

NORTH CAROLINA

DURHAM COUNTY

AMENDMENT OF DECLARATION AND AGREEMENT
(RESTRICTIVE COVENANTS - STIRRUP IRON CREEK SUBDIVISION)

THIS AMENDMENT to Declaration and Agreement made and executed this 27th day of June, 1984 by Stirrup Iron Creek Associates, a North Carolina joint venture.

W I T N E S S E T H:

WHEREAS, Stirrup Iron Creek Associates executed and recorded a Declaration and Agreement (Restrictive Covenants-Stirrup Iron Creek Subdivision) dated December 12, 1983 recorded in Real Estate Book 1143, Page 773, Durham County Registry; and

WHEREAS, Stirrup Iron Creek Associates is still the sole owner and developer of the lands described in said Declaration and Agreement; and

WHEREAS, Stirrup Iron Creek Associates desires to amend said Declaration and Agreement.

NOW THEREFORE, the Declarant, for itself, its successors and assigns, does hereby amend the Declaration and Agreement (Restrictive Covenants-Stirrup Iron Creek Subdivision) dated December 12, 1983 recorded in Real Estate Book 1143, Page 773, Durham County Registry, as follows:

1. Article XVIII is deleted in its entirety and the following is substituted in lieu thereof:

Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2023, at which time said covenants shall be automatically extended for successive periods of ten (10) years, unless by vote of a majority of the then owners of the building sites in the entire Stirrup Creek residential development, whether covered by these or other substantially similar covenants, it is agreed to change said covenants in whole or in part.

2. Article XIX is amended by adding the following additional language:

"Stirrup Creek Homeowners Association shall not be liable in any way for failure or omission to take action of any kind for the enforcement of any restriction or violation thereof. No recourse under or upon any obligation, covenant or agreement contained herein

on the part of Stirrup Creek Homeowners Association shall be had against any member, officer or director of said corporation and no personal liability shall attach to or be incurred by any such individual other than for his individual fraud and misfeasance or other willful or tortious act."

3. The following additional article is added:

Article XXI: Common Area. The Common Area from the time of the conveyance to the Stirrup Creek Homeowners Association shall be exclusive property of said Association and no building site owner in this subdivision shall have any right to use the Common Area except in accordance with the by-laws, rules and regulations of The Stirrup Creek Homeowners Association.

4. The following additional article is added:

Article XXII: Homeowners Association Membership. The owner or owners of record of the property covered by these restrictions shall be a member of the Stirrup Creek Homeowners Association entitled to cast one vote for each building lot owned. The owner or owners of record shall be deemed in all respects the owner or owners thereof and his, their or its signature or act shall, for the purposes hereof be binding upon the property in question and the owner thereof. The agreement or other action of any such owner shall bind all future owners of the same agreement or other action by the then owner of record of any part of the property and shall be binding upon any mortgagee or lienor of the same premises and shall be effective without requiring any mortgagee or lienor to join in such agreement or action.

5. The following additional article is added:

Article XXIII: Creation of Charge upon Property:

Section 1. Stirrup Iron Creek Associates (for each parcel of property subject thereto owned by it) hereby covenants and each purchaser of any parcel of the property (whether purchased from Stirrup Creek Iron Creek Associates or another) by the acceptance of a deed therefor shall, whether or not it shall be so expressed in any such deed or other conveyance, be deemed to covenant and agree to pay to Stirrup Creek Homeowners Association an annual assessment or charge to be fixed, established and collected from time to time as hereinafter provided, each installment of which annual assessment or charge when due shall become a lien upon the parcel of property against or on account of the ownership of which such assessment or charge is made. Each parcel of subject property, whether owned by Stirrup Iron Creek Associates or others, is hereby made subject and shall be subject to a continuing lien to secure the payment of each installment of such assessment or charge when due.

Such charge shall be in the amount of \$39.00 per year for the calendar year of 1984 and thereafter shall be affixed from year to year by the Board of Directors of Stirrup Creek Homeowners Association. The annual assessment shall not be increased more than 10% per year without an affirmative vote of at least two-thirds (2/3) of the lot owners. In addition, the annual assessment shall not be assessed, due or payable, or constitute a lien against any parcel of property until such time as improvements are erected upon said parcel and occupied. The annual assessment for a parcel of property occupied during a calendar year shall be prorated with the property owner paying only for that portion of the calendar year remaining following said occupancy.

The charge for any year shall become due and payable on the first day of January of said year, or in twelve (12) equal installments payable on the first day of each month as shall be determined by the Stirrup Creek Homeowners Association and set forth in the resolution of the Board of Directors of Stirrup Creek Homeowners Association fixing said charge.

Upon the failure of the owner of any parcel of property to pay any such charge or installment thereof when due, the Association shall have the right to collect the amount thereof by an action at law against the owner as for a debt and for interest and reasonable attorney's fees and may bring suit for the foreclosure of the lien thereof upon said parcel of property, and may bring and maintain such other suits and proceedings at law or in equity as may be available (and such remedies shall be cumulative and not exclusive). Such rights and powers shall continue in the Stirrup Creek Homeowners Association and the lien of such charge shall be deemed to run with the land; and the successive owners of each parcel of the property, by the acceptance of deeds therefor, shall be deemed personally to assume and agree to pay all such charges as shall become a lien thereon during their ownership thereof.

The charges created by this Article and the lien thereof shall be subordinate to the lien of any mortgage or deed of trust now or hereafter placed upon the property or any parcel thereof; provided, however, that such subordination shall apply only to the charges which shall have become payable prior to the sale of such parcel pursuant to a foreclosure of such instrument. Such sale shall not relieve such parcel from liability for charges thereafter becoming due hereunder nor from the lien of any charge or installment thereof thereafter becoming due, and the purchaser at such sale by the acceptance of the deed shall be deemed personally to assume and agree to pay all such charges or installments thereof thereafter becoming due.

The monies collected by virtue of the charges or assessments or the lien created by this Article shall be paid to the Stirrup Creek Homeowners Association to be used in such a manner and to such extent as the Board of Directors of the Association may determine to be for the benefit of the residents of the property and for the promotion of the health, safety and welfare of residents within the property and for the enhancement of education, recreation, social life and community welfare within the property; but the specific application of such monies shall remain wholly in the absolute discretion of the said Board of Directors. The Association shall not be obligated to spend for such purposes any monies other than those received by it pursuant to this declaration and the Association shall not be deemed to guarantee the sufficiency of said funds for the purposes stated. The liability of the Association in respect thereto shall be limited to the amounts hereunder properly chargeable against the property owned by it which shall at any time be subject to the charge created by this Article.

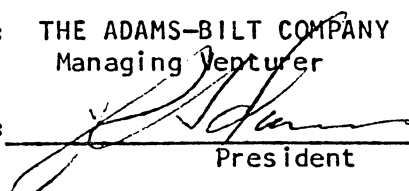
The Association shall not be obligated to spend in any one calendar year all the sums collected during such year by way of charges, and may carry forward to surplus any balances remaining; nor shall the Association be obligated to apply any such surpluses to the reduction of charges in the succeeding year, but may carry forward from year to year such surplus as the Board of Directors in their absolute discretion may determine to be desirable for the greater financial security of the Association and the effectuation of its purposes.

If at any time the monies collected by virtue of the charges or assessments or the lien created by this Article shall not be sufficient to meet expenditures which the Association shall deem necessary in the furtherance of the purposes of the Association, the Association shall have the authority in its absolute discretion to borrow money in anticipation of revenue upon such terms and security and for such periods not exceeding one year as it may determine, and in fixing the charge for the succeeding year, the Association shall have the power to include such sums as may be necessary to provide for the repayment of such advances with interest.

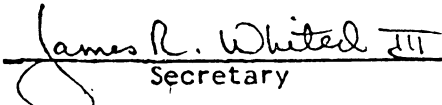
IN WITNESS WHEREOF, the Declarant has caused this instrument to be executed in its name by its managing venturer the day and year first above written.

STIRRUP IRON CREEK ASSOCIATES,
A North Carolina Joint Venture

By: THE ADAMS-BILT COMPANY
Managing Venturer

By: 
President

ATTEST:


Secretary

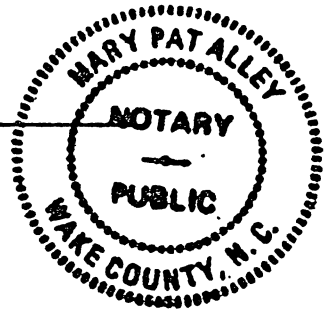
NORTH CAROLINA

WAKE COUNTY

I, the undersigned, a Notary Public, in and for said State and County, certify that James R. Whited, III personally came before me this day and acknowledged that the foregoing instrument was executed in the name and on behalf of STIRRUP IRON CREEK ASSOCIATES, a joint venture, by THE ADAMS-BILT COMPANY, a joint venturer; that he, the said James R. Whited, III is the _____ Secretary of THE ADAMS-BILT COMPANY, and that by authority duly given and as an act of the corporation, the foregoing instrument was signed by its _____ President, sealed with its corporate seal, and attested by him self as its _____ Secretary, and that the said instrument is the act and deed of said corporation acting as a joint venturer of STIRRUP IRON CREEK ASSOCIATES.

WITNESS my hand and notarial seal, this 27th day of June, 1984.

Mary Pat Alley
Notary Public



My commission expires:

12-13-88