

PUBLIC OFFERING STATEMENT

NAME OF CONDOMINIUM: BIRCH CREEK II CONDOMINIUMS
ADDRESS OF CONDOMINIUM: Birch Creek Drive, Wilmington, NC
NAME OF DECLARANT: Birch Creek Partnership, an North
Carolina Limited Partnership
ADDRESS OF DECLARANT: 201 N. Front Street, Suite 901,
Wilmington, NC 28401

This Public Offering Statement presents information regarding Condominium Units being offered for sale by the Declarant. North Carolina law requires that a Public Offering Statement must be given to every purchaser before he or she signs a contract for purchase of a Condominium Unit in order to provide full and accurate disclosure of the significant features of the Condominium Units being offered. The Public Offering Statement is not intended, however, to be all inclusive. The purchaser should consult other sources for details not covered by the Public Offering Statement.

Under North Carolina law, a purchaser of a Condominium Unit is afforded a seven (7) day period during which he or she may cancel the contract of sale and obtain full refund of any sums deposited in connection with the contract. The seven (7) day period begins running on the contract date, and no conveyance of the Condominium Unit pursuant to the contract to purchase may occur until after the seven (7) day period has expired. If the purchaser elects to cancel, he or she must deliver notice of cancellation by hand or by United States mail.

BIRCH CREEK II CONDOMINIUMS
PUBLIC OFFERING STATEMENT

INTRODUCTION

This Public Offering Statement consists of two parts, a narrative portion and an exhibit portion. The narrative portion is intended to present significant information about the condominium to the prospective purchaser. The exhibits include legal documents which have been prepared for the creation and operation of the condominium. All of the Declarant's sales and other representatives are prohibited from changing any of the terms and conditions of this Public Offering Statement or the legal documents or features of the condominium or attempting to interpret their legal effect.

A. THE CONDOMINIUM CONCEPT

The term "Condominium" refers to a form of property ownership. Condominium ownership is a form of ownership which, in effect, combines two older forms of ownership. Just like the owner of a detached single-family home, the Condominium Unit Owner is the sole owner of fee simple title to his or her home, and that portion of the building which comprises his or her living quarters (called the "Unit"). In addition, the Unit Owner is one of many mutual owners of common facilities which service his or her and others' living quarters and of common areas which the Unit Owner may use and enjoy along with the owners of other Units. The property owned in common

is called the "Common Elements" or "Common Areas and Facilities" with each Unit Owner's share of ownership set forth in the "Declaration" which creates the Condominium. The Declaration and Plats and Plans are recorded to create the Condominium, and the Declaration, Plats and Plans, Bylaws and Rules and Regulations are called the "Condominium Documents." The ownership share in the Common Areas and Facilities is an undivided interest, which means that a Unit's interest in the Common Areas and Facilities cannot be sold separately from the Unit. No Unit owner owns all of a particular Common Areas and Facilities; rather, all Unit Owners own an undivided interest in all Common Areas and Facilities. Further, in this Condominium, the undivided interest is expressed as a percentage and is known as an "Allocated Interest." The ownership of an Allocated Interest also gives the Unit Owner the right to participate in the control of all Common Areas and Facilities (subject to Declarant's reserved rights of control as set forth in the Condominium Documents), and imposes upon the Unit Owner the obligation to pay a defined share of the expenses of operating and maintaining all of the Common Areas and Facilities. It is the ownership of an undivided interest in the Common Elements which distinguishes Condominium ownership from other forms of property ownership.

(a) Common Elements of Common Areas and Facilities. The Common Elements, and Common Areas and Facilities as used interchangeably, are all portions of the Condominium which are not included within the Units. The Common Areas and Facilities include

the land, the building structures which support, enclose or service the Units, the parking facilities other than garages, grounds and other community facilities.

(b) Limited Common Elements. Certain Common Elements are designated as "Limited Common Elements." Like all Common Areas and Facilities, each Limited Common Element is owned by all of the Unit Owners in proportion to their respective percentage interest in the Common Areas and Facilities. What makes it "Limited" is that it is reserved for the exclusive use of one or more (but less than all) of the Unit Owners, to the exclusion of the rest of the Unit Owners. In addition to the Limited Common Elements already assigned to various Units (such as courtyards, balconies, patios, driveways), there are Common Elements which may subsequently be assigned as Limited Common Elements (such as parking spaces).

B. DESCRIPTION OF THE CONDOMINIUM

1. General Description. The site consists of approximately 8 acres located in Wilmington, North Carolina. Phase 1 of Birch Creek II Condominiums consists of approximately 1.7 acres upon which the Declarant has constructed two (2) residential buildings which contains a total of five (5) Units. Two (2) of the Units are two story townhouse type Units and the other three (3) Units are one story patio home type Units. The two story Units contain three (3) bedrooms. The one story Units contain two (2) bedrooms. The Declarant is allowed under the current zoning regulations and subdivision approvals to build up to one hundred and two (102)

additional residential Units in the areas which are marked "FUTURE DEVELOPMENT" on the Plats and Plans of the Condominium. Declarant now anticipates building an additional twenty-seven Condominium Units, however, Declarant makes no assurances, warranties or representations that he will build only twenty-seven (27) additional Units or that any of the property marked "FUTURE DEVELOPMENT" on the Plats and Plans will be subjected to Birch Creek II Condominiums.

Construction is frame and wood, vinyl siding and stucco exterior with a first floor concrete slab floor system and, if applicable, a wood joist second floor system. The roofing material is asphalt shingle. No recreational amenities are currently contemplated by the Declarant. However, Declarant may build recreational facilities, including, but not limited to, walking trails, a small park and other related facilities, but Declarant is not required to do so and gives no assurances of same. If additional residential buildings are built there will be a minimum of two parking spaces per Unit, including garage parking spaces. All of the Units which may be created will be restricted exclusive to residential use except that Declarant may reserve one or more Units for models or sales offices in conjunction with the sale of Condominium Units in Birch Creek II Condominiums.

2. Declarant's Development Schedule; Development Rights.

The Declarant has created five (5) Condominium Units in the residential buildings already constructed. Declarant is allowed to create up to one hundred and two (102) additional Units under

current Zoning and Subdivision Review Committee approvals. Declarant now anticipates building an additional twenty-seven (27) Condominium Units, however, Declarant makes no assurances as to same. No more than seventeen (17) Units per acre of land will be created in the Condominium.

(a) Declarant's Right to Add Units; Assurances. The Declarant intends to build the additional buildings and create up to one hundred and two (102) additional Units in the Condominium, and the Declarant has retained the right to add these Units to the Condominium within ten (10) years following creation of the Condominium. While the Declarant intends to add the Units as planned, the Declarant makes no assurances as to what buildings, Limited Common Elements or other improvements may be constructed as a part of this Condominium. Declarant may, in its sole discretion, complete only one Phase of the Condominium and use or improve the additional area, which is labeled "FUTURE DEVELOPMENT" on the Plats of the Condominium, in any manner that it deems advisable or desirable. No warranties are given either express or implied that Declarant will dedicate or subject the areas marked "FUTURE DEVELOPMENT" on the Plats of this Condominium, to Birch Creek II Condominiums.

If buildings or other improvements are constructed by Declarant, Declarant makes no assurance as to the location or size of such buildings or other improvements, but such buildings or other improvements will be reasonably compatible in architectural

style and quality of construction with buildings and other improvements already constructed. If additional Units are created, Declarant may also create Limited Common Elements such as stoops, decks, porches, balconies, patios, courtyards, heating and cooling apparatus, parking and other elements which can appropriately be designated as Limited Common Elements. Such Limited Common Elements, if created, may be of the same general types and sizes as the existing Limited Common Elements already constructed and in approximately the same proportion to Units as the proportion of Limited Common Elements to Units already constructed, but Developer may, in its discretion, develop the limited common areas in some other manner.

The percentage of the undivided interest in the Common Elements allocated to each Unit is based on the heated living area of each Unit as compared to the heated living area of all of the Units in the Condominium. For the purpose of this calculation, the floor area of the basements, attics, garages and porches (either open or closed) are not to be counted. Each Unit in the Condominium will share equally in the liability for Common Expenses in proportion to their ownership interest in common areas and each Unit shall have a vote proportionate to their ownership interest in common areas. The maximum extent to which the percentage interests in the Common Elements, the percentage interest in the liability for common expenses, and the vote of each Unit will be changed will be determined by the size of the Units that are added.

All restrictions in the Declaration affecting use, occupancy, and alienation of Units will apply to any of the additional Units created by the Declarant.

(b) Declarant's Right to Withdraw Land; Assurances. The Declarant has reserved the right to withdraw real estate from the Condominium in the locations shown as "FUTURE DEVELOPMENT" on the Plats and Plans. Any portion so designated may be withdrawn, except that no part of a portion so designated may be withdrawn after a Unit in that portion has been conveyed to a purchaser. Withdrawal of real estate from the Condominium will not change any Unit's Allocated Interests.

C. PRINCIPAL CONDOMINIUM DOCUMENTS

A number of documents will create and govern the operation of the Condominium. These documents include the Declaration, the Articles of Incorporation and the Bylaws. Copies of these documents are attached to this offering statement as Exhibits "A" through "C".

D. FINANCIAL MATTERS

1. Common Expense Assessments; the Association Budget. The Unit Owners will be assessed to obtain the funds necessary to meet the budget of the Association. Annual assessments will be established prior to the beginning of each fiscal year and will be payable on a monthly or quarterly basis at the discretion of the Homeowners Association. If payable monthly, on the first day of each month each Unit Owner will pay an installment of one-twelfth (1/12) of the amount of the annual assessment. If payable

quarterly, then on the first day of every quarter Unit Owner will pay an installment of one-fourth (1/4) of the amount of the annual assessment. Initially the assessment will be paid on a quarterly basis.

The amount of the Common Expenses assessed against each Condominium Unit will be based on the percentage share of Common Expenses appertaining to the Unit. Each Unit Owner will be responsible for payment of that percentage of the total annual budget of Common Expenses which is equal to the percentage share of Common Expenses appertaining to his Unit. Assessments for Limited Common Elements may be either on the basis of the Unit's Allocated Interest or a uniform basis. A more detailed description of the method for determining the basis of assessments for Limited Common Elements may be found in the Declaration. The Declarant shall be deemed a "Unit Owner" and shall pay proportionate Common Expenses but only as to those Units which are completed and to which title has not been conveyed to an individual owner.

The budget will cover anticipated Common Expenses for the upcoming fiscal year. The budget will also include whatever amount the Board of Directors considers necessary as an adequate reserve to provide for unforeseen contingencies, working capital and repair or replacement of Common Areas and Facilities.

Declarant has prepared a budget for the first year of the Condominium's operation. A copy of the budget is attached to this Public Offering Statement as Exhibit "D". The budget figures are, of course, estimates and the Declarant cannot be certain that

sufficient funds have been budgeted to cover all Common Expenses that may be incurred. The Declarant believes that the figures represent the best estimates obtainable; because actual expenditures may differ from estimated expenditures, due to possible changes in the future income or expenses of the Condominium, the rate of addition of Units to the Condominium or other variable factors, such estimates are not intended or considered guarantees of any kind whatsoever. The assumptions made and methods used in preparing the estimates are set forth in the notes to the budget.

2. Service Not Reflected in the Budget. The Declarant is not providing any services or paying any expenses with regard to the Condominium as described in the Declaration that it anticipates to be a Common Expense of the Association at any subsequent time. However, the Declarant is paying, pursuant to Section 47C-3-115(a) of the Condominium Act, all the Common Expenses until the Association makes a Common Expense assessment as well as the Expenses attributable to the real property subject to Development Rights. Upon exercise, expiration or termination of the Development Rights, the expenses in connection with such real property in the Condominium will become a liability of the Association or the individual owners.

3. Initial Working Capital Contribution and Prepaid Assessments. Each initial purchaser of the Condominium Unit in Birch Creek II Condominium is required to make at closing an initial capital contribution to the Association's Working Capital Fund. The initial capital contribution shall be \$100.00. Additionally, each initial purchaser is required to prepay at closing

an amount equivalent to three (3) months' budgeted assessments. This amount shall not be prorated for any portion of the assessment. However, the Unit Owner will be given a credit for payment of three (3) months' assessments. These payments are required so that the Association will have available sufficient money for three major purposes: first, to pay for initial equipment, supplies, organizational costs and other start-up costs at the beginning of the life of the Association; second, to provide an immediate fund of cash at the beginning of the Association's operations to pay bills for such items as insurance premiums payable for the entire year when an entire year's assessments necessary to fund such premiums have not yet been collected; and third, to partially defray the higher Unit costs that occur in the early stages of the Association's business life. As the project nears completion (and Units are added to the Condominium), the per Unit cost of many items tends to decrease and the regular assessments should be sufficient for normal operational costs as the costs are spread among larger numbers of Unit Owners. Also, the Working Capital Funds, if not otherwise expended, can provide additional reserves which may be set aside for unexpected expenditures to insure that the Association starts out on a solid financial foundation. The initial capital contribution is not an escrow or advance and is not refundable.

E. ENCUMBRANCES

1. Utility Easements. The land is subject to the utility easements shown on the Condominium Plats and Plans, if any, and the following recorded utility easements:

(i) Easement to City of Wilmington recorded in Book 1405, Page 492 of the New Hanover County Registry.

(ii) Right-of-way easement to Southern Bell recorded in Book 1203, Page 1039 of the New Hanover County Registry.

(iii) Easement to Carolina Power & Light recorded in Book 1190, Page 1166 of the New Hanover County Registry.

These easements include the usual easements for telephone, electric, sewer, gas and water pipes, wires and service lines.

2. Liens. The Condominium is not presently subject to the lien of a Deed of Trust. Developer may obtain financing for future development which may be secured by the lien of a Deed of Trust on any of the property which is subject to future developments. If that is the case, the lien of that Deed of Trust will be released on any Condominium Unit to be conveyed. Each Condominium Unit will be conveyed to a purchaser free of any liens other than those placed by the purchaser.

3. Defects Affecting Title. The Declarant is unaware of any defects affecting title to the Condominium.

4. Zoning. The site which is now, or as Declarant exercises its development rights may become, a part of Birch Creek II Condominiums is currently zoned Residential Multi-Family Medium Density. This district is established for moderate density, single family and multiple family development of varying types and designs. Under the New Hanover County Zoning Ordinance a maximum of 17.4 housing units per acre may be built on the subject tract. Permitted uses of property which is zoned multi-family medium

density residential include duplexes, triplexes, garage apartments, multiple family buildings, parks and recreation areas, and recreation facilities.

F. WARRANTIES PROVIDED BY DECLARANT

The only warranties being provided by the Declarant are those implied warranties expressly set forth as applicable to the sales of a Condominium Unit in Section 47C-4-114 of the Condominium Act. These warranties include implied warranties that the premises are free from defective materials, constructed in a workmanlike manner, constructed according to sound engineering and construction standards and that the premises may be used for a particular purpose. No such warranty shall extend to future performance or duration of any improvement or component of the Condominium. No implied warranty shall extend to or inure to the benefit of any subsequent purchaser of the Unit. The Declarant gives no warranty with respect to consumer products or appliances sold with the Unit. However, the Declarant will transfer to the Unit Owner at closing any manufacturer's warranty on equipment or appliances sold with the Unit if such warranty has been provided to Declarant by the manufacturer thereof, is of continuing validity at closing, and is assignable.

G. BUYER'S RIGHT TO CANCEL

A Purchaser or his or her spouse must receive a copy of the Public Offering Statement and all amendments thereto before a contract to purchase the Unit may be executed. No conveyance pursuant to the contract to purchase may occur until seven (7) calendar days following execution of the contract. A purchaser has

the absolute right to cancel the contract at any time during this seven (7) calendar-day period. Cancellation is without penalty, and all payments made by the purchaser before cancellation shall be refunded promptly. If a purchaser elects to cancel a contract, he may do so by hand-delivering notice thereof to the offeror or by mailing notice thereof by prepaid United States mail to the offeror or to his agent for service of process.

H. LITIGATION INVOLVING THE ASSOCIATION OR THE CONDOMINIUM

The Declarant has no knowledge of any unsatisfied judgment or pending suit against the Association or of any pending suit material to the Condominium.

I. ESCROW DEPOSITS

All deposits made in connection with the purchase or reservation of a Condominium Unit from the Declarant shall be held in an account in a financial institution in the State of North Carolina for such period of time as the purchaser is entitled to cancel under Section 47C-4-108 of the Condominium Act or until cancellation by the purchaser thereunder, whichever occurs first. The escrow deposit may be held in an interest bearing account. If such deposits are held in an interest bearing account, the interest which accrues shall be the property of purchaser in accordance with the terms of the Purchase Agreement Contract, a copy of which is attached hereto and incorporated herein fully by reference.

J. RESTRICTIONS ON TRANSFER

There are no restrictions on the transfer or resale of the Condominium Unit by the Unit Owner. Leasing of Units is subject, however, to certain restrictions. No Unit may be leased or rented

for a term of less than sixty (60) days. No Unit may be used or rented for transient, hotel or motel purposes. All leases of a Unit shall be deemed to include a provision that the tenant will recognize and attorn to the Association as landlord, solely for the purpose of having the power to enforce a violation of the provisions of the Condominium Documents against the tenant, provided the Association gives the landlord notice of its intent to so enforce, and a reasonable opportunity to cure the violation directly, prior to the commencement of an enforcement action. No Unit may be conveyed pursuant to a time-sharing plan.

K. INSURANCE

The Executive Board will obtain insurance to protect the Association and, to a certain limited extent, the Unit Owners as individuals. The buildings, including the Units, will be covered by fire and property damage insurance. The coverage will be "all risk" and in an amount equal to the full replacement cost of the buildings, subject to certain "deductible" limits. This coverage will not insure personal property belonging to a Unit Owner and may not cover any improvements or betterments to a Unit made by a Unit Owner.

The Association and the Unit Owners will be insured against liability arising from ownership or use of the Common Elements. This coverage will not insure Unit Owners against liability arising from an accident or injury occurring within a Unit or a liability arising from the willful or negligent act or omission of a Unit Owner. The Executive Board will also maintain appropriate fidelity coverage to protect against employee dishonesty.

The Declarant strongly recommends that each Unit Owner obtain insurance coverage on his or her personal property and liability exposure not covered by the Association policy. The Unit Owner may also wish to insure any improvements to his or her Unit to the extent that the improvements increase the value of his or her Unit beyond the limit of coverage provided by the policy maintained by the Association.

L. FEEES OR CHARGES FOR USE OF THE COMMON ELEMENTS

The Board of Directors has the authority to impose charges for the use, rental or operation of Common Elements, other than certain Limited Common Elements.

M. ZONING

All zoning, site plan and other governmental regulations have been satisfied, as applicable to the Condominium. The Declarant knows of no violations of such regulations. Non-conforming uses may exist, however, due to amendments to such regulations adopted after construction of the Condominium. Such non-conforming uses are permitted by applicable law.

N. CONVEYANCE OF THE COMMON ELEMENTS

Portions of the Common Elements may be conveyed or subjected to a security interest in accordance with Section 47C-3-112 of the Condominium Act.

O. GENERAL INFORMATION

The exhibits which follow this presentation provide a more detailed description of the Condominium and the rights and obligations of the Unit Owner. Please consider the exhibits carefully.

Any information, data or representation not referred to in this presentation and not contained in the various exhibits and documents mentioned herein, must not be relied upon. No person has been authorized by the Declarant to make any representation which is not expressly contained herein. This presentation may not be changed or modified orally.

The Declarant reserves the right to change the terms of this Public Offering Statement as they affect potential purchasers not then under contract provided that either:

(i) any such change does not materially affect the substance of the Public Offering Statement with respect to prior purchasers or purchasers under contract; or

(ii) if a material change, such change is mailed or hand-delivered to each contract purchaser who will then have seven (7) days to cancel the purchase agreement, whereupon the deposit will be returned by the Declarant.

TO WHOM IT MAY CONCERN:

We the undersigned, at time of acceptance of Offer to Purchase on a Birch Creek II Condominiums, have received copies of the following documents:

1. Public Offering Statement for Birch Creek II Condominiums, a condominium (acknowledge page 9).
2. Declaration of Condominium Documents and proposed exhibits.
3. Articles of Incorporation of Birch Creek II Homeowners' Association, Inc.
4. Bylaws.

Witness

(SEAL)

Witness

(SEAL)

Date: _____

Date: _____

ACKNOWLEDGMENT AND RECEIPT OF
PUBLIC OFFERING STATEMENT

BIRCH CREEK II CONDOMINIUMS

The undersigned have this _____ day of _____, 198__, received a Public Offering Statement disclosing information concerning their potential purchase of a unit in BIRCH CREEK II CONDOMINIUMS, a Condominium, and that said Public Offering Statement was received before the signing of any contract for the purchase of a unit in BIRCH CREEK II CONDOMINIUMS, a Condominium. The undersigned further acknowledges that they are aware that no conveyance of a unit in BIRCH CREEK II CONDOMINIUMS, a Condominium, can incur until seven (7) calendar days following the signing a contract for purchase and that the purchaser has the absolute right to cancel the contract during the seven (7) calendar days period.

_____ (SEAL)

_____ (SEAL)

Witness