

Declaration of Covenants, Conditions and Restrictions for Rock Creek Manor

(March 24, 1981)
Liber 5674 Folios 059-078

THIS DECLARATION, made on the date hereinafter set forth by *PAR Construction Corporation*, a Virginia corporation, hereinafter referred to as "Declarant."

WITNESSETH: WHEREAS, Declarant is the owner of certain Property in the County of Montgomery, State of Maryland, which is more particularly described on the legal description attached hereto and made part hereof as "Exhibit A."

NOW, THEREFORE, Declarant hereby declares that all of the Property described on "Exhibit A" hereto shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the Property described on "Exhibit A" hereto, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

Article I: Definitions.

Section 1. "Association" shall mean and refer to *Rock Creek Manor Community Association, Inc.*, a non-stock, non-profit corporation, its successors and assigns.

Section 2. "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 Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Property" shall mean and refer to that certain real property described on "Exhibit A" hereto, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described more particularly on the land description attached hereto and made part hereof as "Exhibit B."

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property (with the exception of the Common Area).

Section 6. "Declarant" shall mean and refer to *PAR Construction Corporation*, a Virginia corporation, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development, but only to the extent that any of the rights, reservations, easements, interests, exemptions, privileges and powers of the Declarant are specifically assigned or transferred to such successors or assigns.

Section 7. "Development Plan" shall mean the Site Plan for the Rock Creek Manor Townhouses, dated August 1980, prepared by Dewberry, Nealon & Davis, including all amendments thereto as may be made from time to time. A copy of the Development Plan, as amended, is on file with the Declarant.

Section 8. "Mortgagee" shall mean the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots. "Mortgage," as used herein, shall include deed of trust. "First Mortgage," as used herein, shall mean a mortgage with priority over other mortgages. As used in this Declaration, the term "mortgagee" shall mean any mortgagee and shall not be limited to institutional mortgagees. As used in this Declaration, the term "institutional mortgagee" or "institutional holder" shall include

banks, trust companies, insurance companies, mortgage insurance companies, savings and loan associations, trusts, mutual savings banks, credit unions, pension funds, mortgage companies, Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), all corporations and any agency or department of the United States Government or of any state or municipal government. As used in this Declaration, the term "holder" or "mortgagee" shall include the parties secured by any deed of trust or any beneficiary thereof.

Article II: Property Rights

Section 1. Owner's Easement of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area, including an easement for the use and enjoyment of the private streets and parking lots and walkways within the Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable and uniform admission and other fees for the use of any recreational facility situated upon the Common Area;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations;
- (c) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members agreeing to such dedication or transfer has been recorded, and unless the Maryland-National Capital Park and Planning Commission, or its successor or assigns, has given its prior written approval thereof, which approval shall not be unreasonably withheld or delayed;
- (d) the right of the Association to limit the number of guests of members;
- (e) the right of the Association to establish uniform rules and regulations pertaining to the use of the Common Area and the facilities thereon;
- (f) the right of individual Owners to the exclusive use of parking spaces as provided in this Article;
- (g) the right of the Association, the Declarant, utility companies and other Owners with respect to the easements established in Section 12 of Article VI hereof.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, 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.

Section 3. Parking Rights. Ownership of each Lot shall entitle the Owner or Owners thereof to the use of an automobile parking space or spaces in accordance with the Rules and Regulations of the Association which are duly adopted and promulgated by the Board of Directors, together with the right of ingress and egress in and upon said parking area.

Article III: Membership and Voting Rights

Section 1. Membership. Every Owner of a Lot which is subject to assessment 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.

Section 2. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A: Class A members shall be all Owners with the exception of the Declarant, and Class A members shall be entitled to one (1) vote for each Lot owned. When more than one (1) 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 by a Class A member with respect to any Lot.

Class B: All of the Class B memberships shall be initially held by the Declarant (as defined in the Declaration) who shall be the Class B member and shall be entitled to three (3) votes for each Lot which it owns. Each Class B membership shall cease and become a nullity upon the happening of any of the following events, whichever occurs earliest:

(i) when the total votes outstanding in the Class A membership equals the total votes outstanding in the Class B membership; or

(ii) three (3) years from the date of recordation of this Declaration; provided, however, that if the Declarant is delayed in the improvement and development of the Property on account of a sewer, water or building permit moratorium or any other cause or event beyond the Declarant's control, then the aforesaid three (3)-year period shall be extended by a period of time equal to the length of the delays or five (5) years, whichever is less; or

(iii) upon the surrender of said Class B memberships by the then holders thereof for cancellation on the books of the Association.

Upon the lapse or surrender of any of the Class B memberships as provided for in this Article, the Declarant shall thereafter remain a Class A member of the Association as to each and every Lot in which the Declarant then holds the interest otherwise required for such Class A membership.

Article IV: Covenant for Maintenance Assessments

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Property, 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, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorneys' fees, shall be a charge on the Lot (including all improvements thereon), and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Property and for the improvement, maintenance, repair and replacement of the Common Area, the payment of real estate taxes and assessments, and insurance premiums and utility services for the Common Areas and management fees and other management and administration expenses for the Common Area, plus contributions payable by the Association, under any cross easement or other similar instrument or agreement.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual assessment shall be Sixty Dollars (\$60.00) per Lot; provided, however, that the maximum annual assessment (including special assessments) for any Lots without an occupied dwelling owned by Declarant and for which it holds a Class B membership shall be twenty-five percent (25%) of any such assessments. Upon the first occupancy of any dwelling owned by the Declarant, the full assessment shall immediately and permanently attach to that Lot. Notwithstanding any provision contained in this Declaration to the contrary, Declarant hereby covenants and agrees for the benefit of each Class A member to pay any and all expenses incurred by the Association during the Deficit Period (as term is hereinafter defined) in furtherance of its purposes to the extent that

the annual and special assessments levied during the Deficit Period are insufficient to pay such expenses; provided, however, that at such time as the Declarant has paid what would equal one hundred percent (100%) of the assessments for its Lots which may receive the benefit of the reduced twenty-five percent (25%) assessment hereinabove referred to, then the Declarant shall only be obligated to pay any further assessments during that annual period in an amount equal to what would be due for such Lots had they been owned by a Class A member. As used herein, the term "Deficit Period" shall mean that period of time commencing on the date of recordation of this Declaration and ending on the date on which the Class B membership lapses and becomes a nullity in accordance with the provisions of this Declaration.

(a) 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 by the Board of Directors of the Association, without a vote of the Class A membership, by an amount equal to ten percent (10%) of the maximum annual assessment for the preceding year plus the amount by which any *ad valorem* real estate taxes and insurance premiums payable to the Association have increased over amounts payable for the same or similar items for the previous year.

(b) 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 ten percent (10%) by a vote of two-thirds (2/3) of each class of members who are voting, in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may from time to time fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for 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 construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Except as otherwise provided in Section 3 of this Article IV, both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected in advance on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the first conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer for the Association setting forth whether the assessments on a specified Lot

have been paid. A properly executed certificate of the Association with the status of assessments on the Lots shall be binding on the Association as of the date of its issuance.

Section 8. Effect of Non-Payment of Assessments: Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall bear interest within the due date at the rate of eight percent (8%) per annum (or such lesser sum as VA and/or FHA may specify if any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is guaranteed by VA or insured by FHA, but in no event to exceed the maximum rate permitted by law). The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot (and all improvements thereon). No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this Section shall affect the rights of the holder of any first mortgage on any Lot (or the indebtedness secured thereby) recorded prior to recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

Section 10. Additional Default. Any recorded first mortgage secured on a Lot shall provide that any default by the mortgagor in the payment of any assessment levied pursuant to this Declaration, or any installment thereof, shall likewise be a default in such mortgage (or the indebtedness secured thereby); but failure to include such a provision in any such mortgage shall not affect the validity or priority thereof and the protection extended to the holder of such mortgage (or the indebtedness secured thereby) by reason of Section 9 of this Article shall not be altered, modified or diminished by reason of such failure.

Section 11. Reserves for Replacements. The Association shall establish and maintain a reserve fund for replacements of the Common Areas and community facilities by the allocation and payment monthly to such reserve fund of an amount to be designated from time to time by the Board of Directors. Such fund shall be conclusively deemed to be a common expense of the Association and may be deposited in any banking institution, the accounts of which are insured by any State or by an agency of the United States of America or may, in the discretion of the Board of Directors, be invested in obligations of, or fully guaranteed as to principal by, the United States of America. The reserve for replacements of the Common Areas and community facilities may be expended only for the purpose of effecting the replacement of the Common Areas, major repairs to any equipment replacement, and for start-up expenses and operating contingencies of a non-recurring nature relating to the Common Areas and community facilities. The Association may establish such other reserves for such other purposes as the Board of Directors may from time to time consider to be necessary or appropriate. The proportional interest of any member in any such reserves shall be considered an appurtenance of his Lot and shall not be separately withdrawn, assigned or transferred or otherwise separated from the Lot to which it appertains and shall be deemed to be transferred with such Lot.

Article V: Architectural Control

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Property, nor shall any exterior addition to or change or alteration therein be made (including change in color) until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing

as to harmony of external design and location in relation to surrounding structures and topography and conformity with the design concept for the community of "Rock Creek Manor" by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fail to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. Notwithstanding any provision of this Declaration to the contrary, the provisions of this Article V shall not be applicable to the Declarant or any part of the Property owned by the Declarant.

Article VI: Use Restrictions and Easements

In addition to all other covenants contained herein, the use of the Property and each Lot therein is subject to the following:

Section 1. The Lots shall be used for residential purposes exclusively, and no building shall be erected, altered, placed or permitted to remain on any such Lot other than one used as a single-family dwelling, except that a professional office may be maintained in a dwelling, provided that such maintenance and use is limited to the person actually residing in the dwelling and, provided further, that such maintenance and use is in strict conformity with the provisions of any applicable zoning law, ordinance or regulation. As used in this Section, the term "professional office" shall mean rooms used for office purposes by a member of any recognized profession, including doctors, dentists, lawyers, architects and the like, but not including medical or dental clinics. The terms "dwelling" or "dwelling unit," as used in this Declaration, shall include a townhouse. Nothing contained in this Article, or elsewhere in this Declaration, shall be construed to prohibit the Declarant from the use of any Lot or dwelling, or improvement thereon, for promotional or display purposes, or as "model homes," a sales office or the like.

Section 2. No part of the Property shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending or other such non-residential purposes, except Declarant may use the Property for model home sites and display and sales offices during the construction and sales period.

Section 3. No sign or billboard of any kind shall be displayed to the public view on any portion of the property or any Lot, except one (1) sign for each building site, of not more than eighteen (inches (18")) by twenty-four inches (24"), advertising the Property for sale or rent, except signs used by Declarant to advertise the Property during the construction and sales period.

Section 4. No noxious or offensive activity shall be carried on upon any Lot or any part of the Property, nor shall anything be done thereupon which may be, or may become, an annoyance or nuisance to the neighborhood, or which shall in any way unreasonably interfere with the quiet enjoyment of each of the Owners of his respective dwelling unit, or which shall in any way increase the rate of insurance.

Section 5. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other out-building shall be used on any Lot at any time as a residence either temporarily or permanently. No trailer, camper, boat or similar equipment shall be permitted to remain upon any property within the Property, unless placed or maintained within an enclosed garage or carport.

Section 6. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept on the Lot subject to such rules and regulations as may be adopted by the Association and provided they are not kept, bred or maintained for any commercial purpose, or in unreasonable numbers. Notwithstanding the foregoing, no animals or fowl may be kept on the Property which result in an annoyance or are obnoxious to residents in the vicinity.

Section 7. All rubbish, trash and garbage shall be regularly removed from the Property, and shall not be allowed to accumulate thereon. All clotheslines, refuse containers, wood piles, storage areas and machinery and equipment shall be prohibited upon any Lot, unless obscured from view of adjoining Lots and streets by a fence or appropriate screen approved by the Architectural Committee. Nothing herein shall be deemed to apply to the storage on the Property by Declarant of building materials during, and for use in, the construction of the improvements on the Property.

Section 8. No exterior radio or television receiving or transmitting antennae or external apparatus shall be installed on any Lot. Normal radio and television installations wholly within a building are excepted.

Section 9. The rights and duties with respect to sanitary sewer and water, cable television, electricity, gas and telephone lines and facilities shall be governed by the following:

(a) Whenever water, sanitary sewer, electricity, gas, cable television or telephone connections, lines, cables or any portion thereof, are or have been installed within the Property, the Owner of any Lot, or the Association shall have the right, and are hereby granted an easement to the extent necessary therefor, to enter upon or have a utility company enter upon any portion of the Property in which said installations lie, to repair, replace and generally maintain said installations.

(b) The right granted in Subparagraph (a) above shall be only to the extent necessary to entitle the Owner or Association serviced by said installation to its full and reasonable use and enjoyment, and provided further that anyone exercising said right shall be responsible for restoring the surface of the easement area so used to its condition prior to such use.

(c) In the event of a dispute between Owners with respect to the repair or the rebuilding of said connections, or with respect to the sharing of the cost thereof, upon written request of one of such Owners addressed to the Association, the matter shall be submitted to its Board of Directors, who shall decide the dispute, and the decision of the Board shall be final and conclusive on the parties.

Section 10. In order to allow PEPCO proper access to electric meters, no gate or other fence closing device shall be locked or otherwise secured against opening in a manner which interferes with or prevents PEPCO, or its agents, from entering upon any Lot to install, read, maintain, repair or replace any electric meter or similar device.

Section 11. All Owners and occupants shall abide by the Bylaws and any rules and regulations adopted by the Association.

Section 12. Any lease agreement between a Lot Owner and a lessee shall provide that the terms of the lease are subject in all respects to the provisions of this Declaration, and the Articles of Incorporation and Bylaws of the Association, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All such leases shall be in writing.

Section 13. None of the foregoing restrictions shall be applicable to the activities of:

(a) Declarant, its officers, employees, agents or assigns, in their development, marketing and sale of Lots or other parcels within the Property; or

(b) To the Association, its officers, employees and agents, in connection with the proper maintenance, repair, replacement and improvement of the Common Areas and community facilities.

Section 14. The following easements and rights are hereby declared or reserved:

(a) Declarant reserves the right to grant easements, both temporary and permanent, to all public authorities and utility companies over any part of the Common Area.

(b) Each Lot within the Property is hereby declared to have an easement, not exceeding one foot (1') in width, over all adjoining Lots for the purpose of accommodating any

encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, roof overhang, gutters, architectural or other appendages, draining of rainwater from roofs, or any other similar cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachment over adjoining Lots shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

(c) There is hereby created a blanket easement upon, across, over and under all of the Property for ingress, egress, installation, replacement, repair and maintenance of all utilities, including, but not limited to, CATV, water, sewer, drainage, gas, cable television, telephones and electricity, and a master television antennae system. By virtue of this easement, it shall be expressly permissible to erect and maintain the necessary poles and other equipment on the Property and to affix and maintain electrical or telephone wires and conduits, sewer and water and drainage lines, on, above or below any residence or land owned by an Owner. The easement of ingress and egress hereby created shall allow reasonable access by authorized persons over the Common Area for purpose of entering and exiting from certain planned recreational facilities which may be located on land owned by Declarant and located adjacent to the Property (but which is not intended to be owned by the Association or deemed part of the Common Area).

(d) An easement is hereby reserved to Declarant to enter the Common Area during the period of construction and sale on the Property, and to maintain such facilities and perform such operations as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction and sale of residences, including, without limitation, a business office, sales office, storage area, construction yards, signs, display and model units.

(e) Declarant also reserves the right to enter into the Common Area for the purpose of carrying out any obligation. It may have, or assume, with respect to the curing of any defects in workmanship or materials in the Property or the improvements thereon.

(f) For a period of ten (10) years from the date of conveyance of the first Lot, the Declarant reserves a blanket easement and right on, over and under the Property to maintain and to 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 which the Declarant shall restore the affected property to its original condition as near as practicable. The Declarant shall give reasonable notice of intent to take such action to all affected Owners, unless in the opinion of the Declarant an emergency exists which precludes such notice.

Article VII: Exterior Maintenance and Casualty Insurance

Section 1. Each Owner shall keep each Lot owned by him, and all improvements therein or thereon, in good order and repair and free of debris, including but not limited to the seeding, watering and mowing of all lawns, the pruning and cutting of all trees and shrubbery and the painting (or other appropriate external care) of all buildings and other improvements all in a manner and with such frequency as is consistent with good property management. In the event an Owner of any Lot in the Property shall fail to maintain the Lot and the improvements situated thereon approved in the Bylaws and approved by vote of the Board of Directors, shall have the right to enter upon said Lot to correct drainage and to repair, maintain and restore the Lot and the exterior of the buildings and any other improvements erected thereon. All costs related to such correction, repair or restoration shall become a lien on such Lot, and such lien may be enforced

in the same manner as an annual assessment levied in accordance with Article IV hereof. Any such lien shall be subordinate to the lien of any first mortgage or deed of trust. Sale or transfer of any Lot shall not affect such lien. However, the sale or transfer of any Lot pursuant to mortgage or deed of trust foreclosure or any proceeding in lieu thereof, shall extinguish any such lien as to payment which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. No amendment to this section shall affect the rights of the holder of any first mortgage on any Lot (or the indebtedness secured thereby); recorded prior to recordation of such amendment unless the holder thereof (or the indebtedness secured thereby) shall join in the execution of such amendment.

Section 2. The Board of Directors of the Association, or its duly authorized agent, shall have the authority to and shall obtain insurance for all or any of the residential units located on the Property, unless the Owners thereof have supplied proof of adequate coverage to the Board of Directors' satisfaction, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any such insured hazards. Such policies shall provide that insurance proceeds payable on account of loss or damage to the real property shall be payable solely to the Owner's first mortgagee, if any, and the Association, as Insurance trustee for the Owner(s). Such insurance proceeds shall be applied to repair or restoration of the damaged property as hereinafter provided. All such insurance policies shall provide that coverage may not be cancelled by the carrier without first giving the Association and the first mortgagee, if any, ten (10) days' written notice of cancellation. All such policies shall contain, if obtainable, a waiver of the right of subrogation against any Owner, members of the Owner's family, the Association, its officers, agents and employees, as well as a waiver of the "pro-rata" clause.

The Association shall also obtain a broad form public liability policy covering all Common Areas and all damage or injury caused by the negligence of the Association or any of its agents, officers or employees in an amount of not less than One Million Dollars (\$1,000,000.00) for each occurrence, and such policies shall contain a waiver of the right of subrogation against members of the Association, its officers, agent and employees.

Premiums for all insurance obtained by the Board of Directors, except policies on the individual residences, shall be a common expense. Premiums for insurance obtained by the Board of Directors on individual residences shall not be a part of the common expense, but shall be an expense of the Owner(s) of the specified residence or residences so covered and a debt owed by the Owners and shall be paid within twenty (20) days after notice of such debt and shall be collectible by any lawful procedure permitted by the laws of the State of Maryland. In addition, if said debt is not paid within twenty (20) days after notice of such debt, such amount shall automatically become a lien upon such Owner's Lot and residence, and shall continue to be such a lien until fully paid. This lien shall be subordinate to the lien of any first mortgage or deed of trust and shall be enforceable in the same manner as any lien created by failure to pay the maintenance assessments.

Any Owner may, if he wishes, at his own expense, carry any and all other insurance he deems advisable beyond that included in the home owners policy required by the Association.

In the event of damage or destruction by fire or other casualty to any property covered by insurance payable to the Association as Insurance Trustee for the Owners, the Board of Directors shall, with the concurrence of the majority of the holders of first mortgages or deeds of trust against the damaged property, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly existed. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a Federal governmental agency, with the provision agreed to by said bank or institution that such funds may be withdrawn only by

signature of at least one-third (1/3) of the members of the Board of Directors (or by an agent duly authorized by the Board of Directors) and a duly authorized representative of a majority of the holders of the first mortgages or deeds of trust against the damaged property. The Board of Directors shall obtain bids from at least two reputable contractors, and then may negotiate with any such contractor, who may be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such building or buildings. In the event that insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to as good condition as formerly, the Board of Directors shall levy a special assessment, as provided in Article IV, Section 4, against all Owners of the damaged residences in such proportions as the Board of Directors deems fair and equitable in light of the damage sustained by such residences to make up any deficiency, except that the special assessment shall be levied against all Owners, in equal proportions, to make up any deficiency for repair or rebuilding of the Common Area. In the event such insurance proceeds exceed the cost of repair and reconstruction, such excess shall be paid over to the respective mortgages and Owners in such proportions as the mortgagees direct.

Notwithstanding the foregoing provisions of this Section 2, it is further provided that the requirement for the maintenance of insurance on a residence shall not apply to any residence acquired by FNMA, FHLMC, VA or FHA, under a mortgage foreclosure during the period of ownership by any of said agencies or entities.

Article VIII: Party Walls

The rights and duties of the Owners of Lots with respect to party walls shall be governed by the following:

Section 1. General Rules of Law to Apply. Each wall which is constructed as a part of the original construction on the Property and any part of which is placed on the dividing line between separate Lots, shall constitute a party wall, and with respect to such wall, each of the adjoining Owners shall assume the burdens, and be subject to an assessment for that portion of a party wall on his Lot, and be entitled to the benefits of these restrictive covenants and, to the extent not inconsistent herewith, the general rules of law regarding party walls and of liability for property damage due to negligence or willful acts or omissions, shall apply thereto.

Section 2. Sharing of Repair and Maintenance and Destruction by Fire or Other Casualty. If any such party wall is damaged or destroyed by fire or other casualty or by some cause other than the act of one of the adjoining Owners, his agents, or family (including ordinary wear and tear and deterioration from lapse of time), then, in such event, both such adjoining Owners shall proceed forthwith to rebuild or repair the same (or cause the same to be rebuilt or repaired in accordance with the provisions of Section 2 of Article VII) to as good condition as formerly, in proportion to their respective use of the party wall.

Section 3. Repairs of Damage Caused by One Owner. If any such party wall is damaged or destroyed through the act of one adjoining Owner or any of his agents or guests or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining Owner of the full use and enjoyment of such wall, then the first of such Owners shall forthwith proceed to rebuild and repair the same to as good condition as formerly, without cost to the adjoining Owner.

Section 4. Other Charges. In addition to meeting the other requirements of these restrictive covenants, and of any building code or similar regulations or ordinances, any Owner proposing to modify, make additions to or rebuild his residence in any manner which requires the extension or other alteration of any party wall, shall first obtain the written consent of the adjoining Owner.

Section 5. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Dispute. In the event of a dispute between Owners with respect to the repair or rebuilding of a party wall or with respect to the sharing of the cost thereof, then upon written request of one such Owners addressed to the Association, the matter shall be submitted to its Board of Directors who shall decide the dispute, and the decision of such Board of Directors shall be final and conclusive upon the parties.

Article IX: Management

Section 1. Management Agent. The Board of Directors may employ for the Association a management agent or manager (the "Management Agent") at a rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize in writing. If the standards and regulations of FNMA and/or FHLMC prohibit self-management by the Association and FNMA and/or FHLMC holds an interest in a first mortgage or deed of trust against any of the Lots, then no such self-management shall be undertaken by the Association without the prior written consent and approval of all of the holders of the first mortgages of record on the Lots.

Provided that any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is guaranteed by the Veterans Administration, or insured by the Federal Housing Administration, and, provided further, that VA and/or FHA (as applicable) standards and regulations prohibit self-management of the Association, then no such self-management shall be undertaken by the Association without the prior written consent and approval of VA and/or FHA (as applicable).

Section 2. Duration of Management Agreement. Any management agreement entered into by the Association shall provide *inter alia* that such agreement may be terminated for cause by either party upon thirty (30) days' written notice thereof to the other party. The term of any such management agreement shall not exceed one (1) year; provided, however, that the term of any such management agreement may be renewable by mutual agreement of the parties for successive one (1)-year periods.

Section 3. Limitation of Liability. The Association shall not be liable for any failure of any services to be obtained by the Association or paid for out of the common expense funds, or for injury or damage to person or property caused by the elements or resulting from water which may leak or flow from any portion of the Common Areas or community facilities, or from any wire, pipe, drain, conduit or the like. The Association shall not be liable to any member for loss or damage, by theft or otherwise, of articles which may be stored upon the Common Areas or community facilities. No diminution or abatement of assessments, as herein elsewhere provided for, shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Areas or community facilities, or from any action taken by the Association to comply with any of the provisions of this Declaration or with any law or ordinance or with the order or directive of any municipal or other governmental authority.

Article X: General Provisions

Section 1. Enforcement. The Association, or any Owner, or any mortgagee of any Lot shall have the right to enforce, by any proceeding at law and/or in equity, all restrictions, conditions, covenants, reservations, liens, charges or other obligations or terms now or hereafter imposed by the provisions of this Declaration, or the Articles of Incorporation or Bylaws of this Association. Failure by the Association or by any Owner or by any mortgagee of any Lot to enforce any covenant or restrictions herein contained or any provision of the Bylaws or Articles of Incorporation of the Association shall in no event be deemed a waiver of the right to do so thereafter. There shall be and there is hereby created and declared to be a conclusive presumption that any violation or breach or attempted violation or breach of any of the within covenants or restrictions or any provisions of the Bylaws or Articles of Incorporation of the

Association cannot be adequately remedied by action at law or exclusively by recovery of damages.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions, which shall remain in full force and effect.

Section 3. Duration and Amendment. Except where permanent easements or other permanent rights or interests are herein created, the covenants and restrictions of the Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20)-year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter, by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots. Any amendment must be recorded.

Section 4. Annexation. The Declarant shall have the right, for a period of eight (8) years following the date of recordation of this Declaration, without the consent of the members of the Association, to annex and bring within the scheme of this Declaration additional land in future stages of the development as shown on the Development Plan, (and amendments thereto), provided that so long as a Lot is encumbered by a deed of trust or mortgage which is guaranteed or insured by VA and/or FHA, then VA and/or FHA, as applicable, shall approve any annexations not in accord with said Development Plan (and amendments thereto) as approved by them. The additions authorized shall be made by filing of record Supplementary Declarations of Covenants with respect to the additional land which shall extend the scheme of the covenants and restrictions of the Declaration to such land and thereby subject such land to the effect and operation of this Declaration. Said Supplementary Declarations may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added Lots and as are not inconsistent with the scheme of this Declaration. Except as otherwise hereinabove provided, annexations to the Property shall require the consenting two-thirds (2/3) of the Class A members.

Section 5. FHA and VA Approvals. Provided that any Lot subject to this Declaration is then encumbered by a deed of trust or mortgage which is insured by the Federal Housing Administration or guaranteed by the Veterans Administration, and, provided further, that there are then Class B memberships of the Association outstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent or approval of the Federal Housing Administration and/or Veteran Administration (as applicable):

(a) make any annexation or addition other than as provided for pursuant to Section 4 of Article X of this Declaration; or

(b) abandon, partition, dedicate, subdivide, encumber, sell or transfer any of the Common Areas or community facilities directly or indirectly owned by this Association; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or

(c) abandon or terminate this Declaration; or

(d) modify or amend any provision of this Declaration, the Bylaws or the Articles of Incorporation of the Association; or

(e) merge or consolidate the Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Association in any other entity.

Section 6. Rights of the Maryland-National Capital Park and Planning Commission ("Commission" herein). Any other provisions of this Declaration or the Bylaws or Articles of Incorporation of the Association to the contrary notwithstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent of the Commission, which consent shall not be unreasonably withheld or delayed:

- (a) make any annexation or additions other than as provided for pursuant to Section 4 of Article X of this Declaration; or
- (b) abandon, partition, dedicate, subdivide, encumber, sell or transfer any of the Common Areas or community facilities; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or
- (c) abandon or terminate the Declaration; or
- (d) modify or amend any material or substantive provision of this Declaration, or the Bylaws or the Articles of Incorporation of the Association; or
- (e) merge or consolidate the Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Association to any other entity; or
- (f) substantially modify the method of determining and collecting assessments as provided in this Declaration.

The Commission shall have the right to bring action for any legal or equitable relief necessary to enforce the rights and powers granted to the Commission hereunder.

Section 7. Consents by Lenders. Any other provision of this Declaration or the Bylaws or Articles of Incorporation of the Association to the contrary notwithstanding, neither the members, the Board of Directors nor the Association shall, by act or omission, take any of the following actions without the prior written consent and approval of all of the holders of the first mortgages of record on the Lots:

- (a) abandon, partition, alienate, release, hypothecate, dedicate, subdivide, encumber, sell or transfer any of the Common Areas or community facilities directly or indirectly owned by the Association; provided, however, that the granting of rights-of-way, easements and the like for public utilities or for other purposes consistent with the use of the Common Areas and community facilities by the members of the Association shall not be considered a transfer within the meaning of this Section; or
- (b) abandon or terminate this Declaration; or
- (c) modify or amend any substantive provision of this Declaration, or of the Bylaws or of the Articles of Incorporation of the Association; or
- (d) merge or consolidate the Association with any other entity or sell, lease, exchange or otherwise transfer all or substantially all of the assets of the Association to any other entity; or
- (e) substantially modify the method of determining and collecting assessments against an Owner or his Lot as provided in this Declaration; or
- (f) waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design or the exterior appearance of buildings or structures on the Lots, the exterior maintenance of buildings or structures on the Lots, the maintenance of the Common Area party walks or common fences and driveways, or the upkeep of lawns and plantings within the Property; or
- (g) fail to maintain fire and extended coverage on insurable Association Common Area on property on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost); or

(h) use hazard insurance proceeds for losses to any Association Common Area or property for other than the repair, replacement or reconstruction of such Common Area or property.

Section 8. Additional Rights of Mortgagee -- Notice. The Association shall promptly notify the holder of the first mortgage on any Lot for which any assessment levied pursuant to the Declaration, or any installment thereof, becomes delinquent for a period in excess of thirty (30) days and the Association shall promptly notify the holder of the first mortgage on any Lot with respect to which any default in any other provision of this Declaration remains uncured for a period in excess of thirty (30) days following the date of such default. Any failure to give any such notice shall not affect the validity or priority of any first mortgage on any Lot and the protection extended in this Declaration to the holder of any such mortgage shall not be altered, modified or diminished by reason of such failure.

No suit or other proceeding may be brought to foreclose the lien for any assessment levied pursuant to this Declaration except after ten (10) days' written notice to the holder of the first mortgage on the Lot which is the subject matter of such suit or proceeding. If the Association undertakes "self-management," it shall promptly give written notice of such occurrence to all holders of first mortgages of record on the Lots.

Any first mortgagee of any Lot may pay any taxes, utility charges or other charge levied against the Common Areas and community facilities which are in default and which may or have become a charge or lien against any of the Common Areas and community facilities and any such first mortgagee may pay any overdue premiums on any hazard insurance policy or secure new hazard insurance coverage on the lapse of any policy, with respect to the Common Areas and community facilities. Any first mortgagee who advances any such payment shall be due immediate reimbursement of the amount so advanced from the Association.

Section 9. Casualty Losses. In the event of substantial damage or destruction to any of the Common Areas and community facilities, the Board of Directors of the Association shall give prompt written notice of such damage or destruction to the holders of all first mortgages of record on the Lots. No provision of the Declaration or the Articles of Incorporation or the Bylaws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his Lot with respect to the distribution to such member of any insurance premiums paid or payable on account of any damage or destruction of any of the Common Areas or community facilities.

Section 10. Condemnation or Eminent Domain. In the event any part of the Common Areas and community facilities is made the subject matter of any condemnation or eminent domain proceeding, or is otherwise sought to be acquired by any condemning authority, then the Board of Directors of the Association shall give prompt written notice of any such proceeding or proposed acquisition to the holders of all first mortgages of record on the Lots. No provision of this Declaration or the Articles of Incorporation or the Bylaws of the Association shall entitle any member to any priority over the holder of any first mortgage of record on his Lot with respect to the distribution to such member of the proceeds of any condemnation or settlement relating to a taking of any of the Common Areas and community facilities.

Section 11. Changes Required by Lenders. Notwithstanding any provision to the contrary contained in the Articles of Incorporation or Bylaws of the Association or this Declaration, the Declarant shall have and hereby reserves the right to make modifications, additions or deletions to the Declaration, the Articles of Incorporation and the Bylaws of the Association if such modification, additions or deletions are required by VA, FHA, FHLMC or FNMA. The Declarant further reserves the right to waive in writing any exemption, right or privilege granted or reserved to the Declarant by this Declaration or the Articles of Incorporation or the Bylaws of the Association.

Section 12. Captions and Gender. The captions contained in this Declaration are for convenience only and are not a part of this Declaration and are not intended in any way to limit or enlarge the terms and provisions of this Declaration. Whenever the context so requires, the male shall include all genders and the singular shall include the plural.

IN WITNESS WHEREOF, the undersigned, being the DECLARANT herein, has executed this instrument this 11th day of February, 1981.

Attest: Par Construction Corporation,
a Virginia corporation
(signed), Steven K. Powell, (signed), Gary D. Rappaport, President
(Assistant) Secretary

(CORPORATE SEAL)

State of Virginia, County of Fairfax -- To wit:

On this 11th day of February, 1981, before me, the undersigned officer, personally appeared Steven K. Powell and Gary D. Rappaport, who have satisfactorily proven to be the persons whose names are subscribed to the within instrument, and who acknowledged themselves to be the President and (Assistant) Secretary, respectively, of PAR Construction Corporation, a Virginia corporation, and as such President and (Assistant) Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained on behalf of said corporation.

(SEAL) ...my hand and seal this 11th day of February, 1981.
(illegible signature), Notary Public My commission expires 2-28-83.

Trustee Consent

The undersigned, Donald F. Wood and Donald S. Gardner, Trustees under the Deed of trust dated November 21, 1980, and recorded in Liber 5615. Folio 578, among the Land Records of Montgomery County, Maryland, hereby consent to the within Declaration and agree that the lien and effect of said Deed of trust shall be subordinate and subject to the lien, effect and operation of this Declaration and all Supplementary Declarations filed pursuant thereto.

WITNESS: (signed), Martha A. Neumeyer (?); Donald F. Wood, Trustee;
Martha A. Neumeyer (?); Donald S. Gardner, Trustee

State of Maryland, County of Montgomery -- To wit:

On this 17th day of February, 1981, before me, the undersigned officer, personally appeared Donald F. Wood and Donald S. Gardner, Trustees, known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument as Trustees and acknowledged that they executed the same for the purposes therein contained as their own free act and deed. IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(notarial seal) (illegible signature), Notary Public
My commission expires: 7-1-82

Approved as to form: Maryland-National Capital Park and Planning Commission
By: (signed), Wilhemina G. Douglas -- Date: October 21, 1980

Attorney's certificate:

I hereby certify that I am an attorney duly admitted to practice before the Court of Appeals of Maryland and that the within instrument was prepared under my supervision.
(signed), Earl L. Segal