

130-0528

THIRD AMENDMENT TO
DECLARATION OF UNIT OWNERSHIP
FOR
SKYLEAF CONDOMINIUM COMMUNITY,
A CONDOMINIUM

THIS THIRD AMENDMENT TO DECLARATION OF UNIT OWNERSHIP FOR SKYLEAF CONDOMINIUM COMMUNITY, A CONDOMINIUM, made this 21st of day of August, 1981, by Sugar Land Development Corporation, a Florida corporation authorized to transact business in North Carolina (See Book 116, page 428, Avery County Registry) (hereinafter referred to as "Declarant").

W I T N E S S E T H:

WHEREAS, pursuant to the provisions of Chapter 47A of the General Statutes of North Carolina, First Union National Bank of North Carolina, then the Declarant, on January 18, 1978, filed a Declaration of Unit Ownership for Skyleaf Condominium Community, a condominium (hereinafter referred to as the "Declaration"), which said Declaration is recorded in Book 106, beginning at page 1059, amended in Book 114, beginning at page 846 and amended in Book 119, page 834 in the office of the Register of Deeds for Avery County, North Carolina; and

WHEREAS, Sugar Land Development Corporation became the Declarant as defined in Book 106, page 1066, of the Avery County Registry by virtue of an Assignment from First Union National Bank of North Carolina recorded in Book 119, page 831, of the Avery County Registry; and

WHEREAS, paragraphs 17 and 18 of the Declaration provide for additions to the Condominium Property and provide for the manner of amending the Declaration; and

WHEREAS, the Declaration submitted a portion of the real property described therein (being that real property described in

Schedule B-1 of said Declaration) to the provisions of the North Carolina Unit Ownership Act as future phases of the project; and

WHEREAS, Declarant desires to amend the Declaration to add to TRACT II of the Skyleaf Development Area as described in Schedule A of the Declaration as recorded in Book 106, at page 1102, an additional 0.898 acre tract as hereinafter set forth.

NOW, THEREFORE, Declarant hereby makes the following Amendment to the Declaration:

1. The 0.898 acre tract and the improvements constructed thereon (more particularly described as the 0.898 acre tract adjacent to the 1.575 acre TRACT II, as the same is described in the Declaration recorded in Book 106, at page 1102, Avery County Registry; being a portion of the Retained Property as the same is described in Schedule F of the Declaration in Book 106, at page 1135, Avery County Registry; and being more particularly described by reference to plat no. 81011 prepared by David K. Stern, RLS #L-1301 and recorded in Plat Book 17, page 23, Avery County Registry) is hereby submitted to the provisions of the Declaration and the Unit Ownership Act as an additional part of Phase 3 of the Skyleaf Condominium Community; subject, however, to a reservation in the Grantor/Declarant, its successors and/or assigns for a 30 foot wide pedestrian and vehicular right-of-way and easement of ingress and egress through the described 0.898 acre tract for Skyleaf Drive as the same is shown on the survey or plat referenced above.

2. Upon the filing of this Third Amendment to the Declaration subjecting the property described in paragraph 1 above to the Declaration and the Unit Ownership Act as an additional part of Phase 3 of the Skyleaf Condominium Community, the fee simple determinable estate in the undivided interest of the common

elements shall immediately terminate and simultaneously the undivided interest of the common elements in Phase 1, Phase 2 and Phase 3 combined is hereby declared by Declarant to be vested in the owners of Dwelling Units in Phase 1, Phase 2 and Phase 3 in fee simple determinable in the percentages of undivided interest as set forth in Schedule E-4 attached hereto, unless and until amended as provided in paragraphs 17 and 18 of the Declaration.

3. The last line of Schedule D of the Declaration recorded in Book 106 at page 1131 and amended in Book 114 at page 847 and Book 119, at page 835, is amended to read as follows:

"in Plat Book 9, page 85, Avery County Registry, and the additions thereto as shown and described on the drawings of Building E and Building D and the units and common areas thereto prepared by James William Ritter, Registered Architect and Raymond P. Howell, Registered Architect recorded in Condominium Book 3, page 1, Avery County Registry and on the 'as built' survey by David K. Stern, Registered Land Surveyor, recorded in Plat Book 12, page 9 and Plat Book 14, page 75, Avery County Registry and Plat Book 17, page 23, Avery County Registry.

4. Schedule E, Schedule E-2 and Schedule E-3 are amended by supplementing the same with the additional Schedule E-4 attached hereto and incorporated into the Declaration by reference.

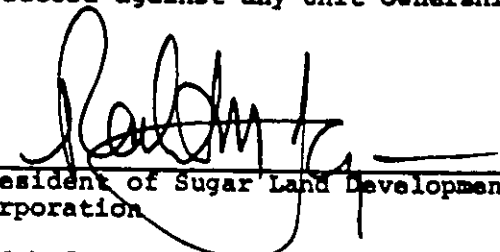
5. The following Affidavit by an officer of the Declarant is given for the purpose of complying with paragraph 18(c) of the Declaration:

NORTH CAROLINA

WATAUGA COUNTY

AFFIDAVIT

I, ROBERT M. TAYLOR, being President of Sugar Land Development Corporation, the Declarant, being first duly sworn, depose and say that a copy of the foregoing Third Amendment to Declaration will be either hand delivered or mailed by certified mail to all Unit Owners and all known mortgagees having a bona fide lien of record against any Unit Ownership interest.


 President of Sugar Land Development Corporation

SWORN to and subscribed before me this 21st day of August, 1981.



 NOTARY PUBLIC

My commission expires:

9/30/85

IN WITNESS WHEREOF, on the date set forth in the acknowledgment below Declarant has caused this Third Amendment to Declaration to be executed, acknowledged and recorded for and in its own name and behalf and, pursuant to paragraph 18 of the Declaration, has caused this Third Amendment to Declaration to be executed, acknowledged and recorded for and in the name of each Unit Owner and his/her/their respective mortgagees for the purpose of adding to the Condominium Property as provided in paragraphs 17 and 18 of the Declaration.

SUGAR LAND DEVELOPMENT CORPORATION,
 IN ITS OWN BEHALF AND IN THE NAME
 OF EACH UNIT OWNER AND HIS/HER/
 THEIR RESPECTIVE MORTGAGEES OF SKYLEAF
 CONDOMINIUM COMMUNITY, AS THEIR
 ATTORNEY-IN-FACT

By: 
 President of Sugar Land Development Corporation

ATTEST:

By: 

CLEMENT, GILES
 & WHITTLE
 ATTORNEYS AT LAW
 200 WEST KING STREET
 BOONE, NORTH CAROLINA
 28604

I, Albusta Duncan, a Notary Public for said County and State, do hereby certify that Charles E. Clement personally appeared before me this day and acknowledged that he is the Assistant Secretary of SUGAR LAND DEVELOPMENT CORPORATION, and that, by authority duly given and as the act of the Corporation, the foregoing Third Amendment to Declaration was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Assistant Secretary in SUGAR LAND DEVELOPMENT CORPORATION'S own behalf as Declarant and in the name of each unit owner and his/her/their respective mortgagees of Skyleaf Condominium Community, as their attorney-in-fact; and that the authority to execute and acknowledge said Amendment to Declaration is contained in paragraphs 17 and 18 of the Declaration recorded in Book 106, at page 1092, Avery County Registry.

WITNESS my hand and official seal this the 21st day of August, 1981.

Albusta Duncan
Notary Public

My commission expires:

9/30/85

North Carolina

Avery County

The foregoing certificate... of Albusta Duncan

Notary Public/Notaries Public is/are certified to be correct. This instrument was presented for registration and recorded in this office at Book 130, Page 538.

This 6th day of October, 1981 at 11:00 o'clock A.M.

R. J. Benfield, Register of Deeds

By Barbara C. Benau
Deputy Register of Deeds

SCHEDULE E-4

**RATIO OF UNDIVIDED INTEREST IN COMMON AREAS AND
FACILITIES, UNIT DESIGNATION, LOCATION, APPROXIMATE
AREA, NUMBER OF ROOMS AND IMMEDIATE COMMON AREA
TO WHICH UNITS HAVE ACCESS**

The ratio of undivided interest appurtenant to each unit in the common area and facilities, and limited common area and facilities, has been determined by the ratio of the fair market value of the subject unit as of the date of this Declaration as the same bears to the aggregate fair market value of all units on said date, all of which are set forth immediately below, along with the unit designation, unit location, approximate area, number of rooms, and immediate common area to which the unit has access:

<u>UNIT DESIG- NATION</u>	<u>UNIT LOCATION (BUILDING)</u>	<u>APPROXIMATE AREA (SQUARE FEET)</u>	<u>NUMBER OF ROOMS</u>	<u>IMMEDIATE COMMON AREA TO WHICH UNIT HAS ACCESS</u>	<u>RATIO OF UNDI- VIDED INTEREST IN COMMON AREA & FACILITIES **</u>
1	A	888	6	*	1.16
2	A	640	4	*	.97
3	A	888	6	*	1.15
4	A	640	4	*	.95
5	A	1251	8	*	1.36
6	A	1317	8	*	1.40
7	A	640	4	*	.92
8	A	1251	8	*	1.29
9	A	1317	8	*	1.38
10	B	1317	8	*	1.29
11	B	888	6	*	1.16
12	B	888	6	*	1.20
13	C	888	6	*	1.20
14	C	1317	8	*	1.66
15	C	1317	8	*	1.73
16	C	1251	8	*	1.55
17	C	640	4	*	1.01
18	C	640	4	*	.97
19	C	888	6	*	1.33
20	C	888	6	*	1.27
21	C	888	6	*	1.15
22	C	1317	8	*	1.62
23	C	1317	8	*	1.60
24	C	1251	8	*	1.50
25	C	640	4	*	.95
1	D	640	4	*	1.12
2	D	1560	8	*	2.12
3	D	1528	8	*	2.12
4	D	1528	8	*	2.12
5	D	1560	8	*	2.12
6	D	906	6	*	1.66
7	D	640	4	*	1.16
8	D	888	6	*	1.66
9	D	888	6	*	1.66
10	D	888	6	*	1.73
11	D	888	6	*	1.73
12	D	906	6	*	1.69
13	D	640	4	*	1.19

<u>UNIT DESIG- NATION</u>	<u>UNIT LOCATION (BUILDING)</u>	<u>APPROXIMATE AREA (SQUARE FEET)</u>	<u>NUMBER OF ROOMS</u>	<u>IMMEDIATE COMMON AREA TO WHICH UNIT HAS ACCESS</u>	<u>RATIO OF UNDI- VIDED INTEREST IN COMMON AREA & FACILITIES **</u>
14	D	888	6	*	1.69
15	D	888	6	*	1.69
16	D	888	6	*	1.76
17	D	888	6	*	1.76
18	D	1190	6	*	2.00
19	D	1570	8	*	2.25
20	D	1570	8	*	2.25
21	D	1570	8	*	2.25
22	D	1570	8	*	2.25
1	E	910	6	*	1.38
2	E	910	6	*	1.38
3	E	653	4	*	.98
4	E	653	4	*	.98
5	E	653	4	*	.98
6	E	1410	8	*	1.74
7	E	827	6	*	1.31
8	E	827	6	*	1.31
9	E	1346	8	*	1.69
10	E	810	6	*	1.20
11	E	810	6	*	1.20
12	E	1346	8	*	1.69
13	E	810	6	*	1.20
14	E	810	6	*	1.20
15	E	1410	8	*	1.69
16	E	827	6	*	1.31
17	E	827	6	*	1.31
18	E	653	4	*	.98
19	E	653	4	*	.98
20	E	653	4	*	.98
21	E	910	6	*	1.38
22	E	910	6	*	1.38

* Adjacent common area as shown on Schedule D.

** Identifies the ratio of undivided interest in common areas and facilities of the Skyleaf Condominium Community when combining all phases of Buildings A, B, C, D and E, containing a total of 69 units.

68,627