

B.K. See 1088-350

N.C. BK 1137 Pg 208
11-83

Mail: C. W. White, P.O. Box 2006

Prepared

Sup/Dic
11.67-84
BK 1193
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Sup/Del/Con
6-21-84
Book 1163
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BOOK 1047 PAGE 454

R/C
BK 1132 Pg 753
10-83

NORTH CAROLINA
DURHAM COUNTY

DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS FOR BEECH HILL OWNERS, INC.
AND THE OWNERS OF COLONY HILL, INC.

R/C
BK 1139 Pg 36
12-83

THIS DECLARATION, made on the date hereinafter set forth, by ALLENTON REALTY AND INSURANCE COMPANY, a North Carolina corporation, hereinafter referred to as "Declarant";

W I T N E S S E T H:

Sup/Dic
3-7-85
BK 1198
Pg. 430

WHEREAS, Declarant is the owner of a parcel of real estate described in Exhibit A attached hereto and hereby incorporated, and desires to create a residential community with recreational facilities, playgrounds, open spaces, and other common facilities for the benefit of said community; and

WHEREAS, immediately adjacent to the property described in Exhibit A is a residential community which has been previously developed by other parties and is known as "Colony Hill"; and

WHEREAS, Declarant desires to merge the existing residential community with the residential community now planned for property described in Exhibit A and additional property which will be purchased by Declarant and included in an overall plan of development including properties previously developed under the name of Colony Hill, the property described in Exhibit A and properties to be purchased by the Declarant; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities of the existing community and for the maintenance of the recreational facilities, playgrounds, open spaces and other common facilities now existing and which will be developed by the Declarant; and, to this end, the Declarant desires to subject the property described in Exhibit A, together with such additions as may be hereinafter made thereto, to the covenants, restrictions, easements, charges and liens as hereinafter set forth, each and all of which is and are for the benefit of the residential community now existing and which will be developed; and

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities of said com-

Suppl. Del.
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Supplemental Declaration
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Amend
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munity, to create agencies to which should be delegated and assigned the powers of maintaining and administering the community properties and the facilities and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges heretofore created and which may hereinafter be created; and

WHEREAS, Declarant has incorporated under the laws of the State of North Carolina a non-profit corporation called The Owners of Colony Hill, Ltd. for the purpose of owning, operating and maintaining certain recreational facilities to be utilized in common with the members of The Proprietors of Colony Hill, Inc., the members of Beech Hill Owners, Inc. and such other homeowners associations as the Declarant may from time to time establish.

NOW, THEREFORE, the Declarant declares that the real property described in Exhibit A, and such additions thereto as may hereinafter be made pursuant to Article II hereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I

Definitions

Section 1. The following words when used in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

A. "Proprietors" shall mean and refer to The Proprietors of Colony Hill, Inc.

B. "The Properties" shall mean and refer to all such existing properties, and additions thereto, as are subject to this Declaration or any Supplemental Declaration under the provisions of Article II hereof.

C. "Common Properties" shall mean and refer to those areas of land now or hereafter shown on any recorded subdivisions plat of The Properties or hereafter deeded to Proprietors and intended to be devoted

to the common use and enjoyment of the owners of The Properties.

D. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of Common Properties as heretofore defined, and upon which is constructed a townhouse.

E. "Living Unit" shall mean and refer to any portion of a building situated upon The Properties designed and intended for use and occupancy as a residence by a single family, whether as owners or tenants, and which living unit shall be subject to the provisions of the North Carolina Unit Ownership Act, Chapter 47A and commonly known as a condominium.

F. "Multifamily Structure" shall mean and refer to any building containing two or more Living Units under one roof except when each such living unit is situated upon its own individual Lot.

G. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot or Living Unit situated upon The Properties but, notwithstanding any applicable theory of the deed of trust, shall not mean or refer to the Trustee or cestui qui trust unless and until there has been a transfer of title pursuant to foreclosure or any proceeding in lieu of foreclosure.

H. "Member" shall mean and refer to all those Owners who are members of Beech Hill Owners, Inc. and The Owners of Colony Hill, Inc., as provided in Article III, Section 1, hereof.

ARTICLE II

Property Subject to this Declaration: Additions Thereto

Section 1. Existing Property. The real property which is, and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in the City of

Durham, Durham Township, Durham County, North Carolina, and is more particularly described in Exhibit A attached hereto, all of which real property shall hereinafter be referred to as "Existing Property".

Section 2. Additions to Existing Property. Additional lands may become subject to this Declaration in the following manner:

A. Additions by Declarant. The Declarant, its successors and assigns, shall have the right to bring within the scheme of this Declaration additional properties in future stages of its development.

The additions authorized under this and the succeeding subsection, shall be made by filing of record a supplementary Declaration of Covenants and Restrictions with respect to the additional property which shall extend the scheme of the covenants and restrictions of this Declaration to such property or by adopting these covenants and restrictions in whole or in part by reference.

Such supplementary Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added properties and as are not inconsistent with the scheme of this Declaration. In no event, however, shall such supplementary Declaration revoke, modify or add to the covenants established by this Declaration within the Existing Property.

B. Mergers. Upon a merger or consolidation of Beech Hill Owners, Inc. or The Owners of Colony Hill, Inc. with another association, its properties, rights and obligations may, by operation of law, be transferred to another surviving or consolidated association or, alternatively, the properties, rights and

obligations of another association may, by operation of law, be added to the properties, rights and obligations of Beech Hill Owners, Inc. or The Owners of Colony Hill, Inc. as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants and restrictions established by this Declaration within the Existing Property together with the covenants and restrictions established upon any other properties as one scheme. No such merger or consolidation, however, shall effect any revocation, change or addition to the covenants established by this Declaration within the Existing Property except as hereinafter provided.

ARTICLE III

Membership and Voting Rights in Beech Hill and Owners of Colony Hill

Section 1. Membership. Every person or entity who is a record owner of a fee or undivided fee interest in any Lot or undeveloped and undesignated land which is subject by covenants of record to assessment by either The Owners of Colony Hill, Inc. or Beech Hill Owners, Inc. shall be a member of both The Owners of Colony Hill, Inc. and Beech Hill Owners, Inc., provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a member.

Section 2. Voting Rights. Both Beech Hill Owners, Inc. and The Owners of Colony Hill, Inc. shall have two classes of voting membership as hereinafter set forth:

Class A. Class A members shall be all of those Owners as defined in Section 1 with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1. When more than one person holds such interest or interests in any Lot all such persons shall be members, and the vote for

such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B. Class B member shall be the Declarant, Allenton Realty and Insurance Company, its successors or assigns. The Class B member shall be entitled to one vote more than the aggregate number of votes of all Class A members, provided that the Class B membership shall cease and become Class A membership (for each Lot and Living Unit owned by Declarant) on January 1, 1990 or when Declarant has sold 200 Lots or Living Units, whichever event shall first occur. From and after the happening of this event, the Class B member shall be deemed to be a Class A member entitled to one vote for each Lot or Living Unit in which it holds the interest required for membership under Section 1.

Section 3. Membership and Voting Procedure. The Articles and By-laws of The Owners of Colony Hill, Inc. and Beech Hill Owners, Inc. shall more specifically define and describe the procedural requirements for the association membership meetings and voting procedures but shall not substantially alter or amend any of the rights or obligations of the Declarant as set forth herein. In the event of any conflict between this Declaration, the Articles or the By-laws of The Owners of Colony Hill, Inc. and Beech Hill Owners, Inc., this Declaration shall control.

ARTICLE IV

Property Rights in the Common Properties

Section 1. Members' Easements of Enjoyment. Subject to the provisions of Section 3, every Member shall have a right of easement of enjoyment in and to the Common Properties and such easement shall be appurtenant to and shall pass with the title to every Lot.

Section 2. Title to Common Properties. The Declarant will convey to Beech Hill Owners, Inc. all of the Common Properties as shown on Exhibit A.

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

A. The right of the Declarant and of The Owners of Colony Hill, Inc. or Beech Hill Owners, Inc., in accordance with their Articles and By-laws, to borrow money for the purpose of improving the Common Properties and in aid thereof to mortgage said properties. In the event of a default upon any such mortgage the lender's rights hereunder shall be limited to a right, after taking possession of such properties, to charge admission and other fees as a condition to continued enjoyment by the Members and, if necessary, to open the enjoyment of such properties to a wider public until the mortgage debt is satisfied, whereupon the possession of such properties shall be returned to the Proprietors and all rights of the Members hereunder shall be fully restored; and

B. The right of The Owners of Colony Hill, Inc. or Beech Hill Owners, Inc. to take such steps as are reasonably necessary to protect the above-described properties against foreclosure; and

C. The right of The Owners of Colony Hill, Inc. or Beech Hill Owners, Inc., as provided in their Articles and By-laws, to suspend the enjoyment rights of any Member for any period during which any assessment remains unpaid, and for any period not to exceed thirty (30) days for any infraction of its published rules and regulations; and

D. The right of The Owners of Colony Hill, Inc. or Beech Hill Owners, Inc. to charge reasonable admission and other fees for the use of the Common Properties; and

E. The legal right of an Owner of property shown on the same plat to include portions of the Common Properties as may be necessary for said Owner to qualify under governmental requirements such as set back lines, open space, parking or other aspects which may be needed for inclusion for a building permit to be secured to rebuild a damaged building; and

F. The right of The Owners of Colony Hill, Inc. and Beech Hill Owners, Inc. to dedicate or transfer all or any part of the Common Properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members, provided that no such dedication or transfer, determination as to the purposes or as to the conditions thereof, shall be effective unless an instrument signed by Members entitled to cast two-thirds (2/3) of the votes of each class of membership has been recorded, agreeing to such dedication, transfer, purposes or condition, and unless written notice of the proposed agreement and action thereunder is sent to every Member at least thirty (30) days in advance of any action taken.

ARTICLE V

Covenant for Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each owner of any Lot, by the acceptance of title thereto, shall be deemed to covenant and agree to pay to:

A. Beech Hill Owners, Inc., assessments which may be necessary or desirable for the maintenance of the common areas, the exterior painting of any building located thereon, repair or replacement of a roof to any building located on The Property, and for the creation, maintenance and cleaning of all parking lots, walkways and driveways located within the bounds of The Property; and

B. The Owners of Colony Hill, Inc., assessments which may be necessary or desirable for the purpose of erecting, maintaining, preserving, decorating, painting or making capital improvements to any and all recreational facilities located on property owned by The Owners of Colony Hill, Inc. and used for recreational and cultural uses by the members of The Owners of Colony Hill, Inc., the Proprietors of Colony Hill, Inc., and any other homeowners association which may be created by the Declarant for the owners of condominium units or townhouses within the 39 acres above referred to being purchased by the Declarant for development.

The assessments, together with such interest thereon and cost of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by The Owners of Colony Hill, Inc. or Beech Hill Owners, Inc. shall be used for the purpose of promoting the recreation, health, safety, and welfare of the members of The Proprietors of Colony Hill, Inc., The Owners of Colony Hill, Inc. and Beech Hill Owners, Inc., and the members of another homeowners association for condominium units or townhouses which may be constructed by Declarant on the 39 acres above referred to, all such uses including, but not limited to, the payment of taxes and insurance thereon, and repair, replacement and additions thereto, and for the costs of labor, equipment, materials, management and supervision thereof.

Section 3. Basis for Computing Assessments. Assessments shall be computed upon the following basis:

A. The Board of Directors of The Owners of Colony Hill, Inc. shall charge the same amount for each assessment against each owner of a Lot or Condominium Unit located within the Properties being developed by the Declarant, except the Board of Directors of The Owners of Colony Hill, Inc. may, by written contract, permit the use of all of its facilities to the members of The Proprietors of Colony Hill, Inc. so that each family unit of the Proprietors may be charged their pro rata share for the use and enjoyment of the recreational facilities owned by The Owners of Colony Hill, Inc.

B. The Board of Directors of Beech Hill Owners, Inc. shall be authorized to make an assessment against its members so that one is charged in the same amount to each owner of a Lot within the Properties being developed as townhouses by the Declarant.

C. The Declarant shall not be subject to any assessment for any undeveloped land, partially constructed building or completed building which has not been sold.

Section 4. Special Assessments for Capital Improvements. In addition to the assessments authorized above, The Owners of Colony Hill, Inc. or Beech Hill Owners, Inc. 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 or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Properties, including the necessary 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 who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting. The

Declarant shall not be subject to any Special assessment for any undeveloped land, partially constructed building or completed building which has not been sold to Owner for residential purposes.

Section 5. Quorum for any Action Authorized Under Section 4. The quorum required for any action authorized by Section 4 hereof shall be fifty percent (50%) of the Members, in person or by proxy, of both classes of membership.

Section 6. Date of Commencement of Assessments: Due Dates. The assessments provided for herein shall commence on the first day of the month following their determination.

Section 7. Duties of the Board of Directors of The Owners of Colony Hill, Inc. The Board of Directors of The Owners of Colony Hill, Inc. shall fix the date of commencement and the amount of the assessment against each Lot or Living Unit for each assessment period of at least thirty (30) days in advance of such date or period and shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of The Owners of Colony Hill, Inc. and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

The Owners of Colony Hill, Inc. shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of the The Owners of Colony Hill, Inc.; setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Duties of the Board of Directors of Beech Hill Owners, Inc. The Board of Directors of Beech Hill Owners, Inc. shall fix the date of commencement and the amount of the assessment against each Lot for each assessment period of at least thirty (30) days in advance of such date or period and

shall, at that time, prepare a roster of the properties and assessments applicable thereto which shall be kept in the office of Beech Hill Owners, Inc. and shall be open to inspection by any Owner.

Written notice of the assessment shall thereupon be sent to every Owner subject thereto.

Beech Hill Owners, Inc. shall upon demand at any time furnish to any Owner liable for said assessment a certificate in writing signed by an officer of Beech Hill Owners, Inc., setting forth whether said assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien; Remedies of Proprietors. If the assessments made by Beech Hill Owners, Inc. or The Owners of Colony Hill, Inc. are not paid on the date when due then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation for the statutory period and shall not pass to his successors in title unless expressly assumed by them.

If the assessment is not paid within thirty (30) days after the delinquency date or a written arrangement for payment consented to by Beech Hill Owners, Inc. or The Owners of Colony Hill, Inc., the assessment shall bear interest from the date of delinquency at the maximum rate allowed by law, and Beech Hill Owners, Inc. or The Owners of Colony Hill, Inc. may bring an action at law against the Owner personally obligated to pay the same and/or to foreclose the lien against the property, and there shall be added to the amount of such assessment a charge to be determined by Beech Hill Owners, Inc. or The Owners of

Colony Hill, Inc. of at least Fifty Dollars (\$50.00) for the cost of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee of at least Fifty Dollars (\$50.00) to be fixed by the court together with the costs of the action.

Section 10. Subordination of the Lien to Mortgages.

The lien of the assessments provided for herein shall be subordinate to the lien of any deed of trust or deeds of trust now or hereafter placed upon the properties subject to assessment; provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

Section 11. Exempt Property. The following property subject to this Declaration shall be exempted from the assessments, charge and lien created herein: (a) all properties to the extent of any easement or other interest therein dedicated and accepted by the local public authority and devoted to public use; (b) all Common Properties as defined in Article I, Section 1 hereof.

ARTICLE VI

Party Walls

Section 1. General Rules of Law to Apply. Each wall 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 inconsistent with the provisions of this Article, the general rules of law regarding party walls and of liability for property damage due to negligent or willful 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 must restore it as a party wall unless the other Owner agrees to the contrary in advance, and the other Owners thereafter making use of the wall shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions. Owner shall be required to reconstruct all exterior walls, roofs, patios and decks if same should be damaged by fire or other casualty.

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 party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the question involved.

ARTICLE VII

Architectural Control Committee

Section 1. Review by Committee. No building, fence, wall or other structure shall be commenced, erected or maintained upon The Properties by other than the Declarant, 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 shall 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 Beech Hill Owners, Inc., 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 complied with fully. Beech Hill Owners, Inc. shall have the right to bring action to enjoin any activity taken in violation of this Article. No planting, object or landscaping change or addition shall be made until approved in writing by the architectural committee.

Section 2. The requirements in Section 1 above shall not apply to the Declarant during the development of the property described in Exhibit A or any additions by the Declarant as provided in Article II, Section 2 of this Declaration.

ARTICLE VIII

Exterior Maintenance

Section 1. Exterior Maintenance. In addition to maintenance upon the Common Properties, Beech Hill Owners, Inc. shall provide exterior maintenance upon each townhouse located on a Lot which is subject to assessment under Article V hereof, as follows: paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces (other than windows, screens and glass doors).

Section 2. Assessment of Cost. The cost of such exterior maintenance may be assessed against the Lot or Living Unit upon which such maintenance is done and shall be added to and become part of the annual maintenance assessment or charge to which such Lot is subject under Article V hereof and, as part

of such annual assessment or charge, it shall be a lien and obligation of the Owner and shall become due and payable in all respects as provided in Article V hereof. The Board of Directors of Beech Hill Owners, Inc., when establishing the annual assessment against each Lot for any assessment year as required under Article V hereof, may add thereto the estimated cost of the exterior maintenance for that year and/or it may add an amount to be placed in a sinking fund or reserve for future exterior maintenance.

Section 3. Access at Reasonable Hours. For the purpose solely of performing the exterior maintenance required by this Article, Beech Hill Owners, Inc., 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, specifically including the right to repair or maintain any water or sewer line which may cross any Lot.

ARTICLE IX

General Provisions

Section 1. No Lot shall be used for any purpose which is not permissible under applicable governmental residential zoning regulations.

Section 2. No noxious or offensive trade or activity shall be carried on upon or in any Lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 3. No trailer, mobile home, basement, tent, shack, or garage shall at any time be used for human habitation temporarily or permanently, nor shall any structure of a temporary character be used for human habitation.

Section 4. The Board of Directors of Beech Hill Owners, Inc. or The Owners of Colony Hill, Inc. shall have the authority to adopt rules for the use of the Common Properties and shall furnish a written copy of said rules to the Owners. Any violation of such rules shall be punishable by fine and/or suspension of the right to use specified portions of the Common Properties. The Board of Directors of Beech Hill Owners, Inc.

or The Owners of Colony Hill, Inc. shall also have the power to adopt rules and regulations which prohibit or limit the types of animals or household pets which may be kept in or about the Lots and which govern their allowance upon the Common Properties.

Section 5. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by Beech Hill Owners, Inc. or The Owners of Colony Hill, Inc., or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, until January 1, 2010, after which time said covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds (2/3) of the Lots or Living Units has been recorded, agreeing to change said covenants and restrictions in whole or in part. (For purposes of meeting the two-thirds (2/3) requirement, when Living Units are counted, the Lot or Lots upon which such Living Units are situated shall not be counted.) Provided, however, that no such agreement to change shall be effective unless made and recorded one (1) year in advance of the effective date of such change, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any action taken.

Section 6. Amendment. These covenants and restrictions may be amended by the vote of at least two-thirds (2/3) of each class of Members cast in person or by proxy at a meeting duly called for this purpose, written notice of which, including the subject matter of the proposed amendment, shall be sent to all members at least thirty (30) days in advance. Any such amendment shall become operative and binding upon all members and their properties when set forth in an Amended Declaration of Covenants and Restrictions and recorded in the office of the Register of Deeds of Durham County, North Carolina.

Section 7. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid,

to the last known address of the person who appears as Member or Owner on the records of the Proprietors at the time of such mailing.

Section 8. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Proprietors or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 9. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, Allenton Realty and Insurance Company, Inc. has caused this instrument to be duly executed as of this the 19th day of December, 1980.



ALLENTON REALTY AND INSURANCE COMPANY, INC., the Declarant

BY *Wm. D. Dardridge*
President

C. Wallace Inscow
Asst. Secretary

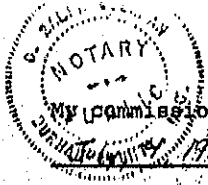
NORTH CAROLINA
DURHAM COUNTY

I, *C. Ralph Cochean*, a Notary Public of Durham County, do hereby certify that *C. Wallace Inscow* personally appeared before me this day and acknowledged that he is ^{Asst.} Secretary of ALLENTON REALTY AND INSURANCE COMPANY, INC., a corporation, and that, by authority duly given and as the act of the corporation, the foregoing instru-

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ment was signed in its name by its President, sealed with its corporate seal, and attested by him self as its Secretary.

Witness my hand and notarial seal, this 19th day of December, 1980.



C. Ralph Cochran
Notary Public

State of North Carolina - Durham County

Therefore by certificate(s) of C. Ralph Cochran

A Notary (Notaries) Public of the Designated Communal units is (are) certified to be correct.

This the 22 day of Dec. A.D. 1980

Ruth C. Garrett Jessie J. Brown
Register of Deeds By: Assistant, Deputy
Register of Deeds

FILED
BOOK 1047 PAGE 472
DEC 22 10 37 AM '80
RUTH C. GARRETT
REGISTER OF DEEDS
DURHAM COUNTY, N.C.

SCHEDULE A

BEGINNING at a stake located at the northwest corner of Section One of Colony Hill Townhouse Area No. 1 as shown on survey recorded in Durham County Registry in Plat Book 79, at page 56, and thence from said point and place of beginning along and with the Marley line North 48° 59' 13" East 167.24 feet to a stake; thence continuing with said line North 57° 58' 28" East 563.75 feet to a stake; thence North 89° 16' 33" East 89.34 feet to a stake; thence South 6° 18' 49" East 379.28 feet to a stake; thence in a westerly and clockwise direction along an arc with a radius of 378.83 feet, a distance of 119.01 feet; thence North 81° 43' 27" West 107.22 feet; thence in a westerly and counterclockwise direction along an arc with a radius of 358.0 feet, a distance of 402.77 feet to a stake; thence along and with Section One of Colony Hill Townhouse Area No. 1 North 56° 11' 03" West 194.51 feet to the point and place of BEGINNING, and containing 4.0 acres, and as shown on the survey of Tract One of Property of Allenton Realty and Insurance Company by Southeastern Surveys, Inc., dated September 17, 1980, recorded in Durham County Registry in Plat Book 98, at page 30, to which reference is herewith made for a more particular description of same.