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RECORDED & VERIFIED
MARY SUE OOTS
REGISTER OF DEEDS
NEW HANOVER CO. NC

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DECLARATION OF
COVENANTS, CONDITIONS and RESTRICTIONS
FOR ABBEY GLEN AT FUTCH CREEK
SECTION 1

000057

THIS DECLARATION, made on the 21st day of August, 1997 by
D&F Investment Corporation, a Maryland corporation, with a
certificate of authority filed with the Office of the Secretary of
State for North Carolina, hereinafter referred to as "Declarant".

W I T N E S S E T H:

WHEREAS, Declarant is the owner of certain property (the
Properties) in the County of New Hanover and State of North
Carolina, which is more particularly described as:

See attached EXHIBIT "A" incorporated herein.

NOW THEREFORE, Declarant hereby declares that all of the
Properties described above shall be held, sold and conveyed subject
to the following easements, restrictions, covenants, and
conditions, which are for the purpose of protecting the value and
desirability of, and which shall run with, the real property 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. "Association" shall mean and refer to Abbey Glen
Owners Association, Inc., its successors and assigns. The
Association will be governed by a set of By-laws, a true copy of
which is attached hereto as EXHIBIT "B".

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

Section 3. "Properties" shall mean the real property
hereinbefore described, and such additions thereto as may hereafter
be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property
(including the improvements thereto) owned by the Association for
the common use and enjoyment of the Owners. The Common Area shall
be owned by the Association by dedication of said Common Area as
shown on the recorded map or maps and shall include the private
streets of the subdivision as shown thereon.

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[Signature]

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the private streets and Common Area.

Section 6. "Lot in use" shall mean and refer to any Lot on which a dwelling unit has been fully constructed as evidenced by the issuance of a completion certificate from New Hanover County (also known as an occupancy certificate). A "Lot not in use" is a Lot upon which no dwelling has been erected or a dwelling for which no completion certificate (certificate of occupancy) has been issued.

Section 7. "Declarant" shall mean and refer to D&F Investment Corporation, its successors and assigns.

ARTICLE II PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to maintain, repair and regulate the Common Area, including the water level of any pond located thereon and the private streets;

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

(c) the right of the 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 agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-Laws 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.

ARTICLE III MEMBERSHIP AND VOTING RIGHTS

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

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

Class A. Class A members shall be all Owners, with the exception of the Declarant, and 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 such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owner. 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, 2007.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, (2) special assessments for capital improvements, and (3) collection charges, including late fees, fine(s), interest, costs, reasonable attorneys fees for unpaid assessments, and such other charges allowed under this Declaration. Annual and special assessments for Lots not in use shall be fixed at twenty-five percent of the amount assessed for Lots in use. The annual and special assessments, together with other charges referenced herein, shall be a charge on the land and shall be a continuing lien upon the Lot, running with the land against which each such assessment is made and shall therefore survive any sale or closing of said Lot. The Association or the Association's managing agent, upon demand, shall furnish to any Owner or Owner's buyer or the holder of a deed of trust on any Lot, a written certificate signed by an officer of the Association or management agent, setting forth the amount of the assessment and whether said assessment is current. Such certification shall be conclusive evidence of payment of any assessment. Buyers or Buyer's agents are strongly encouraged to contact the Association or the Association's professional management agent prior to a closing.

Each such assessment, together with late fees, fine(s), interest, costs, and reasonable attorney's fees shall (in addition to being a continuing lien on the Lot) also be and remain the personal obligation of the person(s) or entity who was the Owner of such property at the time when the assessment fell due.

Section 2. Purpose of Assessments. The main purpose of the annual or special assessment is to provide a source of funding to maintain the Common Area and pond located thereon, together with maintenance the private streets and any easement areas for which

the Association is required to maintain. The assessments levied by the Association shall be used exclusively to promote the health, safety, and welfare of the Lot owners and for the improvement and maintenance of the Common Area and easements for which the Association is responsible. By way of examples and not by limitation, such uses shall include satisfaction of the Association's obligations regarding maintenance of the storm water facilities located on the Common Area as may be required by law, to maintain the private streets, to pay public liability insurance premiums, fidelity bonds, ad valorem taxes if any, management and professional fees, administrative expenses and other customarily recognized operating expenses of an owners' association. In addition, some reasonable portion of the annual assessment, as determined by the Association's Board of Directors, may be held in a reserve account for long term storm water facility expenditures, capital improvements, street resurfacing and pond dredging.

Section 3. Determination of Annual Assessments. Annual assessments shall be established by the Board of Directors, at its regular meetings or special meetings called for such purpose, which assessment amount shall be based upon a projected annual budget consistent with the purposes of such assessment as set out above. Annual assessments will commence on the date established by the Board of Directors after a special meeting called for such purpose. For the first year in which annual assessments are established, such assessments shall be adjusted according to the number of months left in that calendar year. Thereafter the annual assessment shall coincide with the calendar year. The Board of Directors shall establish the amount of the regular annual assessment against each Lot based upon a projected budget, however, if no amount is fixed, then the amount established in the prior year's assessments will continue to remain in effect until amended by the Board of Directors. The due dates and any grace period shall be established by the Board of Directors. The Board of Directors may raise the annual assessment from year to year by a percentage not to exceed ten percent of the prior annual assessment. Should the Board of Directors determine that the annual assessment for the next succeeding assessment period will exceed the annual assessment for the then current period by more than ten percent, then the Board will call a special meeting of the members (thirty days prior notice) for such purpose and any such increase shall be first approved by a vote of two-thirds of the members voting in person or by proxy at such meeting wherein a quorum is present. Sixty percent of all the votes of each class of membership shall constitute a quorum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association's Board of Directors may levy, in any assessment year, special assessment(s) 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, re-paving of streets, or for storm water facilities maintenance or pond dredging as may be required to comply with rules and regulations governing storm water retention ponds imposed by State of North Carolina.

Section 5. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots in use on a per lot basis. Annual assessments shall be collected on an annual basis at the beginning of any calendar year, in advance. An Owner is entitled to receive a copy of the budget by requesting the same from the Association or management agent tasked with such responsibility.

Section 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any unpaid assessment shall bear interest from the due date plus grace period at the rate of eighteen percent (18%) per annum, together with a late fee and/or fine(s) as determined by the Board of Directors. In addition, the non-paying Lot Owner shall be charged with reasonable attorneys fees and court costs in endeavoring to collect such debt. The Association may bring an action at law against the Owner personally obligated to pay the same, and/or file a lien against the Lot in question in the Office of the Clerk of Court for New Hanover County and foreclose the lien against the property in a like manner as for mortgages or deeds of trust.

Section 7. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage now or hereafter placed upon the properties subject to assessments; provided however, that such subordination shall apply only to the assessments which have become due and payable prior to a foreclosure sale. Such sale shall not relieve such property from liability for any assessments which thereafter become due, nor from the lien of any such subsequent assessment. The sale or transfer of any Lot pursuant to mortgage 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.

Section 8. Working Capital. At the closing (transfer of title) of a Lot in use from the Declarant or builder to the first Owner occupying a dwelling, a sum shall be collected from the buyer equal to one-sixth (1/6th) of the regular annual assessment (two months working capital) and such sum shall be contributed to the reserve fund of the Association for the purpose of insuring that the Association will have sufficient funds to meet initial operating and capital expenses of the Association, such as pre-paid insurance, supplies and unforeseen expenditures. This contribution shall not be considered an advance against assessments to become due, or a refundable deposit.

ARTICLE V INSURANCE

Section 1. It shall be the duty of the Association to maintain in effect public liability insurance on the Common Area in an amount as determined by the Board of Directors, but in no event be less than \$1,000,000.00 for bodily injury, and deaths of persons arising out of a single occurrence.

Section 2. It shall be the duty of the Association to maintain in effect fidelity bonds or insurance for all officers, directors, trustees and employees of the Association and for all

other persons handling or responsible for funds of the Association. Where the Association has delegated some or all of the responsibility for the handling of funds to a management agent, fidelity bonds shall be required for such management agent's officers, employees and agents handling or responsible for funds of the Association.

Section 3. There shall also be obtained such other insurance coverage as the board of directors shall determine from time to time to be desirable and necessary. Premiums on insurance policies shall be paid as a common expense of the Association.

ARTICLE VI
ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, except as approved by the Board of Directors of the Association, or by an Architectural Committee appointed by the Board, or by 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 the Association, or by an Architectural Committee appointed by the Board. Said Board or its Architectural Committee reserves the right to control and approve absolutely the site and location of any house or dwelling or other structure upon any Lot and a plot plan shall be furnished for approval before construction begins. In the event said Board, or its designated Architectural Committee, fails to approve or disapprove such design and location within forty five (45) 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 VII
USE RESTRICTIONS

The land consisting of Abbey Glen, Tracts 1 through 4 as shown on a map thereof recorded in Map Book 34, Page 39 of the New Hanover County Registry has been previously subjected to those certain Restrictive Covenants recorded in Book 1797 at Page 0044 as amended in Book 1926 at Page 0672 of said Registry. Declarant, hereby declares that each Lot in Abbey Glen at Futch Creek, Section 1, as the same are shown on a map thereof recorded in Map Book 37 at Page 193, New Hanover County Registry, are and shall, whether stated in the deed out of the Declarant or not, be held, transferred, sold and conveyed subject to the said Amended Restrictive Covenants recorded in Book 1926 at Page 0672 of the New Hanover County Registry, (Parent Restrictions), to wit:

1. No single-wide or double-wide mobile home or modular home shall be allowed or maintained upon any of said tracts (now Lots).
2. No portion or part of any tract (now Lot) shall be used for or maintained as a dumping ground for rubbish or other

refuse. Trash, garbage or other waste shall not be kept, except in sanitary containers. Outside storage or unlicensed and uninsured cars, trucks, or equipment, and extensive repair of the same is prohibited.

3. Nothing herein contained shall be construed as imposing any covenants and restrictions on any property of the owner of this subdivision other than the property to which these restrictive covenants specifically apply.

4. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant, either to restrain violation or to recover damages.

5. Invalidation of any one or more of these covenants by judgement or court shall not adversely affect the balance of said covenants, which shall remain in full force and effect.

6. These covenants are to run with the land and shall be binding on all parties and persons claiming under them for a period of 20 years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of 10 years, unless an instrument signed by a majority of the then owners of the lots has been recorded agreeing to change said covenants in whole or in part.

7. The development of an additional section of Abbey Glen may be contemplated by Declarant; therefore, these covenants and restrictions may be extended by supplemental declaration to surrounding and contiguous property owned by Declarant, or its successors or assigns.

(The above seven paragraphs were formerly paragraphs 9, 12, 19, 20, 21, 22 and 23 of the Parent Restrictions, which have been renumbered here for the sake of convenience.) Notwithstanding anything to the contrary, the above seven paragraphs shall not be amended without the recorded written consent of all the owners. In Addition to subjecting the above referenced Lots in Abbey Glen at Futch Creek to the above restrictions and covenants, Declarant subjects the Lots in Abbey Glen at Futch Creek, Section 1, as the same are shown on a map thereof recorded in Map Book 37 at Page 193, New Hanover County Registry to the following covenants, conditions and restrictions and as also stated in the Amended Restrictions recorded in Book 1926, Page 0672 of said Registry:

8. No Lot shall be used except for single family residential purposes consisting of a detached dwelling per building Lot, which dwelling must contain at least 1800 square feet of heated floor space, exclusive of porches, breeze ways, steps, garages and overhangs. This covenant can not amended without the written consent of Richard H. Trask or his heirs, grantees or assigns.

9. No part of any Lot, property, or properties shall be used for manufacturing, commercial or professional purposes and no noxious or offensive trade or activity shall be carried on, nor shall anything be done thereon which may be or become an annoyance

or nuisance to the neighborhood. This covenant shall not be amended without the recorded, written consent of all owners.

10. The existing hedge row between the common boundary line of the Richard Trask property (Tract 2, as extended) and Abbey Glen (old Tract 3), now Lots 5, 6, 7, 8, 9 and 10, shall not be destroyed and shall be maintained as a buffer, subject to the rights of the owner thereof to trim, keep and maintain the same in a neat and orderly manner. The existing hedge row between the common boundary line of the Richard Trask property bordering Abbey Glen to the North and Abbey Glen Lots 10, 11, 17 and 18 shall not be destroyed and shall be maintained as a buffer, subject to the rights of the owner thereof to trim, keep and maintain the same in a neat and orderly manner. This covenant shall not be amended without the recorded, written consent of all owners and: Richard H. Trask, Angela L. King, John H. Dawkins and Katherine R. Dawkins, or their heirs, grantees or assigns.

11. Street lighting in Abbey Glen at Futch Creek to be no higher than ten feet tall. This covenant is not subject to amendment without the written consent of all owners and: Richard H. Trask and Angela L. King, John H. Dawkins and Katherine R. Dawkins, or their heirs, grantees or assigns.

IN ADDITION to subjecting the above referenced Lots in Abbey Glen at Futch Creek to the Amended Restrictions recorded in Book 1926, Page 0672 of said Registry, Declarant subjects said Lots to the following covenants, conditions and restrictions:

12. Exterior materials: No concrete block, concrete brick, asbestos siding, aluminum siding, cinder block nor tar paper composition shall be used for the exterior of any residence constructed on any building Lot herein conveyed, it being intended that only conventional brick, wood, or vinyl exteriors be constructed on the Lots subject to these covenants. Notwithstanding the above permitted materials, the Board of Directors of the Association or its Architectural Committee must first approve the exterior building material sought to be used and design prior to dwelling construction in accordance with Article VI.

13. Set backs: Since the establishment of standard inflexible building setback lines for location of houses on Lots tends to force construction of houses directly to the side of other homes with detrimental effects on privacy, view, preservation of important trees and other vegetation, ecological and related considerations, no specific setback lines are established by these Restrictions, and dwelling location shall be subject to approval by the Architectural Committee as per Article VI. In any event, no house shall be erected closer to the front lot line or nearer to any side line than the minimum distances established by applicable New Hanover County ordinances for performance-based residential developments.

14. No Lot shall be subdivided, or its boundary line changed without the written consent of the Declarant. However, the Declarant hereby expressly reserves the right to re-plat any Lot or change the alignment or placement of any road as required in

Declarant's sole discretion and to take such other steps as are reasonably necessary to make such re-platted Lot suitable and fit as a building site.

15. Each Lot must have a driveway at a location and using materials first approved by the Association's Board of Directors or its Architectural Committee in accordance with Article VI. Off-street parking for not less than two (2) passenger automobiles must be provided on each Lot prior to the occupancy of any residence constructed on said Lot. Parking on the private streets of the subdivision is prohibited.

16. Well(s) shall be permitted on each Lot as the primary source of potable/domestic water until such time, if any, a Community Water System or County Water System becomes available for any Lot. If and when such Community or County Water System becomes available, then the Owner(s) of such Lot for which community/county water is available will, within a reasonable time, be required to connect to such system. If and when such Community or County Water System becomes available, Owners may continue using their well(s), but only for irrigation purposes and non-domestic use. All wells and pumps must be properly and attractively housed, screened, landscaped and maintained. The design, building materials used and location of each such well must be approved by the Architectural Committee prior to its construction or replacement in accordance with Article VI. Nothing herein should be construed to mean or imply that the Declarant intends or promises to develop a community water system.

17. Septic tanks shall be permitted on each Lot until such time as a County Water System becomes available for any Lot. When such County Sewer System becomes available, then the Owner(s) of such Lot for which County Sewer System is available will, within a reasonable time, be required to connect to such system. The location of each septic tank must be approved by the Association's Board of Directors or its Architectural Committee prior to its construction or replacement. When county sewer becomes available, sewage disposal shall be only by tapping onto the County of New Hanover sewer system for then new construction, and septic tanks will no longer be permitted.

18. No yard sales or garage sales shall be permitted upon any Lot.

19. No clothesline shall be permitted except portable clothes tree stands which shall not be visible from the street.

20. No domesticated farm animals or fowls shall be kept on any Lot. Household pets are allowed subject to city and/or county ordinances and leash laws.

21. It shall be the responsibility of each Owner to prevent the development of any unclean, unsightly, or unkept condition of buildings or grounds on his or her Lot which would tend to decrease the beauty of the neighborhood as a whole or the specified area.

22. No advertising signs or billboards shall be erected on any Lot or displayed to the public on any Lot subject to these

Restrictions, except that one sign of not more than five square feet in area may be used to advertise a complete dwelling for sale. This covenant shall not apply to signs erected by a builder or Declarant used to identify and advertise the subdivision as a whole, or by a contractor for an item of work being performed on a given Lot.

23. The Owner of each Lot shall keep his or her Lot mowed regularly, including that area from the Lot line to the edge of the paved street and including drainage easements, and keep said Lot and drainage easements clear of rubbish, trash and unsightly debris, and in the event that the Owner of any Lot breaches this restriction, the Association reserves the right to enter upon the said Lot and mow the grass, clean up the same and remove such rubbish, trash and unsightly debris at Owner's expense.

24. No outside radio or television antennas or receivers of any type shall be erected on any Lot or dwelling unit within the property unless and until written permission for the same has been obtained from the Association or its architectural committee.

25. No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles must be installed only within an area screened from street view. Each Lot Owner shall provide receptacles for garbage; and all garbage cans, carts and bags must be kept in a screened area, accessory building or other storage facility, and not visible from the street, except on garbage pick-up days.

26. No inoperable vehicle or vehicle without current registration and insurance, and no tractor-trailers will be permitted on any Lot in use. The Association shall have the right to have all such vehicles towed at the owner's expense. No bus, school bus, or van/truck/vehicle larger than one and one-quarter (1 & 1/4) tons shall be parked, stored or kept in the Subdivision. Boats shall be kept inside a storage building, garage or in a screened area of the back yard, not in the driveway or on the streets.

27. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be used on any Lot at any time as a residence.

28. Sod requirement: All front yards must be landscaped for sod, sodded and irrigation/sprinkler system installed.

ARTICLE VIII EASEMENTS

Section 1. In general and Drainage. All of the property in Abbey Glen at Futch Creek, Section 1, including Lots and Common Area, shall be subject to such utility easements for water lines, sanitary sewers, storm drainage, gas lines, telephone and electric power lines, cable television and other utilities, public or private, as shall be necessary for the convenient use and enjoyment of the property as a residential neighborhood. In addition, the Association shall have the power and authority to grant and to establish in, over, upon, and across the Common Area such further easements as are requisite for the convenient use and enjoyment of the property. All maintenance for drainage easements as shown on

the recorded subdivision map which are located within the boundary lines of a Lot shall be the responsibility of such Lot Owner, unless otherwise stated, to be maintained in the condition and at the depth to facilitate drainage as laid out by the Declarant or as otherwise may be required by the State of North Carolina or County of New Hanover. Within said easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with utilities or flow of drainage channels in the easements. All maintenance for drainage easements as shown on the recorded subdivision map which are not located within the boundary line of a Lot shall be the responsibility of the Association. Easements rights are granted emergency vehicles, police, fire, ambulance and post office over the private streets.

Section 2. Dedication by map. Each Lot in said subdivision is further subjected to such easements and buffers as may appear on or referenced on the recorded map thereof.

Section 3. Entrance way easement. The southwest corner of Lot 1 of Abbey Glen at Futch Creek is subject to an entrance way easement into the subdivision as shown on the recorded map. Such entrance way easement as constructed and landscaped by the Declarant together with the signage and wall thereon shall be maintained by the Association.

Section 4. Buffer zone along Futch Creek Road. The southern portions of Lots 1, 2, 3, 4 & 5 of Abbey Glen, Section 1 are subject to a landscape and utility easement as shown on the recorded plat, where said Lots border Futch Creek Road. The purpose of this easement is to create a buffer zone between Futch Creek Road and the subdivision. A berm has or will be constructed by the Declarant within this easement. Such easement as developed and landscaped by the Declarant, together with the berm thereon shall be maintained by the Association.

Section 5. Joint Driveway easement between Lots 2 & 3. A privately dedicated joint driveway easement is reserved for the exclusive use and benefit of the Owners of Lots 2 & 3 of Abbey Glen at Futch Creek, which allows for access to said Lots from Futch Creek Road. The Owners of said Lots 2 & 3 shall be responsible for and share equally in the upkeep and maintenance of said driveway. Such joint driveway easement is so dedicated whether shown in subsequent deeds or not.

Section 6. Pond maintenance easement. An easement, limited in scope for pond maintenance, is reserved and dedicated for the benefit of the Association affecting the rear lot lines of Lots 1, 2, 3, 4, 21, 22 and 23 as such easement is shown on the recorded map for Abbey Glen at Futch Creek, Section 1. Such easement is not intended to provide neighborhood access to the pond through an Owner's back yard; instead, such easement is intended to be used only when necessary to perform common area/pond maintenance. Maintenance of such easement, including trimming and mowing, shall be the responsibility of the Lot Owner and not the Association.

Section 7. Other buffer. A buffer is hereby established and dedicated to protect the existing hedgerow located between certain Lots in Abbey Glen at Futch Creek, Section 1 and adjoining property

owner(s) as shown on the recorded map for Abbey Glen at Futch Creek, Section 1. See Article VII, Section 10 for additional information and restrictions.

ARTICLE IX
STORM WATER RUN OFF

Section 1. The maximum built-upon area per Lot, in square feet, is restricted as follows: No more than the square footage per Lot hereinbelow shown, including that portion of the right-of-way between the edge of pavement and the front Lot line, shall be covered by impervious structures, including asphalt, gravel, concrete, brick, stone, slate or similar material, not including wood decking or the water surface of swimming pools.

<u>LOT NUMBER (Section 1)</u>	<u>BUILT-UPON AREA-SQUARE FEET</u>
Common Area	1500 SF
Lot 1	3696 SF
Lot 2	3438 SF
Lot 3	3268 SF
Lot 4	4454 SF
Lot 5	4086 SF
Lot 6	3519 SF
Lot 7	3637 SF
Lot 8	3637 SF
Lot 9	3538 SF
Lot 10	3893 SF
Lot 11	3471 SF
Lot 12	3495 SF
Lot 13	3487 SF
Lot 14	3497 SF
Lot 15	3542 SF
Lot 16	3730 SF
Lot 17	3231 SF
Lot 18	4324 SF
Lot 19	5062 SF
Lot 20	3401 SF
Lot 21	3561 SF
Lot 22	3889 SF
Lot 23	4563 SF

Section 2. The above storm water run off covenant is intended to ensure continued compliance with the storm water permit issued by the State of North Carolina. This covenant may not be changed or deleted without consent of the State.

Section 3. No one may fill in or pipe any roadside or Lot-line swale, except as necessary to provide a minimum driveway crossing.

Section 4. For curb outlet system projects, no one may pipe, fill in, or alter any lot line swale used to meet North Carolina Storm water Management Permit requirements.

ARTICLE X
DECLARANT RIGHTS

Section 1. Declarant Control: Management of the affairs of the Association shall be the right and responsibility of its Board of Directors, provided however, that all of the powers and duties of the Board of Directors may be exercised by the Declarant until such time as seventy-five percent (75%) of the Lots in all Sections of Abbey Glen at Futch have been sold and conveyed by the Declarant to purchasers or until January 1, 2007, whichever first occurs. Management and control may be transferred to the Lot owners at any time but in any case, no later than 120 days after the happening of the earlier of the above events.

Section 2. Annexation by Declarant. The Properties described herein are a portion of a larger area of land owned by the Declarant or which the Declarant has an option to purchase, and Declarant may from time to time cause separate and additional declarations and covenants to be filed subjecting other portions of the larger area of land to restrictions similar to or different from those imposed upon the Property subject to this Declaration. In addition, Declarant may cause additional portions of such larger area of land to be subjected to the terms of this Declaration. Only the Properties described herein and such additional property as shall be specifically subjected to this Declaration shall be subject to this Declaration and neither anything contained in the Declaration nor in any recorded or unrecorded plat, map, drawing, brochure or other representation of a scheme of development, shall be construed as subjecting, or requiring the Declarant, to subject to this Declaration, any property or land now or hereafter owned by it other than as herein defined. Declarant may, from time to time in its absolute discretion, and without the approval of the Association or any Owner, annex additional lands to the Property described herein and thereby subject the same to this Declaration by recorded instrument.

Section 3. Declarant reserves the right to dedicate and transfer utility easements for sewer and/or water, if any, servicing the Lots to the New Hanover County Water and Sewer District, or New Hanover County, a Body politic of the State of North Carolina.

Section 4. The Declarant reserves the right to subject the real property in this Subdivision to a contract with Carolina Power and Light Company for the installation of underground electric cables and/or the installation of street lighting either or both of which may require an initial payment and/or a continuing monthly payment to Carolina Power and Light Company by the Owner of each Lot.

ARTICLE XI
RIGHTS OF INSTITUTIONAL LENDERS

"Institutional Lender" as the term is used herein, shall mean and refer to first mortgagees including banks, savings and loan associations, insurance companies and other mortgage lenders and insurers of first mortgages. So long as any Institutional Lender shall hold any mortgage upon any Lot, or shall be the Owner of any

Lot, such Institutional Lender shall have the following rights:

Section 1: Upon request, they shall be furnished with a copy of the annual financial statement or budget and report of the Association.

Section 2: Upon request, they shall have the right to examine the books and records of the Association during normal working hours.

Section 3: Upon request, to be given notice of default in the payment of assessments by any Owner of a Lot encumbered by a mortgage held by an Institutional Lender.

Section 4: The current holder of existing Deed(s) of Trust on the Properties, along with the Trustee(s) named therein, have joined in and consented to the recordation of this Declaration for the purpose of subordinating their lien rights thereto as evidenced by those certain Joinder and Consent Agreements attached hereto as EXHIBITS "C" & "D".

Section 5: See Article IV, Section 7 for provision making assessment lien subordinate to the lien of a first mortgage.

ARTICLE XII GENERAL PROVISIONS

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

Section 2. 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.

Section 3. Duration/Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. Except where otherwise provided, this Declaration may be amended by the vote of not less than two-thirds of each class of members cast in person or by proxy at a meeting duly called for this purpose at which a quorum is present. Sixty percent of all the votes of each class of membership shall constitute a quorum. Written Notice of said meeting shall be sent to all members at least thirty days in advance of said meeting. Any amendment shall become binding and operative upon its recordation in the New Hanover County Registry. Such amendment need only be signed by the President of the Association, attested to by its Secretary or Assistant Secretary and sealed with its corporate seal all as authorized by the Association's Board of Directors; but such amendment shall contain a certification that the requirements of this Section have been met.

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However, the Declarant, except where otherwise provided, for a period of five years from recordation of this Declaration, may by recorded instrument, amend the Declaration without the joinder or consent of the members for the limited purposes of: correcting clerical errors; or conforming the Declarations to requirements imposed by federal, state or local governments; or as necessary to assure the Association can achieve and keep tax exempt status as a non-profit corporation.

Section 4. Notices. Any notice required to be sent to any member or Owner shall be deemed to have been properly sent when mailed, or delivered to the last known address of the person who appears as a member or Owner on the Association's records at the time of mailing.

IN TESTIMONY WHEREOF, Declarant, has caused this Instrument to be executed in its corporate name by its duly authorized officers, and corporate seal affixed, all the day and year first above written.

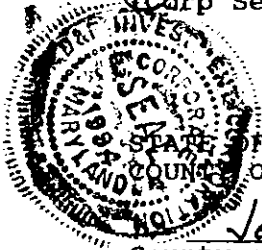
D&F Investment Corporation

By: [Signature]
President

ATTEST:

[Signature]
ASSISTANT Secretary
(Corp Seal)

*Notary Seal
RECORD OF POOR QUALITY DUE TO
CONDITION OF ORIGINAL DOCUMENT
G.S. 161-14



NORTH CAROLINA
STATE OF NEW HANOVER

John P. Poisson, a Notary Public in and for the County and State aforesaid, certify that Joseph R. Bell personally appeared before me this day and acknowledged that he is the Asst Secretary of D&F Investment Corporation, a Maryland corporation, and that by authority duly given and as an act of the corporation, the foregoing Instrument was signed in its name by its President, sealed with its corporate seal and attested by himself as its Asst Secretary. Witness my hand and official stamp or seal this 3rd day of September, 1997.

[Signature]
Notary Public
My Commission expires: October 20, 2001
STATE OF NORTH CAROLINA
New Hanover County
The Foregoing/ Annexed Certificate(s) of



John P. Poisson
Notary (Notaries) Public is/ are certified to be correct
This the 17 day of October, 1997
Mary Sue Oots, Register of Deeds
by [Signature]
Deputy Assistant