

RECORDED AND VERIFIED
REBECCA P. TUCKER
REGISTER OF DEEDS
NEW HANOVER CO. NC

STATE OF NORTH CAROLINA
COUNTY OF NEW HANOVER

DECLARATION CREATING UNIT OWNERSHIP
OF PROPERTY UNDER THE PROVISIONS
OF CHAPTER 47A OF THE GENERAL STATUTES
OF THE STATE OF NORTH CAROLINA
BRADLEY OAKS CONDOMINIUMS

JUN 12 02 PM '84

THIS DECLARATION, made this the 12th day of JUNE, 1984, by B & G PROPERTIES, LTD., a North Carolina General Partnership, with its principal place of business located in the County of New Hanover, State of North Carolina, hereinafter referred to as "DECLARANT";

KNOW ALL MEN BY THESE PRESENTS:

THAT, WHEREAS, the Declarant is the owner of record of the fee simple title of certain real property in the County of New Hanover, State of North Carolina, which is more particularly described as follows:

BEING all the property described in Exhibit "A" hereto attached, incorporated herein, and made a part hereof by reference.

WHEREAS, the Declarant is the owner of the eight (8) duplex buildings and certain other improvements heretofore constructed upon the aforesaid property; and

WHEREAS, it is the desire and the intention of the Declarant to market, sell and convey interests in the property and the improvements thereon as a condominium project pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, entitled "Unit Ownership Act"; and

WHEREAS, it is the desire and intention of the Declarant in the recordation of this DECLARATION in the Office of the Register of Deeds of New Hanover County, North Carolina, to submit said condominium project to the provisions of the said Chapter 47A;

NOW, THEREFORE, THE DECLARANT DOES HEREBY DECLARE THAT ALL OF THE REAL PROPERTY DESCRIBED ON EXHIBIT "A" HERETO ATTACHED, AS WELL AS ALL OF THE IMPROVEMENTS CONSTRUCTED THEREON, IS HELD AND SHALL BE HELD, CONVEYED, HYPOTHECATED, ENCUMBERED, USED, OCCUPIED AND IMPROVED SUBJECT TO THE FOLLOWING ARTICLES OF COVENANTS, CONDITIONS, RESTRICTIONS, USES, LIMITATIONS AND OBLIGATIONS, ALL OF WHICH ARE DECLARED TO BE IN FURTHERANCE OF A PLAN FOR THE IMPROVEMENT OF SAID PROPERTY AND THE DIVISION THEREOF INTO CONDOMINIUM UNITS AND SHALL BE DEEMED TO RUN WITH THE LAND AND SHALL BE A BURDEN AND A BENEFIT TO THE DECLARANT, ITS SUCCESSORS AND ASSIGNS, AND ANY PERSON OR ENTITY ACQUIRING OR OWNING AN INTEREST IN THE REAL PROPERTY AND IMPROVEMENTS, OR ANY SUBDIVISION THEREOF, THEIR GRANTEEES, SUCCESSORS, HEIRS, EXECUTORS, ADMINISTRATORS, DEVISEES AND ASSIGNS.

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ARTICLE I.

Submission of Property

Pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, Section 47A-2, the Declarant does hereby submit all of the real property described on Exhibit "A" hereto attached, together with all improvements thereon and described herein, to the provisions of the "Unit Ownership Act" of the State of North Carolina, which is codified as Chapter 47A of the General Statutes of the State of North Carolina, and the same shall be known as BRADLEY OAKS CONDOMINIUMS.

ARTICLE II.

Definitions

For the purposes of this Declaration and the By-Laws of the Association,

RETURNED TO

ROUNTREE, RYALS, JACKSON, SEAGLE & CARTER

WILMINGTON, NORTH CAROLINA 28402-1400

hereinafter defined, the following definitions for the term used herein and therein shall apply unless otherwise defined by the context thereof:

A. ACT shall mean and refer to the Unit Ownership Act, Chapter 47A of the General Statutes of the State of North Carolina, as such may be supplemented or amended from time to time.

B. ASSOCIATION shall mean and refer to BRADLEY OAKS UNIT OWNERS, INC. the mandatory association of all unit owners, as is more particularly described in Article VII hereinbelow.

C. ASSESSMENT shall mean and refer to a share of the funds required for the payment of the common expenses, hereinafter defined, of the Association which from time to time shall be levied or assessed against a unit owner by the Association, all as provided for hereinbelow.

D. DESCRIPTION OF BUILDINGS: The Declarant has constructed or will construct, upon the property described in Exhibit "A" attached hereto, a series of eight (8) duplex buildings (16 total units) for residential and lodging purposes, as hereinafter provided. A plat of survey of the property showing the location of each building is a part of Exhibit "B". Each duplex building is more particularly described in the plans of that building. A copy of said plans is attached and included in Exhibit "B" hereto attached, showing all particulars of the buildings as required by law. Typically and in general, each building has three (3) stories arranged in split-level fashion and is constructed principally of concrete block, wood framing and concrete. The ground level is constructed of concrete block with concrete slab and levels above are of wood framing clad with cedar shingles and a stucco like exterior finish and insulation system. Interior walls are of wood framing, clad with gypsum drywall; the roof is of cedar shingles. Six (6) of the sixteen (16) units have basements. They are units 3B1, 4B1, 4B2, 6B, 7B and 8B. The basement plans are depicted as a part of Exhibit "B" hereto attached.

E. BOARD shall mean and refer to the Board of Directors of the Association and DIRECTOR shall mean and refer to a member of said Board.

F. BY-LAWS shall mean and refer to those By-Laws of the Association providing for the government of the Association as they are duly adopted and amended from time to time by the Association.

G. COMMON AREAS AND FACILITIES generally shall mean and refer to all of the real property, described herein and all of the improvements and facilities thereon which are not units, as defined hereinafter, and which are not items of personal property owned, held, and maintained by unit owners. Without in any way limiting the generality of the foregoing, the common areas shall include, but not be limited to, the following:

1. All of the real property is described on Exhibit "A", reference to which is hereby made for a more particular description thereof;
2. All foundations, columns, girders, beams, supports, roofs, ventilation fans and vents, load bearing walls, including all exterior walls and all interior walls (except nonload bearing partition walls wholly within a unit) of the building.
3. All stairways, stairwells and stairs, elevators, and their components which give access to the units; and all halls or passageways, and their entrances.
4. All yard and garden areas, parking and drive areas, sidewalks, walkways, paths, piers and floating docks.
5. All installations of and facilities, apparatus, conduits, and equipment for the provision of all utility services, including, but not limited to, all water and sewer service, electricity, heating, air conditioning, telephone irrigation, trash disposal, if any, and cable TV, if any, supplied for the common

use and convenience of the unit owners, and which are not defined as part of the units, hereinbelow;

6. All other portions of the real property and the improvements thereon, including the piers and dock facilities but excluding the slip spaces, which are not specifically part of the units themselves, as hereinafter defined, or owned by unit owners as personal property, shall be common areas and facilities intended for the common and necessary or convenient use and enjoyment, existence, maintenance or safety of the condominium project.

H. LIMITED COMMON AREAS AND FACILITIES shall mean the limited common areas and facilities appurtenant to each unit and are as follows:

1. The surface areas and railings of any decks accessible by normal means solely from the unit;
2. All non-load bearing walls located entirely within the unit;
3. All materials, including but not limited to, studs, sheetrock, plywood, carpet, paint, paneling, tile, vinyl or brick, attached to, or on, the inside surfaces or perimeter walls, floors and ceilings of the unit;
4. All doors, windows, screens and vents located entirely within the unit or extending into the unit from the perimeter walls, floors or ceilings thereof;
5. All air handling units, ducts and components and all water, power, telephone, television and cable television, electricity, plumbing, gas and sewer lines located in the unit; provided, however, that the portion of said lines located in a common compartment for, or installation of, such lines shall be general common areas and facilities as described above.
6. That certain space for the docking and securing of a boat which is appurtenant to each unit.

I. COMMON EXPENSES shall mean and refer to the total cost and expense incurred by the Association (as hereinafter provided) for the administration, maintenance, operation, enjoyment, safety, repair, and replacement (including a capital reserve for repair, maintenance, and replacement) of the common areas and facilities as well as any other expense incurred by the Association pursuant to the fulfillment of its obligations and purposes as stated herein and labeled as common expenses. Common expenses is additionally intended to mean and refer to any expense incurred by the Association as shall be hereinafter agreed upon by the Association of unit owners as common expenses of the Association.

J. COMMON SURPLUS shall mean and refer to the balance of all revenues of the Association remaining after the deduction of the common expenses. Any such common surplus shall be used to reduce the assessments for members for the following fiscal year of the Association, based upon the proposed budget for the Association for the following fiscal year, or may, in the sole discretion of the Board, be placed in a reserve account to defray the cost of future replacement or maintenance of said common areas and facilities.

K. CONDOMINIUM shall mean and refer to the entire proposed development consisting of all the real property and the building, all common areas and facilities, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for common use in connection therewith, which are intended to be submitted to the provisions of the act by this Declaration and the supplements and amendments hereto, as are provided for hereinbelow.

L. DECLARANT shall mean and refer to B & G PROPERTIES, LTD., a North Carolina General Partnership, its successors and assigns.

M. DECLARATION shall mean and refer to this instrument as it may from time to time be lawfully amended or supplemented.

N. MAJORITY or MAJORITY OF UNIT OWNERS shall mean and refer to owners of fifty-one percent (51%) of the aggregate interest in the common areas and facilities, as established by this Declaration hereinbelow, assembled at a duly called meeting of the unit owners.

O. PERSON shall mean and refer to an individual, corporation, partnership, association, trustee, or other legal entity.

P. REAL PROPERTY shall mean and refer to all of the real property described on Exhibit "A" hereto attached.

Q. SINGULAR, PLURAL GENDER whenever the context so permits the use of the plural, it shall include the singular, the singular shall include the plural, and the use of any gender shall be deemed to include all genders.

R. UNIT or CONDOMINIUM UNIT shall mean and refer to any one of those sixteen (16) subdivisions of enclosed space within the buildings, together with any additional areas or spaces accompanying the same as defined hereinbelow, and which are intended to or will be sold as dwelling units pursuant to the Act and this Declaration. The units are identified as Units 1-16, both inclusive. No two (2) units bear the same number. The deed for any particular unit should convey such unit by its unit designation and the same shall be deemed to include all that is defined as a part of that unit as stated specifically in this definition, as well as the privileges and appurtenances accompanying any such unit and subject to the covenants, conditions, restrictions and obligations applicable to unit owners as all are more generally stated and described throughout this Declaration.

The unit designation of each dwelling unit, its location, approximate area and immediate common areas and facilities to which it has access and other data necessary for its property identification are set forth in Exhibit "B" attached hereto and made a part hereof. Each unit is bounded vertically from the top of the ground floor slab or first floor subfloor to the underside of the roof shingles. Each unit is bounded horizontally by the inside of all outside walls and the walls separating units, which are shown on said plans, subject to such encroachments as are contained in each building, whether the same now exist or may be caused or created by existing construction, settlement or movement of the building, or by permissible repairs, construction or alterations.

There are two unit types. Unit A consists of three (3) stories arranged in split level fashion. The first level consists of a two car enclosed garage, the next half level contains a living room and greenhouse, the next half level a kitchen, dining, foyer, laundry/half bath and entry deck; the next half level a master bedroom, bath and dressing area; the next half level a bedroom, bath and sitting room; and the last and uppermost half level an unfinished attic space.

Unit B contains three (3) stories arranged in a split level fashion. The first level consists of a two car enclosed garage, the next half level a living room; the next half level a kitchen, dining, breakfast, laundry/half bath and deck; the next half level a master bedroom, bath and dressing area; the next half level a bedroom, bath and sitting room; and the last and uppermost half level an unfinished attic space.

The specifics such as style, construction, materials, finishes of units and the specifics concerning optional features of conversion of rooms and addition of basements are best described in the plans of the buildings which are shown on Exhibit "B" attached hereto and which shall control in case of conflict with the provisions hereof.

S. UNIT DESIGNATION shall mean and refer to the number which designates a unit within the condominium as the same is shown upon the plans of the building in Exhibit "B" attached hereto.

T. UNIT OWNER shall mean and refer to a person, corporation, partnership, association, trust, other legal entity, or any combination thereof, in

whose name or names the title to or an interest in the title to any unit is vested, excluding those who own or hold such title or interest under the terms of any mortgage or deed of trust or other similar instrument for the purposes of securing the payment of an indebtedness or the performance of an obligation.

ARTICLE III.

Plan of Development and Scope of Declaration

The name by which this condominium project shall henceforth be known is BRADLEY OAKS CONDOMINIUMS. The Declarant has caused to be constructed upon the real property described hereinabove the eight (8) duplex buildings, containing the 16 units of the buildings as well as the common areas and facilities of both the buildings and the real property, all as defined hereinabove and as shown upon the plans contained in Exhibit "B" attached hereto and made a part hereof by reference. The units of the buildings, together with their privileges and appurtenances, shall be offered for sale to the public by the Declarant as condominium units pursuant to the provisions of Chapter 47A of the General Statutes of the State of North Carolina, subject to the covenants, conditions, restrictions, and obligations stated in the Articles of this Declaration, the Articles of Incorporation of the Association, its duly adopted By-Laws and its Rules and Regulations.

ARTICLE IV.

The Nature and Incidents of Unit Ownership

A. Each unit shall be conveyed and treated as an individual real property capable of independent use and fee simple ownership, and the owner of each unit shall also own, as an appurtenance to the ownership of each said unit, an undivided interest in the common areas and facilities of BRADLEY OAKS CONDOMINIUMS. The undivided interest in the common areas and facilities of BRADLEY OAKS CONDOMINIUMS, appurtenant to each of the sixteen (16) units of BRADLEY OAKS CONDOMINIUMS, is established at 6.25%.

The proportional interest in the common areas and facilities that is appurtenant to each unit has been determined in a manner consistent with the Act.

B. No unit may be divided or subdivided into a smaller unit or units than as shown on Exhibit "B" hereto, nor shall any unit or portion thereof be added to or incorporated into any other unit unless written approval is first obtained from the Board of Directors of the Association as provided in Article V, Section D hereof. The undivided interest in the common areas and facilities declared to be an appurtenance to each unit shall not be conveyed, devised, encumbered, or otherwise dealt with separately from said unit, and the undivided interest in common areas and facilities appurtenant to each unit shall be deemed conveyed, devised, encumbered, or otherwise included with the unit even though such undivided interest is not expressly mentioned or described in the instrument conveying, devising, encumbering, or otherwise dealing with such unit. Any conveyance, mortgage, or other instrument which purports to grant any right, interest, or lien in, to or upon a unit, shall be null, void and of no effect insofar as the same purports to affect any interest in a unit and its appurtenant undivided interest in common areas and facilities, unless the same purports to convey, devise, encumber, or otherwise trade or deal with the entire unit. Any instrument conveying, devising, encumbering, or otherwise dealing with any unit, which described said unit by the letter/building designation assigned thereto in Exhibit "B" without limitation or exception, shall be deemed and construed to affect the entire unit and its appurtenant undivided interest in the common areas and facilities. Nothing herein contained shall be construed as limiting or preventing ownership of any unit and its appurtenant undivided interest in the common areas and facilities by more than one person or entity as tenants in common, joint tenants, or as tenants by the entirety, provided, however, no unit shall be sold, or transferred under a time-share or interval ownership concept, as those terms are commonly used in the home building/real estate industry.

C. The common areas and facilities shall be, and the same are hereby declared to be subject to a perpetual nonexclusive easement in favor of all of the owners of units in BRADLEY OAKS CONDOMINIUMS, for their use and the use of their immediate families, guests or invitees, for all proper and normal purposes, and for the furnishing of services and facilities for which the same are reasonably intended for the enjoyment of said owners of units. Notwithstanding anything above provided in this Article, the Association shall have the exclusive right to establish the rules and regulations pursuant to which the owner of any unit, his family, guests and invitees, may be entitled to use the common areas and facilities, including the right to make permanent and temporary assignments of parking spaces, and to establish regulations concerning the use thereof and to establish rules and regulations concerning the use of the recreation areas in the development.

D. Recognizing that the proper use of a unit by an owner or owners is dependent upon the use and enjoyment of the common areas and facilities in common with the owners of all other units, and that it is in the interest of all owners that the ownership of the common areas and facilities be retained in common by the owners, it is hereby declared that the proportional undivided interest in the common areas and facilities appurtenant to each unit shall remain undivided and no unit owner shall bring or have any right to bring any action for partition or division.

E. The owner(s) of each unit shall have the right of exclusive possession and use of the boat slip appurtenant to that unit. The first purchaser of each unit as and when he contracts for his unit, shall select the boat slip to become appurtenant to his unit. Such selection shall be on a first come first serve basis from the unselected slips remaining. No boat slip may be leased, possessed or used by a person different from the lessee, possessor or user of the unit to which the slip is appurtenant. A copy of the plans of the pier facilities and its docks or slips are attached hereto as Exhibit "C" and made a part hereof by reference. The limited common areas and facilities which are appurtenant to any unit(s) shall not be separated therefrom and shall pass with title to any unit(s), whether or not separately described. Subject to the limitations contained herein, the owners of any unit(s) shall have exclusive (100%) use, possession and control of the limited common areas and facilities appurtenant to such unit.

ARTICLE V.

Use Restrictions

A. Each unit is hereby restricted to single-family residential use by the owner thereof, his immediate family, guests, invitees and lessees. No owner of any unit shall permit the use of his unit for transient hotel or commercial purposes.

B. No immoral, improper, offensive or unlawful use shall be made of any unit or of the common areas and facilities, nor any part thereof, and all laws, zoning ordinances and regulations of all governmental authorities having jurisdiction of the unit shall be observed. No owner of any unit shall permit or suffer anything to be done or kept in his unit, or on the common areas and facilities, which will increase the rate of insurance on the unit, or which will obstruct or interfere with the rights of other occupants of the other units or annoy them by unreasonable noises, nor shall any owner undertake any use or practice which shall create and constitute a nuisance to any other owner of a unit, or which interferes with the peaceful possession and proper use of any other unit or the common areas and facilities.

C. The use of common areas and facilities, by the owner or owners of all units, and all other parties authorized to use the same, shall be at all times subject to such reasonable rules and regulations as may be prescribed and established governing such use, or which may be hereafter prescribed and established by the Association; provided, however, that neither the Association nor any unit owner cut down or remove any living trees on or within the common areas and facilities without the prior, written approval of the owners of at least twelve (12) units. In the event the owners of at least twelve (12) units authorize such cutting or removal in writing, then the owner or owners of the unit or units requesting such cutting or removal shall pay all of the costs and expenses incident thereto.

D. No owner of a unit shall permit any structural modification or alteration to be made to such unit without first obtaining the written consent of the Association, which consent may be withheld in the event that a majority of the Board of Directors of the Association shall determine, in their sole discretion, that such structural modifications or alterations would adversely affect or in any manner endanger the condominium in part or in its entirety. No owner shall cause any improvements or changes to be made on the exterior of the condominium (including painting or other decoration, or the installation of electrical wiring, television or radio antenna or any other objects, machines or air conditioning units which may protrude through the walls or roof of the condominium) or in any manner alter the appearance of the exterior portion of any building without the written consent of the Association being first had and obtained. No unit owner shall cause any object to be fixed to the common areas and facilities (including the location or construction of fences and the planting or growing of flowers, trees, shrubs, or any other vegetation) or in any manner change the appearance of the common areas and facilities without the written consent of the Association being first had and obtained.

E. No signs of whatever nature and no window displays of whatever kind, except those specifically reserved by Declarant herein, shall be permitted on any unit. So long as the Declarant shall retain ownership of any units, it may utilize any such unit or units for sales offices, models or other usage for the purpose of selling units within said project. The Declarant may assign this limited commercial usage right to any other person or entities as it may choose; provided, however, that when all units have been sold, this right of commercial usage by the Declarant, its successors and assigns shall immediately cease.

F. No animals, other than small household pets, shall be kept or housed in any unit or the common areas or the improvements thereon. All owners shall be responsible for the actions of their pets.

G. No article shall be hung or shaken from the doors or windows of any unit, nor shall any item be placed or hung from any window sill, deck railing or from any of the common areas.

H. All exterior windows shall be covered with some covering so that only a white color will be shown on the exteriors of all windows of all units.

I. No boats, boat trailers, campers, trailers, mobile homes, other recreational vehicles, or commercial vehicles of any nature shall be parked or stored on any of the parking areas or other common areas of the project, nor shall any such vehicle, boat or trailer ever be parked or stored within the right of way of any public street adjacent to or leading to the project.

J. The use of the condominium may be further restricted under by By-Laws of the Association, or its Rules and Regulations.

ARTICLE VI.

Easements

In addition to easements and rights established and/or reserved elsewhere in this Declaration, the following easements and rights are hereby established as covenants and burdens running with the real property and the improvements thereon:

A. In case of any emergency originating in or threatening any unit, regardless of whether the owner is present at the time of such emergency, the Board of Directors of the Association, or any other person authorized by it, or the managing agent, shall have the right to enter such unit for the purpose of remedying or abating the cause of such emergency, and such right of entry shall be immediate.

B. Each unit owner shall have an easement in common with the other owners of all units to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other units

and serving his unit. Each unit shall be subject to an easement in favor of the owners of all other units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other units and located in such unit. The Board of Directors of the Association or their designee shall have the right of access to each unit to inspect the same, to remove violations therefrom and to maintain, repair, or replace the common facilities contained therein or elsewhere in the building.

C. The initial and subsequent Boards may grant or assume easements, leases, or licenses for utility purposes for the benefit of the condominium, including the right to install, lay, maintain, repair, and replace water lines, pipes, sewer lines, gas mains, telephone and television wires and equipment and electrical conduits and wires over, under, along and on any portion of the units and/or common areas and facilities; and, each unit owner hereby grants to the Board, or its designee, the irrevocable power of attorney to execute, acknowledge, and record for or in the name of the Association or each unit owner such instruments as may be necessary to effectuate the foregoing.

D. Ingress and egress is reserved for pedestrian traffic over, through and across sidewalks, paths, walks, and lanes as the same from time to time may exist upon the common areas and facilities; and, for vehicular traffic over, through and across such portions of the common areas and facilities as from time to time may be paved and intended for such purposes, for all unit owners of units in BRADLEY OAKS CONDOMINIUMS, their guests, families, invitees, lessees, the Association, the Declarant, its successors and assigns.

E. In the event that any unit shall encroach upon any of the common areas and facilities, or any other unit or units, for any reason not caused by the purposeful or negligent act of the unit owner, or agents of such owner, then an easement appurtenant to such unit shall exist for the continuance of such encroachment upon the common areas and facilities or upon a unit for so long as such encroachment shall naturally exist; and, in the event that any portion of the common areas and facilities shall encroach upon any unit, then an easement shall exist for the continuance of such encroachment of the common areas and facilities upon any unit for so long as such encroachment shall naturally exist. If any unit or common areas and facilities shall be partially or totally destroyed as a result of fire or other casualty, or as a result of condemnation or eminent domain proceedings, and if upon reconstruction of such unit and/or common areas and facilities in accordance with this Declaration, there exist encroachments of portions of the common areas and facilities upon any unit, or of any unit upon any other unit or upon any portion of the common areas and facilities, then such encroachments shall be permitted and a valid easement for the maintenance thereof shall exist so long as such encroachments shall naturally remain.

F. The Declarant reserves the right to subject the property described on Exhibit "A" hereto attached to a contract with Carolina Power and Light Company for the installation of underground electric cables which may require an initial contribution and/or the installation of street lighting, which will require a continuing monthly payment to Carolina Power and Light Company by the owner of each unit in the project.

ARTICLE VII.

The Association

To efficiently and effectively provide for the administration and maintenance of BRADLEY OAKS CONDOMINIUMS by the unit owners, a nonprofit North Carolina corporation known and designated as BRADLEY OAKS CONDOMINIUMS UNIT OWNERS, INC. (hereinafter the "Association"), has been organized, a true copy of its Articles of Incorporation having been recorded in Book 1256, at Page 1926, in the Office of the Register of Deeds of New Hanover County, North Carolina, and the provisions thereof are incorporated herein by reference. The Association shall administer the operation and management of the condominium, BRADLEY OAKS CONDOMINIUMS and shall undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and its duly adopted By-Laws. A true copy of the original

By-Laws are attached hereto in Exhibit "D" and expressly made a part hereof by reference.

A. Declarant Control: Until December 31, 1985, or until such time as the first unit is deeded to a purchaser, whichever occurs first, the Board of Directors of the Association shall consist of those three (3) individuals appointed by the Declarant to the initial Board of Directors of the Association as stated in its Articles of Incorporation, or their successors or replacements, as provided for in the duly adopted By-Laws of the Association. Until said date, said Board shall exclusively be responsible for the total operation and management of the Association, exercising all powers, duties, and obligations thereof, free from interference or control by any and all unit owners; provided, however, that said Board shall manage and operate the Association in a manner consistent with the terms and conditions of this Declaration, any and all supplements or amendments hereto, the Association's Articles of Incorporation and its duly adopted By-Laws; and provided further, however, that the Declarant may by written notice to each unit owner at any time prior to the above-referenced date manifest its intention to cause the resignation of said Board of Directors at which time the initial meeting of the membership of the Association shall be called for the purpose of the election of a new Board of Directors of the Association from the membership thereof, who shall then become responsible for the operation and management of the Association.

B. Membership and Voting Rights: Membership and voting rights in the Association shall be as provided in Article VI of its Articles of Incorporation referred to and incorporated herein as stated hereinabove; membership being mandatory for all unit owners of all units in BRADLEY OAKS CONDOMINIUMS.

C. Powers: The Association shall have all powers granted to it as stated in Article V of said Articles of Incorporation.

D. Common Expenses: The common expenses of the Association shall be shared by the unit owners in the same proportions that the undivided interest in the common areas and facilities appurtenant to each owner's unit bears to the total of all undivided interests in the common areas and facilities appurtenant to all units, such assessment against the unit owners and their units being as provided for below.

E. Management and Maintenance:

1. The Association, as a common expense, shall be responsible for the maintenance, repair and replacement of all of the common areas and facilities, including those portions thereof which contribute to the support of the building or buildings, and all conduits, ducts, plumbing, wiring, and other facilities located in the common areas and facilities for the furnishing of utility and other services to the units and said common areas and facilities, and should any incidental damage be caused to any unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair, or replacement of any common areas and facilities, the Association shall, at its expense, repair such incidental damage. Whenever the maintenance, repair, and replacement of any item for which the Association is obligated to maintain, replace or repair at its expense is occasioned by any act of a unit owner, his immediate family, guests, or invitees, and such loss or damage may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair, or replacement, except that the unit owner who is responsible for the act causing the damage (whether done by himself or by his family, guests, or invitees) shall be required to pay such portion of the cost of such maintenance, repair, and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair, or replacement.

2. The Association shall have the right to make or cause to be made such alterations or improvements to the common areas and facilities which do not prejudice the rights of the owner of any unit in the use and enjoyment of his unit, provided the making of such alterations and improvements are approved by the Board of Directors of the Association, and the cost of such alterations or improvements shall be common expenses to be assessed and collected from all of the owners of all units. However, where any alterations and improvements are exclusively or substantially for the benefit of the owner or owners of a certain unit or units requesting the same, then the cost of such alterations or improvements shall be assessed against and collected solely from the owner or owners of the unit or units exclusively or substantially benefited, the assessment to be levied in such proportion as may be determined by the Board of Directors of the Association.
3. The Association may enter into a contract with a management company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance, and management of the property. All the powers and duties of the Association necessary or convenient for such maintenance and management may be delegated to and vested in the manager by the Board of Directors, except such as are specifically required by this Declaration, the By-Laws, or the Unit Ownership Act, to have the approval of the Board of Directors or the Association. The manager is hereby further authorized to recommend the annual budget, and, upon approval thereof by the Board of Directors, make assessments for common expenses, and collect such assessments as are provided for in this Declaration and the By-Laws, subject always to the supervision and right of approval of the Board of Directors.
4. Unit Owners Maintenance:

Every owner shall perform promptly all maintenance and repair work within his unit which, if omitted, would affect the condominium, either in its entirety or in a part belonging to other owners; every owner being expressly responsible for the damages and liability which his failure to do so may engender. The owner of each unit shall be liable and responsible for the maintenance, repair, and replacement, as the case may be, of all air conditioning and heating equipment, stoves, refrigerators, fans, or other appliances or equipment, including any fixtures and/or their connections required to provide water, light, power, telephone, sewage and sanitary service to his unit. Such owner shall further be responsible and liable for the maintenance, repair, and replacement of the surfaces of any and all walls, ceilings, and floors which are a part of his unit, including painting, decorating, and furnishings, and all other accessories which such owner may desire to place or maintain in his unit. Whenever the maintenance, repair, and replacement of any item for which the owner of a unit is obligated to maintain, replace, or repair at his own expense is occasioned by any loss or damage which may be covered by any insurance maintained in force by the Association, the proceeds of the insurance received by the Association shall be used for the purpose of making such maintenance, repair, or replacement except that the owner of such unit shall be, in said instance, required to pay such portion of the costs of such maintenance, repair, and replacement as shall, by reason of the applicability of any deductibility provision of such insurance, exceed the amount of the insurance proceeds applicable to such maintenance, repair, or replacement. All glass doors, window frames, panes and screens are a part of the respective units and shall be maintained by the respective unit owners.

All parts of a unit shall be kept in good condition and repair by and at the expense of the owner. The unit shall be main-

tained by the owner in a clean and safe condition, free of nuisance. Each unit owner will promptly comply with any requirements of the insurance underwriters of the insurance for the common areas and facilities when so requested in writing by the Board or its designated agent. Any failure of an owner to repair, maintain, or replace as may be required pursuant to this Declaration, or a determination by the Board or its designated agent that such failure will endanger or impair the value of the common areas and facilities of any unit may be, upon written notice to the owner of the nature of the required repair, maintenance, or replacement, repaired or replaced by the Association at the expense of the unit owner, and any such expenditures shall be collected by special assessment as provided herein and in the By-Laws. Such assessment may include the cost to the Association incurred in the abatement of any nuisance maintained by the unit owner therein.

5. Limitation of Liability: Notwithstanding the duty of the Association to maintain and repair parts of the condominium property, the Association shall not be liable to unit owners for injury or damage caused by any latent condition of the property to be maintained and repaired by the Association, or caused by the elements or other owners or persons.

F. Insurance:

1. Acquisition: Insurance policies upon the condominium (other than title insurance) shall be purchased by the Association in the name of the Board of Directors of the Association, as Trustee for the unit owners and their respective mortgagees as their interests may appear, and shall provide for the issuance of certificates or mortgage endorsements to the holders of first mortgages on the units or any of them, and if the companies writing such policies will agree, the policies shall provide that the insurer waives its rights of subrogation as to any claims against unit owners, the Association and their respective servants, agents, and guests. Each unit owner may obtain insurance, at his own expense, affording coverage upon his unit, his personal property and for his personal liability and as may be permitted or required by law, but all such insurance shall contain the same waiver of subrogation as that referred to above, if the same is available.
2. Coverage: All buildings and improvements upon the land and all personal property included in the common areas and facilities shall be insured in an amount equal to the maximum insurable replacement value, excluding foundation and excavation costs, or by ninety percent co-insurance coverage or by such other form of policy as the Board of Directors annually determines will most reasonably provide the funds necessary to repair or reconstruct the insured improvements. Such coverage shall afford protection against (a) loss or damage by fire and other hazards covered by a standard extended coverage endorsement, and (b) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the buildings on the real property, such insurance to include, but not be limited to, vandalism and malicious mischief.
3. Public Liability Insurance: Public liability insurance shall be secured by the Association in such amount and with such coverage as shall be deemed necessary by the Board of Directors, including, but not limited to, an endorsement to cover liability of the unit owners as a group or to a single unit owner. There shall also be obtained such other insurance coverage as the Board of Directors or manager shall determine from time to time to be desirable or necessary.

4. Premiums: Premiums upon insurance policies purchased by the Association shall be paid by the Association and chargeable by the Association as a common expense.
5. Proceeds: All insurance policies purchased by the Association shall be for the benefit of the Association and the unit owners and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Association as insurance trustee under this Declaration. The Board of Directors of the Association is hereby irrevocably appointed agent for each unit owner and his mortgagee as their interests may appear for the purpose of compromising and settling claims arising under insurance policies purchased by the Board of Directors for the benefit of the Association and the unit owners. Said Board of Directors or its designee is hereby further empowered to execute and deliver releases to the insurance carrier upon the payment of claims. The Board of Directors' duty or its designee's duty upon receipt of such proceeds shall be to hold the same in trust for the purposes elsewhere stated herein, or in the By-Laws, for the benefit of the Association and the unit owners and their mortgagees, as their interests may appear.
6. Distribution of Insurance Proceeds: Proceeds of insurance policies shall be payable to the Board of Directors of BRADLEY OAKS CONDOMINIUMS UNIT OWNERS, INC., as insurance trustee and shall be distributed to or for the benefit of the beneficial owners in the following manner:
- (a) Expense of the Trust: All expenses of the insurance trustee shall be first paid or provision made therefor, if any;
- (b) Reconstruction or Repair: If the damage for which the proceeds are paid is to be repaired or reconstructed, the remaining proceeds shall be paid to defray the cost thereof as determined in Paragraph F(7) hereof. Any proceeds remaining after defraying such cost shall be distributed as surpluses to the beneficial owners of the damaged units pursuant to Paragraph "I" hereof;
- (c) Failure to Reconstruct or Repair: If it is determined, as provided in Paragraph F(7) hereof, that the damage for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed as surpluses to the beneficial owners of the damaged units pursuant to Paragraph "I" hereof;
- (d) Mortgagees: In the event a mortgagee endorsement has been issued as to a unit, the share of the unit owner shall be held in trust for the mortgagee and the unit owner as their interests may appear; provided, however, that no mortgagee shall have any right to determine or participate in the determination as to whether any damaged property shall be reconstructed or repaired.
7. Damage and Destruction:
- Determination to Reconstruct or Repair: If any part of the condominium property shall be damaged by casualty, whether it shall be reconstructed or repaired shall be determined in the following manner:
- (a) Common Areas and Facilities: If the damaged improvement is a common area or facility, the damaged property shall be reconstructed or repaired, unless it is determined in the manner elsewhere provided that the condominium shall be terminated;

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(b) Units:

- (i) Partial Destruction: If the damaged improvement is a unit, and if termination as provided in subparagraph (ii) below does not take place, the damaged property shall be reconstructed or repaired unless within sixty (60) days after the casualty it is determined by agreement in the manner elsewhere provided that the condominium shall be terminated;
- (ii) Total Destruction: If more than two-thirds (2/3) of the units are destroyed and the owners of three-fourths (3/4) of the units in the entire condominium should determine not to proceed with repair or restoration, then the procedure set forth in Section 47A-25 of the North Carolina Statutes, and any amendments thereto, shall take place.

Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original building, portions of which are attached hereto as exhibits; or if not, then according to plans and specifications approved by the Board of Directors of the Association, and if the damaged property is a unit, by the owners of all damaged units therein which approvals shall not be unreasonably withheld.

Responsibility: If the damage is only to those parts of one unit for which the responsibility of maintenance and repair is that of the unit owner then the unit owner shall be responsible for reconstruction and repair after casualty. In all other instances the responsibility of reconstruction and repair after casualty shall be that of the Association.

Estimate of Costs: Immediately after a determination to rebuild or repair damage to property for which the Association has the responsibility of reconstruction and repair, the Association shall obtain reliable and detailed estimates of the costs to rebuild or repair.

Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Association, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against the unit owners who own the damaged units, and against all unit owners in the case of damage to common areas and facilities, in sufficient amounts to provide funds for the payment of such costs. Such assessments against unit owners for damage to units shall be in proportion to the cost of reconstruction and repair of their respective units. Such assessments on account of damage to common areas and facilities shall be in proportion to the unit owner's share in the common areas and facilities.

G. Association to Maintain Register of Owners and Mortgagees: The Association shall at all times maintain a Register setting forth the names of the owners of all of the units. In the event of the sale or transfer of any unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such unit together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any unit. Further, the owner of each unit shall notify the Association of the names of the parties holding any mortgage or mortgages on any unit, the amount of such mortgage or mortgages and the recording information which shall be pertinent to identify the mortgage or mortgages. The holder of any mortgage or mortgages upon any unit may, if he so desires, notify the Association of the existence of any mortgage or mortgages held by such party on any unit and, upon receipt of such

notice, the Association shall register in its records all pertinent information relating thereto.

H. Assessments: Liability, Lien and Enforcement: The Association has been given the authority to administer the operation and management of the condominium, it being recognized that the delegation of such duties to one entity is in the best interest of the owners of all units. To properly administer the operation and management of the condominium, the Association will incur for the mutual benefit of all of the owners of units, costs and expenses which are sometimes herein referred to as "common expense". To provide the funds necessary for such proper operation, management, and capital improvement, the Association has heretofore been granted the right to make, levy and collect assessments against the unit owners and their units. In furtherance of this grant of authority to the Association to make, levy and collect assessments to pay the costs and expenses for the operation, management of and capital improvements to the condominium, the following provisions shall be operative and binding upon all the owners of all units:

1. All assessments levied against the unit owners and their units shall be uniform for each type unit (i.e., all two (2) bedroom units shall be assessed equally, and all one (1) bedroom units shall be assessed equally, although one (1) and two (2) bedroom units may not be assessed equal amounts), and, unless specifically otherwise provided for in this Declaration, all assessments made by the Association shall be in such an amount that any assessment levied against a unit owner and his unit shall bear the same ratio to the total assessment made against all unit owners and their units as the undivided interest in common areas and facilities appurtenant to each condominium unit bears to the total undivided interest in common areas and facilities appurtenant to all units. Should the Association be the owner of a unit or units, the assessment which would otherwise be due and payable to the Association by the owner of such unit or units, reduced by the amount of income which may be derived from the leasing of such unit or units by the Association, shall be apportioned and the assessment therefor levied ratably among the owners of all units which are not owned by the Association, based upon their proportionate interests in common areas and facilities exclusive of the interests therein appurtenant to any unit or units owned by the Association.
2. Assessments provided for herein shall be payable in annual, quarterly or monthly installments, or in such other installments and at such times as may be determined by the Board of Directors of the Association. Such assessments shall commence for each unit on the first day of the first month following the recordation of the deed in the New Hanover County, North Carolina Registry from the Declarant to the first unit owner in said condominium.
3. The Board of Directors of the Association shall establish an annual budget in advance for each fiscal year (which shall correspond to the calendar year, except that in the initial year of operation of the condominium, the fiscal year shall commence with the closing of the sale of the first condominium unit). Such budget shall project all expenses for the forthcoming year which may be required for the proper operation, management, and maintenance of the condominium, including a reasonable allowance for contingencies and reserves, such budget to take into account projected anticipated income which is to be applied in reduction of the amounts required to be collected as an assessment each year. The Board of Directors shall keep separate, in accordance with Paragraph 4 hereof, items relating to operation and maintenance from items relating to capital improvements. Upon adoption of such annual budget by the Board of Directors of the Association, copies of said budget shall be delivered to each unit owner and the assessment for said year shall be established based upon such budget, although the delivery of a copy of said budget to each owner

shall not affect the liability of any owner for such assessment. Should the Board of Directors at any time determine, in its sole discretion, that the assessments levied are, or may prove to be, insufficient to pay the costs of operation and management of the condominium, or in the event of emergencies, the Board of Directors shall have the authority to levy such additional assessments as it may deem to be necessary, not to exceed a 10% increase over the previous year's assessment, without approval of the membership.

4. The Board of Directors of the Association, in establishing the annual budget for operation, management, and maintenance of the condominium, may designate therein a sum to be collected and maintained as a reserve fund for replacement of and capital improvements to the common areas and facilities, which capital improvement and replacement fund (capital improvement fund) shall be for the purpose of enabling the Association to replace structural elements and mechanical equipment constituting a part of the common areas and facilities as well as the replacement of personal property which may constitute a portion of the common areas and facilities held for the joint use and benefit of the owners of all units. The amount to be allocated to the capital improvement fund may be established by said Board of Directors so as to allow it to collect and maintain a sum reasonably necessary to anticipate the need for replacement of common areas and facilities. The amount collected for the capital improvement fund shall be maintained in a separate account by the Association and such monies shall be used only to make capital improvements to common areas and facilities. Any interest earned on monies in the capital improvement fund may, in the discretion of the Board of Directors of the Association, be expended for current operation and maintenance.
5. All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the condominium or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws of the Association. As monies for any assessment are paid to the Association by any owner of a unit, the same may be commingled with monies paid to the Association by the other owners of units. Although all funds and common surplus, including other assets of the Association and any increments thereto or profits derived therefrom or from the leasing or use of common areas and facilities, shall be held for the benefit of the members of the Association, no member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his unit. When the owner of a unit shall cease to be a member of the Association by reason of his divestment of ownership of such unit, by whatever means, the Association shall not be required to account to such owner for any share of the funds or assets of the Association, or which may have been paid to the Association by such owner, as all monies which any owner has paid to the Association shall be and does constitute an asset of the Association which may be used in the operation and management of the condominium.
6. The payment of any assessment or installment thereof shall be in default if such assessment or installment is not paid to the Association within thirty (30) days after the due date for such payment. When in default, the delinquent assessment or delinquent installment thereof due to the Association shall bear interest at the highest rate allowed by law, until such delinquent assessment or installment thereof, and all interest due thereon, has been paid in full to the Association. All monies owing to the Association shall be due and payable at the main office of the Association in the State of North Carolina.