BOOK 1078 PAGE 661

See R.E. BK. 996 pg. 1 Declaration 9-17-84 BK 1176 pg. 211

Declaration 7-17-84 BK 1116 pg. 626

Declaration 7-22-84 BK 1165 pg. 546

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
(Five Oaks)

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Amend. Ass. 5 BK 1145 pg. 84 8-1-

THIS DECLARATION, made and entered into this the 9th day of December, 1975, by HIC MANAGEMENT CORPORATION OF N.C., a North Carolina corporation maintaining its principal office and place of business in Durham County, North Carolina, hereinafter referred to as "Declarant".

W I T N E S S E T H:

Declaration 7-31-84 BK 1169 pg. 596

WHEREAS, Declarant is the owner of certain property (the "Development Area") in the County of Durham, State of North Carolina, which is located on or near Old Chapel Hill Road in said County and State and more particularly described as set forth on Schedule "A" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures; and

Declaration 12-17-84 BK 1188 pg. 159

Declaration 12-17-84 BK 1188 pg. 721

Assignment 4-23-85 BK 1205 pg. 850

WHEREAS, Declarant is constructing on a portion thereof a townhouse for sale residential project (the "properties") which Declarant intends to be a portion of the overall Five Oaks Project; and

Assignment 4-22-85 BK 1205 pg. 568

WHEREAS, said properties are more particularly described and referred to on Schedule "A-1" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures; and

Declaration 12-17-84 BK 1188 pg. 163

WHEREAS, Declarant has constructed, or is constructing, certain recreational facilities for the use and benefit of the owners and occupants of the overall Five Oaks Project on a portion of the Development Area (the "Recreational Area"), which facilities are to be owned and maintained by the FIVE OAKS RECREATIONAL ASSOCIATION, INC., (the "Recreational Association") a North Carolina non-profit corporation; and

Declaration 7-11-85 BK 1219 pg. 906

Amendment BK 1233 pg. 391 10-11-85

WHEREAS, it is the desire of Declarant to submit the "properties" together with the improvements constructed or to be constructed thereon to the terms, provisions and conditions of this Declaration:

Supp. Amend BK 1371 pg. 175 1-17-90

NOW, THEREFORE, Declarant hereby declares that the "properties" (Schedule "A-1" hereof) as herein described and referred to shall be held, sold and conveyed subject to the following easements, restrictions, convenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, said real property

Statement of Restriction BK 1675 pg. 60 8-26-91

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

ARTICLE I

DEFINITIONS

Section 1. "Homeowner's Association" shall mean and refer to the FIVE OAKS HOMEOWNERS ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns, said ASSOCIATION to be organized and in legal existence prior to the sale of any residences in the Five Oaks Development, and the same is a separate and distinct entity from the FIVE OAKS RECREATIONAL ASSOCIATION, INC., a North Carolina non-profit corporation, (the RECREATIONAL ASSOCIATION).

Section 2. "Owner" or "Homeowner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property described on Schedule "A-1" hereof, including contract sellers, but excluding those having interest merely as security for the performance of an obligation, and shall further include the record owner of a fee simple title to any lot which is shown upon any subdivision map for any property hereafter subjected to the terms, provisions and conditions of this Declaration in accordance with the provisions therefor hereinafter provided.

Section 3. "Development Area" shall mean and refer to that certain real property hereinbefore described and referred to (Schedule "A" hereof) which is the overall Five Oaks Project site on which Development Area Declarant proposes to construct in phases or segments a residential housing area with certain attendant recreational facilities, together with such other development as may from time to time be permitted.

Section 4. "Properties" shall mean and refer to that certain real property, a portion of the Development Area, described on Schedule "A-1" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures, which is the property subjected to this Declaration of Covenants, Conditions and Restrictions, and such additions as may hereafter be made subject to this Declaration of Covenants, Conditions and Restrictions.

Section 5. "Common Area" shall mean all real property owned by the Homeowners Association and the easements granted thereto for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot shall be acquired by Deed from Declarant and is described on Schedule "B" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures, and consists of

all of the property described on Schedule "A-1" hereof excepting only the numbered lots as shown on the plat of the property recorded in Book 86, page 69 in the Public Registry of Durham County, North Carolina.

Section 6. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the property described on Schedule "A-1" hereof with the exception of the Common Area, and shall further include any plot of land shown upon any subdivision map for any property hereafter subjected to the terms, provisions and conditions of this Declaration in accordance with the provisions therefor hereinafter provided.

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Section 7. "Declarant" shall mean and refer to HIC MANAGEMENT CORPORATION OF N. C., a North Carolina corporation, its successors and assigns if such successors and/or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of Development.

Section 8. "Member" shall mean and refer to every person or entity who holds membership in the Homeowners Association and the Recreational Association.

Section 9. "Class A Lots" shall mean and refer to any lot upon which a residence or single family unit (i) has been completed and has been conveyed to an owner other than the Declarant or (ii) has been occupied. This same definition shall apply also in determining whether condominium units, townhouse lots or patio homes constructed or under development on other portions of the Five Oaks Development Area, if any, are "Class A" or "Class B" condominium units, townhouse lots or patio homes.

Section 10. "Class B Lots" shall mean and refer to any lot upon which a residence or single family unit (i) has not been completed or (ii) has not been conveyed to an owner other than the Declarant or, (iii) prior to such conveyance has not been occupied. The same definition shall apply also in determining whether condominium units, townhouse lots or patio homes constructed or under development on other portions of the Five Oaks Development Area, if any, are "Class A" or "Class B" condominium units, townhouse lots or patio homes.

Section 11. "Recreational Association" shall mean and refer to the FIVE OAKS RECREATIONAL ASSOCIATION, INC., a North Carolina non-profit corporation, its successors and assigns, said ASSOCIATION to be organized and in legal existance prior to the sale of any residences in the Five Oaks Development, and the same is a separate and distinct entity from the FIVE OAKS HOMEOWNERS ASSOCIATION, INC., a North Carolina non-profit corporation (the HOMEOWNERS ASSOCIATION.)

Section 12. "Recreational Area" shall mean and refer to all real property and improvements thereon, together with all easements appurtenant thereto

owned by the Recreational Association for the common use and enjoyment of the members. The Recreational Area to be owned by the Association at the time of the conveyance of the first lot shall be acquired by Deed from Declarant and is described on Schedule "B-1" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures.

Section 13. "Retained Lands" shall mean and refer to the Development Area (Schedule"A" hereof) excluding the Recreational Area (Schedule "B-1" hereof) and that portion of the Development Area subjected to this Declaration (Schedule "A-1" hereof). See Article XI, Section 10 for a discussion of said Retained Lands.

Section 14. The term "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Homeowners Association, provided that, when the context requires the term "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Recreational Association.

Section 15. "Institutional mortgage", sometimes referred to as "first mortgage" herein, shall be defined as a first mortgage or deed of trust originally executed and delivered to or held through assignment or assignments by a bank or a savings and loan association, or an insurance company, or a title insurance company, or a pension trust, or a real estate investment trust, or other private or governmental institutions which are regularly engaged in the business of mortgage financing, or a subsidiary of any of the foregoing, or a designee of any of the foregoing, or the Developer or any of its subsidiaries.

Section 16. "Institutional lender", shall be defined as a bank or savings and loan association or an insurance company or a title insurance company or a pension trust or real estate investment trust, or other private or governmental institutions which are regularly engaged in the business of mortgage financing, or a subsidiary of any of the foregoing or a designee of any of the foregoing, owning an institutional mortgage on one or more lots, or any of the foregoing who acquires an institutional mortgage as herein defined, by assignment or through mesne assignments from a non-institutional lender.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owner's Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area as well as an easement over the Common Areas for access, ingress and egress from and to public streets and walkways, together with an easement for parking, and the easements hereby

granted shall be appurtenant to and shall pass with the title to every lot subject only to the following provisions:

(a) the right of the Homeowners Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area, if any;

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(b) the right of the Homeowners Association to suspend the voting rights and right to the use of any recreational facilities situated upon the Common Area by an owner for any period during which any assessment against his Lot, as herein provided, remains unpaid; and for a period not to exceed sixty (60) days from any infraction of its published rules and regulations;

(c) the right of the Homeowners Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument or instruments signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded (such instrument or instruments may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument);

(d) the right of the Homeowners Association to limit the number of guests of members as to use of any recreational facilities situated upon the Common Area;

(e) the right of the Homeowners Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage and grant liens and encumbrances upon said Common Area and facilities, the right of any such mortgagee of the Common Area and facilities shall be subordinate to the rights of the homeowners hereunder;

(f) the right of the Homeowners Association, through its Board of Directors, to determine the time and manner of use of any recreational facilities situated upon the Common Area by the Members;

(g) the right of the Homeowners Association to reasonably regulate, locate and direct access routes as to the easement for access, ingress and egress, and to designate parking locations.

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

Section 3. Reciprocal Easements. Whenever building lines, patio lines, private walkways or plantings encroach onto the Common Area, the Owner of the affected lot hereby grants a perpetual easement for the use of that portion of the lot which creates an encroachment, to the Homeowners Association and its Members.

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ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a Lot which is subject to assessment shall be a Member of the Homeowners Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

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

Class A. Class A Members of the Homeowners Association shall be all Owners of Lots with the exception of the Declarant, and each such Owner shall be entitled to one vote for each lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for each such Lot shall be exercised as they (the Owners) among themselves determine, but in no event shall more than one vote be case with respect to any one Lot.

Class B. Class B Member(s) shall be the Declarant and the Declarant shall be entitled to three (3) votes for each Lot Owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever first occurs:

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

(b) On January 1, 1987.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants and agrees, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Homeowners Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. All such annual and special assessments, together with interest, costs, and reasonable attorney's fees for the collection thereof shall be a charge and lien upon the Lot and improvements of the respective Owners thereof, and the same shall be continuing lien upon the property (Lot and Improvements) against

which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees for the collection thereof, shall also be a personal financial obligation of the person, or persons, who was, or were, the Owner or Owners, of such property at the time when the assessments became due. The personal financial obligation for delinquent assessments shall not pass to successors in title to any such lot and improvements unless expressly assumed by such purchasers: PROVIDED, HOWEVER, the same shall be and remain a charge and lien upon any such Lot and improvements until paid or otherwise satisfied except as may herein otherwise be provided.

Section 2. Purpose of Assessments. The assessments levied by the Homeowners Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and residents of the Properties and for the improvements and maintenance of the Common Area and facilities, and easements appurtenant thereto, and for payment of local taxes and special governmental assessments on or to the Common Area, together with payment of water and sewage bills on all of said properties and garbage collection therefrom if such services are provided by the Homeowners Association, together with exterior maintenance thereon.

Section 3. Maximum Annual Assessment. Until April 1, 1977 the maximum annual assessment shall be Three Hundred Thirty-Six and no/100 DOLLARS ($336.00) per lot or Twenty-Eight and no/100-- DOLLARS ($ 28.00) per month.

(a) From and after April 1, 1977 the maximum annual assessment may be increased each year not more than five percent (5%) above the maximum assessment for the previous year without a vote of the membership of the Homeowners Association, as hereinbelow provided.

(b) From and after April 1, 1977 the maximum annual assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of each class of members of the Homeowners Association who are voting in person, or by proxy, at a meeting duly called for such purpose.

(c) The Board of Directors may fix the maximum annual assessment by an amount not in excess of the maximum, determined as herein provided.

(d) Notwithstanding any provision contained in this Declaration, the Articles of Incorporation or the Bylaws of the Association, during the period of time beginning with the recording of the Declaration among the Public Records of Durham County, North Carolina and ending on March 31, 1977, the Declarant shall collect all assessments from Lot Owners

and shall pay all expenses for the maintenance of the Common Areas and administration of the Association during such period of time, on an accrual basis (receiving pro rata credit for prepaid expenses, deposits, etc.). Declarant shall not be obligated to and shall not have to account for the monies collected, or any surplus retained or deficiencies paid. After the expiration of said period, all assessments, and the Lot Owner's and Declarant's responsibility with respect thereto, shall be as otherwise provided for herein.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area and facilities, including (but not limited to) fixtures and personal property related thereto provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members of the Homeowners Association who are voting in person or by proxy at a meeting duly called for such purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Sections 3 and 4 shall be sent to all members of the Homeowners Association not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Class A Lots and Class B Lots; PROVIDED, HOWEVER, that the assessments on all Class B Lots shall be fixed at fifty percent (50%) of the amount of Assessments upon all Class A Lots.

Section 7. Date of Commencement of Annual Assessments: Due Date. The annual assessments provided for herein shall commence as to all lots on the first day of June 1976 (provided there has been a prior conveyance of the Common Area to the Homeowners Association). The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year for the Homeowners Association. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment

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period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors, and unless otherwise provided, the Homeowners Association shall collect each month from the Owner of each Lot one-twelfth (1/12th) of the annual assessment of such Lot. The Homeowners Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Homeowners Association setting forth whether the assessments on a specified Lot have been paid. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid, as to any purchaser or mortgagee of a lot relying thereon.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Homeowners Association. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Homeowners Association may bring action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action for collection thereof shall be added to the amount of such assessment. Each such Owner, by his acceptance of a deed to a Lot, hereby expressly vests in the FIVE OAKS HOMEOWNERS ASSOCIATION, INC., or its agents, the right and power to bring all actions against such Owner personally for the collection of such charges and liens as a debt and to enforce the aforesaid charge and lien by methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Homeowners Association in a like manner as a mortgage or deed of trust lien on real property and such member expressly grants to the Homeowners Association a power of sale in connection with any such charge or lien. The lien provided for in this section shall be in favor of the Homeowners Association and shall be for the benefit of all other Lot Owners. The Homeowners Association, acting on behalf of the Lot Owners shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Owner's portion of the premium. NO OWNER MAY WAIVE OR OTHERWISE ESCAPE LIABILITY FOR THE ASSESSMENTS PROVIDED FOR HEREIN BY NON-USE OF THE COMMON AREA OR FACILITIES OR ABANDONMENT OF HIS LOT.

Section 9. Subordination of the Assessment Lien to Mortgages, Deeds of Trust and Similar Security Interests. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage, deed of trust, or similar security interest owned or held by an institutional lender, and subordinate to tax liens and special assessments on a lot made by lawful governmental authority.

Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties, if any, dedicated to, and accepted by, a local public authority, the common area and all properties owned by a charitable or non-profit organization exempt from ad valorem taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments, irrespective of the tax status of the Owner thereof.

Section 11. Management Agreements. Each Owner of a Lot hereby agrees to be bound by the terms and conditions of any management agreements entered into by the Homeowners Association. A copy of all such agreements shall be available to every owner. Any and all management agreements entered into by the Homeowners Association shall provide that said management agreement may be cancelled, prior to the expiration of said agreement, by an affirmative vote of sixty percent (60%) of the votes of each class of the Members of the Homeowners Association. Except as herein provided, no such management agreement shall be cancelled prior to effecting by the Homeowners Association or its Board of Directors a new management agreement with a party or parties, which new management agreement will become effective immediately upon the cancellation of the then existing management agreement. It shall be the duty of the Homeowners Association or its Board of Directors to effect a new management agreement upon the expiration of any prior management agreement, unless self-management is undertaken as herein provided. Any and all management agreements shall be made with a responsible party or parties having experience adequate for the management of a project of this size and type. The Association may undertake self-management upon the affirmative vote of 75% of the votes of each class of members and upon the approval of 100% of the institutional lenders holding institutional mortgages upon the lots covered hereby.

Section 12. Insurance Assessments. The Board of Directors or its duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings owned by the Homeowners Association against loss or damage by fire or other hazards in the amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all

Common Areas, and all damage or injury caused by the negligence of the Homeowners Association or any of its agents. Said insurance shall include coverage against vandalism. Premiums for all such insurance shall be common expenses. All such insurance coverage shall be written in the name of the Homeowners Association as Trustee for each of the lot owners in equal proportions. It shall be the individual responsibility of each Owner at his own expense to provide, as he sees fit, hazard insurance, homeowners liability insurance, theft and other insurance covering personal property damage and loss; Provided, However, that each owner shall be and is required at a minimum to carry fire and extended coverage insurance on his townhouse for the full insurance value thereof, said insurance to provide for a thirty (30) day notice prior to any cancellation thereof. Each owner shall cause the Homeowner's Association to be provided with satisfactory evidence that such insurance is in force and as to payment of the premium therefor on an annual basis. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Homeowners Association, the Board of Directors shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by said Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractor or they may negotiate with any contractor. The contractor performing the repair or reconstruction shall be required to provide full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors may levy a special assessment against all members of the Homeowners Association, as established by Article IV, Section 4, above, or upon concurrence of two-thirds (2/3) of each class of members, and the respective mortgagees, may borrow sufficient funds to make up any deficiency for repair or rebuilding of the Common Areas and facilities.

ARTICLE V

ARCHITECTURAL CONTROL

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

kind, shape, height, materials and location of the same have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Homeowners Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the lots shall constitute a party wall, and to the extent not inconsistant with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willfull acts or omissions shall apply thereto.

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

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

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each owner involved in the party wall dispute shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all of the arbitrators. Should any party refuse to appoint an arbitrator within ten (10) days after written request therefor, the Board of Directors of the Association shall select an arbitrator for the refusing party.

ARTICLE VII

EXTERIOR MAINTENANCE

In addition to Maintenance upon the Common Area, the Homeowners Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: paint, repair, replacement and care for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces, screens and screen doors, exterior door and window fixtures and other hardware and decks or patios.

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In the event that the need for maintenance or repair is caused through the willful or negligent act of an Owner, his family, or guests, or invitees, such negligent or willful act to be determined by the Board of Directors acting in good faith after hearing all available facts, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such lot is subject.

In the event an Owner of any Lot in the Property shall fail to maintain the premises and the improvements situated thereon in a manner reasonably satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the building and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Said property is hereby restricted to residential dwellings for residential use. All buildings or structures erected upon said Property shall be of new construction and no buildings or structures other than townhouse buildings, being single family townhouses joined together by a common exterior roof, shall be constructed. No structures of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any portion of said Property at any time as a residence either temporarily or permanently.

Section 2. Each Lot shall be conveyed as a separately designated and legally described freehold estate subject to the terms, conditions and provisions hereof.

Section 3. Nowithstanding any provision herein contained to the contrary, it shall be expressly permissible for Declarant or the builder of said townhouses to maintain during the period of construction and sale of the said Townhouses, upon such portion of the properties as Declarant deems necessary, such facilities

as in the sole opinion of Declarant may be reasonably necessary, convenient or incidental to the construction and sale of said Townhouses, including, but without limitation, a business office, storage area, construction yards, signs, model units and sales office.

Section 4. No animals, livestock or poultry of any kind shall be raised, bred or kept on any of said Lots, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for any commercial purposes.

Section 5. No advertising signs, including "for rent" or "for sale" signs, billboards, unsightly objects, or nuisances shall be erected, placed or permitted to remain on said Properties, nor shall said Properties be used in any way or for any purpose which may endanger the health or unreasonably disturb the Owner of any Townhouse or any resident thereof. No business activities of any kind whatsoever shall be conducted in any building or in any portion of said Properties, PROVIDED, HOWEVER, the foregoing covenants shall not apply to the business activities, signs, and billboards, or the construction and maintenance of buildings, if any, of Declarant, its agents and assigns during the construction and sale period, and of FIVE OAKS HOMEOWNERS ASSOCIATION, INC., a non-profit organization incorporated under the laws of the State of North Carolina, its successors, and assigns, in furtherance of its powers and purposes as herein set forth.

Section 6. All clotheslines, equipment, garbage cans, service yards, woodpiles, or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view of neighboring Townhouses and streets. All rubbish, trash, or garbage shall be regularly removed from the premises, and shall not be allowed to accumulate therein. All clotheslines shall be confined to patio areas.

Section 7. Except in the individual patio areas appurtenant to a Townhouse, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said Properties except such as are installed in accordance with the initial construction of the buildings located thereon or as approved by the Homeowners Association's Board of Directors or their designated representatives. Except for the right of ingress and egress, the Owners of Lots are hereby prohibited and restricted from using any of said Property outside the exterior building lines, patio and carport areas, except as may be allowed by the Homeowners Association's Board of Directors. In connection with this Section reference is made to the provisions of Article II, Section 1 and Article V. It is expressly acknowledged and agreed by all parties concerned that this paragraph is for the benefit of all Members in FIVE OAKS HOMEOWNERS ASSOCIATION, INC., and

is necessary for the protection of Lot Owners.

Section 8. Maintenance, upkeep and repair of any lot area, patio or deck, screens and screen doors, exterior door and window fixtures, and other hardware shall be the sole responsibility of the individual owner of the Lot appurtenant thereto and not in any manner the responsibility of the Homeowners Association. Any action necessary or appropriate to the proper maintenance and upkeep of the Common Area and facilities and all exteriors and roofs of the Townhouses, including, but not limited to, recreation and parking areas and walks, shall be taken by the Board of Directors or by its duly delegated representatives.

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Section 9. All fixtures and equipment installed within a Townhouse commencing at a point where the utility lines, pipes, wires, conduits or systems enter the exterior walls of a Townhouse, (except that with respect to (i) the water lines, beginning at the meter for each respective lot, and (ii) the sewer lines, beginning at the property line for each respective lot), shall be maintained and kept in repair by the Owner thereof. An owner shall do no act nor any work that will impair the structural soundness or integrity of another Townhouse or impair any easement nor do any act nor allow any condition to exist which will adversely affect the other Townhouses or their Owners.

Section 10. Without prior written approval and the authorization of the Board of Directors, no exterior television or radio antenna of any sort shall be placed, allowed or maintained upon any portion of the improvements to be located upon the Property nor upon any structure situated upon the Property other than an aerial for a master antenna system, should any such master system or systems be utilized and require any such exterior antenna.

Section 11. No action shall at any time be taken by the Homeowners Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of another Owner.

ARTICLE IX

EASEMENTS

Section 1. Each Townhouse and the property included in the Common Area shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the Declarant. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure containing two or more Townhouses is partially or totally destroyed, and then rebuilt, the owners of the Townhouses so affected agree that minor encroachments of parts of the adjacent Townhouse units or Common Areas due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist.

Section 2. There is hereby created a blanket easement upon, across, over and under all of said Property for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including but not limited to water, sewers, gas, telephones and electricity, and a master television antenna system to service the property subjected to this Declaration and any additions thereto. By virtue of this easement, it shall be expressly permissible for the providing electrical and/or telephone company to erect and maintain the necessary poles and other necessary equipment on said property and to affix and maintain electrical and/or telephone wires, circuits and conduits on, above, across and under the roofs and exterior walls of said Townhouses. An easement is further granted to all police, fire protection, ambulance and all similar persons to enter upon the streets and Common Area in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in or to cross over the Common Area provided for herein. Notwithstanding anything to the contrary contained in this paragraph, no sewer lines, electrical lines, water lines, or other utilities may be installed or relocated on said Property except as initially programmed and approved by the Declarant or thereafter approved by Declarant or the Homeowners Association's Board of Directors. Further, Provided, However, that any use of easements herein granted shall not be detrimental to any improvements located on the Properties. Should any utility furnishing a service covered by the general easement herein provided request a specific easement by separate recordable document, Declarant shall have the right to grant such easement on said Property without conflicting with the terms hereof. The easements provided for in this Article IX shall in no way affect any other recorded easement on said premises.

Section 3. Underground Electrical Services.

(a) Underground single phase electric service shall be available to all residential townhouses on the aforesaid lots and to the recreation buildings to be constructed on the Common Area and the Recreational Area, and the metering equipment shall be located on the exterior surface of the wall at a point to be designated by the utility company. The utility company furnishing the services shall have a two (2) foot wide easement along and centered on the underground electric power service conductors installed from the utility company's easement to the designated point of service of the townhouse structure.

(b) For so long as such underground service is maintained, the electric service to each townhouse and the recreation building shall be uniform and

exclusively of the type known as single Phase, 120/240 volt, 3 wire, 60 cycle alternating current.

(c) Easements for the underground service may be crossed by driveways and walkways provided the Declarant or Builder makes prior arrangements with the utility company furnishing electric service. Such easements for the underground service shall be kept clear of all other improvements, including buildings, patios, or other pavings, other than crossing walkways or driveways.

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ARTICLE X

THE FIVE OAKS RECREATIONAL ASSOCIATION, INC.

With respect to the Five Oaks Recreational Association, Inc., a North Carolina Non-Profit Corporation (hereinafter referred to as "Recreational Association"), and its facilities, said Declarant, by this Declaration and all owners of lots, by acceptance of their deeds, covenant and agree as follows that:

Section 1. All lot owners shall automatically be members of the Recreational Association and shall enjoy the privileges and be bound by the obligations contained in the Recreational Association's Articles of Incorporation and Bylaws, subject to:

(a) the right of the Recreational Association to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Recreational Area;

(b) the right of the Recreational Association to suspend the voting rights and right to the use of any recreational facilities situated upon the Recreational Area by a member for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days from any infraction of its published rules and regulations;

(c) the right of the Recreational Association to dedicate or transfer all or any part of the Recreational Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument or instruments signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded (such instrument or instruments may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument);

(d) the right of the Recreational Association to limit the number of guests of members as to use of any recreational facilities situated upon the Recreational Area;

(e) the right of the Recreational Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Recreational

Area and facilities and in aid thereof to mortgage and grant liens and encumbrances upon said Recreational Area and facilities, the right of any such mortgagee of the Recreational Area and facilities shall be subordinate to the rights of the members hereunder;

(f) the right of the Recreational Association, through its Board of Directors, to determine the time and manner of use of any recreational facilities situated upon the Recreational Area by the Members;

(g) the right of the Recreational Association to reasonably regulate, locate and direct access routes in the Recreational Area and the location of parking thereon.

Section 2. Each member for each condominium unit, patio home, townhouse lot or Permit Membership (resident and social) owned shall pay to the Recreational Association an annual assessment equal to that amount of money determined by dividing the total number of condominium units, patio homes, townhouse lots and Permit Memberships (resident and social) into the total sum necessary to provide for insurance, reserve fund for replacements, maintenance and operation of the swimming pool, tennis courts, clubhouse, and their facilities, for the particular fiscal year involved; PROVIDED, HOWEVER, that appropriate adjustments shall be made in such annual assessments to provide for the limitation set forth in Section 13 of this Article so long as there are Class B condominium units, patio homes or townhouse lots subject to covenants of assessment by the Recreational Association; PROVIDED, FURTHER, HOWEVER, that if, on the date of determination of the Annual Budget for the Recreational Association, there are no more than an aggregate of 100 Class A condominium units, patio homes and townhouse lots subject to covenants of assessment by this Recreational Association, and Resident Permit Memberships (See Sections 11 and 12 of this Article) then and in such event, the annual assessment for the upcoming fiscal year for each Class A condominium unit, patio home and townhouse lot and Permit Membership (resident and social) shall be that amount of money determined by dividing 470 into the total sum necessary to provide for insurance, reserve fund for replacements, maintenance and operation of the swimming pool, tennis courts, clubhouse, and their facilities. Any difference between the amount required to provide for insurance, reserve fund for replacements, maintenance and operation of the swimming pool, tennis courts, clubhouse, and their facilities, and the amount assessed against Class A condominium units, patio homes and townhouse lots and Permit Memberships (resident and social) shall be provided by HIC Management Corporation of N. C., its successors and assigns, until such time as there shall be an aggregate of 100 Class A condominium units, patio homes and townhouse lots subject to Covenants of Assessment by the Recreational Association, and Resident Permit Memberships. Any member may delegate, in accordance with the Bylaws of the

Recreational Association, his right of enjoyment to the Recreational Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

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Section 3. Each owner of any lot subject to this Declaration, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Recreational Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. All such annual and special assessments, together with interest, costs, and reasonable attorney's fees for the collection thereof shall be a charge and lien upon the lot of the respective Owners thereof, and the same shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees for the collection thereof, shall also be a personal financial obligation of the person, or persons who was, or were, the Owner, or Owners, of such lot at the time when the assessment became due. The personal financial obligation for delinquent assessments shall not pass to successors in title to any such lot unless expressly assumed by such purchasers; PROVIDED, HOWEVER, the same shall be and remain a charge and lien upon any such lot until paid or otherwise satisfied except as may herein otherwise be provided.

Section 4. The assessments levied by the Recreational Association shall be used exclusively to provide for necessary insurance coverage, reserve fund for replacements, maintenance and operation of the swimming pool, tennis courts, clubhouse and their facilities and to promote the recreation, health, safety, and welfare of the members.

Section 5. In addition to the annual assessments authorized above the Recreational Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement, including (but not limited to) fixtures and personal property related thereto or the expense of any other contingencies; provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members of the Recreational Association who are voting in person or by proxy at a meeting duly called for such purpose.

Section 6. Written notice of any meeting called for the purpose of taking any action authorized in this Article X shall be sent to all members of the Recreational Association not less than ten (10) days nor more than sixty (60)

days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. The annual assessments provided for herein shall commence as to all lots on the first day of June, 1976 (provided there has been a prior conveyance of the Recreational Area by Declarant to the Recreational Association). The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year for the Recreational Association. The Board of Directors of the Recreational Association shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every member. The due date shall be established by the Board of Directors, and unless otherwise provided, the Recreational Association shall collect each month from the members one-twelfth (1/12th) of the annual assessment for their lots. The Recreational Association shall, upon demand, furnish a certificate signed by an officer of the Recreational Association setting forth whether the assessments on a specified lot have been paid. Such certificates shall be conclusive evidence of payment of the assessment therein stated to have been paid, as to any purchaser or mortgagee of a lot relying thereon.

Section 8. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of six percent (6%) per annum, and the Recreational Association may bring an action at law against the Member personally obligated to pay the same or foreclose the lien against the lot, and interest, costs, and reasonable attorney's fees of any such action for collection thereof shall be added to the amount of such assessment. Each such member, by his acceptance of a deed to his lot, thereby expressly vests in The Five Oaks Recreational Association, or its agents, the right and power to bring all actions against such member personally for the collection of such charges and liens as a debt and to enforce the aforesaid charge and lien by all methods available for the enforcement of such liens,

including foreclosure by an action brought in the name of the Recreational Association in a like manner as a mortgage or deed of trust lien on real property, and such member expressly grants to the Recreational Association a power of sale in connection with any such charge or lien. The lien provided for in this section shall be in favor of the Recreational Association and shall be for the benefit of all members thereof. The Recreational Association, acting on behalf of the members shall have the power to bid in a lot foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same, and to subrogate so much of its right to such liens as may be necessary or expedient to an insurance company continuing to give total coverage notwithstanding nonpayment of such defaulting Member's portion of the premium. NO MEMBER MAY WAIVE OR OTHERWISE ESCAPE LIABILITY FOR THE ASSESSMENTS PROVIDED FOR HEREIN BY NON-USE OF THE RECREATIONAL AREA OR FACILITIES OR ABANDONMENT OF HIS LOT.

Section 9. The lien of the assessments provided for in this Article X shall be subordinate to the lien of any first mortgage, deed of trust or similar security interest on a member's lot owned or held by an insitutional lender, and subordinate to tax liens and special assessments on the lot made by a lawful governmental authority. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due and payable prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due and payable or from the lien of any such subsequent assessment.

Section 10. Insurance Assessments. The Board of Directors of the Recreational Association or its duly authorized agent shall have the authority to and shall obtain insurance for all the buildings and improvements owned by the Recreational Association against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering the Recreational Area, and all damage or injury caused by the negligence of the Recreational Association or any of its agents. Said insurance shall include coverage against vandalism. Premiums for all such insurance shall be an expense of the Recreational Association. All such insurance coverage shall be written in the name of the Recreational Association as Trustee for each of the members. In the event of damage or destruction by fire or other casualty to any property covered by insurance written in the name of the Recreational Association, the Board of Directors shall, with concurrence of the mortgagee, if any, upon receipt of the insurance proceeds,

contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provisions agreed to by said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by said Board of Directors. The Board of Directors shall advertise for sealed bids with any licensed contractors or they may negotiate with any contractor. The contractor performing the repair or reconstruction work shall be required to provide full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors may levy a special assessment against all members of the Recreational Association, or upon concurrence of two-thirds (2/3) of each class of members, and their respective mortgagees, may borrow sufficient funds to make up any deficiency for repair or rebuilding of the Recreational Area and facilities.

Section 11. The Recreational Association shall have two classes of voting membership:

Class A. Class A Members of the Recreational Association shall be all Owners of lots, condominium units and patio homes in the Five Oaks Development Area (with the exception of the Declarant) and all Resident Permit Members therein (as described and set forth in Article V(e) of the Articles of Incorporation of the Recreational Association and Article X, Section 12 hereof), and each such Owner or Resident Permit Member shall be entitled to one vote for each lot, condominium unit or patio home owned, or for each Resident Permit Membership held. When more than one person holds an interest in any lot, condominium unit, patio home or Resident Permit Membership, all such persons shall be members. The vote for each such lot, condominium unit, patio home or Resident Permit Membership shall be exercised as they (the owners or resident permit holders) among themselves determine, but in no event shall more than one vote be cast with respect to any one lot, condominium unit, patio home or Resident Permit Membership.

Class B. Class B member(s) shall be HIC Management Corporation of N. C., a North Carolina corporation, its successors and assigns if such successors and/or assigns should acquire more than one undeveloped lot or patio home site from HIC Management Corporation of N. C. for development, and it shall be entitled to three (3) votes for each townhouse lot, condominium unit or patio home owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) on January 1, 1987.

Section 12. Permit Members. The Board of Directors of the Recreational Association, at their discretion and from time to time, may issue Permit Memberships to persons residing outside the Five Oaks Development Area or to persons residing within the Five Oaks Development Area but not owning or occupying a condominium unit, patio home or townhouse lot; PROVIDED, HOWEVER, that such Permit Memberships shall be divided into two (2) classes as follows:

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(i) a Resident Permit Membership shall be the Permit Membership available to persons residing within The Five Oaks Development Area but not owning or occupying a condominium unit, patio home or townhouse lot, and such Resident Permit memberships shall be available as a matter of right as to rental apartments, if any, within the Five Oaks Development Area, the owner of such rental apartments to exercise such right from time to time by written notification to the Board of Directors and the owner of such rental apartments shall be responsible for payment of all annual and special assessments and membership fees for units for which such right is being exercised; and

(ii) a Social Permit Membership shall be the Permit Membership available to persons residing outside The Five Oaks Development Area.

Such Permit Members, so long as said Permit Memberships shall be and remain in good standing, may use the swimming pool, tennis courts, clubhouse and other facilities of this Recreational Association subject to payment of annual and special assessments as provided herein and in the Articles of Incorporation for the Recreational Association, together with such fees, and subject to such rules and regulations and cancellation terms as may be promulgated by the Board of Directors from time to time, and in addition Resident Permit Members shall be Class "A" members (as described above) and shall be entitled to voting privileges. The owner of rental apartments shall have one vote for each apartment for which membership rights are being exercised from time to time. Social Permit Members shall not be Class "A" members and shall not be entitled to voting privileges.

Section 13. Both annual and special assessments must be fixed at a uniform rate for all Class A townhouse lots, condominium units, patio homes and all permit memberships (resident and social) and all Class B townhouse lots, condominium units, and patio homes; PROVIDED, HOWEVER, that the assessments on all Class B lots, condominium units and patio homes shall be fixed at fifty percent (50%) of the amount of the assessments upon all class A townhouse lots, condominium units and patio homes.

Section 14. The Five Oaks Development Area as hereinabove described may

be expanded and added to by HIC Management Corporation of N.C., (or any person, firm or corporation to whom HIC Management Corporation of N.C. specifically transfers and assigns the right, privilege and option herein retained) on or before January 1, 1987 upon thirty (30) days prior written notice to the Board of Directors of this Recreational Association describing in detail any such addition or additions (said notice to be accompanied by a current plat of survey of the property covered by such addition or additions to The Five Oaks Development Area), so long as any such addition or additions to The Five Oaks Development Area will not result in more than 750 Class A memberships in the Recreational Association. For definition of Class A Membership see Article V, Paragraph (e) and Article IV of the Articles of Incorporation of the Recreational Association and Sections 11 and 12 of this Article. Any such addition or additions as herein provided for shall be accorded the privileges and shall be treated for all purposes as if said property were a portion of the originally described Five Oaks Development Area.

ARTICLE XI

GENERAL PROVISIONS

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

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other of the provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for the term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. The Board of Directors of the Homeowners Association may cause to be recorded in the Public Records of Durham County such instruments or documents as may be necessary to cause any such extension to be legally effective. Except as provided in Section 4 of this Article this Declaration may be amended during the first twenty (20) year period by an instrument signed by the owners (and the holders of any first mortgage liens thereon) of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by the Owners (and the holders of first mortgage liens thereon) of not less than seventy-five percent (75%) of the Lots. Any

amendment must be recorded and indexed in the name of the Homeowners Association and each lot owner.

330 Section 4. Declarant's Right to Amend Declaration with Approval of Veterans Administration or Department of Housing and Urban Development. In the event that the Declarant shall seek to obtain approval of this Declaration and the plan of development of the Properties in order that the lots and improvements constructed thereon will be eligible for loans approved or guaranteed by the Veterans Administration (herein called "VA") or the Department of Housing and Urban Development (herein called "HUD"), or other governmental agency, it is likely that such agency or agencies will require changes in this Declaration in order to make the lots and improvements thereon eligible for such loans. In such event, the Declarant, without the consent or approval of any other owner, shall have the right to amend this Declaration, and the amendment shall become effective upon recordation of the amendment, along with attached evidence of approval by the appropriate governmental agency, in the Durham County Registry. A letter from an official of the VA, HUD, or other appropriate governmental agency, requesting or suggesting an amendment, shall be sufficient evidence of the approval of VA, HUD and/or such other agency.

Section 5. Annexation of Additional Property.

(a) Annexation of additional property after ten (10) years from the date hereof or by persons, firms or corporations other than the Declarant shall require the assent of two-thirds (2/3) of each class of members of the Homeowners Association at a meeting duly called for this purpose, written notice of which shall be sent to all members thereof not less than thirty (30) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent (60%) of the votes of each class of members shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. In the event that two-thirds (2/3) of each class of membership are not present in person or by proxy, members not present may give their written consent to the action taken thereat.

(b) If within ten (10) years from the date of filing this Declaration, the Declarant shall develop additional lands such additional lands may be annexed to the properties without the assent of the Class A members of the Homeowners Association or their mortgagees; PROVIDED, HOWEVER, the development of the additional lands shall be in accordance with a plan for development for the property approved by applicable governmental authorities.

(c) Any annexation of property under this Section shall be effected with an appropriate instrument which extends the Covenants, Conditions and Restrictions hereof to any property being annexed, said property to be described in such instrument. In addition any such instrument of annexation shall recite whether annexation is being made under Sub-Section (a) or (b) of this Section and shall recite compliance with the requirements of the applicable Sub-Section.

Section 6. Failure of the Homeowners and/or Recreational Association to Pay Taxes and Special Assessments on Common Area and/or Recreational Area. In the event that the Homeowners Association or the Recreational Association shall, contrary to their respective obligations to do so, fail to pay the ad valorem taxes and/or any special governmental assessments on the common area (as defined and described in Article I, Section 5 of this Declaration) or the Recreational Area (as defined and described in Article I, Section 12 of this Declaration) on or before expiration of one hundred eighty (180) days from and after the day before the date on which the same shall become delinquent, then and in such event, said taxes or assessments, together with any interest and penalties thereon shall be and become a lien, on a pro-rata basis, upon the lots covered hereby. Such liens may be foreclosed by the governmental authority in the same manner as provided for foreclosure of liens for ad valorem taxes and assessments and public improvements.

Section 7. Conveyance of Property to Homeowners Association and Recreational Association. It is understood and agreed that Declarant, its successors and assigns, shall convey the Common Area to The Five Oaks Homeowners Association and the Recreational Area and facilities to The Five Oaks Recreational Association, Inc. free and clear of financial liens and encumbrances at or prior to the time that the first lot is conveyed subject hereto to a purchaser thereof.

To the extent that any work or construction remains to be done on or as to said Common Area or said Recreational Area and facilities at such time, then and in such event Declarant shall have theretofore delivered its contract and undertaking to complete such work or construction, lien free, to the Homeowners Association and/or the Recreational Association, as the case may be, on or before June 1, 1976.

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Section 8. Reserve Funds. From and after April 1, 1977 the Homeowners Association and the Recreational Association, respectively, shall establish and maintain a reserve fund for replacement and maintenance of the common areas and facilities and the recreational area and facilities, respectively, by allocation and payment monthly to such reserve fund in such amounts as are established by the respective Boards of Directors of the Homeowners Association and the Recreational Association.

Section 9. Gender and Grammar. The singular whenever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

Section 10. Notices of Mortgages; Notices to Mortgagees. Any Owner who mortgages his Lot or any interest therein, shall notify the Homeowners Association in such manner as said Association may direct, of the name and address of his mortgagee and thereafter shall notify the Homeowners Association of the payment, cancellation or other alteration in the status of such mortgage. The Homeowners Association shall maintain such information in a book entitled "Mortgagees of Lots", and upon written request to the Board, the holder of any duly recorded mortgage on any Lot or an interest therein shall be given a copy of any and all notices permitted or required to be given to the Owner and Owners whose lot or interest therein is subject to such mortgage where a violation or breach hereof is alleged, which violation or breach is not cured within thirty (30) days.

Section 11. Retained Lands. A portion of The Five Oaks Development Area (Schedule "A" hereof) is not subject to this Declaration and is referred to as Retained Lands. Said Retained Lands are described on Schedule "C" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as though set forth herein verbatim in words and figures.

At the time of the filing of this Declaration improvements have been constructed on only a portion of the Development Area, and the Declarant, its successors and assigns, reserve and retain the right, privilege and option to develop and improve such Retained Lands, or any portion thereof, at such time in the future as may be selected by Declarant, its successors and assigns, for such use and purpose as may be permissible under and pursuant to applicable governmental controls, if any, including, but not limited to, the erection of residential apartments for rent or the formation of condominium regimes or the sale of additional fee simple townhouses or patio homes or single family detached homes. If any such development and improvement does occur, at such time the owners and occupants of any such condominium units, patio homes or townhouses shall be entitled to membership, together with all rights and privileges appertaining thereto, in The Five Oaks Recreational Association, Inc., said Association being described and referred to in Article X hereof, conditioned only upon payment of the prescribed assessments to be utilized for the operation of said Association and maintenance and repair of its facilities and equipment, and other purposes as specified in said Association's Articles of Incorporation and Bylaws and set forth in Article X hereof. Any portion of said retained lands developed within ten (10) years from the date of filing this Declaration may be brought under this Declaration by filing an appropriate instrument therefor.

Section 12. Developer's Use of Clubhouse. Notwithstanding any other provision herein contained, the Declarant (HIC Management Corporation of N. C.) its successors and assigns, shall and does have and retain the right, privilege and option to the use, on a rent-free basis (but paying its pro-rata portion of utility expenses and ad valorem taxes), of 3500 square feet of space in the clubhouse located, or to be located, on the Recreational Area for its sales offices and related uses until January 1, 1987 or until development and construction activities cease on the Five Oaks Development Area, whichever shall first occur.

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Section 13. The Homeowners Association reserves the right to retain a pass key to each Townhouse Unit and no locks or other devices shall be placed on the doors to the Townhouse Units to obstruct entry through the use of such pass key. In the event of any emergency originating in or threatening any Townhouse Unit, if any, the managing agent or his representative or any other person designated by the Board may enter the Townhouse Unit immediately, whether the Owner is present or not.

Section 14. Rental of Townhouses By Owners. The respective Townhouses shall not be rented by the owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than thirty (30) days; or (b) any rental if the occupants of the Unit are provided customary hotel services, such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Other than the foregoing obligations, the owners of the respective Units, including the Grantor, shall have absolute right to lease same provided that said lease is made subject to the covenants and restrictions contained in this Declaration and further subject to the Articles of Incorporation and Bylaws of the Homeowners Association and the Recreational Association.

Section 15. Remedy for Violation. For violation or a breach of any of the provisions herein, or the provisions of the Articles of Incorporation or Bylaws of the Homeowners Association or the Recreational Association by any person claiming by, through or under the Declarant and/or the Associations, or by virtue of any judicial proceedings, the Owner, or the Associations, or the Declarant or an institutional lender, or any of them, shall have the right to proceed at law for damages or in equity to compel compliance with any of them, or for such other relief as may be appropriate. In addition to the foregoing right, whenever there shall have been built within the Property any structure which is in violation of this Declaration, any of the aforementioned persons or parties may enter upon the

property where such violation exists, and summarily abate or remove the same at the expense of the Owner, provided, however, that the Homeowners Association shall then, at the expense of the Owner, make the necessary repairs, construction, etc., to insure that the property and improvements where such violation occurred is restored to the same condition in which it existed prior to such violation, and any such entry, abatement, removal or restoration and construction work shall not be deemed a trespass. In the event that resort to this Section becomes necessary, then the defaulting parties shall be liable for costs of enforcement including attorney's fees and court costs.

Section 16. Easement for Construction Purposes. The Declarant shall have full rights of ingress and egress to and through, over and about the Common Areas and the Recreational Area during such period of time as the Declarant is engaged in any construction or improvement work on or within the Property or on the Development Area, and, shall further have an easement for the purpose of the storage of materials, vehicles, tools, equipment, etc., which are being utilized in such development or construction. No Owner, his guests or invitees shall in any way interfere or hamper Declarant, his employees, successors or assigns in connection with such construction.

IN WITNESS WHEREOF, the undersigned HIC MANAGEMENT CORPORATION OF N.C., a North Carolina corporation, Declarant hereof, has caused this Declaration to be executed by its appropriate officers, all by authority of its Board of Directors, duly given, this the day and year first above written.

HIC MANAGEMENT CORPORATION OF N.C.

BY: R C Moser
Vice President

(CORPORATE SEAL)

ATTEST:

Secretary

NORTH CAROLINA

DURHAM COUNTY

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This is to certify that on this day before me personally came Betty J. Pittard, with whom I am personally acquainted, who, being by me first sworn, says that Betty J. Pittard is the Asst. Secretary of HIC MANAGEMENT CORPORATION OF N.C., the corporation described in and which executed the foregoing DECLARATION: that he knows the common seal of said corporation and that the seal affixed thereto is said seal; that the Vice President and Asst. Secretary subscribed their names thereto and that the said instrument is the act and deed of said corporation.

Witness my hand and notarial seal this the 9th day of December, 1975.

Sandra L. Marshall
Notary Public

My commission expires: ~~Sept. 10, 1975~~ Sept. 10, 1980 R.C.D. 12-17-75

NORTH CAROLINA - DURHAM COUNTY

The foregoing certificate of Sandra L. Marshall Notary Public, of Durham Co., NC attested by his official seal is Certified to be correct. Let this Instrument with all certificates be registered.

WITNESS my hand this 9 day of Dec. 1975.

Cynthia A. Dennis
Register of Deeds
Deputy

NOTARY PUBLIC SANDRA L. MARSHALL DURHAM COUNTY, N.C.

FILED
BOOK 432 PAGE 306-348
DEC 9 3 46 PM '75
A. J. GRESHAM
REGISTER OF DEEDS
DURHAM COUNTY, N.C.

DECLARANT:

FIVE OAKS, a North Carolina Limited Partnership

By: _____ (Seal)
H. O. Chesson, Jr., General Partner

By: _____ (Seal)
S. Craig Morrison, General Partner

DEVELOPER

FARRINGTON DEVELOPERS, a North Carolina Limited Partnership

CIMMARON CAPITAL, INC. General Partner

By: _____ (Seal)
S. Craig Morrison, President

ATTEST:
_____
Secretary

HOMEOWNERS ASSOCIATION

By: FIVE OAKS HOMEOWNERS ASSOCIATION, INC.
_____ PRESIDENT (Seal)
President

ATTEST:
_____
Secretary

RECREATIONAL ASSOCIATION

By: FIVE OAKS RECREATIONAL ASSOCIATION, INC.
_____ (Seal)
President

ATTEST:
_____

MORTGAGEE:

FIRST WACHOVIA MORTGAGE COMPANY

By: _____ (Seal)
Vice President

ATTEST:
_____
Assistant Secretary

TRUSTEE:

By: _____ (Seal)
Josephine S. Brown

By: _____ (Seal)
Alfred H. Iseley

NORTH CAROLINA
DURHAM COUNTY

I, Beth Woods Scoggins, a Notary Public, do hereby certify that H. O. CHESSON, JR. and S. CRAIG MORRISON, General Partners of FIVE OAKS, a North Carolina Limited Partnership, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal, this the 8th day of June, 1989.

Beth Woods Scoggins
Notary Public

My Commission Expires:

10/27/93

NORTH CAROLINA
DURHAM COUNTY

I, Beth Woods Scoggins, a Notary Public, do hereby certify that MAUREEN E. OAKES personally appeared before me this day and acknowledged that she is Secretary of CIMARRON CAPITAL, INC., General Partner of FARRINGTON DEVELOPERS, a North Carolina Limited Partnership, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its Secretary.

Witness my hand and official seal, this 8th day of June, 1989.

Beth Woods Scoggins
Notary Public

My Commission Expires:

10/27/93

EXHIBIT A-1

BEGINNING at a stake in the southerly property line of the Old Chapel Hill Road, the northeastern corner of the Robert E. Hege heirs as shown on the plat of survey hereinafter referred to (the same also being the northeastern corner of Hege as shown on the plat of survey entitled "Property of Valco, Inc." prepared by William O. Yates, RLS, dated July 1972 and recorded in Plat Book 74, Page 39 in the Public Registry of Durham County, North Carolina); AND RUNNING THENCE from said beginning point along and with the easterly property line of said Hege heirs, South 4 degrees, 52 minutes, 2 seconds West, a distance of 741.42 feet to a stake; thence North 64 degrees, 40 minutes, 54 seconds East, a distance of 116.97 feet to a stake; thence North 74 degrees, 53 minutes, 18 seconds East, a distance of 123.40 feet to a stake; thence North 82 degrees, 57 minutes, 17 seconds East, a distance of 125.48 feet to a stake; thence South 82 degrees, 10 minutes, 1 second East, a distance of 129.58 feet to a stake in the westerly property line of Five Oaks Drive (as shown on the plat of survey hereinafter referred to); thence, along and with the westerly property line of the said Five Oaks Drive, along the arc of a curve to the northeast, said curve having a radius of 747.09 feet, an arc length distance of 93.06 feet to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive North 31 degrees, 6 minutes, 12 seconds East, a distance of 130 feet to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive along the arc of a curve having a radius of 601.38 feet, an arc length distance of 188.93 feet (crossing an entranceway) to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive North 13 degrees, 6 minutes, 12 seconds East a distance of 128 feet to a stake in the westerly property line of said Five Oaks Drive; thence along the arc of a curve to the northwest (said curve connecting the westerly property line of Five Oaks Drive with the southerly property line of the Old Chapel Hill Road) said curve having a radius of 20 feet, an arc length distance of 31.42 feet to a stake in the southerly property line of the Old Chapel Hill Road; thence along and with the southerly property line of the Old Chapel Hill Road North 76 degrees, 53 minutes, 48 seconds West, a distance of 626 feet to a stake in the southerly property line of the said Old Chapel Hill Road, the place and point of BEGINNING; the same being a tract or parcel of land containing 7.96 acres, more or less, all as shown on that certain plat of survey entitled "Five Oaks, Phase I, Section 3, Property of HIC Management Corporation of N. C." prepared by William O. Yates, RLS, dated September 16, 1975 and recorded in Plat Book 86, page 69 in the Public Registry of Durham County, North Carolina, to which plat of survey reference is hereby made for more particular description of said property.

TRACT 1 - BEGINNING at an iron pin on the south side of Pine Cone Drive, said pin being at a point where the center line of a 25 foot City of Durham sanitary sewer easement intersects with the south side of Pine Cone Drive, lying in the north line of Tract 4 as shown on Map 2 of property of H.I.C. Management Corporation of North Carolina property in Plat Book 101 at Page 158, Durham County Registry, and running thence with the center line of said City of Durham sanitary sewer easement South 4° 20' West 100 feet to a point, the northeast corner of Phase VIII of Five Oaks, Lake Side as per plat and survey hereinafter referred to: thence with the north line of said Phase VIII, South 79° 33' 46" West 208.77 feet to a point; thence continuing with the north line of said Phase VIII, South 70° 38' 14" West 132 feet to a point in the east line of Phase II of Five Oaks, Lake Side; thence with the east line of said Phase II, North 26° 48' 38" West 49.75 feet to a stake; thence North 19° 21' 46" West 30 feet to a stake; thence North 10° 16' 36" West 40.83 feet to a stake, the northeast corner of said Phase II on the south side of Pine Cone Drive; thence along and with the south side of said Pine Cone Drive, the following courses and distances: In a general easterly direction along a curve having a radius of 621.56 feet, a distance of 20.05 feet to a stake; North 70° 38' 14" East 99.95 feet to a stake; in a general easterly direction along a curve having a radius of 579.99 feet, a distance of 267.86 feet to a point, the point and place of BEGINNING, and being shown as Phase I of Five Oaks, Lake Side, property of Farrington Developers as per plat and survey by S. D. Puckett & Associates, Inc. dated October 3, 1985 to which plat reference is hereby made for a more particular description of same.

TRACT 2 - BEGINNING at a stake on the south side of Pine Cone Drive, the northwest corner of Tract 1 described above, being Phase I of Five Oaks, Lake Side and running thence with the west line of said Phase I, Five Oaks, Lake Side, South 10° 16' 36" East 40.83 feet to a stake; thence South 19° 21' 46" East 30 feet to a stake; thence South 26° 48' 38" East 49.75 feet to a stake, the southwest corner of said Phase I, and being the northwest corner of Phase VIII of Five Oaks, Lake Side; thence South 18° 26' 47" East 12.5 feet to a stake, the northeast corner of Phase VII of Five Oaks, Lake Side; thence with the north line of said Phase VII, South 70° 38' 14" West 67 feet to a stake; thence South 22° 54' 25" West 50 feet to a stake, the northeast corner Phase VI of Five Oaks, Lake Side; thence with the north line of said Phase VI the following courses and distances: South 56° 35' 51" West 104.12 feet to a stake; South 72° 07' 18" West 18.68 feet to a stake; North 33° 24' 09" West 30.52 feet to a stake; South 56° 35' 51" West 104 feet to a stake, the northwest corner of said Phase VI being in the east line of Phase III of Five Oaks, Lake Side; thence with the east line of said Phase III, North 33° 53' 17" West 118 feet to a stake, the northeast corner of said Phase III of Five Oaks, Lake Side on the south side of Pine Cone Drive; thence with the south side of said Pine Cone Drive, North 56° 36' 12" East 235 feet to a stake; thence continuing with the south side of Pine Cone Drive in a general northeasterly direction along a curve having a radius of 621.56 feet, a distance of 131.51 feet to a stake, the point and place of BEGINNING and being shown as Phase II of Five Oaks, Lake Side property of Farrington Developers as surveyed by S. D. Puckett & Associates, Inc. dated October 3, 1985 to which plat reference is hereby made for a more particular description of same.

TRACT 3 - BEGINNING at a stake on the south side of Pine Cone Drive, said stake being the northwest corner of Five Oaks, Lake Side, Phase II, being also shown as Tract II above, and running thence with the west line of said Phase II, South 33° 53' 17" East 168 feet to a stake in the west line of Five Oaks, Lake Side, Phase VI; thence South 56" 35' 51" West 25.12 feet to a stake; thence South 7° 7' 6" East 38.47 feet to a stake, the northeast corner of Five Oaks, Lake Side, Phase V; thence with the north line of said Five Oaks, Lake Side, Phase V, South 85° 22' 53" West 223.39 feet to a stake; thence South 7° 7' 6" East 48 feet to a stake, the northeast corner of Five Oaks, Lake Side, Phase IV; thence with the north line of Five Oaks, Lake Side, Phase IV, North 81° 9' 10" West 146.81 feet to a stake; thence North 6" 53' 40" East 61.49 feet to a stake on the south side of Pine Cone Drive; thence along and with the south side of said Pine Cone Drive in a general northeasterly direction along a curve having a radius of 630 feet, a distance of 97.81 feet to a stake; thence continuing with the south side of Pine Cone Drive, North 56° 36' 12" East 229.77 feet to a stake, the point and place of BEGINNING and being Phase III of Five Oaks, Lake Side, property of Farrington Developers as surveyed by S. D. Puckett & Associates, Inc. dated May, 1985 to which plat reference is hereby made for a more particular description of same.

BEGINNING at a point in the center line of 25-foot City of Durham Sanitary Sewer Easement, said point being the Southeast corner of that property denoted as Common Area, as shown on plat of Five Oakes - Lake Side, Phase 1, as per plat and survey thereof now on file in the Office of the Register of Deeds of Durham County in Plat Book 109 at Page 120, and running thence with the center line of said City of Durham Sanitary Sewer Easement, South 4° 20' West 64.93 feet to a point; thence continuing with said center line, South 31° 4' 25" East 278.91 feet to a point in the center line of said Sanitary Sewer Easement; thence continuing with the center line of 25-foot City of Durham Sanitary Sewer Easement, the following courses and distances: North 89° 34' 18" West 315.77 feet to a point; South 17° 21' 14" West 329.57 feet to a point; North 89° 49' 35" West 279.48 feet to a point; South 82° 52' 54" West 278.58 feet to a point; North 81° 51' 33" West 166.03 feet to a point in the Eastern right-of-way line of a 60-foot roadway; thence with the Eastern right-of-way line of said 60-foot roadway; North 6° 53' 40" East 234.43 feet to a stake; thence South 81° 9' 10" East 146.81 feet to a stake; thence North 7° 7' 6" West 48 feet to a stake; thence North 85° 22' 53" East 223.39 feet to a stake; thence North 7° 7' 6" West 38.47 feet to a stake; thence North 56° 35' 51" East 25.12 feet to a stake; thence 104 feet to a stake; thence South 33° 24' 9" East 30.52 feet to a stake; thence North 72° 7' 18" East 18.68 feet to a stake; thence North 56° 35' 51" East 104.12 feet to a stake; thence North 22° 54' 25" East 50 feet to a stake; thence North 70° 38' 14" East 67 feet to a stake; thence North 19° 21' 46" West 12.5 feet to a stake; thence North 70° 38' 14" East 132 feet to a stake; thence North 79° 33' 46" East 208.77 feet to a stake the point and place of BEGINNING and being that property shown as Phases IV, V, VI, VII and VIII of Five Oaks - Lake Side, as surveyed by S. D. Puckett & Associates, Inc., dated May, 1985, to which plat reference is hereby made for a more particular description of same.

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PREPARED BY: Jack Nichols, Attorney
Mail To: C. Thomas Biggs, Attorney

BOOK 1553 PAGE 391

STATE OF NORTH CAROLINA

DURHAM COUNTY

AMENDMENT TO
THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
AND AGREEMENT TO SUBORDINATE

THIS 1st AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS & RESTRICTIONS made and entered into this 31st day of May 1988, by FIVE OAKS, a North Carolina limited partnership, P.O. Box 2701, Durham, North Carolina, 27705 (hereafter referred to as "Declarant") FIVE OAKS HOMEOWNERS ASSOCIATION, INC., a North Carolina corporation (hereafter called "Homeowners Association"), FIRST WACHOVIA MORTGAGE COMPANY, a North Carolina corporation, (hereinafter called "Mortgagee"), JOSEPHINE S. BROWN, a resident of the County of Forsyth, State of North Carolina, and ALFRED H. ISELEY, a resident of the County of Forsyth, State of North Carolina (hereinafter called "Trustee") and the following who represent ------ the undersigned owners of tracts of land located within the property described in Exhibit A-1 and Exhibit A-2: (hereinafter referred to as "Owners").

WITNESS THAT:

WHEREAS, through the document dated December 9, 1975, recorded in Deed Book 432 at Page 306 Durham County Registry, HIC Management Corporation of North Carolina did place upon certain properties Declaration of Covenants and Restrictions for a development entitled "Five Oaks"; and

WHEREAS, by virtue of assignments recorded in Real Estate Book 1145 at Page 712, Real Estate Book 1205 at Page 568, Real Estate Book 1205 at Page 850 and Real Estate Book 1205 at Page 855, all of Durham County Registry, Declarant did obtain all

Agmt.
BK 1558

rights of the original Declarant, HIC Management Corporation of North Carolina, pursuant to the provisions of that Declaration recorded in Deed Book 432 at Page 306, Durham County Registry; and

WHEREAS, pursuant to its powers under said assignments, Declarant did adopt said Declaration of Covenants, Conditions and Restrictions by Supplemental Declarations are recorded in Deed Book 1242 at Page 633, and Deed Book 1270 at Page 728, Durham County Registry for those properties described in Exhibits "A" of said Supplemental Declarations; and

WHEREAS, Developer has proceeded to develop those properties described in Supplemental Declarations of Covenants and Restrictions recorded in Deed Book 1242 at Page 633 and Deed Book 1270 at Page 728, Durham County Registry into a townhome development known as Five Oaks - Lake Side, Phases I through VIII inclusive; and

WHEREAS, Declarant, Developer, and Homeowners Association have determined that it would be in the best interests of all parties, including the Owners, to remove that development known as Five Oaks - Lake Side from the Declaration of Covenants and Restrictions recorded in Deed Book 432 at Page 306, Durham County Registry by amending said Declaration and to create a new homeowners association permitting the Owners of property within the Five Oaks Development Area as defined in Schedule A of that document recorded in Deed Book 432 at Page 306, Durham County Registry, including those Owners of property listed in Schedule A-2 to this Amendment to still be guaranteed the rights of

membership in the Five Oaks Recreational Association, Inc. as defined in Article X of said Declaration; and

WHEREAS, Declarant, Developer and the Homeowners Association have reduced such Agreement to a writing dated November 2, 1986, the terms and intent of which are incorporated herein by reference, but shall not be considered part of the original Declaration or its Amendments; and

WHEREAS, said Owners have agreed to consent to said Amendment and the Owners of those tracts of land located within the property described in Exhibit A-2 by execution of this document do subordinate their right, title and interest in and to that Declaration of Covenants and Restrictions for Five Oaks Lake Side as recorded in Deed Book 1410 at Page 324, Durham County Registry; and

WHEREAS, First Wachovia Mortgage Company and Josephine M. Brown, Trustee, and Alfred H. Iseley, Trustee, have been requested to subordinate those liens presently held by First Wachovia Mortgage Company on property in the name of the Owners listed in Schedule A-2 to the new Declaration and to consent to the amendment of the original Declaration by Supplemental Declaration as hereinabove set forth; and

WHEREAS, in order to implement the November 2, 1986 Agreement between the Homeowners Association, the Declarant and the Developer, the Homeowners Association and the Owners declare that the Declaration of Covenants, Conditions and Restrictions of the grantors of this Declaration and the Five Oaks Recreational Association and recorded subsequent to this Declaration is

ratified and affirmed as an amendment to the original Declaration pursuant to Article XI, Section 3.

NOW, THEREFORE, the parties hereto do hereby agree that: Pursuant to Article XI, Section 3 of that Declaration of Covenants and Restrictions recorded in Deed Book 432 at Page 306, Durham County Registry, that the following amendments to the Declaration of Covenants and Restrictions are made:

1. Article I, Section 2 shall be amended to read as follows:

"Section 2." "Owner" or "Homeowner" shall mean and refer the record owner, whether one or more persons or entities, of a fee simple title to any lot which is part of the property described on Schedule "A-1" hereof, including contract sellers and all Lot Owners but excluding those having interest merely as security for the performance of an obligation, and shall further include the record owner of a fee simple title to any lot which is shown upon any subdivision map for any property hereafter subjected to the terms, provisions and conditions of this Declaration in accordance with the provisions therefore hereinafter provided and excluding those Lot Owners and contract sellers listed in Schedule A-2."

2. Article III, Section 2 is amended by the addition of the following sentence at the end of Section 2:

"All Class B memberships shall be considered as having expired effective January 1, 1987 and converted to Class A memberships on that date."

It is understood and agreed by the Declarant, Developer, and the

Homeowners Association that Homeowners Association hereby assigns all its right, and interest in any assessments owed to the Homeowners Association for properties listed in Schedule A-1 to Five Oaks Lake Side Homeowners Association

3. Article IV, Section 8 is amended by in the first sentence by the deletion of the phrase "of six percent (6%) per annum" and inserting in lieu thereof the phrase:

"of interest per year established by G.S. 24 or its successor statute, but shall not charge any additional late charges."

4. Article VII EXTERIOR MAINTENANCE is amended by the rewriting the entire Article as follows:

"ARTICLE VII"

EXTERIOR BUILDING AND GROUND MAINTENANCE

Section 1. Building Maintenance. In addition to maintenance upon the Common Area, the Homeowners Association shall provide exterior building maintenance upon each building shown on Plat Book 83, Page 13 which is subject to assessments under Article IV. Exterior building maintenance shall include: paint, repair, replacement and care for roofs, gutters, downspouts, decks and exterior building surfaces. Such building maintenance shall not include exterior doors, windows, screens and glass doors; the frames for each excluded item; window fixtures and other hardware; additions to the Lot Owner's deck; and exterior electrical fixtures.

Section 2. Grounds Maintenance. In addition to maintenance

upon the Common Area, the Homeowners Association shall provide care, maintenance and replacement of the driveways, walks, grass, trees, shrubs, and plantings on each Lot.

Section 3. Assessment of Cost. In the event that the need for maintenance is caused through the willful or negligent act of an Owner, his family, or guests, or invitees, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Lot is subject.

In the event an Owner of any Lot shall fail to maintain the premises and the improvements situated thereon in a manner reasonably satisfactory to the Board of Directors of the Homeowners Association, the Homeowners Association after approval by two-thirds (2/3) vote of the Board of Directors of the Homeowners Association, shall have the right, through its agents and employees, to enter upon such parcel and to repair, maintain and restore the Lot and the exterior of the building and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

Section 4. Access at Reasonable Hours. For the purpose solely of performing the exterior building and ground maintenance required by this Article, the Homeowners Association, through its duly authorized agents or employees, shall have the right, after reasonable notice to the Owner, to enter upon any Lot at reasonable hours, on any day.

Section 5. Board to Interpret. In the event of any dispute

over the interpretation or applicability of any of the provisions in this Article, the Board shall make all interpretations and determine the applicability of such provisions and such decision shall be final."

5. Those properties originally described in Supplemental Declarations of Covenants and Restrictions recorded in Deed Book 1242 at Page 633, Durham County Registry, and Deed Book 1270 at Page 728, Durham County Registry, are hereby removed and released from that Declaration of Covenants and Restrictions recorded in Deed Book 432 at Page 306, Durham County Registry. It is the purpose and effect of this Section to subject the property described herein to that portion of the Declaration recorded in Book 432, Page 306 Durham County Registry which extends, requires, and allows all owner and occupants listed in Schedules A-1 and A-2 to be members in the Five Oaks Recreational Association, Inc. It is further the purpose and effect of this Section to ensure that all owners and occupants listed in Schedule A-2 shall be considered to have been removed from and never subject to the provisions of the Declaration recorded in Book 432, Page 306, Durham County Registry relating to membership in or subject to the jurisdiction of the Five Oaks Homeowners Association, Inc.

6. Article XI, Section 3 of that Declaration of Covenants and Restrictions as recorded in Deed Book 432 at Page 306 is hereby amended to read as follows:

"The covenants and restrictions of this Declaration shall run with and bind the land, for the term of twenty (20) years

from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. The Board of Directors of the Homeowner's Association may cause to be recorded in the Public Records of Durham County such instruments or documents as may be necessary to cause any such extension to be legally effective. Except as provided in Section 4 of this Article, this Declaration may be amended during the first twenty (20) year period by an instrument signed by the owners of not less than ninety percent (90%) of the Lots, and thereafter by an instrument signed by the Owners of not less than seventy-five (75%) of the Lots. Any Amendment must be recorded and indexed in the name of the Homeowners Association and each lot owner."

7. Except as hereinbefore amended, that Declaration dated December 9, 1975 recorded in Deed Book 432 at Page 306, Durham County Registry, shall remain in full force and effect.

8. It is understood and agreed that the joinder of Owners of lots included in Schedule A-2 as evidenced by their signatures below does not waive any rights or remedies such Owners may have or in any way release Developer, its successors or assigns from any responsibilities or liabilities it has incurred.

This the day and year above written.

SCHEDULE "A"

TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS BY HIC MANAGEMENT CORPORATION OF N. C. DATED THE 9 DAY OF December, 1975.

FIVE OAKS DEVELOPMENT AREA

BEGINNING at a stake in the southerly property line of the Old Chapel Hill Road, as shown on the plat of survey hereinafter referred to, the northwest corner of Louis A. Coletta as shown on said plat; AND RUNNING THENCE along and with the westerly line of the said Louis A. Coletta South 3 degrees, 29 minutes, 10 seconds West, a distance of 368.19 feet to a point in the line of William Markham, Jr.; thence along and with the line of the said Markham North 78 degrees, 43 minutes, 40 seconds West, a distance of 290.96 feet to a stake, the northwest corner of the said Markham; thence continuing with the westerly property line of the said Markham, South 11 degrees, 16 minutes, 20 seconds West, a distance of 378.37 feet to a stake, the southwest corner of the said Markham; thence along and with the southerly property line of the said Markham South 78 degrees, 43 minutes, 40 seconds East, a distance of 520.42 feet to a stake in the westerly property line of Farrington Road; thence in a southerly direction along and with the westerly property line of the said Farrington Road, along the arc of a curve having a radius of 984.93 feet, an arc length distance of 397.56 feet to a stake in the westerly property line of the said Farrington Road; thence South 89 degrees, 57 minutes, 7 seconds West, a distance of 41.34 feet to a stake; thence along the arc of a curve to the southwest, said curve having a radius of 233.65 feet, an arc length distance of 166.43 feet to a stake; thence South 49 degrees, 8 minutes, 27 seconds West, a distance of 79.43 feet to a stake; thence North 84 degrees, 4 minutes, 33 seconds West, a distance of 129.70 feet to a stake; thence South 5 degrees, 55 minutes, 27 seconds West, a distance of 157 feet to a stake; thence South 84 degrees, 4 minutes, 33 seconds East, a distance of 164 feet to a stake; thence North 5 degrees, 55 minutes, 27 seconds East, a distance of 120.49 feet to a stake; thence North 49 degrees, 8 minutes, 27 seconds East, a distance of 82.55 feet to a stake; thence along the arc of a curve to the northeast, said curve having a radius of 183.65 feet, an arc length distance of 130.81 feet to a stake; thence North 89 degrees, 57 minutes, 7 seconds East, a distance of 46.45 feet to a stake in the westerly property line of the said Farrington Road; thence continuing in a southerly direction along and with the westerly property line of the said Farrington Road along the arc of a curve, said curve having a radius of 984.93 feet, an arc length distance of 54.14 feet to a stake in the westerly property line of Farrington Road; thence continuing with the westerly property line of the said Farrington Road South 10 degrees, 29 minutes, 48 seconds East, a distance of 155.35 feet to a stake in the westerly property line of the said Farrington Road; thence continuing with the westerly property line of the said Farrington Road along the arc of a curve to the southwest, said curve having a radius of 924.93 feet, an arc length distance of 446.63 feet to a stake in the westerly property line of Farrington Road; thence continuing along and with the westerly property line of the said Farrington Road South 17 degrees, 10 minutes, 12 seconds West, a distance of 107.18 feet to a stake in the westerly property line of the said Farrington Road, the northeast corner of H. C. Markham; thence along and with the northerly property line of the said H. C. Markham North 84 degrees, 45 minutes, 20 seconds West, a distance of 1,455.36 feet to a stake, the northwest corner of the said H. C. Markham; thence along and with the westerly property lines of the said H. C. Markham and L. K. Thompson, III South 5 degrees, 15 minutes, 19 seconds West, a distance of 1,279.15 feet to a stake in the line of the said L. K. Thompson, III; thence along the arc of a curve to the southwest, said curve having a radius of 250.79 feet, an arc length distance of 6.23 feet to a stake in the northerly property line of Davenport Road (not open); thence along and with the northerly property line of the said Davenport Road South 89 degrees, 18 minutes, 53 seconds West, a distance of 596.66 feet to a stake; thence, continuing along and

with the northerly property line of the said Davenport Road, along the arc of a curve to the southwest said curve having a radius of 1,546.47 feet, an arc length distance of 141.70 feet to a stake, thence, continuing with the northerly property line of the said Davenport Road, South 84 degrees, 3 minutes, 53 seconds West, a distance of 306 feet to a stake, thence, continuing along and with the northerly property line of the said Davenport Road, along the arc of a curve to the southwest, said curve having a radius of 1,432.39 feet, an arc length distance of 259.17 feet to a stake in the northerly property line of said Davenport Road; thence, continuing along and with the northerly property line of the said Davenport Road, North 85 degrees, 34 minutes, 7 seconds West, a distance of 1,247.63 feet to a stake in the easterly property line of Pope Road; thence, along and with the easterly property line of the said Pope Road, along the arc of a curve to the northeast, said curve having a radius of 1,457.53 feet, an arc length distance of 200.82 feet to a stake in the easterly property line of the said Pope Road, the southwest corner of Anna Pope; thence, along and with the southerly property line of the said Anna Pope South 85 degrees, 34 minutes, 59 seconds East, a distance of 675.60 feet to a stake, the southeastern corner of the said Anna Pope; thence, along and with the easterly property line of the said Anna Pope North 21 degrees, 29 minutes, 29 seconds East, a distance of 262.6 feet to a stake in the easterly property line of the said Anna Pope, a corner of Devonshire Manor Subdivision; thence, along and with the southerly property line of the said Devonshire Manor Subdivision South 86 degrees, 59 minutes, 26 seconds East, a distance of 205.22 feet to a stake in the southerly property line of the said subdivision; thence, continuing with the southerly property line of the said subdivision South 87 degrees, 14 minutes, 26 seconds East, a distance of 999.61 feet to a stake, the southeastern corner of said subdivision; thence, along and with the easterly property line of said subdivision North 3 degrees, 6 minutes, 13 seconds East, a distance of 923.23 feet to a stake, the northeastern corner of said subdivision; thence, along and with the northerly property line of said subdivision north 83 degrees, 12 minutes, 20 seconds West, a distance of 942.35 feet to a stake in the northerly property line of said subdivision, a corner with the Devonshire Manor Sewage Plant (also known as Devonshire Manor Utilities Lot); thence, along and with the easterly property lines of the said sewage plant and Gordon and G. M. Pope North 14 degrees, 34 minutes, 37 seconds East, a distance of 1,188.81 feet to a stake, a corner of J. P. Evans; thence, along and with the easterly property line of the said J. P. Evans North 14 degrees, 31 minutes, 1 second East, a distance of 1,188.85 feet to a stake in the southerly property line of the said Old Chapel Hill Road; thence, along and with the southerly property line of the said Old Chapel Hill Road, along the arc of a curve to the southeast, said curve having a radius of 845.09 feet, an arc length distance of 291.58 feet to a stake, the northwestern corner of B. C. Crotts; thence, along and with the westerly property line of the said B. C. Crotts along the arc of a curve to the Southwest, said curve having a radius of 20 feet, an arch length distance of 31.42 feet to a stake; thence, continuing with the westerly line of B. C. Crotts South 13 degrees, 6 minutes, 37 seconds West, a distance of 150 feet to a stake in the line of the said Crotts; thence, continuing along and with the westerly property line of the said Crotts, along the arc of a curve to the southeast, said curve having a radius of 244.78 feet, an arc length distance of 145.56 feet to a stake, the southwestern corner of the said Crotts; thence, along and with the southerly property line of the said B. C. Crotts North 74 degrees, 3 minutes, 37 seconds East, a distance of 220.73 feet to a stake, the southeastern corner of the said B. C. Crotts; thence, along and with the easterly property line of the said B. C. Crotts North 13 degrees, 6 minutes, 37 seconds East, a distance of 200 feet to a stake in the southerly property line of the said Old Chapel Hill Road; thence, along and with the southerly property line of said Old Chapel Hill Road South 76 degrees, 53 minutes, 23 seconds East, a distance of 95.10 feet to a stake in the southerly property line of said Old Chapel Hill Road, the northwestern corner of Wilbert E. Clark; thence, along and with the westerly property line of the said Wilbert E. Clark South 2 degrees, 13 minutes, 39 seconds West, a distance of 199.91 feet to a stake, the southwestern corner of the said Wilbert E. Clark; thence, along and with the southerly property line of the said Wilbert E. Clark South 76 degrees, 55 minutes, 58 seconds East, a distance of 75.01 feet to a stake, the southeastern corner of the said Wilbert E. Clark; thence,

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along and with the eastern property line of the said Wilbert E. Clark North 2 degrees, 20 minutes, 51 seconds East a distance of 199.77 feet to a stake in the southerly property line of the said Old Chapel Hill Road; thence, South 76 degrees, 53 minutes, 23 seconds East, a distance of 123.65 feet to a stake in the southerly property line of the said Old Chapel Hill Road, the northwestern corner of Hege; thence, along and with the westerly property line of the said Hege South 4 degrees, 52 minutes, 2 seconds West, a distance of 833.45 feet to a stake, the southwestern corner of the said Hege; thence, along and with the southerly property line of the said Hege, South 89 degrees, 57 minutes, 56 seconds East, a distance of 400.35 feet to a stake, the southeastern corner of the said Hege; thence, with the easterly property line of the said Hege North 4 degrees, 52 minutes, 2 seconds East, a distance of 740.42 feet to a stake in the southerly property line of the said Old Chapel Hill Road; thence, along and with the southerly property line of the said Old Chapel Hill Road South 76 degrees, 53 minutes, 48 seconds East, a distance of 1,235.82 feet to a stake in the southerly property line of the said Old Chapel Hill Road, the northwest corner of said Lewis A. Coletta, the place and point of BEGINNING: the same being a portion of Parcel 1 and all of Parcels 2, 3 and 4, containing 154.01 acres, more or less, as shown on that certain plat of survey entitled "Property of Valco, Incorporated" dated July 1972 prepared by William O. Yates, RLS, and recorded in Plat Book 74, page 39, in the Public Registry of Durham County, North Carolina. The portion of Parcel No. 1 which is not included in the above description being shown on that certain plat of survey entitled "Five Oaks Treatment Plant, Property of Devonshire Manor Utilities Co." dated December 30, 1974 and prepared by Larry W. Poole, RLS, which plat of survey is recorded in Plat Book 84, page 13 in the Public Registry of Durham County, North Carolina, to which plats of survey reference is hereby made for a more particular description of said property.

SCHEDULE "A-1"

TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS MADE BY HIC MANAGEMENT CORPORATION OF N. C. DATED THE 9 DAY OF ~~OCTOBER~~ December, 1975.

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PROPERTY SUBJECTED TO
DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS

BEGINNING at a stake in the southerly property line of the Old Chapel Hill Road, the northeastern corner of the Robert E. Hege heirs as shown on the plat of survey hereinafter referred to (the same also being the northeastern corner of Hege as shown on the plat of survey entitled "Property of Valco, Inc." prepared by William O. Yates, RLS, dated July 1972 and recorded in Plat Book 74, Page 39 in the Public Registry of Durham County, North Carolina); AND RUNNING THENCE from said beginning point along and with the easterly property line of said Hege heirs, South 4 degrees, 52 minutes, 2 seconds West, a distance of 741.42 feet to a stake; thence North 64 degrees, 40 minutes, 54 seconds East, a distance of 116.97 feet to a stake; thence North 74 degrees, 53 minutes, 18 seconds East, a distance of 123.40 feet to a stake; thence North 82 degrees, 57 minutes, 17 seconds East, a distance of 125.48 feet to a stake; thence South 82 degrees, 10 minutes, 1 second East, a distance of 129.58 feet to a stake in the westerly property line of Five Oaks Drive (as shown on the plat of survey hereinafter referred to); thence, along and with the westerly property line of the said Five Oaks Drive, along the arc of a curve to the northeast, said curve having a radius of 747.09 feet, an arc length distance of 93.06 feet to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive North 31 degrees, 6 minutes, 12 seconds East, a distance of 130 feet to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive along the arc of a curve having a radius of 601.38 feet, an arc length distance of 188.93 feet (crossing an entranceway) to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive North 13 degrees, 6 minutes, 12 seconds East a distance of 128 feet to a stake in the westerly property line of said Five Oaks Drive; thence along the arc of a curve to the northwest (said curve connecting the westerly property line of Five Oaks Drive with the southerly property line of the Old Chapel Hill Road) said curve having a radius of 20 feet, an arc length distance of 31.42 feet to a stake in the southerly property line of the Old Chapel Hill Road; thence along and with the southerly property line of the Old Chapel Hill Road North 76 degrees, 53 minutes, 48 seconds West, a distance of 626 feet to a stake in the southerly property line of the said Old Chapel Hill Road, the place and point of BEGINNING; the same being a tract or parcel of land containing 7.96 acres, more or less, all as shown on that certain plat of survey entitled "Five Oaks, Phase I, Section 3, Property of HIC Management Corporation of N. C." prepared by William O. Yates, RLS, dated September 16, 1975 and recorded in Plat Book 86, page 69 in the Public Registry of Durham County, North Carolina, to which plat of survey reference is hereby made for more particular description of said property.

SCHEDULE "B"

TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS MADE BY HIC MANAGEMENT CORPORATION OF N. C. DATED THE 9 DAY OF ~~OCTOBER~~ December, 1975.

COMMON AREA

BEGINNING at a stake in the southerly property line of the Old Chapel Hill Road, the northeastern corner of the Robert E. Hege heirs as shown on the plat of survey hereinafter referred to (the same also being the northeastern corner of Hege as shown on the plat of survey entitled "Property of Valco, Inc." prepared by William O. Yates, RLS, dated July 1972 and recorded in Plat Book 74, Page 39 in the Public Registry of Durham County, North Carolina); AND RUNNING THENCE from said beginning point along and with the easterly property line of said Hege heirs, South 4 degrees, 52 minutes, 2 seconds West, a distance of 741.42 feet to a stake; thence North 64 degrees, 40 minutes, 54 seconds East, a distance of 116.97 feet to a stake; thence North 74 degrees, 53 minutes, 18 seconds East, a distance of 123.40 feet to a stake; thence North 82 degrees, 57 minutes, 17 seconds East, a distance of 125.48 feet to a stake; thence South 82 degrees, 10 minutes, 1 second East, a distance of 129.58 feet to a stake in the westerly property line of Five Oaks Drive (as shown on the plat of survey hereinafter referred to); thence, along and with the westerly property line of the said Five Oaks Drive, along the arc of a curve to the northeast, said curve having a radius of 747.09 feet, an arc length distance of 93.06 feet to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive North 31 degrees, 6 minutes, 12 seconds East, a distance of 130 feet to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive along the arc of a curve having a radius of 601.38 feet, an arc length distance of 188.93 feet (crossing an entranceway) to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive North 13 degrees, 6 minutes, 12 seconds East a distance of 128 feet to a stake in the westerly property line of said Five Oaks Drive; thence along the arc of a curve to the northwest (said curve connecting the westerly property line of Five Oaks Drive with the southerly property line of the Old Chapel Hill Road) said curve having a radius of 20 feet, an arc length distance of 31.42 feet to a stake in the southerly property line of the Old Chapel Hill Road; thence along and with the southerly property line of the Old Chapel Hill Road North 76 degrees, 53 minutes, 48 seconds West, a distance of 626 feet to a stake in the southerly property line of the said Old Chapel Hill Road, the place and point of BEGINNING; the same being a tract or parcel of land containing 7.96 acres, more or less, all as shown on that certain plat of survey entitled "Five Oaks, Phase I, Section 3, Property of HIC Management Corporation of N. C." prepared by William O. Yates, RLS, dated September 16, 1975 and recorded in Plat Book 86, page 69 in the Public Registry of Durham County, North Carolina, to which plat of survey reference is hereby made for more particular description of said property; SAVE AND EXCEPT THEREFROM, HOWEVER those certain lots numbered 1 through 58, inclusive, as shown and described on that certain plat of survey entitled "Five Oaks, Phase I, Section 3, Property of HIC Management Corporation of N. C." prepared by William O. Yates, dated September 16, 1975 and recorded in Plat Book 86, page 69, in the Public Registry of Durham County, North Carolina.

SCHEDULE "B-1"

TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS BY HIC MANAGEMENT CORPORATION OF N. C. DATED THE 9 DAY OF December, 1975.

FIVE OAKS RECREATIONAL AREA

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BEGINNING at a stake in the westerly property line of Farrington Road, the northeastern corner of H. C. Markham, as shown on the plat of survey hereinafter referred to; AND RUNNING THENCE along and with the northerly property line of the said H. C. Markham North 84 degrees, 45 minutes, 20 seconds West, a distance of 1,455.36 feet to a stake; thence, along and with the westerly property line of the said H. C. Markham South 5 degrees, 15 minutes, 19 seconds West, a distance of 928.38 feet to a stake; thence, north 87 degrees, 14 minutes, 26 seconds West, a distance of 574.23 feet to a stake, the southeastern corner of the Devonshire Manor Subdivision; thence, along and with the easterly property line of said subdivision north 3 degrees, 6 minutes, 13 seconds East, a distance of 923.23 feet to a stake, the northeastern corner of said subdivision; thence, along and with the northerly property line of said subdivision North 83 degrees, 12 minutes, 20 seconds West, a distance of 942.35 feet to a stake, the southeastern corner of a Utilities Lot for Devonshire Manor; thence, along and with the easterly property line of said Utilities Lot North 14 degrees, 34 minutes, 37 seconds East, a distance of 215.24 feet to a stake; thence, South 87 degrees, 40 minutes, 14 seconds East, a distance of 418.89 feet to a stake; thence, North 72 degrees, 10 minutes, 3 seconds East, a distance of 184.60 feet to a stake; thence, South 81 degrees, 0 minutes, 29 seconds East, a distance of 165.62 feet to a stake; thence, South 79 degrees, 32 minutes, 37 seconds East, a distance of 150.77 feet to a stake; thence, South 87 degrees, 5 minutes, 38 seconds East, a distance of 107.69 feet to a stake in the center line of a City of Durham Sanitary Sewer Easement; thence continuing with the center line of said sewer easement South 74 degrees, 4 minutes, 8 seconds East, a distance of 370.28 feet to a stake and corner with a small drive; thence, along and with the westerly property line of said drive, North 6 degrees, 55 minutes, 43 seconds East, a distance of 270.01 feet to a stake in the southerly property line of Pine Cone Drive; thence, along and with the southerly property line of the said Pine Cone Drive, along the arc of a curve having a radius of 630 feet, an arc length distance of 51.51 feet to a stake in the southerly property line of the said Pine Cone Drive; thence, along and with the easterly property line of said small drive South 06 degrees, 55 minutes, 43 seconds West, a distance of 295.90 feet to a point in the center line of a 25 foot City of Durham Sanitary Sewer Easement; thence, along and with the center line of said easement South 81 degrees, 58 minutes, 45 seconds East, a distance of 166.77 feet to a stake in the center line of said easement; thence, continuing with the center line of said easement North 82 degrees, 52 minutes, 54 seconds East, a distance of 278.58 feet to a stake in the center line of said easement; thence, continuing with said easement South 89 degrees, 49 minutes, 35 seconds East, a distance of 279.48 feet to a stake in the center line of said easement; thence, continuing with said easement North 17 degrees, 21 minutes, 14 seconds East, a distance of 329.57 feet to a stake in the center line of said easement; thence, continuing with said easement South 89 degrees, 34 minutes, 18 seconds East, a distance of 315.77 feet to a stake in the center line of said easement; thence, leaving the centerline of said easement North 34 degrees, 11 minutes, 37 seconds East, a distance of 37.79 feet to a stake and corner of Devonshire Manor Utilities Company; thence, South 5 degrees, 55 minutes, 27 seconds West, a distance of 157 feet to a stake; thence, South 84 degrees, 04 minutes, 33 seconds East, a distance of 164 feet to a stake; thence, North 5 degrees, 55 minutes, 27 seconds East, a distance of 120.49 feet to a stake; thence, North 49 degrees, 8 minutes, 27 seconds East, a distance of 82.55 feet to a stake; thence, along the arc of a curve to the northeast, said curve having a radius of 183.65 feet, an arc length distance of 130.81 feet to a stake; thence, North 89 degrees, 57 minutes, 7 seconds East, a distance of 46.45 feet to a stake in the westerly property line of the said Farrington Road; thence, along and with the westerly property line of said Farrington Road, along the arc of a curve to the southeast, said curve having a radius of 984.93 feet, an arc length distance of 54.14 feet to a stake in the westerly property line of Farrington Road; thence, continuing with the westerly property line of the said Farrington Road South 10 degrees, 29 minutes, 48 seconds East, a distance of 155.35 feet to a stake; thence, continuing along

and with the westerly property line of the said Farrington Road, along the arc of a curve to the southwest, said curve having a radius of 924.93 feet, an arc length distance of 446.63 feet to a stake in the westerly property line of the said Farrington Road; thence, continuing with the westerly property line of Farrington Road, South 17 degrees, 10 minutes, 12 seconds west, a distance of 107.18 feet to a stake in the westerly property line of the said Farrington Road, the northeastern corner of the said H. C. Markham, the place and point of BEGINNING: the same being a tract or parcel of land containing 37.46 acres, more or less, and being shown on that certain plat of survey entitled "Recreational Area, Property of Five Oaks Recreational Corporation," dated March 14, 1975, prepared by Larry W. Poole, RLS, and recorded in Plat Book 86, page 68, Public Registry of Durham County, North Carolina, to which plat reference is hereby made for a more particular description of said property; Provided, however, that an easement is reserved by HIC Management Corporation of N. C., its successors and assigns, over the following described portion of said property:

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BEGINNING at a stake in the easterly property line of Gordon and G. M. Pope, said stake being reached by beginning at a stake which is located at the southeastern corner of the Utilities Lot for Devonshire Manor as shown on the plat of survey previously identified and referred to and running from said stake North 14 degrees, 34 minutes, 37 seconds East, a distance of 215.24 feet to a stake, THE PLACE AND POINT OF BEGINNING, AND RUNNING THENCE from said beginning point South 87 degrees, 40 minutes, 14 seconds East, a distance of 418.89 feet to a stake; thence, North 72 degrees, 10 minutes, 3 seconds East, a distance of 184.60 feet to a stake; thence, South 81 degrees, 0 minutes, 29 seconds East, a distance of 165.62 feet to a stake; thence, South 79 degrees, 32 minutes, 37 seconds East, a distance of 150.77 feet to a stake; thence, South 87 degrees, 5 minutes, 38 seconds East, a distance of 107.69 feet to a stake in the center line of a City of Durham Sanitary Sewer Easement; and running thence along and with the center line of said easement, South 70 degrees, 25 minutes, 42 seconds West, a distance of 86.74 feet; thence, North 80 degrees, 45 minutes, 10 seconds West, a distance of 230.68 feet to a stake; thence South 81 degrees, 51 minutes, 37 seconds West, a distance of 307.04 feet to a stake; thence, South 88 degrees, 57 minutes, 37 seconds West, a distance of 194.95 feet to a stake; thence, North 84 degrees, 25 minutes, 3 seconds West, a distance of 216.93 feet to a stake, the place and point of BEGINNING: the same being a portion of the previously described Recreational Area, over, under and through which easement area the right, privilege and option is reserved and retained for the purpose of placing and maintaining one or more sewer lines for the benefit and development of the Five Oaks Development Area and the owners and residents thereof.

Release and Assignment
10-11-84
BK 1179
Pg. 859

SCHEDULE "C"

TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS BY HIC MANAGEMENT CORPORATION OF N. C. DATED THE 9 DAY OF December, 1975.

RETAINED LANDS

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BEGINNING at a stake in the southerly property line of the Old Chapel Hill Road, as shown on the plat of survey hereinafter referred to, the northwest corner of Louis A. Coletta as shown on said plat; AND RUNNING THENCE along and with the westerly line of the said Louis A. Coletta South 3 degrees, 29 minutes, 10 seconds West, a distance of 368.19 feet to a point in the line of William Markham, Jr.; thence along and with the line of the said Markham North 78 degrees, 43 minutes, 40 seconds West, a distance of 290.96 feet to a stake, the northwest corner of the said Markham; thence continuing with the westerly property line of the said Markham, South 11 degrees, 16 minutes, 20 seconds West, a distance of 378.37 feet to a stake, the southwest corner of the said Markham; thence along and with the southerly property line of the said Markham South 78 degrees, 43 minutes, 40 seconds East, a distance of 520.42 feet to a stake in the westerly property line of Farrington Road; thence in a southerly direction along and with the westerly property line of the said Farrington Road, along the arc of a curve having a radius of 984.93 feet, an arc length distance of 397.56 feet to a stake in the westerly property line of the said Farrington Road; thence South 89 degrees, 57 minutes, 7 seconds West, a distance of 41.34 feet to a stake; thence along the arc of a curve to the southwest, said curve having a radius of 233.65 feet, an arc length distance of 166.43 feet to a stake; thence South 49 degrees, 8 minutes, 27 seconds West, a distance of 79.43 feet to a stake; thence North 84 degrees, 4 minutes, 33 seconds West, a distance of 129.70 feet to a stake; thence South 5 degrees, 55 minutes, 27 seconds West, a distance of 157 feet to a stake; thence South 84 degrees, 4 minutes, 33 seconds East, a distance of 164 feet to a stake; thence North 5 degrees, 55 minutes, 27 seconds East, a distance of 120.49 feet to a stake; thence North 49 degrees, 8 minutes, 27 seconds East, a distance of 82.55 feet to a stake; thence along the arc of a curve to the northeast, said curve having a radius of 183.65 feet, an arc length distance of 130.81 feet to a stake; thence North 89 degrees, 57 minutes, 7 seconds East, a distance of 46.45 feet to a stake in the westerly property line of the said Farrington Road; thence continuing in a southerly direction along and with the westerly property line of the said Farrington Road along the arc of a curve, said curve having a radius of 984.93 feet, an arc length distance of 54.14 feet to a stake in the westerly property line of Farrington Road; thence continuing with the westerly property line of the said Farrington Road South 10 degrees, 29 minutes, 48 seconds East, a distance of 155.35 feet to a stake in the westerly property line of the said Farrington Road; thence continuing with the westerly property line of the said Farrington Road along the arc of a curve to the southwest, said curve having a radius of 924.93 feet, an arc length distance of 446.63 feet to a stake in the westerly property line of Farrington Road; thence continuing along and with the westerly property line of the said Farrington Road South 17 degrees, 10 minutes, 12 seconds West, a distance of 107.18 feet to a stake in the westerly property line of the said Farrington Road, the northeast corner of H. C. Markham; thence along and with the northerly property line of the said H. C. Markham North 84 degrees, 45 minutes, 20 seconds West, a distance of 1,455.36 feet to a stake, the northwest corner of the said H. C. Markham; thence along and with the westerly property lines of the said H. C. Markham and L. K. Thompson, III South 5 degrees, 15 minutes, 19 seconds West, a distance of 1,279.15 feet to a stake in the line of the said L. K. Thompson, III; thence along the arc of a curve to the southwest, said curve having a radius of 250.79 feet, an arc length distance of 6.23 feet to a stake in the northerly property line of Davenport Road (not open); thence along and with the northerly property line of the said Davenport Road South 89 degrees, 18 minutes, 53 seconds West, a distance of 596.66 feet to a stake; thence, continuing along and

with the northerly property line of the said Davenport Road, along the arc of a curve to the southwest said curve having a radius of 1,546.47 feet, an arc length distance of 141.70 feet to a stake, thence, continuing with the northerly property line of the said Davenport Road, South 84 degrees, 3 minutes, 53 seconds West, a distance of 306 feet to a stake, thence, continuing along and with the northerly property line of the said Davenport Road, along the arc of a curve to the southwest, said curve having a radius of 1,432.39 feet, an arc length distance of 259.17 feet to a stake in the northerly property line of said Davenport Road; thence, continuing along and with the northerly property line of the said Davenport Road, North 85 degrees, 34 minutes, 7 seconds West, a distance of 1,247.63 feet to a stake in the easterly property line of Pope Road; thence, along and with the easterly property line of the said Pope Road, along the arc of a curve to the northeast, said curve having a radius of 1,457.53 feet, an arc length distance of 200.82 feet to a stake in the easterly property line of the said Pope Road, the southwest corner of Anna Pope; thence, along and with the southerly property line of the said Anna Pope South 85 degrees, 34 minutes, 59 seconds East, a distance of 675.60 feet to a stake, the southeastern corner of the said Anna Pope; thence, along and with the easterly property line of the said Anna Pope North 21 degrees, 29 minutes, 29 seconds East, a distance of 262.6 feet to a stake in the easterly property line of the said Anna Pope, a corner of Devonshire Manor Subdivision; thence, along and with the southerly property line of the said Devonshire Manor Subdivision South 86 degrees, 59 minutes, 26 seconds East, a distance of 205.22 feet to a stake in the southerly property line of the said subdivision; thence, continuing with the southerly property line of the said subdivision South 87 degrees, 14 minutes, 26 seconds East, a distance of 999.61 feet to a stake, the southeastern corner of said subdivision; thence, along and with the easterly property line of said subdivision North 3 degrees, 6 minutes, 13 seconds East, a distance of 923.23 feet to a stake, the northeastern corner of said subdivision; thence, along and with the northerly property line of said subdivision north 83 degrees, 12 minutes, 20 seconds West, a distance of 942.35 feet to a stake in the northerly property line of said subdivision, a corner with the Devonshire Manor Sewage Plant (also known as Devonshire Manor Utilities Lot); thence, along and with the easterly property lines of the said sewage plant and Gordon and G. M. Pope North 14 degrees, 34 minutes, 37 seconds East, a distance of 1,188.81 feet to a stake, a corner of J. P. Evans; thence, along and with the easterly property line of the said J. P. Evans North 14 degrees, 31 minutes, 1 second East, a distance of 1,188.85 feet to a stake in the southerly property line of the said Old Chapel Hill Road; thence, along and with the southerly property line of the said Old Chapel Hill Road, along the arc of a curve to the southeast, said curve having a radius of 845.09 feet, an arc length distance of 291.58 feet to a stake, the northwestern corner of B. C. Crotts; thence, along and with the westerly property line of the said B. C. Crotts along the arc of a curve to the Southwest, said curve having a radius of 20 feet, an arch length distance of 31.42 feet to a stake; thence, continuing with the westerly line of B. C. Crotts South 13 degrees, 6 minutes, 37 seconds West, a distance of 150 feet to a stake in the line of the said Crotts; thence, continuing along and with the westerly property line of the said Crotts, along the arc of a curve to the southeast, said curve having a radius of 244.78 feet, an arc length distance of 145.56 feet to a stake, the southwestern corner of the said Crotts; thence, along and with the southerly property line of the said B. C. Crotts North 74 degrees, 3 minutes, 37 seconds East, a distance of 220.73 feet to a stake, the southeastern corner of the said B. C. Crotts; thence, along and with the easterly property line of the said B. C. Crotts North 13 degrees, 6 minutes, 37 seconds East, a distance of 200 feet to a stake in the southerly property line of the said Old Chapel Hill Road; thence, along and with the southerly property line of said Old Chapel Hill Road South 76 degrees, 53 minutes, 23 seconds East, a distance of 95.10 feet to a stake in the southerly property line of said Old Chapel Hill Road, the northwestern corner of Wilbert E. Clark; thence, along and with the westerly property line of the said Wilbert E. Clark South 2 degrees, 13 minutes, 39 seconds West, a distance of 199.91 feet to a stake, the southwestern corner of the said Wilbert E. Clark; thence, along and with the southerly property line of the said Wilbert E. Clark South 76 degrees, 55 minutes, 58 seconds East, a distance of 75.01 feet to a stake, the southeastern corner of the said Wilbert E. Clark; thence,

along and with the eastern property line of the said Wilbert E. Clark North 2 degrees, 20 minutes, 51 seconds East a distance of 199.77 feet to a stake in the southerly property line of the said Old Chapel Hill Road; thence, South 76 degrees, 53 minutes, 23 seconds East, a distance of 123.65 feet to a stake in the southerly property line of the said Old Chapel Hill Road, the northwestern corner of Hege; thence, along and with the westerly property line of the said Hege South 4 degrees, 52 minutes, 2 seconds West, a distance of 833.45 feet to a stake, the southwestern corner of the said Hege; thence, along and with the southerly property line of the said Hege, South 89 degrees, 57 minutes, 56 seconds East, a distance of 400.35 feet to a stake, the southeastern corner of the said Hege; thence, with the easterly property line of the said Hege North 4 degrees, 52 minutes, 2 seconds East, a distance of 740.42 feet to a stake in the southerly property line of the said Old Chapel Hill Road; thence, along and with the southerly property line of the said Old Chapel Hill Road South 76 degrees, 53 minutes, 48 seconds East, a distance of 1,235.82 feet to a stake in the southerly property line of the said Old Chapel Hill Road, the northwest corner of said Lewis A. Coletta, the place and point of BEGINNING: the same being a portion of Parcel and all of Parcels 2, 3 and 4, containing 154.01 acres, more or less, as shown on that certain plat of survey entitled "Property of Valco, Incorporated" dated July 1972 prepared by William O. Yates, RLS, and recorded in Plat Book 74, page 39, in the Public Registry of Durham County, North Carolina. The portion of Parcel No. 1 which is not included in the above description being shown on that certain plat of survey entitled "Five Oaks Treatment Plant, Property of Devonshire Manor Utilities Co." dated December 30, 1974 and prepared by Larry W. Poole, RLS, which plat of survey is recorded in Plat Book 84, page 13 in the Public Registry of Durham County, North Carolina, to which plats of survey reference is hereby made for a more particular description of said property; SAVE AND EXCEPT, HOWEVER, from the foregoing described property the following described Parcels:

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(1) The Property subjected to this Declaration (Schedule "A-1" hereof):

BEGINNING at a stake in the southerly property line of the Old Chapel Hill Road, the northeastern corner of the Robert E. Hege heirs as shown on the plat of survey hereinafter referred to (the same also being the northeastern corner of Hege as shown on the plat of survey entitled "Property of Valco, Inc." prepared by William O. Yates, RLS, dated July 1972 and recorded in Plat Book 74, Page 39 in the Public Registry of Durham County, North Carolina); AND RUNNING THENCE from said beginning point along and with the easterly property line of said Hege heirs, South 4 degrees, 52 minutes, 2 seconds West, a distance of 741.42 feet to a stake; thence North 64 degrees, 40 minutes, 54 seconds East, a distance of 116.97 feet to a stake; thence North 74 degrees, 53 minutes, 18 seconds East, a distance of 123.40 feet to a stake; thence North 82 degrees, 57 minutes, 17 seconds East, a distance of 125.48 feet to a stake; thence South 82 degrees, 10 minutes, 1 second East, a distance of 129.58 feet to a stake in the westerly property line of Five Oaks Drive (as shown on the plat of survey hereinafter referred to); thence, along and with the westerly property line of the said Five Oaks Drive, along the arc of a curve to the northeast, said curve having a radius of 747.09 feet, an arc length distance of 93.06 feet to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive North 31 degrees, 6 minutes, 12 seconds East, a distance of 130 feet to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive along the arc of a curve having a radius of 601.38 feet, an arc length distance of 188.93 feet (crossing an entranceway) to a stake in the westerly property line of said Five Oaks Drive; thence continuing with the westerly property line of said Five Oaks Drive North 13 degrees, 6 minutes, 12 seconds East a distance of 128 feet to a stake in the westerly property line of

said Five Oaks Drive; thence along the arc of a curve to the northwest (said curve connecting the westerly property line of Five Oaks Drive with the southerly property line of the Old Chapel Hill Road) said curve having a radius of 20 feet, an arc length distance of 31.42 feet to a stake in the southerly property line of the Old Chapel Hill Road; thence along and with the southerly property line of the Old Chapel Hill Road North 76 degrees, 53 minutes, 48 seconds West, a distance of 626 feet to a stake in the southerly property line of the said Old Chapel Hill Road, the place and point of BEGINNING; the same being a tract or parcel of land containing 7.96 acres, more or less, all as shown on that certain plat of survey entitled "Five Oaks, Phase I, Section 3, Property of HIC Management Corporation of N. C." prepared by William O. Yates, RLS, dated September 16, 1975 and recorded in Plat Book 86, page 69 in the Public Registry of Durham County, North Carolina, to which plat of survey reference is hereby made for more particular description of said property.

(2) The Five Oaks Recreational Area (Schedule "B-1" hereof):

BEGINNING at a stake in the westerly property line of Farrington Road, the northeastern corner of H. C. Markham, as shown on the plat of survey hereinafter referred to; AND RUNNING THENCE along and with the northerly property line of the said H. C. Markham North 84 degrees, 45 minutes, 20 seconds West, a distance of 1,455.36 feet to a stake; thence, along and with the westerly property line of the said H. C. Markham South 5 degrees, 15 minutes, 19 seconds West, a distance of 928.38 feet to a stake; thence, north 87 degrees, 14 minutes, 26 seconds West, a distance of 574.23 feet to a stake, the southeastern corner of the Devonshire Manor Subdivision; thence, along and with the easterly property line of said subdivision north 3 degrees, 6 minutes, 13 seconds East, a distance of 923.23 feet to a stake, the northeastern corner of said subdivision; thence, along and with the northerly property line of said subdivision North 83 degrees, 12 minutes, 20 seconds West, a distance of 942.35 feet to a stake, the southeastern corner of a Utilities Lot for Devonshire Manor; thence, along and with the easterly property line of said Utilities Lot North 14 degrees, 34 minutes, 37 seconds East, a distance of 215.24 feet to a stake; thence, South 87 degrees, 40 minutes, 14 seconds East, a distance of 418.89 feet to a stake; thence, North 72 degrees, 10 minutes, 3 seconds East, a distance of 184.60 feet to a stake; thence, South 81 degrees, 0 minutes, 29 seconds East, a distance of 165.62 feet to a stake; thence, South 79 degrees, 32 minutes, 37 seconds East, a distance of 150.77 feet to a stake; thence, South 87 degrees, 5 minutes, 38 seconds East, a distance of 107.69 feet to a stake in the center line of a City of Durham Sanitary Sewer Easement; thence continuing with the center line of said sewer easement South 74 degrees, 4 minutes, 8 seconds East, a distance of 370.28 feet to a stake and corner with a small drive; thence, along and with the westerly property line of said drive, North 6 degrees, 55 minutes, 43 seconds East, a distance of 270.01 feet to a stake in the southerly property line of Pine Cone Drive; thence, along and with the southerly property line of the said Pine Cone Drive, along the arc of a curve having a radius of 630 feet, an arc length distance of 51.51 feet to a stake in the southerly property line of the said Pine Cone Drive; thence, along and with the easterly property line of said small drive South 06 degrees, 55 minutes, 43 seconds West, a distance of 295.90 feet to a point in the center line of a 25 foot City of Durham Sanitary Sewer Easement; thence, along and with the center line of said easement South 81 degrees, 58 minutes, 45 seconds East, a distance of 166.77 feet to a stake in the center line of said easement; thence,

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continuing with the center line of said easement North 82 degrees, 52 minutes, 54 seconds East, a distance of 278.58 feet to a stake in the center line of said easement; thence, continuing with said easement South 89 degrees, 49 minutes, 35 seconds East, a distance of 279.48 feet to a stake in the center line of said easement; thence, continuing with said easement North 17 degrees, 21 minutes, 14 seconds East, a distance of 329.57 feet to a stake in the center line of said easement; thence, continuing with said easement South 89 degrees, 34 minutes, 18 seconds East, a distance of 315.77 feet to a stake in the center line of said easement; thence leaving the centerline of said easement, North 34 degrees, 11 minutes, 37 seconds East, a distance of 37.79 feet to a stake and corner of Devonshire Manor Utilities Company; thence, South 5 degrees, 55 minutes, 27 seconds West, a distance of 157 feet to a stake; thence, South 84 degrees, 04 minutes, 33 seconds East, a distance of 164 feet to a stake; thence, North 5 degrees, 55 minutes, 27 seconds East, a distance of 120.49 feet to a stake; thence, North 49 degrees, 8 minutes, 27 seconds East, a distance of 82.55 feet to a stake; thence, along the arc of a curve to the northeast, said curve having a radius of 183.65 feet, an arc length distance of 130.81 feet to a stake; thence, North 89 degrees, 57 minutes, 7 seconds East, a distance of 46.45 feet to a stake in the westerly property line of the said Farrington Road; thence, along and with the westerly property line of said Farrington Road, along the arc of a curve to the southeast, said curve having a radius of 984.93 feet, an arc length distance of 54.14 feet to a stake in the westerly property line of Farrington Road; thence, continuing with the westerly property line of the said Farrington Road South 10 degrees, 29 minutes, 48 seconds East, a distance of 155.35 feet to a stake; thence, continuing along and with the westerly property line of the said Farrington Road, along the arc of a curve to the southwest, said curve having a radius of 924.93 feet, an arc length distance of 446.63 feet to a stake in the westerly property line of the said Farrington Road; thence, continuing with the westerly property line of Farrington Road, South 17 degrees, 10 minutes, 12 seconds west, a distance of 107.18 feet to a stake in the westerly property line of the said Farrington Road, the northeastern corner of the said H. C. Markham, the place and point of BEGINNING: the same being a tract or parcel of land containing 37.46 acres, more or less, and being shown on that certain plat of survey entitled "Recreational Area, Property of Five Oaks Recreational Corporation," dated March 14, 1975, prepared by Larry W. Poole, RLS, and recorded in Plat Book 86, page 68, Public Registry of Durham County, North Carolina, to which plat reference is hereby made for a more particular description of said property.

A/B

Mail to
Thomas C Finnell
4100 Five Oaks Drive
Unit 48
Durham, NC 27707

BOOK 1075 PAGE 325

NORTH CAROLINA

DURHAM COUNTY

AMENDMENT TO DECLARATION OF RESTRICTIONS

Pursuant to Article XI, Section 3 of the Declaration of Restrictions and upon the recording of this amendment (in duplicate originals) extending to the owners and the holders of first mortgages of liens on ninety percent (90%) of the Lots (as defined in the Declaration), Article IV, Section 12, concerning "Insurance Assessments" shall be amended by the replacement of the 5th and 6th sentences of that section: (commencing with "shall be" and ending with "annual basis") with the following language:

"The Board of Directors or its duly authorized agent shall also assure that each residence is insured against loss or damage by fire, lightning or other hazards and extended coverage in the amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, so that the architectural integrity of the project may be maintained and no residence left in damaged or destroyed condition because the owner has not obtained insurance. To perform this responsibility the Board may obtain a blanket insurance policy covering all the residences, with loss payable to the Homeowners Association, in which event the premium paid for the blanket policy shall be prorated according to the percentage allocation shown in Schedule A with respect to the fifty-eight (58) residences completed as of the present date. The pro rata portion of the insurance premium authorized by this amendment shall not be subject to nor part of those maximum annual assessment rates as provided under Article IV, Section 3, however, the pro rata share of the insurance premium will be submitted to the members of the Association at the same time as other assessments are submitted for payment. Further, this pro rata portion of the insurance premium shall be collectible and enforceable by the same remedies for non-payment as provided in Article IV, Section 8 of this declaration."

Prepared by
EVERETT, GREECH, HANCOCK & HERZIG
ATTORNEYS AND COUNSELORS AT LAW
501 FIRST UNION NATIONAL BANK BUILDING
P. O. BOX 666
DURHAM, NO. CAR. 27702
(919) 682-5691

$1.00

EXHIBIT A

FIVE OAKS HOMEOWNERS ASSOCIATION, INC.

Lot No.	Percentage of Allocation Premium	Lot No.	Percentage of Allocation Premium
1.	1.337	30.	1.884
2.	1.77	31.	1.741
3.	1.793	32.	1.855
4.	1.855	33.	1.884
5.	1.653	34.	1.793
6.	1.775	35.	1.767
7.	1.793	36.	1.744
8.	1.77	37.	1.77
9.	1.793	38.	1.741
10.	1.793	39.	1.77
11.	1.744	40.	1.744
12.	1.723	41.	1.907
13.	1.77	42.	1.653
14.	1.715	43.	1.744
15.	1.744	44.	1.741
16.	1.77	45.	1.77
17.	1.77	46.	1.767
18.	1.715	47.	1.653
19.	1.910	48.	1.337
20.	1.744	49.	1.77
21.	1.767	50.	1.741
22.	1.855	51.	1.77
23.	1.337	52.	1.337
24.	1.860	53.	1.337
25.	1.744	54.	1.741
26.	1.907	55.	1.767
27.	1.397	56.	1.767
28.	1.793	57.	1.767
29.	1.744	58.	1.397
			100%

State of North Carolina • Durham County
The foregoing certificate(s) of Williams, Stephen B. Rauff, Patsy Pegues, Gerry B. Allen, Peggy B. Clements, Wanda Moore, Wm Dillard, Lindsay, Jacqueline D. Patterson, Grace M. Hornsby, Bobbie P. Davis, Betty D. Durham, Lynn Metcalf, L. Dianne Walker, Alan Harris, John Allen Moore, Carolyn D. Sturgis, Brenda Faye Turner, Beverly M. Nelson, Sue C. Adams, Janice A. Owens, Albert E. Allen, Eula H. Poole, Jose A. Vergara, Lynn M. Bickard, Thomas S. Reynolds, Bonnie Carlin, Betty D. Dorroccia, Elizabeth B. Windstead, Patricia P. McCann, Patsy P. Marshburn, C. Jeanne Southern, Patricia H. Woods, Christine A. Barnes, David A. Vaughan, Dorothy B. Tippett, Sherrie A. Amory, Janice G. Coggins, Edna B. Hall, Maureen Hess, Charles E. Harris, Catherine C. Vanderzaag, Lois P. Rasmussen, Denise P. Flagg, Marianna H. Thompson, Lavonne D. Lassiter, Sheryll A. Amory, Robert L. Hinsley, Beverly A. Hess, Cathy Leon Cotten, Brenda D. Hinson, Robinne Weaver, William C. Cappaldi, Marcelle Hill, Mary J. Atkins & Susan A. Sidel-Wallace

A Notary (Notaries) Public of the Designated Government Units is (are) certified to be correct.
This the 1 day of Feb. A.D. 1982
Ruth C. Garrett
Register of Deeds
By: Assistant, Deputy Register of Deeds

FILED
BOOK 1075 PAGE 325-326
FEB 1 10 54 AM '82
RUTH C. GARRETT
REGISTER OF DEEDS
DURHAM COUNTY, N.C.

Five Oaks

This is to certify that the following clarification of the Five Oaks Insurance Amendment to the Declaration of Covenants was approved by the Board of Directors meeting November 22, 1981; and submitted with their recommendation to the regularly called meeting of the Five Oaks Homeowners Association, Inc., December 1, 1981 where it was favorably approved.

Signed

Secretary
Five Oaks Homeowners Association, Inc.
4100 Five Oaks Drive
Durham, North Carolina 27707

Clarification of Insurance Amendment to be filed with the Register of Deeds
Durham, N.C.
Date _____

As an integral part of the Insurance Amendment to the Declaration of Covenants and Restrictions, the following binding policies and administration are affirmed and will be carried out by the Five Oaks Homeowners Association, Inc. acting as Agents for the 58 Townhome Owners:

1. That the Master Hazard/Liability Insurance Policy will be placed with a Company having a minimum rating of A+ in "Best guides", the Industry rating publication.

2. That such Insurance Policy will name the Mortgagees referenced to the name of the Owner/s and Unit #.

3. That such Insurance Policy will pay Building Claims at 100% of the Replacement Cost, the same not to exceed the 100% Policy value.

4. That Claim payments will be made for co-signature of the Mortgagee, the Owner, and the Five Oaks Homeowners Association, Inc., acting as Agent.

5. That the Five Oaks Homeowners Association will consult with the Mortgagees prior to acceptance of an Insurance Contract.

Clarification of Insurance Amendment

6. That each Mortgagee will receive an Agent-signed copy of the final Insurance Policy.

7. That the Insurance Policy will contain phraseology of the "Standard New York Mortgage Clause" assuring the Mortgagees rights and protection. (All Condominium type Policies now contain variations of such phraseology.)

8. That the Mortgagees will continue to retain prime control over the individual Homeowners Insurance payments and Mortgage Insurance through the Owners monthly mortgage payments to their respective Mortgagee.

Signed: William A. Ruscigno Jr.
President
Five Oaks Homeowners Assoc., Inc.
4100 Five Oaks Drive
Durham, North Carolina 27707
Date 12/8/81

First Mortgage Lien Holder on Lots #:

1 - 2 - 4 - 5 - 8 - 9 - 11 - 15 - 16 - 18 - 19 - 20 - 21 - 23
24 - 25 - 27 - 28 - 29 - ~~31~~ 30 - 32 - 35 - 36 - 39 - 40 - 45 - 46
47 - 48 - 50 - 51 - 56 - 57.

Chase Home Mortgage of the Southeast

Otto Regalado
Mortgagee Signature

V. President

1/19/82
Date

IN WITNESS WHEREOF the undersigned persons above have executed this amendent in duplicate original to take effect upon its execution by the owners and holders of first mortgage liens on ninety percent (90%) of the Lots, as provided by Article XI, Section 3.

Attested by:

CHASE HOME MORTGAGE of the Southeast

Otto Regalado V.P.
First Mortgage Lien Holder
on Lots See attached Sheet
~~32~~ 33

Margery J. Saussler
Assistant Secretary
Owner of Lot

STATE OF ~~NORTH CAROLINA~~ FLORIDA, COUNTY OF ~~DURHAM~~ DADE

I, LuAnn Y. Stottler, Notary Public, certify that Margery J. Saussler personally came before me this day and acknowledged that she is Asst. Secretary of Chase Home Mortgage Corporation of the Southeast, a corporation, and that by authority duly given and as the act of the corporation the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by himself as its Assistant Secretary.

Witness my hand and notarial seal, this 20th day of January, 19

LuAnn Y. Stottler
Notary Public

My commission expires Feb. 6th, 1985

STATE OF NORTH CAROLINA, COUNTY OF DURHAM

I, ..., a Notary Public, do hereby certi

Notary witness