

**DECLARATION OF UNIT OWNERSHIP
UNDER CHAPTER 47A
NORTH CAROLINA GENERAL STATUTES
for
THE OAKS OF AVENT FERRY CONDOMINIUM
&
BYLAWS
of
THE OAKS OF AVENT FERRY CONDOMINIUM
Raleigh, North Carolina**

DECLARATION OF UNIT OWNERSHIP
UNDER CHAPTER 47A
NORTH CAROLINA GENERAL STATUTES
FOR

PRESENTED
FOR
REGISTRATION

JUN 4 2 40 PM '80

P.B. MCKENZIE, JR.
REGISTER OF DEEDS
WAKE COUNTY, N.C.

THE OAKS OF AVENT FERRY CONDOMINIUM

THIS DECLARATION OF UNIT OWNERSHIP, made this 25th day of February, 1980, by DIXIE DEVELOPMENT COMPANY, a North Carolina corporation with its principal office located in Wake County, North Carolina (hereinafter referred to as "Grantor" or "Developer"), pursuant to the provisions of Chapter 47A of the General Statutes of North Carolina, as amended (sometimes hereinafter referred to as the Unit Ownership Act):

WHEREAS, Grantor is constructing in successive segments (hereinafter referred to as "Phases") on the parcel of land owned by Grantor described in Paragraph 1 below a condominium development consisting of dwelling units and attendant facilities (hereinafter referred to as the "Project") established in accordance with the provisions of said Unit Ownership Act and the Project when completed will comprise living units (hereinafter referred to as "Dwelling Units" or "Units");

WHEREAS, it is the desire of Grantor to submit a Phase of the Project property, hereinafter described in Paragraph 2 below, together with the improvements thereon constructed or to be constructed to the provisions of the Unit Ownership Act for condominium ownership;

WHEREAS, Grantor also desires herein to provide and allow for the submission of successive Phases of the total Project to the condominium form of ownership as said Phases are developed and completed, and to provide for equality of rights, privileges and obligations of all condominium unit owners in all Phases of the Oaks of Avent Ferry Condominium Project by amending this Declaration as said Phases are developed and completed; and

WHEREAS, Grantor hereby establishes by this Declaration of Unit Ownership a plan for the individual ownership of the real property estates consisting of the area or space contained in each of the Dwelling Units and the co-ownership by the individual and separate owners thereof, as tenants in common of all of the remaining real property which is the Common Areas and Facilities of the Project (hereinafter as "COMMON ELEMENTS").

NOW, THEREFORE, Grantor hereby declares:

1. Legal Description of Project Property.

The overall Oaks of Avent Ferry Condominium Project site (herein as "Project Property") referred to hereinabove is situated in Wake County, State of North Carolina, and is described on Schedule "A" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures.

2. Legal Description of Phase of Project Dedicated to Condominium Ownership.

The Phase of the Project Property, that is Phase I, which is herewith dedicated to condominium or unit ownership is situated in Wake County, State of North Carolina, and described on Schedule "B-1" annexed and attached hereto, made a part hereof, and incorporated herein by reference as fully and to the same extent as if said description were set forth herein verbatim in words and figures (herein as the "Condominium Property").

The Property described and referred to in this Paragraph 2 is submitted to the provisions of the North Carolina Unit Ownership Act, as the same may be amended or supplemented from time to time. The Grantor does hereby publish and declare that all of the property described on Schedule "B-1" is held and shall be held, conveyed and encumbered, used and occupied subject to the terms and conditions, covenants, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominium units and common areas and shall be deemed to run with the land and shall be a burden and benefit to Grantor, its successors and assigns, and all persons, firms, corporations and other entities acquiring or owning any interest in such real property and improvements, their grantees, successors, executors, administrators, heirs, devisees and assigns.

2A. Legal Description of Proposed Future Phases of the Project.

Grantor, for itself, its successors and assigns, reserves the right herein, but shall not be obligated, to submit additional property in three separate phases to the provisions of the Unit Ownership Act and to the provisions of this Declaration on or before the expiration of five (5) years from and after the date this Declaration is filed of record in the Wake County Registry, by filing Amendments to this Declaration in the said Registry. The property which may be made subject to this Declaration and the Unit Ownership Act by such an Amendment is shown on the Master Plan attached hereto as a portion of the Drawings described and referred to in Paragraph 3 (J) hereof and therein referred to as Schedule "D" to this Declaration, showing thereon Phase II, Phase III and Phase IV as "proposed" for Oaks of Avent Ferry Condominium.

The right herein reserved to submit such additional property shall apply to Phase II, Phase III and Phase IV as proposed, however the submission of one or more additional phases as herein provided shall not obligate Grantor to submit additional phases to the provisions of the Unit Ownership Act or to the provision of this Declaration. It is understood that additional phases, if subjected to this Declaration, shall be so subjected in the following order: First - Phase II, Second - Phase III, and Third - Phase IV, it being understood that Phase III shall not be submitted prior to Phase II and Phase IV shall not be submitted prior to Phase III.

Proposed Phase II, Phase III and Phase IV are more fully described on Schedule "B-2", Schedule "B-3" and Schedule "B-4", annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if said descriptions were set forth herein verbatim in words and figures.

3. Definitions.

The terms defined in this Paragraph 3 (except as herein otherwise expressly provided or unless the context hereof otherwise requires) for all purposes of this Declaration of Unit Ownership and of any amendments hereto shall have the respective meanings specified in this Paragraph.

(A) "Unit Owners Association" means OAKS OF AVENT FERRY CONDOMINIUM ASSOCIATION, which is an unincorporated unit owners' association as defined in the Unit Ownership Act.

(B) "Board" means the Board of Directors of the Unit Owners Association as the same may be constituted from time to time.

(C) "Bylaws" means the Bylaws of the Unit Owners Association attached hereto as Schedule "C" and made a part hereof.

(D) "Buildings" means the buildings located on the Condominium Property; PROVIDED, HOWEVER, when buildings located on other portions of the Project Property have been added to the Condominium Property pursuant to the provisions of Paragraph 20 hereof, the term buildings shall also include said buildings.

(E) "Unit Ownership Act" means Chapter 47A of the General Statutes of the State of North Carolina as the same may be amended or supplemented from time to time.

(F) "Common Areas and Facilities" (herein as "COMMON ELEMENTS") means all parts of the Condominium Property except the Units, but including, without limitation, all foundations, exterior and supporting walls and roofs of the Buildings, all structural and component parts of all interior walls, doors, floors and ceilings of the Buildings, all hallways, storage rooms and laundry rooms, all patios, courtyards, walkways, driveways and parking spaces and all lawns, landscaping and gardens now or hereafter situated in the Condominium Property, including any repairs and replace-

ments thereof.

(G) "Common Expenses" means those expenses designated as Common Expenses in both the Unit Ownership Act and this Declaration of Unit Ownership or the Bylaws, including, without limitation, the following:

- (i) all sums lawfully assessed against the Unit Owners by the Unit Owners Association;
- (ii) expenses of the Unit Owners Association incurred in the administration, maintenance, repair and replacement of the COMMON ELEMENTS; and
- (iii) expenses determined from time to time to be Common Expenses by the Unit Owners Association.

(H) "Condominium Property" means all the property described in Paragraph 2 above, buildings and all other improvements thereon, all easements, rights, and appurtenances belonging thereto, and all articles of personal property existing thereon for the common use of the Unit Owners; PROVIDED, HOWEVER, when portions of the Project Property have been added to the Condominium Property pursuant to the provisions of Paragraph 20 hereof, the term "Condominium Property" shall also include such portions of the Project Property and all improvements thereon, all easements, rights, and appurtenances belonging thereto, and all Articles of personal property existing thereon for the common use of the Unit Owners.

(I) "Declaration of Unit Ownership" means this instrument and all of the Schedules and Exhibits hereto, as originally executed, or, if amended as herein provided, as so amended.

(J) "Drawings" means the drawings prepared and certified by William G. Daniel, Consulting Engineer, dated _____ 1980, consisting of ___ sheets and by "capitolandesign" dated _____, 1980, and consisting of ___ sheets, in accordance with the Unit Ownership Act relating to the Condominium Property, which Drawings are identified as Schedule "D" annexed and attached hereto and made a part of this Declaration.

(K) "Limited Common Areas and Facilities" (herein as "LIMITED COMMON ELEMENTS") means those parts of the COMMON ELEMENTS reserved for the use of a certain Unit to the exclusion of all other Units and more specifically described in Paragraph 3, Section (A) hereof.

(L) "Occupant" means the person or persons, natural or artificial, in possession of a Unit.

(M) "Ownership Interest" means the fee simple title interest in a Unit and the undivided percentage interest in the COMMON ELEMENTS appertaining thereto.

(N) "Rules" means such rules and regulations governing the operation and use of the Condominium Property or any portion thereof as may be adopted by the Unit Owners Association or the Board from time to time.

(O) "Dwelling Unit" or "Unit" means that part of the Condominium Property described in Paragraph 7 hereof.

(P) "Unit Owner" means any person or persons, natural or artificial, owning the fee simple estate in a Unit and an undivided percentage interest in the COMMON ELEMENTS.

(Q) The use of the plural shall include the singular; the singular the plural; and the use of any gender shall be deemed to include all genders.

4. Name.

The Condominium Property shall be known as THE OAKS OF AVENT FERRY.

5. General Description, Phase I.

The Condominium Property includes two (2) two-story buildings without basements. Each building contains at least five (5) Dwelling Units for a total of ten (10) Dwelling Units in said Phase I. Each building is of wood frame construction with exterior finish of wood or wood fiber siding. Wood is the principal material of which each building is constructed. The floor in each building is concrete slab (as shown on the plans) covered by carpet and tile and the walls and ceilings are sheetrock. Reference is made to the drawings for a more detailed description of the buildings and Dwelling Units, including the location, layout, dimensions (area), of the Dwelling Units and the COMMON ELEMENTS. The buildings are not named but are designated alphabetically as A and B. The Dwelling Units in each building are designated numerically as "1", "2", "3", "4" and "5". Thus, a specific Dwelling Unit will be identified by reference to the alphabetical designation of such building and the numerical designation of such Dwelling Unit. For example, Unit 1 in Building A may be identified as "Unit 1 in Building A", or "Building A, Unit 1", or "Unit A1" or "Unit 1A". Any such designation shall be sufficient as long as it contains the alphabetical designation of the building and the numerical designation of the Dwelling Unit. PROVIDED, HOWEVER, each of said Dwelling Units may be further designated by its street address. The building and unit designation, by alphabet and number, together with the respective street address for each Dwelling Unit is as follows:

<u>BUILDING</u>	<u>UNIT</u>	<u>STREET ADDRESS</u>
A	1	4101 Avent Ferry Road
	2	4103 Avent Ferry Road
	3	4105 Avent Ferry Road
	4	4107 Avent Ferry Road
	5	4109 Avent Ferry Road

BUILDING	UNIT	STREET ADDRESS
B	1	4113 Avent Ferry Road
	2	4115 Avent Ferry Road
	3	4117 Avent Ferry Road
	4	4119 Avent Ferry Road
	5	4121 Avent Ferry Road

There are three types of Dwelling Units in the Condominium Property which are named and described as follows:

(A) Canary Unit. This is a one-story unit, containing a living room, kitchen, dining area, one and one-half bathrooms and two bedrooms. The Unit is built on a concrete slab and contains approximately One Thousand (1,000) square feet.

(B) Bluebird Unit. This is a townhouse type, two-story unit containing a living room, kitchen, dining room, one and one-half bathrooms and two bedrooms. The unit is built on a concrete slab and contains approximately Eleven Hundred (1,100) square feet.

(C) Cardinal Unit. This is a two-story townhouse type unit containing a living room, dining room, kitchen, one-half bathroom on the first floor and three bedrooms and two bathrooms on the second floor. The unit is built on a concrete slab, and contains approximately Thirteen Hundred Sixty-eight (1,368) square feet.

There are two (2) building types in the Condominium Property, and the building alphabetical designation, together with the Unit types contained therein are as follows:

(A) Building "A" is a five-plex building containing two Canary Units, one Bluebird Unit and two Cardinal Units.

(B) Building "B" is a five-plex building containing two Canary Units and three Cardinal Units.

Further Phases of the Condominium Project, if any, may contain some or all of the units and building types described above as well as other building types. The Grantor reserves the right to change or vary the construction and types of buildings and units in Phases II, III and IV, if developed, so long as the entire project shall present a generally harmonious appearance.

6. General Description of Proposed Phase II, Phase III and Phase IV.

(A) Phase II: At such time as the Grantor subjects that parcel of land designated on the Master Plan (included among the Drawings, Schedule "D" hereof) as Phase II to the Unit Ownership Act by filing an Amendment to this Declaration as specified herein, the improvements will be constructed substantially of identical or equivalent materials as those used in Phase I of the project. Phase II will consist of five (5) five-plex dwelling unit buildings, with a total of twenty-five (25) units. This Phase will also include landscaping, automobile parking areas and other facilities

located substantially as shown on the Master Plan.

(B) Phase III: At such time as the Grantor subjects that parcel of land designated on the Master Plan (included among the Drawings, Schedule "D" hereof) as Phase III to the Unit Ownership Act by filing an Amendment to this Declaration as specified herein, the improvements will be constructed substantially of identical or equivalent materials as those used in Phase I and Phase II of the Project. Phase III will consist of four (4) five-plex dwelling Unit buildings, with a total of twenty (20) units. Phase III will include landscaping, automobile parking areas and other facilities located substantially as shown on the Master Plan.

(C) Phase IV: At such time as the Grantor subjects that parcel of land designated on the Master Plan (including among the Drawings, Schedule "D" hereof) as Phase IV to the Unit Ownership Act by filing an Amendment to this Declaration as specified herein, the improvements will be constructed substantially of identical or equivalent materials as those used in Phase I, Phase II and Phase III of the Project. Phase IV will consist of four (4) dwelling unit buildings, with a total of 18 units. There will be two (2) four-plex and two (2) five-plex buildings. This phase will also include landscaping, automobile parking areas and other facilities located substantially as shown on the Master Plan.

7. Description of Units.

Each Unit shall constitute a single freehold estate and means an enclosed space consisting of one or more rooms occupying all or part of one or more floors in buildings of one or more floors or stories provided, always, that any such Unit has direct exit to a thoroughfare or to a COMMON ELEMENT leading to a thoroughfare. The lower vertical boundary of any such condominium unit is a horizontal plane (or planes) the elevation of which coincides with the surface of the unfinished subfloors thereof and the upper vertical boundary is a horizontal plane (or planes) the elevation of which coincides with the elevation of the exterior surface of the interior ceilings thereof, to include the drywall, windows and doors thereof, and vertical planes coincidental with the exterior surfaces of the interior perimeter or main walls thereof to intersect the upper and lower vertical boundary thereof and to intersect the other lateral or perimetrical boundaries of the condominium unit. Mechanical equipment and appurtenances located within any unit and designed to serve only that unit, such as furnaces, appliances, fixtures and the like, shall be considered a part of the condominium unit. The general description and number of each condominium unit, including its location, layout and dimensions and such other data as may be necessary or appropriate for its identification, is set forth on the Drawings, which Drawings are incorporated herein and by this reference made a part

(A) Description. Except as may otherwise be set forth on the Drawings, the general COMMON ELEMENTS shall mean and include at least the following:

(i) the property, except the units, described on Schedule "B" annexed and attached hereto and made a part hereof; and

(ii) the foundations, bearing walls, perimeter walls, main walls, roofs, halls, columns, girders, beams, supports, corridors, fire escapes, lobbies, parking areas or structures not designated as LIMITED COMMON ELEMENTS, stairways, and entrance and exit or communication ways; and

(iii) the basement (if any), roofs, yards and streets not designated as LIMITED COMMON ELEMENTS, and gardens, except as otherwise provided; and

(iv) the compartments or installations for central services such as power, light, gas, hot and cold water, water storage tanks, pumps and the like, including, but not limited to, all pipes, ducts, flues, chutes, conduits, cables and wire outlets and other utility lines; and

(v) in general all devices or installations existing for common use on the Condominium Property; and

(vi) the premises designated on the Drawings for the lodging of custodial or managerial personnel, if any; and

(vii) all other elements of the condominium project rationally of common use or necessary to its existence, upkeep and safety.

The LIMITED COMMON ELEMENTS include those designated as such on the Drawings and such other as are agreed upon by all of the co-owners to be reserved for the exclusive use of one or a certain number of condominium units. All areas designated on the Drawings as a balcony, terrace, patio, fenced area, storage lockers, mechanical equipment room, or the like, and designated thereon as LIMITED COMMON ELEMENTS, are reserved for the exclusive use of the owners of the condominium unit or units to which they are adjacent or to which they are declared to be appurtenant by appropriate designation on the Drawings.

(B) Ownership of COMMON ELEMENTS. The COMMON ELEMENTS comprise, in the aggregate, a single freehold estate and shall be owned by the Unit Owners, as tenants in common, and ownership thereof shall remain undivided. No action for partition of any part of the COMMON ELEMENTS shall be maintainable, except as specifically provided in the Unit Ownership Act, nor may any Unit Owner otherwise waive or release any rights in the COMMON ELEMENTS; provided, however, that if any Unit be owned by two or more co-owners as tenants in common, joint tenants, or as tenants by the entirety nothing herein contained shall be deemed to prohibit a voluntary or judicial partition of such Unit's ownership as between such co-owners as by law provided.

(C) Undivided Interest in COMMON ELEMENTS, etc. Each condominium unit shall have the same incidents as real property and the owner of any condominium unit shall hold the same in fee simple and shall have a common right to a share, with the other Unit Owners, of an undivided fee simple interest in the COMMON ELEMENTS equivalent to the percentage representing the approximate "fair market value" of his unit on the date of recordation of this Declaration of Unit Ownership divided by the then approximate "fair market value" of all the condominium units having an undivided interest in said COMMON ELEMENTS as determined by the Grantor. The approximate "fair market value" of each condominium unit and, according to those basic values, the percentage appertaining to each condominium unit in the expenses of and rights in the COMMON ELEMENTS is until amended as provided in Paragraph 21 hereof, as set forth on Schedule "E" annexed and attached hereto and by this reference made a part hereof. The percentage of the undivided interest in the Common Elements herein established shall have a permanent character and shall not be altered without the unanimous consent of the Unit Owners evidenced by an appropriate amendment to this Declaration of Unit Ownership, as provided in Paragraph 21 hereof, recorded among the Public Records for Wake County, North Carolina. The undivided interest in the COMMON ELEMENTS shall not be separated from the condominium unit to which it appertains and shall be deemed conveyed or encumbered with the condominium unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

(D) Fair Market Value. The "fair market value" herein established for any condominium unit shall not fix the market value of the condominium unit and shall not prevent the owner of any condominium unit, including the Grantor, from establishing a different circumstantial value for such condominium unit.

(E) Encroachments. If any portion of the COMMON ELEMENTS now encroaches upon any condominium unit, or if any condominium unit now encroaches upon any other condominium unit or upon any portion of the COMMON ELEMENTS, as a result of the construction or repair of the buildings, or if any such encroachment shall occur hereafter as a result of settlement or shifting of any building, or otherwise, a valid easement for the encroachment and for the maintenance of the same so long as the building stands, shall exist. In the event any building, any condominium unit, any adjoining condominium unit, or any adjoining COMMON ELEMENTS, 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 then reconstructed, encroachments of parts of the common elements upon any condominium unit or of any condominium unit upon any other condominium unit or upon any portion of the COMMON ELEMENTS, due to such

reconstruction, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the building shall stand.

(F) Easements. Each condominium unit shall be subject to an easement to the Unit Owners of all of the other condominium units to and for the unobstructed and uninterrupted use of any and all pipes, ducts, flues, chutes, conduits, cables and wire outlets and utility lines of any kind and other COMMON ELEMENTS located within or accessible only from any particular condominium unit and for support.

(G) Use of COMMON ELEMENTS. Each Unit Owner shall have the right to use the COMMON ELEMENTS in accordance with the purposes for which they are intended and for all purposes incident to the use and occupancy of his Unit, and such rights shall be appurtenant to and run with his Unit; provided, however, that no person shall use the COMMON ELEMENTS or any part thereof in such manner as to interfere with or restrict or impede the use thereof by owners entitled to the use thereof or in any manner contrary to or not in accordance with this Declaration of Unit Ownership and the Bylaws and rules of the Unit Owners Association.

(H) Use of LIMITED COMMON ELEMENTS. Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy the LIMITED COMMON ELEMENTS located within the bounds of his Unit or which serve only his Unit. The LIMITED COMMON ELEMENTS with respect to each Unit shall consist of the following, in addition to those LIMITED COMMON ELEMENTS hereinabove described and referred to:

- (i) all ducts and plumbing, electrical and other fixtures, equipment and appurtenances, including heating and air conditioning systems and control devices, located within the bounds of such Unit or which serve only such Unit;
- (ii) all gas, electric, water or other utility or service lines, pipes, wires and conduits located within the bounds of such Dwelling Unit and which serve only such Dwelling Unit;
- (iii) patios, courtyards and appurtenant improvements, front and back stoops and balconies and decks (if any) which serve only such Unit;
- (iv) all other COMMON ELEMENTS as may be located within the bounds of such Unit and which serve only such Unit or which may be designated on the Drawings as a LIMITED COMMON ELEMENT.

9. Common Areas and Facilities (COMMON ELEMENTS) if Phases Submitted to Unit Ownership Act.

(A) At such time as Phase II and/or Phase III and/or Phase IV may hereinafter be subjected to this Declaration and the Unit Ownership Act by an amended Declaration, the total combined property shall continue to be known as The Oaks of Aventura

Ferry Condominium. At such time as Phase II is submitted to this Declaration, it is hereby declared that the owners of dwelling units in Phase I and the Owners of dwelling units in Phase II shall have the rights and privileges in all of the COMMON ELEMENTS located on both Phases combined in the percentages of undivided interests as hereafter computed and shown in tabular form on Schedule "E" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if the same were set forth herein verbatim in words and figures. At such time as Phase III is submitted to this Declaration, it is hereby declared that the owners of dwelling units in Phase I, the owners of dwelling units in Phase II and the owners of dwelling units in Phase III shall have the rights and privileges in all of the COMMON ELEMENTS located on all three Phases combined in the percentages of undivided interests as hereafter computed and shown in tabular form on Schedule "E" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if the same were set forth herein verbatim in words and figures. At such time as Phase IV is submitted to this Declaration, it is hereby declared that the owners of dwelling units in Phase I, the owners of dwelling units in Phase II, the owners of dwelling units in Phase III and the owners of dwelling units in Phase IV shall have the rights and privileges in all the COMMON ELEMENTS located in all four phases combined in the percentages of undivided interests as hereafter computed and shown in tabular form on Schedule "E" annexed and attached hereto, made a part hereof and incorporated herein by reference as fully and to the same extent as if the same were set forth herein verbatim in words and figures.

(B) The undivided interests of the COMMON ELEMENTS vested in the owners of dwelling units in Phase I are hereby declared to be vested in said owners in fee simple determinable in the percentages of undivided interest set forth on Schedule "E" hereof, during and so long as Phase I herein described is the only parcel of land in the Project Property subjected to the Unit Ownership Act and no longer. Upon the filing of the amended Declaration to subject Phase II to the Unit Ownership Act, the fee simple determinable estate in the undivided interest of the COMMON ELEMENTS shall immediately terminate and simultaneously the undivided interest of the COMMON ELEMENTS in Phase I and Phase II is hereby declared by Grantor to be vested in the owners of the dwelling units in Phase I and Phase II in fee simple determinable in the percentages of undivided interests set forth on the said Schedule "E" hereof for said circumstance, during and so long as Phase I and Phase II herein described is the only land subjected to the Unit Ownership Act and no longer. Upon the filing of the amended Declaration to subject Phase III to the Unit Ownership

Act, the fee simple determinable estate in the undivided interest of the COMMON ELEMENTS shall immediately terminate and simultaneously the undivided interest of the COMMON ELEMENTS in Phase I, Phase II and Phase III is hereby declared by the Grantor to be vested in the owners of the dwelling units in Phase I, Phase II and Phase III in fee simple determinable in the percentages of undivided interest set forth on said Schedule "p" hereof for said circumstance during and so long as Phase I, Phase II and Phase III herein described is the only land subjected to the Unit Ownership Act, and no longer. Upon the filing of an amended Declaration to subject Phase IV to the Unit Ownership Act, the fee simple determinable estate in the undivided interest of the COMMON ELEMENTS shall immediately terminate and simultaneously the undivided interest of the COMMON ELEMENTS in Phase I, Phase II, Phase III and Phase IV is hereby declared by the Grantor to be vested in the owners of the dwelling units in Phase I, Phase II, Phase III and Phase IV in fee simple absolute in the percentages of undivided interest set forth on the said Schedule "p" hereof for said circumstance. Upon the failure of the Grantor to file either of said amended Declarations subjecting additional land to the Unit Ownership Act on or before the expiration of five (5) years from and after the date this Declaration is filed of record, as provided for herein, such that Phase I or Phase I and Phase II or Phase I, Phase II and Phase III are the only properties subjected to the Unit Ownership Act, any fee simple determinable estate in the COMMON ELEMENTS outstanding on said date is hereby automatically terminated and said COMMON ELEMENTS are further hereby declared by the Grantor to be vested in the then owners of all of said dwelling units in fee simple absolute in their then existing percentages of undivided interest in the COMMON ELEMENTS.

(C) An Amendment to this Declaration to subject Phase II or Phase III or Phase IV to the Unit Ownership Act, as herein provided may be made by duly authorized officers of Dixie Development Company, a North Carolina corporation, their successors or assigns, executing said Amendment and filing same in the Register of Deeds Office of Wake County, North Carolina, in the manner and form as provided in Paragraph 21 hereof as and for the additions of phases to the condominium property when said phases are included in said Master Plan and said phases are so submitted within the five (5) year limited period as herein set forth, and no other approval or joinder will be required by any unit owner or the mortgagee, lienholder or judgment creditor of any unit owner of any Phase already subjected to this Declaration and the Unit Ownership Act. Any other Amendment to this Declaration shall be made as is otherwise provided for in said Paragraph 21.

(D) The COMMON ELEMENTS of Phase II, Phase III and Phase IV of the Condominium shall include the following:

(i) Phase II:

- (a) All COMMON ELEMENTS of Phase I; and
- (b) the property, except the units, then subjected to the Unit Ownership Act; and

(c) the foundation, bearing walls, perimeter walls, main walls, roofs, halls, columns, girders, beams, supports, corridors, fire escapes, lobbies, parking areas, or structures not designated as LIMITED COMMON ELEMENTS, stairways, and entrance and exit or communication ways; and

(d) the roofs, yards and streets not designated as LIMITED COMMON ELEMENTS, and gardens, except as otherwise provided; and

(e) the compartments or installations for central services such as power, light, gas, hot and cold water, water storage tanks, pumps and the like, including, but not limited to, all pipes, ducts, flues, chutes, conduits, cables and wire outlets and other utility lines; and

(f) in general all devices or installations existing for common use on the Phase II condominium property; and

(g) the premises designated on the Drawings for Phase II for the lodging of custodial or managerial personnel, if any; and

(h) all other elements of the Phase II condominium project rationally of common use or necessary to its existence, upkeep and safety.

(ii) Phase III:

- (a) All the COMMON ELEMENTS of Phase I and Phase II; and
- (b) the property, except the units, then subjected to the Unit Ownership Act; and

(c) the foundations, bearing walls, perimeter walls, main walls, roofs, halls, columns, girders, beams, supports, corridors, fire escapes, lobbies, parking areas or structures not designated as LIMITED COMMON ELEMENTS, stairways, and entrance and exit or communication ways; and

(d) the roofs, yards and streets not designated as LIMITED COMMON ELEMENTS, and gardens, except as otherwise provided; and

(e) the compartments or installations for central services such as power, light, gas, hot and cold water, water storage tanks, pumps and the like, including, but not limited to, all pipes, ducts, flues, chutes, conduits, cables and wire outlets and other utility lines; and

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(f) in general all devices or installations existing for common use on the Phase III Condominium Property; and

(g) the premises designated on the Drawings of Phase III for the lodging of custodial or managerial personnel, if any; and

(h) all other elements of the Phase III condominium project rationally of common use or necessary to its existence, upkeep and safety.

(iii) Phase IV:

(a) all the COMMON ELEMENTS of Phase I, Phase II and Phase III; and

(b) the property, except the units, then subjected to the Unit Ownership Act; and

(c) the foundations, bearing walls, perimeter walls, main walls, roofs, halls, columns, girders, beams, supports, corridors, fire escapes, lobbies, parking areas or structures not designated as LIMITED COMMON ELEMENTS, stairways, and entrance and exit or communication ways; and

(d) the roofs, yards and streets not designated as LIMITED COMMON ELEMENTS, and gardens, except as otherwise provided; and

(e) the compartments or installations for central services such as power, light, gas, hot and cold water, water storage tanks, pumps and the like, including, but not limited to, all pipes, ducts, flues, chutes, conduits, cables and wire outlets and other utility lines; and

(f) in general all devices or installations existing for common use on the Phase IV Condominium Property; and

(g) the premises designated on the Drawings of Phase IV for the lodging of custodial or managerial personnel, if any; and

(h) all other elements of the Phase IV condominium project rationally of common use or necessary to its existence, upkeep and safety.

10. Covenants of Unit Owners.

Grantor, its successors and assigns, by this Declaration of Unit Ownership, and any future owners of the Dwelling Units, by their acceptance of their deeds, covenant and agree as follows:

(A) That the Dwelling Units shall be occupied and used by the respective owners only as a private dwelling for the owner, his family, tenants and social guests and for no other purpose.

(B) That the owner of the respective Dwelling Units shall not be deemed to own the pipes, wires, conduits or other public utility lines running through said respective Dwelling Unit which are utilized for, or serve more than one, Dwelling Unit, except as tenants in common with the other Unit Owners as heretofore provided in Paragraph 8. Said owner, however, shall be deemed to own the walls and partitions which are contained in said owner's respective Dwelling Unit.

(C) That the owner of a Dwelling Unit shall automatically, upon becoming the owner of a Dwelling Unit, be a member of The Oaks of Avent Ferry Condominium Association, hereinafter referred to as the "Unit Owners Association," and shall remain a member of said Unit Owners Association until such time as his ownership ceases for any reason, at which time his membership in said Unit Owners Association shall automatically cease.

(D) That the owners of Dwelling Units covenant and agree that the administration of the condominium shall be in accordance with the provisions of this Declaration of Unit Ownership and the Bylaws of the Unit Owners Association which are annexed and attached hereto, made a part hereof, labelled Schedule "C" and incorporated herein by reference as fully and to the same extent as if the same were set forth herein verbatim.

(E) That each owner, tenant or occupant of a Dwelling Unit shall comply with the provisions of this Declaration of Unit Ownership, the Bylaws, and decisions and resolutions of the Unit Owners Association or its representative. Failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due, for damages, or for injunctive relief.

(F) That this Declaration of Unit Ownership shall not be revoked or any of the provisions herein amended except as provided in the Unit Ownership Act and in Paragraph 21 below.

(G) That no owner of a Dwelling Unit may except himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the COMMON ELEMENTS or by the abandonment of his Dwelling Unit.

11. Assessments.

All sums assessed by the Unit Owners Association but unpaid for the share of the common expenses chargeable to any Unit shall constitute a lien on such Unit prior to all other liens except only (i) tax liens and special assessments on the Unit made by a lawful governmental authority, (ii) all sums unpaid on the first mortgage of record on such Unit, and (iii) other liens granted priority by statutory authority. Such lien may be foreclosed by suit by the Board of Directors, acting on behalf of the Unit Owners Association or the owners of the Units, in like manner as a mortgage of real property. In any such foreclosure the Unit Owner shall be required to pay a reasonable rental for the Unit, and the plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. The Board of Directors, acting on behalf of the Unit Owners Association or the owners of the Units, shall have power to bid in the Unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same. As used herein, the term "mortgage" shall include "deed of trust."

12. Purchaser at Foreclosure Sale.

Where the mortgagee of a first mortgage of record or other purchaser of a Unit obtains title to the Unit as a result of foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the Unit Owners Association chargeable to such Unit which became due prior to the acquisition of title to such Unit as a result of foreclosure by such acquirer. Such unpaid shares of common expenses or assessments shall be deemed to be common expenses collectible from all of the Units including such acquirer, his successors and assigns.

13. Rental of Units by Unit Owners.

The respective Units shall not be rented by the owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than thirty (30) days; or (b) any rental if the occupants of the Unit are provided cus-

tomary hotel services, such as room service for food and beverage, maid service, furnishing laundry and linen, and bellboy service. Other than the foregoing obligations, the owners of the respective Units shall have absolute right to lease same provided that said lease is made subject to the covenants and restrictions contained in this Declaration of Unit Ownership and further subject to the Bylaws attached hereto.

14. Reconstruction.

In the event the property subject to this Declaration of Unit Ownership is totally or substantially damaged or destroyed, the repair, reconstruction, or disposition of the property shall be as provided by the provisions of the Unit Ownership Act.

15. Conveyance of Dwelling Unit.

In a voluntary conveyance of a Dwelling Unit the Grantee of the Unit shall be jointly and severally liable with the Grantor for all unpaid assessments of the Unit Owners Association against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the Grantee's right to recover from the Grantor the amounts paid by the Grantee therefor. However, any such Grantee shall be entitled to a statement from the Board of Directors setting forth the amount of the unpaid assessments against the Grantor due the Unit Owners Association and such Grantee shall not be liable for, nor shall the Dwelling Unit conveyed be subject to a lien for, any unpaid assessments made by the Unit Owners Association against the Grantor in excess of the amount therein set forth.

16. Voting.

All agreements and determinations lawfully made by the Unit Owners Association in accordance with the voting percentages established in the Unit Ownership Act, this Declaration of Unit Ownership or in the Bylaws, shall be deemed to be binding on all owners of Dwelling Units, their successors and assigns.

17. Insurance and Reconstruction.

(A) Insurance. The insurance which shall be carried upon the Condominium Property shall be governed by the following provisions:

(1) Casualty or physical damage insurance shall be carried in an amount equal to the full replacement value (i. e., 100% of full "replacement cost") of the Condominium Property, exclusive of excavations and foundations, with a replacement cost endorsement and an inflation guard endorsement, without deduction or allowance for depreciation (as determined annually by the Board of Directors of the Unit Owners Association with the assistance of the insurance company affording

such coverage), such coverage to afford protection against at least the following:

- (a) loss or damage by fire or other hazards covered by the standard extended coverage endorsement together with coverage for common expenses with respect to condominium units during any period of repair or reconstruction; and
- (b) such other risks as from time to time customarily shall be covered with respect to buildings similar to the Building in construction, location and use, including, but not limited to, vandalism, malicious mischief, windstorm and water damage, subject to such deductible amounts not in excess of One Thousand Dollars (\$1,000.00) as the Board shall determine. All Casualty Insurance policies shall be purchased by the Unit Owners Association for the benefit of the Grantor, the Unit Owners Association, the Unit Owners and their respective mortgagees, as their interests may appear and shall provide (a) for the issuance of certificates of insurance with mortgagee endorsements to the holders of mortgages on the Units, if any, and (b) that the insurer waives its rights of subrogation against Unit Owners, Occupants and the Unit Owners Association. All Casualty insurance policies shall provide that all proceeds payable as a result of casualty losses shall be paid to The Board of Directors as trustee, for each of the Unit Owners in the percentages established in this Declaration of Unit Ownership for the purposes elsewhere stated herein, and for the benefit of the Grantor, the Unit Owners Association, the Unit Owners, and their respective mortgagees.

(ii) The Unit Owners Association shall insure itself, the members of the Board, the Unit Owners and the Occupants against liability for personal injury, disease, illness or death and for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Condominium Project or any portion thereof, including, without limitation, water damage, legal liability, hired automobile, non-owned automobile and off-premises employee coverage, such insurance to afford protection to a limit of not less than One Million Dollars (\$1,000,000.00) in respect to personal injury, disease, illness or death suffered by any one person, and to the limit of not less than One Million Dollars (\$1,000,000.00) in respect to any one occurrence, and to the limit of not less than Five Hundred Thousand Dollars (\$500,000.00) in respect to damage to or destruction of property arising out of any one accident. All liability insurance shall contain cross-liability endorsements to cover liabilities of the Unit Owners as a group to a Unit Owner. In the event the insurance effected by the Unit Owners Association on behalf of the Unit Owners and Occupants against liability for personal injury or property damage arising from or relating to the Condominium Project shall, for any reason, not fully cover any such liability, the amount of any deficit shall be a Common

expense to the Unit Owners, and any Unit Owner who shall have paid all or any portion of such deficiency in an amount exceeding his proportionate share thereof based on his percentage of interest in the COMMON ELEMENTS shall have a right of contribution from the other Unit Owners according to their respective percentages of interest in the COMMON ELEMENTS.

(iii) Premiums upon insurance policies purchased by the Unit Owners Association shall be paid by the Unit Owners Association at least thirty (30) days prior to the expiration date of such policies and shall be assessed as Common Expenses.

(iv) All insurance policies shall be written with a Company or Companies licensed to do business in the State of North Carolina and holding a rating of "A+AAAAA" or better in Best's Insurance Guide.

(v) Exclusive authority to negotiate losses under said policies shall be vested in the Board of Directors of the Unit Owners Association, or its authorized representative.

(vi) In no event shall the insurance coverage obtained and maintained pursuant to the requirements hereof be brought into contribution with insurance purchased by the Owners of the condominium units or their mortgagees, as herein permitted, and any "no other insurance" or similar clause in any policy obtained by the Unit Owners Association pursuant to the requirements hereof shall exclude such policies from consideration.

(vii) All policies shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days prior written notice to any and all insureds named thereon, including any and all mortgagees of the condominium units.

(viii) All policies of casualty insurance shall provide that, notwithstanding any provisions thereof which give the carrier the right to elect to restore damage in lieu of making a cash settlement, such option shall not be exercisable without the prior written approval of the Board of Directors of the Unit Owners Association (or any Insurance Trustee) or when in conflict with the provisions of this Declaration of Unit Ownership or the provisions of the North Carolina Unit Ownership Act as the same may be in force from time to time.

(ix) All policies of insurance shall contain a waiver of subrogation by the insurer as to any and all claims against the Unit Owners Association, the Board of Directors thereof, the Owner of any condominium Unit and/or their respective agents, employees or invitees, and of any defenses based upon co-insurance or invalidity arising from the acts of the insureds.

(B) Unit Owners Policies of Insurance.

The Owner of any Condominium Unit (including the holder of any mortgage thereon) may obtain additional insurance (including a "Condominium Unit Owner's Endorsement" for improvements and betterments to the condominium unit made or acquired at the expense of the owner) at his own expense. Such insurance shall be written by the same carrier as that purchased by the Board of Directors of the Unit Owners Association pursuant to the provisions hereof or shall provide that it shall be without contribution as against the same. Such insurance policy or policies shall contain the same waiver of subrogation provisions as that set forth in Paragraph 17 (A) (ix) hereof. The Grantor recommends that each owner of a Condominium Unit in the project obtain, in addition to the insurance hereinabove provided to be obtained by the Unit Owners Association, a "Tenant's Homeowners Policy," or equivalent, to insure against loss or damage to personal property used in or incidental to the occupancy of the Condominium Unit, additional living expense, vandalism or malicious mischief, theft, personal liability and the like. Such policy should include a "Condominium Unit-Owner's Endorsement" covering losses to improvements and betterments to the condominium unit made or acquired at the expense of the Owner.

(C) Responsibility for Reconstruction or Repair.

(1) If any portion of the Condominium Property shall be damaged by perils covered by the Casualty Insurance, the Unit Owners Association shall cause such damaged portion to be promptly reconstructed or repaired with the proceeds of insurance available for that purpose, if any, and such reconstruction or repair shall be substantially in accordance with the Drawings; provided, however, if such damage renders two-thirds (2/3) or more of the Units then comprised within the Condominium Property untenable, the Unit Owners may, by the vote of those entitled to exercise not less than seventy-five percent (75%) of the voting power, elect not to reconstruct or repair such damaged part at a meeting which shall be called within ninety (90) days after the occurrence of the casualty, or, if by such date the insurance loss has not been finally adjusted, then within thirty (30) days after such final adjustment, and upon any such election:

- (1) The Condominium Property shall be deemed to be owned as tenants in common by the Unit Owners;
- (2) The undivided interest in the property owned by the Unit Owners as tenants in common which shall appertain to each unit owner shall be the percentage of undivided interest previously owned by such owner in the COMMON ELEMENTS;

(3) Any liens affecting any of the Units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the Unit Owner in the property as provided herein; and

(4) The property shall be subject to an action for sale for partition at the suit of any Unit Owner, in which event the net proceeds of sale, together with the net proceeds of insurance policies, if any, shall be considered as one fund and shall be divided among all of the Unit Owners in proportion to their respective undivided ownership of the COMMON ELEMENTS, after first paying off, out of the respective shares of Unit Owners, to the extent sufficient for that purpose, all liens on the Unit of each Unit Owner. No Unit Owner, however, shall receive any portion of his share of such proceeds until all liens and encumbrances on his Unit have been paid, released or discharged.

(ii) In the event that the proceeds of insurance are not sufficient to repair damage or destruction by fire or other casualty, or in the event such damage or destruction is caused by any casualty not herein required to be insured against, then the repair or reconstruction of the damaged COMMON ELEMENTS shall be accomplished promptly by the Unit Owners Association at its Common Expense and the repair or reconstruction of any condominium unit shall be accomplished promptly by the Unit Owners Association at the expense of the Owner of the affected Condominium Unit. The ratable share of the expense of such repairs or reconstruction may be assessed and the lien for same shall have all the priorities provided for in this Declaration of Unit Ownership.

(D) Procedure for Reconstruction or Repair.

(1) Immediately after a casualty causing damage to any portion of the Condominium Property, the Unit Owners Association shall obtain reliable and detailed estimates of the cost to place the damaged property in condition as good as that before the casualty. Such costs may include professional fees and premiums for such bonds as the Board deems necessary.

(ii) If the proceeds of the Casualty Insurance are not sufficient to defray the estimated costs of reconstruction and repair by the Unit Owners Association (including the aforesaid fees and premiums, if any) one or more special assessments shall be made against all Unit Owners in sufficient amounts to provide funds for the payment of such costs, and the proceeds of such special assessments shall be deposited with the Board of Directors.

(iii) The proceeds of the Casualty Insurance referred to in Subsection (i) of Section A of this Paragraph 17 and the sums deposited with the Board of

Directors by the Unit Owners Association from collections of special assessments against Unit Owners on account of such casualty, shall constitute a construction fund which shall be disbursed to the Board of Directors and be applied by the Board of Directors to the payment of the cost of reconstruction and repair of the Condominium Property from time to time as the work progresses, but not more frequently than once in any calendar month. Said Board shall make such payments upon a certificate, dated not more than fifteen (15) days prior to such request, signed by a responsible officer of the Unit Owners Association and by an architect in charge of the work, who shall be selected by the Unit Owners Association, setting forth (1) that the sum then requested either has been paid by the Unit Owners Association or is justly due to contractors, subcontractors, materialmen, architects, or other persons who have rendered services or furnished materials in connection with the work, giving a brief description of the services and materials, and that the sum requested does not exceed the value of the services and materials described in the certificate, (2) that except for the amount stated in such certificate to be due as aforesaid and for work subsequently performed, there is no outstanding indebtedness known to the person signing such certificate after due inquiry which might become the basis of a vendor's, mechanic's, materialmen's or similar lien arising from such work, and (3) that the cost as estimated by the person signing such certificate of the work remaining to be done subsequent to the date of such certificate does not exceed the amount of the construction fund remaining in the hands of the Board of Directors after the payment of the sum so required. It shall be presumed that the first monies disbursed in payment of such costs of reconstruction and repair shall be from insurance proceeds; and if there is a balance in any construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be disbursed to the Unit Owners Association.

18. Water and Sewer Charges.

Water will be supplied to each of the Units and to the COMMON ELEMENTS through separate water meters. Each Unit Owner shall pay all charges for water and sewer services to his Unit. The Unit Owners Association, as a common expense, shall pay all charges for water and sewer services to the COMMON ELEMENTS. Any charges for water and sewer services to the entire project and not charged by the City of Raleigh to the individual Units shall also be paid by the Unit Owners Association. The Association shall have the right to grant any necessary easements, licenses or contract rights required by any governmental authority for the furnishing of such services.

19. Developer as Unit Owner.

So long as said Grantor, its successors and assigns, owns one or more of the Dwelling Units established and described herein, said Grantor, its successors and assigns shall be subject to the provisions of this Declaration of Unit Ownership and of the Schedules and Exhibits attached hereto; said Grantor covenants to take no action which would adversely affect the rights of the Unit Owners Association with respect to assurances against latent defects in the property or other right assigned to the Unit Owners Association, the members of such Unit Owners Association and their successors in interest, as their interests may appear, by reason of the establishment of the condominiums.

20. Additions to Condominium Property.

As Grantor completes future stages or phases of the Project, said stages or phases will become part of the Condominium Property by amendment to this Declaration and the Unit Owners of the Dwelling Units constructed on the future stages will become members of the ASSOCIATION, to the same extent as if their Units were originally a part of the Units covered by this Declaration. Grantor, therefore, hereby reserves the right at any time within a period of five (5) years, commencing on the date on which this Declaration is filed for record, that Grantor determines to take the action so contemplated (i) to submit from time to time stages or phases of the Project Property, together with the Buildings thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property existing for the common use of the Unit Owners to the provisions of this Declaration and the Unit Ownership Act, and (ii) to amend this Declaration, in the manner provided in Paragraph 21 hereof, in such respects as Grantor may deem advisable in order to effectuate such submission or submissions, including, without limiting the generality of the foregoing, the right to amend this Declaration so as (a) from time to time within said five (5) year period to include additional stages or phases of the Project Property and the improvements constructed thereon as part of the Condominium Property, (b) from time to time to include descriptions of Buildings constructed on said stages of the Project Property in this Declaration and to add Drawings thereof to Schedule "D" hereof, and (c) to provide that the owners of Units in all of the Buildings will have an interest in the COMMON ELEMENTS of the Condominium Property and to amend Paragraph 8, Section (C) hereof, and the schedules therein referred to, so as to establish the percentage of interest in the COMMON ELEMENTS which the owners of all Units within the Buildings on the Condominium Property will have at the time of such amendment or amendments, which percentage shall be, with respect to each Unit, in the proportion that the approximate fair market value of each Unit at the

date of said amendment is filed for record bears to the then aggregate approximate fair market value of all the Units within all of the Buildings on the Condominium Property, which determination shall be made solely by Grantor and shall be conclusive and binding upon all Unit Owners. Grantor expressly agrees, however, that there will not be constructed on the Condominium Property more than a total of ~~44~~⁷⁵ Dwelling Units, and that the buildings and Dwelling Units constructed in any subsequent phase shall be architecturally compatible with the existing buildings and Dwelling Units. Grantor, on its own behalf as the owner of all Units in the Condominium Property and on behalf of all subsequent Unit Owners, hereby consents and approves, and each Unit Owner and his mortgagees by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, thereby consents to and approves of, the provisions of this Paragraph 20, including, without limiting the generality of the foregoing, the amendment of this Declaration by Grantor in the manner provided in Paragraph 21 hereof, and all such Unit Owners and their mortgagees, upon request of Grantor, shall execute and deliver from time to time all such instruments and perform all such acts as may be deemed by Grantor to be necessary or proper to effectuate said provisions.

21. Amendment to Declaration.

Each Unit Owner and his respective mortgagees by acceptance of a deed conveying such Ownership Interest or a mortgage encumbering such Ownership Interest, as the case may be, hereby irrevocably appoints Grantor, his Attorney-in-Fact, coupled with an interest, and authorizes, directs and empowers such Attorney, at the option of the Attorney, in the event that Grantor exercises the rights reserved in Paragraph 20 hereof to add to the Condominium Property as therein provided, to execute, acknowledge and record for and in the name of such Unit Owner an amendment or amendments of this Declaration for such purpose and for and in the name of such respective mortgagees, a consent to such amendment or amendments. This Declaration may be amended upon the filing for record with the Register of Deeds of Wake County, North Carolina of an instrument in writing setting forth specifically the item or items to be amended and any new matter to be added, which instrument shall have been duly executed by Unit Owners having not less than seventy-five percent (75%) interest in the COMMON ELEMENTS, or in the case of an amendment for the purpose of adding to the Condominium Property pursuant to Paragraph 20 hereof, by Grantor acting as Attorney-in-Fact for all of the Unit Owners and their mortgagees as above provided, or in any other case where the Unit Ownership Act requires unanimous consent of the Unit Owners, by all of the Unit Owners. Such amendment must be executed with the same formalities as this instrument and must refer to the volume

and page in which this instrument and its attached schedules and exhibits are recorded and must contain an affidavit by the President of the Association or by an officer of the aforementioned Grantor, as the case may be, that a copy of the amendment has been mailed by certified mail to all mortgagees having bona fide liens of record against any Unit Ownership. Except as hereinabove provided with respect to amendments for the purpose of making additions to the Condominium Property as provided in Paragraph 20 hereof, no amendment shall have any effect, however, upon Grantor, the rights of Grantor under this Declaration and upon the rights of bona fide mortgagees until the written consent of Grantor and such mortgagees to such amendment has been secured. Such consents shall be retained by the Secretary of the Association or the Grantor, as the case may be, and his certification in the instrument of amendment as to the consent or non-consent of Grantor and the names of the consenting and non-consenting mortgagees of the various Units may be relied upon by all persons for all purposes.

22. Miscellaneous Provisions.

(A) Grantor to appoint initial Directors of Association. The initial Board of the Unit Owners Association shall consist of three (3) persons appointed by Grantor, who may be officers or employees of Grantor, and who need not be Unit Owners. They shall serve until the first meeting of the Unit Owners which shall be held at such time as is provided in the Bylaws. During their term in office, the three (3) man Board appointed by Grantor shall exercise the powers, rights, duties and functions of the Unit Owners Association and the Board, including without limitation the power to determine the amount of, and to levy special assessments and assessments for Common Expenses and to enter into a management agreement with such party and upon such terms and conditions as they may deem to be in the best interest of the Unit Owners Association.

(B) Notices of Mortgages. Any Unit Owner who mortgages his ownership interest or interest therein, shall notify the Unit Owners Association, in such manner as the Unit Owners Association may direct, of the name and address of his mortgagee and thereafter shall notify the Unit Owners Association of the payment, cancellation or other alteration in the status of such mortgages. The Unit Owners Association shall maintain such information in a book entitled "Mortgagees of Units."

(C) Copies of Notices to Mortgage Lender. Upon written request to the Board the holder of any duly recorded mortgage on any Ownership Interest or interest therein shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Unit Owner or Owners whose Ownership Interest or

(D) Covenants Running with the Land. Each grantee of the Grantor, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration of Unit Ownership, and all rights, benefits and privileges of every character hereby granted, treated, reserved, or declared, and all impositions and obligations hereby imposed shall be deemed to be covenants running with the land, and shall bind any person having at any time any interest or estate in said land, and shall inure to the benefit of such person in like manner as though the provisions of this Declaration of Unit Ownership were recited and stipulated at length in each and every deed of conveyance.

(E) Construction and Enforcement. The provisions hereof shall be liberally construed to effectuate the purpose of creating a uniform plan for the development and operation of a condominium project. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain or enjoin violation or to recover damages, or both, and against any condominium unit to enforce any lien created hereby; and the failure or forbearance by the Unit Owners Association of the owner of any condominium unit to enforce any covenant or restriction herein contained shall in no extent be deemed a waiver of the right to do so thereafter.

There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or any attempted violation or breach of any of the within covenants or restrictions cannot be adequately remedied by action at law or exclusively by recovery of damages.

(F) Termination. Upon the removal of the Condominium Property from the provisions of Unit Ownership Act, all assessments, covenants and other rights, benefits, provisions, privileges, impositions and obligations declared in this Declaration of Unit Ownership to run with the land or any ownership interest or interest therein shall terminate and be of no further force and effect.

(G) Waiver. No covenants, restrictions, conditions, obligations, or provisions contained in this Declaration of Unit Ownership shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

(H) Severability. The invalidity of any covenant, restriction, condition, limitation or any other provisions of this Declaration of Unit Ownership, or of any part of the same, shall not impair or affect in any manner the validity, enforceability

or affect the rest of this Declaration of Unit Ownership.

(I) Time Limits. If any of the privileges, covenants, or rights, created by this Declaration of Unit Ownership shall be unlawful or void for violation of (a) the rule against perpetuities or some analogous statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing time limits, then such provision shall continue only until twenty-one (21) years after the death of the survivor of the now living grandchildren of W. B. Nivison, President of the Grantor.

(J) Liability. Neither Grantor, nor any subsidiary of Grantor, nor any employee, agent, successor or assign of Grantor or any such subsidiary, shall be liable for any claim or damage whatsoever arising out of or by reason of any actions performed pursuant to or in accordance with any authority granted or delegated to them or any of them by or pursuant to this Declaration of Unit Ownership.

(K) Grantor's Contribution to Association. Immediately upon filing of this Declaration of Unit Ownership, Grantor shall make a non-returnable cash contribution to the Unit Owners Association in the amount of One Thousand Dollars (\$1,000.00). In consideration thereof, and notwithstanding anything contained in this Declaration of Unit Ownership to the contrary, Grantor shall be relieved from payment of any assessments for completely constructed units owned by Grantor for a period of two (2) full calendar months following the month in which any units owned by Grantor are submitted to condominium ownership under this Declaration of Unit Ownership and any amendments thereof and construction of said Unit shall be completed. Grantor shall pay the full Unit Owners Association monthly assessments for all units which Grantor continues to own after such two (2) full calendar month period. This provision is in recognition of the immediate need of the Unit Owners Association for working capital and the difficulty of prorating monthly Unit Owners Association assessments for units owned by Grantor pending transfer to unit purchasers.

(L) Loans to Association. In addition to the contribution required in K above, Grantor may at its discretion loan funds to the Unit Owners Association from time to time as required, which loans shall be repayable with interest at six percent (6%) per annum as funds are available, but in no event more than one (1) year from the date of advancement of funds.

(M) Service of Notices on the Board. W. B. Nivison, whose mailing address is 605 Transylvania Avenue, Raleigh, N. C. 27609, is hereby appointed agent for service of all notices required to be given to the Board or the Unit Owners Asso-

ciation. Any such notices may be delivered to W. B. Nivison, either personally or by certified mail, with postage prepaid, addressed to such agent. The Board may from time to time designate a substitute agent for service.

(N) Headings. The heading to each Paragraph and each Section hereof is inserted only as a matter of convenience for reference and in no way defines, limits or described the scope or intent of this Declaration of Unit Ownership nor in any way affects this Declaration of Unit Ownership.

23. Federal Home Loan Mortgage Corporation Regulations.

Notwithstanding anything to the contrary contained in this Declaration, or in the Articles of Incorporation or the Bylaws which are attached hereto, all terms, conditions and regulations which are now existing, or which may be amended from time to time, by the Federal Home Loan Mortgage Corporation pertaining to condominiums are hereby incorporated as terms and conditions of the Declarations and Bylaws and such shall be governing upon the Property, the Developer, and the Association of Unit Owners, so long as such terms or conditions are not inconsistent with the laws of the State of North Carolina, including, but not limited to, the North Carolina Unit Ownership Act.

24. City of Raleigh Code Provisions.

A. Pursuant to Section 20-4.4(B) and (C) of the Subdivision Standards Ordinance of the City of Raleigh, North Carolina, it is agreed that the City of Raleigh shall in no case be responsible for failing to provide any emergency or regular fire, police or other public service to developments or their occupants when such failure is due to lack of access to such areas, due to inadequate design or construction, blocking of access routes, or any other factor within the control of the Developer, Homeowners' Association, or occupants. This statement is placed herein pursuant to the requirements of Section 20-4.4(C) of the Subdivision Standards Ordinance of the City of Raleigh, North Carolina.

B. It is herewith agreed that this Declaration may not be amended unless either the City of Raleigh, City attorney's Office, has agreed to any proposed amendments, or, the City of Raleigh, City Attorney's Office, has received the proposed amendment by certified mail, return receipt requested, and has for a period of thirty (30) days after receipt, failed to respond negatively to the proposed amendment.

IN WITNESS WHEREOF, the undersigned, DIXIE DEVELOPMENT COMPANY, a North Carolina corporation, Grantor hereof, has caused this Declaration of Unit Ownership to be executed by its President, its corporate seal hereunto affixed, and

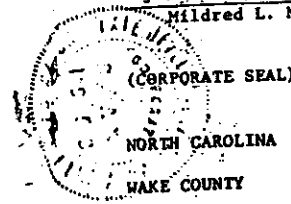
attested by its Secretary, by order of its Board of Directors, this the day and year first above written.

DIXIE DEVELOPMENT COMPANY

By W. B. Nivison
W. B. Nivison, President

ATTEST:

Mildred L. Nivison
Mildred L. Nivison, Secretary

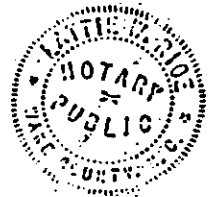


I, the undersigned Notary Public in and for the aforesaid State and County, certify that W. B. Nivison personally came before me this day and acknowledged that he is President of Dixie Development Company, a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by its Secretary.

Witness my hand and notarial seal, this 24th day of Feb, 1980.

My commission expires: 12 28 84

Fattie W. Rice
Notary Public



NORTH CAROLINA - WAKE COUNTY
The foregoing certificate of Fattie W. Rice

Notary Public is certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

By Alice J. Dean
-Deputy Register of Deeds

B. B. McKENZIE, JR., Register of Deeds

SCHEDULE "A"

TO DECLARATION OF UNIT OWNERSHIP FOR OAKS OF AVENT FERRY
CONDOMINIUM DATED THE 28th DAY OF February, 1980

A certain tract of land located in the City of Raleigh, Wake
County, North Carolina, and more particularly described as follows:

BEGINNING at a point in the center line of Avent Ferry Road,
said point being the Northeast corner of a tract of land known as
Lake Johnson Mews (or said point being the point of intersection of
the center line of said road and an extension in a northerly direction
of the eastern line of said property), and runs thence with the
center line of said road as follows: North 56° 26' 22" East 33.35 feet,
North 56° 26' 38" East 470.55 feet and then in a curve to the right
(said curve having a radius of 572.95 feet) 133.40 feet to a point in
said center line; thence leaving said center line South 22° 10' 38"
East 737.15 feet to a point; thence South 43° 6' 00" West with the
northerly line of property owned by the City of Raleigh 818.46 feet
to a corner of the Lake Johnson Mews property; thence North 15° 18' 00"
West 976.13 feet to the point of Beginning; being all of that property
shown on a map entitled The Oaks of Avent Ferry prepared by "Capitolandesign,"
~~dated 1980, and recorded in Book of Maps 1980, page 409,~~
in the office of the Register of Deeds of Wake County, North Carolina.

SCHEDULE "B-1"

TO DECLARATION OF UNIT OWNERSHIP FOR OAKS OF AVENT FERRY
CONDOMINIUM DATED THE 28th DAY OF February, 1980

PHASE I PROPERTY

A certain tract of land located in the City of Raleigh,
Wake County, North Carolina, and more particularly described as follows:

BEGINNING at a point in the center line of Avent Ferry Road,
said point being the Northeast corner of a tract of land known as Lake
Johnson Mews (or said point being the point of intersection of the
center line of said road and an extension in a northerly direction
of the eastern line of said property), and runs thence with the
center line of said road North 56° 26' 22" East 33.35 feet to a
point; thence continuing with said center line North 56° 26' 38" East
287.0 feet to a point, the Northwest corner of Phase IV according to
the map hereinafter referred to; thence South 10° 16' 26" East with
the western line of Phase IV 307.21 feet to a point; thence South 55°
55' West 292.91 feet to a point; thence North 15° 18' West 300 feet
to the point of Beginning; being all of Phase I as shown on a map
entitled The Oaks of Avent Ferry prepared by "Capitolandesign," dated
~~1980, and recorded in Book of Maps 1980, page 409,~~
in the office of the Register of Deeds of Wake County, North Carolina.

SCHEDULE "B-2"

TO DECLARATION OF UNIT OWNERSHIP FOR OAKS OF AVENT FERRY
CONDOMINIUM DATED THE 21st DAY OF February, 1980

PHASE II PROPERTY

A certain tract of land located in the City of Raleigh,
Wake County, North Carolina, and more particularly described as
follows:

BEGINNING at a point in the eastern line of a certain tract
of land known as Lake Johnson Mews, said point being the southwest
corner of Phase I according to the map hereinafter referred to, and
runs thence North 55° 55' East 292.91 feet to a point in the
western line of Phase IV; thence South 10° 16' 26" East 180.0 feet
to a point; thence South 87° 18' East 55.0 feet to a point, a corner
of Phase III; thence South 5° 28' 29" East 299.50 feet to a point;
thence South 46° 54' East 100 feet to a point in the northern line
of the property of the City of Raleigh; thence South 43° 06' West
370 feet to a point; thence North 15° 18' West 676.13 feet to the
point of Beginning; being all of Phase II as shown on a map entitled
The Oaks of Avent Ferry prepared by "capitolandesign," dated
_____ 1980, and recorded in Book of Maps _____, page _____, in
the office of the Register of Deeds of Wake County, North Carolina.

SCHEDULE "B-3"

TO DECLARATION OF UNIT OWNERSHIP FOR OAKS OF AVENT FERRY
CONDOMINIUM DATED THE 21st DAY OF February, 1980

PHASE III PROPERTY

A certain tract of land located in the City of Raleigh,
Wake County, North Carolina, and more particularly described as
follows:

BEGINNING at a point in the western line of certain lands
known as the Harrell lands, said point also being a corner of
Phase IV according to the map hereinafter referred to, and runs
thence South 22° 10' 38" East 422.15 feet to a point in the
northern line of certain lands owned by the City of Raleigh;
thence South 43° 06' West 448.46 feet to a point, a corner of
Phase II; thence North 46° 54' West 100 feet to a point; thence
North 5° 28' 29" West 299.50 feet to a point, a corner of Phase
IV; thence North 74° 42' East 165 feet to a point; thence North
16° 12' East 321.15 feet to the point of Beginning; being all of
Phase III according to a map entitled The Oaks of Avent Ferry pre-
pared by "capitolandesign," dated _____ 1980, and recorded
in Book of Maps _____, page _____, in the office of the Register of
Deeds of Wake County, North Carolina.

SCHEDULE "B-4"

DECLARATION OF UNIT OWNERSHIP FOR OAKS OF AVENT FERRY CONDOMINIUM DATED THE 28th DAY OF February, 1980

PHASE IV PROPERTY

A certain tract of land located in the City of Raleigh, Wake County, North Carolina, and more particularly described as follows:

BEGINNING at a point in the center line of the Avent Ferry Road, said point being the Northeast corner of Phase I according to the map hereinafter referred to, and runs thence with the center line of said road North 56° 26' 38" East 183.55 feet to a point; thence continuing with said center line around a curve to the right (said curve having a radius of 572.95 feet) 133.40 feet to a point; thence South 22° 10' 38" East with the western line of the Harrell lands 315.0 feet to a point, the northernmost corner of Phase III; thence South 16° 12' West 321.15 feet to a point; thence South 74° 42' West 165.0 feet to a point, a corner of Phase II; thence North 87° 18' West 55.0 feet to a point; thence North 10° 16' 26" West 487.21 feet to the point of Beginning; being all of Phase IV according to a map entitled The Oaks of Avent Ferry prepared by "capitolandesign," dated _____, 1980, and recorded in Book of Maps _____, page _____, in the office of the Register of Deeds of Wake County, North Carolina.

SCHEDULE "C"

TO DECLARATION OF UNIT OWNERSHIP FOR OAKS OF AVENT FERRY DATED THE 28th DAY OF February, 1980

BYLAWS OF THE OAKS OF AVENT FERRY CONDOMINIUM ASSOCIATION

ARTICLE I

THE ASSOCIATION

Section 1. Name and Nature of Association. The Association shall be an unincorporated association and shall be called "The Oaks of Avent Ferry Condominium Association." The business and property of Oaks of Avent Ferry shall be managed and directed by the Board of Directors of the Association.

Section 2. Membership. Each Unit Owner upon acquisition of an Ownership Interest in a Unit, shall automatically become a member of the Association. Such membership shall terminate upon the sale or other disposition of such Unit Owner of his Ownership Interest, at which time the new Unit Owner shall automatically become a member of the Association.

Section 3. Voting Rights. Each member owning the entire Ownership Interest in a Unit shall be entitled to exercise that percentage of the total voting power of the Association which is equivalent to the percentage of interest of such member's Unit in the Common Areas and facilities (herein as "Common Elements"). If two or more persons, whether fiduciaries, tenants in common, tenants by the entirety or otherwise, own an interest in the Ownership Interest in a Unit, there shall be designated one person with respect to such Ownership Interest who shall be entitled to vote at any meeting of the Association. Such person is sometimes hereinafter referred to as "the voting member." Such voting member may be one of the group composed of all of the owners of the Ownership Interest in a Unit or may be some other person designated by such owners to act as proxy on their behalf. Such designation shall be in writing to the Board and shall be revocable at any time by actual notice to the Board by the Owners.

Section 4. Proxies. Members may vote or act in person or by proxy. The person appointed as proxy need not be a member of the Association. Designation by a member or members of a proxy to vote or act on his or their behalf shall be made in writing to the Board and shall be revocable at any time by actual notice

to the Board by the member or members making such designation. Notice to the Board in writing or in open meeting of the revocation of the designation of a proxy shall not affect any vote or act previously taken or authorized.

Section 5. Meetings of Members.

A. Annual Meeting. The annual meeting of members of the Association for the election of members of the Board, the consideration of reports to be laid before such meeting, and the transaction of such other business as may properly be brought before such meeting shall be held at the office of the Association, or at such other place upon or in close proximity to the Condominium Property as may be designated by the Board and specified in the notice of such meeting, at 8:00 o'clock p.m., or at such other time as may be designated by the Board and specified in the notice of such meeting. The first annual meeting of members of the Association shall be held on February 9, 1981, and successive annual meetings of members of the Association shall be held on the second Monday of each February thereafter, if not a legal holiday and, if a legal holiday, then on the next succeeding business day.

B. Special Meeting. Special meetings of the members shall be called upon the written request of the President of the Association or, in case of the President's absence, death or disability, the Vice President of the Association authorized to exercise the authority of the President, the Board by action at a meeting, or a majority of the members acting without a meeting, or of members entitled to exercise at least twenty-five percent (25%) of the voting power. Calls for such meetings shall specify the time, place and purpose thereof. No business other than that specified in the call shall be considered at any special meeting.

C. Notices of Meetings. On a day not less than seven (7) nor more than sixty (60) days before the day fixed for a meeting of the members of the Association, written notice stating the time, place and purpose of such meeting shall be given to members of the Association by or at the direction of the Secretary of the Association or by any other person or persons required or permitted by these Bylaws to give such notice. The notice shall be given by personal delivery or by mail to each member of the Association. If

mailed, the notice shall be addressed to the members of the Association at their respective addresses as they appear on the records of the Association. Notice of the time, place and purposes of any meeting of members of the Association may be waived in writing, either before or after the holding of such meeting, by any member of the Association, which writing shall be filed with or entered upon the records of the meeting. The attendance of any member of the Association at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting.

D. Quorum; Adjournment. At any meeting of the members of the Association the members of the Association entitled to exercise a majority of the voting power of the Association present in person or by proxy shall constitute a quorum for such meeting; provided, however, that no action required by law, by the Declaration, or by these Bylaws to be authorized or taken by a designated percentage of the voting power of the Association may be authorized or taken by a lesser percentage; and provided, further, that the members of the Association entitled to exercise a majority of the voting power represented at a meeting of members, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting.

E. Order of Business. The order of business at all meetings of members of the Association shall be as follows:

- (1) Calling of meeting to order
- (2) Proof of notice of meeting or waiver of notice
- (3) Reading of minutes of preceding meeting
- (4) Reports of officers
- (5) Reports of committees
- (6) Election of Inspectors of election
- (7) Election of members of Board
- (8) Unfinished and/or old business
- (9) New business
- (10) Adjournment

Section 6. Actions Without a Meeting. All actions, except removal of a Board member, which may be taken at a meeting of the Association, may be taken without a meeting with the approval of, and in a writing or writings signed by

members of the Association having the percentage of voting power required to take such action if the same were taken at a meeting. Such writings shall be filed with the Secretary of the Association.

ARTICLE II

BOARD OF DIRECTORS

Section 1. Number and Qualification. Except as provided in Section 11 of this Article II, the Board shall consist of not less than three nor more than seven persons, and all persons nominated or elected to the Board shall be a Unit Owner and Occupant, officers of a corporation owning an individual condominium unit or a partner in a partnership owning an individual condominium parcel.

Section 2. Election of Board; Vacancies. Board members shall be elected at the annual meeting of members of the Association or at a special meeting called for such purpose. At a meeting of members of the Association at which Board members are to be elected, only persons nominated as candidates shall be eligible for election as Board members and the candidates receiving the greatest number of votes shall be elected. In the event of the occurrence of any vacancy or vacancies in the Board, however caused, the remaining Board members, though less than a majority of the whole authorized number of Board members, may, by vote of a majority of their number, fill any such vacancy for the unexpired term.

Section 3. Term of Office; Resignations. Each Board member shall hold office for the term stated below or until his successor is elected, or until his earlier resignation, removal from office or death. Any Board member may resign at any time by oral statement to that effect made at a meeting of the Board or in a writing to that effect delivered to the Secretary of the Association, such resignation to take effect immediately or at such other time as the Board member may specify. Members of the Board shall serve without compensation. At the first annual meeting of the members of the Association, the term of office of three Board members shall be two (2) years and the term of office of the remaining Board members, if any, shall be one (1) year. At the expiration of such initial term of office of each respective Board member, his successor shall be elected to serve for a term of two (2) years.

Section 4. Organization Meeting. Immediately after each annual meeting

of members of the Association, the newly elected Board members and those Board members whose terms hold over shall hold an organizational meeting for the purpose of electing officers and transacting any other business. Notice of such meeting need not be given.

Section 5. Regular Meetings. Regular meetings of the Board may be held at such times and places as shall be determined by a majority of the Board, but at least four such meetings shall be held during each fiscal year.

Section 6. Special Meetings. Special meetings of the Board may be held at any time upon call by the President or any two (2) Board members. Written notice of the time and place of each such meeting shall be given to each Board member either by personal delivery or by mail, telegram or telephone at least two (2) days before the meeting, which notice need not specify the purpose of the meeting; provided, however, that attendance of any Board member at any such meeting without protesting, prior to or at the commencement of the meeting, the lack of proper notice shall be deemed to be a waiver by him of notice of such meeting, and such notice may be waived in writing either before or after the holding of such meeting, by any Board member, which writing shall be filed with or entered upon the records of the meeting. Unless otherwise indicated in the notice thereof, any business may be transacted at any organization, regular or special meeting.

Section 7. Quorum; Adjournment. A quorum of the Board shall consist of a majority of the Board members then in office; provided that a majority of the Board members present at a meeting duly held, whether or not a quorum is present, may adjourn such meeting from time to time. If any meeting is adjourned, notice of such adjournment need not be given if the time and place to which such meeting is adjourned are fixed and announced at such meeting. At each meeting of the Board at which a quorum is present, all questions and business shall be determined by a majority vote of those present, except as may be otherwise expressly provided in the Declaration or in these Bylaws.

Section 8. Powers and Duties. Except as otherwise provided by law, the Declaration or these Bylaws, all power and authority of the Association shall be exercised by the Board. In carrying out the purposes of the Condominium Property and subject to the limitations prescribed by law, the Declaration or these Bylaws, the Board, for and on behalf of the Association may

A. purchase or otherwise acquire, lease as lessee, hold, use, lease as lessor, sell, exchange, transfer, and dispose of property of any description or any interest therein;

B. make contracts;

C. effect insurance;

D. borrow money, and issue, sell, and pledge notes, bonds, and other evidences of indebtedness of the Association;

E. levy assessments, against Unit Owners;

F. employ a managing agent to perform such duties and services as the Board may authorize;

G. employ lawyers and accountants to perform such legal and accounting services as the Board may authorize; and

H. do all things permitted by law and exercise all power and authority within the purposes stated in these Bylaws, or the Declaration or incidental thereto.

Section 9. Removal of Members of the Board. Except for Board members appointed pursuant to Section 11 of this Article II, any regular or special meeting of members of the Association duly called, at which a quorum shall be present, any one or more of the Board members may be removed with or without cause by the vote of the members of the Association entitled to exercise at least seventy-five per cent (75%) of the voting power of the Association, and a successor or successors to such Board member or members so removed shall then and there be elected to fill the vacancy or vacancies thus created. Any Board member whose removal has been proposed by the members of the Association shall be given an opportunity to be heard at such meeting.

Section 10. Fidelity Bonds. The Board may require that any officer or employee of the Association handling or responsible for Association funds shall furnish adequate Fidelity Bonds. The premiums of such bonds shall be paid by the Association and shall be a Common Expense.

Section 11. Initial Board. From time of formation until the first annual meeting of members on February 9, 1981, the Board shall consist of three persons appointed by Dixie Development Company, a North Carolina

corporation ("Grantor"). These persons may be employees of Grantor and need not own or occupy a Unit. Until these three persons are replaced by elected Board members, at the first annual meeting on February 9, 1981, they shall constitute the Board of Directors and exercise all powers and duties granted to the Board of Directors in these Bylaws. They are further specifically authorized to enter into a management agreement with such party and upon such terms and conditions as they may deem to be in the best interest of the Association.

ARTICLE III

OFFICERS

Section 1. Election and Designation of Officers. The Board shall elect a President, a Vice President, a Secretary and a Treasurer, each of whom shall be a member of the Board. The Board may also appoint an Assistant Treasurer and Assistant Secretary and such other officers as in their judgment may be necessary who may or may not be members of the Board but who are members of the Association.

Section 2. Term of Office: Vacancies. The officers of the Association shall hold office until the next organizational meeting of the Board and until their successors are elected, except in cases of resignation, removal from office or death. The Board may remove any officer at any time with or without cause by a majority vote of the Board members then in office. Any vacancy in any office may be filled by the Board.

Section 3. President. The President shall be the chief executive officer of the Association. He shall preside at all meetings of members of the Association and shall preside at all meetings of the Board. Subject to directions of the Board, the President shall have general executive supervision over the business and affairs of the Association. He may execute all authorized deeds, contracts and other obligations of the Association and shall have such other authority and shall perform such other duties as may be determined by the Board or otherwise be provided for in the Declaration or in these Bylaws.

Section 4. Vice President. The Vice President shall perform the duties of the President whenever the President is unable to act and shall have such other authority and perform such other duties as may be determined by the Board.

Section 5. Secretary. The Secretary shall keep the minutes of meetings of the members of the Association and of the Board. He shall keep such books as may be required by the Board, shall give notices of meetings of members of the Association and of the Board required by law, the Declaration or by these Bylaws, and shall have such authority and shall perform such other duties as may be determined by the Board or otherwise be provided for in the Declaration or in these Bylaws.

Section 6. Treasurer. The Treasurer shall receive and have in charge all money, bills, notes and similar property belonging to the Association, and shall do with the same as may be directed by the Board. He shall keep accurate financial accounts and hold the same open for the inspection and examination of the Board and shall have such authority and shall perform such other duties as may be determined by the Board.

Section 7. Other Officers. The Assistant Secretaries and Assistant Treasurers, if any, and any other officers whom the Board may appoint shall, respectively, have such authority and perform such duties as may be determined by the Board.

Section 8. Delegation of Authority and Duties. The Board is authorized to delegate the authority and duties of any officer to any other officer and generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

ARTICLE IV

GENERAL POWERS OF THE ASSOCIATION

Section 1. Common Expenses. The Association, for the benefit of all the Unit Owners, shall pay all Common Expenses arising with respect to, or in connection with, the Condominium Property, including, without limitation, the following:

A. Utility Service for Common Areas and Facilities. The cost of water, waste removal, electricity, telephone, heat, power or any other utility service for the Common Elements and, to the extent that the same are not separately metered or billed to each Condominium Unit, for the Condominium Units,

excluding the Limited Common Areas and Facilities (herein as Limited Common Elements). Upon determination by the Board that any Unit Owner is using excessive amounts of any utility services which are Common Expenses, the Association shall have the right to levy special assessments against such Unit Owner to reimburse the Association for the expense incurred as a result of such excessive use;

B. Casualty Insurance. The premium upon a policy or policies of Casualty Insurance insuring the Common Elements, with extended coverage, vandalism and malicious mischief endorsements, as provided in the Declaration, the amount of which insurance shall be reviewed annually;

C. Liability Insurance. The premium upon a policy or policies insuring the Association, the members of the Board, the Unit Owners and the Occupants against liability for personal injury, disease, illness or death or for injury to or destruction of property occurring upon, in or about, or arising from or relating to the Common Elements, as provided in the Declaration, the limits of which policy shall be reviewed annually;

D. Workmen's Compensation. Workmen's compensation insurance to the extent necessary to comply with any applicable laws;

E. Wages and Fees for Services. The wages and/or fees for services of any person or firm employed by the Association, including, without limitation, the services of a person or firm to act as a manager or managing agent for the Condominium Property, the services of any person or persons required for the maintenance or operation of the Condominium Property (including a recreation director, if any), and legal and/or accounting services necessary or proper in the operation of the Condominium Property or the enforcement of the Declaration and these Bylaws and for the organization, operation and enforcement of the rights of the Association;

F. Care of Common Areas and Facilities (the Common Elements). The cost of landscaping, gardening, snow removal, painting, cleaning, tuckpointing, maintaining, decorating, repairing and replacing of the Common Elements, excluding the Limited Common Elements.

G. Additional Expenses. The cost of any materials, supplies, furniture, labor, services, maintenance, repairs, replacements, structural alterations and insurance, which the Association is required to secure or pay for pursuant to the

terms of the Declaration and these Bylaws or by law or which the Association deems necessary or proper for the maintenance and operation of the Condominium Property as a first class Condominium Project or for the enforcement of the Declaration and these Bylaws;

H. Discharge of Mechanic's Liens. Any amount necessary to discharge any mechanic's lien or other encumbrance which may in the opinion of the Association constitute a lien against the Condominium Property or against the Common Elements, rather than merely against the interests therein of such Unit Owner responsible for the existence of such lien or encumbrances provided, however, that the Association shall levy a special assessment against such Unit Owner to recover the amount expended in discharging such lien or encumbrance.

I. Certain Maintenance of Units. The cost of the maintenance and repair of the Limited Common Elements and of any Unit, if such maintenance or repair is necessary, in the discretion of the Association, to prevent damage to or destruction of any part of the Common Elements, or any other Unit, and the Unit Owner having the exclusive right to use such Limited Common Elements or owning such Unit requiring such maintenance or repair shall have failed or refused to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair delivered by the Association to said Unit Owner; provided, however, that the Association shall levy a special assessment against such Unit Owner to recover the amount expended for such maintenance or repair.

J. Exemption of Units Owned by Grantor. Notwithstanding anything in these Bylaws to the contrary, Grantor's responsibility to pay assessments for Units owned by Grantor shall be subject to the provisions of Section 22K of the Declaration.

K. Taxes and Assessments. All ad valorem taxes and local governmental assessments.

L. All invoices, vouchers, bills or other requests for payment from Association funds, together with payment vouchers therefor, must be approved in writing by the President or Treasurer of the Association prior to payment.

Section 2. Association's Right to Enter Units. The Association or its agents may enter any Unit or portion of the Limited Common Elements when

necessary in connection with any maintenance, repair or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the Unit Owner as practicable, and any damage caused thereby shall be repaired by the Association. The Association reserves the right to retain a pass key to each Unit and no locks or other devices shall be placed on the doors to the Units to obstruct entry through the use of such pass key. In the event of any emergency originating in or threatening any Unit at a time when required alterations or repairs are scheduled, the managing agent or his representative or any other person designated by the Board may enter the Unit immediately, whether the Unit Owner is present or not.

Section 3. Capital Additions and Improvements. Whenever in the judgment of the Board the Common Elements shall require additions, alterations or improvements (as opposed to maintenance, repair and replacement) costing in excess of Five Thousand Dollars (\$5,000.00) and the making of such additions, alterations or improvements shall have been approved by Unit Owners entitled to exercise not less than a majority of the voting power, the Board shall proceed with such additions, alterations or improvements and shall assess all Unit Owners for the cost thereof as a Common Expense. Any additions, alterations or improvements costing Five Thousand Dollars (\$5,000.00) or less may be made by the Board without approval of the Unit Owners, and the cost thereof shall constitute a Common Expense.

Section 4. Rules and Regulations. The Association, by vote of the members entitled to exercise a majority of the voting power of the Association, or the Board, may adopt such reasonable Rules and from time to time amend the same as it or they may deem advisable for the maintenance, conservation and beautification of the Condominium Property, and for the health, comfort, safety and general welfare of the Unit Owners and Occupants. Written notice of such Rules shall be given to all Unit Owners and Occupants and the Condominium Property shall at all times be maintained subject to such Rules. In the event such Rules shall conflict with any provisions of this Declaration or of these Bylaws, the provisions of this Declaration and of these Bylaws shall govern.

Section 5. Special Services. The Association may arrange for special services and facilities for the benefit of such Unit Owners and Occupants as may

desire to pay for the same, including, without limitation, the cleaning, repair and maintenance of Units and special recreational, educational or medical facilities. The cost of any such special services or facilities shall be determined by the Association and may be charged directly to participating Unit Owners as a special assessment or paid by the Association as a Common Expense, in which case a special assessment shall be levied against such participating Unit Owners to reimburse the Association therefor.

Section 6. Delegation of Duties. Nothing herein contained shall be construed so as to preclude the Association, through its Board and officers, from delegating in accordance with the Declaration, to persons, firms or corporations, including any manager or managing agent, such duties and responsibilities of the Association as the Board shall from time to time specify, and to provide for reasonable compensation for the performance of such duties and responsibilities.

ARTICLE V

FINANCES OF ASSOCIATION

Section 1. Preparation of Estimated Budget. Each year on or before December 1st, the Association shall estimate the total amount necessary to pay all the Common Expenses for the next calendar year together with a reasonable amount considered by the Association to be necessary for a reserve for contingencies and replacements, and shall on or before December 15th notify each Unit Owner in writing as to the amount of such estimate, with reasonable itemizations thereof. The "estimated cash requirement" shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements. On or before January 1st of the ensuing year, and the 1st of each and every month of said year, each Unit Owner shall be obligated to pay to the Association as it may direct one-twelfth (1/12th) of the assessment made pursuant to this Section. On or before the date of each annual meeting, the Association shall supply to all Unit Owners an itemized accounting of the Common Expenses for the preceding calendar year actually incurred and paid together with a tabulation of the amounts collected pursuant to the estimates provided, and showing the net amount over or short of the actual expenditures plus reserves. Any amount accumulated in excess of the amount required for actual expenses and reserves shall be credited according

to each Unit Owner's percentage of ownership in the Common Elements to the next monthly installments due from Unit Owners under the current year's estimate, until exhausted, and any net shortage shall be added according to each Unit Owner's percentage of ownership in the Common Elements to the installments due in the succeeding six months after rendering the accounting.

Section 2. Reserve for Contingencies and Replacements. The Association shall build up and maintain a reasonable reserve for contingencies and replacements. Extraordinary expenditures not originally included in the annual estimate which may be necessary for the year, shall be charged first against such reserve. If said estimated cash requirement proves inadequate for any reason, including non-payment of any Unit Owner's assessment, such extraordinary expenditures shall be assessed to the Unit Owners according to each Unit Owner's percentage of ownership in the Common Elements. The Association shall serve notice of such further assessment on all Unit Owners by a statement in writing giving the amount and reasons therefor, and such further assessment shall be payable with the next regular monthly payment becoming due to the Association not less than ten (10) days after the delivery or mailing of such notice of further assessment. All Unit Owners shall be obligated to pay the adjusted monthly amount.

Section 3. Budget for First Year. The budget for the remainder of the calendar year 1980 and for the calendar years 1981 and 1982 shall be determined by the Board appointed by Grantor.

Section 4. Failure to Prepare Annual Budget. The failure or delay of the Board to prepare or deliver to the Unit Owners the annual or adjusted estimate shall not constitute a waiver or release in any manner of such Unit Owners' obligation to pay the maintenance costs and necessary reserves, as herein provided, whenever the same shall be determined, and in the absence of any annual estimate or adjusted estimate, the Unit Owner shall continue to pay the monthly maintenance charge at the existing monthly rate established for the previous period until the monthly maintenance payment which is due more than ten (10) days after such new annual or adjusted estimate shall have been mailed or delivered.

Section 5. Books and Records of Association. The Association shall keep full and correct books of account and the same shall be open for inspection by any

Unit Owner or his representative duly authorized in writing, at such reasonable time or times during normal business hours as may be requested by such Unit Owner. Upon ten (10) days notice to the Board and payment of a reasonable fee, any Unit Owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such Unit Owner.

Section 6. Status of Funds Collected by Association. All funds collected hereunder shall be held and expended solely for the purposes designated herein, and (except for such special assessments as may be levied hereunder against less than all of the Unit Owners, and for such adjustments as may be required to reflect delinquent or prepaid assessments) shall be deemed to be held for the use, benefit and account of all of the Unit Owners in proportion to each Unit Owner's percentage ownership in the Common Elements.

Section 7. Annual Audit. The books of the Association shall be audited once a year by the Board and such audit shall be completed prior to each annual meeting. In addition, an outside audit shall be made at least once during each calendar year.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Indemnification of Board Members and Officers. Each Board member and officer of the Association, and each former Board member and officer of the Association, shall be indemnified by the Association against the costs and expenses reasonably incurred by him in connection with the defense of any pending or threatened action, suit or proceeding, criminal or civil, to which he is or may be made a party by reason of his being or having been such Board member or officer of the Association (whether or not he is a Board member or officer at the time of incurring such costs and expenses), except with respect to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for misconduct or negligence in the performance of his duty as such Board member or officer. In case of the settlement of any action, suit or proceeding to which any Board member or officer of the Association, or any former Board member or officer of the Association, is made a party or which may be threatened to be brought

against him by reason of his being or having been a Board member or officer of the Association, he shall be indemnified by the Association against the costs and expenses (including the cost of settlement) reasonably incurred by him in connection with such action, suit or proceeding (whether or not he is a Board member or officer at the time of incurring such costs and expenses), if (A) the Association shall be advised by independent counsel that such Board member or officer did not misconduct himself or was not negligent in the performance of his duty as such Board member or officer with respect to the matters covered by such action, suit or proceeding, and the cost to the Association of indemnifying such Board member or officer (and all other Board members and officers, if any, entitled to indemnification hereunder in such case) if such action, suit or proceeding were carried to a final adjudication in their favor could reasonably be expected to exceed the amount of costs and expenses to be reimbursed to such Board members and officers as a result of such settlement, or (B) disinterested Association members entitled to exercise a majority of the voting power shall, by vote at any annual or special meeting of the Association, approve such settlement and the reimbursement to such Board member or officer of such costs and expenses. The phrase "disinterested members" shall mean all members of the Association other than (i) any Board member or officer of the Association who at the time is or may be entitled to indemnification pursuant to the foregoing provisions, (ii) any corporation or organization of which any such Board member or officer owns of record or beneficially ten percent (10%) or more of any class of voting securities, (iii) any firm of which such Board member or officer is a partner, and (iv) any spouse, child, parent, brother or sister of any such Board member or officer. The foregoing rights of indemnification shall inure to the benefit of the heirs and legal representatives of each such Board member or officer, and shall not be exclusive of other rights to which any Board member or officer may be entitled as a matter of law or under the Declaration, any vote of Association members or any agreement.

Section 2. Amendments. Provisions of these Bylaws may be amended by the Unit Owners at a meeting held for such purpose by the affirmative vote of those entitled to exercise not less than seventy-five per cent (75%) of the voting

SCHEDULE "D"

(SITE PLAN OF PROJECT RECORDED IN BOOK OF MAPS
1980, PAGE 409, WAKE COUNTY REGISTRY. SEE ALSO
CONDOMINIUM FILE NO. 14, OF SAID REGISTRY.)

power. Any such amendment shall not be effective until it is set forth in an Amendment to the Declaration, duly recorded, as required under Chapter 47-A of the North Carolina General Statutes (the Unit Ownership Act). No such amendment shall conflict with the provisions of the Declaration or of the Unit Ownership Act. All Unit Owners shall be bound by an amendment upon the same being passed and duly set forth in an amended declaration duly recorded.

Section 3. Definitions. The terms used in these Bylaws (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of these Bylaws and of any amendment hereto shall have the respective meanings specified in Article III of the Declaration.

SCHEDULE "E"

TO DECLARATION OF UNIT OWNERSHIP FOR OAKS OF AVENT FERRY
 CONDOMINIUM DATED THE ____ DAY OF _____, 1980 (See notes
 below for explanation of columns (a), (b), (c) and (d).)

Building	Unit	Dwelling Unit Type	Percentage of Undivided Interest in Common Elements			
			(a)	(b)	(c)	(d)
			Phase I	Phases I & II	Phases I, II & III	Phases I, II, III & IV
A	1	Canary	9.6%	2.76%	1.76%	1.32%
	2	Cardinal	10.4	2.99	1.90	1.43
	3	Bluebird	9.6	2.76	1.76	1.32
	4	Cardinal	10.4	2.99	1.90	1.43
	5	Canary	9.6	2.76	1.76	1.32
B	1	Canary	9.6	2.76	1.76	1.32
	2	Cardinal	10.4	2.99	1.90	1.43
	3	Cardinal	10.4	2.99	1.90	1.43
	4	Cardinal	10.4	2.99	1.90	1.43
	5	Canary	9.6	2.76	1.76	1.32
C	1	Canary		2.76	1.76	1.32
	2	Cardinal		2.99	1.90	1.43
	3	Bluebird		2.76	1.76	1.32
	4	Cardinal		2.99	1.90	1.43
	5	Canary		2.76	1.76	1.32
D	1	Canary		2.76	1.76	1.32
	2	Cardinal		2.99	1.90	1.43
	3	Canary		2.76	1.76	1.32
	4	Cardinal		2.99	1.90	1.43
	5	Canary		2.76	1.76	1.32
E	1	Canary		2.76	1.76	1.32
	2	Cardinal		2.99	1.90	1.43
	3	Canary		2.76	1.76	1.32
	4	Cardinal		2.99	1.90	1.43
	5	Canary		2.76	1.76	1.32
F	1	Canary		2.76	1.76	1.32
	2	Cardinal		2.99	1.90	1.43
	3	Canary		2.76	1.76	1.32
	4	Cardinal		2.99	1.90	1.43
	5	Canary		2.76	1.76	1.32
G	1	Canary		2.76	1.76	1.32
	2	Cardinal		2.99	1.90	1.43
	3	Canary		2.76	1.76	1.32
	4	Cardinal		2.99	1.90	1.43
	5	Canary		2.76	1.76	1.32
H	1	Canary			1.76	1.32
	2	Cardinal			1.90	1.43
	3	Bluebird			1.76	1.32
	4	Cardinal			1.90	1.43
	5	Canary			1.76	1.32
I	1	Canary			1.76	1.32
	2	Cardinal			1.90	1.43
	3	Bluebird			1.76	1.32
	4	Cardinal			1.90	1.43
	5	Canary			1.76	1.32
J	1	Canary			1.76	1.32
	2	Cardinal			1.90	1.43
	3	Bluebird			1.76	1.32
	4	Cardinal			1.90	1.43
	5	Canary			1.76	1.32
K	1	Canary			1.76	1.32
	2	Cardinal			1.90	1.43
	3	Bluebird			1.76	1.32
	4	Cardinal			1.90	1.43
	5	Canary			1.76	1.32
L	1	Canary				1.32
	2	Cardinal				1.43
	3	Bluebird				1.32
	4	Canary				1.32

Building	Unit	Dwelling Unit Type	Percentage of Undivided Interest in Common Elements			
			(a)	(b)	(c)	(d)
			Phase I	Phases I & II	Phases I, II & III	Phases I, II, III & IV
M	1	Canary				1.32
	2	Cardinal				1.43
	3	Cardinal				1.43
	4	Canary				1.32
N	1	Canary				1.32
	2	Cardinal				1.43
	3	Bluebird				1.43
	4	Cardinal				1.43
	5	Cardinal				1.32
	6	Canary				1.32
O	1	Canary				1.43
	2	Cardinal				1.43
	3	Bluebird				1.32
	4	Canary				1.32
	5	Canary				1.32

NOTE: (1) Column (a) above denotes the percentage of undivided interest appurtenant to each dwelling unit constructed or to be constructed within The Oaks of Avent Ferry Condominium during such time as Phase I only is subject to this Declaration.

(2) Column (b) above denotes the percentage of undivided interest appurtenant to each dwelling unit constructed or to be constructed within The Oaks of Avent Ferry Condominium during such time as Phase I and Phase II only are subject to this Declaration.

(3) Column (c) above denotes the percentage of undivided interest appurtenant to each dwelling unit constructed or to be constructed within The Oaks of Avent Ferry Condominium at such time as Phase I, Phase II, and Phase III only are subject to this Declaration.

(4) Column (d) above denotes the percentage of undivided interest appurtenant to each dwelling unit constructed or to be constructed within The Oaks of Avent Ferry Condominium during such time as Phase I, Phase II, Phase III and Phase IV are subject to this Declaration.

(5) The percentages of undivided interest in the common elements appurtenant to each dwelling unit now or hereafter made subject to this Declaration are based upon values assigned by Grantor to each such dwelling unit solely for this purpose. Such values do not necessarily reflect or represent the selling price or other circumstantial value for the particular dwelling unit, and no opinion, appraisal, sale or market value transaction at a greater or lesser price than the assigned value utilized in computing said percentages shall be interpreted as requiring or permitting any change in the percentage of undivided interest assigned herein.

(6) As stated in the Declaration of Unit Ownership, the Grantor reserves the right to modify the percentages shown in Columns (a), (b), (c), and (d) as each phase is made subject to the Declaration and the construction of the Dwelling Units completed.