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Prepared By and Return to: William Lockett Tally
Tally and Tally, Attorneys and Counselors at Law, PLLC
1318 Raeford Road, Suite B
Fayetteville, NC 28305

NORTH CAROLINA

**DECLARATIONS OF
RESTRICTIVE COVENANTS
ELLIOT FARMS SUBDIVISION**

CUMBERLAND COUNTY

THIS DECLARATION, the 5 day of October 2021, BROADWELL LAND COMPANY, a North Carolina corporation, its successors and/or assigns, hereinafter referred to as "Developer."

W I T N E S S E T H:

WHEREAS, Developer is the owner of certain property in Cumberland County, North Carolina, which is known as the subdivision ELLIOT FARMS PHASE 1A, which is comprised of Lots 1 through 13, inclusive, and lot 66, as well as all other real property, as shown on that certain corrected plat duly recorded in Plat Book 147, Page 102, Cumberland County, NC Registry (the "Plat"), said Lots and all other real property shown thereon being hereinafter known as the ELLIOT FARMS PHASE 1A Subdivision (hereinafter, the "ELLIOT FARMS Subdivision"; or the "Subdivision");

AND, WHEREAS, the Declarant has submitted a stormwater design plan to the City of Fayetteville as required by the "Stormwater Control Ordinance of Fayetteville, North Carolina" (Sections 23-20 through 23-49 of the Code of Ordinances of the City of Fayetteville, North Carolina) and pursuant to Section 23-39 of said Code of Ordinances has executed the ELLIOT FARMS PHASE 1A, DECLARATION OF COVENANTS INSPECTION/MAINTENANCE OF STORMWATER MANAGEMENT FACILITY, TRANSFER OF MAINTENANCE RESPONSIBILITIES that is recorded in Book 10697, pages 264-274, in the office of the Cumberland County Register of Deeds; and ELLIOT FARMS PROPERTY OWNERS' ASSOCIATION, INC. is a party and signatory to said agreement and said agreement contains the provisions as set forth in Section 23-39 (b) of said Code of Ordinances; and

WHEREAS, the Developer desires that the ELLIOT FARMS PHASE 1A Subdivision be uniform in its development and the restrictions applicable thereto; and, to apply pursuant to Section 23-38 (b) and Section 23-39 (a) of the Stormwater Control Ordinance of Fayetteville, North Carolina for the transfer of functional maintenance responsibilities for the structural stormwater management facility for this single-family detached residential development be transferred to the City of Fayetteville once the stormwater maintenance facility has passed the required inspection; to provide for operation and maintenance of the Stormwater Maintenance Facilities pursuant to the ELLIOT FARMS PHASE 1A, DECLARATION OF COVENANTS INSPECTION/MAINTENANCE OF STORMWATER MANAGEMENT FACILITY, TRANSFER OF MAINTENANCE RESPONSIBILITIES that is recorded in Book 10697, pages 264-274, Cumberland County Registry, the provisions of the Stormwater Control Ordinances of Fayetteville, North Carolina, and any other applicable state or federal laws or regulations, to the extent that the maintenance responsibilities are not transferred to the City of Fayetteville; to provide for establishing and maintaining such escrow accounts that may be required by the Stormwater Control Ordinance of Fayetteville, North Carolina; and, to provide for performing all duties and filing all required reports subsequent to the completed initial construction inspections relative to the installed erosion and sedimentation plan for the ELLIOT FARMS PHASE 1A, Subdivision:

NOW, THEREFORE, Developer hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

"Association" shall mean and refer to the ELLIOT FARMS PROPERTY OWNERS ASSOCIATION INC. a North Carolina non-profit corporation, its successors and assigns. The Associations articles of incorporation are attached hereto as Exhibit A; and the Association's bylaws (the Bylaws") are attached hereto as Exhibit B.

"Common Area" shall mean the signs, mail kiosk areas, landscape easements, wetlands, open space, stormwater/detention ponds, and right of way including all improvements to these common areas) owned by the Association for the use, upkeep and enjoyment of the owners.

"Declarant" shall mean and refer to BROADWELL LAND COMPANY, its successors and assigns.

"Member" shall mean and refer to every person or entity who holds membership in the Association due to ownership of fee simple title to any house or house Lot which is part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. Membership shall be in two classes. Class A membership shall consist of all Owners of Lots other than the Declarant, its successors and/or assigns, and each Member shall be entitled to one (1) vote for each Lot owned, regardless of the number or record title holders per Lot. Class B membership shall be limited to the Declarant, its successors or assigns, and each Member shall be entitled to three (3) votes for each Lot owned.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

"Properties" shall mean and refer to that certain real property hereinbefore described as the subdivision known as ELLIOT FARMS PHASE 1A according to a corrected plat of the same duly recorded in Plat Book 147, Page 102, Cumberland County, North Carolina, Registry, together with all common areas as well as any other property other than the numbered lots as appear on said plat.

"Lot" shall mean and refer to any of the Lots in the subdivision known as ELLIOT FARMS PHASE 1A, according to a corrected plat of the same duly recorded in Plat Book 147, Page 102, Cumberland County, North Carolina, Registry.

"Period of Declarant Control" will be from the date of recording these Declarations of Restrictive Covenants until such time as the Declarant no longer is the owner of any lot in Elliot Farms Subdivision.

ARTICLE II SPECIAL DECLARANT RIGHTS

Declarant reserves the following special declarant rights for the entire Property, including any future sections of the Elliot Farms Subdivision, during the Period of Declarant Control:

- (a) To complete any and all improvements indicated on the Plat;
- (b) To exercise any development right reserved in the 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 shown on the plat;

- (d) To create additional easements through the Common Properties for the purpose of making improvements within the Subdivision or any property added thereto (including, but not limited to, additional utility and/or drainage easements), as reasonably necessary in the sole discretion of Declarant;
- (e) To alter the size of any Lot, combine or merge two or more Lots, to subdivide Lots or other Property into Common Property;
- (f) To reasonably amend the covenants and use restrictions contained in this Declaration in conformity with the general plan and scheme of development; and
- (g) To assign the Declarant's rights to a successor in interest.

ARTICLE III USE RESTRICTIONS

Section 1. These covenants are to be in accordance with those covenants entered into between the Developer and the City of Fayetteville recorded in Deed Book 10697, pages 264 through 274 of the Cumberland County, North Carolina registry. No Lot owner shall violate these covenants without consent from the City or County Planning Department and the Developer.

Section 2. All Lots shall be used for residential purposes only and shall not be used for any business or commercial purposes, provided however, that Developer reserves the right to use any Lot and any improvements thereon owned by Developer as a model home with sales office. Group family homes are prohibited.

Section 3. All Lots shall be residential lots, and no structure shall be erected, altered, placed, or permitted to remain on any of said lots except one detached single family dwelling of not more than two and one-half stories in height, a private garage for not more than three cars, and other outbuildings in the rear of the dwelling house, which outbuildings shall be constructed in the same manner and with the same materials as the single family dwelling located on the Lot. Manufactured metal buildings may not be placed on any Lot in the subdivision.

Section 4. No residential dwelling shall be erected or allowed to remain on any of the said Lots which shall contain a heated-area living space of less than one thousand eight hundred (1,800) square feet. Heated-area living space shall mean the ordinary living space in a house which is designed and constructed so as to be capable of being heated for regular living use in cold weather. In the computation of floor space, furnace room areas, garages, carports, and porches shall not be counted. No residence or other building, and no fence, wall, utility yard, dangerous dog containment area,

driveway, in ground swimming pool or other structure or improvement, regardless of size or purposes, whether attached to or detached from the main residence, shall be commenced, placed, erected, or allowed to remain on any building lot, nor shall any addition to or exterior change or alteration thereto be made, unless and until building plans and specifications covering the same, showing the nature, kind, shape, height, size, materials, floor plans, exterior color schemes with paint samples, location and orientation on the building lot and approximate square footage, construction schedule, on-site sewage and water facilities, and such other information as the Developer shall require, including, if so required, plans for the grading and landscaping of the building lot showing any changes proposed to be made in the elevation of surface contours of the land, have been submitted to and approved in writing by the Developer, have been lodged permanently with the Developer.

The Developer shall have the absolute and exclusive right to refuse to approve any such building plans and specifications and lot-grading and landscaping plans which are not suitable or desirable in its opinion for any reason, including purely aesthetic reasons connected with future development plans of the Developer of said land and contiguous lands. In passing upon such building plans and specifications and lot-grading and landscaping plans, the Developer may take into consideration the suitability and desirability of the proposed construction and of the materials of which the same are proposed to be built to the building lot upon which the owner proposes to erect the same, the quality of the proposed workmanship and materials, the harmony of external design with the surrounding neighborhood and existing structures therein, and the effect and appearance of such construction as viewed from neighboring properties. In the event the Developer fails to approve or disapprove such building plans and specification within thirty (30) days after the same have been fully submitted to it as required above, or the foundation of the building has been completed and approved by the local building inspection department, the approval of the Developer shall be presumed, and the provisions of this paragraph shall be deemed to have been complied with. However, no residence or other building, structure, or improvement which violates any of the covenants and restrictions herein contained or which is not in harmony with the surrounding neighborhood and the existing structures therein shall be erected or allowed to remain on any part of a lot. All driveways shall be constructed of concrete.

Section 5. All structures shall comply with all setbacks within the subdivision as provided for in the applicable City of Fayetteville zoning designation. For the purposes of these covenants, eaves, steps, overhangs and chimneys shall be considered as a part of the building, provided however, that this shall not be construed to permit any portion of an improvement on a Lot to encroach upon another Lot.

Section 6. No solid panel fences may be erected closer to any street line than the back corner of the house farthest from the street line. No wire fences of any description shall be permitted closer to any street line than the back corner of the house farthest from the street line. No fences made of concrete block or what is commonly known as "chicken wire" shall be permitted anywhere on the lot. No fence shall exceed [6'] feet in height. Only ornamental fences (e.g.: split rail fences or fences through which

there is at least 75% visibility) not to exceed three (3') feet in height may be erected between the house and the street lines.

Section 7. Television satellite or dish antennae having a diameter in excess of twenty-two (22) inches are prohibited. All allowable satellite dishes or antennae are to be placed or installed on the rear of the house or the rear corner.

Section 8. No automobile or motor vehicle may be dismantled or stored on said property, and no mechanically defective automobile or motor vehicle nor any mechanical machine, or machinery shall be placed or allowed to remain on said property for over thirty (30) days. Notwithstanding the above, these restrictions shall not apply if such vehicle is kept in an enclosed garage and out of sight from the street. Commercial vehicles, camper trailers, trailers, and/or boats shall be stored at the rear of the residence and shall be within the yard set-backs and limited to two (2) per lot.

Section 9. Dwellings may be constructed with crawl-space foundations, or with concrete slabs.

Section 10. No trailer, tent, shack, garage, barn or similar type of outbuilding shall be placed, erected, or allowed to remain on any Lot without the written consent of the Developers, its successors and assigns. No structure of a temporary character shall be used as a residence temporarily, permanently, or otherwise. No portable storage units such as PODS may be placed on any Lot for more than forty-five (45) days.

Section 11. Only break-away mailboxes approved by the Declarant may be constructed in the subdivision, if allowed by the United States Postal Service.

Section 12. The grounds of each lot within the subdivision must be maintained to a reasonable standard established by Declarant before, during and after construction during the period of Declarant Control and after that period by the Homeowners Association.

Section 13. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except dogs, cats, or other household pets, provided, that they are not kept, bred or maintained for commercial purposes. Maximum number of household pets is three (3). Breeds of dogs that may be perceived by the general public as dangerous or having the propensity for being dangerous shall not be permitted on the premises unless such dog(s) is at all times confined within secure, 5' high chain link fencing, or equivalent fencing. Confinement area and/or doghouse shall be permitted in the rear of the dwelling (main structure), within 30' of the rear of the dwelling.

Section 14. Each lot owner covenants and agrees that he will control the noise level emanating from any activities on the lot at a reasonable level. The lot owner shall not allow the noise level to become a nuisance or to otherwise interfere with adjoining lot owners' reasonable use of their lots.

Section 15. It is understood and agreed that these restrictions are made for the mutual benefit of the grantors and grantees and any and all subsequent grantees, and all such parties shall be deemed to have a vested interest in these restrictions and the right of enforcing same.

Section 16. The invalidation of any one or more or any part of any one or more of the covenants and conditions set forth herein shall not affect or invalidate the remaining covenants and conditions or portions thereof.

Section 17. All lots as shown on the aforesaid recorded plat are approved as to size and shape. No lot shall be re-subdivided in any matter so as to create any new or revised lot having a width of less than 80 feet at the minimum setback line or having an area of less than 11,000 square feet.

Section 18. All areas indicated as streets and easements on the aforesaid recorded plat are hereby dedicated to public use forever.

Section 19. Declarant reserves the right to subject the real property in this entire subdivision to a contract with the provider of electrical service for the installation of underground electric cables and/or the installation of street lighting, either or both, of which will require an initial payment and/or a continuing monthly payment to the provider of electric service by each residential customer having service in the subdivision, and which charge may be included in the regular bill for residential electric service.

Section 20. Notwithstanding the foregoing provisions requiring residential use of the Lots in this subdivision, Declarant and its successors in title may devote any lot or portion thereof, not already sold, for any constructions and uses which it, in its discretion, deems necessary in order to provide the subdivision with utilities; and Declarant, and its successors in title, may devote any lot or portion thereof, not already sold, or once sold but later reacquired by Declarant, for street purposes for access to any adjoining properties now owned, or hereafter acquired, by Declarant.

Section 21. It is understood and agreed that these restrictions are made for the mutual benefit of the grantors and grantees and any and all subsequent grantees, and all such parties shall be deemed to have a vested interest in these restrictions and the right to enforce same.

Section 22. The invalidation of any one or more or any part of any one or more of the covenants and conditions set forth herein shall not affect or invalidate the remaining covenants or portions thereof.

ARTICLE IV UTILITIES AND UTILITY AND DRAINAGE EASEMENTS

Section 1. Developer reserves the right to subject the real property in this entire subdivision to a contract with public utility providers for the installation of overhead and/or underground electric cables or other utilities and/or for 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 improved Lot. Developer and its successors in title may devote any lot or portion thereof, not already sold, for any construction and uses which it, in its sole discretion, deems necessary in order to provide the subdivision with utilities.

Section 2. Easements for installation and maintenance of utilities and drainage facilities and signs 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. All areas indicated as streets and easements on the recorded plat are hereby dedicated to public use for such uses forever except side yard easements, which are for the use and benefit of those persons and lots as described herein.

ARTICLE V MAINTENANCE RESPONSIBILITIES OF THE ASSOCIATION

The Association will be responsible for maintenance as needed for the following:

- (a) Subdivision Sign (common area)
- (b) Open Spaces (common area)
- (c) ELLIOT FARMS SUBDIVISION berms, fencing and landscaping.

ARTICLE VI HOMEOWNERS ASSOCIATION

As a member of the Elliot Farms Homeowners Association, Inc. Lot owner shall be liable for annual dues in an amount not less than \$150.00. Said dues will be billed annually and will begin on the first day of January preceding conveyance from the builder or the developer to the buyer. In addition, each lot shall be assessed a one-time initial startup fee of \$50.00, at conveyance. Transfer fee thereafter will be \$50.00.

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned with the Properties, hereby covenants, and each Owner of any Lot, by acceptance of a deed therefore, 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, and (2) special assessments for capital improvements, such assessments or

charges, together with interest, costs and reasonable attorney's fees, shall be a charge against the Lot and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment or charge together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person or entity who is the Owner of such property at the time when the assessment fee is due.

Section 2. Purpose of Assessments. The assessments or charges levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and in particular for the maintenance, repair and reconstruction of the common roadways, driveways and parking areas and walkways serving the subdivision and for the acquisition, improvement and maintenance of properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, including, but not limited to, the cost of repair, replacement and additions thereto, the cost of labor, equipment, materials, management and supervision thereof, landscaping and ground maintenance of Common Area, the payment of taxes or special assessments assessed against the Common Area, the procurement and maintenance of insurance in accordance with the Bylaws, the employment of attorneys and/or accountants to represent the Association, when necessary, and such other needs as may arise.

Section 3. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Board of Directors of the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole, or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area.

Section 4. Assessment Rate. Until such time as all houses have been conveyed out by the Declarant, the Declarant shall be responsible only for its pro-rata share of the maintenance and upkeep expenses of the Common Area as determined by the Board of Directors of the Association.

Section 5. Date of Commencement of Annual Assessments; Due Date. The annual assessments shall become effective as provided in this Article. The first annual assessment for each Lot conveyed by the Declarant shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of the Association shall fix the annual assessment against each Lot at least thirty (30) days in advance of each assessment period. 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 of the Association. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified house have been paid. A properly executed certificate of the Association as to the status of assessments on a house is binding upon the Association as of the date of its issuance.

Section 6. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the initial rate of twelve percent (12%) per annum. Said rate may be changed from time to time by the Board of Directors of the Association. In addition to such interest charge, the delinquent owner shall also pay such late charge as may have been theretofore established by the Board of Directors of the Association to defray the costs of late payment.

The Association may, after 90 days, bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property, and interest, late payment fee, costs and reasonable attorneys' fees 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 house.

Section 7. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust on a mortgage or deed of trust on a Lot or any mortgage or deed of trust to the Declarant. 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 assessment as to payments which became due prior to such sale or transfer; provided, however, that the Board of Directors of the Association may, in its sole discretion, determine such unpaid assessments to be an annual or special assessment, as applicable, collectible prorate from all owners including the foreclosure sale purchaser. Such prorate portions are payable by all Owners. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof, but the liens provided for herein shall continue to be subordinate to the lien of any mortgage or deed of trust as above provided.

Section 8. Payment of Ad Valorem Taxes and Special Assessments. Upon default by the Owners Association in the payment of any ad valorem taxes levied against Common Areas or assessments for public improvements, which default continues for a period of six (6) months from the due date, each Owner of a house or undeveloped lot in the development shall become personally obligated to pay to the tax assessing government authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due by the total number of houses and house lots. If not paid by any such Owner within thirty (30) days, such sum shall become a continuing lien, and the taxing or assessment government authority may either bring an action at law against the Owner personally obligated to pay the same or elect to foreclose the lien on the house or house lot.

The Owners Association is hereby empowered to levy assessments for the payment of expenditures for the items set forth in the preceding paragraph, and such assessments not paid by the Owner shall constitute a lien on the Owner's house or house lot.

ARTICLE VII
PRESERVATION OF WETLANDS

Section 1. The areas shown on the corrected plat recorded in Book of Plats _____, page ____, Cumberland Count Registry, as WETLANDS adjacent to Lots 11 and 12 (being conservation areas) shall be maintained in perpetuity in their natural or mitigated condition. No person or entity shall perform any of the following activities on such conservation area:

- a. fill, grade, excavate or perform any other land disturbing activities
- b. cut, mow, burn, remove, or harm any vegetation
- c. construct or place any roads, trails, walkways, buildings, mobile homes, signs, utility poles or towers, or any other permanent or temporary structures
- d. drain or otherwise disrupt or alter the hydrology or drainage ways of the conservation area
- e. dump or store soil, trash, or other waste
- f. graze or water animals or use for any agricultural or horticultural purpose.

This covenant is intended to ensure continued compliance with the mitigation condition of a Clean Water Act authorization issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it.

Section 2. This covenant cannot be amended with the express written permission of the U.S. Army Corps of Engineers, Wilmington District.

ARTICLE VIII
GENERAL PROVISIONS

Section 1. Enforcement. So long as the Developer is an owner of a Lot shown on the plat hereinbefore referenced, Developer, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of these Restrictive Covenants. Failure by the Developer or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Amendment. These Restrictive Covenants shall run with and bind the land and shall inure to the benefit of and be enforceable by the Owner of any Lot subject to these Restrictive Covenants, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date these Restrictive Covenants are recorded, after which time said Covenants shall be automatically extended

for successive periods of ten (10) years. These Restrictive Covenants may be amended by (i) a change being approved by a written recorded instrument signed by all of the owners of all lots requesting a change or modification, by the majority of the owners of the lots to both sides within ninety (90) feet of any lot requesting the change or modification, and by the Developer, its successors and/or assigns, or (ii) while the Developer or assigns continues to own any Lot in the subdivision, by the change being approved by the written consent of the Developer during the first twenty-(20) year period.

Section 3. Conflict. In the event of any conflict between the provisions of these Covenants and any applicable provisions of the Cumberland County ordinances and codes, the provisions of the Cumberland County ordinances and codes shall control.

IN WITNESS WHEREOF BROADWELL LAND COMPANY, the Developer herein, has caused this Declaration to be signed in its name the day and year first above written.

BROADWELL LAND COMPANY

By: *D. B. Broadwell, Jr.*
DOHN B. BROADWELL, JR., PRESIDENT

State of North Carolina

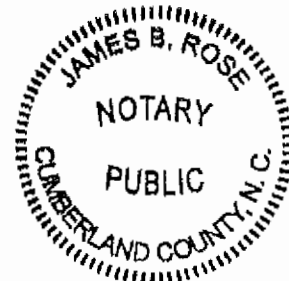
Cumberland County

I, *James B. Rose*, a Notary Public for said county and state, do hereby certify DOHN B. BROADWELL, JR., Managing Member of BROADWELL LAND COMPANY, a North Carolina corporation, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

This the *5* day of *October*, 2021

James B. Rose Notary Public

My commission expires: *12/9/23*



Exh. B. + "A"

SOSID: 2269642
 Date Filed: 9/15/2021 3:16:00 PM
 Elaine F. Marshall
 North Carolina Secretary of State
 C2021 258 00990

State of North Carolina
 Department of the Secretary of State

ARTICLES OF INCORPORATION
 NONPROFIT CORPORATION

Pursuant to §55A-2-02 of the General Statutes of North Carolina, the undersigned corporation does hereby submit these Articles of Incorporation for the purpose of forming a nonprofit corporation.

1. The name of the corporation is: ELLIOT FARMS PROPERTY OWNERS ASSOCIATION, Inc.
2. _____ (Check only if applicable.) The corporation is a charitable or religious corporation as defined in NCGS §55A-1-40(4).
3. The street address and county of the initial registered office of the corporation is:
 Number and Street 903 HAY STREET
 City, State, Zip Code Fayetteville, NC 28305 County Cumberland
4. The mailing address *if different from the street address* of the initial registered office is:
same as above
5. The name of the initial registered agent is:
DOHN B. BROADWELL, JR.
6. The name and address of each incorporator is as follows: _____
Dohn B. Broadwell, Jr., 903 Hay Street, Fayetteville, NC 28305
7. (Check either a or b below.)
 a. ☒ The corporation will have members.
 b. _____ The corporation will not have members.
8. Attached are provisions regarding the distribution of the corporation's assets upon its dissolution.
9. Any other provisions which the corporation elects to include are attached.
10. The street address and county of the principal office of the corporation is:
 Number and Street 903 Hay Street
 City, State, Zip Code Fayetteville, NC 28305 County Cumberland
11. The mailing address *if different from the street address* of the principal office is:
Same as Above

12. These articles will be effective upon filing, unless a later time and/or date is specified: _____

This is the 15 day of September, 2021.



Signature of Incorporator

John B. Broadwell, Jr., Incorporator
Type or print Incorporator's name and title, if any

NOTES:

1. Filing fee is \$60. This document must be filed with the Secretary of State.

Revised January 2000

Form N-01

CORPORATIONS DIVISION

P. O. BOX 29622

RALEIGH, NC 27626-0622

ELLIOT FARMS PROPERTY OWNERS ASSOCIATION, INC. PROVISION FOR DISSOLUTION

In the event of a dissolution and/or liquidation of the Corporation, all of the residual assets of the Corporation shall be distributed to such organization(s) that are exempt under Section 501(c)(3) or Section 528(c)(4) of the Code or corresponding sections of any prior or future Internal Revenue Code at the time of dissolution as shall, in the judgment of the directors, be most likely to fulfill the purpose of the Corporation.

IN WITNESS WHEREOF, the Incorporator has executed this Provision for Dissolution this the 15 day of September, 2021.


Incorporator, JOHN B. BROADWELL, JR.

EXHIBIT "B" Bylaws

Bylaws of Elliot Farm Property Owners Association, Inc.

ARTICLE I

The name of the corporation is ELLIOTT FARM PROPERTY OWNERS ASSOCIATION, INC., hereinafter referred to as the "Association". The principal office of the Corporation shall be located at 903 Hay Street in the City of Fayetteville, North Carolina, but meetings of members and directors may be held at such places within the State of North Carolina, County of Cumberland, as may be designated by the Board of Directors.

ARTICLE II DEFINITIONS

Section 1. "Association" shall mean and refer to SKYWARD HOMEOWNERS ASSOCIATION, INC. its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, **Conditions and Restrictions, and such additions thereto** as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Common Area" shall mean all property owned by the Association for the common use and enjoyment of the Owners.

Section 4. "Lot" shall mean and refer to any plot of lands shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. "Declarant" shall mean and refer to BROADWELL LAND COMPANY its successors and assigns, if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 7. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the Office of the

Section 8. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III
MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held at a date and time established by the Board of Directors.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A or Class B memberships.

Section 3. Notice of Meeting. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting by mailing a copy of such notice, postage prepaid, at least 10 days before such meeting to each member entitled to vote thereafter, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day, and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10th) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration of these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. Proxies. At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot.

ARTICLE IV
BOARD OF DIRECTORS
SELECTION AND TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of Directors, who need not be members of the Association, and initially shall be no more than four (4) members.

Section 2. Term of Office. At the first annual meeting the members shall elect two (2) directors for a term of one year, and two (2) directors for a term of three years; and at each annual meeting thereafter the members shall elect two (2) directors for a term of three years.

Section 3. Removal. Any director may be removed from the Board, with or without a cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a director, his successor shall be elected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairperson, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion, but not less than the number of vacancies that are to be filled. Such nominations may be made among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI MEETING OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held as needed without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two directors, after not less than three (3) days' notice to each director.

Section 3. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

(a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) suspend the voting rights and right to use the recreational facilities of a member' during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of published rules and regulations;

(c) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By Laws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and

(e) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

(f) to make any and all applications or petitions for the City to accept functional maintenance responsibility for the single-family detached residential development as provided by Section 23-38 (b) of the Stormwater Control Ordinance of Fayetteville, North Carolina, with the Association still being responsible for routine maintenance such as mowing the grass and picking up litter as provided by Section 23-39 (b) of the Stormwater Control Ordinance of Fayetteville, North Carolina.

(g) to include in the Operation and Maintenance Agreement for the stormwater management facilities the special requirements for homeowners' association as set forth in Section 23-39 (b) of the Stormwater Control Ordinance of Fayetteville, North Carolina.

(h) to perform all other duties imposed upon the Association by the Certificate of Incorporation, the Declarations, or the North Carolina General Statutes.

Section 2. Duties. It shall be the duty of the Board of Directors to;

(a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;

(b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) as more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the owner personally obligated to pay the same.

(d) issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid a reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) cause all officers or employee having fiscal responsibilities to be bonded, as it may deem appropriate;

(g) cause the Common Area to be maintained.

Section 3. Order of Business. The order of business at all meetings of the Board shall be as follows:

- (a) Roll call;
- (b) Proof of notice of meeting or waiver of notice;
- (c) Reading of minutes of last meeting;
- (d) Election of necessary directors and officers;
- (e) Reports of committees;
- (f) Unfinished business;
- (g) Original resolutions and new business
- (h) Adjournment

Except as herein provided, Robert's Rules of Order shall be applicable to the conduct of all meetings.

ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first 1st meeting of all Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation 2nd Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time giving written notice to the Board, the president or secretary. Such resignation shall take effect on the date or receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaced.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President

(a) The President shall preside at all meetings of the Board of Directors; Shall see that orders and resolutions of the Board are carried out; Shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

Vice-President

(b) The Vice-President shall act in the place and stead of the President in "the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings and of the Board and of the members; keep appropriate current records the members of the association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant of the corporation for each fiscal year, when needed; and shall prepare an annual budget and a statement of income and expenditures to be represented to the membership at its regular annual meeting and deliver a copy of each to the members.

ARTICLE IX
COMMITTEES

The Association shall appoint an Architectural Control Committee, as provided in the Declaration, and, a Nominating Committee, as provided in these By-Laws. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purpose.

ARTICLE X
BOOKS AND RECORDS

The books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost.

ARTICLE XI
ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after due date, the assessment shall bear interest from the date of delinquency at the rate of twelve (12%) percent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

ARTICLE XII
CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Elliot Farms Property Owners Association, Inc., Corporate Seal, North Carolina.

ARTICLE XIII
AMENDMENTS

Section 1. These By-Laws may be amended, at a regular or special meeting of the members by a vote of a majority of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is Class B membership.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

ARTICLE XIV
MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of the Elliot Farms Property Owners Association, Inc., have heretofore set our hands this 14th day of September, 2021.

Board of Directors:
BROADWELL LAND COMPANY
By: [Signature]
DOHN B. BROADWELL, JR., PRESIDENT

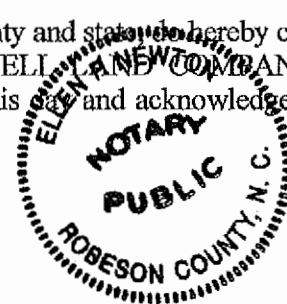
State of North Carolina

Cumberland County

I, Ellen P. Newton, a Notary Public for said county and state, do hereby certify DOHN B. BROADWELL, JR. PRESIDENT of BROADWELL LAND COMPANY, a North Carolina Corporation, personally appeared before me this 14th day of September and acknowledged the due execution of the foregoing instrument.

My commission expires: 05/16/2026

[Signature] Notary Public



FILED	Nov 10, 2022
AT	11:09:09 AM
BOOK	11614
START PAGE	0179
END PAGE	0181
INSTRUMENT #	44250
RECORDING	\$26.00
EXCISE TAX	\$0.00

Prepared by: William Lockett Tally

Tally and Tally, Attorneys and Counselors at Law, PLLC

1318 Raeford Road, Suite B, Fayetteville, NC 28303

After recording, mail to: Tally and Tally, Attorneys and Counselors at Law, PLLC

NORTH CAROLINA

**DECLARATION OF COVENANTS, CONDITIONS
AND RESTRICTIONS OF ELLIOT FARMS SECTION 1B
SUBDIVISION, TO ADD LOTS 14 THROUGH 65,
INCLUSIVE**

CUMBERLAND COUNTY

THIS DECLARATION, made this the 1st day of November 2022, by BROADWELL LAND COMPANY, a North Carolina corporation, hereinafter referred to as "Declarant";

WITNESSETH:

THAT, WHEREAS, Declarant is the owner of certain property located in Cumberland County, North Carolina, which is known as the ELLIOT FARMS SUBDIVISION, as more particularly described in a boundary survey by Michael J. Adams, Professional Surveyor, M.A.P.S. Surveying, Inc., which recombination plat is recorded in Book of Plats 142, Page 17, Cumberland County Registry, comprised of 253.336 acres; and

WHEREAS, Declarant previously executed and caused to be recorded a certain Declaration of Covenants, Conditions, and Restrictions with respect to the ELLIOT FARMS SUBDIVISION, which instrument is recorded in Deed Book 11272, pages 336 through 358, Cumberland County Registry; and

WHEREAS, the instrument above has provisions that allow for the addition of parcels as they are developed within the ELLIOT FARMS SUBDIVISION, as defined in the recombination plat recorded in Book of Plats 142, Page 17; and

WHEREAS, Lots 14 through 65, inclusive, of the ELLIOT FARMS SECTION 1B SUBDIVISION as recorded in Book of Plats 149, page 3, Cumberland County, North Carolina, Registry are a portion of the property described in the aforesaid recombination plat which instrument is recorded in Book of Plats 142, page 17, Cumberland County Registry.

NOW, THEREFORE, Declarant hereby declares that all the properties described above shall be held, sold, and conveyed subject to the Declaration of Covenants, Conditions, and Restrictions with respect to the ELLIOT FARMS SUBDIVISION, which instrument is recorded in Deed Book 11272, pages 336 through 358, Cumberland County Registry, in the respects as hereinafter set forth:

1. Said recorded instrument, among other requirements, includes mandatory membership in the ELLIOT FARMS PROPERTY OWNERS ASSOCIATION, INC., the payment of the charges and liens set forth in said instrument required by the ELLIOT FARMS PROPERTY OWNERS ASSOCIATION, INC. to be paid by the lot owners, and the control of the use of the common areas by the ELLIOT FARMS PROPERTY OWNERS ASSOCIATION, INC.

2. So long as Declarant owns one or more of the Lots in ELLIOT FARMS SUBDIVISION Declarant reserves the right to modify or release any of the provisions of the covenants, so as to make the modified or released provision less restrictive. When Declarant no longer owns at least one of said lots, then the provisions of the original instrument recorded in Deed Book 11272, pages 336 through 358, Cumberland County Registry, shall apply to any such modification or release.

3. The Declarant reserves the right to change, alter or redesignate roads, utility and drainage facilities, plus other present and proposed amenities or facilities, as may in the sole judgment of the Declarant be necessary or desirable.

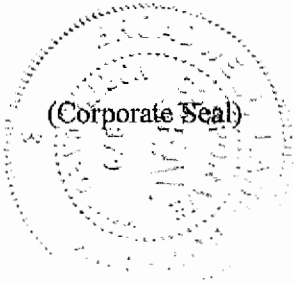
4. Lots 14 through 65, inclusive, of ELLIOT FARMS PHASE 1B SUBDIVISION, Book of Plats 149, page 3, Cumberland County, North Carolina, Registry are subject to all of the terms and conditions of the original Declaration of Covenants Inspection/Maintenance of Stormwater Management Facility, Transfer of Maintenance Responsibilities, recorded in Deed Book 10697, pages 264 through 274, Cumberland County Registry, and to Declaration of Covenants Inspection/Maintenance of Stormwater Management Facility, Transfer of Maintenance Responsibilities, recorded in Deed Book 11588, pages 161 through 172, Cumberland County Registry.

5. The area shown on the plat of Elliot Farms Phase 1B Subdivision, Lots 14-65, Book 149, page 3, Cumberland County Registry, as WETLANDS, some of which are within lots 22, 23, 24, 30, 33, 49, and 50, shall be maintained in perpetuity in their natural or mitigated condition. No person or entity shall perform any of the following activities in such conservation area:

- a. fill, grade, excavate or perform any other land disturbing activities
- b. cut, mow, burn, remove, or harm any vegetation
- c. construct or place any roads, trails, walkways, buildings, mobile homes, signs, utility poles or towers, or any other permanent or temporary structures
- d. drain or otherwise disrupt or alter the hydrology or drainage ways of the conservation area
- e. dump or store soil, trash, or other waste
- f. graze or water animals or use for any agricultural or horticultural purpose

This covenant is intended to ensure continued compliance with the mitigation condition of a Clean Water Act authorization issued by the United States of America, U.S. Army Corps of Engineers, Wilmington District, Action ID, and therefore may be enforced by the United States of America. This covenant is to run with the land, and shall be binding on the Owner, and all parties claiming under it. This covenant cannot be amended without the express written permission of the U. S. Army Corps of Engineers, Wilmington District.

IN WITNESS WHEREOF, Broadwell Land Company has caused this instrument to be executed in its Partnership name by its partners.



BROADWELL LAND COMPANY

By: *Dohn B. Broadwell, Jr.*
Dohn B. Broadwell, Jr., President

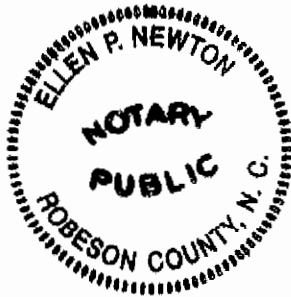
NORTH CAROLINA
CUMBERLAND COUNTY

I, Ellen P. Newton, a Notary public of North Carolina, certify that Dohn B. Broadwell, Jr. (who is personally known to me) personally came before me this day and acknowledged that he is President of Broadwell Land Company, a corporation, and that he as President, being authorized to do so, executed the foregoing on behalf of the corporation.

WITNESS my hand and official seal, this 2ND day of November 2022.

Ellen P. Newton
Ellen P. Newton
Notary Public

My Commission Expires: May 16, 2026



FILED
 CUMBERLAND COUNTY NC
 J. LEE WARREN, JR.
 REGISTER OF DEEDS
 FILED Feb 19, 2020
 AT 11:44:10 am
 BOOK 10697
 START PAGE 0264
 END PAGE 0274
 INSTRUMENT # 05891
 RECORDING \$26.00
 EXCISE TAX (None)

CHT

Prepared by/ Mail after recording to:

City Attorney's Office
 c/ o City of Fayetteville
 433 Hay Street
 Fayetteville, NC 28301

Return: Gina Verton

Parcel ID #: 0542-29-7533-

**DECLARATION OF COVENANTS
 INSPECTION/MAINTENANCE OF STORMWATER
 MANAGEMENT FACILITY, TRANSFER OF MAINTENANCE RESPONSIBILITIES**

THIS DECLARATION (this "Declaration"), made this 19 day of November, 2019, between Broadwell Land Company _____, hereinafter referred to as the "Covenantor," owner(s) of the following property: 7693 RAMSEY ST, (the "Property"), and the City of Fayetteville, North Carolina, hereinafter referred to as the "City".

WITNESSETH:

The Covenantor, with full authority to execute deeds, mortgages, other covenants, and all rights, titles and interest in the property described above, does hereby covenant with the City as follows:

1. In accordance with Section 23-38 of the City of Fayetteville Stormwater Management Ordinance (the "Stormwater Ordinance"), the City shall accept functional maintenance responsibility of structural structural stormwater management facilities (the "stormwater management facility or facilities", or the "BMP or BMP(s)") that are installed following a warranty period of one (1) year from the date of record-drawing certification described in Section 23-37 of the Stormwater Ordinance, or from the date the facility ceases to

function as an erosion control measure and starts to function as a stormwater management facility, whichever is later, provided the stormwater management facility:

- (1) Only serves a single-family detached residential development or townhomes all of which have public street frontage, which Covenantor intends to develop upon all the Property;
- (2) Is satisfactorily maintained during the one-year warranty period by the Covenantor;
- (3) Meets all the requirements of the Stormwater Ordinance;
- (4) Includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance repair, or reconstruction; and
- (5) Prior to the release of the installation performance guarantee as outlined in Section 23-41(b), the Covenantor shall pay into a City maintenance fund used to maintain such facilities in the future an amount equal to 20 percent of the initial construction cost of the stormwater management facilities related to detention ponds or other BMPs constructed to meet the requirements of the Stormwater Ordinance, said 20 percent amount equaling \$10,180.

The City engineer must receive an application for transfer of maintenance responsibilities for the structural stormwater management facility along with the stormwater design plan submittal.

2. The Covenantor must maintain the easement area(s) (the "Easement Area(s)") as referenced on the plat of the Property (the "Final Plat") as shown on **Exhibit A** attached hereto and incorporated herein by reference, by providing trash removal, grass cutting, and landscaping on the Property and performing other nonfunctional maintenance, as described in the maintenance plan (the "Maintenance Plan" or the "Plan") as shown on **Exhibit B** attached hereto and incorporated herein by reference. Therefore, the Covenantor shall develop and attach to this Declaration for recording at the Cumberland County Register of Deeds Office a Maintenance Plan that has been reviewed and approved by the City of Fayetteville or its designee. This Maintenance Plan shall describe the nonfunctional maintenance practices to be performed for the above referenced stormwater management facility and include a schedule for implementation of these practices. The Plan shall specify the name, mailing address and phone number of the party responsible for the fulfillment of the Maintenance Plan.
3. The City must provide routine inspection and structural maintenance for the BMP(s) as needed to ensure that the BMP(s) remain(s) in proper working condition in accordance with approved design standards. The City shall undertake all reasonable measures to return the Easement Area(s) to its original condition whenever the City undertakes repairs and maintenance in accordance with this Declaration.

4. The Covenantor must provide and maintain perpetual access from public rights-of-way to the BMP(s) for the City, its agents and its contractors.
5. The Covenantor must grant the City, its agents and its contractors a right of entry to the BMP(s) for the purpose of inspecting, operating, monitoring, installing, constructing, reconstructing, modifying, altering or repairing the BMP(s).
6. Except in the case of an emergency, the City shall provide not less than seven (7) days prior notice to the Covenantor before performing any structural maintenance or repair of the BMP(s) in accordance with this Covenant. The City shall also notify the Covenantor after completing the maintenance or repair work specified in the notice.
7. If, after reasonable notice by the City, the Covenantor fails to maintain the Easement Area(s) in accordance with this Covenant, the City may perform any nonfunctional maintenance needed to correct a condition that impacts the effectiveness of routine structural maintenance and collect any costs incurred as a result from each owner of the BMP(s) and in the same manner as real property taxes are collected. In addition, the City may seek reimbursement under any other method legally available to collect debts owed to the City.
8. The Covenantor agrees to indemnify and save the City harmless, including the City's elected officials, employees, agents, successors, and assigns, from any and all liability and any and all claims for any personal injury or property damage arising from maintenance of the Easement Area(s) in accordance with this Covenant.
9. Upon Covenantor's transfer of title of the BMP(s) to the applicable homeowners association for the single-family residential development (the "Association"), as evidenced by a recorded warranty deed from the Covenantor to the Association recorded with the Cumberland County Register of Deeds Office of Cumberland County, North Carolina, then the Covenantor shall be automatically released from all obligations hereunder, and such obligation shall be automatically assumed by the Association. The Covenantor agrees to promptly notify the City when the Covenantor legally transfers title to the BMP(s) to the Association, and shall include a copy of the recorded warranty deed from Covenantor to the Association with such notice.
10. The covenants contained herein shall run with the land and shall bind the City, the Covenantor and the Covenantor's successors and assignees, and shall bind all present and subsequent owners of property served by the BMP(s).
11. This Covenant shall be recorded in the Cumberland County Register of Deeds Office of Cumberland County, North Carolina.
12. This Covenant runs to the benefit of the City and may not be released or modified except by written consent of the City.

[Remainder of This Page Intentionally Left Blank; Signature Page Attached Hereto]

IN WITNESS WHEREOF, the Covenantor and the City have executed this Declaration of Covenants on the date first above written.

ATTEST:

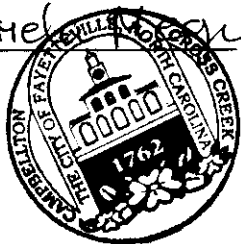
John B. Resp
Signature
John B. Resp
Printed Name

FOR THE COVENANTOR(S)

Dohn B. Broadwell, Jr.
Signature
Dohn B. Broadwell
Printed Name
President, Broadwell Land Company
Title

CITY OF FAYETTEVILLE, NORTH CAROLINA

Pamela Megill
Signature
Pamela Megill
Printed Name
City Clerk



Telly C. Whitfield
Signature
Douglas J. Hewett
Printed Name
City Manager
Telly C. Whitfield
Assistant City Manager

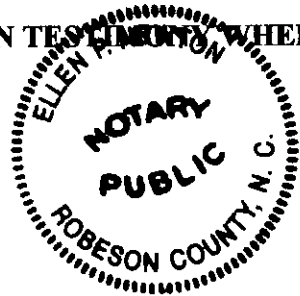
(Jurats follow)

STATE OF
COUNTY OF Cumberland

: ss

I hereby certify that on this 1st day of November, 2019, before the subscriber, a Notary Public of the State of North Carolina, and for the County of Robeson, personally appeared Dohn B. Broadwell, Jr., known to me (or satisfactorily proven) to be the person(s) described in the foregoing instrument, who did acknowledge that (he)(she)(they), having been properly authorized, executed the same in the capacity therein stated and for the purposes therein contained.

IN TESTIMONY WHEREOF, I have affixed my hand and official seal.



Ellen P. Newton
NOTARY PUBLIC

My Commission Expires 05.16.2021

(N.P. SEAL)

EXHIBIT A

[Describe Plat and Easement Area(s)]

EXHIBIT B

[Attach Maintenance Plan]

BMP Maintenance Plan
City of Fayetteville

Elliot Farms Phase 1A
Development Name (Per Approved Plans)
7693 RAMSEY ST
Development Address
6-15-19
Date

This document must be recorded as an Addendum to the Declaration of Covenants

I. General BMP Information [Complete this table with each BMP that is planned within the development. Use the same naming system used on the approved plans, i.e. Stoneridge Phase I – Bioretention – 1]

BMP ID Name	Street with Block Number	Parcel Tax ID
SCM-1	INTERSECTION RD A & B	0542-29-7533-
SCM-2	2ND BLOC RD B	0542-29-7533-
SCM-3A	SOUTHERN END OF PARCEL	0542-29-7533-

II. BMP Site Location Map (attached) [Attach a small site plan map coinciding with the table above to show the general location of each BMP within the development.]

III. Maintenance Annual Budget [Provide a simple annual budget for maintenance and inspection of BMPs and list the source of funding, i.e. owner, trust, HOA, etc. Edit chart below as necessary]

Budget for BMP Maintenance / Inspections		
Expenses	Estimated Costs	Source
Routine inspections	500	CONTRATOR & HOA
Sediment removal	250	CONTRATOR & HOA
Plant management / weed control	500	CONTRATOR & HOA

Replacement supplies, rock, plants, soil media, mulch	200	CONTRATOR & HOA
Mowing and litter removal	1,5000	CONTRATOR & HOA
Seeding	100	CONTRATOR & HOA
Miscellaneous		CONTRATOR & HOA
[Other]		CONTRATOR & HOA
Total	\$ 3,050	CONTRATOR & HOA

IV. Escrow Account Activity

Provide documentation of BMP maintenance escrow account activity. This may be provided in the form of a bank statement which includes the current balance, deposits and withdraws for the previous 12 months.

V. Maintenance Inspection Reports

As indicated in the Stormwater Control Ordinance, annual maintenance inspection reports shall be submitted to the City Engineer. The first report shall be submitted one year following the final approval date of the BMP and each year thereafter on or before the approval anniversary date. All maintenance activities and inspection reports shall be documented using the forms contained in the Administrative Manual. Annual maintenance inspection reports shall be performed by a qualified professional as defined in Section 23-38 of the Ordinance. These inspections shall be discontinued only if the BMPs are accepted for maintenance by the City of Fayetteville.

VI. Routine Maintenance Tasks and Schedule [The following pages outline the specific maintenance tasks and frequency for each type of BMP in tables. For the recorded document, simply discard the pages (tables) that are not needed according to the types of BMPs within the development.]

Dry Extended Detention Basin Maintenance Tasks and Schedule

TASK	SCHEDULE
Forebay observation and cleanout	Monthly
Bank mowing and observation / stabilization of eroded areas	Monthly
Outlet / inlet observation and cleanout	Monthly
Unwanted vegetation and trash removal	Monthly
Overall facility observation	Within 24 hours after every storm event greater than 1.0 inch
Inspect for structural damage, leaks, etc	Yearly
Inspect / exercise all mechanical devices, valves, etc	Yearly
Inspect the embankment	Yearly
Forebay inspection and cleanout	Yearly – Remove sediment every 7 years or when sediment volume exceeds 50% of storage volume
Evaluate sediment level	Yearly – Remove as needed
Security	As needed

Important maintenance procedures:

- The drainage area should be managed to reduce the sediment load to the dry extended detention basin.
- Immediately after the dry extended detention basin is established, the vegetation should be watered twice weekly if needed, until the plants become established (commonly six weeks).
- No portion of the dry extended detention pond should be fertilized after the first initial fertilization that is required to establish the vegetation.
- The vegetation in and around the basin should be maintained at a height of approximately six inches.

FILED	Oct 04, 2022
AT	04:45:14 PM
BOOK	11588
START PAGE	0161
END PAGE	0172
INSTRUMENT #	39830
RECORDING	\$26.00
EXCISE TAX	\$0.00

~~Prepared by/ Mail after recording to:~~
~~City Attorney's Office~~
~~c/o City of Fayetteville~~
~~433 Hay Street~~
~~Fayetteville, NC 28301~~

Prepared By and Return to:
Tally and Tally

Parcel ID #: 0542297533000

**DECLARATION OF COVENANTS
INSPECTION/MAINTENANCE OF STORMWATER
MANAGEMENT FACILITY, TRANSFER OF MAINTENANCE RESPONSIBILITIES**

THIS DECLARATION (this "Declaration"), made this ____ day of _____, 20__, between
Broadwell Land Company _____, hereinafter referred to as the "Covenantor," owner(s) of the
following property: Elliot Farms, (the "Property"), and the City of Fayetteville, North
Carolina, hereinafter referred to as the "City".

WITNESSETH:

The Covenantor, with full authority to execute deeds, mortgages, other covenants, and all rights,
titles and interest in the property described above, does hereby covenant with the City as follows:

1. In accordance with Section 23-38 of the City of Fayetteville Stormwater Management Ordinance (the "Stormwater Ordinance"), the City shall accept functional maintenance responsibility of structural structural stormwater management facilities (the "stormwater management facility or facilities", or the "BMP or BMP(s)") that are installed following a warranty period of one (1) year from the date of record-drawing certification described in Section 23-37 of the Stormwater Ordinance, or from the date the facility ceases to

function as an erosion control measure and starts to function as a stormwater management facility, whichever is later, provided the stormwater management facility:

- (1) Only serves a single-family detached residential development or townhomes all of which have public street frontage, which Covenantor intends to develop upon all the Property;
- (2) Is satisfactorily maintained during the one-year warranty period by the Covenantor;
- (3) Meets all the requirements of the Stormwater Ordinance;
- (4) Includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection, maintenance repair, or reconstruction; and
- (5) Prior to the release of the installation performance guarantee as outlined in Section 23-41(b), the Covenantor shall pay into a City maintenance fund used to maintain such facilities in the future an amount equal to 20 percent of the initial construction cost of the stormwater management facilities related to detention ponds or other BMPs constructed to meet the requirements of the Stormwater Ordinance, said 20 percent amount equaling \$12,000.00.

The City engineer must receive an application for transfer of maintenance responsibilities for the structural stormwater management facility along with the stormwater design plan submittal.

2. The Covenantor must maintain the easement area(s) (the "Easement Area(s)") as referenced on the plat of the Property (the "Final Plat") as shown on **Exhibit A** attached hereto and incorporated herein by reference, by providing trash removal, grass cutting, and landscaping on the Property and performing other nonfunctional maintenance, as described in the maintenance plan (the "Maintenance Plan" or the "Plan") as shown on **Exhibit B** attached hereto and incorporated herein by reference. Therefore, the Covenantor shall develop and attach to this Declaration for recording at the Cumberland County Register of Deeds Office a Maintenance Plan that has been reviewed and approved by the City of Fayetteville or its designee. This Maintenance Plan shall describe the nonfunctional maintenance practices to be performed for the above referenced stormwater management facility and include a schedule for implementation of these practices. The Plan shall specify the name, mailing address and phone number of the party responsible for the fulfillment of the Maintenance Plan.
3. The City must provide routine inspection and structural maintenance for the BMP(s) as needed to ensure that the BMP(s) remain(s) in proper working condition in accordance with approved design standards. The City shall undertake all reasonable measures to return the Easement Area(s) to its original condition whenever the City undertakes repairs and maintenance in accordance with this Declaration.

4. The Covenantor must provide and maintain perpetual access from public rights-of-way to the BMP(s) for the City, its agents and its contractors.
5. The Covenantor must grant the City, its agents and its contractors a right of entry to the BMP(s) for the purpose of inspecting, operating, monitoring, installing, constructing, reconstructing, modifying, altering or repairing the BMP(s).
6. Except in the case of an emergency, the City shall provide not less than seven (7) days prior notice to the Covenantor before performing any structural maintenance or repair of the BMP(s) in accordance with this Covenant. The City shall also notify the Covenantor after completing the maintenance or repair work specified in the notice.
7. If, after reasonable notice by the City, the Covenantor fails to maintain the Easement Area(s) in accordance with this Covenant, the City may perform any nonfunctional maintenance needed to correct a condition that impacts the effectiveness of routine structural maintenance and collect any costs incurred as a result from each owner of the BMP(s) and in the same manner as real property taxes are collected. In addition, the City may seek reimbursement under any other method legally available to collect debts owed to the City.
8. The Covenantor agrees to indemnify and save the City harmless, including the City's elected officials, employees, agents, successors, and assigns, from any and all liability and any and all claims for any personal injury or property damage arising from maintenance of the Easement Area(s) in accordance with this Covenant.
9. Upon Covenantor's transfer of title of the BMP(s) to the applicable homeowners association for the single-family residential development (the "Association"), as evidenced by a recorded warranty deed from the Covenantor to the Association recorded with the Cumberland County Register of Deeds Office of Cumberland County, North Carolina, then the Covenantor shall be automatically released from all obligations hereunder, and such obligation shall be automatically assumed by the Association. The Covenantor agrees to promptly notify the City when the Covenantor legally transfers title to the BMP(s) to the Association, and shall include a copy of the recorded warranty deed from Covenantor to the Association with such notice.
10. The covenants contained herein shall run with the land and shall bind the City, the Covenantor and the Covenantor's successors and assignees, and shall bind all present and subsequent owners of property served by the BMP(s).
11. This Covenant shall be recorded in the Cumberland County Register of Deeds Office of Cumberland County, North Carolina.
12. This Covenant runs to the benefit of the City and may not be released or modified except by written consent of the City.

[Remainder of This Page Intentionally Left Blank; Signature Page Attached Hereto]

IN WITNESS WHEREOF, the Covenantor and the City have executed this Declaration of Covenants on the date first above written.

ATTEST:

James B. Rose
Signature

James B. Rose

Printed Name

FOR THE COVENANTOR(S)

Dohn B. Broadwell, Jr.
Signature

Dohn B. Broadwell, Jr.

Printed Name

President

Title

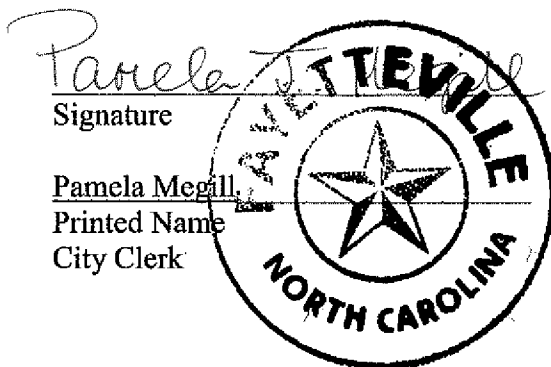
CITY OF FAYETTEVILLE, NORTH CAROLINA

Douglas J. Hewett
Signature

Douglas J. Hewett

Printed Name

City Manager



Signature

Pamela Megall

Printed Name

City Clerk

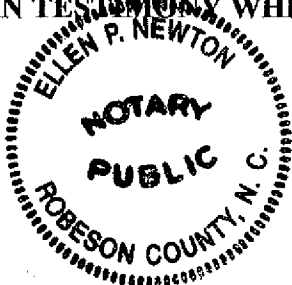
(Jurats follow)

STATE OF
COUNTY OF Cumberland

SS

I hereby certify that on this 8th day of September, 2022, before the subscriber, a Notary Public of the State of North Carolina, and for the County of Robeson, personally appeared Dohn B. Broadwell, Jr., known to me (or satisfactorily proven) to be the person(s) described in the foregoing instrument, who did acknowledge that (he)(she)(they), having been properly authorized, executed the same in the capacity therein stated and for the purposes therein contained.

IN TESTIMONY WHEREOF, I have affixed my hand and official seal.



Ellen P. Newton
NOTARY PUBLIC

My Commission Expires 05-16-2026

STATE OF
COUNTY OF

: SS

I hereby certify that on this 26th day of Sept, 2023 before the subscriber, a Notary Public of the State of NC, and for the County of Wilkesland, personally appeared Douglas Hewitt, City Manager, known to me (or satisfactorily proven) to be the person described in the foregoing instrument, who did acknowledge that (he) (she), having been properly authorized, executed the same on behalf of Fayetteville, North Carolina in the capacity therein stated and for the purposes therein contained.

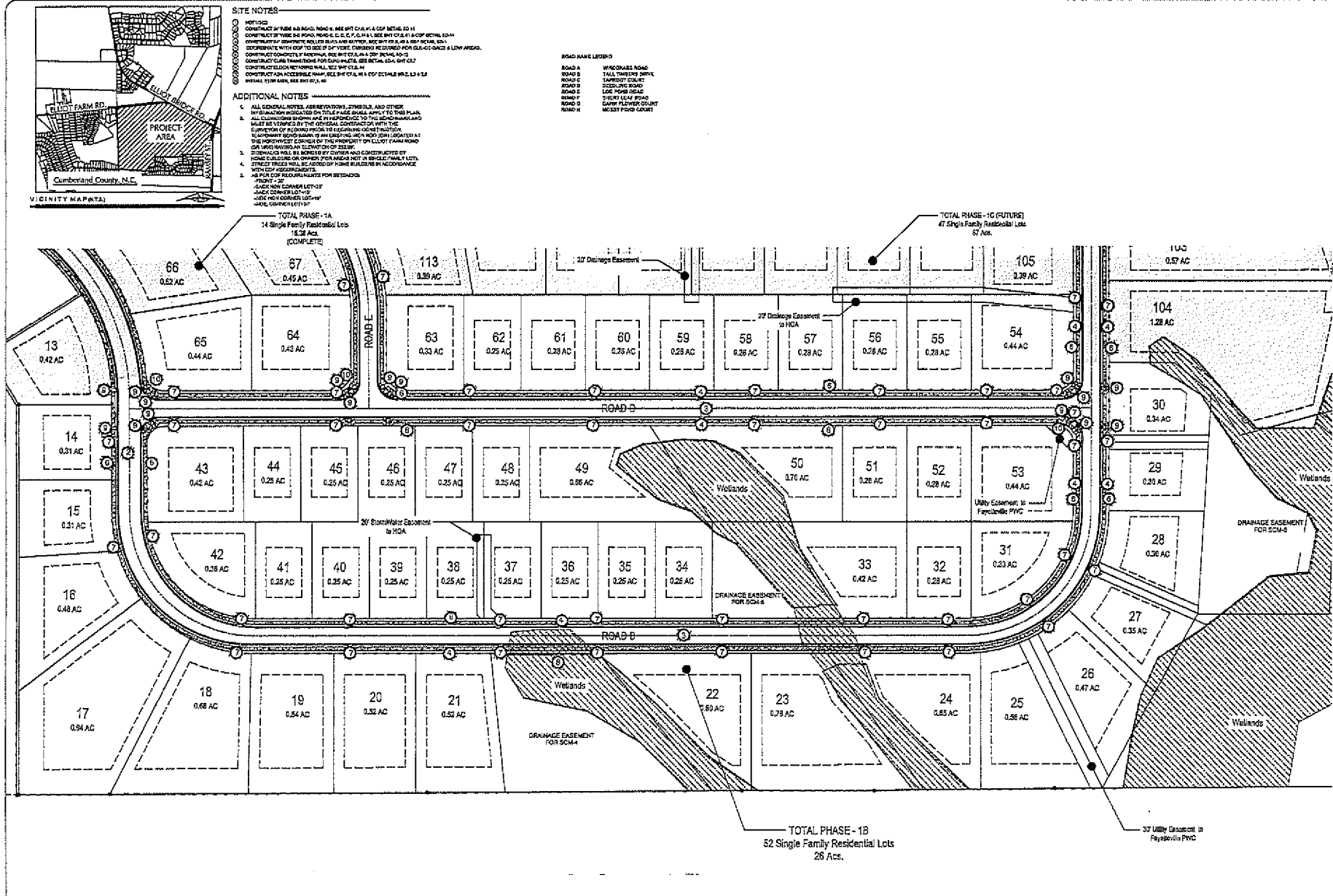
IN TESTIMONY WHEREOF, I have affixed my hand and official seal.

Patricia Megill
NOTARY PUBLIC

My Commission Expires Feb 10, 2027

EXHIBIT A

[Describe Plat and Easement Area(s)]



This map may not be a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations and has not been reviewed for compliance with recording requirements for plats.

EXHIBIT B

[Attach Maintenance Plan]

BMP Maintenance Plan

Elliot Farms Phase 1B&C

City of Fayetteville

May 2021

[This document must be recorded as an Addendum to the Operation & Maintenance Agreement]

- I. General BMP Information** [Complete this table with each BMP that is planned within the development. Use the same naming system used on the approved plans, i.e. Stoneridge Phase I – Bioretention -- 1]

BMP ID Name	Street with Block Number	Parcel Tax ID
SCM-4, DRYPOND	760' SOUTH 1ST INT. TALL TIMBERS & SEEDLING	REID: 0542297533000
SCM-5, DRYPOND	1,070' SOUTH 1ST INT. TALL TIMBERS & SEEDLING	REID: 0542297533000
SCM-6, DRYPOND	200 SOUTHWEST 2ND INT. TALL TIMBERS & SEEDLING	REID: 0542297533000

- II. BMP Site Location Map** (attached) [Attach a small site plan map coinciding with the table above to show the general location of each BMP within the development.]
- III. Maintenance Annual Budget** [Provide a simple annual budget for maintenance and inspection of BMPs and list the source of funding, i.e. owner, trust, HOA, etc. Edit chart below as necessary]

Budget for BMP Maintenance / Inspections		
Expenses	Estimated Costs	Source
Routine inspections	\$500	CONTRACTOR & HOA
Sediment removal	\$250	CONTRACTOR & HOA
Plant management / weed control	\$500	CONTRACTOR & HOA
Replacement supplies, rock, plants, soil media, mulch	\$200	CONTRACTOR & HOA
Mowing and litter removal	\$1,500	CONTRACTOR & HOA
Seeding	\$100	CONTRACTOR & HOA
Miscellaneous		
[Other]		
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