

WM. RANK
520 LAKE FOREST DR. S.E.,
215-0437

See Amendment to Declaration B451P2/D and D453P867

BOOK 436 PAGE 153

FILED
BOOK 436 PAGE 153
AUG 4 12 30 PM '78

GRIER GILMORE
REGISTER OF DEEDS
MOORE COUNTY, N.C.

DECLARATION OF CONDOMINIUM

FOR

BRUE BURN VILLAGE CONDOMINIUM, PHASE I

Filed For Record August 4, 1978,
Recorded in Book
Pages Through
In The Office Of The Register Of Deeds
For Moore County,
North Carolina.

TAX ADDRESS
RECORDING
STAMP
TOTAL

44.00 due Don Lassiter

Consisting of 58 Pages,
Numbered 1 Through _____
and
Exhibits A Through E.

Prepared by
J. Donnell Lassiter
KENNEDY, COVINGTON, LOBELL & HICKMAN
3300 NCNB Plaza
Charlotte, North Carolina 28280

INDEX

TO DECLARATION OF INTENTION TO SUBMIT PROPERTY
TO THE PROVISIONS OF THE
NORTH CAROLINA UNIT OWNERSHIP ACT

<u>Paragraph</u>	<u>Title</u>	<u>Page</u>
1.	Definitions.....	1
2.	Name of Condominium	3
3.	Description of Buildings	3
4.	Unit Designations.....	3
5.	Common Areas and Facilities.....	3
6.	Brae Burn Village Condominium Association, Phase I, Inc.	4
7.	Use of Common Areas and Facilities	4
8.	Person to Receive Service of Process	4
9.	Easements	4
10.	Partitioning.....	5
11.	Liens	5
12.	Nature of Interest in Units.....	5
13.	Assessments	5
14.	Description of Limited Common Areas and Facilities	6
15.	Insurance	6
16.	Distribution of Insurance Proceeds.....	8
17.	Duty to Repair.....	8
18.	Transfer of Units	9
19.	Units Subject to Declaration, Bylaws, Rules and Regulations	10
20.	Amendment to Declaration.....	10
21.	Termination	10
22.	Statement of Purposes, Use and Restrictions	10
23.	Invalidity	11
24.	Waiver	11
25.	Captions	11
26.	Law Controlling	12

DECLARATION OF INTENTION TO SUBMIT PROPERTY
TO THE PROVISIONS OF THE
NORTH CAROLINA UNIT OWNERSHIP ACT

BRAE BURN VILLAGE CONDOMINIUM, PHASE I

THIS DECLARATION, made this 4 day of August, 1976 by PINEHURST, INCORPORATED, a North Carolina corporation, hereinafter called the "DECLARANT", pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, entitled the "Unit Ownership Act".

WITNESSETH:

WHEREAS, the Declarant is the owner of certain real property in Moore County, State of North Carolina, and more particularly described in Exhibit "A" attached hereto; and

WHEREAS, the Declarant is the owner of certain buildings and other improvements heretofore constructed or hereafter to be constructed upon the aforesaid property and it is the desire and the intention of the Declarant to divide the project into "Condominium Units" or "Units", as those terms are defined under the provisions of the North Carolina Unit Ownership Act, and to sell and convey the same to the various purchasers subject to the covenants, conditions and restrictions herein reserved to be kept and observed; and

WHEREAS, Declarant desires and intends, by the filing of this Declaration, to submit the above described property and all buildings and other improvements constructed or to be constructed thereon, together with all appurtenances thereto, to the provisions of the North Carolina Unit Ownership Act (Chapter 47A, North Carolina General Statutes);

NOW, THEREFORE, the Declarant does hereby publish and declare that all of the property described above and in Paragraph 3 below is held and shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to the following covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into condominium units and shall be deemed to run with the land and shall be a burden and a benefit to Declarant, its successors and assigns, and any person acquiring or owning an interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. DEFINITIONS. Certain terms as used in this Declaration and exhibits attached hereto and made a part hereof shall be defined as follows, unless the context clearly indicates a meaning different therefor:

(a) "Association of Unit Owners" is as defined in the North Carolina Unit Ownership Act and shall mean all of the Unit Owners acting as a group in accordance with this Declaration and the Bylaws.

(b) "Board of Administrators" shall mean the governing body of Brae Burn Village Condominium Association, Phase I, Inc., a not for profit corporation whose purpose is to manage, maintain and care for the Brae Burn Village Condominium, Phase I.

(c) "Buildings" shall mean all structures erected or to be erected upon the Property in which a Unit is located.

(d) "Bylaws" shall mean the bylaws of Bras Burn Village Condominium Association, Phase I, Inc.

(e) "Common areas and facilities" shall have the meaning as set forth in the North Carolina Unit Ownership Act and as more fully described in paragraph 5 hereof.

(f) "Common Expenses" shall mean and include:

(i) All sums assessed against the Unit Owners by the Association;

(ii) Expenses of administration, maintenance, repair or replacement of the Common areas and facilities;

(iii) Expenses agreed upon as Common Expenses by the Association;

(iv) Expenses declared Common Expenses by the provisions of the North Carolina Unit Ownership Act, or by this Declaration or the Bylaws;

(v) Hazard insurance premiums.

(g) "Common Interest" shall mean the aggregate of the undivided interests of the Unit Owners in the Common areas and facilities.

(h) "Owner" or "Unit Owner" shall mean a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, having an ownership interest of record in a Unit within the Property.

(i) "Limited Common areas and facilities" shall mean those parts of the Common areas and facilities reserved for the use of a certain Unit to the exclusion of all other Units, as more specifically described in paragraph 14 hereof.

(j) "Mortgage" shall mean a deed of trust as well as a mortgage.

(k) "Mortgagee" shall mean a beneficiary under or a holder of a deed of trust as well as a mortgagee.

(l) "Property" shall mean the entire parcel of real property referred to in this Declaration to be divided into condominiums (and as more fully described in Exhibit A) including the land, the Buildings, all other improvements and structures thereon, all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for common use in connection therewith.

(m) "Unit" shall mean those parts of the Property described in paragraph 4 hereof which are the subject of individual ownership.

2. NAME OF CONDOMINIUM. The name by which the Property shall be known is "BRAE BURN VILLAGE CONDOMINIUM, PHASE I".

3. DESCRIPTION OF BUILDINGS. Brae Burn Village Condominium, Phase I (the "Condominium") will consist of five (5) noncontiguous residential buildings, each containing a single Unit. A plat of survey of the Property dated February 2, 1978 by Willard A. Hintz, Registered Land Surveyor, showing the location of the buildings is attached hereto as Rider 1 to Exhibit "A" and is made a part hereof. Said Buildings are more particularly described in the plans and specifications thereof, a copy of which is attached hereto and made a part hereof as Exhibit "B", showing all particulars of the Buildings, including the layout, locations, ceiling and floor elevations, Unit numbers and dimensions of the Units, and location of the Common areas and facilities affording access to each Unit. Such plans bear the verified statement of Paul E. Powell, Registered Professional Engineer, certifying that the said plans are an accurate copy of the plans of the Buildings, as built.

The foundations of the Buildings are constructed of steel reinforced concrete. The Buildings are basically one story, wood frame with glass and wood panel walls, cedar strip roofs, with entry from deck whose steel reinforced concrete walls have a stucco finish. The structural system is a central steel column tied to radial wood trusses supporting the floor and roof of the upper level. The lower floor consists of a concrete slab. The upper level floors are wood and carpet. More detailed descriptions of the materials of which said Buildings are to be constructed are contained in the plans and specifications in Exhibit "B" hereto.

4. UNIT DESIGNATIONS. The designation of each Unit, approximate area, number of rooms, and other data concerning its proper identification are set forth in Exhibit "C" attached hereto and made a part hereof. Each Unit is bounded both as to horizontal and vertical boundaries by the exterior surface of its perimeter walls and roof and by the concrete foundation slab. All decks, porches, exterior doors, window frames, panes and screens shall be part of the Units to which they are attached, provided, however that the decoration and painting of the exterior walls, and such decks and porches and of the exterior surface of such doors and window frames shall be the responsibility of the Association (as defined in Paragraph 6 below). Access to the Common areas and facilities from each Unit is direct from each Unit and by walkways in the Common areas and facilities as are more fully shown on the plat of survey attached to Exhibit "A" as Rider 1.

5. COMMON AREAS AND FACILITIES. The Common areas and facilities consist of all of the Property other than the Units as described in paragraph 4 above, including without limitation, the following:

(a) All central and appurtenant installations for services such as power, light, water, gas, sewer, TV antenna and cables, laundry facilities, and all tanks, pumps, motors, fans, conduits and compressors used in connection therewith, whether located in Common areas or in Units;

(b) All other parts of the Property and all apparatus and installations, including all items of personal property, existing in the Buildings or upon the Property for common use or which are necessary or convenient to the existence, maintenance or safety of the Property.

The percentage of undivided interest in the Common areas and facilities appurtenant to each Unit and its Owner for all purposes is set forth in Exhibit "C" attached hereto and made a part hereof.

6. BRAE BURN VILLAGE CONDOMINIUM ASSOCIATION, PHASE I, INC. A non-profit North Carolina corporation known and designated as Brae Burn Village Condominium Association, Phase I, Inc. (the "Association") has been or will be organized to provide for the administration of the Property and said corporation shall administer the operation and maintenance of the Property and undertake and perform all acts and duties incident thereto in accordance with the terms of its Articles of Incorporation and Bylaws. A copy of the Articles of Incorporation and Bylaws are attached hereto as Exhibits D and E, respectively. Each Owner shall automatically become a member of the corporation upon his acquisition of an ownership interest in any Unit and its appurtenant undivided interest in the Common areas and facilities and the membership of such Owner shall terminate automatically upon such Owner being divested of ownership interest in the title to such Unit. In the administration of the operation and management of the Property, the Association shall have and is hereby granted the authority and power to enforce the provisions of this Declaration, to levy and collect assessments in the manner herein provided, and to adopt, promulgate and enforce such rules and regulations governing the use of the Units and Common areas and facilities as the Board of Administrators of the Association may deem to be in the best interests of the Association.

7. USE OF COMMON AREAS AND FACILITIES. Each Unit Owner shall have the right to use the Common areas and facilities in accordance with the purposes for which they are intended and for all purposes incident to the use and occupancy of his Unit, and such right shall be appurtenant to and run with his Unit; provided, however, that no person shall use the Common areas and facilities or any part thereof in such manner as to interfere with or restrict or impede the use thereof by others entitled to the use thereof or in any manner contrary to or not in accordance with this Declaration, the Bylaws, and such rules and regulations as may be established from time to time by the Board of Administrators.

8. PERSON TO RECEIVE SERVICE OF PROCESS. J. J. Slade is hereby designated to receive service of process in any action which may be brought against or in relation to the Condominium. Said person's residence or place of business is Pinehurst, Incorporated, Moore County, North Carolina, which is located within the county in which the Property is located.

9. EASEMENTS. Each Unit Owner shall have an easement in common with all other Unit Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other common facilities located in any of the other Units and serving his Unit. Each Unit shall be subject to an easement in favor of the Owners of all other Units to use the pipes, ducts, cables, wires, conduits, public utility lines and other common facilities serving such other Units and located in such Unit. The Board of Administrators shall have the right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the common facilities contained therein.

The Board of Administrators may hereafter grant easements for utility purposes for the benefit of the Property including the right to install, lay, maintain, repair and replace water lines, pipes, sewer lines, gas mains, telephone wires and equipment and electrical conduits, and wires over, under, along and on any portion of the common areas; and each Unit Owner hereby grants the Board of Administrators an irrevocable power of attorney to execute, acknowledge and record for and in the name of each Unit Owner such instruments as may be necessary to effectuate the foregoing.

10. PARTITIONING. The Common areas and facilities shall not be divided nor shall any right to partition any thereof exist. Nothing herein contained, however, shall be deemed to prevent ownership of a Unit by the entireties, jointly, or in common or in any other form by law permitted.

11. LIENS. While the Property remains subject to this Declaration and the provisions of the North Carolina Unit Ownership Act, no liens of any nature shall arise or be created against the Common areas and facilities except the existing lien in favor of Material Sales Company which is subordinate to this Declaration or with the unanimous consent in writing of all of the Unit Owners and the holders of first liens thereon. Every agreement for the performance of labor, or the furnishing of materials to the Common areas and facilities, whether oral or in writing, must provide that it is subject to the provisions of this Declaration and the right to file a mechanics' lien or other similar lien by reason of labor performed or material furnished is waived.

12. NATURE OF INTEREST IN UNITS. Every Unit, together with its undivided interest in the Common areas and facilities, shall for all purposes be, and it is hereby declared to be and to constitute a separate parcel of real property and the Owner thereof shall be entitled to the exclusive ownership and possession of his Unit subject only to the covenants, restrictions, easements, rules, regulations, resolutions and decisions adopted pursuant hereto and as may be contained herein and in the accompanying Bylaws and in the minutes of the Board of Administrators and Brae Burn Village Condominium Association, Phase I, Inc.

13. ASSESSMENTS.

(a) TAXES. Every Unit, together with its undivided interest in the Common areas and facilities, shall be separately assessed and taxed by each assessing unit for all types of taxes authorized by law. Each Owner shall be liable solely for the amount taxed against his individual Unit.

(b) ASSESSMENT BY DECLARANT.

(1) Each Owner by acceptance of a deed to his Unit or by signing a contract or agreement to purchase the same, whether from Declarant or a subsequent owner or purchaser of such Unit, covenants, agrees and binds himself, his heirs, successors and assigns to pay Declarant, its successors or assigns, an annual assessment in an amount not to exceed, in the absolute and sole discretion of Declarant, a sum equal to one and one-half percent (1-1/2%) of the taxable value of the Unit as determined from time to time by the constituted authorities for County taxation in Moore County, North Carolina, for the maintenance and care

of roads, street, sidewalks, parks, common areas and common facilities in and around Pinhurst, North Carolina to which the Owner has a right of use or access, and for fire and police protection, and for such other services as may be made available to Owners or purchasers by Declarant.

(2) The one and one-half percent (1-1/2%) limitation shall be subject to increase in increments of one-fourth (1/4) of one percent (1%) for every five percent (5%) percentage increase, if any, of the Consumer's Price Index, U.S. New Series, U.S. Average for All Items for Urban Wage Earners and Clerical Workers, Revised 1953, or any successor index thereto, as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

(3) The statement or bill for the aforesaid assessment shall be rendered by Declarant in September of each year and is payable at any time thereafter and shall be due by January 31 of the following year. The obligation to pay the aforesaid assessment shall constitute a lien on such Unit in the same manner as provided for unpaid common expenses under the provisions of the North Carolina Unit Ownership Act.

(c) COMMON EXPENSES. Each Owner shall contribute, pro rata in proportion to his undivided interest as set forth in Exhibit "C" hereto, toward the expenses of administration, maintenance and repair of the Common areas and facilities, and any other expense lawfully agreed upon, all in accordance with the attached Bylaws and the provisions of the North Carolina Unit Ownership Act.

14. DESCRIPTION OF LIMITED COMMON AREAS AND FACILITIES. Limited common areas and facilities shall mean and include those Common areas and facilities reserved for use by a certain Unit or Units to the exclusion of other Units. Each Unit Owner is hereby granted an exclusive and irrevocable license to use and occupy the Limited Common areas and facilities associated with and/or assigned to such Unit Owner's Unit. All parking spaces shall constitute Common areas and facilities even though the Board of Administrators may, in its discretion, elect to assign specific parking spaces to specific Units and if parking places are so assigned, each Unit Owner agrees to be bound by such decision and to abide by such rules and regulations as may be established in such regard. Each Unit Owner shall be responsible for the maintenance and repair of the Limited Common areas and facilities (other than parking spaces) assigned to his Unit, any provision herein to the contrary notwithstanding.

15. INSURANCE. The Board of Administrators shall obtain and maintain at all times insurance on the Property of the type and kind and in not less than the amounts as follows:

(a) The Board of Administrators shall make every effort to secure insurance policies that will provide the following minimum coverages:

(1) Fire. All improvements upon the land (other than Buildings) and all personal property included in the Common areas and facilities shall be insured in an amount equal to the maximum insurable replacement value as determined annually by the Board of Administrators with the assistance of the insurance company providing coverage. The policies evidencing such coverage shall contain clauses providing for waiver of subrogation, the standard SMP Condominium Endorsement (Form MIB29A, Ed. 12-72) (excepting the Waiver of Subrogation provision contained therein)

and shall provide that such policies may not be cancelled or substantially modified without at least thirty (30) days' prior written notice to all the insureds, including all Mortgagees of Units. Such coverage shall provide protection against loss or damage by fire or other hazards covered by a standard extended coverage endorsement, water damage, vandalism and malicious damage.

All such policies shall provide that adjustment of loss shall be made by the Board of Administrators as insurance trustees.

(2) Public Liability. The Board of Administrators shall also be required to obtain and maintain to the extent obtainable, public liability insurance in such limits as the Board of Administrators may, from time to time, determine, covering each member of the Board of Administrators, the managing agent, if any, and each Unit Owner with respect to his liability arising out of the ownership, maintenance, or repair of the Common areas and facilities. Such insurance shall include endorsements covering cross liability claims of one insured against another, including the liability of the Unit Owners as a group to a single Unit Owner. The Board of Administrators shall review such limits annually. Until the first meeting of the Board of Administrators following the initial meeting of the Unit Owners, such public liability insurance shall be in amounts of not less than \$250,000/\$1,000,000 for claims for bodily injury and \$25,000 for claims for property damage.

(3) Other. Such other insurance coverages including workmen's compensation as the Board of Administrators shall determine from time to time to be desirable.

(b) Premiums upon insurance policies purchased by the Board of Administrators shall be paid by the Board of Administrators and charged as a Common Expense.

(c) The Board of Administrators shall make every effort to secure insurance policies that will provide for the following:

(1) The master policy on the Property cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Owners.

(2) The master policy on the Property cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Board of Administrators, or manager, without prior demand in writing that the Board of Administrators or manager cure the defect.

(3) That any "no other insurance" clause in the master policy on the Property exclude individual Owners' policies from consideration.

(d) All insurance policies purchased by the Board of Administrators shall be for the benefit of the Board of Administrators and the Unit Owners and their Mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Board as insurance trustee. The sole duty of the Board of Administrators as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Unit Owners and their Mortgagees in the following shares: An undivided share for each Unit Owner, such share being the same as each Unit Owner's percentage interest in the Common areas and facilities.

The originals of all such policies and the endorsements thereto shall be deposited with the Board of Administrators and duplicates of said policies and endorsements and all renewals thereof, or certificates thereof, together with proof of payment of premiums, shall be delivered to the Unit Owners at least ten (10) days prior to the expiration date with respect to the then current policies.

Each Unit Owner may, at his option, obtain fire, extended coverage and liability insurance coverage at his own expense upon his Unit and personal property and such other coverage as he may desire.

16. DISTRIBUTION OF INSURANCE PROCEEDS. Proceeds of insurance policies received by the Board of Administrators as insurance trustee shall be distributed to or for the benefit of the beneficial Owners in the following manner:

(a) All expenses of the insurance trustee shall be first paid or provisions made therefor.

(b) If it is determined, as provided in paragraph 18 hereof, that the damaged Property, with respect to which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be distributed to the beneficial Owners thereof.

(c) If the damaged Property is repaired or reconstructed, the remaining proceeds shall be applied in the manner provided in paragraph 17 below.

17. DUTY TO REPAIR.

(a) In the event of damage to or destruction of any of the Common areas and facilities, the Board of Administrators shall arrange for the prompt repair and restoration of the Common areas and facilities. The Board of Administrators shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any payment for such repair and restoration in excess of the insurance proceeds shall constitute a Common Expense. Any reconstruction or repair shall be in accordance with the plans and specifications attached hereto as Exhibit "B" or as the Board of Administrators shall otherwise approve.

(b) Each Owner will, at his sole cost and expense, keep and maintain the exterior and roof of his Unit in good order and repair in accordance with the plans and specifications attached hereto as Exhibit "B", or as the Board of Administrators shall otherwise approve, and will make no structural addition, alteration or improvement to the Unit without the prior written consent of the Board of Administrators. Upon the failure of a Unit Owner to so maintain his Unit, the Board of Administrators shall be authorized to maintain, repair or restore the exterior and roof of such Unit, and the cost thereof shall be charged to the Unit Owner and constitute a lien on the Unit until paid.

If a Unit is damaged by fire or other casualty and its owner elects not to repair or reconstruct the Unit, the Unit Owner shall promptly remove all materials, debris and other parts of the Unit and shall restore the portion of the Property on which the Unit was situated to its original condition so far as reasonably possible.

18. **TRANSFER OF UNITS.** Any Owner desiring to sell his Unit shall first offer to sell such Unit to the Board of Administrators at the same price and on the same terms under which the highest acceptable bona fide offer has been made to such Owner. The Owner desiring to sell a Unit shall give the Board of Administrators written notice by registered mail, return receipt requested, of the Owner's desire to sell such Unit and shall further advise the Board of the name and address of the person, firm or corporation making said highest acceptable bona fide offer as well as the amount and terms of said offer. The Board of Administrators shall have a period of thirty (30) days after receipt of said written notice within which to exercise its option to purchase such Unit at the same price and on the same terms as the highest acceptable bona fide offer and shall have an additional period of not less than thirty (30) days within which to close the said transaction. The Board of Administrators may elect to purchase such Unit on behalf of all of the remaining Unit Owners as a group or, if the remaining Unit Owners as a group do not wish to purchase such Unit, then on behalf of any one or more individual Unit Owners. In the event the Board of Administrators shall elect to purchase a Unit offered for sale on behalf of the remaining Unit Owners, the cost thereof shall be shared by the remaining Unit Owners in the same proportion as Common Expense, adjusted, however, to reflect the exclusion of the Unit purchased; and any profit or loss realized upon the sale by the Board of a Unit so acquired shall likewise be shared by the remaining Unit Owners. In the event that the Board of Administrators shall elect to purchase a Unit offered for sale on behalf of any one or more individual Unit Owners, then the cost thereof shall be shared by such purchasing Unit Owners in such proportion as they shall agree upon. The Board of Administrators, upon the request of a selling Unit Owner, shall execute in recordable form an instrument indicating compliance with the terms and provisions of this Declaration by the selling Owner.

A Unit Owner may lease or rent his Unit subject to such rules and regulations as may be adopted from time to time by the Board of Administrators.

No Unit Owner may mortgage his Unit, or any interest therein, without the prior written approval of the Board of Administrators, except as to a first mortgage lien made to an institutional lender such as a bank, mortgage banker, life insurance company, savings and loan association or to Diamondhead Corporation, or any of its affiliates, or to a vendor (including Declarant) to secure a portion or all of the purchase price. Any mortgage from Declarant to Material Sales Company is expressly permitted. The Board may, and it is hereby authorized to, impose reasonable conditions upon which approval of any other mortgage shall be given.

Any sale, voluntary transfer, conveyance, lease or mortgage which is not authorized by the terms of this Declaration or for which authorization has not been obtained pursuant to the terms hereof is voidable and may be voided by certificates of the Board of Administrators duly recorded in the recording office where this Declaration is recorded.

The following transfers, sales or conveyances are specifically excluded from the provisions of this paragraph, including the right of first refusal of the Board of Administrators:

(1) Transfers, sales or conveyances involving a foreclosure sale or other judicial sale or transfer to a mortgagee in lieu of foreclosure;

- (2) Any transfer, sale or conveyance by a mortgagee following foreclosure or any proceeding or arrangement in lieu thereof;
- (3) Transfers, sales or conveyances by Declarant or any successor of Declarant;
- (4) Conveyances of gift or as are made without considerations to the grantor;
- (5) Transfers or conveyances upon death.

19. UNITS SUBJECT TO DECLARATION, BYLAWS, RULES AND REGULATIONS.

All present and future Owners, tenants and occupants of the Units shall be subject to and shall comply with the provisions of this Declaration, the Bylaws, and any Rules and Regulations as may be adopted in accordance with the Bylaws, as said Declaration, Bylaws, Rules and Regulations may be amended from time to time. The acceptance of a deed of conveyance or the entering into of a lease or the entering into occupancy of any Unit shall constitute an agreement that the provisions of this Declaration, Bylaws and any Rules and Regulations which may be adopted are accepted and ratified by such Owner, tenant or occupant and all of such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Units as though such provisions were made a part of each and every deed of conveyance or lease.

20. AMENDMENT TO DECLARATION. This Declaration may be amended by the vote of at least 60% in Common Interest of all Unit Owners, with the consent of their respective Mortgagees, cast in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws; provided, however, that such amendment shall have been approved in writing by Declarant. No such amendment shall be effective until recorded in the Office of the Register of Deeds, Moore County, North Carolina. Provided that any amendment which amends or alters the percentage of undivided interests in the Common areas and facilities, or voting rights, shall require the written approval of all Unit Owners, with the consent of their respective Mortgagees.

21. TERMINATION. This condominium may be terminated and the Property removed from the provisions of the North Carolina Unit Ownership Act in the manner and with the effect provided in the North Carolina Unit Ownership Act.

22. STATEMENT OF PURPOSES, USE AND RESTRICTIONS. The Units, Common areas and facilities, and Limited Common areas and facilities shall be occupied and used as follows:

- (a) The Property shall be used for single family residence purposes and common recreational purposes auxiliary thereto and for no other purposes except that a Unit Owner may rent or lease his Unit, not to exceed a period of five (5) years without the prior written consent of the Board of Administrators. A Unit Owner or occupant may use a portion of his Unit for his office provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Unit Owner or occupant and further provided that such activities shall not involve the personal services of any Unit Owner or occupant to a customer or other person or client who comes to the Property.

(b) There shall be no obstruction of the Common areas and facilities. Nothing may be stored in the Common areas and facilities without the prior written consent of the Board of Administrators.

(c) Nothing shall be done or kept in any Unit or in the Common areas and facilities which will increase the rate of insurance on the Common areas and facilities or any other Unit without the prior written consent of the Board of Administrators. No Owner shall permit anything to be done or kept in his Unit or in the Common areas and facilities which would result in the cancellation of insurance on any Unit or any part of the Common areas and facilities, or which would be in violation of any law. No waste of the Common areas and facilities will be committed.

(d) No sign of any kind shall be displayed to the public view from any Unit or from the Common areas and facilities without the prior written consent of the Board of Administrators.

(e) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common areas and facilities, except that household pets may be kept in Units, subject to rules and regulations adopted by the Board of Administrators.

(f) No noxious or offensive activity shall be carried on in any Unit, or in the Common areas and facilities, nor shall anything be done therein which will be an annoyance or nuisance to other Owners.

(g) Nothing shall be altered or constructed in or removed from the Common areas and facilities except with the written consent of the Board of Administrators.

(h) The Board of Administrators of the Unit Owners Association is authorized to adopt rules for the use of the Common areas and facilities, said rules to be furnished in writing to the Owners. There shall be no violation of said rules.

(i) Notwithstanding anything herein to the contrary, Declarant, and such persons it may select, shall have the right of ingress and egress over, upon and across the Common areas and facilities, the right to utilize one or more Units as a model, the right to erect signs upon the Property for the purpose of advertising availability of Units and similar uses, and the right to store materials on the Common areas and facilities and make such other use thereof as may be reasonably necessary incident to construction, development and sale of the condominiums and operation of the Units and Common areas and facilities.

(j) Notwithstanding anything to the contrary mentioned in this Declaration, there shall not be permitted to be constructed on the Property described herein any natural barriers in the forms of trees, bushes or shrubs, and no man-made structures in the form of fences, on or about the Common areas between the individual Units, and the Pinehurst Country Club Golf Course fairway adjoining the common elements, nor shall there be constructed any piers or boat dockage facilities without the prior written consent of the Declarant, its successors or assigns.

23. **INVALIDITY.** The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity and enforceability of the remainder of this Declaration, and in such event, all the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

24. **WAIVER.** No provisions contained in the Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

25. **CAPTIONS.** The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of this Declaration nor the intent of any provisions hereof.

BOOK 456 PAGE 206

26. LAW CONTROLLING. This Declaration and the Bylaws attached hereto shall be construed and controlled by and under the laws of the State of North Carolina.

IN WITNESS WHEREOF, Pinehurst, Incorporated has caused this Declaration to be executed by its duly authorized officers and its corporate seal to be hereunto affixed, this 4 day of August, 1978.



(CORPORATE SEAL)

WITNESSES:

Chas. H. Hugg
Assistant Secretary

PINEHURST, INCORPORATED, Declarant

By Jerry Blatter
President

STATE OF ^{North Carolina} ~~LOUISIANA~~
COUNTY OF ^{MOORE} ~~MOORE~~
PARISH OF ~~ORLEANS~~

This 4 day of August, 1978, personally came before me Jerry Blatter, who, being by me duly sworn says that he is the President of PINEHURST, INCORPORATED and that the seal affixed to the foregoing instrument in writing is the corporate seal of the Company, and that said writing was signed and sealed by him, in behalf of said Corporation, by its authority duly given. And the said Jerry Blatter acknowledged the said writing to be the act and deed of said corporation.

Doris B. Andrews
NOTARY PUBLIC

My Commission Expires:

3-31-80

NORTH CAROLINA - MOORE COUNTY
The foregoing (or annexed) certificate of
Doris B. Andrews, Notary Public
MOORE COUNTY.
STATE OF N. C. is certified to be
correct, this AUGUST 4, 19 78

Grier Gilmore
Registrar of Deeds
Mary R. Phillips Assistant



* See Plans and Specifications recorded in Unit Ownership Book 7
pages 31-41.

EXHIBIT "A"

A tract for Units 1 through 5 of Brae Burn Village, Phase I, Pinehurst, Inc., situated in the Village of Pinehurst, Mineral Springs Township, Moore County, North Carolina, lying between Sugar Gum Lane and Lake Pinehurst, all as shown on a plat entitled "Brae Burn Village, Phase I, Pinehurst, Inc.," by Matheson, Hantz and Associates, Inc., dated November 29, 1977, and being more particularly described as follows:

Beginning at an iron pipe corner, the northeast corner of a Utility Tract, Pinehurst, Inc., and being in the southern right-of-way of Sugar Gum Lane;

Thence with the southern right-of-way of Sugar Gum Lane easterly with a curve to the right having a radius of 562.33 feet, a curve distance of 218.60 feet to a concrete monument, a point of tangency;

Thence with the tangent of the southern right-of-way of Sugar Gum Lane South 88° 06' 00" East, 167.67 feet to an iron pipe corner on the eastern margin of the entrance drive to Brae Burn Village;

Thence with the eastern margin of the entrance drive South 5° 2' 47" East, 96.16 feet to the southern margin of the Village drive;

Thence westerly with the Village drive in a curve to the left having a radius of 200.44 feet, a curve length of 54.84 feet;

Thence continuing with the southern margin of the Village drive in a curve to the right having a radius of 110.50 feet, a curve length of 41.82 feet;

Thence with the Village drive, North 82° 43' 59" West, 12.75 feet to a point in the centerline of a parking drive;

Thence with the centerline of the parking drive and continuing to the shoreline of Lake Pinehurst, South 7° 16' 01" West, 83.77 feet to an iron pipe;

Thence westerly, with the shoreline of Lake Pinehurst, North 83° 36' 00" West, 76.93 feet to an iron pipe;

Thence continuing with the shoreline of Lake Pinehurst, South 70° 38' 00" West, 38.45 feet to an iron pipe, the southeast corner of the Utility Tract;

Thence with the eastern line of the Utility Tract, North 44° 35' 00" West 226.04 feet to an iron pipe, the Point of Beginning;

Containing 1.137 Acres, and subject to the right-of-way of the Village entrance road and drive, as hereinafter described.

Declarant hereby reserves unto itself, its successors and assigns, a non-exclusive easement over and upon the following described portion of the above tract for ingress and egress to and from Sugar Gum Lane to the remaining property of Declarant:

Beginning at an iron pipe situated at the intersection of the southern right-of way of Sugar Gum Lane and the eastern margin of the entrance drive to Brae Burn Village, said pipe being also situated at the northeast corner of the above described tract and running thence with the easterly boundary of Brae Burn Village Phase I South 5° 2' 47" East 96.16 feet to the southern margin of Village Drive;

Thence continuing with the boundary of Phase I and the southern margin of the Drive, westerly with a curve to the left having a radius of 200.44 feet, a curve length of 54.84 feet;

Thence continuing with said boundary and the Drive with a curve to the right having a radius of 110.50 feet, a curve length of 41.82 feet;

Thence continuing with said boundary and with Village Drive, North 82° 43' 59" West, 12.75 feet to a point in the centerline of a parking drive;

Thence, crossing Village Drive, North 7° 16' 01" East, 20.00 feet to a point in the northern margin of the Drive;

Thence easterly with the northern margin of the Drive South 82° 43' 59" East, 12.23 feet;

Thence continuing with the Drive and with a curve to the left having a radius of 33.00 feet, a curve distance of 60.41 feet;

Thence northerly with the western margin of the Drive, North 7° 37' 36" West, 49.90 feet to an iron pipe in the southern right-of-way of Sugar Gum Lane;

Thence with the southern right-of-way of Sugar Gum Lane, South 88° 06' 00" East, 55.11 feet to an iron pipe, the Point of Beginning, and containing 0.151 acres.

The submission of the above described 1.137 acre tract to the provisions of the North Carolina Unit Ownership Act is expressly made subject to the 16-foot sewer easement as shown on the attached plat of survey, Declarant hereby reserving a perpetual right to use, operate, inspect, repair and maintain the sanitary sewer line.

EXHIBIT C

DECLARATION OF CONDOMINIUM

BRAE BURN VILLAGE CONDOMINIUM, PHASE I

PINEHURST, NORTH CAROLINA

UNIT DESIGNATIONS AND UNDIVIDED INTEREST

<u>Unit Number</u>	<u>Approximate Area</u>	<u>Number of Rooms</u>	<u>Undivided Common Interest (%)</u>
1	800 sq. ft.	5	20.00
2	800 sq. ft.	5	20.00
3	800 sq. ft.	5	20.00
4	800 sq. ft.	5	20.00
5	800 sq. ft.	5	20.00