

20/8/85

RECORDED AND VERIFIED  
REBECCA P. TUCKER  
REGISTER OF DEEDS  
NEW HANOVER CO. NC

BOOK PAGE

1283 0882

APR 3 9 49 AM '85

STATE OF NORTH CAROLINA SUPPLEMENTAL DECLARATION TO DECLARATION  
COUNTY OF NEW HANOVER THE PROVISIONS OF CHAPTER 47A OF THE GENERAL  
STATUTES OF THE STATE OF NORTH CAROLINA  
(Original Declaration Recorded:  
Book 1267, Page 1867)

DOWNEY BRANCH OFFICE CONDOMINIUMS  
PHASE 2

THIS SUPPLEMENTAL DECLARATION, made this 29th day of March, 1985,  
by GLENN W. HODGES and wife, ROBBIE B. HODGES, of New Hanover County,  
North Carolina, hereinafter collectively referred to as "DECLARANT";

12

KNOW ALL BY THESE PRESENTS:

THAT, WHEREAS, the Declarant are the owner of the certain real  
property in the City of Wilmington, County of New Hanover, State of  
North Carolina, which is more particularly described on Exhibit "A"  
attached hereto and made a part hereof by reference; and

WHEREAS, the Declarant are the owner of the multi-unit buildings,  
and certain other improvements, heretofore constructed upon the  
aforesaid property; and

WHEREAS, it is the desire and the intention of the Declarant to  
market, sell and convey interests in the property and the improvements  
thereon as a condominium project pursuant to the provisions of Chapter  
47A of the North Carolina General Statutes, entitled "Unit Ownership  
Act"; and

WHEREAS, said real property is located adjacent to and eastwardly  
of the real property known and designated as DOWNEY BRANCH OFFICE  
CONDOMINIUMS, PHASE 1, a condominium project established by the  
Declarant by that DECLARATION CREATING UNIT OWNERSHIP OF PROPERTY  
UNDER THE PROVISIONS OF CHAPTER 47A OF THE GENERAL STATUTES OF THE  
STATE OF NORTH CAROLINA (hereinafter "Declaration"), which is recorded  
in Book 1267, Page 1867, et. seq., in the Office of the Register  
of Deeds of New Hanover County, North Carolina; the site plan and  
building plans of said PHASE 1, having been recorded with said  
Declaration and in Condominium Plat Book 6, at Page(s) 247 thru 249;  
and

WHEREAS, the real property described in Exhibit "A", attached  
hereto, is a portion of that real property described in Exhibit "B"  
attached to said Declaration, recorded in Book 1267, beginning at Page  
1867, upon which and with which Declarant reserved the right and  
option to add and subject to the provisions of said recorded  
Declaration, as is set forth in paragraph 3 thereof; and

WHEREAS, it is the desire and intention of the Declarant in the  
recording of this Supplemental Declaration in the office of the  
Register of Deeds of New Hanover County, North Carolina, to submit all  
of the real property and the improvements thereto, described in  
Exhibit "A" attached hereto, to the provisions of the said Chapter  
47A, and specifically to the provisions of the above referenced  
recorded Declaration;

NOW, THEREFORE, THE DECLARANT DO HEREBY DECLARE THAT ALL OF THE  
REAL PROPERTY DESCRIBED IN EXHIBIT "A", ATTACHED HERETO AND MADE A  
PART HEREOF BY REFERENCE, AS WELL AS ALL OF THE IMPROVEMENTS  
CONSTRUCTED THEREON, IS HELD AND SHALL BE HELD, CONVEYED,  
HYPOTHECATED, ENCUMBERED, USED, OCCUPIED, AND IMPROVED SUBJECT TO THE  
FOLLOWING ARTICLES OF COVENANTS, CONDITIONS, RESTRICTIONS, USES,  
LIMITATIONS AND OBLIGATIONS, ALL OF WHICH ARE DECLARED TO BE IN  
FURTHERANCE OF A PLAN FOR THE IMPROVEMENT OF SAID PROPERTY AND THE  
DIVISION THEREOF INTO CONDOMINIUM UNITS AND SHALL BE DEEMED TO RUN  
WITH THE LAND AND SHALL BE A BURDEN AND A BENEFIT TO THE DECLARANT,

THEIR SUCCESSORS AND ASSIGNS, AND ANY PERSON OR ENTITY ACQUIRING OR OWNING AN INTEREST IN THE REAL PROPERTY AND IMPROVEMENTS, OR ANY SUBDIVISION THEREOF, THEIR GRANTEEES, SUCCESSORS, HEIRS, EXECUTORS, ADMINISTRATORS, DEVISEES AND ASSIGNS.

#### ARTICLE I.

##### Submission of Property

A. Pursuant to the provisions of Chapter 47A of the North Carolina General Statutes, Section 47A-2, the Declarant do hereby submit all of the real property described in Exhibit "A", attached hereto and made a part hereof by reference, together with all improvements thereon and described herein, to the provisions of the "Unit Ownership Act" of the State of North Carolina, which is codified as Chapter 47A of the General Statutes of the State of North Carolina.

B. In furtherance thereof, Declarant declare and affirm that the real property described in Exhibit "A", attached hereto, is a portion of the real property described in Exhibit "B" attached to the DECLARATION CREATING UNIT OWNERSHIP OF PROPERTY UNDER THE PROVISIONS OF CHAPTER 47A OF THE GENERAL STATUTES OF THE STATE OF NORTH CAROLINA (hereinafter "Declaration"), which is recorded in Book 1267 beginning at Page 1867 in the Office of the Register of Deeds of New Hanover County, North Carolina, and, therefore, by virtue of the exclusive right and option belonging to the Declarant, as reserved to them in paragraph 3 of said Declaration, the Declarant further declare that all of the real property described in Exhibit "A" attached hereto and made a part hereof by reference, as well as all of the improvements constructed thereon, is hereby subjected to and henceforth shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to each and every provision of those covenants, conditions, restrictions, uses, limitations and obligations which are set forth in that recorded Declaration referred to hereinabove, except as those provisions are necessarily altered or changed for this submission as set forth hereinbelow.

Hereinbelow, Declarant have set forth those provisions of said recorded Declaration which of necessity must change for this submission, and has incorporated by reference those provisions which do not.

#### ARTICLE II.

##### DEFINITIONS

The definitions for the terms used in this Supplemental Declaration and used in the said recorded Declaration (recorded in Book 1267, beginning at Page 1867), as they are applicable to this Submission of real property by incorporation herein shall be as follows:

1. The terms Act, Association, Assessment, Board, Director, By-Laws, Common Areas and Facilities, Common Expenses, Common Expense, Common Surplus, Condominium, Declarant, Majority Majority of Unit Owners, Person, Real Property, Unit Owners, and Unit Owner are defined in paragraph 2 of the Declaration recorded in Book 1267, at page 1867, referred to hereinabove, and said definitions are incorporated herein by reference.

2. The term Building or Buildings shall mean and refer to the multi-unit buildings which the Declarant have constructed or will construct upon the real property described in Exhibit "A", to be used for business purposes, as hereinafter provided. Attached hereto and made a part hereof by reference is Exhibit "B" which consists of a full and exact copy of the plans of the Buildings as well as a survey of the real property, showing the location of the Buildings thereon. Said Buildings are more particularly described in the plans of said

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Buildings showing all particulars as required by law. In general, the Buildings have two stories constructed on a concrete slab at ground level. There are no basements or garages. The each of the Buildings has approximately 6,000 square feet of heated area. The Buildings have been subdivided into twelve (12) units, hereinafter defined. The Buildings are constructed principally of wood, concrete, and brick veneer. The roofing is constructed of fiberglas shingles.

3. The term Declaration shall mean and refer to that DECLARATION CREATING UNIT OWNERSHIP OF PROPERTY UNDER THE PROVISIONS OF CHAPTER 47A OF THE GENERAL STATUTES OF THE STATE OF NORTH CAROLINA which is recorded in Book 1267, beginning at Page 1867, in the Office of the Register of Deeds of New Hanover County, North Carolina.

4. The term Limited Common Areas and Facilities shall mean the part or parts of the Common Areas and Facilities which are reserved for use by less than all of the Units ("Units" being hereinafter defined), and shall mean the following portions of the Common Areas and Facilities:

The ground or first floor entrance hall within the Buildings, as shown upon the plans of the Buildings attached hereto as Exhibit "B".

5. The term Supplemental Declaration shall mean and refer to this instrument.

6. The term UNIT or CONDOMINIUM UNIT shall mean and refer to any one of those twelve (12) subdivisions of enclosed space within the Buildings, together with any additional areas, spaces and equipment accompanying the same as defined hereinbelow, and which are intended to or will be sold as Units pursuant to the Act, the Declaration, and this Supplemental Declaration. The deed for any particular Unit should convey such Unit by its Unit designation and the same shall be deemed to included all that is defined as a part of that Unit as stated specifically in this definition, as well as the privileges and appurtenances accompanying any such Unit and subject to the covenants, conditions, restrictions and obligations applicable to Unit owners as all are more generally stated and described throughout the Declaration and this Supplemental Declaration.

The twelve (12) Units of the Buildings are and will be identified by their Unit designations, which are Units 13 through 24, inclusive. These Units and their designations are shown upon the plans of the Building attached hereto as Exhibit "B", which also shows graphically all particulars of the Buildings and twelve (12) Units, including, but not limited to, the layout, location, ceilings, and floor elevations, dimensions of the Units, and the area and location of the Common Areas and Facilities, those portions of the Common Areas and Facilities which are herein defined as Limited Common Areas and Facilities. Reference is hereby made to said plans for the purpose of identifying and locating each Unit within the Buildings, as well as identifying its dimensions and approximate areas. No Unit bears the same designation as any other. Any conflict between said plans and this definition shall be resolved by reference to the said plans, which shall control.

All Units, including any accessory spaces and areas, are bounded both as to horizontal and vertical boundaries by the interior finished surface of the Units' perimeter walls, ceilings and floors, all of which are shown on said plans, subject to the easement reserved hereinbelow for such encroachments as are contained in the Buildings, whether the same now exist or may be caused or created by existing construction, settlement, or movement of the Buildings, or by permissible repairs, construction, or alteration.

All Units shall be substantially the same in design, construction and material. Each of the twelve (12) Units is wholly contained within the Buildings.

Each Unit is identical in size and contains approximately 1,000 square feet of heated space.

Each Unit is hereby defined also to include:

1. All non-load bearing partition walls located entirely within the Unit;
2. All materials, including, but not limited to, carpet, paint, and vinyl attached to, or on, the interior finished surfaces of the perimeter walls, floors and ceilings of the Unit; and all doors, windows, window frames, window panes, and window screens, window frames; each ground or first floor Unit includes the door opening from the Unit into the ground or first floor entrance hall, including both surfaces and the locks, knobs, and fastenings of the door. However, such Unit includes only the finished interior surface within the Unit of the door frame and wall surrounding such door, and the remainder of the door frame and fire wall in which it is situated are Common Areas and Facilities.
3. All air and heat handling and compressor units, ducts and components, and all water, power, telephone, television and cable television, electricity, plumbing, gas and sewage lines, located within the Unit; provided, however, that the portion of said equipment, etc., located within a common compartment for, or installation of, such lines shall be Common Areas and Facilities as defined hereinabove.
4. The accessory area for each Unit located on the outside of the Buildings, measuring three feet by three feet as shown on the plans of the Buildings attached as Exhibit "B", and the heating and cooling compressors and equipment located thereon, and the cables, wires, conduits, and ducts connecting such equipment to each Unit.
5. Each Unit which is located on a second or upstairs floor of a Building includes the stairs and stairwell leading from the ground floor to the second floor, and the landing or upper entrance hall located on the second floor at the top of said stairs.
6. Each Unit which is located on second or upstairs floor of a Building includes the attic access doorway shown on the plans of the Buildings attached hereto as Exhibit "B", the heating and cooling equipment and ductwork, the cables, wiring and conduits associated with said equipment, located in such attic, and the interior space of the attic. No roof trusses, nor any other portion of the Building located above the finished interior surface of the second floor ceiling shall be part of such Unit.

Each Unit is hereby defined to exclude all pipes, ducts, wires, conduits and other facilities for the furnishing of utility services and other services to the Units up to and including the point of entry of such pipes, ducts, wires, conduits and other facilities through the interior finished surface material for perimeter walls, ceilings and floors of the Units (except for the heating and cooling equipment and ductwork located in the attics, and the exterior heating and cooling equipment, located on the exterior accessory area for each Unit, and the connecting pipes, cables, tubing, wiring, and ductwork for such equipment, as set forth above). All such pipes, ducts, wires, conduits, and other such facilities are defined as a part of the Unit at and from their point of entry into the Unit.

The definition stated hereinabove for "Unit" is complete and all other aspects of the condominium not hereinabove defined as a part of

the Units is defined hereby as a part of the Common Areas and Facilities.

The specifics, such as style, construction, materials, and finishes of the building and its Units are best described in the plans of the building which are shown in Exhibit "B", attached hereto and made a part hereof by reference, and which shall control in case of conflict with the provisions hereof.

7. The term Unit Designation shall mean and refer to the letter/number which designates a Unit within the condominium as the same is shown upon the plans of the Buildings in Exhibit "B" attached hereto.

### ARTICLE III.

#### Plan of Development and Scope of Declaration

The name by which the entire condominium project is known is DOWNEY BRANCH OFFICE CONDOMINIUMS. The Declarant have caused to be constructed upon the real property described in Exhibit "A" the multi-unit buildings, containing the twelve (12) Units of the buildings as well as the common areas and facilities of both the buildings and the real property, all as defined hereinabove and as shown upon the plans contained in Exhibit "B" attached hereto and made a part hereof by reference. The Units of the buildings, together with their privileges and appurtenances, shall be offered for sale to the public by the Declarant as Condominium Units pursuant to the provisions of Chapter 47A of the General Statutes of the State of North Carolina, subject to the covenants, conditions, restrictions, and obligations stated in this Supplemental Declaration, the Declaration recorded in Book 1267, beginning at Page 1867, referred to hereinabove, which have been incorporated herein by reference, the Articles of Incorporation of the Association, its duly adopted By-Laws and its Rules and Regulations. The Units and their owners shall be subject to the jurisdiction of the Association of which each Unit owner shall be a member and which shall manage the upkeep and maintenance of the entire condominium project, all phases, as a whole, as envisioned and provided for in its Articles of Incorporation and the Declaration.

The Declarant, by this Supplemental Declaration, submit the real property described in Exhibit "A", attached hereto, together with the improvements thereon, to the Act and hereinafter this submission shall be referred to as DOWNEY BRANCH OFFICE CONDOMINIUMS, PHASE 2.

### ARTICLE IV.

#### The Nature and Incidents of Unit Ownership

A. Each Unit shall be conveyed and treated as an individual real property capable of independent use and fee simple ownership, and the owner of each Unit shall also own, as an appurtenance to the ownership of each said Unit, an undivided interest in the common areas and facilities of DOWNEY BRANCH OFFICE CONDOMINIUMS, all phases.

Pursuant to the provisions of sub-paragraph E of paragraph 3 of the Declaration recorded in Book 1267, beginning at Page 1867, the Declarant do hereby establish one twenty-fourth (1/24th) as the undivided fractional or percentage interest belonging to each Unit owner of Units in DOWNEY BRANCH OFFICE CONDOMINIUMS, PHASE 1 and PHASE 2, which said interest is appurtenant to each of the twenty-four (24) Units of OLEANDER OFFICE PARK, all present phases. Declarant covenant with all Unit Owners of Units is DOWNEY BRANCH OFFICE CONDOMINIUMS, all phases, and all future Unit owners of Units in either PHASE 1 or PHASE 2 of DOWNEY BRANCH OFFICE CONDOMINIUMS that the undivided fractional or percentage interest in the total common areas and facilities of DOWNEY BRANCH OFFICE CONDOMINIUMS, all phases, as stated hereinabove, was determined in a manner consistent both with the

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provisions of sub-paragraph B of paragraph 3 of the Declaration and with the Act.

B. The provisions of sub-paragraphs B, C, and D of paragraph 4 of the Declaration are adopted and incorporated herein by reference, changing the reference in Paragraph B thereof from "Exhibit C" to "Exhibit B", and changing the reference in Paragraph C from "DOWNEY BRANCH OFFICE CONDOMINIUMS, PHASE 1", to "DOWNEY BRANCH OFFICE CONDOMINIUMS, ALL PHASES".

ARTICLE V.

INCORPORATION

The terms and provisions of paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14, and Exhibit "D" of the Declaration are hereby adopted in their entirety and incorporated herein by reference.

IN WITNESS WHEREOF, the Declarant have hereunto set their hands and seals, the day and year first above written.

Glenn W. Hodges (SEAL)  
Glenn W. Hodges

Robbie B. Hodges (SEAL)  
Robbie B. Hodges

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Patricia M. Hannell, a Notary Public of New Hanover County, North Carolina, do hereby certify that GLENN W. HODGES and wife, ROBBIE B. HODGES, each personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the 1st day of April, 1985. <sup>PM</sup>

Patricia M. Hannell  
Notary Public



My commission expires: 3-14-90

JOINDER AND CONSENT OF TRUSTEES AND BENEFICIARIES/MORTGAGEES

CAROLINA SAVINGS AND LOAN ASSOCIATION, and JAMES B. SWAILS, as Trustee, join in the execution of this "SUPPLEMENTAL DECLARATION TO DECLARATION CREATING UNIT OWNERSHIP OF PROPERTY UNDER THE PROVISIONS OF CHAPTER 47A OF THE GENERAL STATUTES OF THE STATE OF NORTH CAROLINA" for the sole purpose of subjecting, submitting and subordinating, and they, and each of them, do hereby subject, submit and subordinate any and all right, title and interest in the property described in EXHIBIT "A", attached hereto, that they have, or either of them has, or may have, by virtue of that Deed of Trust recorded in BOOK 1274, at PAGE 1754, in the Office of the Register of Deeds of New Hanover County, North Carolina, to said SUPPLEMENTAL DECLARATION, and every provision hereof, and to the jurisdiction of DOWNEY BRANCH OFFICE CONDOMINIUMS OWNERS ASSOCIATION, INC., as the same may be amended or supplemented from time to time.

IN WITNESS WHEREOF, CAROLINA SAVINGS AND LOAN ASSOCIATION, has caused this JOINDER AND CONSENT to be signed in its corporate name by its duly authorized officers and their seals to be hereunto affixed by authority of its Board of Directors, and JAMES B. SWAILS, as Trustee, has hereunto set his hand and seal, this the 2 day of <sup>April</sup> ~~March~~, 1985.

CAROLINA SAVINGS AND LOAN ASSOCIATION

BY: [Signature]  
*John* President



[Signature] (SEAL)  
 James B. Swails, Trustee

STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Charlene W. Nelson a Notary Public in and for the State and County aforesaid do hereby certify that Patricia H. Barnes personally came before me this day and acknowledged that she is Secretary of CAROLINA SAVINGS AND LOAN ASSOCIATION, a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its <sup>Secretary</sup> President, sealed with its corporate seal, and attested by her self as its Secretary.

WITNESS my hand and official stamp or seal, this the 2 day of ~~March~~, 1985.  
*April*

Charlene W. Nelson  
 Notary Public

My commission expires:

1/29/89



STATE OF NORTH CAROLINA

COUNTY OF NEW HANOVER

I, Helen S. Skipper, a Notary Public of Brunswick County, North Carolina, do hereby certify that JAMES B. SWAILS, Trustee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and notarial seal, this the 2 day of <sup>April</sup> March, 1985.

Helen S. Skipper  
Notary Public

My commission expires:

10/28/89



STATE OF NORTH CAROLINA, New Hanover County

The Foregoing Certificate(s) of Patricia M. Horrell, Charlene W. Nelson and Helen S. Skipper

This 3rd day of April A.D., 19 85

~~(s)~~(are) certified to be correct.

Rebecca P. Tucker, Register of Deeds

By Rebecca P. Tucker  
Deputy

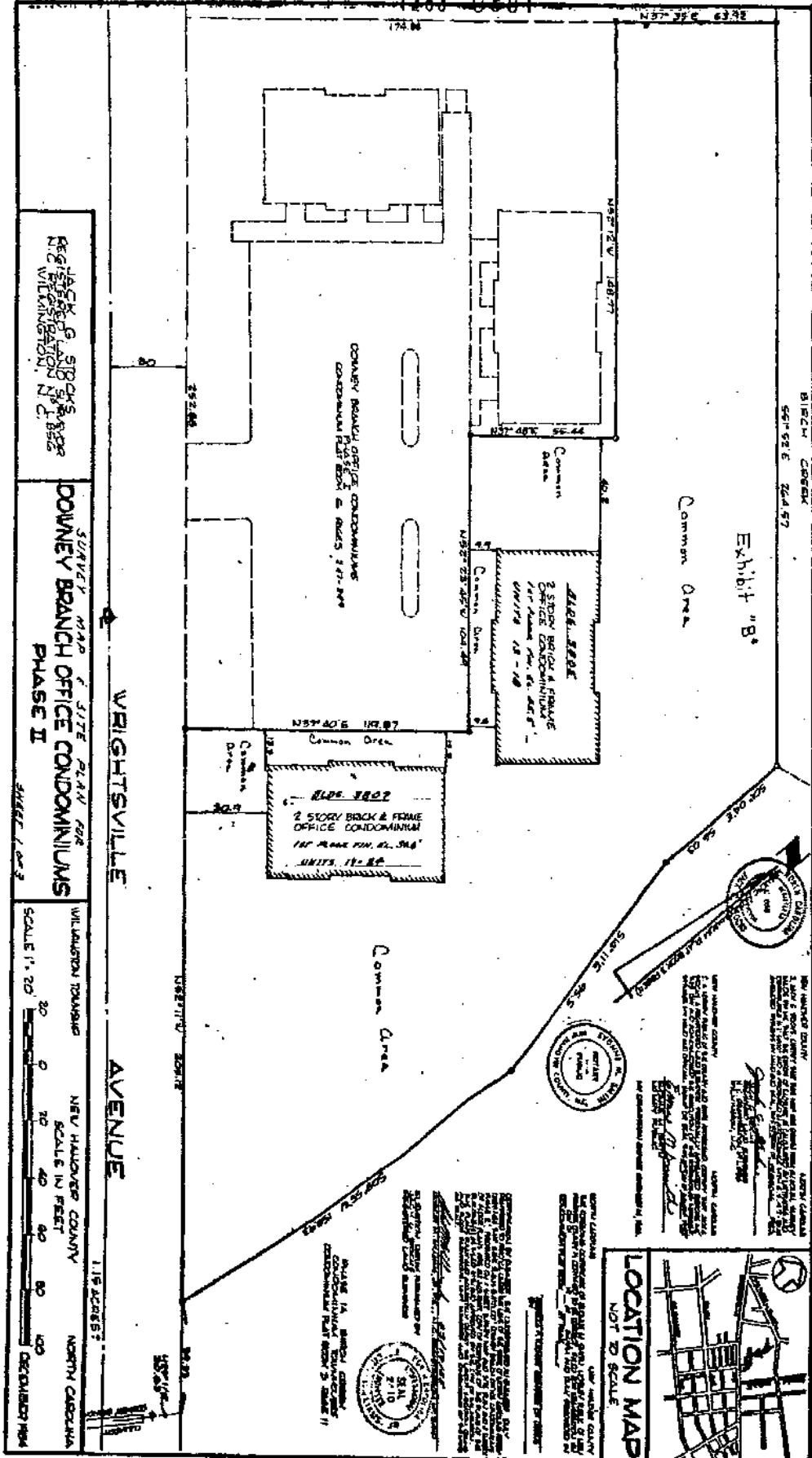
## Exhibit "A"

TO SUPPLEMENTAL DECLARATION CREATING  
UNIT OWNERSHIP OF PROPERTY UNDER THE PROVISIONS OF  
CHAPTER 47A OF THE GENERAL STATUTES  
OF THE STATE OF NORTH CAROLINA  
(Original Declaration Recorded: Book 1267 Page 1867)

## DOWNEY BRANCH OFFICE CONDOMINIUMS, PHASE 2

BEGINNING at a point in the Northeastern right of way line of Wrightsville Avenue (60 foot right of way), said point being located North 25 degrees 11 minutes East 30.63 feet and North 52 degrees 11 minutes West 39.33 feet from the point of intersection of the center line of Wrightsville Avenue with the center line of a culvert in Downey Branch: Said beginning point also being the Southwest corner of Phase 1A, Birch Creek Condominium Townhouses, and recorded in Condominium Plat Book 3 at Page 11 of the New Hanover County Registry. Running thence from said beginning point with the Northeastern right of way line of Wrightsville Avenue, North 52 degrees 11 minutes West 205.12 feet to a point: Running thence North 37 degrees 40 minutes East 119.87 feet to a point: Running thence North 52 degrees 23 minutes 45 seconds West 104.49 feet to a point: Running thence North 37 degrees 48 minutes East 55.44 feet to a point: Running thence North 52 degrees 12 minutes West 148.77 feet to a point: Running thence North 37 degrees 35 minutes East 63.92 feet to a point: Running thence South 51 degrees 52 minutes East 264.57 feet to a point: Running thence South 01 degree 04 minutes East 56.03 feet to a point: Running thence South 14 degrees 11 minutes East 95.5 feet to a point: Running thence South 05 degrees 55 minutes West 158.93 feet to the point of beginning. Containing 1.15 acres more or less.

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REGISTERED  
 N.C. WILKINSON, N.C.

SWIMLY ROAD SITE PLAN FOR  
**DOWNEY BRANCH OFFICE CONDOMINIUMS**  
 PHASE II

WILKINSON TOWNSHIP  
 NEW HANOVER COUNTY  
 NORTH CAROLINA

SCALE 1" = 20'  
 0 20 40 60 80 100

1.19 ACRES ±

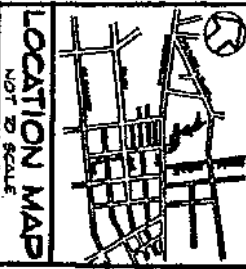
Exhibit "B"  
 Common Area



NEW HANOVER COUNTY  
 DEPARTMENT OF PLANNING AND ZONING  
 100 SOUTH HANOVER STREET, RALEIGH, N.C. 27601  
 (919) 973-2200

APPROVED FOR THE COUNTY BOARD OF ZONING ADJUSTMENTS  
 DATE: 11/15/2011

APPROVED FOR THE COUNTY BOARD OF ZONING ADJUSTMENTS  
 DATE: 11/15/2011



CONDOMINIUM UNIT BOOK 2, PAGES 347-349  
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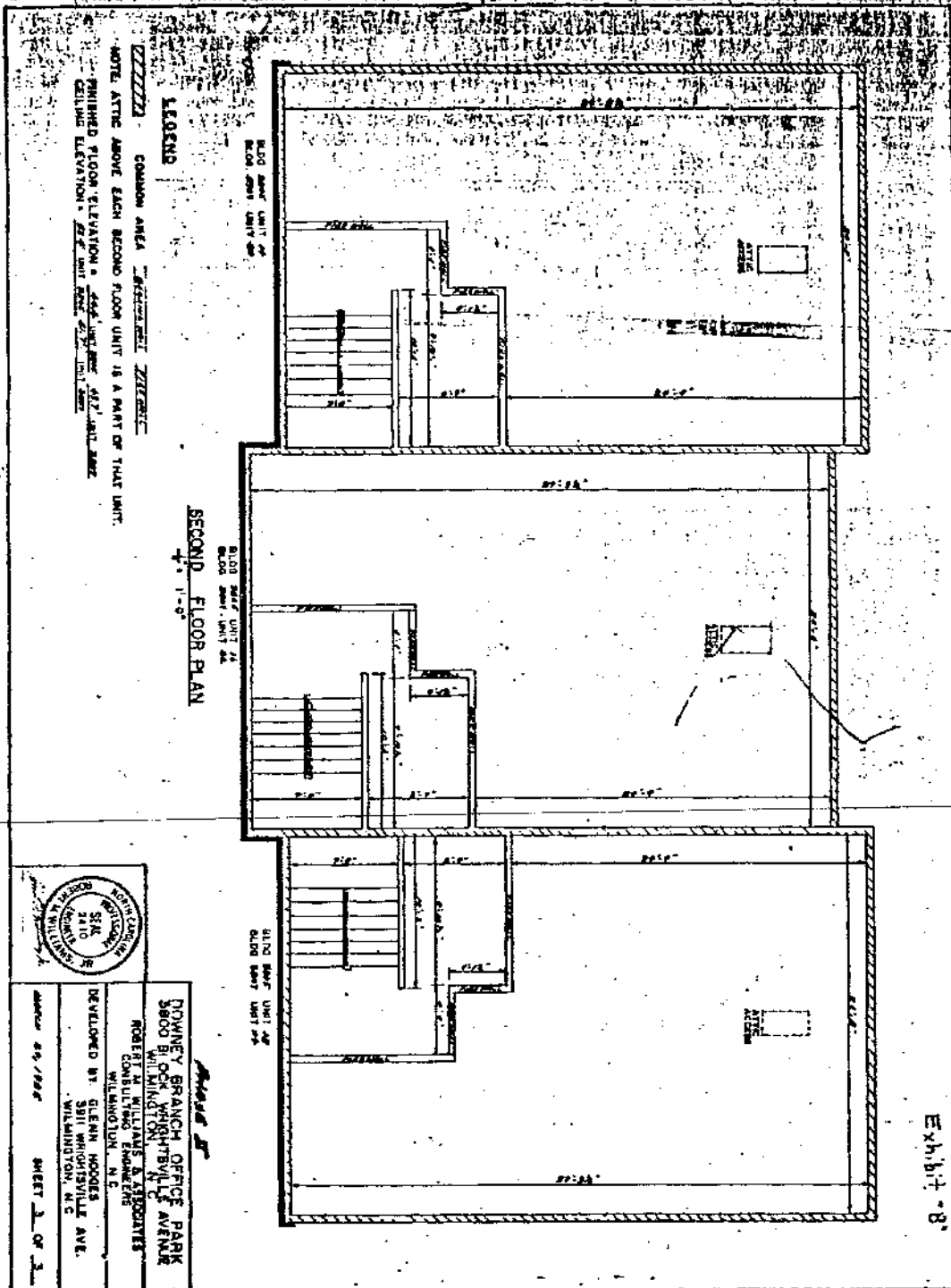
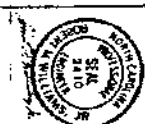


Exhibit 'B'

LEGEND

NOTE: ATTIC ABOVE EACH SECOND FLOOR UNIT IS A PART OF THAT UNIT.  
 FINISHED FLOOR ELEVATION = 4'-0" (UNIT #24)  
 CEILING ELEVATION = 8'-0" (UNIT #24)

SECOND FLOOR PLAN



DOWNNEY BRANCH OFFICE PARK  
 3800 BLOCK WHIGHTVILLE AVENUE  
 WILMINGTON, N.C.  
 ROBERT M. WILLIAMS & ASSOCIATES  
 CONSULTING ENGINEERS  
 WILMINGTON, N.C.  
 DEVELOPED BY: GLENN HOOBES  
 5911 WHIGHTVILLE AVE.  
 WILMINGTON, N.C.  
 SHEET 2 OF 3