

WAKE COUNTY, NC 503
LAURA M RIDDICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
08/27/2003 AT 12:30:50

BOOK:010399 PAGE:00432 - 00456

After Recording Return to:
Charles E. Murphy, Jr., Esq.
Powell, Goldstein, Frazer & Murphy LLP
191 Peachtree Street, N.E.
Atlanta, GA 30303 (404) 572-6600

DECLARATION OF

COVENANTS AND RESTRICTIONS

FOR THE LAKE II AT BRECKENRIDGE

TOWN OF MORRISVILLE

WAKE COUNTY, NORTH CAROLINA

TABLE OF CONTENTS

	Page
ARTICLE I. DEFINITIONS.....	2
ARTICLE II. LOTS.....	4
SECTION 1. LOTS HEREBY SUBJECTED TO THIS DECLARATION.....	4
SECTION 2. ADDITIONAL LOTS HEREAFTER SUBJECTED TO THIS DECLARATION.....	4
SECTION 3. NO EFFECT ON BALANCE OF THE LAKE II AT BRECKENRIDGE PROPERTY.....	5
SECTION 4. BOUNDARIES.....	5
SECTION 5. ALL LOTS BEAR THE BURDENS AND ENJOY THE BENEFITS OF THIS DECLARATION.....	5
SECTION 6. EASEMENTS OVER THE LOTS.....	5
ARTICLE III. COMMON ELEMENTS.....	6
SECTION 1. COMMON ELEMENTS.....	6
SECTION 2. MEMBERS' RIGHTS IN COMMON ELEMENTS.....	6
SECTION 3. EASEMENTS OVER COMMON ELEMENTS.....	7
SECTION 4. DAMAGE OR DESTRUCTION.....	7
SECTION 5. TRANSFER OR ENCUMBRANCE.....	7
SECTION 6. MAINTENANCE OF COMMON ELEMENTS.....	8
SECTION 7. VEHICLES; TRAILERS; BOATS; AUTOMOBILES.....	8
ARTICLE IV. THE ASSOCIATION.....	8
SECTION 1. THE ASSOCIATION.....	8
SECTION 2. MEMBERSHIP.....	8
SECTION 3. CLASSES OF MEMBERSHIP; VOTING RIGHTS.....	8
SECTION 4. SUSPENSION OF MEMBERSHIP RIGHTS.....	9
SECTION 5. MEETINGS OF THE MEMBERSHIP.....	9
SECTION 6. ASSOCIATION ACTS THROUGH ITS EXECUTIVE BOARD.....	10
SECTION 7. PROFESSIONAL MANAGEMENT.....	10
ARTICLE V. ASSESSMENTS.....	10
SECTION 1. ASSESSMENTS; LIEN THEREFOR.....	10
SECTION 2. PERSONAL OBLIGATION OF MEMBERS.....	11
SECTION 3. PURPOSES OF ASSESSMENTS.....	11
SECTION 4. DETERMINATION OF ANNUAL ASSESSMENT.....	12
SECTION 5. SPECIAL ASSESSMENTS.....	12
SECTION 6. LOTS OWNED BY DECLARANT.....	12
SECTION 7. EFFECT OF NON-PAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION.....	13
ARTICLE VI. DAMAGE OR DESTRUCTION OF TOWNHOMES.....	13
ARTICLE VII. INSURANCE.....	14
SECTION 1. INSURANCE.....	14
SECTION 2. TOWNHOMES.....	14
ARTICLE VIII. SIGNS.....	14

ARTICLE IX. MAINTENANCE OF TOWNHOMES, LOTS AND DRIVEWAYS 14
SECTION 1. MAINTENANCE OF TOWNHOMES 14
SECTION 2. MAINTENANCE OF LOTS 14
SECTION 3. MAINTENANCE OF DRIVEWAYS 15
ARTICLE X. AMENDMENT 15
ARTICLE XI. MISCELLANEOUS 16
SECTION 1. FAILURE OF ENFORCEMENT 16
SECTION 2. WAIVERS 16
SECTION 3. DURATION 16
SECTION 4. NOTICES 17
SECTION 5. SEVERABILITY 17
SECTION 6. ENFORCEMENT 17
SECTION 7. SUCCESSORS TO DECLARANT 17

DECLARATION OF
COVENANTS AND RESTRICTIONS
FOR THE LAKE II AT BRECKENRIDGE

TOWN OF MORRISVILLE
WAKE COUNTY, NORTH CAROLINA

THIS DECLARATION OF COVENANTS AND RESTRICTIONS is made on this 21 day of Aug, in the year Two Thousand Three by MORRISVILLE, LLC, a Georgia limited liability company (hereinafter referred to as the "Declarant") and Pulte Home Corporation, a Michigan corporation ("Pulte").

WITNESSETH:

WHEREAS, the Declarant is the owner of that certain real property located in the Town of Morrisville, Wake County, North Carolina, which real property is hereinafter identified as the "The Lake II At Breckenridge Property"; and

WHEREAS, the Declarant intends to develop single family townhomes on The Lake II At Breckenridge Property; and

WHEREAS, Pulte is the owner of the "Lots" (as that term is hereinafter defined) identified in Article II, Section 1 of this Declaration, and is constructing "Townhomes" (as that term is hereinafter defined) thereon;

WHEREAS, the Declarant desires to provide open spaces, streets, parks, green belts and other facilities for the use and benefit of the persons who shall reside in the aforesaid townhomes on the "Lots" (as that term is hereinafter defined); and

WHEREAS, in order to insure the enjoyment of such open spaces, streets, parks, green belts and other facilities by the residents of the said Lots, and in order to protect and enhance the value of the said Lots, it is desirable to create an association to own, maintain and administer such open spaces, streets, parks, green belts and other facilities, and to administer and enforce the covenants and restrictions imposed by this Declaration on the individually owned properties, and to collect, hold and disburse the charges and assessments provided for in this Declaration; and

WHEREAS, it is intended that every owner of any of the said Lots automatically, and by reason of such ownership and this Declaration, become a member of the aforesaid association and be subject to its valid rules and regulations and the assessments and charges made by such association;

NOW, THEREFORE, the Declarant and Pulte do hereby submit the "Lots" and the "Common Elements" (as those terms are hereinafter defined) to the provisions of this Declaration.

ARTICLE I.

DEFINITIONS

As used in this Declaration, the following terms shall have the meanings ascribed to them in this Article I, such definitions being cumulative of those set forth elsewhere in this Declaration. In addition, all terms used in this Declaration, which are defined in the Act, shall have the meanings ascribed to them in the Act, unless other definitions are ascribed to them in this Declaration.

“Act” shall mean the North Carolina Planned Community Act, General Statutes of North Carolina Sections 47F-1-101 through 47F-3-120.

“Annual Assessment” shall have the meaning specified in Section 4 of Article V hereof, and shall constitute the assessments which, pursuant to the provisions of Article V hereof, shall be levied by the Association against the Lots each year for the purpose of raising the funds necessary to pay the “Annual Expenses” (as that term is defined in Section 3 of Article V hereof).

“Articles of Incorporation” shall mean the Articles of Incorporation of the Association, as the same may be amended from time to time.

“Association” shall mean The Lake II At Breckenridge Townhome Association, Inc., a North Carolina non-profit membership corporation.

“Breckenridge Association” shall mean the Breckenridge Homeowners Association of N.C., Inc., a North Carolina non-profit membership corporation.

“Breckenridge Declaration” shall mean that certain Declaration of Covenants and Restrictions for Breckenridge, made by Morrisville, LLC, as Declarant, recorded with the Wake County Public Registry, in Book 8541, Page 495; and rerecorded with the Register of Deeds of Wake County, North Carolina in Book 8566, Page 299.

“Bylaws” shall mean the Bylaws of the Association, as the same may be amended from time to time.

“Common Elements” shall mean all of the real and personal property which shall be conveyed and transferred to the Association pursuant to Section 1 of Article III of this Declaration. Common Elements shall not include any Lot which shall be acquired by the Association through foreclosure of the lien in favor of the Association, as provided for in Article V of this Declaration.

“Declarant” shall mean Morrisville, LLC, a Georgia limited liability company, and shall include any successor or assign of Morrisville, LLC (other than a person acquiring fewer than five (5) Lots) who shall acquire the entire interest in The Lake II At Breckenridge Property which was owned by the immediate predecessor-in-title of such successor or assign.

“Declaration” shall mean this Declaration of Covenants and Restrictions, as the same may be hereinafter amended in accordance with the terms and provisions of Article hereof.

“Executive Board” shall mean the Board of Directors of the Association.

“First Mortgage” shall mean a Mortgage conveying a first priority lien upon or security title to any Lot.

“HUD” shall mean the United States Department of Housing and Urban Development, and, in the event that said Department shall be abolished and its operations transferred to another division of the United States government, such other division.

“Lot” shall mean each portion of The Lake II At Breckenridge Property which has been subdivided for use as an individual building lot and which is subjected to the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration applicable to Lots by the recording of this Declaration, or by a supplemental declaration recorded pursuant to the provisions of Article II, Section 2 of this Declaration. In addition, as used in this Declaration, the term “Lot” shall also mean a “Lot” within the meaning of the Act, such that all provisions of the Act relative to “Lots” shall apply to the “Lots” within the meaning of the Declaration.

“Mortgage” shall mean a mortgage, deed to secure debt, deed of trust, or other instrument conveying a lien upon or security title to the property.

“Person” shall mean a natural person, corporation, trust, partnership or any other legal entity.

“Plat” shall mean, collectively, the Subdivision Plat The Lake II At Breckenridge Subdivision Plat, prepared by Withers & Rarenel, recorded in the Book of Maps of Wake County, North Carolina, in Map Book 2003, Page 1200, and shall include any and all other plats of survey which shall be recorded pursuant to the provisions of Article II, Section 2 of this Declaration for the purpose of subjecting additional portions of The Lake II At Breckenridge Property to this Declaration as Lots.

“The Lake II At Breckenridge Property” shall mean the entirety of the approximate _____ acre tract of land located in the Town of Morrisville, North Carolina which is described on Exhibit A attached to and made a part of this Declaration.

“Townhome” shall mean the attached single family dwelling constructed on each Lot. Each Townhome shall be attached to the Townhome(s) located next to the same.

“VA” shall mean the United States Department of Veterans Affairs and, in the event that said Department shall be abolished and its operations transferred to another division of the United States government, such other division.

All pronouns used in this Declaration are intended to be gender neutral, and the use of the masculine gender shall be deemed to include the feminine and neuter genders.

ARTICLE II.

LOTS

Section 1. Lots Hereby Subjected to this Declaration. The Declarant and Pulte, for themselves and their successors and assigns, do hereby covenant that the following described property be, and the same hereby is, subjected to this Declaration as Lots: Lot Nos. 1 through 78, inclusive, as shown and depicted on the Plat.

The Declarant and Pulte, for themselves and their successors and assigns, hereby further covenant that the above-described property shall hereafter be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in the Act and this Declaration as applicable to the Lots, including, but not limited to, the lien provisions set forth in Article V hereof. All of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to the Lots shall be a permanent charge thereon, and shall run with the Lots.

Section 2. Additional Lots Hereafter Subjected to this Declaration. The Declarant may, at any time, and from time to time, subject additional portions of the Lake II At Breckenridge Property to the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration applicable to Lots by:

- (a) executing and recording in the Wake County Public Registry, a supplemental declaration to this Declaration describing such additional Lots and stating that this Declaration is thereby extended to, and shall thereafter apply to, such additional Lots; and
- (b) recording in the Office of the Wake County Public Registry, a plat of survey showing and depicting the portion of the Lake II At Breckenridge Property being thereby subjected to this Declaration as additional Lots.

From and after the subjecting of such additional Lots to the Act and this Declaration, such additional Lots shall thereafter be held, transferred, sold, conveyed, used, leased, occupied, mortgaged or otherwise encumbered subject to all of the terms, provisions, liens, charges, easements, covenants and restrictions of this Declaration applicable to Lots, including, without limitation, all lien and assessment provisions set forth in this Declaration; from and after the subjecting of such additional Lots to this Declaration, all of the terms, provisions, liens, charges, easements, covenants and restrictions set forth in this Declaration as applicable to Lots shall be a permanent charge on, and shall run with, such additional Lots.

Any supplemental declaration which may be executed and recorded pursuant to the provisions of this Article II for the purpose of subjecting additional Lots to the terms and provisions of this Declaration may set forth certain easements and restrictions which will apply

only to the Lots being subjected to this Declaration by such supplemental declaration. Any such easements and restrictions which shall be set forth in any supplemental declaration shall thereafter be as binding on the Lots which are the subject of such supplemental declaration as if such easements and restrictions were set forth in their entirety in this Declaration.

Except as otherwise provided in the Act, no approval from any member of the Association, or from anyone else whomsoever, shall be required for the Declarant to subject any portion of The Lake II At Breckenridge Property to this Declaration as Lots. In addition it shall not be necessary that the Declarant be the owner of any portion of The Lake II At Breckenridge Property which is subjected to this Declaration as Lots, provided that the supplemental declaration which subjects such property to this Declaration shall be executed by both the Declarant and the owner of such portion of The Lake II At Breckenridge Property.

Section 3. No Effect on Balance of The Lake II At Breckenridge Property . Notwithstanding anything contained in this Declaration which may be constructed to the contrary, this Declaration does not create any charge, lien, encumbrance, restriction, or limitation on any portion of The Lake II At Breckenridge Property other than the Lots identified in Section 1 hereof unless and until any additional portion of The Lake II At Breckenridge Property is subjected to this Declaration in the manner set forth, respectively, in Section 2 of this Article II or in Section 1 of Article III, and then, only from that time forward.

Section 4. Boundaries. Notwithstanding the depiction of the boundaries of any Lot on the Plat, the centerline of the firewall which is common to two adjoining Townhomes shall constitute a portion of the boundary lines of each of the Lots on which such Townhomes are located.

Section 5. All Lots Bear the Burdens and Enjoy the Benefits of this Declaration. Every person who is a record owner of a fee or undivided fee interest in any Lot does, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title to such Lot, agree to all of the terms and provisions of this Declaration. Each of the Lots is subject to all the burdens, and enjoys all the benefits, made applicable hereunder.

Section 6. Easements Over the Lots. The Lots shall be subjected to, and the Declarant does hereby grant to the appropriate grantees thereof, the following easements:

- (a) Each Lot shall be subject to all easements which are shown and depicted on the Plat as affecting and burdening such Lot;
- (b) Each Lot shall be subject to an easement for slope control purposes, including the right to grade and plant slopes and prevent the doing of any activity that might interfere with slopes or which might create erosion or sliding problems or which might change, obstruct or retard drainage flow; and
- (c) Each Lot, including the Townhome located thereon, shall be subject to an easement for the entry by the authorized agents and representatives of the Association to go in

such Townhome and upon such Lot under the circumstances, and for the purposes described in Article IX of this Declaration.

ARTICLE III.

COMMON ELEMENTS

Section 1. Common Elements. The Declarant shall have the right to transfer and convey to the Association any portion of The Lake II At Breckenridge Property. All portions of The Lake II At Breckenridge Property which the Declarant shall so transfer or convey to the Association shall thereafter constitute Common Elements. Said right may be exercised by the Declarant any time, and from time to time, prior to December 31, 2009.

All portions of The Lake II At Breckenridge Property which shall be transferred to the Association by the Declarant (a) shall be conveyed to the Association by limited warranty deed free of debt encumbrance, and (b) shall be conveyed to the Association subject to the rights and easements set forth in Sections 2 and 3 of this Article III, irrespective of whether the deed of conveyance shall make a specific reference to such rights and easements.

By joining in the execution of this Declaration, the Association does hereby covenant and agree to accept all conveyances of the Common Elements which may be made to it pursuant to, and in accordance with, the terms and provisions of this Section 1.

Section 2. Members' Rights in Common Elements. Every owner of any Lot and the Townhome located thereon shall have a non-exclusive right and easement of enjoyment and use in and to the Common Elements and such right and easement shall be appurtenant to, and shall pass with, the title to the Lot(s) owned by such owner. Such right and easement of enjoyment and use are and shall be subject to the easements which are described in Section 3 of this Article III and to the right of the Association to promulgate reasonable rules and regulations regarding the use of Common Elements, and the right of the Association, as provided in the Bylaws, to suspend the enjoyment rights of the owner of any Lot during any period in which any assessment which is due to the Association from such owner remains unpaid, and such period as the Executive Board may consider appropriate for any infraction of its published rules and regulations. No such suspension, however, shall prohibit the owner of any Lot from using the Common Elements to the extent necessary for such owner to have access to and from his Lot. In addition, the Executive Board may permit other persons who are not residents of any Lots to use the Common Elements upon such terms and conditions, and for the payment of such fees, as shall be determined by the Executive Board.

Section 3. Easements Over Common Elements. All Common Elements shall be subject to, and Declarant and the Association do hereby grant, the following easements:

(a) An easement across, in, under, over and through the Common Elements for the purposes of the construction, installation, repair, maintenance and use of all utility and drainage lines, wires, pipes and similar facilities to provide service to any portion of The Lake II At Breckenridge Property;

(b) An easement in favor of Declarant for the exclusive use of such portions of the Common Elements as may be reasonably desirable, convenient or incidental to the construction and installation of improvements on, and the sale of, any Lots and Townhomes thereon, including, but not limited to, sales and business offices, storage areas, construction yards and signs. Such easements shall be exercisable by any and all persons whom the Declarant shall authorize to exercise the same, including, without limitation, real estate sales agents and brokers and builders of residences upon the Lots, irrespective of whether such persons are affiliated with the Declarant. Such easements shall exist notwithstanding any provision of this Declaration which might be construed to the contrary, but shall terminate at such time as the construction on the Lots of all Townhomes has been completed and all of the Lots shall have been conveyed to owners thereof who shall not have acquired the Lots for the purpose of immediate resale of the same. Such easements shall and do exist without affecting the obligation of the owner of any Lot to pay assessments or charges coming due during such period of time as portions of the Common Elements shall be used by authorized persons pursuant to the exercise of the easements herein stated; and

(c) All streets located on the Common Elements shall be subject to a perpetual, non-exclusive easement for pedestrian and vehicular travel to and from all portions of The Lake II At Breckenridge Property which shall not have been submitted to this Declaration and the nearest public right-of-way.

Section 4. Damage or Destruction. All damage that shall occur to any improvements on any Common Elements on account of the occurrence of any casualty shall be repaired in all events. Such repairs shall be undertaken and completed as soon after the occurrence of any casualty as is reasonably practicable. All repairs to any improvements located on the Common Elements shall be made in accordance with plans and specifications that shall be approved for the same by the Executive Board of the Association.

Section 5. Transfer or Encumbrance. In no event shall the Association abandon, encumber, sell or transfer, directly or indirectly, any portion of the Common Elements unless such abandonment, encumbrance, sale or transfer shall be first approved in writing by: (a) the owners of no fewer than eighty percent (80%) of the Lots, and (b) the holders of no fewer than eighty percent (80%) of the First Mortgages existing in regard to the Lots; and (c) HUD and VA, until such time as the Class B membership shall terminate (as provided for in Article IV, Section 3 of this Declaration.)

Section 6. Maintenance of Common Elements. Except as provided otherwise in this Declaration, the Association shall be responsible for the maintenance and repair of all Common Elements.

Section 7. Vehicles; Trailers; Boats; Automobiles. No boat, trailer, boat trailer, camper, truck, utility trailer shall be permitted to be stored or repaired upon any part of The Lake II At Breckenridge Property, except with the permission of the Executive Board, and then, only in compliance with all requirements imposed by the Executive Board as a condition to the issuance of such permission. No automobile may be parked upon any Lot unless the same is parked on a

pavement area located on such Lot for such purpose, and the same is in operating condition and has affixed thereto a then current license tag and, if applicable, operating sticker.

ARTICLE IV.

THE ASSOCIATION

Section 1. The Association. Prior to the date this Declaration has been filed for record with the Wake County Public Registry, the Declarant has caused the Association to be formed, and the Association does now exist, under its Articles of Incorporation and Bylaws.

The Association is and shall be responsible for the ownership, management and operation of the Common Elements, the enforcement of the covenants and restrictions set forth in this Declaration, and the performance of such other duties and services as the Executive Board shall deem to be in the best interests of the members of the Association. The Association shall have all the power and authority provided in the Association by the provisions of Section 47F-3-102 of the Act. Without limiting the generality of the foregoing, the Association shall be responsible for maintaining and repairing all streets, street lights, sidewalks and curbs located on the Common Elements and all utility lines and pipes located within The Lake II At Breckenridge Property which serve more than one Lot.

Section 2. Membership. Every person who is, or who becomes, a record owner of a fee or undivided fee interest in any Lot is and shall be a member of the Association; provided, however, that any such person who holds such interest merely as security for the performance of an obligation shall not be a member of the Association. The transfer of ownership of a fee or undivided fee interest in any Lot shall automatically transfer membership in the Association, and in no event shall such membership be severed from the ownership of such Lot.

Section 3. Classes of Membership; Voting Rights. The Association shall have two classes of voting membership: Class A and Class B.

(a) Class A. The Class A members shall be all those persons holding an interest required for membership in the Association, as specified in Section 2 of this Article IV, except for those persons who are Class B members. Until such time as the Class A members shall be entitled to full voting privileges, as hereinafter specified, the Class A membership shall be entitled to vote only in regard to the following matters: (a) any proposal of merger, consolidation or dissolution of the Association; (b) any proposal pursuant to Article X of this Declaration to amend this Declaration; (c) any proposal to modify or amend the Articles of Incorporation or by the Bylaws; and (d) any other matter for which it is herein specifically provided, or for which it is provided by the Act or the North Carolina Nonprofit Corporation Act or any other law, that approval of each and every class of membership of the Association is required. Except in regard to the foregoing matters, the Class A membership shall be a non-voting membership until such time as the Class B membership shall terminate, at which time the Class A membership shall be the sole class of membership and shall be entitled to full voting privileges.

When entitled to vote, Class A members shall be entitled to cast one (1) vote for each Lot in which they hold an interest required for membership by Section 2 of this Article IV.

(b) **Class B.** The Declarant shall be the sole Class B member. Class B membership shall be a full voting membership and, during its existence, the Class B member shall be entitled to vote on all matters and in all events. The Class B membership shall terminate and cease to exist, and the Class B member shall be and become a Class A member insofar as it may then hold any interest required for membership by Section 2 of this Article IV, upon the earliest to occur of: (i) the date on which the Declarant shall have conveyed to individual owners thereof seventy-five percent (75%) of the Lots, (ii) December 31, 2009, or (iii) on such earlier date as the Declarant shall designate in a written notice delivered to the Association.

From and after the date at which the Class B membership automatically terminates and ceases to exist, such membership shall not be renewed or reinstated.

Section 4. Suspension of Membership Rights. The membership rights of any member of the Association, including the right to vote and to use the Common Elements (except for the right to use the Common Elements for access to and from the Lot owned by such member), may be suspended by the Executive Board pursuant to the authority granted in the Bylaws. Any such suspension shall not affect such member's obligation to pay assessments coming due during the period of such suspension and shall not affect the permanent charge and lien on the member's property in favor of the Association.

Section 5. Meetings of the Membership. All matters concerning the meetings of members of the Association, including the time at which and the manner in which notice of any said meeting shall be given to members, the quorum required for the transaction of business at any meeting, and the vote required on any matter, shall be as specified in the Act, the North Carolina Nonprofit Corporation Act, this Declaration, or in the Articles of Incorporation or the Bylaws, or by law.

Section 6. Association Acts Through Its Executive Board. Whenever approval of, or action or inaction by, the Association is referred to or called for in this Declaration, such action, inaction or approval shall be by the Executive Board of the Association, unless it is specifically stated in this Declaration, the Articles of Incorporation or the Bylaws with respect to such action, inaction or approval that the members of the Association must vote. No member of the Executive Board of the Association or any officer of the Association (including, without limitation, any such individual who shall have been elected by a vote of the Class B member) shall be personally liable to any owner of any Lot for any mistake of judgment or for any other act or omission of any nature whatsoever, except for any acts or omissions found by a court of competent jurisdiction to constitute gross negligence or fraud.

Section 7. Professional Management. The Association may, but shall not be obligated to, obtain and pay for the services of any person or other entity to manage the affairs of the Association, or any part thereof, and may enter into such agreements for the management of

the Common Elements as the Executive Board deems to be in the best interests of the Association.

ARTICLE V.

ASSESSMENTS

Section 1. Assessments; Lien Therefor. Each person other than the Declarant who shall own any Lot, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title thereto, shall be deemed to covenant and agree to pay to the Association all assessments and charges which are levied by the Association against the Lot(s) owned by such person in accordance with the terms and provisions of the Act and this Declaration.

As more fully provided in Section 47F-3-116 of the Act, all sums lawfully assessed by the Association against any Lot and the owner thereof, which shall remain unpaid for a period of thirty (30) days from the date of such assessment, shall constitute a lien in favor of the Association on such Lot when a claim of lien is filed of record in the office of the clerk of superior court of the county in which the Lot is located. Such lien shall be prior and superior to all other liens whatsoever, except:

- (a) liens for ad valorem taxes and other governmental assessments on the Lot;
- (b) any lien that was properly recorded prior to the docketing of the claim of lien in the office of the clerk of superior court;
- (c) the lien of any First Mortgage or the lien of any prior Mortgage recorded with the Wake County Public Registry prior to the recording of this Declaration; or
- (d) the lien of any secondary purchase money Mortgage covering the Lot, provided that neither the grantee nor any successor grantee on the Mortgage is the seller of the Lot.

Section 2. Personal Obligation of Members. Each member of the Association other than the Declarant, by acceptance of a deed or other conveyance to the Lot(s) owned by such member, irrespective of whether it shall be so expressed in any such deed or other conveyance, and by acceptance of ownership of such Lot (s), and by taking record title to such Lot(s), shall be deemed to covenant and agree to pay to the Association:

- (a) His share of the Annual Assessments which shall be levied by the Association in accordance with Section 4 hereof; and
- (b) When properly authorized in accordance with Section 5 hereof, special assessments, such annual and special assessments to be fixed, established and collected from time to time as hereinafter provided.

All such assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall be the personal obligation of the person who is the owner of the Lot against which such assessments are levied at the time such assessments become due and payable. The covenant to pay assessments herein stated is and shall be a covenant running with the land.

Section 3. Purposes of Assessments. The assessments levied by the Association pursuant to this Article V shall be used to pay the costs and expenses which the Association shall incur in connection with the performance of its duties and responsibilities pursuant to the Act, this Declaration, the Articles of Incorporation and the Bylaws (such costs and expenses being herein referred to as the "Annual Expenses"). Without limiting the generality of the foregoing, the Annual Expenses shall include the costs of: repair and maintenance of all Common Elements and the maintenance of the Lots as provided in Section 2 of Article IX; payment of all governmental charges, taxes and assessments which shall be levied against all Common Elements; payment of all costs and expenses incurred by the Association in connection with its operations, including, without limitation, the payment of electricity charges for all lighting located on The Lake II At Breckenridge Property which does not serve a particular Lot; payment of all costs of irrigation of the Common Elements; payment of the premiums for all policies of property and liability insurance maintained by the Association with respect to Common Elements; payment of the premiums for all fidelity bonds which shall be obtained by the Association; the maintenance of reserves for the repair and replacement of improvements located on the Common Elements and for such other purposes as the Executive Board shall determine, in all cases in such amounts as the Executive Board shall determine; the payment of the fees of such management firms as the Executive Board shall employ; and payment of the fees for the provision of such professional services as the Executive Board shall determine to be required by the Association, including legal, accounting and architectural services.

Section 4. Determination of Annual Assessment. Prior to the commencement of each fiscal year of the Association (said fiscal year being specified in the Bylaws), the Executive Board shall estimate the total amount of the Annual Expenses which are anticipated to be incurred by the Association during such fiscal year and shall determine the amount which will be deposited during such fiscal year into reserve funds maintained by the Association. The Executive Board shall thereupon adopt a budget for the Association's expenditures and reserve fundings based upon such estimate and providing for the total annual assessment to be levied against the members of the Association for such fiscal year (the total assessment which shall be so determined and levied against all of the members of the Association for any fiscal year is herein referred to as the "Annual Assessment"). The amounts so determined by the Executive Board shall be levied against all of the members of the Association other than the Declarant and all Lots not owned by the Declarant. The amount of the Annual Assessment levied against each Lot shall be the same as the amount levied against every other Lot. Each Lot not owned by the Declarant shall be liable for that share of every Annual Assessment which is so determined by the Executive Board. The Executive Board shall send a copy of the budget so adopted by it, together with a written notice of the amount of the Annual Assessment so determined for such fiscal year and the amount of such Annual Assessment which shall be levied against each Lot, to the owner of every Lot prior to the commencement of the fiscal year during which such Annual Assessment is to be paid. The amount of such Annual Assessment which shall be levied against

each Lot shall be due and payable to the Association in such installments the Executive Board shall determine, and after notice of the same shall have been given to all of the members of the Association by the Executive Board, and shall be paid to the Association when due without further notice.

Section 5. Special Assessments. If for any reason, including non-payment of any assessments to the Association by the persons liable therefor, the budget adopted by the Executive Board for any fiscal year shall prove to be inadequate to defray the Annual Expenses for such fiscal year, or if the Executive Board shall determine that it is in the best interests of the Association to levy a special assessment to pay the costs of any capital improvements or capital repairs, the Executive Board shall have the authority to levy a special assessment against the Lots and the owners thereof (other than the Declarant) to raise such needed funds. Any special assessment levied by the Executive Board pursuant to the provisions of this Section 5 shall be payable at such times and such installments as the Executive Board shall determine. Each Lot not owned by the Declarant shall be liable for the payment of an equal share of every special assessment which shall be levied by the Association pursuant to the provisions of this Section 5.

Section 6. Lots Owned by Declarant. Notwithstanding any term or provision of this Declaration which may be construed to the contrary, no Lot owned by the Declarant shall be subject to any assessment provided for in this Article V. Rather, all Lots owned by the Declarant shall be exempt from the payment of all assessments for so long as such Lots are owned by the Declarant. At such time as any Lot which is owned by the Declarant shall be conveyed or transferred away by the Declarant, all liens and assessments provided for in this Article V shall become immediately levied against such Lot and the owner of such Lot shall immediately become liable for the payment of all such assessments. The amount of each Annual Assessment which shall become so payable with respect to any Lot shall be prorated according to the respective portions of the fiscal year that such Lot was owned by the Declarant and by such successor owner.

Section 7. Effect of Non-Payment of Assessments; Remedies of the Association.

(a) In the event that any member of the Association shall fail to pay, within ten (10) days after the date the same is due and payable, any annual or special assessment, or any installment of any annual or special assessment which is payable by him to the Association, the entire amount of such assessment, including the portion thereof which would otherwise be payable in installments, may be declared by the Executive Board to be immediately due and payable in full to the Association. As more fully provided in the Act, all such amounts so declared by the Executive Board to be due and payable in full to the Association shall be secured by the lien of the Association on every Lot owned by the delinquent member, which lien shall bind such Lot or Lots in the hands of the then owner, and his heirs, devisees, successors and assigns.

(b) All amounts which the Executive Board shall declare to be due and payable pursuant to this Section 7 shall bear interest from the date of delinquency at the lower of the rate of eighteen (18%) percent per annum or the highest rate permitted by law, and the Association may bring legal action against the member of the Association personally obligated to pay the

same, or foreclose its lien upon the Lot or Lots of such member, in either of which events such member shall also be liable to the Association for all costs and attorneys' fees which the Association shall incur in connection with the collection of such delinquent amounts.

ARTICLE VI.

DAMAGE OR DESTRUCTION OF TOWNHOMES

In the event of the occurrence of any damage or destruction by fire or other casualty to any one or more Townhomes, such damage or destruction shall be repaired or rebuilt in all events. All repair, reconstruction or rebuilding of any Townhome shall be substantially in accordance with the plans and specifications for such damaged or destroyed Townhome prior to the occurrence of such damage, or in accordance with such differing plans and specifications as are approved for such purpose by both the owner of the Townhome which is to be so repaired, reconstructed or rebuilt, and by the Executive Board. The work of repairing, reconstructing or rebuilding any damaged or destroyed Townhome shall be completed as soon after the occurrence of such damage or destruction as is reasonably practicable at no cost or expense to the Association. The owner of any Townhome which is to be repaired, reconstructed or rebuilt pursuant to the provisions of this Article VI shall be responsible for the completion of such work in the manner, and within the time requirements, set forth in this Article VI.

ARTICLE VII.

INSURANCE

Section 1. Insurance. As provided in Section 47F-3-113 of the Act, it shall be the duty of the Association to obtain and maintain in effect at all times a policy of casualty insurance on all improvements located on the Common Elements. The amount of such policy shall be in amount that is no less than eighty percent (80%) of the replacement cost of the improvements to be insured with deductibles in amount to be determined by the Executive Board. It shall also be the duty of the Association to obtain and maintain in effect at all times a comprehensive policy of public liability insurance. The comprehensive policy of public liability insurance shall have a reasonable amount of coverage, as shall be determined by the Executive Board, and shall provide for such deductibles, as shall be determined by the Executive Board. During the existence of the Class B membership of the Association, both insurances may be provided by a self-insurance program maintained by the Declarant.

Section 2. Townhomes. The owner of each Lot and the Townhome located thereon shall obtain and maintain in effect at all times a master multi-peril policy of property insurance covering all insurable portions of the Townhome located on his Lot, on a replacement cost basis in an amount of not less than one hundred percent (100%) of the insurable value, based upon replacement cost, of the same.

ARTICLE VIII.

SIGNS

No sign of any kind or character (including any sign advertising any Lot for sale or for rent) shall be erected on any portion of any Lot, or displayed to the public on any portion of any Lot, without the prior written consent of the Executive Board, except for customary name and address signs. The restriction herein stated shall include the prohibition of placement of any sign within a Townhome in a location from which the same shall be visible from the outside and the placement of any sign in or upon any motor vehicle.

ARTICLE IX.

MAINTENANCE OF TOWNHOMES, LOTS AND DRIVEWAYS

Section 1. Maintenance of Townhomes. The owner of each Townhome shall be obligated to maintain and repair the entirety of his Townhome, including all walls and the roof of such Townhome. Such maintenance and repair work shall be performed at the sole cost and expense of the owner of such Townhome. As more fully provided for in the Breckenridge Declaration, all exteriors of all Townhomes shall be maintained in a condition which is satisfactory to the Executive Board of the Breckenridge Association.

Section 2. Maintenance of Lots.

(a) The Association shall be responsible for maintaining the grass and the grounds of the portion of each Lot which is not located inside a fence. Such maintenance shall include, without limitation, maintaining all plants, shrubbery, trees, flowers, bushes, ivy and other foliage, and performing any other activity necessary to keep such grounds in a condition that is in compliance with the requirements of the Long Lake Declaration and this Declaration. The owner of any Lot shall not alter, change or modify any of the landscape located on any portion of a Lot outside a fence.

(b) In the event that any portion of any Lot shall be enclosed within a fence, the Association shall have no further responsibility for the maintenance of the portion of the Lot which shall be enclosed within said fence. Rather, the owner of each Lot shall be obligated to keep and maintain any portion of such Lot which is enclosed within a fence in a neat, sanitary and attractive condition which is in compliance with the requirements of the Breckenridge Declaration and this Declaration. Such maintenance shall include, without limitation, cutting the grass, weeds and other vegetation, removing dead trees, shrubs and other plants and pruning and otherwise maintaining all plants, shrubbery, trees, flowers, bushes, grass, ivy and other foliage.

Section 3. Maintenance of Driveways. The Owner of each Lot shall be responsible for maintaining and repairing the driveway which serves his Lot, including both the portion of said driveway which is located on such Lot and the portion which is located on the Common Elements. Each such driveway shall be maintained in a condition which is in compliance with the requirements of the Breckenridge Declaration.

ARTICLE X.

AMENDMENT

The terms, provisions, covenants and restrictions of this Declaration may be amended upon the approval of such amendment by (a) those members of the Association who own in the aggregate, no-fewer than sixty-seven percent (67%) of the Lots not owned by the Declarant, (b) the Declarant, if the Declarant shall then own any Lot or any other portion of The Lake II At Breckenridge Property; and (c) HUD and VA, if the Class B membership has not terminated as provided in Article IV, Section 3 of this Declaration. The approval of any such amendment by the members of the Association shall be given by each such member either casting a vote in favor of such amendment at a meeting of the members of the Association duly called for such purpose, or by such member signing a written approval of such amendment after the date on which such meeting was held, notwithstanding anything set forth to the contrary in the Articles of Incorporation or Bylaws. If any such amendment is required to be approved by the Declarant and/or HUD and VA, such approval shall be given only by such Person executing a written approval of the same.

Any amendment to the terms, provisions, covenants or restrictions of this Declaration shall become effective only upon the recording with the Wake County Public Registry, of an instrument certified by the incumbent President of the Association setting forth such amendment and stating that the approval of the members of the Association which, under the provisions of this Article X, is required for such amendment to be effective, has been given and obtained; and (c) containing the written approval of the Declarant and/or HUD and VA, if the same is required (as hereinafter provided).

The matters set forth in such instrument shall be presumed to be true and accurate and the amendment which is set forth in such instrument shall be effective, unless it shall be determined by a court of competent jurisdiction that the matters certified to in such instrument are not true and accurate.

Each person who shall own any Lot, by acceptance of a deed or other conveyance thereto, and by acceptance of such ownership, and by taking record title thereto, and each holder of a Mortgage upon any portion of any Lot, by acceptance of such Mortgage, thereby agrees that the terms, provisions, covenants and restrictions of this Declaration may be amended as provided in this Article X.

ARTICLE XI.

MISCELLANEOUS

Section 1. Failure of Enforcement. In the event that the Association shall fail to enforce the compliance with any of the provisions of this Declaration by the owner of any Lot, then the owner of any other Lot shall have the right to file an action in a court of competent jurisdiction for an order from such court requiring that the Association enforce such compliance; provided, however, in no event shall the Executive Board, or any officer of the Association, or any of their agents, be personally liable to anyone on account of their failure to enforce any of the terms, provisions or restrictions set forth in this Declaration.

Section 2. Waivers. In no event shall the failure by the Association to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, provisions or agreements set forth in this Declaration be construed as a waiver or relinquishment of the future enforcement of any such term, covenant, condition, provision, or agreement. The acceptance of performance of anything required to be performed with knowledge of the breach of a term, covenant, condition, provision or agreement shall not be deemed a waiver of such breach, and no waiver by the Association of any term, covenant, condition, provision or agreement shall be deemed to have been made unless expressed in writing and signed by a duly authorized officer of the Association.

Section 3. Duration. This Declaration, and all of the terms, easements, provisions, liens, charges, restrictions and covenants set forth herein, shall run with and bind the land (the Lots), shall be and shall remain in effect, and shall inure to the benefit of, and be enforceable by, the Association, and by any owner of any Lot, their respective legal representatives, heirs, successors and assigns, perpetually.

Section 4. Notices. Any notice required to be sent to any member of the Association pursuant to any provision of this Declaration may be served by depositing such notice in the mails, postage prepaid, addressed to the member to whom it is intended, at the address which such member shall have furnished to the Secretary of the Association in accordance with the Bylaws, or, in the absence of any such address having been so furnished to the Secretary of the Association, at the address of any Lot owned by such member. The date of service shall be the date of mailing.

Section 5. Severability. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be effective and valid, but if any provision of this Declaration or the application thereof to any person or to any property shall be prohibited or held invalid, such prohibition or invalidity shall not affect any other provision or the application of any provision which can be given effect without the invalid provision or application, and to this end the provisions of this Declaration are declared to be severable.

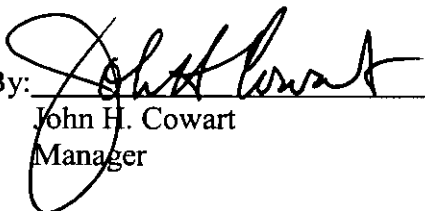
Section 6. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons or other entities violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Lots, to enforce any liens created by this Declaration.

Section 7. Successors to Declarant. In no event shall any person or other entity succeeding to the interest of the Declarant by operation of law or through purchase of the Declarant's interest in all or any portion of The Lake II At Breckenridge Property at foreclosure, sale under power or by deed in lieu of foreclosure, be liable for any act, omission or matter occurring, or arising from any act, omission or matter occurring, prior to the date such successor succeeded to the interest of the Declarant.

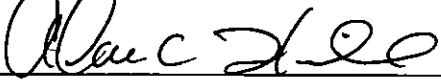
[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, Morrisville, LLC, Pulte Home Corporation and The Lake II At Breckenridge Townhome Association, Inc. have caused this Declaration to be executed by their duly authorized officers on the day and year first above written.


MORRISVILLE, LLC

By: 
John H. Cowart
Manager

PULTE HOME CORPORATION

By: 
Alan C. Hill
Director of Lands and Attorney In Fact

THE LAKE II AT BRECKENRIDGE
TOWNHOME
ASSOCIATION, INC.

By: 
Alan C. Hill
President

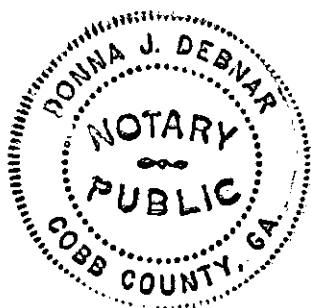
ACKNOWLEDGEMENTS

STATE OF Georgia

COUNTY OF Cobb

I, a Notary Public of the County and State aforesaid, do hereby certify this 21 day of Aug., 2003, personally came before me John H. Cowart, who, being by me duly sworn says that he is a Manager of Morrisville, LLC, a Georgia limited liability company, and that said writing was signed by him, on behalf of said limited liability company by its authority duly given and that he acknowledged the said instrument to be the act and deed of the limited liability company.

Witness my hand and official seal this 21 day of Aug., 2003.



[AFFIX NOTARIAL SEAL]

Donna J. Debnar
Notary Public

My Commission Expires:
Notary Public, Cobb County, Georgia
My Commission Expires June 21, 2005

ACKNOWLEDGEMENTS

STATE OF North Carolina

COUNTY OF Wake

I, a Notary Public of the County and State aforesaid, do hereby certify this 25th day of August, 2003, personally came before me Alan C. Hill, who, being by me duly sworn says that he is a Director of Lands and Attorney in Fact of Pulte Home Corporation, a Michigan corporation, and that said writing was signed by him, on behalf of said corporation by its authority duly given and that he acknowledged the said instrument to be the act and deed of the corporation.

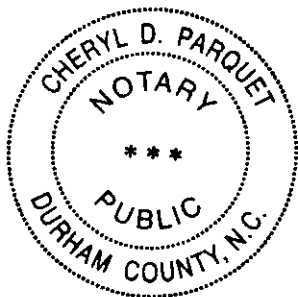
Witness my hand and official seal this 25th day of August, 2003.

Cheryl D. Parquet
Notary Public

My Commission Expires:

2-16-08

[AFFIX NOTARIAL SEAL]



ACKNOWLEDGEMENTS

STATE OF North Carolina

COUNTY OF Wake

I, a Notary Public of the County and State aforesaid, do hereby certify this 25th day of August, 2003, personally came before me Alan C. Hill, who, being by me duly sworn says that he is President of The Lake II At Breckenridge Townhome Association, Inc., a North Carolina corporation, and that said writing was signed by him, on behalf of said corporation by its authority duly given and that he acknowledged the said instrument to be the act and deed of the corporation.

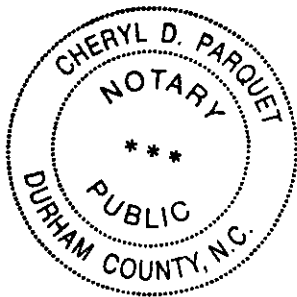
Witness my hand and official seal this 25th day of August, 2003.

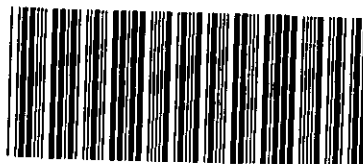
Cheryl D. Parquet
Notary Public

My Commission Expires:

2-16-08

[AFFIX NOTARIAL SEAL]





BOOK-010399 PAGE:00432 - 00456

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

North Carolina – Wake County

The foregoing certificate 5 of Donna J Debnar
J
Cheryl D Parquet

Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds.
By: George W. Pearson
Assistant/Deputy Register of Deeds

This Customer Group _____ # of Time Stamps Needed

This Document _____ New Time Stamp
25 # of Pages