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**DECLARATION
OF PLANNED COMMUNITY FOR
BEASLEY SQUARE**

**THIS DOCUMENT REGULATES OR PROHIBITS THE DISPLAY OF
POLITICAL SIGNS. THIS DOCUMENT REGULATES OR PROHIBITS
THE DISPLAY OF THE FLAG OF THE UNITED STATES OF AMERICA
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Article 1
Creation and Establishment of the Planned Community

THIS DECLARATION, made as of the 9th day of February, 2024, by Melvin Building, Inc., a North Carolina corporation, referred to as "Declarant" hereby submit the real property and improvements which comprise Beasley Square, a Planned Community, to the provisions of the North Carolina Planned Community Act (*N. C. Gen. Stat. §§ 47F-1-101 et seq.*) (referred to hereafter and in the Bylaws as the "Planned Community Act") in accordance with the provisions of the Planned Community Act and for the purpose of creating and establishing a Planned Community.

Article 2
Description of the Planned Community

Section 2.1 **Name.** The name of the Planned Community is Beasley Square (sometimes referred to as "Planned Community").

Section 2.2 **Location.** The Planned Community is located in the City of Wilmington, New Hanover County, North Carolina. The Planned Community or Property is that real property submitted to and controlled by the Planned Community Act, shown on the map entitled "Beasley Residences" recorded in Map Book 74, Page 185, New Hanover County Register of Deeds.

Article 3
Definitions

The following terms as used in the Declaration and Bylaws for this Planned Community shall have the following meanings:

Section 3.1 ***Intentionally Omitted***

Section 3.2 ***Intentionally Omitted***

Section 3.3 **Assessments** means any and all sums levied by the Association against any Lot and its Owner as Common Expenses or other charges to include but not be limited to Common Expense liabilities, special Assessments, specific Assessments, fines, collection costs, late charges, interest, service, collection or administrative fees and reasonable attorney's fees as set forth in the Declaration and Bylaws.

Section 3.4 **Association** means Beasley Square HOA, Inc., a North Carolina nonprofit corporation, and its successors. The Association shall be formed within one (1) year of the recordation of this Declaration.

Section 3.5 **Board or Board of Directors** means the Board of Directors of Beasley Square HOA, Inc, which is the governing body on behalf of and for the Association designated the Executive Board in *N C. Gen. Stat. § 47F-1-103(13)*; Director or Directors means a member or members of the Board.

Section 3.6 **Bylaws** means the Bylaws of Beasley Square HOA, Inc.

Section 3.7 **Common Elements** means any and all real estate within the Planned Community owned or leased by the Association, other than a Lot. This real estate and any improvements located thereon are often referred to as common areas.

Section 3.8 **Common Expenses** mean expenditures made by or financial liabilities incurred for the operation of or connected in any way with the administration of the Planned Community. These include:

- (a) Expenses of administration, maintenance, repair or replacement of the Common Elements;
- (b) Expenses defined, referred to, or declared to be Common Expenses by the Documents or by the Planned Community Act;
- (c) Expenses agreed upon as Common Expenses by the Association;
- (d) Such reasonable reserves as may be established or allocated by the Association, whether held in trust or by the Association, for repair, replacement or addition to the Common Elements or any other real or personal property acquired or held by the Association; and
- (e) Expenses levied against or which may be allocated to any particular Lot and Lot Owner for fines, late charges, interests, costs of collection, and attorney's fees.

Section 3.9 **Common Expense Liability** means the liability for Common Expenses allocated to each Lot as permitted by the Planned Community Act, the Declaration, Bylaws, or otherwise by law.

Section 3.10 **Declarant** shall mean Melvin Building, Inc., its successors, and assigns.

Section 3.11 **Declaration** means this Declaration of Planned Community for Beasley Square.

Section 3.12 **Documents** mean the Declaration, Plats and/or Deeds recorded and filed for real property making up the Planned Community, the Articles of Incorporation of Beasley Square HOA, Inc., the Bylaws, and the Rules and Regulations as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Document is part of that Document.

Section 3.13 **Limited Common Element** means a portion of the Common Elements allocated by the Declaration for the exclusive use of one or more but fewer than all of the Lots, including, but not limited to those areas so designated, if any, on any Plats filed or which may be filed in connection with this Planned Community.

Section 3.14 **Lot** means the physical portion of the Planned Community designated for separate ownership or occupancy by a Lot owner.

Section 3.15 **Lot Owner or Owner** means a person or legal entity who owns a Lot, but does not include a person having an interest in a Lot solely as security for an obligation. The Declarant is deemed not to be and shall not be considered a Lot Owner with respect to any duty to pay Assessments.

Section 3.16 **Intentionally omitted.**

Section 3.17 **Mortgage** shall refer to any mortgage, deed of trust, deed to secure debt or other transfer, or conveyance for the purpose of securing the performance of an obligation.

Section 3.18 **Notice and Opportunity to be Heard** means the right of a Lot Owner to receive notice of an action proposed to be taken by or on behalf of the Association and the right for an opportunity to be heard thereon. The procedures for such notice and opportunity to be heard are set forth in Article 19 of the Declaration.

Section 3.19 **Officer** shall mean those individuals who are elected by the Board to serve as officers of the Association to include President, Secretary, Treasurer and such other support and offices as the Board may determine necessary.

Section 3.20 **Person** means a natural person, corporation, limited liability company, business, trust, estate trust, partnership, association, joint venture, government, governmental subdivision or agency or other legal or commercial entity.

Section 3.21 **Planned Community** means Beasley Square.

Section 3.22 **Reasonable Attorney's fees** means attorney's fees reasonably incurred without regard to any limitations on attorney's fees which otherwise may be allowed by law.

Section 3.23 **Real Estate** means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. Real estate includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

Section 3.24 **Resident** means and includes Owners, their immediate family members, tenants, and lessees.

Section 3.25 **Townhome or Townhome Unit** means the single-family structure located on the Lot.

Article 4 Special Declarant Rights

Section 4.1 **Declarant Control Period.** The Special Declarant rights and powers set forth in this Article 4 shall be exercised by the Declarant during the Declarant Control Period which shall terminate no later than the earlier of the following dates:

- (a) the sale and closing of all six of the Townhomes in this Planned Community;
- (b) December 31, 2026; or
- (c) Declarant may terminate the Declarant Control Period any time prior to the above dates in its own discretion.

Section 4.2 **Declarant Developer Rights.** Declarant has the right to construct or to have constructed six (6) Townhomes on the Property. Declarant shall also have the right to construct all streets, alleyways, driveways and any and all infrastructure and all utilities related to construction of the Townhomes.

Section 4.3 **Marketing Activities.** Declarant shall also have the right to erect and maintain signs for advertising and marketing of the Townhomes.

Section 4.4 **Easements Reserved By Declarant.** Declarant reserves easements for the installation and maintenance of driveways, walkways, parking areas, water lines, telephone and electric power lines, cable television lines, sanitary sewer and storm drainage facilities, pumping and lift stations, drainage ditches, propane tanks and lines and for other utility installations over the Property and the Common Elements. Each owner, by his acceptance of a deed to a Lot, and the Association by its acceptance of a deed to the Common Elements, acknowledge such reservations and the rights of Declarant to transfer such easements to the Association or to such utility companies as Declarant may chose. The easements reserved by the Declarant include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any similar action reasonably necessary to provide economical utility installation and to maintain the overall appearance of the Development. Certain easements reserved by the Declarant and the Association are shown on the plats. Within any such easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation of sewerage disposal facilities and utilities, or which may change the direction of flow or drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements. In addition, the Declarant and the Association shall have the continuing right (but not the obligation) and easement to maintain sewer and water lines located on the Lots, including the right to go into Townhomes and disturb the structure and floors thereof in order to maintain those lines located within or under said dwelling. Provided, however, all sewer and water lines located on the Lot and serving only one Townhome shall be maintained, repaired and replaced by the Lot Owner.

Section 4.5 **Declarant's Rights to Protect Land.** The Declarant shall have the right to protect the Common Elements from erosion by planting trees, plants and shrubs where and to the extent necessary or by such mechanical means as bulkheading, or other means deemed expedient or necessary by Declarant, as permitted by local ordinance. The right is likewise reserved to the Declarant to take necessary steps to provide and insure adequate drainage ways in the Common Elements.

Section 4.6 **Declarant's Right of Entry.** The Declarant reserves unto itself, its successors and assigns the right to go on, over and under the ground to erect, maintain and use electric and telephone poles, wires, cables, conduits, sewers, water mains, propane tanks and lines and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities in the Common Elements. These reservations and rights expressly include the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or take any other similar action reasonable necessary to provide economical and safe utility installation and to maintain standards of health, safety and appearance. The Declarant further reserves the right to locate wells, pumping stations and tanks within the Common Elements. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

Section 4.7 **Declarant Exemption from Assessments.** Declarant shall be exempt from the payment of any Assessments and shall have no obligation to pay Assessments on any Lot or Townhome owned by the Declarant during the Declarant Control Period. Declarant may, but is under no obligation, to subsidize the management and operation of the Association.

Section 4.8 **Declarant Right to Appoint Board of Directors.** Notwithstanding anything in the Declaration or Bylaws to the contrary, the Declarant reserves the right to appoint the members of the Board of Directors of the Association. The right to appoint the members of the Board of Directors shall terminate on the sale and closing of all six Townhomes.

Section 4.9 **Declarant Rights Regarding Amendment of Declaration.** During the Declarant Control period, the Declarant reserves the right to amend the Declaration in its sole discretion; provided that any proposed amendment requires the written consent of any buyer with a contract pending on one of the townhomes.

Section 4.10 **Transfer of Declarant Rights.** During the Declarant Control Period the Declarant may transfer its rights to any other person or entity in accordance with the Planned Community Act.

Section 4.11 **Right to Alter.** During the Declarant Control Period the Declarant reserves the right to change, alter or designate the location of Lots, roads, utilities, drainage facilities, easements and to change, alter or redesign the Townhomes.

Articles 5 Lots

Section 5.1 **Lots.** There may be up to six (6) separate residential Lots in the Beasley Square Planned Community. A Townhome Unit will be constructed on each Lot.

Section 5.2 **Lot Descriptions.** The Lots are designated on the maps recorded in Map Book 74, Page 185, New Hanover County Register of Deeds. The Declarant will construct or have constructed six (6) Townhome Units in three (3) buildings.

Section 5.3 **Allocated Interests.** The Declarant has determined that the Common Expense liability and the Allocated Interests of each Lot shall be sixteen and two-thirds percent (16.667%) for each Townhome. Common Expenses shall be shared by the Owners on the basis of the Allocated Interest of each Lot. Each Lot shall have one (1) vote on every matter for which a vote of the membership of the Association is required by the Documents.

Article 6 Common Elements

Section 6.1 **Common Elements.** Common Elements include all parts of the Planned Community located outside the boundaries of the respective Lots and include any real estate, both improved and unimproved, within the Planned Community owned or leased by the Association and as shown on the map recorded in Map Book 74, Page 185, New Hanover County Register of Deeds. By way of illustration but not limitation, Common Elements include real property often called common areas, facilities and amenities.

Section 6.2 **Conveyance or Encumbrance.** The Common Elements shall be neither encumbered nor conveyed except as provided in the Planned Community Act, this Declaration, and the Bylaws.

Section 6.3 **Use of Common Elements.** Each Lot owner shall have the right to use the Common Elements in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of other Lot Owners. The Board shall, if any question arises, determine the purpose for which a part of the Common Elements is intended for use. The Board shall have the right to promulgate Rules and Regulations limiting the use of some or all of the Common Elements to Lot Owners and their guests and to promulgate Rules and Regulations to provide for the exclusive use of a part of the Common Elements by a Lot owner and his or her guests for special occasions, which exclusive use may be conditioned upon, among other things, payment of a fee. Any Lot owner may delegate, in accordance with the provisions of this Declaration and the Bylaws and reasonable Rules and Regulations of the Board, the right to use the Common Elements to immediate family members living on the Lot, to a limited number of guests, or to tenants who reside on the Lot. Limited Common Elements are reserved for the exclusive use of the townhome to which they are appurtenant.

Section 6.4 **Association's Acceptance of Common Elements and Permits.** No later than after the sale of the last Townhome, Declarant shall deed to the Association the Common and

Limited Common Elements free and clear of any mortgages, deeds of trusts or ad valorem taxes and transfer any and all governmental permits, which the Association shall accept.

Article 7
Limited Common Elements

Omitted.

Article 8
Use Restrictions and Purpose

Section 8.1 **Residential.** Each of the Lots in the Planned Community shall be used for residential purposes only. No lot or any portion of the Property shall be used for or as a "Residential Institution" except to the extent such are expressly protected and permitted by law. For purposes of this Declaration, a "Residential Institution" shall mean and refer to a nursing home, child care center, boarding house, assisted or dependent-living facility, adult care center, adult care home, family child care home, group home, residential day care, house of detention, reform school, asylum, or institution of a kindred character.

Section 8.2 **Restrictions in General.** The Lots and Common Elements of the Planned Community and all Owners and other persons are subject to the restrictions contained in this Declaration and as may be set forth in the Bylaws and Rules and Regulations of the Association.

Section 8.3 **Business Activities.** No business activities shall be conducted on any portion of the Planned Community, provided, however, private offices may be maintained in Townhomes so long as such use is incidental to the primary residential use of the Lot does not require the coming and going of customers or clients of such business, and is approved in writing by the Board of Directors. The property shall not be used in any way or for any purpose which may endanger the health of or unreasonably disturb the Owner of any Lot or any resident thereof. The Board of Directors of the Association shall, in its sole discretion, determine what constitutes business activity, health hazard, or unreasonable disturbance. No Owner shall make any use of a Lot or store or keep anything on a Lot which will increase the insurance rates for the Association or for other Lot Owners.

Section 8.4 **Alterations, Attachments, Construction and Planting by Lot Owner.** No Lot Owner shall construct on, make structural alterations or modifications to any of the Common Elements, or Limited Common Elements, without the written approval of the owners of all Townhome Units.

No Lot Owner shall build or construct any temporary structures on a Lot without the express written permission of the owners of all Townhome Units.

No Lot Owner shall build or construct any permanent structure on a Lot except in accordance with the Architectural Control provisions and standards set out in Article 16 of this Declaration and in accordance with any such Rules and Regulations, and specifications promulgated by the Board of Directors.

No Townhome Unit may be divided or subdivided into a smaller unit nor any portion thereof sold or otherwise transferred without the express written consent of all Townhome owners.

Section 8.5 Motor Vehicles. No motor vehicles (other than private passenger vehicles), boat, boat trailer, jet ski, mobile home, motor home, trailer, camper, recreational vehicles, or any similar items shall be stored in or upon the Common Elements, or Limited Common Elements, unless placed upon a portion of the Common Elements, or Limited Common Elements, which is designated for such purpose, or which may be agreed to by written consent of the owners of all Townhome Units. All motor vehicles within the Planned Community shall be operational and bear current registration and inspection. The Board may by Rules and Regulations limit the number of private passenger vehicles that any Owner may park in the Planned Community and may designate parking places for Owners and their guests.

Section 8.6 Signs. Until all six Townhomes are sold by Declarant, Declarant has the exclusive right to display signs and flags advertising the development and Townhome Units. No sign, (including but not limited to, "for sale", "for rent", or "political signs" as defined in N.C. General Statute §47F-3-121) advertisement, notice, or other lettering shall be exhibited, inscribed, painted or affixed by any Owner other than Declarant on any portion of the Townhome or Lot or on any portion of the Common Elements without written permission from the Board of Directors.

Section 8.7 Flags and Banners. No flags or banners shall be exhibited, flown, affixed or displayed by any Owner on any portion of the Townhome or Lot or on any portion of the Common Elements without written permission from the owners of all Townhome Units, except that Owners may exhibit, fly or affix or display on the Townhome or Lot one traditional flag of the United States or North Carolina, of a size no greater than four (4) feet by six (6) feet, which is displayed in accordance with or in a manner consistent with the patriotic customs set for the in 4 U.S.C. §§ 5-10, as amended, governing the display and use of the flag of the United States, except that no flag poles are permitted. The other methods of display must be in a location approved by the Board of Directors. No political flags or banners are permitted.

Section 8.8 Prohibitions on Use of Common Elements. Except when specifically approved in writing by the owners of all Townhome Units, the Common Elements, including Limited Common Elements, shall not be used for temporary or permanent storage of supplies, personal property, trash, or refuse of any kind, except in common trash receptacles, nor shall they be used in any way for the drying or airing of clothing, rugs, or other fabrics. Entrances, sidewalks, yards, driveways, parking areas and stairways shall not be obstructed in any way. In general, no activities shall be carried on nor condition maintained by any Lot Owner either on his/her Lot or upon the Common Elements, if such activities should despoil, or tend to despoil, the appearance of the Planned Community. It is expressly acknowledged and agreed by all parties concerned that this section is for the mutual benefit of all Owners in the Planned Community and is necessary for the protection of the Lot Owners and is enforceable by the Board of Directors.

Section 8.9 Animals. No animal shall be kept on the Planned Community, except household pets ordinarily kept in homes. The rules and regulations may regulate, permit, or

prohibit the kind and number of domestic household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint as is necessary to prevent them from being or becoming obnoxious or offensive on account of noise, odor, unsanitary conditions, or other nuisance. All pets shall be properly registered, vaccinated and display at all times proof of same as required by law. All dogs allowed upon the Common Elements must wear a collar with a tag identifying the Owner. All pets kept on the Planned Community must be owned by the Lot Owner, his/her tenant, guest or invitee. No pets may be permitted to run loose upon the Common Elements, and any Lot Owner who causes or permits any animal to be brought or kept upon the Planned Community shall indemnify and hold the Association harmless for and from any loss, damage, or liability which it sustains as a result of the presence of such animal on the Planned Community, regardless of whether the Association or the Board of Directors has given its permission therefor. Whenever a dog is allowed outside the Lot, then the dog must be on a leash and any animal droppings which occur during such time as the dog is outside the Lot must be immediately collected by the Owner and disposed of as required by law. The Board may adopt further Rules and Regulations regarding pets, including, but not limited, behavior standards.

Section 8.10 Access to Lots. The Association or its agent shall have access to each Lot from time to time during reasonable working hours, upon oral or written notice to its owner, as may be necessary for the maintenance, repair, or replacement of any of the Common Elements, including Limited Common Elements. The Association or its agent shall also have access to each Lot at all times without notice as may be necessary to make emergency repairs to prevent damage to Common Elements, to another Lot, or to the Lot itself.

Section 8.11 Nuisances. No unlawful, noxious or offensive trade or activity shall be conducted or permitted upon any Lot, or in the Common Area, nor shall anything be done thereon which may be or may become an annoyance or nuisance to any other Owner, or which may endanger the health or safety of any other Owner, or increase vehicular and/or foot traffic as determined in the sole discretion of the Board. Noxious, destructive or offensive activity shall not be carried on within any portion of the Property. No Owner or occupant of a Lot may use or allow the use of the Lot at any time, in any way or for any purpose that may endanger the health, unreasonably annoy or disturb or cause embarrassment, or discomfort to other Owners or occupants, or in such a way as to constitute, in the sole opinion of the Board of Directors, a nuisance. In addition, no Owner or Occupant of a Unit may use or allow the use of a Lot in any manner that creates disturbing noises, vibrations, odors, vapors, or smoke, including, without limitation, the use of sound systems or lights that will in the sole discretion of the Board of Directors interfere with the rights, comfort or convenience of the other Owners or Occupants. The Board of Directors, in its sole discretion, shall have the power and authority to decide what acts or actions constitute a nuisance. All parts of the Planned Community shall be kept in a clean and sanitary condition. No rubbish, refuse, or garbage shall be allowed to accumulate and no fire hazard shall be allowed to exist. Any Lot Owner (or his/her family, tenants, guests or agents) who shall dump or place any trash or debris upon any portion of the Planned Community shall be liable to the Association for the actual cost of removal thereof and the same shall be added to and become a part of the Assessment next coming due to which the Lot owner is subject; or alternatively the Association may impose a fine against the Lot Owner for violation of this section.

Section 8.12 Antenna. There shall be no exterior antenna for television, radio, citizen band, ham radio, nor any other exterior fixture or appliance for electronic devices or for

transmission or receipt of communication signals on a Lot, whether attached to a Townhouse or free standing, except as allowed by FCC Regulations but with the express written permission of the Owners of all Townhome Units.

Section 8.13 Lawful Use. No immoral, improper, or unlawful use shall be made of the Planned Community nor any part thereof. All valid laws, zoning ordinances, and regulations of governmental bodies having jurisdiction thereof shall be observed.

Section 8.14 Restriction on Transfer of Common Elements. The Association shall not seek to abandon, partition, subdivide, encumber, sell or transfer any portion of the Common Elements, without the written approval of Owners of all Townhome Owners. The granting of easements for public utilities or other public purposes consistent with the intended use of the Common Elements shall not be deemed a transfer within the meaning of this paragraph.

Section 8.15 Rules and Regulations. The Board of Directors may from time to time promulgate reasonable Rules and Regulations for the Common Elements, Townhouses Units, and Lots, respecting the use restrictions set out in this Article, but such Rules and Regulations shall be consistent with this Declaration and not in derogation of or intended as an amendment thereof.

Section 8.16 Prohibition of Time-Sharing. Time-sharing and time shares as defined in the North Carolina Time Share Act (*NC. Gen. Stat. § 93A-39 et seq.*) of any Lot in the Planned Community is prohibited.

Section 8.17 General. The Board of Directors may, from time to time, without consent of the Lot Owners, promulgate, modify, or delete Rules and Regulations applicable to the Lots, Common Elements, or Planned Community as a whole. Such Rules and Regulations shall be binding upon all Owners and occupants until and unless overruled, canceled, or modified in a regular or special meeting by the vote of at least the Owners of four Townhome Units. Such Rules and Regulations may be enforced by the Association in accordance with the Planned Community Act, the Declaration and By-Laws, to include but not be limited to the imposition of monetary fines and penalties.

All Lot Owners, tenants, mortgagees, and occupants of Lots shall comply with the Declaration, Bylaws, and Rules and Regulations. The acceptance of a deed or the exercise of any incident of Ownership or the entering into of a lease or the entering into occupancy of a Lot constitutes agreement that the provisions of the Declaration, Bylaws, and Rules and Regulations are accepted by, ratified by, and are binding on all Lot Owners, tenants, mortgagees, occupants and their guests and invitees.

Article 9 Insurance

Section 9.1 Coverage. To the extent reasonably available, the Board of Directors shall obtain and maintain insurance coverage, as a Common Expense in accordance with this Article. If such insurance is not reasonably available, and the Board of Directors determines that any insurance