

Hold for Garman, & James

BOOK 3916 PAGE 848

PRESENTED
FOR
REGISTRATION

JAN 13 9 27 AM '87

NORTH CAROLINA
WAKE COUNTY

KENNETH C. WILKINS
REGISTER OF DEEDS
WAKE COUNTY

DECLARATION OF CONDOMINIUM
ESTABLISHING
CREEDMOOR SQUARE OFFICE CONDOMINIUMS
CONDOMINIUM FILE NO. 122

THIS DECLARATION is made as of the 9th day of January, 1987, by Hathaway Properties, Ltd., a North Carolina corporation with its principal office in Wake County, North Carolina, hereinafter referred to as the "Declarant";

W I T N E S S E T H:

WHEREAS, Declarant is constructing on the parcel of land described in Exhibit A, a nonresidential condominium development consisting of sixteen (16) office units (hereinafter referred to as the "Project") established in accordance with the provisions of the North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes; and

WHEREAS, Declarant hereby establishes by this Declaration a plan for the individual ownership of the real property estates consisting of the area or space contained in each of the Units and the co-ownership by the individual and separate owners thereof, as tenants in common of all of the remaining real property which is hereinafter defined and referred to as the "Common Elements."

NOW, THEREFORE, Declarant hereby declares:

ARTICLE I

DEFINITIONS

As used herein, the following words and terms shall have the following meanings:

1.1. Act. The North Carolina Condominium Act, Chapter 47C of the North Carolina General Statutes.

1.2. Architectural Plans. The plans of the Condominium recorded with, and by the Act made a part of, this Declaration, as the same may hereafter be amended, showing thereon graphically all particulars of the improvements on the Property.

1.3. Association. Creedmoor Square Officeowners' Association, Inc., a nonprofit corporation organized under Chapter 55A of the North Carolina General Statutes, its successors and assigns.

1.4. Board. The Board of Directors of the Association.

1.5. By-laws. The By-laws of the Association which are hereby incorporated herein and made a part hereof by this reference.

1.6. Common Elements. All portions of the Condominium except the Units, including, without limitation, the following: all central and appurtenant installments for services such as power, light, telephone, cablevision, hot

and cold water, (including all pipes, wires, cables, and conduits in connection therewith, whether located in the Common Elements or in the Units) and all other central, mechanical equipment spaces, but excluding any heating or air-conditioning equipment serving only an individual Unit in which it may be located, and excluding all outdoor light fixtures affixed to the exterior walls of a Unit.

1.7. Common Expenses. Expenditures made by or financial liabilities incurred by or on behalf of the Association, together with any allocations to reserves, including without limitation:

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

(b) Expenses of administration, maintenance, repair, or replacement of the Common Elements;

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

(d) Expenses declared to be Common Expenses by the provisions of North Carolina Condominium Act, by this Declaration or by the By-Laws;

(e) Premiums for hazard and such other insurance as this Declaration or By-Laws may require the Association to purchase;

(f) Utility expenses, including sewer, water and electricity, which is provided to the Common Elements or which is provided by the Association to all Unit Owners;

(g) Ad valorem taxes and public assessment liens which are levied against the Common Elements.

1.8. Condominium. The Creedmoor Square Office Condominiums, the condominium created by this Declaration.

1.9. Declarant. Hathaway Properties, Ltd., its successors and assigns, and (i) any other person who has executed this Declaration, except Security Holders and those persons whose interests in the Property will not be conveyed to Unit Owners, and (ii) any person who succeeds to any Special Declarant Rights as provided in Section 47C-1-103(23) of the Act.

1.10. Declarant Control Period. The period commencing on the date hereof and continuing until the earlier of: (i) 120 days after conveyance of seventy-five percent (75%) of the Units to Unit Owners other than a Declarant; (ii) two years after Declarant have ceased to offer Units for sale in the ordinary course of business; or (iii) two years after any development right to add new Units was last exercised.

1.11. Limited Common Element. A portion of the Common Elements allocated by the Declaration or by operation of Section 47C-2-102(2) or (4) of the North Carolina General Statutes for the exclusive use of one or more, but fewer than all, of the Units, including the hot water heaters.

1.12. Mortgagee. Any person or entity who is a mortgagee under a mortgage or a beneficiary under a deed of trust or similar instrument encumbering a Unit. A "First Mortgagee" means the mortgagee or beneficiary under a deed of trust or similar instrument which is the first and most senior of all mortgages and deeds of trust encumbering a Unit. If there is more than one holder of a first mortgage,

they shall be considered as, and act as, one First Mortgagee for all purposes under this Declaration and the By-laws.

1.13. Occupant. Any person or persons in possession of a Unit, including Unit Owners, the family members, lessees, guest and invitees of such person or persons, and family members, guests and invitees of such lessees.

1.14. Person. A natural person, corporation, partnership, trust or other entity, or any combination thereof.

1.15. Property. The real estate described in Exhibit A, together with all buildings and improvements now or hereafter constructed or located thereon, and all rights, privileges, easements and appurtenances belonging to or in any way pertaining to said real estate.

1.16. Security for an Obligation. The vendor's interest in a contract-for-deed, mortgagee's interest in a mortgage, trustee's interest in a deed of trust, or the holder's interest in a lien, or similar interests.

1.17. Security Holder. Any person owning a Security for an Obligation in a Unit.

1.18. Special Declarant Rights. The rights reserved herein and in the By-laws for the benefit of a Declarant, as follows: to complete the improvements indicated on the Architectural Plans; to maintain a sales office, a management office, a model, and signs advertising the Condominium; to use easements through the Common Elements for the purpose of making improvements or repairs within the Condominium; or to appoint or remove any officer of the Association or any member of the Board during the Declarant Control Period.

1.19. Unit. A portion of the Condominium, whether or not contained solely or partially within a building, together with its percentage of undivided interest in the Common Elements as set forth on Exhibit B. Each Unit is designated and delineated on the Architectural Plans. Mechanical equipment, stairways and appurtenances located within any Unit and designed to serve only that Unit, such as appliances, heating and air-conditioning units, cabinets, fixtures and the like, shall be part of the Unit. Additionally, all outdoor light fixtures affixed to the exterior walls of a downstairs Unit shall be part of the downstairs Unit.

1.20. Unit Boundaries. The boundaries of each Unit, both as to vertical and horizontal planes, as shown on the Architectural Plans, are the walls, floors and ceilings.

1.21. Unit Owner. The person or persons, including the Declarant, owning a Unit in fee simple (including contract-for-deed purchasers of a Unit) or a lease of a Unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the Unit from the Condominium, but does not include Security Holders.

ARTICLE II

LEGAL DESCRIPTION OF PROJECT PROPERTY

The Creedmoor Square Office Condominiums Project site referred to hereinafter is situated in Wake County, North

Carolina, and is described in Exhibit A as the "Project Property."

ARTICLE III

DESCRIPTION OF BUILDINGS DEDICATED TO CONDOMINIUM OWNERSHIP

Declarant is the owner of the fee simple title to that certain real property described in Exhibit A attached hereto and incorporated herein by reference. The Property which will be dedicated to condominium or unit ownership as completed is situated in Wake County, North Carolina. The Condominium is comprised of two (2) two-story buildings located on the Property (with one building containing ten (10) Units, and the other building containing six (6) Units), areas designated for at fifty-four (54) parking spaces, and other appurtenant improvements. Each building consists of identical style Units of wood frame construction. The Units are designated Numbers 1 through 8, inclusive, with downstairs Units bearing the suffix of 101 and upstairs Units the suffix of 201. For example, an upstairs Unit in the building containing Units 6 through 8 would be identified as being Unit 6-201, 7-201 and 8-201, respectively. The approximate square footage of each Unit shall be as follows:

<u>UNIT DESIGNATION</u>	<u>SQUARE FOOTAGE</u>	<u>CURRENT STREET ADDRESS</u>
1-101	960 sq. ft.	8220 Creedmoor Rd., Suite 101
1-201	960 sq. ft.	8220 Creedmoor Rd., Suite 201
2-101	960 sq. ft.	8218 Creedmoor Rd., Suite 101
2-201	960 sq. ft.	8218 Creedmoor Rd., Suite 201
3-101	960 sq. ft.	8216 Creedmoor Rd., Suite 101
3-201	960 sq. ft.	8216 Creedmoor Rd., Suite 201
4-101	960 sq. ft.	8214 Creedmoor Rd., Suite 101
4-201	960 sq. ft.	8214 Creedmoor Rd., Suite 201
5-101	960 sq. ft.	8212 Creedmoor Rd., Suite 101
5-201	960 sq. ft.	8212 Creedmoor Rd., Suite 201
6-101	960 sq. ft.	8226 Creedmoor Rd., Suite 101
6-201	960 sq. ft.	8226 Creedmoor Rd., Suite 201
7-101	960 sq. ft.	8224 Creedmoor Rd., Suite 101
7-201	960 sq. ft.	8224 Creedmoor Rd., Suite 201
8-101	960 sq. ft.	8222 Creedmoor Rd., Suite 101
8-201	960 sq. ft.	8222 Creedmoor Rd., Suite 201

A complete, detailed description of the building shall be found in the Wake County Registry of Deeds Condominium File as identified on the first page of this Declaration.

ARTICLE IV

SUBMISSION OF PROPERTY TO THE ACT

4.1. Submission. Hathaway Properties, Inc. hereby submits the Property to the Act.

4.2. Name. The Property shall hereafter be known as the Creedmoor Square Office Condominiums.

4.3. Division of Property into Separately Owned Units. Hathaway Properties, Inc., pursuant to the Act, and to establish a plan of condominium ownership for the Condominium, does hereby divide the Property into sixteen (16) Units and does hereby designate all such Units for separate ownership, subject, however, to the provisions of Section 4.4 hereof.

4.4. Alterations of Units. Subject to the provisions of the By-laws, a Unit may be altered pursuant to the provisions of Section 47C-2-111 of the Act.

4.5. Unit Allocations. The allocations to each of a percentage of undivided interest in the Common Elements, of votes in the Association, and of a percentage of the Common Expenses, are as stated on Exhibit B. The allocation of undivided interests in the Common Elements and of the Common Expenses is according to the area that each Unit bears to the area of all Units. The votes in the Association are equally allocated to all Units.

4.6. Reservation of Special Declarant Rights. Declarant hereby reserves the Special Declarant Rights defined in Section 1.18. The Declarant may exercise the Special Declarant Rights over any portion of the Condominium as it, in its discretion, deems necessary or appropriate.

ARTICLE V

EASEMENTS

5.1. Encroachments. In the event that, by reason of the construction, reconstruction, rehabilitation, alteration or improvement of the buildings or improvements comprising a part of the Property, any part of the Common Elements now or hereafter encroaches upon any part of the Common Elements, or upon any part of another Unit, an easement for the continued existence and maintenance of each such encroachment is hereby declared and granted and shall continue for so long as each such encroachment exists; provided that in no event shall an easement for such encroachment be created if such encroachment is detrimental to or interferes with the reasonable use and enjoyment of the Common Elements or Units so encroached upon.

5.2. Easements Through Walls. Easements are hereby declared and granted to the Association and to such persons as are authorized by the Association, to install, lay, maintain, repair and replace any chutes, flues, ducts, vents, pipes, wires, conduits and other utility installations, and structural components running through the walls of the Units, whether or not such walls lie in whole or in part within the boundaries of any Unit.

5.3. Easements to Repair, Maintain, Restore and Reconstruct. Wherever in, and whenever by, this Declaration, the By-laws or the Act, a Unit Owner, the Association, the Board, or any other person, is authorized to enter upon a Unit or the Common Elements to repair, maintain, restore or reconstruct all or any part of a Unit or the Common Elements, such easements as are necessary for such entry and such repair, maintenance, restoration or reconstruction are hereby declared and granted.

5.4. Declarant's Easement. Declarant hereby reserves such easements through the Common Elements as may be reasonably necessary for the purposes of discharging its obligations, exercising Special Declarant's Rights, and completing the development and construction of the Condominium, which easements shall exist as long as reasonably necessary for such purposes.

5.5. Unit Owner's Easement. Every Unit Owner shall have a right and easement of enjoyment in and to all of the Common Elements, other than the Limited Common Elements. Each Unit Owner specifically shall have an easement to

maintain all components of the heating and air conditioning system serving his Unit in their present location and as shown on the Architectural Plans. Every Unit Owner shall have a right and easement of enjoyment in and to the Limited Common Elements allocated to his Unit.

5.6. Grant of Easements by Association. The Association may hereafter grant easements, as approved by the Board, for utility or drainage purposes for the benefit of the Condominium, including the right to install, lay, maintain, repair and replace water lines, gas lines, pipes, sewer lines, television cables, telephone wires and equipment, and electrical conduits, and wires over, under, along and on any portion of the Common Elements; and each Unit Owner hereby grants the Association an irrevocable power of attorney to execute, acknowledge and record for and in the name of each Unit Owner such instruments as may be necessary or desirable to effectuate the foregoing.

5.7. Governmental Easements. Easements are hereby established over the Common Elements for the benefit of applicable government agencies, public utility companies and public service agencies as necessary for setting, removing and reading of meters, replacing and maintaining water, sewer and drainage facilities, electrical, telephone, gas, and cable antenna lines, fire fighting, garbage collection, postal delivery, emergency and rescue activities and law enforcement activities.

5.8. Structural Easements. Every portion of a Unit which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of all other Units and for the Common Elements.

5.9. Easements to Run With Land. All easements and rights described in this Article V are appurtenant easements running with the land, and except as otherwise expressly provided in this Article V, shall be perpetually in full force and effect, and shall inure to the benefit of and be binding upon Declarant, the Association, Unit Owners, Occupants, Security Holders and any other person having any interest in the Condominium or any part of any thereof. The Condominium and every part thereof shall be conveyed and encumbered subject to and together with all easements and rights described in this Article V, whether or not specifically mentioned in any such conveyance or encumbrance.

ARTICLE VI

RESTRICTIONS, CONDITIONS AND COVENANTS

6.1. Compliance with Declaration, By-laws and Rules and Regulations. Each Unit Owner and Occupant shall comply with all applicable provisions of the Act, this Declaration, the By-laws, the Articles of Incorporation of the Association, and Rules and Regulations promulgated by the Board or the Association, as amended. Failure to comply shall be grounds for an action by the Association, an aggrieved Unit Owner, or any person adversely affected, for recovery of damages, injunction or other relief.

6.2. Administration of Condominium. The Condominium shall be administered in accordance with the provisions of the Act, this Declaration and the By-laws.

6.3. Use Restricted; Use by Declarant.

6.3.1. The Units shall be occupied and used by Unit Owners and Occupants for general office and institutional

purposes only. As used herein, the term "general office and institutional purposes" shall include, but not be specifically limited to the following specified uses: governmental agencies and subdivisions thereof; office and studios of professional and service occupations, including but not limited to accountant, architect, artist, banker, broker, chiropractor, contractor copying facility, dentist, engineer, medical, dental and scientific laboratory, insurance adjuster, landscape architect, lawyer, nurse, physician, realtor, optometrist, osteopath, secretarial agency, publicity or advertising agency, beauty salon, finance agency, insurance agency, investment agency, travel agency, bonding agency, mortgage agency, office-business machine agency, but excluding any veterinarian uses.

6.3.2. No immoral, improper, offensive, or unlawful use shall be made of the Property, or any part thereof, and all valid laws, ordinances, and regulations of all government agencies having jurisdiction thereof shall be observed. All laws, orders, rules, regulations, and requirements of any governmental agency having jurisdiction thereof, relating to any portion of the Property, shall be complied with, by and at the sole expense of the Unit Owner or the Association, whichever shall have the obligation to maintain or repair such portion of the Property.

6.3.3. No Unit Owner shall display, or cause or allow to be displayed, to public view any sign, placard, poster, billboard, or identifying name or number upon any Unit, building, or any portion of the Common Elements, except as allowed by the Association pursuant to its By-laws; provided, however, that any Unit Owner, or its respective agent, may place "For Sale" or "For Rent" signs on any unsold or unoccupied Units and in suitable places on the Property.

6.3.4. In addition to the restrictions contained in paragraph 6.3.3 above, the Unit Owners shall each be obliged to obtain and maintain, at their expense, uniform signs for their exterior doors, which signs, and the criteria therefore, shall be adopted by the Association pursuant to its By-Laws.

6.3.5. The foregoing provisions of this Section 6.3 or any other provision of this Declaration or the By-laws notwithstanding, the Association or the Declarant may maintain models and sales offices for sales of Units in the Condominium as follows: Units 5-101 and 5-102 as a sales/model office.

Declarant shall have the right to relocate, from time to time, within the Condominium, until all of the Units have been conveyed to a Unit Owner other than a Declarant, any one or more of such offices or models. Declarant also shall have the right to change the use or combination of uses of such offices or models, provided that such offices or models shall be used only for sales offices or models. The total number of such offices or models maintained at any time by a Declarant shall not exceed two (2), and the size of any such relocated or reestablished office or model shall not exceed the size of the largest Unit in the Condominium.

6.4. Hazardous Use and Waste. Nothing shall be kept and no activity shall be carried on in any Unit or on the Limited Common Elements which will increase the rate of insurance, applicable to general office and institutional use, for the Property or the contents thereof. No Occupant shall do or keep anything, nor cause or allow anything to be done or kept, in his Unit or on the Common Elements which will result in the cancellation of insurance on any portion of the Property, or the contents thereof, or which will be in

violation of any law, ordinance, or regulation. No waste shall be committed on any portion of the Common Elements.

6.5. Alterations of Common Elements. No Unit Owner or Occupant, except Declarant during the Declarant Control Period, shall alter, construct anything upon, or remove anything from the Common Elements, or paint, decorate, landscape or adorn any portion of the Common Elements, without the prior written consent of the Board.

6.6. Prohibition of Renting for Transient or Hotel Purposes. No Unit Owner shall rent his Unit for transient or hotel purposes, which for purposes of this Declaration shall be defined as either a rental for any period less than thirty (30) days or any rental if the lessee of the Unit is provided customary hotel services. Each permitted lease shall be in writing and shall be subject to this Declaration and the By-laws, and any failure of the lessee to comply with the terms of such documents shall be a default under the lease. Any Unit Owner who enters into a lease of his Unit shall promptly notify the Association of the name and address of each lessee, the Unit rented, and the term of the lease. Other than the foregoing restrictions, each Unit Owner has the full right to lease his Unit.

6.7. Pets. No pet shall be allowed in the Condominium, except as may be provided by the Rules and Regulations promulgated from time to time by the Board or the Association or in the By-laws.

6.8. Quiet Enjoyment. No obnoxious or offensive activity shall be carried on upon the Property, nor shall anything be done which may be or may become a nuisance or annoyance to Unit Owners, their employees, agents and invitees within the Property.

6.9. Rules and Regulations. In addition to the foregoing restrictions, conditions and covenants concerning the use of the Condominium, reasonable rules and regulations not in conflict therewith and supplementary thereto may be promulgated, enforced and amended from time to time by the Board or the Association, as fully provided in the By-laws. Such rules and regulations, together with all policy resolutions and decisions made by the Association, shall be recorded in a Book of Resolutions available in accordance with Section 15.1 herein.

The Board may from time to time include in any Rules and Regulations adopted for the use of the Common Elements provisions restricting the use of hallways, patios, entry areas, parking spaces and other Common Elements, provided such provisions are reasonable, are uniformly applied to all Unit Owners and Occupants, and are nondiscriminatory.

6.10. Restrictions, Conditions and Covenants To Run With Land. Each Unit Owner and Occupant shall be subject to all restrictions, conditions and covenants of this Declaration, and all such restrictions, conditions and covenants shall be deemed to be covenants running with the land, shall bind every person having any interest in the Property, and shall inure to the benefit of every Unit Owner.

ARTICLE VII

ASSESSMENTS

7.1 Assessment Date. Assessments shall be due and payable in monthly installments. As provided by the By-laws, Declarant shall pay all accrued expenses of the Condominium

until assessments are levied against the Units. An assessment shall be deemed levied against a Unit upon the giving of notice by the Board to a member of the Association who is a Unit Owner of the Unit. Unit Owners shall have no obligation to pay monthly assessments until an assessment is levied.

7.2.1 Assessment Liens. Any sum assessed by the Association of Unit Owners for the share of the Common Expenses chargeable to any Unit, and remaining unpaid for a period of thirty (30) days or longer, shall constitute a lien on such Unit when filed of record in the Office of the Clerk of the Superior Court of Wake County in the manner provided therefor by Article 8 of Chapter 44 of the General Statutes as now written or hereafter amended. Upon the same being duly filed, such lien shall be prior to all liens except the following:

(i) Special assessments, liens and charges for real estate taxes due and unpaid on the Unit made by a lawful governmental authority;

(ii) Any sums unpaid on the first deed of trust, first mortgage and any other encumbrances duly of record against the Unit prior to the docketing of the aforesaid lien;

(iii) Other liens granted priority by statutory authority.

7.2.2. Provided the same is duly filed in accordance with the provisions contained in paragraph 7.2.1 above, a lien created by non-payment of a Unit Owner's pro rata share of the Common Expenses may be foreclosed by suit by the manager or Board, acting on behalf of the Unit Owners, in like manner as a deed of trust or mortgage of real property. In any such foreclosure the Unit so provided in the By-laws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver on behalf of the Unit Owners, shall have power to bid in the Unit at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. A suit to recover a money judgment for unpaid Common Expense shall be maintainable without foreclosing or waiving the lien securing the same. Reasonable attorney fees, not to exceed five percent (5%) of the sale price, as permitted by the Clerk of Superior Court shall be charged as a part of the cost of any such foreclosure. The unpaid Common Expenses shall bear interest after default at the rate of 12% per annum.

7.3. Personal Liability of Transferee; Statement; Liability of Mortgagee.

7.3.1. The grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his proportionate share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or Board, as the case may be, setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessment in excess of the amount therein set forth.

7.3.2. Any transferee referred to in paragraph 7.3.1 above shall be entitled to a statement from the Board, and such transferee's Unit shall not be subject to a lien for any

unpaid assessments against such Unit in excess of the amount therein set forth.

7.3.3. Where a mortgagee, or other person claiming through such mortgagee, pursuant to the remedies provided in a deed of trust, or by foreclosure or by deed or assignment in lieu of foreclosure, obtains title to a Unit, the liability of such mortgagee or such other person for assessments shall be only for the assessments, or installments thereof, that would become delinquent, if not paid, after acquisition of title. For purposes hereof, title to a Unit shall be deemed acquired by foreclosure upon expiration of the applicable period of redemption.

7.3.4. Without releasing the transferor from any liability therefor, any unpaid portion of assessments which is not a lien under paragraph 7.3.2 above or, resulting, as provided in paragraph 7.3.3 above, from the exercise of remedies in a deed of trust, or by foreclosure thereof or by deed, or assignment in lieu of such foreclosure, shall be a Common Expense collectible from all Unit Owners, including the transferee under paragraph 7.3.2 above and the mortgagee or such other person under paragraph 7.3.3 above who acquires ownership by foreclosure or by deed, or assignment in lieu of foreclosure.

7.4. Prohibition of Exemption from Liability for Contribution Toward Common Expenses. No Unit Owner may exempt himself from liability for his share of the Common Expenses assessed by the Association by waiver of the use or enjoyment of any of the Common Elements or by abandonment of his Unit or otherwise.

ARTICLE VIII

MANAGEMENT, MAINTENANCE, REPAIRS REPLACEMENTS, ALTERATIONS AND IMPROVEMENTS

8.1. Common Elements.

8.1.1. By the Association. The management, replacement, maintenance, repair, alteration and improvement of the Common Elements shall be the responsibility of the Association, and, subject to the provisions of Section 8.3 hereof, the cost thereof shall be a Common Expense to the extent not paid by Unit Owners pursuant to paragraph 8.1.2 hereof; provided the Association shall have no duty to maintain any Common Elements which are maintained by any governmental body or by any public utility company. All damage caused to a Unit by any work on or to the Common Elements done by or for the Association shall be repaired by the Association, and the cost thereof shall be a Common Expense.

8.1.2. By Unit Owners. Each Unit Owner shall pay all costs to repair and replace all portions of the Common Elements that may become damaged or destroyed by reason of his intentional or negligent acts or the intentional or negligent acts of any Occupant of his Unit. Such payment shall be made upon demand made by the Association.

8.2. Owner's Maintenance.

8.2.1. Each Unit Owner agrees as follows:

(a) To maintain in good condition and repair his Unit and all interior surfaces within his Unit (such as walls, ceiling tiles, and floors) which are not Common Elements or exterior surfaces, the maintenance of which shall

be the responsibility of the Association and assessable to all the Unit Owners as a Common Expense.

(b) To maintain, repair, or replace (if necessary) the heating or air-conditioning systems serving only his Unit, whether located within or adjacent to such Unit.

(c) Not to make or cause to be made any structural addition to the Common Elements without the prior written consent of the Association, unless otherwise permitted under this Declaration.

(d) To make no alteration, repair, replacement, or change of the Common Elements, or to any outside or exterior portion of the building, whether within a Unit or part of the Common Elements.

8.2.2. In the event a Unit Owner fails to maintain the Unit as required herein or makes any structural addition or alteration to the Common Elements without the required consent of the Association, or fails to permit entrance to the Association, or its authorized agents, the Association shall have the right to proceed either at law or in equity for whatever appropriate remedy the circumstances require. In lieu thereof and/or in addition to this remedy, the Association, through the Board, shall have the right and power to levy an assessment against the Unit Owner and the Unit itself for such necessary sums to remove any unauthorized structure or alteration and the restore the Property to its former condition. The Association and/or the Board on its behalf, shall have the further right and power to have its employees or agents, or any subcontractor appointed by it, enter the Unit at any all reasonable times, to do such work as it deems necessary by the Board to enforce compliance with the provisions hereof.

8.3. Common Expenses Associated with Limited Common Elements or Benefiting Less Than All Units.

8.3.1. Any Common Expense associated with the maintenance, repair, or replacement of a Limited Common Element shall be assessed against the Unit, or in equal shares to the Units to which such Limited Common Element was allocated at the time the expense was incurred.

8.3.2. The Association may assess any Common Expense benefiting less than all of the Units against the Units benefited in proportion to their Common Expense liability.

8.3.3. Notwithstanding anything else contained herein to the contrary, the Unit Owner owning a Unit on the first level (i.e., a Unit with the suffix 101) shall be responsible for the payment of electricity associated with the operation of a standard 10 gallon water heater, which serves both the first level Unit and second level Unit immediately above, which heater is located in his Unit. Payment for the electricity associated with the operation of any water heater whose capacity is in excess of 10 gallons due to the special needs of a Unit Owner will be the exclusive responsibility of the Unit Owner who benefits therefrom.

8.4. Units. Each Unit Owner shall maintain his Unit at all times in a good and clean condition, and repair and replace, at his expense, all portions of his Unit; shall perform his responsibilities in such manner as not to unreasonably disturb other Occupants; shall promptly report to the Board, or its agents, any defect or need for repairs, the responsibility for which is that of the Association; and, to the extent that such expense is not covered by the proceeds of insurance carried by the Association, shall pay

all costs to repair and replace any portion of another Unit that has become damaged or destroyed by reason of his own acts or omissions, or the acts or omissions of any Occupant of his Unit. Such payment shall be made upon demand by the Unit Owner of such other Unit. Nothing herein contained shall modify any waiver by insurance companies of rights of subrogation.

8.5. Waiver of Claims. Except as otherwise provided, the Association agrees that it shall make no claim against a Unit Owner or Occupant, and each Unit Owner and Occupant agrees that he shall make no claim against the Association, the members of the Board, officers of the Association, or employees or agents of any thereof, or against any manager retained by the Board, or his or its officers, directors, employees or agents, or other Unit Owners or Occupants, for any loss or damage to any of the Property, or to a Unit or personal property therein, even if caused by the omission or neglect of any one or more of such persons and all such claims are hereby waived and released; provided, that this waiver shall not apply to any such loss or damage due to intentional acts.

8.6. Right of Entry.

8.6.1. By the Association. The Association, and any person authorized by the Association, may enter any Unit or any of the Limited Common Elements in case of any emergency or dangerous condition or a situation originating in or threatening that Unit or any of the Common Elements. The Association, and any person authorized by the Association, after reasonable notice to a Unit Owner or Occupant, may enter that Unit or any of the Limited Common Elements for purposes of performing any of the Association's duties or obligations or exercising any of the Association's powers under the Act, this Declaration or the By-laws with respect to that or any other Unit, any Limited Common Elements, or the Common Elements. Notwithstanding Section 8.5, the Association shall be responsible for the repair of any damage caused by the Association or its authorized person to the entered Unit, and the cost thereof shall be a Common Expense. All such entries shall be made and done so as to cause as little inconvenience as possible to the Unit Owner and Occupant of the entered Unit or any portion of the Limited Common Elements allocated to the Unit Owner.

8.6.2. By Unit Owners. Each Unit Owner and Occupant shall allow other Unit Owners and Occupants, and their representatives, to enter his Unit, or Limited Common Elements allocated to his Unit, when reasonably necessary for the purpose of altering, maintaining, repairing or replacing the Unit, or performing the duties and obligations under the Act, this Declaration or the By-laws of the Unit Owners or Occupant making such entry, provided that requests for entry are made in advance and that such entry is at a time convenient to the Unit Owners or Occupant whose Unit or Limited Common Element is to be entered. In case of an emergency or dangerous condition or situation, such right of entry shall be immediate. Notwithstanding Section 8.5, the person making such entry shall be responsible for repair of any damage caused by such person to the entered Unit or Limited Common Elements.

8.7. Manager. The Association may 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 Condominium. All the powers and duties of the Association necessary or convenient for such maintenance and management may be delegated to and invested in the manager by the Board, except

as are specifically required by this Declaration, the By-laws, or the Act, to have approval of the Board or the Association. The manager is hereby further authorized to recommend the annual budget, and, upon approval thereof by the Board, collect assessments, subject always to the supervision and right of approval of the Board.

All other affairs of the Association shall be conducted by a Board who shall be designated as provided in the By-laws of the Association.

ARTICLE IX

INSURANCE

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

9.1. Ownership of Policies. All insurance policies upon the Property shall be purchased by the Board for the benefit of the Board and the Unit Owners and their mortgagees as their interest may appear, and provisions shall be made for the issuance of certificates of mortgagee endorsements to the mortgagees of Unit Owners. Unit Owners may, at their option, obtain insurance coverage at their own expense upon their own personal property and personal liability and business interruption and such other coverage as they may desire.

9.2. Coverage. All buildings and improvements upon the land and all personal property included in the Common Elements shall be insured in an amount equal to the maximum insurable replacement value as determined annually by the Board with the assistance of the insurance company providing such coverage. Such coverage shall provide protection against (i) loss by fire and other hazards covered by a standard extended coverage endorsement, (ii) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use as the building on the land, and (iii) workmen's compensation insurance, if and to the extent required by law.

The Board may, if it so elects, include in its insurance coverage for the benefit of the Unit Owners any or all of those items owned by the Unit Owners which would normally be deemed real estate under the laws of North Carolina, including, without limitation, such items as sheetrock, non-load bearing walls, doors and built-in appliances. If such items are included in the insurance coverage, the extra cost of such coverage shall be borne by the Unit Owners in the same ratio that applies to other assessments.

To the extent obtainable, public liability and property damage insurance in such limits as the Board may from time to time determine, shall be purchased, insuring each member of the Board; the manager, if any; and each Unit Owner against any liability to the public or to the Unit Owners (and their invitees, agents, and employees) arising out of or incident to the ownership and/or use of the Common Elements. The insurance shall be issued on a comprehensive liability basis and shall contain a cross liability endorsement under which the rights of a named insured under the policy shall not be prejudiced with respect to his action against another insured. Such other insurance coverage shall also be obtained as the Board shall determine from time to time to be desirable and necessary.

9.3. Premiums. Premiums upon insurance policies purchased by the Board shall be paid by the Association.

9.4. Proceeds. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear, and shall provide that all proceeds thereof shall be payable to the Board as insurance trustee under this Declaration. The sole duty of the Board as insurance trustee shall be to receive such proceeds as are paid and to hold the same in trust for the purposes elsewhere stated or stated in the By-laws and for the benefit of the Unit Owners and their mortgagees in the following shares:

(a) Proceeds on account of damage to Common Elements - an undivided share for each Unit Owner, such share being the same as each Unit Owner's undivided interest in the Common Elements.

(b) Proceeds on account of damage to Units shall be held in the following undivided shares: (i) when the building is to be restored - for the Unit Owners of damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which costs shall be determined by the Board; (ii) when the building is not to be restored - an undivided share for each Unit Owner, such share being the same as each Unit Owner's undivided interest in the Common Elements.

(c) In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear.

9.5. Carrier. The carrier of each type of insurance purchased by the Association shall be an insurance company authorized to do business in the State of North Carolina as selected, from time to time, by the Association.

9.6. Additional Coverage. Each individual Unit Owner shall be responsible for purchasing, at his own expense, including but not limited to, liability insurance with respect to his ownership and/or use of his Unit, coverage upon his own personal property, business interruption, fire and other hazards, mortgage insurance and such other insurance as the respective Unit Owner deems necessary or desirable. Any insurance procured by any Unit Owner shall provided that it is without contribution as against the insurance purchased by the Association. If a casualty loss is sustained and there is a reduction in the amount of proceeds that would otherwise be payable on the insurance purchased by the Unit Owner, such Unit Owner shall be liable to the Association to the extent of such reduction and shall pay the amount of such reduction to the Association upon demand, and shall assign the proceeds of such reduction to the Association.

ARTICLE X

CASUALTY DAMAGE

If all or any part of the Property shall be damaged or destroyed, the same shall be repaired or replaced and proceeds of insurance shall be the used and applied in accordance with the provisions of Section 47C-3-113 of the Act.

ARTICLE XI

CONDEMNATION

In the event of a taking by eminent domain, or by a conveyance in lieu thereof, of all or any part of the Property, the same shall be repaired or restored and the awards paid on account thereof shall be used and applied in accordance with Section 47C-1-107 of the Act.

ARTICLE XII

TERMINATION

The Condominium may be terminated only in strict compliance with Section 47C-2-118 of the Act, except that the condominium may be terminated by agreement of Unit Owners to which at least seventy-five percent (75%) of the votes in the Association are allocated.

ARTICLE XIII

AUTHORITY TO MORTGAGE

Any mortgage by the Association of the Common Elements shall have the assent of Unit Owners to which at least seventy-five percent (75%) of the votes in the Association are allocated.

ARTICLE XIV

AMENDMENT

This Declaration may be amended only in strict compliance with Section 47C-2-117 of the Act. Except as limited by Section 47C-217(d), this Declaration may be amended only by the affirmative vote of, or a written agreement signed by, Unit Owners of Units to which at least seventy-five (75%) percent of the votes in the Association are allocated. No such amendment shall be effective until recorded in the Office of the Register of Deeds of Wake County, North Carolina.

ARTICLE XV

RIGHTS OF FIRST MORTGAGEES, MISCELLANEOUS PROVISIONS

The following provisions shall take precedence over any other provisions of this Declaration and the By-laws:

15.1. Availability of Condominium Documents, Books, Records and Financial Statements. The Association shall, upon request and during normal business hours, make available for inspection by Unit Owners and the mortgagees and his insurers and guarantors of a mortgage on any Unit, current copies of the Declaration, the By-laws, other rules and regulations governing the Condominium and the books, records and financial statements, if any, of the Association. The Association shall provide an audited financial statement for the preceding fiscal year if requested in writing by a mortgagee or insurer or guarantor of a mortgage. The Association shall, upon request and during normal business hours, make available for inspection by prospective purchasers of Units, current copies of the Declaration,

By-laws, other rules and regulations governing the Condominium, and the most recent annual audited financial statement (if one is prepared).

15.2. Breach of Restrictions. In the event of a violation or a breach of any other restrictions contained in this Declaration or of any other covenants contained in this Declaration, the By-laws or rules and regulations of the Association by any Unit Owner or Occupant, the Association shall have the right to proceed at law or in equity, or both, to compel compliance with the terms of or to prevent the violation or breach of this Declaration, the By-laws, or rules and regulations of the Association. In addition to the foregoing, the Association, its Board or agents shall have the right, whenever there shall have been any violation of these restrictions, to enter upon the Property where such violation exists and summarily abate or remove the same at the expense of the Unit Owner, if after thirty (30) days' written notice of such violation it shall have not been corrected by the Unit Owner. Any such entry and abatement or removal shall not be deemed a trespass. The failure to enforce any right, reservation, or condition in this Declaration, the By-laws, or rules and regulations however long continued, shall not be deemed a waiver of the right to do so thereafter, as to the same breach or as to a breach occurring prior or subsequent thereto, and shall not bar or affect its enforcement.

15.3. Right of First Refusal. The right of a Unit Owner to sell, transfer, mortgage or otherwise convey his interest in his Unit shall not be subject to any right of first refusal.

15.4. Rights of Mortgagee; Insurance Proceeds or Condominium Awards. With respect to mortgages held by or for the benefit of Mortgagees, no provision of this Declaration or the By-laws shall be deemed to give a Unit Owner, or any other party, priority over any rights of a Mortgagee pursuant to its mortgage on said Unit Owner's Unit, in the cause of a distribution to said Unit Owner of insurance proceeds or condemnation awards for lessee to or a taking of Units and/or Common Elements.

15.5. Rights of Mortgagee; Amendment to Plans. The percentage of undivided interest or obligation of any Unit for purposes of determining shares of the Common Elements of the Condominium shall not be changed except in conformity with the Act and unless all holders of first mortgage liens on individual Units have given their prior written approval.

ARTICLE XVI

WATER AND SEWER CHARGES

Water may be supplied to all the Units and the Common Elements through a master water meter and the Unit Owners shall pay to the Association, as a Common Expense, all charges for water consumed on the Property, including water consumed by the individual Unit Owners with the cost of said water to be a Common Expense of the Association. Sewer charges, if any, shall be considered a Common Expense and paid for by the Association.

ARTICLE XVII

GENERAL PROVISIONS

- 17.1. Construction. In interpreting any and all provisions of this instrument, the exhibits attached hereto, and subsequent deeds and deeds of trust covering individual Units, the actual location of the Unit shall be deemed conclusively to be the Property intended to be conveyed, reserved or encumbered notwithstanding any minor deviations, either horizontally or vertically, from the locations indicated on the Architectural Plans, or in minor variations in the description of the Unit contained herein. To the extent that such minor deviations in location do or shall exist, a valid easement therefore and for the maintenance thereof does and shall exist.
- 17.2. Invalidity. The invalidity of any provisions of this Declaration shall not be deemed to impair or affect in any manner the validity and enforceability or effect of the remainder of this Declaration, and in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.
- 17.3. Waiver. No provisions contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.
- 17.4. Captions. The captions herein are inserted only as a matter of convenience and for reference and in no way to define, limit or describe the scope of this Declaration nor the intent of any provisions hereof.
- 17.5. Law Controlling. This Declaration and the By-laws shall be construed and controlled by and under the laws of the State of North Carolina.
- 17.6. Definition of Terms. Any terms used herein which are defined in the North Carolina Condominium Act shall have the meaning specified in said Act unless a contrary intent clearly appears.
- 17.7. Merger of Units. Nothing hereinbefore set forth in this Declaration shall be construed as prohibiting the Board from removing or authorizing removal of any common wall between Units, or any portion thereof, between any Units in order that the said Units might be used together as one Unit. If a Unit Owner desires to sell, transfer or convey title to the original component Units of any previously merged Units, such Unit Owner shall have the sole obligation to restore or repair the common wall between such Units as nearly as practicable in accordance with the Architectural Plans and specifications.
- 17.8. Warranties and Representations. The Declarant specifically disclaims any intent to have made any warranty or representation in connection with the Property or the Condominium documents, except as specifically set forth herein, and no person shall rely upon any warranty or representation not so specifically made therein. Any estimates of Common Expenses, taxes or other charges are based on information deemed reliable by the Declarant, and therefore accurate as a projection, but no warranty or guaranty is made or intended to be made, nor may one be relied upon.

17.9. Control of Parking. The Association shall have authority to restrict parking of motor vehicles within the Property affected by their covenants and shall also have the authority to repair the street within said Property.

17.10. Covenants. All provisions of this Declaration and exhibits attached hereto and amendments hereof, shall be construed to be covenants running with the land, and of every part hereof in interest therein, including but not limited to every Unit and the appurtenances thereto, including the Common Elements and every Unit Owner and claimant of this Property or any part thereof, or of any interest therein, his heirs, executors, administrators, successors and assigns, shall be bound by all of the provisions of said Declaration and exhibits annexed hereto and amendments therefor.

IN WITNESS WHEREOF, the undersigned has executed this Declaration as of the day and year first above written.

HATHAWAY PROPERTIES, LTD.

By: Fred L. Hathaway
President

ATTEST:

W.A. Mann
Secretary

[CORPORATE SEAL]

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I, C. Lynne Jackson, a Notary Public for said County and State certify that W.A. Mann personally came before me this day, and being by me duly sworn, acknowledged that he is Secretary of Hathaway Properties, Inc., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and official seal, this the 9 day of December, 1987.

C. Lynne Jackson
Notary Public

My commission expires 11-3-90.

NORTH CAROLINA - WAKE COUNTY

The foregoing certificate _____ of _____

C. Lynne Jackson
Notary 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

KENNETH C. WILKINS, Register of Deeds

By: Kenneth C. Wilkins
Deputy Register of Deeds

EXHIBIT A

PROJECT PROPERTY DESCRIPTION

BEGINNING at an iron pin which is at the southeastern corner of the property owned by Amos N. Johnson, Jr., being 205.03 feet North 85° 06' 56" East of an iron pin in the eastern right-of-way of N.C. Highway 50; thence from said point BEGINNING, North 04° 52' 21" West 171.63 feet to an iron pin in the southern boundary of the property of Ruth B. Smith; thence along said property line of Ruth B. Smith South 87° 44' 36" East 84.95 feet to an iron pin; thence along the property line of Development Associates, Inc. South 01° 46' 13" East 161.89 feet to an iron pin; thence South 85° 33' 34" West 75.53 feet to an iron pin, said pin being at the point and place of BEGINNING, according to a survey by Ragsdale Consultants, P.A. dated April 23, 1986.

Subject to a twenty foot sanitary sewer easement along the northern and eastern boundaries of said property.

AND

BEGINNING at an iron pin which is on the eastern right-of-way of N.C. Hwy. 50, said point being 100.02 feet N 04° 53' 40" W of an iron pin which is 131.08 feet N 02° 34' 30" E of NCGS monument "Davis 1961"; thence from said point of BEGINNING, N 05° 10' 45" W 197.27 feet to an iron pin at the southwestern corner of the property of Ruth B. Smith; thence along said property line of Ruth B. Smith 87° 47' 32" E 207.67 feet to an iron pin; thence along the property line of William E. Smith S 04° 52' 21" E 171.63 feet to an iron pin; thence continuing along the property of William E. Smith S 85° 06' 56" W 205.03 feet to an iron pin, said pin being the point and place of BEGINNING, according to a map by Ragsdale Consultants, P.A. dated April 23, 1986.

SUBJECT TO a 20 foot sanitary sewer easement running 207.67 feet along the northern boundary of the property as shown on the aforementioned map.

EXHIBIT BTO THE
DECLARATION OF CONDOMINIUM
for
CREEDMOOR SQUARE OFFICE CONDOMINIUMS

<u>UNIT DESIGNATION</u>	<u>PERCENTAGE INTEREST*</u>	<u>VOTES IN ASSOCIATION</u>
1 - 101	6.25%	1
1 - 201	6.25%	1
2 - 101	6.25%	1
2 - 201	6.25%	1
3 - 101	6.25%	1
3 - 201	6.25%	1
4 - 101	6.25%	1
4 - 201	6.25%	1
5 - 101	6.25%	1
5 - 201	6.25%	1
6 - 101	6.25%	1
6 - 201	6.25%	1
7 - 101	6.25%	1
7 - 201	6.25%	1

* Percentage of Undivided Interest in Common Elements and percentage of Common Expenses.