

Karen S. Hardesty

Carteret County, NC

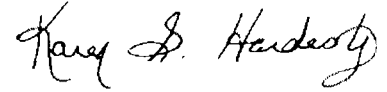
March 8, 2024 12:24:19 PM

DECL # Pages: 33

Fee: \$98.00

NC Revenue Stamp: \$0.00

FILE # 1821411



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**Index in the Grantor Index:**  
**South State Development, LLC**  
**The Bluffs on Broad Creek HOA, Inc.**

NORTH CAROLINA  
CARTERET COUNTY

**MASTER DECLARATION OF COVENANTS AND RESTRICTIONS**  
**(47F-1-101 et seq.)**

**THIS DECLARATION** is made this 7 Day of March, 2024 by South State Development, LLC, A North Carolina Limited Liability Company (hereinafter referred to as "Declarant") of Onslow County, North Carolina.

**BACKGROUND STATEMENT**

**WHEREAS**, Declarant is the owner of or may acquire a certain tract of land located in Carteret County, North Carolina (hereinafter referred to as "Development Area") and being more particularly described on Exhibit A-1:

**AND WHEREAS**, Declarant is construction on a portion of the development area a "residential subdivision" which may include community facilities for the benefit of the community, with a planned mix of residential housing types, which may include without limitation detached single-family homes (hereinafter referred to as "Project");

**AND WHEREAS**, pursuant to 47F-1-101 et seq., Declarant desires to provide for the preservation and enhancement of the property values and amenities within said community and to

provide for the maintenance of common areas, properties, and improvements located thereon, and to this end desires to subject Project property to the covenants, restrictions, easements, charges and liens as are hereinafter set forth, each and all of which are for the benefit of said real property and each present and future owner thereof;

AND WHEREAS, pursuant to 47F-1-101 et seq., the Declarant also desires to provide and allow for the submission of additional "sections" to the Project as said phases are developed and completed, and to provide for equality of rights, privileges and obligations of all lot owners in all phases of the Project by adding additional phases by amendment to this Declaration by the recording of an Amendment hereto.

### **DECLARATION**

**NOW THEREFORE**, it is hereby declared that the Project property described herein is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth; said property being more particularly described as follows:

BEING ALL of that property as shown on Exhibit A-1 (hereinafter referred to as "Project Area"), attached hereto and incorporated herein by reference as if fully set forth, and being known generally as Bluffs on Broad Creek.

**1. DEFINITIONS:**

- A.** "Association" shall mean and refer to Bluffs on Broad Creek HOA, Inc., A North Carolina Nonprofit Corporation, its successors and assigns.
- B.** "Common Area" shall mean all real property owned by the Association, if any, for the common use and enjoyment of the Owners, or utilized via Easement, Including but not limited to the dock which has access easement as described in Book 1821, Page 365, Carteret County Registry, which the Association will maintain and upkeep.
- C.** "Declarant" shall mean and refer to South State Development, LLC, A North Carolina Limited Liability Company, its successors and assigns.
- D.** "Declaration" shall mean and refer to this instrument, as may from time to time be amended
- E.** "Living Unit" or "Unit" shall mean and refer to any portion of a structure situated upon the Property designed and intended for use and occupancy as a residence by a single family, including without limitation detached single family homes and patio homes.
- F.** "Property" or "Properties" shall mean and refer to any o the real property which is or may be subject to this Declaration or Supplemental Declarations or Amendments.
- G.** "Lot" shall mean and refer to any plot of land or condominium unit as defined in N.C.G.S. 47C-1-103, shown upon any recorded subdivision map of the Properties

with the exception of the Common Area, and includes any improvements thereon, if any.

- H. “Owner” shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties but shall not include those having such interest merely as security for the performance of an obligation.
- I. “Parcel” shall mean and refer to a portion or part of real property, together with the improvements located thereon, which becomes subject to this Declaration. This term shall include any additions to the existing Properties as herein provided.
- J. “Supplemental Declaration” shall mean and refer to any declaration of covenants, restrictions, easements, charges, and liens recorded by the Declarant, or its successors and assigns, which applies to a specific Parcel within the Properties
- K. “Project Property or Area” shall mean the total of the real property incorporated herein and described hereinabove in Exhibit A-1, together with all structures and other improvements thereon, together with such other portions of the Development Area as may from time to time be added to and incorporated in the Project Area by amendment of this Declaration.
- L. “Development Area” shall include that property described in Exhibit A-1, all or part of which may from time to time be submitted to and made subject to the terms of this Declaration.

**2. EXPANSION OF PROPERTIES INTO DEVELOPMENT AREA:**

The Declarant, for itself and its successors and assigns, hereby expressly reserves the right, but shall in no way be obligated, to expand the properties which are subject to this Declaration without the consent or joinder of the Owners of Lots or persons or entities having a lien or security interest in such Lots by adding from time to time all or any portion of the tract of land known as the Development Area and being more particularly described as follows:

BEING ALL of that property as shown on Exhibit A-1 (“Development Area”) attached hereto and incorporated herein by reference as if fully set forth.

The Declarant may also identify and add to the Development Area by amendment hereto any other such property as Declarant in its sole discretion may determine.

An amendment to this Declaration shall be made and recorded in the Office of the Register of Deeds of Carteret County, North Carolina, to include each portion of the real property, which is to be included within this Declaration, and each such portion of the real property shall constitute an addition to the Properties. The right of the Declarant, or its successors and assigns, to expand the Properties as herein provided shall expire fifteen (15)

years from the recording of this instrument or upon the sale of all of the properties described in Exhibit A-1.

**3. SUPPLEMENTAL DECLARATIONS:**

Declarant shall have the right, from time to time, to record Supplemental Declarations for portions ("Parcels") of the Properties which may designate specific use and other restrictions within said Parcel, may create Common Areas within such Parcel for the use only of Owners of Lots in said Parcel, and may create an internal owners association within said Parcel; provided, however, no Supplemental Declaration shall avoid membership in the Association by Owners of Lots in said Parcel, nor shall any Supplemental Declaration modify or amend the terms of this Declaration or of any prior Supplemental Declaration for another Parcel.

**4. COMMON AREAS:**

- A. Dedication: Declarant has reserved an area for common use. It is intended that the Declarant will construct a common dock with individual dock slips, a gazebo, a walkway, and a parking area. Dock slips may be purchased by lot owners and will have assigned numbers per Exhibit A-2. Declarant mandates that dock slips must be purchased by January 1, 2026; otherwise, they will be sold to the general public on a first come first serve basis. Individuals that purchase dock slips will be subject to any rules or regulations set forth by these covenants. Upon purchase, individuals will be responsible to the Association for assessments as set forth for dock expenses. The Association may charge or increase a special assessment for the dock slips at any point in time, in their sole discretion, in order to cover all dock-related expenses. Dock Slip owners are responsible for their personal boat lifts and maintenance of their slips. Dock slips must be purchased to be used. Use of the dock for loading or unloading onto a watercraft without the purchase of a dock slip is prohibited. There will be no fishing or crab pots from the dock. Individuals who do not own a dock slip may use the dock and gazebo for enjoyment purposes only.
- B. Maintenance: The Association shall be responsible for the exclusive management and control of the Common Areas and all improvements located thereon (including recreational facilities, landscaping, fixtures and equipment related thereto), except as otherwise may be provided for in a Supplemental Declaration. This paragraph specifically empowers, but does not limit other powers, the Association to control and regulate the hours and periods of operation of all recreational facilities in the development area, and all maintenance of landscaping in the Development Area, even if in areas subject to a Sub-Association created by an amendment to this Declaration or the recording of a Supplemental Declaration.
- C. Owner's Easement of Enjoyment:

- I. Every Owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with title to ever Lot, subject to the following provisions:
    - a. the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;
    - b. the right of the Association to limit the number of guests of members;
    - c. the right of the Association to suspend the right to use the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid and for a period where any infraction of the published rules and regulations continue for a period of at least sixty (60) days;
    - d. the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes subject to such conditions as may be agreed to by the Association;
    - e. the right of the Association to impose regulations for the use and enjoyment of the Common Area and improvements thereon, which regulations may further restrict the use of the Common Area.
  - II. Any Owner may delegate, in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property. Recreational facilities, if any, situated upon the Properties may be utilized by guests of Owners or tenants subject to the rules and regulations of the Association governing said use and as established by its Board of Directors.
- D. Restrictions on Alienation: Notwithstanding anything contained herein to the contrary, the Association shall not alienate in any way or transfer all or any part of the Common Areas without the prior approval of all holders of outstanding first priority mortgages against any of the Properties that are subject to this Declaration; provided, however, this restriction shall not be applicable to grants of easements for utilities, storm sewer, sanitary sewer, road right of ways and other conveyances for dedication to the public.
- E. Septic: The Association shall provide upkeep, repair and maintenance for the common septic systems utilized by the following lots: 2, 3, 4, 20, 21, 22 and the address located at 215 Pearson Circle. Owners of the aforementioned lots shall be responsible for an additional annual assessment of \$500.00 for the common septic. Special assessments will be mandated for repairs, maintenance, and replacement of sanitary sewer tanks, pumps, and related facilities of the common septic system. The Association, in its sole discretion, may raise the amount of the annual septic assessment as it sees fit to cover expenses as outlined in this Section.

5. **ASSOCIATION: MEMBERSHIP AND VOTING RIGHTS:**

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

B. The Association shall have two (2) classes of voting membership and one (1) class of non-voting membership.

**Class I:** Class I members shall be all Owners of a Lot with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**Class II:** The Class II member shall be the Declarant and shall be entitled to five (5) votes for each Lot owned. The Class II membership shall cease and be converted to Class I membership on the happening of any of the following events:

- (i) At such time as all of the Lots have been sold and are occupied by permanent residents thereof; or
- (ii) Ten (10) years from the date of recordation of this Declaration; or
- (iii) When, in its discretion, the Declarant so determines.

C. Voting by members.

I. **Directors During Class II Control:** The directors shall be selected by the Class II Member acting in its sole discretion and shall serve at the pleasure of the Class II Member until the Class II membership shall cease as set forth in the Declaration or at such earlier date as when, in its discretion, the Class II Member so determines. Should any vacancy in the Board of Directors be created in any Directorship previously filled by any person designated and selected by Declarant, such vacancy shall be filled by Declarant designating and selecting, by written instrument delivered to any Officer of the Association, the successor Director to fill the vacated Directorship for the unexpired term thereof.

In the event that Declarant, in accordance with the rights herein established, selects any person or persons to serve on any Board of Directors of the Association, Declarant shall have the absolute right at any time, in its sole discretion, to replace such person or persons with another person or persons to serve on said Board of Directors. Replacement of any person or persons designated by Declarant to serve on any Association Board of Directors shall be made by written instrument delivered to any Officer of the Association, which instrument shall specify the name or names of the person or persons to be replaced and the name or names of the person or persons designated as successor or successors to the persons so removed from said Board of Directors. The removal of any Director and designation of his successor shall be effective

immediately upon delivery of such written instrument by Declarant to any Officer of the Association.

Within one hundred twenty (120) days thereafter, the Class II Member shall call a meeting, as provided in the By-Laws for special meeting, to advise the membership of the termination of the Class II Member's control, and the election of a new Board of Directors.

At the meeting, Declarant shall determine the number of seats which make up the new Board of Directors. Members shall nominate and vote on the vacant seats for the Board of Directors in accordance with its By-Laws.

II. Veto. This Section may not be amended without the express, written consent of the Class II Member so long as the Class II Member exists.

So long as the Class II Member exists, the Class II Member shall have a veto power over all actions of the Board and any committee, as is more fully provided in this Section. This veto power shall be exercisable only by the Class II Member, or its successors and assigns, which successors and assigns must specifically take this power in a recorded instrument.

The veto power shall be as follows: No action authorized by the Board of Directors or any committee shall become effective, nor shall any action, policy, or program be implemented until and unless:

- (a) The Class II Member shall have been given written notice of all meetings and proposed actions approved at meetings of the Board or any committee by certified mail, return receipt requested, or by personal delivery at the address of its Registered Agent, as it may change from time to time, which notice complies as to the Board of Directors meetings and to regular and special meetings of the Directors and which notice shall, except in the case of the regular meetings held pursuant to the By-Laws, set forth in reasonable particularity the agenda to be followed at said meeting; and
- (b) The Class II Member shall be given the opportunity at any such meeting to join in or have its representatives or agents join in discussion from the floor of any prospective action, policy or program to be implemented by the Board, any committee, or the Association. The Class II Member and its representatives or agents shall make its concerns, thoughts, and suggestions known to the members of the subject committee and/or the Board. The Class II Member shall have and is hereby granted a veto power over any such action, policy, or program authorized by any committee or Board or the Association or any individual member of the Association if Board, committee, or Association approval is necessary for said action. This veto may be exercised by providing to the Association a

notice of veto by certified mail, return receipt requested to the Registered Agent of the Association or any officer or Board Member thereof within ten (10) days following the meeting held pursuant to the terms and provisions hereof.

- (c) **Nomination.** Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than, the number of vacancies that are to be filled.
- (d) **Election.** Election to the Board of Directors shall be by secret written ballot. At such election, the voting members or their proxies may cast one (1) vote for each vacancy. The persons receiving the largest number of voters shall be elected. Cumulative voting is not permitted.

**6. ARCHITECTURAL CONTROL COMMITTEE ("ARC"):**

- A. Except for original and initial construction and subsequent modification of improvements by the Declarant on any Lot which such construction is and shall be exempt from the provisions of this provision, no building, wall, fence, landscaping, berm or hedge which act as a fence or privacy inducing structure, pier, dock, ornamentation, or other structure or improvements of any nature shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping as may be required by the ARC have been approved in writing by the ARC. Each building, wall, fence or other structure or improvements of any nature, together with any ornamentation or landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved. Refusal of approval of plans, specifications and plot plans, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of said ARC deem sufficient. All outbuildings must match the construction materials and colors of the residence. Any change in the appearance of any building, wall, fence or other structure or improvements and any change in the appearance of the landscaping (excepting the planting of flowers and shrubs indigenous to the area), shall be deemed an alteration requiring approval. The ARC shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. Any requests that will modify Built Upon Area (BUA), must be accompanied by an as built of current BUA, dated not more than one (1) year old, and a legible sketch of improvements with dimensions for scale. No BUA modification will be



granted/approved during Declarant control period. Prior to beginning any approved construction or changes, the Lot Owner must provide the ARC photos of the road. Lot Owners will be responsible for repairs for any road damage created during construction.

- B. Within forty-five (45) calendar days after receipt of all required information, the ARC shall submit in writing to the Owner of the Lot a response stating whether or not the requested improvements are approved. Unless a response is given by the ARC within forty-five (45) calendar days, the plan shall be deemed approved. The response of the ARC may be an approval, a denial, an approval with conditions or a request for additional information. A request for additional information shall be deemed a determination that the information submitted was inadequate and the forty-five (45) daytime period for response shall only commence upon the receipt of the requested additional information. Conditional approvals may be granted and if approval with conditions is granted and thereafter construction begins, the conditions shall be deemed accepted by the Owner of the Lot of the conditions imposed.
  
- C. Refusal of approval of plans, specifications and plot plans or any of them may be based upon any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of the Architectural Control Committee shall deem sufficient. The ARC shall make the following affirmative findings before any plans are approved:
  - (1) That the improvements sought to be constructed will not have a negative economic impact on any other Lot within the subdivision.
  - (2) Need to be "like materials" as primary structure.
  - (3) That all required specific buildings standards and other conditions contained within the Restrictive Covenants, By-laws and other subdivision documents have been met.
  - (4) That the improvements are architecturally compatible with proposed or constructed improvements on other lots within the subdivision.
  - (5) That the natural features of the lot have been retained to the maximum extent possible.
  
- D. The paint, coating, stain and other exterior finishing colors and textures on all buildings may be maintained as that originally installed, without prior approval of the Architectural Control Committee, but prior approval by the Architectural Control Committee shall be necessary before any such exterior finishing color is changed.
  
- E. Until such time as the sale of the last numbered lot in the subject property is evidenced by the recordation of a deed therefore, all rights, privilege, powers and authority granted herein to the initial Architectural Control Committee, to whom the specific power to act hereunder is expressly conveyed, shall be exercised by the Declarant, its successors or assigns. The Declarant may assign its powers hereunder to an Architectural Control Committee, but so long as Class II membership shall

exist, the Declarant shall appoint a majority of the Architectural Board. Thereafter, all representatives shall be appointed by the Board of Directors of the Association. Except as set out above, the Architectural Control Committee shall be composed of three (3) owners appointed by the Board and shall serve at the pleasure of the Board.

- F. A majority of the Architectural Control Committee may take any action said Committee is empowered to take, may designate a representative to act for the Architectural Control Committee, and may employ personnel and consultants to act for it. In the event of death, disability, or resignation of any member of the Architectural Control Committee, the remaining members shall have full authority to designate a successor. The members of the Architectural Control Committee shall not be entitled to any compensation for services performed pursuant to this covenant. The Architectural Control Committee may establish a fee to cover the expense of reviewing plans and related data at the time plans are submitted for review in order to compensate any consulting architects, landscape architects, urban designers, or attorneys.
- G. Any Owner may appeal the decision of the Architectural Committee provided that all parties involved comply with the decision of the Architectural Committee until such time, if any, as the Board of Directors amends, or reverses the Architectural Committee's decision. Appeals petitions must be legibly written, state the grounds for appeal and be submitted to the Board of Directors within thirty (30) days of the decision of the Architectural Committee. The Board of Directors shall act upon the appeal by amending, reversing or confirming the decision of the Architectural Committee within thirty (30) days of receipt of the petition. The Board of Directors' decision shall be by majority vote. Any owner must exhaust this avenue of appeal prior to resorting to a court of law or equity for relief.
- H. All driveways, sidewalks, and patios constructed on any Lot shall be pervious concrete.
- I. New Construction shall not commence on any lot until the Architectural Control Committee has reviewed and approved site/plot plan and landscaping plan. Plans must include, but are not limited to, proposed colors, proposed materials, and any trees which are to be removed. The ARC reserves the right to request additional information. The ARC shall have the sole discretion to determine whether the plans and specifications submitted for approval are acceptable and in compliance with the total scheme of the subdivision. All residential structures are required to be a minimum of 1800 heated square feet and must be site/stick-built construction. No manufactured or modular homes. Generally accepted construction materials include:
  - 1. Vinyl siding, fiber cement siding, brick & stucco;
  - 2. Architectural shingles, metal roofing, terra cotta/claytile roofing;

Upon completion of construction, Owner and/or their designated builder must provide ARC with finalized as-built plan, for the purpose of BUA monitoring.

- J. Lot Owner(s) will be charged a review fee for each Architectural Control Committee request in the amount of \$250 for the initial construction of a residence and \$100 for any subsequent modifications to the property. Fee must be paid in full at the time of the initial application submission. Submissions for approval may be made to the ARC c/o the Association to any of the following:
1. The address to which an Owner is directed to send assessments or dues as appears on the most recent billing statement
  2. The address of the Association Management Company
  3. At such address as may be provided in writing (on the letterhead of the Association and signed by the managing agent or officer of the Association) to the applicant upon request for instructions regarding submission.

## 7. **ASSESSMENTS:**

- A. Purpose of Assessments: The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the owners in the Properties and for capital improvements and maintenance of the common areas and any improvements thereon. In addition to the common areas, such assessments may be used for the maintenance of any structure if provided for in a Supplemental Declaration.
- B. Creation of Lien and Personal Obligations of Assessment: The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed, therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:
- (1) Annual assessments or charges;
  - (2) Special assessments for capital improvements, such assessments to be established and collected as hereinafter provided;
  - (3) To the appropriate governmental taxing authority, a pro-rata share of ad valorem taxes levied against the Common Area if the Association shall default in the payment therefor for a period of six (6) months, all as hereinafter provided.

The annual and special assessments, together with interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest and costs, and reasonable attorneys' fees (as provided in North Carolina General Statutes Section 6- 21.2) incurred by the Association in collecting delinquent assessments shall also be the personal obligation of the person or entity who was the Owner at the time when the assessment became due. The obligation of an Owner for delinquent assessments shall not pass to his successors or assigns in title.

- C. Minimum Annual Assessments: The owner of each Lot shall be obligated to pay the full amount of the assessment. The owner of a Lot shall be fully obligated to pay in full any assessments or taxes levied against the Lot.

The Initial Annual Assessment shall be \$500.00 per year, for each Lot, and will increase to an assessment in the amount of no more than twenty (20%) percent per year, for each Lot. Assessments shall commence for each lot beginning on the date of the issuance of a "certificate of occupancy" or other approval from a regulatory agency which signifies the final inspection required prior to the occupancy of a residential dwelling constructed on the particular lot, or the date which is 6 months from the conveyance from the Declarant to a subsequent owner, whichever is earlier. The Association reserves the right to make special exceptions to waive assessments during the construction of a residence upon any lot, for a period no longer than two (2) years. Notwithstanding the forgoing, the Declarant shall pay no assessments on any lot(s) owned by Declarant but shall fund all operating budget deficits incurred so long as there is Class II membership, including reserves based upon expected lives of items for which funds reserved, but not including shortfalls caused by nonpayment of assessments by other members or extraordinary expenditures. Any and all funds provided by the Declarant for any of the aforementioned reasons shall be considered a loan to the Association, which to be repaid to the Declarant prior to the termination of Class II membership.

There shall be an additional assessment for all individuals who purchase individual slips on the common dock. All slip owners will pay a separate annual assessment of \$1,000.00 per year, per slip, for their share of dock expenses including but not limited to utilities, repairs, maintenance, and insurance. Any monies paid more than the annual amount shall be held and applied toward the balance on the following year. The Association, in its sole discretion, may raise the amount of the additional assessment for slips on the common dock as it seems fit to cover expenses as outlined in this Section.

Lots 2, 3, 4, 20, 21, 22 and the address located at 215 Pearson Circle as well as any future lots requiring common septic will be responsible for an annual special assessment septic fee of \$500.00 at minimum. Special assessments will be mandated for repairs, maintenance, and replacement of sanitary sewer tanks, pumps, and related facilities of the common septic system. The Association, in its sole discretion, may raise the amount of the annual septic assessment as it sees fit to cover expenses as outlined in this Section.

- D. Collection of Assessments:

- (1) At closing, the Declarant shall cause to be collected from the purchaser an amount equal to \$500 for use as a working capital fund. The Board of Directors shall fix the amount of the assessment against each lot at least thirty days in advance of the annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors of the Association and the Board of Directors shall have the authority to

require the assessment to be paid in pro-rata monthly installments, quarterly and semi-annually as well as annually. The Association shall, upon demand, and for a reasonable charge furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified lot have been paid. From and after January 1st of the year immediately following the conveyance of the first Lot to an Owner, the maximum assessment may be increased each year not more than twenty (20%) percent above the maximum assessment for the previous year without a vote of the membership. The maximum may also be increased by a majority vote of the members obligated to pay such assessment or with the written approval of members entitled to cast a majority of the total number of authorized votes of members obligated to, pay such assessment (in both cases excluding the Declarant so long as there exists Class II membership). The Association, in its sole discretion, may waive any dues, fees, or contributions, for any lots which is purchased by a builder.

- (2) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment may be increased above twenty percent (20%) by a vote of two-thirds (2/3) of members of each class who are voting in person or by proxy, at a meeting duly called for this purpose. Except, however, increases attributable solely to the annexation of new areas, including new Common Areas, shall not be subject to this limitation.
- (3) If an additional property owner's association(s) is established on any property which is or may become subject to this declaration by a supplemental declaration hereto, then, notwithstanding anything contained therein to the contrary, all assessments made by and for any such association shall be paid to the Bluffs on Broad Creek HOA, Inc., for bookkeeping and record keeping purposes, and shall then be transferred as necessary to the appropriate association. Bluffs on Broad Creek HOA, Inc. may charge a reasonable fee for its record keeping services and deduct same from assessments collected.

- E. Special Assessments for Insurance and Capital Improvements: In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any insurance premium. In addition, the Association may levy, in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto. Any such assessment shall have the assent of two-thirds (2/3) of the votes of the members of each class who are voting in person or by proxy at a meeting duly called for this purpose.
- F. Remedies for Non-Payment of Assessments: Any assessment which are not paid when due shall be delinquent. The assessment shall bear interest from the due date at the rate established by the Board of Directors of the Association, or if not set by the Board, at the highest rate allowed by law, together with such late fees as may be set by the Board. The Association shall file a lien of record against any lot where there

remains an assessment unpaid for a period of thirty (30) days or longer. Said lien shall be filed in the office of the clerk of superior court of Carteret County in a manner provided therefor by Article 8 of Chapter 44 of the North Carolina General Statutes. No Owner may waive or otherwise escape liability for the assessments provided for herein by the non-use of the Common Area or abandonment of his dwelling unit or site.

The Association may bring an action at law against the Owner personally obligated to pay any assessments and interest. Costs and reasonable attorneys' fees for the prosecution of any such action shall be added to the amount of such assessment. In the event of such action at law and in the further event that such action results in a judgment being entered against the Owner and in favor of the Association, then, and in that event, the Association shall collect on such judgment in such manner and to the extent provided and permitted by the laws of the State of North Carolina.

The Association's lien may be foreclosed in like manner as a mortgage on real estate under power of sale under Chapter 45 of the North Carolina General Statutes. All fees, charges, late charges, fines, and interest are enforceable as assessments.

In any foreclosure action brought under the power of sale provisions, the Association shall be deemed to be the holder and owner of the obligation secured by this Declaration. The Registered Agent of the Association shall be the Trustee for all purposes of the foreclosure proceeding and the Association shall have the power to appoint a substitute trustee if for any reason the Association desires to replace the trustee, and the said substitute trustee shall succeed to all rights, powers and duties thereof. The Association shall request of the trustee to sell the land subject to the lien at public action for cash, after having first given such notice and advertising the time and place of such sale in such manner as may then be provided by law for mortgages and deeds of trust, and upon such and resales and upon compliance with the law then relating to foreclosure proceedings under power of sale to convey to the purchaser in as full and ample manner as authorized by Chapter 45. The Trustee shall be authorized to retain an attorney to represent him in such proceedings. The proceeds of the Sale shall, after the Trustee retains his commission, together with any addition attorney's fees incurred by the Trustee, be applied to the costs of the sale, including but no limited to costs of collection, taxes, assessment, costs of recording, service fees, and incidental expenditures, the amount due on any note secured by the property, and any advancements made by the Association in the protection of the security.

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

8. **GENERAL RESTRICTIONS:** [Applicable to all properties except as set out in an Amendment to Master Declaration which may add property to the Project Area, or as otherwise amended hereafter.]

- A. Section I. Residential Use (SF): All lots shall be used exclusively for residential purposes of a single family. No business shall be erected or used or ran out of the property and the property may not be utilized for business or commercial purposes without the prior written consent of the Board. An Owner or occupant residing in a dwelling on a lot may conduct business activities within the dwelling so long as: (i) the existence or operation of the business activity is not apparent or detectable by sight, sound, or smell from outside the dwelling; (ii) the business activity conforms to all zoning requirements for the lot; (iii) the business activity does not involve regular visitation of the dwelling or lot by clients, customers, suppliers, or other business invitees or door-to-door solicitation of residents of the subdivision; and (iv) the business activity is consistent with the residential character of the subdivision and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other residents of the subdivision, as may be determined in the sole discretion of the Board.

The terms "business" and "trade," as used in this provision, shall be construed to have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether: (i) such activity is engaged in full or part-time, (ii) such activity is intended to or does generate a profit, or (iii) a license is required.

The leasing of a dwelling or lot shall not be considered a business or trade within the meaning of this subsection. This subsection shall not apply to any activity conducted by the Declarant, or a Builder approved by the Declarant with respect to its development and sale of the Properties or its use of any lots which it owns within the subdivision, including the operations of a timeshare or similar program.

Section 2. Minimum Setback Requirements: No building shall be located on any Lot nearer to the front line or nearer to the side street line than the minimum set back lines of twenty (20) feet. No building shall be located any closer to the side property line than ten (10) feet, or any closer to the rear property line than twenty-five (25) feet. For purposes of this covenants, eaves shall not be part of a building; provided, however, that they shall not be constructed to permit any portion of a building on a Lot to encroach upon another Lot.

Section 3. Allowable/Prohibited Structure: No structure shall be erected, altered, placed or permitted to remain on any Lot other than a single, one family dwelling not to exceed three stories in height, a private garage provided that the

same are constructed in line with general architectural design and construction standards used as the dwelling itself. Each dwelling in Bluffs on Broad Creek shall contain a minimum of 1800 heated square feet. This covenant shall not be construed as prohibiting the use of a new dwelling as a model home for sales/rental purposes.

Section 4. Stormwater Runoff: The provisions of this paragraph shall apply to all properties which are hereafter made subject to this Declaration unless specific provisions relating thereto are included in a Supplemental Declaration and as to that property designated as "Project Property or Area" and set out in Exhibit A-1 only:

- (1) The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number SWA000151, as issued by the Division of Water Quality under NCAC 2H.1000.
- (2) The State of North Carolina is made a beneficiary of these covenants to the extent necessary to maintain compliance with the stormwater management permit.
- (3) These covenants are to run with the land and be binding on all persons and parties claiming under them.
- (4) The covenants pertaining to stormwater may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Water Quality.
- (5) Alteration of the drainage as shown on the approved plan may not take place without concurrence of the State of North Carolina, Division of Water Quality.
- (6) Owner is responsible for compliance with State Stormwater Management and Environmental Compliance. Violations must be resolved within 14 days of notification of the violation. Otherwise, Declarant in their sole discretion may take proper steps to bring the Lot into compliance. Declarant shall assess the Owner the full cost of the remed(ies) and fines pursuant to the By-Laws.

Special Provisions: In addition to the above, the following restrictions shall apply:

- (1) The maximum allowable built-upon area per lot in The Bluffs on Broad Creek is 2,500 square feet, unless otherwise granted by Declarant. This allotted amount includes any built-upon area constructed within the lot property boundaries, and that portion of the right-of-way between the front lot line and the edge of the pavement. Built upon area includes, but is not limited to, structures, asphalt, concrete, gravel, brick, stone, slate and coquina, but does not include raised, open wood decking, or the water surface of swimming pools.
- (2) Filling in or piping of any vegetative conveyances (ditches, swales, etc.) associated with the development except for average driveway crossings, is strictly prohibited by any persons.
- (3) (c) Each lot will maintain a 50' wide vegetated buffer between all impervious areas and surface waters.
- (4) All roof drains shall terminate at least 30' from the mean high water mark



surface of waters.

- (5) All driveways, sidewalks, and patios must be constructed of pervious concrete.

- B. Nuisances: No noxious, offensive, or illegal activity shall be carried on or conducted upon any Lot nor shall anything be done on any Lot that shall be or become an unreasonable annoyance or nuisance to the neighborhood. All Lots, whether occupied or unoccupied, shall be well maintained and no unattractive growth or accumulation of rubbish or debris shall be permitted to remain on a Lot. No automobile, other vehicle(s), motorcycle(s) or other similar items shall be repaired or placed "on blocks" or stands except in an enclosed garage. Declarant, or Association, its successors or assigns, reserves the right to enter upon and cut grass, weeds, or undergrowth on any lot or easement, but shall be under no obligation to do so. The Declarant or Association may contract for, and assess to owner, any maintenance necessary to enforce his covenant. All construction on Lots must occur between dawn and dusk.
- C. Animals: No animals, livestock, or poultry of any kind shall be kept or maintained on any Lot or in any dwelling except that household pets may be kept and are not kept for breeding or commercial purposes. Any such household pet shall not be allowed off the Lot of the Owner of said pet unless said pet is attended and on a leash. Owners shall be solely and absolutely liable for the acts of any pet kept on their Lot. In addition, the Association shall specifically have the power and responsibility to designate, based upon temperament, size and/or nature or tendencies, from time to time a list of breeds of animals which shall be prohibited on any lot.
- D. Garbage and Refuse Disposal: No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall not be burned or disposed of on any Lot and shall be kept except in sanitary containers approved by the Architectural Committee. All equipment for the storage prior to disposal of such material shall be kept in a clean and sanitary condition. The placement of containers shall be approved by the Architectural Committee and, in any event, shall be kept in a screened area not subject to view from any person, from any direction. The Declarant and Association reserves the right for itself, its successors and assigns, to contract for garbage collection services for each lot in the subdivision and the lot owner shall be responsible for the payment of such garbage services to the company providing the same, or the Association may make such a common expense or expense to a particular owner. It is strictly prohibited that the homeowner contract with a different company.
- E. Gas: All lots utilizing and/or requiring gas supply must use a tankless hot water heater. South State Development shall be entitled to any and all refunds for any deposit paid for each Lot upon connection and will collect at closing.

- F. Exterior Lights: All light bulbs or other lights installed in any fixture located on the exterior of any dwelling, building or other structure located on any Lot shall be clear or white lights or bulbs. No mercury vapor or similar wide area lighting similar to streetlights shall be allowed without prior Architectural Committee approval.
- G. Window(s): Any window treatments visible from the exterior of a home on any Lot must be white/neutral when viewed from the road. Window air conditioning units are prohibited.
- H. Generators: Any permanent generator system or battery wall must be screened and not visible from the street. Any installation will require approval from ARC, as described and required herein, prior to installation.
- I. Sight Distance at Intersections: No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be placed or permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25' from the intersection of the street lines, or in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight line limitations shall apply on any lot within ten (10) feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersection unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.
- J. Mailboxes: There will be a community mailbox. Multiple unit mailboxes will be constructed by the Declarant for the use of a number of owners within certain areas as determined by the Declarant and postal service. No single mailbox shall be installed on any lot or common area. By accepting a deed to any subject property, owner gives the Architectural Control Committee the right to remove any nonapproved mailbox in a reasonable manner; all costs for same shall be paid by owner, and all damages against the Architectural Control Committee are waived.
- K. Signs: No sign, billboard, or other advertising of any kind, including without limitation "professionally prepared "for sale" and "for rent" signs, shall be placed or erected on any Lot, right of way or Common Area save and except a professionally prepared "for sale" or "for rent" sign not to exceed six (6) square feet in size, unless otherwise approved by Declarant. Although approval by the Architectural Committee is not required prior to the display of such signs, the Architectural Committee may itself remove, have removed, or require the removal of any such sign which in its opinion would not otherwise be allowed under paragraph 6 of this Declaration. A valid easement shall exist on any Lot for such removal by the Architectural Committee or its agents. Provided, however, nothing shall prohibit or limit in any manner "construction" signs designating the job site and builder which may be placed upon a Lot during the period of the construction of a residential dwelling on the Lot but must be immediately removed upon final completion of such

construction. Notwithstanding the above, any additions to the Project Property in the Development area may be further limited in regard to signs, billboards or advertising as set out in any Supplemental Declaration. Nothing herein shall prohibit any sign erected by the Declarant or its assigns.

- L. Initial Construction: During the initial construction and during any remodeling, etc., a dumpster/debris container must be placed on the Lot and not in the road. There is no restriction or limit on the length of time that a Lot Owner of a vacant Lot must build or begin construction. Once construction has begun, there will be a maximum of two (2) years build time. Fines will be assessed for violations.
- M. Antennas: There shall be no exterior antennas of any kind for receiving and/or sending of T.V., radio or other signals unless same have first been approved by the Architectural Committee.
- N. Driveways/Parking: All driveway, sidewalks, and patios constructed on any Lot shall be pervious concrete. The earthwork extending from the driveway to each end of the culvert shall be gently sloped and sodded. An Owner shall provide a minimum of two (2) paved off-street parking spaces, excluding garage space(s) and shall provide at least one per automobile or other vehicle owned and regularly used at the Lot. On street parking is prohibited except for temporary, short gatherings.
- O. Vehicles, Boats, Storage, Travel Trailers, etc.: No vehicle without current inspection sticker, vehicle over 7000 pounds empty weight or bus shall be parked overnight on any lot except in an enclosed garage; provided, however, guests of an owner may so park such vehicle for a period not to exceed seven (7) days each calendar year. A motor home, pleasure boat or camper trailer on its trailer may be parked and raw firewood, bicycles, motorcycles, or other items may be stored only on that part of any lot away from the street lying beyond the front line of the house so that it is not viewable from any street.
- P. Trees: Except as to development or construction by Declarant, or as may be approved by the Architectural Committee, no tree four (4) inches in diameter at any location on said tree or ten (10) feet in height shall be cut, removed, or intentionally damaged on any Lot unless first approved by the ARC. To request modifications, lot owner(s) must provide ARC with site plans and mark trees with flagging. Approval will be made no later than two (2) weeks from when ARC receives the request.
- Q. Swimming Pools: Outdoor inground swimming pools, hot tubs, Jacuzzis, and other similar facilities may be located on a lot only after the Architectural Committee approval and shall be screened and fenced. All such improvements shall be subject

to the approval of and compliance with all governmental laws and regulations. No above-ground pools are permitted. Any pool must not be visible from any street or first story neighboring residence.

- R. Clotheslines: Exterior clotheslines shall be prohibited.
- S. Fence Minimum Requirements: Architectural review requirements must be met prior to construction of any fence. HOA will not maintain grounds at any point. No fences over six (6) feet in height shall be constructed on any lot. The term fence shall include but not be limited to, a wall, fence, landscaping, berm, or hedge which act as a fence or privacy or security inducing structure. Fences shall be constructed between a line extending from the middle of the primary dwelling to each side lot line and on the rear property line. No fence over four (4) feet in height shall be constructed on the front of any Lot. Any fence constructed on the front of a Lot must be a picket fence or shadow box. No fence shall be chain link. Fences shall be on the property lines and neighbors must have the right to tie-in to the neighboring fence if any is already constructed. Every owner shall have an easement and right of way upon the lot of any other owner to the extent to perform repairs, maintenance, or reconstruction of a shared fence wall. The cost of reasonable repairs or maintenance of a shared fence wall shall be shared by those who have use of the fence.
- T. Landscaping: All Lots, including vacant and unoccupied must keep the Lot in a cut and clean manner. All Lots must have a minimum of ten (10) three-gallon shrubs in the front yard, and 1-3 inch caliper tree in front yard. Any Changes to shrubbery or landscaping must approved by ARC.
- U. Flags: Only permitted flags are to be displayed on any Lot. Permitted flags include the Official American Flag, the Official North Carolina State Flag, and Official US Military Association Flag. Flags will be no larger than 3' x 5' No offensive, controversial, or discriminatory flags will be permitted. Flag poles mounted on the house may not be longer than 6'. Free-Standing flag poles can be up to 20' in height. The ARC must approve the location and type of any free-standing flagpole prior to installation. If a flagpole is not in use, it must be taken down.

#### **8.1 WETLANDS SPECIAL PROVISIONS:**

- A. Compliance with Wetlands Regulations: The property subject to this Declaration includes regulatory wetland areas. Any subsequent fill or alteration of these wetland areas shall conform to the requirements of the wetland rules

adopted by the State of North Carolina and U.S. Army Corps of Engineers in force at the time of the proposed alteration. The intent of this deed restriction is to prevent additional wetland fill, so the property Owner should not assume that a future application for fill will be approved. The property Owner shall report the name of the subdivision, in any application pertaining to wetland rules. This covenant is intended to insure the continued compliance with wetland rules adopted by the State of North Carolina and U.S. Army Corps of Engineers therefore benefits may be enforced by the state of North Carolina and U.S. Army Corps of Engineers. This covenant is to run with the land and shall be binding on all parties and all persons claiming under them.

This covenant is intended to ensure continued compliance with the permitted activity of a Clean Water Act authorization issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID: SAW-2021-02251, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it.

(1) covenant is intended to ensure continued compliance with the mitigation condition of a Clean Water Act authorization issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID 20030 IO16, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it.

9. **STREET LIGHTING AGREEMENT:** The Declarant and Association reserves the right to subject the real property to a contract with an electric utility company for the installation of under- ground electric cables and/or the installation of street lighting, either or both which may require an initial payment and/or a continuing monthly payment to an electric utility company or Association by the owner of Lot.
10. **RESTRICTION ON FURTHER SUBDIVISION:** No re-subdivision of any single Lot shall be allowed. Nothing contained herein shall prohibit the owner of a Lot from conveying by deed or easement a portion of a Lot to an adjoining Lot owner for the purpose of curing an encroachment or setback violation. Further, provided, however, that the Declarant, its successors or assigns, reserves the right to make minor boundary line adjustments between lots so long as said adjustment does not exceed ten percent (10%) of the total area of a given lot.

Nothing contained herein shall prohibit conveyance of more than one Lot, or portions of contiguous Lots, as long as the resulting Lot or Lots are greater in size than those originally subdivided.

Any recombined or re-subdivided lot shall be restricted to the construction thereon of one Living Unit per redivided Lot. It is the intention that the recombining of lots will decrease the number of homes within the property subject to this declaration, but that in no event shall the maximum number of homes which can be constructed within the property subject to this declaration increase.

Furthermore, should any Lot be determined by Declarant to be unbuildable, and should such Lot then be deeded to the Association as Association Property, or dedicated by Declaration as recreation or open space area for the benefit of the Association, all by document duly recorded in the office of the Register of Deeds of Carteret County, there shall be no further dues or assessments owed from the date of such recordation; however, any dues prepaid shall not be reimbursed.

#### **11. EASEMENTS:**

- A. Easements: There is hereby reserved by the Declarant, its successors and assigns, and for the benefit of the Association, the easements, for utility, sight and buffer areas as well as any other easements, as shown on the recorded plats of the Parcels or included within the Supplemental Declarations pertaining to the Parcels. Said easements may be used for the purposes shown on the plat and, in addition thereto, ingress, egress and regress and, for the purpose of installing, maintaining, repairing and replacing all utility service lines and systems including, but in no way limited to, those for water, sewer, gas, telephone, electricity and cable television.

In addition to the above, there is hereby reserved for the benefit of each owner and the Association, an easement over each parcel or lot of each other owner a blanket easement and right of way on, over and under the ground within a parcel or lot for the purpose of installing, maintaining, repairing and replacing all utility service lines and systems including, but in no way limited to, those for water, sewer, gas, telephone, electricity, cable television and garbage or refuse collection and pick up.

In addition to the above, there is hereby reserved for the benefit of the Association, an easement over each parcel or lot which may be enclosed by a fence a blanket easement and right of way on and over the ground within a parcel or lot for the purpose of ingress, egress and regress for the purpose of maintenance on any lot.

- B. Easement to Correct Drainage: For a period of two (2) years from the date of conveyance of the first Lot in a Parcel, the Declarant reserves a blanket easement and right of way on, over and under the ground within a Parcel to maintain and correct drainage of surface water in order to maintain reasonable standards of health, safety and appearance. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any gradings of the soil, or to take any other similar action reasonably necessary. Following such action, the Declarant shall restore the affected property to its original condition as near as practical. The Declarant shall give reasonable notice of its intent to take such

action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice. At the expiration of such two-year period, said easement to correct drainage shall automatically be held by the Association.

- C. Encroachments: In the event any portion of a Common Area encroaches upon any Living Unit, or any Living Unit encroaches on a Common Area as a result of construction, reconstruction, repair, shifting, settlement or movement of any portion of the Properties, a valid easement for the encroachment and for the maintenance of same shall exist so long as the encroachment exists.
- D. Association Maintenance: The Board of Directors of the Association and the Architectural Board, acting through the Association, its officers, agents, servants and/or employees shall have the right of unobstructed access at all reasonable times to all properties as may be reasonably be necessary for maintenance.
- E. Common Areas: Easements are also reserved over those portions of the Common Areas, if any, that may be necessary or required to accommodate overhanging eaves or other cantilevered construction which may encroach upon the common area or the air and light space above such common area,
- F. Grant to Others: The Declarant or Association may grant permits, licenses, and easements over any common area or utility easement reserved elsewhere for utilities, roads or other purposes reasonably necessary or useful for the Project maintenance or operation of the Project.

## **12. VARIANCES:**

- A. The Association may allow reasonable variances and adjustments of the restrictions set forth in this Declaration and as set forth on any recorded plat in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that any such variance granted must be done in conformity with the intent and purposes of the general development scheme and provided also that in every instance such variance or adjustment shall not materially be detrimental or injurious to other property or improvements within the Properties.
- B. No variance shall be granted with respect to Paragraph 8.1 (Wetlands and Conservation Special Provisions) without the written authorization and approval of the United States of America, U.S. Army Corps of Engineers, Wilmington District, or successor regulatory agency or authority.

## **13. COMPLIANCE, ENFORCEMENT AND REMEDIES:**

- A. (1) Default and Remedies. A default in or failure to comply with any of the terms,

conditions, obligations, and provisions of the Declaration, the Association Bylaws, the Association Articles of Incorporation, or the rules and regulations, as the same may be amended from time to time, by any Owner or Occupant, shall be grounds for relief that may include, without intending to limit the same or to constitute an election of remedies, an action to recover fines and penalties as set in the Bylaws, sums due for damages, an injunction, or any combination thereof, which relief may be sought by the Association, an aggrieved Owner, or by any person or class of persons adversely affected. Also, if any Owner fails to perform any obligation under the Declaration, the Bylaws, the Articles of incorporation or such rules and regulations, then the Association may, but is not obligated to, perform the same for the Owner's account, and for such purpose may enter upon his lot or dwelling, may make necessary repairs, advance expenses or other sums necessary to cure the default, and for such expenses and costs may collect all such sums against the lot owned by such defaulting Owner.

(2) Suspension of Rights. The Association also shall be entitled to suspend the right of a defaulting Lot Owner to vote as a member of the Association until the default is cured and may suspend the voting rights of and right to use of the recreational facilities of an Owner during any period in which such Owner shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended, after notice of hearing as set forth in the By Laws, for infraction of published rules and regulations; but provided, however, that the right of an owner to ingress to and egress from his Lot shall not be impaired.

(3) Remedy of Abatement in Additional to Other Remedies. In the event a Owner fails to effect the cure specified by the Board where the default is a structure, thing, or condition existing in or on the premises of the Owner's Lot, the Board, or its duly authorized representative, shall have the right to enter upon the premises of the Owner's Lot in which, on which, or as to which, such default exists, and summarily to abate and remove, at the defaulting Owner's expense (and collect the costs as if an assessment), the structure, thing, or condition constituting the default, and the Board, the Association, and their agents, employees, and representatives shall not thereby be deemed guilty of any manner of trespass.

(4) Injunction. The Association, an aggrieved Owner, or by any person or class of persons adversely affected, is entitled to seek relief for any such default or failure and may obtain a temporary restraining order, injunction or similar relief, without first using the procedure established herein, if such default or failure creates an emergency or a situation dangerous to persons or property.

(5) Fine. Any owner who shall violate the Declaration, By-laws, the articles or the Rules and Regulations may be fined in an amount as set out in the By Laws for each day of such violation. Such fine shall be enforced and collected as an assessment. Prior to the implementation of any fine, or the suspension of voting rights for the infraction of published rules and regulations, a hearing must be held pursuant to the procedure set out in the By Laws.



(6) Recovery of Attorneys' Fees and Costs. In any proceeding arising because of an alleged default by a Owner, the person, class of persons or Association bringing an action against an alleged defaulting Owner shall be entitled to recover the costs of such proceeding and such reasonable attorneys' fees and costs as may be allowed by the Court, with interest thereon at the highest rate allowed by law.

(7) Non-Waiver. The failure of the Association or of any Owner thereof to enforce any terms, provision, right, covenants or condition that may be granted by the Declaration, these Bylaws, the Articles, the rules and regulations, as the same may from time to time be amended, shall not constitute a waiver or abrogation of the right of the Association or a Owner or other person to enforce such term, provision, right, covenants, or condition in the future, irrespective of the number of violations or breaches thereof that may have occurred.

(8) Recovery of Fines and Expenditures. Any fine, costs or expenses hereunder shall be recovered by the Association as if an assessment lien.

B. Remedies Extended to the State of North Carolina: To ensure that this subdivision is maintained consistent with the laws of the State of North Carolina, and its political subdivision, the State of North Carolina and any political subdivision thereof, are specifically empowered to take such acts necessary by and through its officers to enforce any of these covenants against an owner or the Association. The State of North Carolina and any political subdivision thereof, are specifically made a beneficiary of these covenants.

C. Remedies Extended to Other Regulatory Agencies: These restrictive covenants include provisions that are intended to ensure continued compliance with the mitigation condition of a Clean Water Act authorization issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID 200301016, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it.

#### **14. RIGHTS OF MORTGAGEES:**

A holder or insurer of a mortgage, upon written request to the Association (such request to state the name and address of such holder or insurer and the description of secured properties) will be entitled to timely written notice of:

- A. Any condemnation or casualty loss that affects either a material portion of the project or the Lot securing its mortgage.
- B. Any sixty (60) day delinquency in the payment of assessments or charges owed by the Owner of any Lot upon which it holds a mortgage.

- C. A lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.
- D. Any proposed amendment to the project instruments effecting a change in the boundaries of any Lot, ownership of Common Elements, if any, the number of votes in the Association pertaining to any Lot or any proposed change in the restrictions on the properties.

#### 15. **INSURANCE:**

- A. **Common Areas:** The Association's Board of Directors, or its duly authorized agent, shall have the authority to and shall obtain blanket all-risk insurance, for all insurable improvements on the Common Area. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. This insurance shall be in an amount sufficient to cover one hundred percent (100%) of the replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

The Board shall also obtain a public liability policy covering the Common Area, the Association and its Members for all damage or injury caused by the negligence of the Association or any of its members or agents. The public liability policy shall have at least a One Million and no/1 00 (\$1,000,000.00) Dollar single person limit as respects bodily injury and property damage, a Three Million and no/100 (\$3,000,000.00) Dollar limit per occurrence, and a Five Hundred Thousand and no/1 00 (\$500,000.00) Dollar minimum property damage limit

Premiums for all insurance on the Common Area shall be common expenses of the Association. This policy may contain a reasonable deductible, and the amount thereof shall be added to the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be responsible for the repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total. Cost of insurance coverage obtained by the Association for the Common Area shall be included in the regular assessment.

- B. **Individual Insurance:** By virtue of taking title to a Lot subject to the terms of this Declaration, each owner covenants and agrees with all other Owners and with the Association that each Owner shall carry homeowners or fire insurance policy which shall include public liability and blanket all-risk casualty insurance on his Unit(s) and structures constructed thereon. Owner shall provide a copy of the Declaration page of the policy to Association at such time(s) as the Association may direct. Each Owner further covenants and agrees that in the event of a partial loss or damage and destruction resulting in less than total destruction of structures situate upon his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction. In the event that

the structure is totally destroyed, Owner shall elect whether to rebuild within sixty (60) days of the loss. If Owner determines not to rebuild or to reconstruct, the Owner shall clear the Lot of all debris within ninety (90) days of loss and return it to substantially the natural state in which it existed prior to the beginning of construction. If Owner fails to so clear the Lot within ninety (90) days of the loss, the Declarant or Association may do so and the cost shall be assessed against the Owner of the Lot.

**16. AMENDMENT:**

- A. Declarant may amend this Declaration in accordance with this Declaration to add additional property to this Declaration.
- B. These restrictions are subject to being altered, modified, canceled or changed at any time as to said subdivision as a whole or as to any subdivided lot or part there by written document executed by Declarant or their successors in title and by the owner of not less than 51% of the subdivided lots or parts of said subdivision to which these restrictions apply, and recorded in the office of the Register of Deeds of the County in which this Declaration is recorded. Notwithstanding the foregoing or anything contained herein to contrary, any amendment which includes adding, deleting or modifying any provision regarding the following shall require a written document executed by the owner, other than the Declarant, of not less than 67% of the subdivided lots or parts of said subdivision to which these restrictions apply, and recorded in the office of the Register of Deeds of the County in which this Declaration is recorded:
  - 1. Assessment basis or assessment liens;
  - 2. Any method of imposing or determining any charges to be levied against individual Lot Owners;
  - 3. Reserves for maintenance, repair, or replacement of Common Area improvements;
  - 4. Maintenance obligations;
  - 5. Allocation of rights to use Common Areas;
  - 6. Any scheme of regulation or enforcement of standards for maintenance, architectural design or exterior appearance of improvements on units;
  - 7. Reduction of insurance requirements;
  - 8. Restoration or repair of Common Area improvements;
  - 9. The addition, annexation or withdrawal of land to or from the project;
  - 10. Voting rights;
  - 11. Restrictions affecting leasing or sale of a unit; or
  - 12. Any provision which is for the express benefit of mortgagees;
  - 13. Merging or consolidating the Association (other than with another non-profit entity formed for purposes similar to the subject Association);
  - 14. Determining not to require professional management if that management has been required by the Association documents, a majority of eligible mortgagees or majority vote of the members;

15. Expanding the Association to include land not previously described as additional land which increases the overall land area of the Project or number of units by more than ten(10%) percent;
  16. Abandoning, partitioning, encumbering, mortgaging, conveying, selling, or otherwise transferring or relocating the boundaries of Common Areas (except for (i) granting easements which are not inconsistent with or which do not interfere with the intended Common Area use; (ii) dedicating Common Area as required by a public authority; (iii) limited boundary-line adjustments made in accordance with the provisions of the declaration or (iv) transferring Common Area pursuant to a merger or consolidation with a non-profit entity formed for purposes similar to the subject Association;
  17. Using insurance proceeds for purposes other than construction or repair of the insured improvements;
  18. Making capital expenditures (other than for repair or replacement of existing improvements) during any period of twelve (12) consecutive months costing more than twenty (20%) percent of the annual operating budget.
- C. The Declarant, without the consent or approval of any other Owner, shall have the right to amend this Declaration to conform to the requirements of any law or governmental agency having legal jurisdiction over the Property or to qualify the Property or any Lots and improvements thereon for mortgage or improvement loans made by, guaranteed by, sponsored by or insured by a governmental or quasi-governmental agency or to comply with the requirements of law or regulations of any corporation or agency belonging to, sponsored by or under the substantial control of, the United States Government or the State of North Carolina, regarding purchase or sale in such lots and improvements, or mortgage interests therein, as well as any other law or regulation relating to the control of the Property, including, without limitation, ecological controls, construction standards, aesthetics and matters affecting the public health, safety and general welfare. A letter from an official of any such corporation or agency, including, without limitation, the Veterans Administration (VA), U. S. Department of Housing and Urban Development (HUD), the Federal Home Loan Mortgage Corporation, or the Federal National Mortgage Association, requiring an amendment as a condition of approval, or suggesting an amendment, shall be sufficient evidence of the approval of such amendment of VA, HUD and/or such corporation or agency and permit Declarant to amend to accord with such letter. No amendment made pursuant to this Section shall be effective until duly recorded in the Office of the Court for Onslow County, North Carolina.
- D. No amendment shall be valid to affect the provisions of Paragraph 8.1 (Wetlands and Conservation Special Provisions) without the execution and recording of an amendment upon the authorization and approval of the United State of America, U.S. Army Corps of Engineers, Wilmington District, or successor regulatory agency or

authority.

**17. DECLARANT'S RIGHTS:**

Any or all of the special rights and obligations of the Declarant may be transferred to other persons or entities, provided that the transfer shall not reduce an obligation nor enlarge a right beyond that contained herein, and provided further, no such transfer shall be effective unless it is in a written instrument signed by the Declarant and duly recorded in the county in which this Declaration is recorded. Nothing in this Declaration shall be construed to require Declarant or any successor to develop any of the property set forth in Exhibit A-1 in any manner whatsoever.

Notwithstanding any provisions contained in the Declaration to the contrary, it shall be expressly permissible for Declarant to maintain and carry on upon portions of the Common Area such facilities and activities as, in the sole opinion of Declarant, successors and assigns, may be reasonably required, convenient, or incidental to the sale, re-sale, or rental of such Lots, including, but not limited to, business offices, signs, model units, and sales/rental offices. The Declarant shall have an easement for access to such facilities and activities shall include specifically the right to use residences owned by the Declarant, if any, and any which may be owned by the Association.

The Declarant shall have the rights (i) to use or grant the use of a portion of the Common Area for the purpose of aiding in the sale, or rental, or management of Lots; (ii) to use portions of the Property for parking for prospective purchasers or lessees of Lots and such other parties as the Declarant determines; (iii) to erect and display signs, billboards and placards and store and keep the same on the property; (iv) to distribute audio and visual promotional material upon the Common Area; and (v) to use or permit to be used any Lot which it owns or leases as a sales and/or rental office, management office or laundry and maintenance facility.

So long as Declarant continues to have rights under this paragraph, no person or entity shall record any declaration of restrictions and protective covenants or similar instrument affecting any portion of the Properties without Declarant's review and written consent thereto, and any attempted recordation without compliance herewith shall result in such declaration of restrictions and protective covenants or similar instrument being void and of no force and effect unless subsequently approved by recorded consent signed by the Declarant.

This provision may not be amended without the express written consent of the Declarant; provided, however, the rights contained in this provision shall terminate upon the earlier of (a) fifteen (15) years from the date this Declaration is recorded, or (b) the end of Class II membership.

**18. GENERAL PROVISIONS:**

A. Duration: The covenants and restrictions set forth herein shall run with and bind the Properties for a term of twenty (20) years from the date this Declaration is recorded, after

which time they shall automatically be extended for successive ten (10) year periods unless otherwise terminated by a vote of eighty per cent (80%) of the then record Owners of all Lots within the Properties.

- B. Severability: Invalidation of any one of the covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.
  
- C. Captions: The captions used in this Declaration are inserted solely as a matter of convenience and shall not be relied upon or used in construing the effect or meaning of any of the text of this Declaration.
  
- D. Construction: Whenever the context so requires, the use herein of any gender shall be deemed to include the plural and the plural shall include the singular.
  
- E. Litigation: No judicial or administrative proceeding shall be commenced or prosecuted by the Association unless approved by a vote of seventy-five (75%) percent of the membership and a majority of the Board of Directors. This Section shall not apply, however to (a) actions brought by the Association to enforce the provisions of this Declaration (including, without limitation, the foreclosure of liens), (b) the imposition and collection of personal assessments, c) proceedings involving challenges to ad valorem taxation, or (d) counterclaims brought by the Association in proceedings instituted against it. This Section shall not be amended unless such amendment is approved by the Declarant or is approved by the percentage votes and pursuant to the same procedures necessary to institute proceedings as provided above.
  
- F. Remedies and Enforcements: The Declarant or the Association may assess a fine for violation of any term, covenant, or provision of this Declaration, Articles or Bylaws, which shall not exceed \$250 for the first violation, and \$50 per week until the violation is remedied. This shall be deemed a special assessment enforceable as provided in this declaration.

**IN WITNESS WHEREOF**, as the above date, Grantor (whether person, corporation, limited liability company, general partnership, limited partnership, or other entity) has signed this instrument in the ordinary course of business, by the signature(s) below if its duly authorized representative(s), as the act of such entity.

SOUTH STATE DEVELOPMENT, LLC.

By: [Signature] (SEAL)

Name: Jennifer M Ward

Title: manager

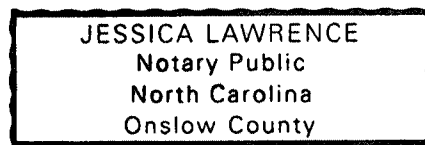
NORTH CAROLINA  
COUNTY OF Onslow

I, a Notary Public of the County and State aforesaid, certify that Jennifer M. Ward personally came before me this day and acknowledged that he is the manager of South State Development LLC, a North Carolina Limited Liability Company, and that by authority duly given and as the act of the Limited Liability Company, the foregoing instrument was signed in its name by him/her.

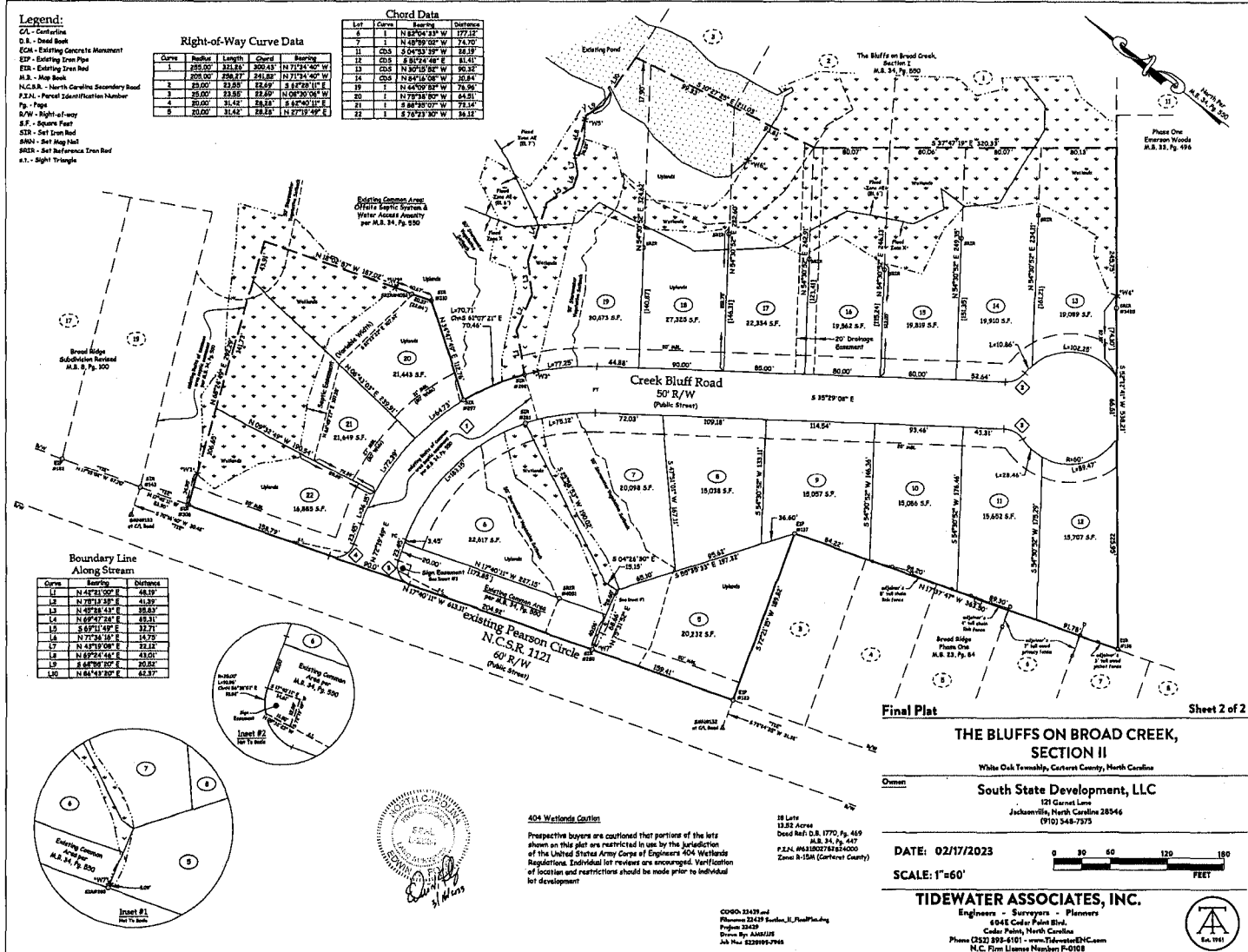
Witness my hand and official stamp or seal, this 7 day of March, 2024.

My commission expires: 6-20-26.

Jessica Lawrence  
Notary Public



## EXHIBIT A-1



\*\*\*THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS\*\*\*



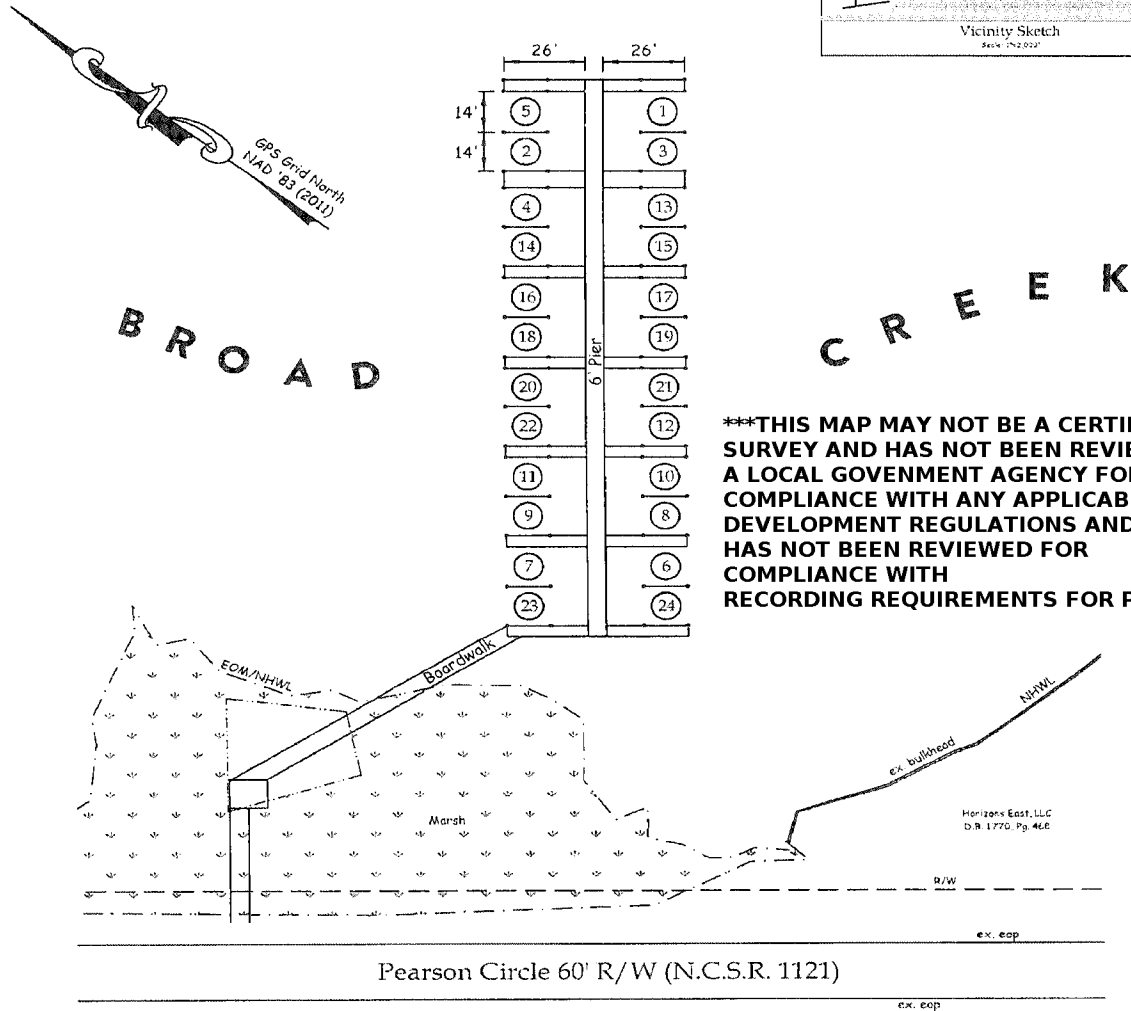
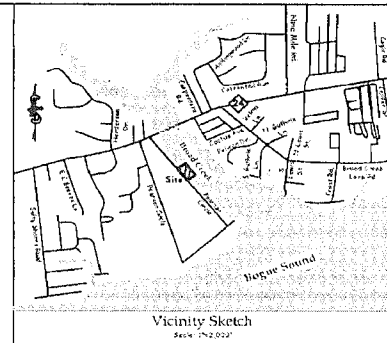
## EXHIBIT A-2

## Notes:

1. This Map was prepared for Recording as a deed attachment.
2. This map is of an existing parcel or parcels of land or one or more existing easements and does not create a new street or change an existing street. For the purposes of this subsection, an "existing parcel" or "existing easement" is an area of land described in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner by deed in its existing configuration.
3. Typical dimensions shown are for all slips.

## Legend:

D.B. - Deed Book  
 EOM - Edge of Marsh  
 eop - Edge of Pavement  
 ex. - Existing  
 NHWL - Normal High Water Line  
 Pg. - Page  
 R/W - Right-of-way



\*\*\*THIS MAP MAY NOT BE A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS FOR PLATS\*\*\*

NO RECORD SEARCH DONE BY  
 OR FURNISHED TO SURVEYOR IN  
 REGARD TO ZONING, SETBACKS,  
 EASEMENTS OR RESTRICTIONS.

This map may not be a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations and has not been reviewed for compliance with recording requirements for plats.

# BOAT SLIP EXHIBIT MAP

## THE BLUFFS ON BROAD CREEK

WHITE OAK TOWNSHIP, CARTERET COUNTY, NORTH CAROLINA

DATE: 02/06/24  
 DWN.: BluffsOnBC-Exhibit.dwg  
 PROJECT: 22429

SCALE: 1" = 50'  
 DWN.: BLD  
 JOB NO.: S220105-7965

GRAPHIC SCALE: 1"=50'  
 0 50 100  
 FEET

THIS EXHIBIT DOES  
 NOT REPRESENT AN  
 ACTUAL SURVEY.

## TIDEWATER ASSOCIATES, INC.

Engineers - Surveyors - Planners  
 Cedar Point, North Carolina  
 604E Cedar Point Blvd.  
 Phone (252) 393-6101 - www.TidewaterENC.com  
 N.C. Firm License Number: F-0108

