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WAKE COUNTY, NC 458
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
06/21/2005 AT 14:51:19

BOOK:011423 PAGE:01787 - 01823

PREPARED BY AND HOLD
CLIFTON & SINGER, LLP, BOX 43

MASTER DECLARATION OF COVENANTS

AND RESTRICTIONS FOR

BUCKHAVEN SUBDIVISION

THIS DECLARATION, made this 20 day of June, 2005, by Bill Clark Homes of Raleigh, LLC, a North Carolina limited liability company, (hereinafter referred to as "Declarant"),

WITNESSETH

WHEREAS, Declarant is the owner of the property described on Exhibit "A" to this Declaration; and

WHEREAS, Declarant has caused or will cause to be incorporated under the laws of the State of North Carolina, a non-profit corporation, Buckhaven Homeowners Association, Inc., for the purpose of exercising the actions aforesaid, and which arc hereinafter more fully set forth;

NOW, THEREFORE, Declarant declares that the real property described in Article II, and such additions thereto as may hereinafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, charges, assessments ("Assessments"), affirmative obligations, and liens (all hereinafter sometimes referred to as "the Covenants" or the "Covenants and Restrictions") hereinafter set forth.

ARTICLE I
DEFINITIONS

The following words and terms when used in this Declaration or any supplemental declaration (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Association" shall mean and refer to Buckhaven Homeowners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

(b) "Buckhaven PUD" shall mean and refer to the lands in Fuquay Varina, North Carolina, which are shown as a part of Buckhaven PUD on the Declarant's Master Plan as revised from time to time.

(c) "Declarant" shall mean Bill Clark Homes of Raleigh, LLC, a North Carolina limited liability company, its successors and assigns.

(d) "Developer" shall mean, Bill Clark Homes of Raleigh, LLC, a North Carolina limited liability company, its successors and assigns.

(e) "Affiliate" shall mean any corporation owning more than fifty percent (50%) of the voting stock of the Declarant, or which is owned or controlled by the Declarant or the Developer, and any partnership

or joint venture in which the Declarant or a Developer has fifty percent (50%) or more of the cash flow from such partnership or joint venture.

(f) The "Properties" shall mean and refer to the Existing property described in Article II hereof, and additions thereto, as are subjected to this Declaration or any Supplementary Declaration under the provisions of Article II hereof.

(g) "Owner" shall mean and refer to the Owner as shown by the Real Estate Records in the Register of Deeds Office of Wake County, North Carolina, whether it be one (1) or more persons, firms, Associations, corporations, or other legal entities, of fee simple title to any Residential Lot situated upon the Properties but, notwithstanding any applicable theory of a deed of trust, shall not mean or refer to the mortgagee or holder of a deed of trust, its successors or assigns, unless and pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or Tenant of an Owner. In the event that there is recorded in the Office of the Register of Deeds of Wake County, North Carolina, a long-term contract of sale covering any lot or Parcel of land within the Properties, the Owner of such Lot or Parcel of land shall be the Purchaser under said contract and not the fee simple titleholder. A long-term contract of sale shall be one where the Purchaser is required to make payments for the Property for a period extending beyond nine (9) months from the date of the contract and where the Purchaser does not receive title to the Property until all such payments are made, although the Purchaser is given the use of said Property.

(h) "Tenant" shall mean and refer to the lessee under a written agreement for the rent and hire of a Residential Unit in Buckhaven PUD.

(i) "Resident" shall mean and refer to each Owner and Tenant of a Residential Unit who resides in Buckhaven PUD.

(j) "Member" shall mean and refer to all those Owners and Tenants who are Members of the Association as defined in Section I of Article III.

(k) "Master Plan" shall mean and refer to the drawing, which represents the conceptual plan for the future development of Buckhaven PUD. Since the concept of the future development of Buckhaven PUD is subject to continuing revision and change by the Declarant, present and future references to the "Master Plan" shall be references to the latest revision thereof.

(l) "Common Properties" shall mean and refer to those tracts of land designated as "Common Open Space" - "C.O.S." on recorded maps of the Properties with all improvements thereon, which are deeded or leased to the Association. The term "Common Properties" shall also include any personal property acquired or leased by the Association if said property is designated a "Common Property." All Common Properties are to be devoted to and intended for the common use and enjoyment of the Members of the Association, their guests, and visiting Members of the general public (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association.

(m) "Board of Directors" shall mean those persons elected or appointed to act collectively as the directors of the Association.

(n) "Bylaws" shall mean the bylaws of the Association as they are now or hereafter exist.

(o) "Institutional Lender" shall mean any bank, insurance company, trust company, real estate investment trust, savings and loan Association, pension fund, or other first mortgage lender holding a first mortgage or deed of trust on any of the Property.

(p) "Residential Lot" shall mean all residential lots or units approved from time to time by the City of Fuquay Varina to be included within Buckhaven PUD for use as a site for a single-family detached dwelling or single-family patio home (or zero lot line).

(q) "Residential Units". The Residential Lots may herein be referred to from time to time as "Residential Units".

(r) "Exempt Property" shall mean and refer to the following classifications of property within the Properties, which property shall be exempt only from the payment of dues.

i) All land designated on the Master Plan for intended use, or by actual use if applicable, for indoor and outdoor recreational and community facilities owned and operated by the Declarant, the Declarant's Affiliates, the Developer, the Developer's Affiliates, and the Association,

ii) All lands and any improvements thereon designated in any way as Common Properties.

iii) All lands designated on the Master Plan or on recorded plats as Dedicated Open Space, Common Open Space, Public Green ways, Green ways, Public Roads, and Open Space and any improvements thereon which are defined in subparagraph (i) of this paragraph (r);

iv) Property which is used for the maintenance, operation and service of facilities within Common Properties and Restricted Common Properties and facilities within Open Space Areas which are defined in subparagraph (i) of this paragraph (r);

v) Property which is used for the maintenance, operation, and service of utilities within the Properties.

ARTICLE II
EXISTING PROPERTY AND ADDITIONS

Section 1. Existing Property. The real property which is and shall be held, offered, sold, conveyed, given, donated, leased, occupied, and used subject to this Declaration, is described as follows:

All that tract or parcel of land, situate, lying and being in Wake County, North Carolina, which is more particularly described in Exhibit 'A-1' attached hereto and by specific reference made a part hereof.

All of the real property herein above described shall sometimes be referred to herein as the "Existing Property". The Declarant intends to develop the Existing Property in accordance with a Master Plan prepared in its Planning Department and placed on display in its Reception and Sales Office, and other areas. The Declarant reserves the right to review and modify the Master Plan at its sole option from time to time based upon its continuing research and design program. The Master Plan shall not bind the Declarant, its successors and assigns, to adhere to the Master Plan in the development of the land shown thereon. Subject to its right to modify the Master Plan as stated herein, the Declarant shall convey to the Association certain properties designated on the Master Plan as properties which may be transferred to the Association, as, in the reasonable exercise of its discretion, it so chooses without regard to the relative location of such portions or sections within the overall plan. Once conveyed to the Association, these properties shall become Common Properties. The Declarant shall not be required to follow any predetermined sequence or order of improvements and development; and, it may bring within the plan of these Covenants additional lands, and develop the same before completing the development of the Existing Property. Other than as stated in this paragraph, the Declarant shall have full power to add to, subtract from, or make changes in the Master Plan regardless of the fact that such actions may alter the relative maximum potential voting strength of the various types of Membership of the Association.

Section 2. Additions to Existing Property. Additional lands may become subject to, but not limited to, this Declaration in the following manner:

(a) Additions. During the period of development, which shall by definition extend from date of this Declaration to December 31, 2012, the Declarant, its successors and assigns shall have the right, without further consent of the Association, by Supplementary Declaration, to bring within the plan and operation of this Declaration additional property. Such property may be subjected to this Declaration as one parcel or as several smaller parcels at different times.

The additions authorized under this and the succeeding subsection shall be made by recording a Supplementary Declaration of Covenants and Restrictions with respect to the additional property, which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property. The Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient, in the sole judgment of the Declarant, to reflect the different character, if any, of the added properties and as are not inconsistent with the plan of this Declaration, but such modifications shall have no effect upon the Property described in Section 1, Article II above, or upon any other additions to the Properties.

(b) Other Additions. Upon approval in writing of the Association pursuant to a simple majority of the vote of those present at a duly called meeting, the Owner of any property who desires to add such property to the plan and operation of this Declaration and to subject it to the jurisdiction

of the Association, shall record a Supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the operation and effect of the Covenants and Restrictions of this Declaration to such additional property.

The Supplementary Declaration may contain such complementary additions and/or modifications of the Covenants and Restrictions contained in this Declaration as may be necessary or convenient which are not inconsistent with the plan or this Declaration, but such modifications shall have no effect upon the Property described in Section 1, Article II above, or upon any other additions to the Properties.

(c) Merger. Upon merger or consolidation of the Association with another Association, as provided for in the By-Laws of the Association, its property rights and obligations may, by operation of law, be transferred to another surviving or consolidated Association, or in the alternative, the properties, rights and obligations of another Association may, by operation of law, be added to the properties of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated Association may administer the Existing Property, together with the Covenants and Restrictions established upon any other properties, as one plan. No merger or consolidation shall affect any revocation, within the Existing Property, including, without limitation, the maximum limits on Assessments and dues of the Association, or any other matter substantially affecting the interests of Members of the Association, or Institutional Lender.

(d) Additional lands which become subject to this Declaration under the provisions of this Section 2 may in the future be referred to as a part of Buckhaven PUD. Also, the name Buckhaven PUD may be used by the Declarant to refer to other nearby properties not subject to this Declaration.

ARTICLE III
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. The Declarant (so long as it owns a Residential Unit within Buckhaven PUD) shall be a Member of the Association, and any creditor of an Owner of a Residential Unit who acquires title to the Properties or any portion thereof pursuant to foreclosure shall be a Member of the Association. Every Owner of a Residential Unit shall be a Member of the Association. The Association may issue to each Member a membership card, which shall expire upon sale by such Owner of his property in Buckhaven PUD. Owners who are exempt from the payment of Assessments shall not be Members of the Association unless otherwise specified herein.

Section 2. Voting Rights. The Association shall have two (2) types of regular voting membership.

TYPE "A": Type "A" Members shall be all Owners of Residential Units, excluding Declarant, its successors and assigns, of Property situated within the bounds of the property described on Exhibit "A" and each Type "A" Member shall be entitled to one (1) vote for each Residential Unit Owned by such Member.

TYPE "B": Type "B" Members shall be the Declarant (Developer) and shall be entitled to Twenty (20) votes for each Residential Unit owned by it.

Section 3. Governance. The Association shall be governed by a Board of Directors consisting of three (3) Members.

Section 4. Election of The Board of Directors. (a) The Type "A" Members together with the Type "B" Member Developer of the Property described on Exhibit "A" shall elect three (3) Directors;

(a) The method of electing directors shall be as determined by the Developer of the Property described on Exhibit "A"; provided, however, when any property entitling the Owner to membership in the Association is owned of record in the name of two (2) or more persons or entities, whether fiduciaries, joint Tenants, Tenants in Common, Tenants partnership or in any other manner of joint or common ownership, or if two (2) or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, all such Owners shall be Members of the Association. The vote for such Property shall be exercised as the Owners thereof determine, but in no event shall more than the number of votes specified in Section 2 of this Article III be cast for any Property, and no fractional vote shall be cast.

(b) Notwithstanding any provision in this Section 4, or in Section 8 of this Article III to the contrary, the right of the "Type B" Member to control the Board of Directors shall terminate not later than five (5) years after the conveyance of the first Residential Lot.

Section 5. Quorum Required for Any Action Authorized at Regular or Special Meetings of the Association. The quorum required for any action which is subject to a vote of the Members at an open meeting of the Association shall be as provided in Article III, Section 4 of the By-Laws.

Section 6. Proxies. All Members of the Association may vote and transact business at any meeting of the Association by proxy as provided in Article III, Section 5 of the By-Laws.

Section 7. Ballots by Mail. When required by the Board of Directors, there shall be sent with notices of regular or special meetings of the Association a statement of certain motions to be introduced for vote for the Members and a ballot on which each Member may vote for or against each such motion. Each ballot which is presented at such meeting shall be counted in calculating the quorum requirements set out in Section 5 of this Article III, Provided, however, such ballots shall not be counted in determining whether a quorum is present to vote upon motions not appearing on the ballot.

ARTICLE IV
PROPERTY RIGHTS IN THE COMMON PROPERTIES

Section 1. Members' Easements of Enjoyment in Common Properties. Subject to the provisions of these Covenants, the rules and regulations of the Association and any fees or charges established

by the Association, every Member, and every guest and Tenant of such Member, shall have a right of easement of enjoyment in and to the Common Properties, and such easement shall be appurtenant to and shall pass with the title of every parcel within the Properties.

As determined at the sole and uncontrolled discretion of the Board of Directors, certain Owners of Exempt Properties, and certain Tenants and guests, may have access to and enjoyment of the Common Properties subject to rules and regulations and user fees established by the Board of Directors.

Section 2. Title to Common Properties. The Declarant covenants for itself, its successors and assigns, that it shall convey by deed to the Association, at no cost to the Association, and subject to (i) this Declaration of Covenants and Restrictions, (ii) all other restrictions and limitations of record at the time of conveyance, (iii) any restrictions, limitations, conditions, or determinations as to the purposes and uses of the conveyed properties as stipulated in said deed, and (iv) any commitments by the Declarant to construct certain improvements thereon as stipulated in said decd, those Common Properties described in Section 4 of this Article IV hereof, except such Common Properties as are required to be deeded to the City of Fuquay Varina as designated in the Master Plan.

Section 3. Extent of Members' Easements. The rights and easements of enjoyment created hereby shall be subject to the following:

(a) The right of the Association, in accordance with its By-Laws, to borrow money from any lender for the purpose of improving and/or maintaining the Common Properties, and providing services authorized herein and in aid thereof to mortgage said properties provided, however, that any such mortgage is with the prior consent of two-thirds of the votes entitled to be voted by the Members of the Association, which consent may be evidenced by petition or by an affirmative vote of such two-thirds by Members voting in person or by proxy at a duly called meeting of the Association; and

(b) The right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosures;

(c) The right of the Association to suspend the right to vote and the right to use that portion of the Properties designated as "Common Open Space" – "C.O.S." of any Member or Tenant or guest of any Member for any period during which the payment of any Assessment against property owned by such Member remains delinquent, and for any period not to exceed sixty (60) days for any infraction of its published rules and regulations, it being understood that any suspension for either non-payment of any Assessment or a breach of the rules and regulations of the Association shall not suspend the right to use any roads belonging to the Association subject to the rules, regulations and fees, if any, established by the Association for such use.

(d) The right of Declarant or the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility or drainage easements on any part of the Common Properties; and

(e) The right of the Association to give or sell all or any part of the Common Properties, including lease-hold interests, subject to (i) the provisions of this Declaration of Covenants and Restrictions and (ii) all other restrictions and limitations of record at the time of conveyance, to any public agency, authority, public service district, utility, or private concern for such purposes and subject to such conditions as may be agreed to by the Members, provided, however, that no such gift or sale of any parcel of land and improvements thereon, or determination as to the purposes or as to the conditions thereof shall be effective unless such dedication, transfers, and determinations as to purposes and conditions shall be authorized by the affirmative vote of three-fourths (3/4) of the votes cast at a duly called meeting of the Association, subject to the quorum requirements established by Article III, Section 5, and unless written notice of the meeting and of the proposed agreement and action thereunder is sent to every Member of the Association at least thirty (30) days prior to such meeting. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by the President or Vice President and Secretary or Assistant Secretary of the Association and such certificate shall be annexed to any instrument of dedication or transfer of any parcel of land and improvements thereof affecting the Common Properties prior to the recording thereof. Such certificates shall be conclusive evidence of authorization by the membership. The gift or sale of any personal property owned by the Association shall be determined by the Board of Directors in its sole and uncontrolled discretion.

(f) The right of the Declarant or the Association to convey all or part of the Common Properties to the City of Fuquay Varina.

Section 4. The Declarant covenants for itself, its successors and assigns, that it will convey to the Association the Common Property shown on each recorded "phase" or "section" map of the Properties prior to the conveyance of any Residential Lot or Unit shown on such map, and that, prior to December 31, 2012, they shall convey to the Association, at no cost to the Association, and subject to all the restrictions and limitations of the various Articles of this Declaration and any other restrictions and limitations of record, all properties designated as Common Properties on recorded maps of the Property.

ARTICLE V
COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant covenants, and each Owner of each Residential Unit within the Properties, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all the terms and provisions of this Declaration and to pay to the Association: (a) Annual Assessments or charges; and (b) Special Assessments or charges for the purposes set forth in this Article, such Assessments to be fixed, established and collected from time to time as hereinafter provided. The Annual and Special Assessments, together with such interest thereon and costs of collection thereof including a reasonable attorney's fee as hereinafter provided, shall be a charge and continuing lien on the real property and improvements thereon against which each such Assessment is made, and shall also be the personal obligation of the Owner of such property at the time when the Assessment

first became due and payable. Co-owners shall be jointly and severally liable for the entire amount of the Assessment.

Section 2. Purpose of Assessments. The Annual Assessments levied by the Association shall be used exclusively for the purposes outlined in Article VI hereof.

Section 3. Application of "Maximum" Assessment. The Maximum Regular Annual Assessment, as set forth in subparagraph (a) of this Section 3 and as is automatically increased annually pursuant to the provisions of subparagraph (c) below, shall be levied by the Association. If, however, the Board of Directors of the Association, by majority vote, determines that the important and essential functions of the Association may be property funded by an Assessment less than the Maximum Regular Annual Assessment, it may levy such lesser Assessment.

If the Board of Directors shall levy less than the Maximum Regular Annual Assessment for any Assessment year and thereafter, during such Assessment year, determine that the important and essential functions of the Association cannot be funded by such lesser Assessment, the board may, by a majority of voting power (subject to an affirmative vote of 2/3 of each Type of Members), levy a Supplemental Assessment. In no event shall the sum of the initial and Supplemental Assessments for that year exceed the applicable Maximum Regular Annual Assessment.

If the Board of Directors, by a majority of voting power, determines that the important and essential functions of the Association will not be properly funded in any one (1) year, or in any one (1) year and all subsequent years, it may request approval of a specified increase in the Maximum Regular Annual Assessment for either one (1) year only, or for that one (1) year and all subsequent years, by the vote of the Members at a duly called meeting of the Association, subject to the quorum requirements established by Article III, Section 5. Should the Members vote in favor of such proposed increase, it shall be deemed approved and may be levied by the Board. An increase in the Maximum Regular Annual Assessment for one (1) year only pursuant to the provisions hereof shall in no way affect the Maximum Regular Annual Assessment for subsequent years on increases thereof in subsequent years.

(a) The Maximum Regular Annual Assessment shall be $1,200.00 per year for each Residential Unit and shall be automatically increased in each instance by the amount of ten (10%) percent per year over the previous year.

(b) The Board of Directors may authorize a billing agent to collect the Assessments provided for herein.

Section 4. Special Assessments for Improvements and Additions , In addition to the maximum Regular Annual Assessments authorized by Section 3 hereof, the Association may levy Special Assessments for the following purposes:

(a) Construction, reconstruction, repair, or replacement of capital improvements upon the Common Properties, including the necessary fixtures and personal property related thereto;

(b) For additions to the Common Properties;

(c) To provide for the necessary facilities and equipment to offer the services authorized herein;

(d) To repay any loan made to the Association to enable it to perform the duties and functions authorized herein;

(e) Such Special Assessment, before being charged, must have received the approval of the Members of the Association by the favorable vote of seventy-five (75%) percent of the votes cast at a duly called meeting of the Association, subject to the quorum requirements established by Article III, Section 5. The notice of such meeting shall include one (1) statement from those Directors favoring the Special Assessment and one (1) statement from those Directors opposing the Special Assessment, containing the reasons for those Directors' support and opposition for the Assessment. Neither statement shall exceed five (5) pages in length.

This provision shall be interpreted to mean that the Association may make in any one (1) year an Annual Assessment up to the maximum set forth in Section 3 of this Article V, plus an additional Special Assessment. Such Special Assessment in any one (1) year may not exceed a sum equal to the amount of the Maximum Regular Annual Assessment for such year except for emergency or repairs required as a result of storm, fare, natural disaster, or other casualty loss, The fact that the Association has made an Annual Assessment for an amount up to the Maximum Regular Annual Assessment shall not affect its right to make a Special Assessment during the year.

Section 5. Reserve Funds. The Association shall establish reserve funds from its Annual Assessments to be held in reserve in an interest drawing account or investments as a reserve for:

(a) Major rehabilitation or major repairs;

(b) For emergency and other repairs required as a result of storm, fire, natural disaster, or other casualty loss;

(c) Initial costs of any new service to be performed by the Association; and

(d) For the periodic maintenance, repair, and replacement of improvements to the Common Properties and any Restricted Common Properties that it is obligated to maintain.

Section 6. Date of Commencement of Annual Units Subject to Assessment . Notwithstanding anything in the foregoing to the contrary, the Annual Assessments provided for herein shall commence no earlier than July 1, 2005, but not later than July 1, 2006

Section 7. Duties of the Board of Directors. The Board of Directors of the Association shall fix the amount of the Annual Assessment. Written notice of Assessment shall thereupon be sent to every Member subject thereto.

Section 8. Special Individual Assessments. The Board may impose fines against any Lot and such fines shall be treated as a Special Assessment otherwise due to the Association, and as such will be a lien against the Owner's Residential Unit or Lot. Fines shall be paid not later than thirty (30) days after notice of the imposition or assessment of the fines. The fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Association may be otherwise legally entitled, however, any fine paid by the offending Owner(s) shall be deducted from or offset against any damages that the Association may otherwise be entitled to recover by law from such Owner, Fines shall be as follows:

(a) First non-compliance or violation: a fine not in excess of Fifty Dollars ($50.00)

(b) Second non-compliance or violation: a fine not in excess of One Hundred Dollars $100.00).

(c) Third and subsequent non-compliance, or violation or violations that are of a continuing nature: a fine of not in excess of One Hundred Dollars ($100.00) for each week of continued violation or non-compliance.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner: the Lien: Remedies of Association. If the Annual Assessment or any Special Assessment is not paid on or before five (5) days after the due date specified in Section 3(b) hereof, then such Assessment shall be deemed delinquent and shall (together with interest thereon at the maximum annual rate of 15% from the due date and cost of collection thereof including a reasonable attorney's fee as hereinafter provided) become a charge and continuing lien on the land and all improvements thereon against which such Assessment is made.

If the Assessment is not paid within thirty (30) days after the due date, the Association may bring an action at law against the Owners personally and there shall be added to the amount of such Assessment the costs of preparing the filing of the Complaint in such action and a reasonable attorney's fee, and in the event a judgment is obtained, such judgment shall include interest on the Assessment as above provided and reasonable attorney's fee together with the costs of the action. Such personal obligation shall not pass to the successor in title to the land unless assumed by such successor, or is required by applicable law.

Section 10. Subordination of the Lien. The Lien of the Assessments provided for herein shall be subordinate to the lien of any first deed of trust now or hereafter placed upon any properties subject to Assessment. In the event a creditor acquires title to any property subject to Assessment pursuant to foreclosure or any other proceeding or deed in lieu of foreclosure, said creditor shall be subject only to Assessments accruing after such acquisition.

Section 11 Exemptions. All Properties defined as "Exempt Property" in Article l(r) shall be exempt from the Assessment, charge and lien created herein.

Section 12. Annual Statements The President, Treasurer, or such other Officer as may have custody of the funds of the Association shall annually, within ninety (90) days after the close of the fiscal year of the Association, prepare and execute under oath a general itemized statement showing the actual assets and liabilities of the Association at the close of such fiscal year, and a statement of revenues, costs and expenses. It shall be necessary to set out in the statement the name of any creditor of the Association, provided, however, that this requirement shall be construed to apply only to creditors of more than One Thousand and no/100 ($1,000.00) dollars. Such Officer shall furnish to each Member of the Association who may make request therefor in writing, a copy of such statement, within thirty (30) days after receipt of such request. Such copy may be furnished to such Member either in person or by mail. Any holder of a first mortgage on a lot(s) or unit(s) (and any Insurers or
Guarantors of such first mortgage) shall be entitled upon written request to a financial statement for the immediately preceding fiscal year.

Section 13. Annual Budget. The Board of Directors shall prepare and make available to each Member of the Association, at least sixty (60) days prior to the first day of the following fiscal year, a budget outlining anticipated receipts and expenses for the following fiscal year. The fiscal books of the Association shall be available for inspection at all reasonable times.

Section 14. Working Capital Fund. Simultaneously with the closing of the sale of each Residential Unit by Declarant, the purchaser shall remit to the Association $300.00 to be held as a working capital fund. The purpose of said fund is to insure that the Association Board will have adequate cash available to meet unforeseen expenses, and to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund shall not be considered advance payment of regular assessments.

ARTICLE VI
FUNCTIONS OF ASSOCIATION

Section 1. Ownership and Maintenance of Properties. The Association shall be authorized to own and/or maintain Common Properties, Restricted Common Properties, equipment, furnishings, and improvements devoted to the following uses:

(a) For sidewalks, walking paths or trails, bicycle paths, pedestrian underpasses, and bridle paths through the Properties;

(b) For transportation facilities throughout the Properties other than privately owned automobiles, e.g., buses, electric vehicles, etc.;

(c) For emergency health care including ambulances, rescue squad facilities, emergency care medical facilities, and the equipment necessary to operate such facilities;

(d) For providing any of the services which the Association is authorized to offer under Section 2 of this Article VI;

(e) For purposes set out in deeds by which Common Properties and Restricted Common Properties are conveyed to the Association, provided that such purposes shall be approved by the Members of the Association as set out in Section 4 of this Article VI;

(f) For indoor and outdoor recreational and community facilities, including, but not limited to, tennis courts, platform tennis courts, handball courts, squash courts, basketball courts, swimming pools, and any showers, locker rooms, or other club facilities associated with such uses, putting greens, playgrounds, ball fields, spectator viewing pavilions, gazebos, picnic shelters, picnic tables, parks, walking trails, bike trails, boardwalks, decks, wildlife conservancies and feeding stations, nature interpretive areas, amphitheaters, community meeting facilities, and all rest room facilities, parking lots, boat storage, service buildings, and concession-type food services associated with all such uses;

(g) For water and sewage facilities and any other utilities, if not adequately provided by a private utility, Wake County or the City of Fuquay Varina.

(h) For the cleaning, landscaping and maintenance of all roadway medians and islands, parkways along said roadways, cul-de-sac islands and neighborhood and other area entrances (including signs).

Section 2. Services. The Association shall be authorized, but not required, except as specified in Section 3 of this Article VI, to provide the following services:

(a) Cleaning of all parks, sidewalks, walking trails, bike trails, Common Properties and Restricted Common Properties, and also all public properties which are located within or in a reasonable proximity to the Properties such that their deterioration would affect the appearance of the Properties as a whole;

(b) Landscaping and beautification of roads, roadways, parkways, lakes, parks, sidewalks, walking paths, bike trails, Common Properties and Restricted Common Properties;

(c) Transportation facilities other than privately owned automobiles, e.g., buses, electric vehicles, ferry boats, etc.;

(d) Lighting of roads, signs, landscaping, sidewalks, walking paths, bike trails, parking lots, and any recreational and community facilities located within the Properties;

(e) Police protection and security, including, but not limited to the employment of police and security guards, maintenance of electronic and other security devices and control centers for the protection of persons and property within the Existing Property, and assistance in the apprehension and prosecution of persons who violate the laws of the State of North Carolina or the County of Wake and City of Fuquay Varina, North Carolina within the Properties;

(f) Fire protection and prevention;

(g) Garbage and trash collection and disposal;

(h) Insect and pest control to the extent that it is necessary or desirable in the judgment of the Board of Directors of the Association to supplement the service provided by the state and local governments;

(i) The services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this document;

(j) To take any and all actions necessary to enforce all Covenants and Restrictions affecting the Properties and to perform any of the functions or services delegated to the Association in any Covenants or Restrictions applicable to the Properties;

(k) To set up and operate an Architectural Review Board for the purposes outlined in Article VII hereof.

(l) To conduct instructional, recreational, sports, crafts, social and cultural programs of interest to Members, their families and guests;

(m) To provide legal and scientific resources for the improvement of air and water quality within the Properties

(n) To provide safety equipment for storm emergencies;

(o) To construct improvements on Common Properties for use for any of the purposes authorized in this Article, or as may be required to provide any of the services authorized in this Article;

(p) To provide administrative services, including, but not limited to legal, accounting, and Financial; and communication services, including, but not limited to community newsletters and newspapers to inform Members of activities, notices of meetings, referendums, and other issues and events of community interest;

(q) To provide liability and hazard insurance covering improvements and activities on the Common Properties and Restricted Common Properties;

(r) To provide water, sewage, and any necessary utility services not provided by a public body, private utility or the Declarant;

(s) To provide, conduct, or maintain water pollution and shoreline erosion abatement measures including, without limitation, maintenance and repair of shore revetments and groins;

(t) To construct mailboxes, signs, and other standard features for use throughout the properties;

(u) To provide any or all of the above listed services to another Association of Owners of real property under a contract, the terms of which must be approved by the Board of Directors.

Section 3. Minimum List of Functions and Services. The "Minimum List of Functions and Services" shall establish and define the minimum level of functions and services which the Association must furnish or cause to be furnished to its Members. So long as the Declarant is engaged in the development of Properties which are subject to the terms of this Declaration, the Association shall not reduce the level of functions and services it furnishes to its Members below such minimum level without the prior written consent of the Declarant. The "Minimum List of Functions and Services" is as follows:

(a) The Association shall provide or procure the administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration, the Articles of Incorporation of the Association and the Bylaws of the Associations, including, but not limited to, legal, accounting, financial and communications services.

(b) The Association shall administer and enforce the covenants and restrictions established in this Declaration, including, but not limited to, the following:

(i) The Association shall set Assessments, levy cash Assessments, notify the Members of such Assessments, and collect such Assessments,

(ii) The Association shall prepare accurate indexes of Members, Property Classifications, Votes, Assessments, the Cumulative Maximum Number of Residential Lots and Family Dwelling Units Authorized in the Properties, and the Maximum Regular Annual Assessment,

(iii) The Association shall operate an Architectural Review Board,

(iv) The Association shall maintain and operate all Common Properties,

(v) The Association shall hold Annual Meetings, Special Meetings, and Referendums as required, hold elections for the Board of Directors as required and give Members "proper notice" as required;

(vi) The Association shall prepare Annual Statements and Annual Budgets, and shall make the financial books of the Association available for inspection by Members at all reasonable times.

(vii) The Association shall maintain the lawns of all homesites as follows:

* weekly mowing of entire yard, excluding any fenced areas, during the growing seasons:
* biweekly edging of sidewalks, curbs and driveways
* pruning of shrubs three times per year
* mulching front beds with pinestraw annually
* picking up in-yard debris (excluding storm damage)
* blowing off driveways and sidewalks
* lawn maintenance shall NOT include fertilization, areation, herbicide treatments or irrigation/sprinkler system maintenance

(c) The Association shall provide appropriate liability and hazard insurance coverage for improvements and activities on all Common Properties.

(d) The Association shall provide appropriate director's and officers' legal liability insurance, and indemnify persons pursuant to the provisions of the Bylaws of the Association.

(e) The Association shall keep a complete record of all its acts and corporate affairs.

(f) The Association shall (except where such services are adequately provided by governmental agencies) provide regular cleanup of all roads, roadways, roadway medians, roadway islands, parkways, cul-de-sac islands, neighborhood and other entrances, green ways, open space, and walking trails throughout the Properties including, but not limited to, mowing grass on all roadsides, cul-de-sac and roadway islands, entrances, parks, green ways, walking trails; sweeping all roads; landscape maintenance on all roadsides, cul-de-sac and roadway islands, entrances, parks, green ways, walking trails; pickup and disposal of trash on all roads, roadsides, cul-de-sac and roadway islands, entrances, parks, green ways, walking trails, Such cleanup as is possible shall begin within an individual residential neighborhood as soon as construction of dwellings has commenced within said neighborhood.

(g) The Association shall (except where such services are adequately provided by governmental agencies) provide general maintenance of all identification, informational and directional signs, and neighborhood and other area signs, including. but not limited to, painting, light replacement, repair work and replacement as needed.

(h) The Association shall operate and maintain all streetlights within all Common Properties.

(i) The Association shall provide regular maintenance and cleanup of all Common Properties, including, but not limited to, mowing of grass, fertilization as needed, landscape maintenance as needed, pickup and disposal of trash, repair, maintenance and replacement of sprinkler systems, washing down of picnic tables and benches as needed, and painting, repairs to and replacement of all improvements as needed.

(j) Insurance coverage on the Property shall be governed by the following provisions:

i) Ownership of Policies. All insurance Policies upon the Common Property shall be purchased by the Association for the benefit of all the Association, the Owners, and the Declarant.

ii) Coverage. All buildings and improvements upon and all personal property included in the Common Areas and facilities shall be insured in an amount equal to one hundred percent (100%) insurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against:

a) Loss or damage by fire and other hazards covered by this extended coverage endorsement;
b) Such other risks as from time to time shall be customarily covered with respect to buildings on the land;
c) Such policies shall contain clauses providing for waiver of subrogation.
d) The Association may elect not to insure items of personal property having an individual value of less than $500.00.

iii) Liability. Public liability insurance shall be secured by the Association with limits of liability of no less than One Million Dollars ($1,000.000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group or a single Owner. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary.

iv) Premiums. Premiums for insurance policies purchased by the Association shall be paid by Association and charged to the Owners as an assessment according to the provisions of Article V above; provided that premiums on account of hazard insurance coverage for individual Lots shall be apportioned to the individual Owners according to the amounts of the coverage required.

v) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association, the Owners and their mortgagees, and the Declarant, as their interest may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The sole duty of the Association as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes stated herein or stated in the Bylaws and for the benefit of the Owners and their mortgagees.

vi) Proceeds of insurance policies received by the Association as insurance trustee shall be placed in the Association's treasury for the following:

a) Expense of the Trust. All expenses of the insurance trustee shall be first paid or provisions made therefor.

b) Reconstruction or Repair. The remaining shall be paid to defray the cost of repairs (if the Board of Directors elects to repair). Any proceeds remaining after defraying such cost shall be retained by the Association.

vii) All persons responsible for or authorized to expend or otherwise deal in the assets of the Association or those held in trust, shall first be bonded by a fidelity insurer to indemnify the Association for any loss or default in the performance of their duties in an amount equal to (3) months' assessments plus reserves accumulated.

Section 4. Obligation of the Association. The Association shall not be obligated to carry out or offer any of the functions and services specified by the provisions of this Article except as specified in Section 3 of this Article VI. The functions and services to be carried out or offered by the Association at any particular tire shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association. The functions and services which the Association is authorized to carry out or to provide, may be added or reduced at any time upon the affirmative vote of fifty one (51 %) percent of the votes cast by the Type "A" Members at a duly called meeting of' the Association; provided. however, no such changes shall be effected without the prior written consent of the Declarant so long as the Declarant or its successors or assigns is a "B" Member of the Association.

Section 5. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority to mortgage the property of the Association and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its authorized functions and services; provided that any such mortgage is with the prior consent of two-thirds of the Members of the Association, which consent may be evidenced by petition or by an affirmative vote of two-thirds of the Association.

Section 6. Maintenance of Property Not Owned by the Association . The Association shall be authorized to render services of a governmental nature not furnished by the local government in the case of maintenance of property not owned by it.

ARTICLE VII
ARCHITECTURAL CONTROL

Section 1. Purpose. The primary purpose of these covenants and restrictions and the foremost consideration in the origin of the same has been the creation of a community which is aesthetically pleasing and functionally convenient. The establishment of certain objective standards relating to design, size and location of dwellings and other structures makes it impossible to take full advantage of the individual characteristics of each parcel of Property and of technological advances and environmental values. In order to implement the purposes of these covenants, the Declarant may establish and amend from time to time objective standards and guidelines, including, but not limited to, Architectural Standard and Construction Specifications, Uniform Sign Regulations, Uniform Mailbox Regulations, Landscape Guidelines, and Environmental Rules and Regulations as defined hereinafter, and which shall be binding on all Property Owners within Buckhaven PUD.

Section 2. Controls.

(a) No building, fence, or other structure shall be erected, placed, or altered, nor shall a building permit for such improvement be applied for on any Property in Buckhaven PUD until the proposed building plans, specifications, exterior color or finish, plot plan (showing the proposed location of such building or structure, drives, and parking areas) shall have been approved in writing by the Declarant, or by the Architectural Review Board of the Association if such review responsibility has been delegated to the Association by the Declarant. In addition, the Declarant may require prior written approval of a landscape plan. The Declarant further reserves the right to promulgate and amend from time to time architectural standards and construction specifications (hereinafter referred to as the "Architectural Standards and Construction Specifications") for specific neighborhoods and areas or for all Properties within Buckhaven PUD and such Architectural Standards and Construction Specifications shall establish, define, and expressly limit those standards and specifications which will be approved in said neighborhoods and areas or within the Properties, including, but limited to, architectural style, exterior color or finish, roofing material, siding, driveway material, landscape design, and construction technique. Refusal or approval of plans, location, exterior color or finish, or specifications may be based by Declarant upon any ground, including purely aesthetic considerations, which is at the uncontrolled discretion of the Declarant and shall be deemed sufficient. No alteration in exterior appearance of any building, structure, or other improvements, including exterior color or finish, shall be made without like prior written approval by the Declarant. A copy of all plans and related data shall be furnished the Declarant for its records. In the event approval of such plans is neither granted nor denied within forty five (45) days following receipt by the Declarant of written demand for approval, the provisions of shall be thereby waived.

(b) In order to assure that buildings and other structures will be located a staggered so that the maximum view, privacy, sunlight, and breeze will be available each building or structure within the confines of each Property, and to assure structures will be located with regard to the topography of each Property, taking into consideration the location of large trees and other aesthetic and environmental considerations, the Declarant reserves the right to control absolutely and solely to decide (subject to the provisions of the Zoning Ordinances of the County of Wake and City of Fuquay Varina, North Carolina) the precise site and location of any building or structure on any Property in Buckhaven PUD for reasons which may in the sole and uncontrolled discretion and judgment of the Declarant seem sufficient. Such location shall be determined only after reasonable opportunity is afforded the Property Owner to recommend a specific site. The provisions of this paragraph shall in no way be construed as a guarantee that the view, privacy, sunlight, or breeze available building or structure on a given Property shall not be affected by the location building or structure on an adjacent lot.

(c) Each Property Owner shall provide space for the parking of automobiles off public streets prior to the occupancy of any building or structure constructed on the property in accordance with reasonable standards established by the Declarant.

(d) Except as may be required by legal proceedings, no sign shall be erected or maintained on any Property by anyone including, but not limited to, a Property Owner, a Tenant, a realtor, a contractor, or a subcontractor, until the proposed sign is approved in writing by the Declarant. Refusal or approval of size, color, content, number of signs, or location of sign(s) may be based by the Declarant upon any ground, including purely aesthetic considerations, which in the sole and uncontrolled discretion of the Declarant seems sufficient. The Declarant further reserves the right to promulgate and amend from time to time uniform sign regulations (the "Uniform Sign Regulations") which shall establish standard design criteria for all signs, including, but not limited to, real estate sales signs, erected upon any Property in Buckhaven PUD. The Declarant and its agents shall have the right, whenever there shall have been placed or constructed on any Property in Buckhaven PUD any sign which is in violation of these restrictions, to enter immediately upon such Property where such violation exists and summarily remove the same at the expense of the Property Owner.

(e) It shall be the responsibility of each Property Owner, Tenant, contractor, or subcontractor to prevent the development of any unclean, unsightly, unkempt, unhealthy, or unsafe conditions of buildings or grounds on any Property which shall tend to substantially decrease the beauty or safety of Buckhaven PUD, the neighborhood as a whole, or the specific area. The Declarant and its agents shall have the right to enter upon any Property for the purpose of correcting such conditions, including, but not limited to, the removal of trash which has collected on the Property, and the cost of such corrective action shall be paid by the Property Owner. Such entry shall not be made until fifteen (15) days after the Owner of the Property has been notified in writing of the need to take corrective action and unless such Owner fails to perform the corrective action within said fifteen (15) day period; provided, however, that should such conditions pose a health or safety hazard, such entry shall not be made until the Owner has been notified in writing of the need to take immediate corrective action and unless such Owner fails to perform the corrective action immediately. The provisions of this paragraph shall not create any obligation on the part of the Declarant to take any such corrective action.

(f) No mailbox, mailbox materials, numbers or lettering shall be erected or maintained on any Property until the proposed mailbox design, color, and location have been approved in writing by the Declarant. Refusal or approval of design, color, or location may be based by the Declarant upon any ground, including purely aesthetic considerations, which in the sole and uncontrolled discretion of the Declarant seems sufficient. No alteration in the exterior appearance of any mailbox shall be made without like prior written approval by the Declarant. The Declarant further reserves the right to establish uniform mailbox regulations (the "Uniform Mailbox

Regulations"), which shall define standard design criteria for all mailboxes erected upon any Property in Buckhaven PUD.

(g) Prior to the occupancy of a building or structure on any Property, proper and suitable provisions shall be made for the disposal of sewage by connection with the sewer mains of the Fuquay Varina public sewer system, or to a system approved by the City of Fuquay Varina.

(h) Prior to the occupancy of a building or structure on any Property, proper and suitable provisions for water shall be made by connection with the water lines of the City of Fuquay Varina.

(i) The Declarant reserves unto itself, its successors and assigns, and its agents, a perpetual, alienable, and releasable easement and right, on, over and under the Properties to erect, maintain, operate, and use electric, Community Antennae Television, and telephone poles, wires, cables, conduits, drainage ways, sewers, water mains, and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water, drainage, or other public conveniences or utilities on, in or over those portions of such Property as may be reasonably required for utility line purposes; provided, however, that no such utility easement shall be applicable to any portion of such Property as may (a) have been used prior to the installation of such utilities for construction of a building whose plans were approved pursuant to these covenants by the Declarant, or (b) such portion of the Property as may be designated as the site for a building on a plot plan for erection of a building which has been filed with the Declarant and which has been approved in writing by the Declarant. These easements and rights expressly include the right to cut any trees, bushes, or shrubbery, make any grading of the soil, or to take any other similar action reasonably necessary to provide economical and safe utility installation to maintain reasonable standard of health, safety, and appearance. The Declarant further reserves the right to locate wells, pumping stations, siltation basins, tanks, and other utility apparatus within Buckhaven PUD in any Common Area or any Property designated for such use on the applicable plat of said Property, or to locate same upon any Property with the permission of the Owner of such Property. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not create any obligation on the part of the Declarant to provide or maintain any such utility or service.

(j) Except as reserved and permitted in (i) above, no antenna larger in size than 24" shall be placed on or erected upon any property within Buckhaven PUD. No dish or antennae may be installed on the front of any home on the side of a home adjoining a street, or on any roof of any home.

(k) The Declarant reserves the right to promulgate and amend from time to time landscape guidelines (referred to hereinafter as the "Landscape Guidelines") which shall establish approved standards, methods, and procedures for landscape

management on specific Properties in Buckhaven PUD and such authorized standards, methods, and procedures may be utilized by the Owners of such specified Properties without prior written approval by the Declarant; provided, however, no live trees measuring six (6) inches or more in diameter at a point two (2) feet above ground level may be removed without the prior written approval of the Declarant and no such trees may be removed from any areas designated as "greenway" on any recorded maps of the property. Approval for the removal of trees located within ten (10) feet of the main dwelling or accessory building or within ten (10) feet of the approved site for such building shall not be necessary unless such removal will substantially decrease the beauty of the Property.

(l) No construction (except for utility lines and streets approved by the City of Fuquay Varina) shall be permitted within twenty (20) feet on either side of any areas designated as "walking trails" on any recorded maps of the Property.

(m) Except with prior written approval of the City of Fuquay Varina all areas designated on the Master Plan as "Buffer Areas" shall be left in their undisturbed, natural state, and no improvements may be constructed, erected, placed or allowed to remain therein other than utility lines (and easements) and pedestrian and vehicular access ways (including streets and roads); provided, however, the Declarant, the Association, and any Property Owner adjoining such areas (subject to the approval of Declarant or its delegate) may plant trees, flowers and shrubs within such areas.

Section 3. Architectural Review Board. Until such time as all Class B Membership is converted to Class A Membership, The Architectural Review Board shall operate at the sole discretion of Declarant. After all Class B Membership is converted to Class A Membership, the Architectural Review Board shall be composed of at least three (3) but not more than eleven (11) Members, all of whom shall be appointed by the Board of Directors of the Association.

ARTICLE VIII
PROTECTIVE COVENANTS

SECTION I. The lots described in this Section I hereof shall be known and described as residential lots. No building shall be erected, altered, placed or permitted to remain on any residential lot other than one detached single-family dwelling not to exceed two stories in height (exclusive of basement and attic) and a private garage for not more than two cars. Notwithstanding the restriction herein contained, Declarant or its assigns may use a lot for a community water system or recreational facility to benefit all lot owners in the subdivision.

SECTION II. No tree (other than dead or diseased trees) shall be removed from any Lot nor shall any building, fence, wall or other structure, swimming pool or tennis courts be commenced, erected or maintained on any Lot, nor shall any exterior addition to, removal of all or any part of, or exterior change or alteration (structural or nonstructural) in any improvement on any Lot be made until such removal or the plans and specifications (showing the nature, kind, shape, height, materials, colors and location) therefor shall have been submitted to and approved in writing as to harmony of external

design, types of material, colors and location in relation to surrounding structures and topography by an architectural control committee. Reference herein to "Architectural Control Committee" shall refer to an control committee as created and established pursuant to these Master Covenants. In the event the Architectural Control Committee fails to approve or disapprove any design, materials, colors and location or any requested building (set-back) line or orientation variance pursuant to Section VIII hereof, within forty-five (45) days after all required plans and specifications have been submitted to it (and fees, if required, have been paid). approval will not be required and this provision will be deemed to have been fully complied with. The Architectural Control Committee is authorized where it deems appropriate to charge a review fee for any submission to defray the costs of reviews it conducts or authorizes.

It is the intent of this Declaration that all buildings and structures within the Properties shall be constructed of attractive exterior materials of high quality. In its review of submissions, the Architectural Control Committee shall evaluate the construction standards and building materials for all proposed construction on the Lots to ensure that they are in conformance with such objectives. Accessory buildings, enclosures, appurtenant structures to, or extrusions from any building or structure on any Lot shall be of similar or compatible materials, design and construction. Exterior finishes once approved shall not be altered without the express consent of the Architectural Control Committee.

SECTION III. The living area of the main residential structure, exclusive of porches, garage, and basement shall be not less than 1,400 square feet for a one-story dwelling; nor less than 1,500 square feet for a story and a half dwelling or a dwelling without a garage nor less than 1,600 square feet for a two story dwelling. No more than one dwelling shall be built on any Lot or building site.

SECTION IV. No building or structure shall be used for any purpose other than that for which the building or structure was originally designed, without the approval of the Architectural Control Committee.

SECTION V. No Lot shall be re-subdivided nor shall a fractional part of any Lot be sold without the consent of Declarant, which consent shall not be unreasonably withheld. In the event either of the foregoing is approved, then the assessment attributable to the Lot so subdivided shall be prorated between the resulting Lots.

SECTION VI. No commercial activities of any kind shall be conducted on any Lot. This restriction shall not preclude the carrying on of promotional activities by Declarant, nor the conduct of a home occupation in strict accordance with the provisions of the applicable zoning ordinances.

SECTION VII. Notwithstanding any note on any recorded map showing lots subjected to these covenants to the contrary, unless prior architectural approval is obtained pursuant to Section VIII hereof, no dwelling shall be erected on any Lot nearer to the front line than 15 feet, nor nearer to the rear lot line than 20 feet, nor nearer to the side line than 6 feet, provided, however, that on corner lots the dwelling may face either street and may be located not nearer than 15 feet to the side street. For the purpose of this covenant, eaves, steps and open porches shall not be considered as a part of the

dwelling, provided, however that this shall not be construed to permit any portion of a dwelling on a lot to encroach upon another lot.

SECTION VIII. Declarant reserves the right to waive violations not in excess of 10% of the front, rear, side street and sideline setback requirements. Upon the execution and recordation of such waiver or waivers in the Wake County Registry, such violations shall not thereafter be deemed existing. Violations in excess of 10% must be approved by the Architectural Control Committee.

SECTION IX. No dwelling, shall be erected or placed on any Lot having a width less than 35 feet at the minimum building setback line-, nor shall an dwelling be erected or placed on any lot having an area of less than 4,000 square feet, except that a dwelling may be erected or placed on all lots as shown on the recorded plat described on Exhibit A, regardless of width at the minimum building setback line or area in square feet.

SECTION X. No noxious or offensive activity shall be carried on upon any portion of the Properties, nor shall anything be done thereon that may be or become a nuisance or annoyance to the neighborhood. No exterior lighting shall be directed outside the boundaries of a Lot or other parcel.

SECTION XI. Each Owner shall maintain and keep his Lot in good order and repair, and shall do nothing which would be in violation of law.

SECTION XII. There shall be no obstruction of any portion of the Common Property or any storage or construction or planting thereon by an Owner. No clothes, laundry or other articles or equipment shall be placed, hung, exposed or stored in any portion of the Common property or in any portion of the exterior or yard area of any Lot or on or about the exterior of any building.

SECTION XIII. No animals, reptiles, birds, horses, rabbits, fowl, poultry, cattle or livestock of any kind shall be brought onto or kept on the Properties, except dogs, cats, or other household pets (except house pets with vicious propensities) may be kept or maintained on any Lot, provided that such pets are not kept for any commercial purpose and provided that such pets are at all times leashed and no "runs" or other outside structures are erected or installed therefor. The keeping of any pet which, by reason of its noisiness or other factor, is a nuisance (as determined by the Declarant in its sole judgment) or annoyance to the neighborhood is prohibited.

SECTION XIV. No trucks, or commercial vehicles, boats, motorcycles. Campers, house trailers, boat trailers and trailers of any other description shall be permitted to be parked or stored on any Lot unless they are parked or stored in an enclosed garage or in such other enclosure (open or otherwise) approved by the Architectural Control Committee, except only during periods of approved construction on the Lot.

SECTION XV. No abandoned cars, motorcycles, jeeps, trucks or motor vehicles of any kind whatsoever that are unable to move under their own power may be stored or suffered to remain upon any of the Common Property or on any Lot. If any such motor vehicle is so stored or remains on the aforesaid premises, the Declarant may take the necessary steps to remove the same at the Owner's expense.

SECTION XVI. No fence, wall, tree, hedge or shrub planting shall be maintained in such manner as to obstruct sight lines for vehicular traffic. Except as may be required to comply with the prior sentence, no live tree shall be removed without the approval of the Architectural Control Committee.

SECTION XVII. No structure of a temporary character, trailer, tent, shack, garage, barn or other out buildings shall be used on any Lot at any time as a residence, either temporarily or permanently.

SECTION XVIII. No signs, advertisements, billboards, or advertising structures of any kind may be erected, maintained or displayed on any Lot; provided, however, that nothing herein shall prohibit signs erected or displayed by Declarant in connection with the development of the Properties and the marketing and sale of residences therein, and nothing herein shall prohibit a sale sign erected by any future Owner attempting to market their individual house, provided such sign is not in excess of six (6) square feet.

SECTION XIX. Adequate off-street parking shall be provided by the Owner of each Lot for the parking of licensed, operational automobiles of such owner, on a concrete driveway of not less than ten (10) feet in width. No parking shall be permitted upon any street within the subdivision.

SECTION XX. No rubbish, trash or garbage receptacle shall be placed on the exterior of a Lot except on the day of regularly scheduled collection, unless such receptacle is completely recessed into the ground and equipped with a permanent cover, or unless an aboveground receptacle is approved by the Architectural Control Committee.

SECTION XXI. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. Service to the individual residences shall be underground.

SECTION XXII. No above-ground structure, other than required street lights, may be erected upon a cul-de-sac, divided street entry island, or median strip, without the written approval of Wake County, the City of Fuquay Varina or other appropriate Governmental Authority.

SECTION XXIII. No fences or screening of any kind shall be erected or maintained on any Lot between the rear of the residence constructed on such Lot and the street which such Lot fronts. Fences may be maintained on other portions of the Lots only with written consent of the Architectural Control Committee as to location, material and height, and the decision of such committee to approve or reject a fence shall be conclusive. Nothing herein contained shall prevent placement of fences by the Declarant on the Common Ground.

SECTION XXIV. No exterior television or radio antennae, satellite dishes, towers, or similar structures will be allowed on any Lot in the Properties without the prior architectural approval. Satellite dishes, 24" and smaller in size, will be permitted so long as installation is not on the front or roof of the home or on the side of a home adjoining a street.

SECTION XXV. The drying of clothes in public view is prohibited.

SECTION XXVI. There shall be no above-ground swimming pools on any Lot in the Property.

SECTION XXVII. All residences in the Properties are to be constructed in accordance with the standards established by the City of Fuquay Varina and the County of Wake and, in the event of conflict between the two (2), in accordance with the more stringent.

SECTION XXVIII. A storage shed may be permitted at the rear of each lot upon approval of the Architectural Control Committee after the plans and specifications or a photograph and a plot plan showing the proposed location have been submitted for approval.

SECTION XXIX. No hedge or screen planting shall be erected or permitted to remain on any lot closer to the front line than the front of the dwelling erected on said lot.

SECTION XXX. Enforcement of these Covenants shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

SECTION XXXI. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

SECTION XXXII. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the Lots has been recorded agreeing to change said covenants in full or in part. These covenants may be modified at any time by the recording in the Wake County Registry of an Agreement containing the modifications signed by the record owners of two-thirds (2/3) of the lots covered by these covenants at the time of the recording; provided however, so long as Declarant owns any lots subject to this Declaration, or any land shown on the Master Plan for Buckhaven PUD intended for future subjection hereto, such modification shall not become effective until approved in writing by Declarant.

SECTION XXXIII. Declarant reserves the right to subject said property to a contract with a utility company for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to said utility company by the Owner of each Lot.

ARTICLE IX
GENERAL PROVISIONS

Section 1. Duration. The Covenants and Restrictions of this Declaration and any Amendments thereto shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, Declarant, or the Owner of any land subject to this Declaration, their respective legal

representatives, heirs, successors, and assigns, for a period of thirty (30) years from the date this Declaration is recorded. Upon expiration of said thirty (30) year period, this Declaration shall be automatically extended for successive periods of ten (10) years. The number of ten (10) year extension periods hereunder shall be unlimited, and this Declaration shall be automatically extended upon the expiration of the initial thirty (30) year period, or upon the expiration of each subsequent ten (10) year extension period, unless at a duly called meeting of the Association, two-thirds (2/3) or more of the total vote of each type of Member entitled to be cast by all the Members of the Association shall vote in favor of terminating this Declaration at the end of its then current term. The presence at the meeting of Members or proxies entitled to cast sixty (60%) percent of the total vote of the Membership shall constitute a quorum. It shall be required that written notice of any meeting at which such a proposal to terminate this Declaration is to be considered, setting forth the fact that such a proposal will be considered, shall be given each Member at least thirty (30) days in advance of said meeting. In the event that the Members of the Association Vote to terminate this Declaration, the President and Secretary of the Association shall execute a certificate which shall set forth the Resolution of Termination adopted by the Association, the date of the meeting of the Association at which such resolution was adopted, the date that Notice of such Meeting was given, the total number of votes of Members of the Association, the total, number of votes required to constitute a quorum at a meeting of the Association, the total number of votes present at said meeting, the total number of votes necessary to adopt a Resolution terminating this Declaration, the total number of votes cast in favor of such Resolution, and the total number of votes cast against such Resolution. Said certificate shall be recorded in the Register of Deeds Office, Wake County, North Carolina, and may be relied upon for the correctness of the facts contained therein as they relate to the termination of this Declaration.

Section 2. Amendments. All proposed Amendments to this Declaration shall be submitted to a vote of the Members at a duly called meeting of the Association subject to the quorum requirements established by Article III, Section 5, and any such proposed amendment shall be deemed approved if two-thirds (2/3) of the votes of each type of Member cast at such meeting vote in favor of such proposed amendment. Notice shall be given each Member at least thirty (30) days prior to the date of the meeting at which such proposed amendment is to be considered. If any proposed amendment to this Declaration is approved by the Members as set forth above, the President and Secretary of the Association shall execute an Addendum to this Declaration which shall set forth the Amendment, the effective date of the Amendment (which in no event shall be less than sixty (60) days after the date of the meeting of the Association at which such Amendment was adopted), the date of the meeting of the Association at which such Amendment was adopted, the date that notice of such meeting was given, the total number of votes required to constitute a quorum at a meeting of the Association, the total number of votes present at said meeting, the total number of votes cast for and against the Amendment, the number of votes necessary to adopt the Amendment, the total number of votes cast in favor of such Amendment and the total number of votes cast against the Amendment. Such Addendum shall be recorded in the Office of the Register of Deeds, Wake County, North Carolina.

So long as Declarant is entitled to elect a majority of the Members Of the Board of Directors of the Association, no Amendment or Termination of this Declaration shall be made without the consent of Declarant, and until the end of the period of development no Amendment of this

Declaration shall be made without the consent of Declarant which would have the effect of creating a disproportionate increase in the Maximum Regular Annual Assessment, the actual assessment levied, or any Special Assessment of any Class of Owners.

Notwithstanding the foregoing, Declarant, for so long as it shall retain control of the Board of Directors of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, with the consent and approval of VA or FHA, FHLMC and FNMA and without the consent of any Owner, in order to qualify the Association for tax-exempt status, to correct obvious errors and omissions herein, and to qualify for VA, FHA, FHLMC and FNMA approvals. Such amendment shall become effective upon the date of its recordation in the Wake County Registry.

Section 3. Notices. Any notice required to be sent to any Member under provisions of this Declaration shall be deemed to have been properly sent, and thereby given, when delivered personally or sent by mail, with the proper stamps affixed, to the address of such Member. It shall be the obligation of each Member to provide the Association with a change of address.

Section 4. Enforcement. Enforcement of these Covenants and Restrictions may be by any proceeding at law or in equity against any person or persons violating or attempting to violate or circumvent any provision hereof, either to restrain, violate to recover damages, and against the land and to enforce any lien created by Covenants; and failure by the Association or any Member or the Declarant to enforce Covenants or Restrictions herein contained for any period of time shall in no event be deemed a waiver or estoppel of the right to enforce same thereafter.

Section 5. Severability. Should any Covenant or Restriction herein contain in any Articles, Section, Subsection, sentence, clause, phrase or term of this Declaration be declared to be void, invalid, illegal, or unenforceable, for any reason, by adjudication of any Court or other tribunal having jurisdiction over the parties hereto, the subject matter hereof, such judgment shall in no way affect the other provisions hereof which are hereby declared to he severable and which shall remain in full force and effect.

Section 6. Interpretation. The Board of Directors of the Association shall the right to determine all questions arising in connection with this Declaration of Covenants and Restrictions, and to construe and interpret its provisions, and determination, construction, or interpretation shall be final and binding. In all cases, provisions of this Declaration of Covenants and Restrictions shall be given interpretation or construction that will best tend toward the consummation of the general plan of improvements.

Section 7. Authorized Action . All actions which the Association is allowed take under this instrument shall be authorized actions of the Association if approved the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

Section 8. Other Agreements . Notwithstanding anything contained herein to contrary, all the provisions of these Covenants shall be subject to and conform with the provisions of:

(a) The Zoning Ordinances of the City of Fuquay Varina and County Wake, North Carolina, and the rules and regulations promulgated thereunder, as may from time to time hereafter be modified;

(b) The Master Plan for the development of Buckhaven PUD as may from time to time hereinafter be amended or modified;

None of the provisions of this Section (8) are or shall in any way be const to be or to constitute a conveyance, transfer, disposition, waiver or relinquishment of right, title, and interest of Declarant or the Association, as their respective rights, and interests may appear, in and to or under any of the above referenced instruments or documents to or for the benefit of any other person, firm or corporation.

Section 9. Limited Liability. In connection with all reviews, acceptances, inspections, permissions, consents or required approvals by or from Declarant and/or Association contemplated under this Declaration, Declarant and/or the Association shall not be liable to an Owner or to any other person on account of any claim, liability, damage, or expense suffered or incurred by or threatened against an Owner or such or person and arising out of or in any way relating to the subject matter of any such rev acceptances, inspections, permissions, consents or required approvals, whether granted, or withheld.

Section 10. Termination of Association. In the event that this Declaration declared to be void, invalid, illegal, or unenforceable in its entirety, or in such significant manner that the Association is not able to function substantially contemplated by the terms hereof, for any reason, by the adjudication of any Court or other tribunal having jurisdiction over the parties hereto or if the Members of Association should vote not to renew and extend this Declaration as provided for Article VIII, Section I, all Common Properties owned by the Association at such time shall be transferred to a Trustee appointed by the Superior Court of Wake County, North Carolina, which Trustee shall own and operate said Common Properties for the use and benefit of Owners within the Properties as set forth below:

(a) Each Residential Unit located within the Properties shall be subject to Annual Assessment, which shall be paid by the Owner of each such Residential Unit Trustee. The amount of such Annual Assessment and its due date shall be determine solely by the Trustee, but the amount of such Annual Assessment on any Unit shall exceed the amount actually assessed against that Unit in the last year that assess were levied by the Association, subject to the adjustments set forth in subparagraph immediately below;

(b) The Maximum Regular Annual Assessment which may be charged Declarant or Trustee hereunder on any particular Lot or Parcel may be automatically increased each year by an amount of ten (10%) percent.

(c) Any past due Annual Assessment together with interest thereon at maximum annual rate allowed by law from the due date and all costs of collection including reasonable attorneys' fees shall be a personal obligation of the Owner at the time the Annual Assessment

became past due, and it shall also constitute and become a charge and continuing lien on the Residential Unit and all improvements thereon, against which the Assessment has been made, in the hands of the then Owner, his heirs, devisees, personal representatives and assigns.

(d) The Trustee shall be required to use the funds collected as Annual Assessments for the operation, maintenance, repair, and upkeep of the Common Properties. The Trustee may charge as part of the cost of such functions the reasonable value of its services in carrying out the duties herein provided. The Trustee shall not have the obligations to provide for operation, maintenance, repair, and upkeep of the Common Properties once the funds provided by the Annual Assessment have been exhausted.

(e) The Trustee shall have the right to convey title to the Common Properties, and to assign its rights and duties hereunder, provided that the transferee accepts such properties subject to the limitations and uses imposed hereby and affirmatively acknowledges its acceptance of the duties imposed hereby.

(f) The Trustee shall have the power to dispose of the Common Properties free and clear of the limitations imposed hereby; provided, however, that such disposition shall first be approved in writing by two4hirds (2/3) vote of each Type of Member or in the alternative shall be found to be in the best interests of the Owners of property within the Properties by the Superior Court of Wake County, North Carolina. The proceeds of such a sale shall first be used for the payment of any debts or obligations constituting a lien on the Common Properties, then for the payment of any obligations incurred by the Trustee in the operation, maintenance, repair, and upkeep of such properties, then for the payment of any obligations distributed among the Owners of property within the Properties, exclusive of the Trustee, in a proportion Assessment on property owned by a particular Owner bears to the total Maximum Regular Annual Assessments for all property located within the Properties.

Section 11. Management and Contract Rights of Association. Declarant may enter into a contract with a Management Company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. However, no such contract shall be binding upon the Association except through express adoption or ratification of the terms and conditions of such contract. Any contract or lease entered into by Declarant or by the Association while the Declarant is in control thereof shall contain a provision allowing the Association to terminate such contract without justification or penalty after transfer of management by the Declarant to the Association.

Section 12. Rights of Note holders.

(a) Any institutional holder of a first mortgage (and any Insurer or Guarantor of such first mortgage) on a Unit or Lot will, upon written request, be entitled to:

(i) Inspect the books and records of the Association during normal business hours,

(ii) Receive an annual financial statement (audited if required herein) of the Association within ninety (90) days following the end of its fiscal year.

(iii) Receive written notice of all meetings of the Association and the right to designate a representative to attend all such meetings,

(iv) Receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the unit securing its mortgage,

(v) Receive written notice of any sixty-day delinquency in the payment of assessments or charges owed by the Owner of any unit on which it holds the mortgage,

(vi) Receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owner's Association,

(vii) Receive written notice of any proposed action that requires the consent of a specified percentage of mortgage holders,

(viii) Be furnished with a copy of the mast6r insurance policy; and

(ix) Receive a copy of any Supplementary Declaration which contains additions, provisions or modifications to the Declaration pursuant to the provisions of Article II, Section 2(a) hereof thirty (30) days prior to the recording of such Supplementary Declaration.

(b) Without the prior written consent of not less than 66% of Institutional Lenders, the Association may not:

i) Abandon, partition, subdivide, encumber, sell or transfer real estate or improvements, which are owned by the Association for the benefit of all Members.

ii) Alter or amend the method of determining assessments that may be levied against the Owner.

iii) Use hazard insurance proceeds for losses to improvements located on Association property for other than the repair, replacement or reconstruction of such improvements.

Section 13. VA or FHA, FHLMC, and FNMA Approval As long as Declarant controls the Board, or retains the right to any of the following without the consent of the Members, such acts will require the prior approval of VA or FHA, FHLMC, and FNMA: Annexation of additional properties, dedication of Common Areas, and amendment Of this Declaration of Covenants, Conditions and Restrictions.

Section 14. Easements.

a) Walks, Drives, Utilities, Etc. All Properties shall be subject to such easements for walkways, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone, streets and electric power lines, television antenna lines, other utilities; ingress, egress and regress and otherwise as shall be established by Declarant any recorded maps or deeds of easement, and the Association shall have the power and authority to grant and establish further such easements upon, over, under and across the Property.

b) Easement to Correct Drainage. For a period of ten (10) years from the date hereof, Declarant reserves an easement and right on, over and under any property comprising Buckhaven PUD to maintain and to correct drainage or surface water runoff in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut trees, bushes or shrubbery, make any grading of the soil, or take any other similar action reasonable necessary, After such action has been completed, Declarant shall restore the affected property to its original condition to the extent practicable. Declarant shall give reasonable notice of intent to take action to all affected Owners.

c) Easement to Wake County and City of Fuquay Varina . An easement is hereby established for municipal, state or public utilities serving Buckhaven Acres PUD, their agents and employees over all Common Properties hereby or hereafter established for setting, removing, and reading utility meters, maintaining and replacing utility or drainage connections, and acting with other purposes consistent with the public safety and welfare, including, without limitation, police and fire protection.

d) Declarant and the Association reserve the right to subject the Property to a contract with Progress Energy for the installation of above ground or underground electric cables and lines and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Progress Energy by the Owner of each Unit within said property.

e) Declarant hereby reserves an easement of access to and over the Common Properties for the purposes of installing utilities and other improvements required or necessary in the proper development of Buckhaven PUD.

Section 15. Member Type Approvals . In all provisions in this Declaration, the Articles of Incorporation and By-Laws of the Association which require approval of a percentage of members such shall mean the percentage of each type of Member.

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

BILL CLARK HOMES OF RALEIGH, LLC

By: _____
HAL ADAMS, MANAGER

By: _____
DEBRA GARVER, MANAGER

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, a Notary Public of the County and State aforesaid, certify that Hal Adams and Debra Garver, Managers of Bill Clark Homes of Raleigh, LLC, personally came before me this day and acknowledged the due execution of the foregoing.

Witness my hand and official stamp or seal, this 20th day of June, 2005..

My Commission Expires: 6/11/07

_____
Notary Public



Exhibit "A"
Property Subjected to Covenants

BEING all of Lots 1 through 8, inclusive and 62 through 71, inclusive, Buckhaven Subdivision, Phase One, as shown recorded in Book of Maps 2005, Page 0202, Wake County Registry.

Exhibit "A-1"
Exhisting Property

BEING all of that certain tract of land shown on plat entitled, "Survey for Sugg Family Limited Partnership, et al", recorded in Book of Maps 2000, Page 498, Wake County Registry, and containing approximately 35.359 acres of land.

BOOK:011423 PAGE:01787 - 01823

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

WAKE COUNTY
NORTH CAROLINA

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

North Carolina – Wake County

The foregoing certificate___ of _____

Lucy G. Suppenfield

_____ 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: Fredrick C. Bayne DEPUTY
Assistant/Deputy Register of Deeds

This Customer Group
_____ # of Time Stamps Needed

This Document
_____ New Time Stamp
37 # of Pages

22.004–7/11/03