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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
CYPRESS COVE**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS for Cypress Cove is made this 2nd day of October, 2006, by Cypress Cove, LLC, a North Carolina limited liability company (hereinafter referred to as the "Declarant") of 1 Sailfish Drive Manteo, NC 27954.

RECITALS
[STATEMENT OF PURPOSE]

A. Declarant is the owner of that property situated in the Town of Manteo on Roanoke Island, North Carolina, more particularly described on Exhibit "A" attached hereto and incorporated by this reference (the "Property" or "Cypress Cove").

B. Declarant desires that the development of Cypress Cove will be patterned upon traditional architectural styles of historic Manteo. This Declaration is further promulgated to promote a community spirit through integration of a pedestrian oriented neighborhood, the use of natural paths, dedicated common elements, carriage houses, along with intimate gardens and private courtyards, all in observance of ecological principles. It is the intent of the Declarant for the development to include conservation areas, public spaces and vernacular structures that co-exist in a harmonious manner.

C. Declarant desires to subject the Property to the provisions of Chapter 47F of the General Statutes of North Carolina and to certain covenants, conditions, restrictions, reservations, liens and charges hereinafter set forth in order to: (i) provide that all improvements will be harmonious and appealing in appearance and function, (ii) provide that land uses and functions will be compatible and complimentary, (iii) preserve and enhance the Property, (iv) contribute to the general health, safety and welfare of property owners and (v) assure that the Property and any improvements are maintained in first-class and high-quality condition.

D. In order to provide for the preservation of Cypress Cove and the assurance that all improvements of Cypress Cove are in conformance with Design Guidelines, the Declarant has made provisions for an Architectural Design Review Board ("DRB"), which shall be responsible for administering the Design Guidelines and any improvements to be constructed on the Property. Prior to any lot disturbance or construction of any type or for any purpose, including alterations or additions to existing structures, plans and specifications, detailing the nature, kind, shape, material and location must be submitted for approval in writing by the DRB to the harmony of external design and the location of surrounding structures and topography.

E. To accomplish the objectives as referenced within these recitals, it is in the interest of Cypress Cove for the Declarant to maintain a significant role in the initial development of Cypress Cove and the Declarant has therefore retained numerous rights and will exercise controls over the Property throughout the developmental period.

NOW, THEREFORE, Declarant, by this Declaration, declares that all property known as Cypress Cove shall be held, sold, hypothecated, or encumbered, leased, rented, used, occupied and improved subject to the following covenants, restrictions, easements, liens and charges, all of which are declared and agreed to be in furtherance of: enhancing and projecting the architectural styles and designs promulgated within the Design Guidelines, the spirit of community in Cypress Cove and to enhance the value of properties which covenants, easements, and restrictions shall run with the real property subjected to this Declaration as may be reasonably modified and amended from time to time in furtherance of the Statement of Purpose recited herein, all of which shall be binding on all parties; their respective heirs, personal representatives, successors, transferees and assigns, as well as occupants, guests and invitees having or acquiring any right, title or interest in Cypress Cove.



Article I
DEFINITIONS

Section 1.01. Definitions. When using this Declaration, unless the content shall prohibit or otherwise require, the following words set forth within this Article I shall have all of the following meanings and all definitions applicable to the singular and plural forms of such terms.

Section 1.02. "Act" shall mean and refer to the North Carolina Planned Community Act as codified in Chapter 47F of the North Carolina General Statutes.

Section 1.03. "Architectural Design Review Board" ("DRB") shall mean and refer back to the committee responsible for administering the Design Guidelines and setting and approving all structural improvements, additions, modifications and changes within Cypress Cove.

Section 1.04. "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of Cypress Cove Homeowners' Association as filed with the Secretary of State of North Carolina.

Section 1.05. "Assessments" shall mean and refer to all annual assessments, special assessments, individual assessments, and other fees and charges levied by the Association in accordance with the Governing Documents.

Section 1.06. "Association" shall mean and refer to Cypress Cove Homeowners' Association, Inc., a North Carolina non-profit association.

Section 1.07. "Board" shall mean and refer to the Board of Directors of the Association.

Section 1.08. "Bylaws" shall mean and refer to the Bylaws of the Association.

Section 1.09. "Common Elements" shall mean and include (a) all of the real property, other than Lots, owned, leased or occupied by the Association or otherwise available to the Association for the benefit, use and enjoyment of the Owners; provided, however, that real estate within the Property is not Common Elements solely because it is burdened by an easement for utilities or dedicated for common use by Owners of Lots within the Property, (b) all personal property and equipment held and maintained by the Association for the joint use and enjoyment of all Owners, (c) all permits for the construction, maintenance and operation of the Common Elements assigned by the Declarant to the Association or otherwise procured or required by the Association, and (d) the Permit or Permits for the Stormwater Management Facilities assigned by Declarant to the Association or otherwise procured or required by the Association.

Section 1.10. "Common Expenses" shall mean and refer to all expenses of any kind or nature whatsoever that are properly incurred by the Association

Section 1.11. "Declarant" shall mean and refer to Cypress Cove, LLC, a North Carolina limited liability company, its successors and assigns in whole or in part.

Section 1.12. "Declarant's Rights Period" shall mean and refer to any and all privileges, powers, easements, exemptions, rights and duties reserved to the Declarant by the Governing



Documents, and any reasonable amendments thereto related to the development of Cypress Cove including the pursuit and furtherance of the recitals set forth within the Statement of Purpose. The Declarant's Rights Period shall extend until the sooner to occur of the conveyance of 95% of the lots in Cypress Cove or five (5) years from the date of the recordation of this Declaration in the Public Registry of Dare County, North Carolina. The Declarant may voluntarily elect an earlier termination of the Declarant's Rights Period by giving written notice to the Association. During the Declarant's Rights Period, the Declarant shall have all those Special Declarant's Rights defined by the Act and in addition those rights which shall include at a minimum: the right to make all appointments to the DRB, the right to appoint a majority of the members to the Board of the Association and the right to approve any amendments to the Governing Documents.

Section 1.13. "Declaration" shall mean and refer to this Declaration of Covenants, Conditions and Restrictions for Cypress Cove as it may be amended and supplemented from time to time as herein provided.

Section 1.14. "Design Guidelines" shall mean and refer to that criteria established by the Architectural Design Review Board consisting of lot development and architectural design standards establishing rules and guidelines for the use, design and construction of all improvements to the Property.

Section 1.15. "Dwelling Unit" shall mean and refer to a portion of the Property, whether developed or undeveloped, intended for development, use and occupancy as an attached or detached dwelling for single-family residential use.

Section 1.16. "Governing Documents" shall mean and refer to this Declaration, the Design Guidelines, the Articles of Incorporation and Bylaws of the Association.

Section 1.17. "Improvements" shall mean and include all buildings, storage sheds or areas, roofed structures, decks, patios, parking areas, exterior recreational areas, recreational equipment and facilities, mailboxes, exterior antennae, dishes or other apparatus to receive or transmit television or radio or microwave or other signals, loading areas, trackage, fences, walls hedges, mass plantings, poles, driveways, ponds, changes in grade or slope of a Lot or Dwelling Unit, silt preparation of a Lot or Dwelling Unit, landscaping, exterior clotheslines, swimming pools, tennis courts, signs, exterior illumination, changes in any exterior color or shape and any other exterior construction or exterior structure or other exterior improvement which may not be included in any of the foregoing. All Improvements shall comply with the provisions of this Declaration and the Design Guidelines.

Section 1.18. "Lot" shall mean and refer to any numbered plot of land, which is part of the Subdivision Plat recorded in the Public Registry of Dare County, North Carolina.

Section 1.19. "Maintain", "Maintenance" or any substantially similar term used in this Declaration, when applied to a power or duty of the Association or Owner shall mean and include, without limitation, the right to maintain, repair, replace, reconstruct, improve, clean, landscape, operate and use the improvement, property or other item which is the subject thereof.

Section 1.20. "Majority Vote" shall mean and refer to a simple majority (more than fifty percent (50%) of the votes actually cast in person or by proxy at a duly held meeting of the members



of the Association at which a quorum is present or at a duly held meeting of the Board at which a quorum is present.

Section 1.21. "Member" shall mean and refer to each Owner of a Lot.

Section 1.22. "Open Space" shall mean and refer to that area dedicated to natural uses and prohibiting Dwelling Units as more particularly set forth in Section 4.07 herein.

Section 1.23. "Owner" shall mean and refer to the fee simple title to any Lot. Notwithstanding any applicable theory of any lien or mortgage law, Owner shall not mean or refer to any mortgagee or trust beneficiary unless and until such mortgagee or trust beneficiary has acquired title pursuant to foreclosure or any legal proceeding in lieu of foreclosure.

Section 1.24. "Plans" shall mean and refer to the complete drawings and specifications for any contemplated Dwelling Unit including, but not limited to those showing the shape, dimensions, materials, basic exterior finishes and colors, location on site, driveway, parking, decorative landscape planting, floor plans and elevations therefore.

Section 1.25. "Property" shall mean all that parcel of land, which comprises Cypress Cove as more particularly described in Exhibit A.

Section 1.26. "Sign" shall mean any writing, pictorial representation, emblem, flag, or any other figure of similar character which is (i) a structure or part thereof, or is attached to, painted on or in any other manner represented on a Dwelling Unit, or any other structure (ii) used to announce, direct attention to, or advertise and (iii) visible from outside an Improvement.

Section 1.27. "Special Assessment" shall mean assessments levied in accordance with Article VIII Section 8.01(2) of this Declaration.

Section 1.28. "Subdivision Plat" shall mean that plat of Cypress Cove prepared by Green Engineering dated 9/7/06, which is recorded in Plat Cabinet G at Slide 289-291 in the Public Registry of Dare County, North Carolina.

Section 1.29. "Stormwater Management Facility" shall mean and refer to all areas consisting of ditches, swales, retention ponds and other facilities upon the Common Elements within the Property constructed pursuant to and regulated by any Stormwater Permit.

Article II PROPERTY

Section 2.01. Property Made Subject to Declaration. The Property is hereby made subject to this Declaration and the Property shall be owned, held used, occupied, leased, transferred, sold, mortgaged and/or conveyed by Declarant, the Association and each Owner subject to this Declaration and the terms, covenants, conditions, restrictions, easements, charges and liens set forth in this Declaration

Section 2.02. Changes to this Declaration Requiring Declarant's Consent. Notwithstanding anything contained herein to the contrary, it is expressly understood and agreed that



during the Declarant's Rights Period, the prior written consent of Declarant shall be required for any parties to modify, change and/or amend, in whole or in part, the terms and provisions of this Declaration or to impose new or additional covenants, conditions, restrictions or easements on any part of the Property.

Article III
MEMBERSHIP AND VOTING RIGHTS

Section 3.01. Membership. Each and every Owner of a Lot or Dwelling Unit within Cypress Cove shall automatically become and be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot or Dwelling Unit, and the Board may make reasonable rules relating to the proof of ownership of a Lot or Dwelling Unit.

Section 3.02. Classes of Voting Members. Subject to the rights of Declarant reserved in this Section 3.02, the Association shall have two classes of voting membership as follows:

Class A. Class A Members shall be all Owners of Lots, with the exception of Declarant until such time as Declarant's Class B Membership is converted to Class A Membership as provided in this Article. A Class A Member shall be entitled to one (1) vote for each Lot or Dwelling Unit owned by such Class A Member at the time notice is given of the particular meeting at which Class A membership votes are eligible to be cast. Provided, when two (2) or more persons own or hold interests in any Lot or Dwelling Unit, all such Persons shall be Class A Members, and the one (1) vote for such Lot or Dwelling Unit shall be exercised as they, among themselves, determine, but fractional voting shall be prohibited and in connection with any particular vote no more than one Class A Membership (1) vote shall be cast with respect to each Lot or Dwelling Unit.

Class B. The Class B Members shall be the Declarant. The Class B Members shall be entitled to two (2) votes for each Lot or Dwelling Unit owned by the Class B Members at the time notice is given of the particular meeting at which the Class B votes are eligible to be cast and, in addition, the Declarant shall be entitled to appoint a majority of the members of the board of the Association during the Declarant's Rights Period. The Class B Members shall have a veto over all actions of the Board during the Declarant's Rights Period.

The Class B Membership shall terminate and be converted to Class A Membership upon the happening of the first to occur of the following:

- (a) when the total votes outstanding in Class A Membership equal the total votes outstanding in Class B Membership; or
- (b) voluntary termination by Declarant; or
- (c) five years from the date of the recordation of this Declaration in the Public Registry of Dare County, North Carolina.

Section 3.03. Voting, Quorum and Notice Requirements. Except as may be otherwise specifically set forth in this Declaration, the Articles or the Bylaws, the vote of the majority of the aggregate votes entitled to be cast by all classes of the Members present, or represented by legitimate proxy, at a legally constituted (duly called) meeting of the Association at which a quorum is present,



shall be the act of the Members with respect to the matter that is the subject of such vote. The number of votes required to constitute a quorum shall be as set forth herein or in the Bylaws. Notice requirements for all action to be taken by the Members of the Association shall be as set forth herein or in the Bylaws.

Section 3.04. Termination of Membership. A Person's membership in the Association shall terminate automatically whenever such Person ceases to be an Owner, but such termination shall not release or relieve any such Person from any liability or obligation incurred under or in any way connected with the Association of this Declaration during the period of such Person's ownership of a Lot or Dwelling Unit, or impair any rights or remedies which the Association or any other Member has with regard to such former member.

Section 3.05. Board Authority to Act. Unless otherwise specifically provided in the Association Documents and the North Carolina Nonprofit Corporation Act, all rights, powers, easements, obligations and duties of the Association may be performed by the Board on behalf of the Association.

Article IV
PROPERTY RIGHTS IN THE COMMON ELEMENTS

Section 4.01. Easement of Enjoyment. Subject to the provisions of this Declaration every Owner shall have a right and easement of use and enjoyment in and to the Common Elements, subject to the right of the Association to prescribe and enforce regulations governing the use, operation and maintenance of the Common Elements.

Section 4.02. Stormwater Management Improvements. The Association will be responsible for maintenance of any stormwater management swales, channels and check dam repairs. Such maintenance is to include removal of sediments within the swales and channels, restabilization of the swales and channels as needed, check dam repairs and upkeep of the vegetation cover on a periodic, as required basis.

Section 4.03. Title to Common Elements. The Declarant shall retain the legal title to the Common Elements until such time as it has completed improvements, if any, thereon and until such time as, in the opinion of the Declarant, the Association is able to maintain the same but, notwithstanding any provision to the contrary herein, the Declarant hereby covenants, for itself, its successors and assigns, that it shall convey the Common Elements to the Association at its option anytime prior to the expiration of the Declarant's Rights Period.

Section 4.04. Stormwater Management Improvements. The Association will be responsible for maintenance of any stormwater management swales, channels and check dam repairs. Each Association shall be responsible to insure that each Owner within each neighborhood maintains his driveway. Such maintenance is to include removal of sediment within the swales and channels, restabilization of the swales and channels as needed, check dam repairs and upkeep of the vegetation cover on a periodic, as required basis. As a condition to the North Carolina Stormwater Management Permit No. SW7060106 issued by the Division of Water Quality for Cypress Cove, the following covenants may not be changed or deleted without the consent of the North Carolina Division of Environmental Management Water Quality Section:



- (a) The allowable build-upon area per lot shall not exceed that square footage designated on Exhibit "B" attached hereto and incorporated herein by reference, inclusive of that portion of the right-of-way between front Lot line and the edge of the pavement, structures, walkways of brick, stone, slate, not including wood decking.
- (b) Filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with any development except for average driveway crossings, is strictly prohibited by any persons.

Section 4.05. Sales and Construction Offices. Notwithstanding any provisions of restrictions herein to the contrary, there is hereby reserved for the benefit of Declarant and its successors and assigns during the Declarant's Rights Period, the alienable and transferable right and easement in and to Cypress Cove for the maintenance of signs, sales offices, construction offices, business offices and model Dwelling Units, together with such other facilities as may be reasonably required, convenient, or incidental to the completion and improvement of Common Elements, and/or sale of Lots, for so long as Declarant owns any Lot or Dwelling Unit primarily for the purpose of sale.

Section 4.06. Regulation of Common Elements. The Association shall have the right to regulate the use of the Common Elements pursuant to any rules and regulations adopted by the Board.

Section 4.07. Open Space. All property including wetlands located to the South of Lots 6 through 17 shall be deemed "Open Space" which area shall be subject to the natural enjoyment of Owners within Cypress Cove for walking, bird watching and similar non-impact uses with the only structures to be built within the Open Space being walkways, bike trails, a gazebo or related amenities. Dwelling Units are prohibited. Declarant retains the right to convey the Open Space as a conservation easement subject to the use restrictions herein.

Article V SPECIAL DECLARANT RIGHTS

Section 5.01. Special Declarant Rights. Special Declarant Rights are those rights reserved for the benefit of the Declarant as provided for in the Governing Documents, said right being more specifically set forth within this Article V. The Special Declarant Rights shall extend until expiration of the Declarant Rights Period as set forth in Section 1.13. The Declarant, however, may elect to voluntarily terminate all or any portion of the Special Declarant Rights by expressing such election in writing to the Association. The termination of the Special Declarant Rights shall require the consent of all parties who are a Declarant.

Section 5.02. Right to Complete the Development. The Declarant shall have the right to conduct all lawful activities required or related to the completion of Cypress Cove as such may be reasonably amended from time to time and as approved under the Ordinances of Dare County, North Carolina, including the right to maintain models, management offices, construction offices, sales offices, and signs advertising the property.



Section 5.03. Governing Documents. During the Declarant's Rights Period, the Association shall make no amendments to the Governing Documents or take any other action that may adversely affect the Declarant's interest without the Declarant's prior written consent.

Section 5.04. Easements. The Association shall take no action seeking to alter easements established in the Governing Documents by the Declarant, nor to prevent establishment of easements necessary to complete Cypress Cove.

Section 5.05. The Declarant's Representation on the Board and Votes Within the Association. Declarant shall have the right to exercise the rights and votes of the Class B Members of the Association. Declarant shall further have the right to veto all actions of the Board during the Declarant's Rights Period. During the Declarant's Rights Period, the Declarant shall have the right to appoint all members serving on the Board of the Association which right of appointments may earlier be terminated as provided in Section 5.01 herein. The number of members of the Board and composition may not be changed during the Declarant's Rights Period without the Declarant's written consent.

Section 5.06. Right to Transfer or Assign Special Declarant Rights. Any or all of the Special Declarant Rights created in this Declaration or the Bylaws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the Bylaws. No such transfer or assignment shall be effective unless it is in a written instrument Declarant signs and records in the office of the Public Registry of Dare County, North Carolina. The foregoing sentence shall not preclude Declarant from permitting other persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

Article VI
DESIGN STANDARDS

Section 6.01. Purpose. Declarant desires to provide for the preservation of the values of Cypress Cove with respect to any Dwelling Unit to be constructed on any portion of the Property. To that end, Declarant will establish an Architectural Design Review Board (the "DRB"). The purpose of the appointed DRB is to maintain standards as to appearance, shape, dimension, construction material, and color among other things, in order to establish a desirable consistency and harmony, among adjacent and surrounding structures and relative to location and topography in accord with the Design Guidelines of the Manteo Way of Building as incorporated within the Zoning Ordinance of the Town of Manteo.

Section 6.02. Advance Approval Required. All construction (which term shall include within its definition: staking, clearing, excavation, grading and other site work) or modification (except interior alterations not affecting the external structure or appearance of any building) including plantings or removal of plants, trees or shrubs shall not take place except in strict compliance with this Article, until the requirements below have been fully met and written approval of the DRB has been obtained pursuant to Section 6.03 below. Unless approved in accordance with this Article, no structure, including, but not limited to: fences, porches, patios, decks, privacy walls,

gates, pools, whirlpools or other pools, and awnings shall be placed, erected or installed upon any Lot and/or Dwelling Unit.

Section 6.03. Architectural Design Review Board. During the Declarant's Rights Period, the Declarant retains the right to determine the composition and appointment of all members of the DRB. Thereafter, all appointments shall be made by the Board.

Responsibility for administration of the Cypress Cove Design Guidelines and review of all applications for construction and modifications under this Article VI shall be handled by the DRB. The members of the DRB need not be Owners within Cypress Cove and may but not need include: architects, engineers or similar professionals, whose compensation, if any, shall be established and remitted from time to time by the Declarant. The Declarant may establish reasonable fees to be charged by the DRB for review of applications hereinunder and may require such fees to be paid in full prior to review of any application.

Section 6.04. Guidelines and Procedures. The Declarant has prepared the initial design and development guidelines and applications and review procedures (the "Architectural Design Guidelines") which shall be applicable to all construction activities within Cypress Cove, a copy which is attached hereto and incorporated herein as Exhibit C.

The DRB shall have sole and full authority to reasonably amend the Design Guidelines from time to time without the consent of the Association, provided said amendments are consistent with the Statement of Purpose set forth within this Declaration. Subsequent to the Declarant's Rights Period, any amendments to the Design Guidelines may be either proposed by the DRB to the Association or may be proposed initially by the Association and any adoption thereafter must be by a majority vote of the Board.

The DRB shall make the Design Guidelines available to Owners and approved Architects and General Contractors who seek to engage in any development and construction in Cypress Cove and all such persons shall conduct their activities in strict accordance with the Design Guidelines. A written document acknowledging receipt of the Design Guidelines shall be signed by the appropriate General Contractor prior to commencement of any construction activity. All Owners, Architects, General Contractors, sub-contractors, materialmen and their agents shall conduct their activities strictly in accordance with the Design Guidelines.

Any amendments to the Design Guidelines as may be reasonably adopted from time to time by the DRB in accordance with this Section 6.04 shall apply to construction and modifications commenced after the date of such amendment only, and shall not require modifications or removal of structures previously approved by the DRB once the approved construction or modification has commenced.

The DRB may promulgate from time to time detailed standards and procedures governing its area of responsibility and practice. In addition thereto, the following shall apply: plans and specifications showing the nature, kind, shape, color, size, materials and location of any proposed construction and any modification, addition or alteration to any prior approvals shall be submitted to the DRB for approval as to quality of workmanship and design and as to harmony of external design



with existing structures, and as to location in relation to surrounding structures, topography and finishing grade elevation.

The plans to be submitted must include site plans which depict all access streets and walkways, pathways, and other exterior improvements, grading drainage plan, fill plan, if any, indicating runoff, foundation plan, exterior and lighting plan. The architectural drawings submitted must include total enclosed heated/air conditioned square footage, the floor plans, including an exact computation of the square footage of each floor and drawn to the scale of one quarter inch equals one foot, elevation drawings for all sides which shall indicate existing grade, fill and finished floor elevation, detailed drawings of typical wall sections and any other extra features, and a complete identification of colors and materials, including shingles, siding and color. The plans shall also include a landscaping plan shown in detail the proposed plantings.

At time of submission, three sets of plans shall be submitted along with a review fee of \$200.00 and a deposit of \$1,000.00 with the completed DRB application form or such fees as are determined by the DRB. Construction of all improvements must be completed within eight months from the date the DRB grants an applicant approval. The deposit shall be returned upon the completion of all improvements and installation of the landscaping.

Section 6.05. Non-Precedential Nature of Approvals. Each applicant acknowledges that the composition of the DRB will change from time to time and that decisions regarding aesthetic matters and interpretation and application of the Design Guidelines may reasonably vary from time to time. In addition, each applicant acknowledges that it may not always be possible to identify objectionable features of proposed Improvements until the Improvements are completed, in which case it may be unreasonable to require changes to the Improvements previously approved, but the DRB may refuse to approve similar Improvements in the future. Approval of Improvements for any particular applicant or Dwelling Unit shall not be deemed a waiver of the right to withhold approval as to any similar Improvements subsequently submitted for approval.

Section 6.06. No Waiver of Future Approvals. The approval of the DRB of any proposals or plans and specifications or drawings for any work done or proposed, or in connection with any other matter requiring the approval and consent of the DRB, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

Section 6.07. Basis for Decision and Variance. The DRB shall approve or disapprove any application in its reasonable discretion, based primarily on adherence with the Design Guidelines; however, the DRB reserves the right to grant variances based on architectural merit and on existing landscape conditions. The DRB may also consider the nature, kind, shape, height of materials and location of the proposed improvements, harmony with surrounding structures and topography, and other factors including purely aesthetic considerations, which in the sole opinion of the DRB will affect the desirability or suitability of the construction.

Section 6.08. Limitation of Liability. Review and approval of any application pursuant to this Article is made on the basis of aesthetic considerations only and the DRB shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or



modifications or for ensuring compliance with building codes and other governmental requirements. Neither the Declarant, the DRB or the Association, or member of any of the foregoing shall be held liable for any injury, damages or loss arising out of the manner or quality of approved construction on or modifications to any Dwelling Unit.

Section 6.09. Enforcement. Any construction, alteration or other work done in violation of this Article or in a manner inconsistent with the application approved by the DRB shall be deemed to be nonconforming. Upon written request from the DRB ("Notice of Nonconformity"), an Owner shall, at his own cost and expense, promptly remove the nonconformity and restore the property to substantially the same condition as existed prior to the creation of the nonconformity or make any necessary corrections. In the event an Owner is in disagreement as to the Notice of Nonconformity, then the Owner has the right to request a hearing before a three-member panel designated by the DRB provided the Owner delivers written notice for request of hearing to the Secretary of the Association no later than ten (10) days from the date the Owner received the Notice of Nonconformity. Upon receipt of any request for hearing, the Secretary of the Association shall thereafter calendar a hearing neither less than seven (7) days nor more than fifteen (15) days before the DRB. At its election, the DRB may designate its members to serve on the panel or in the alternative it may make appointments to the panel. Subject to procedures as may be established by the DRB, any Owner may appeal the DRB's decision to the Board. The Board at its election may either calendar a further hearing or uphold, modify or reverse the decision of the three member panel of the DRB and said decision by the Board shall be final. Upon issuance of the Notice of Nonconformity, all construction shall be stayed pending compliance by the Owner or resolution by the DRB or review and final decision by the Board. In accord, a stop-work order may be posted on the Owner's property by the DRB. Should an Owner fail to remove and restore any nonconformity as required hereunder, the Association or its designees shall have the right to enter the property, remove the violation and restore the property to substantially the same condition as existed prior to the construction, alteration or other work. All costs, together with the interest at the maximum rate then allowed by law, including reasonable attorney's fees allowed by the Act, may be assessed against the nonconforming Lot or Dwelling Unit and collected as an Individual Assessment pursuant to Section 8.04.

Any Cypress Cove contractor, subcontractor, agent, employee or other invitee of a Cypress Cove Owner who fails to comply with the terms and provisions of this Article may be excluded from any work on improvements at Cypress Cove, subject to the notice and hearing procedures established by the DRB. In such event, neither the Association, its officers nor directors shall be held liable to any person for exercising the rights granted by this Section.

In addition to the foregoing, the DRB shall have the authority and standing, on behalf of the Association, to pursue all legal and equitable remedies available to enforce the provisions of this Article and the decisions of the DRB.

Section 6.10. Statement of Reasons for Disapproval. In any case where the DRB shall disapprove any Plans submitted hereunder or shall approve the same only as modified or upon specified conditions, notice of such disapproval or qualified approval shall be given to the Owner submitting such Plans within thirty (30) days after the DRB declares the submission complete by written notice to the Owner, and such notice of disapproval or qualified approval shall be accompanied by a statement of the specific reasons therefore.



Section 6.11. Time of Approval. The DRB shall not be required to review any Plans unless and until the submitted Plans contain all the items required by this Article VI, and such 30-day review period shall not commence until the DRB declares the submission complete by written notice to the Owner. If the DRB fails to approve, disapprove, or request any additions or supplemental information relating to any preliminary or final Plans within forty-five (45) days after the DRB declares the submission complete by written notice to the Owner, then such Plans shall be deemed to have been approved, but only to the extent that such Plans comply with the Design Guidelines.

Section 6.12. Expiration of Approval. If work is not commenced within twelve months from the date the DRB approves the Plans for such work, then such approval shall be deemed revoked by the DRB unless the DRB, in its sole discretion, extends the time for commencing work. All work covered by such approval shall be completed within one year after the commencement thereof, except for such period of time as such completion is rendered impossible or would result in great hardship due to strikes, fires, national emergencies, critical materials shortages or other intervening forces beyond the control of the Owner or Occupant, unless the DRB, in its sole discretion, extends the time for completion. For the purposes of this Declaration, work on an Improvement shall be deemed to have "commenced" when the Improvement site has been graded and, in the case of Buildings, footings or foundations have been poured or otherwise installed.

Section 6.13. Liability for Violation. Any person violating any provisions of this Article shall be liable for all costs incurred by the Declarant or the DRB or any other person who seeks to enjoin or otherwise remedy such violations, including, but not limited to, reimbursement for reasonable attorney fees and expenses incurred in connection with said enforcement.

Article VII USE RESTRICTIONS

Section 7.01. Purpose. In order to preserve the natural setting and beauty of Cypress Cove, and to establish and preserve a harmonious and aesthetically pleasing design pursuant to the Design Guidelines promulgated by the Association, and to protect and promote the value of all properties within Cypress Cove, each Lot and Dwelling Unit shall be subject to the restrictions set forth in Article VII.

Section 7.02. General Provisions. All Lots within Cypress Cove shall be used for only single family, non-transient residential purposes consistent with this Declaration. The Use Restrictions provided herein are not intended to interfere with the interior confines of Dwelling Units, except that the Association with approval of the Board may reasonably restrict or prohibit the following activities not normally associated with residential or home office. Except as otherwise provided herein, no business activity or trade of any kind shall be conducted within any Dwelling Unit, except that an Owner residing in a Dwelling Unit on a Lot may conduct business activities within the Dwelling Unit as long as: (a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the Dwelling Unit; (b) the business activity conforms to all zoning requirements for the Property; (c) the business activity does not involve persons coming onto the Property who do not reside in the Property or door to door solicitation of residents of the Property; and (d) the business activity is consistent with the residential character of the Property and does not constitute a nuisance, a hazardous or offensive use or threaten

the security or safety of other residents of the Property, as may be determined in the sole discretion of the Board. The term "business" and "trade" as used in this Section, shall be construed to have the ordinary, generally accepted meanings, and shall include without limitation, any occupation, work or activity undertaken on an ongoing basis which involves the provisions of goods or services to personas other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether such activity is engaged in full or part time, such activity is intended or does generate a profit; or a license is required therefore.

Section 7.03. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any portion of the Property or in any Dwelling Unit except that a total of two (2) household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes, that they do not create a nuisance (in the judgment of the Board), such as, but without limitation, by number, noise, odor damage or destruction of property or refuse and further provided that they are kept and maintained in compliance with (i) all laws and ordinances of the State of North Carolina, Dare County, or other applicable governmental entity relating thereto; and (ii) such rules and regulations pertaining thereto as the Board may adopt from time to time. The DRB in its sole discretion may permit more than two (2) household pets per Property. In no event shall more than three dogs and/or three cats be regularly kept on any Lot or in any Dwelling Unit, except for newborn offspring of household pets, which are under nine (9) months of age. Notwithstanding the foregoing, Pitbulls are expressly prohibited, and the Association shall have the right to prohibit or require the removal of, any dog or animal, which after consideration of factors such as size, breed, disposition of the animal, interference by the animal with the peaceful enjoyment by other Owners of their Lots and the security measures taken by the Owner with respect to such animal, the Association, in its sole discretion, deems to be undesirable, a nuisance or a safety hazard. Every person owing or having possession, charge, care custody or control of any dog or cat shall keep such dog or cat exclusively upon his own Lot; provided however, that such dog may be part of the Lot if it is under the control of a competent person and restrained by a chain, leash or other means of adequate physical control.

Section 7.04. Antennae. No exterior antennae, earth satellite station, microwave dish or other similar improvements may be constructed, placed, maintained or allowed to remain on any Lot or Dwelling Unit (or on any Improvement) other than a "Reception Device". As used herein, a Reception Device shall refer to a satellite dish or other device designed to receive video programming or antenna designed to receive over-the-air broadcast signals from local television stations. The use of a Reception Device is allowed, but will be limited as follows: (i) a Reception Device thirty-nine (39) inches or small in diameter is allowed, and Reception Devices larger than one meter are prohibited; (ii) Reception Devices must be installed on the Dwelling Unit in an inconspicuous location (so long as the quality of reception is not impaired); (iii) for safety purposes, no Reception Device may be installed that would extend higher than twelve (12) feet above the roofline of the Dwelling Unit without approval from the Architectural Design Review Board; (iv) for safety purposes, Reception Devices shall not be installed closer to an adjacent Dwelling Unit than the total height of the Reception Device; (v) the Owner of the Dwelling Unit upon which the Reception Device is located shall be solely responsible for the maintenance, repair, upkeep and all other costs associated with the Reception Device, including any medical expenses incurred by an person injured by the use of such Reception Device; and (vi) the Reception Device should be painted an appropriate color to match the surrounding environment if it would not unreasonably



increase the cost of the Reception Device. If any provision of this Section 7.04 is found to be invalid, the remainder of these provisions shall remain in full force and effect.

Section 7.05. Attachments. No permanent attachments of any kind or character whatsoever shall be made to the roof or exterior walls of any Dwelling Unit unless such attachments shall have been first submitted to and approved by the DRB; provided, however, "Reception Devices" (as defined in Article 7.04 herein) may be attached to the roof or exterior wall of a Dwelling Unit without approval by the DRB. No outdoor clotheslines shall be allowed on any Dwelling Unit or Lot. Window air-conditioning units are not allowed. All components of HVAC systems located outside a Dwelling Unit must be screened by lattice and planted vegetation, which vegetation must be maintained.

Section 7.06. Rental of Dwelling Units. Leasing and rental of Dwelling Units shall be permitted provided the leasehold term shall not be less than ten (10) consecutive weeks and the lease shall be evidenced by a written lease agreement.

Section 7.07. Nuisances, Unlawful Use and Quiet Enjoyment. No nuisance or immoral, improper, offensive or unlawful use shall be permitted to exist on any property within Cypress Cove.

Section 7.08. Pest-Control. All Dwelling Units must be subject to an agreement for periodic pest-control. All pest-control measures must be environmental friendly with the lowest chemicals allowed and any measures, which can be performed by organic means, shall be the method of treatment. Further, organic pest control measures if available must be performed on the soil of a Lot prior to commencement of any construction.

Section 7.09. Recombination of Lots. Any recombination of Lots first must be approved in writing by the DRB and recombination of Lots shall only be permitted on Lots 6-17 inclusive. Any Owner wishing a recombination of Lots must submit an application to the DRB in accordance with the guidelines and procedures set forth in Section 6.04 herein.

Section 7.10. Recreational Vehicles. Neither a motorboat, houseboat or other similar waterborne vehicle, nor any travel trailers, other trailers or "camper" vehicles may be maintained, stored or kept on any portion of the Property, except in (i) enclosed garages or (ii) in area(s) specifically approved and with screens or covers as specifically approved by the Declarant or DRB (in the absence of approval or disapproval by Declarant). Recreational vehicles shall not be stored or permitted within the parking spaces of the right-of-way. Recreational vehicles can be parked in the rear of the properties in a manner in which said vehicles are not visible from the street. The parallel parking spaces located within the rights-of-way are for the use of guest parking and shall not be used for the storage of vehicles or the repair of vehicles.

Section 7.11. Rules of the Association. All Owners and occupants of Lots or Dwelling Units shall abide by all rules and regulations adopted by the Association from time to time.

Section 7.12. Time Sharing. No time-share ownership of property is permitted in Cypress Cove. For purposes of this section, the term "Time-Share Ownership" shall mean a method of ownership of an interest in a property under which the exclusive right of use, possession or occupancy of the property circulates among the various Owners on a periodically reoccurring basis over a scheduled period of time.



Section 7.13. Compliance Provisions.

(a) Owner's Responsibility. Each Owner and Owner's family members, guests and tenants shall conform and abide by the Use Restrictions contained in this Declaration and any Rules and Regulations, which may be adopted from time to time by the Association. Each Owner shall be responsible for assuring such compliance, and any violation by family members, guests or tenants may be considered to be a violation by the Owner.

(b) Notice, Hearing and Fines. Unless otherwise provided (as in Articles VI and Article IX), any Owner who is believed to be in violation of this Declaration, or any Rules and Regulations adopted by the Board, shall be sent a "Notice of Violation" setting forth the violation and any requested action. Upon receipt of a Notice of Violation, the Owner may either take the corrective action set forth within the Notice of Violation or in the event an Owner is not in agreement with the terms of the Notice of Violation, the Owner has the right to a hearing before the Board provided the Owner delivers written notice for request of hearing to the Board no later than ten (10) days from the date the Owner received the violation. Upon receipt of any request for hearing, the Secretary of the Association shall thereafter calendar a hearing not less than seven (7) days nor more than thirty (30) days before the Board. If it is determined that the Owner is in violation and a fine shall be imposed, a single fine not to exceed \$100.00 may be imposed for the violation up to the time of the hearing and without further hearing, for each day after the decision by the Board that a violation has occurred. Any fines levied shall be charged against the Owner's property as an Individual Assessment pursuant to Section 8.04. The provisions provide herein for notice and hearing only apply to those matters which could result in an individual assessment being levied and do not apply to any other type of assessments.

(c) Additional Remedies. All remedies listed in this section are non-exclusive and may be applied cumulatively.

Article VIII
ASSESSMENTS

Section 8.01. Creation of Assessments, Personal Obligation and Lien. Each Owner, other than the Declarant, hereby covenants and agrees to all the covenants, easements and restrictions of this Declaration and to pay to the Association:

- (1) annual assessments or charges;
- (2) special assessments for capital improvements (such annual and special assessments to be fixed, established and collected from time to time as herein or in the Bylaws provided); and
- (3) individual assessments levied against an Owner to reimburse the Association for extra costs for maintenance and/or repairs caused by the failure of such Owner to maintain such Owner's individual Lot or Dwelling Unit and Improvements thereon, or assessments and charges to be fixed, established and collected as hereinafter provided; together with the costs, fees and expenses including reasonable attorneys' fees (the "costs of collection") incurred by the Association incidental to the enforcement of any Rules and Regulations, collection of assessments or collection of



damages or charges arising under the Governing Documents. All assessments together with interest and late payment fees, and any costs of collection shall be a charge on the land and shall be a continuing lien upon the Lot or Dwelling Unit against which each such assessment is made. Each such assessment, together with such interest thereon and cost of collection thereof as hereinafter provided, shall also be a personal and continuing obligation of the person or persons jointly and severally, who is (are) the Owner (s) of such Lot or Dwelling Unit at the time when the assessment fell due.

An Owner's personal obligation for payment of such assessments shall not pass to such Owner's successors in title unless expressly assumed by them, but the lien against such Owner's Lot or Dwelling Unit as established in this Declaration shall continue in effect (unless terminated as otherwise provided herein). No Owner shall be exempt from liability for any assessment provided for herein by reason or non-use of such Owner's Lot or Dwelling Unit or the Common Elements. This Declaration shall, pursuant to Section 6-21.2 of the North Carolina General Statutes, constitute an evidence of indebtedness with respect to the obligation to pay each assessment provided for herein.

Section 8.02. Purpose of Assessments. The Assessments levied by the Association shall be used exclusively to promote the health, security, safety and welfare of the residents of Cypress Cove and in particular for the improvement, maintenance and replacement of sidewalks, drainage easements, pedestrian easements, entrance signage, lighting, walls or fencing along bordering properties, and landscape maintenance of individual Dwelling Units.

Section 8.03. Initial Maximum Annual Assessment and Annual Assessment. The initial maximum annual assessment shall be the sum of \$360.00, based on monthly assessments of thirty and 00/100 dollars (\$30.00). The maximum annual assessment for each successive calendar year thereafter shall be established by the Board subject to Article VIII. Within thirty (30) days after adoption of the yearly budget, the Board shall provide to all Owners a summary of the budget and a notice of the meeting to consider ratification of the budget. The Board shall set a date for a meeting of the Owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. A quorum need not be present at such meeting, and the budget is ratified unless at that meeting the Owners entitled to exercise fifty-one percent (51%) of the votes in the Association reject the budget. In no event may the Board or membership of the Association decrease the amount of the annual assessment for any calendar year from the amount of the annual assessment for the previous calendar year.

(a) Landscape Assessment Fee. In addition to the annual assessments, there shall be an annual landscape assessment fee assessed to all Owners to maintain landscaping on each individual Lot and the irrigation system located within the Property. The initial landscape assessment fee for calendar year 2006 shall be \$1,200.00.

Section 8.04. Individual Assessment. An individual assessment may be levied against any Owner to reimburse the Association for costs incurred in bringing the Owner and/or such Owner's Lot or Dwelling Unit into compliance with the Governing Documents, provided such Individual Assessment may only be levied on the affirmative vote of the Board, after notice of an



opportunity for hearing has been provided to the Owner pursuant to the applicable provisions of either Section 6.09, Section 7.12 or Section 9.03.

Section 8.05. Effect of Non-Payment of Assessment: The Personal Obligation of the Owner; The Lien, Remedies of Association. If the Assessments are not paid on the date due, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot or Dwelling Unit. The personal obligation of the Owner to pay such Assessment shall remain his personal obligation for the statutory period and shall be binding on any successor in interest.

If the Assessment or Assessments are not paid within thirty (30) days after the delinquency date, the Assessment or Assessments shall bear interest from the date of delinquency at the rate of interest set by the Board, not to exceed the maximum rate permitted by law, and the Board acting on behalf of the Association may authorize its officers to bring appropriate civil action against the Owner personally obligated to pay the same or to foreclose the lien against any such Lot or Dwelling Unit and there shall be added to the amount of such Assessment, the costs of such action and reasonable attorney's fees as allowed by the Act or other cost incurred by the Association. In the event a judgment is obtained against any Owner for such Assessments, such judgment shall include interest on the assessment at the maximum rate permitted by law and a reasonable attorney's fee as allowed by the Act together with the costs of the action.

Section 8.06. Exempt Property. All Common Elements, any real property owned by governmental entities, and all Lots, Dwelling Units, and other portions of the Property owned by Declarant, shall be exempt from the Assessments and liens for same created herein during the Declarant's Rights Period. Provided, however, no real property or improvements subject to this Declaration and occupied and used for residential dwelling purposes shall be exempt from such Assessments and liens, other than Lots and Dwelling Units owned by Declarant and any affiliates of Declarant which property and which dwelling units shall be exempt from Assessments during the Declarant's Rights Period.

Section 8.07. Declarant's Obligations for Assessments. The Declarant's obligation for Assessments on unsold Lots or Dwelling Units subject to this Declaration will be limited to the difference between the actual operating costs of the Association, excluding reserves on the Common Elements, and the Assessments levied on Owners who have closed title on their Lots or Dwelling Units. In no event, however, will the Declarant be required to make a deficiency contribution in any amount greater than it would otherwise be liable for if it were paying Assessments on unsold Lots or Dwelling Units. After the Declarant's Rights Period, Declarant shall pay Assessments as would any other Owner for each Lot or Dwelling Unit owned by the Declarant.

Section 8.08. Enforcement. The lien for Assessments may be enforced and foreclosed in any manner permitted by the laws of North Carolina for foreclosure of mortgages or deeds of trust containing a power of sale or by an action in the name of the Board, or the managing agent, acting on behalf of the Association. The plaintiff in such proceeding shall have the right to the appointment of a receiver, if available under the laws of North Carolina. The Association shall have the power to bid on the Lot or Dwelling Unit at foreclosure or other legal sale and to acquire hold, lease, mortgage, convey or otherwise deal with such Lot or Dwelling Unit. In accord with Section 47F-3-116 of the Act, the Association as the prevailing party in any action brought to recover Assessments

shall be entitled to reimbursement for all costs and reasonable attorney fees incurred in connection with the collection of the delinquent Assessments.

Section 8.09. Remedies Cumulative. A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment.

Section 8.10. Statement of Common Expenses. In accord with Section 47F-3-118 of the Act, the Board or managing agent shall provide any member, Owner, contract purchaser or Mortgagee, within ten (10) days after a written request therefore, with a written statement of all unpaid assessments for Common Expenses due with respect to a specific Lot or Dwelling Unit (or a statement that the amount of unpaid assessments is zero). No contract purchaser, Mortgagee, or purchaser from a Mortgagee requesting such a statement shall be liable for, nor shall the Lot or Dwelling Unit conveyed to such Person relying on such statement be subject to, a lien for any unpaid assessments due prior to the date of such statement in excess of the amount set forth on such statement; provided, however, that this section shall not be interpreted to release any Owner from personal liability for such Assessments levied while such Person owned the Lot or Dwelling Unit. The Board may impose a reasonable charge for the preparation of such statement to cover the cost of preparation.

Section 8.11. Capital Assessment. Each new Owner of a Lot or Dwelling Unit in Cypress Cove shall remit a one time capital assessment fee at closing of \$300.00 to the Association.

Article IX
MAINTENANCE

Section 9.01. Responsibilities of Owners. Each Lot or Dwelling Unit Owner shall be responsible for all maintenance and repair of his Lot and/or Dwelling Unit together with all other improvements thereon, and shall maintain the swales on their Property in accordance with the North Carolina Storm water Management Permit issued by the Division of Water Quality for Cypress Cove.

Section 9.02. Responsibilities of the Association. The Association shall maintain and keep in good repair the Common Elements consisting of Live Oak Lane any landscaping of the Common Elements, sidewalks, drainage easements, pedestrian easements, entrance sign, street signage and lighting, any walls or fencing erected as buffers along the adjoining property, street lights, and landscape maintenance for the Lots and Dwelling Units.

Section 9.03. Compliance. The Association shall have the right but not the obligation to cure any maintenance deficiencies of an Owner (including but not limited to external care of windows, siding and roofing) in which event the Association shall give a "Notice of Maintenance" to the Owner setting forth those matters in need of repair and requesting the same be addressed and said repairs completed within thirty (30) days from the date of said notice. Upon timely written request by an Owner to the Secretary of the Association, the DRB shall give consideration to any reasonable request by the Owner for an extension to complete said repairs beyond thirty (30) days. In the event an Owner is in disagreement as to the need for repairs or corrections requested within



the Notice of Maintenance, then the Owner has the right to request a hearing before a panel of three Members designated by the DRB provided the Owner delivers written notice for request of hearing to the Secretary of the Association no later than ten (10) days from the date the Owner received the Notice of Maintenance. Upon receipt of any request for hearing, the Secretary of the Association shall thereafter calendar a hearing not less than seven (7) days and no more than thirty (30) days before the DRB. Subject to procedures that may be established by the Association, any Owner may appeal the DRB's decision to the Board. The Board in its election may either calendar a further hearing or uphold, modify or reverse the decision of the three member panel of the DRB and said decision by the Board shall be final. Should an Owner fail to make those repairs as set forth within the Notice of Maintenance, then the Association or its delegate agent shall have the authority to enter upon the Owner's property to repair and restore the Lot and/or Dwelling Unit and if necessary, make exterior repairs. All costs together with interest at the maximum rate permitted by law, including reasonable attorney fees as allowed by the Act may be assessed against the Owner's property and collected as an Individual Assessment pursuant to Section 8.04.

Article X
EASEMENTS

Section 10.01. Easement Reserved by Declarant. Declarant, and the Association, for itself, its successors and assigns, and its agents, contractors, and employees reserves a perpetual, alienable, and releasable easement on, over and under the Property (and including all Dwelling Units, Lots and Common Element) for installation, maintenance, repair, replacement, use, operation and removal of utilities (including, without limitation, electric, telephone and cable television) and related appurtenances and equipment (including without limitation, wires, poles, pipes, transformer boxes and conduits), stormwater and drainage facilities and soil and water impoundments. Provided, however, no easement hereby reserved shall be applicable to any portion of a Lot used as building site or approved use as building site by the DRB. Full right of ingress and egress shall be had by Declarant at all times over the Lots and Dwelling Units or Common Elements (other than the portions thereof used or approved as building sites) for the impoundments.

Section 10.02. Easement Reserved for The Association.

(a) Full rights of ingress and egress shall be had by the Association at all times over and upon each Lot or Dwelling Unit for the Maintenance and repair of each Lot or Dwelling Unit in accordance with the provisions hereof and for the carrying out by the Association of its rights, powers duties and obligations hereunder; provided that any such entry by the Association upon any Lot or Dwelling Unit shall be made with a minimum inconvenience to the Owner as reasonably practicable, and any damage caused as a result of the negligence of the Association's employees or agents shall be repaired by the Association at the expense of the Association.

(b) In addition to the foregoing, and in order to implement effective and adequate erosion control, the Association, and its contractors, employees and agents, shall have the right to enter upon any portion of any Lot or Dwelling Unit before and after Improvements have been constructed thereon for the purpose of performing any grading or landscaping work or constructing, repairing, replacing, using and maintaining erosion control devices; provided however, no such activities shall interfere with any permanent Improvements constructed on any such Lot or Dwelling Unit (which Improvements have been approved by the DRB). If the need for erosion control results from the

construction of Improvements on any portion of an Lot or Dwelling Unit or any excavation, grading, removal, reduction, addition or clearing of any Lot or Dwelling Unit or portion thereof, the cost of any such work performed by the Association for the purpose of implementing effective and adequate erosion control shall be assessed against the Owners of Lot or Dwelling Unit on which such corrective action is necessary on a Lot or Dwelling Unit, prior to exercising its right to enter upon such Lot or Dwelling Unit and performing any grading or landscaping work or constructing or maintaining erosion prevention devices, the Association shall give the Owner of such Lot or Dwelling Unit written notice of and the opportunity to take the corrective action specified in the notice, the Association may then exercise its right to enter upon the Lot or Dwelling Unit and take or complete the necessary corrective action.

(c) The Association retains a non-exclusive easement over all portions of the Property necessary for the repair and maintenance of the landscaping and irrigation system installed by the Declarant, all sidewalks, and any lighting which has been installed for the benefit of the subdivision.

(d) The Association shall have a non-exclusive easement over all portions of the Open Space as set forth in Section 4.07 above as necessary for the repair and maintenance of any improvements that have been constructed within the Open Space for the use and enjoyment of the Members for the purposes set forth in Section 4.07 above.

Article XI

INSURANCE: REPAIR AND RESTORATION

Section 11.01. Right to Purchase Insurance. The Association shall purchase, carry and maintain in force insurance covering any part or all of the Common Elements, Landscaped Rights-of-Way and any improvements thereon or appurtenant thereto and any other property of the Association, for the interest of the Association, the Board, its agents and employees. Declarant and its officers and employees, and of all Members of the Association, in such amounts and with such endorsements and coverage as the Board shall consider to be good, sound insurance coverage for similar properties. Such insurance may include, but need not be limited to:

(a) comprehensive public liability and property damage (hazard) insurance on a broad form basis with respect to the Common Elements and/or Landscaped Rights-of-Way with coverage of at least One Million and No/100 Dollars (\$1,000,000.00) for public liability and in an amount of at least eighty percent (80%) of replacement cost coverage for hazard insurance;

(b) coverage for the personal liability (if any) of the Declarant (and its officers, agents, employees and servants), the Board (and the individual members thereof), the officers of the Association, the DRB and other committees appointed by the Board, the Owners and Members;

(c) Fidelity bond for all officers and employees of the Association and other Persons having control over the receipt of disbursement of Association funds; and

(d) Worker's compensation insurance to the extent necessary to comply with all applicable laws.

Section 11.02. Insurance Proceeds. Subject to any limitations imposed by any applicable financing documents, the Association shall use the net proceeds of casualty insurance recovered to



repair and/or replace any damage or destruction of property, real or personal, covered by such insurance. Any balance from the proceeds of casualty insurance paid to the Association remaining after satisfactory completion of repair and replacement shall be retained by the Association as part of the general reserve fund for repair and replacement of the Common Elements and/or Landscaped Rights-of-Way.

Section 11.03. Insufficient Proceeds. If the insurance proceeds are insufficient to repair or replace any loss or damage, the Association may levy a special assessment in the manner provided for in this Declaration, to cover the deficiency.

Article XII AMENDMENT

Section 12.01. Amendment by the Declarant. During the Declarant's Rights Period, the Declarant may unilaterally amend any provision of this Declaration for any purpose. After the expiration of the Declarant's Rights Period, the Declarant may amend any provision of this Declaration to: (1) make non-material changes; and (2) satisfy the requirements of any government, governmental agency, including, without limitation, the Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, and Federal Home Loan Mortgage Corporation.

Section 12.02. Amendment by the Association.

1. Subject to Section 12.04 hereof, the Association may amend this Declaration by an affirmative vote of the members of at least sixty-seven percent (67%) of the votes entitled to be cast.
2. An amendment shall not be effective until certified by the President as to compliance with the procedures set forth herein, executed and acknowledged by the President and attested by the Secretary or Assistant Secretary of the Association, and recorded in the office of the Register of Deeds of Dare County.

Section 12.03. Governmental Agency Approval. Notwithstanding the provisions of Section 5.01, during the Declarant's Rights Period, if Declarant desires that the Property be eligible for loans made, guaranteed or insured by any governmental agency or lending agency including, without limitation, the Federal Housing Administration, the Veterans Administration, Federal Housing Administration, Federal National Mortgage Association, and Federal Home Loan Mortgage Corporation, the following actions will require prior approval of such governmental or lending agency: annexation of properties other than set forth on Exhibits: A, B and C, mergers and consolidations, mortgaging the Common Elements, dedication of Common Elements and amendment of this Declaration.

Section 12.04. Prerequisites. Written notice of any proposed amendment under Section 12.02 shall be sent to every member and Owner at least thirty (30) days before any action is taken. No amendment shall be made to the Declaration during the Declarant's Rights Period without the prior written consent of the Declarant. No amendment shall increase the financial obligations of an Owner in a discriminatory manner or further restrict development permitted on a Lot. No amendment to the Declaration shall diminish or impair the rights of the Declarant, including voting or veto rights, under the Declaration without the prior written consent of the Declarant. Except as



specifically provided in the Declaration, no provision of the Declaration shall be construed to grant to any Owner or to any other Person any priority over any rights of Mortgagees.

Section 12.05. Consent by the Town of Manteo. Any amendment to this Declaration of Section 4.07 shall require the consent and joinder by the Town of Manteo.

Article XIII TERMINATION

Section 13.01. Termination by the Association. The Association may terminate this Declaration only by a vote of the members entitled to cast at least eighty percent (80%) of the total number of votes as certified by the President or with the written approval of members entitled to cast at least eighty percent (80%) of the total number of votes. In either case the termination shall not be effective until certified by the President as to compliance with the procedures set forth herein, executed and acknowledged by the President and Secretary of the Association and recorded in the office of the Public Registry of Dare County, North Carolina.

Section 13.02. Prerequisites. Written notice of the proposed termination shall be sent to every member, Owner and Mortgagee at least sixty (60) days before any action is taken. The Declaration may not be terminated during the Declarant's Rights Period without the prior written consent of the Declarant. Such termination shall not affect any permanent easements or other permanent rights or interest relating to the Common Elements created by or pursuant to the Governing Documents. To the extent necessary, the termination agreement shall provide for the transfer assignment of the easements, rights or interest granted to the Association herein to a successor entity which is assuming the Association's maintenance and regulatory responsibilities. Any lien which has arisen pursuant to the provisions of the Declaration shall remain in full force and effect despite termination of the Declaration until the amounts secured thereby are paid in full. Upon termination of the Declaration and the dissolution of the Association, the Association shall dispose of or distribute the real and personal property owned by the Association to such nonprofit corporation as may have been established upon termination to hold and administer the real and personal property formerly owned by the Association or public body or agency which shall perform the same functions.

Article XIV MISCELLANEOUS

Section 14.01. Joinder of Trustee and Beneficiary. Trustee and Lender join in the execution of this Declaration to consent to the terms of the same and subordinate the lien of any deed of trust to the Trustee for the benefit of Lender encumbering the Property to the provisions of this Declaration.

Section 14.02. Remedies. Declarant, the Association, and every Owner shall have the right to enforce the terms, covenants, conditions, restrictions, easements, charges and liens for which provision is made in this Declaration, which enforcement shall be by any proceeding at law or in equity (or otherwise, as provided in this Declaration) against any Person violating or attempting to violate any such term, covenant, condition, restriction, easement, charge or lien either to restrain violation or to recover damages, and against the land, to enforce any lien created by these covenants;

and failure by the Association, Declarant or any Owner to enforce any such term, covenant, condition, restriction, easement, charges or lien shall in no event be deemed a waiver of the right to do so thereafter or a waiver of any other or future violation of any of same.

Section 14.03. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of this Declaration shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses and phrases of this Declaration shall continue in full force and effect and shall not be affected thereby. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null, or void.

Section 14.04. Notice. Except as otherwise provided herein, whenever written notice to an Owner (including Declarant) is required hereunder, such notice shall be given by the mailing of same, postage prepaid, to the address of such Owner appearing on the records of the Association. If notice is given in such manner, such notice shall be conclusively deemed to have been given by placing same in the United States mail properly addressed, with postage prepaid, whether received by the addressee or not. It shall be the duty of each Owner to keep the Association informed of such Owner's current mailing address and telephone number. The Association may use the address of such Owner's Lot listed with the Dare County Tax Office.

Section 14.05. Interpretation. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which, in the opinion of Declarant or Board, will best effect the intent of the general plan of development. The provisions hereof shall be liberally interpreted and, if necessary, they shall be so extended or enlarged by implication as to make them fully effective. The provisions of this Declaration shall be given full force and effect notwithstanding the existence of any zoning ordinance or building codes which are less restrictive.

Section 14.06. No Trespass. Whenever the Association, Declarant, the ASC, and their respective successors, assigns, agents or employees are permitted by this Declaration to enter upon or correct, repair, clean, maintain, preserve or do any other action within any portion of Cypress Cove, the entering thereon and the taking of such action shall not be deemed to be trespass.

Section 14.07. Successors of the Declarant. Any and all rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant hereunder, or any part of them, may be assigned and transferred (exclusively or non-exclusively) by the Declarant by instrument in writing and recorded in the Public Registry of Dare County, North Carolina.

Section 14.08. No Partition. Except as is permitted in the Declaration or amendments thereto, there shall be no judicial partition of the Common Elements or any part thereof, nor shall any Person acquiring any interest in the Property or any part thereof seek any judicial partition unless the Property or such portion thereof have been removed from the provisions of this Declaration. This Article shall not be construed to prohibit the Association from acquiring and disposing of tangible personal property nor from acquiring title to real property which may nor may not be subject to this Declaration.



Section 14.09. Combination of Lots. For so long as there is a Class B Membership, no Lot shall be subdivided without the written consent of Declarant. One or more Lots may be combined into a single Lot with the written consent of Declarant and, upon such combination and consent of Declarant, the resulting Lot shall be considered as one Lot for the purposes of this Declaration. Provided, the foregoing shall not prohibit or restrict the right (which is hereby reserved) of Declarant to subdivide, combine, re-subdivide, recombine, or re-record maps relating to, any Lots subject to this Declaration.

Section 14.10. Laws of North Carolina and the United States. This Declaration shall be subject to and construed in accordance with the laws of the State of North Carolina and all applicable laws and regulations of the United States of America.

Section 14.11. Joinder of Trustees and Beneficiaries. Trustees and Beneficiaries join in the execution of this Declaration to consent to the terms of the same and subordinate the liens of any deed of trust to the Trustees for the benefit of the Beneficiaries encumbering the Property to the provisions of this Declaration.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in such forms to be binding, all by authority duly given the day and year subscribed.



DECLARANT:

CYPRESS COVE, LLC

By: Ben Goldstein (SEAL)
Ben Goldstein, Manager

FIRST DEED OF TRUST SUBORDINATION

TRUSTEE:

BB&T COLLATERAL SERVICE CORPORATION

By: Duncan L. McGoogan (SEAL)
Name: Duncan L. McGoogan
Title: Senior Vice President

BENEFICIARY:

BRANCH BANKING AND TRUST COMPANY

By: Abraham A. Cox (SEAL)
Name: Abraham A. Cox
Title: Vice President

SECOND DEED OF TRUST SUBORDINATION

TRUSTEE:

By: Daniel D. Khoury (SEAL)
Daniel D. Khoury

BENEFICIARY:

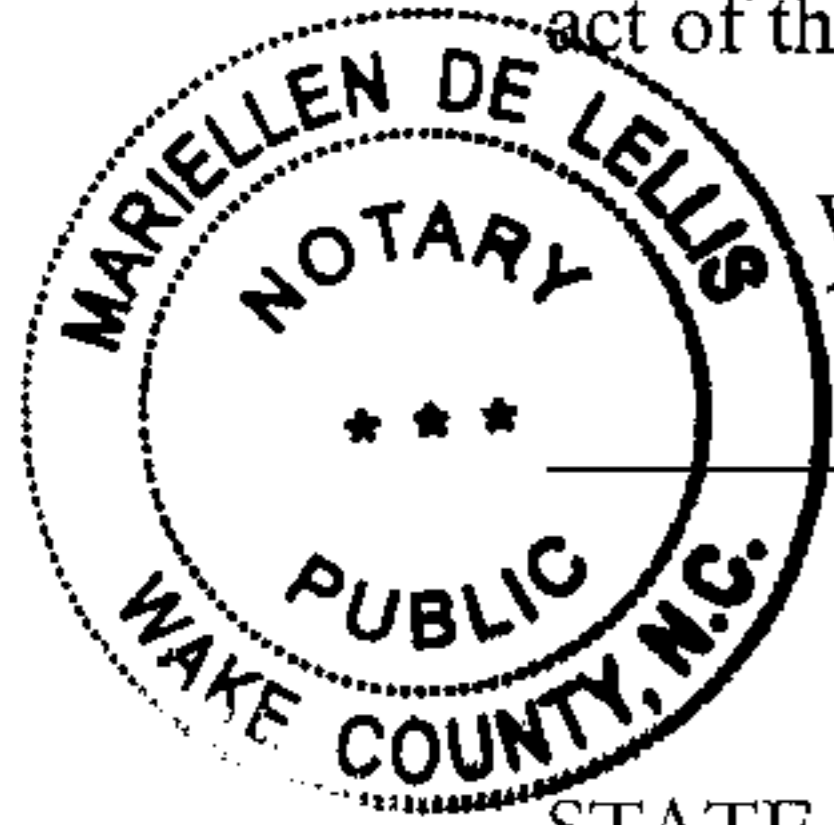
SKYCO DEVELOPMENT COMPANY, LLC, a North Carolina limited liability company

By: Glenn E. Futrell (SEAL)
Glenn E. Futrell, Manager



WAKE
DARE COUNTY
NORTH CAROLINA

I, Mariellen DeLellis, a Notary Public of the County and State aforesaid, certify that Ben Goldstein, personally appeared before this day and acknowledged that he is Manger of Cypress Cove, LLC a North Carolina limited liability company, and that by authority duly given and as the act of the Company, the foregoing instrument was signed in its name by him as its Manager



Witness my hand and official stamp or seal this the 11th day of October, 2006.

Mariellen DeLellis (SEAL)

My commission expires: 4-8-2009

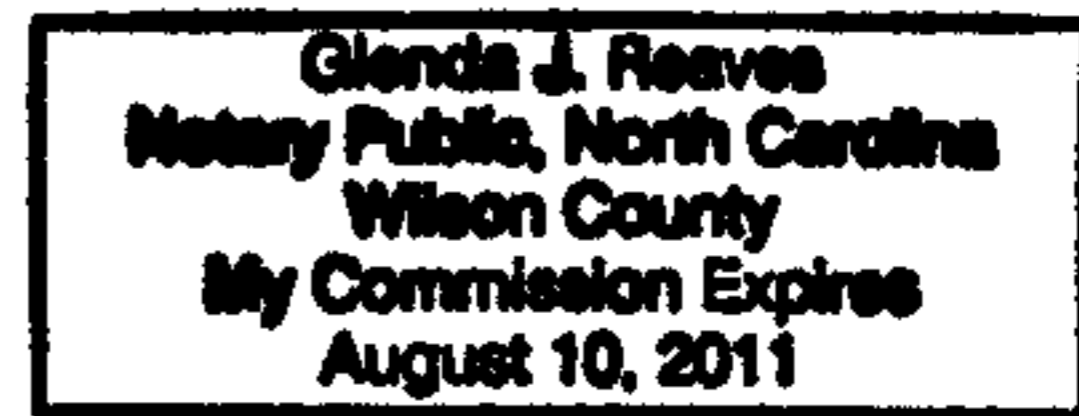
STATE OF NORTH CAROLINA
COUNTY OF Wilson

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Duncan L. McGoogan personally came before me this day and acknowledged that he/she is (title) SR Vice-President of BB&T Collateral Services Corporation., 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 (title) SR Vice-President and attested by him/her as its (title) SR Vice-President.

Witness my hand and official stamp or seal, this 4th day of October, 2006.

My commission expires: August 10, 2011
Notary Public Glenda J. Reeves
Glenda J. Reeves

[SEAL]



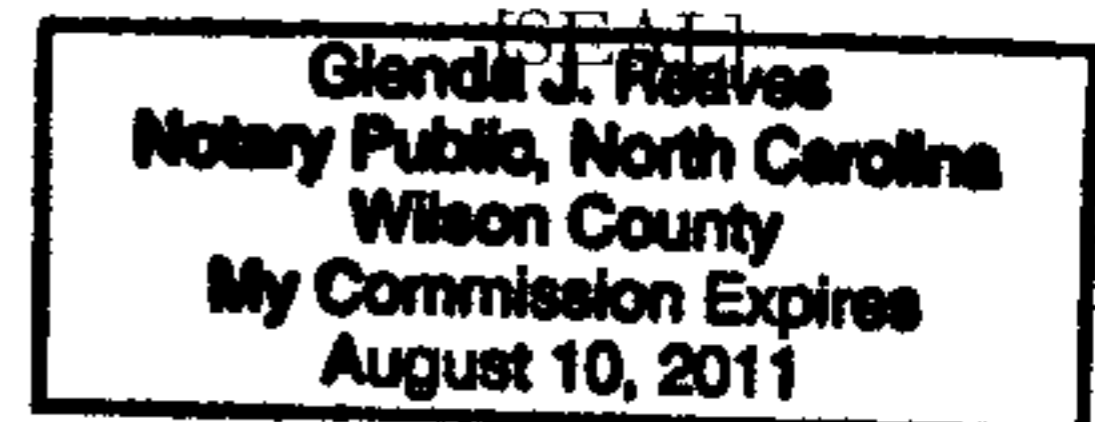
STATE OF NORTH CAROLINA
COUNTY OF Wilson

I, the undersigned, a Notary Public of the County and State aforesaid, certify that Abraham A. Cox personally came before me this day and acknowledged that he/she is (title) Vice President of Branch Banking and Trust Company., 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 (title) Vice-President and attested by him/her as its (title) Vice-President.

Witness my hand and official stamp or seal, this 4th day of October, 2006.

My commission expires: August 10, 2011
Notary Public Glenda J. Reeves
Glenda J. Reeves

[SEAL]



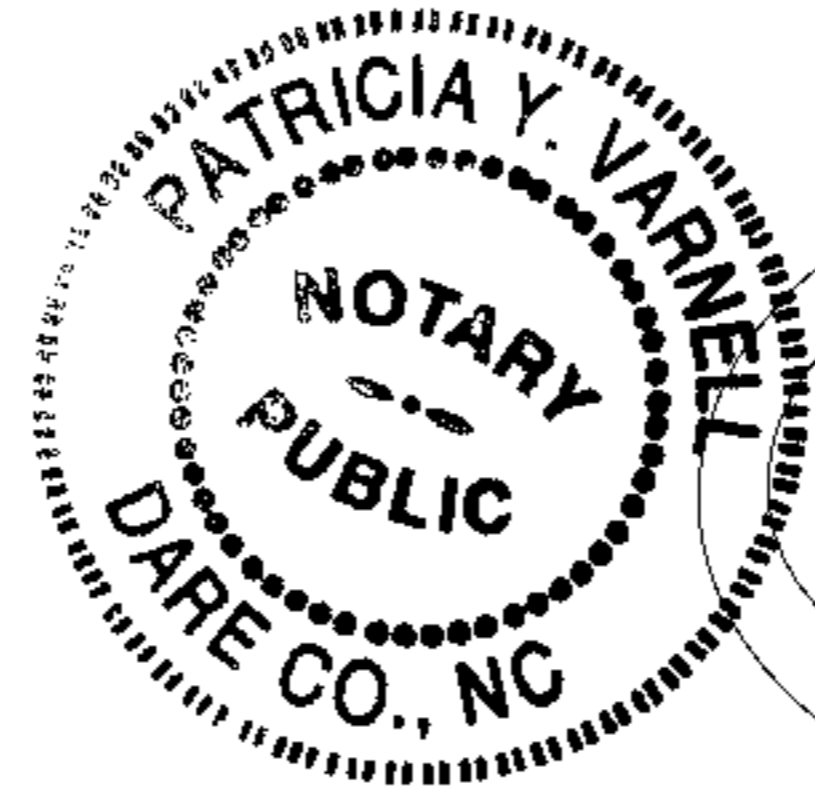
DARE COUNTY
NORTH CAROLINA

I, Patricia Y. Varnell, a Notary Public of the County and State aforesaid, certify that Glenn E. Futrell, personally appeared before this day and acknowledged that he is Manger of Skyco Development Company, LLC a North Carolina limited liability company, and that by authority duly given and as the act of the Company, the foregoing instrument was signed in its name by him as its Manager

Witness my hand and official stamp or seal this the 6th day of October, 2006.

Patricia Y. Varnell (SEAL)

My commission expires: 11/17/2009



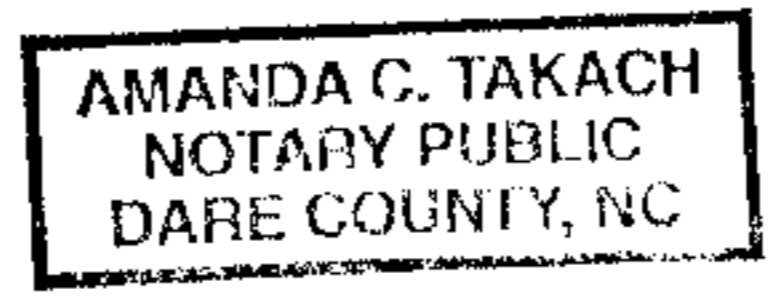
DARE COUNTY
NORTH CAROLINA

I, Amanda C. Takach, a Notary Public of the County and State aforesaid, certify that Daniel D. Khoury, personally appeared before this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal this the 10 day of October, 2006.

Amanda C. Takach (SEAL)

My commission expires: 10/15/10



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EXHIBIT A

Parcel 1:

All that certain lot or parcel of land lying and being on Roanoke Island, Dare County, North Carolina, adjoining the lands now or formerly belonging to Evans, Pitts, Griggs Lumber & Produce, Inc., Hwy. 64/264, High, Spence, Landreth and Foremen, and more particularly described and shown as "PARCEL OF LAND" on that map or plat entitled, "Skyco Development Co., LLC, Plat of Land-Roanoke Island", dated November 8, 2004, and prepared by Wesley M. Meekins, Jr., PLS, and recorded in Plat Cabinet F, Slide 369, Dare County Registry.

Parcel 2:

All that certain lot or parcel of land conveyed to James Stephen McDaniels and wife, Jean Walker McDaniels in Deed Book 908, Page 001, Dare County Registry, save and except that portion of the said lands which were later conveyed by James Stephen McDaniels and wife, Jean Walker McDaniels to Alfred W. Shelton, III in Deed Book 1487 at Page 125, Dare County Registry.



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Infiltration Basin Schedule	
Basin Location (Lots)	Basin Length (ft)
1-2	100
2-3	100
3-4	100
4-5	100
6-7	130
7-8	130
8-9	110
9-10	105
10-11	105
11-12	105
12-13	100
13-14	100
14-15	100
15-16	100
16-17	100
18-19	95
19-20	95
20-21	95
21-22	95
23-24	120
25-26	110
26-27	110
27-28	110
28-29	110
29-30	110
31-32	120

Impervious Area Table			
(Per Lot)			
Lot No.	Area (ft ²)	Percent Impervious	Impervious Area (ft ²)
1	6,050	35	2,118
2	6,050	35	2,118
3	6,050	35	2,118
4	6,050	35	2,118
5	6,563	40	2,625
6	7,266	35	2,543
7	7,152	35	2,503
8	7,149	35	2,502
9	6,950	35	2,433
10	6,770	35	2,370
11	6,774	35	2,371
12	6,960	35	2,436
13	6,921	35	2,422
14	6,905	35	2,417
15	6,826	35	2,389
16	6,839	35	2,394
17	7,129	35	2,495
18	7,833	40	3,133
19	7,150	35	2,503
20	6,050	35	2,118
21	7,150	35	2,503
22	6,022	35	2,108
23	7,206	35	2,882
24	7,178	35	2,871
25	7,163	40	2,865
26	6,196	40	2,478
27	6,128	40	2,451
28	6,128	40	2,451
29	6,129	40	2,452
30	7,126	40	2,850
31	7,192	40	2,877
32	7,533	40	3,013

RECEIVED

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PROJ # _____

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