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Prepared by: Oliver W. Alphin
Mail after recording to: Oliver W. Alphin, P. O. Box 3843, Durham, N. C. 27702

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by the Whistler Corporation, hereinafter referred to as "Declarant."

PRESENTED FOR REGISTRATION
DEC 2 4:45 PM '81
REGISTER OF DEEDS
WAKE COUNTY, N.C.

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Raleigh, County of Wake, State of North Carolina, containing approximately 15.71 acres, which is more particularly described as:

> All of that certain land shown on Sheets 1 through 4 of that plat and survey entitled Final Plat, Hunters Creek Townhouses, Section One, Owner: Whistler Corporation as prepared by Rivers and Associates, Inc., dated October 6, 1981 recorded in Book of Maps 1981 at page 1105, Wake County Registry, to said plat and survey reference is hereby made for a more particular description of same.

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

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Hunters Creek Townhouse Homeowners Association, Inc., its successors and assigns.

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

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

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot is described as follows:

> All of that land shown and designated as "Common Area" as shown on the Plat entitled "Final Plat, Hunters Creek Townhouses, Section One, Owner: Whistler Corporation" which appears of record in the office of the Register of Deeds, Wake County, North Carolina, in Map Book 1981, page 1105, to which reference is hereby made for a more particular description of same.

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

Section 6. "Declarant" shall mean and refer to Whistler Corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot and/or acreage from the Declarant/its successors or assigns for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall include an easement over the common areas for access, ingress and egress from and to public streets and walkways and which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

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

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the Bylaws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Parking Rights. Ownership of each lot shall entitle the owner or owners thereof to the use of two automobile parking spaces, which shall be as near and convenient to said lot as reasonably possible, together with the right of ingress and egress in and upon said parking area. The association shall permanently assign one vehicle parking spaces for each dwelling.

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ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

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

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

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

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) on January 1, 1985.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

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

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the Properties and in particular for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the exterior maintenance of the residences situated upon the Properties or for the use and enjoyment of the Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes assessed against the Common Area, the payment of public assessments levied against the Common Area, the procurement and maintenance of insurance in accordance with the Bylaws, the payment of charges for television antenna services to the Properties, the employment of attorneys to represent the Association when necessary, and such other needs as may arise.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be Fifty Dollars ($50.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 10% by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

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

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

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

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

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property in the same manner as real estate deeds of trust may be foreclosed in the State of North Carolina, and interest, costs and reasonable attorney's fees incurred in connection with such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The liens provided for herein shall be subordinate to the lien of any first mortgage, or first deed of trust. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section. However, the sale or transfer of any Lot which is subject to any first mortgage or first deed of trust, pursuant to a foreclosure thereof or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to the payment thereof which become due prior to such sale or transfer. No such sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any first mortgage or first deed of trust.

Section 10. Exempt Property. All property dedicated to, and accepted by, a local public authority and all properties owned by a charitable organization shall be exempt from assessments.

ARTICLE V

ARCHITECTURAL CONTROL

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

ARTICLE VI

EXTERIOR MAINTENANCE

In addition to maintenance upon the Common Area, the Association shall provide exterior maintenance upon each Lot which is subject to assessment hereunder,

as follows: paint, repair, replace and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, walks, and other exterior improvements. Such exterior maintenance shall not include glass surfaces. In order to enable the Association to accomplish the foregoing, there is hereby reserved to the Association the right to unobstructed access over and upon each Lot at all reasonable times to perform maintenance as provided in this Article.

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

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and said Owner shall have an easement over and across the property of adjacent Owners for the purpose of constructing and restoring the wall, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to

be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title. Upon request an Owner shall furnish a written, signed statement as to whether that Owner claims any rights of contribution from any other Owner or Owners.

Section 6. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisons of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majortiy of all the arbitrators.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Land Use and Building Type. No Lot shall be used except for residential purposes.

Section 2. Dwelling Specifications. No dwelling shall be permitted, costing less than $20,000 based on current building costs and having a ground area of the main structure, exclusive of one-story open porches, of less than 700 square feet for a one-story dwelling nor less than 450 square feet for a dwelling of more than one story.

Section 3. Nuisance. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 4. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes.

Section 5. Outside Antennas. No outside radio or television antennas shall be erected on any Lot or dwelling unit within the Properties unless and until permission for the same has been granted by the Board of Directors of the Association or its architectural control committee.

ARTICLE IX

EASEMENTS

Section 1. Utilities. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat.

Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements.

Section 2. Unintentional Encroachments. In the event that any structure erected principally on any Lot shall encroach upon any Common Area or upon any other Lot for any reason not caused by the purposeful or negligent act of this Owner or agents of such Lot, then an easement appurtenant to such Lot shall exist for the continuance of such encroachment upon the Common Area or other Lot for so long as such encroachment shall naturally exist; and, in the event that any portion of the Common Area shall encroach upon any Lot, then an easement shall exist for the continuance of such encroachment of the Common Area into any such Lot for so long as such encroachment shall naturally exist.

Section 3. Greenway Easement. The Declarant has granted a Deed of Easement for Greenway purposes to the City of Raleigh in and to a 50-foot strip of land along the western property line of the property described in Schedule A attached hereto and incorporated herein by reference. The Easement empowers the City of Raleigh to maintain the strip in its natural state and imposes special restrictions on the use of the strip by the Owners, the Association and the rest of the public, including limitations on building, dumping, excavation, and cutting of trees and vegetation. The rights and prohibitions for the use of the strip are fully set forth in the recorded Deed of Easement between The Whistler Corporation and the City of Raleigh.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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

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Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. No amendment shall become effective without the approval of the Raleigh City Attorney, but the failure of the Raleigh City Attorney to respond to the submission of an amendment within thirty (30) days from receipt of the amendment shall be deemed to be approval. Any amendment must be recorded.

Section 4. Annexation.

(a) Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

(b) Additional land within the area described in the metes and bounds description attached hereto as Schedule A and incorporated herein by reference may be annexed by the Declarant without the consent of members within eight (8) years of the date of this instrument provided that the Federal Housing Administration or Veterans Administration determine that the annexation is in accord with the general plan heretofore approved by them.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

Section 6. Public Protection. In no case shall the City of Raleigh be responsible for failing to provide any emergency or regular fire, police or other public service to such developments or their occupants when such failure is due to the lack of access to such areas due to inadequate design or construction, blocking of access routes, or any other factor within the control of the developer, homeowners' association, or occupants.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed by its duly authorized officer and its corporate seal to be hereunto affixed, this the 17 day of December, 1981.

THE WHISTLER CORPORATION, Declarant

By: [signature]
President

ATTEST:

[signature]
Secretary
[Corporate Seal]

NORTH CAROLINA

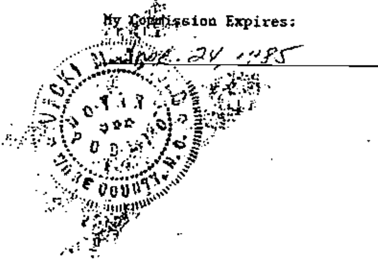
WAKE COUNTY

I, Vicki M. Arnold, a Notary Public of said state and county certify that Lynn F. Porter personally appeared before me this day and acknowledged that he is Secretary of The Whistler Corporation and that by authority duly given and as the act of the corporation, the foregoing was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and notarial seal this the 17th day of December, 1981.

Vicki M. Arnold
Notary Public

My Commission Expires:
Mar. 24, 1985



NORTH CAROLINA — WAKE COUNTY

The foregoing certificate ____ of Vicki M. Arnold

(are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof. ____ Notar(y)(ies) Public is

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

By Gladys C. Smith
Deputy Register of Deeds

sh:92/M

SCHEDULE A

BEGINNING at an iron pipe located at the intersection of the southern right of way of Kaplin Drive and the eastern right of way of Kent Road; running thence with the eastern right of way of Kent Road North 6° 57' 28" East 276.78 feet to an iron pipe; thence leaving the right of way of Kent Road and running with the southern property line of property now or formerly owned by Echie and Myrtle Henderson South 87° 03' 44" East 265.35 feet to an iron pipe; thence continuing with the southern property line of said Henderson South 87° 10' 09" East 149.28 feet to an iron pipe; running thence with the southern property line of properly now or formerly owned by James L. Bost and described in Deed Book 1623 at page 176, Wake County Registry, South 87° 12" 37" East 189.60 feet to an iron pipe; thence continuing with the southern property line of Bost South 87° 08' 27" East 234.22 feet to an iron pipe; thence continuing with the southern property line of said Bost South 87° 09' 46" East 369.14 feet to an engineer's tack in lead plug in gutter in the western right of way of Stovall Street (formerly Frank Street); thence running with the western right of way of Stovall Street South 2° 51' 14" West 559.62 feet to an iron pipe; running thence with the western property line of property now or formerly owned by Parkwood Investors as described in Deed Book 2822 at page 631, Wake County Registry, South 2° 51' 1" West 215.08 feet to an iron pipe; running thence with the northern property line of property now or formerly owned by Pine Village Associates as described in Deed Book 2861 at page 398, Wake County Registry, North 87° 08' 58" West 387.43 feet to an iron pipe; running thence with the western property line of said Pine Village Associates and other properties South 2° 48' 22" West 725 feet to an iron pipe; running thence with the northern property line of property now or formerly owned by Fairfax Village, Inc. South 52° 28' 08" West 299.16 feet to an iron pipe; thence continuing with the property line of said Fairfax Village, Inc. South 66° 27' 57" West 309.36 feet to an iron pipe; running thence North 40° 42' 15" West 86.02 feet to an iron pipe; running thence North 30° 16' 37" West 118.39 feet to an iron pipe; running thence North 75° 46' 04" West 121.17 feet to an iron pipe; running thence North 7° 58' 14" West 138.15 feet to an iron pipe; running thence North 10° 43' 41" East 137.81 feet to an iron pipe; running thence North 51° 2' 44" West 126.13 feet to an iron pipe; running thence North 1° 50' 41" East 117.42 feet to an iron pipe; running thence North 24° 54' 22" West 144.96 feet to an iron pipe; running thence North 67° 30' 20" East 27.51 feet to an iron pipe in the eastern property line of property now or formerly owned by the City of Raleigh as described in Deed Book 1712 at page 416, Wake County Registry; running thence with the eastern property line of said property of the City of Raleigh North 22° 29' 03" West 87.70 feet to an iron pipe; thence continuing with the eastern property line of said property of the City of Raleigh, North 21° 57' 18" West 299.90 feet to an iron pipe; thence continuing with the eastern property line of said property of the City of Raleigh North 19° 09' 32" West 302.77 feet to an iron pipe; running thence North 7° 48' 21" West 154.73 feet to an iron pipe in the southern right of way of Kaplin Drive; running thence with the southern right of way of Kaplin Drive South 84° 13' 09" East 366.62 feet to an iron pipe being the point and place of BEGINNING and containing 43.19 acres, more or less, as shown on that plat and survey entitled Boundary Survey for Whistler Corporation, Property of R. G. Hancock, et al., as prepared by Rivers and Associates, Inc., dated 3/25/81, Job Z-894; to said plat and survey reference is hereby made for a more particular description of same.