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~~Deletions are struck through~~  
Additions are underlined

Prepared by and return to:  
John A. Northen, P.O. Box 207, Chapel Hill, NC 27514.

~~Northen, Little and Bagwell~~  
~~Attorneys at Law~~  
~~131 W. Franklin St.~~  
~~Chapel Hill, NC 27514~~

~~THIS IS A VERBATUM TRANSCRIPT OF THE ORIGINAL COVENANTS GOVERNING THE CORNWALLIS HILLS SUBDIVISION A COPY OF THE ORIGINAL COVENANTS IS REGISTERED AND ON FILE AT THE ORANGE COUNTY COURTHOUSE.~~

**Amendment to Declaration of Covenants, Conditions and Restrictions for Cornwallis Hills**

This declaration made this 1st day of April, ~~1982,~~ <current date> by ~~Old 86 Limited Partnership~~ Cornwallis Hills Property Owners Association, Inc., 212 E Rosemary Street, Chapel Hill, North Carolina 27514, hereinafter referred to as "Declarant" CHPOA.

WITNESSETH:

WHEREAS, ~~Declarant~~ CHPOA is the ~~owner~~ comprised of owners of certain ~~property properties~~ in Hillsborough Township, County of Orange, State of North Carolina, described as Cornwallis Hills, ~~Section I,~~ which ~~property is~~ properties are more particularly described in Exhibit A attached hereto and by reference made a part hereof, and which said ~~property is~~ properties are shown and delineated, and are on file at the ~~by survey prepared by Philip Post & Associates, recorded in Plat Book 34, at Page 85,~~ Orange County Registry.

WHEREAS, this Declaration replaces all previous Declarations made at any time for any phase or part in said subdivision known as Cornwallis Hills; and

WHEREAS, this Amended Declaration is intended to supplant those Declarations, Covenants and Restrictions recorded in Book 387, Page 472 and as amended in Book 385, Page 434; Book 387, Page 472; Book 601, Page 85; Book 752, Page 287; Book 1084, Page 586; Book 1211, Page 383; Book 1549/574; Book 1742/583; Book 1742, Page 593; and Book 1788, Page 174; and

WHEREAS, it is in the best interest of ~~Declarant,~~ CHPOA, as well as to the benefit, interest and advantage of each and every person or other entity owning or hereafter acquiring any of the within described ~~property properties~~ that certain covenants, conditions, easements, assessments, liens and restrictions governing and regulating the use and occupancy of the same be established, fixed and set forth and declared to be covenants running with the land; and

WHEREAS, ~~Declarant~~ CHPOA desires to provide for the preservation of the values and amenities and the desirability and attractiveness of the real property in said subdivision and for

the continued maintenance and operation of such recreational and common areas as may be provided; and

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

## Article I Definitions

Section 1. ~~"Association"~~ "CHPOA" shall mean and refer to Cornwallis Hills Property Owners' Association, Inc., a non-profit corporation organized and existing under the laws of the State of North Carolina and applicable portions of NCGS §47F, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the property described ~~on~~ in Exhibit A hereof, ~~including contract sellers,~~ and shall further include the record owner of a fee simple title to any lot which is shown upon any subdivision map for any property hereafter subjected to the terms, provisions and conditions of this Declaration in accordance with the provisions therefore hereinafter provided.

Section 3. "Properties" shall mean and refer to that certain real property described ~~to~~ in Exhibit A- and such additions thereto as may hereafter be brought within the jurisdiction of ~~the Association~~ CHPOA.

Section 4. "Common Area" shall mean all real property owned by ~~the Association~~ CHPOA for the common use and enjoyment of the Owners subject to the Declaration and the Association Bylaws. The Common Areas to be owned by ~~the Association~~ at the time of the conveyance of the first lot CHPOA is more particularly described in Exhibit A attached hereto and by reference made a part hereof.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Areas. It is understood that within the Properties there may only be ~~both single family attached Lots, single family cluster Lots, and single family detached Lots.~~ A single family attached detached lot is defined to be a Lot which contains or is designed so as to contain a single family dwelling, ~~dwelling connected on either or both sides by means of a common dividing structural or load bearing wall of at least ten (10) linear feet to another single family dwelling,~~ each dwelling unit on its own individual lot of not less than ~~4,000~~ 10,000 square feet. ~~A single family dwelling lot is defined to be a Lot which contains or is designed so as to contain a single family dwelling which may or may not be connected on one side by means of a common dividing structural or load bearing wall of at least ten (10) linear feet to another single family dwelling, each dwelling unit on its own individual lot of not less than 4,000 square feet. All single family detached lots shall contain at least 10,000 square feet.~~

~~Section 6. "Declarant" shall mean and refer to Old 86 Limited Partnership, its successors and assigns if such successors or assigns should acquire more than (1) undeveloped Lot from the Declarant for the purpose of development.~~

Section 6. "Board of Directors" shall mean and refer to the governing body of CHPOA.

## **Article II Properties Subject To This Declaration**

Section 1. Properties Subject. The property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Hillsborough Township, County of Orange, North Carolina, and is more particularly described in Exhibit A attached hereto and by reference made a part hereof. Only the above-described property is hereby made subject to this Declaration, provided, however, Declarant CHPOA reserves the right to subject other real property in Cornwallis Hills to the restrictions set forth herein as provided below.

Section 2. Restriction of Other Property. Without further assent or permit, Declarant CHPOA hereby reserves the right exercisable from time to time, to subject other real property to the restrictions set forth herein in order to extend the scheme of this Declaration to the other property to be developed as part of Cornwallis Hills and thereby bring such additional property within the jurisdiction of ~~the Association~~ CHPOA provided that the annexation of such area(s) is in accord with the Declarant's general plan of development of Cornwallis Hills CHPOA.

Section 3. Supplementary Declarations. Each addition herein authorized shall be made by ~~filling~~ filing of record one (1) or more Supplementary Declarations in respect to the property to be then made subject to this Declaration and thereby extend the jurisdiction of ~~the Association~~ CHPOA to such property and subject such addition to the assessments herein provided for a just and proportionate share of ~~the Association's~~ CHPOA expenses. Each supplementary Declaration may contain such ~~complimentary~~ complementary additions and modifications of the covenants, conditions and restrictions contained herein as may be necessary to reflect the different character of the added properties, provided, however, any such Supplemental Declaration or any such other Declaration shall not revoke or otherwise amend the provisions of this Declaration as pertained to the properties subject thereto.

## **Article III Property Rights**

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Areas 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~~ CHPOA to suspend the voting rights and right to use of the recreational facilities by an owner for any period during which any assessment against his Lot remains unpaid; and for a period ~~not to exceed sixty (60) days~~ to be determined by the CHPOA Board of Directors for any infraction of its published rules and regulations;

- (b) the right of ~~the Association~~ CHPOA to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members in accordance with subsection (d) below. ~~No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded;~~
- (c) the right of ~~the Association~~, CHPOA with the assent of ~~two-thirds (2/3)~~ of each class of its members in accordance with subsection (d) below, to mortgage, pledge, deed in trust or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.
- (d) the rights of CHPOA and its memberships outlined in Article III, Section 1, subsections (a) and (b) above can not be exercised unless and until all of the following conditions are met: (i) the matter is put forth to the membership for a vote in accordance with Article IV, Section, and (ii) two-thirds (2/3) of the membership votes in favor of exercising one or more of the rights listed, and (iii) the vote is documented in the form of an instrument signed by the members voting in favor, and (iv) the signed instrument has been recorded.

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

#### **Article IV Membership and Voting Rights**

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

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

~~Class A. Class A Mmembers shall be all Owners with the exception of the Declarant and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.~~

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

- ~~(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or~~
- ~~(b) on December 31, 1990.~~

#### **Article V Covenant for Maintenance Assessments**

Section 1. Creation of the Lien and Personal Obligations of Assessments. ~~The Declarant for each Lot owned within the Properties, hereby covenants, and~~ Eeach 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 with and agree to pay to the Association CHPOA; (1) annual assessments or charges, and (2) special assessments of ~~capital improvements~~, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and ~~reasonable attorney's fees~~, shall also be the personal obligation of the Owner of each Lot, and such personal obligation, whether for any delinquent assessments and/or all future assessment, shall remain the personal obligation of such Owner ~~and shall not pass~~ and may pass to any successor in title ~~unless expressly assumed by him~~ in accordance with the provisions of ARTICLE VIII of this Declaration.

Section 2. Purpose of Assessments. The assessments levied by the Association CHPOA shall be used to provide funds for such purposes as the Association CHPOA Board of Directors may determine ~~or for the benefit of its members~~, which purposes may include, but are not limited to, maintenance, landscaping and beautification of the Common Areas. Funds may also be used to provide other services for the Association CHPOA members to promote the health, safety and welfare of the residents of Cornwallis Hills, ~~Section 1~~, and in particular for the acquisition, improvement and maintenance of properties, services and facilities related to the use and enjoyment of the Common Areas, the procurement and maintenance of insurance on Association CHPOA-owned property, the employment procurement of services of attorneys, accountants and other professionals to represent the Association CHPOA when necessary or useful, the employment or procurement of services of security personnel and the provision of any service which is not readily available from any governmental authority.

Section 3. Maximum Annual Assessment. ~~Until January 1 of the year immediately following the conveyance of the first Lot to an Owner,~~ The Maximum Annual Assessments shall be ~~One Hundred Fifty Dollars (\$150.00)~~ One Hundred, Sixty Five Dollars and Thirty Eight Cents (\$165.38) per Lot beginning January 1 in the year following the recordation of this Amended Declaration and:

- (a) ~~From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner,~~ the maximum annual assessment ~~will~~ may be increased each year by not more than five percent (5%) above the ~~M~~maximum Annual Assessment for the previous year ~~without a vote of the membership.~~ The Maximum Annual Assessment is the limit above which the CHPOA Board may not set the annual assessment.
- (b) ~~From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner~~ following the recordation of this Amended Declaration, the Maximum Annual Assessment may be increased above five percent (5%) by a vote of two-thirds (2/3) of ~~each class of~~ members who are voting in person or by proxy, at a meeting of the CHPOA membership duly called for this purpose.
- (c) The Board of Directors may fix the annual assessment at an amount not in excess of the Maximum Annual Assessment.

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

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 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 percent (60%) of all the votes of each class of the eligible voting membership shall constitute a quorum. ~~If~~ the required quorum is not present, ~~met another~~ additional meetings may be called subject to the same notice requirement, and the required quorum at any or all the subsequent meetings shall be one half of the required quorum at of the preceding initial meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. At no point shall the quorum be defined as less than thirty percent (30%) of the eligible voting membership.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed for each phase of the development at a uniform rate for all ~~single family attached Lots, a uniform rate for all single family cluster Lots, and a uniform rate for all single family detached Lots.~~ The said assessments may be collected on a regular monthly basis as determined by the Board of Directors. ~~Each phase of the development shall be separately assessed for the common area expenses or capital improvements located within and serving its phase, together with its proportional share of the assessments for common area expenses or capital improvements serving all property subject to this Declaration, as determined by the Board of Directors.~~

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

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association CHPOA. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at a rate not to exceed the then maximum legal rate and to the extent

permitted by law. ~~The Association~~ CHPOA its agent or representative, may bring an action at law against the owner personally obligated to pay the same or foreclose the lien against the property and fees, late charges, fines, court costs, and interest, costs and reasonable attorney's fees of such action of foreclosure incurred in bringing such actions, shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas or abandonment of his Lot.

Section 9. Subordination to the Lien of Mortgages. The lien of the assessments provided for herein shall be subordinate to ~~the any~~ claim of lien of ~~any first mortgage filed in Orange County prior to this lien being filed~~. Sale or transfer of any Lot shall not affect the assessment lien. ~~However, the sale or transfer of any Lot pursuant to any first mortgage foreclosure under a power of sale 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 10. Exempt Property. The following shall be exempt from the assessments created herein:

- (a) All property dedicated to, and accepted by, a local public authority;
- (b) All property owned by CHPOA;
- ~~(c) and All properties owned by a charitable or non-profit organization exempt from taxation by the laws of the State of North Carolina;~~
- (c) Lot 96, Phase 7 (tax map number 4.53..96, commonly considered to be a Primitive Cemetery).

~~shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.~~

## **Article VI Architectural Control, Maintenance and Use Restrictions**

Section 1. Approval of Plans and Architectural Committee. No building, fence, wall or other external structure or improvement of any nature whatsoever shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing, per the current architectural guidelines, as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of ~~the Association~~ CHPOA, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The said Board, or its designated committee, shall have the right to charge a reasonable fee for receiving each application for approval of plans and specifications in an amount not to exceed Twenty-Five Dollars (\$25.00). The said Board, or its designated committee, shall have the right to enter upon said lot during the application and construction phases

for the purpose of rendering a decision regarding the application and/or to ensure that the construction is in conformity with the approved plans. Such entry shall not be considered a trespass. Upon giving approval to such plans and specifications, construction shall be started and ~~prosecuted to completion~~ completed promptly and in strict conformity with such plans as have been previously approved. ~~The said Association~~ CHPOA, or its designated architectural committee, shall be entitled to stop any construction which is in violation of these restrictions.

Section 2. Land Use and Building Type. The primary use of each Lot shall be ~~No Lot shall be used except for residential purposes only.~~ Home-based businesses must comply with Article VI, Section 3 and must be approved by the CHPOA Board or its designated committee, prior to operating within Cornwallis Hills. No building shall be erected, altered, placed or permitted to remain on any Lot other than one (1) single family dwelling plus other associated outbuilding(s) as approved by the Architectural Committee referenced in Article VI Section 1. ~~not to exceed two stories in height.~~

Section 3. Nuisance. No noxious or offensive activity shall be conducted upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. This shall include activities which create disturbing noise levels, odors, and/or traffic, taking into consideration the time of day or night. No trash, rubbish, stored materials, wrecked or inoperable vehicles or similar unsightly items shall be allowed to remain on any Lot outside an enclosed structure; provided, the foregoing shall not be construed to prohibit temporary deposits of trash, rubbish and other such debris for pick up by governmental and other similar garbage and trash removal service units. In the event any Owner fails or refuses to keep his Lot free from unsightly objects, weeds or underbrush in a manner satisfactory to a majority of the Board of Directors of ~~the Association~~ CHPOA, ~~the Association~~ CHPOA may, through its agent or representative, five (5) days after posting a notice on such Lot or mailing a notice to the Owner thereof at his property requesting the Owner to comply with the requirements of this Section, enter and remove any and all unsightly objects, debris or other vegetation at Owner's expense ~~and~~. Owner, by acquiring any Lot subject to this Declaration, agrees to pay such costs incurred by ~~the Association~~ CHPOA in the enforcement of this Section promptly upon demand. No such entry as provided herein shall be deemed a trespass.

Section 4. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that dogs, cats or other household pets may be kept or maintained provided they are not kept or maintained for commercial purposes, and provided that such pets shall at all times be under the control of ~~it's~~ the owner.

Section 5. Outside Antennas. The maximum satellite dish size shall be one (1) meter nominal diameter. Satellite dishes shall be placed to minimize their visibility from adjoining street(s) and homes. No ~~outside other type of external radio or television~~ antenna, other than television antennas regulated by the FCC, shall be erected on any Lot or dwelling unit within the Properties unless and until permission for the same has been granted by the Board of Directors of ~~the Association~~ CHPOA or its architectural control committee.

Section 6. Signs. No signs of any kind shall be displayed to the public view on any Lot except:  
(a) one sign of not more than five (5) square feet advertising the property for sale or rent  
(b) signs required by federal, state or municipal government (e.g., beware of dog, quarantine)  
(c) decorative signs as described by the CHPOA Architectural Guidelines,  
(d) security company signs limited to no more than two (2) signs of one square foot each per lot.

Other informational signs, including but not limited to warning signs, may not be erected unless and until permission for the same has been granted by the Board of Directors of CHPOA. Display of political signs is to comply with Town ordinance. ~~or signs used by the Declarant or its agent to advertise the property during the construction and sales period.~~

Section 7. Use of Common Areas. No planting or gardening shall be done upon any Common Areas unless authorized or permitted by the Board of Directors of the Association CHPOA. No signs other than those approved by the Board of Directors shall be placed on common areas. No unauthorized motorized vehicles will be allowed on the Common Areas. Damage caused by any vehicles or vandalism to real or personal property may be subject to fines, repair costs and civil penalties. Rules and regulations of the use and times of the common area park will be posted. Violation of these rules may result in fines and/or civil penalties.

Section 8. Maintenance. All Lots, together with the exterior or all improvements thereon, shall be maintained in a neat, attractive, and orderly condition by their respective Owners, including, but not limited to, painting, repairing, replacing and caring for roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks or other exterior improvements. In the event an Owner shall fail to maintain his respective Lot and the improvements thereon in a manner satisfactory to the Board of Directors of the Association CHPOA, the Association CHPOA may, through its agent or representative, after approval by two-thirds (2/3) vote of the Board, have the right to levy fine(s) and/or enter upon said Lot and repair, maintain and restore the Lot and the exterior of the buildings and other improvements thereon. The cost of such fines and/or exterior maintenance shall be added to and become part of the assessment to which such Lot is subject. and The Owner shall be personally liable to the Association CHPOA for the fine and/or cost of such maintenance. The fines and/or cost, until paid, shall be a permanent charge and lien upon such Lot, enforceable to the same extent and collectible as provided for in ARTICLE V of this Declaration. Any Such entry as provided herein shall not be a trespass, nor shall the Association CHPOA be liable for doing anything reasonably necessary or appropriate in connection with carrying out these provisions, provided such entry shall be at reasonable hours on any day except Saturday or Sunday so as not to interfere with the right of quiet enjoyment of the individual Lot Owner.

Section 9. Preservation of Wooded Area. No healthy trees situated within thirty (30) feet of the frontline of any lot and in excess of eight (8) inches in diameter shall be removed or destroyed without approval of the Board of Directors or its designated committee; provided however, that this restriction shall not apply to the removal of diseased, dying or dead trees; and provided further, that The Owner of each Lot shall be

responsible for the prompt removal of any diseased or dead trees, and The stumps of any such trees removed shall also be removed or cut to ground level.

~~Section 10. Road Maintenance. Declarant shall construct the roads located within each section of Cornwallis Hills as shown on the recorded plats thereof to such standards as may be required for acceptance inclusion by the North Carolina Department of transportation of such roads into the state highway system for maintenance and repair purposes; provided, however, that Declarant shall be responsible for maintenance and repair of any portions of said roads until such time as the state or other appropriate agency assumes responsibility for the maintenance thereof.~~  
Holiday-Specific Decorations. Exterior holiday-specific decorations must comply with standards set by the CHPOA Architectural Guidelines.

Section 11. Vehicles and Trailers. No motorized vehicles or trailers may be parked on any Lot subject to these declarations, other than those parked on a parking pad or driveway whose plans and application have been approved by the CHPOA Architectural Committee or the CHPOA Board of Directors as described under Article VI, Section 1. Under no circumstances may trailers be parked in any area of the property which is between the street and a straight line extending across the street-facing side of the house erected on said Lot unless a variance to this restriction is requested by the property owner and approved by the CHPOA Board of Directors.

#### **Article ~~VI~~ VII Easements**

Easements for installation and maintenance of utilities and drainage facilities are reserved in favor of CHPOA Declarant, ~~its successors and assigns,~~ and the Town of Hillsborough, as shown on the plat recorded ~~or to be recorded.~~ Within these easements no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. ~~All attachments to the exterior walls of attached Lots which are a part thereof, but which protrude beyond said boundaries and which were constructed in conformity with the plans and specifications, shall be deemed to be included within said boundaries and there is hereby reserved an easement to permit the construction of and continued existence of any such protruding attachment. Notwithstanding the foregoing,~~ ~~†~~ There is hereby reserved without further assent or permit into the extent allowed by law, a general easement to all firemen, ambulance personnel, policemen and those employed or contracted security guards employed by CHPOA Declarant and all similar persons to enter upon the properties or any portion thereof which is now or hereafter made subject to this Declaration in the performance of their respective duties.

CHPOA Declarant reserves the right to relocate easements for installation and maintenance of utilities and drainage facilities by so indicating ~~indication~~ on subsequent plats the new location of such easement over and across portions of said property owned by ~~Declarant~~ CHPOA, and to extinguish the easements reserved across the old location by recordation of a declaration of withdrawal thereof in the Orange County Registry; provided however, that CHPOA Declarant may not withdraw, terminate, or relocate any easements in such a manner as would impair the vested rights of any lot owner. ~~Declarant~~ CHPOA also reserves an easement across a strip of land thirty (30) feet in width running along and on the

north side of the southern boundary and the west side of the eastern boundary of Lot 1, section I, Cornwallis Hills for landscaping and the installation and maintenance of signs identifying the development to the general public.

## **Article VII Party Walls**

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

~~Section 2. Sharing of Repair and Maintenance. The conveyance of each Lot separated from any Lot by a party wall shall include an undivided interest and so much of the width of the entire length of said party wall separating such Lot from the adjoining Lot as is located on said Lot together with a grant of easement of lateral support for such party of said wall as is situated on the adjoining Lot, and there shall be reserved in the conveyance of each of said Lots a like easement of lateral support. The cost of reasonable repair and maintenance of the party wall shall be shared by the Owners who make use of the wall in proportion to such use. Whenever a party wall or any part thereof shall be rebuilt, it shall be constructed on the same site and shall be of the same size and of the same of similar materials of like quality as the party wall prior to such repair or reconstruction~~

~~Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the adjoining Owner thereafter makes use of said wall, such Owner shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owner to call for a larger contribution from the other Owner under any rule of law regarding liability or negligent or willful acts or omissions as respects party walls.~~

~~Section 4. Weather Proofing. Notwithstanding any other provisions of this Article an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.~~

~~Section 5. Right of Contribution Runs With the Land. The party walls constructed in accordance with this Article shall be and shall remain party walls for the perpetual use and benefit of the Owners of the Lots burdened by such party walls and said Lots shall be conveyed subject to the covenants, restrictions, reservations and servitudes set forth herein. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.~~

~~Section 6. Arbitration. In the event of any dispute arising concerning any party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such~~

~~arbitrators shall choose one additional arbitrator, and the decision of a majority of all the arbitrators shall be final and conclusive of the questions involved.~~

## **Article VIII Binding Nature of Declaration**

The covenants, conditions and restrictions contained in this Declaration, both negative and affirmative, and including but not limited to the covenants to pay dues and assessments, shall be construed to be covenants running with the land covered by this Declaration. Each lot and the Owner of each Lot covered hereby, or any other person or legal entity claiming an interest in any Lot, and his heirs, executors, administrators, successors and assigns, shall be subject to and bound by all of such covenants, conditions and restrictions, regardless of when, in what manner, or from whom any Lot is acquired.

In the event any Owner of a Lot covered by this Declaration sells his Lot, and does not obtain from the purchaser thereof a specific written assumption of the covenants, conditions and restrictions of ~~this~~ these Declaration, which assumption must be filed with ~~the Association CHPOA~~, then such selling Owner shall be liable, jointly and severally, with his purchaser and all other successors in title, for performance thereafter of all such covenants, conditions and restrictions, including, but not limited to, the covenants to pay dues and assessments, until an express assumption is obtained from the Owner of that Lot and is filed with ~~the Association CHPOA~~. CHPOA.

## **Article IX General Provisions**

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

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

Section 3. Duration and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, ~~for a period of twenty (20) years from the date this of recordation of this Amended Declaration of Covenants, Conditions and Restrictions for Cornwallis Hills. was is recorded, after which time they shall be automatically extended for successive periods of ten (10) years.~~ This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy five percent (75%) 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. Any amendment must be properly recorded. No amendment shall be effective unless all of the following conditions are met: (i) the matter is put

forth to the membership for a vote in accordance with Article IV, Section, and (ii) seventy-five percent (75%) of the membership votes in favor of the amendment, and (iii) the vote is documented in the form of an instrument signed by the members voting in favor, and (iv) the signed instrument has been recorded.

Section 4. Headings. Headings are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular paragraphs to which they refer.

IN WITNESS WHEREOF, CHPOA Declarant has caused this Declaration to be duly executed the day and year first above written.

~~OLD 86 LIMITED PARTNERSHIP~~

~~By: MEL RASHKIS & ASSOCIATES, INC.,~~

~~General Partner.~~

~~Melvin R. Rashkis (signed)~~

<current CHPOA Board President name/signature>

Cornwallis Hills Property Owners Association

407 Patriot Place

Hillsborough, North Carolina

Witnessed and notarized <current date> ~~April 8, 1981.~~

## EXHIBIT A

### FOR CORNWALLIS HILLS SUBDIVISION

Being all of the Real Property including those certain lots, parcels, or tracts of land, open space, recreation areas, and road rights of way, together with the improvements thereon lying, situated, and being in Hillsborough Township, Orange County, North Carolina, known and designated as Cornwallis Hills Subdivision and being further described as follows:

**Lot Nos. 1-37**, Open Space, and Easements, **Phase I**, Cornwallis Hills Subdivision as shown on plat and survey recorded in **Plat Book 34 at Page 85**; the merger of Lot No. 33 with the James and Gertrude Rippy Property as shown on plat and survey recorded in Plat Book 45 at Page 86; the revision to the lot lines and easements of Lot No. 33, Phase I, and Lot No. 1, Phase II, Cornwallis Hills Subdivision as shown on the plat and survey of Jack M. Baity, Jr., recorded in Plat Book 55 at Page 58, Plat Book 57 at Page 71, Plat Book 76 at Page 31, and Plat Book 95 at Page 175; and

**Lot Nos. 1-47**, Recreation Areas, and Easements, **Phase II**, Cornwallis Hills Subdivision as shown on plat and survey recorded in **Plat Book 45 at Page 121**; the changes to the Easements on Lot Nos. 1, 4, 5, 11, 28, and 35-39 as shown on plat and survey recorded in Plat Book 51 at Page 124; the corrections to Lot 39 as shown on plat and survey recorded in Plat Book 51 at Page 125; the changes to the Easements on Lot Nos. 30-32 as shown on plat and survey recorded in Plat Book 56 at Page 159; the revision to the lot lines and easements of Lot No. 33, Phase I, and Lot No. 1, Phase II, Cornwallis Hills Subdivision as shown on the plat and survey of Jack M. Baity, Jr., recorded in Plat book 55 at Page 58, Plat Book 57 at Page 71, Plat Book 76 at Page 31, and Plat Book 95 at Page 175; and

**Lot Nos. 48-55, Lot Nos. 107-110, and Easements, Phase IIIA, Cornwallis Hills Subdivision as shown on plat and survey recorded in Plat Book 51 at Page 7; and**

**Lot Nos. 56-69, Lot Nos. 97-100, Lot Nos. 102-106, and Easements, Phase IIIB, Cornwallis Hills Subdivision as shown on plat and survey recorded in Plat Book 51 at Page 8; the changes to the Easements on Lot Nos. 104-105 as shown on plat and survey recorded in Plat Book 70 at Page 176; the recombination of the former Lot No. 101 into Phase V as shown on plat and survey recorded in Plat Book 76 at Pages 140-142; and**

**Lot Nos. 70-72, Lot Nos. 94-96, and Easements, Phase IIIC, Cornwallis Hills Subdivision as shown on plat and survey recorded in Plat Book 60 at Page 154;**

**Lot Nos. 73-93, and Easements, Phase IV, Cornwallis Hills Subdivision as shown on plat and survey recorded in Plat Book 70 at Page 47;**

**Lot Nos. 1-16, Open Spaces, and Easements, Phase V, Cornwallis Hills Subdivision as shown on plat and survey recorded in Plat Book 76 at Page 141;**

**Lot Nos. 17-33, Open Spaces, and Easements, Phase V, Cornwallis Hills Subdivision as shown on plat and survey recorded in Plat Book 76 at Page 142;**

**Lot Nos. 34-61, Open Spaces, and Easements, Phase VI, Cornwallis Hills Subdivision as shown on plat and survey recorded in Plat Book 79 at Page 175;**

**Lot Nos. 62-89, Open Spaces, and Easements, Phase VII, Cornwallis Hills Subdivision as shown on plat and survey recorded in Plat Book 80 at Page 28; and**

**Lot Nos. 111-112, and Easements, Cornwallis Hills Subdivision, as shown on plat and survey recorded in Plat Book 70 at Page 123;**

on file in the Office of the Registrar of Orange County, North Carolina, to which reference is made for a more particular description of the same.

**Exhibit A**

~~Description of Property~~

~~BEING all of Lots 1 through 37 inclusive, together with the open space and road rights of way, Cornwallis Hills, Phase I, according to survey and plat thereof prepared by Philip Post and Associates, recorded in Plat Book 34, at Page 85, Orange County Registry to which plat reference is hereby made for a more particular description.~~