

DEEDS 6 G PG 175

STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG

RECORDED
1990 FEB 15 PM 1:48
R.M.C.
SPARTANBURG, S.C.

DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
APPLICABLE TO
HAWK CREEK - PHASE I

THIS DECLARATION, made on the date hereinafter set forth by
MERIDIA, INC., a South Carolina corporation, hereinafter referred
to as "Declarant."

WITNESSETH:

WHEREAS, Declarant is the owner of all of certain real
property in the County of Spartanburg, State of South Carolina,
which is more particularly described in Exhibit A attached hereto
and incorporated herein by reference.

AND WHEREAS, Declarant is developing the above-described
Property for a single-family residential development to be known
as Hawk Creek and in connection therewith Declarant wishes to
ensure the proper use, development and improvement of such
Property so as to protect the Owners and Occupants of Lots
therein by restricting the use of all Lots for purposes con-
sistent with the overall development of Hawk Creek in an attrac-
tive and desirable manner and by encouraging the erection of
attractive, harmonious and appropriately located permanent
improvements.

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

ARTICLE I

DEFINITIONS

SECTION 1. "Association" shall mean and refer to the HAWK CREEK PROPERTY OWNERS ASSOCIATION, INC., its successors and assigns. The Association shall be a not-for-profit corporation formed under the laws of the State of South Carolina by or at the direction of Declarant and having such by-laws as determined by Declarant as may be appropriate to carry out the purposes of the requirements of this Declaration. Until such time as the Association is formed, the Declarant shall carry out the functions of the Association as set forth in this Declaration.

SECTION 2. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot, or any portion thereof, which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation.

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SECTION 3. "Occupant" shall mean any person or entity who occupies, or who has the right to occupy, all or a part of any Lot which is a part of the Property, whether such occupancy or right of occupancy is based on ownership, lease, license or easement.

SECTION 4. "(I)mprovement" shall mean any structure or construction of any kind that alters the physical appearance of a Lot, including but not limited to, buildings, outbuildings, roads and driveways (other than those dedicated to public use), parking areas, fences, screening walls, retaining walls, loading areas, signs, utilities, lawns, landscaping and walkways located on Lots, together with any construction work or treatment done or applied to a Lot in connection therewith.

SECTION 5. "(B)uilding" shall mean and include, but shall not be limited to, both the main portion of a structure built for permanent use and all projections or extensions thereof, including, but not limited to, garages, outside platforms, canopies, satellite TV dishes, porches and outbuildings.

SECTION 6. "Property" shall mean and refer to that certain real property described in Exhibit A, as expanded from time to time by additional plats recorded by Declarant for the purpose of adding Lots, additional Common Areas, and other land to the Property.

SECTION 7. "Common Area" shall mean all real property located within the Property owned or maintained or to be owned or maintained by the Association and specifically designated by

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Declarant as "Common Area" or "Homeowners Association" including but not limited to areas shown on any recorded plat of the Property prepared by or at the request of Declarant as "Common Area", "Homeowners Association," or as beautification easements, together with such facilities and improvements as may be constructed thereon, for the common use and enjoyment of the members of the Association. The initial portions of the Common Area to be owned by the Association may be conveyed to the Association by Declarant at such time as it shall be determined by the Declarant, in the exercise of its sole discretion, that the Association is able to maintain them. The Common Area also shall be deemed to include such additional property as Declarant may from time to time designate by filing a declaration to such effect, or a plat designating any area as a "Common Area", or "Homeowners Association", in the public records of Spartanburg County, South Carolina.

SECTION 8. "Member" shall mean and refer to every person or entity who holds membership with voting rights in the Association.

SECTION 9. "Declarant" shall mean and refer to Meridia, Inc., its successors and assigns.

SECTION 10. "Lot" shall mean and refer to any plot of land shown upon any subdivision plat or development plan of the Property recorded by Declarant in the RMC Office of Spartanburg County and designated thereon as a numbered or lettered lot. The

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Common Area and the streets and roads will not be considered as "Lots."

SECTION 11. "By-laws" shall mean the by-laws of the Association initially prepared by Declarant.

ARTICLE II

PROPERTY RIGHTS

SECTION 1. OWNER'S EASEMENTS OF ENJOYMENT. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, whether or not referred to in any deed conveying title to any Lot, subject to the following provisions:

(a) the right of the Association to suspend the voting rights of an Owner or Occupant for any period during which any assessment against his Lot remains unpaid.

(b) the right of the Association to grant easements and rights of way across or beneath all or any part of the Common Area to any public agency, authority, utility, or, in appropriate circumstances, to one or more Owners.

(c) the right of the Association, in accordance with its Articles and by-laws, to borrow money for the purpose of improving the Common Area and to mortgage, pledge or otherwise hypothecate any or all of its real or personal property as security for any such money borrowed.

SECTION 2. LEASES OF LOTS. Any permitted lease agreement between an Owner and a lessee for the lease of such Owner's Lot shall provide that the terms of the Lease shall be subject in all

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respects to the provisions of this Declaration of Covenants, Conditions and Restrictions, the Articles of Incorporation and by-laws of the Association and that any failure by the lessee to comply with the terms of such document shall be a default under the terms of the Lease. All leases of Lots shall be in writing for a term of not less than six (6) months, and shall not provide for the lease of less than the entire Lot and all improvements located thereon.

SECTION 3. DELEGATION OF USE. Any Owner may delegate, in accordance with the applicable by-laws of the Association, his rights of enjoyment of the Common Area and facilities to the members of his family, guests, his tenants, or contract purchasers, provided that every such delegee shall reside upon the Property or be accompanied by the Owner.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

SECTION 1. MEMBERSHIP. Every Owner of a Lot which is subject to a lien for assessments shall be a Member of the Association. An Owner may assign in writing his membership and voting rights to an Occupant upon such terms as the Association may prescribe. Otherwise, membership and voting rights shall be appurtenant to, and may not be separated from, ownership of any Lot which is subject to assessment; provided, however, that no such assignment shall affect the obligation of the Owner to pay the assessment described in ARTICLE IV hereof.

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Each Owner of a Lot shall be entitled to voting rights consisting of one vote for each Lot. 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 multiple Owners of a Lot be entitled to cast more than the one vote for that Lot.

SECTION 2. BOARD OF DIRECTORS. The business and affairs of the Association shall be managed by a Board of Directors of not less than three (3) directors who shall be selected by Declarant until the following events have occurred: (i) Declarant shall have annexed into the Property the last of the phases which Declarant proposes to include in the subdivision, and shall indicate such election either by stating same on the recorded plat which annexes those lots or by written notification to the Owners; and (ii) 75% of all the Lots within the subdivision, including such last phase, shall have been sold and deeded to ultimate purchasers. A transfer by Declarant of all or substantially all of the remaining Lots and area in the subdivision to another developer shall not be considered a transfer of lots for purposes of this section. Declarant shall have the option to surrender control of the selection of the Board of Directors to the other Members at any time prior to the accomplishment of both such events. After the transfer of such right to the other Members, then the directors shall be elected by a majority vote of the Members of the Association in accordance with its by-laws. Directors may be, but shall not be required to be Members of the

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Association. No Director shall incur any liability whatsoever to any Member, Owner or Occupant for any actions taken by such Director in good faith and within the scope of his or her authority in implementing or enforcing any provision of this Declaration.

ARTICLE IV

COVENANT FOR MAINTENANCE AND ASSESSMENTS

SECTION 1. CREATION OF THE LIEN AND PERSONAL OBLIGATION OF ASSESSMENTS. Each Owner of any Lot or portion thereof, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments to be established as necessary and collected as hereinafter provided; (3) any other assessments changed or imposed pursuant to the provisions of this Declaration. These 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 Lot against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

After Declarant transfers control of the Board of Directors to the Members, as provided above, Lots owned by Declarant shall

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be subject to a lien for assessments, in the same manner as other Lots. Until that time, the maximum amount which Declarant shall be obligated to pay annually shall be the lesser of (1) the number of Lots owned by Declarant times the total assessments due for each Lot owned by Owners other than Declarant; or (2) the difference between the total of assessments payable by all Owners other than Declarant and the total amount of funds to be expended annually, as determined by the Board of Directors of the Association, to carry out the purposes for which assessments are to be levied and collected pursuant to this Declaration.

The Declarant, pursuant to its plan of development for the subdivision, shall construct, or cause to be constructed, and, if deemed appropriate or necessary by Declarant, dedicated to public use, necessary streets and roads to the Lots and shall provide, or cause to be provided, either in the streets abutting a Lot or in reserved utility easements, water, electric, gas and telephone service to each Lot. The initial construction of such streets and the initial providing of such utility services to Lots shall be accomplished without cost or expense to the Association and shall not be subject to the lien and assessments rights described herein.

SECTION 2. PURPOSE OF ASSESSMENTS.

(a) The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the Owners and Occupants of the Property. The uses may include costs of improving and maintaining the Common Area, including any

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amenities added to the Common Area by Declarant or by the Association, the costs of operating any such amenities, repairs to and replacements of the Common Areas and amenities, ad valorem taxes assessed against the Common Areas and improvements thereon, including amenities, the maintenance of utility lines in and upon the Common Area, the procurement and maintenance of insurance for the Common Areas and amenities, payments for the installation and operation of any street lights located on the Property, including lease payments to the utility which installs street lights, the employment of attorneys and accountants to represent the Association when necessary, and such other needs as may arise.

(b) All monies collected by the Association shall be treated as the separate property of the Association, and such monies may be applied by the Association to the payment of any expense of operating and managing the Property, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the by-laws of the Association. As monies for any assessment are paid unto the Association by any Lot Owner, the same may be commingled with monies paid to the Association by the other Lot Owners. Although all funds and common surplus, including other assets of the Association, and any increments thereto or profits derived therefrom shall be held for the benefit of the Members of the Association, no Member of the Association shall have the right to assign, hypothecate, pledge or in any manner transfer his membership interest therein, except as an appurtenance to his Lot.

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When a Lot Owner shall cease to be a Member of the Association by reason of his divestment of ownership of his Lot, by whatever means, the Association shall not be required to account to such Owner for any share of the fund or assets of the Association which may have been paid to the Association by such Owner, as all monies which any Owner has paid to the Association shall be and constitute an asset of the Association which may be used in the operation and management of the Property.

SECTION 3. ANNUAL AND SPECIAL ASSESSMENTS.

(a) The maximum annual assessment for the calendar year 1990 shall not exceed \$150.00 per Lot.

(b) The maximum annual assessment for the calendar year commencing January 1, 1990 and for each calendar year thereafter shall be established by the Board of Directors and may be increased by the Board of Directors without approval by the membership by an amount not to exceed fifteen percent (15%) of the maximum annual assessment of the previous year; provided, if and when Declarant elects to add amenities to the Common Areas, the additional costs of operating and maintaining them may be added to the budget of the Association and the limitation set forth above shall not be applicable in any year when such costs are added to the Association budget.

(c) The maximum annual assessment for the calendar year commencing January 1, 1991 and for each calendar year thereafter may be increased without limit by a vote of two-thirds (2/3) of

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the votes cast by the Members who are voting in person or by proxy, at a meeting duly called for this purpose.

(d) In addition to the annual assessments authorized above, the Association may levy, at any time during any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the costs of construction, reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes cast by the Members who are voting in person or by proxy at a meeting duly called for this purpose, in accordance with the procedure set forth in Section 4 below.

SECTION 4. NOTICE AND QUORUM FOR ANY ACTION AUTHORIZED UNDER SECTION 3. Written notice of any meeting called for the purpose of taking any action authorized under this Article shall be sent to all Members not less than seven (7) days nor more than thirty (30) days in advance of the meeting. At the first such meeting called, the presence of Members or of proxies entitled to cast fifty percent (50%) of the votes of the 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 (½) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than thirty (30) days following the preceding meeting.

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SECTION 5. DATE AND COMMENCEMENT OF ANNUAL ASSESSMENTS:

DUE DATES. The annual assessments provided for herein shall be collected on an annual basis and shall commence as to each Lot on the first day of the first month following the conveyance of that Lot to an Owner by Declarant, with the assessment for the first year of ownership to be prorated according to the portion of the year during which the Lot is owned by the Owner. At least thirty (30) days in advance of each annual assessment period, the Board of Directors shall fix the amount of the annual assessment to every Owner subject thereto. The due date shall be established by the Board of Directors.

SECTION 6. EFFECT OF NONPAYMENT OF ASSESSMENTS: REMEDIES

OF THE ASSOCIATION. Any annual or special assessment not paid within thirty (30) days after the due date shall bear interest from the due date at an annual rate of two percent (2%) above the prime interest rate established by major banks operating in Spartanburg County, South Carolina. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien created herein against the property in the same manner as prescribed by the laws of the State of South Carolina for the foreclosures of mortgages, and interest, costs attorney's fees for representation of the Association in such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessment provided for herein by abandonment of the Lot nor shall damage to or destruction of any Improvements on any Lot by

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fire or other casualty result in any abatement or diminution of the assessments provided for herein.

SECTION 8. SUBORDINATION OF THE LIEN TO MORTGAGES. The liens provided for herein on any Lot shall be subordinate to the lien of any first mortgage or deed of trust on such Lot. Sale or transfer of any Lot shall not affect the assessment lien or liens provided for in the preceding section.

ARTICLE V

ARCHITECTURAL CONTROL

SECTION 1. PURPOSE. The external design, appearance, use, location and maintenance of the Property and of improvements thereon shall be regulated in the manner hereafter described so as to preserve the enhanced values and to maintain a harmonious relationship among structures and the natural vegetation and topography of the Property.

SECTION 2. CONDITIONS. No improvements, major alterations or repairs to improvements, changes in grade or other work which materially alters any Lot or the exterior of the improvements located thereon from its natural or improved state shall be made or done without the prior written approval of the Architectural Committee established pursuant to this Article. No improvement or other structure shall be commenced, erected, maintained, altered or removed without the prior written approval of the Architectural Committee.

SECTION 3. ARCHITECTURAL COMMITTEE. Declarant shall designate one or more persons to serve as an Architectural

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Committee for the express purpose of insuring compliance with the provisions of this Article. In the event any member of the Committee should, in Declarant's opinion, for any reason cease to be able to perform his duties properly, a replacement shall be selected by Declarant. If Declarant shall fail to name a replacement at any time when the Committee has only one member, then the Association may appoint one or more persons to serve on the Committee and the Declarant's right to appoint members shall terminate.

SECTION 4. DESIGN APPROVAL PROCESS.

(a) The written approval required by Section 2 above shall be obtained by submitting to the Architectural Committee, in the manner hereinafter set forth, building plans, specifications and plot plan showing the proposed type of construction, exterior design and location of such residence (or other improvement) for review and approval as to compatibility, conformity and harmony of external design and consistence of plan with existing residences (and improvements) on other Lots in the subdivision, and the location of the structure with respect to topography and finished ground elevation. The plans and drawings submitted shall contain, at a minimum:

- (1) front, rear and side elevations
- (2) floor plan
- (3) the area of heated floor space
- (4) exterior building material to include manufacturer, color and texture

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- (5) exterior trim color
- (6) roofing material and color
- (7) site plan showing (on a scale of one to fifty or larger) foundation of all structures, walks, driveways, fences and drainage plans
- (8) plan for location of utility lines and connections, all of which must be underground
- (9) estimated completion dates of all construction and improvements
- (10) special treatment required to alleviate problems anticipated due to changes in topography

(b) In order to prevent duplication of buildings or improvements to be constructed in this subdivision and to carry out the intent of this Declaration, the Committee is vested with full authority to approve or disapprove plans for the construction of any building or improvement with its major features so similar to an existing building or improvements as to be considered a substantial duplication thereof in the discretion of the Committee. The Architectural Committee shall further have the right to refuse to approve any plans or specifications for buildings or improvements, taking into consideration such factors as it may deem appropriate, including but not limited to the suitability of the proposed building or other improvements, the materials of which it is to be built, whether or not it is in harmony with the surroundings, the effect it will have on other

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residences already constructed, and the effect it will have on the outlook from adjacent or neighboring property.

(c) In the event that the Committee fails to approve or disapprove plans which comply with the requirements of subsection (a) above within forty-five (45) days after they have been submitted to it, approval of the Architectural Committee will be conclusively presumed and this covenant will be deemed to have been fully satisfied. The term "building or improvement" shall be deemed to include, though not be limited to, the erection, placement or alteration of any wall, fence, driveway, parking area, mailbox, light or recreational amenity, including but not limited to swimming pools.

(d) Application for approval as required herein shall be made to the Committee at the principal office of Declarant at 409 E. North Street, Greenville, South Carolina 29603 or such other address as Declarant or the Committee may hereafter designate, and at the time such application is made, the building plans, specifications, plot plans and landscape or recreational plans shall be submitted in duplicate. One copy of such plans and specifications will be retained by the Committee and the other copy will be returned to the applicant with approval or disapproval plainly noted thereon.

(e) Upon the approval by the Committee of any proposed construction or alteration, the Committee shall issue to the applicant a written permit. No construction or alteration shall be carried on until and unless such permit is obtained.

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(f) The Architectural Committee is authorized by a unanimous vote of all its members to approve or ratify in the construction or alteration of any building or improvement minor violations of any provisions of these restrictions relating to set back, location, size of improvements or similar matters if in the opinion of all the members of the Committee such shall be necessary to prevent undue hardship and to waive or vary the provisions of this Article or other provisions of this Declaration relating to use of the Property if, in the opinion of all the members of the Architectural Committee, such waiver or variance would not be inconsistent with the intent and purpose of this Declaration. The approval or ratification by the Committee in accordance with this paragraph shall be binding on all persons.

(g) All residential buildings must be completed in a workmanlike manner and the construction site at all times must be kept clean and free of debris. Damage to any street, curb, gutter or sidewalk occurring during construction of any Improvement on a Lot shall be promptly repaired by the Owner or his builder or contractor. Should the Owner fail to promptly repair or have repaired any such damage, the Association shall have the right to do so, and the cost of such repairs may be immediately assessed against and collected from the Owner in the same manner as other assessments allowed under this Declaration.

(h) In the event construction of any building or improvement is commenced on any Lot in this subdivision and work is

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abandoned for a period of thirty (30) days or longer, without just cause shown, or should any building or improvement remain unfinished for a period of twelve (12) months from the date construction began, without just cause shown, then and in either event the Architectural Committee shall have (1) the authority to complete the structure at the expense of the owner and shall have a lien against the Lot and all Improvements to the extent of any monies expended for said completion but said lien shall at all times be subordinate to the lien of any prior recorded mortgage; or (2) the authority to remove the improvements from the Lot and the expense of said removal shall constitute a lien against the Lot, which lien shall be subordinate to the lien of any prior recorded mortgage. Said liens shall be foreclosed in the same manner as the procedure set forth in ARTICLE IV for the foreclosure of liens for assessments. No action shall be taken under this paragraph without notice to any mortgagee or other lien holder of the proposed action to be taken and to give ten (10) days in which to allow Owner to show cause, if any he can, why the Architectural Committee should not take action under this paragraph.

(i) After the control over the selection of the Board of the Association has been transferred to the Members, and herein provided, Declarant may, at its option, turn over the function of the Architectural Committee to the Association. The Association shall thereafter appoint the Architectural Committee.

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(j) Each Lot Owner and his contractor, subcontractor, and other agents shall take full responsibility for controlling surface water run off and sediment which may adversely affect any other property. Notwithstanding any plans as may be submitted, the Architectural Committee may make additional reasonable requirements of Lot Owners to prevent or control excess run off or sediment during construction or thereafter. However, responsibility for the surface water run off will be that of the Lot Owner and not that of the Architectural Committee.

ARTICLE VI

USE AND IMPROVEMENTS RESTRICTIONS

SECTION 1. USE OF PROPERTY. Each Lot and the residence and improvements thereon and the Common Area and facilities shall be used only for the following purposes and subject to the following restrictions and easements:

(a) All Lots, buildings and the Common Area and facilities thereon shall be used for residential and related common purposes. Except as specifically provided herein, no Lot may be subdivided and shall be used as a single-family residence and for no other purpose, except that the Declarant and others approved and designated by Declarant may use one or more Lots or residences for offices and/or model residences for sales purposes. No residence shall be constructed which does not contain a minimum of 2000 square feet of enclosed heated living space, not including garages, porches, breezeways, and basements. All buildings must be set back from the front, side and rear

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property lines by at least the minimum number of feet required by the set back lines shown on the recorded subdivision plats of the Property and/or as required by applicable zoning laws or subdivision regulations, provided the side and rear setback lines shall be no less than fifteen (15) feet. Concrete block walls may not be used unless faced with brick, stucco, or other material approved by the Architectural Committee.

(b) Nothing shall be kept and no activity shall be carried on in any building or residence or on the Common Area which will increase the rate of insurance, applicable to residential use, for the property or the contents thereof. No Owner shall do or keep anything, nor cause or allow anything to be done or kept, in his residence or on the Common Area, which will result in the cancellation of insurance on any portion of the Property, or the contents thereof, or which will be in violation of any law, ordinance, or regulation. No toxic materials or hazardous wastes will be stored or discharged on the Property.

(c) No immoral, improper, offensive or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property.

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(d) Until and unless sewerage service shall be made available to the Property by a public or private utility, no residence shall be constructed on any Lot until the use and location of a septic tank thereon shall be approved by the S.C. Department of Health and Environmental Control.

(e) No industry, business, trade, occupation, or profession of any kind, whether commercial or otherwise, shall be conducted, maintained, or permitted on any part of the Property, except that the Declarant or those designated by Declarant may use any Lot or residence for sales or display purposes.

(f) No Owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any residence, building or any portion of the common area and facilities, except as may be allowed by the Association, provided, however, that the Declarant, any Owner and any mortgagee who may become the Owner of any Lot, or their respective agents, may place "For Sale" signs, not larger than 24" x 36" on any Lot.

(g) No person shall undertake, cause, or allow any alteration or construction in or upon any portion of the Common Area and facilities thereon except at the direction of and with the express written consent of the Association.

(h) The Common Area and facilities shall be used only for the purposes for which they are intended and reasonably suited and which are incident to the use and occupancy of the

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residences, subject to any rules or regulations that may be adopted by the Association pursuant to its by-laws.

(i) No campers, boats, trailers, recreational vehicles, or similar items may be placed upon any Lot unless it is stored behind the closed doors of the garage for such Owner's residence. No such item(s) shall be placed elsewhere on any Lot except for brief periods reasonably necessary to load or unload it, and no repairs to such items shall be conducted upon any Lot except inside the garage.

(j) Any and every container used to store garbage, refuse and debris shall be stored on each lot so that it shall be out of sight from all streets, except when placed at the street on days designated for garbage pick-up.

(k) All fuel oil tanks or containers shall be buried underground consistent with normal safety precautions.

(l) No animals shall be kept, maintained or quartered on any Lot or any portion of the Property except that cats, dogs, and inside pets (such as caged birds and hamsters) may be kept in reasonable numbers as pets for the pleasure of the occupants. The Architectural Committee is authorized (but not required) to issue reasonable rules for the protection of all Owners relating to the number of pets which may be kept on any numbered Lot. All pets shall be kept in fenced areas or on leashes and each Owner shall be responsible for the prompt disposal of all excrement or debris of any kind resulting from any pets owned or maintained by such Owner on his property.

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(m) Property Owners will be required to keep tall shrubbery or hedges trimmed to reasonable limits so that air circulation or views from surrounding property will not be adversely affected. Further, all Owners shall be required to maintain their Lots and any Improvements thereon at all times in a neat, attractive and presentable manner so as not to detract from the overall appearance of the subdivision or the surrounding Property. Vegetable or ornamental gardens, and sandboxes or other children's play equipment shall be located only in the rear yard of any Lot.

(n) Exterior clothesline are prohibited.

(o) Provisions must be made by the Owners for off-street parking of their own cars and those belonging to guests, invitees and employees, and the parking of cars on street rights-of-way for long periods of time during the day or night will not be permitted.

(p) No motorcycles, motorbikes, minibikes, go-carts or other similar vehicles shall be operated on any Lot or on any Common Area.

(q) No fireworks of any kind shall be used on any Lot or in the Common Area or on any public or private road or street in the subdivision.

(r) Each Lot upon which a residence is constructed shall have a mailbox of a type and size specified by Declarant or the Architectural Committee. Such mailbox shall be properly maintained at all times by the Owner and shall not be altered or

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replaced except by a new mailbox identical to the one originally installed.

(s) No satellite dishes or outside antennae of any kind shall be allowed on any Lot.

(t) No tree having a trunk diameter of six (6) inches or more shall be removed or relocated on any Lot without prior written approval of the Architectural Committee.

(u) No residence shall be more than two and one-half (2½) stories in height, and any residence which has more than one story must have a first floor of at least 1200 square feet.

(v) All garages must be attached to the house, must be positioned so as not to face the street on which the residence is located or any adjacent street, and must be enclosed with one or more garage doors.

(w) No chain link fence may be constructed on any Lot unless it is positioned so as not to be visible from the street, unless specifically approved by the Architectural Committee.

(x) All driveways must be finished with a hard surface and must be maintained in good condition at all times.

(z) All utility service lines must be located underground.

SECTION 2. QUIET ENJOYMENT. No obnoxious or offensive activity, including activity which creates loud or offensive noises, shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to residents within the Property.

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SECTION 3. GENERAL EXTERIOR OF IMPROVEMENTS. Architectural styles for the Improvements must incorporate superior design and require quality materials and workmanship. The Architectural Committee, in its sole discretion, shall determine whether or not a particular design or materials choice is in keeping with the purposes referred to in ARTICLE V above.

ARTICLE VII

EASEMENTS

SECTION 1. WALKS, DRIVES, PARKING AREAS, AND UTILITIES.

All Common Areas shall be subject to perpetual non-exclusive easements in favor of all Owners of Lots for their use and the use of their immediate families, guests, invitees, tenants and lessees for all proper and normal purposes and for ingress and egress to and from such easements for driveways, walkways, parking areas, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines, television cable or antenna lines, and other public utilities as shall be established either prior to or subsequent to the recording of this Declaration. The Declarant hereby expressly reserves the right to grant and/or create any such easements as may be appropriate or necessary subsequent to the date hereof. The Declarant and the Association shall have the power and authority to grant and to establish in, over, upon and across the Common Area such further easements as may be required for the convenient use and enjoyment of the Property. Further, Declarant and the Association shall have the right at any time to enter upon any

DEED 56 G PG 201

landscape, utility or other easement shown on any recorded subdivision plat of the Property and/or established pursuant to this Declaration for the purpose of maintaining the same and to cross such other portions of the Property as may be reasonably necessary to carry out such maintenance.

SECTION 2. UTILITY EASEMENTS ON LOTS. Easements are hereby reserved along all side and rear lot lines for the purpose of constructing, utilizing, and enjoying surface water drainage, power lines, sewer lines, water lines, gas lines, telecable lines, and such other utilities as may be appropriate for the full enjoyment of the Lots and the Common Area. These easements shall be 10 feet wide along all rear Lot lines and 5 feet wide along all side Lot lines. These easements shall be depicted and shown on all subdivision surveys and plats and all individual Lot surveys and plats recorded with respect to any portion of the Property.

SECTION 3. EMERGENCIES. Every Lot and residence shall be subject to an easement for entry by the Association for the purpose of correcting, repairing, or alleviating any emergency condition which arises upon any Lot or within any residence which endangers any building or portion of the Common Area or any other buildings on other Lots.

DEED 56 G PG 202

ARTICLE VIII

COVENANTS OF OWNERS TO KEEP LOTS AND IMPROVEMENTS INSURED
AGAINST LOSS, TO REBUILD AND TO KEEP IN GOOD REPAIR

SECTION 1. INSURANCE AND MAINTENANCE.

(a) The Association shall obtain a general all-peril public liability policy and a blanket insurance policy equal to the full replacement value of any and all/or all improvements constructed upon the Common Area. Said policy shall contain a replacement cost endorsement providing for replacement of a structure from insurance loss proceeds, and said policy shall be consistent with the requirements of any mortgages or financing agreements to which the Common Area and any improvements thereon may be subject.

(b) The Association shall apply the full amount of any insurance proceeds to the rebuilding or repair of any said improvement, subject to the concurrence of any mortgagee or lienholder having a right to control the application of such proceeds.

(c) Each Owner shall keep his Lot and any Improvements thereon, including driveways, adequately maintained and repaired at all times in a neat, attractive and presentable manner so as not to detract from the overall appearance of the subdivision or the surrounding Property.

(d) Premiums for the group or blanket hazard insurance policy and the general public liability policy shall be a common expense and shall be collectible in the same manner and to the

DEEDS 6 G PG 203

same extent as provided for annual and special assessments in Article IV.

(e) Each Owner shall, at his own expense, carry adequate hazard and homeowners insurance policies insuring the residence and improvements on his Lot.

(f) In the event of damage or destruction by fire or other casualty to any property covered by insurance payable to the Association, the Board of Directors shall, with the concurrence of mortgagees, if any, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as existed prior to the damage.

(g) The Association may levy in any calendar year a special assessment for the purpose of defraying the cost of construction, reconstruction, repair or replacement of a building or buildings constructed within the Common Area, to the extent that insurance proceeds under a group insurance policy containing a replacement cost endorsement are insufficient to pay all costs of said construction, reconstruction, repair or replacement.

(h) In the event a dwelling on any Lot is damaged or destroyed, and the Owner does not begin repair or reconstruction within thirty (30) days following the damage or destruction, he shall remove or cause to be removed, at his expense, all debris from the Lot, so that it shall be placed in a neat, clean and safe condition; and if he fails to do so, the Association may cause the debris to be removed, and the cost of removal shall

DEED 56 G PG 204

constitute a lien upon the dwelling until paid by the Owner and may be foreclosed in the same manner set forth in ARTICLE IV for liens for assessments.

(i) Any dwelling which has been destroyed, in whole or in part, by fire or other casualty, and is subsequently restored or reconstructed, shall be subject to the provisions of this Declaration and to the by-laws of the Association.

(j) The Association shall maintain adequate fidelity coverage against dishonest acts by officers, directors, trustees and employees, and all others who are responsible for handling funds of the Association. Such fidelity bonds shall:

- (1) Name the Association as an obligee.
- (2) Be written in an amount equal to at least 20% of the estimated annual operation expenses of the Association, including reserves.
- (3) Contain waivers of any defense based on the exclusion of persons who serve without compensation from any definition of "employee" or similar expression.

ARTICLE IX

GENERAL PROVISIONS

SECTION 1. ENFORCEMENT. The Association and 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 the Declaration, the Articles of Incorporation or by-laws of the

DEED56G PG 205

Association. If the Association or an Owner or Occupant is successful in any such proceeding brought to enforce the provisions of this Declaration or any lien provided for herein, such successful party shall be entitled to recover from the defendant or defendants all costs and attorneys, fees reasonably incurred in such proceeding. 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. The Association shall have the right to request that law enforcement, public safety and animal control officers come on the Property to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

SECTION 2. SEVERABILITY. Invalidation of any one of the 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. MINOR VIOLATIONS: AMENDMENT. Declarant may, without the joinder of any Owner, waive in whole or in part any minor violations of any of the restrictions herein contained. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each. Unless terminated by the written consent of persons owning at least 75% of the Lots at that time, such termination to be evidenced by the recording of an instrument executed by the

DEED 56 G PG 206

requisite number of Owners and recorded in the RMC Office of Spartanburg County prior to the end of the initial twenty (20) year period or any successive ten (10) year period. This Declaration may be amended during the first five (5) year period by an instrument signed by Declarant and Owners holding at least ninety Percent (90%) of the then outstanding votes in the Association, and thereafter by an instrument signed by Members holding not less than seventy-five percent (75%) of the then outstanding votes in the Association, 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. Notwithstanding the above, Declarant may prepare and record amendments which affect the size and configuration of unsold Lots within the subdivision at any time, without the consent of any other party. Amendments to this Declaration shall not become effective until duly recorded in the RMC Office of Spartanburg County.

SECTION 4. EXTENSION OF COVENANTS TO INCLUDE ADDITIONAL PROPERTY. Declarant may at any time make subject to this Declaration other properties now or hereafter owned by Declarant or the Association by executing an instrument which describes and annexes the additional land to the Property by recording the same in the RMC Office for Spartanburg County. When extending this Declaration to cover additional properties, Declarant may specifically alter or amend any provision of this Declaration with respect to such additional properties if, in Declarant's

DEED 56-G PG 207

sole judgment, such alteration or amendment is necessary for the proper use and development of the additional properties and consistent with the overall intent and purpose of this Declaration.

SECTION 5. TRANSFER OF DECLARANT'S RIGHTS. Declarant shall have the right to transfer all of its rights and obligations as the Declarant hereunder to any party to whom Declarant shall transfer fee simple title to all Lots and other portions of the Property owned at that time by Declarant, provided the deed by which such transfer is made shall include a statement by the Declarant that its rights and obligations hereunder are being transferred to the grantee of such deed.

SECTION 6. COMBINATION OF LOTS. The owners of two contiguous Lots shall have the right to combine said Lots or to revise the common boundary between said Lots by an amount which does not exceed 25% of the front lot line dimension of either said Lot, without the consent of any other party, by causing to be recorded in the RMC office of Spartanburg County a survey which shows the metes and bounds of the revised lot lines as well as the metes and bounds of the previous lot line(s). This procedure may only be used for the purpose of altering the relative sizes and configurations of two contiguous Lots, and may not be used to further subdivide any lots.

IN WITNESS WHEREOF, the undersigned MERIDIA, INC. (by and through its duly authorized officer) has caused this instrument to be executed as of the 14th day of February, 1990.

THIS DOCUMENT
MARGINAL
FOR IMAGING

DEED56G P 0208

Robert C. Benedek
Terry E. Kelly

MERIDIA, INC.

By: [Signature]
President

DEEDS 66 PG 210

CONSENT AND SUBORDINATION OF MORTGAGEES

THE UNDERSIGNED PARTIES, each of whom presently owns and holds a mortgage covering all or a portion of the Property described in the within and foregoing Declaration, hereby consents to the filing of said Declaration and subordinates the lien of his mortgage to said Declaration and to all rights, privileges, and restrictions set forth therein. In the event either of the mortgages owned by the undersigned shall be foreclosed, the Declaration shall continue to be effective and binding upon that portion of the Property which is the subject of such foreclosure and shall survive transfer of title by reason of foreclosure.

Witnesses:

[Signature]
Cynthia M. Hogan

[Signature]
Regis Robe

[Signature]
Elizabeth Robe

(Mortgagees under that certain Mortgage recorded on February 2, 1989 in Book 1312 at Page 387)

BRANCH BANKING AND TRUST COMPANY OF SOUTH CAROLINA

[Signature]
[Signature]

B Y : [Signature]
T I T L E : [Signature]

(Mortgagee under that certain Mortgage recorded on February 2, 1989 in Book 1312 at Page 380)

DEEDS 6 G PG 2 | 1

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within Regis Robe and Elizabeth Robe, sign, seal and as their act and deed deliver the within instrument and that (s)he with the other witness subscribed above witnessed the execution thereof.

[Signature]

SWORN TO before me this 9th day of February, 1990.

Cynthia M. Hooper
Notary Public for South Carolina
My Commission Expires: 2/22/90

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG) PROBATE

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within Branch Banking and Trust Company of South Carolina, by its duly authorized officer and agent sign, seal and as its act and deed deliver the within written instrument and that (s)he with the other witness subscribed above witnessed the execution thereof.

[Signature]

SWORN TO before me this 13th day of February, 1990.

Lauren Baker
Notary Public for South Carolina
My Commission Expires: 6/25/94

DEED 56-G P G 2 2

EXHIBIT A

Hawk Creek Subdivision

Phase No. 1

All those certain pieces, parcels and lots of land located in Spartanburg County, South Carolina, lying within the boundaries of Phase No. 1, Hawk Creek Subdivision, according to the Final Survey Plat of Phase No. 1, Hawk Creek Subdivision, prepared by Neil R. Phillips, surveyor, dated December 7, 1989, consisting altogether of approximately 70.928 acres, said plat having been recorded in the RMC Office of Spartanburg County on February 5, 1990, in Plat Book 109 at Page 241.

DEED 56-H PG 0422

RECORDED

STATE OF SOUTH CAROLINA 433 MAR -2 PM 4:36 RESTRICTIVE COVENANTS TO
COUNTY OF SPARTANBURG)
SPARTANBURG, S.C.)
CREATE BUFFER AREA

THE UNDERSIGNED Regis Robe and Elizabeth Poole Robe, who are the owners of certain property in Spartanburg County contiguous to a parcel of land previously sold by them to Meridia, Inc. for the purpose of developing a residential subdivision known as "Hawk Creek," in consideration of the sum of Ten Dollars (\$10.00) in hand paid to them by Meridia, Inc., the receipt and sufficiency of which are hereby acknowledged, and in order to enhance the development of said subdivision which constitutes the security for a purchase money mortgage granted to the undersigned by Meridia, Inc., HEREBY DECLARE that a portion of the contiguous land owned by them, more particularly described below, shall hereafter be subject to this restrictive covenant prohibiting the use or development of said strip of land for any purpose other than that of a buffer zone to separate the Hawk Creek residential subdivision from the contiguous land retained by the undersigned, all according to the terms and conditions set forth below:

1. Easement Area. The parcel which shall be subject to and burdened by this restrictive covenant shall be a strip of land seventy-five feet (75') in width, running parallel to and immediately behind the back lot lines of Lots 1-12 and the parcel, containing .276 acres, fronting on U.S. Highway No. 29 designated as "Homeowners Association," as shown on plat recorded in Plat Book 109, Page 241, RMC Office for Spartanburg County.

DEEDS 6 H PG 4 2 3

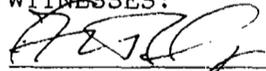
2. No buildings of any type will be constructed within the Easement Area. No other improvements shall be made in the Easement Area, other than landscaping which may be provided and constructed by the Grantee or by the Hawk Creek Property Owners Association, Inc., which shall be entitled to grade, landscape, and take such other measures within the Easement Area as shall be appropriate in order to create a buffer between Hawk Creek subdivision and the contiguous area presently owned by Grantor.

3. Benefited Properties. The beneficiaries of the Restrictive Covenants declared herein shall be all parties who own or shall at any time in the future own any portion of Hawk Creek subdivision, as shown on the Survey entitled Phase No. 1, Hawk Creek Subdivision, dated December 7, 1989, recorded in the RMC Office of Spartanburg County, in Plat Book 109, at Page 241.

4. General. These Restrictive Covenants shall be deemed to run with the land and to be binding upon the present and all future owners of the Easement Area, for the benefit of all owners of all property within Hawk Creek Subdivision and to the Hawk Creek Property Owners Association, Inc., in perpetuity.

IN WITNESS WHEREOF, the owners of the Easement Area have hereunto set their hands and seals on this 28 day of February, 1990.

WITNESSES:



Cynthia M. Hogan



Regis Robe

Elizabeth Poole Robe

Elizabeth Poole Robe

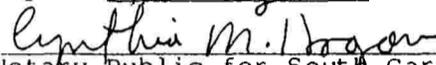
DEED 56-H PG 424

STATE OF SOUTH CAROLINA)
) PROBATE
COUNTY OF SPARTANBURG)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within Regis Robe and Elizabeth Robe sign, seal and as their act and deed deliver the within written instrument and that (s)he with the other witness subscribed above witnessed the execution thereof.

 _____

SWORN TO before me this 28
day of February, 1990.


Notary Public for South Carolina
My Commission Expires: 2/28/2000

DEED 61 B PG 085

STATE OF SOUTH CAROLINA)
) RESTRICTIVE COVENANTS AND
 COUNTY OF SPARTANBURG) EASEMENTS HAWK CREEK SUBDIVISION

RECORDED
 01 FEB 24 PM 3:59

WHEREAS, Mark III Properties, Inc. is the Developer of certain tract of land located near the City of Spartanburg, known as Hawk Creek Subdivision, Phase II -- A, B, C and D containing 5.15, 11.62, 29.86 and 44.53 acres respectively shown on plats for Mark III Properties, Inc. dated February 3, 1994 made by Neil R. Phillips, to be recorded herewith; and

WHEREAS, the Developer desires to impose certain restrictive covenants upon said property in order to insure its use for residential purposes, to prevent impairment of the attractiveness of the property, and to maintain the desired quality of the community with no greater restriction on the free and undisturbed use of the property than is necessary to insure the same advantages to the other lot owners;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENT that the undersigned, Mark III Properties, Inc., does hereby make and declare the following restrictions on the uses to each lot or tract in the above described and platted property, and the undersigned owner does hereby declare that such restrictions shall constitute covenants with the land and shall be binding on all parties and all persons claiming under and for the benefit of and limitation on all future owners in such development, this declaration of restrictions being designed for the purpose of creating and maintaining the development as a desirable, uniform, and architecturally suitable development.

1. The covenants and restrictions contained herein shall run with the land and shall be binding upon all parties and persons claiming under the undersigned owner for a period of twenty years from the date the covenants and restrictions are recorded, after which time the said covenants and restrictions shall be automatically extended for such successive periods of ten years each unless an instrument signed by the majority of the then owners of lots in the said development has been recorded.

2. All lots in the above referred to development shall be known and designated as residential lots, except any land set aside by Developer for recreational or common area purposes.

(a) Square footage requirements are 2000 square feet of enclosed heated living space, not including garages, porches, breezeways, and basements, except for 10 lots which Developer may designate to have a minimum square footage of 1800 square feet. All buildings must be set back from the front, side and rear property lines by at least the minimum number of feet required by the set back lines shown on the recorded subdivision plats of the

DEED 61 B PG 086

property and/or as required by applicable zoning laws or subdivision regulations, provided the side set back lines shall be no less than ten (10) feet and the rear set back line shall be no less than fifteen (15) feet. Concrete block walls may not be used unless faced with brick, stucco, or other material approved by the Developer. No lot shall be further subdivided without the consent of the Developer, or its designee. However, any two lots may be replatted so as to change the property lines but may not create additional lots or create a new lot smaller than twenty-five thousand (25,000) square feet of area.

3. No building, whether single dwelling house, garage, or other outbuilding or driveway, shall be erected, placed, or altered on any building lot in this development until the building plans, specifications, and plot plan showing the location of such building or driveway have been approved in writing as to conformity and harmony of the external design with existing structures in the development, and as to location of the building or driveway with respect to the topography and finished ground elevation, by the Developer. Approval shall not be arbitrarily withheld. If such shall not be approved within thirty days after being submitted to the Developer, then such approval shall not be required; provided, however, the design and location of the building or driveway shall conform to and be in harmony with the existing structures in the development. The Developer may disapprove for any reason, including purely aesthetic reasons.

4. No noxious or offensive activity shall be carried on upon any lot, where the same would constitute a legal nuisance to the neighborhood.

No animals shall be kept, maintained or quartered on any lot or any portion of the property except that cats, dogs, and inside pets (such as caged birds and hamsters) may be kept in reasonable numbers as pets for the pleasure of the occupants. All pets shall be kept in fenced areas or on leashes and each owner shall be responsible for the prompt disposal of all excrement or debris of any kind resulting from any pets owned or maintained by such owner on his property.

No immoral, improper, offensive or unlawful use shall be made of the property, or any part thereof, and all valid laws, ordinances, and regulations of all governmental agencies having jurisdiction thereof shall be observed. All law, orders, rules, regulations, or requirements of any governmental agency having jurisdiction thereof, relating to any portion of the property, shall be complied with, by and at the sole expense of the owner.

DEED 61-B PG 087

Property owners will be required to keep tall shrubbery or hedges trimmed to reasonable limits so that air circulation or views from surrounding property will not be adversely affected. Further, all owners shall be required to maintain their lots and any improvements thereon at all times in a neat, attractive and presentable manner so as not to detract from the overall appearance of the subdivision or the surrounding property. Vegetable or ornamental gardens, and sandboxes or other children's play equipment shall be located only in the rear yard of any lot.

5. No commercial activity or enterprise of any type or nature shall be permitted to be conducted on or about any of the lots and the same is hereby specifically prohibited. Commercial use shall be deemed to include any use of the property for the purpose of a school, nursery, or kindergarten.

6. Chain-link or other wire or metal-type fences shall not be visible from the street, and shall be black or green; split rail, board or masonry walls or fences may be constructed; all locations and construction specs of all fencing shall be approved by the Developer.

7. No motor vehicle shall be permitted to stand upon any lot in the development which does not have current license plates or is safety inspected and licensed for use on public roadways; no camping trailers, boats, trailer hitches, or similar equipment, shall be permitted to stand on the front portion of any lot in view of the street; no portion of any lot shall be used for the operation of any motorized recreational vehicle, such as motorcycles, mini-bikes, go-carts, dune buggies, or similar equipment. No motorcycle shall be allowed in the subdivision unless it has approved mufflers or sound control devices. No bus, transfer tractor, transfer trailer or tractor-trailer combinations shall be allowed in the subdivision at any time except for loading and unloading. Also, no other trucks with a total length of over eighteen (18) feet shall be allowed at any time except for loading and unloading.

8. There shall be reserved easements for the installation, repair, and maintenance of utilities and drainage facilities over and across the rear ten (10) feet of each lot and five (5) feet on each side of the side lot lines.

9. All sewage disposal shall be by septic tank and constructed with the approval of the State Board of Health and any appropriate county official. No construction shall begin prior to appropriate approvals and permits.

10. Some of the lots may have been filled by the Developer or its predecessors in title. No representation is made as to the condition and quality of the soil on any lot. All

DEED 61-B PG 088

prospective purchasers of lots shall be presumed to have examined and inspected a lot in detail prior to closing, and to have determined the location and extent of any fill upon said lot. No building shall be erected on any lot until the owner or the owner's contractor shall have definitely determined firm footings. The building line upon the plat is not a representation that any determination has been made as to the suitability for building. All purchasers shall be presumed to have read these restrictive covenants.

11. No lot may be used in any manner or for any purpose that would result in the pollution of the air, pond or any waterway that flows through or adjacent to the subdivision. All grading shall comply with rules of the South Carolina Land Resources Commission, and South Carolina DHEC.

12. No signboard shall be displayed on any lot in the development except "For Sale" or "For Rent"; said sign shall not be more than two by three feet in size, provided that the undersigned Developer or its successors shall have the right to use additional or larger signs for the development of the property.

13. No fuel tanks or similar storage receptacles may be exposed to view, and may be installed only within the main dwelling house, within a screened area, or buried underground.

14. Each Lot upon which a residence is constructed shall have a mailbox of a type and size specified by Developer. Such mailbox shall be properly maintained at all times by the owner and shall not be altered or replaced except by a new mailbox identical to the one originally installed.

15. All garbage and trash containers shall be underground or placed in screened areas. Clothes lines shall not be located in areas which are visible from the street or other properties.

16. No satellite dishes or outside antennae of any kind shall be allowed on any lot, unless screened from the street. Standard television antenna may be permitted if approved by Developer.

17. All garages facing the street on which the residence is located must be enclosed with garage doors.

18. Restrictions may be amended anytime by the Developer until title to all lots have been transferred. Thereafter, restrictions may be amended by homeowners with written approval of eighty percent (80%) of the then lot owners.

19. The Developer and any owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions,

DEED 61-B PG 089

conditions, covenants and reservations. If the Developer or an Owner or Occupant is successful in any such proceeding brought to enforce the provisions of these Restrictions, such successful party shall be entitled to recover from the defendant or defendants all costs and attorney fees reasonable incurred in such proceeding. Failure by the Developer 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. The Developer shall have the right to request that law enforcement, public safety and animal control officers come on the property to facilitate the enforcement of the laws, codes and ordinances of any governmental authority.

20. Developer may waive in whole or in part any minor or unintentional violations of any of the restrictions herein contained.

21. Should any mortgage or other lien of any type be foreclosed on the property, or any portion of the same to which this instrument, refers, then the title acquired by such foreclosure, and the person or persons who thereupon and thereafter become the owners of such property, shall be subject to and bound by all of the covenants and restrictions enumerated herein.

22. Each owner by acceptance of a deed, shall be deemed to covenant and agree to pay to the Developer or, his designee the greater of (a) annual assessments or charges set by Hawk Creek Homeowners Association, or (b) pro-rated share of the street lights and expense for the entrance or common area for property referred to herein. This 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 such interest thereon and cost is the obligation of the person who was the owner of such property at the time when the assessment fell due. This assessment shall be subordinate to any lien creditor on the property. The annual assessment provided for herein shall commence on day of purchase as to any lot or residence. Developer agrees to pay for all street lights and maintenance until December 31, 1994.

23. Developer may assign his rights and obligations to the Hawk Creek Homeowners or other designee at any time.

THIS DOCUMENT
MARGINAL
FOR IMAGING

DEED 61 B P 60 90

IN WITNESS WHEREOF, the undersigned owners have caused this instrument to be executed and their seals affixed this ___ day of February, 1994.

WITNESS:

Wendell C. Lee
John H. Namick

Mark III Properties, Inc.

By: John W. Beeson
It's _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG) PROBATE

Personally appeared the undersigned witness and made oath that (s)he saw the within named Mark III Properties, Inc.
By: John W. Beeson It's President
sign, seal and as their act and deed deliver the within written Restrictive Covenants and Easements Hawk Creek Subdivision and that (s)he, with the other witness subscribed above witnessed the execution thereof.

John H. Namick

SWORN to before me
this 24 day of February, 1994.

Wendell C. Lee (SEAL)
Notary Public of South Carolina
My Commission Expires:

DEED 62-N PG 643

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

FIRST AMENDMENT TO RESTRICTIVE
COVENANTS AND EASEMENTS
HAWK CREEK SUBDIVISION
DEED BOOK 61B, Page 85

SPARTANBURG, S.C.

95 MAR 15 PM 4: 22

RECORDED

Whereas, by Deed recorded in Deed Book 61B, Page 91, certain property was conveyed to Mark III Properties subject to Restrictive Covenants and Easements recorded in Deed Book 61B, Page 85, and

Whereas, at the time of the conveyance the Sellers, Elisabeth Poole Robe and Regis Robe, and the Purchaser, Mark III Properties, Inc., contemplated that Tract 4 in Deed Book 61B, Page 92 described as "Tract D" containing 44.53 acres and shown on Plat Book 124, Page 238 would be subdivided into lots and developed according to the same scheme as Phase I had been developed, and

Whereas, Mark III Properties now wishes to develop "Tract D" with the option of selling large parcels and desires to amend the Restrictive Covenants and Easements so as to permit an optional development scheme for "Tract D" as above recited and pursuant to Item #18 of the Restrictive Covenants and Easements recorded in Deed Book 61B, Page 85,

NOW, THEREFORE,

The Restrictive Covenants and Easements recorded in Deed Book 61B, Page 85 are hereby amended as they apply to Tract D, containing 44.53 acres, as follows:

ITEM 2(a): Square footage requirements are 2500 square feet of enclosed heated living space, not including garages, porches, breezeways and basements, subject to Item 3 of the original Restrictive Covenants and Easements.

ITEM 4: No noxious or offensive activity shall be carried on upon any lot, where the same would constitute a legal nuisance to the neighborhood. Horses and a horse barn shall be allowed on this tract. Horses, however, shall be kept in a fenced area, and the fencing and location shall be approved by the Developer pursuant to Item 3 of the Restrictive Covenants.

ORIGINAL

RECORDED

96 JAN-3 PM 12:03

DEED 63 SPG 258

STATE OF SOUTH CAROLINA)
 COUNTY OF SPARTANBURG, S.C.)
 COUNTY OF SPARTANBURG)

PARTIAL WAIVER OF RESTRICTIVE
 COVENANTS AND EASEMENTS OF HAWK
 CREEK SUBDIVISION, PHASE 2B RECORDED
 IN DEED BOOK 61-B AT PAGE 85, RMC
 OFFICE FOR SPARTANBURG COUNTY

WHEREAS, Mark III Properties, Inc. conveyed Lot 212, Hawk Creek Subdivision, Phase 2B on plat of survey recorded in Plat Book 126 at page 749, RMC Office for Spartanburg County to Property Improvement and Management Associates, Ltd. ("PIMA") by deed dated May 24, 1995 and recorded June 7, 1995 in Deed Book 62-W at page 505, RMC Office for Spartanburg County; and

WHEREAS, said conveyance was made subject to Restrictive Covenants of Hawk Creek Subdivision recorded in Deed Book 61-B at page 85, said RMC Office ("Covenants"); and

WHEREAS, paragraph 2(a) of said Covenants required, among other things, that all buildings must be set back from the front property line by at least the minimum number of feet required by the set back line shown on the recorded subdivision plat of the property, i.e. 35'; and

WHEREAS, PIMA unintentionally constructed a portion of the residence on said lot 33.6' from the front property line as shown on plat of survey for Bobby Morrison and Lynda F. Morrison by Gooch & Associates, P.A., Surveyors, dated December 13, 1995; and

WHEREAS, paragraph 20 of said Covenants provides that the undersigned developer may waive any minor or unintentional violation thereof.

NOW, THEREFORE, FOR VALUE RECEIVED, Mark III Properties, Inc. hereby waives the minor and unintentional front property line set back requirement on Lot 212, Phase 2B as shown on plat of property

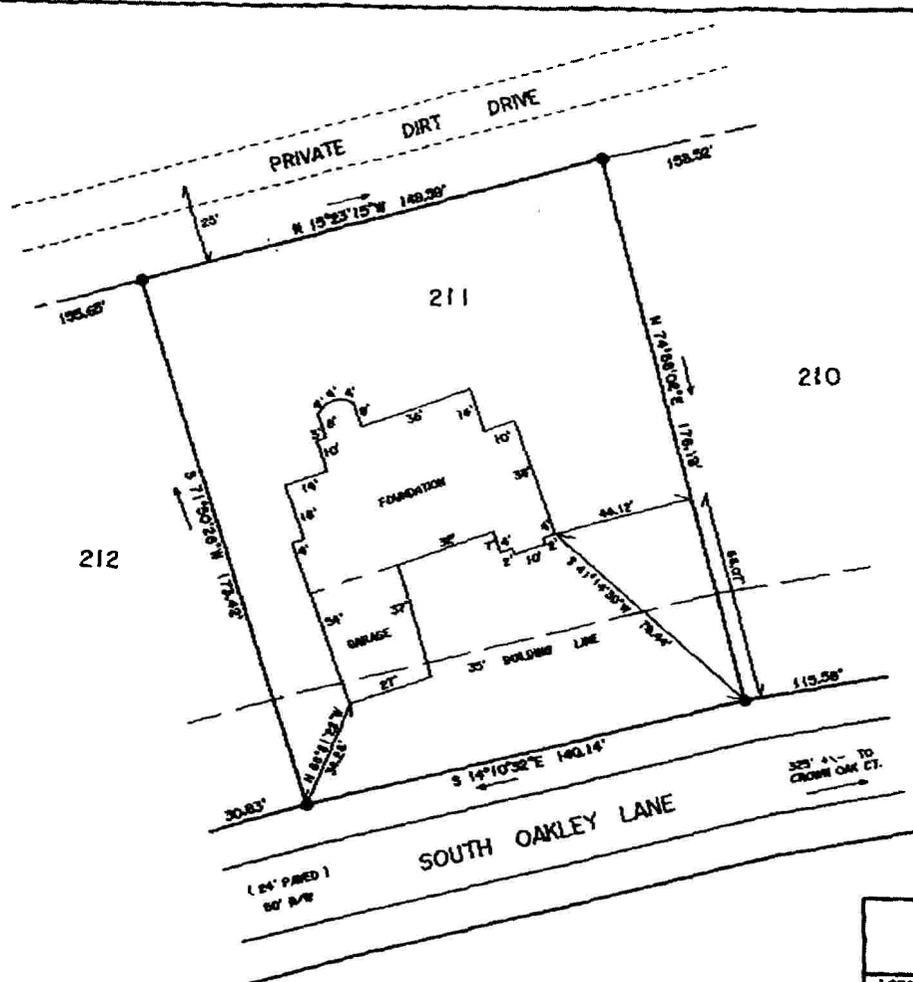
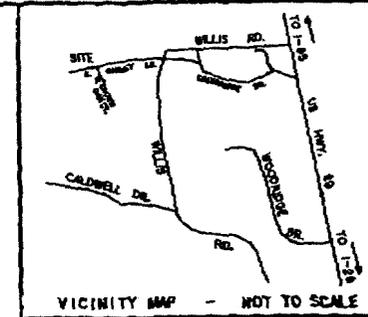
500 116 10396#067 \$10.00M4

DEED 71 A P 6092

EXHIBIT "A"

THIS BEING LOT NO. 211 OF
HAWKCREEK SUBD., PHASE 2-B.

NOTE: ALL PINS ARE 1/2" REBAR.



THE PROPERTY SHOWN HEREON IS SUBJECT TO ANY
AND ALL OTHER EASEMENTS, ZONING ORDINANCES
AND MAPS OF RECORD OR NOT OF RECORD

TOTAL : .581 AC.

THIS DOCUMENT
MARGINAL
FOR IMAGING

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION
AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE
WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR
THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA AND MEETS
OR EXCEEDS THE REQUIREMENTS FOR CLASS B SURVEYS SPECIFIED
THEREIN. ALSO THERE ARE NO SUBLINGUIC MEASUREMENTS OR PROJECTIONS
OTHER THAN SHOWN.

VITTHALBHAI H. PATEL				MEMBER SC SOCIETY OF PROFESSIONAL LAND SURVEYORS	
LOCATION: NEAR SPARTANBURG			○ DENOTES IRON PIN SET ● DENOTES IRON PIN FOUND		
COUNTY: SPARTANBURG	STATE: SC	DRAWN BY: M. WHITE	FIELD BY: JMG, JR.		
CO. BLK. REF.: 6-18-12-25	DEED BOOK REF.: 68 Z p. 740	PLAT BOOK REF.: 126 p. 749			
DATE: OCTOBER 21, 1999	SCALE: ○ 40 80 120				
PHONE: (864) 592-3500	JAMES V. GREGORY LAND SURVEYING P.O. BOX 188, CAMPOBELLO, SC 29322			FAX: (864) 592-3509	
				REGISTRATION # 6329	
				PLAT NO. (LITHO) 8-12,948	

DEED 73J PG 151

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG) RELEASE AND WAIVER OF RESTRICTIONS

WHEREAS, there are recorded certain RESTRICTIVE COVENANTS pertaining to Hawkcreek as recorded in Plat Book 135, Page 628, RMC Office for Spartanburg County, S.C Said RESTRICTIVE COVENANTS are recorded in Deed Book 61B, Page 95, RMC Office for Spartanburg County, S.C.

WHEREAS, in accordance with the provision of the abovesaid RESTRICTIVE COVENANTS, the developer reserved the right and privilege to give a waiver to any setback line as stated in Paragraph # 2A of said restrictions.

NOW, THEREFORE, BY ITS SIGNATURES TO THIS DOCUMENT, the developer does hereby consent and declare that the building setback line for Lot No. 308 of Hawkcreek be waived.

NOW, THEREFORE, BY MY SIGNATURE TO THIS DOCUMENT, the Developer does hereby consent and declare that the RESTRICTIVE COVENANTS pertaining to the setback line for Lot No. 308, is hereby waived and released from the Restrictive Covenants as recorded in Deed Book 61B, Page 95, RMC Office for Spartanburg County, S.C.

MARK III PROPERTIES

Mark Weyers
Teresa M. Messer

BY: [Signature]
Name: JOHN W BEESON
Title: President

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG) PROBATE

Personally appeared before me the undersigned witness and made oath that (s)he saw the within named John W. Beeson sign the within Release of Restrictive Covenants, and as his act and deed, deliver the same and (s)he with the other witness subscribed above witnessed the execution thereof.

Sworn to before me this 24th day of July, 2000.

Barbara J. Elder
Notary Public for S.C.
My Commission Expires: 6-20-07

Emma J. Davis
Teresa M. Messer

c:Hawkcreek.rel

RECORDED
01 FEB - 9 PM 4: 38
RMC
SPARTANBURG, S.C



STATE OF SOUTH CAROLINA)
)
)
COUNTY OF SPARTANBURG)

DECLARATION OF AMENDMENT TO
RESTRICTIVE COVENANTS AND
EASEMENTS FOR
HAWK CREEK SUBDIVISION
(Deed Book 61-B, Page 85)

WHEREAS, the Restrictive Covenants of Hawk Creek Subdivision, Phase II—A, B, C and D (the “Restrictions”) were recorded at Deed Book 61-B, Page 85 in the Office of the Register of Deeds for Spartanburg County; and

WHEREAS, the undersigned developer, Mark III Properties, Inc., hereby amends the Restrictions as set forth herein below in accordance with Paragraph 18 of said Restrictions and hereby assigns all of its enforcement rights and obligations to the Hawk Creek Homeowner’s Association (the “Association”) in accordance with Paragraph 23 of said Restrictions. All capitalized terms contained herein which are not defined herein shall have the same meanings given them in the Restrictions.

NOW THEREFORE, the Restrictions are hereby amended as follows:

1. Paragraph 19 of the Restrictions is hereby amended and replaced in its entirety to read as follows:

“19. The Hawk Creek Homeowner’s Association (the “Association”) and any property owner within Hawk Creek Subdivision shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants and reservations. If the Association or an owner or occupant is successful in any such proceeding brought to enforce the provisions of these Restrictions, such a successful party shall be entitled to recover from the opposing party all costs and attorney fees reasonable incurred in such proceeding. Failure of 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. The Association shall have the right to request that law enforcement, public safety, and/or animal control officers come to assist with the enforcement of the laws, codes, and ordinances of any governmental authority.

The Association (through its board of directors) shall have the right to impose fines against homeowners who violate these Restrictions or otherwise fail to comply with written approval requirements of the Association contained herein. The amount of the fine(s) will be determined on a case by case basis depending on the severity of the violation. Before any fine is assessed, the Association will send a letter by certified mail notifying the homeowner of the infraction and a time period to rectify the situation. The time period shall typically be thirty (30) days, however, based on the nature of the violation, the Association may grant a longer period to meet compliance. The letter may also include recommendations as to what the homeowner must do to remedy the infraction and the amount of the fine if they fail to comply within the time period. In any case, the minimum fine will be no less than \$100.00 and no more than \$1,000.00. A majority of the Association board of directors must approve the fine(s). Payment of the fine(s) does not relieve the homeowner of compliance with the covenants.”

2. The Association acknowledges and agrees that this Amendment contains provisions specifically requested by it and is executed by the developer at its request. The Association acknowledges and agrees that it shall indemnify the developer and hold it harmless against any claims and/or demands of homeowner's that arise against the developer (including costs and reasonable attorney's fees) resulting from the provisions of this Amendment.

Dated this 25th day of May, 2005

WITNESS:

Jennifer Cash
Jennifer Cash - Hawk Creek HOA Pres.
Sue Davis Long
Sue Davis Long - Covenants Committee Chair

Mark III Properties, Inc.
By: Laura B Henthorn
Name: Laura B Henthorn
Title: its Secretary

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

PROBATE

Personally appeared the undersigned witness and made oath that (s) he saw the within named Mark III Properties, Inc. by Laura B Henthorn its Secretary sign, seal and as its act and deed deliver the within written Declaration of Amendment to Restrictive Covenants and Easements Hawk Creek Subdivision and that (s) he, with the other witness subscribed above witnessed the execution thereof.

Sue Davis Long

SWORN to before me
This 25th day of May, 2005

Linda W. Belcher (SEAL)
Notary Public of South Carolina
My Commission Expires: 2/10/11