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Franklin County North Carolina
Linda H. Stone Register of Deeds
BK 1432 PG 320-345

Prepared by: T. S. Royster, Jr., P. O. Box 1060, Oxford, NC 27565
Return to: Tarheel Land Company, P. O. Box 1060, Oxford, NC 27565

NORTH CAROLINA
FRANKLIN COUNTY

DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
KENDAL FOREST SUBDIVISION

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made and entered into this 20th day of September 2004, by Tarheel Land Company, a North Carolina corporation, hereinafter referred to as "Declarant";

WITNESSETH:

WHEREAS, Declarant is the owner of the residential subdivision described on Exhibit "A" hereto attached and incorporated by reference; and

WHEREAS, it is in the best interest of the Declarant and to the benefit, interest and advantage of every party hereafter acquiring any of the described property that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the property be established; and

WHEREAS, Declarant desires to provide for the preservation of the values and amenities and the desirability and attractiveness of the property; and for the continued maintenance and operation of any recreational and/or common properties.

NOW, THEREFORE, in consideration of the premises, Declarant hereby declares that all of the property described on Exhibit "A" shall be held, sold, and conveyed subject to the following easements, restrictions, covenants and conditions, all of which shall run with the title to the property and be binding on all parties having any right, title or interest in the described property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof:

ARTICLE I

DEFINITIONS

Section 1. "Articles" shall mean the Articles of Incorporation of the Association as filed with the Secretary of State of North Carolina, as the same may be from time to time be amended.

Section 2. "Association" shall mean and refer to Kendal Forest Homeowners Association, Inc., a North Carolina nonprofit corporation, its successors and assigns.

Section 3. "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 4. "Building" shall mean and refer to a residential structure, single outbuilding or detached garage constructed or erected on said property.

Section 5. "Bylaws" shall mean the document for governance of the Association as adopted initially by the Board and as amended by the Members.

Section 6. "Common Properties" shall mean all real property and any improvements constructed thereon, if any, owned by the Association for the common use and enjoyment of the Owners or Members of the Association, as may be designated on any subdivision map of the Property or by the Association.

For maintenance purposes, the Common Properties specifically include the subdivision signs, landscaping and lighting within the signage and landscaping easements at the entrances to the subdivision from Montgomery Road, the landscaping on and along the soil berm that extends along the north side of Montgomery Road for the full length of the subdivision and the subdivision streets until they are placed on the NCDOT system for maintenance.

Section 7. "Common Expenses" shall mean and include, as applicable:

- (a). All sums lawfully, assessed by the Association against its members;
- (b). Payments or obligations to reserve accounts established or maintained pursuant to this declaration;
- (c). Expenses of administration, maintenance, repair or replacement of the Common Properties or their elements.
- (d). Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;

(e). Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the Association to purchase; or as the Association may deem appropriate to purchase;

(f). Ad valorem taxes and public assessment charges lawfully levied against Common Properties.

(g). The expense of the maintenance of private drainage and utility easements and facilities located therein which are within the boundaries of the Property and serve both the Property and lands adjacent thereto;

(h). Any other expenses determined by the Board or approved by the members to be common expenses of the Association.

Section 8. "Declarant" shall mean and refer to Tarheel Land Company, a North Carolina Corporation, its successors and assigns, to whom the rights of Declarant hereunder are expressly transferred, in whole or in part, and subject to such terms and conditions as Declarant may impose.

Section 9. "Lot" shall mean and refer to any plot or Tract of land shown upon recorded subdivision map of the Property, as such map or maps may be from time to time amended or modified, for detached single family residential use; designated for residential use and for separate ownership and occupancy.

Section 10. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 11. "Notice" required to be given herein shall be in writing and mailed by US mail, postage prepaid, first class to the address of any Member on the records of the Association or shall be hand delivered to the Member.

Section 12. "Owner" or "Lot Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. A consumer occupant Lot owner is a Lot owner who occupies the residence on the Lot.

Section 13. "Person" shall mean and refer to any individual corporation, partnership, association, trustee or other legal entity.

Section 14. "Property" shall mean and refer to that certain real property described on Exhibit "A" hereto attached, and such additions thereto as may hereafter be brought within the jurisdiction of the Association by the Declarant.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Properties together with and including the right of access, ingress and egress, on and over the Common Properties, all of 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 charge reasonable admission and other fees for the use of common properties or its elements.

(b). The right of the Association to suspend the voting rights and the right to use the Common Properties or its elements, if any, by an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed 60 days for any infraction of its rules and regulations, it being understood that any suspension for either non-payment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment;

(c). The right of the Association to convey or grant a security interest in the Common Properties if persons entitled to cast at least eighty percent (80 %) of the votes in the Association agree in writing to that action and subject to the other provisions of Chapter 47F of the N. C. General Statutes.

(d). The right of the Association in accordance with its Articles of Incorporation or Bylaws to impose rules and regulations for the use and enjoyment of the Common Properties and improvements thereon and to limit the number of guests of Members.

(e). The right of the Owners of Lots on additional lands annexed to the Property initially, or subsequently, to the easements of enjoyment and rights of ingress, egress and access, as specified above, to the initial Common Property and all the Common Properties included in subsequent phases.

(f). The right of the Association to exchange Common Properties in accordance with the provisions of the N. C. Planned Community Act, Chapter 47F of the N. C. General statutes.

(g). Other rights and powers granted to the Association and its Members under the provisions of the N. C. Planned Community Act, Chapter 47F of the N. C. General Statutes.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Properties to the members of his family,

his tenants, or contract purchasers who reside on the Property, but may not delegate or assign responsibility for the actions of those to whom such right is delegated.

Section 3. Title to the Common Properties. Declarant hereby covenants for itself, its heirs and assigns, that prior to the conveyance of the first Lot it will convey fee simple title to the Common Properties located within the Property as shown on each map of the subdivision recorded and to be recorded in the Franklin County Registry to the Association, free and clear of all encumbrances and liens, except for the encumbrance of utility, service, access, storm drainage and other similar service or utility easements. Similarly, the Declarant will convey to the Association, Common Properties which are a portion of any property as the same is annexed in the future at the time of conveyance of the first Lot located on that additional property. If such conveyance is made, such additional property will become Common Property belonging to the Association.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

Section 2. Classification of Membership. 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; however, the vote for such Lot shall be exercised as they among themselves determine or as set forth in the Bylaws, but in no event shall more than one vote be cast with respect to any Lot. Fractional voting is prohibited.

Class B. The Class B Member shall be the Declarant and Declarant shall be entitled to six (6) votes for each lot owned. Declarant shall also be entitled to six (6) votes for each lot which it may develop in later phases of the subdivision and add to the Properties. 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 equal or exceed the total votes outstanding in the Class B membership; however, the Class B membership shall be reinstated if thereafter, and before the time stated in subparagraph (b) below, additions are made to the Properties sufficient to give the Class B membership a total number of votes to exceed those of the Class A membership; or,

(b). Ten (10) years from the date this Declaration is recorded in the Office of the Register of Deeds of Franklin County, North Carolina.

Section 3. Suspension of Voting Rights. The right of any member to vote may be suspended by the Board of Directors for just cause pursuant to its rules and regulations and the Articles and Bylaws of the Association for any period during which an assessment against his Lot remains unpaid and for a period not to exceed 60 days for any infraction of its rules and regulations, it being understood that any suspension for either non-payment of any assessment or breach of rules and regulations of the Association shall not constitute a waiver or discharge of the Member's obligation to pay the assessment.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal obligation of Assessments. The Declarant, for each Lot owned within the Property, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, 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 which are Common Expenses, and (2) special assessments for extraordinary maintenance and capital improvements. The annual and special assessments, together with interest and costs, and reasonable attorney's fees for collection, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such assessment is made. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them. Each Lot Owner must notify the Association of any change in personal mailing address other than that which is on record at the Franklin County Tax Office.

The Association shall also have the authority through the Board of Directors to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any of the provisions of this Declaration that necessitate the expenditure of time, money or both by the Association for repair or remedy.

Each Owner covenants for himself, his heirs, successors and assigns, to pay each assessment levied by the Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the payment of such assessment shall be in default and the amount thereof become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid. The Board of Directors may authorize a billing agent to collect the assessments provided for herein.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the paying of Common Expenses, enforcing these covenants and rules of the Association and improving and maintaining the Common Properties.

Section 3. Amount of Assessment.

(a). Initial Maximum Assessment. To and including December 31, 2004, the maximum annual assessment shall not exceed One Hundred Twenty Dollars (\$120.00) per individual Lot .

(b). Increase by Association. From and after December 31, 2004, the annual assessment imposed by this Association, initially \$120.00, effective for any subsequent year may be increased the succeeding year by the Board of Directors, without a vote of the membership, by a percentage which may not exceed ten percent (10%) above the maximum assessment for the previous year.

(c). Increase by Members. From and after December 31, 2004, the annual assessment may be increased by a percentage greater than permitted by subparagraph (b) of this Article by an affirmative vote of two thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for such purpose.

(d). Criteria for Establishing Annual Assessment. In establishing the annual assessment for any assessment year, the Board of Directors shall consider all current costs and expenses of the Association, any accrued debts, and reserves for future needs, but it may not fix the annual assessment in an amount in excess of that permitted in Subsection (b) of this Section 3 above, without the consent of members required by Subsection (c).

(e). Board Authority. The Board of Directors may fix the annual assessment at an amount not in excess of the maximum.

(f). Assessment Billing. Assessment shall be billed annually, quarterly, monthly or on such other basis as may be determined by the Board of Directors. Lot Owners are required to provide the Board of Directors with their current mailing or billing address to avoid the effects of nonpayment as specified in Article IV, Section 9.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, restoration, repair or replacement of any improvement upon the Common Properties, any extraordinary maintenance, including vegetation, fixtures and personal property related thereto and any property for which the Association is responsible, provided that any such assessment shall have the assent of two thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Replacement Reserve. Out of the Common Expenses assessment, the Board shall create and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Properties which the Association may be obligated to maintain.

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 this Article shall be sent to all members not less than 15 days nor more than 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 votes of each class membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to a minimum seven (7) day, maximum twenty-one (21) day notice requirement, and the required quorum at the subsequent meeting shall be one half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 7. Uniform Rate Assessment. Both annual and special assessments must be fixed at an equal rate for all Lots and shall be collected on an annual or other periodic basis established by the Board.

Section 8. Date of Commencement of Annual Assessments, Due Dates and Initial Working Capital. The annual assessments provided for herein shall commence as to all Lots at the date of closing of the sale of a Lot from the Declarant. Each Lot Owner shall pay to the Association the pro rata amount of the annual assessment from the date of closing on any Lot until the first day of the first calendar year following closing of that sale. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge if it deems appropriate, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of issuance.

Section 9. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall be delinquent, in default, and shall bear interest for the due date at the highest rate then permitted by North Carolina law not to exceed twelve percent (12%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorney's fees, or foreclose the lien against the Lot. No owner may waive or otherwise escape liability for the assessments provided for herein by non use of the Common Properties or abandonment of his Lot.

The lien herein granted unto the Association shall be enforceable pursuant to Article 2A of Chapter 45 of the General Statutes from and after the time of recording a Claim of Lien in the Office of the Clerk of Superior Court in the County in which the Property is located in the manner provided therefor by Article 8 of Chapter 44 of the North Carolina General Statutes, or other applicable Statute, which claim shall state the description of the Lot encumbered thereby, the name of the record owner, the amount due and date when due. The claim of lien shall be recordable any time after thirty (30) days after the due date of the assessment or any installment thereof and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include all assessments which are due and payable when the Claim of Lien is recorded, plus interest, costs, attorney's fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of Lien shall be signed by an officer or agent of the Association. Upon full payment of all sums secured by such claim of lien the same shall be satisfied of record.

Section 10. Subordination of the Lien to Mortgages and Ad Valorem Taxes. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage and ad valorem taxes on said Lot. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to a mortgage or tax foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer, but shall not abate the personal obligation of the prior owner. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 11. Exempt Property. Any portion of the Property dedicated to, and accepted by, a local public authority and any portion of the property owned by a charitable or nonprofit 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.

Section 12. Lot Owner's Maintenance Responsibilities. The maintenance responsibility of the grounds surrounding the improvements on each Lot shall rest with each Lot owner. This maintenance responsibility shall include, without limitation, grounds care such as maintaining grass in grassed areas along public road right-ways, shoulders, ditches and slopes adjacent to Lot, neat cutting of grass and maintenance of shrubs, trees and flowers, with replacement of dead or diseased vegetation as necessary in the opinion of the Association to maintain the grounds surrounding the improvements on each Lot in a neat and attractive manner.

In the event an Owner fails to keep and maintain the grounds on his Lot in a neat and attractive manner, then the Association may maintain, repair, replace or generally keep up the Lot if such has been approved in advance by a vote of two thirds of each class of members present and voting in person or by proxy at a meeting of members duly

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called for the purpose of making this determination or at any annual meeting at which this matter is announced as an agenda item.

In the event the Association must do any maintenance, repair, replacement or upkeep on any Lot, each Lot Owner hereby gives to the Association, and the same is hereby reserved unto the Association, its agents, servants or independent contractors, the right and easement for unobstructed access in, over and on each Lot at all reasonable times to perform such repair or replacement by the Association. Any expenses incurred will become an assessment or lien against that lot.

ARTICLE V

FUNCTIONS AND SERVICES OF THE ASSOCIATION

Section 1. Minimum List of Functions and Services. The minimum list of functions and services which the Association must furnish to its members are as follows:

(a). The Association shall provide or procure the administrative services necessary to carry out the Association's obligations and business under the terms of this Declaration, the Articles of Incorporation of the Association, and the By Laws of the Association, including, but not limited to, legal, accounting, financial and communication services.

(b). The Association shall administer and enforce the covenants and restrictions established in this Declaration, including, but not limited to, the following:

i). The Association shall set Assessments, levy cash Assessments, notify the Members of such Assessments and collect such Assessments;

ii). The Association shall prepare accurate indexes of Members, Votes, Assessments, and the maximum annual Assessment;

iii). The Association shall operate an Architectural Committee if turned over to it by Declarant;

iv). The Association shall maintain and operate all Common Properties.

v). The Association shall hold Annual Meetings, Special Meetings and Referendums as required, hold elections for the Board of Directors as required and give Members "proper notice" as required;

vi). The Association shall prepare Annual Statements and Annual Budgets and shall make the financial books of the Association available for inspection by the Members by appointment.

(c). Should the Declarant appoint the Association its agent for the administration or enforcement of any of the provisions of the general property covenants or any other covenants and restrictions of record, the Association shall assume such responsibility and any obligations which are incident thereto.

(d). Should the Declarant assign to the Association any of the rights reserved unto it in the general property covenants or any other covenants or restrictions of record, the Association shall assume the responsibility of administering and enforcing said rights and shall assume any obligations which are incident thereto.

(e). The Association shall provide appropriate Directors and Officers Legal Liability Insurance and indemnify persons pursuant to the provisions of the Articles of Incorporation of the Association.

(f). The Association shall keep a complete record of all its acts and corporate affairs.

(g). The Association shall provide regular and thorough maintenance and clean up of all Common Properties, including, but not limited to, mowing of grass, fertilization and seeding as needed, landscape maintenance as needed, pick up and disposal of trash, cleaning, painting, repairing or replacing any improvements as needed.

(h). The Association shall pay any and all taxes or public assessments on the Common Properties.

Section 2. Obligation of the Association. The functions and services to be carried out or offered by the Association at any particular time shall be determined by the Board of Directors of the Association taking into consideration the funds available to the Association and the needs of the Members of the Association. The functions and services which the Association is authorized to carry out or provide may be added or reduced at any time upon the affirmative vote of fifty one percent (51%) of the votes cast by the Members at a duly called meeting of the Association.

Section 3. Maintenance of the Property Not Owned by the Association. The Association shall be authorized to render services of a governmental nature not furnished by the local government in the case of maintenance of property not owned by it.

ARTICLE VI

ARCHITECTURAL CONTROL

The Declarant or its appointed Architectural Committee shall control approvals for all improvements and construction proposed on any Lot for so long as it shall own at least one lot in Kendal Forest Subdivision, all phases combined. At such time as Declarant shall no longer hold a Class B Membership, or elects to voluntarily relinquish architectural control, it shall appoint an Architectural Committee of three (3) persons who own lots in the subdivision. Successors to this Committee shall be appointed by the Declarant so long as there is a Class B Membership, or if there is no Class B Membership, then the Architectural Committee shall be appointed by the Board.

No dwelling, building, fence, wall, hedge, mass planting or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made (including changes or alterations in the color of exterior paint, siding, masonry or shutters) until the plans and specifications showing the nature, kind 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 Declarant or the Architectural Committee.

Approval or disapproval by the Architectural Committee or Declarant of such plans, specifications or location may be based upon any grounds, including purely aesthetic and environmental, which in the sole discretion of the Architectural Committee or Declarant, it shall deem sufficient. Neither the Architectural Committee nor the Declarant shall be responsible for any defects in the plans and specifications submitted to it or in any structure erected or improvements made on any Lot.

In the event the Declarant or Architectural Committee fails to approve or disapprove such submission made by any Lot Owner within thirty (30) days after said plans and specifications have been received by the Declarant or Architectural Committee, approval will not be required and this Article will be deemed to have been complied with. Any plans and specifications that contain inaccurate or missing data or information when submitted shall not be deemed to be approved notwithstanding any prior approval by the Declarant or Architectural Committee.

The Declarant and the Architectural Committee, or their appointed agents, shall have the right at their election, but shall not be so required, to enter upon any of the Lots during site preparation or construction, erection, or installation of improvements to inspect the work being undertaken and to determine that such work is being performed in conformity with the approved plans and specifications.

ARTICLE VII

USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, publish and enforce reasonable rules and regulations concerning the use and enjoyment of the Common Properties and its elements. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Use of Property. The Property shall be used for single family residential purposes and for purposes incidental or accessory thereto (except for a temporary office or building model to be used by Declarant or its agents).

Section 3. Quiet Enjoyment. No obnoxious or offensive activity shall be carried out upon the Property, nor shall anything be done which may be, or may become a nuisance or annoyance to the neighborhood.

Section 4. Animals. No animals, birds, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats, pet birds or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes, are controlled in accordance with applicable governmental ordinances and are not a nuisance to other Owners. There shall be a limit of no more than three (3) household pets per lot. The location of and the materials used in the construction of any dog houses, runs and fences are improvements which require the review and approval of the Architectural Committee as set out in Article VI herein.

Section 5. Appearance. It shall be the responsibility of each Property Owner, tenant, contractor or subcontractor to prevent the development of any unclean, unsightly, unkempt, unhealthy, or unsafe conditions of buildings or grounds on any Property which will tend to substantially decrease the beauty of Kendal Forest Subdivision, the neighborhood as a whole or the specific area. The Declarant and its agents shall have the right to enter upon any property for the purpose of inspecting or correcting such conditions, including but not limited to, the removal of trash which has collected on a Property, and the cost of such corrective action shall be paid by the Property Owner. Such action shall not be made until thirty (30) days after the Owner of the Property has been notified in writing of the need to take corrective action within said thirty (30) days; provided, however, that should such conditions pose a health or safety hazard, such entry shall not be made until the Owner has been notified in writing of the need to take immediate corrective action and unless such owner fails to perform the corrective action immediately. The provisions of this paragraph shall not create any obligation on the part of the Declarant to take any such corrective action.

Section 6. Offensive Behavior. No immoral, improper, offensive, or unlawful use shall be made on or of the Property, or any part thereof including roads and right-of-ways. All laws, orders, rules, regulations, ordinances, or requirements of any governmental agency having jurisdiction thereof, relating to any Lot or any portion of the Property, shall be complied with, by and at the sole expense of the Owner or the Association, whichever shall have the obligation to maintain such portion of the Property.

Section 7. Business. No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any Lot, except that the Declarant or its agents may use any unsold Lots for sales or display purposes. Declarant or its agents may maintain a sales or rental office on the Property. Nothing herein shall be interpreted or construed to prevent the use of a portion of any structure as a home office or to prevent the occupant of the house from working from home, provided goods or services are not offered to the general public on the premises. No trade materials, inventories or equipment (except during construction on the premises) shall be stored or allowed on the premises.

Section 8. Signs. No Lot Owner shall display, or cause or allow to be displayed, to public view any signage, signs, placard, poster, billboard, or identifying name or number upon any Lot, vehicle, or any portion of the Common Properties, except as allowed by the Association pursuant to its By-laws or regulations or as required by local governmental authority; provided however, that the Declarant, or its respective agents, may place "For Sale" or "For Rent" signs on any Lot for sale; provided, however, that during the development of the Property and the initial marketing of Lots, the Declarant may maintain a sales office and may erect and display such signs as the Declarant deems appropriate as aids to such development marketing, provided that such signs do not violate any applicable laws..

Section 9. Fences, Walls and Hedges. No fence, wall, hedge or other mass planting shall be erected or permitted on any Lot, except as approved by the Architectural Committee pursuant to Article VI herein.

Section 10. Alterations. No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Properties except as directed by or with the expressed written consent of the Association.

Section 11. Common Properties Use. The Common Properties shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the Property. All uses are subject to rules and regulations that may be adopted by the Association pursuant to its By-laws.

Section 12. Vehicles and Parking. Adequate off-street parking space shall be provided by the Owner of each Lot for the parking of his automobiles and those of his family, guests and other invitees. Parking of motor vehicles on the lawn (grass) area of any Lot is prohibited. No motor vehicles or equipment of any kind may be parked on

any subdivision street right-of-way, except as may be temporarily necessary to make deliveries of goods or services. No motor vehicles having more than two (2) axles or a load capacity of more than one (1) ton may be kept on any Lot. No unlicensed or inoperable vehicles, vehicles on jacks or under repair, campers, boats, trailers, motor homes, tractors or equipment shall be kept on any Lot, except inside an enclosed garage or accessory building or as otherwise permitted by the rules and regulations of the Association. No "four wheelers", "dirt bikes" or other recreational vehicles shall be operated on any portion of the subdivision streets.

Section 13. Minimum Housing Requirements. No structure of a temporary character, trailer, camper, tent, shack, barn or other out buildings may be used on any lot at any time as a dwelling. No mobile or modular homes are permitted on the property. All dwellings shall be built "on site" with conventional building materials.

Section 14. Fuel Tanks. No fuel tanks or similar storage receptacles may be exposed to view. Any such receptacles may be installed only within an accessory building, within a screened area, or buried underground; provided, however, that nothing contained herein shall prevent the Declarant or the Association from erecting buildings and placing tanks or other apparatus on the Property for uses related to the provision of utility or other services to the Property.

Section 15. Accessory Buildings. Without prior written approval of Declarant or the Architectural Committee, no detached accessory building or detached garage for more than three (3) cars may be constructed on any Lot subject to these covenants. Only one detached structure subject to building restrictions in Article VIII, Section 3 shall be permitted and shall not be used for human habitation temporarily or permanently. Any approved accessory building must comply with these covenants and Franklin County zoning ordinances.

Section 16. Subdividing. No Lot shall be subdivided or its boundary lines changed except with the prior written consent of the Declarant during the period of Declarant's control of the Association and thereafter by the Board. Declarant expressly reserves the right to re-subdivide, recombine or rearrange Lots within the subdivision even if such action results in an increase of the number of lots in the Properties.

Section 17. Delivery Receptacles. No mail box or other receptacle of any kind for use in the delivery of mail, newspapers, magazine or similar materials shall be erected or located on any Lot or street right-of-way unless and until the size, location, design and type of material for the receptacle shall have been approved by the Declarant or the Architectural Committee.

Section 18. Antennas and Satellite Receiving Devices. No satellite reception dish, antenna or similar device for the reception of electromagnetic signals, having dimensions greater than twenty-four (24) inches in height, width and depth shall be located on any Lot or Building in the subdivision. Any person desiring to install such a device in a location that is visible from a subdivision street shall first obtain written

approval of Declarant or Architectural Committee regarding such location.

Section 19. Firearms, Hunting Prohibited. There shall be no discharging of firearms, guns, or pistols of any kind, caliber, type, or method of propulsion; and no hunting of any type shall be carried on or conducted on the Property.

Section 20. Drying Areas. Clotheslines or drying yards shall not be located upon any Lot without the prior written consent of the Board, which consent may be conditioned or withheld in the sole discretion of the Board, as set forth in Regulations established for that purpose.

Section 21. Unsightly Growth or Objects. No weeds, underbrush or other unsightly growth shall be permitted to grow or remain on any Lot that has a dwelling constructed thereon and no refuse pile or unsightly objects shall be allowed to be placed or allowed to remain thereon. No disposal or burning of debris or organic matter shall be permitted within any drainage way ditches on any Property or along any road right-of-way within the Subdivision.

Section 22. Streets. No Lot or portion thereof shall be dedicated or used for a public or private street without written consent of Declarant or its assigns.

Section 23. Trash Receptacles. Each Lot Owner shall provide receptacles for garbage in a screened area not generally visible from the road.

Section 24. Pools. No above ground pools are allowed. All pools must be approved in advance of construction by the Declarant or Architectural Committee.

Section 25. Additional Restrictions. Declarant may include in any contract or deed hereafter made any additional covenants and restrictions that are not inconsistent with and which do not diminish the covenants and restrictions set forth herein.

ARTICLE VIII

BUILDING REGULATIONS

Section 1. Square Footage. Any dwelling erected on a detached single family residential Lot shall contain a minimum enclosed dwelling area of 1,150 square feet, exclusive of basements, decks, porches, breezeways, steps, carports and garages. The term "enclosed dwelling area" as used in this Section 1 shall mean the total enclosed area within a dwelling subject to heating and cooling, provided however, that the term specifically does not include basements, breezeways, garages, terraces, open porches, decks, stoops and like areas regardless of heating or cooling.

Section 2. Lot, Area and Setback Lines. No dwelling, garage or other approved structure shall be located on any building site nearer to the front property line (road or

street right-way) than thirty (30) feet, and no dwelling shall be located less than ten (10) feet from any side property line, or less than 25 feet from any rear lot line or as indicated on recorded plat by building envelope. On corner lots the structure may be no less than 30 feet from either street line. Declarant may grant a variance to the setback line requirements to accommodate special circumstances. Any variance granted by Declarant must still adhere to the minimum building setbacks required by Franklin County.

Section 3. Height and Accessory Building. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any detached single family residential Lot other than a detached single family dwelling not to exceed three (3) stories in height, or one detached garage for no more than three (3) cars, or one accessory building, provided the use of such accessory building does not, in the opinion of the Declarant or Architectural Committee, overcrowd the site. Such accessory building may not be constructed prior to the construction of the primary dwelling. All garages must be attached to the main dwelling, unless the Declarant or the Architectural committee approves in writing a permitted detached garage pursuant to Article VI hereof. All buildings shall maintain the same architectural continuity as main dwelling, specifically relating to exterior style and materials used.

Section 4. Multi-Family Use Prohibited. No multiple residence or apartment house shall be erected or placed on, or allowed to occupy, any detached single family residential Lots, and no dwelling (once approved and constructed) shall be altered or converted into a multiplex residence or apartment house.

Section 5. Remedies. If the finished dwelling, garage, accessory building or other structure does not comply with the submitted and approved plans and specifications, the Declarant or the Board retains the right to make the necessary changes at owner's expense to comply with the approved plans and specifications, the right to treat such charge or cost as an assessment, the right to file under the North Carolina lien laws a notice of lien for any costs incurred, and the further right to resort to all remedies provided under the laws of North Carolina for the recovery of such costs and the expenses of collection including without limitation, reasonable attorney, fees. Any changes in plans or specifications must first be reapproved by the Declarant or the Architectural Committee in accordance with the procedure herein specified for architectural control.

Section 6. Driveways. All street connections and driveways in the subdivision shall meet the following criteria:

(a). Each residential structure on a Lot shall have a paved driveway of concrete extending from the paved portion of the subdivision street it abuts to the dwelling. It shall be a minimum of 16 feet wide at the street and may narrow down to no less than 10 feet. Any additional driveways off a subdivision street to a dwelling or accessory building must be approved by the Architectural Committee and constructed as stated above.

(b). All driveway pipe must be of a sufficient size to insure proper drainage, and in any event shall not be less than 15 inches in diameter. All pipe shall meet NCDOT standards, shall be installed in compliance with NCDOT rules, and shall have a minimum of 12 inches of approved cover.

Section 7. Temporary Construction Driveways. Prior to beginning construction of a dwelling the building contractor shall install a driveway into the Lot that complies with the specifications set out in Section 6 (b) of this Article. During construction, all vehicles involved, including those delivering supplies, must enter the Lots by way of the driveway so as not to damage unnecessarily the street shoulders, ditches and paving. During construction it is the responsibility of the building contractor to keep all construction trailers and vehicles off the shoulders of the streets at all times.

Section 8. Construction Debris. During construction of a dwelling or any other type of construction carried out on a Lot, any damage or littering caused by such construction, contractors, subcontractors, deliveries, etc. must be cleaned up and repaired by the party causing it, the Lot Owner or building contractor. Any mud clods, gravel or other debris which gets into the right-of-way area of the street must be cleaned up within 48 hours. All building debris, stumps, trees, etc. shall be removed from each Lot by the building contractor as often as necessary to keep the construction site as neat as possible in appearance. No such debris shall be dumped or otherwise disposed of in any area of the Property.

ARTICLE IX

EASEMENTS

Section 1. Utility Easements. All of the Property including Lots and Common Properties shall be subject to such easements for installation and maintenance of water lines, storm drainage facilities, cablevision lines, telephone and electric power lines and other public utilities as shall be established by the Declarant or by its predecessor in title, prior to the subjecting of the property to this declaration. The association shall also have the power and authority to grant and establish upon, over, under and across the Common Properties conveyed to it, such further easements as are requisite for the convenient use, proper maintenance and enjoyment of the property without approval of the membership as provided in the articles of incorporation and this declaration. Easements are reserved as shown on the recorded plat and over the front fifteen (15) feet of each Lot, the rear ten (10) feet of each Lot and five (5) feet along each side Lot line for the installation and maintenance of additional utilities and drainage facilities. Within these easements, no structure, planting, or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities and drainage channels in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. Any recombination of Lot

areas that results in different side Lot or rear Lot lines shall change the area subject to the easements, whereupon the original easements shall become void. No such recombination shall affect the rights of any person, firm, corporation or government entity resulting from the physical location of utility lines or facilities in any such easement area prior to the recombination.

Section 2. Sedimentation Basins. Declarant reserves for a period of ten years from the date hereof an easement to go on any Lot whereon a sediment control basin is located for the purposes of maintaining, covering up, or removing such basin.

Section 3. Street Lighting. The Declarant reserves the right to subject the real property covered by this Declaration to a contract with Wake Electric Membership Corporation for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require a continuing monthly payment to Wake Electric Membership Corporation by the Owner of each Lot.

Section 4. Platted Easements. All easements shown on the recorded plat of the subdivision are hereby dedicated for the purposes shown thereon.

Section 5. Entrance Signs and Landscaping. Easements are reserved in favor of the Association at the entrances to the Property from Montgomery Road for the subdivision signs where they are presently located and for the installation and maintenance of the landscaping, lighting and irrigation systems adjacent to such signs. Easements are also reserved in favor of the Association for installation and maintenance of landscaping and irrigation systems on and along the soil berm that extends along the North side of Montgomery Road for the full length of the subdivision.

Section 6. Right of Entry in Event of Emergency. Every Lot and all Common Properties shall be subject to an easement for entry by police officers, fire fighters, ambulance personnel and similar emergency personnel in the performance of their respective duties.

Section 7. Declarant Encroachment Easement. If any encroachment shall occur subsequent to the subjecting the Property to this Declaration, there is hereby created and shall be a valid easement for such encroachment and for the maintenance of the same. Every Lot shall be subject to an easement for entry and encroachment by the Declarant for the purpose of correcting any problems that may arise regarding utilities, grading and drainage. The Declarant, upon making entry for such purpose shall restore the affected Lot or Lots to as near the original condition as practicable.

Section 8. Ground Disturbance. These reservations of easements expressly include the right to cut any trees, bushes, shrubs, or growth, the grading, cutting or ditching of the soil and any other action necessary to complete installation.

Section 9. NCDOT Easements. All streets in the subdivision have been built to N. C. Department of Transportation (NCDOT) standards and when eligible will be added

to the State highway system. The Declarant specifically reserves the right to grant to the NCDOT such easements as may be required for it to assume maintenance of the subdivision streets.

Section 10. Priority of Easements. Each of the easements hereinabove referred to shall be deemed to be established upon the recordation of this Declaration and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Lots, and the Common Properties, as the case may be, superior to all other encumbrances which may hereafter be applied against or in favor of the property or any portion thereof.

ARTICLE X

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Additional Annexation by Declarant. If within ten (10) years of the date of conveyance by Declarant of the first Lot, the Declarant should develop additional land which Declarant owns or may hereafter acquire, which land is contiguous to the boundaries of the property described in Exhibit "A" or such land as Declarant may hereafter acquire contiguous to the additional land, which additional land has been subjected to this Declaration, such land may be annexed by the Declarant without the consent of the Association and, in doing so, Declarant may file and record such amendments to this Declaration as are necessary without the consent of the Association in order to subject additional lands to the terms of this Declaration and the jurisdiction of the Association.

Section 2. Recording of Annexation. Annexation of additional lands shall be accomplished by recording in the Office of the Register of Deeds in the county in which the property is located, a Declaration of Annexation, duly executed by the Declarant, if the Declarant has the right to annex pursuant to Section 1 above, describing the lands annexed and incorporating the provisions of this Declaration, either by reference or by fully setting out said provisions of this Declaration. The additional lands shall be deemed annexed to the Property on the date of recordation of the Declaration of Annexation. No action or consent on the part of the Association or any other person or entity shall be necessary to accomplish the annexation except any local governmental authority if required by its ordinances.

Section 3. Conveyance of Common Properties. Subsequent to the recordation of the Declaration of Annexation, and prior to the conveyance of the first Lot therein, there shall be delivered to the Association, one or more deeds conveying any Common Properties within the lands annexed as such additional lands are developed. Such Common Properties shall be conveyed to the Association in the same manner as set forth in Article II, Section 3 of this Declaration.

Section 4. Changes Due to Annexation. Should Declarant elect to annex any additional property and accordingly to subject such property to the terms and conditions

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of this Declaration, Declarant reserves the right to alter the restrictions contained in Sections 1 and 2 of Article VIII herein with respect to such annexed property.

ARTICLE XI

INSURANCE

Section 1. Insurance to be maintained by the Association. The following insurance coverage shall be maintained in full force and effect by the Association.

(a). Public liability and property damage insurance in such amounts and in such forms as shall be required by the Association.

(b). All liability insurance shall contain cross liability endorsements to cover liability of the Owners as a group to an individual Owner.

(c). Such other insurance coverage as it may determine to be desirable and necessary or other insurance required by law.

(d). Fidelity bonds for officers having control over Association funds.

Section 2. Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association and charged ratably to owners as an assessment according to the applicable provisions of this Declaration.

Section 3. Insurance Beneficiaries. All such policies shall be purchased by the Association for the benefit of the Association, its officers and directors and the Owners.

ARTICLE XII

RIGHTS OF INSTITUTIONAL LENDERS

Section 1. Rights Reserved to Institutional Lenders. "Institutional Lender" or "Institutional Lenders", as the terms are used herein, shall mean and refer to banks, savings and loan associations, savings banks, insurance companies, Veterans Administration, Federal Housing Administration, Federal National Mortgage Association and other reputable mortgage lenders and insurers of first mortgages. So long as any Institutional Lender or Institutional Lenders shall hold any mortgage upon any lot, or shall be the owner of any Lot, such Institutional Lender or Institutional Lenders shall have the following rights:

(a). To be furnished with at least one copy of the Annual Financial Statement and Report of the Association, including a detailed statement of annual carrying charges or income collected and operating expenses, such Financial Statement

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and Report to be furnished by April 15 of each calendar year.

(b). To be given notice by the Association of the call of any meeting of the members to be held for the purpose of considering any proposed Amendment to the Declaration, or the Articles of Incorporation and By-Laws of the Association, which notice shall state the nature of the amendment being proposed, and to be given permission to designate a representative to attend all such meetings.

(c) . To be given notice by the Association of default in the payment of assessments by any Owner of a Lot encumbered by a mortgage held by the Institutional Lender or Institutional Lenders, such notice to be given in writing and to be sent to the principal office of such Institutional Lender or Institutional Lenders, or to the place which it or they may designate in writing to the Association.

(d). To inspect the books and records of the Association during normal business hours by appointment.

(e). To be given notice by the Association of any substantial damage to any part of the Common Properties.

(f). To be given notice by the Association if any portion of the Common Properties is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority.

Section 2. Notice Required. Whenever any Institutional Lender desires the benefits of the provisions of this section, such Lender shall serve written notice of such fact upon the Association by Registered Mail or Certified Mail addressed to the Association and sent to its address stated herein, or to the address of the property, identifying the Lot upon which any Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any Lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XI

UTILITIES

Section 1. Water Service. All lot owners shall be subject to monthly charges as approved by the N. C. Utilities Commission or other regulatory authority for water service for domestic usage furnished in the subdivision by Franklin County. Individual water wells are allowed for watering lawns and other gardening purposes, but only after approval is granted by the Declarant or the Architectural Committee.

Section 2. Trash Disposal. All trash and garbage must be disposed of by a

method approved by the Franklin County Health Dept. or through a duly franchised waste disposal service operating in Franklin County. No dumping is allowed in the subdivision.

ARTICLE XII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, easements, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant, 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. General Amendments. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by Declarant or 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.

Section 4. Amendments Permitted Without Membership Approval. The following amendments may be effected by the Declarant, or the Board, as the case may be, without consent of the members:

(a). Prior to the sale of the first Lot, this Declaration may be amended by the Declarant.

(b). The Declarant or Board may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction.

(c). The Declarant, so long as it shall retain control of the Association, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale in such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of Property,

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including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, US Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, Government National Mortgage Corporation, or the Federal National Mortgage Association, requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient reason to justify such amendment, provided that the changes made substantially conform to such request or suggestion.

(d). The Declarant, for so long as it shall retain control of the Association, and, thereafter, the Board of Directors, may amend this Declaration as shall be necessary, in its opinion, and without the consent of any Owner, to qualify the Association or the property, or any portion thereof, for tax exempt status.

(e). The Declarant, for so long as it has control of the Board may amend this Declaration to include any platting change of the Property as permitted herein or to make amendments correcting minor typographical errors or other similar clerical errors.

Section 5. Governmental Authority Amendments. No amendment which would change or delete any provision herein required by any governmental authority shall become effective until submitted to and approved by that authority; provided, however, if that authority fails to approve or disapprove such amendment within thirty (30) days after the same has been submitted to it, such approval shall not be required and this covenant shall be deemed to have fully complied with.

Section 6. Recordation. No amendment shall be effective until recorded in the County in which the Property is located.

In witness whereof, Tarheel Land Company, the Declarant herein, has caused this instrument to be executed by its duly authorized officers by order of its board of directors.

This 20th day of September, 2004.

Tarheel Land Company

By T. S. Royster, Jr.
T. S. Royster, Jr., Vice Pres.

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STATE OF NORTH CAROLINA

COUNTY OF GRANVILLE

I, Sheila J. Gresham, a Notary Public of the County and State aforesaid, certify that T. S. Royster, Jr., Vice-President of Tarheel Land Company, a North Carolina corporation, personally came before me this day and acknowledged that he is Vice-President of Tarheel Land Company, and that he, as Vice-President, being authorized to do so, executed the foregoing on behalf of the corporation.

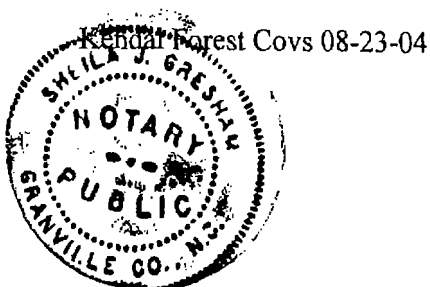
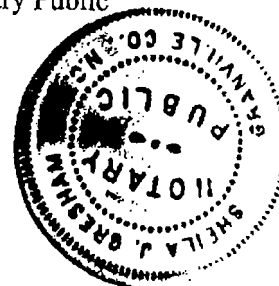
Witness my hand and official stamp or seal, this the 20th day of September, 2004.

Sheila J. Gresham

My Commission Expires:

10-8-2006

Notary Public



Kendall Forest Cows 08-23-04

North Carolina - Franklin County

The foregoing certificate of Sheila J. Gresham, a Notary Public, is certified to be correct and duly recorded this 21st day of September, 2004.

Linda H. Stone

Linda H. Stone, Register of Deeds

By: Betty Sharrington Deputy