Doc ID: 008357450016 Type: CRP
Recorded: 06/14/2011 at 10:36:01 AM
Fee Amt: $59.00 Page 1 of 16
Revenue Tax: $0.00
Workflow# 0000031324-0001
Caldwell County, NC
WAYNE L RASH Register of Deeds
BK 1770 PG 55-70

NORTH CAROLINA

CALDWELL COUNTY

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF MAPLEWOOD VILLAGE SUBDIVISION PHASE II

WTC

THIS DECLARATION, made this the 14 day of JUNE, 2011, by D & J Developers of Lenoir, Inc., hereinafter referred to as the "Declarant";

Whereas, the Declarant is the owner of certain property in Caldwell County, North Carolina, which is more particularly described as follows:

All that real property labeled "Maplewood Village Subdivision, Phase II" as described at Plat Book 27, Page 237, Caldwell County Registry; and

Whereas, said real property abuts Maplewood Village Subdivision (also known as the Julian and Mary Baker Cluster Subdivision which is shown at Plat Book 24, Page 207, Caldwell County Registry) and is accessed through the roads in Maplewood Village Subdivision; and

Whereas, the Declarant desires to subject all of the lots in Maplewood Village Subdivision, Phase II, and any other adjoining phases which may be added in the future, to the same restrictive covenants as those placed upon the lots in Maplewood Village Subdivision and recorded at Book 1659, Page 903, and Book 1707, Page 1045, including all the covenants regarding the Maplewood Village Homeowners' Association.

NOW, THEREFORE, the Declarant hereby declares that all of the properties described above at **Plat Book 27, Page 237**, shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the

16-59.00

value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I.
DEFINITIONS

As used herein, the following terms shall mean:

Section 1. ASSOCIATION shall mean and refer to **MAPLEWOOD VILLAGE HOMEOWNERS' ASSOCIATION, INC.**, a North Carolina non-profit corporation, its successors and assigns, the owners' association organized for the mutual benefit and protection of the Properties. All property owners of lots in Maplewood Village Subdivision, Phase II, and any adjoining areas hereafter developed and subjected to this Declaration, if any, shall be members of the Association, which membership shall be appurtenant to and may not be separated from the ownership of such single family lot.

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

Section 3. PROPERTIES shall mean and refer to all of Maplewood Village Subdivision, Phase II, as described above, and any of the additional properties that may hereafter be brought within the jurisdiction of the Association as herein provided.

Section 4. COMMON AREA shall mean and refer to all real property owned by the Association for the common use and enjoyment of the owners. The Common Area to be owned by the Association at the time of the conveyance of the first lot shall be any and all the areas designated as "Common Area" on the plat of Maplewood Village Subdivision, Phase II, recorded in the Caldwell County Registry at Plat Book 27, Page 237.

Section 5. LOT shall mean and refer to any numbered lot shown upon the recorded plat of any section or phase of Maplewood Village Subdivision existing now or hereafter recorded in the Caldwell County Registry and shall include all improvements thereon.

Section 6. DECLARANT shall be used interchangeably with Developer (which designations shall include singular, plural, masculine and neuter as required by the context) to mean and refer to D & J Developers of Lenoir, Inc., or its successors and assigns, if such successors and assigns should acquire undeveloped property from the Declarant for the purpose of development.

Section 7. DECLARATION shall mean this instrument as it may be from time to time amended or supplemented.

Section 8. MEMBERSHIP shall mean and refer to the rights, privileges, benefits, duties and obligations which shall inure to the benefit of and burden each member of the Association.

Section 9. MEMBER shall mean and refer to every person or entity who has a membership in the Association.

ARTICLE II.
PROPERTY RIGHTS

Owners' Easement of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area, if any, which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

a. The right of the Association to suspend the voting rights and privileges of an owner for any period during which any assessment against his lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;

b. The right of the Association to mortgage or convey the Common Area, or to dedicate or transfer all or part of the Common Area, if any, to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective until approved by a vote of at least two-thirds (2/3) of the members, excluding the developer, as indicated in an instrument executed by the corporation and recorded in the Caldwell County Registry;

c. The right of the Association to impose regulations for the use and enjoyment of the Common Area, if any, and improvements thereon, which regulations may further restrict the use of the Common Area.

d. The right of the Association or its representative to enter any lot in the case of an emergency threatening such lot or any other lot for the purpose of remedying or abating the cause of such emergency. Such right of entry shall be immediate.

ARTICLE III.
EASEMENTS

Section 1. Perpetual, alienable easements are reserved as necessary in the Properties and the Common Areas thereof for installation and maintenance of underground facilities and drainage facilities.

Section 2. The Declarant reserves unto itself, its successors and assigns, a perpetual, alienable and releasable easement and right of way, on, over and under the ground for men and equipment to erect, maintain, inspect, repair and use electric and telephone wires, cables, conduits, sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas, sewer, water or other public conveniences or utilities on, in or over each lot and such other areas as are shown on the plat of the Properties recorded or to be recorded in the Office of the Register of Deeds of Caldwell County; provided further, that the Declarant may cut drainways for surface water whenever such action may appear to the Declarant to be necessary in order to maintain reasonable standards of health, safety and appearance. These easements and rights of way expressly include the right to cut any trees, bushes or shrubbery, make any grading of the soil, or to take and other similar action reasonably necessary to provide economical and safe utility installation and to maintain reasonable standards of health, safety and appearance. The Declarant further reserves the right to locate wells, pumping stations, and tanks within residential areas on any walkway, or on any residential lot now or subsequently designated for such use or to locate same upon any lot with the permission of the owner of such lot. Such rights may be exercised by any licensee of the Declarant, but this reservation shall not be considered an obligation of the Declarant to provide or maintain any such utility or service.

ARTICLE IV.
MEMBERSHIP AND VOTING RIGHTS

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

Section 2. Each member shall be entitled to one vote in the affairs of the Association for each lot owned. When more that one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as the owners of such lot among themselves determine, but in no event shall more that one (1) vote be cast with respect to any lot.

ARTICLE V.
MANAGEMENT AND CONTROL

Management of the affairs of the Association shall be the right and responsibility of its Board of Directors in accordance with the Declaration and the By-Laws; **PROVIDED HOWEVER,** that all of the powers and duties of the Board of Directors may be exercised by the Declarant until such time as 75% of the lots have been sold and conveyed by the Declarant to purchasers. Management and control may be transferred to the lot owners at any time but no later that 120 days after the happening of the above event.

ARTICLE VI.
COVENANTS FOR ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation for Assessments. The Declarant, for each lot owned within the properties, hereby covenants and agrees to pay, and each owner of any lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay the Association:

a. Annual assessments or charges; and

b. Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

The annual, monthly and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to the lot owner's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the properties and for the improvement and maintenance of all easements, utilities and any Common Areas. The funds arising from said assessments of charges may be used for any or all of the following purposes: Maintenance and improvement of the common open space, insurance costs, water meter and power meters expenses, taxes on the Common Areas, mowing, sign upkeep expenses, and general upkeep expenses of the Common Areas, and enforcing these restrictions; and, in addition, doing any other things necessary or desirable in the opinion of the Association to keep the property in neat and good order and to provide for the health, welfare and safety of owners and residents of all phases or sections of Maplewood Village Subdivision existing now or hereafter recorded in the Caldwell County Registry.

Section 3. Annual Assessments. Annual assessments shall be in an amount to be fixed from year to year by the Board of Directors which may establish different rates from year to year as it may deem necessary for the purposes set forth in Section 2 above. The amount of the annual assessment against each lot for any given year shall be fixed at least 30 days in advance of the annual assessment period; provided, however, that the first annual assessment shall be set prior to the conveyance of the first lot to an owner and written notice to the owners to be subjected thereto shall be delivered to the owners at or prior to the closing of their lots. Written notice of each annual assessment thereafter shall be sent to every owner subject thereto. The due date shall be established by the Board of Directors and the Board of Directors shall have the authority to require the assessments to be paid in pro rata monthly installments. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

a. From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the annual assessment may be increased each year not more that five per cent (5%) above the assessment for the previous year without a vote of the membership, except as herein provided.

b. From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased each year above five per cent (5%) by a vote of two-thirds (2/3) of the members who are voting in person or by proxy at a meeting duly called for this purpose.

c. The Board of Directors may fix the annual assessment at an amount not in excess of the assessment for the previous year plus an increase of five percent (5%) or an amount equal to the consumer price index, whichever is greater.

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

Section 5. Insurance. The Board of Directors on behalf of the Association, as a common expense, shall at all times keep the property of the Association, if any, insured against loss or damage by fire or other hazards and other such risks, including, but not limited to, directors' liability and public liability insurance, upon such terms and for such amounts as may be reasonably necessary from time to time to protect the Properties and Common Area, which insurance shall be payable in case of loss to the Association for all members. The Association shall have the sole authority to deal with the insurer in the settlement of claims. Such insurance shall be obtained without prejudice to the right of each member to insure his personal property for his own benefit at his own expense. In no event shall the insurance coverage obtained by the Association be brought into contribution with insurance purchased by members or their mortgagees.

Section 6. Insurance Assessments. All insurance policy premiums on the Common Area for the benefit of the Association purchased by the Board of Directors or its designee and any deductibles payable by the Association upon loss shall be a common expense and shall be paid from the annual assessment of the homeowners. If at any time the amount of the premiums or the deductibles exceed the balance in the Homeowners' Association account, the Association shall levy against the owners equally as an additional annual assessment an amount sufficient to pay the cost of such insurance premiums and deductibles.

Section 7. Notice and Quorum for any action authorized under Sections 3, 4 and 5. Written notice of any meeting called for the purpose of taking any action authorized under

Sections 3 and 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 8. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 9. Commencement of Assessments. Annual and Special Assessments for each lot shall commence upon the date of the acceptance by an owner of a deed for said lot from Declarant, with the following two exceptions: (1) If a lot is being conveyed to a licensed general contractor for the purposed of building a dwelling on the lot, then assessments for that lot shall not commence until either the lot with the dwelling has been conveyed to a third party or after the passage of one (1) year from the date the lot was conveyed to the general contractor, whichever occurs first; and (2) There shall be no assessments on lots owned by the Declarant.

Section 10. Effect of Nonpayment of Assessments and Remedies of the Association. Any assessment not paid within fifteen (15) days after the due date shall bear interest from the due date at the highest rate allowable by law on the date the assessment became due. The Association may bring an action at law against the owner personally obligated to pay the same, and/or foreclose the lien against the property and may pursue any other legal or equitable remedy available and costs and reasonable attorney's fees of any such action shall be added to the assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or by abandoning his Lot.

Section 11. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 12. Exempt Property. All properties dedicated to, and accepted by, a local public authority and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

ARTICLE VII.
ARCHITECTURAL CONTROL

Section 1. Developer's Rights. All duties and responsibilities conferred upon the Architectural Control Committee by this Declaration or the By-Laws of the Association shall be exercised and performed by the Declarant or its designee, so long as Declarant shall own any lot in the Properties or any additions annexed thereto by Supplemental Declaration of Amendment to this Declaration.

Section 2. Building and Site Improvements. No dwelling, wall or other structure shall be commenced, erected, or maintained upon any lot in the Properties, nor shall any exterior addition to or change in or alteration therein (including painting or repainting of exterior surfaces) be made until the plans and specifications showing the nature, kind, shape, heights, materials, colors, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Declarant, or by its designee, or after the sale of all lots by Declarant, by the Board of Directors of the Association, or by an architectural control committee composed of three (3) or more representatives appointed by the Board. In the event the Declarant, or its designee, or if applicable, the Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Refusal of approval of any such plans, location or specification may be based upon any ground, including purely aesthetic and environmental considerations, that in the sole and uncontrolled discretion of the Declarant or Architectural Control Committee shall be deemed sufficient. One copy of all plans and related data shall be furnished to the Declarant or Architectural Control Committee, as the case may be, for its records. Neither the Declarant nor the Architectural Control Committee shall be responsible for any structural or other defects in plans or specifications submitted to it or any structure erected according to such plans and specifications.

Section 3. Approval of Plans.

a. No house plans will be approved unless the proposed house shall have a minimum of 1,400 square feet of enclosed dwelling area. The term "enclosed dwelling area" as used in the minimum requirement shall be the total enclosed area within a dwelling; provided, however, that such term does not include garages, terraces, decks, open porches, and like areas; provided, further, that shed-type porches, even though attached to the house are specifically excluded from the definition of the aforesaid term "enclosed dwelling area".

b. Siding for the dwelling shall be one of the following: brick, stone, cedar siding, artificial cedar siding and James Hardy board. Vinyl trim and vinyl windows are acceptable. This restriction reflects the current products the Declarant is seeking to be used; however, other siding products may be submitted to the Declarant or the Architectural Control

Committee for consideration.

c. The main body of the roof on each dwelling shall have a pitch not lower than 5/12.

d. No dwelling shall be constructed closer than fifteen (15) feet from the front, twenty-five (25) feet from rear lot lines and eight (8) feet from the side lot lines.

e. The exterior of all houses and other structures must be completed within eight (8) months after the construction of same shall have commenced, except where such completion is impossible or would result in great hardship to the owner or builder, due to strikes, fires, national emergency or natural calamities.

f. No structure, except as hereinafter provided, shall be erected, altered, placed or permitted to remain on any lot except one single family dwelling not to exceed two (2) stories in height (unless the Declarant or Architectural Control Committee, as the case may be, approves in writing a structure of more that two (2) stories). A basement may be constructed as part of any dwelling, but a basement is not to be considered a story as it relates to this restriction.

g. No accessory buildings may be placed on any lot unless approved in writing by the Declarant or the Architectural Control Committee. Accessory buildings shall be constructed from the same materials as listed in Article VII, Section 3(b) of the Declaration of Covenants and Restrictions recorded at Book 1659, Page 903, Caldwell County Registry. All such accessory buildings shall be located in the rear of each lot and shall not be larger than 12' X 12'.

h. All wood piles are to be no longer than one face cord (4'x 8'x2') and must be stacked in an orderly and neat manner. No outside clothes lines shall be allowed. All mail and newspaper boxes shall be uniform in design. No fences shall at any time be placed or permitted to remain on any lot without approval of the Declarant or Architectural Control Committee.

i. Parking for residents shall be in their respective driveways and in such a manner that sidewalks shall not be blocked.

j. No trees in excess of eight (8) inches in diameter shall be cut on any lot without the prior approval of the Declarant or the Architectural Control Committee.

Section 4. Maintenance by Association. In the event that a need for maintenance, repair or replacement (other that such being caused by fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, aircraft, vehicles, and smoke, as the foregoing are defined and explained in North Carolina Standard Fire and Extended Coverage Insurance Policies) is caused through the willful, or negligent act of the owner, his family, guests or invitees, the cost of such maintenance, replacement, or repair, shall be added to and become a part of the assessment to which such lot is subject. Notwithstanding the foregoing, the Association shall have the right to recover through legal action the cost of such maintenance, replacement or repair, including interest, court costs and a reasonable attorney's fee, from those persons legally responsible for causing damage to the property of the Association. This paragraph shall also cover the following situation: Lot owners are responsible for disconnecting hoses from outside faucets to prevent freezing and further agree to bear the cost of repairs and replacement if he or she should neglect to do so.

The Association shall maintain all Common Areas, including plantings and shrubbery, and sidewalks or walkways located thereon and shall pay all costs of operation thereof including premiums associated with general liability insurance (in a minimum coverage amount of $1,000,000.00) insuring the Association from liability arising from ownership and operation thereof.

ARTICLE VIII.
USE RESTRICTIONS

Section 1. Land Use and Building Type. Except as provided in Section 13 below, no lot in Maplewood Village Subdivision, Phase II, or any additional future phase of Maplewood Village Subdivision shall be used for any purposes except residential purposes or residential home offices. A residential home office shall be permitted so long as (1) the business activity of said home office does not result in the visitation to the neighborhood of retail/commercial traffic in excess of the normal residential traffic patterns, (2) the use of the property is primarily residential rather than business/commercial and (3) the business is approved in writing by the Association. All lots (herein referred to as "single family lots") shall be restricted for construction of single family dwellings only. Any building erected, altered, placed or permitted to remain on any lot shall be subject to provisions of Article VII of this Declaration relating to architectural control.

Section 2. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood, such as loud music, barking dogs or loud mufflers. No one shall maintain any plants or animals, nor device or thing of any sort whose normal activities or existence or other nature may diminish or destroy the enjoyment of other property in the neighborhood by the owners thereof. It shall be the responsibility of each lot owner to prevent the development of any unclean, unsightly, or unkept condition of buildings or grounds on such lot which would tend substantially to decrease the beauty of the neighborhood as a whole or the specific area.

Section 4. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence, either temporarily or permanently, without the written consent of the Association or its designee.

Section 5. Recreational Vehicles. No boat, motor boat, camper, trailer, motor or mobile homes, or similar type vehicle, shall be permitted to remain on any lot or any street in the properties at any time without the written consent of the Association or its designee unless such vehicle can be stored inside the dwelling.

Section 6. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes and provided further, that they are kept within the residence. If outside, all pets must at all times be properly leashed or must be constrained with underground fencing of the rear yard. Leashes shall be no longer than five (5) feet or shall be of the retractable style. Said pets shall be limited to no more than two (2) per household. No exterior runs, chains or kennels shall be placed on the exterior properties. Doghouses shall be placed in the rear yard only and shall be maintained in a clean and sanitary manner.

Section 7. Television Satellite Dishes and Outside Antennas. No television satellite signal receiving dishes more than 18" in diameter shall be permitted on any lot. Acceptable dishes shall be located on the side or rear of the lot. The side of the lot is defined as the portion of the house which is closest to the front property line and the portion which is closest to the rear property line. No outside radio and/or telephone antennas shall be erected on any lot or dwelling.

Section 8. Exterior Lights. All light bulbs and other lights installed in any fixture located on the exterior of any building or any lot shall be clear, white or non-frost lights or yellow bug bulbs.

Section 9. Junk Vehicles and Tractor Trailers. No inoperable vehicle or vehicle without current registration and insurance, and no tractor-trailers will be permitted on the premises. The Association shall have the right to have all such vehicles towed away at the owner's expense.

Section 10. Vehicle Repairs. No repairs to any vehicle may be made in driveways, but only in garages, and those repair activities shall not be visible from the street. No inoperable or immobile vehicle, whether or not containing current registration, shall be permitted to remain in any driveway or on any street.

Section 11. Skating and skateboards. The use of roller skates, inline skates and skateboards is prohibited on the streets and sidewalks of the subdivision. The use of bicycles is permitted.

Section 12. Water and Sewer. All lot owners shall be required to use the water and sewer facilities supplied by the municipality or other entity servicing the Properties for all household uses. All monthly charges for water and sewer service will be the responsibility of each individual lot owner.

Section 13. Signs. No signs (including "For Rent", "For Sale", and other similar signs) or property identification signs shall be erected or maintained on any lot except with the express written permission of the Declarant, its successors or assigns, except as may be required by legal proceedings; provided, however, that the Declarant or its agents may place "For Sale" or "For Rent" signs on any lots for sale and in suitable places on the Common Area approved by the Association; provided, however, that during the development of the Property and the initial marketing of lots, the Declarant may maintain a sales office and may erect and display such signs as the Declarant deems appropriate as aids to such development and marketing, provided that such signs do not violate any applicable laws. Such permitted signs shall be placed in the approximate center of a lot and six feet from the road curb. No sign shall be nailed to trees.

Section 14. Alterations. No person shall undertake, cause, or allow any alteration of construction in or upon any portion of the Common Area except at the direction or with the express written consent of the Association.

Section 15. Subdividing. No lot shall be subdivided, or its boundary lines changed, except with the prior written consent of the Declarant during the period of Declarant control of the Association and thereafter of the Board. However, the Declarant hereby expressly reserves unto itself, its successors and assigns, the right to replat any two (2) or more lots shown on the plat of any subdivision of the Property in order to create one or more modified lots; to further subdivide tracts shown on any such subdivision plat into two or more lots; to recombine one or more tracts or lots or a tract and lots to create a larger tract; to eliminate from this Declaration lots that are not otherwise buildable or are needed for access to any area of the Property or are needed for use as private roads or access areas, and to take such steps as are reasonably necessary to make such replatted lots or tracts suitable and fit as a building site or access area or roadway, said steps to include, but not to be limited to, the relocation of easements, walkways, and rights of way to conform to the new boundaries of the said replatted lots.

ARTICLE IX.
RIGHTS OF INSTITUTIONAL LENDERS

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

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

April 15 of each calendar year.

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

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

d. To inspect the books and records of the Association and the Declaration, By-Laws and any Rules and Regulations during normal business hours, and to obtain copies thereof.

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

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

Section 2. Whenever any Institutional Lender, guarantor or insurer desires the benefits of the provisions of this section requiring notice to be given or to be furnished a financial statement, such lender shall serve written notice of such fact upon the Association by registered mail or certified mail addressed to the Association and sent to its address stated herein, or to the address of the property, identifying the lot upon which any such Institutional Lender or Institutional Lenders hold any mortgage or mortgages, or identifying any lot owned by them, or any of them, together with sufficient pertinent facts to identify any mortgage or mortgages which may be held by it or them, and which notice shall designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE X.
GENERAL PROVISIONS

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

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

Section 4. Lots Subject to Declaration. All present and future owners, tenants and occupants of lots and their guests or invitees, shall be subject to, and shall comply with the provisions of the Declaration, and any amendments. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any lot shall constitute an agreement that the provisions of the Declaration are accepted and ratified by such owner, tenant or occupant. The covenants and restrictions of this Declaration shall inure to the benefit of and be enforceable by the Association, or the owner of any Lot, their respective legal representatives, heirs, successors and assigns, and shall run with and bind the land and shall bind any person having at any time any interest or estate in any lot, as though such provisions were made a part of each and every deed of conveyance or lease, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.

Section 5. Amendment of Declaration. Except as provided in Article XI, Section 2 above, Section 6 below, and elsewhere herein, the covenants and restrictions of this Declaration may be amended only by an instrument duly recorded in the Office of the Register of Deeds of Caldwell County executed by the duly authorized officers of the Association upon the vote of not less than two-thirds (2/3) of the Lot Owners; provided that no amendment shall alter any obligation to pay ad valorem taxes or assessments for public improvements, as herein provided, or affect any lien for the payment thereof established herein. In no event may the Declaration be amended so as to deprive the Declarant of any rights herein granted or reserved unto Declarant.

Section 6. Amendments by the Declarant. The following amendments may be affected by the Declarant, or the Board, as the case may be, without consent of the members:

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

b. Declarant may amend this Declaration upon annexation of additional lands as specified in this Declaration.

c. The Board may amend this Declaration to correct any obvious error or inconsistency in drafting, typing or reproduction.

d. The Declarant, so long as it shall retain control of the Association, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any lots and improvements thereon for mortgage or improvement loans made, insured or guaranteed by a governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by, or under the substantial control of the United States Government or the State of North Carolina, regarding purchase or sale of such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of property, including, without limitation, ecological controls, construction standards, aesthetics, and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration, the United States Department of Housing and Urban Development, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Corporation, or the Federal National Mortgage Association requesting or suggesting an amendment necessary to comply with the requirements of such corporation or agency shall be sufficient evidence of the approval of such corporation or agency, provided that the changes made substantially conform to such request or suggestion.

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

f. The Declarant for so long as it has control of the Board may amend this Declaration to include any platting change of the Property as permitted herein.

IN WITNESS WHEREOF, D & J Developers of Lenoir, Inc., the Declarant herein, has caused this Declaration to be executed in its corporate name and its corporate seal affixed by its duly authorized officers, this the 14 day of JUNE, 2011.

DECLARANT: D & J DEVELOPERS OF LENOIR, INC.

By: Julian D. Baker
Julian D. Baker
President

STATE OF NORTH CAROLINA
COUNTY OF CALDWELL

I, BRENDA T. KISER, a Notary Public of the State and County aforesaid, certify that Julian D. Baker personally came before me this day and acknowledged that he is President of D & J Developers of Lenoir, Inc., a North Carolina corporation, and that he, as President, being authorized to do so, executed the foregoing on behalf of the corporation. Witness my hand and seal, this the 14 day of June, 2011.

My Commission Expires: 10-16-2015

Notary Public

BRENDA T. KISER
NOTARY
PUBLIC
CALDWELL COUNTY, N.C.