

Prepared by and Mail to:
Charles W. White
P.O. Box 1371
Durham, N.C. 27702

DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF ENO TRACE

RP
Bk. 1383
pg. 510
11-81
Deed
Bk 1395
p. 449
8-20-87

THIS DECLARATION, made on the date hereinafter set forth by ALLENTON REALTY AND INSURANCE COMPANY, hereinafter referred to as "Declarant".

Declaration
Bk 1447
pg 732
5-3-88

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in Durham, County of Durham, State of North Carolina, which is more particularly described in Exhibit A attached hereto;

Declaration
Bk 1450
pg 841
5-18-88

NOW, THEREFORE, Declarant hereby declares that all of the properties described above 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 real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to Owners of Eno Trace, Inc., its successors and assigns.

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

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the owners.

#20.00

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Allenton Realty and Insurance Company and its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' 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, subject to the following provisions:

(a) the right of the Association to charge reasonable fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed 60 days for any infraction of its published rules and regulations;

(c) the right of the Association to dedicate or transfer all or any part of the Common Area to any private party, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds of each class of members has been recorded.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

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

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

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

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three votes for each Lot owned, specifically including additional Lots annexed by Declarant as provided in Article VIII. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- (b) on January 1, 1995.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot 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, and (2) special assessments for capital improvements, such assessments

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

Section 2. Purpose of Assessment. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the properties.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be \$120.00 per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased each year not more than 10% above the maximum assessment for the previous year without a vote of the membership.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above 10% by a vote of two-thirds of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the annual assessment at an amount not in excess of the maximum. Provided, however, Declarant shall pay 25% of the annual assessment as set by the Board of Directors for each Lot owned by the Declarant.

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

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast 60% of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments:
Due Dates. The annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least 30 days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting

forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid 30 days after the due date shall bear interest from the due date at the rate of 6% per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within 30 days after said plans and specifi-

cations have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VI

EXTERIOR MAINTENANCE

In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds vote of the Board of Directors, shall have the right, through its agents and employees, to enter upon said parcel and to repair, maintain, and restore the Lot and the exterior of the buildings and any other improvements erected thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VII

STAGED DEVELOPMENTS

Additional land within the area described in Exhibit B may be annexed by the Declarant without the consent of members within 10 years of the date of this instrument provided that the FHA and the VA determine that the annexation is in accord with the general plan heretofore approved by them. The Declarant is not required to annex any or all of the areas described in Exhibit B.

ARTICLE VIII

GENERAL PROVISIONS

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

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall

in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of 20 years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of 10 years. This Declaration may be amended by an instrument signed by not less than 75% of the Lot Owners. Any amendment must be recorded.

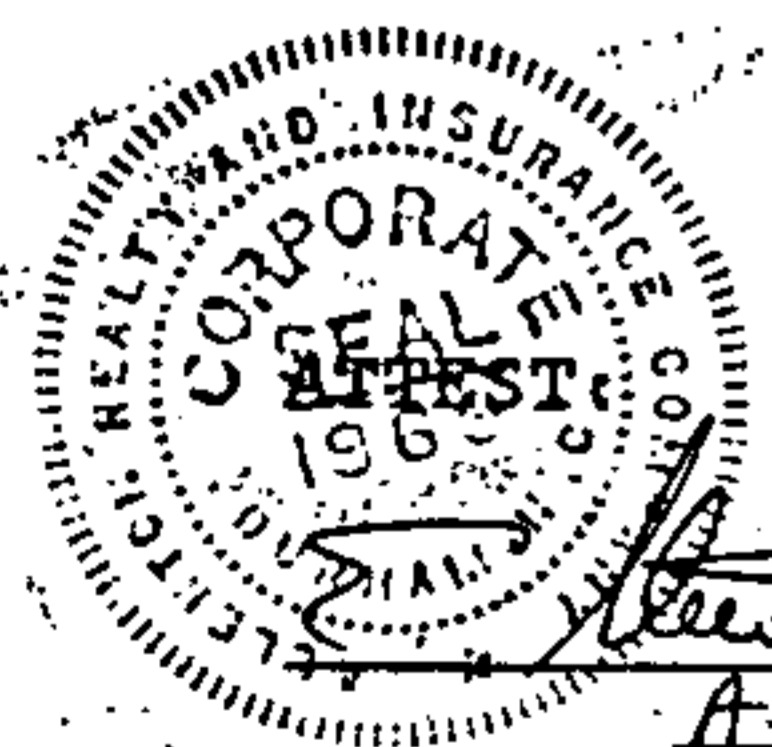
Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds of each class of members, except as provided in Article VII above.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 5 day of March, 1987.

ALLENTON REALTY AND INSURANCE COMPANY

BY *Allen Aldridge, Jr.*
President



E. Stewart Orgain, Jr.
Asst. Secretary

NORTH CAROLINA
Durham COUNTY

I, Cindy Underwood, a Notary Public, do hereby certify that E. Stewart Orgain, Jr. personally appeared before me this day and acknowledged that he is Asst. Secretary of ALLENTON REALTY AND INSURANCE COMPANY, a corporation, and that, by authority duly given and as the act of

the corporation, the foregoing instrument was signed in its name by its _____ President, sealed with its corporate seal, and attested by himself as its Asst. Secretary.

Witness my hand and notarial seal, this 5th day of March, 1987.

Cindy Underwood
Notary Public

My commission expires:

9-26-88



FILED

BOOK 1362 PAGE 687-695

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State of North Carolina-Durham County

The foregoing certificate(s) of Cindy Underwood
A Notary (Notaries) Public for the Designated Governments
units is (are) certified to be correct.

RUTH C. GARRETT
REGISTER OF DEEDS
DURHAM COUNTY, NC

This the 15 day of April A.D. 19 87
Ruth C. Garrett Ruth C. Garrett
Register of Deeds By: Assistant, Deputy
Register of Deeds

EXHIBIT A

BEING all of that property as shown on that plat and survey by Ernest B. Wood, Jr., R.L.S., entitled Eno Trace, Phase I, dated February, 1987, and recorded in Plat Book 114, at page 48, Durham County Registry, to which reference is hereby made for a more particular description of same.

Exhibit B

BEGINNING at a stake located in the property line on the south side of Infinity Road, said stake being at the northeast corner of Lot No. 4 of the property shown on plat recorded in Plat Book 93, at page 188, Durham County Registry, and as shown on the plat hereinafter referred to; and thence from said point and place of beginning along and with the property line on the south side of Infinity Road North $74^{\circ} 13' 04''$ East 2750.16 feet to a stake; thence South $15^{\circ} 41' 40''$ East 489.26 feet to a stake; thence South $74^{\circ} 18' 20''$ West 349.90 feet to a stake; thence South $15^{\circ} 41' 40''$ East 1026.24 feet to a stake; thence North $74^{\circ} 18' 20''$ East 550.03 feet to a stake in the west line of Tract No. 4 as shown in Plat Book 47, at page 70; thence along and with said property line South $15^{\circ} 43' 06''$ East 838.17 feet to a point located in the center line of the Eno River; thence with the center line of said Eno River South $63^{\circ} 45' 51''$ West 32.93 feet to a stake; thence North $13^{\circ} 28' 02''$ West 50.57 feet to a stake; thence North $15^{\circ} 08' 39''$ West 450.86 feet to a stake; thence along and with various courses and distances with the property line of the City of Durham, Tract No. 895, as follows: South $37^{\circ} 28' 32''$ West 452.83 feet, South $43^{\circ} 44' 18''$ West 184.30 feet, South $63^{\circ} 51' 12''$ West 239.69 feet, South $35^{\circ} 10' 09''$ West 250.16 feet, South $43^{\circ} 29' 03''$ West 198.60 feet, South $64^{\circ} 28' 06''$ West 197.92 feet, South $81^{\circ} 38' 20''$ West 166.91 feet, South $67^{\circ} 56' 11''$ West 128.06 feet, South $43^{\circ} 37' 44''$ West 133.98 feet, South $32^{\circ} 28' 12''$ West 155.90 feet, South $45^{\circ} 45' 15''$ West 202.0 feet, South $69^{\circ} 48' 25''$ West 196.94 feet, South $88^{\circ} 31' 13''$ West 202.97 feet, North $68^{\circ} 31' 13''$ West 204.01 feet, North $45^{\circ} 39' 56''$ West 191.96 feet, North $24^{\circ} 28' 54''$ West 188.20 feet, North $4^{\circ} 14' 32''$ West 449.95 feet, North $19^{\circ} 59' 43''$ East 199.89 feet, North $24^{\circ} 0' 01''$ East 294.86 feet, North $07^{\circ} 20' 10''$ West 110.96 feet, North $06^{\circ} 03' 20''$ East 224.94 feet, North $38^{\circ} 35' 23''$ East 329.89 feet, North $81^{\circ} 34' 22''$ East 249.79 feet, North $52^{\circ} 15' 55''$ West 209.83 feet, North $76^{\circ} 16' 42''$ West 686.34 feet, South $79^{\circ} 42' 28''$ West 513.28 feet to a 1-inch angle iron; thence with the east line of Lot No. 4, Plat Book 93, at page 188, North $15^{\circ} 41' 15''$ West 443.23 feet to the point and place of BEGINNING, the control corner, containing 125.807 acres, according to plat and survey thereof labelled "Final Plat, Infinity Road Boundary" by Philip Post & Associates, Engineer, dated June 30, 1986, recorded in Durham County Registry in Plat Book 111, at page 196, to which reference is herewith made for more particular description of same.