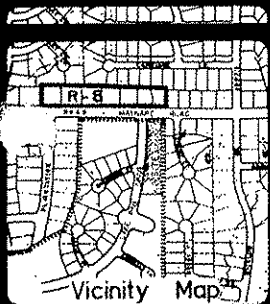


Lake Pine Phase I

File # 22-1



This map was prepared by R. A. Cooper, Registered Professional Engineer, No. 1981, and deposited in the Office of the Registrar of Deeds of Wake County, North Carolina, in Book 1981, Page 441.

R. A. Cooper, R.E.
James A. Johnson, Esq.

I, Rundo A. Cooper, being duly sworn say that this plat is in all respects correct, is the best of my knowledge and belief, that this plat was prepared from an actual field survey made by me and completed on 10/1/81, and that this property is a part of the land described in deed book 1981, page 441, and that the error of closure is 0.0000.

Registered Land Surveyor

I, *James A. Johnson*, Notary Public in and for the County of Wake and State of North Carolina, do hereby certify that *Rundo A. Cooper* appeared before me this day and acknowledged the due execution of the foregoing certificate and witness my hand and notarial seal this 10th day of May 1981.

My commission expires 10/1/83

Notary Public

MAY 10 1981 *James A. Johnson*

James A. Johnson
Notary Public
Wake County, North Carolina

NORTH CAROLINA - WAKE COUNTY

The foregoing certificate of *R. A. Cooper*, Registered Professional Engineer, No. 1981, and deposited in the Office of the Registrar of Deeds of Wake County, North Carolina, in Book 1981, Page 441.

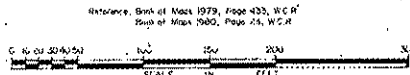
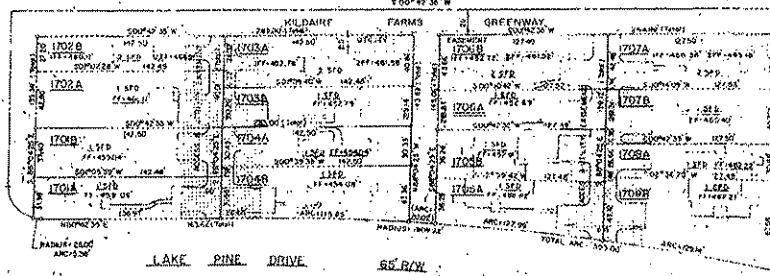
Notary Public

The 10th day of May, 1981, at Raleigh, N.C.

R. A. Cooper, Registered Professional Engineer, No. 1981, and deposited in the Office of the Registrar of Deeds of Wake County, North Carolina, in Book 1981, Page 441.

James A. Johnson, Esq.

County Registrar of Deeds



I, *Rundo A. Cooper*, Registered Professional Engineer, No. 1981, and deposited in the Office of the Registrar of Deeds of Wake County, North Carolina, in Book 1981, Page 441.

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James A. Johnson, Esq.

County Registrar of Deeds

Recorded in Map Book 1981, Page 441, Wake County Registry.

Project No.

CAVANAUGH GARDEN HOMES CONDOMINIUM
SECTION I, PHASE I
KILDARE FARMS SUBDIVISION
Cory Wake Cary NC

Rundo A. Cooper
Land Surveyor
1000 S. W. 10th St.
Raleigh, N.C. 27601

Date

10 March 1981

Scale

1" = 50'

Sheet

1 of 1

Drawn by

R.A.C.

Revisions

1. Initial Survey

2. Final Plat

3. Record

4. Final Plat

5. Record

6. Final Plat

7. Record

8. Final Plat

9. Record

10. Final Plat

11. Record

12. Final Plat

13. Record

14. Final Plat

15. Record

16. Final Plat

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18. Final Plat

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41. Record

42. Final Plat

43. Record

44. Final Plat

45. Record

46. Final Plat

47. Record

W.H. Jones

OF
CAVANAUGH GARDEN HOMES CONDOMINIUM
A DECLARATION OF INTENTION TO SUBMIT PROPERTY TO THE PROVISIONS
OF CHAPTER 47A OF THE NORTH CAROLINA GENERAL STATUTES
Condominium File No. 22

THIS DECLARATION, made on this the 21st day of May,
1981, by Thompson Investment Company, a partnership, hereinafter
referred to as the "Declarant", does hereby declare:

1. LANDS INVOLVED.

(a) Thompson Investment Company is the owner in fee simple
of certain lands in the City of Cary, Wake County, North Carolina,
lying on the south side of Maynard Road, bounded on the west by
Lake Pine Drive and more particularly described on Exhibit A attached
hereto and made a part of this document.

(b) It is the intent of the Declarant to submit some or
all of said lands, including the buildings, structures and improve-
ments located thereon to unit ownership through the recordation
of the declaration provided for in G.S. 47A-2 and G.S. 47A-13 of
the North Carolina General Statutes. The submission to unit
ownership of all lands and improvements to be included in Cavanaugh
Garden Homes Condominium shall be accomplished on or before
December 31, 1987.

(c) The lands, buildings, structures and improvements
described in this Declaration shall be the Property, as the term
is defined herein and in G.S. 47A-3 and shall be administered by
the association of unit owners provided for in this Declaration
and in the bylaws attached hereto, subject always to the provisions
of Chapter 47A of the North Carolina General Statutes. Additional
Property shall be subjected to unit ownership by a declaration of
annexation of such Additional Property. Upon recordation of each
declaration of annexation of Additional Property, such Additional
Property shall become a part of the Property, the common areas and
facilities of such Additional Property shall become merged with the
common areas and facilities of the Property already subject to this
Declaration, and the unit owners shall have an undivided interest in
all of the common areas and facilities of the Property.

(d) Each unit owner shall be vested with an undivided
interest in the common areas and facilities of the Property in

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WAKE COUNTY, N.C.

fee simple determinable. Each declaration of the annexation of Additional Property shall set forth the percentage that the value of each unit within the Property, including those within said Additional Property, represents of the aggregate value of all units within the Property. Upon the filing of the declaration of annexation of the Additional Property in the Registry of Wake County, the interest in the common areas and facilities of the Property theretofore vested in the unit owners in the percentages set forth in the respective deeds of conveyance and appearing in the Declaration or any amendment to the Declaration previously recorded, shall cease and terminate, and such owners thereupon shall be vested instantaneously with a fee simple determinable interest in all of the common areas and facilities within the Property, including the newly merged common areas and facilities, in those respective percentages as shall appear in the recorded declaration of annexation of Additional Property. The respective interests of all owners in the common areas and facilities shall become vested in fee simple absolute upon submission of all of the lands described in subparagraph (a) of this Paragraph 1 to unit ownership or on December 31, 1987, whichever shall first occur.

(e) The interest and estate of any unit owner in the common areas and facilities of the Property may constitute a part of the security for any obligation against the unit, but the consent of trustees, mortgagees, or beneficiaries under any instrument securing such obligation shall not be required to terminate and revest in the unit owner his respective interest and estate in the common areas and facilities as provided in subparagraph (d) of this Paragraph 1. The said trustees, mortgagees, or beneficiaries shall continue to have a security interest of the same nature provided in the security instrument in such estate as the unit owner from time to time shall have in the common areas and facilities of the Property. Every deed of trust, mortgage, or other security instrument upon any unit or other property within the Property shall be subject to the provisions of this Declaration, and every

trustee, mortgagee, or beneficiary, by entering into such security instrument upon any unit or units or other property within the Property, agrees and covenants for himself, his heirs, executors, successors, and assigns, that said security instrument shall be subject to the provisions of this Declaration.

2. POWER OF ATTORNEY.

(a) Each owner, by purchase of a unit within the Property and acceptance of the deed therefor, agrees and covenants for himself, his heirs, executors, personal representatives, successors and assigns, which covenant shall run with the land, that Thompson Investment Company shall be and is hereby constituted the attorney-in-fact, coupled with an interest, for every owner of a condominium unit within the Property for the sole purpose of making and executing any conveyances and instruments, specifically including, but not limited to, appropriate amendments to this Declaration, and doing all other things necessary to annex additional portions of the property described on Exhibit "A" hereto, and to convey to each unit owner the appropriate undivided and indivisible interest in the total common area and facilities within the Property, computed as provided in subparagraph (d) of Paragraph 1; and the said attorney-in-fact shall execute all such conveyances and instruments and shall record or cause to be recorded all such conveyances and instruments at the time of recordation of the declaration submitting the additional property to unit ownership.

(b) Each owner, by purchase of a unit within the Property and acceptance of the deed therefor, grants to the Board of Directors of the Association an irrevocable power of attorney, coupled with an interest, to acquire title to or to lease any unit, as provided in the bylaws attached hereto as Exhibit C, in the name of the Board of Directors, or its designee, on behalf of all unit owners, and to convey, sell, lease, mortgage, vote the votes appurtenant thereto (other than for the election of the Board of Directors) or otherwise deal with any such unit so acquired or to sublease any unit so leased by the Board of Directors. Any unit purchased by the Board of Directors shall be held by the Board, or its designee, on behalf of all unit owners in proportion to their respective percentage interests in the common areas and facilities. The lease covering any unit leased by the

Board of Directors, or its designee, shall be held on behalf of all unit owners, in relation to their percentage interests in the common areas and facilities.

3. SUBMISSION OF PROPERTY. The Declarants hereby submit the lands described in Exhibit D attached hereto, together with the buildings, structures, and improvements located thereon, and all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, to the provisions of the North Carolina Unit Ownership Act, as set forth in Chapter 47A of the General Statutes of North Carolina.

4. DEFINITIONS. As used in this Declaration and in the bylaws hereto attached, unless the context otherwise requires:

(a) "Architectural plans" means the plans of the buildings filed with this Declaration, showing thereon graphically all particulars of the buildings and the units.

(b) "Association of Unit Owners" or "Association" means all of the unit owners acting as a group in accordance with the Bylaws and Declaration.

(c) "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the directors of the Association.

(d) "Buildings" means multi-unit structures constructed or erected on the Property which contain the condominium units.

(e) "Bylaws" means the bylaws of the Association as they now or hereafter exist.

(f) "Common areas and facilities" means all portions of the Property except the condominium units.

(g) "Common expenses" means and includes:

1. All sums lawfully assessed against the unit owners by the Association;

2. Expenses of administration, maintenance, repair, or replacement of the common areas and facilities;

3. Expenses agreed upon as common expenses by the Association.

4. Expenses declared to be common expenses by the provisions of the Unit Ownership Act, by the Declaration or by the Bylaws;

5. Hazard, and such other insurance premiums as the Bylaws may require the Association to purchase;

(h) "Common profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses or reserves therefor. Common profits shall not mean or include any sums lawfully assessed against the unit owners by the Association.

(i) "Declarant" means Thompson Investment Company and its successors and assigns to whom its rights hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as it may impose.

(j) "Declaration" means the instrument, duly recorded, by which the Property is submitted to the provisions of the Unit Ownership Act, and as it, from time to time, may be lawfully amended.

(k) "Limited common areas and facilities" means and includes those common areas and facilities which are reserved for the use of designated units to the exclusion of the other units, such as decks, patios, yard spaces, walkways, driveways, and the like.

(l) "Majority" or "majority of unit owners" means the owners of more than fifty percent (50%) of the aggregate interest in the common areas and facilities, as established by this Declaration, assembled at a duly called meeting of the unit owners.

(m) "Person" means any individual, corporation, partnership, association, trustee, or other legal entity.

(n) "Property" means and includes the land and all buildings, structures and improvements thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which are herein submitted to the provisions of the Unit Ownership Act. After additional lands are submitted to the provisions of the Unit Ownership Act, this term shall also include such additional lands and all

buildings, structures and improvements thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(o) "Unit" or "condominium unit" means a dwelling or place of residence, including accessory spaces and areas appurtenant thereto, within a building on the Property, and specifically designated and described in this Declaration.

(p) "Unit designation" means the number, letter or combination thereof designating the unit and set forth in this Declaration.

(q) "Unit owner" means any person, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns a unit within a building on the Property.

(r) "Unit Ownership Act" means the provisions of Chapter 47A of the North Carolina General Statutes as the same now exists or may hereafter be amended.

(s) "Additional Property" means all lands, buildings, structures and improvements which are submitted to unit ownership and made subject to this Declaration by recordation of a Declaration or other document which annexes such lands, buildings, structures and improvements to Cavanaugh Garden Homes Condominium.

5. DESCRIPTION OF BUILDINGS. Eight buildings, each consisting of two condominium units, are located on the Property as shown on the site plan and architectural plans attached hereto as Exhibit "B". The units are designated Nos. 1701A, 1701B, 1702A, 1702B, 1703A, 1703B, 1704A, 1704B, 1705A, 1705B, 1706A, 1706B, 1707A, 1707B, 1708A and 1708B.

The exterior construction of each building is primarily wood frame. The exterior walls are wood studs with 1/2" gypsum sheathing and 1" X 8" cedar board exterior siding. All exterior walls are insulated. The buildings have concrete footings with masonry foundation walls. The roofs are wood trussed rafters with plywood sheathing and asphalt shingle roofing. Exterior doors are insulated metal or finished wood with storm doors except for one

insulated sliding glass door in each Unit. All windows are insulated double-pane windows with aluminum frames with acrylic finish. All chimneys are wooden with metal flues.

The interior construction of each building is as follows:

(a) Floors - The first floor of every building consists of wooden floors built on suspended floor joists with crawl spaces underneath. The second floor in all buildings which contain a second story consists of wooden floors built on suspended floor joists. The floor finish is vinyl in all baths, vinyl in all kitchens, foyers and pantries and carpet in all other spaces.

(b) Walls - All walls are finished sheetrock, except portions of the powder rooms, baths and kitchens which are vinyl wall covering over sheetrock.

(c) Ceilings - All ceilings are finished sheetrock.

(d) Windows - All interior doors and door and window casings are stained wood.

(e) Bathroom fixtures - All tub/shower units are one-piece fiberglass units. All commodes and lavatories are standard ceramic.

(f) Fireplaces - All units have brick fireplaces.

The various condominium units as built on the Property herein submitted to unit ownership were constructed according to five different Floor Plans. The Floor Plans are shown on pages 1, 2, 3, 6 and 7 of Exhibit "B" attached hereto. Units 1701A, 1703B, 1704A, 1705A, 1706A and 1708A are built according to Floor Plan 1104, with an approximate area of 1104 square feet and one story in height. Floor Plan 1104 contains two bedrooms, a living room, a dining room, a kitchen, a foyer, a utility room and two baths. Units 1701B, 1702A, 1705B and 1707B are built according to Floor Plan 1150, with an approximate area of 1150 square feet and one story in height. Floor Plan 1150 contains two bedrooms, a living/dining room area, a kitchen, a foyer and two baths. Units 1702B, 1703A and 1706B are built according to Floor Plan 1191B, with an approximate area of 1191 square feet and two stories in height. Floor Plan 1191B contains a living room, a kitchen, a dining area, a utility room and a half-bath on the first floor and a bath and two bedrooms on the second

floor. Units 1704B and 1708B are built according to Floor Plan 1131, with an approximate area of 1131 square feet and one story in height. Floor Plan 1131 contains two bedrooms, a living room, a dining room, a kitchen, a foyer and two baths. Unit 1707A is built according to Floor Plan 1302, with an approximate area of 1302 square feet and two stories in height. Floor Plan 1302 contains a living room, a dining room, a kitchen, a foyer and a half-bath on the first floor and two baths and three bedrooms on the second floor.

6. UNIT DESCRIPTION. The designation of each unit, its location, its dimensions, approximate area, number of rooms, limited common areas appurtenant to each unit and common areas and facilities to which it has immediate access and other data concerning its proper identification are further shown in the plans attached hereto as Exhibit "B" and made a part of this document.

Each Unit owner is the sole owner of the following portions and areas of his respective unit:

All of that area between the top of the sub-floor and the bottom of the ceiling joist and between the inside face of the studs of the exterior walls except interior load-bearing walls (exclusive of wall coverings such as sheetrock, tile, etc.), and including, without limitation, all items such as sheetrock, floor carpet, vinyl floor coverings, ceiling tile, bath tile, non-load bearing and non-stress bearing partition walls, doors, electric and plumbing fixtures, electrical sockets, electric switches, heating and air conditioning units serving only one unit, water heaters, ovens, dishwashers, disposals and other built-in appliances of whatever nature, cabinets, grills, sinks, lavatories and pipes and wiring which are inside a unit and which are not located within a load-bearing wall. All such appliances and equipment which serve more than one unit shall be a part of the common areas and facilities. If any mechanical system serving only one unit is located outside of the unit it shall nevertheless be the sole property of the unit owner.

7. PERCENTAGE OF INTEREST. The following is the percent of interest of each unit in the common areas and facilities and limited common areas and facilities at the time of the recording of this document.

<u>UNIT NO.</u>	<u>PERCENTAGE</u>
1701A	6.15832%
1701B	6.22817%
1702A	6.22817%
1702B	6.27473%
1703A	6.27473%
1703B	6.15832%
1704A	6.15832%
1704B	6.22817%
1705A	6.15832%
1705B	6.22817%
1706A	6.15832%
1706B	6.27473%
1707A	6.85681%
1707B	6.22817%
1708A	6.15832%
1708B	6.22817%

The following shall be the percent of interest in the common areas and facilities and limited common areas and facilities of each unit after the annexation of all property described in Exhibit "A" attached hereto.

<u>UNIT NO.</u>	<u>PERCENTAGE</u>
1701A	3.46748% R
1701B	3.50681% R
1702A	3.50681% R
1702B	3.53303% 2
1703A	3.53303% 2
1703B	3.46748% R
1704A	3.46748% R
1704B	3.50681% R
1705A	3.46748% R
1705B	3.50681% R
1706A	3.46748% R
1706B	3.53303% 2
1707A	3.86077% 3
1707B	3.50681% R
1708A	3.46748% R
1708B	3.50681%
1709A	3.50681%
1709B	3.90010% 3
1710A	3.53303% 2
1710B	3.90010% 3
1711A	3.50681%
1711B	3.90010%
1712A	3.90010%
1712B	3.50681%
1713A	3.53303%
1713B	3.53303%
1714A	3.46748%
1714B	3.50681%

8. COMMON AREAS AND FACILITIES. The common areas and facilities consist of all parts of the Property other than the individual units as described in Paragraph 6 above, and other than the limited common areas and facilities described in Paragraph 9 below, including without limitation, the following:

(a) The land described in Exhibit "D" attached hereto and lands which are hereafter annexed;

(b) All foundations, columns, gutters, beams, supports and other structural members;

(c) The roofs and all exterior walls and all interior walls except non-load bearing and non-stress bearing partition walls which are wholly within a unit;

(d) All central and appurtenant installations for services such as power, light, pipes, ducts, wires, cables and conduits located in the common areas;

(e) All sewer pipes and sewer systems;

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

9. LIMITED COMMON AREAS AND FACILITIES. Certain parts of the common areas and facilities herein called and designated as "limited common areas and facilities" are hereby set aside and reserved for the exclusive use of certain units and such units shall have appurtenant thereto an exclusive easement for the use of such limited common areas and facilities, except as otherwise herein expressly provided.

The limited common area for each unit shall consist of the yard and all improvements which are within the lot on which that unit is located, as shown on the site plan in Exhibit "B" attached hereto, but which are outside of the exterior walls of the building and below the level of the unit's ceiling (below the level of the ceiling on the second story if the unit consists of more than one story) including stoops, decks, porches, patios, walkways, parking pads and storage areas, but excluding driveways which serve two or more units, overhanging eaves, doors, chimneys and windows.

The yard spaces which are limited common areas shall be maintained by the owner of the unit for whom the limited common area is reserved, except that all improvements designated as limited common

areas existing at the time of the initial conveyance of each Unit including, without limitation, walkways, parking pads, stoops and decks shall be maintained by the Association. In the event a unit owner constructs any improvement exterior to his unit then he must maintain it unless the Association elects to maintain it.

The Association shall have no duty to maintain any common area facilities which are maintained by the City of Cary or any other governmental body or by any public utility company.

The Association shall repair any damages to any unit caused by defects in the common area, provided such defects are not caused by the Owner of such unit. By way of illustration, the Association shall repair damages to sheetrock in a unit caused by a leaking roof, provided the Owner of such unit had not caused the roof to leak.

10. RESTRICTION AS TO USE. The building and each of the units shall be used for residential purposes only. Use of the buildings and units is further restricted by the Bylaws of the Association.

11. PERSON TO RECEIVE SERVICE OF PROCESS. The name and address of the person to receive service of process in any action as set forth and permitted or required by Chapter 47A of the General Statutes of North Carolina is as follows:

Mr. Odell Thompson
c/o Greenbrier Realty and Construction Company
1152 Executive Circle
Cary, North Carolina 27511

12. FORM OF ADMINISTRATION. Except as otherwise provided herein, the common area, limited common area, common area facilities and limited common area facilities shall be managed, controlled, directed and administered by the Association of Unit Owners of Cavanaugh Garden Homes (herein referred to as the "Association"), as provided in the Bylaws of the Association, which Bylaws are attached hereto as Exhibit "C" and made a part hereof. The governing body of the Association shall be its Board of Directors.

13. ENCROACHMENTS. If any portion of the common areas and facilities now encroaches upon any unit or if any unit now encroaches

upon any other unit or upon any portion of the common areas and facilities as a result of the construction of any building, or if any such encroachment shall occur after recordation of this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same.

14. EASEMENTS. Each unit owner within the Property shall have an easement in common with the owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Board of Directors shall have the right of access to each unit from time to time during reasonable hours as may be necessary to inspect the same, to remove violations therefrom and to maintain, repair or replace the common areas and facilities contained therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another unit or units. Each unit owner shall specifically have an easement to maintain all components of the heating and air conditioning systems serving his unit in their present locations or as shown in the plans attached hereto as Exhibit "B".

The Board of Directors may hereafter grant easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, telephone wires and equipment and electrical conduits and wires over, under, along and on any portion of the common areas, including limited common areas; and the Declarant hereby grants to the Board of Directors an irrevocable power of attorney to execute, acknowledge and record for and in the name of each unit owner such instruments as may be necessary to effectuate the foregoing.

An easement is hereby granted to the City of Cary, public utility companies and public service agencies over common areas as necessary for meter reading, fire trucks, garbage trucks, postal vehicles, emergency and rescue vehicles and vehicles and equipment which repair and replace drainage facilities and publicly maintained water lines, sewer lines and electric and telephone facilities.

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

16. LIENS. While the Property remains subject to this Declaration and the provisions of the North Carolina Unit Ownership Act, no liens of any nature shall arise or be created against the common areas and facilities of the Property except with the unanimous consent in writing of all of the condominium unit owners therein and the holders of first liens thereon, except such liens as may arise or be created against the several units and their respective common interests pursuant to the provisions of the North Carolina Unit Ownership Act.

17. NATURE OF INTEREST IN UNITS. Every unit, together with its undivided common interest in the common areas and facilities, shall for all purposes be, and it is hereby declared to be and to constitute a separate parcel of real property and the unit owner thereof shall be entitled to the exclusive ownership and possession of his unit and the exclusive right to occupy and possess the limited common areas appurtenant to such unit, subject only to the covenants, restrictions, and easements contained herein and the Bylaws, Rules, Regulations, Resolutions and decisions adopted pursuant thereto.

18. INSURANCE. Insurance coverage on the property shall be governed by the following provisions:

(a) Ownership of Policies. All insurance policies upon the Property shall be purchased by the Board of Directors for the benefit

of the Board and the unit owners and their mortgagees as their interests may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of unit owners. Unit owners may, at their option, obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense and such other coverage as they may desire.

(b) Coverage. All buildings and improvements upon the land and all personal property included in the common areas and facilities shall be insured in an amount equal to the maximum insurable replacement value as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against

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

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

(iii) workmen's compensation insurance, if and to the extent required by law.

The Board may, if it so elects, include in its insurance coverage for the benefit of the Unit owners any or all of those items owned by the Unit owners which would normally be deemed real estate under the laws of North Carolina, including, without limitation, such items as sheetrock, non-load bearing walls, doors and built in appliances. If such items are included in the insurance coverage, the extra cost of such coverage shall be borne by the Unit owners in the same

To the extent obtainable insurance in such limits as time determine, insuring: If the manager, if any; and each public or to the owners (and arising out of or incident to

From the Desk of
GAIL GRANT

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areas and facilities. The insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured. It shall be the responsibility of each owner to obtain, at his own expense, liability insurance with respect to his ownership and/or use of his unit, and the Board of Directors shall not be responsible for obtaining such insurance. There shall also be obtained such other insurance coverage as the Board of Directors shall determine from time to time to be desirable and necessary.

(c) Premiums. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Association.

(d) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Board as insurance trustee under this Declaration. The sole duty of the Board of Directors as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated or stated in the Bylaws and for the benefit of the unit owners and their mortgagees in the following shares:

(i) Proceeds on account of damage to common areas and facilities - an undivided share for each unit owner, such share being the same as each unit owner's undivided interest in the common areas and facilities.

(ii) Proceeds on account of damage to units shall be held in the following undivided shares: (a) When the building is to be restored - for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Directors; (b) When the building is not to be restored - an undivided share for each unit owner, such share being the same as each unit owner's undivided interest in the common areas and facilities.

(iii) In the event a mortgagee endorsement has been issued as to a unit the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear.

19. DISTRIBUTION OF INSURANCE PROCEEDS. Proceeds of insurance policies received by the Board of Directors as insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as provided by Paragraph 18 hereof. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners.

(b) Failure to Reconstruct or Repair. If it is determined, as provided in Paragraph 20 hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial owners thereof, with the respective mortgagees having a prior claim to such proceeds.

20. DAMAGE AND DESTRUCTION. Except as hereinafter provided, damage to or destruction of the buildings shall be promptly repaired and restored by the Board of Directors using the proceeds of insurance on the buildings for that purpose and the unit owners within the Property shall be liable for assessment of any deficiency; provided, however, if more than two-thirds of all of the buildings are substantially destroyed by fire or other casualty and the owners of three-fourths of all of the units within the Property resolve not to proceed with reconstruction or restoration, then in that event the Property shall be deemed to be owned as tenants in common by the unit owners and subject to the provisions of North Carolina General Statutes 47A-25, as the same exists at the date hereof or as amended hereafter.

Any reconstruction or repair shall be in accordance with the plans and specifications of the original buildings, portions of which are attached to this Declaration as Exhibit "B", and if not, then according to plans and specifications approved by the Board of Directors.

21. UNITS SUBJECT TO DECLARATION, BYLAWS, RULES AND REGULATIONS.

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

22. EXPENSES AND PROFITS. Expenses incurred by the Association on behalf of the Property shall be borne by the unit owners of the various units in ratio to their percentage of interest in the common areas and facilities. Common profits of the Property, if any, shall be distributed among the unit owners according to the percentage of respective interest in the common areas and facilities of the Property.

23. LIENS FOR UNPAID COMMON EXPENSES; RECORDATION: PRIORITIES: FORECLOSURE.

(a) Any sum assessed by the Association of Unit Owners for the share of the common expenses chargeable to any unit, and remaining unpaid for a period of thirty (30) days or longer, shall constitute a lien on such unit when filed of record in the Office of the Clerk of the Superior Court of Wake County in the manner provided therefor by Article 8 of Chapter 44 of the General Statutes as now written or hereafter amended. Upon the same being duly filed, such lien shall be prior to all liens except the following:

(i) Assessments, liens and charges for real estate taxes due and unpaid on the unit.

(ii) Any sums unpaid on deeds of trust, mortgages and other encumbrances duly of record against the unit prior to the docketing of the aforesaid lien.

(iii) Materialmen's and mechanics' liens.

(b) Provided the same is duly filed in accordance with the provisions contained in subparagraph (a) above, a lien created by nonpayment of a unit owner's pro rata share of the common expenses may be foreclosed by suit by the manager or Board of Directors, acting on behalf of the unit owners, in like manner as a deed of trust or mortgage of real property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the unit, if so provided in the Bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The manager or Board of Directors, acting on behalf of the unit owners, shall have power, unless prohibited by the Declaration, to bid in the unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. A suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. Reasonable attorney fees, not to exceed five percent (5%) of the sale price, as permitted by the Clerk of Superior Court shall be charged as a part of the cost of any such foreclosure.

(c) Where the mortgagee of a first mortgage of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage, such purchaser, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the association of unit owners chargeable to such unit which became due prior to the acquisition of title to such unit by such purchaser. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners including such purchaser, his successors and assigns.

24. LIABILITY OF GRANTOR AND GRANTEE OF UNIT FOR UNPAID COMMON EXPENSES. The grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter

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

25. CONSTRUCTION. In interpreting any and all provisions of this instrument, the exhibits attached hereto, and subsequent deeds and deeds of trust covering individual units, the actual location of the unit shall be deemed conclusively to be the Property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally or vertically, from the locations indicated on Exhibit "B" attached hereto, or in minor variations in the description of the unit contained herein. To the extent that such minor deviations in location do or shall exist, a valid easement therefor and for the maintenance thereof does and shall exist.

26. AMENDMENT OF DECLARATION. This Declaration may be amended by the vote of at least 66-2/3% in number and in common interest of all voting members, as defined in the attached Bylaws, within the Condominium cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws. Such amendment shall be executed in the name of the Association named in the Bylaws attached hereto by the President (or Vice-President) and by the Secretary (or Assistant Secretary) of the Association and recorded in the Office of the Register of Deeds of Wake County. No such amendment shall be effective until recorded as aforesaid.

The Declarant, for so long as it controls the Board, and thereafter, the Board of Directors, may amend this Declaration without the consent of the owners:

1. To correct any obvious error or inconsistency in drafting, typing or reproduction; and

2. To conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any units therein for mortgage or improvement loans made or insured by a governmental agency or to comply with the requirements of law or regulations of any governmental corporation or agency regarding purchase of mortgage interests in units by such agency.

27. ANNEXATION TO KILDAIRE FARMS SUBDIVISION. The Property was annexed to Kildaire Farms Subdivision by a Declaration of Covenants, Conditions and Restrictions dated July 10, 1979, and recorded in Book 2747, Page 807, Wake County Registry, which document was terminated, except for the provisions annexing the property described therein to Kildaire Farms Subdivision and making the owners of the property described therein members of the Kildaire Farms Homeowners Association, by an agreement by and between Thompson Investment Company, Kildaire Farms Development Corporation and Kildaire Farms Homeowners Association filed for recordation of even date herewith.

Every unit owner is a member of Kildaire Farms Homeowners Association and shall be subject to the provisions of said Declaration for Kildaire Farms and to the Bylaws, Rules and Regulations of the Kildaire Farms Homeowners Association.

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

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

30. CAPTIONS. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

31. LAW CONTROLLING. This Declaration and the Bylaws attached hereto shall be construed and controlled by and under the laws of the State of North Carolina.

32. DEFINITION OF TERMS. Any terms used herein which are defined in the North Carolina Unit Ownership Act shall have the meaning specified in said Act unless a contrary intent clearly appears.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by each of its Partners on the day and year first above written.

THOMPSON INVESTMENT COMPANY

By Therlon T. Thompson (SEAL)
Partner

By Marvin E. Thompson (SEAL)
Partner

By Odell Thompson (SEAL)
Partner

NORTH CAROLINA
WAKE COUNTY

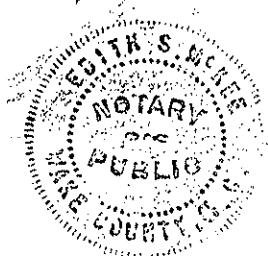
I, the undersigned, a Notary Public in and for said State and County do hereby certify that Odell Thompson, Marvin E. Thompson and Therlon T. Thompson, partners of THOMPSON INVESTMENT COMPANY, a partnership, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this the 21 day of May, 1981.

Edith S. McKee
Notary Public

My Commission Expires:

July 29, 1984



NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of Edith S. McKee

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 George B. Johnson
Deputy Register of Deeds

EXHIBIT "A"

BEING all of Lots 1701A, 1701B, 1702A, 1702B, 1703A, 1703B, 1704A, 1704B, 1705A, 1705B, 1706A, 1706B, 1707A, 1707B, 1708A and 1708B, as shown on map entitled Cavanaugh Garden Homes Condominium, Section I, Phase I, recorded in Book of Maps 1981, Page 461, Wake County Registry and all of Lots 1709A, 1709B, 1710A, 1710B, 1711A, 1711B, 1712A, 1712B, 1713A, 1713B, 1714A and 1714B, as shown on map entitled Cavanaugh Garden Homes Condominium, a portion of Section I, Phase II by Runa A. Cooper, and dated May 5, 1981, which map is not recorded but represents a subdivision of lots shown on a map recorded in Book of Maps 1980, Page 51, Wake County Registry.

BYLAWS
OF
CAVANAUGH GARDEN HOMES CONDOMINIUM OWNERS ASSOCIATION

ARTICLE I

PLAN OF UNIT OWNERSHIP

Section 1. Lands submitted to unit ownership. Thompson Investment Company, a North Carolina partnership, hereinafter known as the "Declarant", is the owner of certain lands lying in the City of Cary, Wake County, North Carolina, more particularly described in Exhibit A attached to the Declaration of Cavanaugh Garden Homes Condominium (herein "Declaration") and has submitted a portion of said lands, more particularly described on Exhibit D attached to the Declaration and the improvements thereon, to unit ownership pursuant to the North Carolina Unit Ownership Act by filing simultaneously herewith the declaration provided for in Chapter 47A of the North Carolina General Statutes, which declaration provides that additional portions of said lands described on Exhibit A attached thereto may be submitted to unit ownership. The lands and improvements submitted to unit ownership by said declaration and all of the lands submitted to unit ownership as provided therein shall be known as Cavanaugh Garden Homes.

Section 2. Applicability of bylaws. All present and future owners, mortgagees, lessees, and occupants of units within the Condominium, and their agents, servants, and employees, and any other persons who may make use of the facilities of the Condominium in any manner, are subject to these bylaws and to the rules and regulations adopted pursuant hereto and to any amendments to these bylaws upon the same being duly passed and set forth in an amended declaration, duly recorded.

The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a condominium unit by any person shall conclusively establish the acceptance and ratification by such person of these bylaws (and any rules and regulations adopted pursuant hereto), as they may be amended from time to time, and shall constitute and evidence an agreement by such persons to comply with these bylaws and with the rules and regulations.

DEFINITIONS

Section 1. "Association" shall mean and refer to the association of unit owners of Cavanaugh Garden Homes Condominiums.

Section 2. "The Property" shall mean all of the lands, buildings, improvements, and appurtenances, now or hereafter subjected to unit ownership under the North Carolina Unit Ownership Act by the filing of a declaration applicable to those lands described on Exhibit A of the Declaration.

Section 3. "Declarant" shall mean Thompson Investment Company and its assigns and successors to whom it shall make specific written assignment of its rights under the Declaration and these bylaws.

Section 4. "Declaration" shall mean the instrument, and all recorded amendments thereto by which the Property is submitted to unit ownership pursuant to the provisions of the North Carolina Unit Ownership Act.

Section 5. "Board" shall mean the Board of Directors of the Association.

Section 6. "Rules and Regulations" shall mean those written actions of the Board, duly adopted, and amendments thereto, interpreting and applying the provisions of the Declaration and these bylaws and establishing and prescribing the administration and management of the Property and the use, operation, and maintenance of the common areas.

ARTICLE III

ASSOCIATION OF UNIT OWNERS

Section 1. Members. Every owner of a unit within the Property shall be a member of the association of unit owners of Cavanaugh Garden Homes Condominium, to be known as the Cavanaugh Garden Homes Condominium Owners Association.

Section 2. Annual Meetings. An annual meeting of the Association shall be held for the purpose of electing members of the Board of Directors and for the transaction of such other business as may be properly brought before the meeting. The annual

meetings shall be held at 7:00 p.m. on the fourth Thursday of January of each year, unless such day shall be a legal holiday, in which event the meeting shall be held at the same time on the day next following which is not a legal holiday, and the first annual meeting shall be held on the fourth Thursday of January in 1982.

Section 3. Substitute annual meetings. If an annual meeting is not held on the day designated in the bylaws, a substitute annual meeting may be called in the same manner as a special meeting. A meeting so called shall be designated and treated for all purposes as the annual meeting.

Section 4. Special meetings. Special meetings of the Association may be called at any time by a majority of the members of the Board of Directors or upon the written request of the owners of not less than twenty-five percent (25%) of the aggregate interests in the common areas and facilities as established by the Declaration.

Section 5. Place of meetings. All meetings of the Association shall be held at the Property or at such other place in the City of Cary, North Carolina, as shall be designated in the notice of the meeting.

Section 6. Notice of meetings. Written or printed notice stating the place, day and hour of the meeting shall be delivered or mailed by first class mail, postage prepaid, not less than ten (10) nor more than thirty (30) days prior to the date of the meeting, either by the unit owners calling the meeting or as the Board of Directors shall direct, to each person entitled to vote at such meeting.

In the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted unless it is a matter other than the election of directors on which the vote of unit owners is expressly required by the provisions of the North Carolina Unit Ownership Act. In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called.

When a meeting is adjourned for thirty (30) days or more, notice of the reconvening of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty (30) days in any one adjournment, it shall not be necessary to give notice of the reconvening of the adjourned meeting other than by an announcement at the meeting at which the adjournment is effective.

Section 7. Quorum. The presence in person or by proxy at any meeting of members having a majority of the total votes entitled to be cast shall constitute a quorum. Unless otherwise expressly provided herein, any action, consistent with the notice of such meeting, may be taken at any meeting of the Association at which a quorum is present upon the affirmative vote of the members having a majority of the total votes present at such meeting.

If a quorum is not present at the opening of any meeting, the meeting may be adjourned from time to time by vote of a majority of the voting members present, either in person or by proxy, and shall be reconvened at the date and time determined at the adjourned meeting, subject to the notice requirements set forth in Section 6 of these bylaws. Upon the reconvening of any meeting adjourned for lack of a quorum, the quorum required at such subsequent meeting shall be one-half (1/2) that required at the preceding meeting.

Section 8. Voting members; proxies. There shall be one person with respect to each unit who shall be entitled to vote at any meeting of the Association, herein referred to as the "voting member". The voting member may be the owner of a unit, or an owner designated by a majority of the several owners of a unit, or may be some other person designated by such owner or owners to act as proxy on his or their behalf and who need not be an owner. Designation of the voting member or of a proxy shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board by the owner or a majority of the owners.

Section 9. Voting rights; cumulative voting. The vote cast by or on behalf of the owner or owners of a unit shall be equal in percentage of the total vote entitled to be cast to the percentage of interest owned in the common areas and facilities by such unit owner or owners. In all elections for members of the Board of Directors, each voting member shall be entitled to vote on a cumulative voting basis for the director or directors to be elected, and the candidate or candidates receiving the highest number of votes with respect to the number of offices to be filled shall be deemed elected.

Section 10. Waiver of notice. Any unit owner, at any time, may waive notice of any meeting of the Association in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a unit owner at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof except where a unit owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the voting members are present at any meeting of the Association, no notice shall be required, and any business may be transacted at any meeting.

Section 11. Informal action by unit owners. Any action which may be taken at a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such an action at a meeting (that is, the voting members), and filed with the Secretary of the Association to be kept in the Association minute book.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. General powers. The business and the Property shall be managed and directed by the Board of Directors of the Association or by such executive committees as the Board may establish pursuant to these bylaws.

Section 2. Initial board. There shall be an initial board of three directors, appointed by the Declarant, who shall serve until their successors are appointed or elected and qualified.

Section 3. Number, term and qualification. At the first annual meeting of the Association, there shall be created a Board of Directors consisting of five (5) members, three (3) of whom shall be designated by the Declarant and shall serve for a term of one (1) year, and two (2) of whom shall be elected from among the membership by the voting members, and who shall serve terms of two (2) years. Thereafter, for so long as the Declarant shall own at least ten percent (10%) of the aggregate interest in the common areas and facilities, the Declarant shall be entitled to appoint, and, from time to time, remove and replace, three members of the Board at each annual meeting. At the first annual meeting following such time as the Declarant's ownership interest in the common areas and facilities declines to less than ten percent (10%), all directors shall be elected. Two (2) of the directors so elected shall serve for a term of one (1) year and three (3) of the directors so elected shall serve for a term of two (2) years. Their successors shall be elected for two (2) year terms.

Section 4. Election of directors. Except for the appointed directors provided for in Section 3 of this Article and as otherwise provided in Section 5 of this Article, the directors shall be elected at the annual meeting of the Association; and those candidates who receive the highest number of votes shall be elected.

Section 5. Removal. Any elected director may be removed from office, with or without cause, by the affirmative vote of a majority of the voting members. However, unless all of the elected directors are removed, an individual director may not be removed if the votes cast against removal would be sufficient; if cast cumulatively, to elect a director at an annual election. If any directors are so removed, new directors may be elected at the same meeting.

Section 6. Vacancies. An elective vacancy occurring in the Board of Directors, including directorships not filled by the voting

members, may be filled by a majority of the remaining directors, though less than a quorum, or by the sole remaining director. Voting members may elect a director at any time to fill any elective vacancy not filled by the directors and to fill any appointive vacancy not filled by the Declarant within ninety (90) days after the vacancy occurs.

Section 7. Compensation. The Board of Directors shall receive no compensation for their services unless expressly allowed by the Board upon the affirmative vote of the voting members representing two-thirds (2/3) of the aggregate interest in the common areas and facilities.

Section 8. Executive committees. The Board of Directors may, by resolution adopted by a majority of the number of directors fixed by these bylaws, designate two or more directors to constitute an executive committee, which committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the Property.

Section 9. Powers and duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things, except such acts as by law, by the Declaration or by these bylaws may not be delegated to the Board of Directors. The powers and duties of the Board of Directors shall include, but specifically shall not be limited to, those herein set out:

(a) Powers. The Board of Directors shall have power to:

(1) Exercise for the association all powers, duties, and authority vested in or delegated to this Association by law and the Declaration and amendments thereto and not reserved to the membership by other provisions of these bylaws or the Declaration.

(2) Purchase, lease or otherwise acquire in the name of the Board of Directors, or its designee, corporate or otherwise, on behalf of the Association, units offered for sale or lease.

(3) Purchase units at foreclosure or other judicial sales in the name of the Board of Directors, or its designee, corporate or otherwise, on behalf of all unit owners.

(4) Sell, mortgage, vote the votes appurtenant to, or otherwise deal with units acquired by the Board of Directors or its designee, corporate or otherwise, on behalf of the Association, subject to the Declaration and other applicable restrictions, and organize corporations to act as designees of the Board in acquiring title to units on behalf of the Association.

(5) Enter any unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided, such entry shall be made during reasonable hours with as little inconvenience to the unit owner as practicable, and any damage caused thereby shall be repaired by the Board and such expense shall be treated as a common expense of the property within which the unit is located.

(6) Engage the services of any person, firm, or corporation to act as agent, contractor or manager of and for the Property, at the compensation established by the Board, to perform such duties and services as the Board shall authorize, other than the powers enumerated in subdivisions (1), (2), (3), (4) and (6) of this subsection (a) and the duties enumerated in subdivisions (3), (4), (7), (8), (9) and (11) of subsection (b) of this section.

(b) Duties. It shall be the duty of the Board of Directors to:

(1) Administer, operate, maintain and repair the common areas and facilities.

(2) Enter any unit and perform any repairs, maintenance or construction for which the Association is responsible at reasonable times and hours and with as little inconvenience to the unit owner as practicable. The association shall repair any damages to the unit caused by such repair, maintenance or construction, and all costs incurred in performing these duties shall be a common expense of the Property, unless the Board shall determine that the repairs, maintenance or construction was necessitated by the negligence, misuse, unlawful act, or act in violation of the Declaration, these bylaws or the rules and regulations of the Association by the unit owner, in which event such costs may be assessed against the unit owner.

(3) Determine the common expenses arising from the costs of administration, operation, care, upkeep, maintenance, repair and construction of the common areas and facilities, including, without limitation, reserves for repair, reconstruction or replacement.

(4) Fix and assess in the manner provided by law and in the Declaration, the proportionate part of the common expenses of each unit owner within the Property.

(5) Collect and enforce the collection of common expenses in the manner provided by law and in the Declaration, including, but not limited to legal proceedings for the enforcement of liens.

(6) Employ and dismiss personnel necessary to the maintenance and operation of the common areas and facilities.

(7) Adopt, amend, publish and enforce reasonable rules and regulations that it deems advisable and necessary for the proper administration, operation, maintenance, conservation, and beautification of the Property and for the health, comfort, safety and general welfare of the owners and occupants of condominium units. Copies of the published rules and regulations and amendments thereto shall be given to all the owners and occupants and the Association and Property shall be administered, operated and maintained in conformity with such rules and regulations.

(8) Designate depositories for Association funds and the officers, agents and/or employees having the authority to deposit and withdraw such funds; and, in its discretion, to require such officers, agents or employees to be bonded in such amounts as it deems necessary.

(9) Sign all agreements, contracts, vouchers for payment of expenditures, deeds and other instruments in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President and/or such other persons as the Board may designate.

(10) Procure and maintain adequate insurance of such nature and in such amounts as is provided in the Declaration, and such other insurance as the Board may deem necessary or appropriate.

(11) Appoint such committees as are provided for in these bylaws.

(12) Exercise their powers in good faith and do and perform such other matters and things not expressly prohibited by law, the Declaration, or these bylaws as are necessary and appropriate to the proper administration, operation and maintenance of the Association and the Property.

(13) Give written notice of any default by the mortgagor of any unit in the performance of such mortgagor's obligations under the Declaration or bylaws which is not cured within thirty (30) days to any holder of a mortgage on such unit who requests such notice.

Section 10. Persons who may serve. Every elected member of the Board shall be a unit owner or co-owner or the spouse of a unit owner or co-owner, unless the owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, in which event any officer, director, agent or employee of such corporation, partner of such partnership, beneficiary of such trust, or manager of such other legal entity, shall be eligible to serve as a member of the Board, but members of the Board appointed by the Declarant need not be owners. Members of the Association appointed by the Declarant need not be owners.

Section 11. Liability of the Board. The members of the Board of Directors shall not be liable to the unit owners for any mistake of judgment, negligence or otherwise except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contracts shall have been made in bad faith or contrary to the provisions of the Declaration or these bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect

to any contract made by them on behalf of the Association, except to the extent of their liability as unit owners. It is also intended that the liability of any unit owner arising out of any contracts made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportions of the total liability thereunder as his interest in the common areas and facilities bears to the interest of all of the unit owners in the common areas and facilities. Every agreement made by the Board or by the manager on behalf of the Association shall provide that the members of the Board of Directors, or the manager, as the case may be, are acting only as agents for the Association, and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to such proportion to the total liability thereunder as his interest in the common areas and facilities of the Property bears to the interest in said common areas and facilities of all unit owners in the Property.

ARTICLE V

MEETINGS OF DIRECTORS

Section 1. Organizational meeting. The initial Board of Directors shall meet prior to conveyance of the first unit by the Declarant. No notice to the Directors shall be necessary in order to legally constitute such meeting, provided that a quorum shall be present.

Section 2. Regular meetings. A regular meeting of the Board shall be held immediately after and at the same place as the annual meeting or substitute annual meeting of the Association. The Board may provide by adoption of an appropriate resolution for the time and place within the City of Cary, North Carolina, for other regular meetings of the Board.

Section 3. Special meetings. Special meetings of the Board may be called by or at the request of the President or by any two Directors. Such meetings may be held at any place within the City of Cary, North Carolina.

Section 4. Notice of meetings. Regular meetings of the Board of Directors may be held without notice. The person or persons calling a special meeting of the Board shall give notice by any usual means of communication to all Directors of the time, place and purpose of such meeting at least two days prior thereto.

Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called.

Section 5. Waiver of notice. Any member of the Board of Directors may give written waiver of notice at any time of any meeting of the Board, and such waiver shall be deemed equivalent to the giving of such notice. If all of the members of the Board are present at any meeting thereof, no notice shall be required and any business may be transacted at such meeting.

Section 6. Quorum. A majority of the number of Directors fixed by these bylaws shall be required for and shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

Section 7. Manner of acting. Except as otherwise provided in this section, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

A vote of a majority of the number of Directors fixed by the bylaws shall be required to adopt a resolution constituting an executive committee.

Section 8. Organization. Each meeting of the Board of Directors shall be presided over by the President and in the absence of the President, by the Vice President, and in the absence of the Vice President, by any person selected to preside by vote of the majority of the Directors present. The Secretary, or in his absence, an Assistant Secretary, or in the absence of both the Secretary and the Assistant Secretary, any person designated by the presiding officer of the meeting shall act as Secretary of the meeting.

Section 9. Informal action of Directors. Any action taken by a majority of the Directors without a meeting shall constitute Board action if written consent to the action in question is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action is taken.

Section 10. Minutes. The Board shall keep minutes of all of its proceedings.

Section 11. Fidelity bonds. The Board of Directors may require any officer or employee of the Association handling or responsible for Association funds to be covered by an adequate fidelity bond. The premiums on such bond shall constitute a common expense.

ARTICLE VI

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a president, a secretary, a treasurer and such vice presidents, assistant secretaries, assistant treasurers and other officers as the Board of Directors may from time to time elect. Any two or more offices may be held by the same person except that the office of President and Secretary may not be held by the same person.

Section 2. Election and term. The officers of the Association shall be elected by and from the Board of Directors, and such elections may be held at the regular annual meetings of the Board; provided, however, that prior to the first annual meeting, the Declarant shall appoint the officers from among the initial Board.

Each officer shall hold office for a period of one (1) year or until his death, resignation, retirement, removal, disqualification or his successor is elected and qualified.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board with or without cause, and any officer or agent appointed or designated by the Declarant may be removed by the Declarant with or without cause. Such removal, however, shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Compensation. No officer shall receive any compensation from the Association for acting as such, but the Board may reimburse any officer for any direct expenses incurred by him in the performance of his duties as such officer and such reimbursement shall be a common expense.

Section 5. President. The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall supervise and control the management of the Property. The President shall, when present, preside at all meetings of the Board and of the Association, and, in general, shall perform all duties incident to the office of the President and such other duties as may be prescribed from time to time by the Board.

Section 6. Vice President. The Vice President, and if there be more than one, the Vice Presidents shall, in the absence or disability of the President, have the powers and perform the duties of said office. In addition, each Vice President shall perform such other duties and have such other powers as shall be prescribed by the President.

Section 7. Secretary. The Secretary shall keep accurate records of the acts and proceedings of all meetings of the Association and of the Board. He shall give, or cause to be given, all notices required by law and these bylaws. He shall have general charge of the minute books and records of both the Association and of the Board. He shall sign such instruments as may require his signature, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may be assigned to him from time to time by the President or by the Board of Directors.

Section 8. Treasurer. The Treasurer shall have custody of all Association funds and securities and shall receive, deposit, or disburse the same under the direction of the Board of Directors. He shall keep full and accurate records of the finances of the Association in books especially provided for that purpose. He shall cause a true statement to be prepared as of the close of each fiscal

year setting forth, in reasonable detail, the assets and liabilities of the Association and the Property, the changes in surplus for such fiscal year, and the result of the operations of the Association and Property. The statement shall be filed and kept available for inspection by any unit owner for a period of three (3) years and the Treasurer shall mail or otherwise deliver a copy of the latest statement to each unit owner and member of the Board of Directors annually on or before March 15, covering the preceding calendar year. The Treasurer shall also prepare and file all reports and returns required by Federal, State or local laws, and shall generally perform all other duties as may be assigned to him from time to time by the President or the Board of Directors.

Section 9. Assistant Secretaries and Treasurers. The Assistant Secretaries and Assistant Treasurers, if any, shall, in the absence or disability of the Secretary or the Treasurer, respectively, have all the powers and perform all of the duties of those officers, and they shall, in general, perform such other duties as shall be assigned to them by the Secretary or Treasurer, respectively, or by the President or Board of Directors.

ARTICLE VII

OPERATION OF THE PROPERTY

Section 1. Determination of common expenses and fixing of common charges. The Board of Directors, from time to time, and at least annually, shall prepare a budget for the Property, determine the amount of the common charges payable by the unit owners to meet the common expenses of the Property, and allocate and assess the common charges of the Property among the unit owners thereof according to their respective common interests. A part of the common expenses of the Property shall include, among other things, and without limitation, the administrative expenses of the Association and Property and the costs of all premiums for insurance obtained pursuant to the provisions of the Declaration. The budget of the Property, in the discretion of the Board, and as necessary, may

include, without limitation, amounts for: funding deficits for any prior year; a reserve for working capital; a reserve for replacement; and a general operating reserve.

Unless all mortgagees and two-thirds (2/3) of the unit owners elect to the contrary, the exterior portions of all buildings that were initially stained or painted shall be restained or repainted not less than once in every seven (7) years and the roofs of all buildings shall be replaced not less than once in every twenty (20) years.

The common expenses of the Property may also include such amounts as may be required for the purchase or lease by the Board or its designee, corporate or otherwise, on behalf of the association, of any unit whose owner has elected to sell or lease such unit or of any unit which is to be sold at foreclosure or other judicial sale. The Board of Directors shall advise all unit owners promptly, in writing, of the amount of common charges payable by each of them, respectively, as determined by the Board of Directors as aforesaid, and shall furnish copies of each budget on which such common charges are based to all unit owners and, when requested, to their mortgagees.

Section 2. Payment of common charges. All unit owners shall be obligated to pay the common charges assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article VII at such time or times as the Board shall determine.

No unit owner shall be liable for the payment of any part of the common charges assessed against his unit subsequent to a sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such unit, together with his interest in the common areas and facilities (including limited common areas and facilities) as defined in the Declaration. A purchaser of a unit shall be jointly and severally liable with the seller for the payment of the common charges assessed against such unit prior to the acquisition by the purchaser of such unit, without prejudice to the purchaser's right to recover from the seller the amounts paid by the purchaser therefor. Provided, that a mortgagee or other purchaser of a unit at a foreclosure sale of such unit shall not be liable for, and such unit

shall not be subject to, a lien for the payment of common charges assessed prior to such foreclosure sale, and such unpaid common charges shall be deemed to be common charges collectible from all of the unit owners, including such purchaser, his successors and assigns.

Section 3. Collection of assessments. The Board of Directors shall assess common charges against the unit owners from time to time and at least annually and shall take prompt action to collect any common charge due from any unit owner which remains unpaid for more than thirty (30) days from the due date of the payment thereof.

Section 4. Default in payment of common charges. In the event of default by any unit owner in paying to the Board of Directors the common charges as determined by the Board, such unit owner shall be obligated to pay interest at the highest rate permitted by law on such common charges from the due date thereof, together with all expenses, including reasonable attorneys' fees incurred by the Board in any proceeding brought to collect such unpaid common charges. The Board shall have the right and duty to attempt to recover such common charges, together with interest thereon and the expenses of the proceeding, including reasonable attorneys' fees in any action to recover the same brought against such unit owner, or by foreclosure of the lien on such unit in like manner as a deed of trust or mortgage of real property.

Section 5. Foreclosure of liens for unpaid common charges. In any action brought by the Board to foreclose on a unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all unit owners, or on behalf of any one or more individual unit owners, if so instructed, shall have the power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same, subject,

however, to applicable restrictions of record. A ^{BOOK 2928 PAGE 204} suit to recover money judgment for unpaid common charges may be maintainable without foreclosing or waiving the lien securing the same.

Section 6. Statement of common charges. The Board of Directors shall promptly provide any unit owner making written request therefor, a written statement of all unpaid common charges due from such unit owner.

Section 7. Abatement and restraint of violations by unit owners. The violation of any rule or regulation adopted by the Board, the breach of any bylaw contained herein, or the breach of any provision of the Declaration shall give the Board the right, in addition to any other rights set forth in these bylaws:

(a) To enter the unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Section 8. Maintenance and repair. (a) Maintenance of unit and yard spaces. All maintenance of the yard spaces within the boundary of the lot within which a unit is located and the maintenance and repairs to any unit, ordinary or extraordinary (other than maintenance of and repairs to any common areas and facilities contained therein and not necessitated by the negligence, misuse, or neglect of the owner of such unit) shall be made by the owner of such unit. Each unit owner shall be responsible for all damages to any other unit and/or to the common areas and facilities that his failure so to do may endanger.

(b) Maintenance of common areas. All maintenance, repairs and replacements to the common areas and facilities, whether located inside or outside of the units (unless necessitated by the negligence, misuse or neglect of a unit owner, in which case such expense shall be charged to such unit owner), shall be made by the Board and shall be charged to all unit owners as a common expense of the Property.

Section 9. Utility equipment. Each unit owner shall own and be responsible for the repair, maintenance and upkeep of all equipment (such as heating and air conditioning equipment and hot water heaters) which serves his unit exclusively.

Section 10. Additions, alterations or improvements by unit owners. No unit owner shall make any addition, alteration or improvement in or to his unit which is structural without the prior written consent of the Board of Directors. The Board shall have the obligation to answer any written request by a unit owner for approval of a proposed structural addition, alteration or improvement in such owner's unit within sixty (60) days after such request is received in writing by the Board, and failure to do so within the stipulated time shall constitute a consent by the Board to the proposed addition, alteration or improvement.

Section 11. Use of units and common areas and facilities. The use of the units, common areas and facilities, limited common areas, and other property and appurtenances within the Property shall be in accordance with the following provisions:

(a) Each of the units shall be occupied only as a residence and for no other purpose. No unit may be divided into smaller units and no divided portion of a unit may be sold or otherwise transferred without first amending these bylaws to show the changes in the units to be affected thereby.

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

(c) No use or practice shall be permitted on the Property which is the source of annoyance to unit owners or which interferes with the peaceful possession and proper use of the Property by the unit owners. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate nor any fire hazard allowed to exist. It shall be the responsibility of each unit owner and the Board of Directors to prevent the development of conditions which render the

Property, or any portion thereof, unclean, unsightly, or unkept, or which substantially decreases the beauty of the area as a whole. No unit owner shall make or permit any use of his unit or of the common elements which will increase the rate of insurance upon the Property or any unit or which shall cause the cancellation of such insurance. No immoral, improper, offensive, or unlawful use shall be made of the Property or any portion thereof. Garbage receptacles shall be located in accordance with reasonable standards established by the Board. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Property shall be the same as the responsibility for the maintenance and repair of the property concerned.

(d) Until all of the lands of the Declarant referred to in Article I, Section 1, hereof have been subjected to unit ownership and sold, neither the unit owners nor the Board shall interfere with the sale of additional units. The owner of the unsold units may make such use of the unsold units and the common areas as may facilitate such completion and sale, including, but not limited to, the rental of the same, showing of the property and the display of signs.

Section 12. Right of access. The acceptance of any conveyance or lease of any unit or the occupancy of such unit shall conclusively establish the grant of a right and easement of access to his unit by the owner, lessee, or occupant to the Board, the Association or Property manager, if any, and/or any other person authorized by the Board or the manager, for the purpose of making inspections or for the purpose of correcting any condition originating in his unit and threatening another unit or a common area and facility, or for the purpose of performing installations, alterations, maintenance, or repairs to the common areas and facilities in his unit or elsewhere in the building in which his unit is located, or to correct any condition which

violates the provisions of any mortgage covering another unit; provided, that request for entry must be made in advance and such entry must be at a time reasonably convenient to the unit owner. In case of an emergency, such right of entry shall be immediate, whether or not the unit owner is present at the time.

Section 13. Entry by Board. In the event any unit owner permits any use of the premises or practice in violation of the provisions of Section 11 of this Article VII, and such owner fails to cure said violation within thirty (30) days of the Board's request to do so, agents of the Board may enter upon the premises and cure said violation at the expense of such unit owner or owners.

Section 14. Rules of conduct. Rules and regulations concerning the use of the units and the common areas and facilities may be promulgated and amended by the Board. Copies of such rules and regulations shall be furnished by the Board to each unit owner, and all amendments and new rules and regulations shall be furnished to unit owners prior to the time that the amendment or new rule or regulation becomes effective.

Section 15. Water and electricity charges. Water and electricity shall be supplied to each unit through separate meters and the cost of the same shall be borne by the respective unit owners. All charges for water and electricity used in connection with the maintenance and use of the common areas and facilities shall be a common expense of the Property.

ARTICLE VIII

RECORDS AND AUDITS

The Board of Directors or the manager shall keep detailed records of actions of the Board and the manager, minutes of the meetings of the Board of Directors, minutes of meetings of the Association, and financial records and books of accounts of the Property, including a chronological listing of receipts and expenditures, which, among other things, shall contain the amount of each assessment of the common charges against each unit, the date when

due, the amounts paid thereon, and the balance remaining unpaid. The financial record and books of account shall be available for examination by any unit owner or his duly authorized agent or attorney at convenient hours on working days by prior arrangement with the Board or the manager. An outside audit of all receipts and expenditures of the Association and Property shall be rendered by the Board to all unit owners on or before the 15th day of the third month following the close of each calendar year, covering the preceding year. All books and records shall be kept in accordance with good and accepted accounting practices. A copy of the audit shall be furnished to all mortgagees of units who have requested the same.

ARTICLE IX

OPERATION PRIOR TO INITIAL MEETING OF BOARD

Prior to the first meeting of the initial Board of Directors, all functions of the Association and of the Board of Directors as herein set forth shall be performed and carried out by the Declarant through its officers and agents.

ARTICLE X

AMENDMENT OF BYLAWS

Section 1. Amendment by owners. These bylaws may be amended by the affirmative vote of the voting members having at least sixty-six and two-thirds percent (66-2/3%) of the aggregate interest in the common areas and facilities, cast in person or by proxy at a meeting duly held in accordance with the provisions of the bylaws, and, in addition, the consent of the Declarant so long as it is the owner of at least ten percent (10%) of the aggregate interest in the common areas and facilities. Such amendment shall be executed in the name of the Association and recorded in the Office of the Register of Deeds of Wake County. No such amendment shall be effective until duly recorded as aforesaid.

Section 2. Amendment by Declarant or the Board. The Declarant, for so long as it controls the Board, and thereafter, the Board of Directors, may amend these bylaws without the consent of the owners:

(a) To correct any obvious error or inconsistency in drafting, typing or reproduction; and

(b) To conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any units therein for mortgage or improvement loans made or insured by a governmental agency.

No amendments made pursuant to this Section 2 shall be effective until duly recorded in the Office of the Register of Deeds of Wake County.

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting President of Cavanaugh Garden Homes Condominium Owners Association, and

THAT the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 21st day of May, 1981.

IN WITNESS WHEREOF, I have executed this Certification in the name of and on behalf of Cavanaugh Garden Homes Condominium Owners Association, this 21st day of May, 1981.

CAVANAUGH GARDEN HOMES CONDOMINIUM
OWNERS ASSOCIATION

By Odell Thompson
President

EXHIBIT "D"

BEING all of Lots 1701A, 1701B, 1702A, 1702B, 1703A, 1703B, 1704A, 1704B, 1705A, 1705B, 1706A, 1706B, 1707A, 1707B, 1708A and 1708B, as shown on map entitled Cavanaugh Garden Homes Condominium, Section I, Phase I, recorded in Book of Maps 1981, Page 461, Wake County Registry.

DECLARATION
OF

CAVANAUGH GARDEN HOMES CONDOMINIUM II
A DECLARATION OF INTENTION TO SUBMIT PROPERTY TO THE PROVISIONS
OF CHAPTER 47A OF THE NORTH CAROLINA GENERAL STATUTES
CONDOMINIUM FILE NO. 34

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THIS DECLARATION, made on this the 10th day of May, 1982,
by Thompson Investment Company, a partnership, hereinafter referred
to as the "Declarant", does hereby declare:

1. LANDS INVOLVED.

(a) Thompson Investment Company is the owner in fee simple of certain lands in the City of Cary, Wake County, North Carolina, lying on the south side of Maynard Road, bounded on the west by Lake Pine Drive and more particularly described on Exhibit A attached hereto and made a part of this document.

(b) It is the intent of the Declarant to submit some or all of said lands, including the buildings, structures and improvements located thereon to unit ownership through the recordation of the declaration provided for in G.S. 47A-2 and G.S. 47A-13 of the North Carolina General Statutes. The submission to unit ownership of all lands and improvements to be included in Cavanaugh Garden Homes Condominium II shall be accomplished on or before December 31, 1987.

(c) The lands, buildings, structures and improvements described in this Declaration shall be the Property, as the term is defined herein and in G.S. 47A-3 and shall be administered by the association of unit owners provided for in this Declaration and in the bylaws attached hereto, subject always to the provisions of Chapter 47A of the North Carolina General Statutes. Additional Property shall be subjected to unit ownership by a declaration of annexation of such Additional Property. Upon recordation of each declaration of annexation of Additional Property, such Additional Property shall become a part of the Property, the common areas and facilities of such Additional Property shall become merged with the common areas and facilities of the Property already subject to this Declaration, and the unit owners shall have an undivided interest in all of the common areas and facilities of the Property.

(d) Each unit owner shall be vested with an undivided interest in the common areas and facilities of the Property in fee simple determinable. Each declaration of the annexation of Additional Property shall set forth the percentage that the value of each unit within the Property, including those within said Additional Property, represents of the aggregate value of all units within the Property. Upon the filing of the declaration of annexation of the Additional Property in the Registry of Wake County, the interests in the common areas and facilities of the Property theretofore vested in the unit owners in the percentages set forth in the respective deeds of conveyance and appearing in the Declaration or any amendment to the Declaration previously recorded, shall cease and terminate, and such owners thereupon shall be vested instantaneously with a fee simple determinable interest in all of the common areas and facilities within the Property, including the newly merged common areas and facilities, in those respective percentages as shall appear in the recorded declaration of annexation of Additional Property. The respective interests of all owners in the common areas and facilities shall become vested in fee simple absolute upon submission of all of the lands described in subparagraph (a) of this Paragraph 1 to unit ownership or on December 31, 1987, whichever shall first occur.

(e) The interest and estate of any unit owner in the common areas and facilities of the Property may constitute a part of the security for any obligation against the unit, but the consent of trustees, mortgagees, or beneficiaries under any instrument securing such obligation shall not be required to terminate

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and revest in the unit owner his respective interest and estate in the common areas and facilities as provided in subparagraph (d) of this Paragraph 1. The said trustees, mortgagees, or beneficiaries shall continue to have a security interest of the same nature provided in the security instrument in such estate as the unit owner from time to time shall have in the common areas and facilities of the Property. Every deed of trust, mortgage, or other security instrument upon any unit or other property within the Property shall be subject to the provisions of this Declaration, and every trustee, mortgagee, or beneficiary, by entering into such security instrument upon any unit or units or other property within the Property, agrees and covenants for himself, his heirs, executors, successors, and assigns, that said security instrument shall be subject to the provisions of this Declaration.

2. POWER OF ATTORNEY.

(a) Each owner, by purchase of a unit within the Property and acceptance of the deed therefor, agrees and covenants for himself, his heirs, executors, personal representatives, successors and assigns, which covenant shall run with the land, that Thompson Investment Company shall be and is hereby constituted the attorney-in-fact, coupled with an interest, for every owner of a condominium unit within the Property for the sole purpose of making and executing any conveyances and instruments, specifically including, but not limited to, appropriate amendments to this Declaration, and doing all other things necessary to annex additional portions of the property described on Exhibit A hereto, and to convey to each unit owner the appropriate undivided and indivisible interest in the total common area and facilities within the Property, computed as provided in subparagraph (d) of Paragraph 1; and the said attorney-in-fact shall execute all such conveyances and instruments and shall record or cause to be recorded all such conveyances and instruments at the time of recordation of the declaration submitting the additional property to unit ownership.

(b) Each owner, by purchase of a unit within the Property and acceptance of the deed therefor, grants to the Board of Directors of the Association an irrevocable power of attorney, coupled with an interest, to acquire title to or to lease any unit, as provided in the bylaws attached hereto as Exhibit B, in the name of the Board of Directors, or its designee, on behalf of all unit owners, and to convey, sell, lease, mortgage, vote the votes appurtenant thereto (other than for the election of the Board of Directors) or otherwise deal with any such unit so acquired or to sublease any unit so leased by the Board of Directors. Any unit purchased by the Board of Directors shall be held by the Board, or its designee, on behalf of all unit owners in proportion to their respective percentage interests in the common areas and facilities. The lease covering any unit leased by the Board of Directors, or its designee, shall be held on behalf of all unit owners, in relation to their percentage interests in the common areas and facilities.

3. SUBMISSION OF PROPERTY. The Declarants hereby submit the lands described in Exhibit C attached hereto, together with the buildings, structures, and improvements located thereon, and all easements, rights, and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, to the provisions of the North Carolina Unit Ownership Act, as set forth in Chapter 47A of the General Statutes of North Carolina.

4. DEFINITIONS. As used in this Declaration and in the bylaws hereto attached, unless the context otherwise requires:

(a) "Architectural plans" means and herein refers to the plans of the buildings, showing thereon graphically all particulars of the buildings and the units, which plans are filed in the Cavanaugh Garden Homes Condominium II file in the Wake County Registry simultaneously with this Declaration, which plans are made a part of this document and incorporated herein by reference, and consist of seventeen

pages (numbered 1 through 17, inclusive) prepared by John W. Jenkins & Associates. "Site Plan" means and herein refers to the map showing the locations of the Buildings on the Property and the locations of the limited common areas and facilities appurtenant to each Unit, consisting of one page, dated March 16, 1982, prepared by Runa A. Cooper Land Surveyors, which is filed in the Cavanaugh Garden Homes Condominium II file in the Wake County Registry simultaneously with this Declaration, which plans are made a part of this document and incorporated herein by reference.

(b) "Association of Unit Owners" or "Association" means and refers to all of the unit owners acting as a group in accordance with the Bylaws and Declaration as an association, to be known as Cavanaugh Garden Homes Condominium II Owners Association.

(c) "Board of Directors" or "Board" means those persons elected or appointed and acting collectively as the directors of the Association.

(d) "Buildings" means multi-unit structures constructed or erected on the Property which contain the condominium units.

(e) "Bylaws" means the bylaws of the Association as they now or hereafter exist. A copy of the Bylaws as they now exist is attached hereto as Exhibit B.

(f) "Common areas and facilities" means all portions of the Property except the condominium units.

(g) "Common expenses" means and includes:

1. All sums lawfully assessed against the unit owners by the Association;
2. Expenses of administration, maintenance, repair, or replacement of the common areas and facilities;
3. All ad valorem taxes and public assessments levied against the common areas;
4. Expenses agreed upon as common expenses by the Association;
5. Expenses declared to be common expenses by the provisions of the Unit Ownership Act, by the Declaration or by the Bylaws; and
6. Hazard, and such other insurance premiums as the Declaration and/or Bylaws may require the Association to purchase;

(h) "Common profits" means the balance of all income, rents, profits, and revenues from the common areas and facilities remaining after the deduction of the common expenses or reserves therefor.

(i) "Declarant" means Thompson Investment Company and its successors and assigns to whom its rights hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as it may impose.

(j) "Declaration" means the instrument, duly recorded, by which the Property is submitted to the provisions of the Unit Ownership Act, and as it, from time to time, may be lawfully amended.

(k) "Limited common areas and facilities" means and includes those common areas and facilities which are reserved for the use of designated units to the exclusion of the other units, such as decks, patios, yard spaces, walkways, driveways, and the like.

(l) "Majority" or "majority of unit owners" means the owners of more than fifty percent (50%) of the aggregate interest in the common areas and facilities, as established by this Declaration, assembled at a duly called meeting of the unit owners.

(m) "Person" means any individual, corporation, partnership, association, trustee, or other legal entity.

(n) "Property" means and includes the land and all buildings, structures and improvements thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which are herein submitted to the provisions of the Unit Ownership Act. After additional lands are submitted to the provisions of the Unit Ownership Act, this term shall also include such additional lands and all buildings, structures and improvements thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

(o) "Unit" or "condominium unit" means a dwelling or place of residence, including accessory spaces and areas appurtenant thereto, within a building on the Property, and specifically designated and described in this Declaration.

(p) "Unit designation" means the number, letter or combination thereof designating the unit and set forth in this Declaration.

(q) "Unit owner" means any person, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns a unit.

(r) "Unit Ownership Act" means the provisions of Chapter 47A of the North Carolina General Statutes as the same now exists or may hereafter be amended.

(s) "Additional Property" means all lands, buildings, structures and improvements which are submitted to unit ownership and made subject to this Declaration by recordation of a Declaration or other document which annexes such lands, buildings, structures and improvements to Cavanaugh Garden Homes Condominium II.

(t) "Lot" means all of any area within the Property which is shown on the Site Plan to be wholly enclosed by dark solid lines in which area at least one unit, but not more than one unit, is located.

5. DESCRIPTION OF BUILDINGS. Six buildings, each consisting of two condominium units, are located on the Property as shown on the Site Plan and Architectural Plans. The units are designated Nos. 1715A, 1715B, 1716A, 1716B, 1717A, 1717B, 1718A, 1718B, 1719A, 1719B, 1720A and 1720B.

The exterior construction of each building is primarily wood frame. The exterior walls are wood studs with 1/2" gypsum sheathing and 1" X 8" cedar board exterior siding. All exterior walls are insulated. The buildings have concrete footings with masonry foundation walls. The roofs are wood trussed rafters with plywood sheathing and asphalt shingle roofing. Exterior doors are insulated metal or finished wood with storm doors except for one insulated sliding glass door in each Unit. All windows are insulated double-pane windows with aluminum frames with acrylic finish. All chimneys are wooden with metal flues.

The interior construction of each building is as follows:

(a) Floors - The first floor of every building consists of wooden floors built on suspended floor joists with crawl spaces underneath. The second floor in all buildings which contain a second story consists of wooden floors built on suspended floor joists. The floor finish is vinyl in all baths, vinyl in all kitchens, foyers and pantries and carpet in all other spaces.

(b) Walls - All walls are finished sheetrock, except portions of the powder rooms, baths and kitchens which are vinyl wall covering over sheetrock.

(c) Ceilings - All ceilings are finished sheetrock.

(d) Windows - All interior doors and door and window casings are stained wood.

(e) Bathroom fixtures - All tub/shower units are one-piece fiberglass units. All commodes and lavatories are standard ceramic.

(f) Fireplaces - All units have brick fireplaces.

The various condominium units as built on the Property herein submitted to unit ownership were constructed according to five different Floor Plans. The Floor Plans are shown on pages 1, 2, 3, 4 and 5 of the Architectural Plans. Unit 1715A is built according to Floor Plan 1104, with an approximate area of 1104 square feet and one story in height. Floor Plan 1104 contains two bedrooms, a living room, a dining room, a kitchen, a foyer, a utility room and two baths. Units 1715B and 1718A are built according to Floor Plan 1150, with an approximate area of 1150 square feet and one story in height. Floor Plan 1150 contains two bedrooms, a living/dining room area, a kitchen, a foyer and two baths. Units 1717A and 1720A are built according to Floor Plan 1191, with an approximate area of 1191 square feet and two stories in height. Floor Plan 1191 contains a living room, a kitchen, a dining area, a utility room and a half-bath on the first floor and a bath and two bedrooms on the second floor. Units 1716B and 1719A are built according to Floor Plan 1131, with an approximate area of 1131 square feet and one story in height. Floor Plan 1131 contains two bedrooms, a living room, a dining room, a kitchen, a foyer and two baths. Units 1716A, 1717B, 1718B, 1719B and 1720B are built according to Floor Plan 1338, with an approximate area of 1338 square feet and two stories in height. Floor Plan 1338 contains a living room, a dining room, a kitchen, a foyer and a half-bath on the first floor and two baths and three bedrooms on the second floor.

6. UNIT DESCRIPTION. The designation of each unit, its location, its dimensions, approximate area, number of rooms, limited common areas appurtenant to each unit and common areas and facilities to which it has immediate access and other data concerning its proper identification are further shown in the Architectural Plans and the Site Plan.

Each Unit owner is the sole owner of the following portions and areas of his respective unit:

All of that area between the top of the sub-floor and the bottom of the ceiling joist and between the inside face of the studs of the exterior walls except interior load-bearing walls (exclusive of wall coverings such as sheetrock, tile, etc.), and including, without limitation, all items such as sheetrock, floor carpet, vinyl floor coverings, ceiling tile, bath tile, non-load bearing and non-stress bearing partition walls, doors, electric and plumbing fixtures, electrical sockets, electric switches, heating and air conditioning units serving only one unit, water heaters, ovens, dishwashers, disposals and other built-in appliances of whatever nature, cabinets, grills, sinks, lavatories and pipes and wiring which are inside a unit and which are not located within a load-bearing wall. All such appliances and equipment which serve more than one unit shall be a part of the common areas and facilities. If any mechanical system serving only one unit is located outside of the unit it shall nevertheless be the sole property of the unit owner.

7. PERCENTAGE OF INTEREST. The following is the percent of interest of each unit in the common areas and facilities and limited common areas and facilities at the time of the recording of this document.

<u>UNIT NO.</u>	<u>PERCENTAGE</u>
1715A	8.02%
1715B	8.03%
1716A	8.76%
1716B	8.03%
1717A	8.03%
1717B	8.76%
1718A	8.03%
1718B	8.76%
1719A	8.03%
1719B	8.76%
1720A	8.03%
1720B	8.76%

The following shall be the percent of interest in the common areas and facilities and limited common areas and facilities of each unit after the annexation of all property described in Exhibit A attached hereto.

<u>UNIT NO.</u>	<u>PERCENTAGE</u>
1715A	4.00%
1715B	4.00%
1716A	4.36%
1716B	4.00%
1717A	4.00%
1717B	4.36%
1718A	4.00%
1718B	4.36%
1719A	4.00%
1719B	4.37%
1720A	4.00%
1720B	4.37%
1721A	4.00%
1721B	4.37%
1722A	4.37%
1722B	4.00%
1723A	4.00%
1723B	4.36%
1724A	4.00%
1724B	4.36%
1725A	4.36%
1725B	4.00%
1726A	4.36%
1726B	4.00%

8. COMMON AREAS AND FACILITIES. The common areas and facilities consist of all parts of the Property other than the individual units as described in Paragraph 6 above, including without limitation, the following:

(a) The land described in Exhibit C attached hereto and lands which are hereafter annexed;

(b) All foundations, columns, gutters, beams, supports and other structural members;

(c) The roofs and all exterior walls and all interior walls except non-load bearing and non-stress bearing partition walls which are wholly within a unit;

(d) All central and appurtenant installations for services such as power, light, pipes, ducts, wires, cables and conduits located in the common areas;

(e) All sewer pipes and sewer systems;

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

9. LIMITED COMMON AREAS AND FACILITIES. Certain parts of the common areas and facilities herein called and designated as "limited common areas and facilities" are hereby set aside and reserved for the exclusive use of certain units and such units shall have appurtenant thereto an exclusive easement for the use of such limited common areas and facilities, except as otherwise herein expressly provided.

The limited common area for each unit shall consist of the yard and all improvements which are within the lot on which that unit is located, as shown on the Site Plan, but which are outside of the exterior walls of the building and below the level of the unit's ceiling (below the level of the ceiling on the second story if the unit consists of more than one story), including stoops, decks, porches, patios, walkways, parking pads and storage areas, but excluding driveways which serve two or more units, overhanging eaves, doors, chimneys and windows.

The yard spaces which are limited common areas shall be maintained by the owner of the unit for whom the limited common area is reserved, except that all improvements designated as limited common areas existing at the time of the initial conveyance of each Unit including, without limitation, walkways, parking pads, stoops and decks shall be maintained by the Association. In the event a unit owner constructs any improvement exterior to his unit then he must maintain it unless the Association elects to maintain it.

The Association shall have no duty to maintain any common area facilities which are maintained by the City of Cary or any other governmental body or by any public utility company.

The Association shall repair any damages to any unit caused by defects in the common area, provided such defects are not caused by the Owner of such unit. By way of illustration, the Association shall repair damages to sheetrock in a unit caused by a leaking roof, provided the Owner of such unit had not caused the roof to leak.

10. RESTRICTION AS TO USE. The building and each of the units shall be used for residential purposes only. Use of the buildings and units is further restricted by the Bylaws of the Association.

11. PERSON TO RECEIVE SERVICE OF PROCESS. The name and address of the person to receive service of process in any action as set forth and permitted or required by Chapter 47A of the General Statutes of North Carolina is as follows:

Mr. Odell Thompson
c/o Greenbrier Realty and Construction Company
4912 Richland Drive
Raleigh, North Carolina 27612

12. FORM OF ADMINISTRATION. Except as otherwise provided herein, the common area, limited common area, common area facilities and limited common area facilities shall be managed, controlled, directed and administered by the Association, as provided in the Bylaws. The governing body of the Association shall be its Board of Directors.

13. ENCROACHMENTS. If any portion of the common areas and facilities now encroaches upon any unit or if any unit now encroaches upon any other unit or upon any portion of the common areas and facilities as a result of the construction of any building, or if any such encroachment shall occur after recordation of this Declaration as a result of settling or shifting of any building or as a result of any permissible repair, construction, reconstruction, or alteration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same.

14. EASEMENTS. Each unit owner within the Property shall have an easement in common with the owners of all other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Board of Directors shall have the right of access to each unit from time to time during reasonable hours as may be necessary to inspect the same, to remove violations therefrom and to maintain, repair or replace the common areas and facilities contained therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another unit or units. Each unit owner shall specifically have an easement to maintain all components of the heating and air conditioning systems serving his unit in their present locations.

The Board of Directors may hereafter grant easements for utility purposes for the benefit of the Property, including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, telephone wires and equipment and electrical conduits and wires over, under, along and on any portion of the common areas, including limited common areas; and the Declarant hereby grants to the Board of Directors an irrevocable power of attorney to execute, acknowledge and record for and in the name of each unit owner such instruments as may be necessary to effectuate the foregoing.

An easement is hereby granted to the City of Cary, public utility companies and public service agencies over common areas as necessary for meter reading, fire trucks, garbage trucks, postal vehicles, emergency and rescue vehicles and vehicles and equipment which repair and replace drainage facilities and publicly maintained water lines, sewer lines and electric and telephone facilities.

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

16. LIENS. While the Property remains subject to this Declaration and the provisions of the North Carolina Unit Ownership Act, no liens of any nature shall arise or be created against the common areas and facilities of the Property except with the unanimous consent in writing of all of the condominium unit owners therein and the holders of first liens thereon, except such liens as may arise or be created against the several units and their respective common interests pursuant to the provisions of the North Carolina Unit Ownership Act.

17. NATURE OF INTEREST IN UNITS. Every unit, together with its undivided common interest in the common areas and facilities, shall for all purposes be, and it is hereby declared to be and to constitute a separate parcel of real property and the unit owner

thereof shall be entitled to the exclusive ownership and possession of his unit and the exclusive right to occupy and possess the limited common areas appurtenant to such unit, subject only to the covenants, restrictions, and easements contained herein and the Bylaws, Rules, Regulations, Resolutions and decisions adopted pursuant thereto.

18. INSURANCE. Insurance coverage on the property shall be governed by the following provisions:

(a) Ownership of Policies. All insurance policies upon the Property shall be purchased by the Board of Directors for the benefit of the Board and the unit owners and their mortgagees as their interests may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of unit owners. Unit owners may, at their option, obtain insurance coverage at their own expense upon their own personal property and for their personal liability and living expense and such other coverage as they may desire.

(b) Coverage. All buildings and improvements upon the land and all personal property included in the common areas and facilities shall be insured in an amount equal to the maximum insurable replacement value as determined annually by the Board of Directors with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against

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

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

(iii) workmen's compensation insurance, if and to the extent required by law.

The Board may, if it so elects, include in its insurance coverage for the benefit of the Unit owners any or all of those items owned by the Unit owners which would normally be deemed real estate under the laws of North Carolina, including, without limitation, such items as sheetrock, non-load bearing walls, doors and built in appliances. If such items are included in the insurance coverage, the extra cost of such coverage shall be borne by the Unit owners in the same ratio that applies to other assessments.

To the extent obtainable, public liability and property damage insurance in such limits as the Board of Directors may from time to time determine, insuring: Each member of the Board of Directors; the manager, if any; and each owner against any liability to the public or to the owners (and their invitees, agents, and employees) arising out of or incident to the ownership and/or use of the common areas and facilities. The insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another named insured. It shall be the responsibility of each owner to obtain, at his own expense, liability insurance with respect to his ownership and/or use of his unit, and the Board of Directors shall not be responsible for obtaining such insurance. There shall also be obtained such other insurance coverage as the Board of Directors shall determine from time to time to be desirable and necessary.

(c) Premiums. Premiums upon insurance policies purchased by the Board of Directors shall be paid by the Association.

(d) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Board as insurance trustee under this Declaration. The sole duty of the Board of Directors as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated or stated in the Bylaws and for the benefit of the unit owners and their mortgagees in the following shares:

(i) Proceeds on account of damage to common areas and facilities - an undivided share for each unit owner, such share being the same as each unit owner's undivided interest in the common areas and facilities.

(ii) Proceeds on account of damage to units shall be held in the following undivided shares: (a) When the building is to be restored - for the owners of damaged units in proportion to the cost of repairing the damage suffered by each unit owner, which cost shall be determined by the Directors; (b) When the building is not to be restored - an undivided share for each unit owner, such share being the same as each unit owner's undivided interest in the common areas and facilities.

(iii) In the event a mortgagee endorsement has been issued as to a unit the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear.

19. DISTRIBUTION OF INSURANCE PROCEEDS. Proceeds of insurance policies received by the Board of Directors as insurance trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

(a) Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as provided by Paragraph 18 hereof. Any proceeds remaining after defraying such cost shall be distributed to the beneficial owners.

(b) Failure to Reconstruct or Repair. If it is determined, as provided in Paragraph 20 hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial owners thereof, with the respective mortgagees having a prior claim to such proceeds.

20. DAMAGE AND DESTRUCTION. Except as hereinafter provided, damage to or destruction of the buildings shall be promptly repaired and restored by the Board of Directors using the proceeds of insurance on the buildings for that purpose and the unit owners within the Property shall be liable for assessment of any deficiency; provided, however, if more than two-thirds of all of the buildings are substantially destroyed by fire or other casualty and the owners of three-fourths of all of the units within the Property resolve not to proceed with reconstruction or restoration, then in that event the Property shall be deemed to be owned as tenants in common by the unit owners and subject to the provisions of North Carolina General Statutes 47A-25, as the same exists at the date hereof or as amended hereafter.

Any reconstruction or repair shall be in accordance with the plans and specifications of the original buildings, as shown on the Architectural Plans and the Site Plan.

21. UNITS SUBJECT TO DECLARATION, BYLAWS, RULES AND REGULATIONS. All present and future owners, tenants and occupants of units shall be subject to, and shall comply with the provisions of this Declaration, the Bylaws and any rules and regulations as may be adopted in accordance with the Bylaws, as said Declaration, Bylaws, Rules and Regulations may be amended from time to time. The acceptance of a deed or conveyance or the entering into of a lease or the entering into occupancy of any unit shall constitute an agreement that the provisions of this Declaration, Bylaws and any rules and regulations which may be adopted are accepted and ratified by such owner, tenant or occupant, and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such unit as though such provisions were made a part of each and every deed or conveyance or lease.

22. ASSESSMENTS. The Association is given the authority to administer the operation and management of the Property, it being recognized that the delegation of such duties to one entity is in the best interest of all unit owners. To properly administer the operation and management of the Property, the Association will incur, for the mutual benefit of all of the unit owners, costs and expenses, which are herein referred to as "common expenses". To provide the funds necessary for such proper operation, management and capital improvement, the Association is herein granted the right to levy and collect assessments against the owners of all units and against said units.

All assessments levied against the unit owners and against their units shall be uniform and, unless specifically otherwise provided for in this Declaration, the assessments made by the Association shall be in such an amount that any assessment levied against a unit owner and against his unit shall bear the same ratio to the total assessment made against all unit owners and against their units as the undivided interest in the common areas and facilities appurtenant to each unit bears to the total undivided interest in the common areas and facilities appurtenant to all units. Assessments on each unit shall begin to accrue on May 10, 1982.

Should the Association be the owner of any unit, the assessment which would otherwise be due and payable to the Association by the owner of such unit, reduced by the amount of income which may be derived from the leasing of such unit by the Association, shall be apportioned and the assessment therefor levied ratably among the owners of all units which are not owned by the Association, based upon their proportionate interests in the common areas and facilities exclusive of the interests therein appurtenant to any unit owned by the Association.

23. LIENS FOR UNPAID COMMON EXPENSES; RECORDATION: PRIORITIES: FORECLOSURE.

(a) Any sum assessed by the Association of Unit Owners for the share of the common expenses chargeable to any unit, and remaining unpaid for a period of thirty (30) days or longer, shall constitute a lien on such unit when filed of record in the Office of the Clerk

of the Superior Court of Wake County in the manner provided therefor by Article 8 of Chapter 44 of the General Statutes as now written or hereafter amended. Upon the same being duly filed, such lien shall be prior to the lien of any deed of trust which constitutes a first lien on the property.

(b) Provided the same is duly filed in accordance with the provisions contained in subparagraph (a) above, a lien created by nonpayment of a unit owner's pro rata share of the common expenses may be foreclosed by suit by the manager or Board of Directors, acting on behalf of the unit owners, in like manner as a deed of trust or mortgage of real property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the unit, if so provided in the Bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The manager or Board of Directors, acting on behalf of the unit owners, shall have power, unless prohibited by the Declaration, to bid in the unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. A suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. Reasonable attorney fees, not to exceed five percent (5%) of the sale price, as permitted by the Clerk of Superior Court shall be charged as a part of the cost of any such foreclosure.

(c) Where the mortgagee of a first mortgage of record or other purchaser of a unit obtains title to the unit as a result of foreclosure of the first mortgage, such purchaser, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the association of unit owners chargeable to such unit which became due prior to the acquisition of title to such unit by such purchaser. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners including such purchaser, his successors and assigns.

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

25. CONSTRUCTION. In interpreting any and all provisions of this instrument, the exhibits attached hereto, and subsequent deeds and deeds of trust covering individual units, the actual location of the unit shall be deemed conclusively to be the Property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally or vertically, from the locations indicated on the Site Plan and the Architectural Plans, or in minor variations in the description of the unit contained herein. To the extent that such minor deviations in location do or shall exist, a valid easement therefor and for the maintenance thereof does and shall exist.

26. AMENDMENT OF DECLARATION. This Declaration may be amended by the vote of at least 66-2/3% in number and in common interest of all voting members, as defined in the attached Bylaws, within the Condominium cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws. Such amendment shall be executed in the name of the Association named in the Bylaws attached hereto by the President (or Vice-President) and by the Secretary (or Assistant Secretary) of the Association and recorded in the Office of the Register of Deeds of Wake County. No such amendment shall be effective until recorded as aforesaid.

The Declarant, for so long as it controls the Board, and thereafter, the Board of Directors, may amend this Declaration without the consent of the owners:

1. To correct any obvious error or inconsistency in drafting, typing or reproduction; and

2. To conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any units therein for mortgage or improvement loans made, guaranteed or insured by a governmental agency or to comply with the requirements of law or regulations of any governmental corporation or agency regarding purchase, guarantee or insurance of mortgage interests in units by such agency.

27. ANNEXATION TO KILDAIRE FARMS SUBDIVISION. The Property was annexed to Kildaire Farms Subdivision by a Declaration of Covenants, Conditions and Restrictions dated July 10, 1979, and recorded in Book 2747, Page 807, Wake County Registry, which document was terminated, except for the provisions annexing the property described therein to Kildaire Farms Subdivision and making the owners of the property described therein members of the Kildaire Farms Homeowners Association, by an agreement by and between Thompson Investment Company, Kildaire Farms Development Corporation and Kildaire Farms Homeowners Association filed for recordation of even date herewith.

Every unit owner is a member of Kildaire Farms Homeowners Association and shall be subject to the provisions of said Declaration for Kildaire Farms and to the Bylaws, Rules and Regulations of the Kildaire Farms Homeowners Association.

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

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

30. CAPTIONS. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of this Declaration nor the intent of any provision hereof.

31. LAW CONTROLLING. This Declaration and the Bylaws attached hereto shall be construed and controlled by and under the laws of the State of North Carolina.

32. DEFINITION OF TERMS. Any terms used herein which are defined in the North Carolina Unit Ownership Act shall have the meaning specified in said Act unless a contrary intent clearly appears.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed by each of its Partners on the day and year first above written.

THOMPSON INVESTMENT COMPANY

By Marvin E. Thompson (SEAL)
Partner

By Therlon T. Thompson (SEAL)
Partner

By Odell Thompson (SEAL)
Partner

NORTH CAROLINA
WAKE COUNTY

I, the undersigned, a Notary Public in and for said State and County do hereby certify that Odell Thompson, Marvin E. Thompson and Therlon T. Thompson, partners of THOMPSON INVESTMENT COMPANY, a partnership, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this the 11th day of December, 1982.

Therlon T. Thompson
Notary Public

My Commission Expires:

NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of Gay W. Thompson

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 R. B. McKENZIE, JR.
Register of Deeds

EXHIBIT A

BEING all of Lots 1715, 1716, 1717, 1718, 1719, 1720, 1721, 1722, 1723, 1724, 1725 and 1726, as shown on map entitled "Cavanaugh Section I Phase II Kildaire Farms Subdivision", recorded in Book of Maps 1980, Page 51, Wake County Registry.

BYLAWS
OF
CAVANAUGH GARDEN HOMES CONDOMINIUM II OWNERS ASSOCIATION

ARTICLE I

PLAN OF UNIT OWNERSHIP

Section 1. Lands submitted to unit ownership. Thompson Investment Company, a North Carolina partnership, hereinafter known as the "Declarant", is the owner of certain lands lying in the City of Cary, Wake County, North Carolina, more particularly described in Exhibit A attached to the Declaration of Cavanaugh Garden Homes Condominium II (herein "Declaration") and has submitted a portion of said lands, more particularly described on Exhibit C attached to the Declaration and the improvements thereon, to unit ownership pursuant to the North Carolina Unit Ownership Act by filing simultaneously herewith the declaration provided for in Chapter 47A of the North Carolina General Statutes, which declaration provides that additional portions of said lands described on Exhibit A attached thereto may be submitted to unit ownership. The lands and improvements submitted to unit ownership by said declaration and all of the lands submitted to unit ownership as provided therein shall be known as Cavanaugh Garden Homes Condominium II.

Section 2. Applicability of bylaws. All present and future owners, mortgagees, lessees, and occupants of units within the Condominium, and their agents, servants, and employees, and any other persons who may make use of the facilities of the Condominium in any manner, are subject to these bylaws and to the rules and regulations adopted pursuant hereto and to any amendments to these bylaws upon the same being duly passed and set forth in an amended declaration, duly recorded.

The acceptance of a deed or conveyance or the entering into of a lease or the act of occupancy of a condominium unit by any person shall conclusively establish the acceptance and ratification by such person of these bylaws (and any rules and regulations adopted pursuant hereto), as they may be amended from time to time, and shall constitute and evidence an agreement by such persons to comply with these bylaws and with the rules and regulations.

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to all of the unit owners acting as a group in accordance with the Bylaws and Declaration as an association, to be known as Cavanaugh Garden Homes Condominium II Owners Association.

Section 2. "Property" shall mean and include the land and all buildings, structures and improvements thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which are submitted in the Declaration to the provisions of the Unit Ownership Act. After additional lands are submitted to the provisions of the Unit Ownership Act, this term shall also include such additional lands and all buildings, structures and improvements thereon, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith.

Section 3. "Declarant" shall mean Thompson Investment Company and its successors and assigns to whom its rights under the Declaration are expressly transferred, in whole or in part, and subject to such terms and conditions as the Declaration may impose.

Section 4. "Declaration" shall mean the instrument, duly recorded, by which the Property is submitted to the provisions of the Unit Ownership Act, and as it, from time to time, may be lawfully amended.

Section 5. "Board" shall mean those persons elected or appointed and acting collectively as the directors of the Association.

Section 6. "Rules and Regulations" shall mean those written actions of the Board, duly adopted, and amendments thereto, interpreting and applying the provisions of the Declaration and these bylaws and establishing and prescribing the administration and management of the Property and the use, operation, and maintenance of the common areas.

ARTICLE III

ASSOCIATION OF UNIT OWNERS

Section 1. Member. Every owner of a unit within the Property shall be a member of the association of unit owners of Cavanaugh Garden Homes Condominium II, to be known as the Cavanaugh Garden Homes Condominium II Owners Association.

Section 2. Annual Meetings. An annual meeting of the Association shall be held for the purpose of electing members of the Board of Directors and for the transaction of such other business as may be properly brought before the meeting. The annual meetings shall be held at 7:00 p.m. on the fourth Thursday of January of each year, unless such day shall be a legal holiday, in which event the meeting shall be held at the same time on the day next following which is not a legal holiday, and the first annual meeting shall be held on the fourth Thursday of January in 1983.

Section 3. Substitute annual meetings. If an annual meeting is not held on the day designated in the bylaws, a substitute annual meeting may be called in the same manner as a special meeting. A meeting so called shall be designated and treated for all purposes as the annual meeting.

Section 4. Special meetings. Special meetings of the Association may be called at any time by a majority of the members of the Board of Directors or upon the written request of the owners of not less than twenty-five percent (25%) of the aggregate interests in the common areas and facilities as established by the Declaration.

Section 5. Place of meetings. All meetings of the Association shall be held at the Property or at such other place in the City of Cary, North Carolina, as shall be designated in the notice of the meeting.

Section 6. Notice of meetings. Written or printed notice stating the place, day and hour of the meeting shall be delivered or mailed by first class mail, postage prepaid, not less than ten (10) nor more than thirty (30) days prior to the date of the meeting, either by the unit owners calling the meeting or as the Board of Directors shall direct, to each person entitled to vote at such meeting.

In the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted unless it is a matter other than the election of directors on which the vote of unit owners is expressly required by the provisions of the North Carolina Unit Ownership Act. In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called.

When a meeting is adjourned for thirty (30) days or more, notice of the reconvening of the adjourned meeting shall be given as in the case of an original meeting. When a meeting is adjourned for less than thirty (30) days in any one adjournment, it shall not be necessary to give notice of the reconvening of the adjourned meeting other than by an announcement at the meeting at which the adjournment is effective.

Section 7. Quorum. The presence in person or by proxy at any meeting of members having a majority of the total votes entitled to be cast shall constitute a quorum. Unless otherwise expressly provided herein, any action, consistent with the notice of such meeting, may be taken at any meeting of the Association at which a quorum is present upon the affirmative vote of the members having a majority of the total votes present at such meeting. 26

If a quorum is not present at the opening of any meeting, the meeting may be adjourned from time to time by vote of a majority of the voting members present, either in person or by proxy, and shall be reconvened at the date and time determined at the adjourned meeting, subject to the notice requirements set forth in Section 6 of this Article III. Upon the reconvening of any meeting adjourned for lack of a quorum, the quorum required at such subsequent meeting shall be one-half (1/2) that required at the preceding meeting.

Section 8. Voting members; proxies. There shall be one person with respect to each unit who shall be entitled to vote at any meeting of the Association, herein referred to as the "voting member". The voting member may be the owner of a unit, or an owner designated by a majority of the several owners of a unit, or may be some other person designated by such owner or owners to act as proxy on his or their behalf and who need not be an owner. Designation of the voting member or of a proxy shall be made in writing to the Board and shall be revocable at any time by actual notice to the Board by the owner or a majority of the owners. 12

Section 9. Voting rights. The vote cast by or on behalf of the owner or owners of a unit shall be equal in percentage of the total vote entitled to be cast to the percentage of interest owned in the common areas and facilities by such unit owner or owners. Cumulative voting is not permitted.

Section 10. Waiver of notice. Any unit owner, at any time, may waive notice of any meeting of the Association in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a unit owner at any meeting of the Association shall constitute a waiver of notice by him of the time and place thereof except where a unit owner attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called. If all of the voting members are present at any meeting of the Association, no notice shall be required, and any business may be transacted at any meeting.

Section 11. Informal action by unit owners. Any action which may be taken at a meeting of the Association may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the persons who would be entitled to vote upon such an action at a meeting (that is, the voting members), and filed with the Secretary of the Association to be kept in the Association minute book.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. General powers. The business and the Property shall be managed and directed by the Board of Directors of the Association or by such executive committees as the Board may establish pursuant to these bylaws.

Section 2. Initial board. There shall be an initial board of three directors, appointed by the Declarant, who shall serve until their successors are appointed or elected and qualified.

Section 3. Number, term and qualification. At the first annual meeting of the Association, there shall be created a Board of Directors consisting of five (5) members, three (3) of whom shall

be designated by the Declarant and shall serve for a term of one (1) year, and two (2) of whom shall be elected from among the membership by the voting members, and who shall serve terms of two (2) years. Thereafter, for so long as the Declarant shall own at least ten percent (10%) of the aggregate interest in the common areas and facilities, the Declarant shall be entitled to appoint, and, from time to time, remove and replace, three members of the Board at each annual meeting. At the first annual meeting following such time as the Declarant's ownership interest in the common areas and facilities declines to less than ten percent (10%), all directors shall be elected. Two (2) of the directors so elected shall serve for a term of one (1) year and three (3) of the directors so elected shall serve for a term of two (2) years. Their successors shall be elected for two (2) year terms.

Section 4. Election of directors. Except for the appointed directors provided for in Section 3 of this Article and as otherwise provided in Section 5 of this Article, the directors shall be elected at the annual meeting of the Association; and those candidates who receive the highest number of votes shall be elected.

Section 5. Removal. Any elected director may be removed from office, with or without cause, by the affirmative vote of a majority of the voting members. However, unless all of the elected directors are removed, an individual director may not be removed if the votes cast against removal would be sufficient; if cast cumulatively, to elect a director at an annual election. If any directors are so removed, new directors may be elected at the same meeting.

Section 6. Vacancies. An elective vacancy occurring in the Board of Directors, including directorships not filled by the voting members, may be filled by a majority of the remaining directors, though less than a quorum, or by the sole remaining director. Voting members may elect a director at any time to fill any elective vacancy not filled by the directors and to fill any appointive vacancy not filled by the Declarant within ninety (90) days after the vacancy occurs.

Section 7. Compensation. The Board of Directors shall receive no compensation for their services unless expressly allowed by the Board upon the affirmative vote of the voting members representing two-thirds (2/3) of the aggregate interest in the common areas and facilities.

Section 8. Executive committees. The Board of Directors may, by resolution adopted by a majority of the number of directors fixed by these bylaws, designate two or more directors to constitute an executive committee, which committee, to the extent provided in such resolution, shall have and may exercise all of the authority of the Board of Directors in the management of the Property.

Section 9. Powers and duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things, except such acts as by law, by the Declaration or by these bylaws may not be delegated to the Board of Directors. The powers and duties of the Board of Directors shall include, but specifically shall not be limited to, those herein set out:

(a) Powers. The Board of Directors shall have power to:

(1) Exercise for the association all powers, duties, and authority vested in or delegated to this Association by law and the Declaration and amendments thereto and not reserved to the membership by other provisions of these bylaws or the Declaration.

(2) Purchase, lease or otherwise acquire in the name of the Board of Directors, or its designee, corporate or otherwise, on behalf of the Association, units offered for sale or lease.

(3) Purchase units at foreclosure or other judicial sales in the name of the Board of Directors, or its designee, corporate or otherwise, on behalf of all unit owners.

(4) Sell, mortgage, vote the votes appurtenant to, or otherwise deal with units acquired by the Board of Directors or its designee, corporate or otherwise, on behalf of the Association, subject to the Declaration and other applicable restrictions, and organize corporations to act as designees of the Board in acquiring title to units on behalf of the Association.

(5) Enter any unit when necessary in connection with any maintenance or construction for which the Board is responsible; provided, such entry shall be made during reasonable hours with as little inconvenience to the unit owner as practicable, and any damage caused thereby shall be repaired by the Board and such expense shall be treated as a common expense of the property within which the unit is located.

(6) Engage the services of any person, firm, or corporation to act as agent, contractor or manager of and for the Property, at the compensation established by the Board, to perform such duties and services as the Board shall authorize, other than the powers enumerated in subdivisions (1), (2), (3), (4) and (6) of this subsection (a) and the duties enumerated in subdivisions (3), (4), (7), (8), (9) and (11) of subsection (b) of this section.

(7) Enter any unit when necessary in case of any emergency originating in or threatening any condominium unit, regardless of whether the owner is present at the time of such emergency, for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate, and to facilitate entry in the event of any such emergency, may require the owner or owners of each condominium unit to deposit under the control of the Association a key to such condominium unit.

(b) Duties. It shall be the duty of the Board of Directors to:

(1) Administer, operate, maintain and repair the common areas and facilities.

(2) Enter any unit and perform any repairs, maintenance or construction for which the Association is responsible at reasonable times and hours and with as little inconvenience to the unit owner as practicable. The association shall repair any damages to the unit caused by such repair, maintenance or construction, and all costs incurred in performing these duties shall be a common expense of the Property, unless the Board shall determine that the repairs, maintenance or construction was necessitated by the negligence, misuse, unlawful act, or act in violation of the Declaration, these bylaws or the rules and regulations of the Association by the unit owner, in which event such costs may be assessed against the unit owner.

(3) Determine the common expenses arising from the costs of administration, operation, care, upkeep, maintenance, repair and construction of the common areas and facilities, including, without limitation, reserves for repair, reconstruction or replacement.

(4) Fix and assess in the manner provided by law and in the Declaration, the proportionate part of the common expenses of each unit owner within the Property.

(5) Collect and enforce the collection of common expenses in the manner provided by law and in the Declaration, including, but not limited to legal proceedings for the enforcement of liens.

(6) Employ and dismiss personnel necessary to the maintenance and operation of the common areas and facilities.

(7) Adopt, amend, publish and enforce reasonable rules and regulations that it deems advisable and necessary for the proper administration, operation, maintenance, conservation, and beautification of the Property and for the health, comfort, safety and

general welfare of the owners and occupants of condominium units. Copies of the published rules and regulations and amendments thereto shall be given to all the owners and occupants and the Association and Property shall be administered, operated and maintained in conformity with such rules and regulations.

(8) Designate depositories for Association funds and the officers, agents and/or employees having the authority to deposit and withdraw such funds; and, in its discretion, to require such officers, agents or employees to be bonded in such amounts as it deems necessary.

(9) Sign all agreements, contracts, vouchers for payment of expenditures, deeds and other instruments in such manner as from time to time shall be determined by written resolution of the Board. In the absence of such determination by the Board, such documents shall be signed by the President and/or such other persons as the Board may designate.

(10) Procure and maintain adequate insurance of such nature and in such amounts as is provided in the Declaration, and such other insurance as the Board may deem necessary or appropriate.

(11) Appoint such committees as are provided for in these bylaws.

(12) Exercise their powers in good faith and do and perform such other matters and things not expressly prohibited by law, the Declaration, or these bylaws as are necessary and appropriate to the proper administration, operation and maintenance of the Association and the Property.

(13) Give written notice of any default by the mortgagor of any unit in the performance of such mortgagor's obligations under the Declaration or bylaws which is not cured within thirty (30) days to any holder of a mortgage on such unit who requests such notice.

Section 10. Persons who may serve. Every elected member of the Board shall be a unit owner or co-owner or the spouse of a unit owner or co-owner, unless the owner is a corporation, partnership, trust or other legal entity other than a natural person or persons, in which event any officer, director, agent or employee of such corporation, partner of such partnership, beneficiary of such trust, or manager of such other legal entity, shall be eligible to serve as a member of the Board, but members of the Board appointed by the Declarant need not be owners. Members of the Association appointed by the Declarant need not be owners.

Section 11. Liability of the Board. The members of the Board of Directors shall not be liable to the unit owners for any mistake of judgment, negligence or otherwise except for their own individual willful misconduct or bad faith. The Association shall indemnify and hold harmless each of the members of the Board against all contractual liability to others arising out of contracts made by the Board on behalf of the Association unless any such contracts shall have been made in bad faith or contrary to the provisions of the Declaration or these bylaws. It is intended that the members of the Board of Directors shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent of their liability as unit owners. It is also intended that the liability of any unit owner arising out of any contracts made by the Board of Directors or out of the aforesaid indemnity in favor of the members of the Board shall be limited to such proportions of the total liability thereunder as his interest in the common areas and facilities bears to the interest of all of the unit owners in the common areas and facilities. Every agreement made by the Board or by the manager on behalf of the Association shall provide that the members of the Board of Directors, or the

manager, as the case may be, are acting only as agents for the Association, and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to such proportion to the total liability thereunder as his interest in the common areas and facilities of the Property bears to the interest in said common areas and facilities of all unit owners in the Property.

ARTICLE V

MEETINGS OF DIRECTORS

Section 1. Organizational meeting. The initial Board of Directors shall meet prior to conveyance of the first unit by the Declarant. No notice to the Directors shall be necessary in order to legally constitute such meeting, provided that a quorum shall be present.

Section 2. Regular meetings. A regular meeting of the Board shall be held immediately after and at the same place as the annual meeting or substitute annual meeting of the Association. The Board may provide by adoption of an appropriate resolution for the time and place within the City of Cary, North Carolina, for other regular meetings of the Board.

Section 3. Special meetings. Special meetings of the Board may be called by or at the request of the President or by any two Directors. Such meetings may be held at any place within the City of Cary, North Carolina.

Section 4. Notice of meetings. Regular meetings of the Board of Directors may be held without notice. The person or persons calling a special meeting of the Board shall give notice by any usual means of communication to all Directors of the time, place and purpose of such meeting at least two days prior thereto.

Attendance by a Director at a meeting shall constitute a waiver of notice of such meeting except where a Director attends the meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called.

Section 5. Waiver of notice. Any member of the Board of Directors may give written waiver of notice at any time of any meeting of the Board, and such waiver shall be deemed equivalent to the giving of such notice. If all of the members of the Board are present at any meeting thereof, no notice shall be required and any business may be transacted at such meeting.

Section 6. Quorum. A majority of the number of Directors fixed by these bylaws shall be required for and shall constitute a quorum for the transaction of business at any meeting of the Board of Directors.

Section 7. Manner of acting. Except as otherwise provided in this section, the act of the majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

A vote of a majority of the number of Directors fixed by the bylaws shall be required to adopt a resolution constituting an executive committee.

Section 8. Organization. Each meeting of the Board of Directors shall be presided over by the President and in the absence of the President, by the Vice President, and in the absence of the Vice President, by any person selected to preside by vote of the majority of the Directors present. The Secretary, or in his absence, an Assistant Secretary, or in the absence of both the Secretary and the Assistant Secretary, any person designated by the presiding officer of the meeting shall act as Secretary of the meeting.

Section 9. Informal action of Directors. Any action taken by a majority of the Directors without a meeting shall constitute Board action if written consent to the action in question is signed by all the Directors and filed with the minutes of the proceedings of the Board, whether done before or after the action is taken.

Section 10. Minutes. The Board shall keep minutes of all of its proceedings.

Section 11. Fidelity bonds. The Board of Directors may require any officer or employee of the Association handling or responsible for Association funds to be covered by an adequate fidelity bond. The premiums on such bond shall constitute a common expense.

ARTICLE VI

OFFICERS

Section 1. Designation. The principal officers of the Association shall be a president, a secretary, a treasurer and such vice presidents, assistant secretaries, assistant treasurers and other officers as the Board of Directors may from time to time elect. Any two or more offices may be held by the same person except that the office of President and Secretary may not be held by the same person.

Section 2. Election and term. The officers of the Association shall be elected by and from the Board of Directors, and such elections may be held at the regular annual meetings of the Board; provided, however, that prior to the first annual meeting, the Declarant shall appoint the officers from among the initial Board.

Each officer shall hold office for a period of one (1) year or until his death, resignation, retirement, removal, disqualification or his successor is elected and qualified.

Section 3. Removal. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board with or without cause, and any officer or agent appointed or designated by the Declarant may be removed by the Declarant with or without cause. Such removal, however, shall be without prejudice to the contract rights, if any, of the person so removed.

Section 4. Compensation. No officer shall receive any compensation from the Association for acting as such, but the Board may reimburse any officer for any direct expenses incurred by him in the performance of his duties as such officer and such reimbursement shall be a common expense.

Section 5. President. The President shall be the principal executive officer of the Association and, subject to the control of the Board of Directors, shall supervise and control the management of the Property. The President shall, when present, preside at all meetings of the Board and of the Association, and, in general, shall perform all duties incident to the office of the President and such other duties as may be prescribed from time to time by the Board.

Section 6. Vice President. The Vice President, and if there be more than one, the Vice Presidents shall, in the absence or disability of the President, have the powers and perform the duties of said office. In addition, each Vice President shall perform such other duties and have such other powers as shall be prescribed by the President.

Section 7. Secretary. The Secretary shall keep accurate records of the acts and proceedings of all meetings of the Association and of the Board. He shall give, or cause to be given, all notices required by law and these bylaws. He shall have general charge of

the minute books and records of both the Association and of the Board. He shall sign such instruments as may require his signature, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may be assigned to him from time to time by the President or by the Board of Directors.

Section 8. Treasurer. The Treasurer shall have custody of all Association funds and securities and shall receive, deposit, or disburse the same under the direction of the Board of Directors. He shall keep full and accurate records of the finances of the Association in books especially provided for that purpose. He shall cause a true statement to be prepared as of the close of each fiscal year setting forth, in reasonable detail, the assets and liabilities of the Association and the Property, the changes in surplus for such fiscal year, and the result of the operations of the Association and Property. The statement shall be filed and kept available for inspection by any unit owner for a period of three (3) years and the Treasurer shall mail or otherwise deliver a copy of the latest statement to each unit owner and member of the Board of Directors annually on or before March 15, covering the preceding calendar year. The Treasurer shall also prepare and file all reports and returns required by Federal, State or local laws, and shall generally perform all other duties as may be assigned to him from time to time by the President or the Board of Directors.

Section 9. Assistant Secretaries and Treasurers. The Assistant Secretaries and Assistant Treasurers, if any, shall, in the absence or disability of the Secretary or the Treasurer, respectively, have all the powers and perform all of the duties of those officers, and they shall, in general, perform such other duties as shall be assigned to them by the Secretary or Treasurer, respectively, or by the President or Board of Directors.

Section 10. Liability of the Officers. The officers of the Association shall not be liable to the unit owners for any mistake of judgment, negligence or otherwise except for their own individual malfeasance or willful neglect of duty. The Association shall indemnify and hold harmless each of the officers against all contractual liability to others arising out of contracts made by the officers on behalf of the Association unless any such contracts shall have been made in bad faith or in willful disregard of the provisions of the Declaration or these bylaws. It is intended that the officers shall have no personal liability with respect to any contract made by them on behalf of the Association, except to the extent of their liability as unit owners. It is also intended that the liability of any unit owner arising out of any contracts made by the officers or out of the aforesaid indemnity in favor of the officers shall be limited to such proportions of the total liability thereunder as his interest in the common areas and facilities bears to the interest of all of the unit owners in the common areas and facilities. Every agreement made by the officers or by the manager on behalf of the Association shall provide that the officers, or the manager, as the case may be, are acting only as agents for the Association, and shall have no personal liability thereunder (except as unit owners), and that each unit owner's liability thereunder shall be limited to such proportion to the total liability thereunder as his interest in the common areas and facilities of the Property bears to the interest in said common areas and facilities of all unit owners in the Property.

ARTICLE VII

OPERATION OF THE PROPERTY

Section 1. Determination of common expenses and fixing of common charges. The Board of Directors, from time to time, and at least annually, shall prepare a budget for the Property, determine the amount of the common charges payable by the unit owners to meet the common expenses of the Property, and allocate and assess the

common charges of the Property among the unit owners thereof according to their respective common interests. A part of the common expenses of the Property shall include, among other things, and without limitation, the administrative expenses of the Association and Property and the costs of all premiums for insurance obtained pursuant to the provisions of the Declaration and an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the common areas and facilities. The budget of the Property, in the discretion of the Board, and as necessary, may include, without limitation, amounts for: funding deficits for any prior year; a reserve for working capital; a reserve for replacement; and a general operating reserve.

Unless all mortgagees and two-thirds (2/3) of the unit owners elect to the contrary, the exterior portions of all buildings that were initially stained or painted shall be restained or repainted not less than once in every seven (7) years and the roofs of all buildings shall be replaced not less than once in every twenty (20) years.

The common expenses of the Property may also include such amounts as may be required for the purchase or lease by the Board or its designee, corporate or otherwise, on behalf of the association, of any unit whose owner has elected to sell or lease such unit or of any unit which is to be sold at foreclosure or other judicial sale. The Board of Directors shall advise all unit owners promptly, in writing, of the amount of common charges payable by each of them, respectively, as determined by the Board of Directors as aforesaid, and shall furnish copies of each budget on which such common charges are based to all unit owners and, when requested, to their mortgagees.

Section 2. Payment of common charges. All unit owners shall be obligated to pay the common charges assessed by the Board of Directors pursuant to the provisions of Section 1 of this Article VII at such time or times as the Board shall determine.

No unit owner shall be liable for the payment of any part of the common charges assessed against his unit subsequent to a sale, transfer or other conveyance by him (made in accordance with the provisions of the Declaration and applicable restrictions of record) of such unit, together with his interest in the common areas and facilities (including limited common areas and facilities) as defined in the Declaration. A purchaser of a unit shall be jointly and severally liable with the seller for the payment of the common charges assessed against such unit prior to the acquisition by the purchaser of such unit, without prejudice to the purchaser's right to recover from the seller the amounts paid by the purchaser therefor. Provided, that a mortgagee or other purchaser of a unit at a foreclosure sale of such unit shall not be liable for, and such unit shall not be subject to, a lien for the payment of common charges assessed prior to such foreclosure sale, and such unpaid common charges shall be deemed to be common charges collectible from all of the unit owners, including such purchaser, his successors and assigns.

Section 3. Collection of assessments. The Board of Directors shall assess common charges against the unit owners from time to time and at least annually and shall take prompt action to collect any common charge due from any unit owner which remains unpaid for more than thirty (30) days from the due date of the payment thereof.

Section 4. Default in payment of common charges. In the event of default by any unit owner in paying to the Board of Directors the common charges as determined by the Board, such unit owner shall be obligated to pay interest at the highest rate permitted by law on such common charges from the due date thereof, together with all expenses, including reasonable attorneys' fees incurred by the Board in any proceeding brought to collect such unpaid common charges. The Board shall have the right and duty to attempt to recover such common

charges, together with interest thereon and the expenses of the proceeding, including reasonable attorneys' fees in any action to recover the same brought against such unit owner, or by foreclosure of the lien on such unit in like manner as a deed of trust or mortgage of real property.

Section 5. Foreclosure of liens for unpaid common charges. In any action brought by the Board to foreclose on a unit because of unpaid common charges, the unit owner shall be required to pay a reasonable rental for the use of his unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board, acting on behalf of all unit owners, or on behalf of any one or more individual unit owners, if so instructed, shall have the power to purchase such unit at the foreclosure sale and to acquire, hold, lease, mortgage, vote the votes appurtenant to, convey, or otherwise deal with the same, subject, however, to applicable restrictions of record. A suit to recover money judgment for unpaid common charges may be maintainable without foreclosing or waiving the lien securing the same.

Section 6. Statement of common charges. The Board of Directors shall promptly provide any unit owner making written request therefor, a written statement of all unpaid common charges due from such unit owner.

Section 7. Abatement and restraint of violations by unit owners. The violation of any rule or regulation adopted by the Board, the breach of any bylaw contained herein, or the breach of any provision of the Declaration shall give the Board the right, in addition to any other rights set forth in these bylaws:

(a) To enter the unit in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, and the Board shall not thereby be deemed guilty in any manner of trespass; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any such breach.

Section 8. Maintenance and repair. (a) Maintenance of unit and yard spaces. All maintenance of the yard spaces within the boundary of the lot within which a unit is located and the maintenance and repairs to any unit, ordinary or extraordinary (other than maintenance of and repairs to any common areas and facilities contained therein and not necessitated by the negligence, misuse, or neglect of the owner of such unit) shall be made by the owner of such unit. Each unit owner shall be responsible for all damages to any other unit and/or to the common areas and facilities that his failure so to do may endanger.

(b) Maintenance of common areas. All maintenance, repairs and replacements to the common areas and facilities, whether located inside or outside of the units (unless necessitated by the negligence, misuse or neglect of a unit owner, in which case such expense shall be charged to such unit owner), shall be made by the Board and shall be charged to all unit owners as a common expense of the Property.

Section 9. Utility equipment. Each unit owner shall own and be responsible for the repair, maintenance and upkeep of all equipment (such as heating and air conditioning equipment and hot water heaters) which serves his unit exclusively.

Section 10. Additions, alterations or improvements by unit owners. No unit owner shall make any addition, alteration or improvement in or to his unit which is structural without the prior written consent of the Board of Directors. The Board shall have the obligation to answer any written request by a unit owner for approval of

a proposed structural addition, alteration or improvement in such owner's unit within sixty (60) days after such request is received in writing by the Board, and failure to do so within the stipulated time shall constitute a consent by the Board to the proposed addition, alteration or improvement.

Section 11. Use of units and common areas and facilities. The use of the units, common areas and facilities, limited common areas, and other property and appurtenances within the Property shall be in accordance with the following provisions:

(a) Each of the units shall be occupied only as a residence and for no other purpose. No unit may be divided into smaller units and no divided portion of a unit may be sold or otherwise transferred without first amending these bylaws to show the changes in the units to be affected thereby.

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

(c) No use or practice shall be permitted on the Property which is the source of annoyance to unit owners or which interferes with the peaceful possession and proper use of the Property by the unit owners. All parts of the Property shall be kept in a clean and sanitary condition, and no rubbish, refuse, or garbage shall be allowed to accumulate nor any fire hazard allowed to exist. It shall be the responsibility of each unit owner and the Board of Directors to prevent the development of conditions which render the Property, or any portion thereof, unclean, unsightly, or unkept, or which substantially decreases the beauty of the area as a whole. No unit owner shall make or permit any use of his unit or of the common elements which will increase the rate of insurance upon the Property or any unit or which shall cause the cancellation of such insurance. No immoral, improper, offensive, or unlawful use shall be made of the Property or any portion thereof. Garbage receptacles shall be located in accordance with reasonable standards established by the Board. All valid laws, zoning ordinances and regulations of all governmental bodies having jurisdiction thereof shall be observed. The responsibility of meeting the requirements of governmental bodies which require maintenance, modification or repair of the Property shall be the same as the responsibility for the maintenance and repair of the property concerned.

(d) Until all of the lands of the Declarant referred to in Article I, Section 1, hereof have been subjected to unit ownership and sold, neither the unit owners nor the Board shall interfere with the sale of additional units. The owner of the unsold units may make such use of the unsold units and the common areas as may facilitate such completion and sale, including, but not limited to, the rental of the same, showing of the property and the display of signs.

Section 12. Right of access. The acceptance of any conveyance or lease of any unit or the occupancy of such unit shall conclusively establish the grant of a right and easement of access to his unit by the owner, lessee, or occupant to the Board, the Association or Property manager, if any, and/or any other person authorized by the Board or the manager, for the purpose of making inspections or for the purpose of correcting any condition originating in his unit and threatening another unit or a common area and facility, or for the purpose of performing installations, alterations, maintenance, or repairs to the common areas and facilities in his unit or elsewhere in the building in which his unit is located, or to correct any condition which violates the provisions of any mortgage covering another unit; provided, that request for entry must be made in advance and such entry must be at a time reasonably convenient to the unit owner. In case of an emergency, such right of entry shall be immediate, whether or not the unit owner is present at the time.

Section 13. Entry by Board. In the event any unit owner permits any use of the premises or practice in violation of the provisions of Section 11 of this Article VII, and such owner fails to cure said violation within thirty (30) days of the Board's request to do so, agents of the Board may enter upon the premises and cure said violation at the expense of such unit owner or owners.

Section 14. Rules of conduct. Rules and regulations concerning the use of the units and the common areas and facilities may be promulgated and amended by the Board. Copies of such rules and regulations shall be furnished by the Board to each unit owner, and all amendments and new rules and regulations shall be furnished to unit owners prior to the time that the amendment or new rule or regulation becomes effective.

Section 15. Water and electricity charges. Water and electricity shall be supplied to each unit through separate meters and the cost of the same shall be borne by the respective unit owners. All charges for water and electricity used in connection with the maintenance and use of the common areas and facilities shall be a common expense of the Property.

ARTICLE VIII

RECORDS AND AUDITS

The Board of Directors or the manager shall keep detailed records of actions of the Board and the manager, minutes of the meetings of the Board of Directors, minutes of meetings of the Association, and financial records and books of accounts of the Property, including a chronological listing of receipts and expenditures, which, among other things, shall contain the amount of each assessment of the common charges against each unit, the date when due, the amounts paid thereon, and the balance remaining unpaid. The financial record and books of account shall be available for examination by any unit owner or his duly authorized agent or attorney at convenient hours on working days by prior arrangement with the Board or the manager. An outside audit of all receipts and expenditures of the Association and Property shall be rendered by the Board to all unit owners on or before the 15th day of the third month following the close of each calendar year, covering the preceding year. All books and records shall be kept in accordance with good and accepted accounting practices. A copy of the audit shall be furnished to all mortgagees of units who have requested the same.

ARTICLE IX

OPERATION PRIOR TO INITIAL MEETING OF BOARD

Prior to the first meeting of the initial Board of Directors, all functions of the Association and of the Board of Directors as herein set forth shall be performed and carried out by the Declarant through its officers and agents.

ARTICLE X

AMENDMENT OF BYLAWS

Section 1. Amendment by owners. These bylaws may be amended by the affirmative vote of the voting members having at least sixty-six and two-thirds percent (66-2/3%) of the aggregate interest in the common areas and facilities, cast in person or by proxy at a meeting duly held in accordance with the provisions of the bylaws, and, in addition, the consent of the Declarant so long as it is the owner of at least ten percent (10%) of the aggregate interest in the common areas and facilities. Such amendment shall be executed in the name of the Association and recorded in the Office of the Register of Deeds of Wake County. No such amendment shall be effective until duly recorded as aforesaid.

Section 2. Amendment by Declarant or the Board. The Declarant, for so long as it controls the Board, and thereafter, the Board of Directors, may amend these bylaws without the consent of the owners:

(a) To correct any obvious error or inconsistency in drafting, typing or reproduction; and

(b) To conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any units therein for mortgage or improvement loans made or insured by a governmental agency.

No amendments made pursuant to this Section 2 shall be effective until duly recorded in the Office of the Register of Deeds of Wake County.

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting President of Cavanaugh Garden Homes Condominium II Owners Association, and

THAT the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 7th day of May, 1982.

IN WITNESS WHEREOF, I have executed this Certification in the name of and on behalf of Cavanaugh Garden Homes Condominium II Owners Association, this _____ day of May, 1982.

CAVANAUGH GARDEN HOMES CONDOMINIUM II
OWNERS ASSOCIATION

By _____
President

EXHIBIT C

BEING all of Lots 1715, 1716, 1717, 1718, 1719 and 1720, as shown on map entitled "Cavanaugh Section I Phase II Kildaire Farms Subdivision", recorded in Book of Maps 1980, Page 51, Wake County Registry.