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FOURTH AMENDMENT TO
DECLARATION OF
CONDOMINIUM OWNERSHIP
UNDER CHAPTER 5311 OF THE REVISED CODE OF OHIO
FOR
SHERBROOK CONDOMINIUM

December 12, 1994

This is to certify that copies of the Fourth Amendment to the Declaration, By-Laws and Drawings for Sherbrook Condominium have been filed this date with the Auditor of Stark County, Ohio.

Janet Marie Crockett
Auditor of Stark County, Ohio
Patricia A. Fallick
Deputy Auditor

This instrument prepared by:

Bruce M. Soares, Esq.
Black, McCuskey, Souers & Arbaugh
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Canton, Ohio 44702
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RECORDED THIS DATE
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FOURTH AMENDMENT TO DECLARATION
OF SHERBROOK CONDOMINIUM

This Fourth Amendment to the Declaration of Sherbrook Condominium is made this _____ day of _____, 1994, by one hundred percent (100%) of the Unit Owners of Sherbrook Condominium (the "Unit Owners") and by Smith Development Corporation ("Smith") pursuant to the provisions of Chapter 5311 of the Revised Code of Ohio.

WITNESSETH:

WHEREAS, the original Declarant, Francis General Construction, Inc. ("Francis") caused a Declaration of Condominium Ownership for Sherbrook Condominium to be recorded on June 22, 1989, in Volume 823, Page 453 of the Stark County Records; and

WHEREAS, pursuant to Article XVII of the Declaration, Francis reserved the right to amend the Declaration for the purpose of expanding and adding additional lands and improvements to the Condominium Property; said additional lands being described in "Exhibit D" to the Declaration; and

WHEREAS, subsequent to the recording of the Declaration, Francis did add, by three separate Amendments, real property and units to the Condominium; and

WHEREAS, Francis' interest in the remaining additional property was sold as the result of foreclosure proceedings, at Sheriff's Sale, and was acquired by Smith along with unsold Condominium units located at Sherbrook Condominium; and

WHEREAS, according to the terms of the Declaration of Condominium Ownership for Sherbrook Condominium, the Declarant is defined as including a successor or assign of the original Declarant, provided ". . . the rights as specifically reserved to Declarant under the Articles, By-Laws or hereunder (the Declaration) shall accrue only to such successors and assigns as are designated in writing by Declarant as successors and assigns of such rights"; and

WHEREAS, Smith desires to be designated as a successor-developer and Declarant under the Declaration of Condominium Ownership for Sherbrook Condominium, for purposes of expansion of Sherbrook Condominium, and in that capacity seeks an Amendment to the Declaration of Condominium Ownership for Sherbrook Condominium to permit the maximum number of units to be included within such Condominium to be increased from the previously established 33 units, to a total of 36 units; and

WHEREAS, based upon the terms, conditions and agreements set forth herein, the Unit Owners and Smith do hereby agree that the Declaration of Condominium Ownership for Sherbrook Condominium should hereby be amended to establish Smith as the Declarant and to otherwise amend the Declaration of Condominium Ownership and to evidence the agreement of the parties as set forth below.

NOW, THEREFORE, the Unit Owners and Smith do hereby submit the following amendments to the Declaration of Condominium Ownership for Sherbrook Condominium, and for good and valuable consideration, Smith further agrees as follows:

1. The Definitional Section of the Declaration, Paragraph 12, on Page 3, is hereby deleted and replaced with the following:
 12. "Declarant" means Smith Development Corporation and its successors and assigns, provided the rights specifically reserved to Declarant under the Articles, By-Laws or hereunder shall accrue only to such successors and assigns as are designated in writing by Declarant and successors and assigns of such rights.
2. Article XVII, Section 8, on Page 35 of the Declaration, is hereby deleted and replaced with the following:

Section 8. Maximum Number of Units. At the time of the execution hereof, there are twenty-six (26) Condominium Units in Sherbrook Condominium. The maximum total number of Units that may be created on the remaining Additional Property and added to the Condominium Property is ten (10), provided that the foregoing shall neither limit nor restrict nor be so construed as to limit or restrict the number of dwelling units that may be constructed on all or any portion of the Additional Property that is not added to the Condominium Property. Subject to the foregoing total maximum of Units that may be added to the Condominium Property, the maximum number of Units per acre that may be created on any portion of the Additional Property added to the Condominium Property shall be ten (10). The Additional Property is presently zoned in a zoning category which will permit expansion of the Condominium Property and improvements consistent with the present development. Pursuant to the terms hereof, the total number of Units which may be included in and be a part of Sherbrook Condominium shall not exceed thirty-six (36).
3. The above Amendments are hereby made based upon, in reliance upon, and in consideration of Smith's agreeing to the following:
 - A. Smith will add no more than ten (10) additional Units to the Additional Property, all of which Units will be added to Sherbrook Condominium in four (4) new buildings.

- B. Smith agrees to build only one (1) four-Unit building, which will be built immediately adjacent to the existing four-Unit building presently located at the entrance to Sherbrook Condominium. This four-Unit building will be built to a higher quality and standard than the existing four-Unit building and Smith agrees to improve the cosmetic appearance of the existing four-Unit building (the building containing Unit 413) to coincide aesthetically with the new four-Unit building to be completed.
- C. In addition to the four-Unit building, Smith will build three (3) additional two-Unit buildings to be located on the remaining three (3) presently vacant lots which are a part of the Additional Property. The structure and architectural design of these Units will coincide with and be compatible to the existing Condominium building containing Unit No. 422. The style and color of the newly constructed buildings and Units will conform to that of the existing buildings' vinyl siding and brick exteriors in order to achieve consistency and compatibility with existing Condominium buildings and Units.
- D. Smith hereby further agrees to bear all costs associated with finishing of all landscaping which is required in the entire Sherbrook Condominium development so that the entire development has been landscaped in a consistent and compatible manner. This landscaping commitment will include the landscaping of existing Units for which landscaping was not completed by Francis.
- E. Smith further agrees to be solely responsible for and to restore and repair any damage done to Sherbrook Circle or any other part of the Condominium Property caused by or resulting from Smith's construction activities or the acts or omissions of Smith's agents, employees and/or contractors. In addition, as set forth in Article XV, Section 7(B), Smith shall hereafter be proportionately responsible for the cost of maintaining Sherbrook Circle in good repair and condition.
4. With the exception of the modifications and amendments set forth herein, and the agreement of the parties referenced herein, the remainder of the Declaration, By-Laws and other Condominium instruments shall remain in full force and effect and unchanged, and Smith hereby agrees that any additions to the Condominium shall be made in accordance with the terms, conditions or requirements thereof.

IN WITNESS WHEREOF, the undersigned, *George J. Gallo*, the President of the Sherbrook Condominium Unit Owners Association, does hereby execute this Amendment, on the date and year set forth above, certifying that all of the Unit Owners of Sherbrook Condominium have

consented hereto by separate written instrument and further to certify that in excess of fifty-one percent (51%) of those institutions holding first mortgages upon Units in Sherbrook Condominium have likewise consented in writing to the execution and recording of this Fourth Amendment to Declaration of Condominium Ownership. In addition, Smith Development Corporation does hereby execute this instrument, likewise on the date and year set forth above, consenting to the Amendments contained herein, and agreeing to the terms and conditions set forth above.

Signed and acknowledged in the presence of:

Bobbie L. Ross
BOBBIE L. ROSS
Jamie P. Miller
JAMIE P. MILLER

Signed and acknowledged in the presence of:

Helen L. Bower
Helen L. Bower
Penny L. Schorver
Penny L. Schorver

SHERBROOK CONDOMINIUM UNIT OWNERS ASSOCIATION, INC.

By: George J. Hall
Its President

SMITH DEVELOPMENT CORPORATION

By: Stephen Smith
Its President
By: _____
Its _____

STATE OF OHIO, STARK COUNTY, SS:

Before me, a Notary Public, in and for said County and State, personally appeared the above-named Sherbrook Condominium Unit Owners Association, Inc. by George J. Hall, its President, who acknowledge that he did sign the foregoing instrument and that the same is free act and deed of said Corporation and his free act and deed personally and as such officer.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Canton, Ohio, this 9th day of December, 1994.

Bobbie L. Ross
Notary Public

BOBBIE L. ROSS, Notary Public
Residence - Summit County
State Wide Jurisdiction, Ohio
My Commission Expires Aug. 28, 1999

STATE OF OHIO, STARK COUNTY, SS:

Before me, a Notary Public, in and for said County and State, personally appeared the above-named Smith Development Corporation, by Stephen Smith, its President, by _____, its _____, who acknowledge that they did sign the foregoing instrument and that the same is free act and deed of said Corporation and their free act and deed personally and as such officers.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal at Canton, Ohio, this 9th day of December, 1994.

Penny L. Scharver
Notary Public

PENNY L. SCHARVER
Notary Public, State of Ohio
My Commission Expires Jan. 24, 1997

This instrument prepared by
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