary injury to the Association or diminution in value of the remaining property. The committee may employ such persons, including, but not limited to, real estate appraisers, realtors, architects, and engineers, as are reasonably necessary to make its determination, and shall report its conclusions, with supporting data, in writing to the Board within fifteen (15) days. The report shall set forth such matters as the Board and committee deem pertinent, but shall contain estimates of the pecuniary injury and diminution in value along with an estimate of cost of purchase and reconstruction of the townhome.

If the Board of Directors determines that it would be advantageous to the Association and/or to the remaining property to purchase and reconstruct the townhome, it shall call a special meeting by giving written notice thereof, setting forth the purpose of the meeting, to all members within seven (7) days following submission of the committee report. The special meeting of members shall be held not less than seven (7) days nor more than fifteen (15) days following notice to members. Upon an affirmative vote of at least sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of each class of membership present and voting, the Board will be authorized to purchase and reconstruct the townhome and to assess all lots equally for all costs and expenses arising out of the purchase and repair or reconstruction of the townhome. The Board may require that the assessment be paid in a lump sum; in installments during as assessment year; or over a period of two (2) or more assessment years, as the Board, in its discretion, shall determine to be appropriate.

Such assessment shall be in addition to, and not in lieu of, the annual assessments provided for in Section 3 or the special assessments provided for in Section 4 of this Article.

(b) Determination of Value. The owner of the townhome shall convey marketable title thereto to the Association upon payment to the owner by the Association of the fair market value of the lot and townhome in its damaged condition as determined by a MAI appraiser selected by the owner and approved by the Board. In the event that the Board and the owner are unable to agree upon an appraiser, each shall select a MAI appraiser and the two (2) appraisers so selected shall select a third MAI appraiser, and the three (3) appraisers shall jointly appraise and determine the fair market value of the lot and townhome in its damaged condition. Each party shall pay the fee of the appraiser selected by it or him, and each party shall pay one-half (1/2) of the fee of the third appraiser. If the Board and the owner agree upon a single appraiser, each shall pay one-half (1/2) the cost of the appraisal.

(c) Application of Insurance Proceeds. The owner of the townhome, prior to the conveyance to the Association, shall apply or cause to be applied so much of the proceeds of any hazard insurance paid by reason of the damage or destruction of the townhome as shall be necessary to pay all liens, mortgages, deeds of trust, taxes, and encumbrances upon the lot so that the fee simple marketable title thereto may be conveyed free and clear of all liens and encumbrances. If the insurance proceeds are not sufficient to pay all liens, encumbrances, and obligations upon the lot, the purchase price shall be reduced by an amount adequate to pay any such deficiency.

(d) Failure to Exercise Option. If the Association does not exercise the purchase option herein provided for, the owner may retain the lot or may transfer or convey it, upon such terms and conditions as he may elect, to any person, to be used solely as a site or an attached, single-family townhome unit. The reconstructed or repaired townhome unit shall be substantially identical to the destroyed townhome unit, unless a change shall be approved by the Board, and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction.

(e) Retention by Owner. If a townhome is not habitable by reason of damage, and the owner gives notice of his election to repair or reconstruct the townhome, the obligation of the owner to pay annual assessment installments shall be suspended either for a period of ninety (90) days or until the townhome is restored to a habitable condition, whichever shall first occur. In the event a townhouse is damaged or destroyed, and the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean, and safe condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the townhome until paid by the owner, unless the townhome is thereafter acquired by the Association.

(f) Reconstruction by the Association. Upon acquisition of title to the townhome, the Association is authorized to arrange such financing and execute such notes, mortgages, deeds of trust, and other instruments, to enter into such contracts, and to do and perform such other matters and things as are necessary to accomplish the reconstruction of the townhome; provided, however, that only that townhome which is to be reconstructed shall stand as security for any liens, mortgages, or obligations arising out of the purchase or reconstruction of the townhome, and no other portion of the property, including the limited common area and facilities, shall be pledged, hypothecated, mortgaged, deeded in trust, or otherwise given as security for any obligations arising out of said purchase or reconstruction, and no member shall be required to become personally obligated therefor.

The Association shall hold title to the lot and improvements for the benefit of all members. The Board may lease or sell the lot and improvements upon such terms and conditions as it, in its discretion, deems most advantageous to the members. The lease rental shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations

on or secured by the lot; (2) to the maintenance, upkeep, and repair of the townhome; (3) to payment or repayment to the members, pro rata, of the special assessment, if any, for purchase and reconstruction of the townhome; and (4) to the general expenses of the Association. Any payment or repayment to members of the special assessment may be in cash or may be applied to the annual assessment due or to become due.

(g) Application of Declaration and Bylaws. Any townhome which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the Bylaws of the Association.

Section 6. Quorum for any Action Authorized Under Sections 3 and 4. At the first such meeting called, as provided in Sections 3 and 4 hereof, 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 the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 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 may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyances of the Common Area. 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, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusial evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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. 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. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all

properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall, antenna, clothesline, or other structure shall be commenced, erected, or maintained upon the property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the said improvements or alterations shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by their Architectural Control Committee. In the event that the said Board or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with; provided, that the plans and specifications required to be submitted shall not be deemed to have been received if they contain erroneous data or fail to present accurate information upon which the Board or its committee can arrive at a decision.

The said Board or its committee shall have the right, at its election, to enter upon any lot during construction, erection, or installation of improvements or alterations to inspect the work being undertaken in order to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon

the Properties and placed on the dividing line between the Lots and all reconstruction or extensions of such walls shall constitute party walls, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls, lateral support in below-ground construction and of liability for property damage due to negligence or willful acts or omissions shall apply thereto.

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

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

Section 4. The owner of any Lot may construct, reconstruct or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

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

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

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

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

ARTICLE VIII

MAINTENANCE OF ACCESS ROUTES

In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service to such developments or their occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, homeowners association, or occupants.

The Association shall have the authority to maintain and repair inadequate access routes and to prevent blocking of access routes to and from the Properties.

ARTICLE IX

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 front yard space of each lot and the Common Areas.

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

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

ARTICLE X

EASEMENTS

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

All Lots shall be subject to easements for the encroachment of initial improvements constructed on adjacent Lots by the Declarant to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves, gutters and downspouts and walls.

ARTICLE XI

EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building

surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces. Further, the owner of any lot may at his election plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions or all of his rear yard provided that such maintenance by the owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. No such maintenance by a lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association, any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

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

In no event shall the Association provide interior maintenance of structures not owned by the Association.

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. Insurance. Every owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full insurable value of his townhome except that the amount shall not be required to exceed the replacement cost of

the townhome. An owner shall exhibit to the Board, upon demand, evidence that such insurance is in effect. If any owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the owner and shall constitute a lien against his lot until paid.

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

Section 4. 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 during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded. Prior to recordation of any Amendment, the Association shall receive approval from the City of Raleigh Attorneys Office unless the City of Raleigh Attorneys Office has failed to comment thirty (30) days after receiving the proposed Amendment.

Section 5. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days do the following:

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

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF PECAN TOWNES SUBDIVISION

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

PECAN TOWNES HOMEOWNERS ASSOCIATION

By: _____

President

ATTEST:

Secretary

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

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

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval

of the Federal Housing Administration or the Veterans Administration:
Annexation of additional properties, dedication of Common Area,
and amendment of this Declaration of Covenants, Conditions and
Restrictions.

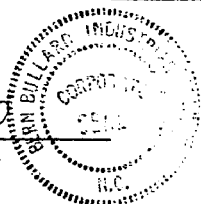
IN WITNESS WHEREOF, the undersigned, being the Declarant
herein, has hereunto set its hand and seal this 8th day of
December, 1983.

BERN BULLARD INDUSTRIES, INC.

By: Bernie F. Bullard Jr.
President

ATTEST:

B. Bullard
Asst. Secretary



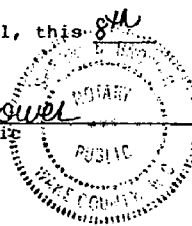
NORTH CAROLINA

WAKE COUNTY

I, a Notary Public of the County and State aforesaid,
certify that Bernie F. Bullard Jr. personally came before me
this day and acknowledged that he is the Asst. Secretary of BERN
BULLARD INDUSTRIES, INC., a North Carolina corporation, and that
by authority duly given and as the act of the corporation, the
foregoing instrument was signed in its name by its President,
sealed with its corporate seal and attested by him as
its Asst. Secretary.

WITNESS my hand and official stamp or seal, this 8th
day of December, 1983.

Sherri B. Brower
Notary Public



My Commission Expires:

1/31/88

NORTH CAROLINA - WAKE COUNTY

The foregoing certificate of Bernie F. Bullard Jr.

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

KENNETH C. WILKINS, Register of Deeds

By: Richard J. Allen
Deputy Register of Deeds

Hold: Barrow and Powell

BOOK 3336 PAGE 190

NORTH CAROLINA
WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PECAN TOWNES
SUBDIVISION, PHASE III-B, BOOK OF
MAPS 1984, PAGE 1411, WAKE COUNTY
REGISTRY.

THIS DECLARATION, made on the date hereinafter set
forth by Bern Bullard Industries, Inc., hereinafter referred
to as "Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in
Raleigh Township, County of Wake, State of North Carolina,
which is more particularly described as:

BEING all of Phase III-B, Pecan Townes Subdivision, as
shown on plat thereof recorded in Book of Maps 1984,
Page 1411, Wake County Registry.

RECORDED
FOR
REGISTRATION
NOV 21 10 34 AM '84
KENNETH C. WILKINS
REGISTER OF DEEDS
WAKE COUNTY

AND WHEREAS, Declarant will convey the said properties,
subject to certain protective covenants, conditions, restric-
tions, reservations, liens and changes as hereinafter set
forth:

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Pecan
Townes Homeowners Association, its successors and assigns.

Section 2. "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 part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Bern Bullard Industries, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional Property shall require the assent of two-thirds (2/3) of the Class A membership and two-thirds (2/3) of the Class B membership, if any.

Section 2. If within 10 years of the date of incorporation of this Association, the Declarant should develop additional lands within the boundaries of the following tract, such additional lands may be annexed to said Properties without the assent of the Class A members:

ATTACHED HERETO AS EXHIBIT "A"

Section 3. Annexation of additional Properties shall be accomplished by recording in the Wake County Registry 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 Properties on the date of recordation of the Declaration of Annexation, and in the case of an annexation by the Declarant, no action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation except the City of Raleigh 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 deed conveying any Common Area within the lands annexed as such Common Area is developed, as set forth in Article III, Section 3 of this Declaration.

ARTICLE III

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the Common Area 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 charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities 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;

(c) Upon proper notice to the City of Raleigh's Planning Office the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as

may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

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

(e) The right of the individual members to the exclusive use of parking spaces as provided in this Article.

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

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

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

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

Pecan Townes Subdivision.

ARTICLE IV

MEMBERSHIP

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

ARTICLE V

VOTING RIGHTS

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

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. 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:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, but provided that the Class B membership shall

be reinstated if thereafter and before the time stated in subparagraph (b) below, such additional lands are annexed to the Properties without the assent of Class A members on account of the development of such additional lands by the Declarant, all as provided for in Article III, Section 2 above, or

(b) On June 5, 1990.

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

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, 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, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties, including but not limited to, the payment of insurance premiums, local taxes and public assessments

on the Common Area, the enforcement of these Covenants and the rules of the Association, and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Properties.

Section 3. Basis and Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Fifty Dollars (\$450.00) per Lot.

(a) From and after January 1, 1981, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, plus five percent (5%) of such rise, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.

(b) From and after January 1, 1981, the maximum annual assessments may be increased above that established by the Consumer Price Index (or such Index as may succeed the Consumer Price Index) formula by a vote of the members for the next succeeding five years and at the end of each such period of five years, for each succeeding period of five years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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

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 assess-

ment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-third (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to the members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Special Assessments for the Purchase and Reconstruction of Townhomes. In the event that any townhome located on the Property is substantially destroyed by fire or other hazard, the owner shall give written notice to the Association within thirty (30) days following such destruction of whether he intends to repair or reconstruct the townhome; and if the owner fails to give such notice to the Association, it shall be conclusively considered, for purposes of this Section, as notice that he does not intend to repair or reconstruct the townhome. If the owner elects not to repair or reconstruct the townhome, the Association shall have the first right and option to purchase such unit in the manner hereinafter provided. The purchase option shall be effective for a period of ninety (90) days following notice of the owner's election not to repair or reconstruct.

(a) Exercise of Option. The Board of Directors shall appoint a committee, or shall designate an existing committee of the Association, to determine whether failure to reconstruct the damaged townhome will result in substantial pecuniary injury to the Association or diminution in value of the remaining property. The committee may employ such persons, including, but not limited to, real estate appraisers, realtors, architects, and engineers, as are reasonably necessary to make its determination, and shall report its conclusions, with supporting data, in writing to the Board within fifteen (15) days. The report shall set forth such

matters as the Board and committee deem pertinent, but shall contain estimates of the pecuniary injury and diminution in value along with an estimate of cost of purchase and reconstruction of the townhome.

If the Board of Directors determines that it would be advantageous to the Association and/or to the remaining property to purchase and reconstruct the townhome, it shall call a special meeting by giving written notice thereof, setting forth the purpose of the meeting, to all members within seven (7) days following submission of the committee report. The special meeting of members shall be held not less than seven (7) days nor more than fifteen (15) days following notice to members. Upon an affirmative vote of at least sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of each class of membership present and voting, the Board will be authorized to purchase and reconstruct the townhome and to assess all lots equally for all costs and expenses arising out of the purchase and repair or reconstruction of the townhome. The Board may require that the assessment be paid in a lump sum; in installments during an assessment year; or over a period of two (2) or more assessment years, as the Board, in its discretion, shall determine to be appropriate.

Such assessment shall be in addition to, and not in lieu of, the annual assessments provided for in Section 3 or the special assessments provided for in Section 4 of this Article.

(b) Determination of Value. The owner of the townhome shall convey marketable title thereto to the Association upon payment to the owner by the Association of the fair market value of the lot and townhome in its damaged condition as determined by a MAI appraiser selected by the owner and approved by the Board. In the event that the Board and the owner are unable to agree upon an appraiser, each shall select a MAI appraiser and the two (2) appraisers so selected shall select a third MAI appraiser, and the three (3) appraisers shall jointly appraise and determine the fair market value of the lot and townhome in its damaged condition.

Each party shall pay the fee of the appraiser selected by it or him, and each party shall pay one-half (1/2) of the fee of the third appraiser. If the Board and the owner agree upon a single appraiser, each shall pay one-half (1/2) the cost of the appraisal.

(c) Application of Insurance Proceeds. The owner of the townhome, prior to the conveyance to the Association, shall apply or cause to be applied so much of the proceeds of any hazard insurance paid by reason of the damage or destruction of the townhome as shall be necessary to pay all liens, mortgages, deeds of trust, taxes, and encumbrances upon the lot so that the fee simple marketable title thereto may be conveyed free and clear of all liens and encumbrances. If the insurance proceeds are not sufficient to pay all liens, encumbrances, and obligations upon the lot, the purchase price shall be reduced by an amount adequate to pay any such deficiency.

(d) Failure to Exercise Option. If the Association does not exercise the purchase option herein provided for, the owner may retain the lot or may transfer or convey it, upon such terms and conditions as he may elect, to any person, to be used solely as a site or an attached, single-family townhome unit. The reconstructed or repaired townhome unit shall be substantially identical to the destroyed townhome unit, unless a change shall be approved by the Board, and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction.

(e) Retention by Owner. If a townhome is not habitable by reason of damage, and the owner gives notice of his election to repair or reconstruct the townhome, the obligation of the owner to pay annual assessment installments shall be suspended either for a period of ninety (90) days or until the townhome is restored to a habitable condition, whichever shall first occur. In the event a townhouse is damaged or destroyed, and the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean, and safe condition; and if he fails to do so, the

Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the townhome until paid by the owner, unless the townhome is thereafter acquired by the Association.

(f) Reconstruction by the Association. Upon acquisition of title to the townhome, the Association is authorized to arrange such financing and execute such notes, mortgages, deeds of trust, and other instruments, to enter into such contracts, and to do and perform such other matters and things as are necessary to accomplish the reconstruction of the townhome; provided, however, that only that townhome which is to be reconstructed shall stand as security for any liens, mortgages, or obligations arising out of the purchase or reconstruction of the townhome, and no other portion of the property, including the limited common area and facilities, shall be pledged, hypothecated, mortgaged, deeded in trust, or otherwise given as security for any obligations arising out of said purchase or reconstruction, and no member shall be required to become personally obligated therefor.

The Association shall hold title to the lot and improvements for the benefit of all members. The Board may lease or sell the lot and improvements upon such terms and conditions as it, in its discretion, deems most advantageous to the members. The lease rental shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations on or secured by the lot; (2) to the maintenance, upkeep, and repair of the townhome; (3) to payment or repayment to the members, pro rata, of the special assessment, if any, for purchase and reconstruction of the townhome; and (4) to the general expenses of the Association. Any payment or repayment to members of the special assessment may be in cash or may be applied to the annual assessment due or to become due.

(g) Application of Declaration and Bylaws. Any townhome which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall

be subject to the provisions of this Declaration and to the Bylaws of the Association.

Section 6. Quorum for any Action Authorized Under Sections 3 and 4. At the first such meeting called, as provided in Sections 3 and 4 hereof, 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 the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 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 may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyances of the Common Area. 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, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusial evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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. 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. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VII

ARCHITECTURAL CONTROL

No building, fence, wall, antenna, clothesline, or other structure shall be commenced, erected, or maintained upon the property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing

the nature, kind, shape, height, materials, and location of the said improvements or alterations shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by their Architectural Control Committee. In the event that the said Board or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with; provided, that the plans and specifications required to be submitted shall not be deemed to have been received if they contain erroneous data or fail to present accurate information upon which the Board or its committee can arrive at a decision.

The said Board or its committee shall have the right, at its election, to enter upon any lot during construction, erection, or installation of improvements or alterations to inspect the work being undertaken in order to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE VIII

PARTY WALLS

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

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

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

Section 4. The owner of any Lot may construct, reconstruct or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

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

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

Section 7. Certification by Adjoining Property Owner That No Contribution is Due. If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property owner has a right of contribution as provided in this Article VIII, request of the adjoining property owner or property owners a certification that no right of contribution exists, whereupon it shall be the duty of each adjoin-

ing property owner to make such certification immediately upon request and without charge; provided, however, that where the adjoining property owner claims a right of contribution, the certification shall contain a recital of the amount claimed.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

ARTICLE IX

MAINTENANCE OF ACCESS ROUTES

In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service to such developments or their occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, homeowners association, or occupants.

The Association shall have the authority to maintain and repair inadequate access routes and to prevent blocking of access routes to and from the Properties.

ARTICLE X

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 front yard space of each lot and the Common Areas.

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

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

ance to the neighborhood.

ARTICLE XI

EASEMENTS

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

ARTICLE XII

EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces. Further, the owner of any lot may at his election plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions or all of his rear yard provided that such maintenance by the owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. No such maintenance by a lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association, any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

In the event that the need for maintenance or repair is

caused through the willful or negligent act of the Owner, his family, or guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such lot is subject.

In no event shall the Association provide interior maintenance of structures not owned by the Association.

ARTICLE XIII

GENERAL PROVISIONS

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

Section 2. Insurance. Every owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full insurable value of his townhome except that the amount shall not be required to exceed the replacement cost of the townhome. An owner shall exhibit to the Board, upon demand, evidence that such insurance is in effect. If any owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the owner and shall constitute a lien against his lot until paid.

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

Section 4. 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 during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded. Prior to recordation of any Amendment, the Association shall receive approval from the City of Raleigh Attorneys Office unless the City of Raleigh Attorneys Office has failed to comment thirty (30) days after receiving the proposed Amendment.

Section 5. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days do the following:

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

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF PECAN TOWNES SUBDIVISION

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

PECAN TOWNES HOMEOWNERS ASSOCIATION

By: _____

President

ATTEST:

Secretary

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

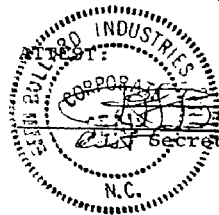
All amendments shall be effective from the date of recordation in the Wake County Registry, provided, however, that no such amendment shall be valid until it has been indexed in the name of this Association. When any instrument purporting to amend the covenants, conditions and restrictions has been certified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

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, amendments of this Declaration of Covenants, Conditions and Restrictions, mergers and consolidations, mortgaging of Common Area and dissolution.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 20th day of November, 1984.

BERN BULLARD INDUSTRIES, INC.

By: *Bernie F. Bullard*
President



NORTH CAROLINA

WAKE COUNTY

I, Sherri B. Brower, a Notary Public in and for said County and State, do hereby certify that B.F. BULLARD personally came before me this day and acknowledged that he is the Assistant Secretary of BERN BULLARD INDUSTRIES, INC., a North Carolina Corporation, and that by the authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by him as its Assistant Secretary.

WITNESS my hand and notarial seal, this 20th day of November, 1984.

Sherri B. Brower
Notary Public

My Commission Expires:

January 31, 1988

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of *Sherri B. Brower*

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

KENNETH C. WILKINS, Register of Deeds

By *Kenneth C. Wilkins*
Acct/Deputy Register of Deeds

Drawn By & Hold For: Barrow and Powell

BOOK 3508 PAGE 632

NORTH CAROLINA

AMENDMENT TO THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR PECAN TOWNES
SUBDIVISION, PHASE ONE, BOOK OF MAPS 1980,
PAGE 219, WAKE COUNTY REGISTRY: PHASE II-A
BOOK OF MAPS 1980, PAGE 421, WAKE COUNTY
REGISTRY: PHASE II-B, BOOK OF MAPS 1981,
PAGE 266, WAKE COUNTY REGISTRY: PHASE III-A,
BOOK OF MAPS 1983, PAGE 1171, WAKE COUNTY
REGISTRY: AND PHASE III-B, BOOK OF MAPS
1984, PAGE 1411, WAKE COUNTY REGISTRY.

WAKE COUNTY

THIS AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS,
made this 21st day of November, 1985, by and between BERN
BULLARD INDUSTRIES, INC., a North Carolina Corporation, hereinafter called
"Declarant" and BERN F. BULLARD, BERNIE F. BULLARD, JR., JAMES H. DAVIS,
CHUCK DAVIS, III, K & B PARTNERSHIP, BANKS KERR, RONALD MCKELVEY, ROB HILLMAN,
KAREN HILLMAN, ANN L. SIMON, BENJAMIN M. DALAL, TERMI DALAL, A.W. POWELL, ALLEN
F. PAGE, BARBARA B. PAGE, PAUL SIMON, CHARLES MAYS, CYNTHIA MAYS, DAVID BRITT,
HELEN BOSSE, EDITH A. VANDER, CATHERINE WATERS, A. CLAIRE WINZER, JAMES W.
MASSENGILL, GLORIA P. POWELL, SHELBY JOURNIGAN, DOUG WALTER, BLAIR GRIFFITH,
MARK TORPPA, KAREN TORPPA, JACK T. HARRIGAN, KATHRYN WALL, G.G. STRICKLAND,
ELLEN RHODES, SUSAN JOHNSON, TONY IADANZA, CAROL A. BERNDT, RICHARD (DAIL)
WESTON, WALKER CASEY, WESLEY TAYLOR, JUDY SHANNON, PATRICIA LANIER, EULALIA
WINSTEAD, DAVID SPIVEY, which represents at least ninety percent (90% of the
lot owners of Phase One, Phase II-A, Phase II-B, Phase III-A, and Phase III-B,
of Pecan Townes Subdivision, all of Wake County, North Carolina, hereinafter
called "Owners"

W I T N E S S E T H :

WHEREAS, the Declarant and Owners desire to amend the Declaration of
Covenants, Conditions and Restrictions for Phase One, Phase II-A, Phase II-B,
Phase III-A, and Phase III-B for the purpose of creating one harmonious Homeowner's
Association for Pecan Townes Subdivision by annexing into the existing Homeowner's
Association for Phase One the following described properties now being
designated as Phase II-a, Phase II-B, Phase III-A, and Phase III-B:

PRESENTED
FOR
REGISTRATION
Nov 27 2 53 PM '85
JIMMY C. WILKINS
REGISTER OF DEEDS
WAKE COUNTY

Phase II-A

BOOK 3608 PAGE 633

BEGINNING at an iron pipe on the eastern property line of Fox Run Subdivision, Section IV as recorded in Book of Maps 1972, Page 105, Wake County Registry, said iron pipe also being located approximately 360 feet in a northerly direction from Timber Ridge Drive, and said iron pipe also being a common corner with the northwestern corner of Pecan Townes - Phase One as recorded in Book of Maps 1980, Page 219, Wake County Registry; runs thence North 03° 41' 17" East 7.08 feet to an iron pipe; runs thence North 08° 24' 30" East 66.90 feet to an iron pipe; runs thence North 15° 16' 50" East 84 feet to an iron pipe; runs thence South 76° 00' East 131 feet to an iron pipe; runs thence South 49° 00' East 54 feet to an iron pipe; runs thence South 44° 00' West 80 feet to an iron pipe; runs thence South 72° 00' East 116.5 feet to an iron pipe; runs thence South 16° 40' East 161.85 feet to an iron pipe; runs thence South 56° 30' West 131.84 feet to an iron pipe; runs thence North 59° 35' West 56.5 feet to an iron pipe; runs thence North 04° 50' West 179.0 feet to an iron pipe; runs thence North 78° 00' West 131.0 feet to an iron pipe, the point and place of BEGINNING, and containing 1.26 acres, according to a plat designated as "Pecan Townes, Phase II-A", by Bass, Nixon & Kennedy, Inc., Consulting Engineers, dated June 3, 1980, as recorded in Book of Maps 1980, Page 421, Wake County Registry, Wake County, North Carolina.

Phase II-B

BEGINNING at an iron pipe on the eastern property line of Fox Run Subdivision, Section IV, as recorded in Book of Maps 1972, Page 105, Wake County Registry, said iron pipe having North Carolina grid coordinates Y=768,190.57 and X=2,116,860.10, and said iron pipe being located approximately 661 feet in a northerly direction from Timber Ridge Drive, runs thence South 62° 50' East 164.68 feet to an iron pipe; runs thence North 27° 10' East 68 feet to an iron pipe; runs thence South 62° 50' East 145.5 feet to an iron pipe; runs thence South 27° 10' West 252.5 feet to an iron pipe; runs thence North 72° 00' West 28.5 feet to an iron pipe, runs thence North 72° 00' West 116.5 feet to an iron pipe; thence North 44° 00' East 80 feet to an iron pipe; thence North 49° 00' West 54 feet to an iron pipe; thence North 76° 00' West 131 feet to an iron pipe located in the eastern property line of Fox Run Subdivision, Section IV, according to plat thereof recorded in Book of Maps 1972, Page 105, Wake County Registry; runs thence along the eastern property line of Fox Run Subdivision, Section IV, North 15° 16' 50" East 78.83 feet to an iron pipe, runs thence North 29° 58' 30" East 58.53 feet to an iron pipe; runs thence North 41° 30' 35" East 12.75 feet to the point and place of Beginning, and containing 1.3585 acres, according to a plat designated as "Pecan Townes, Phase II-B", by Bass, Nixon & Kennedy, Inc., Consulting Engineers, dated February 27, 1981, as recorded in Book of Maps 1981, Page 266, Wake County Registry, Wake County, North Carolina.

Phase III-A

BEGINNING at a point in the eastern line of Lot 141, Section IV, Fox Run Subdivision, as shown on plat of same recorded in Book of Maps 1972, Volume 1, Page 105, Wake County Registry, said point having North Carolina Grid Coordinates (Y=768,190.57 and X=2,116,860.10); runs thence North 41° 30' 35" East 171.00 feet to a point on the eastern lot line of Lot 171, Section IV, Fox Run Subdivision; runs thence South 48° 29' 25" East 187.00 feet to a point; runs thence South 04° 26' 36" East 60.29 feet to a point; runs thence North 62° 50' West 90.45 feet to a point; runs thence South 27° 10' West 68.00 feet to a point; runs thence North 62° 50' West 164.68 feet to the point and place of BEGINNING, containing .6000 acres and being the same property as shown on the plat entitled "Pecan Townes, Phase III-A" dated August 31, 1983, prepared by Bass, Nixon & Kennedy, Inc., Consulting Engineers, and recorded in Book of Maps 1983, Page 1171, Wake County Registry, Wake County, North Carolina.

Phase III-B

BEING all of Phase III-B, Pecan Townes Subdivision, as shown on plat thereof recorded in Book of Maps 1984, Page 1411, Wake County Registry.

WHEREAS, according to the aforementioned recorded Declaration of Covenants for Phase One, Phase II-A, Phase II-B, Phase III-A, and Phase III-B the Covenants and Restrictions may be amended during the first twenty (20) year period by the consent of not less than ninety percent (90%) of the Owners.

NOW, THEREFORE, in consideration of the premises and covenants contained herein the Declarant and Owners declare that the Declaration of Covenants, Conditions and Restrictions for Phase One, Phase II-A, Phase II-B, Phase III-A, and Phase III-B, of Pecan Townes Subdivision, be amended by annexing the following described Phases of Pecan Townes Subdivision into the Homeowner's Association of Phase One of Pecan Townes Homeowner's Association:

Phase II-A

BEGINNING at an iron pipe on the eastern property line of Fox Run Subdivision, Section IV as recorded in Book of Maps 1972, Page 105, Wake County Registry, said iron pipe also being located approximately 360 feet in a northerly direction from Timber Ridge Drive, and said iron pipe also being a common corner with the northwestern corner of Pecan Townes - Phase One as recorded in Book of Maps 1980, Page 219, Wake County Registry; runs

thence North 03° 41' 17" East 7.08 feet to an iron pipe; runs thence North 08° 24' 30" East 66.90 feet to an iron pipe; runs thence North 15° 16' 50" East 84 feet to an iron pipe; runs thence South 76° 00' East 131 feet to an iron pipe; runs thence South 49° 00' East 54 feet to an iron pipe; runs thence South 44° 00' West 80 feet to an iron pipe; runs thence South 72° 00' East 116.5 feet to an iron pipe; runs thence South 16° 40' East 161.85 feet to an iron pipe; runs thence South 56° 30' West 131.84 feet to an iron pipe; runs thence North 59° 35' West 56.5 feet to an iron pipe; runs thence North 04° 50' West 179.0 feet to an iron pipe; runs thence North 78° 00' West 131.0 feet to an iron pipe, the point and place of BEGINNING, and containing 1.26 acres, according to a plat designated as "Pecan Townes, Phase II-A", by Bass, Nixon & Kennedy, Inc., Consulting Engineers, dated June 3, 1980, as recorded in Book of Maps 1980, Page 421, Wake County Registry, Wake County, North Carolina.

Phase II-B

BEGINNING at an iron pipe on the eastern property line of Fox Run Subdivision, Section IV, as recorded in Book of Maps 1972, Page 105, Wake County Registry, said iron pipe having North Carolina grid coordinates Y=768,190.57 and X=2,116,860.10, and said iron pipe being located approximately 661 feet in a northerly direction from Timber Ridge Drive, runs thence South 62° 50' East 164.68 feet to an iron pipe; runs thence North 27° 10' East 68 feet to an iron pipe; runs thence South 62° 50' East 145.5 feet to an iron pipe; runs thence South 27° 10' West 252.5 feet to an iron pipe; runs thence North 72° 00' West 28.5 feet to an iron pipe, runs thence North 72° 00' West 116.5 feet to an iron pipe; thence North 44° 00' East 80 feet to an iron pipe; thence North 49° 00' West 54 feet to an iron pipe; thence North 76° 00' West 131 feet to an iron pipe located in the eastern property line of Fox Run Subdivision, Section IV, according to plat thereof recorded in Book of Maps 1972, Page 105, Wake County Registry; runs thence along the eastern property line of Fox Run Subdivision, Section IV, North 15° 16' 50" East 78.83 feet to an iron pipe, runs thence North 29° 58' 30" East 58.53 feet to an iron pipe; runs thence North 41° 30' 35" East 12.75 feet to the point and place of Beginning, and containing 1.3585 acres, according to a plat designated as "Pecan Townes, Phase II-B", by Bass, Nixon & Kennedy, Inc., Consulting Engineers, dated February 27, 1981, as recorded in Book of Maps 1981, Page 266, Wake County Registry, Wake County, North Carolina.

Phase III-A

BEGINNING at a point in the eastern line of Lot 141, Section IV, Fox Run Subdivision, as shown on plat of same recorded in Book of Maps 1972, Volume 1, Page 105, Wake County Registry, said point having North Carolina Grid Coordinates (Y=768,190.57 and X=2,116,860.10); runs thence North 41° 30' 35" East 171.00 feet to a point on the eastern lot

line of Lot 171, Section IV, Fox Run Subdivision; runs thence South 48° 29' 25" East 187.00 feet to a point; runs thence South 04° 26' 36" East 60.29 feet to a point; runs thence North 62° 50' West 90.45 feet to a point; runs thence South 27° 10' West 68.00 feet to a point; runs thence North 62° 50' West 164.68 feet to the point and place of BEGINNING, containing .6000 acres and being the same property as shown on the plat entitled "Pecan Townes, Phase III-A" dated August 31, 1983, prepared by Bass, Nixon & Kennedy, Inc., Consulting Engineers, and recorded in Book of Maps 1983, Page 1171, Wake County Registry, Wake County, North Carolina.

Phase III-B

BEING all of Phase III-B, Pecan Townes Subdivision, as shown on plat thereof recorded in Book of Maps 1984, Page 1411, Wake County Registry.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

DECLARANT:

BERN BULLARD INDUSTRIES, INC., a
North Carolina Corporation

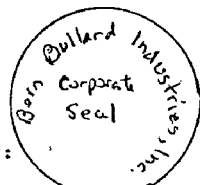
by:

Bern F. Bullard, Jr.
Bern F. Bullard, Jr., President

ATTEST:

(CORPORATE SEAL)

Barbara Bullard Page
Secretary



OWNERS:

Bern F. Bullard (SEAL)
Bern F. Bullard

Bernie F. Bullard, Jr. (SEAL)
Bernie F. Bullard, Jr.

James H. Davis (SEAL)
James H. Davis

Chuck Davis, III (SEAL)
Chuck Davis, III

K & B PARTNERSHIP, a North Carolina
General Partnership

By:

Managing Partner

Banks Kerr (SEAL)
Banks Kerr

Rob Hillman (SEAL)
Rob Hillman

Karen Hillman (SEAL)
Karen Hillman

Ann L. Simon (SEAL)
Ann L. Simon

Behram M. Dalal (SEAL)
Behram M. Dalal

Tehmi Dalal (SEAL)
Tehmi Dalal

A. W. Powell (SEAL)
A. W. Powell

Allen F. Page (SEAL)
Allen F. Page

Barbara B. Page (SEAL)
Barbara B. Page

Paul Simon (SEAL)
Paul Simon

Charles Mays (SEAL)
Charles Mays

Cynthia Mays (SEAL)
Cynthia Mays

David Britt (SEAL)
David Britt

Helen Bosse (SEAL)
Helen Bosse

Edith A. VanDer (SEAL)
Edith A. VanDer

Catherine Waters (SEAL)
Catherine Waters

A. Claire Winzer (SEAL)
A. Claire Winzer

James W. Massengill (SEAL)
James W. Massengill

Gloria P. Powell (SEAL)
Gloria P. Powell

Shelby Journigan (SEAL)
Shelby Journigan

Dore Walter (SEAL)
Dore Walter

Blair Griffith (SEAL)
Blair Griffith

Mark Torppa (SEAL)
Mark Torppa

Karen Torppa (SEAL)
Karen Torppa

Jack T. Harrigan (SEAL)
Jack T. Harrigan

_____ (SEAL)
Kathryn Wall

G. G. Strickland (SEAL)
G. G. Strickland

Ellen Rhodes (SEAL)
Ellen Rhodes

Susan P. Johnson (SEAL)
Susan Johnson

Tony Iadanza (SEAL)
Tony Iadanza

Carol A. Berndt (SEAL)
Carol A. Berndt

Richard (Dail) Weston (SEAL)
Richard (Dail) Weston

_____ (SEAL)
Walker Casey

Wesley Taylor (SEAL)
Wesley Taylor

Judy Shannon (SEAL)
Judy Shannon

Patricia Lanier (SEAL)
Patricia Lanier

Eulalia Winstead (SEAL)
Eulalia Winstead

David W. Spivey (SEAL)
David Spivey

NORTH CAROLINA

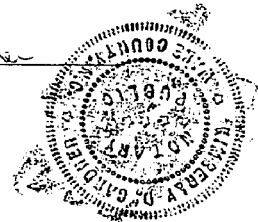
BOOK 3608 PAGE 639

WAKE COUNTY

I, Kimberly D. Gardner, a Notary Public in and for said County and State, do hereby certify that BARBARA BULLARD PAGE personally came before me this day and acknowledged that she is the Secretary of BERN BULLARD INDUSTRIES, INC., a North Carolina Corporation, and that by the authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its Secretary.

WITNESS my hand and official seal this 21st day of November, 1985.

Kimberly D. Gardner
Notary Public



My Commission Expires:

MAY 1, 1989

NORTH CAROLINA

WAKE COUNTY

I, Kimberly D. Gardner, a Notary Public in and for said County and State, do hereby certify that BERN F. BULLARD; BERNIE F. BULLARD, JR.; JAMES H. DAVIS; CHUCK DAVIS, III; BERN F. BULLARD AND BANKS KERR as partners of K & B PARTNERSHIP; ROB HILLMAN; KAREN HILLMAN; ANN L. SIMON; BEHRAM M. DALAL; TEHMI DALAL; A. W. POWELL; ALLEN F. PAGE; BARBARA B. PAGE; PAUL SIMON; CHARLES MAYS; CYNTHIA MAYS; DAVID BRITT; HELEN BOSEE; CATHERINE WATERS; A. CLATRE WINZER; JAMES W. MASSENGILL; GLORIA P. POWELL; SHELBY JOURNIGAN; DOUG WALTER; BLAIR GRIFFITH; MARK TORPPA; KAREN TORPPA; JACK T. HARRIGAN; G. G. STRICKLAND; ELLEN RHODES; SUSAN JOHNSON; TONY IADANZA; CAROL A. BERNDT; RICHARD (DAIL) WESTON; WESLEY TAYLOR; JUDY SHANNON; PATRICIA LANIER; EULALIA WINSTEAD; and DAVID SPIVEY personally came before me this day and acknowledged the execution of the foregoing instrument.

WITNESS my hand and notarial seal this 21st day of November, 1985.

Kimberly D. Gardner
Notary Public



My Commission Expires:

MAY 1, 1989

NORTH CAROLINA - WAKE COUNTY

The foregoing certificate 5 of Kimberly D. Gardner

Notary Public is

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

KENNETH C. WILKINS, Register of Deeds

By P. Anne Redd
Deputy Register of Deeds

BOOK 3648 PAGE 352

Drawn By and Hold For: Barrow and Powell

NORTH CAROLINA
WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PECAN TOWNES
SUBDIVISION, BOOK OF MAPS 1986,
PAGE 172, WAKE COUNTY REGISTRY.

THIS DECLARATION, made on the date hereinafter set forth
by BERN BULLARD INDUSTRIES, INC., hereinafter referred to as
"Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property in
Raleigh Township, County of Wake, State of North Carolina,
which is more particularly described as:

BEING all of Phase IV, Pecan Townes Subdivision,
as shown on plat thereof recorded in Book of Maps
1986, Page 172, Wake County Registry.

RECORDED
IN
NOTICE
JAN 30 2 13 PM '86
WAKE COUNTY REGISTRY

AND WHEREAS, Declarant will convey the said properties,
subject to certain protective covenants, conditions, restric-
tions, reservations, liens and changes as hereinafter set
forth;

NOW THEREFORE, Declarant hereby declares that all of the
properties described above shall be a part of Pecan Townes
Homeowner's Association - Phase One and 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

real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Pecan Townes Homeowners Association - Phase One, its successors and assigns. The Association consists of Phase One, Phase II-A, Phase II-B, Phase III-A, Phase III-B and Phase IV of Pecan Townes Subdivision.

Section 2. "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 part of the properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the owners.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Bern Bullard Industries, Inc., its successors and assigns if such

successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every member shall have a right and easement of enjoyment and access to and from public streets and walkways and in and to the Common Area 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 charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) The right of the Association to suspend the voting rights and right to use of the recreational facilities 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;

(c) Upon proper notice to the City of Raleigh's Planning Office the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded.

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

(e) The right of the individual members to the exclusive use of parking spaces as provided in this Article.

(f) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said properties shall be subordinate to the rights of the homeowners hereunder.

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

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

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

ARTICLE III

MEMBERSHIP

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

ARTICLE IV

VOTING RIGHTS

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

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. 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:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, but provided that the Class B membership shall be reinstated if thereafter and before the time stated in subparagraph (b) below, such additional lands are annexed to the

Properties without the assent of Class A members on account of the development of such additional lands by the Declarant, all as provided for in article III, Section 2 above, or

(b) On June 5, 1990.

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

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, 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, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties, including but not limited to, the payment of insurance premiums, local taxes and public assessments on the Common Area, the enforcement of these Covenants and the rules of the Association, and in particular for the improvement and maintenance of the Properties, services, and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the exterior of the homes situated upon the Properties.

Section 3. Basis and Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Four Hundred Fifty Dollars (\$450.00) per Lot.

(a) From and after January 1, 1987, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, plus five percent (5%) of such rise, of the Consumer Price Index (published by the Department of Labor, Washington, D.C.) for the preceding month of July.

(b) From and after January 1, 1987, the maximum annual assessments may be increased above that established by the Consumer Price Index (or such Index as may succeed the Consumer Price Index) formula by a vote of the members for the next succeeding five years and at the end of each such period of five years, for each succeeding period of five years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

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

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto,

provided that any such assessment shall have the assent of two-third (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to the members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting.

Section 5. Special Assessments for the Purchase and Reconstruction of Townhomes. In the event that any townhome located on the Property is substantially destroyed by fire or other hazard, the owner shall give written notice to the Association within thirty (30) days following such destruction of whether he intends to repair or reconstruct the townhome; and if the owner fails to give such notice to the Association, it shall be conclusively considered, for purposes of this Section, as notice that he does not intend to repair or reconstruct the townhome. If the owner elects not to repair or reconstruct the townhome, the Association shall have the first right and option to purchase such unit in the manner hereinafter provided. The purchase option shall be effective for a period of ninety (90) days following notice of the owner's election not to repair or reconstruct.

(a) Exercise of Option. The Board of Directors shall appoint a committee, or shall designate an existing committee of the Association, to determine whether failure to reconstruct the damaged townhome will result in substantial pecuniary injury to the Association or diminution in value of the remaining property. The committee may employ such persons, including, but not limited to, real estate appraisers, realtors, architects, and engineers, as are reasonably necessary to make its determination, and shall report its conclusions, with supporting data, in writing to the Board within fifteen (15) days. The report shall set forth such matters as the Board and committee deem pertinent, but shall contain estimates of the pecuniary injury and diminution in value along with an estimate

of cost of purchase and reconstruction of the townhome.

If the Board of Directors determines that it would be advantageous to the Association and/or to the remaining property to purchase and reconstruct the townhome, it shall call a special meeting by giving written notice thereof, setting forth the purpose of the meeting, to all members within seven (7) days following submission of the committee report. The special meeting of members shall be held not less than seven (7) days nor more than fifteen (15) days following notice to members. Upon an affirmative vote of at least sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of each class of membership present and voting, the Board will be authorized to purchase and reconstruct the townhome and to assess all lots equally for all costs and expenses arising out of the purchase and repair or reconstruction of the townhome. The Board may require that the assessment be paid in a lump sum; in installments during an assessment year; or over a period of two (2) or more assessment years, as the Board, in its discretion, shall determine to be appropriate.

Such assessment shall be in addition to, and not in lieu of, the annual assessments provided for in Section 3 or the special assessments provided for in Section 4 of this Article.

(b) Determination of Value. The owner of the townhome shall convey marketable title thereto to the Association upon payment to the owner by the Association of the fair market value of the lot and townhome in its damaged condition as determined by a MAI appraiser selected by the owner and approved by the Board. In the event that the Board and the owner are unable to agree upon an appraiser, each shall select a MAI appraiser and the two (2) appraisers so selected shall select a third MAI appraiser, and the three (3) appraisers shall jointly appraise and determine the fair market value of the lot and townhome in its damaged condition. Each party shall pay the fee of the appraiser selected by it or him, and each party

shall pay one-half (1/2) of the fee of the third appraiser. If the Board and the owner agree upon a single appraiser, each shall pay one-half (1/2) the cost of the appraisal.

(c) Application of Insurance Proceeds. The owner of the townhome, prior to the conveyance to the Association, shall apply or cause to be applied so much of the proceeds of any hazard insurance paid by reason of the damage or destruction of the townhome as shall be necessary to pay all liens, mortgages, deeds of trust, taxes, and encumbrances upon the lot so that the fee simple marketable title thereto may be conveyed free and clear of all liens and encumbrances. If the insurance proceeds are not sufficient to pay all liens, encumbrances, and obligations upon the lot, the purchase price shall be reduced by an amount adequate to pay any such deficiency.

(d) Failure to Exercise Option. If the Association does not exercise the purchase option herein provided for, the owner may retain the lot or may transfer or convey it, upon such terms and conditions as he may elect, to any person, to be used solely as a site or an attached, single-family townhome unit. The reconstructed or repaired townhome unit shall be substantially identical to the destroyed townhome unit, unless a change shall be approved by the Board, and shall be constructed in conformity with plans submitted to and approved by the Board prior to construction.

(e) Retention by Owner. If a townhome is not habitable by reason of damage, and the owner gives notice of his election to repair or reconstruct the townhome, the obligation of the owner to pay annual assessment installments shall be suspended either for a period of ninety (90) days or until the townhome is restored to a habitable condition, whichever shall first occur. In the event a townhouse is damaged or destroyed, and the owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the lot, so that it shall be placed in a neat, clean, and safe

condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall constitute a lien upon the townhome until paid by the owner, unless the townhome is thereafter acquired by the Association.

(f) Reconstruction by the Association. Upon acquisition of title to the townhome, the Association is authorized to arrange such financing and execute such notes, mortgages, deeds of trust, and other instruments, to enter into such contracts, and to do and perform such other matters and things as are necessary to accomplish the reconstruction of the townhome; provided, however, that only that townhome which is to be reconstructed shall stand as security for any liens, mortgages, or obligations arising out of the purchase or reconstruction of the townhome, and no other portion of the property, including the limited common area and facilities, shall be pledged, hypothecated, mortgaged, deeded in trust, or otherwise given as security for any obligations arising out of said purchase or reconstruction, and no member shall be required to become personally obligated therefor.

The Association shall hold title to the lot and improvements for the benefit of all members. The Board may lease or sell the lot and improvements upon such terms and conditions as it, in its discretion, deems most advantageous to the members. The lease rental shall be applied in the following order of priority: (1) to the payment of taxes, assessments, liens, encumbrances, and obligations on or secured by the lot; (2) to the maintenance, upkeep, and repair of the townhome; (3) to payment or repayment to the members, pro rata, of the special assessment, if any, for purchase and reconstruction of the townhome; and (4) to the general expenses of the Association. Any payment or repayment to members of the special assessment may be in cash or may be applied to the annual assessment due or to become due.

(g) Application of Declaration and Bylaws. Any townhome which has been destroyed, in whole or in part, by fire

or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the Bylaws of the Association.

Section 6. Quorum for Any Action Authorized Under Sections 3 and 4. At the first such meeting called, as provided in Sections 3 and 4 hereof, 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 the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 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 may be collected on a monthly basis.

Section 8. Date of Commencement of Annual Assessments:
Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyances of the Common Area. 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, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusial evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within

thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage 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. 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. The following property subject to this Declaration shall be exempt from the assessments created herein: (a) all properties dedicated to and accepted by a local public authority; (b) the Common Area; and (c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall, antenna, clothesline, or other structure shall be commenced, erected, or maintained upon the property, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location

of the said improvements or alterations shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association or by their Architectural Control Committee. In the event that the said Board or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with; provided, that the plans and specifications required to be submitted shall not be deemed to have been received if they contain erroneous data or fail to present accurate information upon which the Board or its committee can arrive at a decision.

The said Board or its committee shall have the right, at its election, to enter upon any lot during construction, erection, or installation of improvements or alterations to inspect the work being undertaken in order to determine that such work is being performed in conformity with the approved plans and specifications and in a good and workmanlike manner, utilizing approved methods and good quality materials.

ARTICLE VII

PARTY WALLS

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

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

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

Section 4. The owner of any Lot may construct, reconstruct or extend a party wall in any direction (subject to and within the limitations of architectural control and other limitations of these Covenants) with the right to go upon the adjoining Lot to the extent reasonably necessary to perform such construction. Such construction shall be done expeditiously. Upon completion of such construction, such owner shall restore the adjoining lot to as near the same condition which prevailed on it before the commencement of such construction as is reasonably practicable.

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

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

Section 7. Certification by Adjoining Property Owner that no Contribution is Due. If any Owner desires to sell his property, he may, in order to assure a prospective purchaser that no adjoining property owner has a right of contribution as provided in this Article VIII, request of the adjoining property owner or property owners a certification that no right of contribution exists, whereupon it shall be the duty of each adjoining property owner to make such certification immediately upon

request and without charge; provided, however, that where the adjoining property owner claims a right of contribution, the certification shall contain a recital of the amount claimed.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, such dispute shall be settled by arbitration as provided by the laws of North Carolina, relating to arbitration as then existing.

ARTICLE VIII

MAINTENANCE OF ACCESS ROUTES

In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service to such developments or their occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, homeowners association, or occupants.

The Association shall have the authority to maintain and repair inadequate access routes and to prevent blocking of access routes to and from the Properties.

ARTICLE IX

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 front yard space of each lot and the Common Areas.

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

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

ARTICLE X

EASEMENTS

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

ARTICLE XI

EXTERIOR MAINTENANCE

In addition to maintenance of the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks and other exterior improvements. Such exterior maintenance shall not include glass surfaces. Further, the owner of any lot may at his election plant trees, shrubs, flowers and grass in his rear yard and may also maintain portions or all of his rear yard provided that such maintenance by the owner does not hinder the Association in performing its maintenance of the exterior of the house and the remaining yard spaces. No such maintenance by a lot owner shall reduce the assessment payable by him to the Association. If, in the opinion of the Association, any such owner fails to maintain his rear yard in a neat and orderly manner, the Association may revoke the owner's maintenance rights for a period not to exceed one year. The Owner shall not plant any vegetation in the front yard except with the prior written approval of the Association.

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

In no event shall the Association provide interior maintenance of structures not owned by the Association.

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. Insurance. Every Owner shall maintain in full force and effect at all times fire and hazard insurance in an amount equal to the full insurable value of his townhome except that the amount shall not be required to exceed the replacement cost of the townhome. An Owner shall exhibit to the Board, upon demand, evidence that such insurance is in effect. If any Owner shall fail to maintain such insurance, the Board is authorized to obtain such insurance in the name of the Owner from an insurer selected by the Board, and the cost of such insurance shall be included in the annual assessment of the Owner and shall constitute a lien against his lot until paid.

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

Section 4. 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 during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of the Lot Owners. Any amendment must be recorded. Prior to recordation of any Amendment, the Association shall receive approval from the City of Raleigh Attorneys Office unless the City of Raleigh Attorneys Office has failed to comment thirty (30) days after receiving the proposed Amendment.

Section 5. If any amendment to these covenants, conditions and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association. Thereupon, the Board of Directors shall, within thirty (30) days do the following:

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

(b) Attach to the amendment a certification as to its validity, which certification shall be executed by the Association in the same manner that deeds are executed. The following form of certification is suggested:

CERTIFICATION OF VALIDITY OF AMENDMENT TO COVENANTS,
CONDITIONS AND RESTRICTIONS OF PECAN TOWNES SUBDIVISION

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

PECAN TOWNES HOMEOWNERS' ASSOCIATION

By _____
President

ATTEST:

Secretary

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

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

Section 6. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, amendments of this Declaration of Covenants, Conditions and Restrictions, mergers and consolidations, mortgaging of Common Area and dissolution.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this ____ day of _____, 19__.

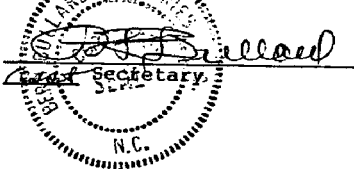
BERN BULLARD INDUSTRIES, INC.
- Declarant

By: Bern A. Bullard Jr.
President

BOOK 3648 PAGE 372

ATTEST:

(CORPORATE SEAL)

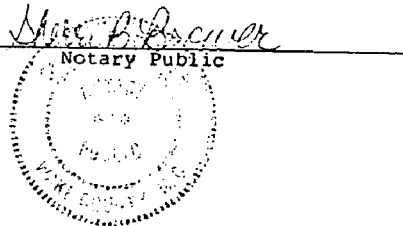


NORTH CAROLINA

WAKE COUNTY

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

WITNESS my hand and official stamp or seal, this 29th day of January, 19 86.



My Commission Expires:

January 31, 1988

NORTH CAROLINA - WAKE COUNTY

The foregoing certificate of Sherri B. Brower

Notary Public is

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

KENNETH C. WILKINS, Register of Deeds

By Regina R. Cooke
Deputy Register of Deeds

PRESENTED BY BULLARD BOOK 3664 PAGE 889
FOR REGISTRATION 24 CARRIEL HILL RD
NORTH CAROLINA 27607
WAKE COUNTY KENNETH C. WILKINS
REGISTER OF DEEDS
WAKE COUNTY
AMENDMENT TO DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS FOR
PECAN TOWNES SUBDIVISION, AS RECORDED
IN BOOK OF MAPS 1986, PAGE 172,
WAKE COUNTY REGISTRY

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF PECAN TOWNES SUBDIVISION, PHASE IV, made
and entered into this 25th day of February, 1986, by BERN BULLARD
INDUSTRIES, INC., a North Carolina Corporation, having its
principal office in Wake County, North Carolina, hereinafter
referred to as "Declarant";

W I T N E S S E T H :

THAT WHEREAS, by instrument recorded in Book 3648, Page
352 through Page 372, Wake County Registry, Wake County, North
Carolina, Declarant subjected Phase IV of Pecan Townes Subdivision
to certain Declaration of Covenants, Conditions and Restrictions
as contained therein; and

WHEREAS, Declarant desires to amend Article V of said Declaration
of Covenants, Conditions and Restrictions at this time;

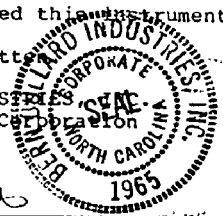
NOW, THEREFORE, in consideration of the premises and cove-
nants contained herein, Declarant declares that Article X of
the aforementioned Declaration of Covenants, Conditions and
Restrictions of Phase IV of Pecan Townes Subdivision, be amended
by adding the following:

"Declarant hereby grants and conveys to the Owners of Lot
Numbers 79, 84, 85, and 88 as shown in Book of Maps 1986, Page
172, Wake County Registry, Wake County, North Carolina, and/or
their assigns, or successor in interest, a perpetual easement
for any exterior roof overhangs or eaves which encroach upon
the common area designated in Phase IV of Pecan Townes
Subdivision.

IN WITNESS WHEREOF, the Declarant has caused this instrument
to be executed the day and year first above written.

BERN BULLARD INDUSTRIES, INC.
a North Carolina Corporation
- Declarant

By: [Signature]
Its Vice President



ATTEST:

(CORPORATE SEAL)

[Signature]
 Its Asst Secretary

NORTH CAROLINA

WAKE COUNTY

I, Kimberly D. Gardner, a Notary Public in and for said County and State, do hereby certify that Bern F. Bullard personally came before me this day and acknowledged that he is the Asst Secretary of BERN BULLARD INDUSTRIES, INC., a North Carolina corporation, and that by the authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by him Asst Secretary.

WITNESS my hand and official seal this 25th day of FEBRUARY, 1986.

Kimberly D. Gardner
 Notary Public

My Commission Expires:

MAY 1, 1989

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate of Kimberly D. Gardner

Notary(ies) Public is

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

KENNETH C. WILKINS, Register of Deeds

By Rogina R. Cooke
 Asst. Deputy Register of Deeds

Had Garraw & Ponce

BOOK 3667 PAGE 792

NORTH CAROLINA
WAKE COUNTY

AMENDMENT TO DECLARATION OF COVENANTS
CONDITIONS AND RESTRICTIONS FOR
PECAN TOWNES SUBDIVISION, AS RECORDED
IN BOOK OF MAPS 1986, PAGE 172,
WAKE COUNTY REGISTRY

THIS AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF PECAN TOWNES SUBDIVISION, PHASE IV, made
and entered into this 28th day of February, 1986, by BERN BULLARD
INDUSTRIES, INC., a North Carolina Corporation, having its
principal office in Wake County, North Carolina, hereinafter
referred to as "Declarant";

W I T N E S S E T H :

THAT WHEREAS, by instrument recorded in Book 3648, Page
352 through Page 372, Wake County Registry, Wake County, North
Carolina, Declarant subjected Phase IV of Pecan Townes Subdivision
to certain Declaration of Covenants, Conditions and Restrictions
as contained therein; and

WHEREAS, by instrument recorded in Book 3664, Page
889, Wake County Registry, Wake County, North Carolina,
Declarant amended the Declaration of Covenants, Conditions
and Restrictions for Phase IV of Pecan Townes Subdivision
as contained therein; and

WHEREAS, Declarant further desires to amend Article V
of said Declaration of Covenants, Conditions and Restrictions
at this time;

NOW, THEREFORE, in consideration of the premises and
covenants contained herein, Declarant declares that Article
X of the aforementioned Declaration of Covenants, Conditions
and Restrictions of Phase IV of Pecan Townes Subdivision, be
amended by adding the following:

PRESENTED
FOR
REGISTRATION
FEB 29 4 10 PM '86
JENNIFER C. WILKINS
CLERK OF SUPERIOR COURT
WAKE COUNTY

-2-

"Declarant hereby grants and conveys to the Owners of Lot Numbers 88, 87, and 86 as shown in Book of Maps 1986, Page 172, Wake County Registry, Wake County, North Carolina, and/or their assigns, or successor in interest, a perpetual easement for any exterior roof overhangs or eaves which encroach upon Lot Numbers 87, 86, and 85 in Phase IV of Pecan Townes Subdivision.

IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed the day and year first above written.



BERN BULLARD INDUSTRIES, INC.,
a North Carolina Corporation
- Declarant

[Signature]
Its Vice President

ATTEST:

(CORPORATE SEAL)

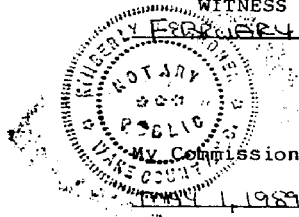
[Signature]
Its Secretary

NORTH CAROLINA

WAKE COUNTY

I, KIMBERLY D. GARDNER Notary Public in and for said County and State, do hereby certify that Barbara Bullard Page personally came before me this day and acknowledged that she is the Secretary of BERN BULLARD INDUSTRIES, INC., a North Carolina corporation, and that by the authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal and attested by H.R. as its Secretary.

WITNESS my hand and official seal this 28th day of February, 1986.



[Signature]
Notary Public

NORTH CAROLINA - WAKE COUNTY

The foregoing certificate of Kimberly D. Gardner

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

KENNETH C. WILKINS, Register of Deeds

By P. Anne Redd
Asst. / Deputy Register of Deeds

3K674460291

Prepared By and Hold For: Warren, Perry, Anthony & Co.
P.O. Box 1187
Wake, NC 27588 95111111 PM 3:50

NORTH CAROLINA

REGISTER OF DEEDS
WAKE COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR PECAN TOWNES SUBDIVISION,
PHASE IV, BLOCK NO. 15, BOOK OF MAPS 1995,
PAGE 1630, WAKE COUNTY REGISTRY.

WAKE COUNTY

THIS DECLARATION, made on the date hereinafter set forth by
JERRY GOWER CONSTRUCTION CO., INC. hereinafter referred to as
"Successor Declarant".

W I T N E S S E T H:

WHEREAS, Successor Declarant is the owner of certain property
in Raleigh Township, County of Wake, State of North Carolina, which
is more particularly described as follows:

BEING all of Phase IV, Block No. 15, Pecan
Townes Subdivision, as shown on plat thereof
recorded in Book of Maps 1995, page 1630, Wake
County.

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

NOW, THEREFORE, Successor Declarant hereby declares that all
of the properties described above shall be a part of Pecan Townes
Homeowner's Association - Phase One and shall be held, sold, and
conveyed subject to the easements, restrictions, covenants and
conditions as set forth in the Declaration of Covenants, Conditions
and Restrictions for Pecan Townes Subdivision recorded in Book
3648, page 352, Wake County Registry, Wake County, North Carolina,
which are for the purpose of protecting the value and desirability
of, and which shall run with, the real property and be binding on
all parties having any right, title or interest in the described
properties or any part thereof, their heirs, successors and
assigns, and shall inure to the benefit of each owner thereof.

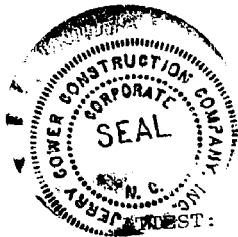
Pecan Townes Homeowner's Association joins herein to
acknowledge its consent to the annexation of the property described
above and its acceptance of the Deed to the common areas to be

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BK 674460292

-2-

subsequently recorded with the Wake county Registry.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal, this the 16 day of Nov, 1995.



JERRY GOWER CONSTRUCTION CO., INC.,
a North Carolina Corporation
Successor Declarant

BY: Jerry Gower
Jerry Gower, President

(CORPORATE SEAL)

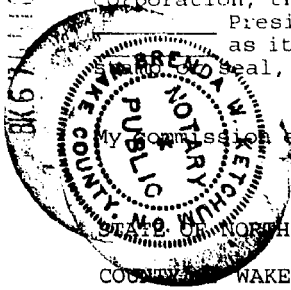
Robert Comer
Secretary

PECAN TOWNES HOMEOWNERS ASSOCIATION

BY: Phil M. D. [Signature]

NORTH CAROLINA
COUNTY

8K671160293



I, a Notary Public of the County and State aforesaid, certify that Fred Dickerson personally came before me this day and acknowledged that he is Secretary of PECAN TOWNES HOMEOWNERS ASSOCIATION a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by as its Secretary. Witness my hand and official seal, this 10 day of November, 1995.

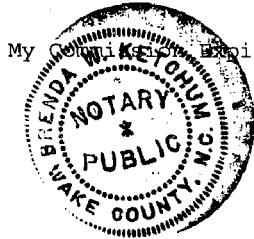
My Commission Expires: 3-6-2000

Brenda Ketchum
NOTARY PUBLIC

STATE OF NORTH CAROLINA
COUNTY OF WAKE

The undersigned, Notary Public of the County and State aforesaid, certify that Fred Dickerson of PECAN TOWNES HOMEOWNERS ASSOCIATION personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 10 day of November, 1995.



My Commission Expires: 3-6-2000

Brenda Ketchum

Drawn By & Hold For: Barrow and Redwine

BOOK 3964 PAGE 466

NORTH CAROLINA

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR PECAN TOWNES
SUBDIVISION, PHASE IV, BOOK OF MAPS
1987, PAGE 147, WAKE COUNTY REGISTRY.

WAKE COUNTY

THIS DECLARATION, made on the date hereinafter set forth
by BERN BULLARD INDUSTRIES, INC., hereinafter referred to as
"Declarant".

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in
Raleigh Township, County of Wake, State of North Carolina,
which is more particularly described as follows:

BEING all of Phase IV, Pecan Townes Subdivision, as
shown on plat thereof recorded in Book of Maps 1987,
Page 147, Wake County.

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

NOW, THEREFORE, Declarant hereby declares that all of the
properties described above shall be a part of Pecan Townes
Homeowner's Association - Phase One and shall be held, sold,
and conveyed subject to the easements, restrictions, covenants
and conditions as set forth in the Declaration of Covenants,
Conditions and Restrictions for Pecan Townes Subdivision
recorded in Book 3648, Page 352, Wake County Registry, Wake

PRESENTED
FOR
REGISTRATION
MAR 18 9 26 AM '87
KENNETH C. WILKINS
REGISTER OF DEEDS
WAKE COUNTY, N.C.

BOOK 3964 PAGE 407

County, North Carolina, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal, this the 17th day of March, 1987.

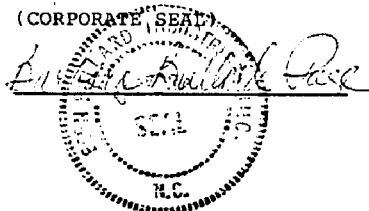
BERN BULLARD INDUSTRIES, INC..
a North Carolina Corporation -
Declarant

BY:

Bern F. Bullard, Jr.
Bern F. Bullard, Jr.,
President

ATTEST:

(CORPORATE SEAL)



BOOK 3964 PAGE 408

NORTH CAROLINA

WAKE COUNTY

I, Sherri B. Brower, a Notary Public of the County and State aforesaid, certify that ^{Barbara Bullard} ~~Page~~ personally came before me this day and acknowledged that she is the Secretary of BERN BULLARD INDUSTRIES, INC., a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by ~~him~~ ^{her} as its Secretary.

WITNESS my hand and notarial seal, this the 17th day of March, 1987.

Sherri B. Brower
Notary Public

My Commission Expires:

January 31, 1988

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate of Sherri B. Brower

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

KENNETH C. WILKINS, Register of Deeds

By P. Anne Ridd
Asst / Deputy Register of Deeds