

FOR REGISTRATION REGISTER OF DEEDS
WILLIE L. COVINGTON
DURHAM COUNTY, NC
2003 JUN 04 11:31:47 AM
BK: 3937 PG: 39-56 FEE: \$62.00
INSTRUMENT # 2003034704

Prepared by and return to: Richard J. Boles
Beischer, Boles & Beischer
Suite 101
2726 Croasdaile Drive
Durham, N.C. 27705

AMENDMENT AND RESTATEMENT
OF
RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS
FOR LOT NO. 205 THROUGH LOT NO. 239
CROASDAILE FARM VI
AS DESCRIBED IN BOOK 3553, AT PAGE 582
DURHAM COUNTY REGISTRY

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

THIS AMENDMENT AND RESTATEMENT TO THE RESTRICTIVE AND PROTECTIVE COVENANTS AND CONDITIONS which were previously recorded in Book 3553, at Page 582, Durham County Registry, is made and entered into this 3rd day of June, 2003, between and among CROASDAILE FARM THREE, LLC, a North Carolina limited liability company, Suite 101, 2726 Croasdaile Drive, Durham, North Carolina 27705, and SUSAN F.

BEISCHER and husband, GEORGE D. BEISCHER, 34 Appleton Place, Durham, North Carolina 27705, (hereinafter collectively referred to as the "Developers") and PROSPECTIVE PURCHASERS, their heirs, successors and assigns, of Lot No. 205 through Lot No. 239, in Croasdaile Farm VI, all as shown on the Plats hereinafter referred to.

WITNESSETH:

WHEREAS, Susan Fox Beischer, is the record owner of Lot No. 205 through Lot No. 209 and Lot No. 213 through Lot No. 227, all as shown on the Plat and Survey thereof entitled: Final Plat, CROASDAILE FARM VI, PHASE 2, SHEET 1, PROPERTY OF CROASDAILE FARM THREE, LLC, dated the 1st day of August, 2002, prepared by Credle Engineering Company, Inc., and recorded in Plat Book 156, at Page 221, Durham County Registry, to which reference is hereby made for a more accurate description; and

WHEREAS, Susan Fox Beischer, is the record owner of Lot No. 210 through Lot No. 212 and Lot No. 228 through Lot No. 239, all as shown on the Plat and Survey thereof entitled: Final Plat, CROASDAILE FARM VI, PHASE 2, SHEET 2, PROPERTY OF CROASDAILE FARM THREE, LLC, dated the 1st day of August, 2002, prepared by Credle Engineering Company, Inc., and recorded in Plat Book 156, at Page 223, Durham County Registry, to which reference is hereby made for a more accurate description; and

WHEREAS, Croasdaile Farm Three, LLC, has an exclusive option to purchase all of Lot No. 205 through Lot No. 239, as shown on the Plats hereinabove referred to; and

WHEREAS, the Developers propose to sell and convey all the above referenced lots for residential purposes and to develop said Lots into a well planned residential community; and

WHEREAS, the Developers have previously recorded in Book 3553, at Page 582, Durham County Registry, Restrictive and Protective Covenants and Conditions for Lot No. 205 through Lot No. 239, of Croasdaile Farm VI, as depicted in Plat Book 156, at Page 221, and Plat Book 156, at Page 223, Durham County Registry; and

WHEREAS, none of the said Lots have been conveyed as of the date of this Amendment to the Restrictive and Protective Covenants and Conditions; and

WHEREAS, subsequent to the recording of the Restrictive and Protective Covenants and Conditions in Book 3553, at Page 582, the Developers discovered survey errors on the Plats referred to therein, namely, Plat Book 156, at Page 221 and Plat Book 156, at Page 223, Durham County Registry; and

WHEREAS, the Developers have withdrawn the Plats recorded in Plat Book 156, at Page 221, Durham County Registry, by recording a Recombination Plat for Lot No. 205 through Lot No. 209 and Lot No. 213 through Lot No. 227 on a Plat entitled: Final Plat, RECOMBINATION, CROASDAILE FARM VI, PHASE 2, SHEET 1, PROPERTY OF CROASDAILE FARM THREE, LLC, prepared by Credle Engineering Company, Inc., dated 22nd day of May, 2003, and recorded in Plat Book 158, at Page 381, Durham County Registry, and whereas the said Recombination Plat eliminated the interior Lot lines, (other than along the dedicated street rights-of-way) depicted in Plat Book 156, at Page 221, Durham County Registry; and

WHEREAS, the Developers have withdrawn the Plat recorded in Plat Book 156, at Page 223, Durham County Registry, by recording a Recombination Plat for Lot No. 210 through Lot No. 212 and Lot No. 228 through Lot No. 239, as shown on a Plat and Survey thereof entitled: Final Plat, RECOMBINATION, CROASDAILE FARM VI, PHASE 2, SHEET 2, PROPERTY OF CROASDAILE FARM THREE, LLC, prepared by Credle Engineering Company, Inc., dated the 22nd day of May, 2003, and recorded in Plat Book 158, at Page 383, Durham County Registry, and whereas the said Recombination Plat eliminated the

interior Lot lines (other than along the dedicated street rights-of-way) depicted in Plat Book 156, at page 223, Durham County Registry; and

WHEREAS, subsequent to the recordation of the Recombination Plats, referred to above, the Developers recorded a "Plat of Correction" for Lot No. 205 through Lot No. 209 and Lot No. 213 through Lot No. 227, as shown on the Plat and Survey thereof entitled: Final Plat, CROASDAILE FARM VI, PHASE 2, SHEET 1, CORRECTING PLAT BOOK 156, AT PAGE 221, PROPERTY OF CROASDAILE FARM THREE, LLC, prepared by Credle Engineering Company, Inc., dated the 1st day of August, 2002, Revised the 7th day of April, 2003, and recorded in Plat Book 158, at Page 385, Durham County Registry; and

WHEREAS, subsequent to the recordation of the Recombination Plats, referred to above, the Developers recorded a "Plat of Correction" for Lot No. 210 through Lot No. 212 and Lot No. 228 through Lot No. 239, as shown on the Plat and Survey thereof entitled: Final Plat, CROASDAILE FARM VI, PHASE 2, SHEET 2, CORRECTING PLAT BOOK 156, AT PAGE 223, PROPERTY OF CROASDAILE FARM THREE, LLC, prepared by Credle Engineering Company, Inc., dated the 1st day of August, 2002, Revised the 7th day of April, 2003, and recorded in Plat Book 158, at Page 387, Durham County Registry; and

WHEREAS, the Developers, prior to selling and conveying Lot No. 205 through Lot No. 239, desire to impose upon them the Restrictive and Protective Covenants and Conditions hereinafter set forth (sometimes collectively referred to herein as the "Restrictive Covenants") for the benefit of all those who acquire title to any of said Lots. The Restrictive Covenants herein set forth shall inure to the benefit of each person, corporation, limited liability company or other entity, and the heirs, successors and assigns thereof, who acquire title to any of said numbered Lots;

NOW, THEREFORE, the Developers hereby declare that all of Lot No. 205 through Lot No. 239, as shown in Plat Book 158, at Page 385, and Plat Book 158, at Page 387, Durham County Registry, and hereinabove referred to, shall be held, conveyed, encumbered, leased, used, occupied and improved subject to the Restrictive Covenants

set forth herein. These Restrictive Covenants shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in and to the said real property or any parts thereof. These Restrictive Covenants shall become a part of each instrument conveying or transferring any of said numbered Lots, or portions thereof, as fully and to the same extent as if set forth therein. As a condition of the sale or conveyance of any of said numbered Lots, the Prospective Purchasers, their heirs, successors and assigns agree and covenant to abide by these Restrictive Covenants.

ARTICLE ONE

DEFINITIONS

SECTION 1.1 Assessments: The term "Assessments", as used herein, shall have the same meaning as in the Declaration of Covenants, Conditions and Restrictions for Croasdaile Farm, which is duly recorded in Book 1393, at Page 137, in the Office of the Register of Deeds of Durham County, North Carolina, and to which these Restrictive Covenants are subordinate.

SECTION 1.2 Association: The term "Association", as used herein, shall mean the Croasdaile Farm Master Homeowner Association, Inc.

SECTION 1.3 Board of Directors: The term "Board of Directors", as used herein, shall mean the elected body governing the Association as provided by North Carolina corporate law.

SECTION 1.4 Common Areas: The term "Common Areas", as used herein, shall mean all real and personal property now or hereafter owned by the Association for the common use and enjoyment of Lot owners.

SECTION 1.5 Community-Wide Standards: The term "Community-Wide Standards", as used herein, shall mean the architectural, landscape, arboreal, vegetative and aesthetic standards of the Croasdaile Farm Community as determined and promulgated by the Design Review Committee, from time to time.

SECTION 1.6 Croasdaile Farm Community: The term "Croasdaile Farm Community", as used herein, shall mean the residential community depicted on the Land Use Development Plan of Croasdaile Farm, as amended, from time to time, which is Exhibit "B" to the Declaration of Covenants, Conditions and Restrictions for Croasdaile Farm, all of which is duly recorded in Book 1393, at Page 137, in the Office of the Register of Deeds of Durham County, North Carolina.

SECTION 1.7 Declaration: The term "Declaration", as used herein, shall mean the Declaration of Covenants, Conditions and Restrictions for Croasdaile Farm, as amended, from time to time, which is duly recorded in Book 1393 at Page 137, in the Office of the Register of Deeds of Durham County, North Carolina.

SECTION 1.8 Design Review Committee: The term "Design Review Committee", as used herein, shall mean the committee appointed by the Board of Directors, from time to time, to establish Community-Wide Standards for the construction, alteration or improvement of property within the Croasdaile Farm Community.

SECTION 1.9 Lot: The word "Lot", as used herein, shall mean any one of the Lots numbered 205 through 239 of the property of Susan F. Beischer, as shown on the Plats and Surveys thereof referred to above. A Lot is sometimes referred to herein as the "Property".

SECTION 1.10 Person: The word "Person", as used herein, shall mean a natural person, a corporation, a limited liability company, a partnership, a trust or other legal entity and the heirs, successors and assigns thereof.

SECTION 1.11 Rules and Regulations: The term "Rules and Regulations", as used herein, shall mean such Rules and Regulations as may be adopted by the Board of Directors of the Association, from time to time, governing the use and occupancy of the Lots and the Common Areas.

ARTICLE TWO

GENERAL

SECTION 2.1 Governing Document: All of Lot No. 205 through Lot No. 239, as shown on the Plats hereinabove referred to, and these Restrictive Covenants are expressly made subject to the terms and provisions of the Declaration of Covenants, Conditions and Restrictions for Croasdaile Farm which is duly recorded in Book 1393, at Page 137, in the Office of the Register of Deeds of Durham County, North Carolina. These Restrictive Covenants are subject to the terms and conditions of said Declaration.

SECTION 2.2 Homeowner Association: The Croasdaile Farm Master Homeowner Association, Inc., has been organized to own, manage and operate the Common Areas in the Croasdaile Farm Community, to enforce the Declaration, to enforce these Restrictive Covenants and to make such Rules and Regulations as it deems necessary or desirable, from time to time, governing the use and occupancy of the Lots and the Common Areas.

SECTION 2.3 Agreement of Members: Each owner of a Lot, or portion thereof, shall be a member of the Association and the said owners, their heirs, successors and assigns, by acquiring title to such Lot, covenant and agree among themselves and with the Developers as follows:

- (A) That each owner of a Lot agrees to be bound by the terms and provisions of the Declaration, these Restrictive Covenants, the Articles of Incorporation of the Association, the Bylaws of the Association and the Rules and Regulations of the Association, all as may be amended, from time to time.
- (B) That each owner of a Lot will take any and all action necessary or desirable to remain in good standing as a member of the Association.
- (C) That any and all unpaid Assessments levied by the Association shall be a lien upon the Lot and improvements thereon and shall also be a personal obligation of each owner so assessed, all of which is more particularly set forth in the Declaration.
- (D) That membership in the Association shall be appurtenant to and may not be separated from ownership of a Lot in the Croasdaile Farm Community, and such membership shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to such Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new owner thereof.

- (E) That the Association and each owner of a Lot, their heirs, successors and assigns shall have the right to bring a proceeding at law or in equity against any person or entity violating or attempting to violate any of the Restrictive Covenants contained herein, either to restrain violation thereof or to recover money damages therefor. The remedies provided herein are cumulative and are in addition to any other remedies available.

- (F) That an owner of a Lot may delegate his rights under these Restrictive Covenants to his family, his tenants or contract purchasers who reside on the Property.

- (G) That each owner of a Lot shall be subject to and bound by the requirements of the Community-Wide Standards for Croasdaile Farm (and the Design Review Guidelines contained therein) as amended, from time to time, and which is Exhibit "D" to the Declaration of Covenants, Conditions and Restrictions for Croasdaile Farm, as amended, from time to time, all of which is recorded in the Office of the Register of Deeds of Durham County, North Carolina.

SECTION 2.4 Amendment: Except as provided herein, these Restrictive Covenants may be amended by the vote of not less than eighty percent (80%) of the then Lot owners; however, no such amendment may conflict with or be in derogation of any term, provision or condition of the Declaration, as amended, from time to time. This Section 2.4 may not be amended.

SECTION 2.5 Variances: The Board of Directors in its absolute discretion may allow reasonable variances and adjustments to these Restrictive Covenants in order to alleviate practical difficulties and hardship in their enforcement and operation. No variance shall violate the spirit or the intent of this document or any term or provision of the Declaration. In order to be effective, a variance shall be set forth in a written instrument duly executed by the Association, shall specifically refer to these Restrictive Covenants and shall be recorded in the Office of the Register of Deeds of Durham County, North Carolina.

SECTION 2.6 Captions: The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope of these Restrictive Covenants nor the intent of any provision hereof.

SECTION 2.7 Invalidity: Invalidation of any of the covenants, restrictions or provisions of these Restrictive Covenants by judgment, court order, statute or ordinance shall in no way affect any of the remaining provisions hereof and the same shall continue in full force and effect.

SECTION 2.8 Waiver: No provision contained in these Restrictive Covenants shall be deemed to have been waived by reason of any failure to enforce same, irrespective of the number of violations thereof.

SECTION 2.9 Gender: The use of the masculine gender in this document shall be deemed to refer to the feminine or neuter gender and the use of the singular shall be deemed to refer to the plural, and vice versa, whenever the context so requires.

SECTION 2.10 Indemnification: To the extent permitted by law, each Lot owner agrees to indemnify any party for legal fees and expenses incurred by such party who brings a successful action to enforce these Restrictive Covenants, to enforce the Declaration or to enjoin a violation of either one.

ARTICLE THREE
PERMITTED AND PROHIBITED USES

SECTION 3.1 Use of Lots: The following use restrictions shall apply to the Lots:

- (A) One or more Lots may be used as a single building plot. Adjoining property owners may adjust a common boundary line by the sale or exchange of property between such owners provided that such sale or exchange otherwise satisfies the requirements of these Restrictive Covenants; provided, however, no such adjustment shall create a new Lot. The Lots shall be used only for single family residences with such customary outbuildings as may be approved by the Design Review Committee.
- (B) The premises shall not be used or occupied by other than a single family and family servants and shall not be used other than for residential use.
- (C) No commercial or business activity of any kind shall be permitted on the premises.
- (D) Garages shall be for the use only of the occupants of the residence to which they are appurtenant and may be attached or detached from the residence.
- (E) When the construction of any building or other improvement is once begun, work thereon must be prosecuted diligently and must be completed within eighteen (18) months from the time construction began or from the time a Durham City-County Building Permit is issued for said improvement. In addition, the owner of a Lot shall submit a landscape plan to the Design

Review Committee within nine (9) months after the construction of any building or other improvement is once begun. The landscape plan approved by the Design Review Committee must be fully implemented no later than six (6) months after the time all governmental approvals have been issued to occupy the premises as a residence.

- (F) No outbuilding, garage, shed, tent, trailer or temporary building of any kind shall be erected, permitted or maintained prior to commencing the construction of a residence, as is permitted hereby, and no outbuilding, garage, shed, tent, trailer, basement or temporary building shall be used for permanent or temporary residence purposes; provided, however, that this paragraph shall not be construed to prevent the use of a temporary construction shed during the period of actual construction on such Property nor the use of adequate sanitary toilet facilities for workmen during the construction period.
- (G) No owner of any part of the Lot will do or permit to be done any act upon his Lot which is or may become a nuisance.
- (H) No sign shall be displayed or placed upon a Lot except as may be expressly authorized by the Design Review Committee.
- (I) No animals, birds or fowl shall be kept or maintained on any part of a Lot; provided, however, that dogs, cats and pet birds may be kept thereon in reasonable numbers as pets for the pleasure and use of the occupants so long as they do not become a nuisance to other owners in the development and provided further that they are not kept, bred or maintained for any commercial use or purpose.
- (J) No garbage incinerators shall be permitted.

- (K) Garbage and trash receptacles shall be in complete conformity with the requirements of the Design Review Committee and City of Durham or any successor governmental agency.
- (L) No boats, trailers or habitable motor vehicles of any nature shall be kept on or stored on any part of the property except within an enclosed garage; however, a boat or a boat trailer may be parked or stored on that portion of the Lot away from the street and screened from view as may be required by the Design Review Committee.
- (M) No substantial changes in the elevation or topography of any Lot shall be made without the approval of the Design Review Committee.
- (N) No weeds, underbrush or other unsightly vegetation shall be permitted to grow or remain upon any part of any Lot and no refuse pile or unsightly objects shall be allowed to be placed or suffered to remain thereon. The owner of a Lot shall keep the lawn neatly trimmed, and in conformity with the standards of the Croasdaile Farm Community, at all times.
- (O) Lot No. 205 through Lot No. 239 of the property of Susan F. Beischer are and shall be a part of the Croasdaile Farm Community.
- (P) The Developers, their heirs, successors and assigns and designated agents or nominees shall have the exclusive right to maintain a sales office, management office and a model home or homes on one or more of the said Lots subject to these Restrictive and Protective Covenants. There are no restrictions as to the number, size, location or relocation of any such sales office, management office or model home. The Developers or their designees shall have the right to remove any sales office, management office or model home at any time. The right to remove or relocate a sales office, management office or model home includes the right of the Developers to remove all personal property and fixtures therefrom. The

Developers or their designees also shall have the right to maintain signs on any of the said unsold Lots or on the Common Areas advertising homes or Lots for sale.

ARTICLE FOUR

SETBACKS AND CONSTRUCTION REQUIREMENTS

SECTION 4.1 Setbacks and Construction Requirements: The following setbacks and construction requirements shall apply to the Lots:

- (A) No building or other structure shall be located on any Lot except within the setback lines depicted for each Lot in Plat Book 158, at Page 385, Durham County Registry, and depicted for each Lot in Plat Book 158, at Page 387, Durham County Registry. If one or more Lots are combined with a contiguous Lot, these setback requirements shall apply to the combined Lots. If a portion of a contiguous Lot is acquired by an owner of one Lot, these setback requirements shall apply to both redefined Lots.
- (B) The minimum size of all single family dwellings shall be not less than three thousand five hundred (3,500) square feet of heated finished living space.
- (C) No construction, alteration or improvement to a Lot or a change in its arboreal or vegetative conditions shall be made or begun without the prior written approval of the Design Review Committee as is provided in the Community-Wide Standards, as amended, from time to time, for the Croasdaile Farm Community, which Standards are Exhibit "D" to the Declaration of Covenants, Conditions and Restrictions for Croasdaile Farm, all of which is recorded in the Office of the Register of Deeds of Durham County, North Carolina.

ARTICLE FIVE
DURATION OF RESTRICTIVE COVENANTS

SECTION 5.1 Term: The Restrictive Covenants set forth in this instrument shall continue in full force and effect until twelve o'clock noon, local time, on December 31, 2030, after which time they shall automatically be extended for successive ten (10) year periods, unless an instrument in writing, signed by a majority of the then owners of Lot No. 205 through Lot No. 239 revoking or terminating the same, shall be filed in the Office of the Register of Deeds of Durham County, North Carolina, within the twelve (12) month period preceding the beginning of each successive period of ten (10) years.

ARTICLE SIX
LIBERAL CONSTRUCTION

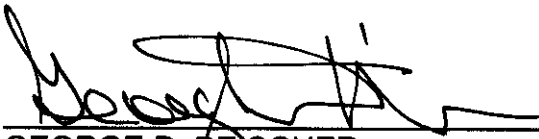
SECTION 6.1 Construction: These Restrictive Covenants shall be construed liberally to effect their purpose of creating a subdivision in the Croasdaile Farm Community which is administered by the Association and is at all times subject to the terms and conditions of the Declaration, as amended, from time to time.

ARTICLE SEVEN
EFFECT OF THIS AMENDMENT

SECTION 7.1 Effect: These restrictive covenants fully and completely amend, restate, supersede and replace the restrictive covenants recorded in Book 3553, at Page 582, Durham County Registry ("the Prior Restrictive Covenants") to the same extent and with the same effect as if the Prior Restrictive Covenants had never existed and had never been recorded.

IN TESTIMONY WHEREOF, Croasdaile Farm Three, LLC, and Susan F. Beischer, and husband, George D. Beischer, have affixed their hands and seals, the day and year first above written.

 (SEAL)
SUSAN F. BEISCHER

 (SEAL)
GEORGE D. BEISCHER

CROASDAILE FARM THREE, LLC

BY:  (SEAL)
David D. Beischer, Manager

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

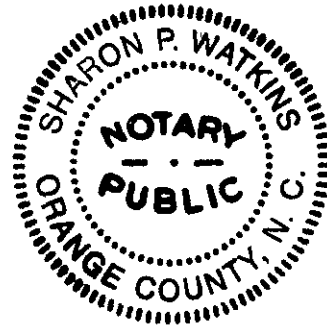
I, Sharon P. Watkins, a Notary Public for said County and State, certify that SUSAN F. BEISCHER and husband, GEORGE D. BEISCHER, known to me to be the persons described in the foregoing instrument, each personally appeared before me and executed the foregoing instrument, and they severally acknowledged the execution thereof to be their free act and deed for the uses and purposes therein expressed.

WITNESS my hand and official stamp or seal, this 3rd day of June, 2003.

Sharon P. Watkins
Notary Public

My Commission Expires:

MARCH 4, 2006



STATE OF NORTH CAROLINA

COUNTY OF DURHAM

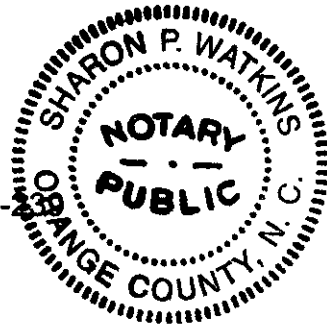
I, Sharon P. Watkins, a Notary Public for said County and State, do hereby certify that David D. Beischer, Manager of CROASDAILE FARM THREE, LLC, a limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

WITNESS my hand and official stamp or seal, this 3rd day of June, 2003.

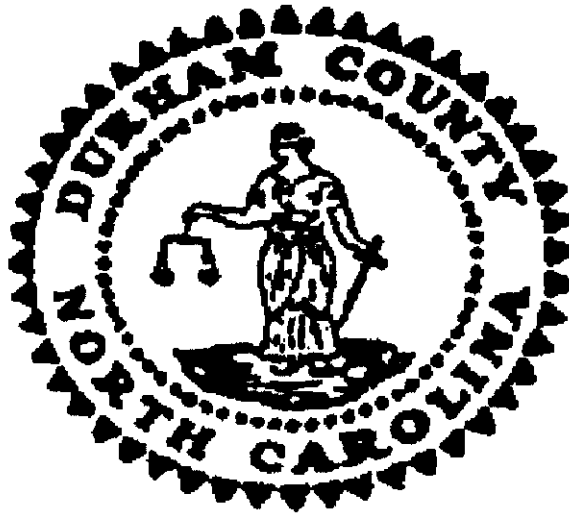
Sharon P. Watkins
Notary Public

My Commission Expires:

MARCH 4, 2006



H:\SHARON\CROFARM\DOCUMENTS\AMENDRESTCOV.205-



WILLIE L. COVINGTON
REGISTER OF DEEDS , DURHAM COUNTY
DURHAM COUNTY COURTHOUSE
200 E. MAIN STREET
DURHAM, NC 27701

Filed For Registration: 06/04/2003 11:31:47 AM

Book: RE 3937 Page: 39-56

Document No.: 2003034704

AMD 18 PGS \$62.00

Recorder: GAIL BAKER

State of North Carolina, County of Durham

The foregoing certificate of SHARON P WATKINS Notary is certified to be correct. This 4TH of June 2003

WILLIE L. COVINGTON , REGISTER OF DEEDS

By: *Gail Baker*
Deputy Assistant Register of Deeds



2003034704