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LOCAL
REGISTER OF DEEDS
NEW HANOVER CO. NC

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STATE OF NORTH CAROLINA : DECLARATION OF RESTRICTIONS
: OAK HILL SUBDIVISION
COUNTY OF NEW HANOVER : PHASE I

THIS DECLARATION OF RESTRICTIONS is made and entered into by G.G. HARWARD and wife, LILLIAN M. HARWARD (hereinafter referred to as the "Declarants")

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W I T N E S S E T H

WHEREAS, the Declarants are the owners of all right, title and interest in and to that certain tract of land lying and being in Federal Point Township, New Hanover County, North Carolina, and known as Oak Hill Subdivision, Phase I (hereinafter referred to as the "Subdivision"); and

WHEREAS, the Declarants desire to maintain a desired tone of the community and to thereby secure to each lot owner the full benefit and enjoyment of the property with no greater restriction upon the free and undisturbed use of each lot than is necessary to insure the same advantages to other lot owners; and

WHEREAS, for the purposes aforesaid, the Declarants desire to establish certain restrictions, easements, covenants and conditions for the preservation of the property, and, in furtherance of said desire, do hereby covenant, agree and declare that all lots within the Oak Hill Subdivision, Phase I, as the same are shown on the map of said subdivision recorded in Map Book 27 at Page 10 of the New Hanover County Registry shall be and hereby are made subject to the following restrictions, easements, covenants and conditions:

1. No residence shall be constructed on any lot located in the sub-

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division containing less than 1000 square feet of heated living area. No structures shall be constructed on any lot without the prior approval of the Declarants of the plans and specifications of such construction; provided, however, that the Declarants' failure to reject such plans and specifications within ten (10) days of the submission of such plans and specifications for approval shall be deemed to be an approval. At such time as a Homeowner's Association is formed as provided by this instrument, the Declarants shall assign all rights under this paragraph 1 of this instrument to the Homeowner's Association so formed.

2. No house trailer, single wide mobile home, tent, shack, or temporary structure of any nature shall be located on any lot or used at any time as a residence or storage facility; provided, however, that upon approval of the Declarants, temporary storage facilities may be used for the storing of equipment and materials solely during the construction of any residence, but that the same shall be removed promptly upon the completion of the construction. Nothing herein shall prohibit the installation of double-wide mobile homes as permanent residences on any lot, provided that the Declarants approve of the particular double-wide mobile home to be placed on the lot and provided further that the said double-wide mobile home be underpinned. At such time as a Homeowner's Association is formed as provided by this instrument, the Declarants shall assign all rights under this paragraph 2 of this instrument to the Homeowner's Association so formed.

3. No more than one accessory building, including detached garages, shall be permitted on any lot.

4. Since the establishment of inflexible building set back lines

for the location of dwellings on lots tends to force construction of residences directly beside other residences, thereby detrimentally affecting the overall well being of other property owners and the Subdivision in general, no specific set back lines are established. However, the Declarants reserve the right to approve the site plan and location of any residence or other structure to be placed on any lot, and all minimum set back lines and side lines limitations established by governmental entities having jurisdiction over the property shall be followed. At such time as a Homeowner's Association is formed as provided by this instrument, the Declarants shall assign all rights under this paragraph 4 of this instrument to the Homeowner's Association so formed.

5. No animals shall be kept or maintained within the Subdivision other than normal household pets.

6. No inoperative or unlicensed automobiles or trucks shall be stored or parked on any lot, street or road within the Subdivision for a period longer than thirty (30) days.

7. Until a Homeowner's Association is formed as hereinafter provided, the Declarants shall maintain that portion of the Subdivision shown on the recorded plat of the Subdivision as "Bonaire Road" as a road providing all the lots of the Subdivision with ingress and egress. At such time as the said Homeowner's Association is formed as hereinafter provided, the Declarants shall convey to the said Homeowner's Association all right, title and interest they have in the said Bonaire Road and in any other common areas in the Subdivision. After such a conveyance, the Homeowner's Association shall be solely responsible for the maintenance of Bonaire Road and any addition common areas so conveyed, and shall also be solely responsible for the payment of all tax and insurance

expenses associated with said road and common areas.

8. Each lot owner shall have a right and easement of enjoyment in and to that portion of the Subdivision shown on the recorded plat of the Subdivision as "Bonaire Road" for their use and the use of their immediate families, guests, invitees, tenants or lessees for all proper and normal purposes and for ingress, egress and regress. Said right and easement shall be appurtant to and shall pass with the title to each lot. All of the property in the Subdivision shall be subject to such easements for public utilities as shall be established by the Declarants or their predecessors in title prior to the subjugation of the said property to this Declaration.

9. The Declarants hereby reserve a right and easement of enjoyment in and to that portion of the Subdivision shown on the recorded plat of the Subdivision as "Bonaire Road" for their use and the use of their immediate families, guests, invitees, tenant or lessess for the purposes of future development, the installation of public utilities, and ingress, egress and regress to the property owned by the Declarants within the Subdivision and to the undeveloped portions of the Declarants land adjacent to the Subdivision. The Declarants shall have the right to assign their rights to use and enjoy this said easement to any successors in title, including, but not limited to, purchasers of lots included in future developments of the Declarants' undeveloped lands adjacent to the Subdivision.

10. At such time as the Declarents sell seventy per cent (70%) of the lots included in the Subdivision, the Declarants shall establish a Homeowner's Association for the Subdivision. Upon the establishment of

said Homeowner's Association, the Declarants shall transfer to the said Homeowner's Association all of the Declarants rights under paragraphs 1, 2, and 4 of this instrument and shall convey to the said Homeowner's Association all right, title and interest they have in the Subdivision's roads and common areas in accordance with paragraph 7 of this instrument.

Any Homeowner's Association established pursuant to this instrument shall be established and maintained pursuant to the following provisions:

a. Membership. Every person who is record owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Homeowner's Association, including contract sellers, but excluding persons who hold an interest merely as security for the performance of obligations, shall be a member of the Homeowner's Association.

Ownership of such interest shall be the sole qualification for such membership; no owner shall have more than one membership in the Homeowner's Association and there shall be only one vote per lot in such Homeowner's Association. Membership shall be appurtenant to and may not be separated from ownership of any lot subject to assessment. The Board of Directors of the said Homeowner's Association may make reasonable rules regarding the proof of ownership required. Nothing

herein shall be construed to prohibit the Declarants' membership in the Homeowner's Association, so long as the Declarants own any lots in the Subdivision.

b. Assessments. The Declarants, for each lot owned within the Subdivision, hereby covenants, and every other owner of any lot by acceptance of a deed therefore, whether or not it shall be expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Homeowner's Association: (i) annual assessments or charges; and (ii) special assessments for capital improvements. Such assessments shall be fixed, established and collected from time to time as hereinafter provided.

The annual and special assessments, together with such interest thereon, costs of collection thereof, and reasonable attorney's fees as may be established by the Homeowner's Association, shall be a charge on the land and shall be a continuing lien upon the lot and improvements against which such assessment is made. Each such assessment, together with such interest and costs and attorney's fees, shall also be the personal obligation of the person who was the owner of the lot at the time the assessment became due. The personal obligations of an owner for delinquent assessments shall not pass to his successors in title unless expressly assumed by them and only then with the consent of the Homeowner's Association. All assessments shall be shared equally by the owners of each lot.

The assessments levied by the Association shall be used exclusively for promoting the safety and welfare of the residents of the Subdivision; providing the services and facilities for the purposes of or related to the maintenance, use and enjoyment of Bonaire Road and

and any other common areas or facilities; enforcing these covenants and rules of the Homeowner's Association; and for the payment of common expenses.

To and including the second anniversary of the recordation of this Declaration, the maximum annual assessment shall not be in excess of THIRTY-FIVE AND 00/100 DOLLARS (\$35.00) per lot, the exact amount of which shall be determined from time to time as established by this paragraph. From and after the date specified above, the annual assessment may be increased by an affirmative vote of two-thirds (2/3) of the membership of the Homeowner's Association at a meeting duly called for such purpose, written notice of which, setting forth the purpose of the meeting, shall be sent to all members not less than thirty (30) nor more than sixty (60) days in advance of the meeting. In proposing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Homeowner's Association, any accrued debts, and reserves for future needs.

All lots owned by the Declarants and held for sale shall be assessed at the same amount as all other lots.

c. Special Assessments. In addition to the annual assessments authorized above, the Homeowner's Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction or reconstruction, unexpected repairs, or replacement of Bonaire Road or capital improvements on any additional common areas, provided that any such assessment shall have the assent of two-thirds (2/3) of the membership of the Homeowner's Association who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which, setting forth the purpose of

the meeting, shall be sent to all members not less than thirty (30) nor more than sixty (60) days in advance of the meeting.

d. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots, on a per lot basis, and may be collected on a monthly, quarterly or annual basis.

e. Quorum for Actions Authorized under Sections b and c. At the first meeting of the membership of the Homeowner's Association called, and for each subsequent meeting, the presence at the meeting of members or proxies entitled to cast sixty per cent (60%) of all votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the notice requirement set forth in Sections b and c and the required quorum at any such 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.

f. Date of the Commencement of the Annual Assessment, Due Dates.

The annual assessments provided for herein shall be paid in monthly, quarterly or annual installments and the payment of such shall commence as to each lot on the first day of the year following the establishment of the Homeowner's Association. The Board of Directors and the membership shall fix the amount of 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 lot owner subject thereto. The due dates shall be established by the Board of Directors. The Association, upon demand at any time, shall furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. A

properly executed certificate of the Homeowner's Association as to the status of assessments on a lot is binding upon the Homeowner's Association as of the date of its issuance.

g. Effect of Nonpayment of Assessments, Remedies of the Association.

Any assessments or portion thereof which are not paid when due shall be delinquent. If the assessment or any portion thereof is not paid within thirty (30) days after the due date, the same shall bear interest from the date of the delinquency at the rate of eight per cent (8%) per annum. The Homeowner's Association may bring an action against the owner personally obligated to pay the same, or foreclose the lien against the property, and, in either event, interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessment provided for herein by non-use of Bonaire Road or any other common areas or by abandonment of his lot.

h. Subordination of the Lien to Mortgages and Ad Valorem Taxes.

The lien of the assessments provided for herein on any lot shall be subordinate to the lien of any first mortgage and ad valorem taxes on such lot. The sale or transfer of any lot shall not affect the assessment lien; however, the sale or transfer of any lot pursuant to such 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.

11. Invalidation of any one of these covenants by judgment or

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court order shall in no way affect any of the other covenants contained herein. Covenants not specifically invalidated by such action shall remain in full force and effect.

12. If the parties hereto, or any of them, their heirs or assigns, shall violate or attempt to violate any of the covenants herein, it shall be lawful for any Homeowner's Association established pursuant to this instrument or any person or persons owning any real property situated in the Subdivision to prosecute any proceeding in law or in equity against the person or persons violating these covenants and/or to recover damages for such violation.

13. All covenants, restrictions and obligations set forth shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) years by an instrument signed by the owners of not less than ninety (90) per cent of the lots, and thereafter by an instrument signed by not less than seventy-five (75) per cent of the lots. All easements granted or reserved by this Declaration, however, shall be perpetual and non-exclusive, regardless of this paragraph 11 of this instrument.

14. Nothing herein shall be construed to prevent the Declarants from extending these covenants, restrictions and easements to other property owned by the Declarants adjacent to the Subdivision.

15. The obligations of the Declarants herein shall be binding on their heirs, executors and assigns.

IN WITNESS WHEREOF, the Declarants have hereunto affixed their and

seals hereto this 3RD day of MARCH, 1987.

G.G. Harward (SEAL)
G.G. HARWARD

Lillian M Harward (SEAL)
LILLIAN M. HARWARD

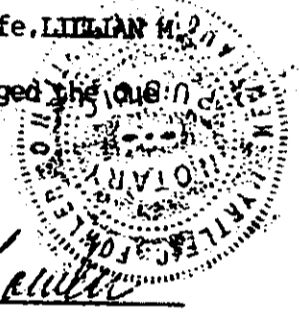
STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Myrtle C Fowler, a Notary Public in and for the County and State aforesaid, certify that G.G. HARWARD and wife, LILLIAN M. HARWARD personally appeared before me this day and acknowledged the execution of the foregoing instrument.

This the 3rd day of March, 1987.

Myrtle C Fowler
NOTARY PUBLIC



My commission expires ~~My Commission Expires~~ October 2, 1990

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

The foregoing certificate of Myrtle C. Fowler, a Notary Public, is certified to be correct.

This the 6 day of March, 1987.

REBECCA P. TUCKER, REGISTER OF DEEDS

By: Mary Sue Oates
Deputy/Assistant Register of Deeds