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Return to: Elizabeth Anderson, Rt. 2, Box 566, Pittsboro,
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DECLARATION OF ROAD
AND COMMON AREA MAINTENANCE
FOR HART'S CREEK

THIS DECLARATION, made and entered into this the 1st day of
November, 1991 by HART'S CREEK PARTNERSHIP, A NORTH
CAROLINA PARTNERSHIP, hereinafter called DECLARANT:

WITNESSETH:

WHEREAS, Declarants own in fee simple the real property
described in Article 1 below; and

WHEREAS, the said property has access to S.R. 2176, via the
private roads as shown on the plat hereinafter referred to;
and

WHEREAS, Declarants, by this Declaration, wish to bind
themselves, their successors and assigns to provide all
owners of any portion of said property owned by Declarants
described below perpetual easement for ingress, egress and
regress to a state maintained road; and

WHEREAS, Declarants, by this Declaration, further wish to bind themselves, their successors and assigns to provide for maintenance of said roads and any common areas;

NOW, THEREFORE, Declarants agree for themselves and with any and all persons, firms or corporations hereafter acquiring any of the property described in Article 1 below, that the same shall be subject to the easements and conditions set forth herein, and that said easements and conditions shall run with said property and inure to the benefit of and be binding upon the heirs, successors and assigns of Declarants and other acquiring parties and persons.

DECLARATION OF ROAD MAINTENANCE

ARTICLE 1. The real property which is, and shall be held, transferred, sold and conveyed subject to the easement and conditions set forth-in the various articles of this declaration is located in Hickory Mountain Township, Chatham County, North Carolina, and is more particularly described as follows:

BEING all of those lots or parcels of land depicted upon the plat entitled "HART'S CREEK - PHASE ONE" by Smith and Smith Surveyors, recorded on Plat Slide 91-373 Of the Chatham County Registry.

ARTICLE 2. Declarants hereby grant unto themselves and the future record owners of the aforesaid property adjoining and abutting all private roads serving the lots shown on said plat perpetual easements for purposes of ingress, egress, and regress and for the installation and maintenance of utilities along the said roads.

ARTICLE 3. Each record owner, including Declarants, of any of the aforesaid property, excepting Lot 16, abutting on said roads shall be responsible for and pay a pro rata portion of the costs of maintaining said private roads, including grading costs, gravel, or rock hauled in to fill ruts, holes, and washed cut sections and necessary replacement of or additional drainage culverts. Said roads shall be maintained in at least an all weather condition.

As long as Declarants shall own 50% or more of platted lots in Phase I, it shall be Declarants right and duty to perform in its own name the required maintenance and immediately assess all other lots for one/fifteenth of the actual cost of such maintenance

After such time as Declarants shall no longer own at least 50% or more of the platted lots in Phase I, the record owners, who comprise the Hart's Creek Landowners Association, shall meet at least annually with written notice given to all members at their last known address not less than 30 days nor more than sixty (60) days in advance of the meeting. For purposes of voting, the owners shall have one vote for each lot owned. A quorum shall be required for the membership to take action. A quorum shall constitute the presence of members or of proxies of members entitled to, cast sixty (60%) of all the votes of the membership.

All of the property subject hereto shall be subject to assessment for maintenance of said private road and common areas as aforesaid. The record owner of each lot shall be deemed to hold a single share. At the time of any improvements the total number of shares shall be divided into the cost of the improvements, and all parties shall then be responsible for payment.

Public road lots shall not be assessed any cost of road maintenance and improvement should said lots not use private sixty foot right-of-way for their driveway access.

However, public road lots shall be assessed a fee for maintenance, taxes and insurance of the common land.

The share of each owner so computed, together with interest, costs and reasonable attorneys' fees incurred in the collection thereof shall be a charge upon the property against which each assessment is made, as well as the personal obligation of the owners. Said share shall be due and payable 30 days after demand upon all lot owners. If not paid the share may be reduced to judgment and shall become a lien upon the lands of the defaulting owner. The lien thus established shall be subordinate to the lien of any mortgage or deed of trust. Sale or transfer of the land shall not affect the assessment lien, except that sale or transfer pursuant to a mortgage foreclosure shall extinguish the lien as to the assessments due prior to, but not after, sale or transfer.

Any damage to the road caused by home construction, timbering or agricultural use shall be the responsibility of the owner engaged in the cause of damage.

ARTICLE 4. Declarants reserve the right to use and convey the 60 feet right-of-way of Hart's Creek Phase I for ingress, egress, regress and utilities to adjoining properties described in Deed Book 444, page 869, and Deed Book 542, page 558. The owners of the property described in Deed Book 444, page 869, and Deed Book 542, page 558, their heirs, successors and assigns shall pay the pro rata cost of the share of one lot to the Hart's Creek Landowners Association until such time as any subdivision is made of said property. After such time, any subdivided lots shall become part of Hart's Creek Landowners Association and be bound by this road maintenance agreement. However, the lot owners of the additional subdivision lots shall be solely responsible for the upkeep and maintenance of roads in the adjoining areas.

ARTICLE 5. In the event that Chatham County or any other governmental body, as a condition of approval of any other subdivision of the property described in ARTICLE 1, may require said private road to be upgraded above the standard of approval herein or publicly dedicated and constructed to Department of transportation standards, then and in that event, Declarants and all persons taking title to the property described in Article 1 shall be responsible for maintenance and the costs of maintenance of the entire road system to the new standard. Provided, however, that the initial cost of constructing the road or any portion of the road to a higher private road standard or to Department of Transportation standards shall be borne solely by the owners of the portion of said property, the subdivision of which require that the road or any portion of it be upgraded. The cost of constructing the road or any portion of it to a higher private road' standard or to Department of Transportation standards shall be shared by the owners responsible for the upgrading. In the event public dedication of the said private road or any extension of the private road or portion thereof is required by Chatham County, Declarants and all persons taking title to the aforesaid property from and through Declarants shall publicly dedicate the portion of said road required to be dedicated.

ARTICLE 6. The private road located within said property may be dedicated to the public at the election of 60% of the lot owners in the event dedication is not required by a governing body as set forth above. In that event, the owners and their successors in title and interest to any of the property described herein will remain responsible for road maintenance as herein provided until such time as the road dedicated is maintained by the North Carolina Department of Transportation or other governmental body.

ARTICLE 7. This agreement shall run with and be appurtenant to the land and shall be binding upon the heirs, assigns and successors of each record owner of the aforesaid property.

ARTICLE 8. This agreement shall remain in full force and effect until such time as said roads or any portion thereof is taken over by the North Carolina Department of Transportation for maintenance purposes, and any portion of said roads not so taken over shall remain subject to this agreement and for said portion this agreement shall remain in full force and effect.

DECLARATION OF COMMON USE AND MAINTENANCE

ARTICLE 1. The real property which is subject to common area use and maintenance is located in Hickory Mountain Township, Chatham County, North Carolina, and is more particularly described as follows: BEING Lot #16 and the water and the pond adjacent and appurtenant thereto as depicted upon the plat entitled "Hart's Creek Phase One", by Smith & Smith Surveyors recorded at Plat Slide 91-373, Chatham County Registry.

ARTICLE 2. Declarants hereby grant unto themselves and the future owners of the aforesaid common lands and waters a right to use, enjoy and recreate upon the common lands and waters above described in Article 1.

ARTICLE 3. As long as Declarants shall own 50% or more of platted lots in Phase I, it shall be Declarants right and duty to perform in its own name the required pond maintenance and immediately assess all other lots for one/fifteenth of the actual cost Of such maintenance.

After such time as Declarants shall no longer own at least 50% or more of the platted lots in Phase I the record owners, who comprise the Hart's Creek Landowners Association, shall meet at least annually with written notice given to all members at their last known address not less than 30 days nor more than sixty (60) days in advance of the meeting. For purposes of voting, the owners shall

have one vote for each lot owned. A quorum shall be required for the membership to take action. A quorum shall constitute the presence of members or of proxies of members entitled to cast sixty (60%) of all the votes of the membership. The record owner of each lot shall be deemed to hold a single share. At the time of any improvements the total number of shares shall be divided into the cost of the improvements, and all parties shall then be responsible for payment.

The share of each owner so computed, together with interest, costs and reasonable attorneys' fees incurred in the collection thereof shall be a charge upon the property against which each assessment is made, as well as the personal obligation of the owners. Said share shall be due and payable 30 days after demand upon all lot owners. If not paid the share may be reduced to judgment and shall become a lien upon the lands of the defaulting owner. The lien thus established shall be subordinate to the lien of any mortgage or deed of trust. Sale or transfer of the land shall not affect the assessment lien, except that sale or transfer pursuant to a mortgage foreclosure shall extinguish the lien as to the assessments due prior to, but not after, sale or transfer.

IN WITNESS WHEREOF, the Declarant has hereunto caused this Declaration of Road and Common Area Maintenance for Hart's Creek To be signed in its partnership name by its partners, all as of the day and year first above written.

HART'S CREEK, A NORTH CAROLINA PARTNERSHIP

STATE OF NORTH CAROLINA

COUNTY OF CHATHAM

I, Donna S. Poe, a Notary Public in and for the county and State aforesaid, do hereby certify that ELIZABETH C. ANDERSON Partner of Hart's Creek, a North Carolina General Partnership, personally appeared before me this day and acknowledged the due execution of the foregoing Deed for the purposes therein expressed.

Witness my hand and Notarial Seal, this the 1st day of November, 1991.

NORTH CAROLINA

CHATHAM COUNTY

I, Donna S. Poe, a Notary Public for said county and State do hereby certify that MARGARET ALLEN CLARK attorney in fact for TONY F. CLARK Partner of Hart's Creek, a North Carolina General Partnership, personally appeared before me this day, and being by me duly sworn says that she executed the foregoing and annexed instrument for and in behalf of the said Tony F. Clark and that her authority to execute and acknowledge said instrument *is* contained in instrument duly executed, acknowledged, and recorded in the Office of Register of Deeds in the County of Chatham, State of North Carolina, on the 1st day of October, 1981 in Book 447, page 175 and that this instrument was executed under and by virtue of the authority given by said instruments granting her power of attorney.

I do further certify that the said Margaret Allen Clark, attorney in fact for Tony F. Clark, acknowledged the due execution of the foregoing and annexed instrument for the purposes therein expressed for and in behalf of the said Tony F. Clark

WITNESS my hand and official seal, this the 1st day of November, 1991.

Notary Public