

FA 7995

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

CORDOVA-THE TOWN HOMEOWNERS ASSOCIATION, INC.

Article I Definitions.....4

- Section 1. Assessments
- Section 2. Association
- Section 3. Board of Directors
- Section 4. Common Area
- Section 5. Declarant
- Section 6. Declaration of Annexation
- Section 7. Declaration
- Section 8. Improvements
- Section 9. Lot
- Section 10. Member
- Section 11 Owner
- Section 12. Person
- Section 13. Property

Article II - Membership7

Article III - Voting Rights8

- Section 1. Voting
- Section 2. Proxies
- Section 3. Quorum

Article IV - Property Rights.....9

- Section 1. Owners' Easement of Enjoyment of Common Area
- Section 2. Delegation of Use
- Section 3. Title to the Common Area

Article V - Architectural Control.....11

- Section 1. Design Review
- Section 2. Design Review Fee
- Section 3. Approved Architectural Firms
- Section 4. Landscaping
- Section 5. Approved Landscape Architectural Firms
- Section 6. Landscape Treatment of Common Areas
- Section 7. Certificate of Compliance
- Section 8. Compliance with Building Codes
- Section 9. Non-Liability

Article VI - Property Maintenance.....14

Article VII - Use Restrictions.....15

Article VIII-Term of Declaration.....21

Article IX-Covenants for Assessments.....21

- Section 1. Creation of the Lien and Personal
Obligation for Assessments**
- Section 2. Purpose of Regular & Special Assessments**
- Section 3. Regular Assessments**
- Section 4. Special Assessments**
- Section 5. Emergency Assessments**
- Section 6. Rate of Assessment**
- Section 7. Quorum for Any Action Authorized Under
Sections 3 & 4**
- Section 8. Date of Commencement of Annual Assessments-
Due Dates**
- Section 9. Effect of Non-Payment of Assessments.**
 - (a) Remedies of the Association, Generally**
 - (b) Enforcement of Lien**
- Section 10. Acceleration of Installments**
- Section 11. Subordination of the Lien to Mortgage**
- Section 12. Additional Default**
- Section 13. Exempt Property**

Article X-Enforcement of Declaration.....29

Article XI-Miscellaneous Provisions.....29

- Section 1. Severability of Covenants, Conditions
and Restrictions**
- Section 2. Gender and Grammar**
- Section 3. Amendment**
- Section 4. Condemnation, Destruction or Termination of the Property**
- Section 5. Contract for Property Management**
- Section 6. Working Capital Fund**
- Section 7. Rights of Mortgage Holders, Insurers
and Guarantors**
- Section 8. Rerecording of Plat**
- Section 9. Easements for Utilities & Related Purposes**
- Section 10. Entrance Feature Easement**
- Section 11. Ingress & Egress**
- Section 12. Insurance**
- Section 13. Changes by Declarant**
- Section 14. Notices**

FA 7995

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CORDOVA-THE TOWN HOMEOWNERS ASSOCIATION, INC.

THIS DECLARATION, made on this 11th day of April, 1995 by Gill Development Company, Inc., a Tennessee corporation, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the developer of certain Property in Shelby County, Tennessee, which is more particularly described in Exhibit "A" attached hereto and incorporated herein by reference; and

WHEREAS, Declarant will convey the said Property subject to certain protective covenants, conditions, restrictions, reservations, liens, easements and charges as hereinafter set forth.

WHEREAS, Declarant has deemed it desirable to create an association to which should be delegated and assigned the powers of maintaining, administering and enforcing the covenants, conditions and restrictions and collecting and disbursing the assessments and charges hereinafter created for the efficient preservation and maintenance of the values and amenities of the Property; and

WHEREAS, Declarant has caused to be incorporated under the laws of the State of Tennessee as a non-profit, non-stock corporation, Cordova-The Town Homeowners Association, Inc., for the purpose of exercising the functions aforesaid.

FA 7995

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants, reservations, liens and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These easements, covenants, restrictions, reservations, liens and conditions shall run with the Property and be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1 "Assessments" shall mean those levies and Assessments which each Owner of a Lot agrees to pay to the Association pursuant to Articles VI and IX hereof.

Section 2 "Association" shall mean and refer to Cordova-The Town Homeowners Association, Inc., its successors and assigns. Bylaws of the Association are attached hereto as Exhibit "B" and made a part hereof, as amended from time to time.

Section 3 "Board of Directors" shall mean and refer to the Board of Directors of the Association.

Section 4 "Common Area" shall mean all real property (including the Improvements thereto) owned by the Association (or by Declarant prior to conveyance of the Common Area pursuant to Article IV, Section 3) for the common use and enjoyment of the Members of the Association, their guests and invitees. The Common Area to be owned by the Association originally shall be all of the Property (including any additions thereto) not included in the legal description of the Lots or underlying dedicated streets.

FA 7995

Section 5. "Declarant" shall mean and refer to Gill Development Company, Inc., or the duly appointed agent or representative, successors and assigns of Declarant.

Section 6 "Declaration of Annexation" shall mean the Declaration whereby Additional Property as defined in Section 13 hereinbelow is brought within the jurisdiction of the Association and subjected to the Declaration.

Section 7. "Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions, together with any supplement or amendment hereto recorded in the Register's Office.

Section 8. "Improvements" shall mean the structures, walls, pavements, plantings, and other additions built or placed on the Lots. It is intended that the Improvements reasonably meant for the Owner of a particular Lot will lie entirely within said Lot. In the event that by reason of construction, settlement, reconstruction or shifting of the Improvements, any minor part of the Improvements reasonably intended for a particular Lot lies outside that Lot, then an easement of use shall apply thereto in favor of the Lot on which the Improvements were intended.

Section 9. "Lot" shall mean and refer to each of the Lots shown on the Final Plans of Cordova-The Town Planned Development, attached hereto as Exhibit "C" and as they exist from time to time, and to the Lots on any additions to the Property and the Improvements on said Lots, reference being made to the Warranty Deeds conveying individual Lots for an exact description of said Lots.

Section 10. "Member" shall mean and refer to every person or entity who holds membership in the Association and shall include the Declarant so long as it retains ownership of any Lots in the Property.

FA 7995

Section 11. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities of fee simple title to any Lot, including Declarant to the extent it owns any Lots, but excluding those having such interest merely as security for the performance of an obligation ("the Mortgagee"), provided that if the Mortgagee shall succeed to title to a Lot, then the Mortgagee shall be an Owner for purposes hereof.

Section 12. "Person" shall mean an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof.

Section 13. "Property" shall mean and refer to that certain real property described on Exhibit "A" attached hereto. Hereafter, at the election of the Declarant exercised on or before seven (7) years from the date hereof, which shall be evidenced by an appropriate written certificate signed by Declarant and filed of record in the Register's Office, additional tracts of land ("Additional Property"), may be brought within the jurisdiction of the Association by a Declaration of Annexation and subjected to this Declaration and shall thereafter be included in the definition of Property for purposes hereof, provided that no Additional Property can be subjected to this Declaration and the jurisdiction of the Association if the result thereof is to materially increase an Owner's Assessment unless the inclusion of such Additional Property has been previously approved in writing by at least fifty-one (51%) percent of all Owners, such consent not to be unreasonably withheld. In the event Additional Property is subjected to this Declaration as provided above, the amount of the Assessment for each Lot contained within the Additional Property shall be initially determined by Declarant, and thereafter Assessments for all such Lots and the voting rights attributable to such Lots shall be governed in accordance with the provisions of this Declaration. Anything to the contrary notwithstanding, no Additional Property shall be

FA 7995

subjected to this Declaration by Declarant until all infrastructure, i.e., streets, curbs, gutters, etc., to be constructed thereon shall have been substantially completed. All Improvements to be constructed on the Lots in the Additional Property shall be consistent with the Improvements on the Property in terms of architectural design and quality of construction. The Owners of any Lots located within the Additional Property shall be entitled to the same rights with regard to the Common Area as are afforded to all Owners.

ARTICLE IIMEMBERSHIP

Every Owner of a Lot which is subject to assessment by the Association shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an ownership interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association.

Declarant shall become and remain a Member of the Association upon the recording of this Declaration in the Register's Office. At such time as Declarant has conveyed all of the Lots on the Property, Declarant shall cease to be a Member of the Association, thus relieving the Declarant of any liability or obligation to the Association. Upon the withdrawal from membership by Declarant, the Covenants, Conditions and Restrictions of this Declaration shall no longer apply as to the Declarant; however, they shall continue to govern and control the Association and its Members.

FA 7995

ARTICLE III**VOTING RIGHTS**

Section 1. Voting. A Member of the Association shall be entitled to one (1) vote for each Lot owned by the Member. When more than one person holds an interest in any Lot, all such persons shall be Members and the vote for such Lot shall be exercised as the Owners of such Lot shall determine, but in no event shall there be more than one (1) voter with respect to any Lot. To the contrary notwithstanding, any condominium unit owners voting through their Condominium Association Chairman or his designated representative shall be entitled and limited to the total number of votes attributable to the Lots upon which the Condominium is built.

Declarant shall be entitled to twice the number of votes for each Lot owned by it until the earlier of (I) the expiration of four (4) months after seventy-five (75%) percent of all Lots included in the Property (including any Lots within Additional Property) shall have been initially conveyed by Declarant or (ii) seven (7) years after the first Lot conveyed by Declarant, after which time Declarant shall be entitled to one (1) vote per Lot for each Lot which Declarant then still owns.

At every meeting of the Association, the Members shall have the right to cast their votes as specified herein on each question. The votes representing a fifty-one percent (51%) majority of the total votes cast with respect to any question, in person or by proxy, shall decide any question brought before such meeting, unless the question is one upon which, by express provisions of any statute or ordinance or of the corporate Charter or this Declaration or the Bylaws, a different vote is required, in which case such express provision shall govern and control. No Member shall be eligible to vote, either in person or by proxy, or to be elected to the

FA 7995

Board of Directors of the Association, whose account is shown on the books of the Association to be more than thirty (30) days delinquent in any payment due the Association or who is more than fifteen (15) days in default under any of the terms, covenants, conditions, restrictions or any other provisions contained herein.

Section 2. Proxies. A Member may appoint any other Member or any other person permitted by law or by the Bylaws as his proxy. Any proxy must be in writing and must comply with all requirements imposed by law or by the Association's Bylaws.

Section 3. Quorum. Subject to the provisions of Article IX, Section 8 set forth hereinbelow, the presence, either in person or by proxy, of at least fifty-one percent (51%) of the total votes of the Property entitled to be cast with respect to any question, shall be requisite for, and shall constitute a quorum for, the transaction of business at all meetings of the Association. Once a quorum has been established, business may be transacted even though a quorum is later lost; however, if the number of votes eligible to be cast drops below the quorum and the question of a lack of quorum is raised, no business may thereafter be transacted. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

ARTICLE IV

PROPERTY RIGHTS

Section 1. Owners' Easement of Enjoyment of Common Area. Every Owner, his family members, guests, tenants, and contract purchasers shall have a right and easement of enjoyment in and to the Common Area, each Owner's easement being appurtenant to and passing with the

FA 7995

title to each Lot. Such easements shall be subject to such rules, regulations, rights and restrictions of use as may be established from time to time by the Board of Directors, including but not limited to, the following provisions:

- (a) The right to limit the number of guests of Members in the use of the Common Area.
- (b) The right to borrow money for the purpose of improving the Common Area and facilities, and in aid thereof to have the Common Area mortgaged by the Association.
- (c) The right to have all or any part of the Common Area dedicated or transferred by the Association to any public agency, authority, or utility for such purposes and subject to such conditions as may be determined by the Board of Directors, provided that no such dedication or transfer shall be effective unless and until (i) written notice of the proposed action is sent to every Member not less than ten (10) days nor more than sixty (60) days in advance of such dedication or transfer, and (ii) thereafter, at least two-thirds of all Members entitled to vote execute an instrument which shall be recorded in the Register's Office agreeing to such dedication or transfer.
- (d) The right to suspend the right and easement of enjoyment of an Owner for any period during which any assessment is delinquent or during which an Owner is in violation of published Rules and Regulations adopted by the Association.

FA 7995

- (e) The right to adopt Rules and Regulations pertaining to the Common Area for the benefit of the Owners.

Section 2. Delegation of Use. Any Member may delegate in accordance with the Bylaws, his right of enjoyment to the Common Area facilities to the members of his family, his tenants or contact purchasers, all of whom must reside on the Property.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association prior to or simultaneously with the conveyance of the last Lot on the Property (including Additional Property).

ARTICLE V

ARCHITECTURAL CONTROL

Section 1. Design Review. No building, fence, wall, drive or other Improvement shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration in any Improvement upon a Lot (including a change in color of any exterior wall or surface of a roof), be made 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, topography and finished ground elevation by an Architectural Committee, which shall be composed of up to three (3) representatives duly appointed by Declarant until such time as Declarant may waive the right of appointment of the Architectural Committee, but in no event later than Declarant's sale of its last Lot, at which time the Architectural Committee shall be appointed by the Board of Directors of the Association. At that time, the Architectural Committee

FA 7995

shall consist of at least an architect and a landscape architect appointed by the Board of Directors. Decisions by the Architectural Committee shall be by majority vote. The approval of the Architectural Committee shall be based on compliance with the "Design Guidelines" and the Appendix to the Design Guidelines established by Declarant and incorporated herein, as the same may be amended from time to time by Declarant or the Architectural Committee. It shall be the Owner's responsibility to show proof that plans and specifications were submitted to the Architectural Committee in accordance with the provisions hereof. The determination of the adequacy of compliance with the provisions hereof shall be solely within the discretion of the Architectural Committee.

Section 2. Design Review Fee. The Architectural Committee may charge and collect a reasonable fee to be determined by it for the examination of any plans and specifications submitted for approval pursuant to this Article V, payable at the time such plans and specifications are so submitted. The amount of such fee shall cover the cost of making such examination, including the cost of any architect's or engineer's fees incurred in connection therewith, but in no event shall it be less than \$500.00 for the review of the initial preliminary and initial final review of plans for construction. Additional reviews required due to non-compliance shall be submitted with an additional fee of not less than \$300.00 each.

Section 3. Approved Architectural Firms. Only architectural firms approved by the Architectural Committee may be used. A list of approved architects is enclosed within the Appendix to the Design Guidelines.

Section 4. Landscaping. Landscape treatment shall be provided in accordance with such rules and standards as may be established by the Architectural Committee to give unity and

FA 7995

direction throughout the diverse areas of the Property. Unity of design may be achieved by the repetition of certain plant varieties and other landscape materials throughout the Property and by correlation with adjacent design. The Design Guidelines and the Appendix contain a description of appropriate landscape treatment including the requirement of an "alley tree" planted on each Lot serviced by a service drive.

Section 5. Approved Landscape Architectural Firms. Because of the complexity of the Property's landscape standards, unless waived in writing by the Architectural Committee, only landscape architectural firms approved by the Architectural Committee may be used in landscape design. A list of approved firms is included in the Appendix to the Design Guidelines. All landscape plans submitted to the Architectural Committee shall be prepared by those firms so approved unless a firm is otherwise approved by the Architectural Committee.

Section 6. Landscape Treatment of Common Areas. The nature and extent of landscaping of Common Areas shall be determined by Declarant initially. Any future landscape treatment shall be provided by the Association after approval of the plans by the Architectural Committee. Landscaping within Common Areas may not be removed or supplemented by any party other than the Declarant unless plans are approved by the Architectural Committee.

Section 7. Certificate of Compliance. Upon completion or alteration of any Improvement on any Lot undertaken and completed in accordance with plans and specifications approved by the Architectural Committee, and on written request of the Owner of such Lot, a Certificate of Compliance shall be issued in a form suitable for recordation. Preparation and recording of such Certificate shall be at the expense of such Owner. Any Certificate of Compliance issued in accordance with the provisions of this paragraph shall be prima facie evidence of the facts therein

FA 7995

stated, and as to any purchaser or encumbrancer in good faith and for value, or as to any title insurer, such Certificate shall be conclusive evidence that all Improvements and/or alterations described therein comply with all requirements of this Declaration.

Section 8. Compliance with Building Codes. The applicable building codes in effect at the time of any construction shall apply to that construction.

Section 9. Non-Liability. Neither Declarant nor the Architectural Committee nor any architect or agent thereof shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications, nor for any damages, costs, expenses or other claims of an Owner resulting from any denials, delays, or determinations by the Architectural Committee or any member thereof.

ARTICLE VI

PROPERTY MAINTENANCE

The Board of Directors shall generally arrange for the maintenance of the Common Area and all Improvements located thereon. The Board of Directors shall have the authority to establish Assessments for any expenditures for Common Area maintenance. The Board of Directors shall establish a budget for such expenditures and the disbursement and application of such Assessments. The Members of the Association shall each be obligated to pay their pro rata share of such expenditures as may be reasonably determined by the Board of Directors. Assessments for Common Area maintenance by the Board of Directors shall be enforceable against the Owners and Declarant in the same manner as regular Assessments set forth in Article

FA 7995

IX hereof.

Each Owner shall be responsible for the interior and exterior maintenance of his Lot and Improvements, including, but not limited to, all exterior walls of units, doors, windows, roofs, patios, garages, light fixtures, parking surfaces, driveways, private roads, plumbing and electrical repairs. In the event an Owner of any Lot shall fail to maintain his Lot and the Improvements thereon in a manner reasonably satisfactory to the Association, and/or in keeping with other Lots, the Association shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain, and restore the Lot and the exterior of the Improvements erected thereon. The cost of such repair, maintenance and restoration shall be added to and become part of the Assessment of that Lot.

ARTICLE VII

USE RESTRICTIONS

(1) The use restrictions set forth hereinbelow shall apply to each Lot to ensure the best use and most appropriate development and improvement of the Lot; to protect each Owner of each Lot against improper use of surrounding Lots as well as depreciation of the value of the Lot; to preserve, as far as practicable, attractive Improvements on such Lots, appropriately located on such Lots; to prevent haphazard and inharmonious improvements of such Lots; to secure and maintain proper setbacks from streets, and adequate spaces between structures; and, in general, to provide adequately for a high type and quality of Improvements on such Lots, and thereby enhance the value of investments made by Owners of such Lots.

(2) Declarant or the Board of Directors, as the case may be, shall develop and maintain from time to time a set of Rules and Regulations governing the day to day use of the Lots by the

FA 7995

Owners thereof. Such Rules and Regulations may be amended by a majority vote of the Board of Directors; however, such Rules and Regulations shall not unreasonably restrict an Owner's use of the Lots governed thereby.

(3) No trailer, tent, shack or barn shall be erected on any Lot, temporarily or permanently, nor shall any Improvement other than a single family residence or condominium or other Improvement incident thereto and permitted by governmental authority and the Final Plan, including but not limited to, a granny flat or detached garage, be used at any time as a residence either temporarily or permanently. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permitted for the Declarant to maintain during the period of sale of Lots, upon such unsold portion of the Property as Declarant may choose, such facilities as in the sole opinion of Declarant may be reasonably required, convenient or incidental to the sale of Lots, including, but without limitation, a business office, storage area, signs, sales office and construction facilities.

(4) Easements for utility and drainage are reserved as shown on the Final Plan. No Owner shall, within any such easement areas or at other locations whether within or without designated easement areas, place or permit any structures, fencing, plants or other material which may damage or interfere with the installation and maintenance of utilities and/or interfere with the positive natural drainage established by Declarant. Further, no Owner shall install any Improvements or modify any existing grades in such a manner as would impair the positive, natural flow of water from the Owner's Lot. With the exception of the "use easements" set forth on the Final Plan which shall be maintained by the beneficiary of the easement, the easement area and drainage facilities on each Lot shall be maintained continuously by the Owners of such Lot.

FA 7995

(5) No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or become an annoyance or a nuisance to the neighborhood.

(6) Radio and television transmission or receiving towers and antennas as well as satellite dishes or solar panels may be installed only if approved by the Architectural Committee and if in accordance with the regulations of all appropriate governmental authorities. The Architectural Committee may withhold approval of any of the aforesaid installations in the exercise of its sole discretion if it deems that such Improvements may be architecturally inharmonious with Cordova-The Town Planned Development or objectionable to one or more of the Owners. Recreational vehicles, house trailers, motor homes, campers, boats, boat trailers, trailers and commercial vehicles, must be kept in an enclosed garage or in the rear yard only of each Lot and must be screened by a fence or planting screen from the view of all adjoining Owners and streets except for periods of temporary parking for not more than fourteen (14) days per year collectively for all of said vehicles.

(7) No livestock, animals or poultry of any kind shall be raised, bred or kept in or around a Lot, except that dogs, cats or other household pets, as domestic pets, may be kept in accordance with the Rules and Regulations established by the Board of Directors, provided that they are not kept, bred or maintained for any commercial purpose. In all instances, dogs shall be restrained within fenced areas or kept under leash.

(8) No debris, trash, ashes or other refuse may be thrown or dumped on any of the Lots.

(9) No building material of any kind or character shall be placed or stored upon any of said Lots until the Owner of the Lot is ready to commence construction or renovation of

FA 7995

Improvements.

(10) Grass, weeds and vegetation on each Lot shall be kept mowed and cleared of any debris at regular intervals by the Owner thereof so as to maintain the same in a neat and attractive manner. Trees, shrubs, vines, debris and plants which die shall be promptly removed from such Lots by the Owner. Any plantings so removed that were originally required for design approval shall be promptly replaced by plantings of the same type and size. Until an Improvement is built on the Lot, Declarant or the Association in the discretion of either of them may mow the grass and have dead trees and debris removed from such Lot, and the Owner of said Lot shall be obligated to reimburse the Declarant or the Association for the cost of such work. Such cost shall create a valid lien on said Lot which shall be enforceable as a special Assessment against the Lot should the Owner refuse or neglect to comply with the terms of this paragraph.

(11) No advertising signs (except for one (1) "For Lease" or "For Sale" sign of not more than five (5) square feet per Lot), billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot, nor shall the premises be used in any manner or for any purpose which may endanger the health or unreasonably disturb the Owner of any Lot or any resident thereof. Further, no commercial business activities of any kind whatsoever shall be conducted upon any portion of the Property, except that of construction and maintenance of Improvements, if any, by the Declarant, its agents, successors and assigns during the sale period and by the Association, its successors and assigns in furtherance of its powers and purposes as hereinafter set forth.

(12) All Lots are restricted to residential use, including any residential condominiums which may be constructed on the Property, and shall not be resubdivided into smaller Lots without

FA 7995

the prior written approval of Declarant or the Board of Directors of the Association. Notwithstanding the foregoing, a home office (excluding uses which require customer traffic) shall be allowed in any residence or granny flat which may be constructed beside or above a garage as attached on a Lot.

(13) All equipment, building materials, garbage cans, service yards, playgrounds, wood piles, storage areas, clothes lines, portable sheds, and similar type items shall be kept screened by adequate planting or fencing so as to reasonably conceal them from view of neighboring Owners. In no event shall any of said items or uses be permitted in front yards. Corner Lots shall be considered to have a front yard on each side adjacent to the street. All rubbish, trash or garbage shall be regularly removed from the Lot. Vegetable gardens are restricted to the rear yard of the Lot.

(14) All exterior lighting on each Lot shall be constructed and maintained so as to provide such illumination as is necessary for that Lot only without unreasonably interfering with the peaceful enjoyment of any adjacent Owner. Owners of residences on Lots which are serviced by a "service drive" shall be required to install and maintain a minimum of one decorative wall mounted light fixture located on the rear of the garage. This light shall be operated by a photo-cell on/off switch.

(15) No action shall at any time be taken by the Association or its Board of Directors which in any manner would discriminate against any Owner or Owners in favor of the other Owners, except that certain provisions hereof shall be applicable to the Owners of single family Lots and not the Owners of any Lots upon which condominiums may be constructed and vice versa.

FA 7995

(16) Neither the Declarant or its designated representative shall be entitled to any compensation for services performed pursuant to this Agreement. With the exception of representation on the Architectural Committee, the powers and duties of the Declarant and its designated representative shall cease upon the earlier of (i) the expiration of four (4) months after seventy-five (75%) percent of all Lots included in the Property (including Additional Property) shall have been initially conveyed by Declarant, or (ii) seven (7) years after the first Lot is conveyed by Declarant. Thereafter, the rights reserved to Declarant shall vest in the Association. Until such time as the Association is vested with such rights, all of the rights of the Association shall be reserved to Declarant. To the contrary herein notwithstanding, any rights of the Declarant may be exercised by its duly designated representative until such time as those rights vest in the Association.

(17) Declarant reserves the right to impose additional restrictions upon any Lot until the time of contracting for the sale of such Lot. Such additional restrictions may be made by appropriate provisions in the deed, without otherwise modifying the covenants and provisions contained herein. Such additional restrictions as are so made shall apply only to the Lot on which they are specifically imposed.

(18) An Owner's right of use of his Lot is subject to all laws, ordinances, rules and regulations of the applicable municipal and other governmental authorities. In the event of a difference between the use restrictions contained in said ordinances, Rules and Regulations and laws and the use restrictions set forth in this Article, the more restrictive provision shall apply.

(19) No Owner shall permit any use of his Lot or any Improvement thereon for any purposes which shall increase the fire hazard to adjoining Lots; or for any purposes calculated to

FA 7995

injure the reputation of the Owner of said Lots; or for any purpose or use in violation of local, state or federal statutes or ordinances. Written approval by the Declarant or the Association of a particular use shall be conclusive evidence of compliance with this restriction insofar as this Declaration controls.

ARTICLE VIII

TERM OF DECLARATION

These Covenants, Conditions and Restrictions are to run with the land and shall be binding upon all parties and all persons claiming under them, until the expiration of thirty (30) years after recordation of this document, at which time said Covenants, Conditions and Restrictions shall be automatically extended for successive periods of ten (10) years unless by a vote of two-thirds of the then Owners of all Lots, it is agreed to change or terminate said Covenants, Conditions and Restrictions in whole or in part. The change, modification or rescission shall be effective upon recording of such instrument in the Register's Office.

ARTICLE IX

COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each Lot owned within the Property, hereby covenants and agrees to pay to the Association, and each Owner of a Lot, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association (1) regular Assessments or charges, to be collected either monthly, quarterly, or annually as the

FA 7995

Association shall determine in its reasonable discretion, (2) special Assessments for capital Improvements or other purposes, such Assessments to be fixed, established and collected from time to time as hereinafter provided, and (3) emergency Assessments as may be declared by the Board of Directors. The regular, special, and emergency Assessments, together with interest, costs and reasonable attorney's fees, if delinquent, shall be a charge and a continuing lien upon the Lot against which the Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorney's fees, if delinquent, shall also be the personal obligation of the person who was the Owner of such Lot at the time when the Assessment became due.

Section 2. Purpose of Regular and Special Assessments. The Assessments levied by the Association shall be used exclusively for the benefit, health, safety and welfare of the residents of the Property and for the construction, renovation, replacement and/or maintenance of any Improvements and easements of Declarant or the Association located on the Property or Common Area, including, but in no way limited to, the following:

- A. The cost of all operating expenses of the Association and services furnished, including charges by the Association for its facilities, if any; and
- B. The amount of all taxes and assessments levied against the Association or upon any Property which it may own or which it is otherwise required to pay, if any; and
- C. The cost of liability insurance and the cost of such other insurance as the Association may determine; and
- D. The cost of funding all reserves established by the Association, including when appropriate, a general operating reserve and/or reserve for

FA 7995

replacements; and

- E. The estimated and/or actual cost of all operating expenses, repairs, replacements, maintenance and replanting of the entry and other Common Area over which the Association has control; and
- F. The estimated and actual cost of enforcing and policing all the terms, covenants, conditions, restrictions and other duties and obligations contained in this Declaration.

Section 3. Regular Assessments. The Association shall fix the regular Assessment at an amount sufficient to provide for the requirements hereof. The regular Assessment for each calendar year, and the basis for payment thereof, shall be determined by the Association at least thirty (30) days prior to the beginning of the year, at a meeting of the Association for which written notice has been given to all Members at least ten (10) days in advance. The regular Assessments for a particular calendar year shall become a lien upon the Lots on the first day of such calendar year.

Section 4. Special Assessments. In addition to the Assessments authorized above, the Association may levy special Assessments for such purposes as it may determine, provided that any such Assessment shall have the affirmative vote of at least fifty-one (51%) percent of the total number of votes allocated within the Association, cast in person or by proxy at a meeting duly called for that purpose. Written notice of such meeting must be sent to all Members and Declarant not less than ten (10) days nor more than sixty (60) days in advance of the meeting setting forth the purpose of the meeting. A special Assessment hereunder shall become a lien upon the Lots upon approval of such special Assessment in accordance with the foregoing.

FA 7995

Section 5. Emergency Assessments. In the event of any emergency situation, condition or occurrence affecting the life, health, safety or welfare of the Owners or Property of Owners, the Board of Directors, acting pursuant to this section, may declare an emergency Assessment in such amount and payable at such time as the Board of Directors, in its sole discretion, shall deem necessary. Such emergency Assessments, except for the amount and time of payment, shall be governed by all other provisions of this Declaration which pertain in general to all types of Assessments authorized herein. Such Assessments shall be borne uniformly by all Owners. The Board of Directors shall be duly protected and not liable for any mistake in judgment hereunder if the emergency Assessment was made in good faith.

Section 6. Rate of Assessment. Regular, special and emergency Assessments shall be set based on the formula shown on Exhibit "D" attached hereto as it exists from time to time, and may be collected on a yearly, quarterly or monthly basis.

Section 7. Quorum for Any Action Authorized Under Sections 3 & 4. At any annual or specially called meeting for the purposes set out in Sections 3 and 4 hereof, the presence at the meeting of Members or of proxies entitled to cast fifty-one (51 %) percent of all of the votes of membership shall constitute a quorum. Once a quorum has been established, business may be transacted even though a quorum is later lost; however, if the question of a lack of quorum is raised, no business may thereafter be transacted. If the required quorum is not present at any meeting, an adjourned meeting may be called, subject to the notice requirements set forth in Section 3 and 4 hereof, and the required quorum at any such adjourned meeting shall be fifty (50%) percent of the required quorum at the preceding meeting. No such adjourned meeting shall be held more than sixty (60) days following the preceding meeting.

FA 7995

Section 8. Date of Commencement of Annual Assessments-Due Dates.

The regular Assessments provided for herein shall commence as to each Lot on the first day of the month following the transfer from Declarant or completion of Improvements thereon, whichever shall first occur. The Association shall upon request furnish a certificate in writing signed by a representative of the Association setting forth whether the Assessments on a Lot have been paid. A reasonable charge may be made for the issuance of such certificates. Such certificates shall be conclusive evidence of payment of any Assessment therein stated to have been paid.

Section 9. Effect of Non-Payment of Assessments.

(a) **Remedies of the Association. Generally.** Any Assessments which are not paid when due shall be delinquent. If the Assessment is not paid within fifteen (15) days after the due date, the Assessment shall bear interest from the due date at the rate set by the Association, or if no rate is set, at the highest rate allowed by law, plus a late charge equal to five (5%) percent of the amount of the Assessment (if allowable under Tennessee law). The Association may bring an action at law against the Owner to collect the Assessment or in equity to enforce the lien provided for herein or exercise its right of public sale as set forth hereinbelow if payment is not made within thirty (30) days from the due date. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of his Lot. The Owner of a Lot on which there are delinquent Assessments shall not be permitted to participate or vote in any meeting of the Association, and may, along with his guests and the occupants of his Lot, be prohibited, by properly adopted resolution of the Board of Directors, from using the Common Area or other privileges of membership in the Association.

(b) **Enforcement of Lien.** For and in consideration of the privileges, protections, mutual

FA 7995

enjoyment and use of the Common Area and the premises contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, and any assumption of the obligations by transferees as required hereunder, and to secure the payment of regular, special, emergency and joint Assessments as provided for herein, principal, interest and attorney's fees, a lien is expressly retained by the Association on each and every Lot. Such lien may be enforced by an action in a Court of equity for attachment of the Property and sale pursuant to order of Court or, in the alternative, the Board of Directors of the Association shall have the authority and power to sell the Lot at public outcry to the highest and best bidder for cash. The Board of Directors is authorized to make such public sale if and only if such sale is made subordinate to any prior recorded lease, mortgage or deed of trust upon the Lot. In any such foreclosure, the Owner shall be required to pay the costs and expenses of such proceedings, the costs and expenses for filing the notice or claim of lien and all reasonable attorney's fees. The Owner shall also be required to pay to the Association the monthly Assessment for the Lot during the period of foreclosure, and the Association shall be entitled to the appointment of a Receiver to collect the same. Any such sale shall be made after first advertising the sale of the Lot for twenty-one (21) days by three (3) weekly publications in some newspaper in the County of Shelby, State of Tennessee, giving notice of the time and place of such sale of the Lot. Written notice to the Owner is hereby waived and shall not be required. Any sale of Property to enforce a lien for delinquent and unpaid Assessments shall be free from equity of redemption, statutory right of redemption, homestead and dower and all other exemptions, all of which are expressly waived by the Owner, and any such sale and the lien enforced thereby shall take precedence over and have priority over any and all other liens of every nature against the Lot, except real estate and

FA 7995

ad valorem taxes assessed against the Lot and prior recorded leases, mortgages or deeds of trust.

The Board of Directors shall have the power to bid on the Lot at foreclosure sale and to acquire and hold, lease, mortgage and convey same. The proceeds of any such sale shall be applied first to the payment of the expenses of protecting the Lot and the expenses of litigation, attorney's fees, and sales commissions; and second, to the payment of real estate and ad valorem taxes assessed against the Lot and any prior recorded mortgages or deeds of trust; and third, to the payment of all amounts due the Association under the terms of the Declaration and Bylaws; and fourth, to the payment of any other mortgages or deeds of trust; and the balance, if any, to the Owner whose Lot is sold. Upon any default in the payment of any Assessment, the Board of Directors shall have the right to all rents, issues, and profits from the Lot in default and shall have the right to secure the payment through notice to those in possession in the same manner as a mortgagee entering into possession following default

All rights, remedies and privileges granted to the Board of Directors or an Owner, pursuant to any terms, provisions and Covenants or Conditions of the Declaration and Bylaws shall be deemed to be cumulative, and the exercise of any one or more remedies shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be granted to such party by the Declaration and Bylaws or at law or in equity.

The Association may require the Owner of the Lot which is delinquent on any Assessment levied pursuant to this Declaration or is in default in the performance of any other obligation hereunder for a period in excess of sixty (60) days, to notify the holder of any and all mortgages and deeds of trust on the Lot of such delinquency or default.

FA 7995

Section 10. Acceleration of Installments. Upon default in the payment of any one or more installments of any Assessment levied pursuant to this Declaration, the entire balance of said Assessment may be accelerated at the option of the Board of Directors and be declared due and payable in full, fifteen (15) days after written notice of such default is given to the Member.

Section 11. Subordination of the Lien to Mortgage. The lien of the Assessments payable by the Owner of a Lot shall be subordinate to the lien of a prior recorded mortgage or deed of trust (and to any mortgage or deed of trust given by Declarant as security for any construction or development loan), except for the amount of such Assessments which become due and payable from and after the date on which the mortgagee or beneficiary thereunder either takes possession of the Lot encumbered thereby, accepts a conveyance of any interest therein (other than as security) or forecloses its mortgage or deed of trust. This Section 11 shall not be amended, changed, modified or rescinded without the prior written consent of all mortgagees and beneficiaries of record.

Section 12. Additional Default. Any recorded mortgage or deed of trust secured by any Lot shall provide that any default by mortgagor in the payment of any Assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such mortgage or deed or trust (or of the indebtedness secured thereby), but failure to include such a provision in any such mortgage or deed of trust shall not affect the validity or priority thereof, and the protection extended to the holder of such mortgage or deed of trust (or of the indebtedness secured thereby) by reason of this Article shall not be altered, modified or diminished by reason of such failure.

Section 13. Exempt Property. All Properties dedicated to and accepted by a local public

FA 7995

authority and the Common Area shall be exempt from the Assessments created herein except as otherwise specifically provided.

ARTICLE X

ENFORCEMENT OF DECLARATION

If any Owner, his heirs, successors or assigns shall violate or attempt to violate any of the Covenants, Conditions and Restrictions set forth herein or the Design Guidelines incorporated herein, any other Owner, Declarant or the Association may prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such Covenant, Condition or Restriction or the Design Guidelines to prevent such violation or attempted violation or to recover damages for such violation. Failure to enforce any of such Covenants, Conditions and Restrictions shall in no event be deemed a waiver of the right to do so thereafter. In the event of such litigation, the party guilty of such violation or attempt to violate shall pay the other party's attorney's fees and costs incurred in enforcing this Declaration.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 1. Severability of Covenants, Conditions and Restrictions. Invalidation of any one or more of the Covenants, Conditions and Restrictions or other provisions herein or hereafter set forth by any judgment or court order shall in no way affect any of the other Covenants, Conditions and Restrictions which shall remain in full force and effect.

Section 2. Gender and Grammar. The singular whenever used herein shall be construed

FA 7995

to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations, partnerships, or individuals, men or women, shall in all cases be assumed as applicable.

Section 3. Amendment. Subject to the limitations and rights contained in Articles III and VIII hereof, these Covenants, Conditions and Restrictions may be amended at any time during the initial term hereof or any extension thereof by an instrument signed by Members having not less than sixty-seven (67%) percent of the total votes allocated in the Association, with such amendment to be effective upon recording in the Register's Office. Provided, however, that any amendment which changes the size of a Lot or changes the number of Assessment points assigned to a Lot shall require the written approval of those persons adversely affected thereby. Provided further, however, that if this Declaration or the Bylaws require the consent or agreement of all Owners or of all lien holders for any action specified in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be signed by all the Owners or lienholders or both, as required by this Declaration. In addition, approval must be obtained by eligible mortgage holders - those holders of a first mortgage on a Lot who have requested the Association to notify them on any proposed action that requires the consent of a specified percentage of eligible mortgage holders who represent at least fifty-one (51%) percent of the votes of Lots that are subject to mortgages held by eligible holders for any amendment affecting the following:

1. Voting rights;
2. Assessments, Assessment liens, or the priority of Assessment liens;
3. Reserves for maintenance, repair and replacement of Common Areas;

FA 7995

4. Responsibility for maintenance and repairs; reallocation of interests in the Common Areas or rights to their use; redefinition of Lot boundaries; convertibility of Lots into Common Areas or vice versa; expansion or contraction of the Property, or the addition, annexation, or withdrawal to or from the Property; and
5. Insurance or fidelity bond;
6. Leasing of Lots;
7. Imposition of any restriction on an Owner's right to sell or transfer his Lot;
8. A decision by the Association to establish self-management when professional management has been required previously by the Declarant or by an eligible mortgage holder;
9. Restoration or repair of the Property (after hazard damage or partial condemnation) in a manner other than that specified herein;
10. Any action to terminate the legal status of the Property after substantial destruction or condemnation occurs; or
11. Any provisions that expressly benefit mortgage holders, insurers or guarantors.

When Owners are considering termination of the legal status of the Property for reasons other than substantial destruction or condemnation of the Property, eligible mortgage holders that represent at least sixty-seven (67%) percent of the votes of the mortgaged Lots must agree. Such approval may be implied when an eligible mortgage holder fails to submit a response to any written proposal for an amendment within thirty (30) days after it receives proper notice of the proposal, provided the notice was delivered by certified or registered mail with a "return receipt" requested

Section 4. Condemnation, Destruction or Termination of the Property. In the event of loss or damage to the Property as a result of condemnation, in whole or in part, or partial or total

FA 7995

destruction, or the termination of the Property as a Planned Development, the Board of Directors of the Association shall represent the Owners in any proceedings, negotiations, settlements or agreements. In representing the Owners, the Board of Directors of the Association shall serve as the attorney-in-fact for the Owners. Any proceeds from any settlement shall be payable to the Association for the benefit of the Owners and their mortgage holders. Any distribution of funds in connection with the termination of the Property shall be made on a reasonable and equitable basis to the Owners at time of termination.

Section 5. Contract for Property Management. Declarant may retain the services of a professional management company to manage and maintain the Common Areas of the Property. Any such contract shall include a right of termination without cause which may be exercised by the Association at any time after the transfer of control from Declarant. There shall be no penalty for the right of termination by the Association and advance notice of termination shall be required no more than ninety (90) days.

Section 6. Working Capital Fund. To ensure that the Association will have the funds to meet unforeseen expenditures or to purchase any additional equipment or services, Declarant shall establish a working capital fund at least equal to two (2) months estimated regular Assessments for each Lot. Any amounts paid into this fund shall not be considered as advance payments of regular Assessments. The share of the working capital funds attributable to each Lot shall be collected at the time of the closing of the sale of such Lot or when control of the Property is transferred to the Association, whichever is earlier. When control of the Property is transferred, the working capital fund shall be transferred to the Association for deposit to a segregated fund. While the Declarant is in control of the Association, it cannot use any of the working capital funds

FA 7995

to defray its expenses, reserve contributions, or construction costs or to make up any budget deficits. When unsold Lots are sold, the Declarant may use funds collected at closing to reimburse itself for funds it paid the Association for each unsold Lot's share of the working capital fund.

Section 7. Rights of Mortgage Holders, Insurers or Guarantors. The holder, insurer or guarantor of a mortgage on any Lot in the Property shall have the right to timely written notice of the following:

1. Any condemnation or casualty loss that affects either a material portion of the Property or the Lot securing its mortgage;
2. Any sixty (60) day delinquency in the payment of Assessments or charges owed by the Owner of any Lot on which it holds the mortgage;
3. A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; or
4. Any proposed action that requires the consent of a specified percentage of eligible mortgage holders.

To be entitled to receive this information, the mortgage holder, insurer or guarantor must send a written request to the Association, stating both its name and address and the address of the Lot on which it has or insures or guarantees the mortgage.

Section 8. Rerecording of Plat. By the acceptance of a Warranty Deed conveying title to a Lot, the Owner thereof shall be deemed to consent to amendments or modifications of the Final Plan of the Planned Development for purpose of technical corrections, boundary line adjustments, etc.; however, such Owners shall be entitled to receive notice of any public hearing which may be required prior to such amendment or modification.

Section 9. Easements for Utilities and Related Purposes. The Declarant and the Association are authorized and empowered to grant (and shall from time to time grant) such licenses,

FA 7995

easements and/or rights of way for sewer lines, water lines, electrical cables, telephone cables, television and other communication cables, internal and external wiring and antennae, gas lines, storm drains, underground conduits and/or equipment for such purposes related to the provision of public utilities and other common services to the Property as may be considered necessary, appropriate or desirable by the Board of Directors for the preservation of the health, safety, convenience and/or welfare of the Owners and the Declarant. Such power and authorization granted to the Declarant and the Association shall at all times be limited and confined to such easement areas noted on the Final Plan or any warranty deed to any Owner. Any such easement to be located on the Property other than within said noted easement areas shall be with the written consent and permission of the Owner of the Lot subjected thereto.

Section 10. Entrance Feature Easement. Declarant reserves the right and easement for and to the benefit of Declarant and the Association to the installation and use of the entrance Improvements to be located at any entrance to the Property from a major road other than the southern entrance to the Property on Macon Road. The estimated and actual cost of operating and maintaining such Improvements shall be the responsibility of the Declarant or the Association.

Section 11. Ingress and Egress. An easement is hereby granted to all police, fire protection, ambulance, garbage collection, and all similar persons to enter upon any of the Property in the performance of their duties. Further, an easement is hereby granted to the Association, its officers, agents and employees, and to any management company selected by the Association to enter onto or cross over the Common Areas of the Property and any Lots to perform maintenance and repair to the Common Areas. The easements provided for in this Article shall in no way affect any other recorded easements on the Property.

FA 7995

Section 12. Insurance. shall obtain and maintain at all times, to the extent obtainable, policies of insurance, written with financially responsible and able companies, licensed to do business in Tennessee, covering the risks of:

- A. Bodily injury and property damage liability insurance in such limits as the Board of Directors may from time to time determine; and
- B. Worker's compensation and employer's liability insurance and all other similar insurance with respect to employees, if any, and subcontractors of the Association in the amounts and in the forms now or hereafter required by law; and
- C. Fidelity coverage against dishonesty of employees or any other persons handling funds of the Association, destruction or disappearance of money or securities and forgery and endorsements thereto covering any persons who serve the Association without compensation; and
- D. Insurance against such other risks of a similar or dissimilar nature as the Board of Directors shall deem appropriate with respect to the Property, including insurance on any personal property of the Association located thereon, and Directors and Officersd liability insurance with respect to the actions of the Board of Directors and officers of the Association. The types of coverage and limits of all insurance carried pursuant to these provisions or failure to carry adequate coverage shall not be subject to question or claim against the Association or its Board of Directors. Owners may carry other insurance for their benefit and at their expense, provided that the

FA 7995

Section 12. Insurance. shall obtain and maintain at all times, to the extent obtainable, policies of insurance, written with financially responsible and able companies, licensed to do business in Tennessee, covering the risks of:

- A. Bodily injury and property damage liability insurance in such limits as the Board of Directors may from time to time determine; and
- B. Worker's compensation and employer's liability insurance and all other similar insurance with respect to employees, if any, and subcontractors of the Association in the amounts and in the forms now or hereafter required by law; and
- C. Fidelity coverage against dishonesty of employees or any other persons handling funds of the Association, destruction or disappearance of money or securities and forgery and endorsements thereto covering any persons who serve the Association without compensation; and
- D. Insurance against such other risks of a similar or dissimilar nature as the Board of Directors shall deem appropriate with respect to the Property, including insurance on any personal property of the Association located thereon, and Directors and Officersd liability insurance with respect to the actions of the Board of Directors and officers of the Association. The types of coverage and limits of all insurance carried pursuant to these provisions or failure to carry adequate coverage shall not be subject to question or claim against the Association or its Board of Directors. Owners may carry other insurance for their benefit and at their expense, provided that the

FA 7995

liability of the carriers issuing insurance obtained by the Board of Directors shall not be affected or diminished by reason of such additional insurance carried by any Owner.

Section 13. Changes by Declarant. Notwithstanding anything contained herein to the contrary, Declarant reserves, and by his acceptance of a deed each Owner expressly grants to Declarant, the right for a period of seven (7) years from the date hereof to unilaterally amend this Declaration, in whole or in part, to conform this Declaration to the requirements of any governmental agency, and for the requirements of any mortgage lender, or if in the reasonable judgment of the Declarant an amendment is required to insure the orderly development of the Property.

Section 14. Notices. Any notice required to be sent to any Owner or Member under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as an Owner or Member on the records of the Association at the time of such mailing.

FA 7995

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration on the day and year first above written.

GILL DEVELOPMENT COMPANY, INC.,
a Tennessee Corporation

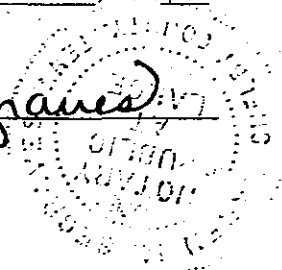
By: Raymond B. Hill

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a Notary Public of the state and county aforesaid, personally appeared Raymond B. Hill III, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be President of GILL DEVELOPMENT COMPANY, INC., the within named bargainer, a corporation, and that he as such President, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

WITNESS my hand and seal at office on this 11th day of April, 1995.

Karen M. Segaines
Notary Public



My Commission Expires 01-10-97

JOINDER OF MORTGAGEE

FA 7995

Peoples Bank, Collierville, Tennessee, herein called the "Mortgagee", the holder of a Deed of Trust on the property described on Exhibit "A" of this Declaration of Covenants, Conditions and Restrictions, which Deed of Trust is recorded under Instrument No. ES 9648, as modified by Modification Agreement of record as Instrument No. EV 6603 in the Register's Office of Shelby County, Tennessee, joins in submitting said property to this Declaration of Covenants, Conditions and Restrictions. The Deed of Trust as modified remains prior to any liens created by said Declaration of Covenants, Conditions and Restrictions.

PEOPLES BANK

By: Pierce A. Thomas

Title: Vice President

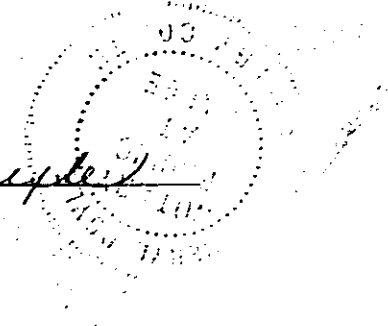
ACKNOWLEDGMENT

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, a Notary Public of the state and county aforesaid, personally appeared Pierce A. Thomas, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged himself to be the Vice President of PEOPLES BANK, Collierville, Tennessee, the within named bargainer, and that he as such Vice President, executed the foregoing instrument for the purposes therein contained, by signing the name of the said PEOPLES BANK, Collierville, Tennessee, by himself as Vice President.

WITNESS my hand, at office, this day of April 20, 1995.

Sheryl Dwyer
Notary Public



My Commission Expires:

9/17/95

FA 7995

Exhibit "A"

Legal Description

Being a portion of Cordova-The Town as described in Plat Book 148, Page 85, in the Shelby County Register's Office and more particularly described by metes and bounds as follows:

Beginning at a point in the south line of the Henry G. Marlow, Jr. property as described in Instrument 4594-53, said point being the northwest corner of the subject property; thence S 82°35'43" E a distance of 869.89 feet to a point; thence S 82°28'10" E a distance of 257.70 feet to a point; thence S 82°35'34" E a distance of 258.17 feet to a point; thence S 83°08'22" E a distance of 820.83 feet to a point; thence S 07°36'07" W a distance of 307.22 feet to a point; thence N 82°35'43" W a distance of 538.58 feet to a point; thence S 07°24'17" W a distance of 120.00 feet to a point; thence N 82°35'43" W a distance of 125.91 feet to a point; thence S 07°24'17" W a distance of 44.00 feet to a point; then N 82° 35'43" W a distance of 64.00 feet to a point; thence S 07°24'17" W a distance of 258.86 feet to a point; thence N 82° 35' 43" W a distance of 85.04 feet to a point; thence S 07°24'17" W a distance of 102.33 feet to a point; thence along a curve to the left having a radius of 20.00 feet, an arc distance of 19.38 feet (chord = S 20°21'17" E 18.63 feet) to a point; thence S 41°53'10" W a distance of 29.49 feet to a point; thence N 82°28' 57" W a distance of 258.06 feet to a point; thence N 82°27' 30" W a distance of 258.06 feet to a point; thence S 07°32' 30" W a distance of 159.23 feet to a point; thence N 87°19' 47" W a distance of 289.31 feet to a point; thence N 51°03'19" W a distance of 88.92 feet to a point; thence N 38°56'41" E a distance of 3.02 feet to a point; thence N 82°26'26" W a distance of 219.61 feet to a point; thence S 07°33'34" W a distance of 8.98 feet to a point; thence N 82°26'26" W a distance of 175.00 feet to a point; thence N 07°33'34" E a distance of 319.76 feet to a point; thence N 82°26'26" W a distance of 113.00 feet to a point; thence N 07°33'34" E a distance of 686.73 feet to the POINT OF BEGINNING and containing 36.935 acres.

mcw/sg/gill/cordova/prodesc

FA 7995

Exhibit "B"
BYLAWS OF
CORDOVA-THE TOWN MERCHANTS ASSOCIATION, INC.

ARTICLE I.

NAME AND LOCATION

The name of the corporation is Cordova-The Town Merchants Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located in Memphis, Tennessee, but meetings of the Members and Directors may be held at such places within the State of Tennessee and the County of Shelby as may be designated by the Board of Directors.

ARTICLE II.

DEFINITIONS

Section 1. "Association" shall mean and refer to Cordova-The Town Merchants Association, Inc., its successors and assigns.

Section 2. "Member" shall mean and refer to the Owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property and shall include any lessee of an Owner whose lease provides that the lessee is to be a Member of the Association.

Section 3. "Merchant" shall mean any entity operating a commercial establishment in Cordova-The Town Planned Development.

Section 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

FA 7995

Section 5. "Property" shall mean and refer to that certain real property described on Exhibit "A" to the Declaration of Covenants, Conditions and Restrictions For Cordova-The Town Merchants Association, Inc., and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 6. "Lot" shall mean and refer to any plat of land in the Property described on Exhibit "A" to the Declaration and shown upon any recorded Final Plan of the Property.

Section 7. "Declarant" shall mean and refer to Gill Development Company, Inc., a Tennessee corporation, its duly appointed agent or representative, successors and/or assigns.

Section 8. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions For Cordova-The Town Merchants Association, Inc., recorded in the Register's Office of Shelby County, Tennessee.

ARTICLE III.

MEETINGS OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held on the same day of the same month of each year thereafter, at the hour of 8:00 p.m. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are entitled to vote one-fourth (1/4) of all the votes of the Association.

FA 7995

Section 3. Notice of Meetings. Written notice stating the place, day and hour of the meeting, and in the case of any special meeting, the purpose or purposes for which the meeting is called and the person or persons calling the meeting shall be delivered either personally or by mail, at the direction of the President, Secretary, officer, person or persons calling the meeting, to each Member entitled to vote at the meeting. If mailed, such notice shall be delivered not less than ten (10) days nor more than sixty (60) days before the date of the meeting and shall be deemed to be delivered when deposited in the U. S. Mail and addressed to the Member at his address as it appears on the membership books of the corporation, with postage thereon prepaid. If delivered personally, such notice shall be delivered not less than ten (10) days nor more than sixty (60) days before the date of the meeting and shall be deemed delivered when actually received by the Member.

Section 4. Quorum. The presence at the meeting of Members, in person or by proxy, entitled to cast fifty-one percent (51%) of all the votes of the Property shall constitute a quorum for any action except as otherwise provided in the Charter of Incorporation, the Declaration, or these By-laws. Once a quorum has been established, business may be transacted even though a quorum is later lost; however, if the number of votes eligible to be cast drops below the quorum and the question of a lack of quorum is raised, no business may thereafter be transacted. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid or as provided in the Declaration shall be present or be represented. To the contrary notwithstanding, at any annual or specially called meeting for the purpose of voting on regular or special assessments, if the required quorum is not present at such meeting, an adjourned meeting and the required quorum at any such adjourned meeting shall be fifty

FA 7995

percent (50%) of the required quorum at the preceding meeting. No such adjourned meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Proxy. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

ARTICLE IV.

BOARD OF DIRECTORS; SELECTION; TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of five (5) Directors who need not be Members of the Association.

Section 2. Term of Office. The original Board of Directors shall be appointed by Declarant. The Members of the Board of Directors shall serve for a term of one (1) year or until their successors are elected and shall be eligible to succeed themselves. No Member shall serve for more than three consecutive terms, however. Cumulative voting shall not be permitted in the election of Board Members.

Section 3. Removal. Any Director may be removed from the Board, with or without cause by a majority of the Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining Members of the Board and shall serve the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

FA 7995

Section 5. Action Taken Without A Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting, by obtaining the written approval of a majority of the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

Section 6. Ex Officio Members. In addition to the regularly elected Members of the Board of Directors, the President and Vice President of the Association shall serve as ex officio non-voting members of the Board of Directors.

ARTICLE V.

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. The first Board of Directors shall be appointed by Declarant. Thereafter, nomination for election of the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman who shall be a Member of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

FA 7995

ARTICLE VI.

MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President or the Association, or by any two (2) Directors, after not less than three (3) days' notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII.

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) Adopt and publish Rules and Regulations governing the Property and the personal conduct of the Members and their guests, customers and patrons thereon, and to establish penalties for the infraction thereof;

b) Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any Assessment levied by the

FA 7995

Association. Such rights may also be suspended after notice and hearing, for a period not to less sixty (60) days for infraction of published Rules and Regulations;

(c) Declare the office of a Member of the Board of Directors to be vacant in the event such Member shall be absent from three (3) consecutive regular meetings of the Board of Directors.

(d) Elect from its Membership a Chairman, Vice Chairman and Secretary who in combination shall constitute the Executive Committee of the Board of Directors.

(e) Enter into such contracts as it deems proper for the maintenance and upkeep of the Common Areas and the operation of the Association.

(f) Take such other action as shall be permitted by applicable law, the Charter of Incorporation, the Declaration and these Bylaws as may be necessary to conduct the orderly business of the Association.

Section 2. Duties. It shall be the duty of the Board of Directors to:

(a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;

(b) Supervise all officers of the Association, and see that their duties are properly performed;

(c) As more fully provided in the Declaration to:

(1) Fix the amount of the annual Assessment against

FA 7995

each Lot at least thirty (30) days in advance of each annual Assessment.

(2) Establish a replacement reserve fund for Improvements on the Common Areas of the Property.

(3) Send written notice of each Assessment to every Owner subject thereto at least thirty (30) days in advance of the due date of each Assessment if payable quarterly or annually; and

(4) Enforce the lien against any Property for which the Assessment is not paid within thirty (30) days after the due date or bring an action at law against the Owner personally obligated to pay the same.

(5) Enforce the covenants, conditions and restrictions set forth in the Declaration including, but not limited to, the provisions concerning architectural control and restriction of uses by action at law against the Owner governed by same, whether such action be to enjoin the violation of the covenants, conditions and restrictions or to recover damages as a result of said violation, including attorney's fees and costs.

(6) Maintain any required hazard, flood, liability or fidelity bond coverage.

FA 7995

(d) Issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any Assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an Assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) Cause all officers having fiscal responsibilities to be bonded, as it may deem appropriate;

(f) Cause any easements obtained or Improvements constructed by Declarant or the Association to be maintained; and

(g) Initiate litigation to enforce the Rules and Regulations, including the application for injunctive relief.

ARTICLE VIII.

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be President and Vice President, who shall at all times be ex officio non-voting members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the Members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year or until his successor is elected unless he shall sooner resign,

FA 7995

or shall be removed, or otherwise be disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may from time to time determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

- (a) The President shall preside at all meetings of the Members and shall see that orders and resolutions of the Board are carried out; shall sign any leases, mortgages, deeds and other written instruments; and shall co-sign all checks and promissory notes.

Vice President

FA 7995

(b) The Vice President shall act in the place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Members; serve notice of meetings of the Members; keep appropriate current records showing the Members of the Association together with their addresses; and shall perform other duties as required by the Board.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; provide for the keeping of proper books of account; cause an annual audit of the Association books to be made by a certified public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the Membership at its regular annual meeting, and deliver a copy of each to the Members.

50

ARTICLE IX.

FA 7995

COMMITTEES

Section 1. The Board of Directors shall appoint a Nominating Committee as provided in these By-laws. In addition, the Executive Committee of the Board of Directors may appoint such other committees as it deems appropriate in carrying out the purposes of the Board.

Section 2. It shall be the duty of each committee to receive complaints or recommendations from Members on any matter involving Association functions, duties and activities within its field of responsibility. It shall dispose of such complaints or recommendations as it deems appropriate or refer them to such other committee, director or officer of the Association as is further concerned with the matter presented.

ARTICLE X.

BOOKS AND RECORDS

The books, records and papers of the Association, including the minutes of any meeting of the Board of Directors, shall at times, during reasonable business hours, be subject to inspection by any Member. The Declaration, Charter and the By-laws of the Association, shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XI.

ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the

FA 7995

Association regular (payable monthly, quarterly or annually) and special, emergency and joint Assessments which are secured by a continuing lien upon the Lot against which the Assessment is made. Any Assessments which are not paid when due shall be delinquent. If the Assessment is not paid within fifteen (15) days after the due date, the Assessment shall bear interest from the date of delinquency at the maximum interest rate per annum as allowed by the law of Tennessee, plus a late charge of five (5%) percent of the amount of the Assessment to cover the administrative cost of the collection of the delinquency (if allowable under Tennessee law), and, if the Assessment is not paid within thirty (30) days of the due date, the Association may exercise its right of foreclosure as provided in the Declaration or bring an action in a Court of equity to enforce the lien or an action at law against the Owner personally obligated to pay the same and interest, costs, and reasonable attorney's fees incurred in any such action shall be added to the amount of such Assessment.

No Owner may waive or otherwise escape liability for the Assessments provided for herein by abandonment of his Lot.

ARTICLE XII.**AMENDMENTS**

Section 1. These By-laws may be amended, at a regular or special meeting of the Members, by a vote of a two-thirds (2/3) majority of a quorum of Members present in person or by proxy.

Section 2. In the case of any conflict between the Charter of Incorporation and these By-laws, the Charter shall control; and in the case of any conflict between the Declaration and these By-laws, the Declaration shall control.

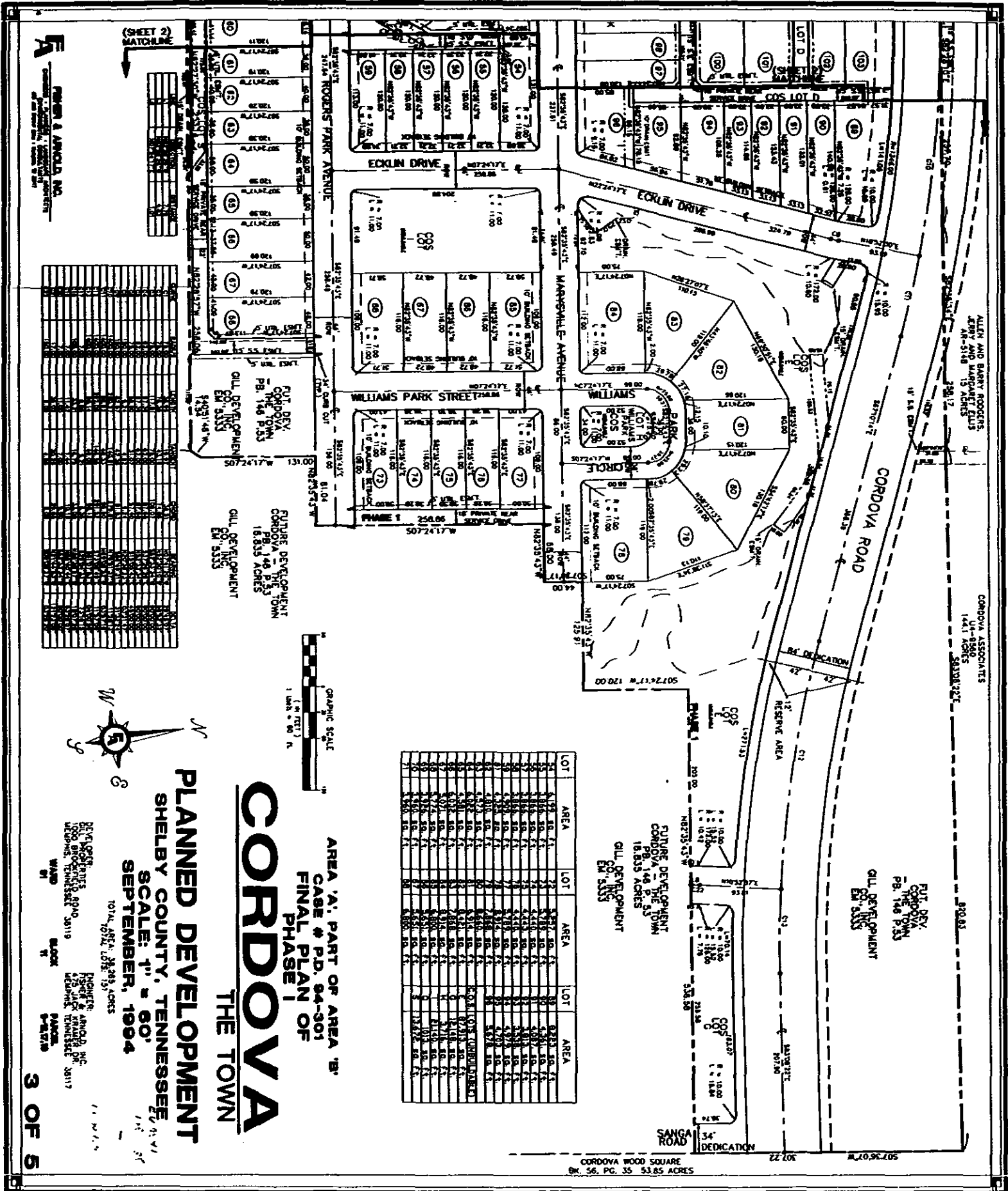
FA 7995

ARTICLE XIII.

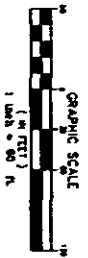
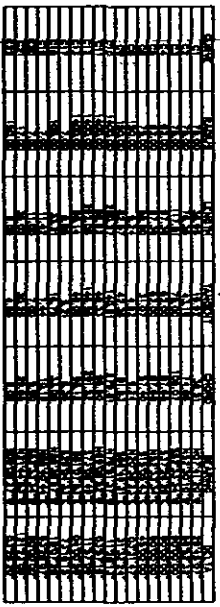
MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Secretary



FA
 FARM & ANIMAL INC.
 1000 BROADWAY, SUITE 100
 MEMPHIS, TENNESSEE 38103



DEVELOPER: FARM & ANIMAL INC.
 1000 BROADWAY, SUITE 100
 MEMPHIS, TENNESSEE 38103

REGISTER: ANDREW D. MC
 525 JACK HENRISS DR.
 MEMPHIS, TENNESSEE 38117

WARD: 01 BLOCK: 01 PARCEL: 01-171/0

54

FA 7995

EXHIBIT D

ASSESSMENT POINTS

8 Point Lots	21-25, 154-167
9 Point Lots	4, 6, 8-9, 12-13, 18-19, 27-28, 32-35, 42-49, 55-58, 91-93, 97-98, 116, 119, 122-123, 125-126, 128-131, 133-134
10 Point Lots	1-3, 7, 11, 14, 17, 20, 26, 29-30, 36, 38, 59, 61-63, 65, 67, 74-76, 90, 95, 102, 105-108, 112-113, 115, 124, 135-137, 151-152
11 Point Lots	10, 15-16, 31, 37, 40, 51-54, 60, 64, 66, 68, 73, 77, 86-87, 89, 94, 96, 103, 110-111, 114, 121, 127, 132, 153
12 Point Lots	30, 39, 85, 88, 99, 100-101, 104, 120
13 Point Lots	41, 78, 81, 84, 109
14 Point Lots	None
15 Point Lots	79-80, 82-83

JOINDER AGREEMENT

FA 7995

Charles H. Cain, III and Pamela H. Cain, the Owners of Lot 131, Cordova-The Town as shown on the Final Plan of record as Instrument EU 9841 in the Register's Office of Shelby County, Tennessee, join herein for the purpose of submitting said property to the Declaration of Covenants, Conditions and Restrictions which are of record as Instrument No. FA 7995 in said Register's Office.



CHARLES H. CAIN



PAMELA H. CAIN

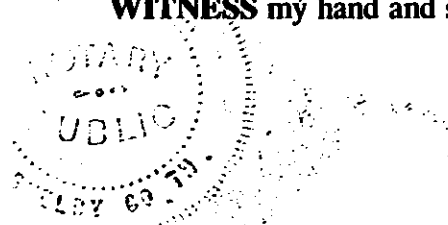
ACKNOWLEDGMENT

STATE OF TENNESSEE }

COUNTY OF SHELBY }

BEFORE ME, personally appeared Charles H. Cain & Pamela H. Cain to me known to be the persons described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

WITNESS my hand and seal this 11th day of April, 1995.





NOTARY PUBLIC

My commission expires:
My Commission Expires:
12-19-95

FA 7995

JOINDER AGREEMENT

WRH Construction, Inc., the Owner of Lot 20, Cordova-The Town as shown on the Final Plan of record as Instrument EU 9841 in the Register's Office of Shelby County, Tennessee, joins herein for the purpose of submitting said property to the Declaration of Covenants, Conditions and Restrictions which are of record as Instrument No. FA 7995 said Register's Office.

WRH CONSTRUCTION, INC.

By: W. Richard Hall, Pres.

ACKNOWLEDGMENT

STATE OF TENNESSEE }
 }
COUNTY OF SHELBY }

BEFORE ME personally appeared W. Richard Hall Jr, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the President, the within named bargainer, a corporation, and that he as such President executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as president.

WITNESS my hand and seal, at office, this 11th day of April, 1995.

FA 7995
Karen M. Seagraves

NOTARY PUBLIC	
No. _____	
D/C <u>DR # 5</u>	_____
Pgs. <u>61</u>	_____
Val _____	_____
STATE TAX _____	_____
REGISTER'S FEE _____	_____
RECORDING FEE <u>24400</u>	_____
WT <input type="checkbox"/> MISC FEE _____	_____
TOTAL _____	_____
STATE OF TENNESSEE SHELBY COUNTY GUY B. BATES REGISTER	

gill/cordova/joinder

My commission expires:

My Commission Expires Oct. 14, 1998

FA7995

95 APR 27 AM 11:50

61