

01195 PG:0257  
FILED  
HOKE COUNTY NC  
CAMILLE D. HURST  
REGISTER OF DEEDS  
FILED Jun 05, 2017  
TIME 04:29:03 pm  
BOOK 01195  
START PAGE 0257  
END PAGE 0273  
INSTRUMENT # 03378  
RECORDING \$34.00  
EXCISE TAX ELB (None)

DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR  
BEDFORD COMMERCIAL WEST  
(Part of the Bedford Community)

Prepared by/return to:  
Rebecca F. Person  
Rebecca F. Person, PLLC  
2401 Robeson Street  
Fayetteville, NC 28305

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (this "Declaration") is made this the 30th day of May, 2017, by H&M BEDFORD, LLC, a Delaware limited liability company, hereinafter referred to as "Declarant".

WITNESSETH:

Declarant is the owner of certain property in the McLaughlin Township, Hoke County, North Carolina shown on plat entitled:

"BEDFORD COMMERCIAL WEST" recorded in Plat Cabinet 4, Slide 4-99, Map 001, of the Hoke County, NC, Registry (hereinafter the "Plat").

This property ("Bedford Commercial") is part of the Bedford Community, a master-planned community (the "Bedford Community"). Bedford Commercial will be comprised of commercial properties. Declarant desires to provide for the preservation of the values and amenities and for the maintenance of the common area in Bedford Commercial and under a general plan or scheme of improvement desires to subject said property to the covenants, restrictions, easements, affirmative obligations, charges and liens hereinafter act forth, hereinafter referred to as the "Covenants" or the "Declaration", all of which is hereby declared to be for the benefit of said property and each and every owner of any and all parts thereof.

Declarant deems it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which can be delegated and assigned the power and authority of maintaining and administering the common properties, administering and enforcing these covenants and restrictions and collecting and disbursing all assessments and charges necessary for such maintenance, administration and enforcement. Bedford Commercial Owners Association, Inc. is incorporated under the laws of the State of North Carolina as a non-profit corporation and can exercise the functions aforesaid, which functions are hereinafter more fully set forth.

Bedford Commercial Owners Association, Inc., and Bedford Residential Owners Association, Inc.,

are sub-associations under the Master Declaration of Covenants, Conditions and Restrictions for the Bedford Community recorded in Book 1116, Page 546, of the Cumberland County Registry.

NOW THEREFORE, the Declarant declares that the real property depicted on the above-described plat shall be held, transferred, sold, conveyed, given, donated, leased, occupied and used subject to the covenants, restrictions, conditions, easements, changes, assessments, affirmative obligations, and liens hereinafter set forth. This Declaration and the affirmative and negative burdens of these covenants, shall touch and concern and run with the land herein referred to as the "Property." All rights and easements reserved by the Declarant hereunder shall also be reserved to the assignees and successors in interest of the Declarant.

ARTICLE I  
DEFINITIONS

Section 1. "Association" shall mean and refer to the Bedford Commercial Owners Association, Inc., a North Carolina non-profit corporation, its successors and assigns.

Section 2. "Board" or "Board of Directors" shall mean those persons elected or appointed and acting collectively as the Board of Directors of the Association.

Section 3. "Common Properties" or "Common Areas" shall mean and refer to:

- (a) "GREAT LANE", a 30' private roadway as shown on the Plat;
- (b) any other property acquired by the Association.

All Common Area is to be devoted to and intended for the common use and enjoyment of the Owners, their tenants and invitees (to the extent permitted by the Board of Directors of the Association) subject to the fee schedules and operating rules adopted by the Association; provided, however, that any lands which are leased by the Association for use as Common Area shall lose their character as Common Area upon the expiration of such Lease.

Section 4. "Common Expenses" shall mean and include:

- (a) All sums lawfully assessed by the Association against its members;
- (b) Expenses of administration, maintenance, repair, or replacement of the Common Area, including, without limitation, all labor, services, common utilities, materials, supplies, equipment, costs incurred in acquiring a Lot pursuant to a judicial sale, legal, accounting or managerial fees;
- (c) Expenses declared to be common expenses by the provisions of this Declaration or the Bylaws;
- (d) Hazard, liability, or such other insurance premiums as the Declaration or the Bylaws may require the association to purchase or as the Association may deem appropriate to purchase;
- (e) Ad valorem taxes and public assessment charges lawfully levied against Common Area;
- (f) The expense of the maintenance of private drainage and utility easements and facilities located therein which are within the boundaries of the Common Area;

- (g) Assessments to the Bedford Community Master Association, Inc. (the "Master Association"); and
- (h) Any other expenses determined by the Board or approved by the members to be common expenses of the Association.

Section 5. "Declarant" shall mean Breezewood of Fayetteville, LLC, a North Carolina limited liability company, and its successors and assigns.

Section 6. "Covenants" or "Declaration" shall mean this instrument as it may be from time to time amended, supplemented, modified or incorporated by reference.

Section 7. "Lot" shall mean and refer to any numbered plot of land shown on the Plat or any plat of any additional phases of the Bedford Commercial, as such map or maps may be from time to time recorded, amended, or modified, excluding any common area or open space.

Section 8. "Limited Common Area" shall mean and refer to the "STORMWATER POND AREA" as shown on the Plat and shall be limited common area exclusively shared by Lots 8 and 9.

Section 9. "Limited Common Area Expense" shall mean

- (a) Expenses of administration, maintenance, repair, or replacement of the Limited Common Area, including, without limitation, all labor, services, utilities, materials, supplies, equipment, and costs and all expenses in connection with the Association's responsibilities under any Stormwater Management Agreement (the "Stormwater Agreement") affecting the Property; and
- (b) Payments into any escrow account required under any Stormwater Agreement, which may include funding of the escrow account prior to a transfer of maintenance and operation responsibilities from Declarant to Association.

Section 10. "Member" shall mean and refer to every person or entity entitled to membership in the Association.

Section 11. "Owner" shall mean and refer to the owner as shown by the records in the Register of Deeds of Cumberland County, North Carolina, whether it be one or more persons, firms, associations, corporations, or other legal entities, including the Declarant, of fee title to any Lot depicted on the Plat, but notwithstanding any applicable theory of a mortgage, shall not mean or refer to the mortgagee or holder of a deed of trust, its successors or assigns, unless and until such mortgagee or holder of a deed of trust has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure; nor shall the term "Owner" mean or refer to any lessee or tenant of an Owner.

Section 11. "Period of Declarant Control" means the period commencing on the date hereof and continuing until the earlier of (i) December 31, 2035; or (ii) when Declarant has voluntarily terminated its Declarant Rights hereunder in writing.

Section 12. "Plat" shall mean the defined term on Page 1 of this Declaration

Section 13. "Property" or "Subdivision" shall mean and refer to the land as shown on the Plat. "Property" shall also include future sections of Bedford Commercial as the same may be annexed pursuant to Article



III below.

ARTICLE II  
PROPERTY SUBJECT TO MASTER DECLARATION FOR BEDFORD COMMUNITY

The Property shall be held, transferred, sold, conveyed, leased, mortgaged and occupied subject to the terms, provisions, covenants, and conditions of the Master Declaration. The terms of this Declaration are expressly made subject to the terms of the Master Declaration, including but not limited to, declarant rights, easement rights, assessment rights, lien rights, and other rights reserved in said Master Declaration, that may affect some or all of the Property. If there is any inconsistency between the terms of this Declaration and the terms of the Master Declaration, then the terms of the Master Declaration shall control.

ARTICLE III  
PROPERTY, UTILITIES, AND RESERVED RIGHTS

Section 1. Existing Property. The real property which is and shall be held, transferred, sold, conveyed, given, donated, leased and occupied subject to these covenants is defined as the Property above.

Section 2. Annexation of Additional Property. At any time prior to December 31, 2035, additional land may be annexed by the Declarant without the consent of the Members and therefore become subject to this Declaration by the recording by Declarant of a plat showing such property to be annexed and of a supplementary declaration extending the operation and effect of this Declaration to the property to be annexed. Any property annexed pursuant to this subsection may be annexed and subjected to this Declaration as one parcel or as several parcels at different times. The addition of such property pursuant to this section may increase the cumulative number of Lots within the Property and therefore, may alter the relative maximum voting strength of the various types of Members. Any Supplemental Declaration may contain such complementary additions and/or modifications of the covenants and restrictions contained in this Declaration, including, without limitation, different voting rights and different annual and special assessments for the Lots so annexed as Declarant, in its sole discretion, may deem necessary or appropriate to reflect the different character or use of the property added. A Supplemental Declaration annexing additional property need only be executed by the Declarant and, if applicable, by the owner of the property being annexed, and shall not require the joinder or consent of the Association or any of its Members.

Section 3. Special Declarant Rights. Declarant reserves the following special declarant rights for the entire Property during the period of Declarant control:

- (a) To complete any and all improvements indicated on the plats and plans;
- (b) To exercise any development right reserved in this Declaration;
- (c) To construct and maintain any sales office, signs advertising the Property or any property which may be added thereto, management office or model on any of the Lots or on any of the Common Area shown on the plat;
- (d) To use easements through the Common Area for the purpose of making improvements within the Property or any property added thereto; to enter upon the subdivision for access, including ingress and egress for both vehicles and pedestrians, to and from any public street; or to connect at Declarant's expense to any street, roadway walkway or other means of access located on the Common Area;
- (e) To create and add Lots, to alter the size of any Lot, combine or merge two or more Lots, to subdivide Lots or other Property into Common Property, to add Common Area, or to extend streets and utilities through Lots;
- (f) To appoint or remove any officer or member of the Association Board during the period of Declarant control;

- (g) To annex any adjacent property developed in conformity with this Declaration;
- (h) To transfer responsibility for any storm water detention ponds or other BMP's affecting the Property to the Association in accordance with the Stormwater Agreement; or
- (i) To remove any portion of the Properties then owned by the Declarant or the Association from the coverage of this Declaration, to the extent originally included in error or as a result of any changes whatsoever in the plans for the Bedford Community, provided such withdrawal is not unequivocally contrary to the overall, uniform scheme of development for the Bedford Community; and
- (j) To approve any supplemental declaration or other declaration of covenants, conditions or restrictions affecting any phase, sub-section or other portion of the Bedford Community; without Declarant's review and consent, such supplement declaration or other declaration of covenants, conditions or restrictions shall be voidable in the sole discretion of Declarant.

Section 4. Utilities Reserved by Declarant.

(a) Declarant reserves the right to subject the Property to a contract with public utility provider(s) for the installation of overhead and/or underground electric cables and/or the installation of street lighting, either or both of which may require an initial payment and/or a continuing monthly payment to such public utility provider by the owner of each Lot. Declarant may devote any Lot or portion thereof, not already sold, for any construction and uses which it, in its discretion, deems necessary in order to provide the subdivision with utilities.

Until December 31, 2045, Declarant reserves, for itself and its employees, agents, successors and assigns, an easement upon and a right of ingress, egress and regress on, over and under the Property for the purposes of constructing and maintaining such roadways, water, sewer, gas storm water drainage and retention, telephone, cable televisions and electric and other utility facilities to the extent required by any applicable governmental entity or deemed by the Declarant to be necessary or convenient for the development, use and enjoyment of the Properties and the Common Area and the conduct of construction, sales and marketing activities. Such right expressly includes the right to cut any trees, bushes or shrubbery, make any grading of the soil, relocate utility facilities within said easement and take any other similar action that its deems reasonably necessary or appropriate. After such action has been completed, Declarant shall grade and seed the affected property and otherwise restore the affected property to its original condition to the extent practicable. Declarant shall have reasonable notice of its intent to take such action to each Owner whose Lot is affected.

Section 5. Utility Easements. Easements for installation and maintenance for utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage, or which may obstruct or retard the flow of water.

Section 6. Easements for Governmental Access. An easement is hereby established over the Common Area and every Lot within the Properties for the benefit of applicable governmental agencies for installing, removing, and reading water meters, maintaining and replacing water and sewer facilities, and acting for other purposes consistent with public safety and welfare, including, without limitation, law enforcement, fire protection, garbage collection and the delivery of mail.

ARTICLE IV  
PROPERTY RIGHTS IN THE COMMON AREA



Section 1. Owners' Easement of Enjoyment in Common Area. Except as limited by the provisions of this Declaration, by the rules and regulations adopted by the Board of Directors of the Association, and any fees or charges established by the Board of Directors of the Association, every Owner shall have a right of easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with the title of every Lot.

Section 2. Delegation of Use.

- (a) Tenants; Contract Purchasers. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated by such Owner to his tenants or contract purchasers who occupy a building within the Properties.
- (b) Guests. The right and easement of enjoyment and access granted to every Owner by Section 1 of this Article may be delegated to guests or invitees of such Owners, tenants or contract purchaser, subject to such rules and regulations as may be established by the Board of Directors.

Section 3. Access Easement. Appurtenant to each Lot is an easement over the private streets and roadways within the Properties for access, ingress and egress from and to public streets and an easement for pedestrian access, ingress and egress over sidewalks and walkways in the Common Area. Any such easement shall be upon such walkways, driveways or other ways as are designated by the Declarant and/or the Association and shall be subject to the terms of this Declaration.

Section 4. Title to Common Area. The Declarant covenants for itself, its successors or assigns, that it shall convey to the Association by limited warranty deed the "Common Area" and "Limited Common Area" prior to or at the end of the Period of Declarant Control. All said parcels of land may be conveyed to the Association subject to: (1) all restrictive covenants of record at that time, including but by no means limited to this Declaration; (2) all existing mortgages; (3) easements reserved by the Declarant herein for special declarant rights; and (4) the Stormwater Agreement.

Section 5. Extent of Owners' Easement. The rights and easements of enjoyment created hereby shall be subject to the following:

- (a) the right of the Association, in accordance with its Bylaws, to borrow money from the Declarant or any other lender for the purpose of improving and/or maintaining the Common Area or Limited Common Area and providing services authorized herein and in aid thereof to mortgage said properties;
- (b) the right of the Association to take such steps as are reasonably necessary to protect the above-described properties against foreclosure;
- (c) the right of the Association to suspend the rights and easements of enjoyment of any Owner, or any tenant or guest of any Owner, for any period during which the payment of any assessment against any Lot owned by such Owner remains delinquent, and for any infraction of its published rules and regulations, it being understood that any suspension for either nonpayment of any assessment or a breach of the rules and regulations of the Association shall not constitute a waiver or discharge of the Owner's obligation to pay the assessment;
- (d) the right of the Declarant or the Association by its Board of Directors to dedicate or transfer to any public or private utility, utility easements on any part of the Common Area or Limited

Common Area; and

- (e) the right of the Association to give, dedicate, sell or exchange all or any part of the Common Area, including leasehold interests, to any public agency, authority, public service district, or private concern for such other purposes and subject to such conditions as may be agreed to by the Members, provided that no such gift or sale or determination as to the purposes or as to the conditions thereof shall be effective unless such dedication, transfer and determination as to purposes and conditions shall be authorized by (i) the Declarant as long as it owns any portion of the Property and (ii) the affirmative vote of three-fourths (3/4) of the votes cast at a duly called meeting of the Association, subject to the quorum requirements established herein and unless written notice of the meeting and of the proposed agreement and action thereunder is sent to every Member of the Association at least thirty (30) days prior to such meeting. A true copy of such resolution together with a certificate of the results of the vote taken thereon shall be made and acknowledged by an officer of the Association and such certificate shall be annexed to any instrument of dedication or transfer affecting the Common Area prior to the recording thereof. Nothing herein shall be deemed to prohibit the Board of Directors of the Association, without the consent of the Members, from granting easements over and across the Common Area or Limited Common Area to any public agency, authority or utility for the installation and maintenance of sewerage, utility (including cable television) or drainage facilities when, in the opinion of the Board, such easements are necessary for the convenient use and enjoyment of properties with the Bedford Community.
- (f) the right of the Association to expand or add to the Common Area and to improve, maintain and operate the Common Area and Limited Common Area;
- (g) the right of the Association to adopt, promulgate and enforce rules and regulations concerning the use of the Common Area and Limited Common Area; and
- (h) the right of the Association to place any reasonable restrictions upon the use of the roadway as shown on the Plat, subject to an Owner's right of ingress and egress, including, but not limited to, the types and sizes of vehicles permitted to use said road, the maximum and minimum speeds of vehicles using said roads, any other necessary traffic and parking regulations and the maximum noise levels of vehicles using said roads; and
- (i) the special Declarant rights reserved herein.

Section 6. Regulation and Maintenance of Common Area, Common Area Easements and Limited Common Area. It is the intent of the Declarant that the Common Area be preserved for the perpetual benefit of the Owners. It is the intent of the Declarant that the Limited Common Area be preserved for the perpetual benefit of the Owners Of Lots 8 and 9 only.

- (a) Regulation of Common Area. The Association may adopt and promulgate rules and regulations governing the use of the Common Area by Owners and their guests and invitees and the Limited Common Area by Owners of Lots 8 and 9. No Owner or other permitted user shall use the Common Area or Limited Common Area or any portion thereof in violation of the rules and regulations contained in this Declaration or subsequently adopted by the Association.

Without limiting the generality of the foregoing, except as specifically provided herein, no Owner or tenant, guest or invitee of an Owner shall, without specific prior written consent of



the Association: (1) damage or waste the Common Area or Limited Common Area or improvements thereon or remove any trees or vegetation therefrom; (ii) erect any gate, fence, structure or other improvement or thing on the Common Area or Limited Common Area; (iii) place any garbage receptacle, trash or debris on Common Area or Limited Common Area; (iv) fill or excavate any part of the Common Area or Limited Common Area; (v) landscape or plant vegetation on Common Area or Limited Common Area; or (vi) use the Common Area or any part thereof in a manner inconsistent with or in any way interfering with the rights of other Owners.

- (b) Rights and Responsibilities of the Lot Owners as to Common Area Easements. Each Owner of a Lot upon which a Common Area easement lies shall pay all property taxes and other assessments levied against his Lot, including that portion of such tax or assessment as is attributable to such Common Area easement.
- (c) Rights and Responsibilities of the Association as to the Common Area. The Association shall have the right and obligation to ensure that the Common Area is preserved for the perpetual benefit of the Owners, and, to that end, shall: (i) maintain the Common Area in its natural or improved state, as appropriate, and keep it free of impediments to its use by the Owners, subject to the provisions of this Declaration; (ii) procure and maintain adequate liability insurance covering the Association and its Members, Directors and officers, against any loss or damage suffered by any person, including the Owner of the Lot upon which Common Area lies, resulting from use of the Common Area, and adequate hazard insurance covering the real and personal property owned in fee by the Association; and (iii) pay all property taxes and other assessments levied against all Common Area owned in fee by the Association.
- (d) Rights and Responsibilities of the Association as to the Limited Common Area. The Association shall have the right and obligation to ensure that the Limited Common Area is preserved for the perpetual benefit of the Owners of Lots 8 and 9, and, to that end, shall: (i) maintain the Limited Common Area as required by the Stormwater Agreement; (ii) procure and maintain adequate liability insurance covering the Association and its Members, Directors and officers, against any loss or damage suffered by any person, resulting from use of the Limited Common Area, and (iii) pay all property taxes and other assessments levied against all Limited Common Area owned in fee by the Association.
- (e) Declarant's and Association's Right of Entry. The Declarant and the Association and the employees, agents, contractors and subcontractors of each, shall have a non-exclusive right and easement at all times to enter upon any portion of a Lot reserved or designated as a Common Area easement for the purposes of making such repairs or improvements to the Common Area or Limited Common Area as may be necessary.

ARTICLE V  
STORMWATER RESPONSIBILITIES AND COVENANTS

Section 1. Covenants. The following covenants are intended to ensure ongoing compliance with State Stormwater Management Permit Number \_\_\_\_\_, as issued by the Division of Energy, Mineral and Land Resources under the Stormwater Management Regulations. The State of North Carolina is made a beneficiary of the covenants in this Article V to the extent necessary to maintain compliance with the stormwater management permit. These covenants are to run with the land and be binding on all persons and parties claiming under them. The covenants pertaining to stormwater in this Article V may not be altered or rescinded without the express written consent of the State of North Carolina, Division of Energy,



Mineral and Land Resources. Alteration of the drainage as shown on the approved plans may not take place without the concurrence of the Division of Energy, Mineral and Land Resources. The maximum built-upon area per Lot, in square feet, is as listed below:

<u>Lot #</u>	<u>BUA</u>
8-9	40,950sf

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, coquina, and parking areas, but does not include raised, open wood decking or the water surface of swimming pools. All runoff from the built-upon areas on the Lot must drain into the permitted system. This may be accomplished through a variety of means, including roof drain gutters, which drain to the street, grading the Lot to drain toward the street, or grading perimeter swales to collect the Lot runoff and directing them into a component of the stormwater collection system. Lots that will naturally drain into the system are not required to provide these measures. The owner of each Lot, whose ownership is not retained by the permittee, is required to submit a separate stormwater permit application to the Division of Energy, Mineral and Land Resources and receive a permit prior to construction. Each Lot will maintain a 30 foot (30') wide vegetated buffer between all impervious areas and surface waters.

Section 2. Operation and Maintenance Agreement. The Stormwater Agreement for the Limited Common Area (Wet Pond 1) is attached hereto as Exhibit A and incorporated herein by this reference.

ARTICLE VII  
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

Section 1. Membership. Every Owner, upon acquiring title to a Lot subject to assessment by the Association, shall be a member of the Association and shall remain a member until such time as his ownership of such Lot ceases for any reason, at which time his membership in the Association shall cease. Each Member shall pay the Assessments provided for in this Declaration when due and shall comply with the Association's decisions. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. Classes of Membership. The Association shall have two (2) classes of voting membership:

- (a) Class A Members. Every person, group of persons, or entity which is a record Owner of a fee interest in any Lot shall automatically be a Class A Member of the Association, except the Declarant during the Period of Declarant Control; provided, however, that any such person group of persons, or entity who or which hold such interest solely as security for the performance of an obligation shall not be a Member. Each Class A Member shall have one (1) vote with respect to each Lot owned by such Member, except as set forth in Section 3 below. In the event that more than one person, group of persons, or entity is the record Owner of a fee interest in any Lot, then the vote for the membership appurtenant to 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. In the event agreement is not reached, the vote attributable to such Lot shall not be cast.
- (b) Class B. Members. The Class B Member during the Period of Declarant Control shall be the Declarant. Declarant shall be entitled to nine (9) votes for each Lot is owns during the Period

of Declarant Control. The Class B Membership shall cease and be converted to Class A membership upon the expiration of the Period of Declarant Control.

Section 3. Declarant's Voting Rights. Until the expiration of the Period of Declarant Control, Declarant shall be vested with the sole voting right of the Association on all matters, including, without limitation, election and removal of directors and officers of the Association.

Section 4. Composition of Board. The Association shall be governed by a Board of Directors as provided for in the By-Laws of the Association. The Declarant shall have the right to appoint and remove all persons on the Board and to appoint and remove all officers of the Association during the Period of Declarant Control.

Section 5. Cumulative Voting Prohibited. Each Owner shall be entitled to as many votes as equals the number of votes he is ordinarily entitled to multiplied by the number of Directors to be elected, but may not cast all of such votes for any one (1) Director and must distribute them among the number to be voted for, and all votes must be cast in whole numbers and not fractions thereof. It is the intent of this Section to prohibit cumulative voting.

Section 6. Voting Rights Suspension. The right of any Class A Member to vote may be suspended by the Board of Directors of the Association for any period during which any assessment against that Class A Member remains unpaid or for any violation of the published rules and regulations of the Master Association.

ARTICLE VIII  
COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Each Owner of a 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 which are Common Expenses; (2) special assessments for extraordinary maintenance, capital improvements, or other extraordinary common charges or expenses; (3) special assessments for purchase, construction or reconstruction of improvements; (4) annual assessments or charges for any Limited Common Area Expense attributable to such Owner; and (5) to the appropriate governmental taxing authority, a pro rata share of assessments for public improvement to the Common Area (and Limited Common Area, if attributable to such Owner) if the Association shall default in payment thereof. All assessments, together with interest and late charges set forth in the Article and all costs and reasonable attorney's fees for collection, shall be a charge and continuing lien upon the Lot against which each such assessment is made. Each such assessment or charge, together with interest, fees, costs and reasonable attorney's fees, shall also be the personal or corporate obligation of the person(s), firm(s) or corporation(s) owning such Lot at the time when the assessment fell due. The personal obligation for the delinquent assessments shall not pass to his successors in title unless expressly assumed by them; however, the unpaid assessments and charges shall continue to be a lien upon the Lot against which the assessment or charge was made.

The Association shall also have the authority, through the Board of Directors, to establish, fix and levy a special assessment on any Lot to secure the liability of the Owner thereof to the Association arising from breach by such Owner of any of the provisions of this Declaration which breach shall require the expenditure of time and money or both, by the Association for repair or remedy.

Each Owner covenants, for himself, his heirs, successors and assigns, to pay each assessment levied by the



Association on the Lot described in such conveyance to him within ten (10) days of the due date as established by the Board, and further covenants that if said assessment shall not be paid within thirty (30) days of the due date, the payment of such assessment shall be in default and the amount thereof become a lien upon said Owner's Lot as provided herein and shall continue to be such lien until fully paid.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the acquisition, improvement and maintenance of and for the use and enjoyment of the Common Area and Limited Common Area, including but not limited to, the cost of repairs, replacements and additions, the cost of labor, equipment, materials, management and supervision, the payment of taxes and public assessments assessed against the Common Area or Limited Common Area, the procurement and maintenance of insurance in accordance with this Declaration, the employment of counsel, accountants, managers, engineers, security personnel, and other professionals for the Association when necessary, the payment for maintenance and operation, under the Stormwater Agreement and for street lights, if any; the payment of any assessments due pursuant to the Master Declaration; and such other needs as may arise.

Section 3. Regular Assessments; Initial Contribution to Working Capital; Fine Assessments. The regular assessment shall be as established by the Board of Directors and be payable quarterly, semi-annually, or annually as the Board may decide. Such assessment for each Lot shall commence at the time of the first conveyance of a Lot (the "First Sale"). In addition, each Lot shall be assessed a one time or initial contribution to working capital fee of \$150.00 at the time of the closing of the First Sale. This one-time fee shall not be considered an advance of the regular or annual assessment.

Beginning January 21, 2018 and during the Period of Declarant Control, the Board of Directors shall adopt an annual budget and fix the annual assessment.

After the Period of Declarant Control expires, the Board of Directors shall adopt a proposed budget at least annually. Within 30 days after adoption of the proposed budget, the Board of Directors shall send a copy of the proposed budget and shall give written notice to the Members of a meeting of the Members to consider ratification of the budget, such meeting to be held not sooner than 10 days nor more than 60 days after the mailing of such notice. Such meeting may, but need not be, combined with the annual meeting of the Members. There shall be no requirement that a quorum be present in order to vote on ratification of the budget. The budget shall be deemed ratified unless at that meeting Members having a majority of the votes of the entire membership vote to reject the budget. Notwithstanding the forgoing, if the budget provides for annual assessments not greater than 10% larger than the assessment in effect for the immediately preceding year, such budget shall be deemed ratified unless Members having at least 80% of the votes of the entire membership vote to reject the budget. If the proposed budget is rejected, the budget last ratified by the Members shall be continued until such time as the Members ratify a subsequent budget proposed by the Board.

Any annual assessment ratified by the Members shall continue thereafter from year to year as the annual assessment until changed by the Board and ratified by Members as set forth herein.

In addition, the Board of Directors, or any adjudicatory panel established by the Board, may levy a reasonable Fine Assessment as a fine or penalty for violation of this Declaration. In addition, the Board may enact additional fees for late payments, fees for providing written assessment certificates setting forth all current and delinquent assessment charges, and fees to transfer ownership of a Lot upon the Association's records.

Section 4. Special Assessments for Capital Improvements. In addition to the regular and fee assessments authorized above, the Board may levy, in any assessment, year, a special assessment for the purpose of defraying, in whole or in part the cost of any construction, reconstruction, restoration, repair



or replacement of a capital improvement upon the Common Area or Limited Common Area, any extraordinary maintenance or other expense, including fixtures and personal property related thereto and any property for which the Association is responsible provided that any such assessment shall have the assent of Members as provided in Section 3 above.

Section 5. Replacement Reserve. Out of the Common Expenses assessment, the Board may create and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Common Area which the Association may be obligated to maintain. Out of the Limited Common Area Expense assessment, the Board may create and maintain a reserve fund for the periodic maintenance, repair, and replacement of improvements to the Limited Common Area which the Association may be obligated to maintain.

Section 6. Individual Assessment. In the event that the need for maintenance, repair or replacement of any improvement on the Property, for which the Association has the maintenance, repair and/or replacement obligation, is caused through the willful or negligent act of an Owner, his tenant or his guest, the cost of such maintenance, repairs or replacements shall be paid by such Owner. The Board shall have the maintenance, repair, or replacement done, and the cost thereof shall be provided by the Board to said Owner and shall be paid by said Owner within thirty (30) days thereafter, unless an earlier date is otherwise set forth therein.

Section 7. Date of Commencement of Assessments; Due Dates. Assessments shall not commence until the First Sale as set forth in Section 3(b) above. 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.

Section 8. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within ten (10) days after the due date shall be delinquent, in default and shall incur such late charge as the Board of Directors may from time to time establish, and if not paid within thirty (30) days after the due date, shall also bear interest from the due date at the rate of eighteen percent (18%) per annum or at such other reasonable rate set by the Association in its minutes, not to exceed the highest rate then permitted by North Carolina law. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same plus interest, costs, late payment charges and reasonable attorneys' fees, and/or foreclose the lien against the Lot for which such assessment is due. Interest, late payment charges, reasonable attorneys' fees and the costs of such action or foreclosure shall be added to the amount of such assessment. 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.

The lien herein granted unto the Association shall be enforceable pursuant to Chapter 47F of the Planned Community Act of North Carolina ("PCA") from and after the time of recording a Claim of Lien in the Office of the Clerk of Superior Court in the County in which the Lot is located in the manner provided therefore by the PCA, which claim shall state the description of the Lot encumbered thereby, the name of the record owner, the amount due and date when due. The claim of lien shall be recordable any time after thirty (30) days after the due date of the assessment or any installment thereof and the lien shall continue in effect until all sums secured by said lien as herein provided shall have been fully paid. Such claims of lien shall include all assessments which are due and payable when the claim of lien is recorded, plus interest, costs, attorneys' fees, advances to pay taxes and prior encumbrances and interest thereon, all as above provided. Such claims of lien shall be signed by an officer or agent of the Association. In any foreclosure action, the Association shall be entitled to become a purchaser at the foreclosure sale. Upon full payment of all sums secured by such claim of lien, the same shall be satisfied of record.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any institutional first mortgage on said Lot. 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 assessments as to payments which became due prior to such sale or transfer, but shall not abate the personal obligation of the prior owner. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. Any property dedicated to, and accepted by, a public authority and any property owned by the Association shall be exempt from the assessments created herein.

Section 11. Miscellaneous.

- (a) An Owner has the sole responsibility of keeping the Association informed of the Owner's current address if different from the Lot owned. Otherwise, notice sent by the Association to the Lot is sufficient for any notice requirement under this Declaration.
- (b) The lien under this Article arises automatically and no notice of lien need be recorded to make the lien effective.
- (c) Any assessment otherwise payable in installments shall become immediately due and payable in full without notice upon default in the payment of any installment. The acceleration shall be at the discretion of the Board.
- (d) The Association shall have the right in its discretion to contract with a professional property management agency for the purposes of managing its affairs on behalf of the subdivision.

ARTICLE IX  
USE RESTRICTIONS

Section 1. Land Use and Building Type. All lots shall be used for commercial, professional and retail purposes only. No structure shall be erected, placed, altered, or permitted to remain on any such lot unless they are constructed in harmony with the construction standards, external design, color and architectural scheme as the other buildings in the development and within the general architectural design and construction standards used in the other buildings in the development. No building with metal siding is allowed on the Property.

Section 2. Prohibited Uses. The following uses shall be prohibited:

- (a) Any use which emits an obnoxious odor, noise or sound which can be heard or smelled outside of any building on the Property;
- (b) Any operation primarily used as a storage warehouse operation, construction equipment rental operation that requires outdoor storage, or any operation with an outdoor display or outdoor storage of building materials;
- (c) Any automobile, truck, trailer or recreational vehicle sales, leasing, display or body shop repair operation;
- (d) Any animal breeding or raising facilities except that this prohibition shall not prohibit pet shops, nor shall it prohibit such pet shops from operating an ancillary veterinary clinic, provided, however, that in no event shall such pet shop be permitted to board overnight animals other than those offered for sale; and a veterinary clinic shall be permitted with overnight boarding of dogs, cats, or other small animals

so long as the animals are kept inside the clinic so that they do not create noises or odors that can be noticed from outside the building;

(e) Any establishment selling or exhibiting pornographic materials or drug related paraphernalia;

(f) Any flea market, pawn shop, pool or billiard hall [unless part of a national or regional sports bar/restaurant with at least fifty percent (50%) of sales from food], tattoo parlor (including any body piercing facilities), vape shop, arcade, or dance hall, including any establishment featuring nude, topless or partially clad dancing;

(g) Any gambling facility or operation including but not limited to, Internet gambling, off-track or sports betting parlor; table games such as blackjack or poker, slot machines, video poker, blackjack, keno machines or similar devices, or bingo hall;

(h) Any nightclub or discotheque; provided, however, this prohibition shall not be applicable to any nightclub or discotheque (not to exceed 2,000 square feet) located at a hotel/motel on the Property building primarily for use by hotel guest;

(i) Any massage parlor unless operated by a national or regional operation such as Massage Envy or Hand and Stone;

(j) Any amusement or recreational facility; provided that national or regional spas, gyms or health clubs are permitted; provided that all parking shall be limited to their parcel or premises as defined in sales or lease documents that have been reviewed and approved by Declarant.

ARTICLE X  
RIGHTS AND RESPONSIBILITIES OF THE ASSOCIATION

Section 1. Responsibilities. The Association shall be responsible for the following services:

- (a) Exclusive management, control, and maintenance of the Common Area and Limited Common Area and shall keep both in good, clean and proper condition, order and repair, whether or not title to same has been formally conveyed to the Association; including, without limitation, streets and roadways, landscaping, storm water structural controls and BMPs under the Stormwater Agreement, wet detention basins and other facilities located on the Common Area or Limited Common Area;
- (b) Payment of all costs, charges and expenses incurred in connection with the operation, administration and management of the Common Area and Limited Common Area and the performance of the services necessary or desirable in the judgment of the Board of Directors of the Association to carry out the Association's obligations and business under the terms of this Declaration;
- (c) Taking any and all actions necessary to enforce all covenants and restrictions affecting the Property, and to perform any of the functions or services delegated to the Association in any covenants or restrictions applicable to the Property, including but not limited to fining Owners for violating same or for not properly maintaining their Lot;
- (d) Constructing improvements on Common Area or Limited Common Area for any of the purposes or as may be required to provide the services as authorized in this Article;



- (e) Provision of administrative services including but not limited to insurance, legal, accounting and financial, and communication services informing Owners of activities, notice of meetings, referendums, etc., incident to the above-listed services, and payment of taxes and other expenses; and
- (f) Any other services necessary to perform its obligations hereunder.

The powers of the Association shall be construed liberally and shall include, without limitation, all of the powers set forth in Section 47F-3-102 of the Planned Community Act.

In the event the Association is unable or unwilling to perform any of the services listed above in a manner satisfactory to the Declarant, the Declarant shall be and hereby is authorized to perform such services, at the Association's expense, as long as such expenses are reasonable and necessary to carry out the Declarant's obligations under this Declaration; provided, however, that the Association shall not be obligated to take action to enforce any covenant, restriction or rule which the Board reasonably determines is, or is likely to be construed as, inconsistent with applicable law, or in any case in which the Board reasonably determines that the Association's position is not strong enough to justify taking enforcement actions. Any such determination shall not be construed as a waiver of the right to enforce such provisions under other circumstances or to estop the Association from enforcing any other covenant, restriction or rule.

Section 2. Manager. The Association may employ and pay for the services of a person or entity, including the Declarant (the "Manager") to assist the Association in managing its affairs and carrying out its responsibilities hereunder and such other persons or entities, including attorneys and accountants, as the Association deems necessary or advisable, whether such persons or entities are engaged, furnished or employed by the Manager or directly by the Association. The Association may enter into a Management Agreement for such management services upon such terms as the Board of Directors may deem appropriate. The payment of management fees due to the Declarant may, at Declarant's option, be deferred until such later date as Declarant, in its sole discretion, deems appropriate. Furthermore, any management fees due to Declarant may, at Declarant's option, be credited against any assessments due or to be coming due from Declarant.

Section 3. Mortgage and Pledge. The Board of Directors of the Association shall have the power and authority, to borrow money for use by the Association and to mortgage the property of the Association and to pledge the revenues of the Association as security for such loans made to the Association which loans shall be used by the Association in performing its authorized functions. The Declarant may, but shall not be obligated to, make loans to the Association, subject to approval by the Declarant of the use to which such loan proceeds will be put and the method by which such loans will be repaid and subject to a maximum of loan amount approved by the Declarant, at interest rates acceptable to the Declarant. Notwithstanding anything in this Declaration to the contrary, the Association shall not be allowed to reduce the limits of the minimum regular annual assessment at any time there is outstanding any amounts due the Declarant as repayment of any loans made by the Declarant to the Association.

#### ARTICLE XI DURATION AND AMENDMENT

The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, the Declarant or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a period of twenty-five (25) years from the date this Declaration is recorded. Upon the expiration of said twenty-five-year period this Declaration shall be automatically renewed and extended for successive ten-year periods unless

terminated or amended by a vote of the Owners. During the Period of Declarant Control, this Declaration may be amended by the Declarant, without the consent or joinder of any other Owner or the Association. Any such amendment shall be effective upon recording of same in the applicable public registry for Hoke County, North Carolina. Otherwise, this Declaration may be amended as set forth in N.C.G.S. §47F-2-117 except that neither the Association nor the Owners may amend this Article IX to diminish or remove Declarant's powers hereunder.

ARTICLE XI  
ENFORCEMENT, SEVERABILITY AND INTERPRETATION

Section 1. Means of Enforcement. Enforcement of these Covenants shall be by any proceeding at law or in equity, whether it be to restrain violation or to recover damages or to create any lien created by these Covenants.

Section 2. Severability. Should any covenant or restriction herein contained, or any Article, Section, paragraph, sentence, clause, phrase or term in this Declaration be declared to be void, invalid, illegal, or unenforceable for any reason by the adjudication of any court or other tribunal having jurisdiction over the parties hereto and the subject matter hereof, such judgment shall in no wise affect the other provisions hereof which are hereby declared to be severable and which shall remain in full force and effect.

Section 3. Interpretation. In all cases, the provisions of this Declaration shall be given that interpretation of construction which will best result in the consummation of the general plan of development of the Property. The provisions of these Covenants shall be given full force and effect notwithstanding the existence of any zoning or similar ordinance which allows a less restricted use of the Property.

Section 4. Authorized Action. All action which the Association is allowed to take under this instrument shall be authorized actions of the Association if approved by the Board of Directors of the Association in the manner provided for in the By-Laws of the Association, unless the terms of this instrument provide otherwise.

Section 5. Trespass. Whenever the Association, and/or the Declarant are permitted by these Covenants to correct, repair, clean, preserve, clear out or do any action on any property or on the easement areas adjacent thereto, entering the property and taking such action shall not be deemed a trespass.

Section 6. Conflict. In the event of any conflict between the provisions of this Declaration and any applicable provisions of the Hoke County Code of Ordinances, the provisions of the Hoke County Code of Ordinances shall control.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed the day and year first above written.

[SIGNATURES CONTINUED ON NEXT PAGE]

H&M BEDFORD LLC, a Delaware limited liability company

By: [Signature]  
Name:  
Title: Manager

STATE OF NORTH CAROLINA

COUNTY OF CUMBERLAND

I certify that the following person(s) personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Name of Principal: D. Ralph Huff III

Date: 30 May 2017

[Signature]  
Notary Public

Jill Riley  
Printed or Typed Name of Notary Public

My commission expires: 8-3-2020

(Affix notarial stamp or seal)





**WRITTEN CONSENT  
OF  
DECLARANT**

**APPOINTMENT OF BOARD OF DIRECTORS  
BEDFORD COMMERCIAL OWNERS ASSOCIATION, INC.**

Pursuant to its authority as the "Class B Member" of the commercial section of the Bedford planned community located off Raeford Road/ US Highway 401, Hoke County, North Carolina (said authority contained in that certain Declaration of Covenants, Conditions, and Restrictions for Bedford Commercial West, recorded in Book 1195, Page 257, as amended, Hoke County, NC Registry), H&M Bedford LLC, a Delaware limited liability company (the "Declarant"), does hereby adopt the following resolution by signing its written consent hereto:

**APPOINTMENT OF NEW BOARD OF DIRECTORS**

RESOLVED, that the following three (3) persons are hereby appointed as the new board of directors of Bedford Commercial Owners Association, Inc., said persons to continue to serve in such capacity during the Period of Declarant Control until the undersigned Declarant shall decide otherwise:

D. Ralph Huff, III  
Patrick J. McKee  
Jill Riley

RESOLVED, that in conjunction with the appointment of the new directors, all prior directors are hereby removed from office; and the above-named three (3) individuals shall comprise the entire board of directors from and after the date hereof, until the undersigned Declarant shall decide otherwise.

RESOLVED, that D. Ralph Huff, III shall be the chairman of the board, until the undersigned Declarant shall decide otherwise.

[Signature Page Attached Hereto]

This Written Consent of Declarant is effective as of the 22<sup>nd</sup> day of December, 2017.

**DECLARANT:**

**H&M BEDFORD LLC**

By: Ralph Huff Holdings, LLC, Member/ Manager

By: 

D. Ralph Huff III  
Member/ Manager