

*PK+R
PLU*

16

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
THE VINEYARD

THIS DECLARATION, is made on the date hereinafter set forth by The Hamilton Group of High Point, LLC, and R. A. Beacom Construction Company, Inc., hereinafter referred to collectively as "Declarant";

W I T N E S S E T H:

THAT WHEREAS, The Hamilton Group of High Point, LLC is the owner of certain property in High Point Township, Guilford County, State of North Carolina, which is more particularly described as follows:

218

All of that certain parcel of land shown as New Lot D of the Final Subdivision for Ray Craven Heirs, a map of which appears of record in the Office of the Register of Deeds of Guilford County, North Carolina in Plat Book 119, at Page 81, and being the same property conveyed to The Hamilton Group of High Point, LLC by Deed recorded in Book 4636, Page 980, Guilford County Registry.

THAT WHEREAS, R. A. Beacom Construction Company, Inc. has entered into an Agreement with The Hamilton Group of High Point, LLC whereby R. A. Beacom Construction Company, Inc. will be the builder of all townhome units located on the above-described property.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of said properties and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their

heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I
DEFINITIONS

Section 1. "Association" shall mean and refer to THE VINEYARD HOMEOWNERS' ASSOCIATION, INC., its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner (other than Declarant), whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The "Common Area" is referred to as "Common Area", as shown on the recorded plat. The numbered lots are not a part of the Common Area.

Section 5. "Lot" shall mean and refer to any plat of land shown upon any recorded subdivision map of the Properties with the exception of the "Common Area".

Section 6. "Declarant" shall mean and refer to collectively The Hamilton Group of High Point, LLC and its successors and/or assigns, and R. A. Beacom Construction Company, Inc. and its successors and/or assigns.

000393

ARTICLE II
DEVELOPMENTAL RIGHTS

Declarant hereby reserves the right to develop future Phases of The Vineyard, on that property described in Deed Book 4636, Page 980, Guilford County Register of Deeds. Each firm, person or corporation who purchases lots in future Phases shall purchase said lots subject to this Declaration of Covenants, Conditions and Restrictions and each firm, person or corporation will automatically become members of The Vineyard Homeowners' Association, Inc., together with all rights afforded to each lot owner in the By-Laws, but subject to the requirement of said Homeowners' Association By-Laws.

ARTICLE III
PROPERTY RIGHTS

000394

Section 1. Owner's Easements of Enjoyment. Every Owner and Declarant shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights and right to use any recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

(b) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed upon by the members. No such dedication or transfer shall be effective unless an instrument signed by at least sixty six and two thirds percent (66 2/3%) of each class of members, agreeing to such dedication or transfer, has been recorded;

(c) the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements

thereon, which regulations may further restrict the use of the Common Area.

Section 2. Declaration of Use. Declarant and Owner may delegate, in accordance with the By-Laws, their rights of enjoyment of the Common Area and facilities to the members of their families, their tenants, or contract purchasers who reside on the property.

ARTICLE IV
MEMBERSHIP AND VOTING RIGHTS

Section 1. Declarant and every Owner of a Lot which is subject to assessments shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B Member shall be only the Declarant, and it shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership are equal to the total votes outstanding in the Class B membership.

(b) upon resignation of Declarant as a Class B member.

000395

ARTICLE V
COVENANT FOR MAINTENANCE AND ASSESSMENT

Section 1. Creation of Lien and Personal Obligation of Assessments. Each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest at the rate of eighteen percent (18%) or the highest rate allowed by law whichever is less, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to said Owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose, including the maintenance, reconstruction and repair of water and sewer lines and the dry detention pond located within the Common Area, and to promote the use and enjoyment of the Common Area, including but not limited to, the payment of taxes and assessments assessed against the Common Area, the procurement and maintenance of such insurance, including liability insurance, as may be determined in accordance with the By-Laws, the employment of attorneys to represent the Association when necessary, garbage and trash collection services, street lighting, maintenance and landscaping of Common Areas, restoration of common area improvements and party walls in the event of destruction or damage, and such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1 of the second year following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Seventy (\$70.00) Dollars per month per Lot.

000396

From January 1 of the second calendar year following the first conveyance of a Lot to an Owner:

(a) The maximum annual assessment shall be established by the Board of Directors and may be increased by the Board of Directors without approval by the membership by an amount not to exceed fifteen percent (15%) of the maximum annual assessment of the previous year; and

(b) The maximum annual assessment may be increased without limit by a vote of at least sixty six and two thirds percent (66 2/3%) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

At any time the Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any calendar year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, fixtures and personal property related thereto, including water and sewer lines and the dry detention pond, provided that any such assessment shall have the consent of sixty six and two thirds percent (66 2/3%) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots within the same class and may be collected on a monthly basis; provided, however, each Lot owned by the Declarant shall be assessed for both annual and/or special assessments at twenty five percent (25%) of the assessment for Lots owned by Class A members, but such twenty five percent (25%) assessment ratio for a particular Lot owned by the Declarant shall terminate immediately upon the transfer of said Lot from the Declarant to a Class A member; and thereafter, the full one hundred percent (100%) assessment for such Lot shall apply.

Section 6. Notice and Quorum for any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more

000397

than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein may be collected on a monthly basis and shall commence as to all Lots on the first day of the month following conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment against each Lot and send written notice of each assessment to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid.

000398

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien provided for herein shall be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which became due prior to

such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage, mortgages, deed of trust or deeds of trust.

Section 10. Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VI
DEFAULT BY ASSOCIATION

Section 1. Default by Owners' Association. Upon default by the Owners' Association in the payment to the jurisdiction entitled thereto of any assessments for public improvements or ad valorem taxes levied against the Common Areas, which default shall continue for a period of six (6) months, shall become the personal obligation of each owner of a lot in the development in an amount determined by dividing the total taxes and/or assessments due to the jurisdiction by the total number of lots in the development. If the sum is not paid by the owner within thirty (30) days following receipt of notice of the amount due, the sum shall become a continuing lien on the property of the owner. The taxing or assessing jurisdiction may either bring an action at law against the owner personally obligated to pay the same, or may elect to foreclose the lien against the property of the owner.

ARTICLE VII
MAINTENANCE OF LANDSCAPING, EXTERIORS,
WATER AND SEWER LINES, AND DRY DETENTION POND

Section 1. Maintenance of Landscaping. The Association is responsible for maintaining the general landscaping of all Common Areas.

000399

Section 2. Exterior Maintenance. In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder, as follows: painting, repair, replacement and care of roofs, exterior building surfaces, trees, grassed areas, shrubs, walks and other exterior improvements, but specifically excepting therefrom any glassed area. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

In the event that the need for maintenance, repair or replacement is caused through the willful or negligent act of the Owner, his family, guests or invitees, or is caused by fire, lightning, windstorm, hail, explosion, riot, attending a strike, civil commotion, aircrafts, vehicles, and smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage insurance policies, the cost of such maintenance, replacement or repairs shall be added to and become a part of the assessment to which such Lot is subject.

Section 3. Maintenance of Dry Detention Pond. The Association shall be responsible for maintaining and repairing the dry detention pond located on the Common Area in accordance with the watershed quality standards required by the City of High Point and the State of North Carolina.

Section 4. Maintenance of Water and Sewer Lines. The water and sewer lines and all appurtenances thereto located within the Common Areas shall be properly maintained and operated by the Association in accordance with all permits issued by any State or local authority. The Association shall allocate in its yearly budget and set aside in a separate account funds which may be used to repair, maintain or reconstruct said water and sewer lines and appurtenances thereto should same become necessary. In the event of a voluntary dissolution by the Association, the Association shall first transfer said water and sewer lines and all appurtenances thereto to some other person, corporation or other entity acceptable to and approved by the North Carolina Environmental Management Commission.

000400

ARTICLE VIII
ARCHITECTURAL CONTROL

No building, awning, fence, wall or other structure or any planting or removal of vegetation of any type shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, color, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Provided that nothing herein contained shall be construed to permit interference with the development of the Properties by the Declarant or maintenance of public utilities so long as said development follows the general plan of development of the Properties previously approved by the FHA/VA.

000401

ARTICLE IX
EASEMENTS

Section 1. Utilities and Drainage. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plats of The Vineyard townhomes. In addition, easements for installation and maintenance of utilities and drainage facilities not shown on the recorded plats, including, water lines, sewer lines, gutter lines, gas lines and that area used for french drains are reserved. Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. Any easement owned by Plantation Pipe Line Company is also subject to the following requirements:

(a) Any fences located within Plantation's easement shall have a gate or removable section of fence at least sixteen feet in width within the easement area.

(b) Fences, shrubbery, or trees shall not be placed longitudinally down or parallel to Plantation's pipelines within the easement corridor.

(c) Any shrubbery or plant growth shall be restricted to a type having a shallow root base with no tap root and a mature height no greater than four feet. All trees are deemed detrimental to the pipelines and shall not be placed within the easement corridor.

(d) Permanent structures of any type shall not be placed within Plantation's easement corridor. Structures deemed "temporary" shall have a time limit imposed commensurate with the type of structure and the time frame shall be at the discretion of Plantation's representative.

Section 2. Easement of Owner Over Common Area. The Owner of each Lot on which a dwelling is situated shall have the right at any time to enter upon the Common Area adjoining said Owner's Lot. The Owner of each Lot upon which a dwelling is situated shall also have the right of ingress, egress and regress over and across the driveways and private streets located in the common area leading to each unit.

Section 3. Unintentional Encroachments. If any portion of the common elements encroaches upon any unit or any unit encroaches upon any other unit or upon any portion of the common elements as a result of settling or shifting of a building, an easement for the encroachment and for the maintenance of the same shall exist so long as the building stands. If the building, the unit, any adjoining unit, or any adjoining part of the common elements, shall be partially or totally destroyed as a result of fire or other casualty or as a result of eminent domain proceedings, and then rebuilt, encroachments of parts of the common elements upon any unit or of any unit upon any other unit or upon any portion of the common elements, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the subject building shall stand.

000402

ARTICLE X
GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, the Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration.

Failure by the Declarant, the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The Covenants and Restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date the Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy five percent (75%) of the Lot Owners, provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. Any amendment must be properly recorded.

ARTICLE XI
RESTRICTIONS

Section 1. Land Use and Building Type. No lot shall be used for other than residential purposes. No building or structure shall be erected, altered, placed or permitted to remain on any lot other than: (1) one attached, single-family dwelling not to exceed two and one half stories in height (hereinafter the

000403

"dwelling") and (2) one private garage, attached to the dwelling, for not more than two automobiles.

Section 2. Driveways. Paved driveways are required for each dwelling.

Section 3. Keeping of Animals. No livestock of any nature shall be kept upon any lot, nor shall dogs, cats, or other animals be kept for breeding purposes or for any purpose other than household pets.

Section 4. Wavier of Violations. Violation of these restrictions may be waived by The Vineyard Homeowners' Association, Inc.

Section 5. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 6. Signs. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than five (5) square feet advertising the property for sale or for rent, or signs used by a builder to advertise the property during the construction and sales period.

Section 7. Miscellaneous.

(a) No drying or airing of any clothing or bedding shall be permitted outdoors on any Lot within the properties.

(b) No additional structures shall be placed on the property.

(c) No satellite dishes may be placed on the property with a diameter of more than eighteen inches (18"). Any such satellite dish, television or radio antenna shall be placed at a height no higher than the lowest eave line of the building, and shall be located only in the rear of the residence.

(d) No motorhomes, boats, campers, trailers, junk automobiles or any other type salvage may be placed or stored on the premises.

(e) Patio or deck areas are to be kept in good order and condition with only patio furniture, outdoor grills and/or house plants located thereon.

(f) No individual yard sales are permitted.

(g) All garbage, trash and other household waste shall be disposed of in the central trash collection and shall not be stored outside the residence.

(h) The property shall not be used for business, manufacturing or commercial purposes.

(i) No utility vehicle or truck larger than one rated as a $\frac{3}{4}$ ton truck shall be allowed to remain on any street right of way, common parking area, or any Lot, or on any common area overnight.

ARTICLE XII
FEDERAL LENDING REQUIREMENTS

Declarant may (at Declarant's option) amend and modify this Declaration without obtaining the consent or approval of the Owners if such amendment or modification is necessary to cause this Declaration to comply with the requirements of the Federal Housing Administration, the Veterans Administration, Fannie Mae or other similar agency. Any such amendment must be with the consent and approval of such agency and must be properly recorded.

000405

IN WITNESS WHEREOF, The Hamilton Group of High Point, LLC has caused this document to be signed by its duly authorized Managers, and R. A. Beacom Construction Company, Inc. has caused this instrument to be signed in its corporate name with its duly authorized officers and its seal to be hereunto affixed by its Board of Directors the 14 day of April, 1998.

THE HAMILTON GROUP OF HIGH POINT, LLC

By: [Signature]
Manager

By: [Signature]
Manager

R. A. BEACOM CONSTRUCTION COMPANY, INC.

By: [Signature]
President

ATTEST:

[Signature]
Secretary



901000

STATE OF NORTH CAROLINA

COUNTY OF Guilford

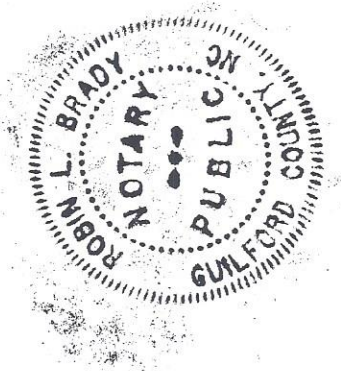
I, Robin L. Brady, a Notary Public, do hereby certify that R. Dale Britt and Jefferson H. Rives personally appeared before me this day and acknowledged that they are Managers of The Hamilton Group of High Point, LLC, a North Carolina Limited Liability Company, and further acknowledged the due execution of the foregoing instrument on behalf of the Limited Liability Company.

Witness my hand and official stamp or seal this the 14th day of April, 1998.

Robin L. Brady

Notary Public

My Commission Expires: 10-9-2000



000407

STATE OF NORTH CAROLINA

COUNTY OF Guilford

I, Robin L. Brady, a Notary Public, do hereby certify that Lavinia Beacom Hensley personally appeared before me this day and acknowledged that she is the _____ Secretary of R. A. Beacom Construction Company, Inc., a North Carolina Corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by her as its _____ Secretary.

Witness my hand and official stamp or seal this the 14th day of April, 1998.

Robin L. Brady

Notary Public

My Commission Expires: 10-9-2000

