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RECORDED AND VERIFIED  
RENEIDA E. TUCKER  
REGISTER OF DEEDS  
NEW HANOVER CO. NC

JUL 1 3 25 PM '85

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS,  
SECTION 1, MacCUMBER TERRACE

THIS DECLARATION, made the 28th day of June, 1985 by DAL-HAR INVESTMENTS, INCORPORATED, a North Carolina Corporation, hereinafter referred to as "Declarant";

WHEREAS, Declarant is the owner or contract purchaser of certain property in Harnett Township, New Hanover County, North Carolina, which is more particularly described as follows:

BEING all of Section 1, MacCumber Terrace as the same is shown on a map thereof recorded in Map Book 25 at page 13 in the Office of the Register of Deeds of New Hanover County, North Carolina, to which map reference is hereby made for a more particular description.

AND, WHEREAS, Declarant desires to provide for a uniform development of said property so as to preserve its value and to protect the present and future owners thereof.

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:** As used herein, the following terms shall mean:

Section 1. **Association and HOA** shall be used interchangeably to mean and refer to MacCumber Terrace HOA, Inc., a private non-profit corporation formed or to be formed by the developer primarily as a Homeowners Association for the lot owners in MacCumber Terrace, all of whom shall be members of the Association.

Section 2. **Owner** 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. The undersigned owners, being the owners of all of the property in Section 1, MacCumber Terrace, other than the property owned by Declarant, join in the execution of this instrument solely for the purpose of giving their consent to the execution of this document by and subjecting the lots they own to the provisions hereof, and nothing herein contained shall be construed to establish them as the Developers of the Properties.

Section 3. **Properties** shall mean and refer to that certain 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 owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

BEING all of that area shown and designated as Common Area, including tract B and those private streets shown as Gateway Drive and Cable Car Lane on the map of Section 1, MacCumber Terrace recorded in Map Book 25 at Page 13 of the New Hanover County Registry.

Draftsman: DAVID C. BAREFOOT  
BURNEY, BURNEY, BAREFOOT, BAIN & CROUCH  
Post Office Box 89/110 North Fifth Avenue  
Wilmington, North Carolina 28402

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Section 5. Declarant shall mean and refer to Dal-Har Investments, Inc., and its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development. The address of the Declarant is Post Office Box 531, Wrightsville Beach, North Carolina 28480.

Section 6. Declaration shall mean this instrument as it may be from time to time amended or supplemented.

## 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 limit the number of guests of members;
- 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 sixty (60) days for any infraction of its published rules and regulations;
- c. The right of the Association to dedicate or transfer all or 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 signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;
- d. The right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area.

Section 2. DELEGATION OF USE. 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.

### DEVELOPER'S RIGHTS

Section 1. The Declarant hereby reserves the right to subject to these restrictions other real property contiguous to or within a radius of one mile from Section One, MacCumber Terrace, in order to extend the scheme of this Declaration to other property to be developed and thereby bring such additional properties within the jurisdiction of the Association. Each additional parcel or tract of land, with the improvements thereon, or to be placed thereon, which is subjected to this Declaration shall be designated consecutively as "Section 2," "Section 3," "Section 4," and such other similar designations for any additional phases added.

Section 2. The rights reserved by Declarant in Section 1 above, include the right to change, alter or redesignate roads, utility and drainage facilities and easement, and to change, alter or redesignate such other present and proposed amenities or facilities as may, in the sole judgment of the Declarant, be necessary or desirable, except that the Declarant shall have no right to change, alter or redesignate the character of the single family or townhouse use of the lots within the development.

Section 3. This Declaration shall not apply to tract A as shown on the recorded map of Section 1, MacCumber Terrace which tract A shall be used for commercial purposes.

**ARTICLE IV.****EASEMENTS**

Section 1. Easements are reserved as necessary in the Common Areas for installation and maintenance of underground utilities and drainage facilities.

Section 2. The Association, acting through its officers, agents, servants, and/or employees shall have the right of unobstructed access at all reasonable times to all properties as may be reasonably necessary to perform the exterior maintenance called for in Article IX of this Declaration.

Section 3. Each lot and all common areas and facilities are hereby subjected to an easement for the repair, maintenance, inspection, removal, or other service of or to all electricity, television, telephone, water, sewer, utility, drainage, and painting of the exterior surfaces of all buildings and structures and the repair of all privacy fences on individual lots or other common areas and facilities, whether or not the cause of any or all of those activities originates on the unit in which the work must be performed.

Section 4. 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 all streets as from time to time may be paved and intended for such purposes, for all lot owners in **MacCumber Terrace**, their guests, families, invitees and lessees, the Association, the **Declarant** its successors and assigns. **Declarant** hereby reserves alienable easements over all streets and common areas as necessary to provide access for future development by **Declarant** or its successors and assigns of any properties adjoining the Project.

Section 4. An easement is hereby granted to all police, fire protection, ambulance and all similar persons, companies or agencies performing emergency services to enter upon the lots and common area in the performance of their duties.

Section 5. In case of any emergency originating in or threatening any structure or building on any lot or the common areas and facilities, regardless whether the lot owner is present at the time of such emergency, the Board of Directors or any other person authorized by it, shall have the right to enter any lot for the purpose of remedying or abating the causes of such emergency and making any other necessary repairs not performed by the lot owners, and such right of entry shall be immediate.

Section 6. All easements and rights described herein are easements appurtenant, running with the land, and shall inure to the benefit of and be binding on the undersigned, its successors and assigns, and any owner, purchaser, mortgagee and other person having an interest in said land, or any part or portion thereof, regardless of whether or not reference to said easement is made in the respective deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easements and rights described in this Declaration.

**ARTICLE V.****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:

- a. **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 among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

- b. **CLASS "B"**. Class B member(s) shall be the **Declarant** and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:
- (1) when the total votes outstanding in Class A membership equals the total votes outstanding in the Class B membership, or
  - (2) on May 1, 1990.
- c. For purposes of this Section (Section 2) only, those units owned by the undersigned parties other than the **Declarant** shall be deemed to be owned by **Declarant** and the memberships represented by all of said lots shall be class "B" memberships.

## ARTICLE VI.

### COVENANTS FOR ASSESSMENTS

Section 1. **CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENT.** The **Declarant**, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- a. Annual assessments or charges, and
- b. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided; and

The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. **PURPOSE OF ASSESSMENTS.** The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvements and maintenance of the Common Area, the exterior painting of all dwellings, the repair of all privacy fences installed by the **Declarant**, the landscaping and maintenance of all front yards of all lots, and the repair, maintenance and upkeep of all private streets situated upon the properties.

Section 3. **MAXIMUM ANNUAL ASSESSMENT.** Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be One Thousand Dollars (\$1,000.00) per Lot.

- a. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than five per cent (5%) above the maximum assessment for the previous year without a vote of the membership.
- b. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above five per cent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

- c. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum; provided that the Board of Directors may increase the amount of the annual assessment to a maximum of One Thousand One Hundred Dollars (\$1,100.00) per Lot notwithstanding the provisions of subparagraphs a and b above, and thereafter the limitations set forth in said subparagraph shall apply to any annual increase.

Section 4. **SPECIAL ASSESSMENTS FOR CAPITAL IMPROVEMENTS.** In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to the 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, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. **INSURANCE.** It shall be the duty of the Association to maintain in effect casualty and liability insurance upon the Common Areas and facilities, including the private streets, as follows:

- a. **Amount and Scope of Insurance.** All insurance policies upon the Common Areas and, etc., shall be secured by the Board of Directors. Properties shall be secured by the Board Of Directors, or its designee on behalf of the Association with full authority which shall obtain such insurance against (1) loss or damage by fire or other hazards normally insured against, and (2) such other risks, including public liability insurance, as from time to time shall be customarily required by private institutional Mortgage Investors for projects similar in construction, location and use as the Properties and the improvements thereon all under such terms and conditions as the responsible authority shall determine. However, such liability coverage shall be for at least \$1,000,000.00 for bodily injury, including deaths of persons and property damage arising out of a single occurrence. Coverage under this policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and deaths of persons in connection with the operation, or maintenance or use of the common areas and legal liability arising out of lawsuits relating to employment contracts of the Association.
- b. **Insurance Provisions.** The Board of Directors shall make diligent efforts to ensure that said insurance policies provide for the following:
- (1) A waiver of subrogation by the insurer as to any claims against the Association, any officer, director, agent or employee of the Association, the Lot owners and their employees, agents, tenants and invitees.
  - (2) A waiver by the insurer of its right to repair and reconstruct instead of paying cash.
  - (3) Coverage may not be cancelled or substantially modified (including cancellation for nonpayment of premium) without at least thirty days prior written notice to the named insured and all mortgagees.
  - (4) Coverage will not be prejudiced by act or neglect of the Lot owners when said act or neglect is not within the control of the Association or by any failure of the Association to comply with any warranty or condition regarding any portion of the property over which the Association has no control.

(5) The insurance coverage on the property cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Lot owners.

(6) The insurance coverage on the property cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Directors without prior demand in writing that the Board of Directors cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, any Lot owner or any mortgagee.

- c. **Premiums.** All insurance policy premiums on the property for the benefit of the Association purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense and the Association shall levy against the Owners equally as an additional annual assessment, (herein called "Insurance Assessment") which shall be in addition to the amounts provided for under Section 3 above, an amount sufficient to pay the annual cost of all such insurance premiums.
- d. **Proceeds.** All insurance policies purchased pursuant to these provisions shall provide that all proceeds thereof shall be payable to the Board as insurance trustee or to such attorney-at-law or institution with trust powers as may be approved by the Board of Directors.
- e. **Policies.** All insurance policies purchased by the Board of Directors shall be with a company or companies permitted to do business in the State of North Carolina and holding a rating of "A" or better by the current issue of Best's Insurance Reports. All insurance policies shall be written for the benefit of the Association and the Board of Directors thereof, as their respective interests may appear, and shall provide that all proceeds thereof shall be payable to the Board of Directors.

Section 6. **NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTIONS 3 AND 4.** Written notice of any meeting called for the purpose of taking any action authorized under Section 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. **UNIFORM RATE OF ASSESSMENT.** Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 8. **DATE OF COMMENCEMENT OF ANNUAL ASSESSMENTS AND DUE DATES.** The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area, except that annual assessments shall not commence for any Lot until a certificate of occupancy has been issued for such Lot. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors and the Board of Directors shall have the authority to require the assessments to be paid in pro rata monthly installments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

Section 9. **EFFECT OF NONPAYMENT OF ASSESSMENTS AND REMEDIES OF THE ASSOCIATION.** Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve per cent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 10. **SUBORDINATION OF THE LIEN TO MORTGAGES.** The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, 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. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. **WORKING CAPITAL ASSESSMENT.** At the time title is conveyed to an owner, each owner shall contribute to the Association as a working capital reserve an amount equal to a two months estimated common area assessment. Such funds shall be used solely for initial operating and capital expenses of the Association, such as pre-paid insurance, supplies and the common areas and facilities, furnishings and equipment, etc. Amounts paid into the working capital fund are not to be considered as advance payment of regular assessments. Any working capital funds remaining at the end of the first full operating year shall be transferred to and become part of the general funds of the Association, in the discretion of the Board of Directors.

## ARTICLE VII.

### FIDELITY BONDS

Section 1. **GENERAL.** The Association shall maintain blanket fidelity bonds for all officers, directors, employees and all other persons handling or responsible for funds of the Association. If the Association shall delegate some or all the responsibility for the handling of its funds to a management agent, such fidelity bonds shall be maintained by such management agent for its offices, employees and agents handling or responsible for funds of or administered on behalf of the Association.

Section 2. **AMOUNT OF COVERAGE.** The total amount of fidelity bond coverage required shall be based upon best business judgment and shall not be less than the estimated maximum of funds, including reserve funds, in the custody of the Association or the management agent, as the case may be, at any given time during the term of each bond. However, in no event may the aggregate amount of such bonds be less than a sum equal to three months aggregate assessments on all units plus reserve funds.

Section 3. **OTHER REQUIREMENTS.** Fidelity bonds required herein must meet the following requirements:

- a. Fidelity bonds shall name the Association as an obligee.
- b. The bonds shall contain waivers by the issuers of the bonds of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees", or similar terms or expressions.
- c. The premiums on all bonds required herein for the Association (except for premiums on fidelity bonds maintained by a management agent for its officers, employees and agents) shall be paid by the Association as a common expense.
- d. The bonds shall provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least ten (10) days prior written notice to the Association if a condominium project, to any insurance trustee and each Eligible Mortgage Holder.

**ARTICLE VIII.****ARCHITECTURAL CONTROL**

Section 1. No building, fence, wall or other structure shall be commenced, erected, or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, heights, 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 composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

Section 2. No house plans will be approved unless the proposed house shall have a minimum of 1,000 square feet of enclosed dwelling area. The term "enclosed dwelling area" as used in the minimum requirements shall be the total enclosed area within a dwelling; provided, however, that such term does not include garages, terraces, decks, open porches, and like areas; provided, further, that shed type porches, even though attached to the house are specifically excluded from the definition of the aforesaid term "enclosed dwelling area".

Section 3. Since the establishment of 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. In order to assure, however, that the foregoing considerations are given maximum effect, the site and location of any house or dwelling or other structure upon any lot shall be controlled by and must be approved absolutely by the architectural control committee.

Section 4. The exterior of all houses and other structures must be completed within twelve (12) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder, due to strikes, fires, national emergency or natural calamities.

Section 5. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any lot other than a single family dwelling not to exceed two (2) stories in height, unless the architectural control committee approves in writing a structure of more than two (2) stories pursuant to Paragraphs 4A and 5A hereof, and one (1) or more small accessory buildings (which may include a detached private garage, servants, quarters or guest facilities) provided the use of such dwelling or accessory building does not in the opinion of the architectural control committee overcrowd the site, and provided further, that such buildings are not used for any activity normally conducted as a business. Such accessory building may not be constructed prior to the construction of the main building.

Section 6. All service utilities, fuel tanks, clothes lines, wood piles and trash and garbage accumulations are to be enclosed within a fence, wall, or plant screen of a type and size approved by the architectural control committee, so as to preclude the same from causing an unsightly view from any highway, street or way within the subdivision, or from any other residence within the subdivision.

Section 7. Off street parking for not less than two (2) passenger automobiles must be provided on each lot prior to the occupancy of any dwelling constructed on said lot, which parking areas and the drive ways thereto shall be constructed of concrete, brick, asphalt.

**ARTICLE IX.****EXTERIOR MAINTENANCE**

In addition to maintenance upon the Common Area, the Association shall provide exterior painting for all dwellings and structures and repair of all privacy fences installed by the Declarant and the landscaping and maintenance of the front yards of all lots.

## ARTICLE X.

USE RESTRICTIONS

Section 1. **LAND USE AND BUILDING TYPE.** All lots shall be used for residential purposes except that so long as the Declarant shall retain ownership of any lots, it may utilize any such lot or lots for sales or rentals, offices, models or other usage for the purpose of selling or renting lots 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 lots have been sold, this right of commercial usage by the Declarant, its successors and assigns shall immediately cease. No building shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling not to exceed two stories in height. Any building erected, altered, placed or permitted to remain on any lot shall be subject to the provisions of Article VIII of this Declaration of Covenants, Conditions and Restrictions relating to architectural control.

Section 2. **NUISANCES.** No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 3. **JUNK VEHICLES.** No inoperable vehicle or vehicle without current registration and insurance will be permitted on the premises. The Association shall have the right to have all such vehicles towed away at the owner's expense.

Section 4. **FOR SALE SIGNS PROHIBITED.** No "For Sale" signs or any other signs shall be permitted on any lot or in the common areas and facilities.

Section 5. **TEMPORARY STRUCTURES.** No structure of a temporary character, trailer basement, tent, shack, garage, barn or other outbuilding shall be used on any lot any time as a residence either temporarily or permanently.

Section 6. **RECREATIONAL VEHICLES.** No boat, motor boat, camper, trailer, motor or mobile homes, or similar type vehicle, shall be permitted to remain on any lot, or in parking spaces, at any time, unless by consent of the Association, and if properly stored out of sight in garages.

Section 7. **ANIMALS.** No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and provided further that they are not allowed to run free and are at all times properly leashed and personally escorted.

Section 8. **OUTSIDE ANTENNAS.** No outside radio or television antennas shall be erected on any lot or dwelling unit within the Properties unless and until permission for the same has been granted by the Board of Directors of the Association or its architectural control committee.

Section 9. **EXTERIOR LIGHTS.** All light bulbs or other lights installed in any fixture located on the exterior of any building or any lot shall be clear, white, or non-frost lights or bulbs.

## ARTICLE XI.

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Except as provided in Sections 2 and 3, below, annexation of additional property shall require the assent of two-thirds (2/3) of the Class A members and two-thirds (2/3) of the Class B members, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting.

Section 2. If the Declarant, its successors or assigns, shall develop all or any portion of any land contiguous to or within one mile from the property which is subject to this Declaration, such additional tract or tracts may be annexed to said Properties without the assent of the Class A members, provided however, the development of the additional tract described in this section shall be in accordance with the same general scheme of development as Section 1, MacCumber Terrace.

Section 3. The rights of Declarant reserved in Section 2 above shall expire automatically on May 1, 1990, if not exercised prior thereto.

## ARTICLE XII.

### GENERAL PROVISIONS

Section 1. **MUNICIPAL WATER AND SEWER SERVICE.** Municipal sewer service shall be provided by the Town of Wrightsville Beach or New Hanover County. Water service for the development shall be provided by Cape Fear Utilities, and no private well shall be permitted on any lot except for irrigation purposes, and then only with the consent of the utility company, its successors or assigns.

Section 2. **ANNEXATION.** All of the developed properties may be annexed to the Town of Wrightsville Beach without the assent of the lot owners which right shall commence eighteen (18) months after the date hereof and shall extend for a period of three (3) years thereafter.

Section 3. **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 an Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. **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 5. **LOTS SUBJECT TO DECLARATION.** All present and future owners, tenants and occupants of Lots and their guests or invitees, shall be subject to, and shall comply with the provisions of the Declaration, and as the Declaration may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any lot shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such owner, tenant or occupant. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable by the Association, or the Owner of any lot, their respective legal representatives, heirs, successors and assigns, and shall run with and bind the land and shall bind any person having at any time any interest or estate in any lot as though such provisions were made a part of each and every deed of conveyance or lease.

Section 6. **AMENDMENT OF DECLARATION.** The covenants and restrictions of this Declaration may be amended by an instrument duly recorded in the Office of the Register of Deeds of New Hanover County signed by not less than sixty (60%) per cent of the Lot Owners; provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. In no event may the Declaration be amended so as to deprive the Declarant of any rights herein granted or reserved unto Declarant, including the right of Declarant to develop contiguous and to extend the scheme of this Declaration to such other property by the recording of subsequent Declarations as herein provided.

IN WITNESS WHEREOF, DAL-HAR INVESTMENTS, INC., the Declarant has caused this instrument to be executed by its proper corporate officers, this the 28th day of June, 1985, and the individual partners have hereunto set their hands and seals all the day and year first above written.

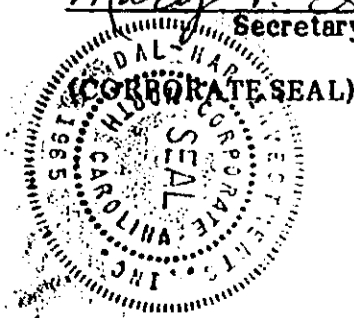
DECLARANT:

DAL-HAR INVESTMENTS, INC.

By: Dallon L. Ha  
President

ATTEST:

Mary P. Lannon  
Secretary



OWNERS:

Lionel L. Yow (SEAL)  
LIONEL L. YOW

Connie S. Yow (SEAL)  
CONNIE S. YOW

Irvin A. Roseman (SEAL)  
IRVIN A. ROSEMAN

Patricia M. Roseman (SEAL)  
PATRICIA M. ROSEMAN

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Margaret F. Joye, a Notary Public for the said County and State do hereby certify that LIONEL L. YOW and wife, CONNIE S. YOW, and IRVIN A. ROSEMAN and wife, PATRICIA M. ROSEMAN Grantors, personally appeared before me on this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the 1st day of June, 1985.

My Commission Expires:

August 21, 1986

(NOTARIAL SEAL)

Margaret F. Joye  
Notary Public

RECORD OF POOR QUALITY DUE TO  
CONDITION OF ORIGINAL DOCUMENT  
G.S. 181-14

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

I, Laura R. Andrews, a Notary Public of the County and State aforesaid certify that Mary P. Lendon personally came before me this day and acknowledged that she is Secretary of DAL-HAR INVESTMENTS, INC., a North Carolina Non-Profit Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her self as its Secretary.

WITNESS my hand and official stamp or seal, this 28th day of June, 1985.

My Commission Expires:

14, 1989

(NOTARIAL SEAL)

Laura R. Andrews  
Notary Public

STATE OF NORTH CAROLINA  
COUNTY OF NEW HANOVER

The foregoing certificate of Margaret F. Joye and Laura R. Andrews, Notaries XXXXXXXXXX are certified to be correct. This the 1st day of July, 1985.

REBECCA P. TUCKER  
Register of Deeds - New Hanover County

By: Rebecca P. Tucker  
Deputy/Assistant