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WAKE COUNTY, NC 518
LAURA M RIDDICK
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COVER SHEET FOR
DECLARATION OF PROTECTIVE COVENANTS FOR
SOUTHVIEW POINTE SUBDIVISION

Prepared by and Hold for Wallace Nordan and Sarda
Box 202

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Protective Covenants for Southview Pointe Subdivision

PREPARED BY AND HOLD FOR:
WALLACE, NORDAN & SARDA, L.L.P. # 202

**DECLARATION OF PROTECTIVE COVENANTS FOR
Southview Pointe**

State of North Carolina

Wake County

THIS DECLARATION OF PROTECTIVE COVENANTS is made this 12 day of
Sept, 2007 by Southview Pointe Partners, L.L.C. (hereinafter referred to as
"Declarant").

Whereas, Declarant is the owner of the real property described in Article I of this declaration and desires to subject this real property to the protective covenants contained herein, each and all of which are for the benefit of such property and each owner thereof and shall inure to the benefit of and run with said property, and every lot or parcel thereof and shall apply to and bind the successors in interest and any owner thereof.

Now, therefore, Declarant hereby declares that the real property described in and referred to in Article I hereof, is and shall be held, transferred, sold, and conveyed subject to the protective covenants set forth below.

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ARTICLE I

The real property which shall be held, transferred, sold, and conveyed subject to the protective covenants set forth in this declaration, is located in Middle Creek Township, Wake County, North Carolina, and is more particularly described as follows: BEING all the lots of Southview Pointe as shown on a plat recorded in Book of Maps 2007, Pages 2075, 2076, and 2077, Wake County Registry. Declarant reserves the right to further subdivide the lots. If any of these lots should be further divided, the resulting new lots shall be subject to the protective covenants.

The real property described in Article I hereof is subject to the protective covenants here declared to inure the best use and the most appropriate development and improvements of each lot thereof, to protect the owners of said lots against such improper use surrounding lots as will depreciate the value of their property, to preserve so far practicable, the natural beauty of said property, to guard against the erection thereon poorly designed or proportioned structures, to inure the highest and best development of said property, to encourage and secure the erection of attractive homes thereon, with appropriate locations thereof on lots, to prevent haphazard and inharmonious improvements of lots, to secure and maintain proper setbacks from streets, ad adequate free space between structures, and to provide adequately for the quality of improvements on said property as to enhance the value of investments made by purchasers of lots therein

ARTICLE II

DEFINITIONS

Section 1. "Association" shall mean and refer to Southview Pointe Subdivision Homeowners Association, Inc., its successors and assigns.

Section 2. "Common Area" shall mean all property owners by the Association, or such other property which the Association may hold subject to the provisions of the Declaration. Common Areas shall be defined and bounded on the plat(s) as "Common Areas" "Open Space" "Permanently Protected Undisturbed Open Space" or "Common Open Space". Common Areas shall specifically include but shall not be limited to: (a) all water lines and sewer lines which serve the Properties and are located outside of any public street right-of-way or any utility easement (excluding those lines serving a single lot); and (b) all Storm water Control Measures which serve the Properties that are located outside of any public street right-away, (excluding those pipes serving a single lot); and (c) Open Space, Common Open Space, Permanently Protected Undisturbed Open Space, or Common Areas identified on recording plates.

Section 3. "Common Expense" shall mean and include:

- (a) All sums lawfully assessed y the Association against its members;
- (b) Expense of the Common Area and administration, maintenance, repair, or replacement of the Common Areas;
- (c) Expenses declared to be Common Expenses by the provisions of this Declaration or the By-law;
- (d) Hazard, liability, or such other insurance premiums as the Declaration or the By-laws may require the Association to purchase;

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- (e) Ad valorem taxes and public assessment charges lawfully levied against Common Areas owned in fee simple;
- (f) Expenses agreed by the Members to be Common Expenses of the Association.
- (g) Utilities used in connection with the Common Areas;
- (h) Unpaid assessment following the foreclosure of a mortgage or deed of trust.

Section 4. "Declarant" shall mean and refer to Southview Pointe, L.L.C., a North Carolina limited liability company, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 5. "Dwelling" shall mean an approved building constructed on a Lot for human habitation.

Section 6. "Family" shall mean an individual or two (2) or more natural persons related by blood to the third degree lineally, by marriage, adoption or guardianship living together in a Dwelling constructed on a Lot as a single housekeeping unit; or a group of not more than (2) natural persons not related to the other by blood as described above, nor by marriage, adoption, or guardianship living together as a single housekeeping unit in a Dwelling constructed on a Lot.

Section 7. "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. Detached single family Lots shall be used to construct detached single Family Dwellings.

Section 8. "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

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contract sellers, but excluding those having such interest merely as security for the performance of a obligation.

Section 9. "Properties" shall mean and refer to that certain real property herein before described in Exhibit A.

Section 10. "Storm water Control Measures" shall mean and refer to an drainage easements and all other storm water measures including storm drainage pipes, which serve the Properties that are located outside public street right-of-way (excluding those pipes and measures serving a single Lot).

ARTICLE III
PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of use and enjoyment in and to the Common Area and Over the Common Area for access, ingress and egress from and to public streets, walkways and parking areas and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) The right of the Association subject to ordinances of Wake County to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) The right of the Association, following notice and opportunity to present evidence, to fine Owners for non-compliance with these Covenants, suspend the voting rights and right to use of the recreational facilities by an Owner for any

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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 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 four-fifths (4/5) of each class of Members has been recorded.

- (d) The right of the Association to limit the number of guests of members;
- (e) The right of the Association, with the assent of four-fifths (4/5) of all Class A Members and four-fifths (4/5) of all Class B Members, and in accordance with its Articles and By-laws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such mortgagee in said Properties shall be subordinate to the rights of the Members and the Association hereunder;
- (f) The rights of the association to adopt, publish and enforce rules and regulations as provided in Article III.
- (g) The right of the Association to exchange Common Area in accordance with the ordinances of Wake County.

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

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tenants, or contract purchasers who reside on the property, but such delegate shall be subject to the limitations of subsections (a) through (g) of Section 1 above.

Section 3. Title to the Common Area. The Declarant hereby covenants for itself, its successors and assigns, that it will convey fee simple title to the Common Area to the Association, free and clear of all encumbrances ad liens, except utility greenway and storm drainage easements, prior to the conveyance of the first Lot of each phase of development.

Section 4. Parking. The Association may regulate the parking of boats, trailers, commercial/company vehicles and other such items on the Common Area and individual Lots. In particular, outdoor storage or parking of any unlicensed vehicles, campers, boats, trailers, commercial/company vehicles or any vehicles that are not licensed automobiles, vans and sport utility vehicles is prohibited. No motor vehicles of the Owner, members of his family or tenants may be parked or stored on any Lot or any of the subdivision streets while on jacks or while being repaired. No motor vehicle of the Owners, members of his family or tenants may be parked or kept on any street in the subdivision for overnight parking. Parking or storage of motor vehicles on the grass area or sidewalk area of any Lot is prohibited. Boats, trailers and motor vehicles parked in violation of this Paragraph or in violation of the rules and regulations promulgated by the Association from time to time shall be subject to being towed or removed by the Association at the expense of the owner thereof.

Section 5. TV Antennas and Cablevision. Exterior equipment including, but not limited to, communications, telecommunications, microwave, television, cable television dishes, satellite dishes, and antennae, shall not be placed or installed by Owner, its agents, licensees, or representatives on the exterior front wall or on the exterior sidewalls of any structure erected or placed upon a Lot that is within twenty feet (20') from the front wall of the house or at any place

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on the premises that is parallel to said front wall or sidewalls. In a location where the rear wall or sidewall faces a street, the same restriction shall apply to the entire rear wall or the entire sidewall that faces a street and the areas of the premises that are parallel to said rear wall or sidewall. Under no circumstances may installed exterior dishes or receivers have a circumference larger than eighteen inches (18"). The Association may further regulate or prohibit the erection of television antennas and satellite dishes on individual Lots.

ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may be separated from ownership of any Lot which is subject to assessment. Membership in the Association as defined hereinabove shall be mandatory for each original Lot Owner and each successive Owner of a Lot.

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 provided that, when Class B membership terminates as set forth below, the Declarant shall be a Class A member for each Lot it then owns. 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 by majority, but in no event shall more than one vote be cast with respect to any Lot, and in no event shall fractional votes be allowed.

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

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in Class B membership or:
- (b) On December 31, 2012; or
- (c) Upon the surrender of all Class B membership by the holder thereof.

ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

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

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Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and in particular for the acquisition, improvement and maintenance of the Common Areas, driveways, walks and parking areas situated in the Common Area, the cutting and removal of weeds and grass, the removal of trash and rubbish or any other maintenance of Common Areas and maintenance and landscaping of the Common Areas, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments levied against the Common Area, the payment of Common Expenses, the procurement and maintenance of insurance in accordance with this Declaration or bylaws, the employment of attorneys to represent the Association when necessary, the provision of adequate reserves for the replacement of capital improvements including, without limiting the generality of the foregoing, paving and any other expense for which the Association is responsible, and such other needs as may arise.

Section 3. Reserves. The Association shall establish and maintain an adequate reserve fund or funds for the periodic maintenance, repairs and replacement of improvements to the Common Area and those other portions of the properties which the Association may be obligated to maintain. Such reserve fund is to be established out of regular or special assessments for Common Expense for the Owners of the kind of Lots that require the reserve fund or funds.

Section 4. Budget Ratification. Within thirty (30) days after adoption of any proposed budget for the planned community, the executive board of the Association shall provide to all the Lot Owners a summary of the budget and a notice of the meeting to consider ratification of the budget including a statement that the budget may be ratified without the quorum. The board shall set a date for the meeting of the Lot Owners to consider ratification of the budget, said meeting

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to be held not less than 10 nor more than 60 days after the mailing of the summary and notice. There is no requirement that a quorum be present. The budget is considered ratified unless at the meeting the super-majority of all the Lot Owners in Association specified in Section 6(a) and (b) rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the board.

Section 5. Maximum Annual Assessment. The maximum initial assessment for detached single family Lots shall be the sum of \$300.00.

- (a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessments may be increased effective January 1 of each year by no more than 10% of the previous year's assessment, unless the Owners of 90% of the Lots reject the budget.
- (b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment for Lots may be increased above the increase permitted in section 5(a) above unless Owners of Lots representing 67% or more of the Lots reject the increase

Section 6. Special Assessments for Capital Improvements. In addition to the assessment 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 part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Are, and in connection with the exterior maintenance, including fixtures and personal property related thereto, provided that any such assessment shall have assent of two-thirds (2/3) of the

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votes of each class of member who are voting in person or by proxy at a meeting duly called for this purpose.

Section 7. Emergency Special Assessments. In the event of an Emergency (as hereafter defined), the Board, on behalf of the association, in the Board's sole discretion, may levy an Emergency Assessment for the purpose of taking preventative, protective, stabilizing, or remedial actions to protect the Common Areas, streets or any improvements located thereon, and to further reconstruct, repair or replace any portion of the property, streets or improvements following such Emergency. For purposes of this Section, Emergency includes, but is not limited to, hurricanes, tornadoes, flooding, fires, acts of God or other naturally occurring phenomena. An Emergency assessment shall be due and payable as established by the Board of Directors.

Section 8. Notice and Quorum for any Action authorized under Sections 5 and 6. Unless specifically provided otherwise, written notice of any meeting called for the purpose of taking any action authorized under Section 5 or 6 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. Unless specifically provided otherwise, at the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. This provision shall continue to reduce the quorum by one-half from that required by the previous meeting, as previously reduced, until such time as a quorum is present and business can be conducted. No such subsequent meeting shall be more than 60 days following the preceding meeting.

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Section 9. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following recordation of the map wherein such Lot is shown. Said annual assessments shall be paid ratably on an annual, semi-annual, quarterly or monthly basis as determined by the Board of Directors. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The Due dates shall be established by the Board of Directors. Within ten (10) business days after receipt of a request, the association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessment on a specified Lot has been paid. Any certificate so given shall be conclusive evidence of payment of the assessment stated therein and is binding on the Association, the executive board and every Lot Owner.

Section 11. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid for a period of thirty (30) days or longer after the due date shall bear interest of 1.5% (percent) per month from the due date and shall constitute a lien on the Lot when a claim of lien is filed of record in the office of the Wake County Clerk of Superior Court in the manner provided in G.S. 47F-3-116(g). The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property and in either event interest, costs and reasonable attorney's fees of any such action shall be added to the assessment. Foreclosure is to be in the same manner as that of Deeds of Trust, foreclosed under Article 2A of Chapter 45 of the North Carolina General Statutes. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or

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abandonment of his Lot. Should any deficiency remain after the foreclosure, the Association may also bring an action against the Owner for said deficiency.

Section 12. Subordination of the Lien to Mortgage. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage and ad valorem taxes. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant too such mortgage foreclosure or any proceeding in lieu thereof shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 13. Exempt Property. All Properties dedicated to, and accepted by, a local public authority and all Properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of North Carolina shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 14. Working Capital Fund. At the time of closing of the sale of each Lot by the builder/original purchases, a sum equal to at least two months assessment for each Lot shall be collected from the home buyer/purchaser and transferred to the Association to be held as a working capital fund. The purpose of said fund is to insure that the Association Board will have adequate cash available to meet unforeseen expenses, and to acquire additional equipment or services deemed necessary or desirable. Amounts paid into the fund shall not be considered advance payment of regular assessments.

Section 15. Dues Paid in Advance. The annual assessments provided for herein shall commence as to Lots being purchased at the time of recordation of a deed from the Declarant to

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a new owner, pro rated to the first day of the month following said recordation. AN amount equivalent to one annual assessment (prorated to the end of the Association's fiscal year), plus any working capital collections, shall be collected at the time of closing to the ultimate consumer referred to in this Section. Such annual assessments shall be paid ratably on an annual basis and shall be collected at the time of purchase by the ultimate consumer, also referred to as the home buyer/purchaser.

ARTICLE VI

ARCHITECTURAL CONTROL

(a) No dwelling building, fence, wall or other structure of any kind shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein be made (including, but not limited to, changes or alterations in the color exterior paint, vinyl siding, roof-shingles, masonry or shutters) 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 (3) or more representatives appointed by the Board. In the event said Board, or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said completed plans and specification have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Residences shall be a minimum of 1,600 heated square feet, exclusive of porches and garages. Additionally, all residences shall have at least a one car attached garage. The

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Declarant hereby reserves the right, in its sole and absolute discretion to grant variances as the total minimum square footage, no to exceed (5%) percent of said minimum.

(b) No trailer, tent, shack, barn or other building shall be erected or placed on any Lot covered by these covenants. No detached garage shall at any time be used for human habitation temporarily or permanently. Temporary structures are prohibited.

(c) No additional driveways or sidewalks may be installed on any Lot without the prior written approval of the Architectural Committee of the Association.

(d) The Declarant reserves the right to select and specify one type of mailbox which shall be utilized on all Lots. Thereafter, mailboxes shall not be altered in any way, with the exception of repairs to restore these items to their original appearance if damaged or discolored.

(e) Grass and flowerbeds shall be maintained in a neat and orderly manner to appear as the grass has been mowed on a weekly basis and the weeds in the flowerbeds removed on a weekly basis. In the event this work is not done, the Association shall have the authority, but not the obligation, to perform this work in lieu of the Owner and assess the cost to the Owner through the Association, including any legal fees and administrative costs incurred by the Association. In addition, any alteration of the landscaping of the front and/or side yards must be approved by the Architectural Committee of the Association.

(f) No yard art, including plastic flowers, which is visible from the street, may be displayed on any Lot without the prior written approval of the Architectural Committee of the Association.

(g) No household furniture intended for interior use may be kept or stored on porches or yards.

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(h) All garbage or refuse shall be kept in the rear yard of all Lots; not in the front or side yards and may not be visible from the public street.

(i) Clotheslines, including temporary or retractable lines, are prohibited on any Lot.

(j) Upon recordation of the deed from the Declarant to a builder, said builder shall be responsible for upkeep and cleanliness (including mowing of any grass on the Lot) of Lots for which no structure has been commenced. During the construction phase, the builder shall keep the Lot clean and maintain a dumpster or fenced area for the construction debris, so that the Lot is free from debris other than that contained in those areas. The fenced area must be cleaned at least once a week. Upon completion of the construction of a house, the builder shall establish a seeded or sodded lawn area and shall maintain that area in keeping with the requirements under Article VI (e) herein. At the commencement of construction at a Lot, the builder shall install silt fencing and all other Lot protection required by Wake County or by proper environmental practices.

(k) No noxious or offensive trade, activity, or language shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Except for unit identification numbers required by Wake County, no billboards shall be erected or maintained on the premises. No more than one sign, not larger than five square feet in size is to be placed on any lot; only for sale or rent signs are permitted. No trade materials or inventories may be stored upon the premises and no trucks or tractors may be stored on the premises. No business activity or trade of any kind whatsoever, which shall include but not be limited to the use of any residence as a doctor's office or professional office of any kind, a fraternity house, a rooming house, a boarding house, an antique shop or gift shop shall be carried

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on upon any Lot. Any business activity or trade that causes undue traffic, noise, and outward signs of non-residential use or has any employee shall be prohibited.

(1) Declarant shall require the minimum standard landscaping package for each lot to include at least four (2) trees of a specific variety and size. These trees shall be planted in all front and or side yards. Additionally, all front and side yards must be seeded or sodded in a timely manner, as permitted by seasonal restrictions. Specific minimum landscaping guidelines shall be provided to builder by the Declarant prior to the closing of the first lots.

ARTICLE VII

INSURANCE

Section 1. Insurance coverage on the Property shall be governed by the following provisions:

(a) Ownership of Policies. All insurance policies covering the Common Areas shall be purchased by the Association for the benefit of the Association and the Members. All insurance policies covering Single Family Lots shall be owned by the individual Owners thereof and shall be fully paid by such owners.

(b) Coverage. All buildings and improvements upon the Common Areas and all personal property included in the Common Areas shall be insured in an amount equal to one hundred percent (100%) uninsurable replacement value as determined annually by the Association with the assistance of the insurance company providing coverage. Such coverage shall provide protection against:

- (i) Loss or damage by fire and other hazards covered by the standard extended coverage endorsement.

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(ii) Such other risks as from time to time shall be customarily covered with respect to buildings on the land, and

(iii) Such policies shall contain clauses providing for waiver of subrogation.

(c) Liability. Public liability insurance shall be secured by the Association with limits of liability of no less than One Million Dollars (\$1,000,000.00) per occurrence and shall include an endorsement to cover liability of the Owners as a group to single Owner. There shall also be obtained such other insurance coverage as the Association shall determine from time to time to be desirable and necessary.

(d) Premiums. Premiums for insurance policies purchased by the Association shall be paid by the Association as a Common Expense and charged to the Owners as an assessment according the provisions above.

(e) Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association Members. The sole duty of the Association shall be to receive such proceeds as are paid and to hold the same for the purposes state herein or stated in the By-laws.

All policies shall be written with a company authorized to do business in North Carolina.

By virtue of taking title to a Lot subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Lot(s) and structures constructed thereon. Each Owner further covenants and agrees that in the event of a partial loss or damage (defined as cost of repair less than 50% of the current tax value), resulting in less than total destruction (defined as cost of repair valued at greater than or equal to 50% of the current tax value) of structures comprising his Lot, the Owner shall proceed, within 60 days of the casualty, to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such

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other plans and specifications as are approved in accordance with this Declaration. The Owner shall pay any cost or repairs or reconstruction, which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner, within 45 days of the casualty, shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition consistent with the community-wide standard.

ARTICLE VIII

USE RESTRICTIONS

Section 1. Rules and Regulations. The Board of Directors of the Association shall have the power to formulate, amend, publish, and endorse reasonable rules and regulations concerning the use and enjoyment of the Common Areas, streets and individual Lots. Such rules and regulations may provide for imposition of fines or penalties for the violation thereof, or for the violation of any of the covenants and conditions contained in this Declaration.

Section 2. Use of Property. No portion of the Properties (except for temporary office of the Declarant and/or a model home approved by Declarant) shall be used except for single family residential purposes and for purposes incidental or accessory thereto.

Section 3. Occupancy Limitation. No portion of any Lot or any dwelling constructed on a Lot shall be occupied by more than one Family as defined in Article II of this Declaration.

Section 4. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Properties, nor shall anything be done which may be or may become a nuisance or annoyance to the neighborhood.

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Section 5. Animals. No animals, livestock or poultry of any kind shall be kept or maintained on any Lot or in any dwelling. Household pets may be kept or maintained provided that they are not kept or maintained for commercial purposes. Pitt Bulls and Rottweilers are not permitted. All pets must be kept under the direct control of the owner by fence, leash or harness and may not run freely at any time. Pet owners are required to clean up after their animals at all times in the Common Areas, Streets and Lots, both at their own Lots and at Lots not their own. Violations will be subject to a fine and/or legal action.

Section 6. Sight Triangles or Sight Distance Easement. Within sight triangles or sight distance easement shown on maps of the Properties recorded with the Wake County Registry, no obstruction between 2 and 8 feet in height above the curb line elevation shall be located in whole or in part. Obstructions include, but are not limited to any berm, foliage, fence, wall, sign, or parked vehicle.

Section 7. Permanently Protected Undisturbed Open Space. Within any Permanently Protected Undisturbed Open Space shown on maps of the properties recorded with the Wake County Registry, no land disturbing activity, any development, placement of impervious surface nor any new use, construction, or encroachment shall take place without the prior issuance of a watercourse buffer permit from Wake County, North Carolina.

ARTICLE IX

EASEMENTS

Section 1. All of the Properties, including Lots and Common Areas, shall be subject to such easements for driveways, walkways, parking area, water lines, sanitary sewers, storm drainage facilities, gas lines, telephone and electric power lines and other public utilities as shall

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be established by the Declarant or y his predecessors in title, prior to the conveyance of the individual lots to Owners and the Common Area to the Association; and the Association shall have the power and authority to grant and establish upon, over, under, and across the Common Areas conveyed to it, such further easements as are requisite for the convenient use and enjoyment of the Properties. In addition, there is hereby reserved in the Declarant, contractors, and its agents and employees an easement and right of ingress, egress and regress across all Common Areas, now or hereafter owned by the Association, for the purpose of construction of improvements and development of the Properties until such time as Class B membership terminates; provided that all the Common Areas shall be restored to as near the condition as that which prevailed prior to the use of the easement as is reasonably practicable.

Section 2. All Lots shall be subject to easements for the encroachment constructed on adjacent Lots and Common Areas to the extent that such initial improvements actually encroach including, but not limited to, such items as overhanging eaves, gutters and downspouts and walls.

Section 3. Based upon topographical and/or other miscellaneous considerations, Lots may share, including but not limited to, retaining walls, fences, drainage boxes, and/or lines including but not limited to water, sewer, electrical, telephone, and cable with one or more adjoining Lots. Each Owner of a Lot which shares a retaining wall, fence, drainage boxes, and/or lines with one or more other Lots and such Owner's contractors and/or subcontractors shall have an easement and right of entry upon such other Lot or Lots to the extent reasonably necessary to repair, replace, restore, maintain or reconstruct the retaining wall, fence, drainage boxes, and/or lines. Such repair, replacement, restoration, maintenance and/or reconstruction shall be done expeditiously and promptly. The owner on whose behalf the work is being done

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shall restore all portions of the adjoining Lot or Lots damaged as a result thereof to substantially the same condition as that which existed at the time the work commenced.

Section 4. An easement is hereby established over the Common Areas and facilities for the benefit of applicable governmental agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water and sewer facilities, electrical, telephone, gas and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

Section 5. If any dwelling is located closer than five (5) feet from its lot line, the Owner thereof shall have a perpetual access easement over the adjoining lot to the extent reasonably necessary to perform repair, maintenance or reconstruction of his dwelling. Such repair, maintenance or reconstruction shall be done expeditiously and, upon completion of the work, the owner shall restore the adjoining Lot to as near the same condition as that which prevailed prior to the commencement of the work as is reasonably practicable. No fence, wall or landscaping shall be installed in said easement which will interfere with the rights of the adjoining Lot Owner.

ARTICLE X

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration. Failure by the

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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 way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restriction of the 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. This Declaration may be amended in accordance with the North Carolina Planned Community Act, amended.

Section 4. If any amendment to these covenants, conditions, and restrictions is executed, each such amendment shall be delivered to the Board of Directors of this Association.

Thereupon, the Board of Directors shall, within 30 days do the following:

- (a) Reasonably assure itself that the amendment has been executed by the Owners of the required number of Lots. (For this purpose, the board may rely on its roster of members and shall not be required to cause any title to any Lot to be examined.)
- (b) Attach to the amendment a certification as to its validity, Which certification shall be executed by the Association in the same manner that deeds are executed.

Section 5. Management and Contract Rights of Association. Declarant shall enter into a contract with a management company or manager for the purposes of providing all elements of the operation, care, supervision, maintenance and management of the property. However, no

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such contract shall be binding upon the Association except through express adoption, or ratification of the terms and conditions of such contract. Any contract or lease entered into by Declarant or by the Association while Declarant is in control thereof shall contain a provision allowing the Association to terminate such contract at any time after providing 60 days written notice without justification or penalty after transfer of management by Declarant to the Association.

Section 6. Right of Noteholders. Any institutional holder of a first mortgage on a Lot will, upon written request, be entitled to (a) upon being given an appointment, inspect the books and records of the Association during normal business hours, (b) receive and annual audited financial statement of the Association within one hundred eight (180) days following the end of the fiscal year, (c) receive written notice of all meeting of the Association and the right to designate a representation to attend all such meetings, (d) receive written notice of any condemnation or casualty loss that affects either a material portion of the project or the note securing its mortgage, (e) receive written notice of any sixty-day delinquency in the payment of assessments or charges owed by the owner of any unit on which it hold the mortgage, (f) receive written notice of a lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Owners' Association, (g) receive written notice of any proposed action that requires the consent of a specified percent of mortgage holder, and (h) be furnished with a copy of the master insurance policy, all the above upon request of mortgage holder.

ARTICLE XI

ELECTRICAL SERVICE

Declarant reserves the right to subject the above described Property to a contract with Progress Energy for the installation of underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to Progress Energy by either the Association, the Owners or both within Said Property.

IN WITNESS WHEREOF, the undersigned, being the Declarant and Association herein, have caused this Declaration to be executed by its Managers as of the day and year first above written.

Southview Pointe Partners, L.L.C.

By: William R. Henderson
Manager

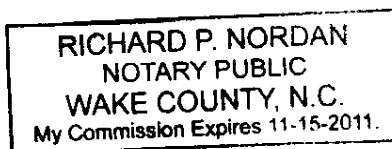
This the 12 day of Sept, 2007.

NORTH CAROLINA
WAKE COUNTY

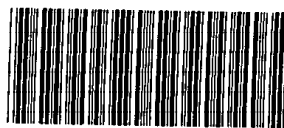
I, Richard P. Nordan, a Notary Public in and for said County and State, do hereby certify that William R. Henderson, manager, of Southview Pointe Partners, LLC, a North Carolina limited liability company, personally appeared before me and acknowledged the due execution of the foregoing instrument on behalf of the company.

WITNESS my hand and official seal, this the 12 day of September, 2007,

Richard P. Nordan
Notary Public



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**Yellow probate sheet is a vital part of your recorded document.
Please retain with original document and submit for rerecording.**



**Wake County Register of Deeds
Laura M. Riddick
Register of Deeds**

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