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FILED Joyce H. Pearson  
Register of Deeds, Orange Co., NC  
Recording Fee: \$164.00  
NC Real Estate TX: \$.00 *JWB*

PARENT: 9880-36-2277

UNITS 100-800 = 9880-36-2277.001 thru .008

*MAB*

Prepared by and Mail to: Stark Law Group, PLLC  
6011 Farrington Road, #300  
Chapel Hill, NC 27517

**DECLARATION  
OF  
112 TIMBERLYNE COMMERCE PARK**

**ARTICLE 1**

**Submission of Property; Definitions**

1.1 SUBMISSION OF PROPERTY. Declarant hereby submits the Property, including all improvements, easements, rights and appurtenances thereunto belonging to the provisions of Chapter 47C of the General Statutes of North Carolina, known as the North Carolina Condominium Act ("Condominium Act"), and hereby creates with respect to said real estate, a condominium to be known as "112 Timberlyne Commerce Park" ("Condominium").

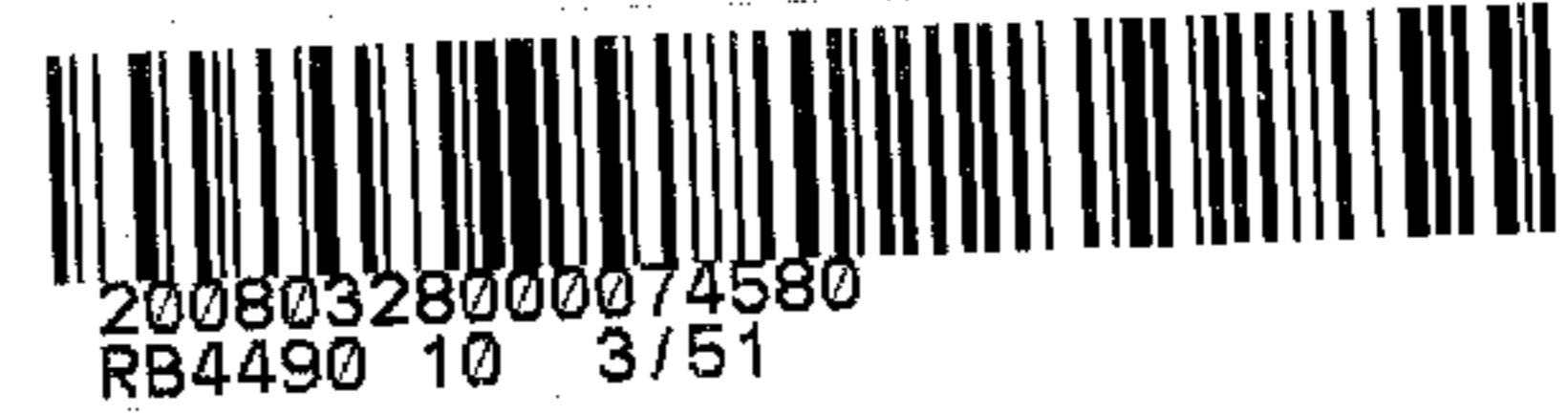
1.2 DEFINITIONS. As used in the Condominium Documents, the following words and phrases shall have the following meanings:

a) "Allocated Interests" means the undivided interest in the Common Elements and Common Expense liability and votes in the Association, allocated to Units in the Condominium. The Allocated Interests are described in Article 6 of this Declaration and shown on Exhibit B.

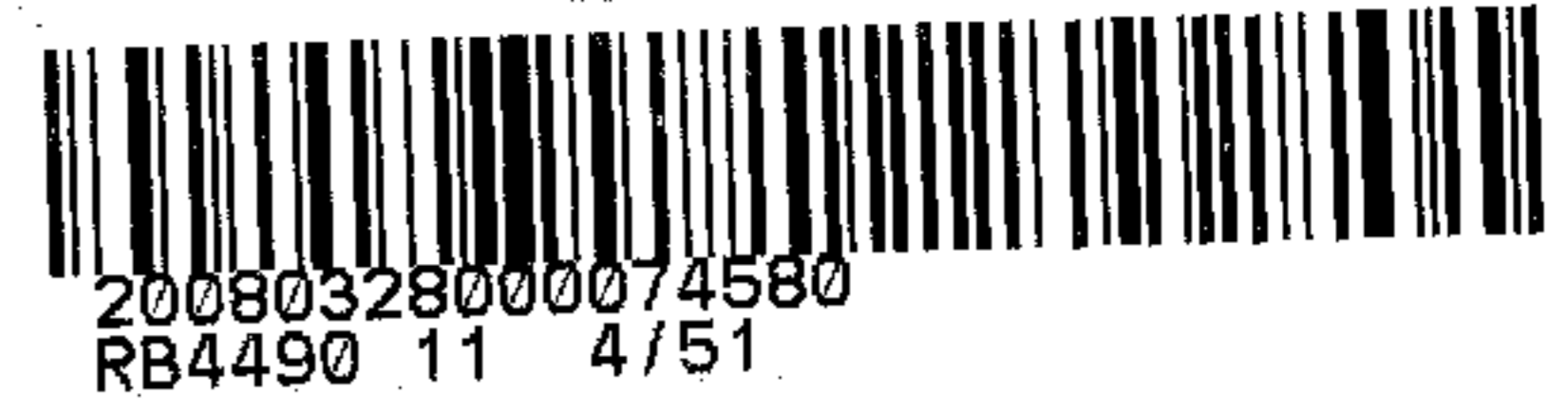
b) "Association" means the 112 TIMBERLYNE COMMERCE PARK OWNERS' ASSOCIATION, INC., a nonprofit corporation organized under Chapter 55A of the General Statutes of North Carolina. It is the Association of the Unit Owners pursuant to Section 47C-3-101 of the Condominium Act. It is understood that the duties of the Association for maintenance and operation of the parking lots, roadways, landscaping, lighting, signage, and dumpsters will be delegated to a Timberlyne Commerce Park Association which will maintain these amenities for all building owners.



- c) “Bylaws” means the Bylaws of the Association, as they may be amended from time to time.
- d) “Common Elements” means all portions of the Condominium other than the Units.
- e) “Common Expenses” means the expenses or financial liabilities for the operation of the Condominium. These include the following:
- i. expenses of administration, maintenance, repair or replacement of the Common Elements, including utility charges attributable to Common Elements;
  - ii. expenses declared to be Common Expenses by the Condominium Documents or by the Condominium Act;
  - iii. expenses agreed upon as Common Expenses by the Association; and
  - iv. reasonable reserves, which shall be established by the Association for repair, replacement and/or addition to the Common Elements or any other real or personal property acquired or held by the Association.
- f) “Condominium” means the real property described in Exhibit A subject to the Declaration.
- g) “Condominium Documents” means this Declaration, the Plats and Plans recorded and filed pursuant to the provisions of the Condominium Act, the Bylaws, and the Rules and Regulations as they may be amended from time to time. Any exhibit, schedule, or certification accompanying a Condominium Document is a part of that Condominium Document.
- h) “Declarant” means C.A.I. GROUP VII, LLC, or its successor(s), per the provisions of Section 47C-1-103(9) of the Condominium Act.
- i) “Declarant Control Period” means the period prior to the earlier of: (1) one hundred twenty (120) days after conveyance of seventy-five percent (75%) of the Units (including Units which may be created pursuant to special Declarant rights) to Unit Owners other than the Declarant; (2) two years after the Declarant has ceased to offer Units for sale in the ordinary course of business; or (3) two years after any development right to add new Units was last exercised, per the provisions of N.C.G.S. Sec. 47C-3-103(d).
- j) “Development Rights” means the rights reserved by the Declarant under Article 5 of this Declaration to create Units, Common Elements, and Limited Common Elements within the Condominium.
- k) “Director” means a member of the Executive Board.



- l) “Eligible Mortgagee” means the owner and holder of a First Mortgage that has notified the Association in writing of its name and address, and that it holds a First Mortgage on a Unit. Such notice will be deemed to include a request that the Eligible Mortgagee be given the notices and other rights described in Article 23.
- m) “Board of Directors” means the board of directors of the Association.
- n) “Executive Board” means the executive board of directors of the Association, if one has been designated by the Board.
- o) “First Mortgage” means a mortgage or deed of trust constituting a first lien on a Unit.
- p) “Improvements” means any construction, structure, fixture or facilities existing or to be constructed on the land included in the Condominium, including but not limited to, buildings, trees and shrubbery planted by the Declarant or the Association, paving, utility lines, pipes, and light poles.
- q) “Limited Common Elements” means the portion of the Common Elements allocated for the exclusive use of one or more but fewer than all of the Units by the Declaration or by operation of Section 47C-2-102(2) and (4) of the Condominium Act. The Limited Common Elements in the Condominium are described in Article 3 of this Declaration.
- r) “Majority or Majority of Unit Owners” means the owners of a minimum of Fifty-One Percent (51%) of the votes in the Association.
- s) “Manager” means a person, firm, corporation, limited liability company, or other business employed or engaged to perform management services for the Condominium and the Association.
- t) “Notice and Hearing” means the right of a Unit Owner to receive notice of an action proposed to be taken by the Association and the right to be heard thereon. The procedures for Notice and Hearing are set forth in Section 20.1 of Article 20 of this Declaration.
- u) “Person” means an individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, government subdivision or agency, or other legal or commercial entity.
- v) “Plats and Plans” means the surveys, plans and specifications of the building and Property recorded under the name of the Condominium in Condominium Book 103 Pages 126 and 127, and Book 103, Pages 128 and \_\_\_\_\_ in the Orange County Registry, as the same may be amended from time to time.



w) “Property” means the land, all improvements, easements, rights and appurtenances, which have been submitted to the provisions of the Condominium Act by this Declaration.

x) “Rules and Regulations” means Rules and Regulations for the use of Units and Common Elements and for the conduct of persons within the Condominium, adopted by the Executive Board pursuant to this Declaration.

y) “Security Interest” means an interest in real estate or personal property, created by contract or conveyance which secures payment or performance of an obligation. The term includes a lien created by a mortgage, deed of trust, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an Association, and any other consensual lien or title retention contract intended as security for an obligation.

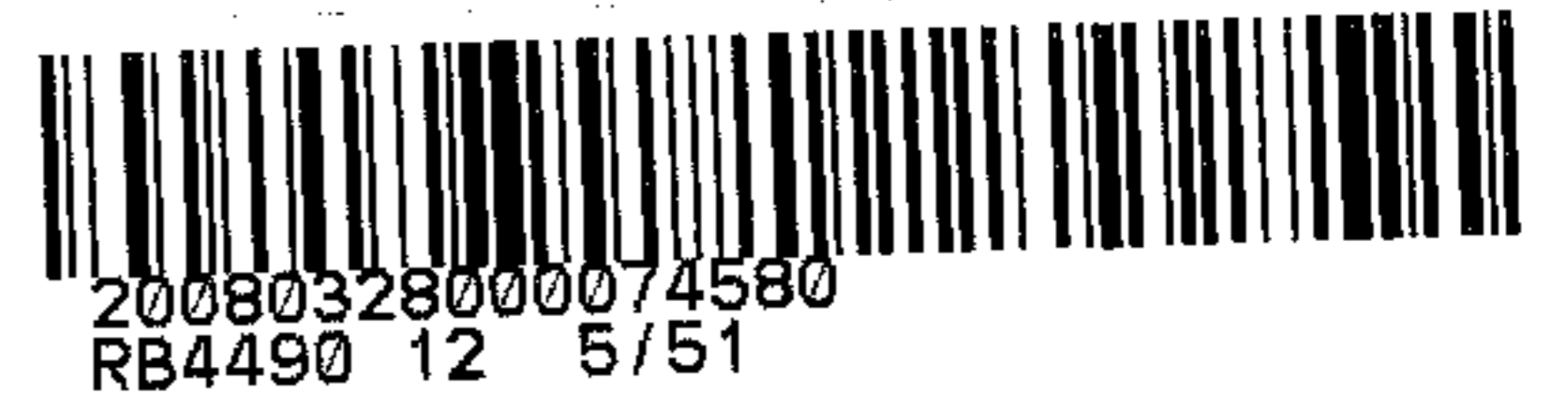
z) “Special Declarant Rights” means the rights reserved for the benefit of a Declarant to:

- i. complete improvements indicated on the Plats and Plans;
- ii. exercise any Development Rights;
- iii. maintain sales offices, management offices, signs advertising the Condominium, and models until the last Unit owned by Declarant is sold;
- iv. use easements through the Common Elements for the purpose of making improvements within the Condominium; and
- v. appoint or remove any officer of the Association or any Executive Board member during the Declarant Control Period.

aa) “Stormwater Facility” means that certain stormwater facility that was created by Declarant to satisfy the Town of Chapel Hill’s ordinances and regulations for such facilities, as more particular described in Article 25 of this Declaration. A copy of the Engineer’s Certification of Private Stormwater Management Facility is attached hereto as Exhibit E.

bb) “Trustee” means the entity which may be designated by the Executive Board as the Trustee for the receipt, administration, and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses, and other like sources as defined in the Bylaws. If no Trustee has been designated, the Trustee will be the Executive Board from time to time constituted, acting by majority vote, as executed by the president and attested by the secretary.

cc) “Unit” means a physical portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in Section 2.2 of this Declaration.



dd) “Unit Owner” means the Declarant or other Person who owns a Unit. Unit Owner does not include a Person having an interest in a Unit solely as security for an obligation.

## ARTICLE 2

### Maximum Number of Units; Boundaries

2.1 DESCRIPTION OF BUILDINGS AND UNITS; MAXIMUM NUMBER OF UNITS. The Condominium consists of one (1) one-story (1) office building located on the Property, known as 112 Timberlyne Commerce Park, bearing an address of 112 Perkins Road, Chapel Hill, North Carolina 27514 and shall contain a maximum of 10 Units. Declarant reserves the right to subdivide the Units owned by Declarant as provided elsewhere in the Declaration.

2.2 UNIT BOUNDARIES. The boundaries of each Unit created by this Declaration are the interior, unfinished surfaces of the walls, floors and ceilings. Therefore all lath, furring, wallboard, plasterboard, plaster, paneling, tiles, wall paper, paint finished flooring and any other materials constituting any part of the finished surfaces thereof are a part of the Unit; and all other portions of such walls, floors, and ceilings are a part of the Common Elements.

a) Inclusions: Each Unit will include the spaces, interior partitions, and other fixtures and improvements lying within the boundaries as described above, except any Limited Common Elements described below in Article 3.

b) Non-Contiguous Portions: Certain Units may include special portions, pieces or equipment such as heating and air conditioning apparatus, meter boxes, utility connection structures and storage portions situated in buildings or structures that are detached or semidetached from the buildings containing the principal occupied portion of the Units. Such special equipment and storage portions are a part of the Unit notwithstanding their non-contiguity with such occupied portions.

c) Inconsistency with Plats and Plans: If this definition is inconsistent with the Plats and Plans, then this definition will control.

## ARTICLE 3

### Common Elements and Limited Common Elements

3.1 The Common Elements in the Condominium are all areas of the Condominium not shown as Units in the Plats and Plans. The Common Elements include but are not limited to the following:

a) All portions of the Condominium that are not a part of the Units or the Limited Common Elements, including without limitation, all parking spaces and lighting. The building foundation, exterior roof, all structural elements, all exterior areas, including but not specifically designated as limited common elements,

b) The Common Elements include, but are not limited to, the hallways, stairways, landings, and bathrooms that are not located inside a Unit and HVAC systems that serve the common areas.



c) That Declaration of Cross Easement recorded January 11, 2007 in Book 4198, Pages 197, Orange County Registry, a copy of which is attached hereto as Exhibit D.

3.2 The following portions of the Common Elements are Limited Common Elements assigned to the Units as stated:

a) If any chute, flue, duct, wire, conduit, pipe, waterline, sewerline, bearing wall, bearing column, or any other fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit is a Limited Common Element allocated exclusively to that Unit and any portion thereof serving more than one Unit but less than all Units is allocated to those Units served.

b) Any shutters, window boxes, doorsteps, stoops, decks, porches, balconies, patios and all exterior doors and windows or other fixtures designed to serve a single Unit but located outside the Unit's boundaries are Limited Common Elements allocated exclusively to that Unit.

c) If any doorway, hallway, stairway, landing or bathroom is built by a Unit Owner within his Unit to serve that Unit, then those items will be a part of the Unit and if those items are built to serve more than one Unit then those items will be Limited Common Elements allocated to such Units served.

d) Any utility area, the use of which is limited to a Unit or Units and which does not serve the common areas.

e) Mailboxes, nameplates, and exterior lighting affixed to the building will be Limited Common Elements allocated to the Unit served.

f) HVAC systems shall be Limited Common Elements if it serves less than all the Units and if it does not serve the common areas. If the HVAC is a Limited Common Element and serves more than one Unit, the cost, maintenance and utility charges shall be borne by the respective Unit Owners in proportion to the floor areas of the Units served. The location of the HVAC system and HVAC pad shall be determined by the Declarant and the HVAC contractor.

3.3 All parking spaces will be available for the exclusive use of the Unit Owners and their employees, customers, and invitees, on a first-come, first-served basis.

#### **ARTICLE 4**

#### **Maintenance, Repair And Replacement**

4.1 UNITS. Each Unit Owner shall maintain, repair and replace, at such Unit Owner's own expense, all portions of such Unit Owner's Unit, except the portions thereof to be maintained, repaired or replaced by the Association.



4.2 COMMON ELEMENTS. The Association will maintain, repair and replace all of the Common Elements, except the Limited Common Elements to be maintained by individual Unit Owners as set forth in Section 4.3 below. The costs of maintaining, repairing and replacing Common Elements, other than Limited Common Elements, shall be borne by the Association.

4.3 LIMITED COMMON ELEMENTS. The Unit Owner or Owners to whom a Limited Common Element is assigned shall maintain, repair and replace the Limited Common Elements assigned to such Unit Owner or Owners. The cost of such maintenance, repairs and replacements shall be borne in proportion to the floor areas of the Units served by the Unit Owner or Owners to whom such Limited Common Element is assigned. In the event a Limited Common Element becomes deteriorated or unsightly or is inconsistent with conditions of installation it may be removed or repaired by the Association at the expense of the Unit Owner or Owners to whom it is assigned.

4.4 ACCESS. Any Person authorized by the Executive Board shall have the right of access to all portions of the Property for the purpose of correcting any condition threatening a Unit or the Common Elements, and for the purpose of performing installations, alterations or repairs, to be performed by the Association pursuant to this Declaration, and for the purpose of reading, repairing, replacing utility meters and related pipes, valves, wires and equipment, provided that such requests for entry are made in advance and that any such entry is at a time reasonably convenient to the affected Unit Owner. In case of an emergency, no such request or notice is required and such right of entry shall be immediate, whether or not the Unit Owner is present at the time.

4.5 REPAIRS RESULTING FROM NEGLIGENCE. To the extent such damage would not be covered by the insurance required to be carried by the Association pursuant to Article 18, and is not covered by any policy of insurance actually carried by the Association, each Unit Owner will reimburse the Association for any damages to any other Unit or to the Common Elements caused intentionally, negligently or by such Unit Owner's failure to properly maintain, repair or make replacements to such Unit Owner's Unit. The Association will be responsible for damage to Units caused intentionally, negligently or by its failure to maintain, repair or make replacements to the Common Elements. If such damage is caused by misconduct, it will be assessed following Notice and Hearing.

## **ARTICLE 5**

### **Development Rights and Other Special Declarant Rights**

5.1 RESERVATION OF DEVELOPMENT RIGHTS. The Declarant reserves the following Development Rights:

- a) the right to create Units (not to exceed the maximum number of Units permitted by Section 2.1), Common Elements and Limited Common Elements within the Condominium;
- b) the right to subdivide Units owned by Declarant (subject to the maximum number of Units permitted by Section 2.1);
- c) the right to combine Units owned by Declarant;



d) the right to convert Units owned by Declarant into Common Elements;  
and

e) The right to construct underground utility lines, pipes, wires, ducts, conduits and other facilities across the land anywhere in the Condominium for the purpose of furnishing utility and other services to buildings and improvements located on the Property, or an adjacent property of the Declarant, or others. The Declarant also reserves the right to grant easements to public utility companies and to convey improvements within those easements anywhere in the Condominium for the above-mentioned purposes. If the Declarant grants any such easements, Exhibit A will be amended to include reference to the recorded easement.

5.2 LIMITATIONS ON DEVELOPMENT RIGHTS. The Development Rights reserved in Section 5.1 are limited as follows:

- a) The Development Rights must be exercised not later than the later of:
  - i. thirty days after the date upon which the Declarant no longer owns a Unit; or
  - ii. three (3) years after recording this Declaration.

b) All Units and Common Elements created pursuant to the Development Rights will be restricted to medical, dental, professional, office or restaurant uses and such other uses as are incidental to the maintenance of medical, dental, professional and/or offices, as permitted by applicable zoning codes.

c) Declarant shall not unreasonably interfere with the operation of other Unit Owners' businesses in the exercise of its Development Rights. It is reasonable to alter access to the site as adjoining properties are development or to disrupt the access to facilitate construction on the property and adjoining property.

5.3 SPECIAL DECLARANT RIGHTS. The Declarant reserves those Special Declarant rights described in Section 47C-1-103(23) and, in addition, those rights described below:

- a) To complete improvements shown on the Plats and/or Plans;
- b) To exercise a Development Right reserved in the Declaration;
- c) To conduct general sales activities, in a manner as will not unreasonably disturb the rights of Unit Owners;
- d) To maintain, anywhere within the Units owned by Declarant, sales offices, signs advertising the condominium, management offices and models;
- e) To use easements through the Common Elements for the purposes of making improvements within the Condominium (such reservation to be construed as an



addition to and not a limitation on the rights granted to the Declarant in Section 47C-2-116);

f) To perform repairs and construction work in the Units and Common Elements, and to store materials in Units owned by Declarant, and the further right to control all such work and repairs in the Units and Common Elements, and the right of access thereto, until its completion. All work may be performed by the Declarant without the consent or approval of the Board of Directors. The Declarant has such an easement through the Common Elements for the purpose of discharging the Declarant's obligations, for exercising Special Declarant rights and Development Rights, whether arising under the Condominium Act or reserved in this Declaration. Such easement includes the right to convey utility and drainage easements to public utilities, municipalities or the State of North Carolina to fulfill the plan of development;

g) To use, grant and reserve easements and rights of way through, under, over and across the Condominium for the installation, removal, maintenance, inspection, repair and replacement of all improvements to the Condominium or adjacent properties, including but not limited to lines and appurtenances for public or private sewer, water, drainage, gas, electricity, telephone, fire sprinkler system and any other utilities such as, but not limited to, a master television antenna system, cable television system, or security system. If damage is caused by the Declarant in the exercise of the easement rights granted by this Section, Declarant shall promptly repair such damage to the condition existing prior thereto;

h) To appoint or remove any officer of the Association or any member of the Board of Directors during the period of Declarant control, subject to any limitations in Section 47C-3-103(d), (e) & (f) of the Act; and

i) To retain and remove all unattached personal property and equipment used in the sales, management, construction, maintenance, marketing and advertising of the premises.

5.4 LIMITATIONS ON SPECIAL DECLARANT RIGHTS. Declarant shall not unreasonably interfere with the operation of other Unit Owners' businesses in the exercise of its Special Declarant Rights. Unless sooner terminated by an amendment to the Declaration executed by the Declarant, any Special Declarant Rights may be exercised by the Declarant until the later of the following:

- a) thirty days after the date upon which the Declarant no longer owns a Unit;
- or
- b) three (3) years after recording this Declaration.

5.5 INTERFERENCE WITH SPECIAL DECLARANT RIGHTS. Neither the Association nor the Unit Owner may take any action or adopt any rule that will interfere with or diminish any Special Declarant Right without the prior written consent of the Declarant.

5.6 DECLARANT CONTROL OF THE ASSOCIATION.



a) Declarant Control. There shall be a period of Declarant control of the Association during which the Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board of Directors, other than Board members elected by the Unit Owners pursuant to G.S. 47C-3-103(e). The period of Declarant control shall terminate on the earliest of the dates and events specified in Section 47C-3-103(d) of the Act.

b) Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before the termination of the Declarant Control Period, but in that event the Declarant may require, for the duration of the Declarant Control Period, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they become effective.

c) Not later than the termination of the Declarant Control Period, the Unit Owners shall elect an Executive Board of at least three (3) members, at least a majority of whom shall be Unit Owners or employees or agents of Unit Owners. The Executive Board shall elect the officers. The Executive Board members and officers shall take office upon election.

d) The Unit Owners, by a Sixty-Seven percent (67%) vote of the unit owners present and entitled to vote according to their voting interest as allocated by Article 6.2(c) at which a quorum is present, may remove a member of the Executive Board with or without cause, provided that a member appointed by the Declarant may not be removed by the Unit Owners during the Declarant Control Period.

## **ARTICLE 6**

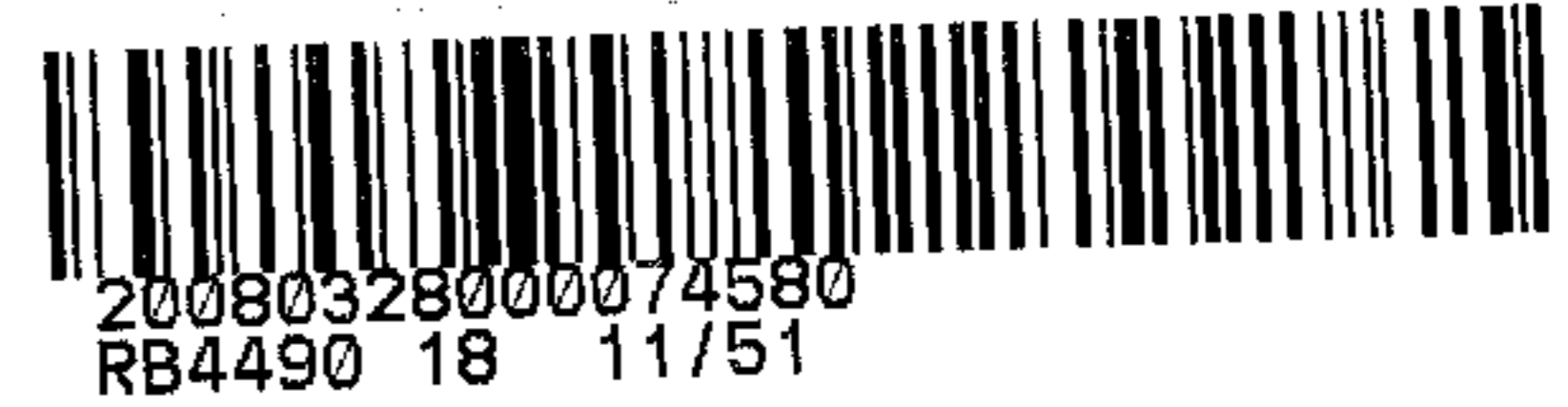
### **Allocated Interests**

6.1 ALLOCATION OF INTERESTS. The table showing Unit numbers and their Allocated Interests is attached as Exhibit B. These interests have been allocated in accordance with the formulas set out in this Article 6. These formulas are to be used in reallocating interests if Units are added to the Condominium or if Units within the Condominium are combined or subdivided.

6.2 FORMULAS FOR THE ALLOCATION OF INTERESTS. The interests allocated to each Unit have been calculated on the following formulas:

a) Undivided Interest in the Common Elements: The percentage of the undivided interest in the Common Elements allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all of the Units in the Condominium, in each case measured in accordance with the Unit boundaries set forth in Section 2.2 above.

b) Liability for the Common Expenses: The percentage of liability for Common Expenses allocated to each Unit is based on the relative floor area of each Unit as compared to the floor area of all of the Units in the Condominium, in each case measured in accordance with the Unit boundaries set forth in Section 2.2 above. Nothing



contained in this Subsection shall prohibit certain Common Expenses attributable to fewer than all units from being apportioned to particular Units under Article 15.2 of this Declaration.

c) Votes: The vote in the Association allocated to each Unit is based on a prorata percentage of the number of square feet of the Units as compared to the total square footage of all of the Units of the Condominium, in each case measured in accordance with the Unit boundaries set forth in Section 2.2 above

6.3 ASSIGNMENT OF ALLOCATED INTERESTS UPON CREATION OF UNITS PURSUANT TO EXERCISE OF DEVELOPMENT RIGHTS. The effective date for assigning Allocated Interests to Units created pursuant to Declarant's Development Rights in Section 5.1 of this Declaration shall be the date on which the amendment creating the Units is recorded in the Office of the Register of Deeds of Orange County, North Carolina.

## **ARTICLE 7**

### **Restrictions On Use, Alienation and Occupancy**

7.1 USE AND OCCUPANCY RESTRICTIONS. Subject to the Special Declarant Rights reserved under Article 5, the following use restrictions apply to all Units and to the Common Elements:

- a) Each Unit is restricted to professional, office or restaurant uses and such other uses as are incidental to the maintenance of professional, office or restaurant use, subject to applicable zoning regulations.
- b) The use of Units and Common Elements is subject to the Bylaws and the Rules and Regulations of the Association.
- c) No Unit may be used for residential purposes or overnight lodging.
- d) No Unit shall be used for the manufacture, processing, or fabrication of goods or materials, or for the warehousing, distribution or storage of goods and materials, other than storage for later use, sale, consumption, or assembly on the premises of such goods to the extent otherwise permitted above.
- e) No Unit shall be used as an animal hospital, veterinary office, kennel, or animal pound.
- f) No Unit shall be used as a flea market or other operation selling used merchandise, a pawn shop, or a military surplus store.
- g) No Unit shall be used as an adult establishment, such as a massage parlor or health spa, or for the sale or display of pornographic materials or drug paraphernalia.



h) No Unit shall be used as a child care home or facility, orphanage, school, funeral home, laundry, fitness center or dry cleaning establishment, or photographic processing store or laboratory, provided, however, that the foregoing shall not be construed to prohibit or limit the use of x-ray equipment or the development of x-rays.

i) No Unit shall be used for any activity proscribed by federal, North Carolina, or local law.

7.2 RESTRICTIONS ON ALIENATION. All leases and rental agreements shall be in writing and subject to the requirements of the Condominium Documents and the Association. All leases of a Unit shall be deemed to include a provision that the tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Condominium Documents against the tenant, provided the Association gives the landlord notice of its intent to so enforce, and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action.

7.3 NUISANCE. No obnoxious, offensive or unlawful activity shall be conducted within any Unit, or on or about the Common Elements, nor shall anything be done thereon or therein which may be or which may become an annoyance or nuisance to the other Unit Owners, or endanger the health and safety of any Unit Owner. Nothing shall be done or kept in any Unit or in the Common Elements that will result in the termination of the policy of property insurance for the Property. The normal and standard usage of a Unit for the purposes of providing medical services is not prohibited by this section.

7.4 PROHIBITIONS ON USE OF COMMON ELEMENTS. The Common Elements (other than common storage areas, if any, designated by the Association) shall not be used for the storage of personal property of any kind. Stairs, entrances, lobbies, hallways, sidewalks, driveways, and parking areas shall not be obstructed in any way, or used for other than their intended purposes. In general, no activity shall be carried on nor conditions maintained by any Unit Owner either in his Unit or upon the Common Elements which despoils the appearance of the Property.

7.5 GARBAGE. Trash, garbage and other waste shall be kept in sanitary containers within each Unit, and each Unit Owner shall be responsible for placing such garbage in the designated common trash receptacles on a regular basis. No trash or garbage shall be kept or stored on the balconies. The Association or the Timberlyne Commerce Park Association, shall be responsible for the maintenance of the common trash facilities and all trash removal, and the expenses incurred by the Association in doing so shall be Common Expenses.

7.6 PARKING. No Unit Owner or any employee, agent, or invitee of any Unit Owner, shall park, store or keep any vehicle on the Property except wholly within those portions of the Common Elements designated as parking areas by the Association, and in particular shall not block the entrance drive to the Condominium. The parking rights of Unit Owners and their guests are subject to any rules or regulations that may be promulgated by the Association. No boat, boat trailer, motor home, travel trailer, camper or other recreational vehicle may be stored in the parking lot at any time. The Association shall have the right to tow any vehicle in violation of this Section 7.6 at its owner's expense.



7.7 NO TIMESHARES. No interest in any Unit may be subjected to a time share program, as that term is defined in N.C.G.S. §93A-41(10).

7.8 ANIMALS. No animals, livestock, or poultry of any kind shall be kept, maintained or permitted on the Property or in any Unit.

7.9 FLOOR LOAD. There shall be no floor load in any Unit in excess of forty (40) pounds per square feet, unless an engineering determination of the floor load capacity in the area of heavy use is approved by the Association.

7.10 WINDOWS. No curtains or draperies shall be installed or hung in any window of any Unit unless they have a white lining or backing on the side exposed to the window. No storm windows shall be installed in any Unit.

7.11 SIGNS. No signs or other advertising devices shall be displayed on or about the exterior of any Unit, or in the Common Elements, except as expressly permitted in this Declaration or as approved in writing by the Association pursuant to Section 10.1 below. Notwithstanding the foregoing, each Unit Owner shall have the right to display "For Sale" or "For Lease" signs within the window of its Unit, provided that any such signs must comply with applicable governmental regulations.

7.12 SATELLITE DISHES AND ANTENNAS. Each Unit Owner shall have the right to place a satellite dish not in excess of one meter in diameter on the roof of the building. No exterior satellite dish in excess of one meter in diameter may be placed on the exterior of any Unit or in the Common Elements without the prior written approval of the Association. The location of any exterior television antenna, or satellite dish less than one meter in diameter, shall be subject to the reasonable prior approval of the Association, taking into account the appropriate standards set forth in the regulations of the Federal Communications Commission, and to the extent reasonably practical, the Association may require that such antenna or satellite dish be screened from public view. Prior to installing the antenna or satellite dish, the Unit Owner shall furnish to the Association a copy of the installation plans. The Association shall have the right to perform any portion of the installation work at the expense of the Unit Owner, or to require that any portion of the work be performed by contractors designated by the Association. In particular, any roof penetration that is required to install any antenna or satellite dish shall be performed only by the roofing contractor designated by the Association. The Unit Owner shall also be responsible for any damage caused by the removal of the antenna or satellite dish, including the sealing of conduits or other roof penetrations. The Association shall have the right to require that any part of the removal work, including the sealing of roof penetrations, be performed by the roofing contractor designated by the Association, at the Unit Owner's expense. Any Unit Owner installing an antenna or satellite dish under this Section 7.12 shall indemnify, defend and hold the Association harmless from and against any loss, damage, claim or other liability resulting from the installation, maintenance, repair, use and/or removal of the antenna or satellite dish, including any damage to the roof of the building or other property damage caused by roof leaks.



**ARTICLE 8**  
**EASEMENTS AND LICENSES**

8.1 All easements or licenses to which the Condominium is presently subject are recited in Exhibit A to this Declaration. In addition, the Condominium may be subject to other easements or licenses granted by the Declarant pursuant to its powers under Article 5 of this Declaration.

**ARTICLE 9**  
**Allocation and Reallocation of Limited Common Elements**

9.1 The interests in the Common Elements and Limited Common Element allocated to each Unit shall not be conveyed, devised, encumbered, partitioned or otherwise dealt with separately from said Unit, except as part of a relocation of boundaries of Units pursuant to Article 11 of this Declaration. The interests in the Common Elements and Limited Common Elements allocated to each Unit shall be deemed conveyed, devised, encumbered or otherwise included with the Unit even though such interests are not expressly mentioned or described in the instrument conveying, devising, encumbering or otherwise dealing with such Unit. Any amendment relocating Unit boundaries shall require the approval of Eligible Mortgagees holding Security Interests on the affected Units, which approval shall be endorsed thereon. The parties executing the amendment shall provide an executed copy thereof to the Association which, if the amendment complies with the provisions of this Declaration and the Condominium Act, shall record said amendment. The amendment shall contain words of conveyance and must be recorded and indexed in the names of the parties and the Condominium. The parties executing the amendment shall be responsible for the preparation of the amendment and shall reimburse the Association for its reasonable attorneys' fees in connection with the review of the amendment and for the recording costs.

**ARTICLE 10**  
**Additions, Alterations And Improvements**

10.1 **ADDITIONS, ALTERATIONS AND IMPROVEMENTS BY UNIT OWNERS.**

a) No Unit Owner will make any structural addition, structural alteration, or structural improvement in or to the Condominium without the prior written consent thereto of the Executive Board in accordance with Subsection 10.1(c).

b) Subject to Subsection 10.1(a), a Unit Owner:

i. may make any other improvements or alterations to the interior of such Unit Owner's Unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium, except to the extent such Improvement or alteration changes the exterior appearance of the Unit;

ii. may not change the appearance of the Common Elements, or the exterior appearance of a Unit or any other portion of the Condominium without permission of the Association; and



iii. after acquiring an adjoining Unit or an adjoining part of an adjoining Unit, may remove or alter any intervening partition or create apertures therein, even if the partition in whole or in part is a Common Element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the Condominium. Removal of partitions or creation of apertures under this Subsection is not an alteration of boundaries.

c) A Unit Owner may submit a written request to the Executive Board for approval to do anything that such Unit Owner is forbidden to do under Subsection 10.1(a) or 10.1(b)(ii). The Executive Board shall answer any written request for such approval, after Notice and Hearing, within sixty (60) days after the request thereof. Failure to do so within such time shall not constitute a consent by the Executive Board to the proposed action. The Executive Board shall review requests in accordance with the provisions of its Rules and Regulations.

d) All additions, alterations and improvements to the Units and Common Elements shall not, except pursuant to prior approval by the Executive Board, cause any increase in the premium of any insurance policies carried by the Association or by the Unit Owners other than those affected by such change.

e) During the Declarant Control Period, the Declarant specifically reserves the right of approval over any improvements or alterations that alter the exterior appearance of the Condominium including, without limitation, interior window treatments, which shall conform to standards regarding size, color and orientation to be determined in the discretion of the Declarant. Furthermore, the Declarant specifically reserves the right of approval over all nameplates and signage attached to the exterior of the Condominium during the Declarant Control Period. However, all nameplates and exterior signage shall comply with all applicable governmental standards and regulations. Upon the expiration of the Declarant Control Period, the approval rights set forth in this Section 10.1(e) shall transfer automatically to the Association.

**10.2 ADDITIONS, ALTERATIONS AND IMPROVEMENTS BY EXECUTIVE BOARD.** Subject to the limitations of Article 10 of this Declaration, the Executive Board may make any additions, alterations or improvements to the Common Elements which, in its judgment, it deems necessary.

## **ARTICLE 11**

### **Relocation Of Boundaries Between Adjoining Units**

**11.1 APPLICATION AND AMENDMENT.** Subject to approval of any structural changes and required permits pursuant to Article 10, the boundaries between adjoining Units may be relocated by an amendment to the Declaration upon application to the Association by the Unit Owners affected by the relocation. The application shall state the proposed reallocation of their Units and Allocated Interests. Unless the Executive Board determines, within thirty (30) days after receipt of the application, that the reallocations are unreasonable, the Association shall consent to the reallocation and prepare an amendment that identifies the Units involved, states the reallocations and indicates the Association's consent. The amendment must be executed by



those Unit Owners and contain words of conveyance between them, and the approval of all Eligible Mortgagees holding Security Interests in the affected Units shall be endorsed thereon. On recordation, the amendment shall be indexed in the name of the grantor and the grantee, and in the grantee's index in the name of the Association.

11.2 RECORDING AMENDMENTS. The Association shall prepare and record plats or plans necessary, to show the altered boundaries between adjoining Units, and their dimensions and identifying numbers. The applicants will pay for the costs of preparation of the amendment and its recording, and the reasonable consultant fees of the Association if it is deemed necessary to employ a consultant by the Executive Board.

## **ARTICLE 12** **Amendments To Declaration**

12.1 GENERAL. Except in cases of amendments that may be executed by the Declarant in the exercise of its Development Rights or by the Association under Article 9 of this Declaration and Section 47C-2-117 of the Condominium Act, or by certain Unit Owners under Article 9 and Section 11.1 of this Declaration, and except as limited by Section 12.4 of this Declaration, this Declaration, including the Plats and Plans, may be amended only by vote or agreement of Unit Owners of Units to which at least Sixty-seven Percent (67%) of the votes in the Association are allocated.

12.2 LIMITATION OF ACTIONS. An action to challenge the validity of an amendment adopted by the Association pursuant to this Article may not be brought more than one year after the amendment is recorded.

12.3 RECORDING REQUIRED. Each amendment to the Declaration must be recorded in every county in which a portion of the Condominium is located and the amendment is effective only upon recording. An amendment, except an amendment pursuant to Article 11 of this Declaration, must be indexed in the grantee's index in the name of the Condominium and the Association and in the grantor's index in the name of the parties executing the amendment.

12.4 UNANIMOUS CONSENT REQUIRED. Except to the extent expressly permitted or required by other provisions of the Condominium Act or by Article 5 of this Declaration, an amendment may not create or increase Special Declarant Rights, increase the number of Units, change the boundaries of a Unit, the Allocated Interests of a Unit, or the uses to which a Unit is restricted, in the absence of the unanimous consent of the Unit Owners.

12.5 EXECUTION OF AMENDMENTS. An amendment to the Declaration required by the Condominium Act to be recorded by the Association, which has been adopted in accordance with this Declaration and the Condominium Act, must be prepared, executed, recorded and certified on behalf of the Association by an officer of the Association designated for that purpose, or in the absence of designation, by the president of the Association.

12.6 SPECIAL DECLARANT RIGHTS. Provisions in this Declaration creating Special Declarant Rights may not be amended without the consent of the Declarant.



12.7 CONSENT OF HOLDERS OF SECURITY INTERESTS. Amendments are subject to the consent requirements of Article 23.4 of this Declaration.

12.8 AMENDMENTS TO CREATE UNITS. To exercise any Development Rights reserved under Section 5.1 of this Declaration, the Declarant shall prepare, execute and record an amendment to the Declaration. The Declarant shall also record either new Plats and Plans necessary to conform to the requirements of Section 47C-2-109 (a), (b) and (c) of the Condominium Act or new certifications of the Plats and Plans previously recorded if those Plats and Plans otherwise conform to the requirements of those Sections.

The amendment to the Declaration shall assign an identifying number to each new Unit created and reallocate the Allocated Interests among all Units. The amendment shall describe any Common Elements and any Limited Common Elements created thereby and designate the Unit to which each Limited Common Element is allocated to the extent required by Section 47C-2-108 of the Condominium Act.

**ARTICLE 13**  
**Amendments To Bylaws**

13.1 The Bylaws may be amended only by a Sixty-seven percent (67%) majority of the members of the Executive Board at any meeting duly called for such purpose.

**ARTICLE 14**  
**Termination**

14.1 Termination of the Condominium may be accomplished only in accordance with Section 47C-2-118 of the Condominium Act.

**ARTICLE 15**  
**Assessment And Collection of Common Expenses**

15.1 APPORTIONMENT OF COMMON EXPENSES.

- a) Except as provided in Section 15.2, all Common Expenses shall be assessed against all Units in accordance with their percentage interest in the Common Expenses as shown on Exhibit B to this Declaration.
- b) Water shall be a Common Expense for all Units that are not separately metered for water. Should the Executive Board or Declarant determine that a particular Unit is a high-volume user of water, the Board or Declarant may require that Unit to be separately metered for water. Any Unit separately metered for water shall not be liable for assessment of a Common Expense for water.

15.2 COMMON EXPENSES ATTRIBUTABLE TO FEWER THAN ALL UNITS.

- a) Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed against the Unit or Units to which the Limited Common Element is assigned; if any such Limited Common Element



is assigned to more than one Unit, the Common Expenses attributable to the Limited Common Element shall be assessed in proportion to the floor areas of the Units to which it is assigned.

b) Any Common Expense for services provided by the Association to an individual Unit at the request of the Unit Owner shall be assessed against the Unit which benefits from service. Such services requested by a Unit Owner and such assessments do not include those services the Association is required to provide to a Unit Owner under this Declaration for which common expense assessments are levied.

c) Any insurance premium increase attributable to a particular Unit by virtue of activities in or construction of the Unit shall be assessed against that Unit.

d) An assessment to pay a judgment against the Association may be made only against the Units in the Condominium at the time the judgment was entered, in proportion to their Common Expense liabilities.

e) If Common Expense is caused by the misconduct of a Unit Owner, the Association may assess that expense exclusively against the Unit; provided, however, in such instances, if insurance covers such cost, the insurance proceeds will be used to repair the damage, but the Unit Owner will be responsible for any deductibles and any increase in insurance premiums resulting from the Unit Owner's misconduct.

f) Fees, charges, late charges, fines, collection costs, and interest charged against a Unit Owner pursuant to the Condominium Documents and the Condominium Act are enforceable as Common Expense assessments.

g) Any charge for a utility service, including water, provided solely to a particular Unit or Units shall be assessed against that Unit or Units.

### 15.3 LIEN.

a) The Association has a lien on a Unit for an assessment levied against the Unit which remains unpaid for a period of thirty (30) days or longer from the time it is filed of record in the Office of the Clerk of Superior Court of Orange County, North Carolina. Fees, charges, late charges, fines and interest charged pursuant to the Condominium Act and the Condominium Documents are enforceable as assessments under this Section. If an assessment is payable in installments, the full amount of the assessment becomes immediately due and payable when the first installment thereof remains unpaid in such manner, and the full amount of the assessment shall constitute a lien from the time of such filing.

b) A lien under this Section is prior to all other liens and encumbrances on a Unit except:

i. liens and encumbrances (including, but not limited to, a mortgage or deed of trust on the Unit) recorded before the docketing of the lien in the Office of the Clerk of Superior Court; and



ii. liens for real estate taxes and other governmental assessments or charges against the Unit. This Subsection does not affect the priority of mechanics' or materialman's liens.

c) A lien for unpaid assessments is extinguished unless proceedings to enforce the lien are instituted within three (3) years after the docketing thereof in the Office of the Clerk of Superior Court.

d) This Section does not prohibit an action to recover sums for which Subsection 15.3(a) of this Section creates a lien or prohibit the Association from taking a deed in Lieu of foreclosure.

e) A judgment, decree or order in any action brought under this Section shall include costs and reasonable attorneys' fees for the prevailing party.

f) The Association's lien may be foreclosed as a mortgage on real estate under power of sale under Article 2A of Chapter 45 of the General Statutes of North Carolina.

g) Any payments received by the Association in the discharge of a Unit Owner's obligation may be applied to the oldest balance due.

15.4 BUDGET ADOPTION AND RATIFICATION. Within thirty (30) days after adoption of a proposed budget for the Condominium, the Executive Board shall provide a summary of the budget to each Unit Owner, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget not less than fourteen (14) nor more than thirty (30) days after mailing of the summary. Unless, at that meeting, a Majority of all Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected the periodic budget last ratified by the Unit Owners continues until the Unit Owners ratify a budget proposed by the Executive Board.

15.5 RATIFICATION OF NON-BUDGETED COMMON EXPENSE ASSESSMENTS. If the Executive Board votes to levy a Common Expense assessment not included in the current budget, other than one enumerated in Section 15.2 of this Declaration, in an amount greater than fifteen (15) percent of the current annual operating budget, the Executive Board shall submit such Common Expense to the Unit Owners for ratification in the same manner as a budget under Section 15.4.

15.6 CERTIFICATE OF PAYMENT OF COMMON EXPENSE ASSESSMENTS. The Association, upon written request, shall furnish to a Unit Owner a statement setting out the amount of unpaid assessments against the Unit. The statement must be furnished within ten (10) business days after receipt of the request and is binding on the Association, the Executive Board and each Unit Owner.

15.7 MONTHLY PAYMENT OF COMMON EXPENSES. All Common Expenses assessed under Sections 15.1 and 15.2 shall be due and payable monthly or quarterly, as determined by the Executive Board.



15.8 ACCELERATION OF COMMON EXPENSE ASSESSMENTS. In the event of default for a period of thirty (30) days by any Unit Owner in the payment of any Common Expense assessment levied against such Unit Owner's Unit, the Executive Board shall have the right, after Notice and hearing, to declare all unpaid assessments for the pertinent fiscal year to be immediately due and payable.

COMMENCEMENT OF COMMON EXPENSE ASSESSMENTS.

15.9. Common expense assessments shall begin on the first day of the month on which any conveyance or Lease of any units occurs or on such earlier date as the Executive Board determines.

15.10 ASSUMPTION OF COMMON EXPENSE ASSESSMENTS. Any person or entity purchasing a Unit covered by this Declaration is liable for the payment of all unpaid fees and assessments incurred prior to the purchase date, and a lien for the full amount thereof may be filed upon the Unit pursuant to the provisions of Section 15.2 of this Declaration.

15.11 WAIVER OF LIABILITY FOR COMMON EXPENSES. No Unit Owner may obtain exemption from liability for payment of the Common Expenses by waiver of the use of enjoyment of, the Common Elements or by abandonment of the Unit against which the assessments are made.

15.12 PERSONAL LIABILITY OF UNIT OWNERS. The owner of a Unit at the time a Common Expense assessment or portion thereof is due and payable is personally liable for the assessment, regardless of whether or not the Unit has subsequently been transferred to a new owner. The liability of all former owners and the current owner shall be joint and several.

**ARTICLE 16**  
**RIGHT TO ASSIGN FUTURE INCOME**

16.1 The Association may assign its future income, including its right to receive Common Expense assessments, only by the affirmative vote of Unit Owners of Units to which at least Sixty-Seven Percent (67%) of the votes in the Association are allocated, at a meeting called for that purpose.

**ARTICLE 17**  
**Persons And Units Subject To The Condominium Document**

17.1 COMPLIANCE WITH CONDOMINIUM DOCUMENTS. All Unit Owners, tenants, mortgagees and occupants of Units shall comply with the Condominium Documents. The acceptance of a deed or the exercise of any incident of ownership or the entering into of a lease or the entering into occupancy of a Unit constitutes agreement that the provisions of the Condominium Documents are accepted and ratified by such Unit Owner, tenant, mortgagee or occupant, and all such provisions recorded in the Office of the Register of Deeds of Orange County, North Carolina are covenants running with the land and shall bind any persons having at any time any interest or estate in such Unit.



17.2 ADOPTION OF RULES AND REGULATIONS. The Executive Board may adopt Rules and Regulations regarding the use and occupancy of Units affecting the Common Elements, Limited Common Elements and the activities of occupants, subject to Notice and Consent.

**ARTICLE 18**  
**Insurance**

18.1 COVERAGE. The Association shall obtain and maintain at all times the insurance coverage set forth in this Article.

18.2 PROPERTY INSURANCE.

a) Property insurance covering:

i. the Common Elements, all structural portions of the Condominium and all HVAC, electrical and plumbing facilities, including all portions of the Condominium extending outward from the unfinished interior surface of the sheetrock outward to the outside surface of the floor covering to the foundation, but excluding improvements and betterments installed by Unit Owners and further excluding land, excavations, portions of foundations below the under surfaces of the lowest floors, underground pilings, pipes, flues and drains and other items normally excluded from property policies, and

ii. all personal property owned by the Association.

b) Amount. An amount (after application of any deductions) equal to one hundred percent (100%) of replacement cost at the time the insurance is purchased and at each renewal date, with a commercially reasonable deductible not in excess of Twenty Five Thousand and No/100 Dollars (\$25,000.00). The Executive Board is authorized to obtain appraisals periodically for the purpose of establishing said replacement cost, and the cost of such appraisals shall be a Common Expense.

c) Risks Insured Against. The insurance shall be ISO special form property insurance or its equivalent, issued by an insurance company properly licensed to do business in the State of North Carolina, with a general policyholder's rating of at least "A-" in the most recent edition of the Best's Key Rating Guide. The policy shall contain an inflation guard endorsement, if available, and a construction code or "law and ordinance" endorsement, if available.

d) Other Provisions. Insurance policies required by this Section shall provide that:

i. the insurer waives the right to subrogation against any Unit Owner and any Unit Owner's employees and agents;



ii. an act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association, will not void the policy or be a condition to recovery under the policy;

iii. if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance;

iv. loss must be adjusted with the Association;

v. insurance proceeds shall be paid to an insurance trustee designated in the policy for that purpose, and in the absence of such designation to the Association, in either case to be held in trust for each Unit Owner and such Unit Owners mortgagee;

vi. the insurer may not cancel or refuse to renew the policy until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner, and each Eligible Mortgagee to whom a certificate or memorandum of insurance has been issued, at their respective last known addresses; and

vii. the name of the insured shall be substantially as follows: "112 TIMBERLYNE COMMERCE PARK OWNERS' ASSOCIATION, INC. for the use and benefit of the individual owners," and each Unit Owner shall be an insured person with respect to his Unit and his allocated interest in the Common Elements

18.3 LIABILITY INSURANCE. A policy of commercial general liability insurance (current ISO form or its equivalent), including medical payment insurance, in an amount determined by the Executive Board but in no event less than Two Million Dollars and No Cents (\$ 2,000,000.00) covering each member of the Executive Board, the Manager, if any, and each Unit Owner with respect to liability arising out of or in connection with the use, ownership, maintenance or repair of the Common Elements, and the activities of the Association. The liability insurance policy shall be issued by an insurance company properly licensed to do business in the State of North Carolina, with a general policyholder's rating of at least "A-" in the most recent edition of the Best's Key Rating Guide, and shall include endorsements covering cross liability claims of one insured against another, including the liability of the Unit Owners as a group to a single Unit Owner.

a) Other Provisions. Insurance policies carried pursuant to this Section shall provide that:

i. each Unit Owner is an insured person under the policy;

ii. an act or omission by a Unit Owner, unless acting within the scope of the Unit Owner's authority on behalf of the Association will not void the policy or be a condition to recovery under the policy;



iii. if, at the time of a loss under the policy, there is other insurance in the name of a Unit Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and

iv. the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or non-renewal has been mailed to the Association, each Unit Owner and each Eligible Mortgagee to whom a certificate or memorandum of insurance has been issued at their last known addresses.

18.4 FIDELITY BONDS. A blanket fidelity bond may be provided for anyone who either handles or is responsible for funds held or administered by the Association, whether or not they receive compensation for their services.

18.5 UNIT OWNER POLICIES. Each Unit Owner shall obtain insurance coverage, at such Unit Owner's own expense, upon such Unit Owner's personal property and, in addition, shall obtain comprehensive personal liability insurance covering liability for damage to persons or property of others located within such Unit Owner's Unit, in another Unit, or upon the Common Elements, resulting from the negligence of the insured Unit Owner, in such amounts as shall from time to time be determined by the Executive Board, but in no event less than \$100,000.00 in respect to damages to property and \$1,000,000.00 in respect to personal injury for each occurrence. Provided, no Unit Owner shall acquire or maintain insurance coverage so as to decrease the amount which the Association may realize under any insurance policy, or to cause any insurance coverage in favor of the Association to be brought into contribution with insurance coverage obtained by a Unit Owner. All policies of property insurance obtained by Unit Owners individually shall contain waivers of subrogation against any Unit Owner, and any Unit Owner's employees or agents.

18.6 WORKERS' COMPENSATION INSURANCE. To the extent that the State of North Carolina requires worker's compensation insurance, the Executive Board shall obtain and maintain workers' compensation insurance adequate to meet the requirements of the laws of the State of North Carolina.

18.7 DIRECTORS' AND OFFICERS' LIABILITY INSURANCE. The Executive Board shall obtain and maintain directors' and officers' liability insurance, if available, covering all of the Directors and officers of the Association in such limits as the Executive Board may, from time to time, determine.

18.8 OTHER INSURANCE. The Association may carry other insurance which the Executive Board considers appropriate to protect the Association or the Unit Owners.

18.9 PREMIUMS. Insurance premiums (excluding premiums for Unit Owner policies) shall be a Common Expense.



**ARTICLE 19**  
**Damage To Or Destruction Of Property**

19.1 DUTY TO RESTORE. Any portion of the Condominium for which insurance is required under Section 18.2 hereof which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- a) the Condominium is terminated;
- b) repair or replacement would be illegal under a state statute or municipal ordinance governing health or safety; or
- c) eighty percent (80%) of the Unit Ownership, including each Owner of a Unit or assigned Limited Common Element that will not be rebuilt, votes not to rebuild.

19.2 COST. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense.

19.3 PLANS. The Property must be repaired and restored in accordance with either the original plans and specifications or other plans and specifications which have been approved by the Executive Board and a Majority of Unit Owners

19.4 REPLACEMENT OF LESS THAN ENTIRE PROPERTY.

a) The insurance proceeds attributable to the damaged Common Elements and other portions of the Condominium shall be used to restore the damaged area to a condition compatible with the remainder of the Condominium.

b) Except to the extent that other persons will be distributees:

i. the insurance proceeds attributable to a Unit and Limited Common Elements that is not rebuilt must be distributed to the Owner of the Unit and the Owner of the Unit to which the Limited Common Elements were allocated, or to lienholders, as their interests may appear; and

ii. the remainder of the proceeds must be distributed to each Unit Owner or lienholder, as their interests may appear, in proportion to the Common Element interests of all the Units.

c) If the Unit Owners vote not to rebuild a Unit, the allocated interests of the Unit are reallocated upon the vote as if the Unit had been condemned under Section 47C-1-107(a) of the Condominium Act; and the Association promptly shall prepare, execute and record an amendment to the Declaration reflecting the real locations.

19.5 INSURANCE PROCEEDS. The Trustee, or if there is no Trustee, then the Executive Board of the Association, acting by the President, shall hold any insurance proceeds in trust for the Association, Unit Owners and lienholders as their interests may appear. Subject to the provisions of Subsection 19.1(a) through Subsection 19.1(c), the proceeds shall be disbursed



first for the repair or restoration of the damaged property, and the Association, Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the Condominium is terminated.

19.6 CERTIFICATES BY THE EXECUTIVE BOARD. The Trustee, if any, may rely on the following certifications in writing made by the Executive Board:

- a) whether or not damaged or destroyed property is to be repaired or restored; and
- b) the amount or amounts to be paid for repairs or restoration and the names and addresses of the parties to whom such amounts are to be paid.

## **ARTICLE 20**

### **Right To Notice And Hearing**

20.1 RIGHT TO NOTICE AND HEARING. Whenever the Condominium Documents require that an action be taken after "Notice and Hearing", the following procedures shall be observed: the party proposing to take the action (e.g., the Executive Board, a committee, an officer, the manager, etc.) shall give written notice of the proposed action to the Association and to all Unit Owners or occupants of Units whose interest may be affected by the proposed action, including a general statement of the proposed action. The Association shall determine the date, time and place of the hearing and notify the parties to the Notice and Hearing. At the hearing, the affected parties shall have the right, personally or by representative, to give testimony orally, in writing or both, subject to reasonable rules of procedure established by the Association to insure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision but shall not bind the Association. The Association shall notify the parties to the Notice and Hearing of its decision in the manner in which notice of the meeting was given.

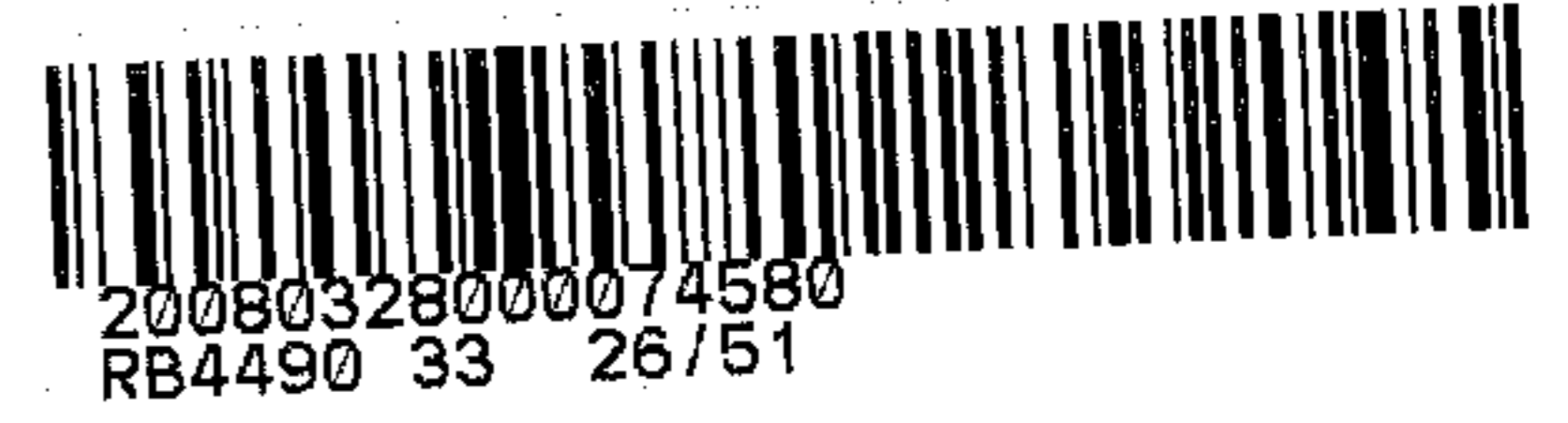
## **ARTICLE 21**

### **Executive Board**

21.1 MINUTES OF EXECUTIVE BOARD MEETINGS. The Executive Board shall permit any Unit Owner to inspect the minutes of Executive Board meetings during normal business hours. The minutes shall be available for inspection within fifteen (15) days after any such meeting.

21.2 POWERS AND DUTIES. The Executive Board may act, in all instances, on behalf of the Association, except as provided in this Declaration, the Bylaws or the Condominium Act. The Executive Board shall have, subject to the limitations contained in this Declaration and the Condominium Act, the powers and duties necessary for the administration of the affairs of the Association and of the Condominium which shall include, but not be limited to, the following:

- a) Adopt and amend Bylaws, Rules and Regulations.
- b) Adopt and amend budgets for revenues, expenditures and reserves.



- c) Collect assessments for Common Expenses from Unit Owners.
- d) Hire and discharge managing agents.
- e) Hire and discharge employees and agents, other than managing agents, and independent contractors.
- f) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Declaration, Bylaws or Rules and Regulations in the Association's name on behalf of the Association or two or more Unit Owners on matters affecting the Condominium.
- g) Make contracts and incur liabilities.
- h) Regulate the use, maintenance, repair, replacement and modification of the Common Elements.
- i) Cause additional improvements to be made as a part of the Common Elements.
- j) Acquire, hold, encumber and convey in the Association's name any right, title or interest to real property or personal property, but Common Elements may be conveyed or subjected to a Security Interest only, pursuant to Section 47C-3-112 of the Condominium Act.
- k) Grant easements for any period of time including permanent easements, and leases, licenses and concessions for no more than one year, through or over the Common Elements.
- l) Impose and receive a payment, fee or charge for the use, rental or operation of the Common Elements other than Limited Common Elements described in Section 47C-2-102(2) and (4) of the Condominium Act, and for services provided to Unit Owners.
- m) Impose a reasonable charge for late payment of assessments and, after Notice and Hearing, levy reasonable fines for violations of this Declaration, Bylaws, and the Rules and Regulations of the Association.
- n) Impose a reasonable charge for the preparation and recordation of amendments to this Declaration, and resale certificates required by Section 47C-4-109 of the Condominium Act or a statement of unpaid assessments.
- o) Provide for the indemnification of the Association's officer's and the Executive Board and maintain directors' and officers' liability insurance.
- p) Assign the Association's right to future income, including the right to receive Common Expense assessments.



- q) Exercise any other powers conferred by this Declaration or the Bylaws.
- r) Exercise any other power that may be exercised in this State by legal entities of the same type as the Association.
- s) Exercise any other power necessary and proper for the governance and operation of the Association.
- t) By resolution, establish committees of Directors, permanent and standing, to perform any of the above functions under specifically delegated administrative standards, as designated in the resolution establishing the committee. All committees must maintain and publish notice of their actions to Unit Owners and the Executive Board. However, actions taken by a committee may be appealed to the Executive Board by any Unit Owner within forty-five (45) days of publication of such notice, and such committee action must be ratified, modified or rejected by the Executive Board at its next regular meeting.

21.3 EXECUTIVE BOARD LIMITATIONS. The Executive Board may not act on behalf of the Association to amend this Declaration, to terminate the Condominium or to elect members of the Executive Board or determine the qualifications, powers and duties, or terms of office of Executive Board members, but the Executive Board may fill vacancies in its membership for the unexpired portion of any term.

## **ARTICLE 22** **Condemnation**

22.1 If part or all of the Condominium is taken by any power having the authority of eminent domain, all compensation and damages for and on account of the taking shall be payable in accordance with Section 47C-1-107 of the Condominium Act.

## **ARTICLE 23** **Mortgage Protection**

23.1 General Provisions. This Article 23 establishes certain standards and covenants for the benefit of Mortgagees. This Article 23 is supplemental to, and not in substitution for, any other provisions of the Condominium Documents, but in the event of any conflict between the provisions of the Condominium Documents and the provisions of this Article 23, the provisions of this Article 23 shall control.

23.2 Percentage of Mortgagees. Wherever in the Condominium Documents the approval or consent of a specified percentage of Mortgagees is required, it shall mean the approval or consent of Mortgagees holding Mortgages on Units which have allocated to them that specified percentage of votes in the Association, as compared to the total votes in the Association allocated to all Units then subject to Mortgages held by Mortgagees.

23.3 Rights to Examine Books and Records. Any Mortgagee, and any insurer or guarantor of a loan secured by a Mortgage, shall have the right to examine, during normal business hours and upon reasonable notice, the books and records of the Association, including



copies of the Condominium Documents, as amended, and the financial statements of the Association, and to be furnished, upon written request, at least one copy of the annual financial statement and report of the Association, such annual statement and report to be furnished within ninety (90) days following the end of each fiscal year. The financial statement and report shall be audited by an independent certified public accountant.

23.4 Mortgagee's Rights to Notice. Any Mortgagee (including, for purposes of this Section 23.4, any insurer, or guarantor of a loan secured by a Mortgage that has notified the Association in writing of its name and address, and that it insures or guarantees a Mortgage) shall have the right to receive from the Association prompt written notice of the following:

(a) Default under any of the terms and provisions of the Condominium Documents by any Owner owning a Unit encumbered by a Mortgage held, insured, or guaranteed by such Mortgagee, which default remains uncured for a period of sixty (60) days.

(b) Any loss or damage to or condemnation or taking of the Common Elements or any loss or damage to or condemnation or taking of a Unit encumbered by a Mortgage held, insured or guaranteed by such Mortgagee.

(c) Any lapse, cancellation, or material modification of any insure policy or fidelity bond maintained by the Association.

(d) Any proposed action by the Association, the Executive Board, or the Owners, which under the terms of the Condominium Documents requires the consent of all or any portion of the Mortgagees.

The failure of any Mortgagee to respond within thirty (30) days to any written request of the Association, sent by registered or certified mail, return receipt requested, for approval of an addition or amendment to the Condominium Documents wherever Mortgagee approval is required shall constitute an implied approval by that Mortgagee of the proposed addition or amendment.

23.5 Consent and Notice Required. Notwithstanding any other provision of this Declaration or the Condominium Documents, no amendment of any material provision of the Condominium Documents described in this Section 23.5 shall be effective without notice to all Mortgagees, as required by Section 23.4, the vote of at least sixty-seven percent (67%) of the Owners of Residential units (or any greater percentage required by the terms of the Condominium Documents), the vote of at least sixty-seven percent (67%) of the Owners of Commercial Units (or any greater percentage required by the terms of the Condominium Documents), and the approval of at least sixty-seven percent (67%) of the Mortgagees (or any greater percentage required by the terms of the Condominium Documents). A change to any of the following items will be considered material:

(a) Voting rights.



(b) Increases in assessments that raise the previously assessed amount by more than twenty-five percent (25%), assessment liens, or the priority of assessment liens.

(c) Reductions in reserve for maintenance, repair, and replacement of the Common Elements.

(d) Responsibility for maintenance and repairs of the Units, the Limited Common Elements, or the Common Elements.

(e) Reallocation of interests in the Common Elements or the Limited Common Elements, except that when Limited Common Elements are reallocated by agreement between Owners of Units, then only those Owners and only the Mortgagees holding Mortgages on those Units need approve such reallocations.

(f) Redefinition of boundaries of Units, except that when the boundaries of only adjoining Units are involved, then only the Owners of those Units and the Mortgagees holding Mortgages on those Units must approve such action.

(g) Convertibility of Units into Common Elements, or Common Elements into Units.

(h) The expansion or contraction of Condominium, or the addition, annexation or withdrawal of property to or from the Condominium.

(i) The requirement for insurance and fidelity bonds.

(j) The imposition of any restrictions on the leasing of Units.

(k) The imposition of any restrictions on an Owner's right to sell or transfer his Unit.

(l) The restoration or repair of the Property after casualty damage or partial condemnation in a manner other than that specified in the Condominium Documents.

(m) Any termination of the Condominium after occurrence of substantial destruction or condemnation.

(n) Any provision that expressly benefits the Mortgagees.

23.6 Other Mortgagee Rights. Notwithstanding any other provision of this Declaration or the Bylaws, the Association may not change the period for collection of regularly budgeted Common Expenses to other than monthly without the consent of all Mortgagees. Any representative of a Mortgagee may attend and address any meeting that an Owner may attend.

23.7 Enforcement. The provisions of this Article 23 are for the benefit of all Mortgagees and their successors, and may be enforced by any of them any available means.



## **ARTICLE 24**

### **Management And Contract Rights Of The Association**

24.1 **MANAGEMENT AND CONTRACT RIGHTS:** Declarant may enter into a contract with a Management Company for the purposes of providing all elements of the operation, care, supervision, maintenance and management of the Properties. However, no such contract shall be binding upon the Association except through express adoption or ratification of the terms and conditions of such contract. Any contract or lease entered into by Declarant or by the Association while Declarant is in control thereof shall contain a provision allowing the Association to terminate such contract without justification or penalty after the transfer of management by Declarant to the Association.

## **ARTICLE 25**

### **Stormwater Facility**

25.1 The Association shall be bound by and shall comply with the Timberlyne Commerce Park Stormwater Facilities Agreement with the Town of Chapel Hill as evidenced by Project Permit Number ZCP – issued 01/21/07 (PIN 9880-36-2268). The Engineer's Certification of Private Stormwater Management Facility, together with Operation and Maintenance Plan are attached hereto and incorporated herein by reference as Exhibits E and F.

25.2 The Condominium address is 112 Perkins Road, Chapel hill, NC 27514. The developers have provided that the owners that benefit from the Stormwater Facility Agreement will bear their pro-rata share of the costs of the facility based on their ownership interest in the Condominium.

25.3 Upon formation, the Association, in addition to all other requirements, shall comply with the provisions of the Stormwater Facility Agreement.

## **ARTICLE 26**

### **Miscellaneous**

26.1 **CAPTIONS.** The captions contained in the Condominium Documents are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of the Condominium Documents nor the intent of any provision thereof.

26.2 **GENDER.** The use of the masculine gender refers to the feminine and neuter genders and the use of the singular includes the plural, and vice versa, whenever the context of the Condominium Documents so require.

26.3 **WAIVER.** No provision contained in the Condominium Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

26.4 **INVALIDITY.** The invalidity of any provision of the Condominium Documents does not impair or affect in any manner the validity, enforceability, or effect of the remainder, and in such event, all of the other provisions of the Condominium Documents shall continue in full force and effect.



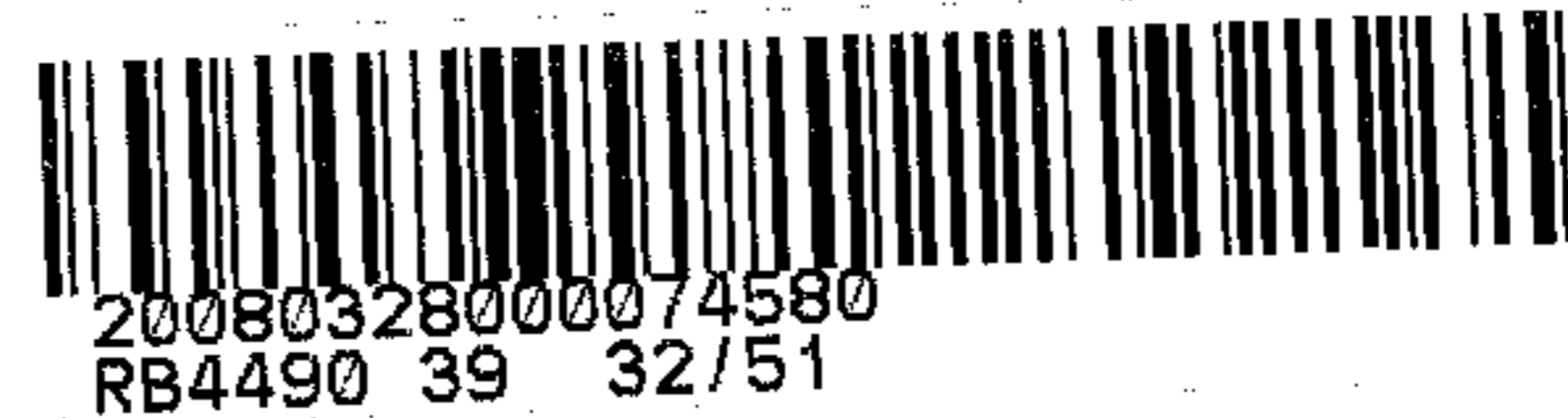
26.5 CONFLICT. The Condominium Documents are intended to comply with the requirements of the Condominium Act. In the event of any conflict between the Condominium Documents and the provisions of the Condominium Act, the provisions of the Condominium Act shall control. In the event of any conflict between this Declaration and any other Condominium Document, this Declaration shall control.

26.6 DEVELOPMENT LOAN. The land and the Buildings are currently encumbered by a development loan evidenced by that certain Deed of Trust Securing Future Advances dated August 10, 2006, executed and delivered by Declarant, as borrower, to CB Services Corp, Trustee for RBC Centura Bank, and recorded in Book 4102, at Page 74, in the Orange County Registry. A Consent and Subordination Agreement executed by the trustee and the beneficiary under such Deed of Trust and consenting to the execution and recordation of this Declaration is being recorded in the Orange County Registry in connection with the recording of this Declaration.

26.7 INCORPORATION BY REFERENCE. All Exhibits attached hereto and the contents thereof are incorporated by reference. These include but are not limited to the following:

- a) Exhibit A, Description of Land and Recorded Easements and Licenses Appurtenant Thereto;
- b) Exhibit B, Table of Interests;
- c) Exhibit C, Description of Real Estate Subject to Development Rights;
- d) Exhibit D, Declaration of Cross Easements
- e) Exhibit E, Engineer's Certification of Private Stormwater Facility
- f) Exhibit F, Operations & Maintenance Plan

**[SIGNATURE AND NOTARY ACKNOWLEDGEMENT FOLLOW]**



IN WITNESS WHEREOF, the Association, Unit Owners and Eligible Mortgagees have executed this Declaration as of the day and year first above written.

ASSOCIATION:

112 TIMBERLYNE COMMERCE PARK,  
a North Carolina nonprofit corporation

By: [Signature]  
Name: LOUIS P. GONZALEZ  
Title: VICE President

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

I, Jackie B. Paschall, a Notary Public of the County and State aforesaid, certify that Louis P. Gonzalez personally came before me this day and acknowledged that he is vice President of **112 Timberlyne Commerce Park**, a North Carolina nonprofit corporation, and that he, as vice President, being authorized to do so, executed the foregoing on behalf of the corporation. And the said vice President acknowledged the said writing to be the act and deed of said corporation.

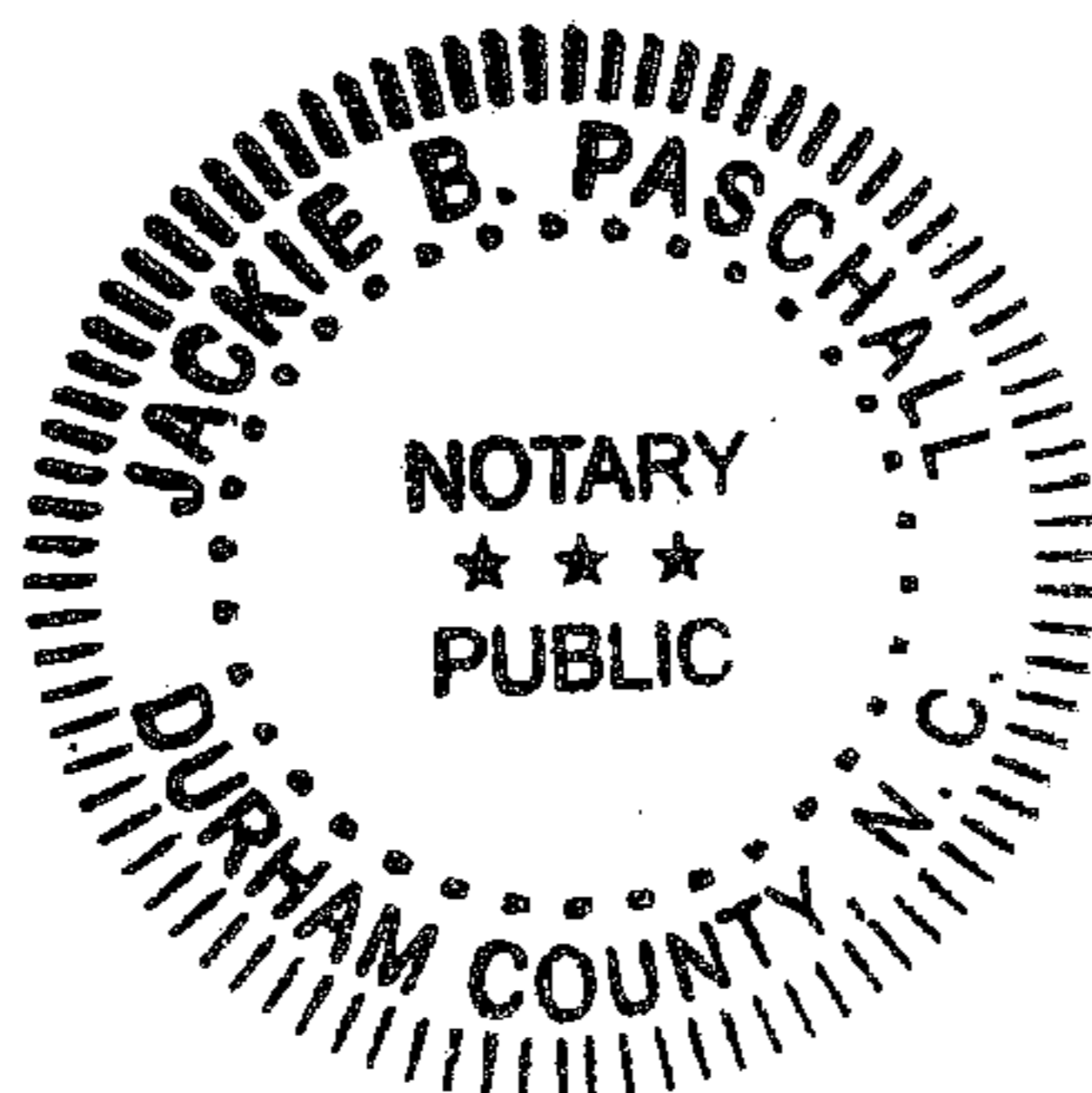
Witness my hand and official stamp or seal, this the 20 day of March, 2008.

Jackie B. Paschall  
Notary Public

My commission expires:

01/04/2013

[NOTARIAL SEAL]





**DECLARANT:**

**C.A.I. GROUP VII, LLC**, a North Carolina limited liability company

By: *[Signature]*  
Name: LOUIS P. GONZALEZ  
Title: MANAGER  
Unit #s: \_\_\_\_\_

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

I, Jackie B. Paschall, a Notary Public for said County and State, do hereby certify that Louis P. Gonzalez, manager of **C.A.I. GROUP VII, LLC**, a North Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

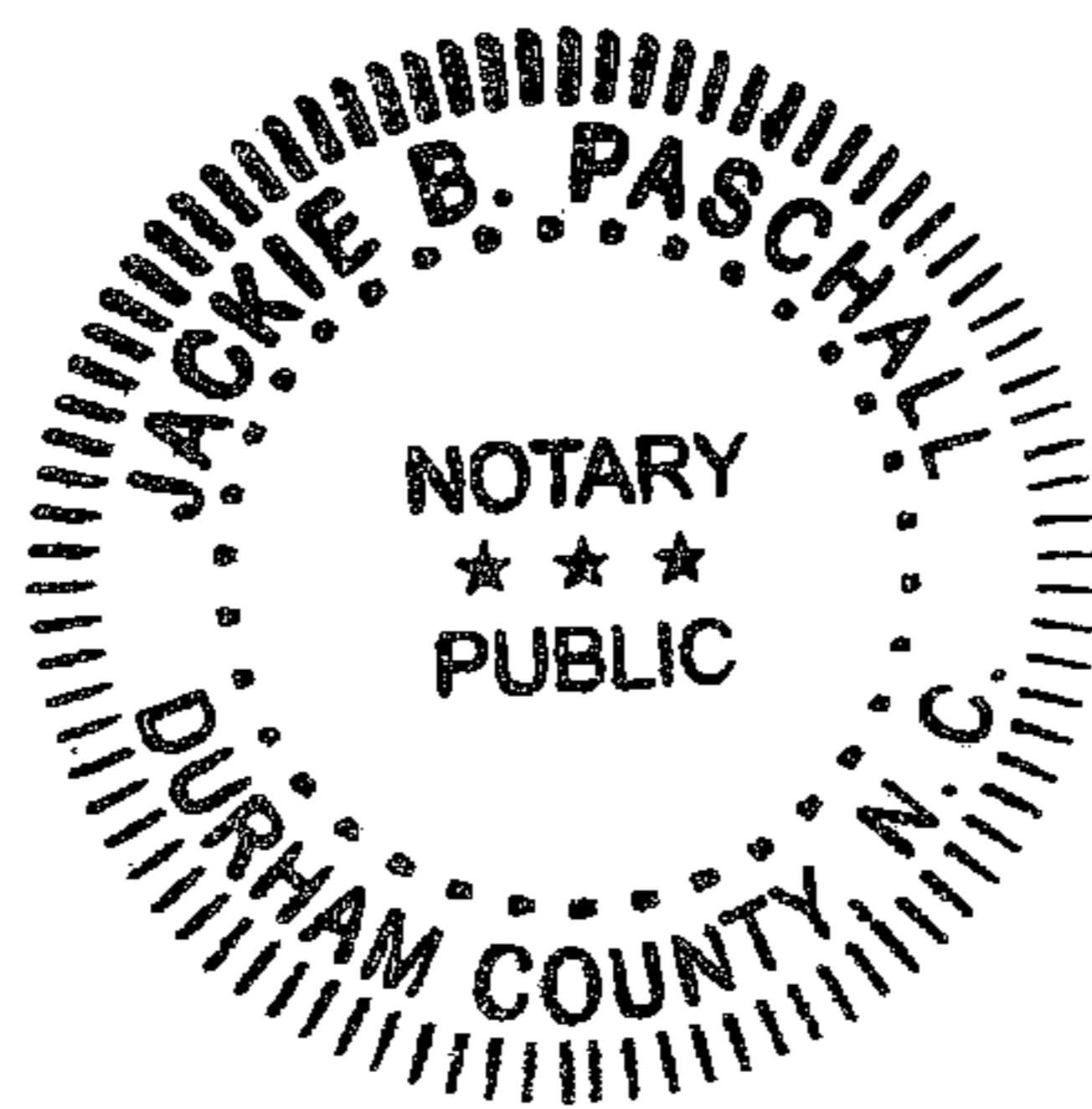
Witness my hand and official stamp or seal, this the 20 day of March, 2008.

Jackie B. Paschall  
Notary Public

My commission expires:

01/04/2013

[NOTARIAL SEAL]





TRUSTEE:

CB SERVICES CORP.

By: [Signature]  
Name: Charles J. Stewart  
Vice President

STATE OF NORTH CAROLINA

COUNTY OF Durham

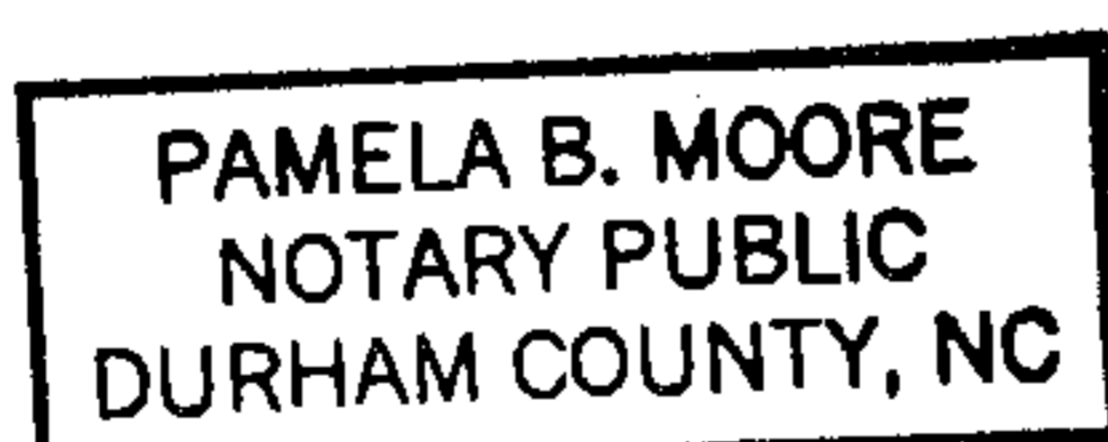
I, Pamela B. Moore a Notary Public of the County and State aforesaid, certify that Charles J. Stewart personally came before me this day and acknowledged that he is Vice President of CB Services Corp., a North Carolina corporation, and that he, as Vice President, being authorized to do so, executed the foregoing on behalf of the corporation. And the said Vice President acknowledged the said writing to be the act and deed of said corporation.

Witness my hand and official stamp or seal, this the 19 day of March, 2008.

[Signature]  
Notary Public

My commission expires:  
10/29/2008 <sup>Moore</sup> 2010

[NOTARIAL SEAL]





**MORTGAGEE:**

**RBC Centura Bank**

By: *Charles J. Stewart*  
Name: Charles J. Stewart  
Title: Bank Officer

STATE OF NORTH CAROLINA

COUNTY OF Durham

I, Pamela B. Moore, a Notary Public of the County and State aforesaid, certify that Charles J. Stewart personally came before me this day and acknowledged that he is ~~bank officer~~ President of RBC Centura Bank, a North Carolina corporation, and that he, as ~~bank officer~~ President, being authorized to do so, executed the foregoing on behalf of the corporation. And the said ~~bank officer~~ Bank Officer ~~President~~ acknowledged the said writing to be the act and deed of said corporation.

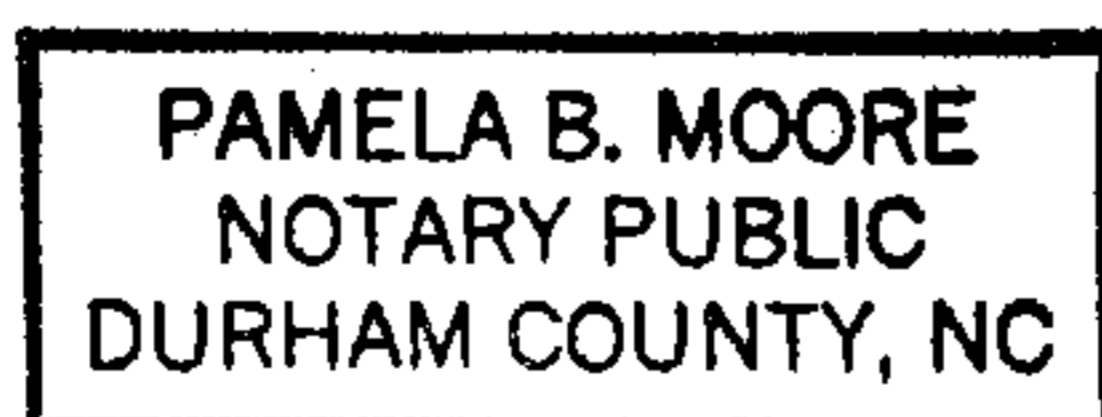
Witness my hand and official stamp or seal, this the 19 day of March, 2008.

*Pamela B. Moore*  
Notary Public

My commission expires:

10/29/2010

[NOTARIAL SEAL]





**EXHIBIT A**  
**To**  
**Declaration of Condominium**  
**Of**  
**112 Timberlyne Commerce Park**

**DESCRIPTION OF LAND AND RECORDED EASEMENTS**  
**APPURTENANT THERETO**

BEING all of Lots 8A, 11A and 12A, as shown on plat entitled "RECOMBINATION AND EASEMENT PLAT CAI GROUP VII, LLC" prepared by Philip Post & Associates recorded January 11, 2007 in Plat Book 101, Page 63, Orange County Registry, to which plat reference is hereby made for a more particular description of same.

All easement rights (including without limitation easements for parking, vehicular and pedestrians ingress and egress, use of common areas for their intended purposes, utilities, sewer and storm drainage) appurtenant to and for the benefit of the parcels described above, as set forth in that certain Declaration of Cross Easements recorded in Book 4198, Page 197, Orange County Registry.

**RECORDED EASEMENTS AND DOCUMENTATION APPURTENANT TO THE LAND:**

1. All easements shown on the Plats and Plans defined in the foregoing Declaration.
2. Declaration of Cross Easements recorded in Book 4198, Page 197, Orange County Registry.
3. The lien of all taxes for the year 2008 and thereafter which are not yet due and payable.
4. Easement for installation and maintenance of storm drainage and/or storm drainage facilities are reserved as shown on the recorded Plats and Plans, and other like easements may be granted by the Executive Board in the name of the Association for the benefit of the condominium and for the benefit of any unit including installation, maintenance and repair of storm drainage and/or storm drainage facilities.



**EXHIBIT B**  
**To**  
**Declaration of Condominium**  
**Of**  
**112 Timberlyne Commerce Park**

**TABLE OF INTERESTS**

<b><u>Unit No.</u></b>	<b>Gross Square Feet of Condo Space</b>	<b>Percentage Share Of Common Elements</b>	<b>Percentage Share of Common Expenses</b>	<b>Percentage of Voting interest in the Affairs of the Association</b>
100	1269.76	12 %	12 %	12 %
200	1293.47	12 %	12 %	12 %
300	1787.47	17%	17 %	17 %
400	1780.33	17 %	17 %	17 %
500	1744.49	17%	17%	17%
600	1269.76	12%	12%	12%
700	1250.48	12%	12%	12%
800	<u>85.97</u>	<u>1%</u>	<u>1%</u>	<u>1%</u>
<b>Totals</b>	<b>10,481.73</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

**EXHIBIT C**



**To  
Declaration of Condominium  
Of  
112 Timberlyne Commerce Park**

**DESCRIPTION OF REAL ESTATE SUBJECT TO DEVELOPMENT RIGHTS**

NONE.



**EXHIBIT D**

**To  
Declaration of Condominium  
Of  
112 Timberlyne Commerce Park**

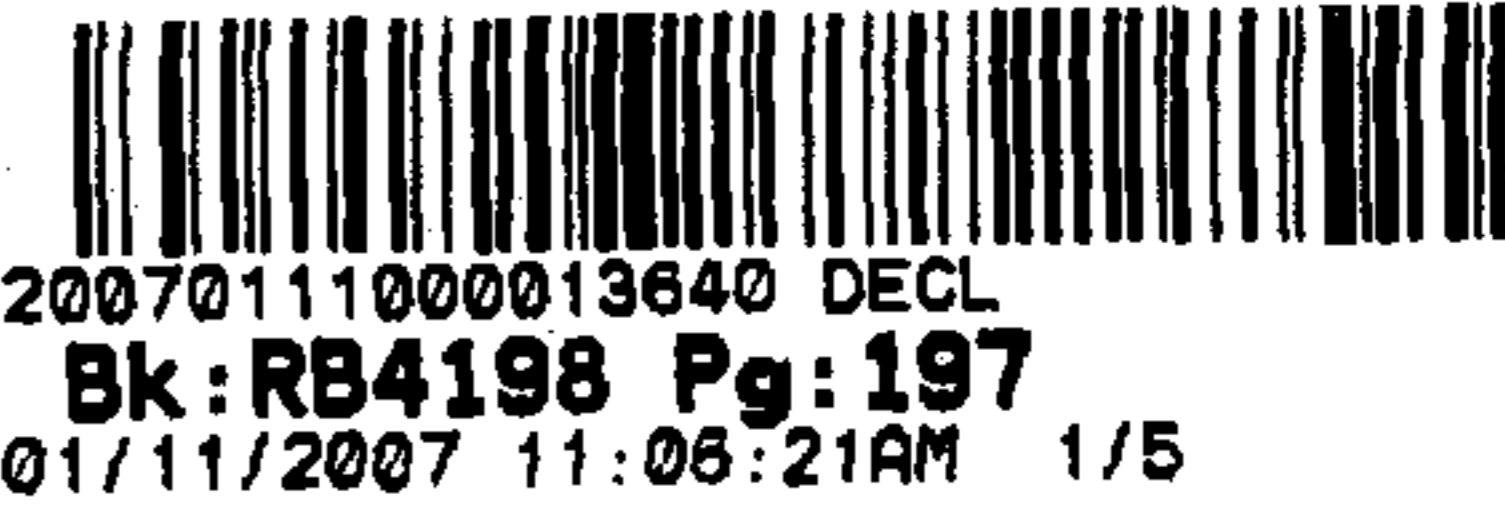
**DECLARATION OF CROSS EASEMENTS AGREEMENT**

A copy of the Declaration of Cross Easements Agreement filed on January 11, 2007 in Book 4198, Page 197, Orange County Registry.

JK



Exhibit



FILED Joyce H. Pearson Register of Deeds Orange COUNTY, NC BY: *Andrea W. Beardsley*

Prepared by and mail after recording to:  
Thomas H. Stark, Esq.  
Stark Law Group, PLLC  
5925 Farrington Road, Suite 200  
Chapel Hill, NC 27517

STATE OF NORTH CAROLINA  
COUNTY OF ORANGE

9880.36.4239  
9880.36.2277  
9880.36.3122 *mas*

**DECLARATION OF CROSS EASEMENTS**

THIS DECLARATION OF CROSS EASEMENTS ("Declaration") is entered into this 3<sup>rd</sup> day of January, 2007, by CAI GROUP VII, LLC, a North Carolina limited liability company ("Declarant").

**RECITALS**

A. Declarant owns certain tracts or parcels of land consisting of Lots 12A, 8A, and 11A, located in Orange County, North Carolina (the "Subject Property"). The Subject property is shown on that certain plat attached hereto as Exhibit "A", entitled "Final Subdivision Plat of Timberlyne Commerce Park" dated 1st Jan 2007 prepared by Philip Post & Associates, and recorded in Plat Book 101, Page 63, Orange County Registry (the "Plat").

B. The Subject Property consists of" (i) that certain approximately 1.179 acre parcel of land identified on the Plat as Lot 12A ("Lot 12A"); (ii) that certain approximately 0.808 acre parcel of land identified on the Plat as Lot 8A ("Lot 8A"); ~~(iii) that certain approximately .554 acre parcel of land identified on the Plat as Lot 7 ("Lot 7")~~; (iv) that approximately 0.290 acre parcel of land identified on the Plat as Lot 11A ("Lot 11A") (Lot 12A, Lot 8A, and Lot 11A are sometimes individually referred to herein as a "Parcel" and collectively as the "Parcels").



C. Declarant desires to establish certain parking and access easements over Lots 12A, 8A, ~~X~~ and 11A each in favor of the other; and certain utility easements over Lots 12A, 8A, ~~X~~ and 11A, as more particular set forth herein.

*K DA per phone 1/17/2007*

NOW, THEREFORE, in consideration of the covenants set forth in this Declaration and for the purposes set forth above, the Declarant, for itself, and its tenants, successors and assigns, imposes and places the following restrictions and easements upon the Subject Property, reserving unto themselves and to future owners of the Parcels (each owner of a parcel being referred to herein as an "Owner") within the Subject Property certain rights and privileges, all as more particular set forth in this Declaration.

1. Easement Over Access Facilities. The Owners, their successors and assigns, and their respective tenants, employees, customers and business invitees shall have a perpetual non-exclusive easement to use all of the vehicular roadways, entrances and exits, and sidewalks (collectively, the "Access Facilities") located from time to time on the Subject Property, for the purpose for which such Access Facilities are designed, without payment of any fee or other charge being made therefore. In connection with the development of Lot 12A, Lot 8A, and Lot 11A, the Owner of either parcel may restructure the layout and flow of all designated roadway, entrances, exits and sidewalks on the Parcel it owns, at its own expense, provided that such restructuring can be accomplished without unreasonably affecting the pedestrian, vehicular and any other property access needs of the other lot Owner.

2. Parking. The Owners, their successors and assigns, and their respective tenants, employees, customers, and business invitees shall have a perpetual non-exclusive easement to use, free of charge, all designated parking areas located on Lot 12A, Lot 8A, and Lot 11A (the "Shared Parking Area") (which shall include all entrances, exits, driving lanes and walks). In connection with the development of Lot 12A, Lot 8A, and Lot 11A, the Owner of either parcel may restructure the layout and flow of all designated parking areas on the Parcel it owns, as its own expense, provided that the net number of parking spaces on such Parcel is not reduced, and such restructuring can be accomplished without unreasonably affecting the parking and access needs of the other lot Owner. Notwithstanding the foregoing, no Owner shall regularly store or allow, vehicles or any other property to be stored overnight on the Shared Parking Area.

3. Dumpsters and Recycling Containers: The Owners, their successors and assigns, and their respective tenants, employees, customers, and business invitees, shall have a perpetual non-exclusive easement, free of charge, for cross access to recycling, cardboard, trash, and other refuse containers, dumpsters or bins.

4. Landscape Buffer. A five (5) feet strip of land along common boundaries of all Parcels shall serve as a shared buffer and landscape easement for protecting and preserving the existing trees and shrubs, and any landscaping or new trees and shrubs hereafter installed.



5. Drainage. Each Owner, their successors, assigns, and respective tenants, employees, customers and business invitees shall have a perpetual non-exclusive easement on, over, under or across all parking areas, roadways, drive aisles, drainage pipes and lines, on each of the other Owners' Parcels, for the purpose of the ordinary flow of surface storm water resulting from the development of the Parcel in accordance with this Declaration, provided that no drainage may run through any building pads and provided the installation of any drainage features shall not interfere with the use of any parcel or easement created hereby, and provided construction disruption is coordinated with Parcel Owners, is minimized and all property is replaced to its previous condition.

6. No Barriers. All paved areas within the Subject Property shall be constructed and maintained at a uniform grade along common property boundaries, and no barriers, fences or other obstructions shall be erected upon the Access Facilities or elsewhere on the Subject Property so as to interfere with the free flow of pedestrian and vehicular traffic between the Access Facilities located from time to time on the Subject Property. The foregoing provisions shall not prohibit the reasonable designation and relocation of traffic and pedestrian lanes, or the reasonable construction of medians and landscape buffers, by any Owner upon its own Parcel. In addition, each Owner may block traffic on its Parcel for the time only so long as necessary to prevent the creation of prescriptive easement rights, or as may be reasonably required for the purpose of repairing or replacing the roadways, parking areas, and sidewalks on its Parcel.

7. Construction. All easement improvements herein provided for shall be constructed by the Parcel Owners, unless otherwise determined by Declarant, as part of a comprehensive scheme to be constructed by the Declarant or a Parcel Owner's Association on behalf of all Parcel Owners. All construction shall be consistent with the site plan approved as it may from time to time be amended. No improvements may unreasonably interfere with use of and access to the property. Disruption of use of the Parcels during construction shall be coordinated among Parcel Owners, shall be minimized, and all damage shall be repaired promptly upon completion of construction. No easements may cross a building pad, or any area designated for building pads without the Owners express written consent. It is expressly agreed, however, than a Parcel Owner may construct improvements for vehicular or pedestrian access across other Parcels consistent with the site plan approved by the Town of Chapel Hill.

8. Maintenance. Each party shall maintain and keep in good repair the parking areas, rights-of-way, dumpsters or landscape buffers situated on its premises and shall keep such areas and rights-of-way striped and clear and free of snow, ice, rubbish and obstructions of every nature, and shall provide adequate drainage and lighting thereon. Unless Declarant, its successors and/or assigns, is undertaking repair and maintenance, each Owner shall bear the cost of maintaining their Parcels. If Owner is not maintaining and keeping in good repair the easements granted herein, Declarant may, but is not required to, give Owners ten (10) days notice to make said repairs at Owners expense or pursuant to such other rational plan as may be approved by Declarant or its successors. If Declarant does not make repairs, any other Owner may repair upon thirty



(30) days written notice to Declarant and any Owner. Such costs shall be borne by the subject lot owners.

9. Amendment to Declaration. The conditions, restrictions and easements contained in this Declaration are covenants running with the land; they are made by Declarant for the benefit of itself, its successors and assigns in title to all or part of the Subject Property, each tenant now or hereafter leasing any part of the Subject Property, and each lender making a loan secured by a mortgage on all or any part of the Subject Property.

10. Binding Effect. The conditions, restrictions and easements contained in this Declaration are covenants running with the land; they are made by Declarant for the benefit of itself, its successors and assigns in title to all or part of the Subject Property, each tenant now or hereafter leasing any part of the Subject Property, and each lender making a loan secured by a mortgage on all or any part of the Subject Property.

11. Remedies for Breach. The terms and conditions of this Declaration, shall be enforceable by Declarant, its successors and assigns, and any Owner, by actions for specific performance or injunction, or for the enforcement of any liens provided for in this Declaration, in addition to any other remedies available at law.

12. Private Agreement. This Declaration shall not be construed to grant any rights to the public in general.

13. Modification. This Agreement may be modified, amended, or canceled only by written instrument executed by all Parties in interest at the time of such amendment and recorded with the Orange County Register of Deeds, North Carolina.

14. Limitation on Liability. Each Party agrees to look solely to the interest from time to time in the Parcel in question of the other Party or its successors, as the case may be, for any claim arising under this Agreement. In no event shall CAI Group VII, LLC or any member, manager, general or limited partner, trustee or principal, or officer, or director or employee thereof or beneficiary or partner of beneficiary or shareholder (or their respective successors as aforesaid) or any of their respective agents, employees or representatives ever be personally liable for the payment or performance of any obligation under this Agreement, nor shall it or they ever be answerable or liable in any equitable proceeding or order beyond the extent of its or their interest in any applicable Parcel. The provisions of the foregoing are not intended to, and shall not, limit any right that CAI Group VII, LLC may otherwise have against the other party to obtain injunctive relief against such party, provided that such relief does not cause such party to expend any amount of money which exceeds such party's equity interest in their applicable Parcel.

15. Notice. Any notice or other communication from one party to the other pursuant to this Agreement shall be in writing and shall be delivered by hand, by registered or certified mail, by recognized overnight delivery service such as Federal Express, or by facsimile, and addressed to the owners of record of the Subject Property.



IN WITNESS WHEREOF, the undersigned have executed the foregoing Declaration under seal the day and year first above written.

CAI GROUP VII, LLC, a North Carolina limited liability company

By: [Signature]  
Printed Name: RICHARD B. WILLIAMS  
Title: MEMBER-MANAGER

State of North Carolina

County of ~~Durham~~ Orange

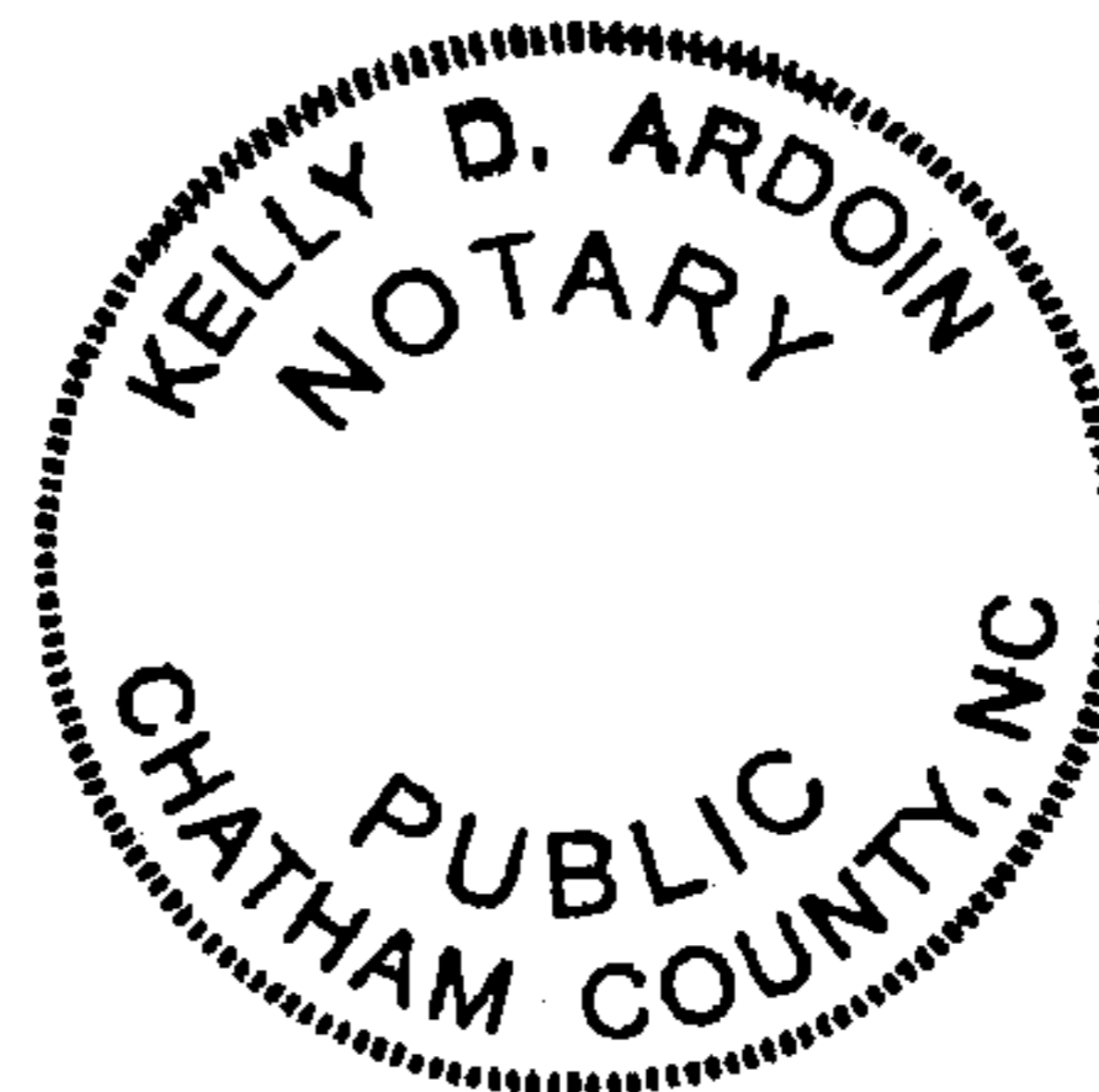
I, Kelly D. Ardoin, a Notary Public for said County and State, certify that Richard B. Williams, Manager/Members of C.A.I. GROUP VII, LLC, personally came before me this day and acknowledged the due execution of the foregoing instrument in writing for C.A. I. Group VII, LLC, a limited liability company, for the uses and purposes therein set forth.

Witness my hand and Notarial Seal this the 3<sup>rd</sup> day of January, 2007.

Kelly D. Ardoin  
Notary Public

My Commission Expires:

10-22-2011



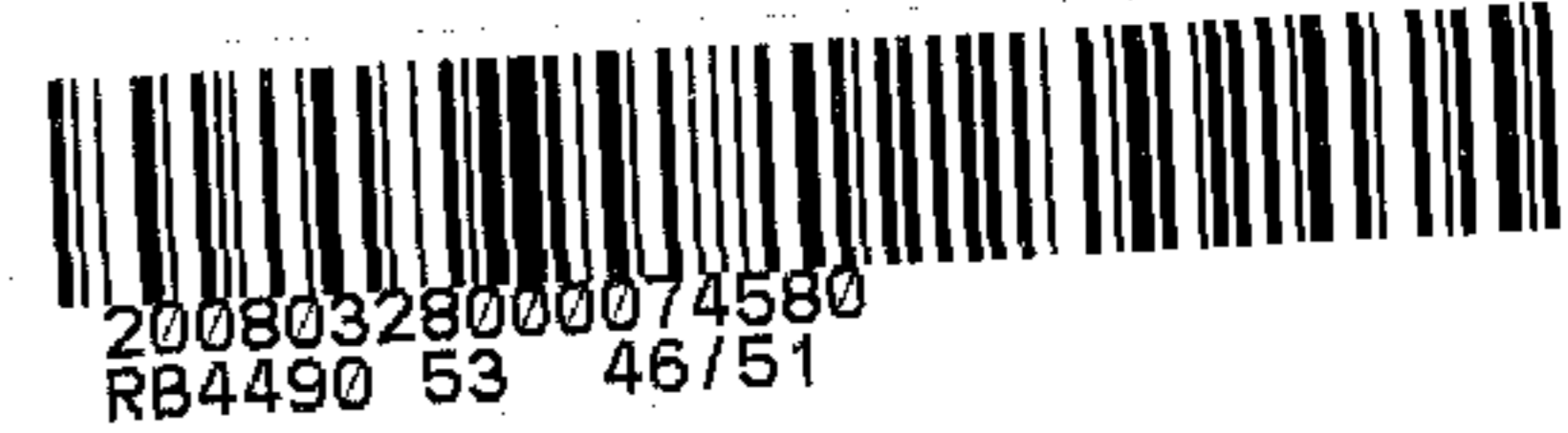


**EXHIBIT E**

**To  
Declaration of Condominium  
Of  
112 Timberlyne Commerce Park**

**ENGINEER'S CERTIFICATION OF PRIVATE  
STORMWATER MANAGEMENT FACILITY**

PHILIP  
POST  
&  
ASSOCIATES



Exhibit

530305

ENGINEER'S CERTIFICATION  
OF PRIVATE STORMWATER MANAGEMENT FACILITY

I, Ernest G. Dodson, as a duly registered Professional Engineer in the State of North Carolina, having been authorized to observe the construction work on a

Periodic  
(periodic, weekly, full time)

basis for the following project:

Timberlyne Commerce Park – Lot 12A  
(Project Name)

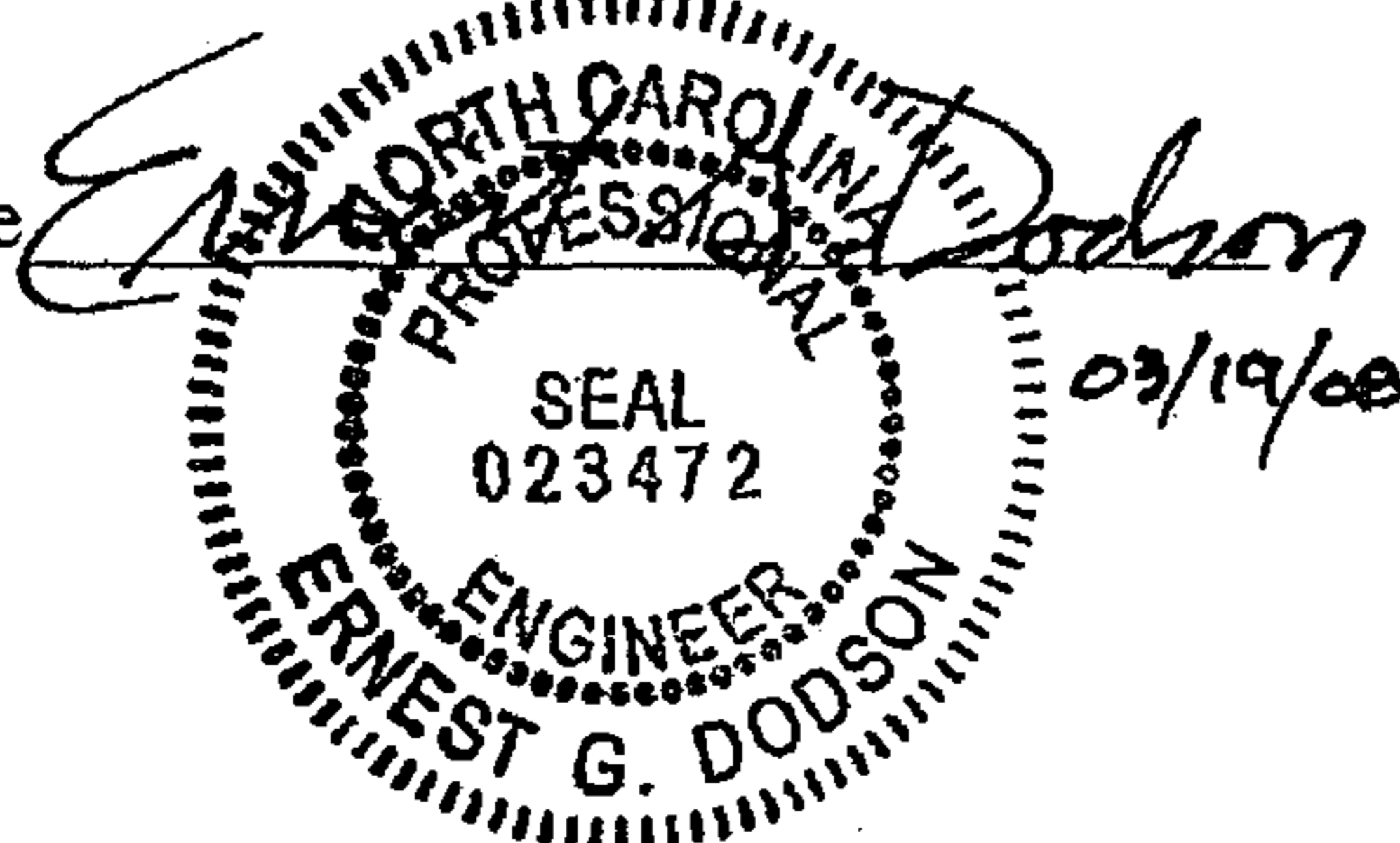
ZCP- issued 01/21/07 (PIN 9880-36-2268)  
(Project Permit Number)

112 Perkins Drive  
Town of Chapel Hill, Orange County, North Carolina  
(Project Location)

CAI Group VII, LLC  
(Project Owner)

hereby state my belief that based upon construction inspection and final inspection, the stormwater management facility for this project appears to have been completed by the contractor in substantial accordance with the approved plans and specifications.

Signature



Registration Number 23472

Date March 19, 2008



20080328000074580  
RB4490 54 47/51

**EXHIBIT F**

**To  
Declaration of Condominium  
Of  
112 Timberlyne Commerce Park**

**OPERATIONS & MAINTENANCE PLAN**

Exhibit



## OPERATIONS & MAINTENANCE PLAN

Stormwater Facilities at Timberlyne Commerce Park  
108 Perkins Drive  
Chapel Hill, NC

This document establishes procedures for maintenance and operation of the Timberlyne Commerce Park Stormwater facilities. The property owner(s) or their Association, whichever is applicable, is responsible for periodic maintenance to ensure the facility operates as designed and as outlined below.

**Note: Entry into the detention pipe and into the ADS Water Quality Unit for inspection requires a 2-3 person team trained in OSHA-regulated confined-space entry/operations and in inspection of such stormwater facilities.**

### Maintenance of Detention Pipe

The detention pipe shall be inspected thoroughly on at least a quarterly basis and after significant rainfall events. A significant rainfall event shall be defined as a storm producing 1.5 inches of precipitation, or more, in a 24-hour period as reported by local weather stations. Pipes should be inspected for proper alignment (sagging), displacement at joints, cracks, leaks, surface wear and blockage. Problems with pipes most often occur at joints and special attention should be given to them during inspection. Open joints can permit erosion of the earthwork or settlement. A depression in the paved surface over the pipe may be a sign that soil is being removed from around the pipe. Trash and debris must be removed during each inspection to prevent blockage of the outlet. Trash acts as a barrier to stormwater movement and may attract unwanted pests.

Accumulated sediment within the pipe shall be removed either by hand tools or by vacuum truck. The removed material shall be hauled offsite to a suitable landfill for disposal.

### Maintenance of ADS Water Quality Unit

The ADS Water Quality Unit is designed to effectively remove sediment, debris, oils and other floating contaminants from the stormwater. For optimum performance, a routine inspection and maintenance schedule must be followed.



The unit shall be visually inspected through the access ports on at least a quarterly basis and after significant rainfall events. A significant rainfall event shall be defined as a storm producing 1.5 inches of precipitation, or more, in a 24-hour period as reported by local weather stations. The unit has two 24" diameter access ports, one for the sediment chamber and one for the oil and floating contaminants chamber. Sediment, trash and floating contaminants can be measured through the access ports. **If entry into the unit is necessary, the OSHA rules for confined space entry apply.**

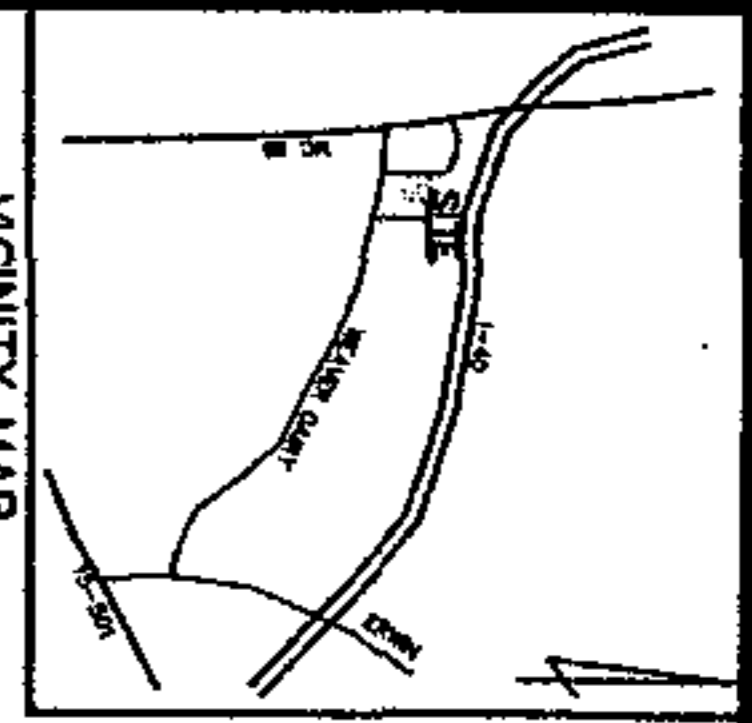
Clean out by vacuum pumping and pressure washing through the sediment access port shall be performed when the sediment depth reaches 25% of the depth of the unit (10.5 inches). The sediment depth can be measured through the access port. The oil, floating contaminants and debris can be removed through the oil chamber access port. Cleaning of both the sediment and oil chambers by the above methods shall be required at least once per year, and more often if the sediment storage level is reached. All sediments, oils, and other floating contaminants shall be hauled offsite to a suitable landfill for disposal.

Once the unit has been pumped out and cleaned, it must be refilled with water until the water reaches the outlet orifice (2900 gallons). All cleanout and disposal techniques must follow confined space entry regulations and be in accordance with local regulations.

#### Record Keeping

All observations shall be recorded at each inspection. A record of any repairs or changes in the system shall be kept. The owner(s) shall maintain a complete and up-to-date set of as-built drawings on hand at all times. All changes to the facility shall be recorded on the as-built drawings.





VICINITY MAP  
NOT TO SCALE

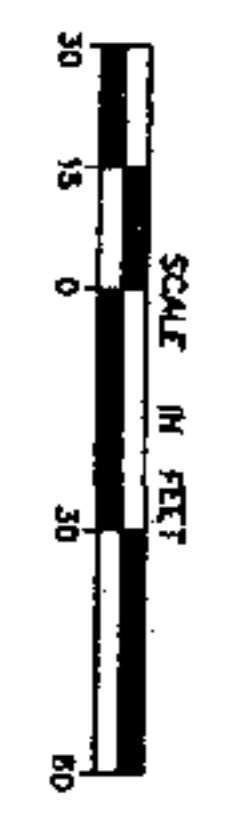
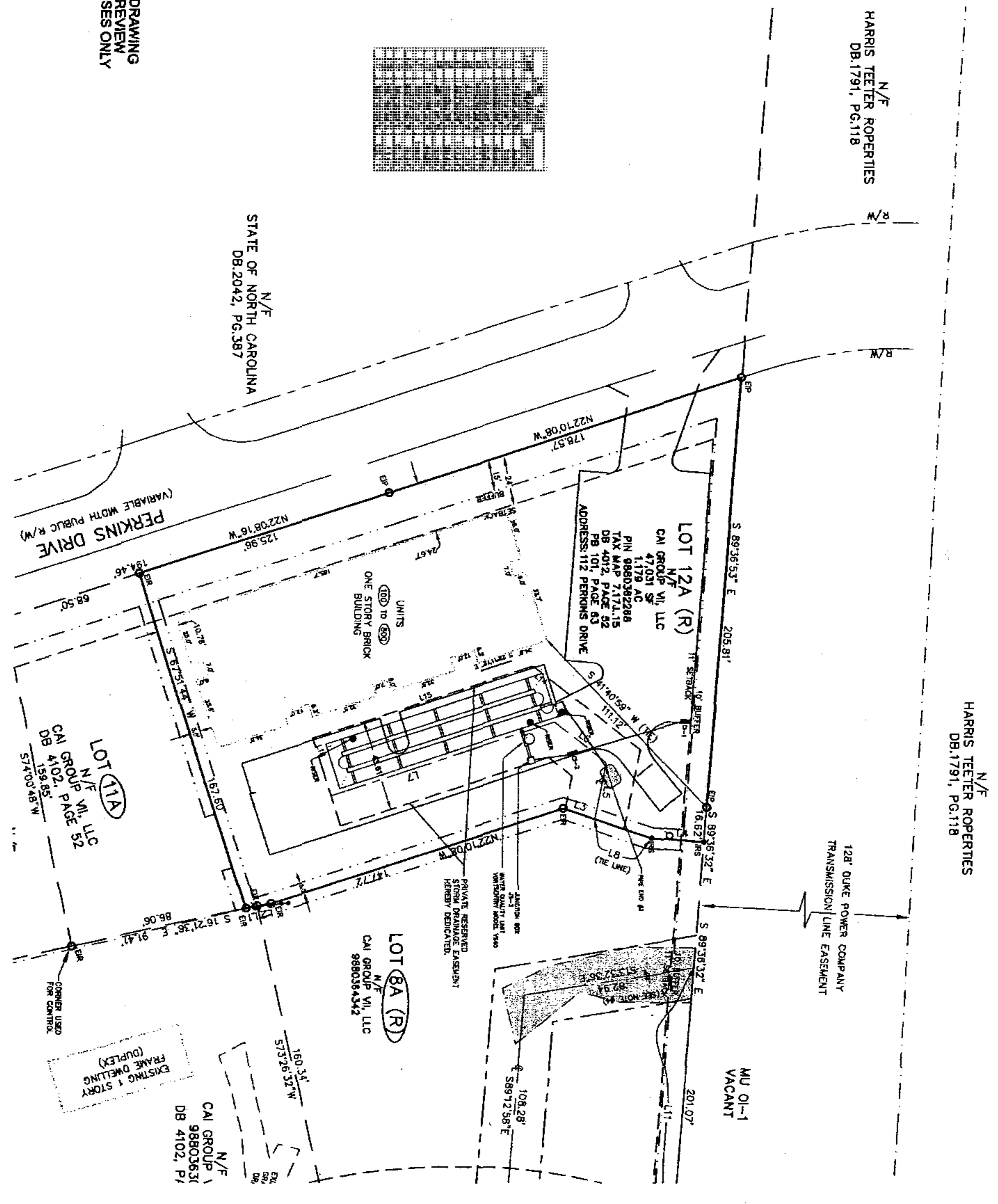


NOTES:  
1. THIS DRAWING IS A PRELIMINARY DESIGN. CONSULTATION SHOULD BE OBTAINED IN THE FIELD.

FINAL DRAWING  
FOR REVIEW  
PURPOSES ONLY

- LEGEND:
- EXISTING IRON PIPE
  - EXISTING IRON ROD
  - IRON ROD SET
  - COMPUTED P.I. (NOTHING SET)
  - RIGHT-OF-WAY LINE

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



FINAL DRAWING  
FOR REVIEW  
PURPOSES ONLY

PHILIP POST & ASSOCIATES, INC.  
2717 COLONY PARK DRIVE  
CHAPEL HILL, NC 27514

SHEET 1

REVISIONS

SCALE 1"=30'-0"  
DRAWN BY: BCK  
CHECKED BY: PNP  
DATE: 03/18/08  
PROJECT NO. 533058  
DRAWING NO. 8870A803

**STORM WATER SYSTEM**  
**112 TIMBERLYNE COMMERCE PARK**  
**"AS-BUILT"**  
CHAPEL HILL      ORANGE COUNTY, N.C.

FINAL DRAWING  
FOR REVIEW  
PURPOSES ONLY

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&  
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