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DECLARATION OF PROTECTIVE COVENANTS AND EASEMENTS

FOR

RIVER RUN CLUSTER UNIT DEVELOPMENT

TABLE OF CONTENTS

Page

I. DEFINITIONS 1

II. PROPERTY SUBJECT TO THIS DECLARATION 1

1. Property Hereby Subjected to this Declaration 1
2. Other Property 1

III. ASSOCIATION MEMBERSHIP AND VOTING RIGHTS 2

1. Membership 2
2. Voting 2

IV. ASSESSMENTS 2

1. Purpose of Assessments 2
2. Creation of the Lien and Personal Obligation for Assessments 2
3. Computation 3
4. Special Assessments 4
5. Lien for Assessments 4
6. Effect of Nonpayment of Assessments: Remedies of the Association 4
7. Date of Commencement of Assessments/Assessment Obligation of Declarant 5
8. Specific Assessments 6
9. Budget Deficits during Declarant Control 7
10. Capitalization of Association 7

V. MAINTENANCE 7

1. Association's Responsibility 7
2. Owner's Responsibility 8
3. Party Walls and Party Fences 9
4. Storm Water Detention 10
5. Landscape Islands 12

VI. USE RESTRICTIONS AND RULES 13

1. General 13
2. Use of Lots 13
3. Signs 14
4. Vehicles/Parking 14
5. Occupants Bound 15
6. Animals and Pets 15
7. Nuisance 15

8. Unsightly or Unkempt Conditions 16
9. Architectural Standards 16
10. Antennas and Satellite Dishes 17
11. Gardens, Basketball Goals, Etc. 17
12. Tree Removal 18
13. Lighting 18
14. Drainage 18
15. Sight Distance at Intersections 18
16. Clotheslines, Garbage Cans, Woodpiles, Etc. 19
17. Subdivision of Lot 19
18. Guns 19
19. Solar Devices 19
20. Fences 19
21. Exterior Colors 19
22. Mailboxes 20
23. Detached Structures 20
24. Entry Features and Street Signs 20
25. Swimming Pools 20
26. Sidewalks 20
27. Buffer Areas 20

VII. INSURANCE AND CASUALTY LOSSES 20

1. Insurance 20
2. Damage and Destruction -- Property Insured by Association 23
3. Damage and Destruction -- Lots 23
4. Insurance Deductible 24

VIII. CONDEMNATION 24

IX. ANNEXATION AND WITHDRAWAL OF PROPERTY 24

1. Unilateral Annexation by Declarant 24
2. Other Annexation 25
3. Withdrawal of Property 25
4. Rights Retained by Declarant 25
5. Residential Density Transfers 25

X. MORTGAGEE PROVISIONS 26

1. Notices of Action 26
2. No Priority 26
3. Notice to Association 26
4. Amendments by Board 26
5. Applicability of Article X 27
6. Failure of Mortgagee to Respond 27

XI. EASEMENTS 27

1. Easements for Encroachment and Overhang 27
2. Easements for Use and Enjoyment 27
3. Easements for Utilities 29
4. Easements for Association Maintenance 29
5. Easements for Maintenance and Repair 29
6. Easements for Entry 29
7. Easements for Entry Features and Street Signs 30
8. Easements for Common Driveways 30
9. Easements for Driveway Turnaround 31
10. Easements for Encroachments 31
11. Easement for Private Street, Sidewalks and Signs 31
12. Mailbox and Trash Receptacle Easement 32

XII. GENERAL PROVISIONS 32

1. Enforcement 32
2. Self-Help 32
3. Duration 33
4. Amendment 33
5. Gender and Grammar 34
6. Severability 34
7. Captions 34
8. Conveyance of Property to Association; No Implied Rights 34
9. Perpetuities 35
10. Indemnification 35
11. Construction and Sale Period 36
12. Books and Records 37
13. Financial Statements 37
14. Notice of Sale or Lease 38
15. Agreements 38
16. Variances 38
17. Litigation 38
18. Implied Rights 38
19. Use of Recreational Facilities by Nonmembers 38
20. No Discrimination 39
21. Security 39
22. Maintenance of Private Streets 41
23. Termination of Contracts and Leases of Declarant 41

TABLE OF EXHIBITS

Exhibit	Name
"A"	Definitions
"B"	Property Submitted
"C"	Additional Property which can be Unilaterally Submitted by Declarant
"D"	Bylaws of River Run Neighborhood Association, Inc.
"E"	Stormwater Maintenance Manual
"F"	Preliminary Subdivision Plan River Run a Cluster Development

DECLARATION OF PROTECTIVE COVENANTS AND EASEMENTS FOR RIVER RUN CLUSTER UNIT DEVELOPMENT

THIS DECLARATION is made on the date hereinafter set forth by John Wieland Homes and Neighborhoods of the Carolinas, Inc., a Georgia corporation (hereinafter sometimes called "Declarant").

Background Statement

Declarant is the owner, or if not the owner has the written consent of the owner, of the real property described in Article II, Section 1 of this Declaration.

Declarant desires to subject the real property described in Article II, Section 1 hereof to the provisions of this Declaration to create a residential community of single-family housing and to provide for the subjecting of other real property to the provisions of this Declaration.

NOW, THEREFORE, Declarant hereby declares that the real property described in Article II, Section 1 of this Declaration, including the improvements constructed or to be constructed thereon, is hereby subjected to the provisions of this Declaration and shall be held, sold, transferred, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the covenants, conditions, restrictions, easements, assessments and liens hereinafter set forth, which are for the purpose of protecting the value and desirability of, and which shall run with the title to, the real property hereby or hereafter made subject hereto, shall be binding on all persons having any right, title or interest in all or any portion of the real property now or hereafter made subject hereto, their respective heirs, legal representatives, successors, successors-in-title and assigns, and shall inure to the benefit of each and every owner of all or any portion thereof.

Article I
Definitions

Unless the context shall prohibit, certain words used in this Declaration shall be defined as set forth in Exhibit "A" attached hereto and by reference made a part hereof.

Article II
Property Subject to this Declaration

Section 1. Property Hereby Subjected to this Declaration. The real property described in Exhibit "B" attached hereto and by reference made a part hereof is, by the recording of this Declaration, subject to the covenants and restrictions hereafter set forth and, by virtue of the recording of this Declaration, shall be held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to this Declaration.

Section 2. Other Property. Only the real property described in Section 1 of this Article II is hereby made subject to this Declaration; provided, however, by one or more Supplementary Declarations, Declarant and the Association have the right, but not the obligation, to subject other real property to this Declaration, as hereinafter provided.

Article III
Association Membership and Voting Rights

Section 1. Membership. Every Person who is the record owner of a fee or undivided fee interest in any Lot that is subject to this Declaration shall be a member of the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate the Owner's membership. No Owner, whether one or more Persons, shall have more than one membership per Lot. In the event of multiple Owners of a Lot, votes and rights of use and enjoyment shall be as provided in this Declaration and in the Bylaws. Membership shall be appurtenant to and may not be separated from ownership of any Lot. The rights and privileges of membership, including the right to vote and to hold office, may be exercised by a member or the member's spouse, but in no event shall more than one vote be cast for each Lot owned.

Section 2. Voting. Each member of the Association shall be entitled to one vote for each Lot owned. If only one of the multiple Owners of a Lot is present at a meeting of the Association, the Owner who is present is entitled to cast all the votes allocated to that Lot. If more than one of the multiple Owners are present, the votes allocated to that Lot may be cast only in accordance with the agreement of a majority in interest of the multiple Owners. In the absence of such an Agreement, the Lot's vote shall be suspended. Majority agreement is conclusively presumed if any one of the multiple Owners casts the votes allocated to that Lot without protest being made promptly to the Person presiding over the meeting by any of the other Owners of the Lot.

Article IV
Assessments

Section 1. Purpose of Assessments. The assessments provided for herein shall be used for the general purposes of promoting the recreation, health, welfare, common benefit and enjoyment of the Owners and Occupants of Lots, including the maintenance of real and personal property and the payment of all Common Expenses, all as may be more specifically authorized from time to time by the Board of Directors.

Section 2. Creation of the Lien and Personal Obligation for Assessments. Each Owner of any Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (a) annual assessments or charges; (b) special assessments, such assessments to be established and collected as hereinafter provided; and (c) specific assessments against any particular Lot which are established pursuant to the terms of this Declaration, including, but not limited to, reasonable fines as may be imposed in accordance with the terms of this Declaration. All such assessments, together with late charges, interest on the principal amount due at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum, costs and reasonable attorney's fees actually incurred, shall be a charge on the land and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with late charges, interest, costs and reasonable attorney's fees actually incurred, shall also be the personal obligation of the Person who was the Owner of such Lot at the time the assessment fell due.

Each Owner shall be personally liable for his or her portion of each assessment coming due while he or she is the Owner of a Lot, and his or her grantee shall be jointly and severally liable for such portion thereof as may be due and payable at the time of conveyance; provided, however, the liability of a grantee for the unpaid assessments of its grantor shall not apply to any first Mortgagee taking title through foreclosure proceedings or deed in lieu of foreclosure.

The Association shall, within ten (10) days after receiving a written request therefor and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of issuance.

Assessments shall be paid at a uniform rate per Lot in such manner and on such dates as may be fixed by the Board of Directors, which may include, without limitation, acceleration, upon ten (10) days' written notice of assessments for delinquents; provided however, (a) notwithstanding any provision in this Declaration to the contrary, assessments to pay a judgment against the Association may be made only against the Lots in the Community at the time the judgment was entered, in proportion to their Common Expense liabilities; and (b) if any Common Expense is caused by the negligence or misconduct of any Lot Owner or Occupant, the Association may assess the expenses exclusively against that Lot Owner or Occupant's Lot. Unless otherwise provided by the Board, assessments shall be paid in annual installments. If Common Expense liabilities are reallocated, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

The monthly Common Expenses may fluctuate dramatically during each budget year. Therefore, the Board is not required to prorate the assessment obligation of any Owner who has not lived in the Community for a full year. For example, if the bulk of the Common Expenses are likely to be incurred in the summer months, any Owner moving into the Community after the beginning of the budget year but prior to the summer months may be required to pay full assessments.

Section 3. Computation. It shall be the duty of the Board to prepare a budget covering the estimated Common Expenses during the coming year, which may include a capital contribution or reserve in accordance with a capital budget separately prepared. General assessments shall be levied against each Lot to cover all Common Expenses. The Board shall cause the budget, the assessment to be levied against each Lot for the year (or portion thereof in the case of the initial budget) and a notice of the meeting to consider ratification of the budget (which notice shall include a statement that the budget may be ratified without a quorum being present) to be provided to each member no more than thirty (30) days after the adoption of the budget. The date of the meeting of the members to consider ratification of the budget shall be not less than ten (10) days nor more than sixty (60) days after mailing of the budget and notice. There shall be no requirement that a quorum be present at the meeting. The meeting shall be held at least thirty (30) days prior to the due date for payment of the assessment (or the first installment thereof). The budget is ratified and the assessment shall become effective unless disapproved at the meeting by at least seventy-five (75%) percent of the Total Association Vote. Notwithstanding the foregoing, however, in the event the membership disapproves the proposed

budget or the Board fails for any reason so to determine the budget for the succeeding year, then and until such time as a budget shall have been determined, as provided herein, the budget last ratified shall be continued until a new budget is ratified. Any surplus funds of the Association remaining after payment of or provision for the Common Expenses, the funding of a reasonable operating expense surplus, and any prepayment of reserves shall not be refunded or credited to the Owners but shall be Association funds for use in covering operating and other expenses (including reserves) incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

Section 4. Special Assessments. In addition to the other assessments authorized herein, the Association may levy special assessments. So long as the total amount of special assessments allocable to each Lot does not exceed Three Hundred Dollars ($300.00) in any one fiscal year, the Board may impose the special assessment. Except as provided in Article VII, Section 2 and Article V, Section 4 hereof, any special assessment which would cause the amount of special assessments allocable to any Lot to exceed this limitation shall be effective only if approved by a Majority of the Total Association Vote. Special assessments shall be paid as determined by the Board, and the Board may permit special assessments to be paid in installments extending beyond the fiscal year in which the special assessment is imposed.

Section 5. Lien for Assessments. All sums assessed against any Lot pursuant to this Declaration, together with late charges, interest, costs and reasonable attorney's fees actually incurred, as provided herein, when remaining unpaid for thirty (30) days or longer, shall be secured by a lien on such Lot in favor of the Association, when the Association files a claim of lien in the office of the clerk of superior court of the county where the Lot is located in the manner provided by law. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (i) liens and encumbrances recorded before the docketing of the claim of lien and (ii) liens for real estate taxes and other governmental assessments and charges against the Lot. This Section does not affect the priority of mechanics' or materialmens' liens.

All other Persons acquiring liens or encumbrances on any Lot after this Declaration shall have been recorded in such records shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any sums (including assessments or installments thereof) assessed against any Lot pursuant to this Declaration which are not paid when due shall be delinquent. Any such sums delinquent for a period of more than ten (10) days shall incur a late charge in such amount as the Board may from time to time determine. The Association shall cause a notice of delinquency to be given to any member who has not paid within ten (10) days following the due date. If any such sums are not paid within thirty (30) days after the due date, the Board may accelerate and declare immediately due all such sums (including annual assessments or installments thereof) without any further notice being given to the delinquent Owner, and a claim of lien, as herein provided, may be filed in the office of the clerk of superior court of the county in which the Lot is located in the manner provided by law. Such lien shall include the late charge, interest on the principal amount due at a rate not to exceed the lesser of the maximum rate permitted by law or eighteen percent (18%) per annum, all late charges from the date first due and payable, all costs of collection, reasonable

attorney's fees actually incurred, and any other amounts provided or permitted by law. If any sum assessed against any Lot pursuant to this Declaration remains unpaid after sixty (60) days from the due date, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. The Association may foreclose the claim of lien in like manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes. Each Owner, by acceptance of a deed or as a party to any other type of a conveyance, vests in the Association or its agents the right and power to bring all actions against him or her, personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the North Carolina General Statutes. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the Lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same.

If any sum assessed against any Lot pursuant to this Declaration is delinquent for sixty (60) days or more, in addition to all other rights provided in this Declaration, the Association shall have the right, upon ten (10) days written notice, to suspend any utility services the costs of which are a Common Expense of the Association, including, but not limited to, water, electricity, heat, air conditioning, gas and cable television to that Lot, until such time as the delinquent amounts and all costs permitted pursuant to this paragraph are paid in full. Any costs incurred by the Association in discontinuing and/or reconnecting any utility service, including reasonable attorney's fees, shall be an assessment against the Lot and shall be collected as provided herein for the collection of assessments. The notice requirement of this paragraph shall be deemed complied with if the notice is sent by certified mail to the Lot address and to any other address the Owner of the Lot has provided in writing to the Association.

No Owner may waive or otherwise exempt himself from liability for the assessments provided for herein, including, by way of illustration, but not limitation, abandonment of the Lot. No diminution or abatement of any assessment shall be claimed or allowed by reason of any alleged failure of the Association to take some action or perform some function required to be taken or performed by the Association under this Declaration or the Bylaws, or for inconvenience or discomfort arising from the making of repairs or improvements which are the responsibility of the Association, or from any action taken by the Association to comply with any law, ordinance or order or directive of any municipal or other governmental authority, the obligation to pay assessments being a separate and independent covenant on the part of each Owner.

All payments shall be applied first to costs and attorney's fees, then to late charges, then interest and then to delinquent assessments.

Section 7. Date of Commencement of Assessments/Assessment Obligation of Declarant.

(a) The assessments provided for herein shall commence as to all Lots subject to assessment hereunder as of the first day of the calendar year in which the first Lot is conveyed by the Declarant to a Person other than Declarant. All assessments shall be due and payable in a manner and on a schedule as the Board of Directors may provide. Except as set forth in Article

V, Section 4 of this Declaration, all assessments shall be rounded up to the nearest dollar and payable as such.

(b) After the commencement of assessment payments as to any Lot, Declarant and its affiliates, on behalf of themselves and their respective successors and assigns, covenant and agree to pay the full amount of the assessments provided herein for each Lot owned by Declarant or its affiliates containing an occupied residence; provided, however, each Lot owned by Declarant or its affiliates which does not contain an occupied residence shall not be subject to any assessment provided for herein.

(c) Any Lot which has been approved by Declarant for use as a model home for marketing and sales purposes shall not be deemed to be occupied for residential purposes and shall not be subject to assessments under this Declaration whether owned by Declarant or any other Person, so long as such Lot is approved for use as a model home and is not occupied for residential purposes.

(d) Notwithstanding anything to the contrary herein, the Declarant and its affiliates may contribute assessments due from them in services or materials or a combination of services and materials, rather than in money (herein collectively called "in kind contribution"). The amount by which monetary assessments shall be decreased as a result of any in kind contribution shall be the fair market value of the contribution. If the Declarant, or its affiliate, as the case may be, and the Association agree as to the value of any contribution, the value shall be as agreed. If the Association and the Declarant, or its affiliate, as the case may be, cannot agree as to the value of any contribution, the Declarant, or its affiliate, as the case may be, shall supply the Association with a detailed explanation of the service performed and material furnished, and the Association shall acquire bids for performing like services and furnishing like materials from three (3) independent contractors, approved by the Declarant, or its affiliate, as the case may be, who are in the business of providing such services and materials. If the Association and the Declarant, or its affiliate, as the case may be, are still unable to agree on the value of the contribution, the value shall be deemed to be the average of the bids received from the independent contractors.

Section 8. Specific Assessments. The Board shall have the power to specifically assess pursuant to this Section as, in its discretion, it shall deem appropriate. Failure of the Board to exercise its authority under this Section shall not be grounds for any action against the Association or the Board of Directors and shall not constitute a waiver of the Board's right to exercise its authority under this Section in the future with respect to any expenses, including an expense for which the Board has not previously exercised its authority under this Section. Fines levied pursuant to Article XII, Section 1 of this Declaration and the costs of maintenance performed by the Association which the Owner is responsible for under Article V, Section 2 of this Declaration shall be specific assessments. The Board may also specifically assess Lots for the following Association expenses:

(a) Expenses of the Association which benefit less than all of the Lots may be specifically assessed equitably among all of the Lots which are benefited according to the benefit received.

(b) Expenses of the Association which benefit all Lots, but which do not provide an equal benefit to all Lots, may be assessed equitably among all Lots according to the benefit received.

This Section specifically contemplates, without limitation, that the Association may incur expenses (including, without limitation, expenses for extraordinary items, matters and occurrences and expenses not anticipated and/or not budgeted for in advance) for certain maintenance, insurance and repair (in accordance with this Declaration) related to single-family attached or detached townhouse and/or condominium residences within the Community, if any, which expenses benefit the Lots containing such type of housing only. Such expenses shall be included in the budget prepared as described in Article IV, Section 3, and the Lots primarily benefited by such expenses shall be subject to specific assessment imposed by the Board pursuant to this Section to cover such expenses.

Section 9. Budget Deficits during Declarant Control. For so long as the Declarant has the authority to appoint the directors and officers of the Association, Declarant may (a) advance funds to the Association sufficient to satisfy the deficit, if any, between the actual operating expenses of the Association (but specifically not including an allocation for capital reserves) and the sum of the annual, special and specific assessments collected by the Association in any fiscal year, and such advances shall be evidenced by promissory notes from the Association in favor of the Declarant, or (b) cause the Association to borrow such amount from a commercial lending institution at the then-prevailing rates for such a loan in the local area of the Community. The Declarant in its sole discretion may guarantee repayment of such loan, if required by the lending institution, but no Mortgage secured by the Common Property or any of the improvements maintained by the Association shall be given in connection with such loan.

Section 10. Capitalization of Association. Upon acquisition of record title to a Lot by the first Owner thereof other than Declarant or its affiliates, a contribution shall be made by or on behalf of the purchaser to the working capital of the Association in an amount equal to one-sixth (1/6) of the annual assessment per Lot for that year. This contribution shall be in addition to, not in lieu of, any other assessments levied on the Lot and shall not in any way be construed as part of or identical to any such assessments or as an advance payment of any such assessments. This contribution shall be collected at the closing of the Lot and disbursed to the Association for use in covering operating and other expenses (which may include reserves) incurred by the Association pursuant to the terms of this Declaration and the Bylaws.

Article V
Maintenance

Section 1. Association's Responsibility. The Association shall maintain and keep in good repair the Common Property. This maintenance shall include, without limitation, maintenance, repair and replacement, subject to any insurance then in effect, of all landscaping, paving, and other improvements situated on the Common Property, payment of the premiums for all insurance required to be maintained by the Association under this Declaration, payment of all local taxes due with respect the Common Property and payment of assessments for public and private capital improvements to benefit the Common Property. The Association shall also maintain (i) all entry features for the Community, including entry area landscaping and any

irrigation system and the expenses for water and electricity, if any, provided to all such entry features; (ii) Community recreational facilities and amenities located thereon, if any; (iii) all private Community streets and alleys, including street signs, if any, originally installed by Declarant or its affiliates; (iv) all drainage detention and retention areas which were originally maintained by Declarant or its affiliates, to the extent such areas are not maintained on an ongoing basis by a governmental entity; (v) all water and sewer pipes or facilities which serve more than one (1) Lot, whether located within or without the Lot's boundaries, to the extent that such pipes and facilities are not maintained by public, private or municipal utility companies, and (vi) all Stormwater Control Measures so that such Stormwater Control Measures shall perform as designed. The Association shall also maintain all property outside of Lots located within the Community which was originally maintained by Declarant or its affiliates.

The Association may, but shall not be obligated to, maintain, repair, or replace, as necessary, all mailboxes or mailbox posts located within the Community. In addition, the Association shall have the right, but not the obligation, to maintain property not owned by the Association, and/or to provide services, where the Board has determined that such maintenance and/or services would benefit all Owners.

There is hereby granted to the Association a blanket easement upon, across, over, and under all property within the Community for access, ingress, and egress as necessary to permit the Association to perform such maintenance. The foregoing maintenance shall be performed consistent with the Community-Wide Standard.

The Association shall not be liable for injury or damage to person or property caused by or resulting from the elements, the Owner of any Lot, any other Person, any utility, rain, snow or ice which may leak or flow from any portion of the Common Property, or any pipe, drain, conduit, appliance or equipment which the Association is responsible to maintain hereunder. The Association shall not be liable to any Owner, or any Owner's Occupants, guests or family, for loss or damage, by theft or otherwise, of any property which may be stored in or upon any of the Common Property. The Association shall not be liable to any Owner, or any Owner's Occupants, guests or family, for any damage or injury caused in whole or in part by the Association's failure to discharge its responsibilities hereunder, where such damage or injury is not a foreseeable, natural result of the Association's failure to discharge it responsibilities. The Association shall repair incidental damage to any Lot resulting from performance of work which is the responsibility of the Association. In performing its responsibilities hereunder, the Association shall have the authority to delegate to such Persons of its choice such duties as are approved by the Board.

Section 2. Owner's Responsibility. Except as provided in Section 1 above, all maintenance of the Lot and all structures, parking areas, landscaping and other improvements thereon shall be the sole responsibility of the Owner thereof, who shall maintain such Lot in a manner consistent with the Community-Wide Standard and this Declaration. If the Board of Directors determines that (a) any Owner has failed or refused to discharge properly any of such Owner's obligations with regard to the maintenance, repair or replacement of items for which such Owner is responsible hereunder, or (b) the need for maintenance, repair or replacement, which is the responsibility of the Association hereunder, is caused through the willful or negligent act of any Owner or Occupant or their family, guests, lessees or invitees, and is not

covered or paid for by insurance, in whole or in part, then the Association may perform the repair, replacement or maintenance and shall, except in the event of an emergency situation, give the Owner written notice of the Association's intent to provide such necessary maintenance, repair or replacement at the Owner's sole cost and expense. The notice shall set forth with reasonable particularity the maintenance, repairs or replacement deemed necessary. Except in an emergency situation, the Owner shall have ten (10) days from the date of the notice within which to complete such maintenance, repair or replacement, or, in the event that such maintenance, repair or replacement is not capable of completion within such time period, to commence such work within such ten (10) day period and diligently pursue completion within a reasonable time. If any Owner does not comply with the provisions hereof or in an emergency situation, the Association may provide any such maintenance, repair or replacement at such Owner's sole cost and expense, and all costs shall be added to and become a part of the assessment to which such Owner is subject, shall become and be a lien against the Lot, and shall be collected as provided herein for the collection of assessments.

Section 3. Party Walls and Party Fences.

(a) General Rules of Law to Apply. Each wall or fence built as a part of the original construction of the Lots which shall serve and separate any two (2) adjoining Lots shall constitute a party wall or fence and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and fences and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall or fence shall be shared by the Owners who make use of the wall or fence in equal proportions.

(c) Damage and Destruction. If a party wall or fence is destroyed or damaged by fire or other casualty, then to the extent that such damage is not covered by insurance and repaired out of the proceeds of insurance, any Owner who has used the wall or fence may restore it, and if the other Owner or Owners thereafter make use of the wall or fence, they shall contribute to the cost of restoration thereof in equal proportions without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

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

(e) Arbitration. In the event of any dispute arising concerning a party wall or fence, or under the provisions of this Section, each party shall appoint one arbitrator. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor by the Board of Directors, the Board shall appoint an arbitrator for the refusing party. The arbitrators thus appointed shall appoint one additional arbitrator and the decision by a Majority of all three arbitrators shall be binding upon the parties and shall be a condition precedent to any right of legal action that either party may have against the other.

Section 4. Stormwater Detention. The Declarant has installed Stormwater Control Measures in the Community. Pursuant to the City Code, the City requires the following provisions relative to the Stormwater Control Measures.

(a) Stormwater Control Measures shall be part of the Common Property.

(b) The Association shall maintain the Stormwater Control Measures in strict compliance with the Stormwater Maintenance Manual and any similar manual prepared in connection with any annexation of property to the Community pursuant to Article IX of this Declaration and the Stormwater Control Measures shall at all times comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities.

(c) The Association has entered into the Stormwater Replacement Agreement with the City. Pursuant to the Stormwater Replacement Agreement, among other things:

(i) Declarant and the Association agree that (i) the Declarant shall be responsible for the construction of the Stormwater Control Measures; and, prior to conveying control of the Stormwater Control Measures, their appurtenances and vegetation to the Association by deed or easement, the Declarant will be responsible for the maintenance, repair, reconstruction and replacement thereof in the manner specified in the Stormwater Replacement Agreement and in strict compliance with the Stormwater Maintenance Manual; (ii) following the conveyance of the Stormwater Control Measures, to the Association, the Association will be responsible for maintaining the Stormwater Control Measures, their appurtenances and vegetation in the manner specified in the Stormwater Replacement Agreement and in strict compliance with the Stormwater Maintenance Manual; and (iii) at all times, the Stormwater Control Measures shall perform as designed and shall at all times comply with all applicable laws, ordinances, regulations, rules and directives of governmental authorities.

(ii) Declarant and the Association grant the City a perpetual, non-exclusive and irrevocable right and easement over, under, through and across any portion of the Community upon which Stormwater Control Measures are located ("Stormwater Areas") and access through the Community to and from the Stormwater Areas for the purpose of permitting City inspection and, if deemed necessary, as determined by the City, maintenance, replacement, reconstruction, and repair of the Stormwater Control Measures and their appurtenances and vegetation, as more fully set forth in the Stormwater Replacement Agreement and the City Code (the "Protection Easement")(The requirements pertaining to the Protection Easement are more fully set forth in Part 10, Chapter 9, Article B, Division I of the City Code);

(iii) Declarant has agreed to establish an account (the "General Replacement Account") with the City for purposes of insuring the availability of funds for the replacement and reconstruction of the Stormwater Control Measures, for "Major Repairs" thereto (as specified in Section 5 of the Stormwater Maintenance Manual) and any other repair work exceeding $16,743.00 dollars (one-third the initial construction cost of the Stormwater Control Measures). The General Replacement Account shall be funded initially by a lump sum contribution of the Declarant (the "Initial Payment"), and thereafter by additional contributions of the Association.
The Initial Payment shall be equal to $7,413.00 dollars (which is equal to fifteen percent (15%)

of the estimated construction cost of the Stormwater Control Measures) plus $5,628.94 dollars as the first year's contribution to the General Replacement account as set forth in the schedule payments attached to the Stormwater Replacement Agreement. The Association shall pay to the City annual contributions to the General Replacement Account in accordance with the schedule of payments attached to the Stormwater Replacement Agreement. With the consent of the City, funds deposited by the Declarant or the Association may be drawn out of the General Replacement Account for Major Repairs, repair work exceeding $16,473.00 dollars (one-third the initial construction cost), reconstruction and replacement of the Stormwater Control Measures as determined by the Association. Any funds withdrawn from the General Replacement Account shall be replaced by the Association, in accordance with the schedule of contributions specified by the City prior to the withdrawal of funds. The Association shall levy a special assessment as provided in Article IV, Section 4 hereof for monies owed to the City pursuant to the Stormwater Replacement Agreement; provided however, the special assessment levied under this subsection shall not be subject to the Three Hundred Dollar ($300.00) limit set forth in Article IV, Section 4 of this Declaration and may be levied by the Association without the approval of a Majority of the Total Association Vote. In the event that any Owner shall fail to pay such assessment to the Association, the Association shall have the rights and remedies granted to the Association under Article IV, Section 6 of this Declaration. Notwithstanding any provision to the contrary in this Declaration, any lien created pursuant to Article IV of this Declaration which secures unpaid assessments for monies owed to the City pursuant to the Stormwater Replacement Agreement shall be for the benefit of the City and not the other Lot Owners.

(iv) If the Declarant or the Association shall fail to comply with the requirements or obligations imposed upon them in the Stormwater Replacement Agreement, in the City Code or pursuant to the terms of this Declaration, the City, in its sole discretion, may perform such work and recover the costs thereof from either the General Replacement Account or from the party who is then responsible for the performance of such requirements and obligations (hereinafter referred to as the "Responsible Party"); provided, however, that, except in cases of emergencies, the City will give the Responsible Party a minimum of thirty (30) days prior written notice of and an opportunity to cure the Responsible Party's default under the Stormwater Replacement Agreement. If the City exercises its rights under the Stormwater Replacement Agreement and maintains, repairs, reconstructs or replaces all or a portion of the Stormwater Control Measures, then following acceptance and payment of the work, the City shall deliver to the Responsible Party written notice of the costs of such work, and the Responsible Party must pay all such costs within thirty (30) days after receipt of such notice. Any costs not paid by the Responsible Party to the City within the thirty (30) day period shall be delinquent, and the Responsible Party shall be considered in default of the Stormwater Replacement Agreement. In the event of such default, the City may either bring an action at law against the Responsible Party for the cost of the work, plus interest at the rate of eight percent (8%) per annum, collection costs, late payment charge of three hundred dollars ($300) during the first forty-five (45) days of default and five hundred dollars ($500) thereafter, and reasonable attorneys' fees or foreclose a lien against the portion of the Community then owned by such Responsible Party; provided however, the City shall not have any lien rights with respect to any portion of the Property not owned by Declarant or the Association, including, without limitation, any lot owned by an individual homeowner for residential purposes.

(v) Any payment required by the Stormwater Replacement Agreement which is not paid to the City within thirty (30) days after its due date shall be delinquent. In the event of such default, the City may bring an action against the Responsible Party, for nonpayment plus interest at a rate of eight percent (8%) per year, collection costs, a late payment charge of three hundred dollars ($300) during the first forty-five (45) days of default and five hundred dollars ($500) thereafter and attorney fees.

(e) In the event that any additional property is annexed into the Community pursuant to Article IX of this Declaration, the City may require, as a condition to the approval of the development of such annexed property by the City, that the Association and the Declarant enter into an agreement containing terms and conditions similar to the Stormwater Replacement Agreement to address the maintenance, repair and replacement of any Stormwater Control Measures located on such annexed property. The Association shall be authorized to enter into such an agreement without a vote of the members. Such agreement may contain maintenance obligations, easements, assessment obligations and enforcement procedures similar to those contained in the Stormwater Replacement Agreement. In connection with the execution of such agreement the City may also require that the Declarant or the Association establish an additional account with the City for purposes of insuring the availability of funds for the replacement and reconstruction of any Stormwater Control Measures located on the annexed property or for any repairs thereto. Such account will be funded initially by a lump sum contribution of the Declarant or the Association and thereafter by additional contributions of the Association. The Association shall be authorized to levy a special assessment as provided in Article IV, Section 4 hereof for monies owed to the City pursuant to any such future agreement; provided however, any such special assessment shall not be subject to the Three Hundred Dollar ($300.00) limit set forth in Article IV, Section 4 of this Declaration and may be levied by the Association without the approval of a Majority of the Total Association Vote. In the event that any Owner shall fail to pay such assessment to the Association, the Association shall have the rights and remedies granted to the Association under Article IV, Section 6 of this Declaration.

(f) Notwithstanding any provision to the contrary in this Declaration, neither this Section, nor any other provision in this Declaration relating to Stormwater Control Measures shall be amended nor shall any documentation affecting Stormwater Control Measures be amended without the prior written consent of the required City authorities.

(g) THE STORMWATER CONTROL MEASURES MUST COMPLY WITH THE CITY CODE. ANY FAILURE TO MAINTAIN THE STORMWATER CONTROL MEASURES IS A VIOLATION OF THE CITY CODE POTENTIALLY SUBJECTING EACH LOT OWNER TO SIGNIFICANT DAILY CIVIL PENALTIES AND OTHER ENFORCEMENT ACTIONS.

Section 5. Landscape Islands. Any request for an encroachment for the landscape islands located within the public right-of-way, if any, shall be submitted to the Encroachment Coordinator in the City Inspections Department for review and approval by the City Council as a separate action. Any encroachment agreement prepared in accordance with City Code Sections 12-1001 and 12-1021(a) and approved by the City Attorney shall be recorded with the Register of Deeds, and a recorded copy filed with the City Inspections Department. All costs associated with any encroachment agreement shall be included in the annual assessment for the

Community.

Article VI
Use Restrictions and Rules

Section 1. General. This Article, beginning at Section 2, sets out certain use restrictions which must be complied with by all Owners and Occupants. These use restrictions may be amended only in the manner provided in Article XII, Section 4 hereof regarding amendment of this Declaration. The Board of Directors may, from time to time, without consent of the members, promulgate, modify or delete other use restrictions and rules and regulations applicable to the Lots and the Common Property. This authority shall include, but shall not be limited to, the right to limit the type and size and to set the maximum and minimum speeds of vehicles within the Community. The Board shall also have the authority to impose all other necessary traffic and parking regulations and to restrict the maximum noise levels of vehicles in the Community. Such regulations and use restrictions shall be distributed to all Owners and Occupants prior to the date that they are to become effective and shall thereafter be binding upon all Owners and Occupants until and unless overruled, canceled or modified in a regular or special meeting by a Majority of the Total Association Vote. Notwithstanding any provision in this Declaration to the contrary, the Board of Directors shall not promulgate any rule or regulation which would, or modify or amend any existing rule or regulation to, (a) restrict or limit access to or use of the Open Space Common Areas by the members of the Association, or (b) in any way modify any provision of this Declaration relating to Stormwater Control Measures.

Section 2. Use of Lots. All Lots shall be used for single-family residential purposes exclusively, and no trade, business or business activity of any kind shall be carried on or conducted in, from or upon any Lot or any part of the Community at any time without the prior written approval of the Board, except that the Owner or Occupant residing on a Lot may conduct such ancillary business activities within the residence on the Lot so long as (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from the exterior of the residence; (b) the business activity does not involve regular, frequent or conspicuous visitation of the Lot by employees, clients, customers, suppliers or other business invitees for business purposes; (c) the business activity conforms to all zoning requirements for the Community; (d) the business activity does not increase traffic in the Community (other than by deliveries by couriers, express mail carriers, parcel delivery services and other such similar delivery services); (e) the business activity does not increase the insurance premium paid by the Association or otherwise negatively affect the Association's ability to obtain insurance coverage; (f) the business activity is consistent with the residential character of the Community and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of other residents of the Community, as may be determined in the sole discretion of the Board; and (g) the business activity does not result in a materially greater use of common facilities or Association services.

The terms "business" and "trade," as used herein, shall have their ordinary, generally accepted meanings, and shall include, without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provision of goods or services to persons

other than the provider's family and for which the provider receives a fee, compensation or other form of consideration, regardless of whether (i) such activity is engaged in full- or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefor.

This Section shall not apply to activities of the Association. Leasing of a Lot shall not be considered a trade, business or business activity. Lots may be leased for residential purposes.

Section 3. Signs. No sign of any kind, whether temporary or permanent, shall be erected or displayed within the Community without the prior written consent of the Board except: (a) one (1) professional security sign consistent with the Community-Wide Standard not to exceed four inches (4") by four inches (4") in size displayed from within a Lot; (b) such signs as may be required by legal proceedings; (c) signs erected by Declarant and its affiliates; (d) in connection with a bona-fide offer to sell or lease a Lot, one (1) professionally lettered "For Sale" or "For Rent" sign consistent with the Community-Wide Standard displayed on the Lot, but only if (i) the sign has a maximum area of four (4) square feet and a maximum height of four (4) feet above ground level, and (ii) the content of the sign and anything else attached to, associated with or in the vicinity of the sign states or conveys only that that the Lot is for sale or for rent and the name and telephone number of the person to contact for additional information; and (e) in connection with a political campaign, candidate yard signs consistent with the Community-Wide Standard displayed from a Lot, but only if (i) the sign has a maximum area of four (4) square feet and a maximum height of four (4) feet above ground level, and (ii) the sign is displayed no sooner than thirty (30) days prior to the election and is removed within five (5) days after the election. The Board shall have the right to erect any reasonable and appropriate signs. The Board may impose a fine against any Owner or Occupant of up to Five Hundred Dollars ($500.00) per day for violations of this Section, in addition to any other remedies of the Association. Any fine imposed pursuant to this Section shall be deemed an assessment against the Lot and may be collected in the same manner as provided herein for collection of assessments.

Section 4. Vehicles/Parking. The term "vehicles," as used herein, shall include, without limitation, motor homes, boats, trailers, motorcycles, minibikes, scooters, go-carts, golf carts, golf cars, trucks, campers, buses, vans, automobiles and limousines. Vehicles shall not be parked on the Common Property (except passenger non-commercial automobiles parked in designated parking areas while the users thereof are using the Common Property) or on any other portion of the Community other than the driveway and the garage. Unless and except to the extent that the Occupants of a Lot shall have more vehicles than the number of garage parking spaces serving their Lot, all vehicles shall be parked within such garage parking spaces. Vehicles may be parked in the driveway and additional parking spot, if any serving a Lot only after all of the garage parking spaces serving such Lot have vehicles parked in them. All parking shall be subject to such further rules and regulations as the Board may adopt.

Disabled vehicles, stored vehicles, boats, trailers, campers, buses, vans, trucks (except pick-up trucks and sport utility vehicles), recreational vehicles (for example, without limitation, RV's and motor homes), vehicles used primarily for commercial purposes and vehicles with commercial writing on their exteriors are prohibited from being parked in the Community, except in garages. Notwithstanding the above, trucks, vans, commercial vehicles and vehicles with commercial writing on their exteriors shall be allowed temporarily in the Community during normal business hours for the purpose of serving any Lot or the Common Property;

provided, however, without the prior written consent of the Board, no such vehicle shall be authorized to remain in the Community overnight or for any purpose except serving a Lot or the Common Property. For purposes of this paragraph, a vehicle shall be considered "disabled" if it does not have a current license tag or is inoperable. A vehicle shall be considered "stored" if it remains on the Community for three (3) consecutive days or longer without the prior written permission of the Board.

If any vehicle is parked on any portion of the Community in violation of this Section or in violation of the Association's rules and regulations, the Board may place a notice on the vehicle specifying the nature of the violation and stating that after twenty-four (24) hours the vehicle may be towed. The notice shall include the name and telephone number of the person or entity which will do the towing and the name and telephone number of a person to contact regarding the alleged violation. If twenty-four (24) hours after such notice is placed on the vehicle the violation continues or thereafter occurs again within six (6) months of such notice, the vehicle may be towed in accordance with the notice, without further notice to the Owner or user of the vehicle. If a vehicle is parked in a fire lane, is blocking another vehicle or access to another Owner's or Occupant's Lot, is obstructing the flow of traffic, is parked in any unpaved area, or otherwise creates a hazardous condition, no notice shall be required and the vehicle may be towed immediately. If a vehicle is towed in accordance with this Section, neither the Association nor any director, officer or agent of the Association shall be liable to any person for any claim of damage or otherwise as a result of the towing activity. Notwithstanding anything to the contrary herein, the Board may elect to impose fines or use other available sanctions, rather than exercise its authority to tow.

Section 5. Occupants Bound. All provisions of the Declaration and of any rules and regulations or use restrictions promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all Occupants of any Lot even though Occupants are not specifically mentioned. Fines may be levied against Owners or Occupants. If a fine is first levied against an Occupant and is not paid timely, the fine may then be levied against the Owner.

Section 6. Animals and Pets. No animals, livestock or poultry of any kind may be raised, bred, kept or permitted in the Community, except that dogs, cats or other usual and common household pets in reasonable number, as determined by the Board, may be kept on a Lot; provided, however, those pets which are permitted to roam free, or, in the sole discretion of the Board, make objectionable noise or endanger the health of or constitute a nuisance or inconvenience to the Owners of other Lots or the owner of any property located adjacent to the Community may be removed by the Board. No pets shall be kept, bred or maintained for any commercial purpose. Dogs shall at all times whenever they are outside a Lot be confined on a leash. Without prejudice to the Board's right to remove any such household pets, no household pet that has caused damage or injury may be walked in the Community.

Section 7. Nuisance. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unhealthy, unsightly or unkempt condition on his or her Lot. No Lot shall be used, in whole or in part, for the storage of any property or thing that will cause such Lot to appear to be in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon any Lot that will emit foul or

obnoxious odors or that will cause any noise or other condition that will or might disturb the peace, quiet, safety, comfort or serenity of the occupants of surrounding property. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to any Person using any property adjacent to the Lot. There shall not be maintained any plants or animals or device or thing of any sort whose activities or existence in any way is noxious, dangerous, unsightly, unpleasant or of a nature as may diminish or destroy the enjoyment of the Community. Without limiting the generality of the foregoing, no speaker, horn, whistle, siren, bell, amplifier or other sound device, except such devices as may be used exclusively for security purposes, shall be located, installed or maintained upon the exterior of any Lot unless required by law.

Section 8. Unsightly or Unkempt Conditions. The pursuit of hobbies or other activities, including specifically, without limiting the generality of the foregoing, the assembly and disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly or unkempt conditions shall not be pursued or undertaken in any part of the Community.

Section 9. Architectural Standards. No exterior construction, alteration, addition or erection of any nature whatsoever (including, without limitation, fences, pools, tennis courts, exterior lighting, landscaping, trees, treehouses and play equipment) shall be commenced or placed upon any part of the Community, except such as is installed by the Declarant or its affiliates, or as is approved in accordance with this Section, or as is otherwise expressly permitted herein. No such exterior construction, addition, erection or alteration shall be made unless and until plans and specifications showing at least the nature, kind, shape, height, materials and location shall have been submitted in writing to and approved by the Board or its designee. The Board or its designee may promulgate written guidelines for the exercise of this review.

The Board or its designee shall be the sole arbiter of such plans and specifications and may withhold approval on any reasonable basis, including purely aesthetic considerations, and it shall be entitled to stop any construction in violation of these restrictions. Any member of the Board or its designee or the representatives thereof shall have the right, during reasonable hours, to enter upon any property to inspect for the purpose of ascertaining whether or not these restrictive covenants have been or are being complied with. Such Person or Persons shall not be deemed guilty of trespass by reason of such entry. If the Board or its designee fails to approve or to disapprove submitted plans and specifications within sixty (60) days after such plans and specifications have been submitted to it, such plans and specifications will be deemed approved. However, all activities commenced pursuant to plans which have been deemed approved shall be consistent with such plans.

As a condition of approval under this Section, each Owner, on behalf of such Owner and such Owner's successors-in-interest, shall assume all responsibilities for maintenance, repair, replacement and insurance to and on any change, modification, addition or alteration. In the discretion of the Board or its designee, an Owner may be made to verify such condition of approval by a recordable written instrument acknowledged by such Owner on behalf of such Owner and such Owner's successors-in-interest.

PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING OR STRUCTURAL DESIGN OR QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS, THE BOARD, ITS MEMBERS, ITS DESIGNEE AND THE ASSOCIATION DO NOT ASSUME LIABILITY OR RESPONSIBILITY THEREFOR, NOR FOR ANY DEFECT IN ANY STRUCTURE CONSTRUCTED FROM SUCH PLANS AND SPECIFICATIONS. DECLARANT, ITS PARTNERS AND AFFILIATES, THE ASSOCIATION, THE BOARD, ITS DESIGNEE, AND THE OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, EMPLOYEES AND AGENTS OF ANY OF THEM, SHALL NOT BE LIABLE IN DAMAGES OR OTHERWISE TO ANYONE SUBMITTING PLANS AND SPECIFICATIONS TO ANY OF THEM FOR APPROVAL, OR TO ANY OWNER OF PROPERTY AFFECTED BY THESE RESTRICTIONS, BY REASON OF ANY MISTAKE IN JUDGMENT, NEGLIGENCE OR NONFEASANCE ARISING OUT OF OR IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR THE FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS AND SPECIFICATIONS. EVERY PERSON WHO SUBMITS PLANS AND SPECIFICATIONS AND EVERY OWNER AGREE THAT SUCH PERSONS AND OWNERS WILL NOT BRING ANY ACTION OR SUIT AGAINST DECLARANT, ITS PARTNERS AND AFFILIATES, THE ASSOCIATION, THE BOARD, ITS DESIGNEE, OR THE OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, EMPLOYEES AND AGENTS OF ANY OF THEM, TO RECOVER ANY DAMAGES OR FOR ANY OTHER PURPOSE, AND SUCH PERSONS AND OWNERS HEREBY RELEASE, REMISE, QUITCLAIM AND COVENANT NOT TO SUE FOR ALL CLAIMS, DEMANDS AND CAUSES OF ACTION, ARISING OUT OF OR IN CONNECTION WITH ANY MISTAKE IN JUDGMENT, NEGLIGENCE OR NONFEASANCE IN CONNECTION WITH THE APPROVAL OR DISAPPROVAL OR THE FAILURE TO APPROVE OR DISAPPROVE ANY SUCH PLANS AND SPECIFICATIONS. ALL SUCH PERSONS AND OWNERS HEREBY WAIVE THE PROVISIONS OF ANY LAW WHICH PROVIDE THAT A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS, DEMANDS AND CAUSES OF ACTION NOT KNOWN AT THE TIME THE RELEASE IS GIVEN.

Section 10. Antennas and Satellite Dishes. No transmission antennas or satellite dishes of any kind, and no direct broadcast satellite ("DBS") antennas or multi-channel multi-point distribution service ("MMDS") antennas larger than one (1) meter in diameter, shall be placed, allowed or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Board or its designee. DBS and MMDS antennas and satellite dishes one (1) meter or less in diameter and television broadcast service antennas may be installed only if reasonably screened and located as approved by the Board or its designee and installed in accordance with the rules and regulations of the Federal Communications Commission and of the Association, both as may be amended from time to time. However, the Board and Declarant (and its affiliates) reserve the right to (but shall not be obligated to) erect any type and size of master antenna, satellite dish or other similar master system for the benefit of the Community. Each Owner and Occupant acknowledges that this provision benefits all Owners and Occupants and each Owner and Occupant agrees to comply with this provision despite the fact that the erection of an individual outdoor antenna or similar device would be the most cost-effective way to receive the signals sought to be received.

Section 11. Gardens, Basketball Goals, Etc. Grass, ornamental plants and shrubbery (and only the foregoing) may be planted in the front or side yard of any Lot. All other planting may be done only with prior written approval of the Board or its designee or in accordance with the guidelines previously established by the Board or its designee. Overseeding of fescue lawns and sodding of lawns with Bermuda or zoysia grasses shall not require prior approval pursuant to this Section. No vegetable garden, hammocks, statuary or recreational equipment may be placed, erected, allowed or maintained within the Community without the prior written consent of the Board or its designee. This provision shall not, however, apply to basketball goals which may be installed after the type and location have been previously approved in writing by the Board or its designee.

Section 12. Tree Removal. No trees shall be removed without the express prior consent of the Board or its designee, except for (a) trees removed by the Declarant or its affiliates; (b) diseased or dead trees; and (c) trees needing to be removed to promote the growth of other trees. Each Owner is hereby notified that certain trees located within the Community (the "Preserved Trees") are subject to the Tree Preservation Ordinances. The Tree Preservation Ordinances and certain other provisions of the City Code may impose significant consequences if the Preserved Trees or any other tree in the Community is unlawfully removed or unlawful land-disturbing activities are undertaken proximate to such trees. Owners should carefully review the City Code and consult an attorney, if necessary, in connection with any activity affecting the Preserved Trees or any other tree within the Community. It is anticipated that the location of the Preserved Trees will be shown on the Plat.

Section 13. Lighting. Notwithstanding Article VI, Section 9 above, the following exterior lighting may be installed without the necessity of obtaining the prior approval of the Board or its designee: (a) seasonal decorative lights during the Christmas season; (b) illumination of other than the front or side yards of a Lot; (c) illumination of model homes and entrance features constructed by the Declarant or its affiliates; and (d) other lighting originally installed by the Declarant or its affiliates. Plans for all other exterior lighting must be submitted and approved in accordance with Article VI, Section 9 hereof. Decorative post lights will not be approved unless they conform with established street lighting.

Section 14. Drainage. Catch basins and drainage areas are for the purpose of natural flow of water only. No obstructions or debris shall be placed in these areas. No Owner or Occupant of any Lot may obstruct or rechannel the drainage flows after the location and installation of drainage swales, storm sewers or storm drains. Declarant, for itself and its affiliates, reserves the right to prepare sloping banks, cut or fill, on a three (3) to one (1) slope on all streets and roads. Declarant, for itself and its affiliates, hereby reserves a perpetual easement across all Community property for the purpose of altering drainage and water flow. Rights exercised pursuant to such reserved easement shall be exercised with a minimum of interference to the quiet enjoyment of affected property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 15. Sight Distance at Intersections. All property located at street intersections shall be so landscaped as to permit safe sight across the street corners. No fence, wall, hedge, or shrub planting shall be placed or permitted to remain at any corner where this would create a traffic or sight problem. No sight obstructing or partially obstructing wall, fence, foliage

berming, parked vehicles or signs between the heights of twenty-four (24) inches and eight (8) feet above the curb line elevation, or the nearest traveled way if no curbing exists, shall be placed within a Sight Triangle on a public street, private street or driveway contained in the Community.

Section 16. Clotheslines, Garbage Cans, Woodpiles, Etc. No exterior clotheslines, woodpiles and other similar items of any type shall be permitted in the Community without the prior written consent of the Board or its designee. Garbage cans and other similar items shall be located or screened so as to be concealed from view of neighboring Lots, streets and property located adjacent to the Lot. All rubbish, trash and garbage shall be regularly removed from the Lot and shall not be allowed to accumulate thereon. No garbage or trash shall be placed on the Common Property, temporarily or otherwise, except as provided herein. Declarant, however, hereby expressly reserves the right to dump and bury rocks and trees on property within the Community as needed for efficient construction and to allow, in Declarant's sole discretion, developers and builders within the Community to do so. The Association may, but shall not be required to, contract with a private trash collection company to pick up all usual and customary household trash on a regular basis. The Board of Directors shall determine the type of trash and recycling receptacles for the Community. If individual trash and recycling receptacles are used, such receptacles shall be placed in the easement area no earlier than 5:00 p.m. the day before pick up and shall be removed within twenty-four (24) hours. Trash and recycling pick up shall also be subject to such reasonable rules and regulations as the Board of Directors may adopt.

Section 17. Subdivision of Lot. No Lot shall be subdivided or its boundary lines changed except with the prior written approval of the Board or its designee. Declarant, however, hereby expressly reserves the right to replat any Lot(s) or other property in the Community; provided however Open Space Common Areas shall not be subdivided. Any such division, boundary line change or replatting shall not be in violation of the applicable subdivision and zoning regulations.

Section 18. Guns. The use of firearms in the Community is prohibited. The term "firearms" includes "B-B" guns, pellet guns and small firearms of all types.

Section 19. Solar Devices. No artificial or man-made device which is designed or used for collection of or heating by solar energy or other similar purposes shall be placed, allowed or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Board or its designee.

Section 20. Fences. No fence or fencing type barrier of any kind shall be placed, erected, allowed or maintained upon any portion of the Community, including any Lot, without the prior written consent of the Board or its designee. Unless otherwise provided by the Board, all fencing must be privacy, split rail, black wrought iron or picket type fencing. The Board or its designee may issue guidelines detailing acceptable fence styles or other specifications, whether or not consistent with the immediately preceding sentence, but in no event may a chain link fence or a free-standing hog wire fence be approved.

Section 21. Exterior Colors. The exterior of all improvements, including, without limitation, residences, constructed, erected, allowed or maintained upon any Lot must be painted

or repainted in a color as approved by the Board or its designee.

Section 22. Mailboxes. No mailboxes and appurtenant posts and/or structures shall be erected without the prior written approval of the Board or its designee. Generally, the foregoing must be of the same type and color as that originally installed by the Declarant or its affiliates.

Section 23. Detached Structures. No detached structures shall be placed, erected, allowed or maintained upon any Lot or within the Community, unless installed by the Declarant, without the prior written consent of the Board or its designee. All detached structures must be consistent in design materials and color with the dwelling on the Lot.

Section 24. Entry Features and Street Signs. Owners shall not alter, remove or add improvements to any entry features or street signs constructed within the Community, or any part of any easement area associated therewith, without the prior written consent of the Board or its designee.

Section 25. Swimming Pools. No swimming pools shall be permitted in the Community without the prior written consent of the Board and in no event shall above ground swimming pools be permitted in the Community.

Section 26. Sidewalks. Other than sidewalks and walkways constructed in the Community by the Declarant, all sidewalks and walkways are subject to approval or disapproval under Article VI, Section 9 above.

Section 27. Buffer Areas. The Community contains undisturbed buffer areas as shown on the recorded subdivision plats for the Community. The buffer areas shall be left in their undisturbed, natural state and no land-disturbing activity, placement of impervious surfaces, removal of vegetation, encroachment, construction, or erection of any structure shall occur thereon except in accordance with a watercourse buffer first being issued by the City. In addition to the requirements of the Declaration, Buffer Areas are subject to ordinances and regulations imposed by the City; therefore, the consent of the City authorities may be required for certain activities. For all areas within the Community designated as "Neuse Riparian Buffers" (hereafter "NRBs"), all Owners, the Declarant and the Association shall abide by all local, state and federal regulations concerning such NRBs, including, but not limited to, those rules contained in the North Carolina Administrative Code at 15 N.C.A.C. §§ 2B.0233 through .0242.

Article VII
Insurance and Casualty Losses

Section 1. Insurance. The Association's Board of Directors or its duly authorized agent shall have the authority to and shall obtain insurance for all insurable improvements located on the Common Property or required to be maintained by the Association under Article V, Section 1 hereof (a "Property Insurance Policy"). The Property Insurance Policy shall cover loss or damage by fire or other hazards, including extended coverage, vandalism and malicious mischief and shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any such hazard.

Alternatively, the Board may purchase "all-risk" coverage in like amounts. If a Property Insurance Policy is not reasonably available, the Association promptly shall cause notice of that fact to be hand-delivered or sent prepaid United States mail to all Lot Owners. The Property Insurance Policy shall provide that (a) each Lot Owner is an insured Person under the policy to the extent of the Lot Owner's insurable interest, (b) the insurer waives its rights to subrogate under the Property Insurance Policy against any Lot Owner or member of the Lot Owner's household, and (c) no act or omission by any Lot Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will preclude recovery under the Property Insurance Policy.

The Board shall obtain a public liability policy insuring the Association and its members covering all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Property. The public liability policy shall have a combined single limit of at least One Million Dollars ($1,000,000.00). If available at reasonable cost, as determined in the sole discretion of the Board, the Board shall also obtain directors' and officers' liability insurance.

The Board is hereby authorized to contract with or otherwise arrange to obtain the insurance coverage required hereunder through the Declarant or its affiliates and to reimburse the Person so providing or arranging the insurance coverage for the cost thereof, and Declarant or its affiliates shall be authorized, but not obligated, to purchase such insurance coverage for the benefit of the Association and the Owners upon Declarant or its affiliate, as the case may be, and the Association agreeing upon the terms and conditions applicable to reimbursement by the Association for costs incurred by Declarant or its affiliate, as the case may be, in obtaining such coverage.

Premiums for all insurance shall be common expenses of the Association. The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost.

All such insurance coverage obtained by the Board of Directors shall be written in the name of the Association, as trustee for the respective parties which may be benefited by such insurance, as their interests may appear. Such insurance shall be governed by the provisions hereinafter set forth:

(a) All policies shall be written with a company authorized to do business in North Carolina.

(b) Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Association's Board of Directors; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.

(c) In no event shall the insurance coverage obtained and maintained by the Association's Board of Directors hereunder be brought into contribution with insurance purchased by individual Owners, Occupants, or their Mortgagees, and the insurance carried by

the Association shall be primary.

(d) All casualty insurance policies shall have an inflation guard endorsement and an agreed amount endorsement, if these are reasonably available, and all insurance policies shall be reviewed annually by one or more qualified Persons, at least one of whom must be in the real estate industry and familiar with construction in the county where the Community is located.

(e) In addition to the requirements with respect to the Property Insurance Policy set forth above, the Board of Directors shall be required to make every reasonable effort to secure insurance policies that will provide for the following:

(i) a waiver of subrogation by the insurer as to any claims against the Association's Board of Directors, its manager, the Owners and their respective tenants, servants, agents and guests;

(ii) a waiver by the insurer of its rights to repair and reconstruct instead of paying cash;

(iii) that no policy may be canceled, subjected to nonrenewal, invalidated or suspended on account of any one or more individual Owners;

(iv) that no policy may be canceled, subjected to nonrenewal, invalidated or suspended on account of any defect or the conduct of any director, officer or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect or to cease the conduct and the allowance of a reasonable time thereafter within which a cure may be effected by the Association, its manager, any Owner or Mortgagee;

(v) that any "other insurance" clause in any policy exclude individual Owners' policies from consideration; and

(vi) that no policy may be canceled, subjected to nonrenewal, or substantially modified without at least ten (10) days' prior written notice to the Association.

In addition to other insurance coverage required by this Section, the Board shall obtain workers compensation insurance, if and to the extent necessary to satisfy the requirements of applicable law, and, if available at reasonable cost, as determined in the sole discretion of the Board, a fidelity bond or employees dishonesty coverage covering directors, officers, employees and other Persons handling or responsible for the Association's funds. The amount of fidelity or employees dishonesty coverage, if obtained, shall be determined in the directors' best business judgment. Such coverage, if obtained, shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation and shall not be subject to cancellation, nonrenewal or substantial modification without at least ten (10) days' prior written notice to the Association. The Association shall also obtain construction code endorsements, steam boiler coverage and flood insurance, if and to the extent necessary to satisfy the requirements of The Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

Section 2. Damage and Destruction – Property Insured by Association.

(a) In General. Immediately after the damage or destruction by fire or other casualty to all or any portion of any improvement covered by insurance written in the name of the Association, the Board of Directors or its duly authorized agent shall proceed with the filing and adjustment of all claims arising under such insurance and obtain reliable and detailed estimates of the cost of repair or reconstruction of the damaged or destroyed property. Repair or reconstruction, as used in this Section, means repairing or restoring the property to substantially the same condition and location that existed prior to the fire or other casualty, allowing for any changes or improvements necessary to comply with applicable building codes.

(b) Repair and Reconstruction. Any damage or destruction to property required to be covered by insurance written in the name of the Association shall be repaired or reconstructed unless (i) the Community is terminated, (ii) repair or reconstruction would be illegal under any state or local health or safety statute or ordinance, or (iii) within sixty (60) days after the casualty, at least eighty percent (80%) of the Total Association Vote otherwise agree. If for any reason either the amount of the insurance proceeds to be paid as a result of such damage or destruction, or reliable and detailed estimates of the cost of repair or reconstruction, or both, are not made available to the Association within such period, then the period shall be extended until such information shall be made available; provided, however, such extension shall not exceed sixty (60) days. No Mortgagee shall have the right to participate in the determination of whether damage or destruction shall be repaired or reconstructed.

If the damage or destruction for which the insurance proceeds are paid is to be repaired or reconstructed and such proceeds are not sufficient to defray the cost thereof, the Board of Directors shall, without the necessity of a vote of the Association's members, levy a special assessment against all Owners in proportion to the number of Lots owned by such Owners. Additional assessments may be made in like manner at any time during or following the completion of any repair or reconstruction. If the funds available from insurance exceed the costs of repair or reconstruction or if the improvements are not repaired or reconstructed, such excess shall be deposited to the benefit of the Association.

In the event that it should be determined in the manner described above that the damage or destruction shall not be repaired or reconstructed and no alternative improvements are authorized, then and in that event the insurance proceeds attributable to the damaged Common Property shall be used to restore it to its natural state and it shall be maintained as an undeveloped portion of the Community by the Association in a neat and attractive condition. The remainder of the insurance proceeds, if any, shall be distributed to all the Lot Owners or lienholders, as their interests may appear, in proportion to the common expense liabilities of all Lots.

Section 3. Damage and Destruction – Lots. The damage or destruction by fire or other casualty to all or any portion of any improvement on a Lot shall be repaired by the Owner thereof within seventy-five (75) days after such damage or destruction or, where repairs cannot be completed within seventy-five (75) days, they shall be commenced within such period and shall be completed within a reasonable time thereafter. Alternatively, the Owner may elect to demolish all improvements on the Lot and remove all debris therefrom within seventy-five (75)

days after such damage or destruction. In the event of noncompliance with this provision, the Board of Directors shall have all enforcement powers specified in Article XII, Section 1 of this Declaration.

Section 4. Insurance Deductible. The deductible for any casualty insurance policy carried by the Association shall, in the event of damage or destruction, be allocated among the Persons who are responsible hereunder, or under any declaration or contract requiring the Association to obtain such insurance, for maintenance of the damaged or destroyed property.

Article VIII
Condemnation

Whenever all or any part of the Common Property shall be taken (or conveyed in lieu of and under threat of condemnation by the Board, acting on behalf of the Association or on the written direction of all Owners of Lots subject to the taking, if any) by any authority having the power of condemnation or eminent domain, the Association shall represent the Owners. The award made for such taking shall be payable to the Association as trustee for all Owners. The provisions of Article VII, Section 2 above, applicable to damage or destruction of property insured by the Association, shall govern replacement or restoration and the actions to be taken in the event that the improvements are not restored or replaced.

Article IX
Annexation and Withdrawal of Property

Section 1. Unilateral Annexation by Declarant.

(a) As the owner thereof or, if not the owner, with the consent of the owner thereof, Declarant shall have the unilateral right, privilege and option from time to time at any time until ten (10) years after the recording of this Declaration to subject all or any portion of the real property described in Exhibit "C" attached hereto and by reference made a part hereof (the "Property Eligible for Annexation") to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the land records of the county in which the property to be annexed is located a Supplementary Declaration describing the property being annexed; provided however, (i) any development of the annexed property, other than the property shown on the Preliminary Subdivision Plan River Run a Cluster Development prepared by Thompson & Associates dated September 2, 2003, last revised August 13, 2004, Job No. BL-Lowery attached hereto as Exhibit "F", must be approved by the City prior to the recording of the Supplementary Declaration and (ii) all Open Space Common Areas and private streets located within the annexed property must be conveyed to the Association either prior to or simultaneously with such annexation. Any such annexation shall be effective upon the filing for record of such Supplementary Declaration unless a later effective date is provided therein. As long as covenants applicable to the real property previously subjected to this Declaration are not changed, the provisions of this Declaration relating to Stormwater Control Measures and Open Space Common Areas are not changed and the rights of then Owners are not adversely affected, the Declarant may unilaterally amend this Declaration to reflect the different character of any such annexed real property.

(b) The rights reserved unto Declarant to subject the Property Eligible for Annexation to this Declaration shall not and shall not be implied or construed so as to impose any obligation upon Declarant to subject any of such Property Eligible for Annexation to this Declaration or to the jurisdiction of the Association. If any Property Eligible for Annexation is not subjected to this Declaration, Declarant's reserved rights shall not impose any obligation on Declarant to impose any covenants and restrictions similar to those contained herein upon such Property Eligible for Annexation nor shall such rights in any manner limit or restrict the use to which such Property Eligible for Annexation may be put by Declarant or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.

Section 2. Other Annexation. Subject to the consent of the owner thereof and the consent of the Declarant (so long as the Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex Property Eligible for Annexation to the Community), upon the affirmative vote or written consent, or any combination thereof, of sixty-seven percent (67%) of the Total Association Vote, the Association may annex other real property to the provisions of this Declaration and the jurisdiction of the Association by filing for record in the land records of the county in which the property to be annexed is located a Supplementary Declaration describing the property being annexed. Any such Supplementary Declaration shall be signed by the President and Secretary of the Association, and any such annexation shall be effective upon the filing for record of such Supplementary Declaration, unless a later effective date is provided therein. Any annexation under this section shall also comply with the requirements set forth in Section 1 of this Article.

Section 3. Withdrawal of Property. Declarant reserves the right to amend this Declaration so long as it has a right to annex additional property pursuant to this Article for the purpose of removing any portion of the Community then owned by Declarant or its affiliates or the Association, other than any Open Space Common Area or any property utilized as part of a Stormwater Control Measure, from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Community.

Section 4. Rights Retained by Declarant. All development rights of Declarant, including but not limited to, the right to unilaterally annex property to the provisions of this Declaration, to add dwelling units and Common Property, and to remove any portion of the Community from the coverage of this Declaration, shall be retained by Declarant and shall not be transferred to any Owner by virtue of a deed or other conveyance; provided, however, Declarant may transfer all rights of Declarant hereunder to a successor Declarant in a recorded instrument executed by the Declarant and the successor Declarant.

Section 5. Residential Density Transfers. The Community is part of a cluster unit development approved by the City in which residential density transfers are permitted; therefore, even though some Lots may appear to contain enough land area to construct additional dwelling units thereon or create additional Lots, prior density transfers approved within the Community, may, in fact, preclude City approval of additional dwelling units on such Lots or further subdividing of lots. The maximum amount of land that can be added to the Community under this Declaration is: 175 acres. The maximum number of dwelling units that can be contained in

the Community or transferred to portions of the Community without rezoning the Community to another zoning classification is: 700. The maximum number of dwelling units per acre that can be contained in the Community or transferred to portions of the Community without rezoning the Community to another zoning classification is: 4.

Article X
Mortgagee Provisions

The following provisions are for the benefit of holders of first Mortgages on Lots in the Community. The provisions of this Article apply to both this Declaration and to the Bylaws, notwithstanding any other provisions contained therein.

Section 1. Notices of Action. An institutional holder, insurer or guarantor of a first Mortgage who provides written request to the Association (such request to state the name and address of such holder, insurer or guarantor and the Lot number) (therefore becoming an "Eligible Holder") will be entitled to timely written notice of:

(a) any condemnation loss or any casualty loss which affects a material portion of the Community or which affects any Lot on which there is a first Mortgage held, insured or guaranteed by such Eligible Holder;

(b) any delinquency in the payment of assessments or charges owed by an Owner of a Lot subject to the Mortgage of such Eligible Holder, where such delinquency has continued for a period of sixty (60) days; provided, however, notwithstanding this provision, any holder of a first Mortgage, upon request, is entitled to written notice from the Association of any default in the performance by an Owner of a Lot of any obligation under the Declaration or Bylaws of the Association which is not cured within sixty (60) days;

(c) any lapse, cancellation or material modification of any insurance policy maintained by the Association; or

(d) any proposed action which would require the consent of a specified percentage of Mortgage holders.

Section 2. No Priority. No provision of this Declaration or the Bylaws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Lot in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Property.

Section 3. Notice to Association. Upon request, each Lot Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Lot.

Section 4. Amendments by Board. Should the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation subsequently delete any of their respective requirements which necessitate the provisions of this Article or make any such requirements less stringent, the Board, without approval of the Owners, may cause an amendment to this Article to

be recorded to reflect such changes.

Section 5. Applicability of Article X. Nothing contained in this Article shall be construed to reduce the percentage vote that must otherwise be obtained under the Declaration, Bylaws, or North Carolina law for any of the acts set out in this Article.

Section 6. Failure of Mortgagee to Respond. Any Mortgagee who receives a written request from the Board to respond to or consent to any action shall be deemed to have approved such action if the Association does not receive a written response from the Mortgagee within thirty (30) days of the date of the Association's request.

Article XI
Easements

Section 1. Easements for Encroachment and Overhang. There shall be reciprocal appurtenant easements for encroachment and overhang as between each Lot and such portion or portions of the Common Property adjacent thereto or as between adjacent Lots due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of this Declaration) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each Lot and the adjacent portion of the Common Property or as between adjacent Lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, tenant or the Association.

Section 2. Easements for Use and Enjoyment.

(a) Every Owner of a Lot shall have a right and easement of ingress and egress, use and enjoyment in and to the Common Property which shall be appurtenant to and shall pass with the title to his Lot, subject to the following provisions:

(i) the right of the Association to charge reasonable admission and other fees for the use of any portion of the Common Property, to limit the number of guests of Lot Owners and tenants who may use the Common Property, and to provide for the exclusive use and enjoyment of specific portions thereof at certain designated times by an Owner, his family, tenants, guests and invitees;

(ii) the right of the Association to suspend the voting rights of a Lot Owner and the right of an Owner to use the recreational facilities available for use by the Community, if any, for any period during which any assessment against such Owner's Lot which is hereby provided for remains unpaid; and, for a reasonable period of time, for an infraction of the Declaration, Bylaws, or rules and regulations; provided however, any such suspension will be imposed in accordance with Article III, Section 20 of the Bylaws;

(iii) the right of the Association to borrow money for the purpose of improving the Common Property, or any portion thereof, or for construction, repairing or improving any facilities located or to be located thereon, and give as security for the payment of any such loan a

Mortgage conveying all or any portion of the Common Property; provided, however, the lien and encumbrance of any such Mortgage given by the Association shall be subject and subordinate to any rights, interests, options, easements and privileges herein reserved or established for the benefit of Declarant and/or its affiliates, any Lot or Lot Owner, and/or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community (any provision in this Declaration or in any such Mortgage given by the Association to the contrary notwithstanding, the exercise of any rights therein by the holder thereof in the event of a default thereunder shall not cancel or terminate any rights, interests, options, easements or privileges herein reserved or established for the benefit of Declarant and/or its affiliates, any Lot or Lot Owner, and/or the holder of any Mortgage, irrespective of when executed, given by Declarant or any Lot Owner encumbering any Lot or other property located within the Community); no such Mortgage given by the Association shall be effective unless an instrument agreeing to such Mortgage has been approved by Owners representing at least eighty percent (80%) of the Total Association Vote (other than Declarant so long as the consent of Declarant is required) and the consent of Declarant (so long as the Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex property to the Community);

(iv) the right of the Association, acting through the Board of Directors and without a vote of the members, to dedicate or grant licenses, permits, easements and rights of way over, under and through the common property to governmental entities, any quasi governmental agency or to any utility company or cable television company;

(v) the right of the Association to dedicate or transfer all or any portion of the Common Property, subject to such conditions as may be agreed to by the members of the Association; no such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer has been approved by Declarant (so long as Declarant owns any property for development and/or sale within the Community or has the right unilaterally to annex additional property to the Community) and Owners representing at least eighty percent (80%) of the Total Association Vote (other than Declarant so long as the consent of Declarant is required); provided however, no Open Space Common Areas shall be subdivided or conveyed by the Association; notwithstanding the foregoing, the Association may exchange Open Space Common Areas for other property provided (A) written notice of the exchange is given to each member of the Association, except in cases where the exchange is done to eliminate an encroachment, (B) the exchange is approved by Declarant (so long as Declarant owns any property for development and/or sale within the Community or has the right unilaterally to annex additional property to the Community) and Owners representing at least eighty percent (80%) of the Total Association Vote (other than Declarant so long as the consent of Declarant is required), (C) the exchanged properties and other considerations are of like value and utility; (D) the acreage and configuration of the remaining Open Space Common Area equals or exceeds the requirements of the City Code, and (E) the exchange is approved by the planning director of the City; and

(vi) all encumbrances and other matters shown by the public record affecting title to the Common Property.

(b) Any Lot Owner may delegate his or her right of use and enjoyment in and to the

Common Property and facilities located thereon to the members of his family, his tenants and guests and shall be deemed to have made a delegation of all such rights to the Occupants of such Owner's Lot if leased.

Section 3. Easements for Utilities. There is hereby granted to the Association blanket easements upon, across, above and under all property within the Community for access to, ingress to, egress from, installation of, repairing, replacing and maintaining all utilities serving the Community or any portion thereof, including, but not limited to, gas, water, sanitary sewer, telephone and electricity utilities, as well as storm drainage and any other service, such as, but not limited to, a master television antenna system, cable television system, or security system, which the Declarant or Association might decide to have installed to serve the Community. It shall be expressly permissible for the Declarant, the Association, or the designees of either, as the case may be, to install, repair, replace and maintain, or to authorize the installation, repairing, replacing and maintaining, of such wires, conduits, cables and other equipment related to the providing of any such utility or service. Should any party furnishing any such utility or service request a specific license or easement by separate recordable document, the Board shall have the right to grant such easement.

Section 4. Easements for Association Maintenance. There is hereby expressly granted to the Association a perpetual easement across such portions of the Community, determined in the sole discretion of the Association, as are necessary to allow for the maintenance required under Article V. Such maintenance shall be performed with a minimum of interference to the quiet enjoyment of Owners' property, reasonable steps shall be taken to protect such property, and damage shall be repaired by the Person causing the damage at its sole expense.

Section 5. Easements for Maintenance and Repair. There shall be reciprocal appurtenant easements between adjacent Lots for the purpose of maintaining or repairing the improvements, including, without limitation, landscaping, located on each Lot, which easement shall extend to a distance of not more than five (5) feet as measured from any point on the common boundary between the Lots and along a line perpendicular to such boundary at such point. The easement shall be used only for such period of time as is reasonably necessary in order to complete the needed maintenance or repair. The Lot Owner exercising this easement right shall be liable for the prompt repair of any damage to the Lot over which this easement is exercised which is caused by the maintenance or repair work. The damaged portions of such Lot shall be restored to substantially the same condition as existed prior to the damage. No fence, wall, storage shed or similar structure or any kind of obstruction shall be permitted in the easement area that will obstruct access to the Lot.

Section 6. Easements for Entry. In addition to the right of the Board to exercise self-help as provided in Article XII, Section 2 hereof, the Board shall have the right, but shall not be obligated, to enter upon any property within the Community for emergency, security and safety reasons, which right may be exercised by the manager and all policemen, firemen, ambulance personnel and similar emergency personnel in the performance of their respective duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Owner, and the entering party shall be responsible for any damage caused. This right of entry shall include the right of the Board to enter to cure any condition which may increase the possibility of a fire, slope erosion or other hazard in the event an Owner or Occupant

fails or refuses to cure the condition upon request by the Board.

Section 7. Easements for Entry Features and Street Signs. There is hereby reserved to the Declarant, the Association, and the designees of either, an easement over and upon all of the Community for ingress to, egress from, installation, construction, landscaping and maintenance of entry features and street signs for the Community. The easement and right herein reserved shall include the right to cut, remove and plant trees, shrubbery, flowers and other vegetation around all entry features and the right to grade the land under and around the entry features.

Section 8. Easements for Common Driveways. Declarant hereby creates joint and reciprocal easements in perpetuity for vehicular and pedestrian traffic in, upon, over and across those areas, if any, shown on any plat for the Community, recorded by Declarant in the land records of the county where the Community is located, as a common driveway (or such similar or equivalent language as would indicate that such area is a common driveway among two or more Lots) (hereinafter referred to as a "Common Driveway"). These easements shall be for the benefit of any Owner of a Lot upon which a Common Driveway is located and shall be for access to and ingress and egress to and from such Owner's Lot by such Owner, and his or her family members, invitees, and designees in, upon, over and across the Common Driveway. Any Common Driveway shall continue to be used for this purpose by the Owners of the Lots upon which such Common Driveway is located and by the subsequent Owners and successors-in-title to such Lots. In connection with the reservation of these easements, it is acknowledged and agreed that the Owner of a Lot burdened by these easements will be required to utilize the easements for access to and ingress and egress to and from such Owner's Lot and that such easements are critical to the future use and enjoyment of such Owner's Lot. No Owner shall be allowed to change, alter or diminish the rights of an Owner of a Lot burdened by these easements to the use and enjoyment of the Common Driveway on such Owner's Lot. This Section shall not apply to any alleys in the Community and any common driveways which are not located on a Lot in the Community.

Each Common Driveway shall be cleaned, maintained, repaired and replaced as a joint effort by the Owners of the Lots upon which such Common Driveway is located. This responsibility and the cost thereof shall be shared on an equal basis by each of said Owners, notwithstanding the respective use of the Common Driveway by the Owners of the Lots upon which such Common Driveway is located. In order to protect the value of the respective Lots and to insure the proper use and enjoyment of the respective Lots, the Owner of a Lot upon which a Common Driveway is located shall have the full and unrestricted right to cause the cleaning, maintenance, repair and replacement of the Common Driveway located on such Owner's Lot as may be necessary to insure that such Common Driveway is maintained in a good, proper and functional condition and appearance. The failure by any Owner of a Lot upon which a Common Driveway is located to pay when due his or her portion of any expense incurred by another Owner of a Lot upon which such Common Driveway is located for cleaning, maintenance, repair and replacement of such Common Driveway shall be a violation of the covenants and restrictions set forth in this Declaration, and such nonpaying Owner shall be liable to the Owner who performed such cleaning, maintenance, repair and replacement for his or her portion of such expense, plus costs and expenses, including reasonable attorney's fees, incurred by such Owner in collecting such amount.

Section 9. Easements for Driveway Turnaround. Each Lot is hereby granted an appurtenant easement for encroachment onto adjacent Lots to a distance of not more than five (5) feet from the common boundary or boundaries with the adjacent Lots. This easement is for the sole purpose of the placement, existence, use and maintenance of a driveway turnaround as originally constructed on and to serve the Lot. If the driveway turnaround on and serving the Lot is originally constructed so as not to utilize portions of this easement, the portions of this easement not utilized (which could be all of this easement, as the case may be) shall terminate and be null and void forever and of no further force and effect at any time.

This easement shall be for the benefit of the Owner of the Lot served by a driveway turnaround originally constructed in whole or in part on an adjacent Lot and shall be solely for access to, and ingress and egress to and from, such Owner's Lot by such Owner and his or her family members, invitees and designees in, upon, over and across the driveway turnaround serving such Owner's Lot. No other Person shall be allowed to change, alter or diminish the rights of the Owner of the Lot benefited by this easement to the use and enjoyment of the driveway turnaround serving such Owner's Lot. The driveway turnaround shall be cleaned, maintained, repaired and replaced by the Owner of the Lot served by the driveway turnaround. However, the Owner of the Lot served by the driveway turnaround shall not in any way expand this easement/encroachment after initial construction on the Lot.

Section 10. Easements for Encroachments. The dwellings located on the Lots may have certain eaves, roof overhangs, building materials and other structures attached to the walls and roofs of such dwellings which may encroach over or extend into the air space, improvements and/or real property located on adjoining or continuous Lots and/or Common Property. All of the Lots and the Common Property shall be subject to easements for encroachments and for the maintenance, repair and replacement thereof as a result of construction, reconstruction, repair, renovation, restoration, shifting, settlement or movement so long as such encroachment exists. If any such Lot, including any dwelling located thereon, is damaged or destroyed as a result of fire or other casualty or as a result of condemnation or eminent domain proceedings, the Owner of such Lot shall have an easement to reconstruct such encroachments in connection with the reconstruction of such dwelling. Easements shall also exist for encroachment upon the Common Property and/or Lots as necessary for the express purpose of maintenance, repair and restoration of any Lot or structure located thereon. The easements shall be used only for such period of time as is reasonably necessary in order to complete the needed maintenance, repair and restoration. The Owner of the Lot exercising the easement right shall be liable for the prompt repair of any damage to the property over which the easement is exercised which is caused by the maintenance, repair or restoration work. The damaged portions of such property shall be restored to substantially the same condition as existed prior to the damage.

Section 11. Easement for Private Street, Sidewalks and Signs. Declarant hereby grants, conveys, declares, creates, imposes and establishes a perpetual, nonexclusive right-of-way easement for vehicular and pedestrian access, ingress and egress over and across the private streets, alleys and drives as depicted on the recorded subdivision plats for the Community. The right-of-way easement herein granted shall permit joint usage of such easement by (a) the Owners and Occupants, (b) the legal representatives, successors and assigns of the Owners, and (c) invitees and licensees of the Owners and Occupants. The Declarant hereby reserves for the

benefit of any governmental agency a perpetual right of access over and upon all of the Common Property, including, without limitation, all private streets, within the Community for installing, removing and reading water meters; maintaining and replacing water and sewer facilities or fire lines and acting for other purposes consistent with public safety and welfare including, without limitation, law enforcement, city inspections, fire protection, emergency services, garbage collection and the delivery of mail. Declarant hereby expressly reserves for itself, its successors and assigns, all rights and privileges incident to the ownership of the fee simple estate of any such easement area which are not inconsistent with the rights and privileges herein granted, including, without limitation, the right to maintain one or more proprietary signs on the easement area and the right to grant additional nonexclusive easements to third parties, over, under and across the easement area. Declarant hereby reserves for the benefit of Declarant and grants to the Association as Common Property, the perpetual nonexclusive right and easement upon, over and across the private drives for the installation, maintenance, and use of such drives, sidewalks, traffic directional signs, grading for proper drainage, and related activities and improvements.

Section 12. **Mailbox and Trash Receptacle Easement.** The Declarant hereby declares, creates, imposes and establishes a non-exclusive joint and reciprocal easement in perpetuity over and across an area five (5) feet wide running along and contiguous to the boundary line of the private streets in the Community as shown on the recorded subdivision plats for the Community for the installation of and use and enjoyment of mailboxes and the placement of trash receptacles for pickup. Each mailbox shall be of a standard type as approved under Article VI hereof.

Article XII
General Provisions

Section 1. **Enforcement.** Each Owner and every Occupant of a Lot shall comply strictly with the Bylaws, the rules and regulations, the use restrictions, as they may be lawfully amended or modified from time to time, and with the covenants, conditions and restrictions set forth in this Declaration and in the deed to his or her Lot, if any. The Board of Directors may impose fines or other sanctions, which shall be collected as provided herein for the collection of assessments. Failure to comply with this Declaration, the Bylaws or the rules and regulations shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors, on behalf of the Association, or, in a proper case, by an aggrieved Owner. Failure by the Association or any Owner to enforce any of the foregoing shall in no event be deemed a waiver of the right to do so thereafter. The Board shall have the right to record in the appropriate land records a notice of violation of the Declaration, Bylaws, rules and regulations or use restrictions and to assess the cost of recording and removing such notice against the Owner who is responsible (or whose Occupants are responsible) for violating the foregoing.

Section 2. **Self-Help.** In addition to any other remedies provided for herein, the Association or its duly authorized agent shall have the power to enter upon a Lot or any portion of the Common Property to abate or remove, using such force as may be reasonably necessary, any structure, thing or condition which violates this Declaration, the Bylaws, the rules and regulations or the use restrictions. Unless an emergency situation exists, the Board shall give the violating Lot Owner ten (10) days' written notice of its intent to exercise self-help.

Notwithstanding the foregoing, vehicles may be towed after reasonable notice. All costs of self-help, including reasonable attorney's fees actually incurred, shall be assessed against the violating Lot Owner and shall be collected as provided for herein for the collection of assessments.

Section 3. Duration. The covenants and restrictions of this Declaration shall run with and bind the Community, and shall inure to the benefit of and shall be enforceable by the Association or any Owner, their respective legal representatives, heirs, successors and assigns, perpetually to the extent permitted by law; provided, however, if North Carolina law limits the period during which covenants restricting lands to certain uses may run, any provisions of this Declaration affected thereby shall run with and bind the land so long as permitted by such law, after which time any such provisions shall be (a) automatically extended for successive periods of ten (10) years, unless a written instrument reflecting disapproval signed by the then Owners of at least two-thirds (2/3) of the Lots and the Declarant (so long as the Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community) has been recorded within the year immediately preceding the beginning of a ten (10) year renewal period agreeing to change such provisions, in whole or in part, or to terminate the same, in which case this Declaration shall be modified or terminated to the extent specified therein; or (b) extended as otherwise provided by law. Every purchaser or grantee of any interest (including, without limitation, a security interest) in any real property subject to this Declaration, by acceptance of a deed or other conveyance therefor, thereby agrees that such provisions of this Declaration may be extended and renewed as provided in this Section.

Section 4. Amendment. This Declaration may be amended unilaterally at any time and from time to time by Declarant (a) if such amendment is necessary to bring any provision hereof into compliance with any applicable governmental statute, rule, or regulation or judicial determination which shall be in conflict therewith; (b) if such amendment is necessary to enable any reputable title insurance company to issue title insurance coverage with respect to the Lots subject to this Declaration; (c) if such amendment is required by an institutional or governmental lender or purchaser of Mortgage loans, including, for example, the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to enable such lender or purchaser to make or purchase Mortgage loans on the Lots subject to this Declaration; or (d) if such amendment is necessary to enable any governmental agency or reputable private insurance company to guarantee or insure Mortgage loans on the Lots subject to this Declaration; provided, however, any such amendment shall not adversely affect the title to any Owner's Lot unless any such Lot Owner shall consent thereto in writing. Further, so long as Declarant has the right unilaterally to subject additional property to this Declaration as provided in Article IX hereof, Declarant may unilaterally amend this Declaration for any other purpose; provided, however, any such amendment shall not materially adversely affect the substantive rights of any Lot Owner hereunder, nor shall it adversely affect title to any Lot without the consent of the affected Lot Owner.

In addition to the above, this Declaration may be amended upon the affirmative vote or written consent, or any combination thereof, of Owners of at least two-thirds (2/3) of the Lots (other than Lots of Declarant so long as the consent of Declarant is required) and the consent of Declarant (so long as the Declarant owns any property for development and/or sale in the

Community or has the right unilaterally to annex additional property to the Community). Amendments to this Declaration shall become effective upon recordation, unless a later effective date is specified therein. No provision of this Declaration which reserves or grants special rights to the Declarant and/or its affiliates shall be amended without the prior written consent of the Declarant and any affiliates affected by such amendment, so long as the Declarant and/or such affiliates, as the case may be, own any property primarily for development and/or sale in the Community or subject to annexation by the Declarant to the Community.

Any lawsuit challenging any aspect of an amendment to this Declaration must be filed in a court of competent jurisdiction in a county in which the Community is located within one (1) year of the recordation of such amendment.

Section 5. Gender and Grammar. The singular, wherever used herein, shall be construed to mean the plural, when applicable, and the use of the masculine pronoun shall include the neuter and feminine.

Section 6. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if the application of any provision of this Declaration to any Person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and, to this end, the provisions of this Declaration are declared to be severable.

Section 7. Captions. The captions of each Article and Section hereof, as to the contents of each Article and Section, are inserted only for convenience and are in no way to be construed as defining, limiting, extending, or otherwise modifying or adding to the particular Article or Section to which they refer.

Section 8. Conveyance of Property to Association; No Implied Rights. Declarant and its affiliates may transfer or convey to the Association at any time and from time to time any personal property and any interest in improved or unimproved real property. Such conveyance shall be accepted by the Association, and the property shall thereafter be Common Property to be maintained by the Association for the benefit of all or a part of its members. All Open Space Common Areas shall be conveyed to the Association by the Declarant in fee simple without any encumbrances except drainage, greenway and utility easements prior to the conveyance of the first Lot to an Owner by Declarant. All Open Space Common Areas and private streets within the Community shall be owned by the Association for the perpetual benefit of the Owners and shall not be used for any other purpose. So long as Declarant owns any property primarily for development and/or sale in the Community or has the right unilaterally to annex additional property to the Declaration, Declarant may, upon written notice to the Association, require the reconveyance by the Association to Declarant or its designee of any Common Property or any portion thereof, improved or unimproved, other than any Open Space Common Area or any Common Property which is utilized in connection with a Stormwater Control Measure, at no charge to Declarant or its designee, without a vote of the Owners/members of the Association, if the Common Property or portion thereof is: (i) found by Declarant to have been conveyed in error, (ii) needed by Declarant so that Declarant can make adjustments in property boundary lines, or (iii) reasonably determined by Declarant to be needed by Declarant due to changes in

the overall scheme of development for the Community.

The Association hereby constitutes and appoints Declarant or its assigns as the Association's agent and attorney-in-fact to accept/make on behalf of the Association any such conveyances and reconveyances and to execute on behalf of the Association any and all documents, including, without limitation, deeds and transfer tax declaration forms, necessary or convenient to effectuate and document any of the foregoing conveyances and reconveyances, and all of the acts of such attorney-in-fact are hereby ratified. The power and agency hereby granted are coupled with an interest and are irrevocable by death or otherwise.

Declarant and its affiliates shall not be required to make any improvements whatsoever to property to be conveyed and accepted pursuant to this Section, and Declarant and its affiliates shall have no duty or obligation to convey any property or property rights to the Association, regardless of whether or not any such property has been made available for the use of Owners. The Association shall also accept assignment of, and shall assume and agree to perform, any contracts entered into by Declarant and its affiliates for the benefit of the Association, its members or the Owners, including, without limitation, detention pond maintenance agreements and all types of utility easements.

Declarant may reserve, by condition, restriction, lease, license, easement or otherwise, such rights of use and enjoyment in and to all or any portion of the property conveyed, other than any Open Space Common Area or any Common Property which is essential to a Stormwater Control Measure, as Declarant may reasonably require, so long as such reservation is not materially inconsistent with the overall scheme of development for the Community. Neither the recordation of any subdivision plat, nor the use by the Owners or maintenance by the Association of any property, shall create any rights, easements or licenses in the Association or the Owners, express or implied, unless and until any such property, rights, easements or licenses are conveyed to the Association or the Owners, as the case may be, by an instrument recorded in the land/real estate records of the county where the property is located.

Section 9. Perpetuities. If any of the covenants, conditions, restrictions or other provisions of this Declaration shall be unlawful, void or voidable for violation of the rule against perpetuities, then such provisions shall continue only until twenty-one (21) years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

Section 10. Indemnification. In accordance with, and to the full extent allowed by, the North Carolina Nonprofit Corporation Act, the Association shall indemnify every Person who was or is a party or who is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association), by reason of the fact that such Person is or was serving as a director or officer of the Association against any and all expenses, including attorney's fees, imposed upon or reasonably incurred in connection with any action, suit or proceeding, if such Person acted in a manner reasonably believed to be in or not opposed to the best interests of the Association and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. Any indemnification hereunder shall be made by the Association only as authorized in a specific case upon a determination that indemnification of the Person is proper under the circumstances.

Section 11. Construction and Sale Period. Notwithstanding any provisions contained in this Declaration, the Bylaws, the Articles of Incorporation of the Association, rules and regulations, use restrictions, and any amendments to any of the foregoing, the Declarant hereby expressly reserves unto itself and its successors and assigns a non-exclusive, perpetual right, privilege, and easement with respect to the Community for the benefit of the Declarant, its successors and assigns, over, under, in, and/or on the Community, without obligation and without charge to the Declarant, for the purposes of taking all actions related to or connected with construction, installation, relocation, development, sale, maintenance, repair or replacement in the Community and any other property now owned or which may in the future be owned by the Declarant (such other property is hereinafter referred to as "Additional Property"). The reserved easement shall constitute a burden on the title to the Community and specifically includes, but is not limited to:

(a) the right of access, ingress and egress for vehicular and pedestrian traffic over, under, on or in the Community; and the right to tie into any portion of the Community with streets, driveways, parking areas and walkways; and the right to tie into and/or otherwise connect and use (without a tap-on or any other fee payable to the Association or any Owner for so doing), replace, relocate, maintain and repair any device which provides utility or similar services, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities constructed or installed in, on, under and/or over the Community;

(b) the right to use (continually or from time to time) without charge any clubhouse or similar structure and appurtenant recreational facilities, if any, for business purposes or company functions and any similar use, including, but not limited to, sales and marketing meetings, offices for sales or other employees and agents, a design studio and employee parties; and

(c) the right to construct, install, replace, relocate, maintain, repair, use and enjoy signs, model residences, construction trailers and sales offices in the Community.

No rights, privileges and easements granted or reserved herein shall be merged into the title of any property, including, without limitation, the Community, but shall be held independent of such title, and no such right, privilege or easement shall be surrendered, conveyed or released unless and until and except by delivery of a quitclaim deed from the Declarant releasing such right, privilege or easement by express reference thereto.

If these reserved easements are exercised without annexing any Additional Property to the Community, the owners of the affected Additional Property shall share the costs, if any, of using and maintaining utility and similar facilities, including, without limitation, electrical, telephone, natural gas, water, sewer and drainage lines and facilities, with the Owners in the Community in the proportion that the number of completed dwellings on the affected Additional Property bears to the sum of the number of completed dwellings on the affected Additional Property plus the number of Lots in the Community. The costs of maintenance and repair of Community streets and driveways shall likewise be apportioned to the affected Additional Property if the only means of vehicular access to the affected Additional Property is across the Community. For the purposes of this provision, a dwelling on the affected Additional Property

shall be considered completed when a certificate of occupancy has been granted. The allocation of expenses and the collection therefor may be done on a monthly, quarterly or annual basis as may reasonably be determined by the Association in accordance with this Declaration. If any of the Additional Property is added to the Community, from the time of the annexation, the sharing of costs and expenses and the use of any property so added shall be governed by this Declaration, rather than by these reserved easements.

This Section shall not be amended without the prior written consent of the Declarant so long as the Declarant owns any property primarily for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community.

Section 12. Books and Records.

(a) Inspection by Members and Mortgagees. This Declaration, the Bylaws, copies of rules and use restrictions, membership register, books of account and minutes of meetings of the members of the Board and of committees shall be made available for inspection and copying by any member of the Association or by his duly appointed representative and by holders, insurers or guarantors of any first Mortgage at any reasonable time and for a purpose reasonably related to his or her interest as a member or holder, insurer or guarantor of a first Mortgage at the office of the Association or at such other reasonable place as the Board shall prescribe.

(b) Rules for Inspection. The Board shall establish reasonable rules with respect to:

(i) notice to be given to the custodian of the records;

(ii) hours and days of the week when such an inspection may be made; and

(iii) payment of the cost of reproducing copies of documents.

(c) Inspection by Directors. Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extra copies of documents at the reasonable expense of the Association.

Section 13. Financial Statements. Financial statements for the Association shall be compiled annually in the manner as the Board of Directors may decide; provided, however, after having received the Board's financial statements at the annual meeting, the Owners, by a Majority vote, may require that the financial statements of the Association be audited as a common expense by a certified public accountant. Upon written request of any institutional holder of a first Mortgage and upon payment of all costs associated therewith, such holder shall be entitled to receive a copy of the audited financial statements of the Association within ninety (90) days of the date of the request.

Section 14. Notice of Sale or Lease. In the event an Owner sells or leases his or her Lot, the Owner shall give to the Association, in writing, the name of the purchaser or lessee of the Lot and such other information as the Board may reasonably require.

Section 15. Agreements. Subject to the prior approval of Declarant, so long as the Declarant has an option to unilaterally subject additional property to this Declaration as provided in Article IX above, all agreements and determinations, including settlement agreements regarding litigation involving the Association, lawfully authorized by the Board of Directors shall be binding upon all Owners, their heirs, legal representatives, successors, assigns and others having an interest in the Community or the privilege of possession and enjoyment of any part of the Community.

Section 16. Variances. Notwithstanding anything to the contrary contained herein, the Board of Directors or its designee shall be authorized to grant individual variances from any of the provisions of this Declaration, the Bylaws and any rule, regulation or use restriction promulgated pursuant thereto if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Community.

Section 17. Litigation. No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by at least seventy-five percent (75%) of the Total Association Vote. This Section shall not apply, however, to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of assessments as provided in Article IV hereof, (c) proceedings involving challenges to ad valorem taxation, (d) counterclaims brought by the Association in proceedings instituted against it, or (e) actions brought by the Association against any contractor, vendor, or supplier of goods or services arising out of a contract for goods or services to which the Association is a party. This Section shall not be amended unless such amendment is made by the Declarant pursuant to Article XII, Section 4 hereof, or is approved by the percentage votes, and pursuant to the same procedures, necessary to institute proceedings as provided above.

Section 18. Implied Rights. The Association may exercise any right or privilege given to it expressly by this Declaration, the Bylaws, the Articles of Incorporation of the Association, any use restriction or rule, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to it therein or reasonably necessary to effectuate any such right or privilege.

Section 19. Use of Recreational Facilities by Nonmembers. For so long as Declarant has an option to unilaterally subject additional property to this Declaration as provided in Article IX above, Declarant shall have the right to grant to persons who are not members of the Association the right to use the Community recreational facilities (if any). The extent and duration of nonmember use and the fee to be charged therefor shall be determined solely by Declarant. The Declarant may grant nonmember use rights to individuals as an easement appurtenant to such individuals' residential real property so that such use rights shall automatically inure to the benefit of both the original grantees and their respective successors-in-title to such real property. For so long as Declarant or an affiliate of Declarant owns such recreational facilities, nonmember user fees shall be paid to Declarant. If such recreational facilities are conveyed to the Association, nonmember user fees due and payable after the date of such conveyance shall be paid to the Association. Declarant shall determine the amount of nonmember user fees which are due and payable after such conveyance. Such fees

shall be paid in equal annual installments to the Association, unless otherwise determined by the Board. The amount of such installment payments may be increased each year by the Board so long as the percentage increase (as compared to the previous year's installment) does not exceed the percentage increase in the annual assessment levied against members of the Association (as compared to the previous year's assessment).

Unless otherwise determined by the Declarant, any use right granted to nonmembers which extends beyond the termination of Declarant's option to unilaterally subject additional property to this Declaration shall be valid and may not be terminated by the Association so long as the terms and conditions imposed upon nonmember use by Declarant are complied with by the nonmember user.

Declarant hereby expressly reserves unto itself and its successors and assigns a non-exclusive, perpetual right, privilege and easement with respect to the Community for the benefit of Declarant, its successors, assigns and the above discussed nonmember users, over, under, in and/or on the Community (including, without limitation, the above described recreational facilities), without obligation and without charge to the foregoing, for the purposes of taking all actions related to or connected with the granting of nonmember use and the use by such nonmembers as described above. Such right, privilege and easement shall include, without limitation, the right of access, ingress, use and egress of and to the above described recreational facilities and the right of access, ingress, use and egress for vehicular and pedestrian traffic over, under, on or in the Community roads, parking areas and walkways.

Declarant, its partners and affiliates, and the officers, directors, shareholders, employees, agents, successors and assigns of any of the foregoing, shall not be liable for and are hereby held harmless by the Association from any failure of any nonmember to pay a nonmember user fee to the Association where required to do so by this Section. In such case, the Association's sole remedy shall be to suspend the use right of the nonmember who has not timely paid until all amounts owed are paid. Declarant, its partners and affiliates, and the officers, directors, shareholders, employees, agents, successors and assigns of any of the foregoing, shall also not be liable for and are hereby held harmless by the Association from any personal injury or property damage caused by a nonmember entitled to use the above described recreational facilities.

Section 20. No Discrimination. No action shall be taken by the Association or the Board of Directors which would discriminate against any person on the basis of race, creed, color, national origin, religion, sex, familial status or handicap.

Section 21. Security.

(a) The Declarant and the Association may, but shall not be obligated to, maintain or support certain activities within the Community designed to make the Community and the Lots safer than they otherwise might be. HOWEVER, THE ASSOCIATION, THE DECLARANT, ITS PARTNERS AND AFFILIATES, ANY SUCCESSOR DECLARANT, AND THE OFFICERS, DIRECTORS, COMMITTEES, MEMBERS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS OF ANY OF THE FOREGOING, SHALL NOT IN ANY WAY BE CONSIDERED INSURERS OR GUARANTORS OF SECURITY WITHIN THE COMMUNITY, NOR SHALL ANY OF THE FOREGOING BE HELD LIABLE FOR

ANY LOSS OR DAMAGE BY REASON OF FAILURE TO PROVIDE ADEQUATE SECURITY OR OF INEFFECTIVENESS OF SECURITY MEASURES UNDERTAKEN. NO REPRESENTATION OR WARRANTY IS MADE THAT ANY FIRE PROTECTION SYSTEM, BURGLAR ALARM SYSTEM OR OTHER SECURITY SYSTEM CANNOT BE COMPROMISED OR CIRCUMVENTED, NOR THAT ANY SUCH SYSTEMS OR SECURITY MEASURES UNDERTAKEN WILL IN ALL CASES PREVENT LOSS OR PROVIDE THE DETECTION OR PROTECTION FOR WHICH THE SYSTEM IS DESIGNED OR INTENDED. EACH OWNER ACKNOWLEDGES, UNDERSTANDS AND COVENANTS TO INFORM ITS TENANTS THAT THE ASSOCIATION, THE DECLARANT, ITS PARTNERS AND AFFILIATES, ANY SUCCESSOR DECLARANT, AND THE OFFICERS, DIRECTORS, COMMITTEES, MEMBERS, SHAREHOLDERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS OF ANY OF THE FOREGOING, ARE NOT INSURERS AND THAT EACH PERSON USING THE COMMUNITY ASSUMES ALL RISKS FOR LOSS OR DAMAGE TO PERSONS, TO PROPERTY, TO LOTS, AND TO THE CONTENTS OF LOTS AND THE STRUCTURES THEREON RESULTING FROM ACTS OF THIRD PARTIES.

(b) Declarant or the Association may, but shall not be required to, install mechanical systems that limit vehicular access to and from the Community (the "Gate System"). By accepting a deed to a Lot, each Owner acknowledges and agrees to the following:

(i) The Board of Directors, with the consent of the Declarant, shall determine when the Gate System will be operational and if and when the guardhouse will be manned.

(ii) All governmental authorities shall have access to the Community for law enforcement, safety and emergency purposes. Each Owner shall look solely to the applicable governmental authority for the provision of law enforcement and police protection. The City and its emergency personnel shall have the right, without liability, to break the Gate System when emergency personnel reasonably believe that doing so is urgently necessary to save life, prevent serious bodily harm, put out a fire, or to avert or control a public catastrophe.

(iii) The Gate System is not intended to replace or to serve in lieu of individual alarm systems or other measures to provide security at a residence or within any Lot. Each Owner is encouraged to install personal security devices upon and within such Owner's Lot to the same extent that would be prudent if the Gate System did not exist.

(iv) Declarant disclaims any and all representations and warranties, express or implied, and makes no representations or warranties of any nature whatsoever, regarding the Gate System, including, without limitation, any implied warranty of merchantability or fitness for the purposes for which it was designed.

(v) Owner and Occupants shall use the Gate System in the proper manner and within the rules and regulations relating thereto as may be adopted from time to time by the Board of Directors (with the consent of the Declarant).

Section 22. **Maintenance of Private Streets**. All private streets within the Community shall be maintained by the Association and the City shall not be responsible for maintaining any private street in the Community. In no case shall the City be responsible for failing to provide any emergency or regular, fire, police or other public service to the Community or the Owners when such failure is due to a lack of access to such areas due to inadequate design or construction, blocking of access routes, inadequate maintenance, or any other factor within the control of the Declarant, the Association or the Owners.

Section 23. **Termination of Contracts and Leases of Declarant**. If entered into before the Board takes office, any contract or lease affecting or relating to the Community that is not bona fide or was unconscionable to the Lot Owners at the time entered into under the circumstances then prevailing, may be terminated without penalty by the Association at any time after the Board takes office upon not less than ninety (90) days notice to the other party.

[continued on next page]

The Association has executed this instrument and affixed the seal below this 10th day of November, 2004 for the purpose of consenting to all of the terms and provisions of this Declaration.

ATTEST:

Secretary

RIVER RUN NEIGHBROHOOD ASSOCIATION, INC., a North Carolina nonprofit corporation

By:

Print Name: DM Ficas

Title: Vice President

[CORPORATE SEAL]

STATE OF GEORGIA

COUNTY OF CLAYTON

I, Maria Mollise, a Notary Public, do hereby certify that Frederick D. Evans III personally came before me this day and acknowledged that he is Secretary of RIVER RUN NEIGHBORHOOD ASSOCIATION, INC., a North Carolina nonprofit 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 Frederick D. Evans III as its Secretary.

WITNESS my hand and official stamp or seal this 10th day of November, 2004.

Notary Public

My Commission Expires:

MARIA MOLLISE NOTARY PUBLIC FULTON COUNTY GEORGIA EXPIRES APRIL 21, 2008

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed under seal by its duly authorized officer(s) as of this 10th day of November, 2004.

ATTEST:

Andrea Lofstrand
Assistant Secretary

JOHN WIELAND HOMES AND NEIGHBORHOODS OF THE CAROLINAS, INC., a Georgia corporation

By: _____

Print Name: Dan Pickard

Title: Vice President

[CORPORATE SEAL]

STATE OF GEORGIA

COUNTY OF CLAYTON

I, Maria Nalise, a Notary Public, do hereby certify that Andrea Lofstrand personally came before me this day and acknowledged that (s)he is Assistant Secretary of JOHN WIELAND HOMES AND NEIGHBORHOODS OF THE CAROLINAS, INC., a Georgia 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 Andrea Lofstrand as its Assistant Secretary.

WITNESS my hand and official stamp or seal this 10th day of November 2004.

_____
Notary Public

My Commission Expires: _____

MARIA NALISE NOTARY PUBLIC FULTON COUNTY GEORGIA EXPIRES APRIL 21, 2008

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

EXHIBIT "A"

Definitions

The following words, when used in this Declaration or in any amendment thereof (unless the context shall prohibit), shall have the following meanings:

(a) "Association" shall mean and refer to River Run Neighborhood Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

(b) "Board of Directors" or "Board" of the Association shall be the appointed or elected body, as applicable, having its normal meaning under North Carolina corporate law.

(c) "Bylaws" shall refer to the Bylaws of River Run Neighborhood Association, Inc., attached to this Declaration as Exhibit "D" and incorporated herein by this reference.

(d) "City" shall mean the City of Raleigh, North Carolina.

(e) "City Code" shall mean the municipal code of the City.

(f) "Common Expenses" shall mean all expenditures made by or financial liabilities of the Association, including, without limitation, any sums the Board determines necessary for the continued ownership, operation and maintenance of the Common Property; operating expenses of the Association; payment for any items of betterment and the establishment of reserve funds as the Board shall deem proper; sums for property taxes, insurance premiums, maintenance of private streets, recreational and other facilities located on the common areas, public and private capital improvements made to or for the benefit of the common areas, legal and accounting fees, and management fees; charges for utilities, cleaning and janitor services, and landscape maintenance; expenses and liabilities incurred as provided herein and in the Articles of Incorporation and Bylaws for indemnification of officers and directors and in connection with the enforcement of rights and duties of the Association against Owners and others; stormwater replacement contributions and all costs and expenses for the maintenance of any Stormwater Control Measures.

(g) "Common Property" shall mean any and all real and personal property and easements, leaseholds and other interests therein, together with the facilities and improvements located thereon, now or hereafter owned by the Association for the common use and enjoyment of the Owners including, without limitation, (1) any private street, (2) Stormwater Control Measures, including, without limitation, detention facilities, retention facilities, wet ponds, sand filters, wetlands, bio-retention measures, swales and storm pipes that serve more than one (1) lot and are located outside of public street rights of way (excluding those pipes and stormwater control measures serving one (1) lot), (3) any utility line located outside of public street rights-of-way and public utility easements, and not located on an individual lot, (4) any site or facility designated a common area on any recorded plat or in this Declaration, and (5) any shared facility or open space required by the City.

(h) "Community" shall mean and refer to that certain real property and interests

therein described in Exhibit "B", attached hereto, and (i) such additions thereto as may be made by Declarant (or its Mortgagee or transferee, as provided in the Declaration) of all or any portion of the real property described in Exhibit "C", attached hereto; and (ii) such additions thereto as may be made by the Association (as provided in the Declaration) of other real property.

(i) "Community-Wide Standard" shall mean the standard of conduct, maintenance or other activity generally prevailing in the Community. Such standard may be more specifically determined by the Board of Directors of the Association. Such determination, however, must be consistent with the Community-Wide Standard originally established by the Declarant.

(j) "Declarant" shall mean and refer to John Wieland Homes and Neighborhoods of the Carolinas, Inc., a Georgia corporation, and its successors-in-title and assigns, provided any such successor-in-title or assign shall acquire for the purpose of development or sale all or any portion of the remaining undeveloped or unsold portions of the real property described in Exhibit "B", attached hereto, or in Exhibit "C", attached hereto, and provided further, in the instrument of conveyance to any such successor-in-title or assign, such successor-in-title or assign is designated as the "Declarant" hereunder by the grantor of such conveyance, which grantor shall be the "Declarant" hereunder at the time of such conveyance; provided, further, upon such designation of such successor Declarant, all rights of the former Declarant in and to such status as "Declarant" hereunder shall cease, it being understood that as to all of the property described in Exhibit "B", attached hereto, and in Exhibit "C", attached hereto, which is now or hereafter subjected to this Declaration, there shall be only one Person or legal entity entitled to exercise the rights and powers of the "Declarant" hereunder at any one point in time. An "affiliate" of Declarant shall mean any entity in which Declarant or John Wieland (and/or member(s) of his immediate family) own or control at least twenty (20%) percent of the beneficial interest thereof.

(k) "Declaration" shall mean this Declaration of Protective Covenants and Easements for River Run Cluster Unit Development.

(l) "Eligible Holder" shall have the meaning given such term in Article X, Section 1of this Declaration.

(m) "Lot" shall mean any plot of land within the Community, whether or not improvements are constructed thereon, which constitutes or will constitute, after the construction of improvements, a single dwelling site, as shown on any plats for the Community, or amendments thereto, recorded in the land records of the county where the Community is located. The ownership of each Lot shall include, and there shall pass with each Lot as an appurtenance thereto, whether or not separately described, all of the right, title, and interest of an Owner in the Common Property, which shall include, without limitation, membership in the Association.

(n) "Majority" means those eligible votes, Owners or other group as the context may indicate totaling more than fifty percent (50%) of the total eligible number.

(o) "Mortgage" means any mortgage, deed to secure debt, and any and all other similar instruments used for the purpose of conveying or encumbering real property as security for the payment or satisfaction of an obligation.

(p) "Mortgagee" shall mean the holder of a Mortgage.

(q) "Occupant" shall mean any Person occupying all or any portion of a Lot or other property located within the Community for any period of time, regardless of whether such Person is a tenant of the Owner of such property.

(r) "Open Space Common Areas" shall mean primarily vegetated areas where development is restricted and no additional impervious surface may be placed without first obtaining a permit from the City, including, without limitation, greenways and public parks, natural protective yards set forth in conditional use zoning districts, and permanently protected undisturbed open space areas, which are necessary to satisfy the open space requirements set forth in §10-3071 of the City Code and are shown on the Plat.

(s) "Owner" shall mean and refer to the record owner, whether one or more Persons, of the fee simple title to any Lot located within the Community, excluding, however, any Person holding such interest merely as security for the performance or satisfaction of any obligation.

(t) "Person" means any natural person, as well as a corporation, joint venture, partnership (general or limited), association, trust, or other legal entity.

(u) "Plat" shall mean the final plat of the Community required and approved under §10-3014 of the City Code.

(v) "Property Eligible for Annexation" shall have the meaning given such term in Article IX, Section 1 of this Declaration.

(w) "Property Insurance Policy" shall have the meaning given such term in Article VII, Section 1 of this Declaration.

(x) "Preserved Trees" shall have the meaning set forth in Article VI, Section 12 of this Declaration.

(y) "Register of Deeds" means the Wake County, North Carolina register of deeds.

(aa) "Sight Triangle" shall mean that triangle as set forth by the North Carolina Department of Transportation's Policy on Street and Driveway Access to North Carolina Highways manual, and all subsequent amendments thereto.

(bb) "Stormwater Control Measures" shall mean all stormwater control measures and devices and all open space areas required by the Stormwater Control Plan, including, without limitation, devices and measures and associated drainage easements, conduits, inlets, channels, pipes and ditches, filters, buffers, bioretention areas, and ponds necessary to collect, convey, store and control stormwater runoff and pollutants for more than one (1) Lot.

(cc) "Stormwater Control Plan" shall mean the set of drawings and other documents that comprise all of the information and specifications for the drainage systems, structures, concepts, techniques, measures and devices that will be used to control nitrogen loads and

stormwater runoff, as required by chapter 10 of the City Code and the Raleigh Stormwater and Watercourse Buffer Design Manual, including, without limitation, any drawings or other documents that comprise all of the information and specifications for the drainage systems, structures, concepts, techniques, measures and devices that will be used to control nitrogen loads and stormwater runoff, as required by chapter 10 of the City Code and the Raleigh Stormwater and Watercourse Buffer Design Manual, within any property annexed to the Community pursuant to Article IX of the Declaration. Also included are the supporting engineering calculations, input data for any computer analysis, and results of any computer analysis

(dd) "Stormwater Maintenance Manual" shall mean that certain Operations and Maintenance Manual and Budget for River Run Subdivision Phase I dated May 3, 2004 prepared by Thomas & Associates, P.A. approved by the conservation engineer in the City engineering department attached hereto as Exhbit E.

(ee) "Supplementary Declaration" means an amendment or supplement to this Declaration which subjects additional property to this Declaration or imposes, expressly or by reference, additional restrictions and obligations on the land described therein, or both.

(ff) "Stormwater Replacement Agreement" means that certain "Stormwater Replacement Protection Easement and Access Maintenance Agreement and Installment Replacement Contribution" by and between Declarant, the Association and the City recorded contemporaneously herewith in the Register of Deeds.

(gg) "Total Association Vote" means all of the votes attributable to members of the Association (including votes of Declarant) and the consent of Declarant (so long as Declarant owns any property for development and/or sale in the Community or has the right unilaterally to annex additional property to the Community).

(hh) "Tree Preservation Ordinances" means Raleigh City Code §10- 2082.12 and §10-2103(d).

EXHIBIT "B"

Property Submitted

ALL THAT TRACT OR PARCEL OF LAND located in Neuse Township, Wake County, North Carolina and being bounded on the north by Henrietta S. Holmes as described in Estate file 1990/802, and by Gilbert C. McConnell and Cynthia S. McConnell as described in Deed Book 10227, page 2000 and Book of Maps 1995, page 78 and by R. Nelson Leonard as described in Estate file 2002/166; on the east and south by John Weiland Homes and Neighborhoods as described in Deed Book 10524, page 1988 and Book of Maps 2003, pages 1438 and 1439 and Brandywine LLC as described in Deed Book 8795, page 2671; on the west by Arvil Wayne Lowerey, Et. Al. as described in Deed Book 10515, page 2592 and Deed Book 4842, page 467 and Book of Maps 2003, pages 1438 and 1439; and being more particularly described as follows:

BEGINNING at an existing iron pipe on the eastern right-of-way line of Falls of Neuse Road marking Holmes' southwestern corner;

Thence N 89°16'05" E 599.81', along Holmes' and McConnell's southern lines, to an existing iron pipe;

Thence N 37°12'40" E 274.98', along McConnell's eastern line, to an existing iron pipe;

Thence S 52°49'20" E 103.15', along Leonard's southern line, to an existing iron pipe;

Thence S 41°19'10" E 202.44', along Leonard's southern line, to an existing iron pipe;

Thence N 88°35'42" E 339.04', along Leonard's southern line, to an iron pipe set;

Thence the following 4 courses and distances across John Weiland Homes and Neighborhoods:

S 17°18'55" W 298.44';

S 33°20'44" E 158.70';

Along a curve to the left having an internal angle of 11°49'03", a radius of 275.00', a length of 56.72', and a chord which bears S 50°44'44" W 56.62';

S 45°09'47" E 7.67', to an existing iron pipe marking Brandywine LLC's northwestern corner;

Thence S 00°55'30" W 520.66', along Brandywine LLC's western line, to an iron pipe set;

Thence the following 10 courses and distances across John Weiland Homes and Neighborhoods:

N 81°09'10" W 100.18';

N 72°21'39" W 87.96';

S 17°38'21" W 115.43';

N 72°21'39" W 217.27';

S 05°09'13" W 32.84';

N 69°59'46" W 569.07';

S 45°58'31" W 118.64';

N 44°01'29" W 163.86';

N 45°58'31" E 45.80';

N 44°01'29" W 120.00', to an iron pipe set in Lowery's eastern line;

Thence N 45°58'31" E 177.21', along Lowery's eastern line, to an existing iron pipe;

Thence N 58°04'34" W 165.02', along Lowery's eastern line, to an existing iron pipe;

Thence N 08°00'26" E 202.30', along Lowery's eastern line, to an existing iron pipe;

Thence N 83°09'34" W 182.02', along Lowery's northern line, to an existing iron pipe on the eastern right-of-way line of Falls of Neuse Road;

Thence N 26°02'31" E 85.96', along the eastern right-of-way line of Falls of Neuse Road, to an iron pipe set;

Thence N 26°08'10" E 101.30', along the eastern right-of-way line of Falls of Neuse Road, to a point;

Thence N 26°45'34" E 50.13', to the POINT OF BEGINNING, containing 26.709 acres, more or less.

EXHIBIT "C"

Additional Property which can be Unilaterally
Submitted by Declarant

ALL THAT TRACT OR PARCEL OF LAND lying and being in Wake County, North Carolina, being more particulary described as follows:

BEING all of Lot 6 as shown on the plat recorded in Book of Maps 2003, Pages 1438-39, Wake County Registry. Save and Except the property described on Exhibit "B" hereto and that certain triangular shaped tract or parcel of land containing 0.038 acres and described as "N/F Wayne Lowry, Deed Book 7015, Page 401," as shown on said plat.

TOGETHER WITH any real property located within three (3) miles of and contiguous to the above described property or within three (3) miles of and contiguous to any other real property now or hereafter subjected to the Declaration of Protective Covenants and Easements for River Run; provided however, real property which is separated from the above described property or other real property now or hereafter subject to the Declaration of Protective Covenants and Easements for River Run only by a public or private right of way shall be deemed to be contiguous to said property.

EXHIBIT "D"

BYLAWS

OF

RIVER RUN NEIGHBORHOOD ASSOCIATION, INC.

TABLE OF CONTENTS

I. NAME, MEMBERSHIP AND DEFINITIONS 1

1. Name 1
2. Membeship 1
3. Definitions 1

II. ASSOCIATION: MEETINGS, QUORUM, VOTING, PROXIES 1

1. Place of Meetings 1
2. First Meeting and Annual Meetings 1
3. Special Meetings 1
4. Notice of Meetings 2
5. Waiver of Notice 2
6. Adjournment of Meetings 2
7. Voting 2
8. Proxies 2
9. Quorum 3
10. Action without a Formal Meeting 3
11. Action by Written Ballot 3

III. BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS 3

A. Composition and Selection 3

1. Governing Body; Composition 3
2. Directors Appointed by Declarant 4
3. Number of Directors 4
4. Nomination of Directors 4
5. Election and Term of Office 4
6. Removal of Directors 4
7. Vacancies 5

B. Meetings 5

8. Organizational Meetings 5
9. Regular Meetings 5
10. Special Meetings 5
11. Waiver of Notice 5
12. Quorum of Board of Directors 6
13. Compensation 6
14. Open Meetings 6
15. Executive Session 6
16. Action without a Formal Meeting 6

17. Telephonic Participation 7

C. Powers and Duties 7

18. Powers 7
19. Management Agent 8
20. Fining Procedure 8

IV. OFFICERS 9

1. Officers 9
2. Election, Term of Office and Vacancies 9
3. Removal 9
4. President 9
5. Vice President 9
6. Secretary 9
7. Treasurer 10
8. Resignation 10

V. COMMITTEES 10

VI. MISCELLANEOUS 10

1. Fiscal Year 10
2. Parliamentary Rules 10
3. Conflicts 10
4. Amendment 10

BYLAWS
OF
RIVER RUN NEIGHBORHOOD ASSOCIATION, INC.

Article I
Name, Membership and Definitions

Section 1. Name. The name of the Association shall be River Run Neighborhood Association, Inc. (the "Association"). The Association is a North Carolina non-profit corporation

Section 2. Membership. The Association shall have one (1) class of membership, as is more fully set forth in the Declaration of Protective Covenants and Easements for River Run Cluster Unit Development (such Declaration, as amended, renewed, or extended from time to time, is hereinafter sometimes referred to as the "Declaration"), the terms of which pertaining to membership are specifically incorporated by reference herein.

Section 3. Definitions. The words used in these Bylaws shall have the same meaning as set forth in the Declaration, unless the context shall prohibit.

Article II
Association: Meetings, Quorum, Voting, Proxies

Section 1. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the members as may be designated by the Board of Directors, either in the Community or as convenient thereto as possible and practical.

Section 2. First Meeting and Annual Meetings. An annual or special meeting shall be held within one (1) year from the date the Declaration is recorded. Annual meetings shall be set by the Board so as to occur no later than sixty (60) days after the close of the Association's fiscal year. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday (excluding Saturday and Sunday).

Section 3. Special Meetings. The President may call special meetings. In addition, it shall be the duty of the President to call a special meeting of the Association if so directed by resolution of a Majority of the Board of Directors or upon a petition signed by at least ten percent (10%) of the Total Association Vote (the consent of the Declarant shall not be required). The notice of any special meeting shall state the date, time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting, except as stated in the notice.

Section 4. Notice of Meetings. It shall be the duty of the Secretary of the Association to mail or to cause to be delivered to the Owner of record of each Lot by hand delivery or prepaid United States mail a notice of each annual or special meeting of the Association stating the time and place where it is to be held and, for a special meeting and the items on the agenda, including, without limitation, the general nature of any proposed amendment to the Declaration or these Bylaws, any budget changes, and any proposal to remove a director or officer. If an Owner wishes notice to be given at an address other than his or her Lot, he or she shall have designated by notice in writing to the Secretary of the Association such other address. The mailing or delivery of a notice of meeting in the manner provided in this Section shall be considered service of notice. Notices shall be served not less than ten (10) nor more than thirty (30) days before a meeting.

Section 5. Waiver of Notice. Waiver of notice of a meeting of the members shall be deemed the equivalent of proper notice. Any member may, in writing, waive notice of any meeting of the members, either before or after such meeting. Attendance at a meeting by a member, whether in person or by proxy, shall be deemed waiver by such member of notice of the time, date and place thereof, unless such member specifically objects to lack of proper notice at the time the meeting is called to order.

Section 6. Adjournment of Meetings. If any meetings of the Association cannot be held because a quorum is not present, a Majority of the members who are present at such meeting, either in person or by proxy, may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. Notwithstanding any provision to the contrary in the Declaration or these Bylaws, the quorum requirement at the next meeting shall be one-half the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

Section 7. Voting. The voting rights of the members shall be as set forth in the Declaration, and such voting rights are specifically incorporated herein.

Section 8. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, dated, and filed with the Secretary of the Association before the appointed time of each meeting. If a Lot is owned by more than one Person, each Owner of the Lot may vote or register protest to the casting of votes by the other owners of the Lot through a duly executed proxy. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his or her Lot, or upon receipt of notice by the Secretary of the Association of the death or judicially declared incompetence of a member, or of written revocation, or upon the expiration of eleven (11) months from the date of the proxy.

Section 9. Quorum. The presence, in person or by proxy, of ten percent (10%) of the total eligible Association vote shall constitute a quorum at all meetings of the Association. The members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough members to leave less than a quorum.

Section 10. Action without a Formal Meeting. Any action to be taken at a meeting of the members, or any action that may be taken at a meeting of the members, may be taken without a meeting if one or more consents, in writing, setting forth the action so taken shall be signed by members holding the voting power required to pass such action at a meeting held on the date that the last consent is executed and such action is consented to by Declarant, if required. Such action shall be effective upon receipt by the Association of a sufficient number of such consents executed by current members unless a later effective date is specified therein. Each signed consent shall be delivered to the Association and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

Section 11. Action by Written Ballot. Any action to be taken at any annual, regular or special meeting of members may be taken without a meeting if approved by written ballot as provided herein. The Association shall deliver a written ballot to each member entitled to vote on the matter. The written ballot shall set forth each proposed action and, except in the case of the election of directors, provide an opportunity to vote for or against each proposed action. Approval by written ballot of an action shall only be valid when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting held to authorize such action and, except in the case of the election of directors, the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot. All solicitations for votes by written ballot shall indicate the number of responses needed to meet the quorum requirements; state the percentage of approvals necessary to approve each matter (other than election of directors); and specify the time by which a ballot must be received by the Association in order to be counted. A timely written ballot received by the Association may not be revoked without the consent of the Board of Directors. The results of each action by written ballot shall be certified by the Secretary of the Association and shall be included in the minutes of meetings of members filed in the permanent records of the Association.

Article III
Board of Directors: Number, Powers, Meetings

A. Composition and Selection.

Section 1. Governing Body; Composition. The affairs of the Association shall be governed by a Board of Directors. Except as provided in Section 2 of this Article, the directors must reside in the Community and shall be members or spouses of such members; provided, however, no Person and his or her spouse may serve on the Board at

the same time.

Section 2. **Directors Appointed by Declarant.** The Declarant shall have the right to appoint or remove any member or members of the Board of Directors or any officer or officers of the Association until such time as the first of the following events shall occur: (a) December 31 of the year in which Declarant no longer owns any property for development and/or sale in the Community and no longer has the right to unilaterally annex additional property to the Community; or (b) the surrender by Declarant in writing of the authority to appoint and remove directors and officers of the Association. The Declarant intends to surrender such authority on December 31 of the year in which ninety (90%) percent of the Lots planned by Declarant to be a part of the Community shall have been conveyed to Owners for occupancy as a residence. Each Owner, by acceptance of a deed to or other conveyance of a Lot, vests in Declarant such authority to appoint and remove directors and officers of the Association. The directors appointed by the Declarant need not be Owners or residents in the Community.

Section 3. **Number of Directors.** The Board shall initially consist of three (3) members; provided, however, the Board may, at any time after the meeting at which the Owners elect directors pursuant to Article III, Section 5(a) of these Bylaws, increase the number of Board members to five (5).

Section 4. **Nomination of Directors.** Elected directors may be nominated from the floor and may also be nominated by a nominating or elections committee, if such a committee is established by the Board. All candidates shall have a reasonable opportunity to communicate their qualifications to the members and to solicit votes.

Section 5. **Election and Term of Office.** Owner-elected directors shall be elected and hold office as follows:

(a) After the Declarant's right to appoint directors and officers terminates, the Association shall call a special meeting to be held at which Owners shall elect three (3) directors.

(b) At annual meetings of the membership thereafter, directors shall be elected. All eligible members of the Association shall vote on all directors to be elected, and the candidate(s) receiving the most votes shall be elected; provided, however, the initially elected directors shall serve the remainder of their terms.

The term of one (1) director shall be fixed at one (1) year, the term of one (1) director shall be fixed at two (2) years, and the term of one (1) director shall be fixed at three (3) years. At the expiration of the initial term of office of each respective member of the Board of Directors, a successor shall be elected to serve for a term of two (2) years. The members of the Board of Directors shall hold office until their respective successors shall have been elected by the Association.

Section 6. **Removal of Directors.** At any regular or special meeting of the

Association duly called, any one (1) or more of the members of the Board of Directors may be removed, with or without cause, by a Majority of the Total Association Vote and a successor may then and there be elected to fill the vacancy thus created. A director whose removal has been proposed by the Owners shall be given at least ten (10) days' notice of the calling of the meeting and the purpose thereof and shall be given an opportunity to be heard at the meeting. Additionally, any director who has three (3) consecutive unexcused absences from Board meetings or who is delinquent in the payment of an assessment for more than twenty (20) days may be removed by a Majority vote of the directors at a meeting, a quorum being present. This Section shall not apply to directors appointed by Declarant.

Section 7. Vacancies. Vacancies in the Board of Directors caused by any reason, excluding the removal of a director by vote of the Association, shall be filled by a vote of the Majority of the remaining directors, even though less than a quorum, at any meeting of the Board of Directors. Each Person so selected shall serve the unexpired portion of the term.

B. Meetings.

Section 8. Organizational Meetings. The first meeting of the members of the Board of Directors following each annual meeting of the membership shall be held within ten (10) days thereafter at such time and place as shall be fixed by the Board.

Section 9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a Majority of the directors, but at least four (4) such meetings shall be held during each fiscal year with at least one (1) per quarter. Notice of the regular schedule shall constitute sufficient notice of such meetings.

Section 10. Special Meetings. Special meetings of the Board of Directors shall be held when requested by the President, Vice President or by any two (2) directors. The notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, either directly to the director or to a Person at the director's home or office who would reasonably be expected to communicate such notice promptly to the director; (d) by telegram, charges prepaid; or (e) by commercial delivery service to such director's home or office. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Association. Notices sent by first class mail shall be deposited into a United States mailbox at least four (4) days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph company shall be given at least forty-eight (48) hours before the time set for the meeting.

Section 11. Waiver of Notice. The transactions of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken

at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting shall also be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

Section 12. Quorum of Board of Directors. At all meetings of the Board of Directors, a Majority of the directors shall constitute a quorum for the transaction of business, and the votes of a Majority of the directors present at a meeting at which a quorum is present shall constitute the decision of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors, if any action taken is approved by at least a Majority of the required quorum for that meeting. If any meeting cannot be held because a quorum is not present, a Majority of the directors who are present at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time that the original meeting was called. At such adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice. Notwithstanding any provision to the contrary in the Declaration or these Bylaws, the quorum requirement at the next meeting shall be one-half the quorum requirement applicable to the meeting adjourned for lack of a quorum. This provision shall continue to reduce the quorum by fifty percent (50%) from that required at the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted.

Section 13. Compensation. No director shall receive any compensation from the Association for acting as such unless approved by a Majority of the Total Association Vote. However, any director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties.

Section 14. Open Meetings. All meetings of the Board shall be open to all members, but members other than directors may not participate in any discussion or deliberation unless expressly so authorized by the Board.

Section 15. Executive Session. The Board may adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 16. Action without a Formal Meeting. Any action to be taken at a meeting of the directors, or any action that may be taken at a meeting of the directors, may be taken without a meeting if a consent, in writing, setting forth the action so taken shall be signed by all of the directors and delivered to the Association for filing in the permanent records of the Association.

Section 17. Telephonic Participation. One (1) or more directors may participate in and vote during any regular or special meeting of the Board by telephone conference call or similar communication equipment by means of which all directors participating in the meeting can hear each other at the same time, and those directors so participating shall be present at such meeting. Any such meeting at which a quorum participates shall constitute a regular meeting of the Board.

C. Powers and Duties.

Section 18. Powers. The Board of Directors shall be responsible for the affairs of the Association and shall have all of the powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, the Articles of Incorporation of the Association, or these Bylaws directed to be done and exercised exclusively by the members. In addition to the duties imposed by these Bylaws or by any resolution of the Association that may hereafter be adopted, the Board of Directors shall have the power to and be responsible for the following, in way of explanation, but not limitation:

(a) preparation and adoption of an annual budget in which there shall be established the contribution of each Owner to the common expenses;

(b) making assessments to defray the common expenses, establishing the means and methods of collecting such assessments, and establishing the period of the installment payments of the assessments;

(c) providing for the operation, care, upkeep and maintenance of all areas which are the maintenance responsibility of the Association;

(d) designating, hiring and dismissing the personnel necessary for the operation of the Association and, where appropriate, providing for the compensation of such personnel and for the purchase of equipment, supplies and material to be used by such personnel in the performance of their duties;

(e) collecting the assessments, depositing the proceeds thereof in a bank depository which it shall approve, and using the proceeds to administer the Association;

(f) making and amending use restrictions and rules and regulations;

(g) opening of bank accounts on behalf of the Association and designating the signatories required;

(h) enforcing by legal means the provisions of the Declaration, these Bylaws, and the rules and regulations adopted by it, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association;

(i) obtaining and carrying insurance against casualties and liabilities, as provided in the Declaration, and paying the premium cost thereof;

(j) paying the cost of all services rendered to the Association or its members which are not directly chargeable to Owners;

(k) keeping books with detailed accounts of the receipts and expenditures affecting the Association and its administration, and specifying the maintenance and repair expenses and any other expenses incurred; and

(l) contracting with any Person for the performance of various duties and functions.

The Board shall have the power to enter into common management agreements with trusts, condominiums or other associations. Any and all functions of the Association shall be fully transferable by the Board, in whole or in part, to any other entity.

Section 19. Management Agent. The Board of Directors may employ for the Association a professional management agent or agents at a compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall authorize. The Declarant or an affiliate of the Declarant may be employed as managing agent or Manager. The term of any management agreement shall not exceed one (1) year and shall be subject to termination by either party, without cause and without penalty, upon ninety (90) days' written notice.

Section 20. Fining Procedure. The Board of Directors shall not impose a fine (a late charge shall not constitute a fine) or suspend any Owner's right to utilize the Common Property unless and until the following procedure is followed:

(a) Notice. Written notice shall be delivered to the member by first-class or certified mail sent to the address of the member shown on the Association's records, specifying:

(1) the nature of the violation, the fine or suspension to be imposed and the date, not less than ten (10) days from the date of the notice, that the fine or suspension will take effect;

(2) that the violator may, within ten (10) days from the date of the notice, request a hearing regarding the fine or suspension imposed;

(3) the name, address and telephone numbers of a person to contact to challenge the fine or suspension;

(4) that any statements, evidence, and witnesses may be produced by the violator at the hearing; and

(5) that all rights to have the fine or suspension reconsidered are waived if a hearing is not requested within ten (10) days of the date of the notice.

(b) Hearing. If a hearing is requested, it shall be held before the Board of Directors in executive session, and the violator shall be given a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing. No fine in excess of one hundred fifty dollars ($150.00) per day for each day after the decision that the violation occured shall be imposed by the Board of Directors.

Article IV
Officers

Section 1. Officers. The officers of the Association shall be a President, Vice President, Secretary and Treasurer. Any two (2) or more offices may be held by the same Person, excepting the offices of President and Secretary. The President and Treasurer shall be elected from among the members of the Board of Directors.

Section 2. Election, Term of Office and Vacancies. Except during the period in which the Declarant has the right to appoint the officers of the Association under Article III, Section 2, of these Bylaws, the officers of the Association shall be elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the members. A vacancy in any office arising because of death, resignation, removal, or otherwise may be filled by the Board of Directors for the unexpired portion of the term.

Section 3. Removal. Any officer may be removed by the Board of Directors whenever, in its judgment, the best interests of the Association will be served thereby.

Section 4. President. The President shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. The President shall have all the general powers and duties which are incident to the office of the president of a corporation organized under the North Carolina Nonprofit Corporation Act. The President may prepare, execute, certify and record amendments to the Declaration on behalf of the Association; provided such amendment was adopted in accordance with the Declaration.

Section 5. Vice President. The Vice President shall act in the President's absence and shall have all powers, duties and responsibilities provided for the President when so acting.

Section 6. Secretary. The Secretary shall keep the minutes of all meetings of the Association and of the Board of Directors and shall have charge of such books and papers as the Board of Directors may direct and shall, in general, perform all duties incident to the office of the secretary of a corporation organized in accordance with North Carolina law.

Section 7. Treasurer. The Treasurer shall have the responsibility for the Association's funds and securities and shall be responsible for keeping full and accurate financial records and books of account showing all receipts and disbursements, for preparing all required financial statements and tax returns, and for the deposit of all monies and other valuable effects in the name of the Association or the managing agent in such depositories as may from time to time be designated by the Board of Directors.

Section 8. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Article V
Committees

Committees to perform such tasks and to serve for such periods as may be designated by the Board are hereby authorized. Each committee shall be composed and shall operate in accordance with the terms of the resolution of the Board of Directors designating the committee or with rules adopted by the Board of Directors.

Article VI
Miscellaneous

Section 1. Fiscal Year. The fiscal year of the Association shall be determined by resolution of the Board. In the absence of such a resolution, the fiscal year shall be the calendar year.

Section 2. Parliamentary Rules. Roberts Rules of Order (current edition) shall govern the conduct of all Association proceedings when not in conflict with North Carolina law, the Articles of Incorporation of the Association, the Declaration, these Bylaws, or a ruling made by the Person presiding over the proceeding.

Section 3. Conflicts. If there are conflicts or inconsistencies between the provisions of North Carolina law, the Articles of Incorporation of the Association, the Declaration, and these Bylaws, the provisions of North Carolina law, the Declaration, the Articles of Incorporation of the Association, and the Bylaws (in that order) shall prevail.

Section 4. Amendment. The provisions of the Declaration applicable to amendment of that instrument shall apply to any amendment of these Bylaws.

EXHIBIT "E"

Stormwater Maintenance Manual

Stormwater Operations & Maintenance Manual and Budget for

River Run Subdivision Phase 1 Cluster Unit Development

Owner:

John Wieland Homes and Neighborhoods of the Carolina's Inc.
101-A Quails Field Court
Morrisville, NC 27560
(919) 481-3309

Prepared by: Thompson & Associates, P.A.
153 Holly Springs Road
Holly Springs, NC 27540
(910) 577-0808

Date: November 3, 2004

This manual establishes procedures for maintenance and operation of the Stormwater Control Measures for RIVER RUN SUBDIVISION PHASE 1 in accordance with the City of Raleigh rules and regulations as set forth in the City of Raleigh Stormwater Management Design Manual and Raleigh City Code Part 10 Chapter 9.

The maximum amount of land that can be added to the Community under this declaration is 175 acres.
The maximum amount of dwelling units that can be contained in the Community or transferred to portions of the Community without rezoning the Community to another zoning classification is 700 units.
The maximum number of dwelling units per acre that can be contained in the Community or transferred to portions of the community without rezoning the Community to another zoning classification is 4 units/acre.

1. INTRODUCTION

River Run Phase 1 has a total acreage of 26.72 acres. Phase 1 will contain 60 dwelling units (lot #'s 1-50, and 52-61). Lot 51 will be the recreational lot and lot 62 is open space. Lot #'s 177* & 178* are part of phase 1, but not part of the cluster development. They are considered unbuildable lots.

The development of River Run Subdivision Phase 1 requires multiple stormwater release points with different stormwater control measures. Stormwater control measures are all the devices that catch, divert, detain, distribute or slow down stormwater runoff from a site (detention pipes w/ restrictor plate, dissipater and level spreader). Each of the seven stormwater systems for Phase 1 contains stormwater control measures:

The curb inlets, yard inlets and stormwater pipes collect the runoff. The run-off will be released at a point downstream. A rip rap dissipater at the outlet of the pipe slows the water down before entering the level spreader which distributes the runoff evenly into the Neuse River Buffer at a non-erosive. But some of these storm drainage systems are not only designed to remove stromwater quickly from the lots and roads, but also to detain stormwater (oversized pipes), and to control the maximum allowable stromwater release rate (restrictor plates) to offsite properties and the Neuse River and also distribute concentrated flow evenly (level spreaders). The entire post development runoff from the property may not exceed the pre development level.

For Phase 1 runoff will be restricted at the following three release points:

Stormwater runoff (e.g. precipitation) from the recreational lot and lots 32-34 and 52-61 will be collected in the stormwater system (Pipes C thru N) ending on the recreational lot 51. The surface water runs underground into the detention device ((2) 54" corrugated metal pipes in a 25.50' private drainage easement). Each outlet has a steel plate with a 15.0" hole to ensure the maximum allowable release rate from the property. Estimated draw down time is 0.05 hours per pipe. The rip rap dissipater located immediately after the pipe outlet slows the water down before it enters the level spreader. The level spreader fills up with water, overflows and distributes the water evenly before leaving the site.

The same method applies for the second restricted stormwater system. Stormwater runoff from lots 1 thru 12 and lots 26 & 27 will be collected in the stormwater system (Pipes D1 thru L1 and A2) ending between lots 28 & 29. Surface water runs underground into the detention device ((2) 54" corrugated metal pipes in a 25.50' private drainage easement). Each one of the outlets has a steel plate with a 6.00" hole to ensure the maximum allowable release rate from the property. Estimated draw down time is 0.21 hours per pipe. The rip rap dissipater located immediately after the pipe outlet slows the water down before it enters the level spreader. The level spreader fills up with water, overflows and distributes the water evenly before leaving the site.

For the third restricted stormwater system stormwater runoff from lots 13 thru 19 will be collected in the stormwater system (Pipes M1 thru S1) ending between lots 19 & 20. Surface water runs underground into the detention device ((2) 48" corrugated metal pipes in a 25.00' private drainage easement). Each one of the outlets has a steel plate with a 7.50" hole to ensure the maximum allowable release rate from the property. Estimated draw down time is 0.24 hours per pipe. The rip rap dissipater located immediately after the pipe outlet slows the water down before it enters the level spreader. The level

spreader fills up with water, overflows and distributes the water evenly before leaving the site.
The following are the release points where flow will not be restricted:

- Stormwater system with pipes T thru C1. Outlet is located in a 20' private storm drainage easement on the south side of lot 50.
- Stormwater system with pipes U1 thru Z1. Outlet is located a 20' private storm drainage easement on the north-west side of lot 49.
- Stormwater system with pies B2 thru I2. Outlet is located a 20' private storm drainage easement on the north-east side of lot 46.

Again, the rip rap dissipater at the end of the outlet pipes slows the water down before it enters the level spreader. The level spreader fills up with water, overflows and distributes the water evenly before entering the 50' Neuse River Buffer and leaving the site.
Water from lots 20 thru 29, 36 thru 37, and 50 sheet flows to the Neuse River Tributary that crosses the site.

For information on the entire stormwater system, including locations, depths and sizes of curb inlets and stormwater pipes please see the approved construction plans for River Run Subdivision Phase 1:

Sheet 2: Erosion Control & Storm Drainage Plan – River Run Subdivision Phase 1, prepared by Thompson & Associates, P.A., dated 09/14/2004 (Revised – Lots only) and approved by Engineer on 10/01/2004.
Sheet 3: Erosion Control & Storm Drainage Schedules – River Run Subdivision Phase 1, prepared by Thompson & Associates, P.A., dated 09/14//2004 (Revised – Lots only) and approved by Engineer on 10/01/2004.
For information on the managed (private and public easements) and permanently protected undisturbed open space areas please see the approved construction plans for River Run Subdivision Phase 1:
Sheet N-1: Undisturbed Open Space Nitrogen Loading Map – River Run Subdivision, prepared by Thompson & Associates, P.A., dated 09/14/2004 (Revised – Lots only) and approved by Engineer on 10/01/2004.

2. LEVEL SPREADERS

2.1 Location of Level Spreaders

L.S.#1: East side of lot 51 (recreational lot) in a 20' private drainage easement, downstream from the outlet of (2) 54" corrugated metal pipes and their dissipater.

L.S.#2: Southeast side of lot 50 in a 20' private drainage easement along the 50' Neuse River Buffer, downstream from the outlet of pipe C1, a 18" reinforced concrete pipe and its dissipater.

L.S.#3: Along the back side of lots 21 and 37 in a 20' private drainage easement, downstream from the outlet of (2) 54" corrugated metal pipes and their dissipater.

L.S.#4: Along the back side of lots 19 and 20 in a 20' private drainage easement, downstream from the outlet of (2) 48" corrugated metal pies and their dissipater.

L.S.#5: Along the north-western property line of lot 49 in a 20' private drainage easement, downstream from the outlet of pipe K2, a 15" reinforced concrete pipe and its dissipater.

L.S.#6: Along the north-eastern property line of lot 46 in a 20' private drainage easement, downstream from the outlet of pipe I1, a 15" reinforced concrete pipe and its dissipater.

2.2 Maintenance of Level Spreaders

2.2.1 Grass Type

Moisture tolerant grass seeds shall be applied at a rate of 10 pounds per acre. Types could be for example:

- Mixture of tall type fescue (e.g. chewing red fescue)
- Japanese millet
- Switch grass
- Rice

2.2.2 Vegetation

The drainage areas have a ground cover of water tolerant and erosion control resistant grass, which if properly maintained will prevent erosion of the slope and provide an easy surface for inspection. Grass shall be fertilized every October and April. Level Spreader shall be maintained to keep grass cover dense and vigorous. Fertilizer (10-10-10) should be applied at a minimum rate of 1,000 pounds per acre.

2.2.3 Mowing

Grass mowing, and removing of weed vegetation will be necessary for proper maintenance of the area. Swale grasses should never be mowed close to the ground. Grass heights in the 4 to 6 inch range are recommended. Acceptable methods include the use of weed whips or power brush cutters and mowers.

2.2.4 Re-Seeding

Periodic re-seeding of some grass areas may be required to establish good ground cover on areas where seed did not take or has been destroyed. Level Spreader areas shall be tilled before grass cover is established. Before seeding, fertilizer (10-10-10) should be applied at a minimum rate of 1,000 pounds per acre. The seed shall be evenly sown at a rate of three pounds per 10 pounds per acre. The seed should be covered with soil to the depth of approximately ¼". Immediately following the planting, the areas shall be mulched with straw.

2.2.5 Trees and Shrubs

There are no trees and shrubs allowed within the Level Spreader areas and their drainage easements. All shrubs and trees shall be removed from private drainage easements.

2.2.6 Erosion

Erosion occurs when the water concentrates causing failure of the vegetation or when vegetation dies and sets up the environment for rill erosion and eventually gullies from the storm water runoff. These areas shall be inspected especially after the 1 inch rainfall or more over a 24 hour time period. Proper care of vegetative areas that develop erosion is required to prevent more serious damage to the level spreaders. Rills and gullies shall be filled with suitable soil compacted and then seeded. Methods described earlier on vegetation shall be used to properly establish the grass surface. Where eroded areas are detected, the cause of the erosion shall be addressed to prevent a continued maintenance problem. Frequently, problems result from the concentration of runoff to one point of the level spreader areas instead of a uniform distribution of runoff. This can be corrected by reshaping, to more evenly distribute the runoff to areas not experiencing erosion problems. Spreaders should be maintained to achieve sheet flow. Level Spreader MUST BE LEVEL (0% Slope).

2.2.7 Trash and Debris

Trash acts as a barrier to storm water infiltration and attracts unwanted pests. The level spreader areas shall be kept clear of debris such as leaves, stones, large branches, loose bottles, cans, food containers and other forms of rubbish. Debris immediately up slope of the Level Spreader shall be cleaned to prevent long-term clogging. Also, debris can also be gathered immediately down slope of the level spreader causing localized damming, forcing the Level Spreader to have concentrated flow. The areas should be inspected after a rainfall event of 1" or more over a 24 hour time period and cleared of debris immediately, but no less than four times a year.

2.2.8 Sedimentation and Dredging

Since the permanent level spreaders will be constructed after the entire site is stabilized with a stable vegetative ground cover, there will be little to none sedimentation. However, the level spreaders should be inspected after a rainfall event of 1" or more over a 24 hour time period and any sediment accumulation shall be removed to maintain original contours. The removed material shall be hauled offsite to a suitable landfill site or mounded somewhere on site and stabilized with a ground cover sufficient to restrain erosion.

2.2.9 Maintenance Schedule

- After site is stabilized, inspections should be made quarterly. Often simple visual inspection is adequate.
- Area to be inspected after a rainfall event of 1" or more over a 24 hour time period.
- At least annually, deposited sediment shall be removed to maintain original contours and grading. (0% slope)
- Mowing will be necessary when grass height exceeds 6 inches.

2.3 Operation

2.3.1 Record Keeping

Operation of the level spreaders shall include recording of the following:

- Annual Inspection Report: A collection of written inspection reports shall be kept on record. Inspection shall be conducted annually. Copies shall be provided to the City of Raleigh Stormwater Management Department.
- Observations: All observations shall be recorded. Where periodic inspections are performed following the 1" rainfall event, these inspections shall be logged into the periodic inspection, operations and maintenance form.
- Maintenance: Written records of maintenance and/or repair shall be recorded on the periodic inspection, operation and maintenance form.

2.3.2 Other Operational Procedures

The owner shall maintain a complete and up-to-date set of plans (as-built drawings) and all changes made to the level spreaders over time shall be recorded on the as-builts.

3. CORRUGATED METAL PIPES AS DETENTION DEVICES & REINFORCED CONCRETE PIPES AS OUTLET DEVICES

3.1 Location of Pipes

- (2) 54" CMP: East side of Lot 51 (recreational lot) in a 25.50' private drainage easement. Pipes inlet out off a yard inlet, run parallel underground inside the 25.50' private drainage easement. (Maximum depth of pipe is 5.0 feet.). After ~56 linear feet the pipe outlets daylight. A steel plate with one 15" hole at each pipe outlet ensures the maximum allowable release rate. The plate can be removed for easy access during inspections and flush outs. Located immediately after the two corrugated metal pipes is dissipater #3. Dissipater #3 consists of Class 'B' Stone and measures 12'x 12'x18". (See also 2.2.3 for maintenance of dissipater).

- (2) 54" CMP: Between Lot 28 & 29, along the lot line, in a 25.50' private drainage easement. Pipes inlet out off a junction box, run parallel underground inside the 25.50' private drainage easement. (Maximum depth of pipes is 7 feet). After ~83 linear feet the pipe outlets daylight. A steel plate with one 6.0" hole at each outlet ensures maximum allowable release rate. The plate can be removed for easy access during inspections and flush outs. Located immediately after the (2) 54" corrugated metal pipes is dissipater #5. Dissipater #5 consists of Class 'B' Stone and measures 12'x12'x18". (See also 2.2.3 for maintenance of dissipater).

- (2) 48" CMP: Between Lot 19 & 20, along the lot line, in a 25' private drainage easement. Pipes inlet out off a junction box, run parallel underground inside the 25' private drainage easement. (Maximum depth of pipes is 2.50 feet). After ~60 linear feet the pipe outlets daylight. A steel plate with one 7.50" hole at each outlet ensures maximum allowable release rate. The plate can be removed for easy access during inspections and flush outs. Located immediately after the (2) 48" corrugated metal pipes is dissipater #6. Dissipater #6 consists of Class 'B' Stone and measures 11'x8'x18". (See also 2.2.3 for maintenance of dissipater).

- Pipe C1: 18" reinforced concrete pipe, approximately 24 feet in length. Outlet of pipe is located on the south side of lot 50 in a 20' private drainage easement along the 50' Neuse River Buffer.

- Pipe K2: 15" reinforced concrete pipe, approximately 12 feet in length. Outlet of pipe is located between lot 48 and 49 perpendicular to the Neuse River Buffer in a 20' private drainage easement.

- Pipe I2: 15" reinforced concrete pipe, approximately 40 feet in length. Outlet of pipe is located along the north-eastern property line of lot 46 in a 20' private drainage easement.

3.2 Maintenance of Detention Pipes

3.2.1 Trash and Debris

Trash acts as a barrier to stormwater release and attracts unwanted pests. The pipes shall be kept clear of debris such as leaves, stones, large branches, loose bottles, cans, food containers and other forms of rubbish. Also, debris can also be gathered immediately down slope of the pipes causing localized damming. The pipes should be inspected after a 1" or more rainfall event over a 24 hour time period and cleared of debris immediately, but no less than four times a year.

3.2.2 Sedimentation and Dredging

Since the detention pipes will be constructed after the entire site is stabilized with a stable vegetative ground cover, there will be little to no sedimentation. However, the pipes should be inspected after a 1" or more rainfall event over a 24 hour time period and any sediment accumulation shall be removed to maintain proper function. The steel plates at the pipe outlets need to be removed manually to gain access during those inspections. And any left over sedimentation that was not flushed out must be swept from the pipe. The removed material shall be hauled offsite to a suitable landfill site or mounded somewhere on site and stabilized with a ground cover sufficient to restrain erosion. The yard inlets can be lifted manually in order to flush out the entire pipe.

3.2.3 Energy Dissipater

Inspect riprap outlet structures after heavy rains and a 1" or more rainfall event over a 24 hour time period to see if any erosion around or below the riprap has taken place or if stones have been dislodged. Immediately make all needed repairs to prevent further damage. This should include placing the riprap back, adding new riprap to achieve a depth of 12" and 18" and replacing of the filter cloth (if any) underneath the riprap if it is torn. In general, riprap needs to be replenished once a year.

3.2.4 Maintenance Schedule

- After area is stabilized, inspections should be made quarterly. Often simple visual inspection is adequate.
- Area to be inspected after the 1" or more storm event over a 24 hour time period.
- At least annually pipes should be flushed out.
- At least annually pipes should be checked for cracks and corrosion.

3.3 Operation

3.3.1 Record Keeping

Operation of the detention pipes shall include recording of the following:

- Annual Inspection Report: A collection of written inspection reports shall be kept on record. Inspection shall be conducted annually. Copies shall be provided to the City of Raleigh Stormwater Management Department.
- Observations: All observations shall be recorded. Where periodic inspections are performed following the 1" rainfall event, these inspections shall be logged into the periodic inspection, operations and maintenance form.
- Maintenance: Written records of maintenance and/or repair shall be recorded on the periodic inspection, operation and maintenance form.

3.3.2 Other Operational Procedures

The owner shall maintain a complete and up-to-date set of plans (as-built drawings) and all changes made to the level spreaders over time shall be recorded on the as-builts.

- After area is stabilized, inspections should be made quarterly. Often simple visual inspection is adequate.
- Area to be inspected after 1" or more storm event over a 24 hour time period.
- At least annually pipes should be flushed out.

5. MAJOR REPAIR

- Replacement of piping.
- Any repair work costing $16,473 or more (1/3 initial construction cost).

6. REPORTING AND ANNUAL INSPECTION

As per Raleigh City Code section 10-9028 an annual inspection of the stormwater control measures (level spreader, pipes and dissipaters) is required and must be performed by a qualified registered Professional Engineer, Professional and/or Surveyor, or Landscape Architect. The report must be filed with City of Raleigh Central Engineering Department. Any deficiencies noted in the inspections report shall be corrected.

7. BUDGET

Budget items should include:

(1) Mowing ($1,000/year)
(2) Trash removal ($500/year)
(3) Fertilizing and reseeding ($600/year)
(4) Annual inspection report ($2,000/year)
(5) Premiums for liability insurance of not less than one million dollars ($350/year)
(6) Sediment removal from spreaders and pipes (5 x $750 = $3,750/year)
(7) Payment to City of Raleigh ($5,628.94/year)**
(8) Replenishment of Rip-rap (5 outlets x $250 = $1,250/year
(9) Total: $ 15,078.94/year

* Insurance amount to be confirmed by the home owners association
** Year 1 thru 5 amount.

Inspection, Operations & Maintenance Form
For
Level Spreaders

Inspector:
Date:
Time:
Weather Conditions:
Location of level spreader:

Grass Cover:

Type of Observation: (e.g. sediment, voided areas, rills, trash, puddles,…)

Action: (e.g. repair, monitor, investigate)

General Comments:

Inspection, Operations & Maintenance Form
For
Detention Pipes & Dissipaters

Inspector:
Date:
Time:
Weather Conditions:
Location of pipe:

Pipes:

Type of Observation: (e.g. sediment, back up…)

Action: (e.g. repair, monitor, investigate)

General Comments:

"Exhibit D"

Cost Estimate - Stormwater BMP's
River Run Subdivision Phase 1

- Level Spreaders 1 thru 6: 6 @ $600 each = $ 3,600. (Estimated material and equipment time ~ $ 2,160.00. Estimated labor cost ~ $ 1,440.00. Total = $ 3,600.00).

- Corrugated metal pipes for retention/detention system:
  System 1: 2 x 56 l.f. of 54" CMP @ $ 110.00 per l.f. = $ 12,320.00 (Estimated material and equipment time ~ $ 6,160.00. Estimated labor cost ~$ 6,160.00. Total = $ 12,320.00).
  System 2: 2 x 83 l.f. of 54" CMP @ $ 110.00 per l.f. = $ 18,260.00 (Estimated material and equipment time ~ $ 9,130.00. Estimated labor cost ~ $ 9,130.00. Total = $ 18,260.00).
  System 3: 2 x 60 l.f. of 48" CMP @ $ 102.00 per l.f. = $ 12,240.00 (Estimated material and equipment time ~ $ 6,120.00. Estimated labor cost ~ $ 6,120.00. Total = $ 12,240.00).

- Bulkhead reducers at outlet of CMP's: 6 @ $500 each = $ 3,000. (Estimated material and equipment time ~ $ 1,500.00. Estimated labor cost ~ $ 1,500.00. Total = $ 3,000).

Based upon the above estimate, the installation and replacement cost for the stormwater BMP's associated with River Run Subdivision Phase 1 will be approximately $ 49,420.00. Of this total it is estimated the material and equipment time cost is approximately $ 25,070.00 and the estimated cost for labor is approximately $ 24,350.00.

Payment Schedule for Replacement Account For River Run Subdivision Phase 1

Estimated total cost of BMP's for River Run Subdivision Phase 1: $ 49,420.00

1. Prior to plat recordation or issuance of construction permits, developer shall pay an initial fee of 15% of the initial construction cost:
   $ 49,420 x (0.15) = $ 7,413.00

2. Two-thirds (2/3) of the total amount of the budget shall be deposited into the escrow account within the first 5 years:
   $ 49,420 x (0.85) x (0.67) = $ 28,144.69 per 5 years
   $ 28,144.69/5 = $ 5,628.94 per year

3. Within 10 years following the initial construction, the full amount shall be deposited into the escrow account:
   $ 49,420 x (0.85) x (0.33) = $ 13,862.31 per 5 years
   $ 13,862.31/5 = $ 2,772.46 per year

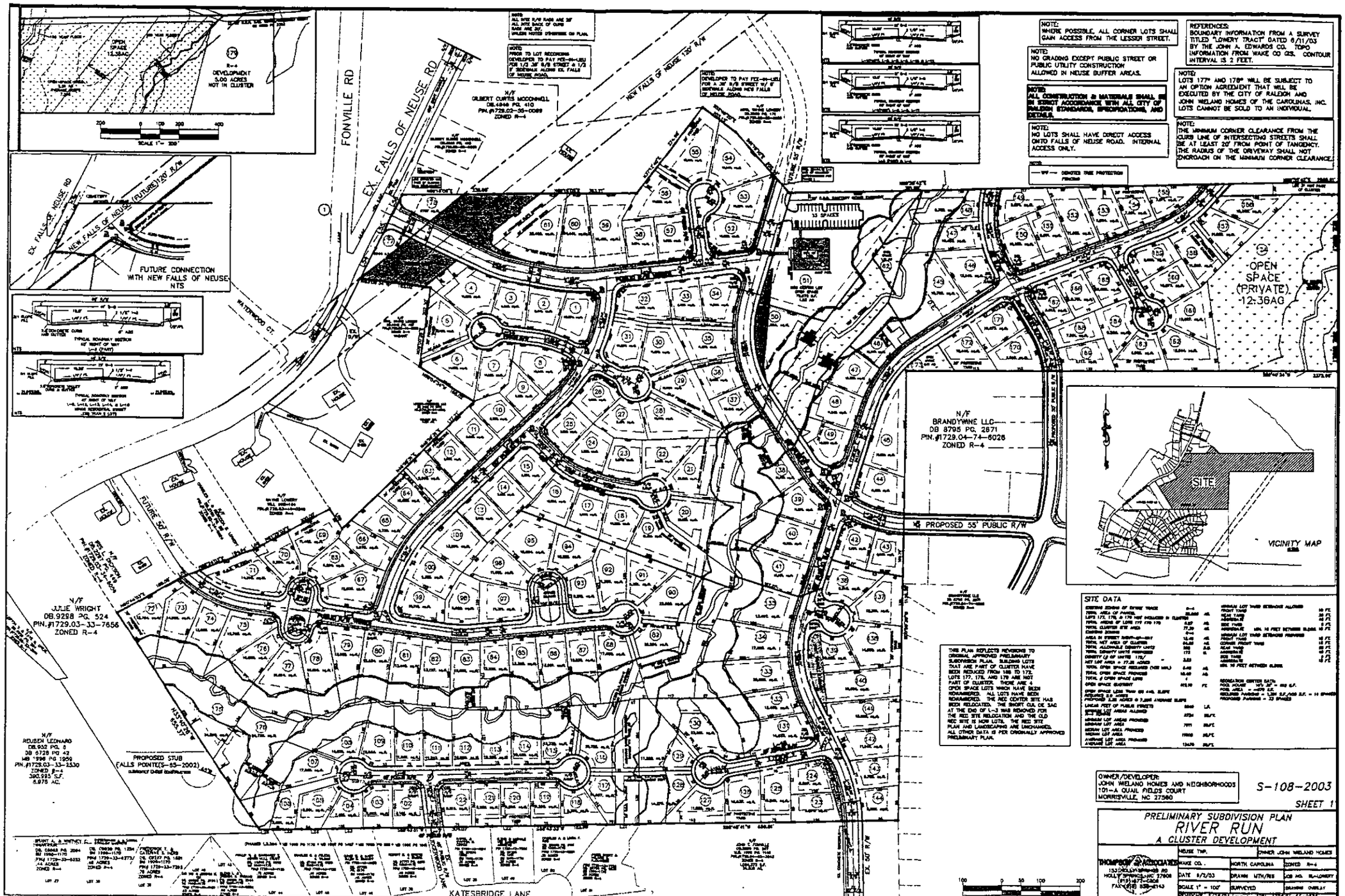
Payment Schedule over 10 Years for River Run Phase 1

Year 0: Initial Payment	:	$ 7,413.00
Year 1	:	$ 5,628.94
Year 2	:	$ 5,628.94
Year 3	:	$ 5,628.94
Year 4	:	$ 5,628.94
Year 5	:	$ 5,628.94
Year 6	:	$ 2,772.46
Year 7	:	$ 2,772.46
Year 8	:	$ 2,772.46
Year 9	:	$ 2,772.46
Year 10	:	$ 2,772.46
Total after 10 Years	:	$ 49,420.00

EXHIBIT "F"

Preliminary Subdivision Plan River Run a Cluster Development

BK011117PG02587



BOOK:011117 PAGE:02500 - 02588

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

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

North Carolina – Wake County

The foregoing certificate___ of maria mollise

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

Laura M. Riddick, Register of Deeds
By: Janet Morgan
Assistant/Deputy Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

This Document
_____ New Time Stamp
89 # of Pages

22.004–7/11/03