

Prepared by and return to: Donna K. Blumberg, Smith Helms
Mulliss & Moore, L.L.P., P.O. Box 27525, Raleigh, North Carolina
27611

*Considered
Master?*

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
WALDEN CREEK

95 DEC -1 PM 4:30
REGISTERED
WAKE COUNTY

THIS DECLARATION is made on the date hereinafter set forth by Apex Properties, L.L.C., a North Carolina limited liability company ("Apex"), Westminster Homes of North Carolina, Inc., a North Carolina corporation ("Westminster"), PULTE HOME CORPORATION, a Michigan corporation ("Pulte") and ALPS Limited Partnership, a North Carolina limited partnership ("ALPS") (Apex, Westminster, Pulte and ALPS are hereinafter collectively referred to as "Declarants").

WITNESSETH:

WHEREAS, Apex is the owner of that certain real property located in Wake County North Carolina and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Apex Property"); Westminster is the owner of that certain real property located in Wake County North Carolina and more particularly described on Exhibit "B" attached hereto and incorporated herein by reference (the "Westminster Property"); Pulte is the owner of that certain real property located in Wake County, North Carolina and more particularly described as on Exhibit "C" attached hereto and incorporated herein by reference (the "Pulte Property") and ALPS is the owner of that certain real property located in Wake County, North Carolina and more particularly described on Exhibit "D" attached hereto and incorporated herein by reference (the "ALPS Property"). The Apex Property, the Westminster Property, the Pulte Property and the ALPS Property, together with the "Common Properties," as hereinafter defined, and such additions thereto as may hereafter be brought within the jurisdiction of the "Association," as hereinafter defined, are hereinafter collectively referred to as the "Properties."

WHEREAS, Apex heretofore has caused a Declaration of Covenants, Conditions and Restrictions for Walden Creek to be recorded in Book 6117, Page 0325, in the Office of the Register

of Deeds, Wake County, North Carolina (the "Apex Declaration"), subjecting the property described on Exhibit "A" attached thereto (the "Apex Declaration Property"), which property constitutes a portion of the Properties, to the covenants, conditions, easements and restrictions therein contained.

WHEREAS, Article XIII, Section 3(a) of the Apex Declaration provides that it may be amended at any time by an instrument signed by not less than seventy-five (75%) percent of the "Members," as defined in the Apex Declaration, and Article XIII, Section 3(b) of the Apex Declaration provides that it may be amended by Apex without the consent of the Members prior to the sale of the first "Lot or Living Unit," as defined in the Apex Declaration; and

WHEREAS, Apex continues to own all of the Apex Declaration Property, is the sole "Member," as defined in the Apex Declaration, and this Declaration is executed and shall be recorded prior to the sale of the first "Lot or Living Unit," as defined in the Apex Declaration; and

WHEREAS, it is the intent of Apex hereby to cause the Apex Declaration to be amended and restated as hereinafter set forth with respect to the Apex Declaration Property, and it is the intent of all of the Declarants hereby to cause the Properties to be subjected to the terms, covenants, conditions, easements and restrictions contained in this Declaration.

NOW, THEREFORE, Declarants hereby declare that all of the Properties shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, such real property and be binding on all parties having any right, title or interest in the Properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof. With respect to the Apex Declaration Property, this Declaration shall constitute an Amended and Restated Declaration and, accordingly, to the extent the covenants, conditions and restrictions herein contained conflict with the covenants, conditions and restrictions of the Apex Declaration, the Apex Declaration is hereby amended and the provisions of this Declaration shall control.

ARTICLE I

DEFINITIONS

SECTION 1. "Association" shall mean and refer to Walden Creek Homeowners Association, Inc., its successors and assigns.

SECTION 2. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, as hereinafter defined, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 3. "Properties" shall mean and refer to the Apex Property, the Westminster Property, the Pulte Property, the ALPS Property and the Common Properties, as hereinafter defined, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 4. "Common Properties" shall mean all real and personal property owned by the Association for the common use and enjoyment of the Owners, including, without limitation, the tract of land described on Exhibit "E," attached hereto and incorporated herein by reference, which tract of land shall be conveyed to the Association contemporaneously with the recording of this Declaration in the Wake County Registry. Declarants hereafter shall construct a swimming pool, a pool house, two (2) tennis courts, a child play area and a parking lot on the Common Properties described on Exhibit "E." No other recreational amenities are contemplated at this time. Other improvements, however, which may include, but shall not be limited to, roadways, parking areas, sidewalks, foot trails, retention or detention ponds or erosion control devices, may be located on the above-described Common Properties or on any additional Common Properties hereafter conveyed to the Association in accordance with the following provisions. The Association shall maintain any retention or detention ponds and any erosion control devices located on the Common Properties described above or on any other Common Properties hereafter conveyed to the Association that are required to be maintained by the governmental office(s) having jurisdiction for watershed protection as directed by such governmental office(s).

Each Declarant, for so long as such Declarant shall own all or any part of the Properties, shall have the right, without the consent of the other Declarants, the other Owners, the Association or its other Members, to convey to the Association from time to time additional portions of the Properties (or an easement interest therein) which are unimproved or on which only one or more of the following improvements are located: (i) landscaping, and watering systems surrounding the same; (ii) entranceway signs identifying Walden Creek or one or more of the residential developments which are a part of Walden Creek, and landscaping, decorative fencing, masonry, watering systems and lighting surrounding the same; (iii) utilities; or (iv) foot trails. The Association shall accept any such conveyance of additional property and thereafter such additional property shall be held and maintained by the Association as Common Properties.

For so long as the Association shall have a Class B membership, any Declarant shall have the right, with the consent of all other Declarants then owning any portion of the Properties, but without the consent of the other Owners, the Association or its other Members, to convey to the Association from time to time additional portions of the Properties (or an easement interest therein) on which improvements other than those listed in the preceding paragraph are located. Such improvements may include, without limitation, roadways, parking areas, sidewalks, retention or detention ponds or other drainage facilities. For such a conveyance to be effective, all Declarants then owning any portion of the Properties must join in the execution of the deed or other instrument granting or conveying to the Association additional Common Properties. The Association shall accept any such conveyance of additional property and thereafter such additional property shall be held and maintained by the Association as Common Properties.

In addition, the Association may acquire additional Common Properties with the consent of the Members of the Association entitled to cast at least two-thirds (2/3rds) of the votes of each class of Members who are voting, in person or by proxy, at a meeting duly called for such purpose. For such a conveyance to be effective, the deed or instrument conveying to the Association additional Common Properties must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the instrument on behalf of the Association that the requisite Owner approval has been obtained and is evidenced by written acknowledgment(s) signed by the Owners approving the amendment and made a part of the Minute Book of the Association; and (3) be properly recorded in the Wake County Registry.

SECTION 5. "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

SECTION 6. "Declarant" shall mean and refer to any one of the following persons or entities: Apex, Westminster, Pulte or ALPS, as well as the successors and assigns of each, if such Declarant shall make an express conveyance of its rights as a Declarant hereunder to such successor or assign, all of which rights, including voting rights, shall be assignable and may be apportioned. "Declarants" shall mean and refer to all of the foregoing persons or entities.

SECTION 7. "Lot" shall mean and refer to any separately numbered unit or plot of land intended for single-family (attached or detached) residential purposes shown upon any now or subsequently recorded subdivision map of any portion of the Properties with the exception of Common Properties. Each Declarant hereby reserves the right to reconfigure, in its sole

discretion, from time to time and without the consent of the other Owners, the Association, its Members or any of the other Declarants, the boundaries of any Lot or Lots owned by such Declarant and to thereby reconfigure Lot boundaries, create additional Lots, eliminate existing Lots or create additional Common Properties in accordance with the provisions of Section 4 above. If any Declarant elects to exercise its right to revise the boundaries of one or more Lots owned by such Declarant, such Declarant shall record a revised plat of the affected Lot or Lots.

In addition, each Declarant, with respect to any portion of the Properties for which such Declarant has recorded or caused to be recorded a subdivision map thereof identifying thereon separately numbered residential lots, for so long as it shall own any portion of the Properties, in the sole discretion of each, from time to time and without the consent of the other Owners, the Association, its Members or any of the other Declarants, shall each have the right to approve any request of one or more the Owners of such property to reconfigure the boundaries of such Owner's(s') Lot or Lots and to thereby alter Lot boundaries, create additional Lots, eliminate existing Lots or create additional Common Properties in accordance with the provisions of Section 4 above; thereafter, and with respect to any other portions of the Properties, the Association, in the sole discretion of the Board of Directors, shall have the right to review and approve any such request of one or more Owners to reconfigure Lot boundaries. In order for any such Lot reconfiguration to be effective, a revised plat of the affected Lot or Lots signed by the Owner or Owner's thereof and approved by the appropriate Declarant or the Association, as the case may be, must be recorded in the Office of the Register of Deeds, Wake County, North Carolina.

Notwithstanding the foregoing, in no event shall any portion of the Properties contain a greater number of Lots than the number from time to time permitted by, nor shall any Lot within the Properties contain fewer square feet than the minimum number of square feet from time to time required by, the Town of Apex or other appropriate governmental authority. Upon the recording of a revised plat of the Properties in accordance with the foregoing provisions, each lot shown on the previously recorded plat or plats, the boundaries of which are revised by the revised plat, shall cease to be a "Lot" as defined in this Declaration and each newly configured lot shown on the revised plat shall be a "Lot" as defined in this Declaration.

SECTION 8. "FHA" shall mean and refer to the Federal Housing Administration of the Department of Housing and Urban Development and "VA" shall mean and refer to the Department of Veterans Affairs.

ARTICLE II

PROPERTY RIGHTS

SECTION 1. OWNERS EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Properties which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to permit the use of and to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Properties;

(b) the right of the Association to suspend the voting rights by an Owner for any period during which any assessment against his Lot remains unpaid; and, for a period not to exceed sixty (60) days, for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer to any public agency, authority or utility non-exclusive easements on, over and upon all or any part of the Common Properties for purposes of providing service to the Common Properties or the Lots subject to such conditions as may be agreed to by the Association's Board of Directors; provided, however, no such dedication or transfer shall be effective unless an instrument executed on behalf of the Association by its duly authorized officers, agreeing to such dedication or transfer, has been recorded;

(d) the right of the Association, with the consent of the Members entitled to cast at least two-thirds (2/3) of the votes of each class of Members, to dedicate to any public agency, authority or utility fee title to, or to transfer to any third party, all or any part of the Common Properties for such purposes and subject to such conditions as may be agreed to by the Members consenting to such dedication or transfer;

(e) the right of the Association to impose regulations for the use and enjoyment of the Common Properties and improvements thereon, which regulations may further restrict the use of the Common Properties, and to impose reasonable monetary fines and other sanctions for the violation thereof;

(f) the right of the Association to borrow money for the purpose of improving the Common Properties and facilities thereon and, with the assent of the Members entitled to cast at least two-thirds (2/3) of the votes of each class of Members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred (any such mortgage shall be effective if it is executed on behalf of the Association by its duly authorized officers and

recites that the requisite consent of Members has been obtained and documented in the Minute Book of the Association); and

(g) subject to the prior written consent of FHA or VA, in the event FHA or VA insured loans have been obtained secured by Lots, the right of the Association to exchange portions of Common Properties with any Declarant for substantially equal areas of the Properties for the purpose of eliminating unintentional conveyances of Common Properties or unintentional encroachments of improvements onto portions of the Common Properties or for the purpose of enhancing the utility of the Common Properties to be retained by the Association.

SECTION 2. DELEGATION OF USE. Any Owner may delegate, in accordance with the By-Laws, his rights of enjoyment of the Common Properties and facilities to the members of his family, his tenants or contract purchasers who reside on the Lot of such Owner.

SECTION 3. LEASES OF LOTS. Any Lease Agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and By-Laws of the Association and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the lease. All leases of Lots shall be in writing. Other than the foregoing there is no restriction on the right of any Owner to lease his Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

SECTION 1. The voting Members of the Association shall be the Class A Members and the Class B Members defined below.

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

Class A The Class A Members shall be every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, except the Declarants during the period Declarants are Class B Members as defined below. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation. Such membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Class A Members shall be entitled to one (1) vote for each Lot owned. When more than one person

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

Class B The Class B Members shall be the Declarants and each Declarant shall be entitled to three (3) votes for each lot owned by it and shown on the plan or plans for development of all or any portion of the Properties approved by the Town of Apex or other appropriate governmental authority, as such plan or plans may be from time to time amended and approved. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(i) when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B membership; however, the Class B membership shall be reinstated if thereafter, and before the time stated in subparagraph (b) below, the plan or plans for development of all or any portion of the Properties are amended to add additional lots sufficient to give the Class B membership a total number of votes (with the Class B membership entitled to three (3) votes for each lot owned) in excess of those of the Class A membership and the amended plan or plans are approved by the Town of Apex or other appropriate governmental authority; or,

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

ARTICLE IV

COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. The Declarants, for each Lot owned within the Properties, hereby covenants, and each Owner for any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay: (a) to the Association: (i) annual assessments or charges; (ii) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and (b) to the appropriate governmental taxing authority: (i) a pro rata share of ad valorem taxes levied against the Common Properties; and (ii) a pro rata share of assessments for public improvements to or for the benefit of the Common Properties if the Association shall default in the payment of either or both for a period of six (6) months. The annual and special assessments, together with interest, late charges, fines, costs and reasonable

attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, late charges, fines, costs and reasonable attorney's fees, shall also be the personal obligation of the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Properties, including but not limited to, the costs of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Properties; the maintenance of water and sewer mains in and upon the Common Properties; in the discretion of the Board of Directors, the maintenance of roadway medians and islands abutting the Common Properties (including medians and islands located in dedicated rights-of-way within the Properties); drives and parking areas within the Common Properties; the maintenance of the recreational amenities now or hereafter located in the Common Properties; the procurement and maintenance of insurance in accordance with the By-Laws; the maintenance of dams and ponds, including retention or detention ponds, or other bodies of water, if any, located within the Common Properties; the maintenance of entranceway signs identifying the Association's facilities or one or more of the residential developments which are a part of the Properties, and landscaping and lighting surrounding the same, located within the Common Properties or within roadway medians or islands abutting the Common Properties; the cost of operating, maintaining and repairing any lighting of the Common Properties; the payment of charges for garbage collection and municipal water and sewer services furnished to the Common Properties; the employment of attorneys and other agents to represent the Association when necessary; the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving, and any other major expense for which the Association is responsible; and such other needs as may arise.

(b) The Association shall establish and maintain an adequate reserve fund for the periodic maintenance, repair and replacement of improvements to the Common Properties and those other portions of the Properties which the Association may be obligated to maintain. Such reserve fund is to be established out of regular assessments for common expense.

(c) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Properties, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws of the Association. As monies for any assessment are paid to the Association by any Owner, the same may be commingled with monies paid to the Association by the other Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest in such funds or common surplus, except as an appurtenance to his Lot. When any Owner shall cease to be a Member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association, or which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the properties.

SECTION 3. MAXIMUM ANNUAL ASSESSMENT. Until December 31 of the year in which the amenities to be constructed by Declarants as described in Article I, Section 4 above, have been completed, the maximum annual assessment shall be THREE HUNDRED SIXTY AND NO/100 DOLLARS (\$360.00) per Lot, and may be collected in monthly, quarterly or semi-annual installments.

(a) The maximum annual assessment for the calendar year immediately following the year in which the amenities to be constructed by Declarants as described in Article I, Section 4 above, have been completed and for each calendar year thereafter shall be established by the Board of Directors and may be increased by the Board of Directors without approval by the membership by an amount not to exceed ten percent (10%) of the maximum annual assessment of the previous year.

(b) The maximum annual assessment for the calendar year immediately following the year in which the amenities to be constructed by Declarants as described in Article I, Section 4 above, have been completed and for each calendar year thereafter may be increased without limit by a vote of the Members entitled to cast at least two-thirds (2/3) of the votes of each class of Members who are voting, in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum, subject to the provisions

of Section 6 of this Article.

SECTION 4. SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.

In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying in whole or in part the costs of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Properties, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of the Members entitled to cast at least two-thirds (2/3) of the votes of each class of Members who are voting, in person or by proxy, at a meeting duly called for this purpose. All special assessments shall be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or semi-annual basis.

SECTION 5. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article shall be sent to all Members not less than fifteen (15) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

SECTION 6. RATE OF ANNUAL ASSESSMENT. Except as otherwise hereinafter provided, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly, quarterly or semi-annual basis. Notwithstanding the foregoing, so long as the dwelling on any Lot owned by a Declarant is not occupied as a residence, the amount of the assessment for each such Lot shall be an amount equal to twenty-five percent (25%) of the regular assessments fixed for each Lot. Further, should the Board of Directors of the Association, in its sole discretion, determine that the costs incurred by the Association for the ownership, maintenance and repair of any portion of the Common Properties which serves fewer than all of the residential developments which make up the Properties are more fairly allocable to only those Lots within the residential development(s) served by such portion of the Common Properties, the Board of Directors may assess such costs against only the Lots within the residential development(s) served by such property and their Owners. In addition to the assessments provided for hereinabove, for so long as the Association shall have a Class B Membership, Declarants shall share any costs actually incurred by the Association in the ownership, operation

For
Dweller
not
Builder

and maintenance of the Common Properties (excluding, however, costs associated with the maintenance of a reserve fund) not met by the foregoing assessments based on the relative acreage of each portion of the Properties owned by each Declarant for which no map or plat subdividing such property into Lots, streets, open spaces, parks or common areas to be maintained by an Additional Association, has been recorded in the Office of the Register of Deeds, Wake County, North Carolina.

SECTION 7. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS: DUE DATES. The annual assessments provided for herein shall commence as to a Lot on later of: (i) the first day of the month following completion of the amenities to be constructed by Declarants as described in Article I, Section 4, above; or (ii) the first day of the month following the date such Lot is created by the recordation of a subdivision map of any portion of the Properties showing such Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall establish an annual budget and fix the amount of the annual assessments in advance for the following year. In the event the Board of Directors shall fail to fix the amount of annual assessments described above, the assessment fixed for the immediately preceding year shall continue in effect until a new assessment amount is fixed. Upon adoption by the Board of the budget and annual assessments amount, the Board shall deliver copies of same to every Owner subject thereto; provided, however, that failure to deliver a copy of the budget and annual assessments amount shall not affect the liability of Owners for assessments. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

SECTION 8. WORKING CAPITAL ASSESSMENTS. In addition to the annual assessments authorized above, at the time of the closing of the first sale of each Lot to a purchaser other than a Declarant, the purchaser(s) thereof shall pay to the Association an amount equal to two-twelfths (2/12ths) of the then current annual assessment established by the Association. Such funds shall be used by the Association to establish a Working Capital Fund, the purpose of which is to help insure that the Association will have sufficient monies available to meet unforeseen expenditures or long-term capital improvements and repairs to the Common Properties. No such payments made into the Working Capital Fund shall be considered advance or current payment of regular assessments. All monies paid into the Working Capital Fund shall be held and administered by the Association in accordance with the terms of the Declaration and these Bylaws.

SECTION 9. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES

OF THE ASSOCIATION. Any assessment which is not paid when due shall be delinquent. Any assessment delinquent for a period of more than ten (10) days shall incur a late charge in an amount as the Board of Directors may from time to time determine. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of ten percent (10%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of North Carolina for the foreclosures of Deeds of Trust, and interest, late charges, fines, costs and reasonable attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by nonuse of the Common Properties or abandonment of his Lot nor shall damage to or destruction of any improvements on any Lot by fire or other casualty result in any abatement or diminution of the assessments provided for herein.

SECTION 10. EFFECT OF DEFAULT IN PAYMENT OF AD VALOREM TAXES OR ASSESSMENTS FOR PUBLIC IMPROVEMENTS BY ASSOCIATION.

Upon default by the Association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the Common Properties or assessments for public improvements to the Common Properties, which default shall continue for a period of six (6) months, each Owner of a Lot in the development shall become personally obligated to pay to the taxing or assessing governmental authority a portion of such unpaid taxes or assessments in an amount determined by dividing the total taxes and/or assessments due the governmental authority by the total number of Lots in the development. If such sum is not paid by the Owner within thirty (30) days following receipt of notice of the amount due, then such sum shall become a continuing lien on the Lot of the then Owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law or may elect to foreclose the lien against the Lot of the Owner.

SECTION 11. SUBORDINATION OF THE LIEN TO MORTGAGES. The liens provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any such first mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which become due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein

shall continue to be subordinate to the lien of any first mortgage or deed of trust.

SECTION 12. EXEMPT PROPERTY. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE V

RESTRICTIONS

SECTION 1. LAND USE AND BUILDING TYPE. No Lot shall be used except for street, park and single-family (attached or detached) residential purposes. Notwithstanding the foregoing, each Declarant shall have the right to maintain one or more sales offices and/or model homes in dwellings located on Lots owned or leased by such Declarant for the promotion and sales of Lots and dwellings within the Properties.

SECTION 2. RULES AND REGULATION. The Board of Directors of the Association may establish reasonable rules and regulations concerning the use of the Common Properties and improvements located thereon. Such rules and regulations may provided for the imposition of reasonable monetary fines and other sanctions for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration, which monetary fines may be collected by lien and foreclosure as provided in Article IV. Copies of such rules and regulations and any amendments thereto shall be furnished by the Association to all Owners prior to the their effective date. All such rules and regulations shall be binding upon the Owners, their families, tenants, guests, invitees, and agents until and unless such regulation, rule or requirement shall be specifically overruled, canceled, or modified by the Board of Directors of the Association or by the Association with the approval of the Members entitled to cast at least two-thirds (2/3rds) of the votes of each class of Members who are voting, in person or by proxy, at a regular or special meeting of the Members of the Association.

ARTICLE V

PROPERTIES SUBJECT TO ADDITIONAL RESTRICTIONS

Each Declarant, in its sole discretion, may subject any portion of the Properties owned by such Declarant to additional covenants, conditions and restrictions (the "Additional Covenants"). Any such Additional Covenants, without limitation, may provide: (i) for the creation of additional homeowners

may provide: (i) for the creation of additional homeowners associations for the further protection, control and maintenance of that portion of the Properties subject thereto and may provide for the payment of additional assessments by the Owners of Lots within that portion of the Properties subject thereto; (ii) that the assessments levied hereunder with respect to that portion of the Properties subject thereto shall be collected by the homeowners association created pursuant such Additional Covenants and remitted by such homeowners association to the Association, provided, however, no such Additional Covenants shall in any way modify, diminish, annul or cancel the personal liability of each Owner for the payment of assessments hereunder or the Association's lien against each Lot which secures such payment; or (iii) for the creation of architectural review rights, which rights may be assigned, in whole or in part, to the Association; the Association shall accept any such assignment of architectural review rights and thereafter shall, in accordance with the provisions of such Additional Covenants, review, and approve or deny, as the case may be, all requests for architectural approval pursuant to such Additional Covenants, and in the discretion of the Board of Directors of the Association, enforce compliance with the architectural review requirements contained in such Additional Covenants. That certain "Supplemental Declaration of Covenants and Restrictions for Section I of Walden Creek" recorded in Book 6516, Page 807 of the Wake County Registry shall constitute Additional Covenants with respect to the property described on Exhibit "A" thereto and nothing herein shall be construed to void or nullify such covenants and restrictions with respect to such property.

ARTICLE VII

EASEMENTS

SECTION 1. UTILITY AND DRAINAGE EASEMENTS. An easement is hereby established for the benefit of the appropriate governmental entity (and any other person or firm providing services to the Properties under agreement with or at the direction of the Association) over those portions of the Common Properties reasonably necessary for the setting, removal and reading of water meters serving the Common Properties, and the maintenance and replacement of water, sewer and drainage facilities to serve the Common Properties and for the fighting of fires and collection of garbage from the Common Properties. The Association shall have the power and the authority to grant and establish upon, over and across the Common Properties such additional easements as are necessary or desirable for the providing of service or utilities to the Common Properties.

SECTION 2. EASEMENT RESERVED BY DECLARANTS. Declarants hereby reserve such easements on, across and over the Common Properties as shall be reasonably necessary for the exercise by

Declarants of any right herein reserved.

ARTICLE VIII

RIGHTS RESERVED UNTO INSTITUTIONAL LENDERS

SECTION 1. ENTITIES CONSTITUTING INSTITUTIONAL LENDERS.

"Institutional Lender" as the term is used herein shall mean and refer to banks, savings and loan associations, insurance companies or other firms or entities customarily affording loans secured by first liens on residences, and eligible insurers and governmental guarantors.

SECTION 2. OBLIGATION OF ASSOCIATION TO INSTITUTIONAL LENDERS. So long as any Institutional Lender shall hold any first lien upon any Lot, or shall be the Owner of any Lot, such Institutional Lender shall have the following rights:

(a) To inspect the books and records of the Association during normal business hours and to be furnished with at least one (1) copy of the annual financial statement and report of the Association prepared by a certified public accountant designated by the Board of Directors of the Association, such financial statement or report to be furnished by April 15 of each calendar year.

(b) To be given notice by the Association of the call of any meeting of the membership to be held for the purpose of considering any proposed amendment to this Declaration of Covenants, Conditions and Restrictions or the Articles of Incorporation or By-Laws of the Association or of any proposed abandonment or termination of the Association or the effectuation of any decision to terminate professional management of the Association and assume self-management by the Association.

(c) To receive notice of any condemnation or casualty loss affecting the Common Properties or any portion thereof.

(d) To be notified of any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association.

(e) To have the right to approve of any alienation, release, transfer, hypothecation or other encumbrance of the Common Properties, other than those specific rights vested in the Association under Article II hereof.

(f) To be given notice of any delinquency in the payment of any assessment or charge (which delinquency remains uncured for a period of sixty (60) days) by any Owner owning a Lot encumbered by a mortgage held by the Institutional Lender, such notice to be given in writing and to be sent to the principal office of such

Institutional Lender, or to the place which it may designate in writing.

SECTION 3. REQUIREMENTS OF INSTITUTIONAL LENDER. Whenever any Institutional Lender desires to avail itself of the provisions of this Article, it shall furnish written notice thereof to the Association by CERTIFIED MAIL at the address shown in the Articles of Incorporation identifying the Lot or Lots upon which any such Institutional Lender holds any first lien or identifying any Lot or Lots owned by such Institutional Lender and such notice shall designate the place to which notices, reports or information are to be given by the Association to such Institutional Lender.

ARTICLE IX

GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration, the Articles of Incorporation or By-Laws of the Association. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Properties to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

SECTION 2. SEVERABILITY. Invalidation of any one of the covenants or restrictions by judgment or court order shall in no wise affect any other provision which shall remain in full force and effect.

SECTION 3. AMENDMENT. The covenants and restrictions of this Declaration shall run and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless terminated or amended as hereinafter provided. This Declaration may be terminated or amended during the first twenty year period with the consent of the Owners entitled to cast at least ninety percent (90%) of the votes of the Association and thereafter with the consent of the Owners entitled to cast at least seventy-five percent (75%) of the votes of the Association; provided, however, during any period of time that a Declarant owns any portion of the Properties, this Declaration may not be terminated without the consent of all Declarants then owning any portion of the Properties and no amendment purporting to revoke or curtail any right herein conferred to a Declarant shall be effective unless

executed all Declarants then owning any portion of the Properties. Any amendment must: (1) be executed on behalf of the Association by its duly authorized officers; (2) contain an attestation by the officers executing the amendment on behalf of the Association that the requisite Owner approval has been obtained and is evidenced by written acknowledgment(s) signed by the Owners approving the amendment and made a part of the Minute Book of the Association; and (3) be properly recorded in the Office of the Register of Deeds, Wake County, North Carolina. For the purpose of this section, additions to the Properties or the Common Properties shall not constitute an "amendment."

SECTION 4. ANNEXATION OF ADDITIONAL LOTS.

(a) Except as provided in Subsection (b) of this Section 4, Article IX, additional Lots may be annexed to the Properties only with the consent of the Members entitled to cast two-thirds (2/3) of the votes of each class of Members who are voting, in person or by proxy, at a meeting duly called for this purpose. For such an annexation to be effective, a Supplemental Declaration imposing the covenants, conditions and restrictions herein contained on such additional Lots executed by the owner or owners thereof must be properly recorded in the Wake County Registry and such Supplemental Declaration must: (1) be executed on behalf of the Association by its duly authorized officers; and (2) contain an attestation by the officers executing the instrument on behalf of the Association that the requisite Owner approval has been obtained and is evidenced by written acknowledgment(s) signed by the Owners approving the amendment and made a part of the Minute Book of the Association.

(b) For so long as the Association shall have a Class B membership, Declarants shall have the right, in their sole discretion and without the consent of the other Owners, the Association, or its Members, to annex to the Properties additional Lots located on property adjacent to the Properties. For the purpose of determining whether property is adjacent, easements, the rights of way of public roads and utilities, and rivers and streams shall be deemed not to separate otherwise adjacent property. To effect such an annexation, a Supplemental Declaration imposing the covenants, conditions and restrictions herein contained on such additional property executed by the owner or owners thereof must be properly recorded in the Wake County Registry and such Supplemental Declaration must be executed by all Declarants then owning any portion of the Properties.

SECTION 5. FHA/VA APPROVAL. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Department of Veterans Affairs provided that FHA or VA loans have been obtained to purchase Lots: annexation of additional Lots, dedication of

Common Properties and amendment of this Declaration of Covenants, Conditions and Restrictions.

SECTION 6. AMPLIFICATION. The Provisions of this Declaration are amplified by the Articles of Incorporation and Bylaws of the Association; but no such amplification shall alter or amend any of the rights or obligations of the Owners set forth in this Declaration. Declarants intend that the provisions of this Declaration on the one hand, and the Articles of Incorporation and Bylaws of the Association on the other be interpreted, construed, and applied to avoid inconsistencies or conflicting results. If such conflict necessarily results, however, Declarants intend that the provisions of this Declaration control anything contained in the Articles of Incorporation or Bylaws of the Association. In the case of a conflict between the Articles of Incorporation and the Bylaws for the Association, the Articles shall control.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have caused this instrument to be executed in their names and their seals hereto affixed as of the ____ day of _____, 19__.

Apex Properties, L.L.C., a North Carolina limited liability company
[SEAL]

By: William T. Barker [SEAL]
William T. Barker, its
Member Manager

Westminster Homes of North Carolina, Inc., a North Carolina corporation

(Corporate Seal)

Attest:

By: _____
President

Secretary

PULTE HOME CORPORATION, a Michigan corporation

(Corporate Seal)

Attest:

By: _____
President

Secretary

ALPS LIMITED PARTNERSHIP

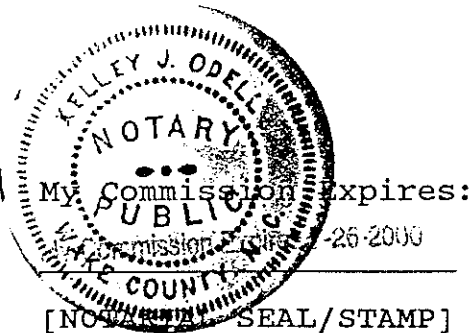
By: _____
J. PATRICK GAVAGHAN, GENERAL
PARTNER

NORTH CAROLINA

Wake COUNTY

I, Kelley Odell, a Notary Public, do hereby certify that William T. Barker personally appeared before me this day and acknowledged that he/she is the member manager of APEX PROPERTIES, L.L.C., a North Carolina limited liability company and that by authority duly given, he/she executed the foregoing instrument on behalf of and as the act of said company.

WITNESS my hand and official seal this the 1st day of December, 1995.



Kelley Odell
Notary Public

NORTH CAROLINA

____ COUNTY

I, the undersigned Notary Public, do hereby certify that _____ personally appeared before me this day and acknowledged that _____ is the _____ Secretary of Westminster Homes of North Carolina, Inc., a North Carolina corporation, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by _____ as its _____ Secretary.

WITNESS my hand and official seal this _____ day of _____, 19____.

Notary Public

My Commission Expires:

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have caused this instrument to be executed in their names and their seals hereto affixed as of the ____ day of _____, 19__.



(Corporate Seal)

Attest:

Caroline Smothers
ASST. Secretary

Apex Properties, L.L.C., a North Carolina limited liability company
[SEAL]

By: _____ [SEAL]
_____, its
Member Manager

Westminster Homes of North Carolina, Inc., a North Carolina corporation

By:

[Signature]
VICE-President

PULTE HOME CORPORATION, a Michigan corporation

(Corporate Seal)

Attest:

Secretary

By:

President

ALPS LIMITED PARTNERSHIP

By:

J. PATRICK GAVAGHAN, GENERAL PARTNER

NORTH CAROLINA

COUNTY

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have caused this instrument to be executed in their names and their seals hereto affixed as of the ____ day of _____, 19__.

Apex Properties, L.L.C., a North Carolina limited liability company
[SEAL]

By: _____ [SEAL]
_____, its
Member Manager

Westminster Homes of North Carolina, Inc., a North Carolina corporation

(Corporate Seal)

Attest:

By: _____
President

Secretary

PULTE HOME CORPORATION, a Michigan corporation

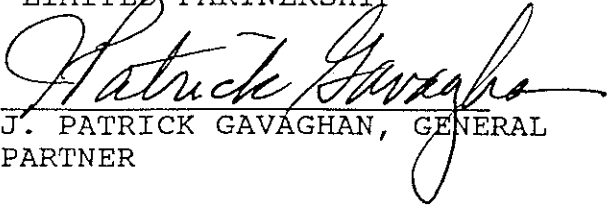
(Corporate Seal)

Attest:

By: _____
President

Secretary

ALPS LIMITED PARTNERSHIP

By: 
J. PATRICK GAVAGHAN, GENERAL
PARTNER

NORTH CAROLINA

COUNTY

IN WITNESS WHEREOF, the undersigned, being the Declarants herein, have caused this instrument to be executed in their names and their seals hereto affixed as of the ____ day of _____, 19__.

Apex Properties, L.L.C., a North Carolina limited liability company
[SEAL]

By: _____ [SEAL]
_____, its
Member Manager

Westminster Homes of North Carolina, Inc., a North Carolina corporation

(Corporate Seal)

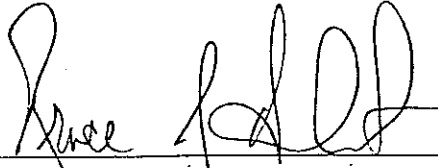
Attest:

By: _____
President

Secretary



PULTE HOME CORPORATION, a Michigan corporation

By:  _____
Bruce J. Herbert
Pulte Home Corporation
Attorney-in-Fact

ALPS LIMITED PARTNERSHIP

By: _____
J. PATRICK GAVAGHAN, GENERAL
PARTNER

NORTH CAROLINA

COUNTY

I, _____, a Notary Public, do hereby certify that _____ personally appeared before me this day and acknowledged that he/she is the member manager of APEX PROPERTIES, L.L.C., a North Carolina limited liability company and that by authority duly given, he/she executed the foregoing instrument on behalf of and as the act of said company.

WITNESS my hand and official seal this the _____ day of _____, 19__.

Notary Public

My Commission Expires:

[NOTARIAL SEAL/STAMP]

NORTH CAROLINA

GUILFORD COUNTY

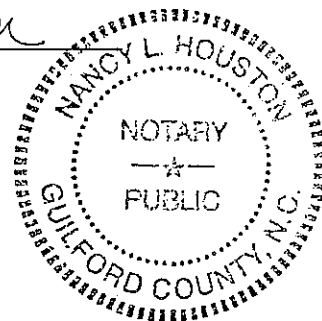
I, the undersigned Notary Public, do hereby certify that _____ Caroline Smothers personally appeared before me this day and acknowledged that she is the Assistant Secretary of Westminster Homes of North Carolina, Inc., a North Carolina corporation, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by herself as its Assistant Secretary.

WITNESS my hand and official seal this 1st day of November, 1995.

Nancy L. Houston
Notary Public

My Commission Expires:

May 2, 1998



NORTH CAROLINA



STATE OF NORTH CAROLINA, COUNTY OF WAKE

I, Janet Dixon Dement, a Notary Public of the County and State aforesaid do hereby certify that BRUCE J. HERBERT, Attorney-in-Fact, for PULTE HOME CORPORATION, a Michigan Corporation, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of and as an act of PULTE HOME CORPORATION, a Michigan Corporation, and that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged and recorded in the office of the Register of Deeds of Wake County, North Carolina, on October 9, 1992, and recorded in Book 5358 at Page 154, Wake County Registry, and that this instrument was executed under and by virtue of the authority given by said instrument granting him Power-of-Attorney; that the said BRUCE J. HERBERT acknowledged the due execution of the foregoing and annexed instrument for the purposes therein. Witness my hand and official seal, this the 2nd day of November, 1995

Janet Dixon Dement
Notary Public

NORTH CAROLINA

COUNTY

I, _____, a Notary Public, do hereby certify that J. PATRICK GAVAGHAN personally appeared before me this day and acknowledged that he is a General Partner of ALPS LIMITED PARTNERSHIP, a North Carolina limited partnership and that by authority duly given, he executed the foregoing instrument on behalf of and as the act of said company.

WITNESS my hand and official seal this the _____ day of _____, 19__.

Notary Public

My Commission Expires:

[NOTARIAL SEAL/STAMP]

NORTH CAROLINA

____ COUNTY

I, the undersigned Notary Public, do hereby certify that _____ personally appeared before me this day and acknowledged that _____ is the _____ Secretary of Pulte Home Corporation, a Michigan corporation, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by _____ as its _____ Secretary.

WITNESS my hand and official seal this _____ day of _____, 19__.

Notary PublicMy Commission Expires:

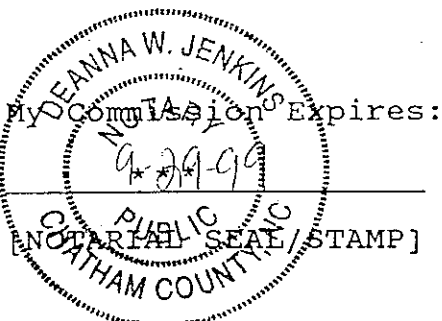
NORTH CAROLINA

Chatham COUNTY

I, Deanna W. Jenkins, a Notary Public, do hereby certify that J. PATRICK GAVAGHAN personally appeared before me this day and acknowledged that he is a General Partner of ALPS LIMITED PARTNERSHIP, a North Carolina limited partnership and that by authority duly given, he executed the foregoing instrument on behalf of and as the act of said company.

WITNESS my hand and official seal this the 28th day of Nov., 1995.

Deanna W. Jenkins
Notary Public



NORTH CAROLINA — WAKE COUNTY

The foregoing certificate _____ of _____

Kelley J. Odell
Nancy L. Houston
Janet Dixie Dement

"A"

The Apex Property

All of that property located in Wake County, North Carolina and more particularly described as follows:

Tract 1

Beginning at an existing iron pipe located in the western right-of-way line of N.C. Highway 55, a 150' right-of-way, said pipe having North Carolina Grid Coordinates N=728,854.44 and E=2,036,306.45, said pipe also marking the northeast corner of Tract B as shown on that plat recorded in Book of Maps 1994, page 258, Wake County Registry; runs thence along the line of Tract B the following courses and distances: North 89° 29' 50" West 300.00 feet to an existing iron pipe; South 00° 29' 57" West 854.01 feet to an existing iron pipe; South 84° 18' 16" West 1,343.93 feet to an existing iron pipe; and South 22° 36' 39" West 349.99 feet to an existing iron pipe located in the northern right-of-way line of Green Level Church Road (NCSR 1600); runs thence along the northern right-of-way line of Green Level Church Road the following courses and distances: North 58° 43' 17" West 88.13 feet to a point; North 60° 43' 47" West 108.02 feet to a point; North 61° 48' 17" West 210.75 feet to a point; and North 62° 10' 09" West 699.99 feet to an existing iron pipe marking the southwest corner of property belonging to Marie H. Morris, now or formerly; runs thence along the eastern line of the Marie H. Morris property North 02° 23' 53" East 961.40 feet to an existing iron pipe; runs thence along the northern line of the Marie H. Morris property South 89° 55' 07" West 98.60 feet to an existing iron pipe marking the southeast corner of property belonging to David H. Morris, now or formerly; runs thence along the eastern line of the David H. Morris property North 01° 41' 07" West 535.99 feet to an existing iron pipe located in the southern line of property belonging to Texas Instruments Employees Pension & Trust Properties, NationsBank, Trustee, now or formerly; runs thence along the southern line of the Texas Instruments property South 89° 31' 06" East 2,904.19 feet to an existing iron pipe located in the western right-of-way line of N.C. Highway 55; runs thence along the western right-of-way line of N.C. Highway 55 South 08° 36' 52" West 271.65 feet to an existing right-of-way monument, and South 04° 50' 54" West 421.83 feet to an existing iron pipe, the point and place of Beginning, containing 100.28 acres, all according to that survey entitled "Property of Apex Properties, L.L.C.", dated March 24, 1994 and prepared by Smith and Smith Surveyors.

The above-described Tract 1 being all of that property conveyed by Texas Instruments Incorporated to Apex Properties, L.L.C. by Deed recorded in Book 6062, Page 660, in the Office of the Register of Deeds, Wake County, North Carolina.

Tract 2

Beginning at an existing iron pipe located in the western right-of-way line of NC Highway 55, said pipe marking the northeast corner of that property conveyed by Texas Instruments, Inc. to Apex Properties, L.L.C. by deed recorded in Book 6062, Page 660, Wake County Registry and shown on that plat recorded in Book of Maps 1994, Page 258, Wake County Registry; runs thence along the northern line of the Apex Properties, L.L.C. property North $89^{\circ} 31' 08''$ West 2904.35 feet to an existing iron pipe with pointers marking the northwest corner of the Apex Properties, L.L.C. property and being located in the eastern line of property belonging to David H. Morris, now or formerly; runs thence along the eastern line of the Morris property North $01^{\circ} 41' 09''$ West 1026.44 feet to an existing iron pipe, and continuing along the same bearing 0.60 feet to a point located in the southeastern right-of-way line of NCSR 1601 (Jenks Road); runs thence along the southeastern and southern right-of-way line of Jenks Road the following courses and distances: North $51^{\circ} 50' 53''$ East 21.56 feet to a point, North $52^{\circ} 34' 21''$ East 53.97 feet to a point, North $53^{\circ} 20' 40''$ East 1361.99 feet to a point, North $55^{\circ} 39' 32''$ East 48.54 feet to a point, North $59^{\circ} 33' 06''$ East 47.85 feet to a point, North $63^{\circ} 32' 33''$ East 47.62 feet to a point, North $68^{\circ} 30' 55''$ East 47.26 feet to a point, North $73^{\circ} 47' 45''$ East 47.38 feet to a point, North $77^{\circ} 53' 33''$ East 48.62 feet to a point, North $79^{\circ} 07' 13''$ East 49.58 feet to a point, North $79^{\circ} 36' 17''$ East 55.65 feet to a point, North $79^{\circ} 54' 52''$ East 533.66 feet to a point, North $80^{\circ} 11' 51''$ East 88.95 feet to a point, and North $80^{\circ} 37' 39''$ East 75.41 feet to an iron pipe set; runs thence leaving the southern right-of-way line of NCSR 1601 (Jenks Road) South $00^{\circ} 40' 39''$ West 840.54 feet to an existing iron pipe, and South $89^{\circ} 14' 23''$ East 938.48 feet to an existing iron pipe located in the western right-of-way line of NC Highway 55; runs thence along the western right-of-way line of NC Highway 55 the following courses and distances: South $08^{\circ} 36' 21''$ West 766.66 feet to an existing iron pipe, South $08^{\circ} 34' 23''$ West 299.41 feet to an existing iron pipe, and South $08^{\circ} 37' 11''$ West 259.98 feet to an existing iron pipe, the point and place of beginning, containing 112.897 acres, all as shown on that survey entitled "Property of Texas Instruments Employees and Trust Properties, NationsBank, Trustee", dated March 31, 1994 and prepared by Smith and Smith Surveyors, Registered Land Surveyors.

The above-described Tract 2 being all of that property conveyed to Apex Properties, L.L.C. by Deed recorded in Book 6333, Page 387, in the Office of the Register of Deeds, Wake County, North Carolina

SAVE AND EXCEPT from the above-described tracts all of that property described on Exhibits "B," "C" and "D" of this Declaration of Covenants, Conditions and Restrictions for Walden Creek and that tract of approximately one (1) acre that is the subject of that contract for the sale of real property between Apex Properties, L.L.C. and J. Michael Edwards dated September 15, 1995.

The Westminster Property

All of that property located in Wake County, North Carolina and more particularly described as follows:

Phase 1, Section 1

Commencing at an iron pipe found in the western right-of-way line of N.C. Highway 55, a 150' right-of-way, said pipe having North Carolina Grid Coordinates (North-NAD 83) N(Y)=729,618.37 and E(X)=2,036,461.85, said pipe marking the northeast corner of property conveyed to Apex Properties, L.L.C. by deed recorded in Book 6062, page 660, Wake County Registry; runs thence along the western right-of-way line of N.C. Highway 55 the following courses and distances: North 08° 36' 24" East 259.98 feet to an iron pipe found, North 08° 33' 22" East 299.41 feet to an iron pipe found, and North 08° 35' 28" West 435.32 feet to the point and place of Beginning, said point marking the northeast corner of Section 2, Phase 1 as shown on that survey to which reference is hereinafter made; runs thence leaving the western right-of-way line of N.C. Highway 55 and along the northern line of the Section 2, Phase 1 property the following courses and distances: along a curve to the right having a radius of 25.00 feet an interior chord bearing and distance of South 50° 39' 17" West 33.50 feet and an arc distance of 36.71 feet to a point, along a curve to the left having a radius of 730.87 feet an exterior chord bearing and distance of South 84° 37' 27" West 205.81 feet and an arc distance of 206.50 feet to a point, South 74° 40' 51" West 99.22 feet to a point, South 74° 23' 44" West 84.78 feet to a point, North 15° 36' 16" West 87.40 feet to a point, North 46° 59' 45" West 53.61 feet to a point, North 88° 35' 27" West 173.87 feet to a point, South 66° 23' 47" West 254.55 feet to a point, South 80° 04' 26" West 308.12 feet to a point, and South 67° 46' 44" West 57.94 feet to a point; runs thence along a new eastern line of other property owned by Apex Properties, L.L.C. the following courses and distances: North 19° 28' 16" West 162.09 feet to a point, North 36° 30' 10" West 81.96 feet to a point, North 71° 43' 51" West 90.86 feet to a point, North 52° 39' 35" West 142.51 feet to a point, North 49° 35' 13" East 48.83 feet to a point, North 34° 47' 32" West 155.15 feet to a point, North 55° 12' 28" East 64.75 feet to a point, North 34° 47' 32" West 111.37 feet to a point, North 56° 40' 28" East 132.53 feet to a point, North 86° 28' 52" East 38.12 feet to a point, North 34° 27' 57" East 104.88 feet to a point, North 35° 13' 30" East 50.00 feet to a point, South 54° 46' 30" East 2.65 feet to a point, North 44° 19' 36" East 165.54 feet to a point, North 83° 07' 18" East 182.05 feet to a point, and North 87° 40' 00" East 180.53 feet to a point located in the western line of property belonging to Heartland Carolina Triangle 55, now or formerly; runs thence along the western line of the Heartland property South 00° 40' 20" West 488.30 feet to an iron pipe found; runs thence along the southern line of the Heartland property South 89° 15' 00" East 938.53 feet to an iron pipe found in the western right-of-way line of N.C. Highway 55; runs thence along the western right-of-way line of N.C. Highway 55 South 08° 35' 28" West 331.32 feet to the point and place of beginning, containing 18.79 acres (818,550 square feet), and being all of Section 1, Phase 1 as shown on that survey entitled "A Division of Land - Bailey Farms" dated November 28-30, 1994, last revised December 29, 1994 and prepared by Priest, Craven & Associates, Inc., Registered Land Surveyors.

All of that property located in Wake County, North Carolina and more particularly described as follows:

Phase 1, Section 2

Commencing at an iron pipe found in the western right-of-way line of N.C. Highway 55, a 150' right-of-way, said pipe having North Carolina Grid Coordinates (North-NAD 83) N(Y)=729,618.37 and E(X)=2,036,461.85, said pipe marking the northeast corner of property conveyed to Apex Properties, L.L.C. by deed recorded in Book 6062, page 660, Wake County Registry; runs thence leaving the western right-of-way line of N.C. Highway 55 North 89° 31' 56" West 337.95 feet to the point and place of Beginning; runs thence along a new northern line of the Apex Properties, L.L.C. property the following courses and distances: North 89° 31' 56" West 188.06 feet to a point, South 04° 07' 07" West 65.15 feet to a point, South 36° 44' 04" West 71.38 feet to a point, South 55° 45' 35" West 135.25 feet to a point, North 38° 31' 34" West 85.72 feet to a point, North 45° 44' 53" West 97.65 feet to a point, North 53° 52' 56" West 112.19 feet to a point, and North 89° 31' 56" West 385.18 feet to a point; runs thence along a new eastern line of other property owned by Apex Properties, L.L.C. the following courses and distances: North 62° 35' 37" East 169.57 feet to a point, North 24° 09' 18" West 181.98 feet to a point, along a curve to the left having a radius of 886.61 feet an exterior chord bearing and distance of North 64° 33' 33" East 39.79 feet and an arc distance of 39.79 feet to a point, North 26° 43' 35" West 109.30 feet to a point, North 58° 18' 22" East 176.38 feet to a point, North 56° 17' 39" East 50.00 feet to a point, South 33° 42' 21" East 1.02 feet to a point, North 55° 45' 03" East 116.13 feet to a point, North 36° 15' 15" West 150.98 feet to a point, and North 03° 10' 44" West 188.33 feet to a point located in the southern line of Section 1, Phase 1, as shown on that survey to which reference is hereinafter made; runs thence along the southern line of Section 1, Phase 1 the following courses and distances: North 80° 04' 26" East 308.12 feet to a point, North 66° 23' 47" East 254.55 feet to a point, South 88° 35' 27" East 173.87 feet to a point, South 46° 59' 45" East 53.61 feet to a point, South 15° 36' 16" East 87.40 feet to a point, North 74° 23' 44" East 84.78 feet to a point, North 74° 40' 51" East 99.22 feet to a point, along a curve to the right having a radius of 730.87 feet, an interior chord bearing and distance of North 84° 37' 27" East 205.81 feet and an arc distance of 206.50 feet to a point, and along a curve to the left having a radius of 25.00 feet, an exterior chord bearing and distance of North 50° 39' 17" East 33.50 feet and an arc distance of 36.71 feet to a point located in the western right-of-way line of N.C. Highway 55; runs thence along the western right-of-way line of N.C. Highway 55 South 08° 35' 28" West 435.32 feet to an iron pipe found and South 08° 33' 22" West 236.09 feet to a point marking the northeast corner of the "Recreation Area" as shown on that survey to which reference is hereinafter made; runs thence along the northern and western lines of the "Recreation Area" the following courses and distances: North 83° 05' 57" West 366.11 feet to a point, South 63° 00' 43" West 106.26 feet to a point, along a curve to the right having a radius of 652.96 feet, an interior chord bearing and distance of South 14° 17' 20" East 290.18 feet and an arc distance of 292.62 feet to a point, South 01° 27' 01" East 10.47 feet to a point, and along a curve to the right having a radius of 405.00 feet, an interior chord bearing and distance of South 00° 02' 06" West 21.00 feet and an arc distance of 21.01 feet to the point and place of beginning containing 23.07 acres (1,004,791 square feet), and being all of Section 2, Phase 1 as shown on that survey entitled "A Division of Land - Bailey Farms", dated November 28-30, 1994, last revised December 29, 1994 and prepared by Priest, Craven & Associates, Inc., Registered Land Surveyors.

EXHIBIT "D"

THE ALPS PROPERTY

All of that real property located in Wake County, North Carolina and more particularly described as follows:

BEGINNING at an iron stake located in the northern right-of-way of Green Level Church Road (N.C.S.R. 1600) having N.C. Grid Coordinates N=620149.439 and E=221779.52, thence along that right-of-way the following courses and distances: N 58 deg 46 min 45 sec W 88.13 feet to an iron stake, N 60 deg 44 min 25 sec W 108.02 feet to an iron stake, N 61 deg 48 min 55 sec W 210.75 feet to an iron stake, N 62 deg 10 min 47 sec W 50.29 feet to an iron stake, N 62 deg 10 min 47 sec W 74.99 feet to an iron stake, and N 62 deg 10 min 47 sec W 574.71 feet to an iron stake being in the common property line with lands now or formerly owned by Marie H. Morris; thence along that common property line N 02 deg 23 min 15 sec E 961.40 feet to an iron stake and S 89 deg 54 min 29 sec W 98.60 feet to an iron stake located in the common property line of lands now or formerly owned by David H. Morris; thence along that common property line N 01 deg 41 min 45 sec W 535.99 feet to an iron stake located in the common property line of lands now or formerly owned by Texas Instruments, Inc.; thence along that common property line S 89 deg 31 min 44 sec E 340.62 feet to an iron stake located in the common property line of lands now or formerly owned by Apex Properties, L.L.C.; thence along that common property line the following courses and distances: S 02 deg 59 min 15 sec E 478.56 feet to an iron stake, S 88 deg 16 min 00 sec E 263.14 feet to an iron stake, N 62 deg 40 min 59 sec E 161.01 feet to an iron stake, S 41 deg 13 min 23 sec E 124.06 feet to an iron stake, S 63 deg 56 min 07 sec E 55.84 feet to an iron stake, S 37 deg 37 min 42 sec E 121.97 feet to an iron stake, N 89 deg 42 min 36 sec E 212.15 feet to an iron stake, N 68 deg 23 min 03 sec E 151.95 feet to an iron stake, N 60 deg 22 min 03 sec E 32.28 feet to an iron stake, S 29 deg 52 min 11 sec E 233.66 feet to an iron stake, S 16 deg 09 min 05 sec W 185.59 feet to an iron stake, N 72 deg 22 min 57 sec W 39.37 feet to an iron stake, S 09 deg 05 min 55 sec W 152.43 feet to an iron stake, S 20 deg 00 min 11 sec E 150.18 feet to an iron stake, S 33 deg 50 min 13 sec E 83.52 feet to an iron stake, S 57 deg 43 min 40 sec W 201.08 feet to an iron stake, N 30 deg 48 min 14 sec W 28.08 feet to an iron stake, S 57 deg 45 min 14 sec W 156.52 feet to an iron stake, S 09 deg 11 min 15 sec E 248.15 feet to an iron stake and S 22 deg 36 min 18 sec W 349.83 to the point of BEGINNING, being 39.428 acres, more or less, according to that survey entitled "ALPS Limited Partnership" dated April 25, 1994, prepared by Blackmon & Pate Engineering and Land Surveying, P.A., which survey is incorporated into this description by this reference.

BK6769PG0710

The above-described property being all of that property conveyed by Apex Properties, L.L.C. to ALPS Limited Partnership by Deed recorded in Book 6117, Page 854, in the Office of the Register of Deeds, Wake County, North Carolina.

BK6769PG0711

EXHIBIT "E"

The Recreational Site

Beginning at an iron pipe in the eastern margin of the right of way of Walden Creek Drive, said pipe located South 89 degrees 31 minutes 44 seconds East 60 feet from a control corner located in the western margin of the right-of-way of Walden Creek Drive having North Carolina grid coordinates N (Y) 729621.64, E (X) 2036063.89; thence following the eastern margin of the right-of-way of a proposed extension of Walden Creek Drive, the following three (3) courses and distances: (1) along a curve to the left having a radius of 405 feet and a chord course and distance of North 00 degrees 01 minutes 43 seconds East 21.01 feet to an iron pipe; (2) North 05 degrees 14 minutes 47 seconds West 10.33 feet to an iron pipe; and (3) along a curve to the left having a radius of 652.96 feet and a chord course and distance of North 14 degrees 08 minutes 46 seconds West 290.18 feet to an iron pipe; thence leaving the margin of the proposed extension of Walden Creek Drive, North 63 degrees 00 minutes 55 seconds East 106.25 feet to a point; thence South 83 degrees 05 minutes 45 seconds East 366.16 feet to an iron pipe located in the western margin of North Carolina Highway 55; thence along the western margin of North Carolina Highway 55, South 08 degrees 36 minutes 36 seconds West 451.59 feet to an iron pipe; thence leaving the margin of North Carolina Highway 55, along a curve to the right having a radius of 25 feet and a chord course and distance of South 53 degrees 20 minutes 55 seconds West 35.19 feet to an iron pipe in the northern margin of Walden Glen Way; thence along the northern margin of Walden Glen Way the following three (3) courses and distances: (1) North 81 degrees 54 minutes 46 seconds West 99.83 feet to an iron pipe; (2) along a curve to the right having a radius of 470 feet and a chord course and distance of North 73 degrees 09 minutes 49 seconds West 142.98 feet to an iron pipe; and (3) North 64 degrees 24 minutes 52 seconds West 49.83 feet to a point; thence leaving the margin of Walden Glen Way, along a curve to the right having a radius of 25 feet for a chord course and distance of North 34 degrees 36 minutes 32 seconds West 25.85 feet to an iron pipe in the eastern margin of Walden Creek Drive; thence with said margin of Walden Creek Drive, along a curve to the left having a radius of 405 feet for a chord course and distance of North 04 degrees 53 minutes 26 seconds East 47.70 feet to the point and place of Beginning, containing 3.97 acres, all according to that map entitled "Walden Creek, Section II Phase I prepared by Taylor Wiseman & Taylor and dated October 18, 1995.

DK6516PG0807

Supplement to Master

PREPARED
FOR
REGISTRATION

Apex

PREPARED BY & MAIL TO:

James M. Day, Burns, Day & Presnell, P.A.
P.O. Box 10867, Raleigh, NC 27605

000311

95 MAY -2 PM 1:31

NORTH CAROLINA

SUPPLEMENTAL DECLARATION OF COVENANTS,
AND RESTRICTIONS FOR SECTION I WAKE COUNTY
OF WALDEN CREEK

THIS SUPPLEMENTAL DECLARATION, made this APRIL 27, 1995 by
ALPS LIMITED PARTNERSHIP, a North Carolina limited partnership, (the "Successor
Declarant").

RECITALS

A. On or about May 5, 1994, Apex Properties, L.L.C. (the "Declarant") filed a Declaration of Covenants, Conditions, and Restrictions for Walden Creek which is recorded at Book 6117, Page 325, Wake County Registry (the "Declaration"), which is incorporated into this document by this reference.

B. Pursuant to Article XIII, Sec. 11 of the Declaration, the Declarant reserved the right to impose additional and different covenants, conditions, and restrictions on separate, distinct residential subdivisions or sections of Walden Creek.

C. On or about May 5, 1994, the Successor Declarant purchased a section of Walden Creek from the Declarant, which is more particularly described in Exhibit A attached (the "ALPS Subdivision").

D. The Successor Declarant has succeeded to the Declarant's rights as Declarant with respect to the ALPS Subdivision.

E. Pursuant to this reserved right, the Successor Declarant declares that all of the ALPS Subdivision together with such additions as may subsequently be added shall be held, sold and conveyed subject to this Supplemental Declaration which shall run with the land and be binding on all parties having any right, title, or interest in the ALPS Subdivision or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each Owner thereof.

1. DEFINITIONS.

1.1. The definitions contained in the Declaration shall also apply to those same terms when used in this document.

1.2. "Association's Board" means the Board of Directors for the Association.

1.3. "Bylaws" means the Association's Bylaws.

1.4. "Improvements" means any structure of any type or kind, including, but not limited to buildings, outbuildings, parking areas, loading areas, fences, screening walls, retaining walls, hedges, mass plantings, lawns, sidewalks, poles, signs, and utility lines and facilities.

1.5. "Subdivision Owner" means an Owner of a Lot located within the ALPS Subdivision.

1.6. "Successor Declarant" means ALPS Limited Partnership, a North Carolina Limited Partnership, and its successors and assigns to which the rights of the Successor Declarant are expressly transferred.

2. EASEMENTS.

2.1. Drainage Easement. For a period of eighteen (18) months following the initial conveyance of a Lot to a Subdivision Owner by the Successor Declarant, that Lot shall be subject to an easement for entry and encroachment by the Successor Declarant for the purpose of correcting any grading or drainage problems with respect to that Lot or adjoining Lots. After such an entry, the Successor Declarant, at its expense, shall, to the extent reasonably practicable, restore the affected Lot(s) to their original condition.

2.2. Governmental Easements. Successor Declarant reserves an easement for the benefit of the appropriate governmental entity over all Common Area and over an area 10 feet behind the curb line of any street or roadway in the ALPS Subdivision existing now or in the future for the setting, removal, and reading of water meters, the maintenance and replacement of water, sewage, and drainage facilities and the collection of garbage.

3. ARCHITECTURAL COMMITTEE.

3.1. Members. The Architectural Committee shall consist of one (1) or more persons designated by the Successor Declarant. At such time as Successor Declarant no longer owns any real property within the ALPS Subdivision (or earlier if the Successor Declarant shall surrender this right in a written instrument in recordable form executed by Successor Declarant), the Successor Declarant shall assign to the Association the right to designate the Members of the Architectural Committee. Upon this assignment, the Association's Board shall appoint three (3) or more persons as the members of the Architectural Committee, each of who must be Subdivision Owners.

3.2. Powers. The Architectural Committee shall have the right to refuse to approve any plans and specifications for Improvements proposed to be constructed on a Lot (the "Plans & Specifications") which are not suitable or desirable, in its sole discretion, for aesthetic or any other reasons, provided such approval is not unreasonably withheld. In approving or disapproving Plans & Specifications, the Architectural Committee shall consider the suitability of the proposed Improvements and materials to be used in those Improvements, the site upon

which it is proposed to be erected, and the effect of the Improvements on adjacent or neighboring property. There is specifically reserved unto the Architectural Committee the right of entry and inspection upon any Lot for the purpose of determining whether there exists any construction of any Improvements which violates the terms of any approval by the Architectural Committee or the terms of this Supplemental Declaration or of any other applicable covenants, conditions and restrictions. The Architectural Committee and the Association's Board is specifically empowered to enforce the provisions of this section of the Supplemental Declaration by any legal or equitable remedy. In the event it becomes necessary to resort to litigation to determine the propriety of any constructed Improvement, or to remove any unapproved Improvements, the prevailing party shall be entitled to recovery of all court costs and expenses (including reasonable attorney's fees).

4. ARCHITECTURAL CONTROL AND USE RESTRICTIONS.

4.1. Building Sites. Each Lot, as approved by the appropriate governmental entity, shall constitute a building site (a "Building Site") and shall be used for single-family, residential purposes only. The lay of the Lots as shown on the recorded plat shall be substantially adhered to; provided, however, that with the prior written approval of the Successor Declarant (as long as it owns any Lots), or the Association's Board or the Architectural Committee and the appropriate governmental authority, the size and shape of any Lot may be altered and/or more than one Lot may be used as one Building Site. In no event, however, shall a Lot or group of Lots be resubdivided or recombined in violation of any applicable zoning or other laws in force at the time of the change.

4.2. Setbacks. No structure shall be located on any Building Site nearer than thirty (30) feet to the front lot line, nearer than eighteen (18) feet to any side street line, nearer than ten (10) feet to an interior lot line, or nearer than twenty-five (25) feet to the rear lot line. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of a building, provided, however, that this shall not be construed to permit any portion of a building on a Building Site to encroach upon another Lot. Provided it otherwise complies with the applicable zoning ordinances and the setbacks, if any, shown on the applicable recorded plat, the Successor Declarant and/or the Architectural Committee may approve by written waiver a violation of these requirements.

4.3. Structures. Improvements on any Building Site shall be limited to a single, single-family, residential structure. No residential structure, which has a minimum area of less than 2300 square feet of heated area for a two story residence or 2100 square feet of heated area for a one story residence, exclusive of porches, basement and garage, shall be erected or placed on any Building Site. No ranch style house shall be built which has a minimum area of less than 2100 square feet of heated area. All buildings and structures erected upon Lots shall be of new construction and no building or structures, other than detached single-family homes (not to exceed three (3) stories in height) shall be constructed. No structures of a temporary character, manufactured home, trailer, basement, tent, shack, garage, barn or other out-building shall be

used on any portion of the ALPS Subdivision at any time as a residence, either temporarily or permanently.

4.4. Approval of Plans & Specs. No Improvement shall be commenced, erected, or maintained upon the ALPS Subdivision, nor shall an Improvement be repaired or rebuilt after destruction by any hazard until the Plans & Specifications, showing the nature, kind, space, height, materials, and location of the Improvement shall have been submitted to and approved in writing by the Architectural Committee. A failure to approve or disapprove the Plans & Specifications within thirty (30) days after they have been submitted shall be deemed to be an approval of those Plans & Specifications. Neither the Association, the Association's Board, the Successor Declarant, the Architectural Committee or any officer, employee, director or members thereof shall be liable for damages to any persons by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval, disapproval or failure to approve any Plans & Specifications. Every person who submits Plans & Specifications for approval agrees, by submission of such Plans & Specifications, that it will not bring any action or suit to recover any such damages.

4.5. Erosion Control. During site preparation and initial construction, the Subdivision Owner and all persons engaged in construction upon a Lot shall take such action as may be reasonably required by the Successor Declarant or law to control, inhibit, or prevent erosion and sedimentation of streams and impoundments. Each Subdivision Owner shall maintain his Lot in such manner as to prevent erosion of soil into any other area. If a Subdivision Owner does not properly maintain his Lot as required, then Successor Declarant may have the required work done and the costs thus incurred by Successor Declarant shall be reimbursed by the Subdivision Owner. Successor Declarant shall have the right of entry upon each Lot as necessary to perform the necessary erosion control work.

4.6. Successor Declarant Facilities. Notwithstanding any provision in this Article to the contrary, during the period of development and sale of the Lots the Successor Declarant is permitted, subject to applicable governmental restrictions, to maintain such facilities as Successor Declarant deems reasonably required, convenient, or incidental to the development and sale of the Lots. These facilities shall include but not be limited to a business/sales office, storage area, construction yards and signs.

4.7. Animals. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on the Lots, except that a reasonable number of domesticated, household pets may be kept, provided they are not maintained for commercial purposes.

4.8. Screening. All clothes line, equipment, air conditioning units, garbage cans, service yards, wood piles, or storage piles shall be kept screened by adequate Improvements so as to screen them from view from the street and adjoining Lots. All garbage, trash, or rubbish shall be regularly removed from the Lot and shall not be allowed to unreasonably accumulate.

4.9. Leasing. No Lot or any portion of the Improvements thereon shall be leased for transient or hotel purposes, except that an Subdivision Owner may lease not less than the entire residential structure on its Lot; provided that each lease must be in writing, must be for a period of not less than ninety (90) days, and must provide that it is subject to this Supplemental Declaration and the Bylaws and that any failure by a tenant to comply with such shall be a default under the lease.

4.10. Utility Devices. Without the prior written approval and the authorization of the Successor Declarant (as long as it owns any Lots), the Association's Board or the Architectural Committee, no exterior television or radio antennas, satellite dishes or solar panels or other utility devices, of any sort, shall be placed, allowed or permitted upon any portion of the exterior of the Improvements to be located upon a Lot.

4.11. Business/Obnoxious Activity. No business activity of any kind or any obnoxious or offensive activity shall be carried on the ALPS Subdivision or Improvements thereon, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood. Nor shall the ALPS Subdivision be used in any way or for any purpose which may endanger the health or unreasonably disturb a Subdivision Owner or his tenants or invitees. No "For Sale" signs (except as otherwise specifically authorized by the Association), advertising signs or rent signs, bill boards, unsightly objects or nuisances shall be erected, placed or permitted to remain on the ALPS Subdivision, and in no event in the Common Area. The foregoing covenants shall not, however, apply to the business activities, signs, and billboards or the construction and maintenance of buildings, if any, of Successor Declarant, its agent and assigns, during the construction and sales period for the ALPS Subdivision. This right of the Successor Declarant shall nevertheless be subject to the laws of the Town of Apex.

4.12. Vehicles. No boats, recreation vehicles, campers, motorcycles, tractors, trucks (other than one pick-up truck rated one-half ton or less), or trailers (the "Vehicles") of any Subdivision Owner or member of his family, his tenants, guest or contract purchasers shall be parked within the Common Area, or within the right-of-way of any street in or adjacent to the ALPS Subdivision. All Vehicles shall be stored either within the Subdivision Owner's garage or other facilities not located on the ALPS Subdivision or screened from public view from the street and adjoining Lots. Adequate off-street parking shall be provided by the Subdivision Owner of each Lot for the parking of automobiles owned by that Subdivision Owner. No Subdivision Owner shall park or store an inoperative or abandoned Vehicle or automobile on any Lot or on the streets in the ALPS Subdivision.

4.13. Above-Ground Tanks. No exposed above-ground tanks (except for approved recreational swimming pools) will be permitted for the storage of fuel or water or any other substance. Notwithstanding such, tanks may be placed above-ground provided they are kept in a screened enclosure which must exceed in height by at least one (1) foot any such tank as may be placed therein. The screened enclosure shall be subject to the Architectural Committee's prior approval.

4.14. Lawn Ornaments. Decorative lawn ornaments shall be approved in writing by the Architectural Committee prior to installation or placement on any Lot.

4.15. Maintenance. Each Subdivision Owner shall keep his Lot free of tall grass, undergrowth, dead trees, trash and rubbish and shall otherwise properly maintain its Lot and its Improvements so as to present a pleasing appearance. In the event a Subdivision Owner does not, in the reasonable opinion of the Architectural Committee, properly maintain its Lot and/or Improvements, the Successor Declarant and/or Association may have the required work done and the costs incurred shall be assessed against the Subdivision Owner.

4.16. Governmental Regulations. Each Subdivision Owner shall comply with all laws, ordinances, governmental building codes, health regulations, zoning restrictions and the like applicable to its Lot and/or Common Areas. In the event of any conflict between any provision of such governmental code, regulation or restriction and any provision of this Supplemental Declaration, the more restrictive provision shall apply.

4.17. Additional Restrictions. The Successor Declarant (as long as it owns any Lots), the Association, the Association's Board, or the Architectural Committee shall have the power to formulate, amend, publish and enforce other reasonable rules and regulations concerning the architectural control and use of the ALPS Subdivision.

4.18. Anti-Discrimination. No action shall at any time be taken in the enforcement or interpretation of this Supplemental Declaration which in any manner would unfairly discriminate against any Subdivision Owner in favor of any of the other Subdivision Owners.

4.19. Removal of Trees. Except for weeds, deadwood, underbrush or grass, no trees or other vegetation may be cut or removed from any Lot prior to or during the initial construction of Improvements thereon without the Successor Declarant's prior written approval. After completion of initial construction of the Improvements, no tree having a trunk diameter exceeding six (6) inches, four feet above ground level, shall be removed therefrom without the Successor Declarant's (if it still owns any Lots), the Architectural Committee's, and the Association's Board's prior express written approval, unless the tree is dead or diseased or poses an imminent threat or danger to persons or property.

4.20. Waiver. Notwithstanding anything above to the contrary, the Successor Declarant (as long as it owns Lots), the Association's Board, or the Architectural Committee shall have the right, in the exercise of their reasonable discretion, to waive one or more violations of the requirements of this Article. No waiver shall be effective unless in writing and nevertheless shall not operate as a waiver of any other requirement respecting the Lot in question or any other Lots subject to this Supplemental Declaration. No waiver shall be effective if it shall cause the Lot or structures thereon to be in non-conformance with any applicable governmental ordinances.

5. GENERAL PROVISIONS.

5.1. Enforcement. The Successor Declarant (as long as it owns Lots), the Association or any Subdivision Owner shall have the right to enforce, by a proceeding at law or in equity, the terms of the Supplemental Declaration. Failure to enforce any covenant or restriction herein shall in no event be deemed a waiver of the right to do so thereafter.

5.2. Severability. Invalidity of any one or more of these covenants or restrictions by judgment or court order shall in no way affect any other provision which shall remain in full force and effect.

5.3. Amendment.

5.3.1. The Supplemental Declaration shall run with the land for a term of twenty (20) years from the date of their recording and shall insure to the benefit of the Successor Declarant (as long as it owns Lots), the Association or any Subdivision Owner or their respective legal representatives, heirs, successors, and assigns. The Supplemental Declaration shall thereafter automatically be extended for successive periods of ten (10) years. Except as specifically otherwise provided, the Supplemental Declaration may be amended by an instrument signed by not less than the Subdivision Owners of seventy-five percent (75.0%) of the Lots within the ALPS Subdivision.

5.3.2. If an amendment is executed, each such amendment shall be delivered to the Association's Board which shall, within thirty (30) days cause the amendment to be recorded with the appropriate Register of Deeds. All amendments shall be effective from the date of recordation in the appropriate Register of Deeds; provided, however, that no such instrument shall be valid until it has been indexed in the name of the Association.

5.3.3. As long as there are Lots, prior approval of the Veterans Administration and/or the Department of Housing and Urban Affairs will be required prior to an Amendment of this Supplemental Declaration.

5.3.4. This Supplemental Declaration shall not be amended or terminated without the prior approval of the Town of Apex. A failure to approve or disapprove the proposed amendment or termination within thirty (30) days after it has been submitted, in writing, to the Town of Apex, shall be deemed to be an approval of the proposed amendment/termination.

5.4. Disputes. In the event of any dispute arising concerning a provision of this Supplemental Declaration, such dispute shall be settled by legal proceedings or the parties may, by mutual agreement, submit the dispute to a committee appointed by the Association for this purpose, and once submitted, the parties agree to be bound by the decision of that committee.

5.5. Gender and Grammer. All words and phrases in this Declaration shall be construed to include the singular or plural number, and the masculine, feminine, or neuter gender, as the context requires.

5.6. Subdivision Owner Responsibility. Notwithstanding anything in this Supplemental Declaration to the contrary, an Subdivision Owner shall be responsible for any and all violations of these Supplemental Declarations by his employees, agents, tenants, guests and invitee. When an Subdivision Owner consists of more than one individual or entity, such party's liability hereunder shall be joint and several.

5.7. Construction. This Supplemental Declaration shall be construed in accordance with the laws of North Carolina without giving effect to its conflict of laws principles.

5.8. Exhibits. All Exhibits and Schedules, if any, attached to this Supplemental Declaration are hereby incorporated by reference and made a part of this Supplemental Declaration. The term "Supplemental Declaration" as used herein shall be deemed to include all such Exhibits and Schedules.

5.9. Remedies. In the event of any default in and/or breach of any of the terms, conditions and provisions of this Supplemental Declaration (either actual or threatened) the party or parties who are thereby aggrieved shall have the right to specific performance and/or injunction in addition to any and all other rights and remedies at law or in equity. The right and remedies provided by this Supplemental Declaration are distinct and cumulative and the use of any one right or remedy by any party shall not preclude or waive its right to use any or all other remedies. No delay or omission of a party to exercise any right or power arising from any default on the part of the other shall impair any such right or power, or shall be construed to be a waiver of any such default or an acquiescence therein. The rights and remedies provided herein are given in addition to any other rights the parties may have by law, statute, ordinance or otherwise.

5.10. Conflicts. Where there is a conflict between the provisions of this Supplemental Declaration and the Declaration, the more restrictive provisions shall control.

5.11. Rights Exclusive. All rights created for, held by, or reserved to Successor Declarant shall belong exclusively to the Successor Declarant and to such person, firm or corporation to which they are expressly conveyed. None of these rights shall be deemed transferred to the purchaser of any property, unless the instrument effecting that transfer expressly recites the transfer of these rights.

IN WITNESS WHEREOF, the undersigned General Partner has caused this Agreement to be signed in the partnership name, sealed, and delivered, all as the act of the Partnership, this 27th April, 1995.

ALPS LIMITED PARTNERSHIP, a
North Carolina Limited Partnership

BY: Patrick Gavanaghan (SEAL)
General Partner

NORTH CAROLINA
WAKE COUNTY

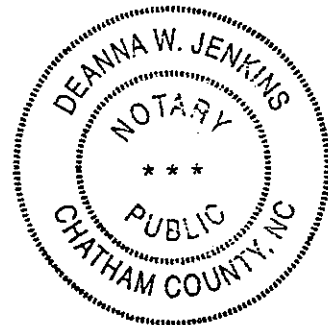
I, the undersigned Notary Public in and for the aforesaid County and State, certify that J. Patrick Gavanaghan, General Partner of ALPS Limited Partnership, a North Carolina limited partnership, personally came before me this day and acknowledged the due execution of the foregoing instrument on behalf of and as the act of the partnership.

Witness my hand and notarial seal this 27th April, 1995.

Deanna W. Jenkins
Notary Public

My Commission expires: 9-29-99

q:joyce\misc\walden1



NORTH CAROLINA — WAKE COUNTY

The foregoing certificate ___ of ___

Deanna W. Jenkins
Notar(y)(ies) Public is

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

KENNETH C. WILKINS, Register of Deeds

By Kenneth C. Nelson
Asst/Deputy Register of Deeds

EXHIBIT A
LEGAL DESCRIPTION

BEGINNING at an iron stake located in the northern right-of-way of Green Level Church Road (N.C.S.R. 1600) having N.C. Grid Coordinates N=620149.439 and E=221779.52, thence along that right-of-way the following courses and distances: N 58 deg 46 min 45 sec W 88.13 feet to an iron stake, N 60 deg 44 min 25 sec W 108.02 feet to an iron stake, N 61 deg 48 min 55 sec W 210.75 feet to an iron stake, N 62 deg 10 min 47 sec W 50.29 feet to an iron stake, N 62 deg 10 min 47 sec W 74.99 feet to an iron stake, and N 62 deg 10 min 47 sec W 574.71 feet to an iron stake being in the common property line with lands now or formerly owned by Marie H. Morris; thence along that common property line N 02 deg 23 min 15 sec E 961.40 feet to an iron stake and S 89 deg 54 min 29 sec W 98.60 feet to an iron stake located in the common property line of lands now or formerly owned by David H. Morris; thence along that common property line N 01 deg 41 min 45 sec W 535.99 feet to an iron stake located in the common property line of lands now or formerly owned by Texas Instruments, Inc.; thence along that common property line S 89 deg 31 min 44 sec E 340.62 feet to an iron stake located in the common property line of lands now or formerly owned by Grantor; thence along that common property line the following courses and distances: S 02 deg 59 min 15 sec E 478.56 feet to an iron stake, S 88 deg 16 min 00 sec E 263.14 feet to an iron stake, N 62 deg 40 min 59 sec E 161.01 feet to an iron stake, S 41 deg 13 min 23 sec E 124.06 feet to an iron stake, S 63 deg 56 min 07 sec E 55.84 feet to an iron stake, S 37 deg 37 min 42 sec E 121.97 feet to an iron stake, N 89 deg 42 min 36 sec E 212.15 feet to an iron stake, N 68 deg 23 min 03 sec E 151.95 feet to an iron stake, N 60 deg 22 min 03 sec E 32.28 feet to an iron stake, S 29 deg 52 min 11 sec E 233.66 feet to an iron stake, S 16 deg 09 min 05 sec W 185.59 feet to an iron stake, N 72 deg 22 min 57 sec W 39.37 feet to an iron stake, S 09 deg 05 min 55 sec W 152.43 feet to an iron stake, S 20 deg 00 min 11 sec E 150.18 feet to an iron stake, S 33 deg 50 min 13 sec E 83.52 feet to an iron stake, S 57 deg 43 min 40 sec W 201.08 feet to an iron stake, N 30 deg 48 min 14 sec W 28.08 feet to an iron stake, S 57 deg 45 min 14 sec W 156.52 feet to an iron stake, S 09 deg 11 min 15 sec E 248.15 feet to an iron stake and S 22 deg 36 min 18 sec W 349.83 to the point of BEGINNING, being 39.428 acres, more or less, according to that survey entitled "ALPS Limited Partnership" dated April 25, 1994, prepared by Blackmon & Pate Engineering and Land Surveying, P.A., which survey is incorporated into this description by this reference.